

CITY OF LEXINGTON, NC
UNIFIED
DEVELOPMENT
ORDINANCE



ADOPTED ON JUNE 28, 2021
LAST UPDATED ON SEPTEMBER 30, 2024



The purpose of the Unified Development Ordinance, or UDO, is to create a comprehensive set of land development standards and regulations which is consistent with the City's goals, the Land Use Plan, and other development policies. The UDO includes provisions for zoning, sign regulations, plats, subdivisions, landscaping, and more.

This UDO was adopted by Lexington City Council on June 21, 2021. As amendments are proposed, they go through a public hearing and review process prior to approval. Graphics and formatting may be updated by Administrator so long as it does not change the content.

This document is administered by the Office of Business and Community Development of the City of Lexington. If you have any questions or need further assistance, please contact their staff at (336) 248-3900 or zoninglanduse@lexingtonnc.gov.

UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENTS

Ordinance Number	Affected Sections	Adopted Date
21-43	Repealed Unified Development Ordinance 2010 and all previous amendments	6/28/2021
22-12	Article 6	11/8/2021
23-32	Article 2 Article 7 Throughout UDO	2/13/2023
24-03	Article 2 Article 3 Article 4 Article 5 Article 6 Article 7 Article 8 Article 7 Article 12	2/26/2024
24-025	Article 4 Article 6 Article 12	6/10/2024

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ARTICLE 1. AUTHORITY AND APPLICABILITY

SEC 1.1 TITLE

This ordinance is officially titled the “Unified Development Ordinance of the City of Lexington, North Carolina.” This ordinance includes both zoning and subdivision regulations. The following terms and titles are appropriately used when referring to this ordinance: “Development Ordinance”, “Land Use Ordinance,” “Subdivision Regulations,” “Zoning Ordinance,” and “Zoning Map.” This ordinance will be kept on file at the City Clerk’s Office and maintained by the Administrator.

SEC 1.2 PURPOSE AND INTENT

In accordance with North Carolina General Statutes (G.S.) 160A, Article 8, the purpose of this Ordinance is to implement adopted policies related to growth and development. This ordinance establishes an orderly process for the design, review, approval, development, and use of land within the jurisdiction of the City of Lexington that is clear and equitable. It is the intent of this ordinance to ensure that development is generally harmonious with surrounding properties without the endangerment of the health, safety, and general welfare of the community.

SEC 1.3 AUTHORITY

Planning provisions enacted within this ordinance are authorized under G.S. 160A, Article 8, extending to cities and counties the authority to enact regulations that promote the health, safety, morals, or general welfare of the community. Cities and counties are authorized to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. These statutes also require that all such regulations will be uniform for property throughout each district, but that the regulations in one district may differ from those in other districts.

Subdivision regulations enacted within this ordinance are authorized under G.S. 160D, providing for the coordination of the subdivision of land and the development of streets and public utilities. This section further authorizes the dedication or reservation of open space and recreation areas. It also authorizes the distribution of population and traffic in a manner that will avoid congestion and overcrowding.

The enumeration of sections of the North Carolina General Statutes is not intended to exclude any other section of the General Statutes which grants or confirms authority to municipalities to promulgate ordinances, rules or regulations similar or identical to those set forth in this ordinance.

SEC 1.4 JURISDICTION

These regulations govern the development and use of all land and structures within the corporate limits of the City of Lexington, North Carolina.

SEC 1.5 RELATION TO OTHER ORDINANCES

It is not intended that this ordinance repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, vested rights, ordinances or building permits previously adopted or issued pursuant to law and currently effective, except that this ordinance will replace the prevailing “Unified Development Ordinance,” which was adopted November 8, 2010.

SEC 1.6 SEPARABILITY

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SEC 1.7 APPLICABILITY

No building, structure, or land will be used or occupied, nor any building, structure, or part thereof be erected, constructed, reconstructed, moved, or structurally altered, nor any land be clear-cut, graded, developed, or built-upon, nor any changed use be established for any building, structure, or land, unless in conformity with the general provisions of this ordinance and the specific provisions for the district in which it is located, except as otherwise provided by these regulations.

SEC 1.8 RULES OF MEANING AND INTERPRETATION

For the purposes of these regulations, the following rules apply:

- A. These regulations will be construed to achieve the purposes for which they are adopted. Interpretations will be guided by statements of intent and policies of the Land Use Plan.
- B. Uses that are not expressly permitted within this ordinance are prohibited. However, if a use is not expressly permitted, but is similar in all characteristics relative to the regulations of this ordinance to another use that is expressly permitted, the Administrator may categorically declare the use as permitted and apply any necessary conditions to ensure the similarity, after making the following findings of fact, otherwise, the use shall be prohibited.
 1. The proposed use is similar in all characteristics relative to the regulations of this ordinance to another use that is expressly permitted within the Administrator for which is applied; and
 2. The proposed use will not materially endanger the public health, safety, or general welfare; and
 3. The proposed use will not impact adjoining properties to a higher degree than the reference use that was expressly permitted.
- C. Development that does not fall clearly into one of the building types or structures listed in Section 4 shall be categorically classified by the Administrator for the purpose of design regulations.
- D. In the event of any conflict in standards applying to a project, the standard more consistent with the Lexington Land Use Policies will apply.
- E. The words “shall” and “will” are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- F. The word “may” is permissive in nature except when used in the negative.

- G. The term “may be approved” is meant to defer authority to approve the specific issue or item to the applicable Board, Council, or Administrative Staff approving the development or use.
- H. References to “days” will always be construed to be calendar days, unless the context of the language clearly indicates otherwise.

SEC 1. 9 ADMINISTRATIVE CORRECTIONS AND CHANGES

The Administrator is authorized to make minor corrections and changes to this ordinance. Minor corrections include typographical errors, grammatical errors, incorrect section references, and updating name of events, organizations, street or roads, etc. In addition, where any regulation is in direct conflict with a separate regulation, the stricter of the two shall apply. Minor changes include changes in format not affecting content, insertion of illustrations to convey meaning, insertion and/or changes to quick reference tables and forms. Such corrections and/or changes shall not be considered as amendments to this ordinance. All corrections and changes will be reported to the City Manager.

ARTICLE 2. ADMINISTRATION

SEC 2.1 ADMINISTRATIVE STAFF

2.1.1 AUTHORIZATION. The City Manager shall appoint the Administrator of this ordinance (hereinafter “Administrator”) who shall also serve as the Secretary to the Board of Adjustment and Planning Board. In addition to the Administrator, the City Manager and other officials employed by the City of Lexington, including department leaders, inspectors, planners, enforcement officers, technicians, and other city staff as designated by the City Manager, (hereinafter “Administrative Staff” or “City Official”) are hereby charged to develop, administer, and enforce development regulations contained herein. In reference to approvals, the term “City” will refer to the approving official, board, or authority charged with reviewing and approving the relative to the type of development approval.

2.1.2 DUTIES. Duties assigned to staff include, but are not limited to, drafting and implementing plans and development regulations to be adopted; determining whether applications for development approvals are complete; receiving and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under the City of Lexington jurisdiction.

SEC 2.2 CONFLICTS OF INTEREST

2.2.1 GOVERNING BOARD. A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

2.2.2 APPOINTED BOARDS. Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

- 2.2.3 ADMINISTRATIVE STAFF.** No staff member shall make a final decision on an administrative decision required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
- 2.2.4 QUASI-JUDICIAL DECISIONS.** A member of any board exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- 2.2.5 RESOLUTION OF OBJECTION.** If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- 2.2.6 FAMILIAL RELATIONSHIP.** For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

SEC 2.3 DEVELOPMENT APPROVALS

- 2.3.1 DEVELOPMENT APPROVAL.** A development approval is a written administrative, quasi-judicial, or legislative approval that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, conditional zonings, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required herein, including plat approvals, permits issued, development agreements entered into, and building permits issued. Development approval is required for the following:
- A.** The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - B.** The excavation, grading, filling, clearing, or alteration of land.
 - C.** The subdivision of land.
 - D.** The initiation or substantial change in the use of land or the intensity of use of land.

- 2.3.2 EXEMPTION.** Development approval is not required for construction or maintenance of water, sewer, stormwater, electric, or natural gas utilities.
- 2.3.3 FORM.** Development approvals will be issued in writing and may either be in print or electronic format protected from further editing.
- 2.3.4 APPLICANT.** Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement.
- 2.3.5 DURATION.** Unless a different period is specified by any applicable law, or provided by a quasi-judicial development approval, a development agreement, or separate local ordinance, a development approval will expire two years after the date of issuance if the work authorized by the development approval has not been substantially commenced. Development approvals of shorter duration will apply for temporary land uses, special events, temporary signs, and similar development. Unless provided otherwise, if after commencement the work or activity is discontinued for a period of 24 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under Article 10, Vested Rights and Permit Choice.
- 2.3.6 INSPECTIONS.** Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.
- 2.3.7 INSPECTIONS NOTIFICATION REQUIREMENTS.** City staff shall be given a 48-hr notice for any construction, land disturbance, and/or other activity that is required to have an inspection and/or permit as specified in the latest version of the Lexington Infrastructure Development Standards (LIDS) Manual. No work that requires inspection shall be done without notice to the City. The City reserves the right to request that a member of staff be present during the installation or construction of any and all proposed public infrastructure. Inspections and required staff observations of said installation or construction will not be conducted when the offices of the City are scheduled to be closed, such as weekends and federal holidays. In such a case, no work shall be permitted to begin until a City staff member is present, with the exception that a staff member cannot attend in a timely manner and would cause excessive delay(s) to construction.
- 2.3.8 REVOCATION OF DEVELOPMENT APPROVALS.** In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the

City by notifying the holder in writing stating the reason for the revocation. The City will follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the City for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Section, the provisions of G.S. 160D-405(e) regarding stays shall be applicable.

2.3.9 CERTIFICATE OF OCCUPANCY. Upon completion of work or activity undertaken pursuant to a development approval, administrative staff will make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required shall be occupied or used until a certificate of occupancy or temporary certificate has been issued.

SEC 2.4 ADMINISTRATIVE DEVELOPMENT APPROVALS AND PERMITS

2.4.1 ADMINISTRATIVE DECISIONS. Administrative decisions, also referred to as “ministerial decisions,” are objective in nature. Administrative staff will base approval decision and/or permit issuance on whether or not the proposal meets existing regulations contained herein, as well as other Federal, State, and local laws. Administrative development approvals and permits include:

- A. BUILDING PERMIT.** A building permit is required prior to commencement of any construction or development as required by the North Carolina State Building Code.
- B. DEMOLITION PERMIT.** A demolition permit is required prior to the demolition of any structure that would require a building permit to be constructed, or demolition of any interior structural element of a building.
- C. DEVELOPMENT PERMIT.** A development permit may be a specific development approval, or the cumulative approval of several other development approvals or permits required.
- D. DRIVEWAY PERMIT.** Prior to installation of any new driveway(s), or modifications to or removal of existing driveway(s), that access City of Lexington maintained street(s) and road right(s)-of-way, an approved City of Lexington Driveway Permit is required. Reference the Lexington Infrastructure Development Standards Manual (LIDS) for requirements and specifications for driveways.
- E. FLOODPLAIN DEVELOPMENT PERMIT.** A floodplain development permit is required prior to any development activities located within special flood hazard areas. Reference Chapter 9, Division 4 of the City of Lexington Code of Ordinances for all floodplain development permit requirements.
- F. LAND DISTURBANCE PERMIT.** A land disturbance permit is required prior to any land disturbing activities where the area disturbed is greater than 4,000 square feet.

Land disturbing activities include but are not limited to the removal of vegetation of caliper size of 4 inches or larger, grading, grubbing, filling, excavating, and changing ground surface materials. Exemptions include:

1. Removal of trees or other vegetation in preparation for additions to one- and two-family dwellings, including detached structures,
2. The removal of vegetation by public or private agencies, within the lines of any right-of-way, easement, or other City-owned lands as may be necessary to ensure public safety.

G. ORDINANCE INTERPRETATIONS AND DETERMINATIONS.

H. RIGHT-OF-WAY ENCROACHMENT PERMIT. An encroachment permit is required when any property owner, tenant or leasee, developer, contractor, utility company or other government agency proposes work of any nature, other than routine inspections and minor maintenance, in the City of Lexington’s right-of-way. A road or lane closure shall also require an encroachment permit. An encroachment permit is only valid for the work specified on the approved permit. For any additional work and/or road closures, supplementary permit(s) will be required.

I. STORMWATER MANAGEMENT PERMIT. A stormwater management permit is required for all development and redevelopment unless exempt pursuant to the regulations established in Chapter 15 of the City of Lexington Code of Ordinances.

J. STREET-CUT PERMIT. A street-cut permit is required in all instances where the removal of any asphalt or concrete is necessary to perform any type of construction and/or maintenance within the Public Right of Way (e.g. utility, roadway, sidewalk, etc.).

K. PRELIMINARY AND FINAL SUBDIVISION PLATS that are not exempt.

L. SITE PLAN APPROVALS as required.

M. TEMPORARY PERMIT. Permits of this section may be issued as a Temporary Permit, in which limits to timeframes, activities, or other conditions may be imposed. The permit shall expire upon reaching the allotted time and/or completion of the specified activities.

N. WATERCOURSE BUFFER DISTURBANCE PERMIT. A watercourse buffer permit is required for all land disturbing activities within the buffer regardless of size or scope. Disturbance within a watercourse buffer shall be viewed and treated as a last resort alternative and a letter of “no practicable alternative” must be included with the permit outlining the necessity of the disturbance. Refer to Chapter 15, Article 3 of the Lexington Code of Ordinances for all watercourse buffer regulations.

O. ZONING APPROVAL as required.

P. ZONING CERTIFICATIONS as needed.

Applications for administrative development approvals and/or permits are submitted online at the City of Lexington website or by contacting the Business and Community Development Department.

The applicant will be required to provide plans and written information as necessary relative to the type and scale of development.

Administrative staff may require an administrative hearing to gather facts in order to make a determination on whether or not the proposal meets objective development regulations.

The only conditions that may be included by staff are those that cause the proposal to meet the objective regulations.

Administrative development approval decisions that are not approved, denied, or conditionally approved within 60 days may be placed on the Board of Adjustment agenda at the applicant's request. Requests received in writing at least one month in advance of the upcoming Board meeting will be placed on the agenda for the Board to consider issuance of the administrative development approval.

2.4.2 APPEALS TO ADMINISTRATIVE DEVELOPMENT APPROVAL DECISIONS:

- A. BOARD OF ADJUSTMENT.** Except as provided in subsection (c) of this section, appeals of decisions made by the staff shall be made to the Board of Adjustment.
- B. STANDING.** Any person who has standing may appeal an administrative decision to the board. An appeal is taken by filing a notice of appeal with the Administrator. The notice of appeal shall be made on a form provided by the City and shall state the grounds for the appeal.
- C. JUDICIAL CHALLENGE.** A person with standing may bring a separate and original civil action to challenge the constitutionality of an ordinance or development regulation, or whether the ordinance or development regulation is ultra vires, preempted, or otherwise in excess of statutory authority, without filing an appeal under this section.
- D. TIME TO APPEAL.** The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- E. RECORD OF DECISION.** The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- F. STAYS.** An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use

such property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

G. ALTERNATIVE DISPUTE RESOLUTION. The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution.

SEC 2.5 QUASI-JUDICIAL DEVELOPMENT APPROVALS

2.5.1 NATURE OF DECISION. Requires the Board exercise discretion in order to determine if a proposal meets regulations. Utilizes a process of finding of facts in order to arrive at the decision.

2.5.2 DEVELOPMENT APPROVAL TYPES. Special use permits, variances, appeals, and certificates of appropriateness are reviewed in a quasi-judicial process.

2.5.3 APPLICATION AND DUE DATE. Applicant will be required to submit an application on a form provided by the City along with plans or other attachments as necessary. Complete applications must be submitted one month prior to the Board meeting in order to be placed on the agenda. For the purposes of this ordinance, an application will not be considered as being submitted if it is not complete.

2.5.4 NOTICE OF HEARING. Notice of evidentiary hearings will be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as determined by administrative staff. The Davidson County tax listing will be used to determine owners of property entitled to mailed notice. The notice will be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the administrative staff will also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

2.5.5 ADMINISTRATIVE MATERIALS. The administrative staff will transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

2.5.6 PRESENTATION OF EVIDENCE. The applicant, the administrative staff, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall

have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. The opinion testimony of lay witnesses shall be limited to the following:

- A. The use of property as proposed will affect the value of other property.
- B. The increase in vehicular traffic resulting from the proposed development poses a danger to the public safety.
- C. Matters about which only expert testimony would generally be admissible under the rules of evidence.

2.5.7 OBJECTIONS. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

2.5.8 APPEARANCE OF OFFICIAL FOR APPEALS AND NEW INFORMATION. The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the City, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the City would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

2.5.9 OATHS TO WITNESSES. The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor, as defined in NCGS 160D-406.

2.5.10 SUBPOENAS. The board making a quasi-judicial decision under this Section through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the City, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he/she/they determine to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

2.5.11 BOARD OF ADJUSTMENT. The Board of Adjustment shall hear and decide all matters concerning variances and special use permits in accordance with this ordinance. In addition, the Board of Adjustment shall hear and decide all matters upon which it is required to pass under any statute or development regulation adopted under G.S. 160D.

2.5.12 FINDING OF FACTS. The following finding of facts shall be used as the general standards by the appropriate board in making quasi-judicial decisions in accordance with this ordinance as follows:

A. CERTIFICATE OF APPROPRIATENESS (COA) WITHIN HISTORIC DISTRICT.

1. COA for Contributing Structure.
 - a. That the proposed changes are consistent with the applicable design regulations for the district.
 - b. That the proposed changes will not adversely affect the structure's ability to remain a contributing structure.
 - c. That the proposed changes will not adversely affect the historic significance of the district.
2. COA for Non-Contributing Structure.
 - a. That the proposed changes are consistent with the applicable design regulations for the district.
 - b. That the proposed changes will not adversely affect the historic significance of the district.
3. COA for Demolition.
 - a. That all other viable alternatives have been evaluated and no other alternative is feasible.
 - b. That the structure is in such decay that repair is not feasible.
 - c. That if the COA for demolition is denied, the owner would be denied any reasonable return or use of the subject property.
 - d. That the demolition will not adversely affect other historic buildings in the district or the overall character of the district.
 - e. That the need to demolish is not the result of the applicant's own actions.
4. COA for Infill - New Construction and Additions.
 - a. That the proposed new construction is consistent with the applicable design regulations for new construction.
 - b. That the proposed new construction will not adversely affect the historic significance of the district.

B. SPECIAL USE PERMIT. No Special Use Permit shall be granted by the Board unless findings based on each of the following standards are made concerning the proposed use:

1. The use will maintain the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted;
2. The use is listed as a special use in the district in which it is proposed to be located, and meets all applicable regulations and standards of this Ordinance;
3. The use will maintain or enhance the value of adjacent property, or that the use is a public necessity;
4. The use is in harmony with the area in which it is to be located; and
5. The use is in general conformity with the City's adopted Comprehensive Plan.

C. VARIANCE. No variance shall be granted by the Board unless findings based on each of the following standards are made concerning the proposed variance:

1. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of this ordinance, such that public safety is secured and substantial justice is achieved.

2.5.13 APPEALS IN NATURE OF CERTIORARI. When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record, and the scope of review shall be as provided in G.S. 160D-1402(j).

2.5.14 VOTING. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D- 109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

2.5.15 CONDITIONS. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the City and consented to by the petitioner in writing may be incorporated into the approval. If conditions are imposed, they shall be reasonable and shall protect the public health, safety and general welfare, ensure substantial justice and equitable treatment of the petitioner. Such conditions, along with the permit, shall run with the land and shall be binding on the original petitioner as well as all successors, assigns and heirs.

2.5.16 DECISIONS. The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date

the decision becomes effective. The person required to provide notice shall certify to board that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

2.5.17 JUDICIAL REVIEW. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d). (2019-111, s. 2.4.)

SEC 2.6 MODIFICATIONS

After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. The same development review and approval process required for issuance of the development approval will be followed in the review and approval of any major modification of that approval. Minor modifications to development approvals, proposed site plans, or proposed plats can be administratively approved by the Administrator as follows:

A. TYPES OF MINOR MODIFICATIONS.

1. Minor site design modifications include slight alterations to the design of previously approved development approvals where the development still meets the underlying zoning requirements, but there is a need for flexibility in the design of the site plan or preliminary subdivision plat.
2. Minor dimensional standard modifications include slight changes to the underlying zoning standards. An alteration to a basic ordinance standard is substantially similar to a variance.

B. LIMITS OF MINOR MODIFICATION. Minor modifications may include lot configuration, parking design, number of parking spaces, building location, building mass, landscaping, lighting, fenestration, building materials, and similar sight design elements. Minor modifications shall be for no more than a 10% change to any element or requirement. Any change in use, increase in density, changes that would increase the traffic from the project beyond the levels projected in a Transportation Impact Analysis (TIA) or increase the stormwater impacts beyond what was identified in the stormwater analysis conducted as part of the original approval, shall be considered Major Modifications.

C. APPLICATION FOR MINOR MODIFICATION. The applicant shall provide evidence in writing of why relief is needed. Minor modifications may be allowed to provide relief from a unique physical attribute of the property not known at the time of initial approval. In the case of minor modification to a conditional zoning that involves more than one property, only the owner(s) of the subject parcel(s) may apply for the modifications and said modifications shall not result in other properties failing to meet the terms of the conditional zoning. Such a change applies only to the properties whose owners require the change.

D. ADMINISTRATIVE DECISION-MAKING PROCESS. While the Administrator may engage in fact finding or hold an administrative hearing, the decision shall be administrative.

E. APPEALS TO ADMINISTRATION DECISIONS FOR MINOR MODIFICATIONS.

1. **APPEAL.** Appeals to a Minor Modification decision made by the Administrator shall be made to the Board of Adjustment.

2. **STANDING.** Any person who has standing may appeal the decision. An appeal is taken by filing a notice of appeal with the Administrator. The notice of appeal shall state the grounds for the appeal.
3. **TIME TO APPEAL.** The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
4. **RECORD OF DECISION.** The Administrator shall transmit to the Board all documents and exhibits constituting the record upon which the decision appealed from is taken. The Administrator shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

SEC 2.7 ADMINISTRATIVE DETERMINATIONS AND APPEALS TO ADMINISTRATIVE DETERMINATIONS

When there is a question about whether or not a use or development is permitted and/or compliant with applicable regulations, an applicant with standing may request a determination in the matter.

- A. The Administrator is charged with making determinations.
- B. The Administrator shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.
- C. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, provided the sign remains on the property for at least 10 days. The sign shall contain the words “Zoning Decision” or “Subdivision Decision” or similar language for other determinations in letters at least 6 inches high and shall identify the means to contact a local government staff member for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Posting of signs shall not be required.
- D. If the Administrator determines that the subject of the determination is not compliant with the ordinance or other applicable regulations, the determination may result in a notice of violation, stop work order, or order to correct, or other enforcement remedy.
- E. **APPEALS TO DETERMINATIONS:**
 1. **APPEAL.** Appeals of determinations shall be made to the Board of Adjustment.

2. **STANDING.** Any person who has standing may appeal the determination. An appeal is taken by filing a notice of appeal with the Administrator. The notice of appeal shall state the grounds for the appeal.
 3. **TIME TO APPEAL.** The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- F. RECORD OF DECISION.** The Administrator shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The Administrator shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- G. STAYS.** An appeal of a determination and/or resulting notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the Administrator certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of determinations affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

SEC 2.8 LEGISLATIVE DECISIONS

2.8.1 AMENDMENTS

- A. AMENDMENTS ARE LEGISLATIVE.** The development regulations herein and corresponding zoning map are enacted and amended by a legislative decision-making process. Amendments to the development regulations (text) and/or to the zoning map are necessary to ensure relevancy to community changes and growth. Amendments may be initiated by the Administrator; administrative staff; a member of the Planning Board, City Council, or other City Board or Commission; any citizen or property owner of the City of Lexington, or any other interested party. Amendments will be reviewed and recommended to City Council by the Planning Board. All amendments shall be adopted by ordinance.
- B. LEGISLATIVE HEARING AND NOTICE OF HEARING FOR AMENDMENTS TO DEVELOPMENT REGULATIONS.** Before adopting, amending, or repealing the development regulations of this ordinance, City Council shall hold a legislative hearing. A notice of the hearing shall be given once a week for

two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

C. LEGISLATIVE HEARING AND NOTICE OF HEARING FOR ZONING MAP AMENDMENTS.

- 1. HEARING.** Before adopting, amending, or repealing the zoning map, City Council shall hold a legislative hearing.
- 2. MAILED NOTICE.** The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing.
- 3. OPTIONAL NOTICE FOR LARGE-SCALE ZONING MAP AMENDMENTS.** The first-class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the local government elects to use the expanded published notice provided for in this subsection. In this instance, the City may elect to make the mailed notice provided for in subsection (a) of this section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.
- 4. POSTED NOTICE.** When a zoning map amendment is proposed, the Administrator or administrative staff, on behalf of City Council, shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the City shall post sufficient notices to provide reasonable notice to interested persons.
- 5. ACTUAL NOTICE.** Except for a government-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to City Council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). The person or persons required to provide notice shall

certify to the local government that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

- 6. OPTIONAL COMMUNICATION REQUIREMENTS.** When a zoning map amendment is proposed that involves more than 20 acres, or is the subject of a conditional zoning, the applicant shall communicate to all adjoining property owners, and residents, and or business owners (neighbors) within ¼ mile of the property boundary. The communication may be by written letter, in-person, or by holding a meeting by invitation. The communication shall describe the nature and purpose of the request and provide a means for the neighbors to ask questions. The applicant shall report on any communication with neighbors to the Administrator and/or Planning Board. Report of any communication will be forwarded to the Planning Board and City Council.
- D. DOWN-ZONING.** No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways: 1) By decreasing the development density of the land to be less dense than was allowed under its previous usage; 2) By reducing the permitted uses of the land to fewer uses than were allowed under its previous usage.
- E. CONDITIONAL ZONINGS.** Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the City and consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the petitioner in writing, the City may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local ordinances, plans adopted pursuant to State law, or the impacts reasonably expected to be generated by the development or use of the site. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification. The Planning Board shall review and incorporate conditions of the application in its recommendation to City Council.
- F. CITIZEN COMMENT.** If any member of the public submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the Administrator at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the governing board.
- G. PLANNING BOARD REVIEW AND COMMENT.**
 - 1. ZONING AMENDMENTS.** All proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If

no written report is received from the planning board within 30 days of referral of the amendment to that board, the City Council may act on the amendment without the planning board report. City Council is not bound by the recommendations, if any, of the planning board.

2. **PLAN CONSISTENCY.** When conducting a review of proposed development regulation or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to City Council that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by City Council. If a zoning map amendment qualifies as a "large-scale rezoning," the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.
3. Conditional Zonings are a legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.
4. **SEPARATE BOARD REQUIRED.** Notwithstanding the authority to assign duties of the planning board to City Council, the review and comment required by this section shall not be assigned to the governing board and must be performed by a separate board.

H. GOVERNING BOARD STATEMENT.

1. **PLAN CONSISTENCY.** When adopting or rejecting any development regulation or map amendment, City Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of City Council that at the time of action on the amendment city Council was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review.
2. If a zoning map amendment qualifies as a "large-scale rezoning," City Council's statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
3. If a zoning map amendment is a conditional district, the ordinance shall contain all conditions of the amendment and shall refer to the written consent of the applicant in meeting those conditions.
4. **ADDITIONAL REASONABLENESS STATEMENT FOR REZONINGS.** When adopting or rejecting any petition for a zoning map amendment, a statement

analyzing the reasonableness of the proposed rezoning shall be approved by City Council. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a “large-scale rezoning,” City Council’s statement on reasonableness may address the overall rezoning.

5. **SINGLE STATEMENT PERMISSIBLE.** The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

2.8.2 MORATORIA

- A. City Council may adopt temporary moratoria on any development approval required by this ordinance, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.
- B. **HEARING REQUIRED.** Except in cases of imminent and substantial threat to public health or safety, before adopting a development regulation imposing a development moratorium with a duration of 60 days or any shorter period, City Council shall hold a legislative hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 160D-601.
- C. **EXEMPT PROJECTS.** Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section does not apply to any project for which a valid building permit issued pursuant to G.S. 160D-1108 is outstanding, to any project for which a special use permit application has been accepted as complete, to development set forth in a site-specific vesting plan approved pursuant to G.S. 160D-108.1, to development for which substantial expenditures have already been made in good-faith reliance on a prior valid development approval, or to preliminary or final subdivision plats that have been accepted for review by the City prior to the call for a hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the City prior to the call for a hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium. Notwithstanding the foregoing, if a complete application for a development approval has been submitted prior to the effective date of a moratorium, G.S. 160D-108(b) applies when permit processing resumes.
- D. **REQUIRED STATEMENTS.** Any development regulation establishing a development moratorium must include, at the time of adoption, each of the following:

1. A statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the City and why those alternative courses of action were not deemed adequate.
 2. A statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
 3. A date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
 4. A statement of the actions, and the schedule for those actions, proposed to be taken by the local government during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.
- E. LIMIT ON RENEWAL OR EXTENSION.** No moratorium may be subsequently renewed or extended for any additional period unless the City has taken all reasonable and feasible steps proposed to be taken in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of subsection (d) of this section, including what new facts or conditions warrant the extension.
- F. EXPEDITED JUDICIAL REVIEW.** Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the General Court of Justice for an order enjoining the enforcement of the moratorium. Actions brought pursuant to this section shall be scheduled for expedited hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In such actions, the City has the burden of showing compliance with the procedural requirements of this subsection.

SEC 2.9 ENFORCEMENT

- 2.9.1 NOTICES OF VIOLATION.** When staff determines work or activity has been undertaken in violation of any local development regulation or any State law delegated to the City for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.
- 2.9.2 STOP WORK ORDERS.** Whenever any work or activity subject to any local regulation or any State law delegated to the City for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law or regulation, or in a manner

that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the local government that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1112 and G.S. 160D- 1208, a stop work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor, as defined in NCGS 160D-404.

2.9.3 REMEDIES.

- A.** If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this Chapter, the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. Remedies may include, but are not limited to issuance of civil penalties, injunctions, orders of abatement, and other equitable remedies provided for in a court of competent jurisdiction.
- B.** In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated pursuant to this Chapter is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the development regulation or other provisions of this Chapter, the City, the Planning Board which serves as the Historic Preservation Commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object. Such remedies shall be in addition to any others authorized by G.S. 160D for violation of an ordinance.
- C.** In cases of tree clearing, grading, grubbing or other land disturbing activity within a protected watercourse, buffer, floodplain or wetland without prior approval from the appropriate governing body or has been done in violation of a permit within this Chapter, the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful clearing, land disturbance, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. Remedies may include, but are not limited to issuance of civil penalties, injunctions, orders of abatement, and other equitable remedies provided for in a court of competent jurisdiction.

ARTICLE 3. ZONING DISTRICT REGULATIONS

Zoning and overlay districts are hereby established and regulated as follows:

SEC 3.1 ALL DISTRICTS – PROHIBITED USES

The City of Lexington is an urban community, meaning that a mixture of uses exist and interrelate in close proximity. Impacts from transitions between uses can be mitigated through landscape buffers, screening, and setbacks. Some uses are better located outside of urban areas due to the intrinsic negative impacts on nearby uses, requiring extremely large setbacks, buffers, barriers, resulting in low density development, which is contrary to the urban form of a city. In addition to other uses not expressly permitted within this ordinance, the following uses are expressly prohibited, regardless of the zoning district, within the City of Lexington:

- A. Animal-based Agricultural Industry
- B. Automobile Crushing
- C. Hazardous or Infectious Material Treatment or Storage Facility
- D. Kennel, Commercial
- E. Junkyard
- F. Municipal Solid Waste Landfill (MSWLF)
- G. Timber and Forest Product Processing Facility or Lumber Storage Yard
- H. Non-governmental Off-site Land Clearing and Inert Debris (LCID) Landfill
- I. Petroleum Storage Facility
- J. Power Generation Plant
- K. Quarry
- L. Motorsports Racing Facility
- M. Salvage Yard
- N. Slaughter House or Meat Processing Facility
- O. Solid Waste Incineration
- P. Storage of salvage or used vehicles, equipment, manufactured homes

SEC 3.2 CONDITIONAL ZONING DISTRICTS

- 3.2.1** The process for conditional zoning is outlined in Article 2. Conditional Zoning allows for an approved development plan to become the zoning regulations for the subject property. It allows variation from regulations found in other zoning districts in exchange for the expectation of higher quality development under a site-specific comprehensive plan. The intent is to create better form and design through flexibility, not to avoid meeting minimum standards of general use districts. Conditional Zoning is intended only for firm development proposals and should not be used for tentative projects without definitive plans.
- 3.2.2** Conditional Zoning Districts will be designated by case number on the official Zoning Map. The period of validity for a conditional zoning development plan is two years. After

such time, staff, the Board, or any other person with standing may initiate a rezoning of the property.

3.2.3 Developers applying for conditional zoning for property shall include a development plan with the application. The development plan shall include:

- A. A narrative statement of intent describing the uses, form, and character of the planned development
- B. Specific or conceptual site plan
- C. Infrastructure plan if applicable
- D. Street cross-section diagrams if applicable
- E. Common themed elements, such as lighting and/or street furniture
- F. Architecture (scale, form, style, materials, etc. of any structures or elements)
- G. Amenities
- H. Location of uses
- I. Density calculations
- J. Phasing schedule
- K. Conversions— (Possible land use substitutions in the future.)
- L. Edge treatments and use/form/greenspace transitions to blend or relate to surrounding development.
- M. Transportation impacts if required
- N. Copy of proposed Property Owner’s Association agreements
- O. Parking / travel / connectivity

3.2.4 PLANNED DEVELOPMENT GUIDELINES FOR CONDITIONAL ZONING.

Planned Developments can vary to include mixed-use, housing, shopping, entertainment, civic, recreation, conservation, industrial, institutional, office, common interest, business, recreational, theme, or any combination. Some planned developments are identified within the tables of “permitted development and approval type required” within each zoning district as only being permitted by conditional zoning due to the potential impact to surrounding residential neighborhoods. This is not to say that other conditional zonings will not be considered, but to set out a method and guidance on expectations for certain identified developments. Descriptions below are designed to provide guidance to developers to gain support for approval in close proximity to residential neighborhoods.

3.2.5 CONDITIONAL ZONING PLANNED DEVELOPMENT – SUBURBAN NEIGHBORHOOD

- A. **DEFINED.** Any development of 10 or more residential units which is located either in close proximity to and/or currently zoned Suburban Neighborhood District, and which may or may not include construction of a public or private street.
- B. **GUIDELINES.** Development proposal should be limited to one-family homes and/or townhomes, and amenities. The setting is natural in form with larger lots, larger setbacks, common areas, and greenspace. Substantial landscaping throughout is strongly encouraged. Lots may front on public streets, or on courtyards or greens where pedestrian access and rear alleys are provided for drive and service access. Residential structures are strongly encouraged to have usable front porches with visual prominence, with garages having a subdued or secondary visibility. Architectural materials are encouraged to be of high quality, with brick, natural stone, and/or fiber cement siding

providing the primary exterior finishes. Windows should be incorporated into the structure in such a way that any side of the house visible from the street contains a number of windows, avoiding large solid walls with a minimal number of openings. Driveways and garages should be substantial enough to easily accommodate three to four cars on site. Street cross sections should include sidewalks, planter strips, and pavement of at least 27 feet in width. A traffic impact study is expected for any development that creates more than 30 units. A traffic impact analysis will be expected for any development that creates more than 100 units. Any development that proposes more than 30 units should provide more than one connection to two or more collector streets or to a thoroughfare, configured so that vehicles are not all required to utilize the same exit from the development or any existing neighborhood. Applicants will be expected to initiate contact and/or hold information meetings with nearby property owners and residents in order to share plans and hear concerns.

3.2.6 CONDITIONAL ZONING PLANNED DEVELOPMENT – TRADITIONAL NEIGHBORHOOD

- A. DEFINED.** Any development of 10 or more residential units which is located either in close proximity to and/or currently zoned Traditional Neighborhood District, and which may or may not include construction of a public or private street.
- B. GUIDELINES.** Development proposal may include any combination of one-family homes, two-family homes, townhomes, and/or multifamily homes. Amenities should be provided in the form of gathering space, greens, play areas, recreational facilities, walking trails, or other similar common areas. Substantial landscaping throughout is strongly encouraged. The setting is higher density form with an emphasis on landscaping, walkability, and connectivity. Lots may front on public streets, or on courtyards or greens with pedestrian access and where rear alleys are provided for drive and service access. One-family, two-family, and townhomes are strongly encouraged to have usable front porches with visual prominence, with garages having a subdued or secondary visibility. Multifamily buildings are strongly encouraged to have upper story balconies and first floor porches or stoops. Architectural materials are strongly encouraged to be high quality, with brick, natural stone, and/or fiber cement siding providing the primary exterior finishes. High quality vinyl siding may be utilized but should be limited. The front of a dwelling should never face the rear of another dwelling. Windows should be incorporated into the structure in such a way that any side of the house visible from the street contains a number of windows, avoiding large solid walls with a minimal number of openings. Driveways and garages should be substantial enough to easily accommodate two cars on site. Street cross sections should include sidewalks, planter strips, and pavement of at least 27 feet in width. Parking areas for multifamily buildings should be situated so as to provide easy access without diminishing front porch interactions. Rear parking for multifamily building with rear or cut-through access is strongly encouraged. Fronting on community greenspace is preferred. A traffic impact study is expected for any development that creates more than 30 units. A traffic impact analysis will be expected for any development that creates more than 100 units. Any development that proposes more than 30 units should provide more than one connection to two or more collector streets or to a thoroughfare, configured so that vehicles are not all required to utilize the same exit from the

development or any existing neighborhood. Applicants will be expected to initiate contact and/or hold information meetings with nearby property owners and residents in order to share plans and hear concerns.

SEC 3.3 SUBURBAN NEIGHBORHOOD DISTRICT

3.3.1 INTENT. The intent of the Suburban Neighborhood District is to accommodate existing low-density residential subdivisions comprised mostly of one-family dwellings and provide for comparable infill development within existing neighborhoods.

3.3.2 MINIMUM LOT STANDARDS

A. Commercial Building

1. Minimum Lot Size: 10,000 square feet
2. Minimum Lot Width at Building Line: 70 feet
3. Minimum Public Street Frontage: 50 feet, 25 feet on cul-de-sacs
4. Direct access to public water and sewer is required.

B. One-family Dwelling

1. Minimum Lot Size: 10,000 square feet
2. Minimum Lot Width at Building Line: 70 feet
3. Minimum Public Street Frontage: 50 feet, 25 feet on cul-de-sacs
4. Direct access to public water and sewer is required.

C. Townhomes

1. Minimum Lot Size: 10,000 square feet for the first unit, plus 5,000 square feet for each additional unit.
2. Minimum Lot Width at Building Line: 100 feet
3. Minimum Public Street Frontage: 60 feet

3.3.3 PERMITTED DEVELOPMENT AND APPROVAL TYPE REQUIRED:

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Accessory Structures and Uses				
Accessory Dwelling Unit		○		
Building (storage, workshop, garage, greenhouse, etc.)	○			
Carport	○			
Cemetery		○		
Deck / Patio	○			
Dog Park		○		
Fences and Walls				
Gazebo	○			
Hayfield		○		
Home Occupation		○		
Park	○			
Parking Lot		○		
Parish	○			
Playground	○			
Pond		○		
Reforestation		○		
Swimming Pool		○		
Timbering		○		
Utility Station		○		
Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses				
Bed and Breakfast Home (8 guest rooms or less)				○
Expansion of Existing Building	○			
Existing Commercial Building for Religious Institution Use	○			
Existing Commercial Building for Public or Private School Use	○			
Hayfield		○		
One-family, and up to Four-Family Dwelling building	○			

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses (Continued)				
Park, Public				○
Pond		○		
Reforestation		○		
Replacing a Manufactured Home		○		
Special Event		○		
Stable		○		
Temporary Health Care Structure		○		
Temporary Use		○		
Timbering		○		
Utility Station		○		
Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
New Development				
Construction of new commercial building for religious institution	○			
Construction of new commercial building for school	○			
Construction of new Multifamily Development (up to 10 units)	○			
Construction of new Multifamily Development (more than 10 units)				○
Construction of new One-Family and up to Four-Family Dwelling(s) Development (up to 10 units)	○			
Construction of new One-Family and up to Four-Family Dwelling(s) Development (more than 10 units)				○
Construction of new public street - 100 linear feet or less		○		
Construction of new public street - more than 100 linear feet				○
Construction of new Recreational Facility, indoor, Private				○
Construction of new Recreational Facility, outdoor, Private				○
Planned Development - Suburban Neighborhood		○		
Stable		○		

SEC 3.4 TRADITIONAL NEIGHBORHOOD DISTRICT

3.4.1 INTENT. The intent of the Traditional Neighborhood District is to accommodate existing medium- to high-density residential neighborhoods and provide opportunities for new single- and multi-family residential. A range of housing types is permitted with density based on characteristics of the site and compatibility with surrounding uses. A limited number of support uses and low-impact non-residential uses are permitted.

3.4.2 MINIMUM LOT REGULATIONS

A. Commercial Building

1. Minimum Lot Size: 10,000 square feet
2. Minimum Lot Width at Building Line: 100 feet
3. Minimum Public Street Frontage: 60 feet
4. Direct access to public water and sewer is required.

B. Multi-Family Residential and/or Mixed-Use Building

1. Minimum Lot Size: 10,000 square feet minimum, plus 4,000 square feet for each additional residential unit
2. Minimum Lot Width at Building Line: 100 feet
3. Minimum Public Street Frontage: 60 feet
4. Direct access or access through common area to public water and sewer is required.

C. One-family Dwelling

1. Lots within $\frac{1}{4}$ mile of any Suburban Neighborhood Zoning District, shall be a minimum of 9,000 square feet and have a minimum of 60 feet of lot width at the building line in order to provide for edge transition. Exception: where the subject property is separated from the Suburban Neighborhood Zoning District by floodplain, a highway or interstate, or other similar factors, and where future public street access or developed common area connecting the two areas is not physically feasible, this regulation may be waived by the approving authority.
2. Minimum Lot Size: 6,000 square feet
3. Minimum Lot Width at Building Line: 50 feet
4. Minimum Public Street Frontage: 20 feet
5. Direct access to public water and sewer is required.

D. Two-family Dwelling

1. Minimum Lot Size: 9,000 square feet
2. Minimum Lot Width at Building Line: 75 feet
3. Minimum Public Street Frontage: 40 feet
4. Direct access to public water and sewer is required.

3.4.3 PERMITTED DEVELOPMENT AND APPROVAL TYPE REQUIRED:

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Accessory Structures and Uses				
Accessory Dwelling Unit		●		
Building (storage, workshop, garage, greenhouse, etc.)	●			
Carport	●			
Cemetery		●		
Child Care		●		
Deck / Patio	●			
Dog Park		●		
Fences and Walls	●			
Gazebo	●			
Hayfield		●		
Home Occupation		●		
Park	●			
Parking Lot		●		
Parish	●			
Playground	●			
Pond		●		
Reforestation		●		
Swimming Pool		●		
Temporary Health Care Structures		●		
Timbering		●		
Utility Station		●		
Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses				
Bed and Breakfast Home (8 guest rooms or less)				●
Expansion of Existing Building	●			
Existing Commercial Building for Religious Institution Use	●			
Existing Commercial Building for Cultural Facility	●			
Existing Commercial Building for Governmental Agency	●			
Existing Commercial Building for Recreational Facility, Indoor	●			

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses (Continued)				
Existing Commercial Building for Public or Private School Use	●			
Conversion of existing building(s) to multifamily residential where the previous use was not multifamily (10 new residential units or less)	●			
Conversion of existing building(s) to multifamily residential where the previous use was not multifamily (more than 10 new residential units)				●
Hayfield		●		
One-family, and up to Four-Family Dwelling structure	●			
Park, Public	●			
Pond		●		
Reforestation		●		
Replacing a Manufactured Home		●		
Special Event		●		
Stable		●		
Temporary Use		●		
Timbering		●		
Utility Station		●		
Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
New Development				
Construction of new commercial building for religious institution	●			
Construction of new commercial building for school	●			
Construction of new Multifamily Development (up to 10 units)	●			
Construction of new Multifamily Development (more than 10 units)				●
Construction of new One-Family and up to Four-Family Dwelling(s) Development (up to 10 units)	●			
Construction of new One-Family and up to Four-Family Dwelling(s) Development (more than 10 units)				●
Construction of new public street - 100 linear feet or less		●		

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
New Development (Continued)				
Construction of new public street - more than 100 linear feet				●
Construction of new Recreational Facility, indoor, Private				●
Construction of new Recreational Facility, outdoor, Private				●
Planned Development - Traditional Neighborhood				●

SEC 3.5 MIXED-USE DISTRICT

3.5.1 INTENT. The intent of the Mixed-Use District is to provide for the clustering of limited commercial, office, service, civic, and residential uses in close proximity to existing residents. Mixed-Use Districts are designed to be pedestrian-friendly, with architectural building styles compatible with one another, and are generally located at key intersections and along collector roads.

3.5.2 MINIMUM LOT REGULATIONS

A. Commercial Building

1. Minimum Lot Size: N/A
2. Minimum Frontage: Lots must meet one of the following requirements:
 - a. A minimum of 25 feet of frontage upon a public street or improved public alley.
 - b. A minimum of 25 feet of frontage upon a private street meeting the following requirements:
 - (1) The private street shall be built to City standards; and
 - (2) Maintenance of the private street shall be provided for through a maintenance agreement between private property owners or a property owners association.
 - c. A minimum 25-foot wide access easement / right-of-way to a public street (may cross or include shared parking lot area).
 - d. A minimum 25-foot wide access easement / right-of-way to a private street (may cross or include shared parking lot area). The private street must meet the following requirements:
 - (1) The private street shall be built to City standards; and
 - (2) Maintenance of the private street shall be provided for through a maintenance agreement between private property owners or a property owners association.
3. Direct access or access through common area to public water and sewer is required.

B. Multi-family Residential and/or Mixed-Use Building

1. Minimum Lot Size: Not Applicable
2. Minimum Lot Width at Building Line: 75 feet

3. Minimum Public Street Frontage: 60 feet
 4. Direct access or access through common area to public water and sewer is required.
- C. One-family Dwelling**
1. Minimum Lot Size: 6,000 square feet
 2. Minimum Lot Width at Building Line: 50 feet
 3. Minimum Public Street Frontage: 20 feet
 4. Direct access to public water and sewer is required.
- D. Two-family Dwelling**
1. Minimum Lot Size: 9,000 square feet
 2. Minimum Lot Width at Building Line: 75 feet
 3. Minimum Public Street Frontage: 40 feet
 4. Direct access to public water and sewer is required.

3.5.3 PERMITTED DEVELOPMENT AND APPROVAL TYPE REQUIRED:

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Accessory Structures and Uses				
Accessory Dwelling Unit		●		
Building (storage, workshop, garage, greenhouse, etc.)	●			
Carport	●			
Cemetery		●		
Child Care - At home		●		
Deck / Patio	●			
Dog Park		●		
Fences and Walls	●			
Gazebo	●			
Hayfield		●		
Home Occupation		●		
Outdoor Dining, Private Property		●		
Outdoor Dining, Public Sidewalk		●		
Outdoor Display, Private Property		●		
Outdoor Display, Public Sidewalk		●		
Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses				
ABC Permitted Business		●		
Amusement, Indoor	●			
Automotive Service		●		
Bar		●		
Bed And Breakfast		●		
Carwash	●			
Cemetery		●		
Childcare Center	●			
Convenience Store with gas pumps	●			
Cultural Facility	●			
Daycare Center for Adults	●			
Dependent Care Center	●			
Dog Park				●
Farmer's Market	●			

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses (Continued)				
Governmental Agency	●			
Gym, Indoor Fitness	●			
Grocery Store	●			
Hayfield		●		
Hotel	●			
Inn	●			
Mixed-Use		●		
Motel	●			
Office/Office Building	●			
One-family, and up to Four-Family Dwelling structure	●			
Park	●			
Parking Deck/Parking Lot		●		
Playground	●			
Pond		●		
Produce Stand		●		
Professional Services	●			
Pub		●		
Pushcart Vendor		●		
Recreation Facility, Indoor	●			
Recreation Facility, Outdoor		●		
Reforestation		●		
Religious Institution	●			
Replacing a Manufactured Home		●		
Restaurant	●			
Retail	●			
School, Public or Private	●			
Special Event		●		
Stable	●			
Studio	●			
Swimming Pool		●		
Temporary Use		●		
Timbering		●		
Utility Station		●		

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
New Development				
Construction of new building, development, or structure of more than 60,000 square feet cumulative gross floor area				●
Construction of new Multifamily Development (up to 10 units)	●			
Construction of new Multifamily Development (more than 10 units)				●
Construction of new One-Family and up to Four-Family Dwelling(s) Development (up to 10 units)	●			
Construction of new One-Family and up to Four-Family Dwelling(s) Development (more than 10 units)				●
Construction of new Recreational Facility, Outdoor, Private				●
Construction of new public street		●		
Planned Development				●

SEC 3.6 UPTOWN DISTRICT

3.6.1 INTENT. The intent of the Uptown District is to support the vitality and growth of Historic Uptown Lexington. As the traditional focal point of community life, the Uptown is intended to serve as the hub of commerce, civic, cultural, and governmental activity. The storefront shops with upper-story residences, restaurants, civic uses and public uses, primarily along North and South Main Streets and East and West Center Streets, help to define the general character of this area. New infill development will be carefully designed to add to the character, charm, and economic strength of this vital, historic, community-wide activity center.

3.6.2 MINIMUM LOT REGULATIONS

- A. Commercial, Multi-family Residential, and Mixed-Use Buildings
 - 1. Minimum Lot Size: N/A
 - 2. Minimum Frontage: N/A
 - 3. Direct access or access through common area to public water and sewer is required.
- B. One- and Two-Family Dwelling
 - 1. Minimum Lot Width at Building Line: 50 feet
 - 2. Minimum Lot Size: 6,000 square feet
 - 3. Minimum Public Street Frontage: 20 feet
 - 4. Direct access to public water and sewer is required.
 - 5. Flag lots are neither permitted nor buildable. Lot lines shall run through the depth of the lot at an angle as close to perpendicular with the street as possible.

3.6.3 PERMITTED DEVELOPMENT AND APPROVAL TYPE REQUIRED:

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Accessory Structures and Uses				
Accessory Dwelling Unit		●		
Building (storage, workshop, garage, greenhouse, etc.)	●			
Carport	●			
Cemetery		●		
Child Care - At home		●		
Deck / Patio	●			
Dependent Care Home	●			
Dog Park		●		
Fences and Walls	●			
Gazebo	●			
Home Occupation		●		
Home Occupation		●		
Outdoor Dining, Private Property		●		
Outdoor Dining, Public Sidewalk		●		
Outdoor Display, Private Property		●		
Outdoor Display, Public Sidewalk		●		
Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses				
ABC Permitted Business		●		
Amusement, Indoor	●			
Automotive Service		●		
Bar		●		
Bed And Breakfast		●		
Brewery		●		
Carwash	●			

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses (Continued)				
Childcare Center	●			
Conversion of existing buildings to Residential Development (up to 10 units)	●			
Conversion of existing buildings to Residential Development (more than 10 units)				●
Cultural Facility	●			
Daycare Center for Adults	●			
Dependent Care Center	●			
Distillery		●		
Dog Park				●
Farmer's Market	●			
Governmental Agency	●			
Gym, Indoor Fitness	●			
Grocery Store	●			
Hotel				●
Inn	●			
Mixed-Use		●		
Motel				●
Office/Office Building	●			
One-family, and up to Four-Family Dwelling structure	●			
Park	●			
Parking Deck/Parking Lot		●		
Playground	●			
Pond/Water Feature/Fountain		●		
Produce Stand		●		
Professional Services		●		
Pub		●		

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses (Continued)				
Pushcart Vendor		●		
Recreation Facility, Indoor	●			
Recreation Facility, Outdoor		●		
Reforestation	●			
Religious Institution		●		
Restaurant		●		
Retail	●			
School, Public or Private	●			
Special Event		●		
Studio		●		
Swimming Pool, Private, Community/Swim Club				●
Temporary Use	●			
Timbering		●		
Planned Development				●
Utility Station		●		
Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
New Development				
Construction of new buildings or structures for development approved at administrative level		●		
Construction of new building, development, or structure of more than 60,000 square feet cumulative gross floor area				●
Construction of new Multifamily Development (up to 10 units)	●			

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
New Development (Continued)				
Construction of new Multifamily Development (more than 10 units)				●
Construction of new One-Family and up to Four-Family Dwelling(s) Development (up to 10 units)	●			
Construction of new One-Family and up to Four-Family Dwelling(s) Development (more than 10 units)				●
Construction of new Recreational Facility, Outdoor, Private				●
Construction of new public street		●		
Planned Development				●

SEC 3.7 BUSINESS DISTRICT

3.7.1 INTENT. The intent of the Business District is to accommodate a wide range of retail, service, governmental, and office uses that serve not only the Lexington community, but also travelers along key highway corridors. This district provides an opportunity for economic development with convenient automobile access, minimal traffic congestion, and reduced visual clutter along designated commercial corridors.

3.7.2 MINIMUM LOT REGULATIONS

A. Commercial and Mixed-Use Buildings

1. Minimum Lot Size: N/A
2. Minimum Frontage: Lots must meet one of the following requirements:
 - a. A minimum of 25 feet of frontage upon a public street or improved public alley.
 - b. A minimum of 25 feet of frontage upon a private street meeting the following requirements:
 - (1) The private street shall be built to City standards; and
 - (2) Maintenance of the private street shall be provided for through a maintenance agreement between private property owners or a property owners association.
 - c. A minimum 25-foot wide access easement / right-of-way to a public street (may cross or include shared parking lot area).
 - d. A minimum 25-foot wide access easement / right-of-way to a private street (may cross or include shared parking lot area). The private street must meet the following requirements:
 - (1) The private street shall be built to City standards; and

- (2) Maintenance of the private street shall be provided for through a maintenance agreement between private property owners or a property owners association.
- e. Direct access or access through common area to public water and sewer is required.
- B. Multi-family Residential**
 - 1. Minimum Lot Size: Not Applicable
 - 2. Minimum Lot Width at Building Line: 75 feet
 - 3. Minimum Public Street Frontage: 60 feet
 - 4. Direct access or access through common area to public water and sewer is required.
- C. One-family Dwelling**
 - 1. Minimum Lot Width at Building Line: 50 feet
 - 2. Minimum Lot Size: 6,000 square feet
 - 3. Minimum Public Street Frontage: 20 feet
 - 4. Direct access to public water and sewer is required.
- D. Two-family Dwelling**
 - 1. Minimum Lot Width at Building Line: 75 feet Minimum Lot Size: 9,000 square feet
 - 2. Minimum Public Street Frontage: 75 feet, 50 feet on cul-de-sac
 - 3. Direct access to public water and sewer is required.

3.7.3 PERMITTED DEVELOPMENT AND APPROVAL TYPE REQUIRED:

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Accessory Structures and Uses				
Accessory Dwelling Unit		●		
Building (storage, workshop, garage, greenhouse, etc.)	●			
Carport	●			
Cemetery		●		
Child Care - At home		●		
Construction Material Supply Yard		●		
Deck / Patio	●			
Dependent Care Home	●			
Dog Park		●		
Fences and Walls	●			
Gazebo	●			
Home Occupation		●		
Outdoor Dining, Private Property		●		
Outdoor Dining, Public Sidewalk		●		
Outdoor Display, Private Property		●		
Outdoor Display, Public Sidewalk		●		
Stormwater Control Measure (SCM)/Pond/Fountain or other Water Features		●		
Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses				
ABC Permitted Business		●		
Amusement, Indoor	●			
Adult Establishment			●	
Automotive Service		●		
Automotive Repair		●		
Bar		●		
Bed And Breakfast		●		
Brewery		●		
Carwash	●			

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses (Continued)				
Cemetery		●		
Childcare Center	●			
Convenience Store with gas pumps	●			
Crematory		●		
Cultural Facility	●			
Daycare Center for Adults	●			
Dependent Care Center	●			
Distillery		●		
Dog Park				●
Electronic Gaming Establishment			●	
Emporium		●		
Farmer's Market	●			
Flea Market, Indoor and/or Outdoor		●		
Gas Station	●			
Governmental Agency	●			
Greenhouse/Nursery	●			
Grocery Store	●			
Indoor Fitness, Gym	●			
Hayfield		●		
Hotel/Inn/Lodge	●			
Manufacturing, Light				●
Mixed-Use		●		
Motel	●			
Nightclub			●	
Office/Office Building	●			
Outdoor Sales, Lease, or Display of Large Vehicles, Heavy Equipment, and/or Farm Equipment		●		
Outdoor Sales, Lease, or Display of Manufactured and/or Modular Homes/Buildings		●		
Outdoor Sales, Lease, or Display of Motor Vehicles (Cars/Trucks/Boats)		●		
Outdoor Sales, Lease, or Display of Metal Carports and/or Storage Buildings		●		
Park	●			

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses (Continued)				
Parking Deck/Parking Lot		●		
Planned Development				●
Playground	●			
Produce Stand	●			
Production Shop	●			
Professional Services	●			
Pushcart Vendor		●		
Pub		●		
Recreation Facility, Indoor	●			
Recreation Facility, Outdoor, Public		●		
Recreation Facility, Outdoor, Private		●		
Recycling Collection Site				●
Reforestation		●		
Religious Institution	●			
Replacing a Manufactured Home		●		
Restaurant	●			
Retail	●			
School, Public or Private	●			
Special Event		●		
Stable	●			
Studio	●			
Swimming Pool, Private, Community/Swim Club		●		
Temporary Use		●		
Timbering		●		
Utility Station		●		
Winery		●		

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
New Development				
Construction of new building, development, or structure of more than 60,000 square feet cumulative gross floor area				●
Construction of new Multifamily Development (up to 10 units)	●			
Construction of new Multifamily Development (more than 10 units)				●
Construction of new One-Family and up to Four-Family Dwelling(s) Development (up to 10 units)	●			
Construction of new One-Family and up to Four-Family Dwelling(s) Development (more than 10 units)				●
Construction of new Recreational Facility, Outdoor, Private				●
Construction of new public street		●		
Planned Development				●
Stormwater Control Measure (SCM)/Pond/Fountain or other Water Features		●		

SEC 3.8 INDUSTRIAL DISTRICT

3.8.1 INTENT. The intent of the Industrial District is to accommodate existing and future industrial, manufacturing, wholesaling, distribution, and warehousing uses, and encourage the planned development of new office and industrial parks. This district is intended to enhance the economic vitality of the City while mitigating impacts to the environment and adjacent properties, and to provide pedestrian-friendly work places with convenient access to nearby support services.

3.8.2 MINIMUM LOT REGULATIONS

A. Multi-family Residential

1. Minimum Lot Size: 12,000 square feet, plus 3,000 square feet for each additional unit over three.
2. Minimum Lot Width at Building Line: 75 feet
3. Minimum Public Street Frontage: 60 feet
4. Direct access or access through common area to public water and sewer is required.

B. Commercial Building

1. Minimum Lot Size: N/A
2. Minimum Frontage: Lots must meet one of the following requirements:
 - a. A minimum of 25 feet of frontage upon a public street or improved public alley.
 - b. A minimum of 25 feet of frontage upon a private street meeting the following requirements:

- (1) The private street shall be built to City standards; and
 - (2) Maintenance of the private street shall be provided for through a maintenance agreement between private property owners or a property owners association.
 - c. A minimum 25-foot wide access easement / right-of-way to a public street (may cross or include shared parking lot area).
 - d. A minimum 25-foot wide access easement / right-of-way to a private street (may cross or include shared parking lot area). The private street must meet the following requirements:
 - (1) The private street shall be built to City standards; and
 - (2) Maintenance of the private street shall be provided for through a maintenance agreement between private property owners or a property owners association.
 - e. Direct access or access through common area to public water and sewer is required.
- C. Two-family Dwelling**
- 1. Minimum Lot Width at Building Line: 75 feet Minimum Lot Size: 9,000 square feet
 - 2. Minimum Public Street Frontage: 75 feet, 50 feet on cul-de-sac
 - 3. Direct access to public water and sewer is required.
 - 4. Flag lots are neither permitted nor buildable. Lot lines shall run through the depth of the lot at an angle as close to perpendicular with the street as possible.
- D. One-family Dwelling**
- 1. Minimum Lot Width at Building Line: 50 feet
 - 2. Minimum Lot Size: 6,000 square feet
 - 3. Minimum Public Street Frontage: 20 feet
 - 4. Direct access to public water and sewer is required.

3.8.3 PERMITTED DEVELOPMENT AND APPROVAL TYPE REQUIRED:

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Accessory Structures and Uses				
Accessory Dwelling Unit		●		
Building (storage, workshop, garage, greenhouse, etc.)	●			
Carport	●			
Child Care - At home		●		
Construction Material Supply Yard		●		
Deck / Patio	●			
Dependent Care Home	●			
Dog Park		●		
Fences and Walls	●			
Gazebo	●			
Home Occupation		●		
Outdoor Dining, Private Property		●		
Outdoor Dining, Public Sidewalk		●		
Outdoor Display, Private Property		●		
Outdoor Display, Public Sidewalk		●		
Stormwater Control Measure (SCM)/Pond/Fountain or other Water Features		●		
Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses				
ABC Permitted Business		●		
Airport/Aviation Services	●			
Amusement, Indoor	●			
Adult Establishment			●	
Automotive Service		●		
Automotive Repair		●		
Bar		●		
Bed And Breakfast Home		●		
Brewery		●		
Carwash	●			
Cemetery		●		
Childcare Center	●			

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses (Continued)				
Convenience Store with gas pumps	●			
Correctional Institution				●
Crematory		●		
Cultural Facility	●			
Daycare Center for Adults	●			
Dependent Care Center	●	●		
Distribution Facility	●			
Dog Park				●
Electronic Gaming Establishment			●	
Emporium		●		
Farmer's Market	●			
Flea Market, Indoor and/or Outdoor		●		
Gas Station	●			
Governmental Agency	●			
Greenhouse/Nursery	●			
Grocery Store	●			
Indoor Fitness, Gym	●			
Hayfield		●		
Hotel	●			
Industrial Use	●			
Inn	●			
Lodge	●			
Manufacturing, Heavy				●
Manufacturing, Light	●			
Mixed-Use		●		
Motel	●			
Nightclub			●	
Office/Office Building	●			
Outdoor Sales, Lease, or Display of Large Vehicles, Heavy Equipment, and/or Farm Equipment		●		
Outdoor Sales, Lease, or Display of Manufactured and/or Modular Homes/Buildings		●		
Outdoor Sales, Lease, or Display of Motor Vehicles (Cars/Trucks/Boats)		●		

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses (Continued)				
Outdoor Sales, Lease, or Display of Metal Carports and/or Storage Buildings		●		
Packaging	●			
Park	●			
Parking Deck/Parking Lot		●		
Playground	●			
Processing	●			
Produce Stand	●			
Production Shop	●			
Professional Services	●			
Pushcart Vendor		●		
Recreation Facility, Indoor	●			
Recreation Facility, Outdoor, Public		●		
Recreation Facility, Outdoor, Private				●
Recycling Collection Site				●
Recycling Processing Plant				●
Reforestation		●		
Religious Institution	●			
Replacing a Manufactured Home		●		
Restaurant	●			
Retail	●			
School, Public or Private	●			
Freight Transport Facility	●			
Special Event		●		
Stable	●			
Storage, Self-Service	●			
Stormwater Control Measure (SCM)/Pond/Fountain or other Water Features		●		
Studio	●			
Swimming Pool, Private, Community/Swim Club		●		
Temporary Use		●		
Timbering		●		

Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
Principal Structures and Uses (Continued)				
Towing Business with Accessory Storage of Towed Motor Vehicles		●		
Utility Station		●		
Water/Wastewater Treatment Facility				●
Warehouse	●			
Wholesale Establishment	●			
Winery		●		
Development	Administrative Development Approval	Administrative Development Approval with Additional Criteria	Quasi-Judicial Special Use Permit	Legislative Conditional Zoning
New Development				
Construction of new buildings, new Industrial Building, or structures for development approved at administrative level		●		
Construction of a new Industrial Building with Development Approved at Quasi-Judicial Level				●
Construction of a new Industrial Building with Development Approved at Legislative Conditional Zoning				●
Construction of new Multifamily Development (up to 10 units)	●			
Construction of new Multifamily Development (more than 10 units)				●
Construction of new One-Family and up to Four-Family Dwelling(s) Development (up to 10 units)	●			
Construction of new One-Family and up to Four-Family Dwelling(s) Development (more than 10 units)				●
Construction of new public street		●		
Planned Development				●
Stormwater Control Measure (SCM)/Pond/Fountain or other Water Features		●		

SEC 3.9 DEPOT DISTRICT

(Formerly referenced as Planned Development District)

The Depot District is a transit-oriented redevelopment area targeted for live, work, and play. Development within the district will be a blend of repurposed industrial buildings and complimentary infill. Development shall be consistent with the masterplan for the district.

PERMITTED USES: restaurant, retail, entertainment, event venues, professional and personal services, mixed use, education, one-family dwellings, two-family dwellings, multifamily residential, breweries/distilleries/bars, public transportation facilities, and/or uses determined by the Administrator to be consistent with a mixed-use transit-oriented development.

The Project shall be designed in an upscale urban form with attention to design detail and elements that contribute to the Depot District being walkable, mixed-use, transit-oriented development, and a compliment to the nearby Uptown. The expression of the buildings shall respect the historic significance, but appropriate contemporary elements may be utilized to reflect the new uses.

Except for structurally unsound buildings, existing buildings should generally remain and be repurposed to the extent commercially reasonable and monetarily feasible. No building or structure may be demolished without express written approval by the City. With approved demolitions, materials, remnants, and portions are encouraged to be repurposed and creatively incorporated into the Project.

New buildings, if any, and changes to existing buildings shall demonstrate quality architecture and compatibility with surrounding buildings in terms of material, style, massing, and form relative to the surrounding area and public realm. Adding monolithic or box-like facades shall be avoided. Quality architecture includes architectural accents and features conducive to pedestrian scale and usage; vertical and horizontal articulation; rooflines that highlight entrances; transparent storefront windows (if applicable for future development) and activated uses on the ground floor.

Properly scaled fenestration, signage and lighting shall be designed to create visual interest and depth. Reopening former windows and doors, and repurposing former dock doors and larger openings in order to reengage interaction with the streetside is encouraged. Additional fenestration will be encouraged where appropriate.

The building use, program, and architecture shall be planned in concert to activate the pedestrian environment of the street frontage. Facades shall create an active and engaging public realm, while uses with no public interaction such as storage will be placed at secondary locations.

Along the streets, existing building sides will be transformed into facades to create streetwalls with relatively continuous facades, or public open space built to the front lot line to provide a sense of definition or enclosure and improve pedestrian comfort. As an urban space, the perimeter of the project should promote active uses that provide pedestrian traffic for the space such as an outdoor deck, orchard, herb gardens and other greenspace. Upper-story right-of-way encroachments for balconies, walkovers, canopies, art, etc. may be utilized upon approval by the City.

Redevelopment projects will incorporate, to the degree practical, taking the “indoors” outdoors by use of decks, courtyards, outdoor seating, etc. Outdoor spaces may be integrated into the building by opening interior spaces with bay doors and/or incorporating outdoor decks and shade areas.

Any new development, streetscape, and building improvements shall promote higher intensity, pedestrian-oriented use and lessen the need for movement within the Depot District by automobile, while also providing convenient parking to the Subject Property.

Parking lots shall not dominate the frontage of pedestrian-oriented streets, interrupt pedestrian routes, or negatively impact surrounding developments. Parking lots shall occupy secondary space and be located behind or in the interior of a block whenever possible. Parking lots shall be screened in accordance with design regulations contained in Article 4.

SEC 3.10 MANUFACTURED HOME DISTRICT

3.10.1 INTENT. The intent of the Manufactured Home Overlay District is to accommodate existing and new manufactured home developments and/or individual manufactured homes.

3.10.2 REGULATIONS. Development regulations shall be the same as for the Traditional Neighborhood District, except that the following shall apply:

- A. Within the district, manufactured homes are permitted.
- B. Minimum spacing between manufactured homes:
 - 1. Minimum from side to side: 16 feet
 - 2. Minimum front/rear to front/rear: 40 feet

SEC 3.11 HISTORIC OVERLAY DISTRICT

3.11.1 DEVELOPMENT AND APPROVAL TYPE REQUIRED:

Type of Alteration or Development	Exempt (No COA Required)	Administrative Approval (Minor Works Required)	Quasi-Judicial COA (Major Works Required)
Alteration, removal, or replacement of materials, features, or accessory structures of less than 50 years old	●		
Installation or replacement of storm windows or doors	●		
Exterior painting	●		
Routine Maintenance or repair of existing features	●		
Any change needed for public safety because of unsafe or dangerous conditions as certified by a Building Inspector, the Director of Business and Community Development, Director of Public Services, the City Manager, a Public Safety Officer, or their designee	●		
Maintenance and emergency restoration of existing above ground utility lines	●		
Underground utilities (except on sites with archaeological finds)	●		
Extension or upgrading of service for equipment such as meters, valves and cleanout drains	●		
Equivalent replacements and upgrades in mechanical equipment such as transformers, traffic-control devices, overhead utility lines, utility poles or ground-mounted utility installations	●		
Addition or deletion of fire hydrants	●		
Replacement of Street Signs	●		
Any utility upgrade required by a State or Federal Agency or Code	●		
Addition of equipment on existing lines or poles or replacement of existing overhead lines, poles, or ground-mounted installation	●		
Additions of 144 square feet or less to the rear elevation of primary buildings, or to existing accessory buildings located in the rear yard		●	
Installation or construction of a new accessory building of 144 square feet or less in the rear yard		●	
Construction or expansion of a carport, deck, porch or patio located in the rear yard		●	
Removal or replacement of a carport, deck, porch, or patio located in the rear yard		●	
Construction of new fences or walls in the rear yard, or in the side yard of interior lots		●	
Construction, expansion, or removal of driveways and sidewalks in the rear yard, or in the side yard of interior lots		●	
Construction or installation of new exterior stairs, steps, or ramps in the rear yard, or in the side yard of interior lots		●	
Utility Station		●	
Replacement of existing windows or doors on the rear elevation, or on side elevations of interior lots		●	
Installation of new awnings, canopies or shutters		●	
Replacement or removal of awnings, canopies, or shutters that are more than 50 years old		●	
Construction, repair, or removal of chimneys that are more than 50 years old		●	

Type of Alteration or Development	Exempt (No COA Required)	Administrative Approval (Minor Works Required)	Quasi-Judicial COA (Major Works Required)
Replacement of roof		●	
Alteration, repair, or replacement of exposed foundation		●	
Installation of new gutters and downspouts		●	
Replacement or removal of gutters and downspouts that are more than 50 years old		●	
Installation of new gutters and downspouts		●	
Replacement or removal of gutters and downspouts that are more than 50 years old		●	
Changes to the overall exterior lighting scheme		●	
Replacement or removal of exterior light fixtures that are more than 50 years old		●	
Installation of new exterior vents and ventilators		●	
Replacement or removal of exterior vents and ventilators that are more than 50 years old		●	
Removal of swimming pools that are more than 50 years old		●	
Removal of a tree 18 inches or more in diameter, measured 4-1/2 feet above ground level		●	
Installation of new HVAC unit or generator in the rear yard, or side yards of interior lots		●	
Renewal of valid Certificate of Appropriateness (COA) where no change is proposed, or only minor work revisions are proposed		●	
Amendment to valid Certificate of Appropriateness (COA) for minor revisions		●	
Any changes related to a non-contributing structure (non-historically compromised)		●	
Replacement of Windows or Doors		●	
New construction of primary building			●
Additions to primary or accessory buildings located in the front yard or side yard			●
Additions of more than 144 square feet to the rear elevation of primary buildings, or to accessory buildings located in the rear yard			●
Installation or construction of an accessory structure in the front or side yard			●
Installation or construction of an accessory structure of more than 144 square feet in the rear yard			●
Construction, expansion, removal, or replacement of a carport, deck, porch, or patio located in the front yard or side yard			●
Relocation of a primary or accessory building of more than 144 square feet into, out of, or within a Local Historic District			●
Construction of new driveways or sidewalks in the front yard, or the side yard facing a public street		●	
Construction of a new commercial or multi-family parking lot			●
Construction of a new fence or wall in the front yard, or in the side yard facing a public street		●	
Replacement or removal of a fence or wall of more than 50 years old in the front yard, or in the side yard facing a public street		●	
Installation or replacement of siding			●
Alteration or removal of any character-defining feature on the front or side elevation of the primary building, or in the front or side yard			●

Type of Alteration or Development	Exempt (No COA Required)	Administrative Approval (Minor Works Required)	Quasi-Judicial COA (Major Works Required)
Installation of a new swimming pool			●
Partial or complete demolition or removal of any primary or accessory building of more than 50 years old			●
Changes to public streets, sidewalks, planter strips, and utilities where the change alters the the character of the streetscape, public view, or surrounding area			●
Any changes related to a noncontributing structure			●
Any changes deemed substantial by the Administrative Staff			●

Local Historic District Certificate of Appropriateness: Types of Permitted Construction Materials

Building Material Types	Foundations	Exterior Walls/Cladding	Windows & Doors	Porches/Patios/Decks	Architectural Finishes/Trims & Mouldings*	Roofing	Accessory Structures
Brick	●	●		●	●		●
Stone: Natural	●	●		●	●	●	●
Stone: Synthetic	●	●		●	●		●
Concrete Block/Cinder Block	(vener req'd)			(vener req'd)			(vener req'd)
EIFS and Variants							
Pebble Dash and Variants							
Wood: Natural		●	●	●	●		●
Wood: Engineered		●		●	●		●
Wood: Aluminum-Cladded			●		●		
Fiber Cement		●					●
Vinyl							
PVC		●			●	● (slate)	●
Synthetic Resins				●	●	●	●
Asphalt					●	●	
Slate						●	
Clay Tile (Terra-Cotta)						●	
Aluminum			●		●	● (slate)	●
Copper			●		●	●	●
Steel/Sheet metal (galvanized)						●	●

*Architectural Finishes/Trims & Mouldings - Include any final materials covering structural wall or roof framing exterior elements

These features may include however, are not limited to: soffits, eaves, fascia, frieze, shutters, columns, railings, trims and mouldings.

***All new construction requires a Major Works COA Application and all proposed materials are subject to review and approval by the City of Lexington Planning Board*

3.11.2 CHARACTER DEFINING TRAITS. The composition of exterior elements contributes to the form and character of historic buildings. Shape, features, materials, orientation, relief, details, and finishes, work in concert to define style. Features such as projecting bays, chimneys, towers, and pediments add variety to the shapes of exterior walls. Architectural details including quoins, cornerboards, cornices, brackets, entablatures, and skirtboards enhance the connections between exterior walls to other building elements. Light cast against varying degrees of relief adds depth to the structure. Variations in exterior

wall materials contribute to the pattern, texture, scale, color, and finish of a structure. Eclectic variety of such elements contributes to the character of the entire district. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness:

A. MAINTAIN AND REPAIR USING APPROPRIATE METHODS

1. Inspect regularly for signs of moisture damage, vegetation, fungal or insect infestation, corrosion, structural damage or settlement.
2. Provide adequate drainage to prevent water from standing on flat, horizontal surfaces and collecting on decorative elements or along foundations.
3. Clean exterior elements as necessary to remove heavy soiling or to prepare for repainting. Use the gentlest methods possible.
4. Retain protective surface coatings, such as paint or stain, to prevent deterioration.
5. Reapply protective coatings to surfaces, such as paint or stain, when they become damaged or deteriorated.
6. Maintain an effective gutter system to prevent water running off the roof from splashing onto the building's exterior walls. Routinely clean gutters to prevent clogging and water run-off onto exterior surfaces.
7. Repair exterior wall surfaces, details, and features using recognized preservation repair methods for the surface material or coating.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve exterior features that contribute to the overall historic form and character of a building. This applies to functional and decorative features, such as cornices, foundations, bays, quoins, arches, water tables, brackets, and entablatures.
2. Retain and preserve exterior wall materials that contribute to the overall historic character of a structure, including however, not limited to: brickwork, EIFS/stucco, stone, wooden shingles, wooden siding, asbestos-cement siding, and metal, wooden, or masonry trim work. Any proposed substantial changes will be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s).
3. Retain and preserve exterior wall materials that contribute to the overall historic character of a structure, including brickwork, stucco, stone, wooden shingles, wooden siding, asbestos siding, and metal, wooden, or masonry trim work.
4. Do not cover historic or original exterior wall material, including however, not limited to: wooden siding, wooden shingles, asbestos-cement, stucco, brick, and stonework, with coatings, vinyl, aluminum or contemporary substitute or synthetic materials. For contributing structures, any changes to existing synthetic wall materials such as aluminum, vinyl, asphalt shingles, artificial stone, EIFS (Exterior Insulation Finishing System)/Stucco, or Masonite will be evaluated on a case-by-case basis by the Planning Board and/or its appointed review committee(s) as part of the permitting process.
5. Proposals to restore exterior walls, details, materials, or any other character-defining elements to a more authentic or historically-accurate condition shall be required. Removal of later exterior siding materials, such as vinyl siding, asbestos-cement, aluminum or other synthetic materials that have not achieved historical significance is required. Once the later siding has been removed, repair of the original siding should be considered. If the original siding is too deteriorated to be

repaired, as determined by the Planning Board, the proposed substitute material should match the original as closely in size, design, profile and shape. Any proposed new materials shall be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s) as part of the permitting process.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If replacement of a deteriorated detail is necessary, replace only the deteriorated element or portion. Match the original element(s) in size, scale, proportion, material, texture, and detail. Consider compatible substitute materials only if using the original material is not technically feasible.
2. If an exterior wall or feature is completely missing, replace it with a new wall or feature based on accurate documentation of the original or a new design compatible with the historic character of the building and surrounding district.
3. Do not replace concealed, built-in gutter systems with exposed gutters.
4. Avoid the use of materials which are not compatible with the building or the District. The use of synthetic materials such as aluminum, vinyl, asphalt shingles, artificial stone, painted concrete block or cinder block, EIFS/Stucco (Exterior Insulation Finishing System), or Masonite is not permitted.
5. If an exception is granted, the substitute materials used should match the dimensions, profile, finish, and style of the original as closely as possible. Any proposed new materials shall be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s).
6. Avoid covering architectural features such as brackets, columns, eaves, soffits, fascia, shutters, trims, window and door frames, sills, porch/portico railings, etc., with synthetic materials such as vinyl or aluminum.

D. AVOID COMPROMISING AUTHENTICITY

1. Do not add new features such as window or door openings, bays, vents, balconies, or chimneys to character-defining exterior walls.
2. The introduction of features or details on exterior walls in an attempt to create a false historical appearance is not permitted. Proposals to restore exterior walls, details, materials, or any other character-defining elements to a more authentic or historically-accurate condition shall be required. Proposals will be evaluated on a case-by-case basis by the Planning Board and/or its appointed review committee(s).
3. Methods that result in homogenization of exterior features on site or throughout the district are not permitted.

3.11.3 MASONRY. Brick veneer buildings date from the early-to the mid-twentieth century. Use of brick increased after World War II with the increasing popularity of Colonial Revival and Ranch style houses. Masonry, including brick, stucco, and stone, is used throughout the district and contributes to its character. Stucco is a textured exterior finish composed of Portland cement, lime and sand mixed with water. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING APPROPRIATE METHODS

1. Inspect surfaces and features regularly for signs of moisture damage, vegetation, structural cracks or settlement, deteriorated mortar, and loose or missing masonry units.

2. Provide adequate drainage to prevent water from standing on flat, horizontal surfaces, or from collecting on decorative elements or along foundations and piers, as this can cause water to soak upwards (“rising damp”).
 3. Caulk joints between bricks and window frames in order to prevent water penetration.
 4. Clean masonry only when necessary to remove heavy soiling or prevent deterioration, and use the gentlest means possible. Gentle cleaning using a low-pressure water wash with detergent and a natural bristle brush is usually sufficient. Occasionally, a chemical masonry cleaner may be necessary. If so, it is important to select a chemical cleaner that is appropriate for the specific masonry material. Begin by testing the solution on an inconspicuous sample area, following recommended application procedures. Be sure to neutralize and rinse the surface thoroughly to prevent any further chemical reaction. The use of abrasive methods such as sandblasting, water blasting, and power washing is destructive to historic masonry surfaces and not permitted.
 5. Open or deteriorated mortar joints will allow moisture to penetrate and damage masonry walls. This can be prevented by proper maintenance, which may require repointing the joints with new mortar. Repoint masonry mortar joints if the mortar is cracked, crumbling, or missing, or if damp walls or damaged plaster indicate moisture penetration. Before repointing, carefully remove deteriorated mortar using hand tools, rather than with electric saws and hammers. Replace the mortar with new mortar that duplicates the original in strength, color, texture, and composition. Match the original mortar joints in width and profile. Mortar high in Portland cement content exceeds the strength of historic brickwork and may cause future deterioration.
 6. Do not use waterproof, water-repellent, or non-historic coating, as they can aggravate moisture problems.
 7. Repaint previously painted masonry surfaces when needed.
- B. RETAIN AND PRESERVE HISTORIC FEATURES**
1. Whenever possible, retain historic masonry features and mortar.
 2. It is not permitted to paint masonry surfaces that have never been painted. Doing so conceals inherent color and texture and, just as importantly, initiates a continuing cycle of paint maintenance.
 3. Repainting previously painted masonry is required over attempts to remove the paint films chemically or abrasively.
 4. Avoid applying or covering masonry features such as walls, foundations and chimneys that were not historically covered with materials including however, not limited to: metals, vinyl, paint/epoxy, cement coating, EIFS (Exterior Insulation Finishing System)/stucco, artificial stone, brick veneer or other coatings.
- C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN**
1. If replacement of a deteriorated detail, wall, or element of a masonry surface or feature is necessary, replace only the deteriorated portion with like materials rather than the entire surface or feature. Consider compatible substitute materials only if using the original material is not technically feasible.

2. If a masonry feature is completely missing, replace it with a new feature based on accurate documentation of the original feature or a new design compatible with the scale, size, material, and color of the historic building and surrounding district.
3. Remove and patch only the deteriorated portion of stucco rather than the entire surface. Try to match the original in strength, composition, color, style, texture, and character.

D. AVOID COMPROMISING AUTHENTICITY

1. Do not add new features such as window or door openings, bays, vents, balconies, or chimneys to character-defining exterior masonry walls.
2. Do not add new masonry features to character-defining exterior walls or use masonry materials to cover features that were previously not masonry.
3. Do not use materials that imitate brick.

3.11.4 WOOD. Wood is the most common historic siding in Lexington’s Historic Districts, with weatherboard as the most prevalent. Wood shakes and shingles are often found in Queen Anne and Craftsman-style designs. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING APPROPRIATE METHODS

1. If a wooden feature or surface remains damp for extended periods of time, the possibility of mildew, fungal rot, or insect infestation increases dramatically. Inspect regularly for signs of moisture damage, mildew, and fungal or insect infestation.
2. Provide adequate drainage to prevent water from standing on flat, horizontal surfaces and collecting on decorative elements.
3. Keep wooden joints properly sealed or caulked to prevent moisture infiltration.
4. Treat traditionally unpainted, exposed wooden features with preservatives to prevent or slow their decay and deterioration.
5. Retain protective surface coatings, such as paint, to prevent damage from ultraviolet light and moisture.
6. It is not permitted to clean wooden features and surfaces with destructive methods such as sandblasting, power washing, or by using propane or butane fuel heat sources.
7. Wooden features and surfaces on a building should be maintained and repaired in a manner that enhances their inherent qualities and maintains as much as possible of their original character.
8. Repair historic wooden features using recognized preservation methods for patching, consolidating, splicing, and reinforcing.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve wooden features that contribute to the overall historic character of a building and a site, including such functional and decorative elements as siding, shingles, cornices, architraves, brackets, pediments, columns, balustrades, and architectural trim.
2. Do not resurface a wooden structure, building, wall, or feature with synthetic materials, including however, not limited to: aluminum, vinyl, asbestos, or asphalt. Covering wood siding or features with synthetic materials conceals the historic

fabric of a building. The application methods can destroy the original surface material and craftsmanship that served as the basis for the district's historical designation. In addition, it allows rot to go undetected. Resurfacing with these materials often covers, but does not address, underlying problems that may get much worse.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If replacement of a portion of a damaged wooden feature is necessary, replace only the damaged portion rather than the entire feature. Match the original detail or element in design, dimension, texture, and material. Consider compatible substitute materials only if using the original material is not technically feasible.
2. If replacement of an entire wooden feature is necessary, replace it in kind, matching the original in design, dimension, detail, material, and texture. Consider compatible substitute materials only if using the original material is not technically feasible.
3. Avoid covering wood features such as brackets, columns, eaves, soffits, fascia, shutters, trims, window and door frames, sills, porch/portico railings, etc., with synthetic materials such as vinyl, aluminum or other synthetic materials and/or coatings.

D. AVOID COMPROMISING AUTHENTICITY

1. Do not add new features such as window or door openings, bays, vents, balconies, or chimneys to character-defining exterior wood walls.
2. Do not add new wooden features to character-defining exterior walls or use wood to cover features that were previously not wood.
3. Avoid using materials that are designed to imitate wood whenever possible. When necessary, established contemporary materials, such as fiber cement siding, may be used as a suitable replacement for wood.

3.11.5 METAL. A variety of architectural metals are employed in the detailing and surfacing of buildings, street elements and site features throughout a historic district. Cast Iron, wrought iron, lead, brass, copper, tin and bronze are some of the traditional metals found. The shapes, textures, and detailing of these metals reflect the nature of their manufacture, whether wrought, cast, pressed, rolled or extruded. Corrosion or oxidation of metal surfaces is a chemical reaction usually resulting from exposure to air and the moisture it contains, but corrosion can also result from galvanic action between two dissimilar metals. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Inspect regularly for signs of moisture damage, corrosion, structural failure or fatigue, galvanic action, and paint failure.
2. Provide adequate drainage to prevent water from standing on flat or horizontal surfaces and collecting on decorative elements.
3. Clear metal roofs and gutters of leaves and debris.
4. Retain protective surface coatings, such as paint and lacquers, to prevent corrosion.
5. Clean when necessary to remove corrosion or to prepare for recoating. Use the gentlest effective method. Methods of cleaning architectural metal vary, depending on how soft, or malleable, the metals are. Abrasive cleaning such as grit blasting are too harsh for soft metals such as tin, lead and copper. Once cleaned, unpainted

soft metal element, like brass or bronze hardware may be protected from corrosion with a clear lacquer. Cleaning hard metals, such as cast or wrought iron and steel, is best accomplished by hand-scraping or wire brushing to remove any corrosion before repainting.

6. Repaint promptly when paint film deteriorates.
7. Repair deteriorated architectural metal features and surfaces rather than replace.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve architectural metals such as copper, tin, brass, cast iron, wrought iron, and lead that contribute to the overall historic character of the district.
2. Retain and preserve functional and decorative metal elements such as roofing, flashing, storefronts, cornices, railings, hardware, casement windows, and fences.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If a portion of a metal element is damaged and in need of replacement, replace only the damaged portion and not the entire element to the degree possible. Use replacement material that matches the original in design, color, detail, and material.
2. If the architectural metal is completely missing, replace it with a new feature based on accurate documentation of the original design. New features shall be compatible in scale, size, material, and color with the building and district.
3. Patching metal roofs or flashing with tar or asphalt is not permitted.

D. AVOID COMPROMISING AUTHENTICITY

1. Do not add new decorative or functional metal features to character-defining exteriors.
2. Do not use metal to cover features that were previously not metal.
3. Avoid using materials such as plastic and vinyl that seek to imitate metal.
4. It is not permitted to introduce architectural metal features or details to a historic building in an attempt to create a false historic appearance.
5. Established contemporary materials may be used as a suitable replacement when necessary.
6. Any substitute materials used should match the dimensions, profile, finish and style of the original as closely as possible. Any proposed new materials will be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s).

3.11.6 WINDOWS AND DOORS. Windows and doors can contribute significantly to a building's historic character. The variety of shapes, pattern, size, positioning and proportion are key features in defining a district's historic character and style. The front façade, particularly its first floor, was usually distinguished from the less significant façades with larger, more decorative windows and doors. Unique divided-light designs are common throughout the district and together provide a key character-defining trait of the contributing historic structures. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING APPROPRIATE METHODS

1. Inspect regularly for deterioration, moisture damage, air infiltration, paint failure, and corrosion.
2. Maintain caulking and glazing putty to prevent air or water infiltration around glass.

3. Apply weather-stripping around windows and doors to prevent moisture and air infiltration.
4. Limit paint removal and reapply protective coatings as necessary.
5. Reglaze sash as necessary to prevent moisture infiltration.
6. Usually repairing the original windows is more appropriate and cost effective than replacing with new. Peeling paint, high air infiltration, sticking sashes or broken panes are all repairable conditions and do not necessitate replacement. Repair historic windows and doors and their distinctive features through recognized preservation methods for patching, consolidating, splicing and reinforcing.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve windows that contribute to the overall historic character of a building, including their functional and decorative features, such as frames, sashes, muntins, sills, headers, moldings, surrounds, hardware, and shutters.
2. Retain and preserve doors that contribute to the overall historic character of a structure, including functional and decorative features such as frames, glazing, panels, sidelights, fanlights, surrounds, thresholds, and hardware.
3. Do not permanently fill in or cover over existing door openings or window openings. Do not cover over existing window or door openings with plywood unless for a very short time frame to facilitate rehabilitation/construction activities.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If replacement of a portion of a window or door is necessary, replace only the damaged or deteriorated portion to match the original in size scale, proportion, pane or panel division, material and detail.
2. For public street facing facades (excludes alleys):
 - a. If an original window or door is completely missing, replace it with a new unit based on accurate documentation of the original or a new design compatible with the original opening and the historic character of the building.
 - b. Replacement units should match the original in dimension, material, configuration, and detail.
 - c. If double-glazing in a new unit is desired for energy efficiency, it is not permitted to use snap-in muntins in place of true-divided lights.
 - d. If the missing unit was an aluminum or vinyl replacement window, it may be replaced with a wood framed or aluminum-clad wood framed window unit of matching dimensions. However, if other units on the façade are original and/or wood window units, the replacement should match the others in material.
 - e. Any replacement windows should be installed carefully as often replacement window installation diminishes the character of the façade by damaging materials surrounding the opening.
3. For rear facades and side facades that do not face a street:
 - a. Wood frame or aluminum-clad wood frame replacement windows may be used.
 - b. Any replacement windows should be installed carefully as often replacement window installation diminishes the character of the façade by damaging materials surrounding the opening.
4. Sashes, window panes, muntins, and rails shall not be replaced with those that are incompatible in size, configuration, and reflective qualities, as this can alter the relationship between window and wall.

5. Historically, wooden shutters were both functional and decorative. Replace deteriorated or missing wooden shutters with like-sized wooden shutters or wooden shutters sized to fit the opening. If replacement of all shutters is necessary, they should match the original shutters in material, color, and size.
6. Avoid covering window, door or other fenestration wood elements such as casing, sill frame, head, stile, jamb, rail, etc. with synthetic materials such as vinyl, aluminum or other synthetic materials and/or coatings.

D. AVOID COMPROMISING AUTHENTICITY

1. Introduction of new window and door openings into the principal elevations of a structure is not recommended. If permitted, new openings should match or be in proportion to the size of the existing window or door openings. Sashes, glass, sills, frames, casings and muntin patterns should also match.
2. Select, if desired, full-light storm doors constructed of wood or aluminum that do not obscure or damage the existing door and frame. Painted, stained, or baked-enamel finishes in a color that is compatible with the color of the existing door are required. Avoid aluminum coated storm doors or windows.
3. Do not use prefabricated snap-in muntins to create a false divided-light appearance.
4. Do not replace transparent glazing with tinted or opaque glazing.
5. If historically appropriate install fabric awnings over porch, door or window openings so that architectural features are not concealed. Aluminum or plastic awnings are not appropriate.
6. If exterior storm windows are desired, select ones that are coated with a finish appropriate to the color of the building. Install them so that the existing door or frame is not obscured or damaged. Operable storm window dividers should align with the existing window's meeting rail.
7. Do not introduce shutters on a historic building if no evidence of earlier shutters exists.

3.11.7 ROOFS. Although roofs are often seen as merely functional features on a structure, the variety of shapes and materials make a significant contribution to the overall historic character of the district. Often roofs incorporate details unique to Lexington's older structures. The design and shape of a roof are essential to the form and character of a building. Roofing materials vary from metal, slate and clay tile to the most common material seen in the district, asphalt shingles. Shingles come in a variety of colors, but dark colors are the most appropriate because they resemble historic materials like metal or slate that were also generally dark in color. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Ensure the roof is weather tight by repairing leaks and deteriorated metal flashing.
2. Routinely clean gutters and downspouts. Concealed or built-in gutters require routine monitoring and maintenance to avoid damage from unseen leaks. Such gutters must be cleaned out more often and kept in good repair to make sure they remain functional.
3. Roofs should be properly ventilated to prevent moisture retention and condensation as well as insect infestation.

4. Roofing material should be adequately anchored to protect against wind and weather damage.
5. Refasten loose or replace damaged shingles, slates, or tiles.
6. Older metal roofs, other than those made of copper, require a protective coat of paint or sealant to avoid corrosion due to moisture.
7. Introducing incompatible metal fasteners or flashing on a metal roof can result in galvanic corrosion, and patching metal roofs with roofing tar accelerates deterioration of the metal.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve roofs and roof forms that contribute to the overall historic character of a building, including functional and decorative features such as roofing materials, cresting, dormers, chimneys, cupolas, and cornices.
2. Do not remove a roof feature that is important in defining the overall historic character of a building, rather than repairing or replacing it.
3. Retain distinctive built-in gutters that are concealed from view within a boxed cornice.
4. Painting roofing materials that historically were not painted is not permitted.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If replacing a partially deteriorated roof, replace only the deteriorated portion in kind to match the original feature in design, dimension, detail, color, and material. If full replacement is necessary use only like or compatible materials if at all feasible. Consider substitute materials only when using the original material is not technically or financially feasible. Any substitute materials used should match the dimensions, profile, finish and style of the original as closely as possible. Any proposed new materials will be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s).
2. If a roof must be replaced, metal is considered an acceptable material, if the color of the metal is dark gray, black, brown, or a color to match galvanized metal. Brightly colored roofs such as blue, green, or red are not permitted.
3. If new gutters or downspouts are necessary, install them so that no architectural features are damaged or lost.
4. Replace gutters and downspouts with painted or a baked-enamel finished in a color appropriate to the color of the house.
5. Colored metal cannot mimic the original color and texture of a tile roof. Therefore, if a tile roof must be replaced and metal is chosen as the replacement material, the color of the metal shall be a traditional roof color such as black or brown.

D. AVOID COMPROMISING AUTHENTICITY

1. Do not use white or light colors of asphalt shingles.
2. If new gutters and downspouts are needed, install them so that no architectural features are lost or damaged. Select new gutters and downspouts that match trim color, unless they are copper. Retain the shape of traditional half-round gutters and downspouts if replacing them.
3. If necessary to install roof ventilators, antennas or solar collectors, locate them on rear slopes where they will not be visible from the street.

3.11.8 FOUNDATIONS. Like roofs, foundations often contribute to the historic character of a structure. A foundation's height, material, and any unique features or details are important

to retain. Brick is the most common foundation material in Lexington's historic districts. Many brick foundations are unpainted, some have colored mortar, and others have been painted over at some point. Wooden lattice panels are sometimes seen as infill between exposed brick pier foundations and on porches and entrances. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Moisture due to improper drainage or inadequate ventilation is the most common cause of deterioration in foundations. Improper drainage results from insufficient sloping or grading around the foundation, which allows water to collect and eventually erode the mortar joints in the foundation. Brick foundations also can have loose or cracked brick and deterioration of mortar joints due to the settling of the structure over the years. Ensure proper grades are maintained to remove water from the foundation. Install drains near the foundation if necessary. Remove vegetation growing close to the foundation if resulting in moisture retention and foundation damage.
2. Clean, repair, and repoint foundation according to masonry standards.
3. Open vents during summer months to ensure adequate ventilation of the crawl space.
4. Remove vegetation that may cause structural damage to the building's foundation.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Return the original design, texture, color, and materials of historic foundations. All character-defining features of historic foundations should be retained and preserved including vents, grills, panels, piers, lattice, porch steps, basement windows and door openings.
2. Paint should not be applied to previously unpainted masonry foundations.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If a portion of the foundation is damaged, replace only the damaged portion and use materials that match the original, including brick size, type and color, as well as colored mortar if applicable.
2. Underpinning shall consist of bricks and joint tooling that match brick piers as closely as possible. Non-structural underpinning may consist of a single course of bricks, lattice brick walls, or even treated wooden lattice. If openings between brick piers are filled in, similar materials or lattice should be used. The infill area should be recessed and clearly differentiated from the original piers.

D. AVOID COMPROMISING AUTHENTICITY

1. Inconspicuously locate new utility and mechanical connections through foundations using side or rear walls where they will not be visible from the street.

3.11.9 PORCHES, ENTRYWAYS, AND BALCONIES. Porches, entrances and balconies are often the focal point of a historic building and contribute significantly to overall architectural character. Porches were historically the center of activity in a residential neighborhood. Because the use of front porches in the neighborhood plays an equally significant role in the overall character of the community, new front porches will be permitted for houses lacking this important social space. Entrances demonstrate the architectural design as well as the period of the residential structure. Balconies, sleeping

porches, side and back porches also exist in the Lexington historic district. Many side and rear porches are screened or enclosed with lattice panels. Most porches are constructed in wood although some decorative ironwork can be present as well. Because the enclosure of a porch or balcony alters the character of a historic structure significantly it is not permitted in a historic district, unless the porch is on the rear façade. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Periodically clean wooden surfaces, remove rust from metal, and keep a sound paint film on all painted porch surfaces.
2. Ensure that water effectively runs off of floors and steps.
3. Replace rotted floorboards or other porch materials.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Entryways and porches are important character-defining elements of a historic structure and should be retained and preserved. Important elements include steps, columns, balustrades, doors, railings, brackets, roofs, cornices and entablatures.
2. If replacement of a porch element is necessary, replace only the deteriorated or missing detail with new materials that match the design of the original as closely as possible.
3. It is prohibited to enclose porches on primary elevations. Porches on rear elevations not seen from the public right-of-way may be screened or enclosed only if the work is designed so that it can be installed or removed without damage to the historic structure.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. Reconstruction of missing or extensively deteriorated porches is required. Reconstructed porches shall be based on documentary evidence. If adequate documentation is not available, a new design is appropriate if it is compatible with the style and period of the building.
2. Houses lacking usable front porches will be permitted to add new porches in a design consistent with other architectural features on the structure as well as overall compatibility with the surrounding homes.
3. Repairs to porches using materials incompatible with the original materials are not allowed. For example, metal supports shall not be used as substitutes for wood columns, plywood shall not be substituted for beaded board ceilings, and concrete shall not be used as a substitute for tongue-and-groove wood flooring.

D. AVOID COMPROMISING AUTHENTICITY

1. Handicapped access can be accommodated in an appropriate manner. The installation of temporary features to aid the handicapped and disabled is recommended if designed so that it can be installed or removed without damage to the historic structure.
2. Introducing new entrances on a primary elevation is prohibited.
3. Creating a false historical appearance through the addition of elements and details is prohibited. Reconstruction of a missing balcony or entrance requires evidence of the original configuration and detail.

3.11.10 FENCES AND WALLS. Many different types of fencing and walls can be found in the City's historic areas. There are brick and concrete retaining walls bordering the sidewalk and a stone wall that runs along the Salem and West Third Street sides of the Lexington City Cemetery. Masonry walls are often used to define yards and to accent garden landscapes. Some yards along West Fourth and North State Street are lined by wrought-iron fences. Fences are prominent landscape features and help to visually define the scale of residential lots and public spaces. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Fences and walls should be properly maintained according to standards for masonry, wood, and metal.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve historic fences and walls whenever possible including gates, hardware, cast or wrought iron details, ornamental pickets, etc.
2. Masonry walls that were historically unpainted should not be painted. Repainting previously painted masonry walls is permitted.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. Deteriorated fence and wall elements should be repaired rather than replaced. New elements should match the original in material, texture, and design.
2. Fence or wall replacement should match the original to the extent possible in terms of material, color, texture, and design. However, in some cases it may be appropriate to restore to a more appropriate fence or wall reflecting the period of significance.
3. Existing vinyl fences located in areas with direct sunlight are likely to become brittle. If replacement becomes necessary, replace with a permitted material including wood, wrought iron, and woven wire.

D. AVOID COMPROMISING AUTHENTICITY

1. New fences and walls shall be designed and installed in a manner that is sensitive to the character of the district, as well as appropriate to the architectural style and period of the historic structure.
2. Wood, brick, stone, decorative block and iron, black powder-coated aluminum or similar metal-frame products created to resemble these materials are appropriate. Welded wire, when permanently attached to wooded or iron posts is allowed if covered with vegetation.
3. Front yard fences shall be of an open design such as picket and no greater than four (4) feet in height.
4. Powder-coated black, dark brown or dark green chain link fencing is permitted for rear yards only.
5. Vinyl fences, chain link (coated or uncoated), chicken wire, and above-ground electric fences and are not permitted.
6. Privacy fences, vinyl fences, chain link (coated or uncoated), split rail, basket weave, lattice and shadowbox fences are prohibited in front yards.
7. Wooden privacy fences that extend perpendicular from the side of the house shall be located at or behind the rear plane of the house.
8. Rear yard fences are limited to six (6) feet in height.

9. Fences and walls should be used to screen service areas, mechanical equipment, and dumpsters in the commercial areas. Fences, walls, or landscaping are permitted to screen commercial parking lots.
10. Retaining walls, when visible from a public right-of-way, must be constructed of brick or stone. Landscape timbers and railroad ties may be used when they are not visible from the public right-of- way.

3.11.11 PAINT. The Lexington Historic Commission does not review paint or paint color. Therefore, a property owner within the historic district does not need to obtain a Certificate of Appropriateness prior to painting his or her building. The standards for paint presented in this document are included only as a guide to the proper methods to apply and maintain paint on a historic structure and will be used only in reviewing larger renovation projects. Paint color and its application are non-permanent changes to a structure that often reflect personal taste. It also provides a level of visual detail on a structure much to the same degree as an architectural component like a cornice or porch. References to paint colors are meant as suggestions. Paint serves two primary purposes on a historic structure: it provides character and detail to the building, and it preserves and protects wood and some metal surfaces. Masonry surfaces were historically left unpainted while some metal surfaces such as copper or bronze were also left uncoated as well. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Using high-quality paint, apply a sound paint film to surfaces that were historically painted.
2. Follow preparation and application standards in previous sections on wood, masonry, and metal materials.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Painting architectural features such as trim, brackets, corner boards and moldings a different color than the body of the structure can accentuate these architectural details.
2. When applying paint to a historic building, be careful not to conceal any architectural details or texture of the underlying material.
3. Paint previously painted masonry material in colors that reflect the underlying material.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. Select paint schemes that are most appropriate to the architectural style and period of the historic structure. Historic color palettes and color suggestions may be obtained at local paint stores.

D. AVOID COMPROMISING AUTHENTICITY

1. Masonry surfaces were historically unpainted. Paint previously unpainted surfaces is prohibited. However, once painted, it is appropriate to repaint using color repair rather than blasting the surface to remove paint.

3.11.12 LIGHTING. Lighting provides a subtle but defining feature within historic areas. Lighting fixtures on historic homes, lamp posts along walkways, and even overhead streetlights work in concert to paint the evening picture of historic districts, as well as improve safety for outdoor activity. Historic light fixtures, though small in comparison to

the size of structures, are important details to preserve. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Original fixtures should be kept in good working order. Electrical wiring components should be checked on a regular basis. Globes and glass coverings should be replaced or repaired if broken to keep water from reaching electrical components.
2. Metal should be maintained in accordance with methods prescribed in Section 2.3.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain original lighting fixtures, lamp posts, and other outdoor lighting elements.
2. If a light fixture is damaged, replace only the damaged portion in order to retain the historical detail.
3. Methods to install new fixtures and repair original fixtures shall not damage the structure or any other architectural feature.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. Replacement fixtures shall be to the building and district in terms of type, style, size, color, brightness, and materials.

D. AVOID COMPROMISING AUTHENTICITY

1. New fixtures shall be appropriate to the building and district in terms of type, style, size, color, brightness, and materials.
2. Use understated techniques and light sources to highlight a building's architecture.
3. Lighting shall not adversely affect or spill over into neighboring properties, nor should it overly illuminate the district.
4. Electric service lines to lamp posts should be buried whenever possible.
5. Overhead streetlights should be replaced with period overhead lamp post lighting and line should be buried whenever possible.
6. Installing tall security pole lights in locations that are visible to the public is prohibited.

3.11.13 AWNINGS. Awnings were found on historic commercial structures as well as on some residential buildings. While their function is to provide shade and reduce heat gain, their design and application contribute significantly to the architectural character of a historic structure. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. REPAIR AND MAINTAIN USING PERMITTED METHODS

1. On masonry structures, attachments for awnings should be made in the mortar joints and not in the brick itself.
2. Awnings shall be maintained and cleaned in accordance with the manufacturer's suggested methods. Often a mild soap and water will remove any darkening of the fabric due to environment.
3. Small tears in canvas that are patched or repaired early-on may prevent addition damage from wind. In addition, regular maintenance of the fabric may prevent water damage to the frame.
4. Inspect regularly for damage to brackets, supports, or fasteners.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Awnings shall fit in the openings above windows and doors.
2. Awnings shall be affixed so that no architectural features are concealed or damaged.
3. Awnings shall be placed only on structures for which they are historically accurate or on which there is physical evidence of a similar previous treatment.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If replacement is necessary, new awnings shall match the original awnings in terms of placement, scale, and design. Color may vary to match current paint color schemes.
2. Continuous awnings or awnings that cover architectural features such as piers or columns are not appropriate.

D. AVOID COMPROMISING AUTHENTICITY

1. Signage, including logos, graphics, and other copy, is not permitted on awnings. Only the address number may be screen printed or painted directly on the awning and the numbers shall be no greater than six inches in height.

3.11.14 OUTBUILDINGS & ACCESSORY STRUCTURES. This section pertains to existing outbuildings and accessory structures. See Section, New Construction, for new outbuildings and accessory structures. Original outbuildings such as barns, sheds, and garages, often gain historic significance in their own right due to construction method, architectural style, and period. Many of these structures survive in the district and are still being used as originally intended. Many of these historic outbuildings have architectural characteristics and style similar to the primary structure with which they are associated. They are more utilitarian in nature, and are usually situated in rear yards adjacent to alleyways. The same criteria used for primary contributing buildings applies to contributing outbuildings and accessory structures. In addition, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Maintain and repair contributing outbuildings in the same manner as prescribed for primary contributing structures.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve original outbuildings which have gained historic significance on their own.
2. Architectural elements of historic outbuildings such as roofs, siding, material, windows and doors, foundations, and character-defining detailing should be retained and preserved.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If replacement of an element on a historic outbuilding is necessary, replace only the deteriorated portion to match the original in material, size, proportion, texture and detailing.
2. The same criteria related to the use of materials applies to outbuildings and accessory structures.

D. AVOID COMPROMISING AUTHENTICITY

1. Do not introduce new elements to outbuildings and accessory structures that diminish the historic integrity of the structure.

3.11.15 RESIDENTIAL PARKING, DRIVEWAYS AND SIDEWALKS. The historic district was originally planned and developed with little consideration for the use and storage of

vehicles, and certainly not to accommodate the 2- and 3-car families of today. Pedestrian features were prominent and buildings were closely spaced to reduce walking distances. Over the years, provisions for increased vehicular use have been incorporated, and are now fundamental elements of the district. These features can be maintained and designed in ways that do not detract from the original architecture, while providing convenience and function for today's automobile-dependent society. Residential driveways are narrow and parking areas are small. Off-street parking is often in rear yards accessed from alleys. Due to the small size of residential lots as well as the early, pre-automobile development of the district, many lots do not have designated parking areas and must utilize on-street parking. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. REPAIR AND MAINTAIN USING PERMITTED METHODS

1. Maintain and repair paving surfaces for driveways and off-street parking.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Landscape and site design should continue to enhance the district and complement its historic architecture.
2. Historic walkways and sidewalks and their original materials shall be retained and preserved whenever possible.
3. Planter strips shall be retained as planter strips and may not be filled with concrete or other impervious surface material.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. On-site parking within commercial areas shall be to the side or rear of the structure. Front yards, in particular, should be used for building area to create a continuous street wall consistent with the historic development of the commercial district.
2. Established contemporary materials may be used as a suitable replacement when necessary.

D. AVOID COMPROMISING AUTHENTICITY

1. New driveways should be designed to minimize any impact to landscapes, buildings, and historic curbing.
2. Parking in residential areas should be to the rear of the structure whenever possible.
3. New front yard curb cuts are not permitted.
4. New provisions for parking in front yards are not permitted.
5. New circular drives in front yards are not permitted.
6. Curb-cuts shall be kept to the smallest openings that are functional. Existing curb cuts are not permitted to be widened.
7. The design of new deck parking should be appropriate to the district in size, scale, proportion and materials.
8. Consider the use of grasscrete or other similar surface when creating overflow parking areas in previously unpaved area.
9. New sidewalks in the historic district shall be composed of either concrete, brick, stone or other masonry material such as pavers.
10. New sidewalks and sidewalks being replaced at whole-block lengths shall contain a planter strip a minimum of four feet in width. The planter strip shall contain a minimum of one canopy (large) tree planted sixty feet on center.
11. New walkways and steps shall be compatible to the architectural style and character of the structure located on the property.

12. New front walks in residential areas shall lead directly from the public sidewalk to the front door of the structure.
13. New walkways shall be flush with the grade of the front yard and with the public sidewalk.

3.11.16 TREES. Because the Lexington Historic District is primarily residential in scale and character, buildings generally cover half of the average lot; therefore, it is important to preserve both the proportion of green area to building mass and the formal or informal character of the landscaping. Significant elements of the landscape, such as mature trees, grassy lawns, hedges, foundation plantings, fences, walls, trellises, ground cover, fountains, terraces and gardens, all contribute to the character of the specific site and the historic district as a whole, though only mature (18” diameter) large trees will be regulated herein. (Large tree species are defined and listed within Section 9.) Large trees within the district are often as historically significant as the structures themselves, particularly in the residential areas. Some of the trees in the district are as old if not older than the historic buildings. While a building can be renovated or restored, vegetation cannot. Therefore, it is critical that mature and historic trees contributing to the character of the district be preserved and maintained. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Unnatural pruning techniques such as topping, stubbing, dehorning, or lopping are not appropriate. Tree pruning should follow accepted industry standards for arborists (ANSI 300A Standards).

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve mature large trees whenever possible.
2. Incorporate existing mature large trees into plans for additions and new construction.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. A Certificate of Appropriateness (COA) is required for the removal of live trees with a diameter of 18” (eighteen inches) or greater. Removal of significant trees should only be done in the case of disease or storm damage, if the tree poses a safety hazard, or is a hazard to historic structures. The Historic Preservation Commission will pay the cost of obtaining the professional opinion of an acceptable licensed arborist to assist in determining the condition of large trees. Please contact the Director of Business and Community Development in such cases so that arrangements may be made for an arborist.

D. AVOID COMPROMISING AUTHENTICITY

1. See Section, Landscape Methods and Standards, for additional information on permitted species and installation methods.

3.11.17 ENERGY RETROFIT. Many features of historic buildings are inherently energy efficient. For example, operable transoms, windows, awnings, and shutters provide opportunities for conserving energy. Enclosed vestibules, extending porches and even certain plantings help buffer historic interiors from the elements. Capitalizing on energy-efficient historic features and sensitively retrofitting historic buildings can maximize their energy-conserving potential. In addition to other local, state, or federal regulations, codes,

or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Energy efficiency of older windows is compromised if the weather-stripping around the sash is not maintained and the glazing compound that seals the glass panes within the wooden sash deteriorates. Weather-stripping around doors must be maintained to prevent air infiltration.
2. Once existing windows and doors have been repaired as needed, storm windows and doors can be installed to provide a second barrier for greater efficiency when installing storm windows. Care must be taken not to damage or obscure the windows and the doors in the process. Interior storm windows are required as an alternative to exterior storm windows. However, exterior storm windows with a painted or baked-enamel finish in a color appropriate to the color of the building are acceptable. Stained or painted wooden storm doors with large glass panels are also acceptable.
3. When introducing insulation, care should be taken not to damage historic details or materials. Rapid- expanding insulating foam may damage historic window and siding details. Introducing blown-in insulation by drilling holes through an exterior wall of a building is prohibited.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve the inherent energy-conservation features of a historic building, such as porches, operable windows, transoms, and louvered shutters.
2. Improve thermal efficiency by installing weather-stripping, storm windows, caulk, and, if they are historically appropriate, fabric awnings and shutters.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. Replace multiple-paned doors or window sashes with thermal sashes using snap-in, false muntins is prohibited.

D. AVOID COMPROMISING AUTHENTICITY

1. Select wooden doors or screen doors that are stained in a natural wood color or painted to match the building or the trim. Install storm or screen doors so that the existing door and frame are not damaged or obscured. Metal storm or screen doors are not appropriate.
2. If wooden shutters are historically appropriate, install them in porch, door, or window openings so that architectural features are not concealed or historic materials damaged. Select colors appropriate to the color of the building.
3. Install low-profile ridge vents if desired, provided that they do not diminish the original design of the roof or destroy architectural details.
4. Locate roof ventilators, antennas, and solar collectors on non-character-defining roofs or inconspicuously on rear slopes, where they will not be visible on the street. They are prohibited on front or street elevations.

3.11.18 STOREFRONTS OF COMMERCIAL PROPERTIES. Although most of the standards are applicable to commercial properties as well, this section is applicable to commercial storefronts. The storefront is the most important character-defining element of a commercial façade. Upper façades on a historic commercial building are quite different in their function and design. Commercial buildings were originally designed to have a

commercial function on the first level, and an office or residential function on the upper floors. While not often used in that way today, a growing trend in downtown revitalization is to bring a residential function back into a city's historic core. Many storefronts in Lexington had large display windows above wooden or masonry bulkheads with transom windows above. Some also had recessed entryways in the center of the façade flanked by display windows. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Follow the standards specific to individual materials in order to protect and maintain historic storefronts clad in wood, masonry, and architectural metals.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve historic façades and their architectural features such as brick corbelling, brick and stone string courses, quoins, stone and tile coping, cornices, and other façade elements.
2. Retain and preserve historic materials including wood, stone, architectural metal, and cast iron.
3. Retain and preserve commercial storefronts and storefront details that contribute to the historic character of the building including display windows, recessed entryways, doors, transoms, corner posts, columns, and other decorative features.
4. Retain and preserve historic materials whenever possible including wood, stone, architectural metal, and cast iron.
5. Bricking-in original window and door openings is prohibited.
6. Whenever possible, remove metal cladding or other non-historic coverings from historic façades.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If replacement of a deteriorated storefront or storefront feature is necessary, replace only the deteriorated element to match the original in size, scale, proportion, material, texture and detail.
2. If reconstructing a historic storefront, base the design on historic research, physical evidence, and photographic documentation, if available. Recreate the original architectural elements including overall proportions, fenestration, dimensions, and orientation.
3. If replacement of an upper façade feature is necessary, replace the deteriorated element with a new element and design that matches the original in size, scale, design, proportion, detail, and material, if possible.

D. AVOID COMPROMISING AUTHENTICITY

1. Avoid using materials which detract from the historic or architectural character of the building, such as mirrored glass.
2. Moving the location of a storefront entrance is not permitted. The design and function of storefront entrances shall also be retained.
3. Changing a storefront so that it appears as an office or residential use other than commercial is not permitted. Reconstructing storefronts for new uses is not allowed.
4. It is prohibited to cover architectural details or entire façades with non-historic materials or treatments.

5. Established contemporary materials may be used as a suitable replacement or for repair when necessary.
6. Proposals to restore exterior walls, details, materials, or any other character-defining elements to a more authentic or historically-accurate condition shall be required. Proposals will be evaluated on a case-by- case basis by the Planning Board and/or its appointed review committee(s).

3.11.19 REAR AND NON-CHARACTER-DEFINING ELEVATIONS ON COMMERCIAL BUILDINGS. Rear elevations on historic commercial buildings are usually of simple design reflecting their utilitarian function. These elevations, with rear entrances to shops, offices, and residential spaces, still foster a great deal of activity.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Follow the standards specific to individual materials in order to protect and maintain historic storefronts clad in wood, masonry, and architectural metals.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Historic structures which are adjacent to rear parking areas or public rights-of-way are required to utilize existing rear entrances allowing public and private access.
2. Retain and preserve historic side and rear elevations and their architectural features.
3. Whenever a rear elevation faces a public right of way or parking facility, unnecessary utility lines and equipment shall be removed, whenever possible. New utility and mechanical equipment shall be placed in an inconspicuous location such as the roof and screened from public view.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. When portions of rear and non-character-defining elevations are deteriorated, replace only the deteriorated portions with materials that match the originals.
2. Original windows on upper floors that are located on rear or non-character-defining elevations maybe repaired, or replaced with wood, aluminum-clad, or vinyl-clad windows that match the originals in design, size, proportions and detail.

D. AVOID COMPROMISING AUTHENTICITY

1. Residential features such as window boxes, window air conditioning units, etc., should be located on rear or side elevations and should be appropriate to the style of the historic structure. Small satellite dishes or television antennas should be as inconspicuous as possible, preferably being located on rooftops.

3.11.20 COMMERCIAL PARKING, DRIVEWAYS AND SIDEWALKS. Commercial areas are designed with wide streets and sidewalks and designated on-street parking spaces in order to accommodate heavy vehicular and pedestrian traffic. Rear parking was common to reduce the visual impact of parking lots, while maintaining building and pedestrian prominence. Pedestrian mobility and access remain a critical feature of the vibrant Uptown. Equally important is the softening of harsh streets, sidewalks and parking lots with vegetation and lighting that is safe and conducive to a pedestrian atmosphere. Planting strips are an attractive and functional element of the historic district, found in both residential and commercial areas. Originally, planting strips were placed between the sidewalk and street, and were planted with canopy trees. The trees not only provide shade for pedestrians, but also serve as a safety barrier between the pedestrian and cars, which are typically only separated by a few feet. Unfortunately, over the years, many of the trees were removed due to utility line conflicts, and many of the remaining grass strips were

filled with concrete, extending the pedestrian walkway to within 1 or 2 feet of adjacent traffic. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. REPAIR AND MAINTAIN USING PERMITTED METHODS

1. Maintain and repair paving surfaces for driveways and off-street parking.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Landscape and site design should continue to enhance the district and complement its historic architecture.
2. Historic walkways and sidewalks and their original materials shall be retained and preserved whenever possible.
3. Planter strips shall be retained as planter strips and may not be filled with concrete or other impervious surface material.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. On-site parking within commercial areas shall be to the side or rear of the structure. Front yards, in particular, should be used for building area to create a continuous street wall consistent with the historic development of the commercial district.

D. AVOID COMPROMISING AUTHENTICITY

1. New driveways should be designed to minimize any impact to landscapes, buildings, and historic curbing.
2. Parking in residential areas should be to the rear of the structure whenever possible.
3. New front yard curb cuts are not permitted.
4. New provisions for parking in front yards are not permitted.
5. New circular drives in front yards are not permitted.
6. Curb-cuts shall be kept to the smallest openings that are functional. Existing curb cuts are not permitted to be widened.
7. The design of new deck parking should be appropriate to the district in size, scale, proportion and materials.
8. Consider the use of grasscrete or other similar surface when creating overflow parking areas in previously unpaved area.
9. New sidewalks in the historic district shall be composed of either concrete, brick, stone or other masonry material such as pavers.
10. New sidewalks and sidewalks being replaced at whole-block lengths shall contain a planter strip a minimum of four feet in width. The planter strip shall contain a minimum of one canopy (large) tree planted sixty feet on center.
11. New walkways and steps shall be compatible to the architectural style and character of the structure located on the property.
12. New front walks in residential areas shall lead directly from the public sidewalk to the front door of the structure.
13. New walkways shall be flush with the grade of the front yard and with the public sidewalk.

3.11.21 SIGNS. From commercial signs to wayfinding systems, to the identification of residential structures, signage in historic districts comes in all shapes and sizes. Some signage is historic in its own right. While signs serve important functions, sensitive design that complements and does not detract from historic architecture can enhance the historic district. Size, type, and location of signs are important design considerations for

commercial structures and help define the pedestrian qualities of the downtown. See Article 6, Signs, for additional design standards and regulations pertaining to signage. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Maintain and clean in accordance with methods prescribed herein for materials.
2. Painted wooden and metal signs should be touched up on a regular basis to maintain appeal and correct for fading.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve historic signs. Refurbish as needed.
2. Signs attached to a historic structure shall be mounted so that no significant architectural feature is concealed or damaged.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If a historic sign is damaged, repair if possible or replace only the portion of the sign that is damaged. Historic signs may not be replaced with replicas.
2. Historic sign materials such as wood, metal, and masonry are preferred.

D. AVOID COMPROMISING AUTHENTICITY

1. Size, scale, location, style and material used for new signage shall be compatible with the architecture of the historic buildings and character of the district.
2. Wall signs on commercial buildings shall be flush mounted in appropriate locations in the wall space above the storefront.
3. Contemporary materials such as plastic and vinyl are not permitted.

3.11.22 PUBLIC FACILITIES. The City, County, State, and Utility providers must comply with historic regulations just as a private property owner within the district. A COA is required for changes to public facilities. Commercial areas are designed with wide streets and sidewalks and designated on-street parking spaces in order to accommodate heavy vehicular and pedestrian traffic. Rear parking was common to reduce the visual impact of parking lots, while maintaining building and pedestrian prominence. Pedestrian mobility and access remain a critical feature of the vibrant Uptown. Equally important is the softening of harsh streets, sidewalks and parking lots with vegetation and lighting that is safe and conducive to a pedestrian atmosphere. Planting strips are an attractive and functional element of the historic district, found in both residential and commercial areas. Originally, planting strips were placed between the sidewalk and street, and were planted with canopy trees. The trees not only provide shade for pedestrians, but also serve as a safety barrier between the pedestrian and cars, which are typically only separated by a few feet. Unfortunately, over the years, many of the trees were removed due to utility line conflicts, and many of the remaining grass strips were filled with concrete, extending the pedestrian walkway to within 1 or 2 feet of adjacent traffic. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. REPAIR AND MAINTAIN USING PERMITTED METHODS

1. Paving surfaces shall be maintained and kept in good working condition.
2. Alleyways are an important feature within the historic district and care should be taken to preserve function of usable alleys through proper maintenance.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Streetscape design should continue to enhance the district and complement its historic architecture.
2. Historic walkways and sidewalks and their original materials shall be retained and preserved whenever possible.
3. Planter strips shall be retained as planter strips and may not be filled with concrete or other impervious surface material.
4. Planter strips that were previously filled in shall be reestablished when work is being conducted on the adjoining sidewalk or street, to the extent practical and possible.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. Historic materials should be retained, and if replacement is necessary, like materials, or those appropriate to the period of significance of the district shall be utilized.

D. AVOID COMPROMISING AUTHENTICITY. The following considerations shall be given when preparing driveway cuts for residential or commercial structures:

1. New driveways should be designed to minimize any impact to landscapes, buildings, and historic curbing.
2. Parking in residential areas should be to the rear of the structure whenever possible.
3. New front yard curb cuts are not permitted.
4. New provisions for parking in front yards are not permitted.
5. New circular drives in front yards are not permitted.
6. Curb-cuts shall be kept to the smallest openings that are functional. Existing curb cuts are not permitted to be widened. The design of new deck parking should be appropriate to the district in size, scale, proportion and materials.
7. Consider the use of grasscrete or other similar surface when creating overflow parking areas in previously unpaved area.
8. New sidewalks in the historic district shall be composed of either concrete, brick, stone or other masonry material such as pavers.
9. New sidewalks and sidewalks being replaced at whole-block lengths shall contain a planter strip a minimum of four feet in width. The planter strip shall contain a minimum of one canopy (large) tree planted sixty feet on center.

3.11.23 ASBESTOS AND ASBESTOS-CEMENT SIDING. Asbestos-cement siding, or “transite” is a common historic siding material used in the Park Place Historic District. According to a report by the North Carolina’s State Historic Preservation Office (SHPO), asbestos cement siding installed on historically significant structures during original construction is worthy of preservation. However, there are several historically significant structures that were constructed during the period of significance (1854 to 1957), that appear to have asbestos-cement siding added at a later date, thereby compromising the historic character of these structures. As part of the review process, staff will determine a structure’s historic status as either contributing or noncontributing by referring to both the SHPO report and the *Park Place Local Historic District Local Designation Report*, prepared by an accredited Historic Preservation Consultant. The intent is to restore structures that are found to be historically compromised and therefore, noncontributing, back to their contributing status in the District. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Asbestos-cement siding can be cleaned if it is soiled or moldy, or has an algae coating. Trisodium Phosphate (TSP) added to warm water in the proportions recommended by the manufacturer can be used to remove dirt or light stains. Bleach may be added to the mixture to remove moss or other fungi. Wear rubber gloves, eye protection, long sleeve shirts, and long pants when mixing or using trisodium phosphate or bleach solutions, and be sure to follow safety precautions printed on cleaner and bleach labels. The use of a power washer or mechanical methods for cleaning asbestos-cement can damage the surface, possibly allowing asbestos fibers to become airborne, and should not be used. Property owners are encouraged to contact the City for technical assistance and contact information for the North Carolina Historic Preservation Office.
2. Provide adequate drainage to prevent water from standing on flat, horizontal surfaces and collecting on decorative elements. Prolonged dampness of asbestos-cement siding can promote growth of moss, algae and fungi. Shade trees in close proximity to the structure or exterior wall planes facing northerly directions are susceptible to moisture retention. It is recommended to remove objects blocking sunlight and trim vegetation and landscaping to mitigate moisture problems.
3. If stains cannot be removed, another option is painting the asbestos-cement products. Painting is an especially good solution if the material was originally painted, but adds a maintenance factor. Oil based paints and varnishes are not chemically compatible with cementitious materials. High quality alkali-resistant and weather resistant exterior paint (i.e., 100% acrylic coating) should be used on exterior asbestos-cement materials, or use pigmented shingle stain. Before being painted, asbestos-cement surfaces should be cleaned, then primed with an alkali-resistant primer.
4. Asbestos-cement products can be brittle and susceptible to cracking and chipping. Potential damage should be minimized or prevented. For example, shrubs or flower beds can be planted around the foundation to prevent the siding from being damaged by lawn equipment, automobiles, etc., or a drip cap can be added below the bottom row of siding to serve as a bumper. Hairline cracks can be repaired with clear epoxy, and larger gaps can be patched with a thin grout made of Portland cement and water. For cracks larger than 1/8 inch, grout with a thicker consistency should be used, or sand should be added to the grout. After patching, keep the grout damp for about a week to keep it from drying so quickly that it cracks.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Retain and preserve Asbestos-cement siding that was installed during original construction of contributing structures. Broken or damaged shingles shall be replaced with fiber cement planks that duplicate the dimensions and texture of the existing panels. Applications of any vinyl siding, materials, components or substitutes are not appropriate.
2. Do not resurface, cover or encase existing asbestos-cement siding on any structure, building, wall, or feature with synthetic materials including however, not limited to vinyl, aluminum, EIFS/Stucco (Exterior Insulation Finishing System) or asphalt. Covering asbestos-cement siding or features conceals the historic fabric of a building. The application methods can destroy the original surface material and

craftsmanship that served as the basis for the structure's historical designation. In addition, it allows moisture and related problems to go undetected. Resurfacing with these materials often covers, but does not address, underlying problems that may get much worse.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If replacement of a portion of damaged asbestos-cement panels on contributing structures is necessary, replace only the damaged panels with fiber-cement panels, only. Use of fiber-cement panels that match the original, asbestos-cement panels in design, dimensions and texture are appropriate. Regarding the handling of asbestos, the following finding has been determined by the North Carolina Department of Health and Human Services: If this material is in good condition and can be removed substantially intact, with no small fragments or dust generated, then it is not considered a regulated asbestos- containing material and does not require the use of accredited personnel or an asbestos removal permit. Minor breakage that may occur during careful removal of the siding does not result in the material becoming regulated; however, if the siding is not removed substantially intact, it becomes regulated. Property owners are encouraged to contact the City for technical assistance, resources and guidance on handling asbestos materials.
2. If asbestos-cement siding is present on historically compromised structures, and/or is in substantial disrepair, any proposals to restore exterior walls, details, materials or any other character-defining elements to a more authentic or historically-accurate condition shall be required. Proposals to remove and abate existing asbestos cement materials with the intent of restoring the structure's original, historic character will be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s).
3. If asbestos-cement siding or features are found to be unoriginal to the construction of any structure, and there is documented evidence that wooden siding was the original material, then restoration and/or replacement of the wooden siding or features with natural wooden material or fiber cement is appropriate. Replacement with wooden material must match the original material in design, dimension, detail, and texture. Replacement with fiber cement material must mimic natural wood material in both texture and dimensions.
4. If asbestos-cement siding or features are found to be original to the structure, and is in a state of substantial disrepair as determined by the Planning Board and/or its designated review committee(s), then wooden or fiber cement shall be used as an appropriate replacement.

D. AVOID COMPROMISING AUTHENTICITY

1. Do not add new features such as window or door openings, bays, vents, balconies, or chimneys to character-defining exterior walls.
2. Do not resurface, cover or encase existing asbestos-cement siding on any structure, building, wall, or feature with synthetic materials including however, not limited to vinyl, aluminum, EIFS/Stucco (Exterior Insulation Finishing System) or asphalt. Covering asbestos siding or features conceals the historic fabric of a building. The application methods can destroy the original surface material and craftsmanship that served as the basis for the structure's historical designation. In addition, it allows moisture and related problems to go undetected. Resurfacing with these

materials often covers, but does not address, underlying problems that may get much worse.

3. The introduction of features or details on exterior walls in an attempt to create a false historical appearance is not permitted. Proposals to restore exterior walls, details, materials, or any other character-defining elements to a more authentic or historically accurate condition shall be required. Proposals will be evaluated on a case-by-case basis.

3.11.24 VINYL, ALUMINUM, AND OTHER SYNTHETIC SIDING MATERIALS. Vinyl, aluminum, EIFS (Exterior Insulation Finishing System)/Stucco and other synthetic siding materials are present on both contributing and noncontributing structures in the Park Place Historic District. However, vinyl siding and other synthetic materials are not recognized as historically relevant building materials. According to a statement by the United States Secretary of the Interior; “Vinyl siding creates a very different play of light and shadow on the wall surface, thus resulting in a different character, thereby compromising the historic character of the structure. Changes to character-defining features of a building such as this always have an impact on more than just that building; they also alter the historic visual relationship between the buildings in the neighborhood.” As part of the review process, staff will determine a structure’s historic status as either contributing or noncontributing by referring to the *Park Place Local Historic District Local Designation Report*, prepared by an accredited Historic Preservation Consultant. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

A. MAINTAIN AND REPAIR USING PERMITTED METHODS

1. Vinyl, aluminum, EIFS (Exterior Insulation Finishing System)/Stucco and other synthetic siding materials are susceptible to the same effects as natural products of being exposed to the elements. Additionally, vinyl siding can shatter when struck by hard objects, and aluminum and stucco will dent or show scratches. Painting synthetic surfaces as a maintenance solution is not appropriate, and the results are often unsuccessful because of the nature and chemical compositions of these various materials. Periodic cleaning with mild soap and water is recommended. Any brick, stone or other masonry surfaces should be covered and protected from any potential runoff that may occur from cleaning agents. A soft bristle brush may be used as an agitator.
2. Provide adequate drainage to prevent water from standing on flat, horizontal surfaces and collecting on decorative elements. Although many synthetic materials contain chemicals that resist the growth of moss, algae and fungi, prolonged dampness of any siding material can promote growth of biological microorganisms. Shade trees in close proximity to structures or exterior wall planes facing northerly directions are susceptible to moisture retention. It is recommended to remove objects blocking sunlight and trim vegetation and landscaping to mitigate moisture problems.

B. RETAIN AND PRESERVE HISTORIC FEATURES

1. Vinyl or aluminum siding, EIFS (Exterior Insulation Finishing System)/Stucco and other synthetic materials are not recognized as historically relevant building materials. These materials were manufactured and installed on buildings well after

the period of significance (1854-1957) and are not original to the buildings, thereby compromising the historic character of structures. As a matter of regular maintenance, broken or damaged synthetic siding shall be replaced with duplicate materials that match the dimensions and texture of the existing panels, to the practical extent possible. Replace only the damaged sections, in-kind. Substantial installation, new or otherwise, of any replacement vinyl siding, materials, components or substitutes are prohibited.

2. Keep joints properly sealed and maintained according to the specifications recommended by the particular manufacturer or industry-specific standards and methods to prevent moisture infiltration.
3. Do not resurface, cover or encase existing vinyl, aluminum, EIFS (Exterior Insulation Finishing System)/Stucco, or other synthetic siding on any structure, building, wall, or feature with new or replacement synthetic materials. Covering siding or features may further conceal the historic fabric of a building and could allow moisture and related problems to go undetected. Resurfacing with these materials often covers, but does not address, underlying problems that may get much worse.

C. REPLACE IF NECESSARY USING LIKE MATERIALS AND DESIGN

1. If replacement of a portion of damaged synthetic siding or materials is necessary as a matter of regular maintenance, replace the damaged pieces, parts or areas, only. Use of replacement materials that match the original materials in design, dimensions and texture are appropriate. Substantial installation, new or otherwise, of any replacement vinyl siding, materials, components or substitutes are prohibited.
2. If damage or deterioration of existing vinyl, aluminum, EIFS (Exterior Insulation Finishing System)/Stucco and/or other synthetic siding material is found to be substantial by the Planning Board and/or its appointed review committee(s), then siding must be replaced and restored back to its original material at the time of construction based on documented evidence to the extent possible. Replacement material must match the original, historic material in design, profile, dimension, detail, and texture.
3. Any proposals to restore exterior walls, details, materials or any other character-defining elements to a more authentic or historically accurate condition shall be required. The intent is to restore structures that are found to be historically compromised and therefore, non-contributing, back to their contributing status in the District. Proposals to remove existing synthetic materials with the intent of using new replacement materials, or restoring the structure's original, historic character will be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s).

D. AVOID COMPROMISING AUTHENTICITY

1. Do not add new features such as window or door openings, bays, vents, balconies, or chimneys to character-defining exterior walls.
2. The introduction of features or details on exterior walls in an attempt to create a false historical appearance is not permitted. Proposals to restore exterior walls, details, materials, or any other character-defining elements to a more authentic or

historically accurate condition shall be required. Proposals will be evaluated on a case-by-case basis by the Planning Board and/or its appointed review committee(s).

3.11.25 NEW CONSTRUCTION, ELEMENTS, AND FEATURES. Infill Development, Additions, Outbuildings, Accessory Structures, Carports, Decks, Porches and Patios – General.

New construction, additions, outbuildings, accessory structures, carports, decks, porches and patios are encouraged when appropriately designed and sited. These elements can serve to maintain the vibrancy of the district by facilitating development of vacant lots, allowing for growth and flexibility of houses for larger families, and providing convenient and safe storage space for residents. New construction may incorporate contemporary designs and materials however, it is required to be complimentary in style to the surrounding contributing structures. City staff can provide guidance and resources during the building and site design process. Proposals for any new infill development, additions to existing structures, new decks, outbuildings and/or accessory structures in the District will require a Certificate of Appropriateness. In addition to other local, state, or federal regulations, codes, or requirements, the following standards will be used in considering Certificates of Appropriateness.

3.11.26 INFILL DEVELOPMENT

- A.** Applicable to lots where the original structure has been demolished and/or removed: Proposals for infill development must echo the style of the original structure however, introducing compatible contemporary designs and materials are acceptable. The form, design, relationship of openings, scale, and selection of materials, details, colors, and features of proposed redevelopment will be reviewed in terms of compatibility with the original building.
- B.** The design of the proposed building must be compatible with other contributing structures in terms of fenestration, height, form, size, scale, massing, proportion, materials, and roof shape with the surrounding contributing buildings. However, compatible contemporary designs rather than historic duplications are permitted.
- C.** The setbacks, massing, placement, scale, and spacing of the proposal must be compatible with surrounding buildings and shall not negatively impact or overshadow adjoining properties.
- D.** Primary structure must be constructed such that the first-floor level is at or above 18 inches above grade level. Concrete slabs installed at grade level are not permitted.
- E.** Primary façades and main entrances shall face the public street.
- F.** Installation of vinyl siding, materials, soffits, fascia components or substitutes on any elevation, exterior wall, roof, eave, porch or any other architectural feature is not permitted.
- G.** Siding or cladding installed on exterior walls must be brick, stone, wood or fiber cement. Materials including but not limited to vinyl, aluminum, EIFS (Exterior Insulation Finishing System), asphalt, painted concrete block or cinder block are not permitted.
- H.** Fiber cement siding must mimic natural wood in its design, dimensions, detail and texture.

- I. Use of stone or other masonry materials will be evaluated against existing, surrounding structures and may be used if the material compliments or enhances the surrounding structures and District, as determined by the Planning Board and/or its appointed review committee(s).
- J. Windows must be wood frame or aluminum-clad wooden windows. Vinyl or other composite material window frames are not permitted.
- K. The use of vinyl materials for soffits, eaves, fascia, shutters, porch/portico railings and/or any other architectural features or details is not permitted.
- L. Proposals to use materials other than wood for soffits, eaves, fascia, shutters, porch/portico railings and/or any other architectural features or details will be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s).
- M. Roof form and pitch shall be similar to that of surrounding primary structures.
- N. Roofing materials must be dark in color to resemble the historic look of slate or metal. The use of white or light-colored asphalt shingles or brightly colored contemporary metal roofing materials are not permitted.
- O. Substantial changes in existing land elevations and natural contours during grading and site preparation are not permitted.
- P. Building design and site design must reflect the overall character of the site in terms of topography, character-defining features, and trees.
- Q. Building design and site design must ensure that significant district vistas and views are retained.
- R. Evaluate in advance any disturbance to the site's terrain during construction to limit the possibility of destroying unknown archaeological resources.
- S. Protect large trees and other significant site features from immediate damage during construction and from delayed damage due to construction activities, such as loss of root area or compaction of the soil by equipment. It is especially critical to avoid compaction of the soil within the drip line of trees.

3.11.27 ADDITIONS

- A. The setbacks, massing, placement, scale, and spacing of the proposal must be compatible with surrounding buildings and shall not negatively impact or overshadow adjoining properties.
- B. The design of the proposed building must be compatible with other contributing structures in terms of fenestration, height, form, size, scale, massing, proportion, materials, and roof shape with the surrounding contributing buildings.
- C. Additions to existing primary structures shall not substantially vary from the original footprint, orientation, and/or form of existing, surrounding structures.
- D. Additions shall not detract from the overall historic character of the principal building and the site, or requires the removal of a significant building element or site feature. Additions are not permitted to be greater in height than the original building. Additions that echo the style of the original structure while introducing compatible contemporary design are acceptable. The form, design, relationship of openings, scale, and selection of materials, details, colors, and features of proposed new additions must compatible with the original building.

- E. Installation of vinyl siding, materials, soffits, fascia components or substitutes on any elevation, exterior wall, roof, eave, porch or any other architectural feature is not permitted.
- F. Siding or cladding installed on exterior walls must be brick, stone, wood or fiber cement. Materials including however, not limited to vinyl, aluminum, EIFS (Exterior Insulation Finishing System), asphalt, painted concrete block or cinder block are not permitted.
- G. The use of vinyl for soffits, eaves, fascia, shutters, porch/portico railings and/or any other architectural features or details is not permitted.
- H. Proposals to use materials other than wood for soffits, eaves, fascia, shutters, porch/portico railings and/or any other architectural features or details will be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s).
- I. Place additions in areas not visible from the public street. When such placement is not possible due to topographic or other physical site constraints, limit size and height, and match in material, design, and color in order to limit impact. Proposals to extend additions beyond the existing building length into any side yard, will be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s).
- J. Additions must be designed so that if removed in the future, the building can be returned to its original configuration and appearance.
- K. Additions must be predominantly finished in brick, stone, wooden siding, or other approved substitute material determined to be compatible with the historic materials of the original building. Substitute materials must have a demonstrated record of overall quality and durability, but shall not make up the majority of the finished materials on a project.
- L. Proposals to use materials other than wood for soffits, eaves, fascia, shutters, porch/portico railings and/or any other architectural features or details will be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s).
- M. Evaluate in advance any disturbance to the site's terrain during construction to limit the possibility of destroying unknown archaeological resources.
- N. Protect large trees and other significant site features from immediate damage during construction and from delayed damage due to construction activities, such as loss of root area or compaction of the soil by equipment. It is especially critical to avoid compaction of the soil within the drip line of trees.

3.11.28 OUTBUILDINGS AND ACCESSORY STRUCTURES

- A. Proposals for any new outbuilding(s) or accessory structure(s) of more than 144 square feet in the District will be reviewed on a case-by-case basis by the Planning Board and/or its appointed review committee(s). An approved Major Works Certificate of Appropriateness (COA) is required prior to the issuance of any building permit(s) to begin placement and/or new construction (refer to Appendix G for permitted materials). Additionally, any proposals must meet setback and placement provisions as defined and illustrated in Article 3: Zoning District Regulations, in the Land Use Ordinance for outbuildings and accessory structures.

- B. Designs for new outbuildings and accessory structures, such as detached carports, detached garages, lighting, and signage, shall complement the architectural style and period of the primary structures as well as similar structures within the district.
- C. New outbuildings and accessory structures shall be located so as not to be visible from the fronting public street. The Lexington Land Use Ordinance regulates the specific location and setbacks for new outbuildings and accessory structures. In addition, the side setback should be no less than the side setback for the primary structure so that the building is less likely to be visible from the street.
- D. The scale of new outbuildings relative to the house should be comparable to other ratios within the district. As stated in the Lexington Land Use Ordinance, and also required herein, the aggregate floor area of all accessory buildings, excluding open patios and decks, may not exceed half of the total first floor area of the house. For regulations for commercial buildings, refer to the Land Use Ordinance.
- E. Prefabricated wooden accessory structures that are not architecturally similar to the primary structure are allowed only if screened from view from any existing public street.
- F. Prefabricated metal storage buildings are not permitted.
- G. All proposed exterior lighting and signage should be compatible with the special character of the historic district, and must also adhere to the local zoning ordinance.

3.11.29 CARPORTS, DECKS, PORCHES AND PATIOS.

- A. To maintain a building's historic character-building modifications and expansions including carports, deck, porch or patio additions are generally located on the side or rear elevations. Decks are usually built on posts to align with the first-floor level of a residence and can consequently stand considerably above the ground. In contrast, porches and patios may be fully or partially under the existing roof and are often built at ground level.
- B. Proposals for any new carport, deck, porch or patio in the District will be reviewed on a case-by- case basis by the Planning Board and/or its appointed review committee(s). An approved Major Works Certificate of Appropriateness (COA) is required prior to the issuance of any building permit(s) to begin placement and/or new construction (refer to Appendix G for permitted materials). Additionally, any proposals must meet setback and placement provisions as defined and illustrated in Article 3: Zoning District Regulations, in the Land Use Ordinance for outbuildings and accessory structures.
- C. A deck should be compatible with but differentiated from the building, and constructed to be structurally independent so that it could be removed in the future without damage to the building. A deck should never be so large that it overpowers the building or the site.
- D. Because decks are exposed to the elements, decay-resistant woods, such as cypress or redwood, or pressure-treated lumber should be used. Decks may be painted or stained to protect them from water and sunlight and to make them more compatible with the colors of the historic structure. Some pressure treated wood may require six to twelve months of weathering before primer and paint will bond well to it.
- E. Locate decks in an inconspicuous area if possible, usually on the rear façade. Do not add a deck to a character-defining elevation on a historic building.

- F. Construct decks so that there is the least possible loss of historic fabric. Also, ensure that the character-defining features of the historic building are not obscured, damaged, or destroyed.
- G. It is not permitted to remove significant features or elements of a historic building, such as a back porch, to construct a deck.
- H. Align decks, no higher than the height of the building's first-floor level. Visually tie the deck to the building by screening with compatible foundation materials such as skirtboards, lattice, masonry panels, and dense evergreen foundation plantings.
- I. It is not permitted to construct a deck that significantly changes the proportion of built area to open space for a specific property.

3.11.30 SAFETY, ACCESSIBILITY, AND SECURITY FEATURES. Due to the fact historic structures were constructed before life safety and accessibility codes were developed, many do not meet modern standards required by the North Carolina State Building and Fire Codes or federal requirements of the Americans with Disabilities Act. The North Carolina Rehabilitation Code provides some flexibility concerning historic structures relative to building and accessibility issues. While application of these building codes often result in substantial changes to a historic property, the installation of accessibility and life safety features can usually be done in a manner that does not compromise the historic character of the structure. The following standards will be used in considering Certificates of Appropriateness.

- A. When projects must include the addition of health and safety features, minimize visual impact to the extent practical and possible in order to protect the historic character of the structure and its character-defining details.
- B. Health and safety features including fire escapes and access ramps shall be designed and located to the extent practical and possible so there is minimal visual impact to the historic structure.
- C. Health and safety features that are visible from the public right-of-way shall be constructed to the extent practical and possible so that the scale, materials, and details are compatible with the historic structure.
- D. Fire escapes and access ramps shall be constructed and installed in such a way that they can be removed with minimum damage to the historic district to the extent practical and possible.

3.11.31 MECHANICAL & COMMUNICATION SYSTEMS. Mechanical equipment, above ground electrical systems, and communication networks are part of everyday life and can be incorporated into historic districts with minimal visual impact. The following standards will be used in considering Certificates of Appropriateness.

- A. Install new air-conditioning units so that excessive moisture does not accumulate and damage historic materials.
- B. When installing window air conditioning units, place them in windows on the rear elevations not easily seen from a public right-of-way. Install them in such a manner that there is no damage to the existing windowsill or sashes, or to the wall surface below, as water can hug the sill and return to stain and damage the wall.
- C. Installation, rehabilitation, or replacement of mechanical systems should minimize changes to the exterior appearance of a structure.

- D. Some historic mechanical systems such as plumbing, early lighting fixtures, and vents are important architectural features and should be retained and preserved whenever possible.
- E. Compliance with local building codes and utility company standards and practices is required for the installation, upgrading, or replacement of building systems.
- F. New mechanical systems shall be installed in areas and spaces that will require the least possible alteration to the site plan, materials, and appearance of a building. Mechanical equipment which can be seen from the street must be screened with shrubbery or appropriate fencing.
- G. If feasible, mechanical supply lines and ductwork shall be located inside buildings. Exterior mechanical supply lines and ductwork shall be disguised by architectural elements compatible with the character of the building and shall be located as inconspicuously as possible.
- H. Plumbing vents and solar collectors shall not be visible from the street.
- I. Locate television antennas and satellite dishes on rear elevations where they are not easily seen from a public right-of-way.
- J. Communication systems such as television antennae, satellite dishes, and cellular phone towers can dramatically affect the character of the historic environment. Care must be taken so the installations of these systems minimize their visual and physical impact to the historic district.
- K. Attaching exterior electrical, telephone or television cables to the principal elevations of the buildings is not permitted.

3.11.32 DEMOLITION

- A. **CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION.** A Certificate of Appropriateness (COA) is required for demolition of any structure within the historic district. Demolition should be carefully deliberated. Property owners should work with the Planning Board and City staff to seek alternatives and guidance on demolition. The Planning Board will evaluate the following points when considering issuance of a Certificate of Appropriateness for a proposed demolition:
 1. Does the structure represent an imminent threat to health or safety as is?
 2. Is the cost of stabilization or rehabilitation reasonable compared to the cost of new construction?
 3. If the demolition is proposed in order to facilitate new development on site, are other suitable sites available?
 4. Is adaptive reuse a viable option?
 5. Can the property be sold to someone willing to use the existing building?
 6. Can the existing building be moved to another site?
 7. Will the proposed demolition adversely affect other historic buildings in the district or the overall character of the district?
 8. If the COA were denied, would the property owner be denied any reasonable return from, or make any reasonable use of, his property?
 9. Is the need to demolish the result of the applicant's own actions?
- B. A COA may delay demolition for up to 365 days in order to allow the Planning Board adequate time to explore alternatives.

C. DEMOLITION OF STRUCTURES OF STATEWIDE SIGNIFICANCE. In addition, an application for a COA authorizing the demolition of a building, site or a structure determined by the NC State Historic Preservation Office to have statewide significance as defined in the criteria of the National Register of Historic Places, may be denied except when:

1. City Council has adopted a demolition ordinance pursuant to the Minimum Housing Code and North Carolina General Statute (NCGS) 160A-443.
2. The structure is certified by a building inspector to be Unsafe and Condemned under the NCGS 160A- 426(a).
3. The Planning Board finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from the property by virtue of the denial.

D. CONDITIONS FOR COA FOR DEMOLITION. The following shall be imposed conditions upon any COA issued for demolition:

1. Any proposed new infill development on lots where the original structure has been demolished and/or removed will follow the standards set forth in section 17.3.1.1
2. Any proposed new primary structure will match, as much as possible, the setbacks, massing, placement, scale, orientation and spacing of the original demolished structure, as determined by the Planning Board and/or its appointed review committee(s).
3. Before demolition, the property owner shall record significant structures through photographs and/or measured drawings as specified by the Planning Board.
4. Before demolition, the property owner shall submit a site plan to the Planning Board illustrating proposed site development or plantings to follow demolition.
5. During demolition, the property owner shall ensure the safety of any adjacent properties and historic resources. Also, during and after demolition, the property owner shall protect trees on the site from damage due to compaction of the soil by equipment or materials.
6. After demolition, the property owner shall be responsible for clearing the site promptly and thoroughly.
7. After demolition, the property owner shall seed in grass, landscape and/or develop the site promptly as approved in the proposed site plan.

3.11.33 RELOCATION.

A Certificate of Appropriateness (COA) is required for the relocation of any contributing structure from within the district, or to another site within the same historic district or another historic district. The relocation of structures from outside of the district to within the district shall be considered as new construction. Moving a historic structure is a substantial process requiring a special skill set and is usually only undertaken to prevent demolition. Property owners are encouraged to enlist contractors with proven experience in relocating historic buildings. The proposed setting is a critical element in relocation of the structure. The following shall be imposed conditions upon any COA issued for the relocation of a structure from within or to the historic district.

- A. Before moving a historic structure, the property owner shall document its original setting and context, using photographs, site plans, or other graphic or written statements

- to record the existing site conditions. The form and detail of said documentation shall be specified by the Planning Board.
- B.** The property owner shall protect the structure from vandalism or weather damage before, during, and after the move.
 - C.** The property owner shall minimize structural damage during the move.
 - D.** The relocated structure shall comply with new construction standards in terms of placement, orientation, plantings, and other pertinent aspects of setting.
 - E.** The property owner shall provide a site plan including information on building location, accessory buildings, driveways, lighting, and parking areas.

ARTICLE 4.

DEVELOPMENT REGULATIONS

SEC 4.1 APPLICABLE IN CERTAIN ZONING DISTRICTS

The Development Regulations contained within this Article shall apply to development within the Suburban District, Traditional Neighborhood District, Mixed-Use District, Uptown District, Business District, and Industrial District, Manufactured Home District. Development within any local historic overlay district shall be regulated in accordance with the Historic Overlay District Design Regulations found in Article 3 and said regulations override other regulations within this Section including those relating to National Register districts. Architectural Design Regulations shall apply to one- and up to four-family dwellings that are within any historic district listed in the National Register of Historic Places. Development Regulations for the Depot District are regulated separately.

SEC 4.2 EXISTING DEVELOPMENT

- A. With a change in use or occupancy of an existing structure, design standards will only apply regarding the aspects of a building, structure, or feature directly affected by any proposed changes to the building, structure, or feature such as landscaping, parking, signage, fencing, and site design.
- B. All new development, including additions to existing buildings, shall comply with the regulations for that building, structure, or feature type.
- C. When features such as landscaping, parking, signage, fencing, and site design are affected with a renovation project, such site features will comply with the design regulations to the level possible as determined by the Administrator.
- D. Routine maintenance and repair are exempt from these design regulations.
- E. Resurfacing an existing paved parking lot will not invoke the landscape regulations for parking lots. However, expansion of a paved area of a parking lot will invoke the landscaping regulations and applicable impact buffer regulations for parking lots relative to the proposed newly paved area, and otherwise to the extent possible as determined by the Administrative Staff. Exception: Lots used in conjunction with a loading dock at an Industrial development.
- F. Creation of a new parking lot incidental to a new principal building, whether or not the lot is previously paved, will invoke landscape regulations as well as any applicable impact buffers. Exception: Lots used in conjunction with a loading dock at an Industrial development will not invoke the landscaping regulations but will invoke any applicable impact buffers.
- G. Existing gravel lots and other pervious surfaces that are proposed for paving shall comply with the design and landscape regulations for parking lots, and applicable impact buffer regulations.
- H. Regulations shall immediately apply for outdoor storage, outdoor furniture and décor, parking and vehicle storage, and any other Accessory Structure, Use, or Feature not already approved through issuance of a building permit. Exception: New driveways will not be required at existing residences.

SEC 4.3 SETBACKS AND PLACEMENT ON LOT

4.3.1 PRINCIPAL BUILDING

- A.** Buildings shall be placed so that the front of a dwelling does not face the rear or rear yard of another dwelling.
- B.** Adequate access shall be provided for emergency vehicles.
- C.** Buildings, structures, landscaping, and features shall be placed so as not to interfere with vehicular sight distance.
- D.** Pedestrian uses such as stoops, walks, open patios, other similar ground features with no roof are exempt from setbacks.
- E.** Street-facing setbacks and build-to lines shall be measured from the existing right-of-way, access easement, or property line.
- F.** All build-to lines shall be outside of the street right-of-way.

4.3.2 ACCESSORY STRUCTURES

- A.** Accessory Structures shall be located on the same parcel as the principal building.
- B.** Accessory structures may not be located on vacant lots. In the case that two adjoining lots are under common ownership with the principal building located on one of the tracts and the other remaining vacant, and where the lots have been sold or developed as one tract, and where there is no improved public street separating the two lots, then the two parcels shall be considered as one for the purpose of this section. For the purpose of measurement and placement, the lots shall be considered as one.

4.3.3 TABLE OF SETBACKS AND BUILD-TO LINES

Development/District	Suburban Neighborhood	Traditional Neighborhood	Mixed-Use	Uptown	Business	Industrial
One-family and up to Four-Family Dwelling Structures						
<i>Where permitted, Accessory Dwelling Unit (ADU) requires Five (5) feet minimum setbacks from side and rear property lines.</i>						
<i>Street-facing infill</i>	Street-facing build-to line for infill shall be within 25% of the average of other principal buildings within 300 feet along the same street. Variations of this may be approved due to topography or some preservation of natural features. If there are no other principal buildings within 300 feet along the same street, see "street-facing" setbacks, below.					
<i>Street-facing</i>	25 feet	25 feet	15 feet	10 feet	25 feet	25 feet
<i>Side</i>	10 feet	8 feet	8 feet	5 feet	8 feet	8 feet
<i>Rear</i>	25 feet	25 feet	15 feet	15 feet	15 feet	15 feet
<i>Accessory Structures</i>	10 feet	5 feet	5 feet	5 feet	5 feet	5 feet
<i>Driveway (not Shared)</i>	10 feet	5 feet	5 feet	5 feet	5 feet	5 feet
Multi-family (Apartments, Condominiums, Townhomes)						
<i>Street-facing infill</i>	Street-facing build-to line for infill shall be within 25% of the average of other principal buildings within 300 feet along the same street. Variations of this may be approved due to topography or some preservation of natural features. If there are no other principal buildings within 300 feet along the same street, see "street-facing" setbacks, below.					
<i>Street-facing</i>	25 feet	25 feet	10 feet	10 feet	15 feet	15 feet
<i>Side</i>	25 feet	25 feet	20 feet	Refer to NC Building Code		
<i>Rear</i>	25 feet	25 feet	20 feet	Refer to NC Building Code		
<i>Side Spacing Between Buildings</i>	16 feet					
<i>Accessory Structures</i>	16 feet					
<i>Driveway</i>	10 feet	10 feet	5 feet	5 feet	5 feet	5 feet

Development/District	Suburban Neighborhood	Traditional Neighborhood	Mixed-Use	Uptown	Business	Industrial
Commercial Building (includes mixed-use buildings with upper-story residential)						
<i>Street-facing infill</i>	Street-facing build-to line for infill shall be within 25% of the average of other principal buildings within 300 feet along the same street. Variations of this may be approved due to topography or some preservation of natural features. If there are no other principal buildings within 300 feet along the same street, see "street-facing" setbacks, below.					
<i>Street-facing</i>	25 feet	25 feet	10 feet	10 feet	15 feet	15 feet
<i>Side</i>	10 feet against Suburban Neighborhood District or Traditional Neighborhood District, otherwise refer to NC Building Code					
<i>Rear</i>	25 feet against Suburban Neighborhood District or Traditional Neighborhood District, otherwise 15 feet					
<i>Side Spacing Between Buildings</i>	Refer to NC Building Code					
<i>Accessory Structures</i>	15 feet against Suburban Neighborhood District or Traditional Neighborhood District, otherwise 5 feet					
<i>Driveway</i>	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet
Industrial Buildings						
<i>Street-facing infill</i>	Street-facing build-to line for infill shall be within 25% of the average of other principal buildings within 300 feet along the same street. Variations of this may be approved due to topography or some preservation of natural features. If there are no other principal buildings within 300 feet along the same street, see "street-facing" setbacks, below.					
<i>Street-facing</i>	25 feet	25 feet	10 feet	10 feet	15 feet	15 feet
<i>Side</i>	15 feet against Suburban Neighborhood District or Traditional Neighborhood District, otherwise 10 feet					
<i>Rear</i>	25 feet against Suburban Neighborhood District or Traditional Neighborhood District, otherwise 15 feet					
<i>Side Spacing Between Buildings</i>	Refer to NC Building Code					
<i>Accessory Structures</i>	15 feet against Suburban Neighborhood District or Traditional Neighborhood District, otherwise 5 feet					
<i>Driveway</i>	10 feet	10 feet	5 feet	5 feet	5 feet	5 feet

SEC 4.4 ONE-FAMILY AND UP TO FOUR-FAMILY DWELLING(S)

4.4.1 DESCRIPTION

One-family and up to four-family dwelling(s) built to North Carolina State Building Code.

4.4.2 APPLICABILITY

Development of, or changes to, any one- and up to four-family dwelling within any local historic overlay district shall be regulated in accordance with the Historic Overlay District Design Regulations found in Article 3 and said regulations override other regulations within this Section including those relating to National Register districts. Otherwise, Architectural Design Regulations, below shall apply to one- and up to four-family dwellings that are within any historic district listed in the National Register of Historic Places.

4.4.3 ARCHITECTURAL DESIGN REGULATIONS

- A. New one- and up to four-family dwellings, as well as additions or changes to existing one- and up to four-family dwellings shall demonstrate compatibility by adhering to the architectural detailing, size, scale, materials, massing, volume, design and placement of windows and doors, spacing, presence and minimum size of front porches, and setback of existing residential buildings along fronting streets.
- B. **COVERED ENTRY.** All houses shall provide a covered entry with a minimum dimension of four feet by six feet. Porches may project into the required front yard by up to six feet.
- C. **PRIVACY ELEVATION.** The front porch and/or ground floor elevation with a front yard setback of less than 20 feet shall be elevated a minimum of two feet above the sidewalk or street.
- D. **MINIMUM SIZE.** One- and up to four-family dwellings within the Suburban Neighborhood District are required to be a minimum of 1,500 square feet, and a minimum of 1,000 square feet in all other zoning districts. Square footage excludes porches, patios and overhangs.
- E. **ARCHITECTURAL VARIETY.** Building elevations shall be varied so that identical or virtually identical houses are not located on adjacent lots or directly across the street from each other. Duplicative house designs adjacent to each other are prohibited. Simple reverse configurations of the same house design on adjacent lots are not sufficient to meet architectural variety requirement. Exceptions may be granted in special circumstances where similar architectural consistency provides a distinct character for a cluster of homes surrounding an open space or on a particular street (cottage homes around a common open space are an example). In order to qualify as a different facade elevation, dwellings shall have different roofline configurations, different color palettes, and different porch/entry design. In addition, a minimum of two of the following alternatives shall be utilized:
 - 1. Different window openings (location and design).
 - 2. One- and two-story houses.
 - 3. Different exterior materials and finishes.
 - 4. Different garage location, configuration, and design.
 - 5. Other different design element that helps to distinguish one facade elevation from another as determined by the Administrator.

- F. EXTERIOR MATERIALS.** Exterior front, rear, and side facade materials shall be limited to: brick, decorative masonry, horizontal and/or shingle fiber cement siding; stone; stucco; horizontal and/or shingle wood siding; concrete siding; horizontal and/or shingle vinyl siding. Stucco and other troweled finishes shall be trimmed in masonry, wood, or material with a wood appearance. Exposed concrete block (except for foundation/crawl space walls where not visible from the street) are prohibited. T-111 siding and other plywood types of siding (board and batten is an exception) shall not be used for facades adjacent to or directly viewable from any street. Where any sloped roofs and structural canopies are used, they will be covered with: asphalt shingles; natural clay tiles; slate; concrete tiles; ribbed metal; wood shakes or shingles. All sides of the building shall use materials consistent with those on the front if visible from public streets or neighboring properties.
- G. TWO-FAMILY AND UP TO FOUR-FAMILY DWELLINGS.** Two-family and up to four-family dwellings shall be designed similar in nature to one-family dwellings and shall feature a visible entry and windows facing the street. Two-family and up to four-family dwellings on corner lots shall provide double-frontage with entryways, so that two dwelling units within the structure appears as a one-family dwelling from the fronting street. Two-family and up to four-family dwellings mid-block shall appear as a one-family dwelling from the front, so that one main entrance is provided with separate entrances internally.
- H. GARAGE PLACEMENT AND DESIGN.**
1. The garage face shall occupy no more than 50 percent of the ground-level facade facing the street.
 2. Where lots front on a public street and where vehicular access is from the street, garages or carports shall be set back at least five feet behind the front wall of the house or front edge of an unenclosed porch. On corner lots, this standard shall only apply to the designated front yard.
 - a. Exceptions: Garages may project up to six feet closer to the street than the front wall of the house or front edge of an unenclosed porch provided it is set back at least 20 feet from the street and incorporates at least two of the design/detail features below. Garages placed flush with the front wall of the house shall incorporate at least one of the design/detail features below:
 - (1) A decorative trellis over the entire garage.
 - (2) A balcony that extends out over the garage and includes columns.
 - (3) Two separate doors for two car garages instead of one large door.
 - (4) Decorative windows on the garage door.
 - (5) Decorative details on the garage door. Standard squares on a garage door will not qualify as a decorative detail.
 - (6) A garage door color (other than white) that matches or complements the color of the house.
 - (7) Other design techniques that effectively deemphasize the garage, as determined by the Administrator.
 3. Garages may be placed closer to the street than the front wall of the house or front edge of an unenclosed porch provided it faces towards the side yard and features a window facing the street so that it appears to be habitable.

- I. WINDOWS AND TRANSPARENCY.** Transparent windows and/or doors facing the street are required. To meet this requirement, at least 10 percent of the facade must be transparent. The facade is measured from the base of the house to the start of the roofline and any other vertical walls facing the street, except for gabled portions of the facade not containing livable floor area. Garages facing the street shall count as part of the facade.

4.4.4 SITE

- A.** Mechanical equipment, utility meters, storage areas, trash containers and enclosures, transformers, generators, and similar features or other utility hardware on roof, ground, or buildings will be screened from public view with materials similar to the principal building, or they will be so located as not to be visible from any public view. None of these elements may be located in the front yard.
- B.** One- and up to four-family dwellings developed on corner lots may front the corner.
- C. MAXIMUM HEIGHT.** Maximum of four stories unless within 100 feet of structures 3 or more stories in height. New development shall not overshadow adjacent sites in such a way as to prohibit existing or future solar energy usage or that blocks access to natural light.

4.4.5 PARKING

- A.** A minimum of two off-street spaces is required for one-family dwellings and a minimum of four off-street parking spaces is required for two-family dwellings. A minimum of eight (8) off-street parking spaces for a four-family dwelling. The parking spaces shall be located on a driveway, or within a garage. Driveways may be located in the front, side, or rear yard. Driveways shall be paved, concrete, brick pavers or other similar material. Gravel or dirt driveways are prohibited for new development. No more than 20% of the front yard space may be used for driveway.
- B.** No more than 5% of the rear yard shall be used for the storage of any type of vehicles or trailers if the two required driveway or garage parking spaces are located in the front or side yard, and no more than 10% of the rear yard shall be used for the storage of any type of vehicles or trailers if the two required driveway or garage parking spaces are located in the rear yard (includes garage space).
- C.** Overflow parking shall utilize on-street parking, not the front or side yard areas outside of a driveway. If on-street parking is utilized, it shall be contained within the area immediately fronting the property and not be in front of other surrounding properties.
- D.** Domestic and recreational vehicles such as RVs, boats, four-wheelers, personal watercraft and sports boats, camper trailers, utility trailers, and lawn mowers shall be stored off of the street and may not be located in the established required front or side yard. The height of any such vehicle shall not extend above the height of the house. Such vehicles may be located in the rear yard only and shall setback a minimum of 10 feet from any side or rear property line.
- E.** No more than 5% of the rear yard shall be used for the storage of any type of vehicles or trailers if the two required driveway or garage parking spaces are located in the front or side yard, and no more than 10% of the rear yard shall be used for the storage of any type of vehicles or trailers if the two required driveway or garage parking spaces are located in the rear yard (includes garage space).

- F. Driveways shall be paved, concrete, brick pavers or other similar material. Gravel or dirt driveways are prohibited for new development. Driveways shall be set back a minimum of five feet from side and rear property lines.
- G. Shared driveways may be permitted if required as part of a NCDOT driveway permit for development with ingress/egress to State-maintained roads.
- H. Overflow parking shall utilize on-street parking, not the front or side yard areas outside of a driveway. If on-street parking is utilized, it shall be contained within the area immediately fronting the property and not be in front of other surrounding properties.
- I. Domestic and recreational vehicles such as RVs, boats, four-wheelers, personal watercraft and sports boats, camper trailers, utility trailers, and lawn mowers shall be stored off of the street and may not be located in the established required front or side yard. The height of any such vehicle shall not extend above the height of the house. Such vehicles may be located in the rear yard only and shall setback a minimum of 10 feet from any side or rear property line.

4.4.6 STORAGE OF SOME TYPES OF VEHICLES AND/OR HEAVY EQUIPMENT PROHIBITED

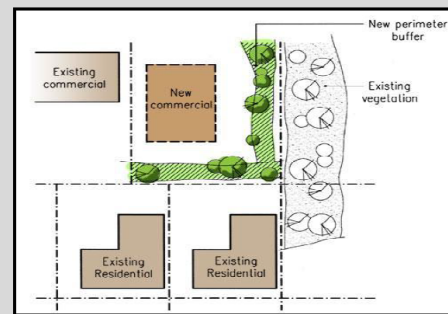
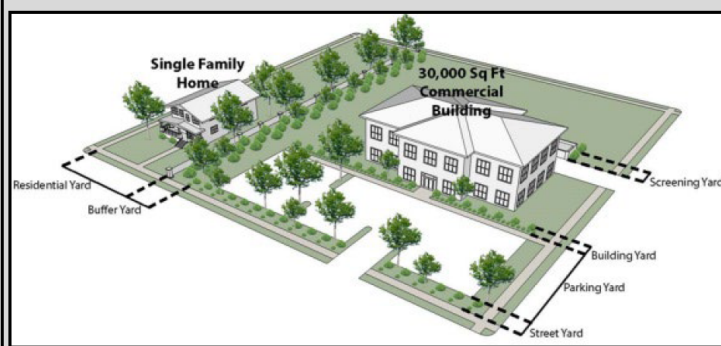
- A. No passenger buses, school or activity buses, horse trailers, tractors, truck trailers, dump trucks, tractor trucks, semi-trailers, one-ton or larger commercially licensed trucks and vans, mobile or manufactured homes, house trailers, or heavy equipment such as bulldozers and backhoes, shall be stored on the street or on-site. (Exception: horse trailers and tractors may be located on farms or at stables.)
- B. No vehicle may be used for the purpose of storage.
- C. No residentially developed lot may be used as the base operation for any freight-hauling truck.

4.4.7 IMPACT BUFFER

Impact buffers are intended to provide visual and functional separation between adjacent land uses. Impact buffers are generally densely planted vegetative areas that can contain features such as fencing, walls, earthen berms, or other visual screening. In addition to ground plantings, roofs and walls may be landscaped. Fruit and nut trees are encouraged and will be classified as large trees. Developers are encouraged to incorporate the use of other food-producing or edible plants, which may be substituted for large shrubs except within impact buffers.

- A. An impact buffer shall be provided for one-family and up to four-family developments proposed with ten (10) units or more.
- B. Determine the applicable Impact Buffer Minimum from the table:

Zoning District	Zoning District (Adjacent Property)						
	TN	SN	MHD	MU	B	I	U
<i>Impact Buffer Minimums (widths in feet)</i>							
Traditional Neighborhood (TN)	15 feet	15 feet	15 feet	15 feet	20 feet	20 feet	20 feet
Suburban Neighborhood (SN)	15 feet	15 feet	15 feet	15 feet	20 feet	20 feet	20 feet
Manufactured Home District (MHD)	15 feet	15 feet	15 feet	15 feet	20 feet	20 feet	20 feet
Mixed Use (MU)	15 feet	15 feet	25 feet	15 feet	15 feet	20 feet	20 feet
Business (B)	15 feet	15 feet	15 feet	15 feet	15 feet	15 feet	15 feet
Industrial (I)	20 feet	20 feet	20 feet	20 feet	15 feet	15 feet	20 feet
Uptown (U)	20 feet	20 feet	20 feet </td <td>20 feet</td> <td>15 feet</td> <td>20 feet</td> <td>15 feet</td>	20 feet	15 feet	20 feet	15 feet



Typical Landscape Buffer Yards

- C. The minimum impact buffer requirement may be met by any one of the following:
1. Preserving an existing natural vegetated perimeter area a minimum of 20 feet in width. (Some additional plantings may be required to reach a visually impervious buffer.)
 2. Buffer yard must contain of a minimum of small trees planted 30 feet on center, and two staggered rows of medium or large evergreen shrubs planted 6 feet on center (by row) in order to provide continuous coverage. Small trees shall be a minimum of 6 feet in height at installation and shrubs shall be a minimum of 3 feet in height at installation.
 3. Installing a minimum six-foot high wooden shadowbox or similar fence and installing a row of medium or large evergreen shrubs planted 6 feet on center. Boards on the fence shall be spaced no more than 2 inches apart. Supporting members shall be located to the inside of the fence. Shrubs shall be planted on the exterior side of the fence and shall be a minimum of 3 feet in height at installation.

4. Constructing a solid wall, a minimum of 6 feet in height, made of stone, brick, or block with stucco or similar finish.
 5. Earthen berms may be used separately or in combination with plantings, fencing and walls.
 6. Maximum height of earthen berms is 6 feet.
 7. Earthen berms must be installed with a flattened crown being a minimum of 2 foot in width and uniformly shaped along the development perimeter.
 8. Earthen berms must be installed with side slopes stabilized to the most current sedimentation and erosion control standards.
 9. In addition to the required plantings, the entire berm must be fully covered with live vegetation to stabilize soils.
 10. Entire berm must contain small to medium evergreen shrub plantings with a minimum height of one foot and placed no more than 18 inches edge to edge.
 11. Earthen berms may be used In lieu of not more than 50% of the cumulative required impact buffer perimeter.
- D. Watercourse Protection Buffers will remain completely undisturbed.
 - E. Mechanical equipment is prohibited within the impact buffer area.
 - F. Permanent detention basins and temporary erosion and sedimentation control basins are prohibited within the impact buffer area.
 - G. Alternative screening methods that perform to the same or higher level may be approved.
 - H. Utility easements may cross but not be placed within the long dimension of an impact buffer area.
 - I. Pedestrian access may be required to cross through the impact buffer area.
 - J. Where an impact buffer and a landscape area would be required, the impact buffer shall replace the requirement for a landscape area.
 - K. Where adjacent properties have multiple zoning types, the contiguous zoning district having the most restrictive impact buffer width applies.

4.4.8 ACCESSORY STRUCTURES, USES, AND FEATURES

- A. Accessory buildings shall be no taller than the principal building.
- B. The aggregate floor area of all accessory buildings, excluding open patios and decks, may not exceed half of the total first floor area of the principal building.
- C. Truck trailers, Personal On-Demand Storage Units (PODs), vans, buses, and other vehicles are not permitted to be used for storage and are not permitted to be used as accessory structures, except that PODS may be permitted temporarily.

4.4.9 OUTDOOR STORAGE

Outdoor storage (outside of an accessory building) is prohibited.

4.4.10 DOGHOUSES AND DOG LOTS

Reference the City of Lexington’s Code of Ordinance, Chapter 8, Section 8-59, Setbacks and Standards for Stables, Pens, Enclosures, Dog Lots, Tethering, Underground Fencing, Containment Structures from Dangerous Dogs, Etc.

4.4.11 SIGNAGE

See Article 6 for Signage Regulations.

SEC 4.5 MULTIFAMILY DEVELOPMENTS

4.5.1 DESCRIPTION

Multifamily developments include development of three or more dwellings under a single parcel. Multifamily developments also typically contain common greenspace, accessory structures, amenities, uniform architecture, and shared parking areas. Multifamily development includes apartments, townhomes, and condominium developments. Note: Development within the local Historic District must comply with Historic Regulations in Article 3.

4.5.2 RELATION TO EXISTING ENVIRONMENT

- A.** For properties fronting North and South Main Street and East and West Center Street within the Uptown District, and for properties fronting Winston Road Between 9th Street and Biesecker Road, building shall face the major thoroughfare and parking lots shall be located beside or behind the building.
- B.** The first building shall front and parallel a public street. Additional buildings may front an improved common area with pedestrian access.
- C.** No dwelling within a multifamily development shall front the rear or side of another multifamily building.
- D.** Buildings located within the Uptown District shall not have dwelling units on any first floor facing North Main Street or South Main Street. Dwellings may face a public alley.
- E.** Buildings shall not be more than one story above adjacent existing buildings without additional setback equal to the height of each story over two.
- F.** New development shall not overshadow adjacent sites in such a way as to prohibit existing or future solar energy usage or reasonable access to natural light.
- G.** Infill development will be sensitive to predominant characteristics of the neighborhood, including built form, vegetation, and influences such as road layout, lot size, and pattern.
- H.** Mechanical equipment, utility meters, storage areas, individual trash containers and enclosures, transformers, generators, and similar features or other utility hardware on roof, ground, or buildings will be screened and/or located as not to be visible from any public street. None of these elements may be located in the front yard.

4.5.3 ARCHITECTURE AND BUILDING MATERIALS

- A.** All sides of the building shall use materials consistent with those on the front.
- B.** Primary finish materials shall cover a minimum of 75% of the exterior wall surface excluding window and door opening and shall be limited to: brick; stone; stucco; wood siding; concrete siding; and/or decorative stamped and stained concrete.
- C.** Secondary finish materials may cover no more than 25% of any exterior wall surface excluding window and door opening, and shall be limited to: vinyl siding, Exterior Finish Insulation System (EFIS).
- D.** Sloped roofs and structural canopies shall be: asphalt shingles; natural clay tiles; slate; concrete tiles; ribbed metal; and wood shakes or shingles.
- E.** Piecemeal patching with materials that do not match is prohibited.
- F.** Garages may not protrude beyond the front plane of a multifamily building.

4.5.4 PARKING

- A.** One parking space shall be provided per dwelling. Exception: Developments specific to persons with limited driving needs shall provide a minimum of .25 parking spaces per unit. On-street or off-site parking nearby may be used to help meet parking space requirements with the provision of pedestrian access between the street and the unit.
- B.** Overflow parking shall utilize on-street parking or a nearby parking lot, not the front or side yard. If on-street parking is utilized, it shall be contained within the area immediately fronting the unit and not be in front of other surrounding units or properties.
- C.** Parking lots shall be paved, concrete, brick pavers or other similar material. Gravel, mulch, dirt, or other dust causing material is not permitted.
- D.** For properties fronting North and South Main Street and East and West Center Street within the Uptown District, and for properties fronting Winston Road Between 9th Street and Biesecker Road, parking lots shall be located beside or behind the building.
- E.** Curb cuts will be minimized.
- F.** Extension of pedestrian facilities shall be provided where existing pedestrian facilities adjoin.
- G.** Adjoining parking lots shall be interconnected to the extent possible. Where vehicular access is provided between adjoining uses and the operating hours are conducive to sharing, all of the required parking spaces may be shared. The joint use of shared off-street parking between two uses shall be guaranteed by an easement, contract or other legally binding document between two or more adjacent property owners and a copy shall be provided with the application for development approval.
- H.** Parking and vehicular surface areas, except for shared parking lots, interconnections and driveways crossing perpendicular or near perpendicular to the street, shall be set back from property lines and the street in order to provide for applicable screening and street trees.
- I.** Parking lots will be designed to allow pedestrians to move safely from their vehicles to the building. Internal sidewalks and/or crosswalks are required.
- J.** Driveways to parking areas shall be limited to 24 feet in width unless waived by the approving authority.
- K.** Off-street parking areas will be designed to facilitate adequate movement and access by emergency, and other public service vehicles.
- L.** Parking lots shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks, or landscaped areas.
- M.** Parking lots shall be designed so that cars are not required to back directly into public streets in order to park or leave.

4.5.5 STORAGE OF SOME TYPES OF VEHICLES AND/OR HEAVY EQUIPMENT PROHIBITED

- A.** Domestic and recreational vehicles such as boats, camper trailers, and utility trailers shall be stored off of the street and may not be located in the front or side yard. There may be a common designated parking area in the rear yard for boat and trailer parking of residents of the development. Said parking area shall be setback a minimum of 25 feet from rear or side property lines.

- B. No passenger buses, school or activity buses, horse trailers, tractors, truck trailers, dump trucks, tractor trucks, semi-trailers, one-ton or larger commercially licensed trucks and vans, house trailers, or heavy equipment such as bulldozers and backhoes shall be stored on the street or on site.

4.5.6 LANDSCAPING

A. GENERAL DESCRIPTION. Landscaping should be designed in such a way that water is captured naturally and absorbed by landscaped areas. In addition to ground plantings, roofs and walls may be landscaped. Fruit and nut trees are encouraged and will be classified as large trees. Developers are encouraged to incorporate the use of other food-producing or edible plants, which may be substituted for large shrubs except within impact buffers.

B. PARKING LOT LANDSCAPING

1. Parking lots with a vehicular surface area, including all drives, paved or impervious areas, and parking spaces, with a total of 5,000 square feet or less, are exempt from parking lot landscaping requirements.
2. All areas not specifically required for parking or circulation shall be landscaped or grassed.
3. For lots with 36 spaces or less, landscaping will be required at the perimeter; for lots with more than 36 spaces, landscaping will be required at the perimeter and within the interior.
4. Parking lot landscaping adjacent to a street will replace required street trees.
5. If the parking lot is adjacent to a required impact buffer, then the impact buffer may replace required parking lot perimeter landscaping.
6. All parking lots, including driveways, shall be screened up to a height of 3 feet using shrubs. There shall be no openings in the screening greater than 2 feet except openings for pedestrian passage, which should be at least 5 feet in width. In addition, large trees planted 60 feet on center shall be installed at the perimeter of the parking areas. The planting bed containing the shrubs and trees shall be a minimum of 8 feet in width. Where pre-existing overhead utility lines prevent the use of large trees, two small trees may be substituted for each large tree and shall be planted 30 feet on center. Existing landscaping or natural vegetation located in the perimeter landscape area that meets these standards may be applied toward these landscaping requirements. A brick wall 3 feet in height (matching the brick used in the principal structure) may be used in place of the shrubs, and the trees may be planted to the interior or exterior of the brick wall.
7. Interior landscape islands shall have a minimum diameter of 8 feet, and an edging adequate to keep material from overflowing. Each landscape island shall contain, at a minimum, one large tree, and shall be located so that no parking space is more than 80 feet from a tree. Where pre-existing overhead utility lines prevent use of large trees, two small trees may be substituted for each large tree.

C. STREET TREES

1. A row of large trees planted 60 feet on center shall be provided along the public street. Where pre-existing overhead utility lines prevent use of large trees, two small trees may be substituted for each large tree and shall be planted 30 feet on center.

2. The trees shall be planted between the sidewalk and street. If no sidewalk exists, the trees shall be planted within 10 feet of the back of curb or edge of pavement. If the building is set at the sidewalk, the trees may be incorporated into the sidewalk by use of grates, provided that a minimum of five feet clearance is required along the sidewalk. Minor variations in location may be approved to accommodate topography, utilities, or specific elements of the site.
 3. Street trees will not be required where parking lot perimeter landscaping areas abut the street.
- D. IMPACT BUFFER.** An impact buffer shall be provided where the property is adjacent to any property zoned Suburban Neighborhood District or Traditional Neighborhood District.
1. The minimum impact buffer requirement may be met by any one of the following:
 - a. Preserving an existing natural vegetated area a minimum of 20 feet in width. (Some additional plantings may be required to reach a visually impervious buffer.)
 - b. Installing a 15-foot wide landscape yard consisting of a minimum of small trees planted 30 feet on center, and two staggered rows of medium or large evergreen shrubs planted 6 feet on center (by row) in order to provide continuous coverage. Small trees shall be a minimum of 6 feet in height at installation and shrubs shall be a minimum of 3 feet in height at installation.
 - c. Installing a minimum six-foot high wooden shadowbox or similar fence and installing a row of medium or large evergreen shrubs planted 6 feet on center. Boards on the fence shall be spaced no more than 2 inches apart. Supporting members shall be located to the inside of the fence. Shrubs shall be planted on the exterior side of the fence and shall be a minimum of 3 feet in height at installation.
 - d. Constructing a solid wall, a minimum of 6 feet in height, made of stone, brick, or block with stucco or similar finish.
 2. Watercourse Protection Buffers will remain completely undisturbed.
 3. Mechanical equipment is prohibited within the impact buffer area.
 4. Permanent detention basins and temporary erosion and sedimentation control basins are prohibited within the impact buffer area.
 5. Alternative screening methods that perform to the same or higher level may be approved.
 6. Utility easements may cross but not be placed within the long dimension of an impact buffer area.
 7. Pedestrian access may be required to cross through the impact buffer area.
 8. Where an impact buffer and a landscape area would be required, the impact buffer shall replace the requirement for a landscape area.
- E. ACCESSORY STRUCTURES**
1. Accessory buildings shall match the principal building in terms of exterior finish materials, style, and color and shall be clad in the same materials. Wooden pallets, fabric, tarp, or other woven materials are strictly prohibited as a building material for accessory structures.

2. All sides of accessory buildings shall use materials consistent with those on the front if visible from public streets or neighboring properties. Piecemeal embellishment and frequent changes in material is prohibited.
3. Where any sloped roofs and structural canopies are used, they will be covered with: asphalt shingles; natural clay tiles; slate; concrete tiles; ribbed metal; wood shakes; or shingles.
4. Accessory buildings shall be no taller than the principal building.
5. The aggregate floor area of all accessory buildings may not exceed half of the total first floor area of the building(s).
6. Truck trailers, Personal On-Demand Storage Units (PODS), vans, buses, and other vehicles are not permitted to be used for storage and are not permitted to be used as accessory structures, except that PODS may be permitted temporarily in accordance with Section 5.37.

F. DOGHOUSES AND DOG LOTS

Reference the City of Lexington’s Code of Ordinance, Chapter 8, Section 8-59, Setbacks and Standards for Stables, Pens, Enclosures, Dog Lots, Tethering, Underground Fencing, Containment Structures from Dangerous Dogs, Etc.

G. DUMPSTERS

1. Driveways to dumpsters shall be constructed to withstand the weight of a 25 ton truck. Construction of the base and surface shall be approved by the City.
2. Shall be setback a minimum of five feet from any property zoned Business, Industrial, Uptown, or Mixed Use Districts, and shall be setback a minimum of 25 feet from any property zoned Traditional Neighborhood, Suburban Neighborhood or Manufactured Home Districts.
3. Shall be enclosed by a wooden privacy fence, or a wall with any of the following finish materials: brick, stone, stucco, finished concrete, concrete block with stucco finish, or split-face block.
4. Shall be located in the rear yard and/or side yard only, as-long-as they do not front a public street.

H. OUTDOOR STORAGE

Outdoor storage (outside of an accessory building) is prohibited.

I. RECREATION FACILITY

1. Residential developments with ten or more total units are required to contain either an Indoor or Outdoor Recreation Facility, or a combination of the two. Said facility shall be centrally located within the development to the degree possible.
2. This requirement may be waived by the approving authority if a public park exists within one-fourth mile of all proposed residences and is easily accessible via a maintained pedestrian access.
3. The Recreation Facility shall relate to and be of adequate size to accommodate the needs of the proposed development.
4. Outdoor Recreation Facilities shall be improved and cleared of underbrush and debris and contain elements such as: landscaping, sidewalks, statues, fountains, ball fields, playground equipment, swimming pool and clubhouse, exercise equipment, outdoor furniture, picnic shelters, trails, greenways, etc.

5. Indoor Recreation Facilities shall include uses such as fitness room with exercise equipment, basketball court, gym, swimming pool and clubhouse, etc.
6. The cost and responsibility of maintaining the Recreation Facility shall be borne by the property owner.

J. LIGHTING

1. Lighting intensities shall be controlled so that no more than one-fourth of a foot-candle of light spills over onto adjoining residential or residentially-zoned properties.
2. Outdoor lighting will be designed, located, and mounted so as to improve safety, while protecting the street and neighboring properties from direct glare or hazardous interference.
3. No flickering or flashing lights will be permitted.

K. SIDEWALK

1. A sidewalk shall be constructed along the fronting public or private street. Developments on corner lots shall provide for sidewalks along each public or private street.
2. Sidewalks shall be concrete, brick paver, or other similar material. Sidewalks may not be mulch, pine needles, dirt, gravel, or other dust causing material.
3. Sidewalks shall be a minimum of 5 feet in width and shall be constructed in accordance with the design and construction standards of the City of Lexington. The Administrative staff will approve design and construction specifications.
4. The owner may dedicate sidewalks constructed along a public street as a public right-of-way and the City may accept the public sidewalk for maintenance.

L. SIGNAGE

See Article 6 for Signage Regulations.

SEC 4.6 COMMERCIAL BUILDING

(Business, Mercantile, Assembly, Education, and/or Institutional Occupancy)

4.6.1 DESCRIPTION

Commercial Buildings include a variety of common forms such as shopfronts in the Uptown District, shopping centers, mixed-use buildings, condominiums, free-standing buildings, as well as gas stations. Regardless of the form, these buildings share design features that convey a sense of invitation to the public. Note: Changes to properties within the historic overlay district shall be regulated in accordance with the design regulations found in Article 3.

4.6.2 SITE

- A. Building shall parallel and front on a public street or private street or shall extend parallel to a common improved area with pedestrian access. For buildings fronting North and South Main Street within the Uptown District, and fronting East and West Center Street within the Uptown District, and for buildings fronting Winston Road between 9th Street and Biesecker Road, parking lots shall be located beside or behind the building. Buildings located adjacent to Winston Road between 9th Street and Biesecker Road are permitted to have one single row of parking between the building

and the street along the frontage. All buildings on parcels adjacent to more than one street, or on street frontage on more than one side, shall parallel and front on the higher-order, larger, more prominent and/or more primary of the streets as determined by the Administrator or Administrative Staff. The City may waive this requirement without variance if no primary order of streets is established or determined for the project by the Administrative Staff, or if there are particular difficulties due to lot size, configuration, and/or topography that prevent proper placement.

- B. Development shall support a pedestrian environment. Installation of pedestrian facilities will be required.
- C. Elements such as satellite dishes, mechanical equipment, utility meters, storage areas, trash enclosures, transformers, generators, and similar features or other utility hardware will be screened from public view with materials similar to the structure, or they will be so located as not to be visible from any public view or from potential buildings nearby to the extent possible. Rooftop mechanical equipment shall not be visible from adjacent streets or adjoining properties to the extent possible.

4.6.3 RELATION TO EXISTING ENVIRONMENT

- A. New buildings will respect the general spacing of structures, height, mass, scale, materials, fenestration (design and placement of windows and doors), and street frontage relationships of existing buildings in the surrounding area.
- B. New development shall not overshadow adjacent sites in such a way as to prohibit existing or future solar energy usage or reasonable access to natural light.
- C. Infill development will be sensitive to predominant characteristics of the surrounding area, including built form, vegetation, topography, and influences such as road layout, lot size, and pattern.

4.6.4 ARCHITECTURE AND BUILDING MATERIALS

- A. Storage buildings, trailers, and manufactured homes may not be used as a commercial building. (See Section relating to temporary units during construction.)
- B. The first floor shall be taller than upper floors and shall be differentiated architecturally to create a sense of human scale.
- C. Buildings shall have a recognizable top course consisting of, but not limited to: cornice treatments, other than just colored stripes or bands, with integrally textured materials such as stone, or other masonry, or differently colored materials; sloping roof with overhangs and brackets; stepped parapets; and/or a cornice capping the top of a building wall.
- D. Buildings shall have a recognizable base course consisting of, but not limited to: thicker walls, ledges or sills; integrally textured materials such as stone or other masonry; integrally colored and patterned materials such as smooth finished stone or tile; lighter or darker colored materials, mullions, or panels; and planters.
- E. Where two wall materials are combined on one façade, the “heavier” material shall be used on the first floor (e.g. use brick below with wood siding above). Rooflines will accommodate simple lines such as hip, flat, shed, gable to front, or gable to side, and avoid excessive joints.
- F. Reflective or highly tinted glass is prohibited on street-facing façade windows.

- G. Street-facing first floor facades will maintain a minimum 50% window or glass area. Street-facing second floor façades will maintain a minimum 25% window or glass area. Art, green walls, water features, or other method(s) approved by the Administrator to be applied to the sides of street-facing walls of building at a rate of 50% for first floor and 25% for second floor as an alternative method to providing glass. Rear elevations are exempt from this requirement regardless of whether or not they are street-facing.
- H. Bays and garage doors that face a public street must be reviewed and approved by the Design Review Committee.
- I. Large buildings fronting multiple streets shall provide multiple entrances.
- J. Architectural elements like openings, sill details, posts, and other architectural features will be used to establish human scale at the street level.
- K. Buildings will avoid long, monotonous, uninterrupted walls or roof planes of more than 25 feet on their street fronting facades. Building wall offsets, including projections, recesses, and changes in floor level will be used in order to: add architectural interest and variety; relieve the visual effect of a single, long wall; and subdivide the wall into human size proportions. Similarly, roofline offsets will be provided to lend architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
- L. Exterior finish materials shall be limited to: brick; stone; integrally tinted, textured masonry block; stucco; wood lap siding (if permitted by NC State Building Code); fiber cement siding; concrete siding; Exterior Insulation Finish System (EFIS); flat metal interlocking panels with stucco or orange peel finish; and/or decorative stamped and stained concrete. Ribbed metal may be used on a roof or awning, but is not permitted as a finishing material for external walls or top courses. Metal wrapping is permitted for trim. Standing-seam metal (also known as corrugated metal) as an exterior wall finish material is permitted for expansions/additions when the existing primary building is more than 50% sided in standing-seam metal.
- M. All sides of the building shall use materials consistent with those on the front if visible from public streets.
- N. Where any sloped roofs and structural canopies are used, they may be covered with: asphalt shingles; natural clay tiles; slate; concrete tiles; ribbed metal; wood shakes or shingles.
- O. The color of roof stacks, flashing, vents, power exhaust fans, and metal chimney caps will blend with the roof colors.
- P. Piecemeal patching with materials or colors that do not match is prohibited.
- Q. Accessory buildings shall be of similar design and color as the principal building.

4.6.5 LIGHTING

- A. Lighting intensities shall be controlled so that no more than one-fourth of a foot-candle of light spills over onto adjoining residential or potentially residential properties.
- B. Outdoor lighting will be designed, located, and mounted so as to protect the street and neighboring properties from direct glare or hazardous interference of any kind.
- C. No flickering or flashing lights will be permitted.

4.6.6 PARKING

A. PARKING REQUIREMENTS

1. All requirements of the North Carolina State Building Code shall be met concerning Handicapped Parking.
2. On-street parking or off-site parking within ¼ mile with pedestrian access may be used to meet the minimum number of required parking spaces.
3. One parking space per 500 square feet of gross floor area is the minimum number of spaces required for commercial buildings. One parking space per 150 square feet is the maximum number of spaces permitted for commercial buildings.
 - a. Exceptions:
 - (1) Churches, schools, libraries, government buildings, hospitals, museums, medical facilities, office buildings, banking/financial institutions, and other similar uses are exempt from the number of parking spaces required.
 - (2) For mixed-use buildings, residential space and non-residential space shall be calculated separately.
 - (3) The maximum number of spaces permitted does not apply to freestanding restaurants.
 - (4) For commercial buildings where **all** parking spaces are located to the rear or side of the building **and/or** all parking areas are installed with pervious asphalt or concrete, grasscrete, or other similar green pervious material, the number of parking spaces may be increased by 20%. Said parking material must be maintained as pervious and shall be noted so on the zoning permit.
 - (5) Development within the Uptown District is exempt from the minimum and maximum number of spaces.
4. Adjoining parking lots shall be interconnected to the extent possible. Where pedestrian access is provided between adjoining uses and the operating hours are conducive to sharing, all of the required parking spaces may be shared. The joint use of shared off-street parking between two uses shall be guaranteed by a contract or other legally binding document between two or more adjacent property owners and a copy shall be provided to the Administrative Staff.

B. PARKING LOT DESIGN

1. For buildings fronting North and South Main Street and East and West Center Street within the Uptown District, parking lots shall be located beside or behind the building. For properties fronting North and South Main Street and East and West Center Street within the Uptown District, and for properties fronting Winston Road Between 9th Street and Biesecker Road, buildings shall face the major thoroughfare and parking lots shall be located beside or behind the building.
2. Parking lots shall be paved, concrete, brick pavers or other similar material. Gravel, mulch, dirt, or other dust causing material is not permitted.
3. Curb cuts will be minimized.
4. All parking lots will be curbed using a standard curb with a minimum width of 18 inches or other curb approved by the Administrative Staff. This requirement may be waived in order to permit sheet flow drainage into pervious areas or as part of an alternative engineered storm water retention system.
5. Adjoining parking lots serving non-residential buildings shall be interconnected to the extent possible.

6. Parking and vehicular surface areas, except for shared parking lots, interconnections and driveways crossing perpendicular or near perpendicular to the street, shall be set back from property lines and the street in order to provide for applicable screening and street trees.
7. Parking lots will be designed to allow pedestrians to move safely from their vehicles to the building. The use of internal sidewalks and/or crosswalks may be required.
8. Off-street parking areas will be designed to facilitate adequate movement and access by sanitation, emergency, and other public service vehicles.
9. Parking lots shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks, or landscaped areas.
10. Parking lots shall be designed so that cars are not required to back directly into public streets in order to leave.

C. PARKING LOT USAGE

Parking lots shall be used to store the vehicles of employees, patrons, and vehicles associated with deliveries to the site. The storage of vehicles for sale, or other types of vehicles such as domestic and recreational vehicles such as boats, camper trailers, and utility trailers, passenger buses, school or activity buses, horse trailers, tractors, truck trailers, dump trucks, tractor trucks, semi-trailers, one-ton or larger commercially licensed trucks and vans, house trailers, or separate and apart from the normal operation of the use is prohibited.

4.6.7 LANDSCAPING

A. DESCRIPTION

Landscaping should be designed in such a way that water is captured naturally and absorbed by landscaped areas. In addition to ground plantings, roofs and walls may be landscaped. Fruit and nut trees are encouraged and will be classified as large trees. Developers are encouraged to incorporate the use of food-producing or edible plants, which may be substituted for shrubs.

B. PARKING LOT LANDSCAPING

1. THRESHOLD

- a. Parking lots with a vehicular surface area, including all drives, paved or impervious areas, and parking spaces, with a total of 5,000 square feet or less, are exempt from parking lot landscaping requirements.
- b. All areas not specifically required for parking or circulation shall be seeded in grass or landscaped.
- c. For lots with 36 spaces or less, landscaping will be required at the perimeter; for lots with more than 36 spaces, landscaping will be required at the perimeter and within the interior.
- d. Parking lot landscaping adjacent to a street will replace required street trees.
- e. If the parking lot is adjacent to a required impact buffer, then the impact buffer shall replace required perimeter landscaping.

2. PERIMETER LANDSCAPING

All parking lots, including driveways, shall be screened up to a height of 3 feet using shrubs. There shall be no openings in the screening greater than 2 feet except

openings for pedestrian passage, which should be at least 5 feet in width. In addition, large trees planted 60 feet on center shall be installed at the perimeter of the parking areas. The planting bed containing the shrubs and trees shall be a minimum of 8 feet in width. Where pre-existing overhead utility lines prevent the use of large trees, two small trees may be substituted for each large tree and shall be planted 30 feet on center. Existing landscaping or natural vegetation located in the perimeter landscape area that meets these standards may be applied toward these landscaping requirements. A brick wall 3 feet in height (matching the brick used in the principal structure) may be used in place of the shrubs, and the trees may be planted to the interior or exterior of the brick wall.

3. INTERIOR LANDSCAPING

Landscape islands shall have a minimum diameter of 8 feet, and a curb at least 6 inches in height. Each landscape island shall contain, at a minimum, one large tree, and shall be located so that no parking space is more than 80 feet from a large tree. Where pre-existing overhead utility lines prevent use of large trees, two small trees may be substituted for each large tree.

C. STREET TREES

1. A row of large trees planted 60 feet on center shall be provided along the public street. The trees shall be planted between the sidewalk and street. If no sidewalk exists, the trees shall be planted within 10 feet of the back of curb or edge of pavement. If the building is set at the sidewalk, the trees may be incorporated into the sidewalk by use of grates, provided that a minimum of five feet clearance is required along the sidewalk.
2. Additional street trees will not be required where parking lot perimeter landscaping areas abut a street.

D. IMPACT BUFFER

1. An impact buffer shall be provided where the property is adjacent to any property zoned Suburban Neighborhood District or Traditional Neighborhood District.
2. The minimum impact buffer requirement may be met by any one of the following:
 - a. Preserving an existing natural vegetated area a minimum of 25 feet in width. (Some additional plantings may be required to reach a visually impervious buffer.)
 - b. Installing a 15-foot-wide landscape yard consisting of small trees planted 30 feet on center, and two staggered rows of medium or large evergreen shrubs planted 6 feet on center in order to provide continuous coverage. Small trees shall be a minimum of 6 feet in height at installation. Shrubs shall be a minimum of 3 feet in height at installation.
 - c. Installing a six-foot high wooden shadowbox fence and installing a row of medium or large evergreen shrubs planted 6 feet on center. There shall be no more than two inches between pickets. Shrubs shall be planted on the exterior side of the fence. Shrubs shall be a minimum of 3 feet in height at installation.
 - d. Constructing a solid wall, a minimum of 6 feet in height, made of stone, brick, or block with stucco or similar finish.
3. Watercourse Protection Buffers will remain completely undisturbed.
4. Mechanical equipment is prohibited within the impact buffer area.

5. Permanent detention basins and temporary erosion and sedimentation control basins that are not surrounded by natural landscaping in an amount to meet the same level of opaque screening as prescribed herein are prohibited within the impact buffer area.
6. Alternative screening methods that perform to the same or higher level may be approved.
7. Utility easements may cross but not be placed within the long dimension of an impact buffer area.
8. Pedestrian access may be required through the impact buffer area.
9. Where an impact buffer and a landscape yard would be required, the impact buffer shall replace the requirement for a landscape yard.

4.6.8 SIDEWALK

- A. A sidewalk shall be constructed along the fronting public or private street. Developments on corner lots shall provide for sidewalks along each public or private street.
- B. Sidewalks shall be concrete, brick pavers, or other similar material. Sidewalks may not be mulch, pine needles, dirt, gravel, or other dust causing material.
- C. Sidewalks shall be a minimum of 5 feet in width and shall be constructed in accordance with the design and construction standards of the City of Lexington. The Administrative staff will approve design and construction specifications.
- D. The property owner may dedicate sidewalks constructed along a public street as public right-of-way and the City Council may accept the public sidewalk for maintenance.

4.6.9 OUTDOOR DISPLAY ON PRIVATE PROPERTY

- A. The merchandise shall be owned by the merchant holding the Certificate of Occupancy for the principal building and shall be related to or also for sale at the principal building in front of which the merchandise is located.
- B. The merchandise shall be on the same parcel, or a contiguous parcel under the same ownership as the principal building.
- C. Merchandise shall be located adjacent to the principal building and not be located in front of any other building.
- D. Vending machines are not permitted for outdoor display.
- E. Merchandise may not hang from poles or trees.
- F. Merchandise may not be placed in required landscape areas, parking lot islands, or impact buffers.
- G. Outdoor display of merchandise is prohibited on a vacant lot, the site of a vacant building, the site of a business outside of open operating hours, or the site of a closed or out-of-business use.
- H. Merchandise or fixtures may not interfere with vehicular sight distance.
- I. Outdoor display areas may not contain additional signage.
- J. Outdoor display is prohibited within the street right-of-way, except in accordance with Outdoor Display on Public Sidewalk (Section 4.6.10).
- K. Outdoor display areas shall not contain or utilize metal carports, trailers / tractor-trailers, storage buildings, portable storage units, or similar structures as storage and/or display of merchandise.

- L. The parking lot area may be used for temporary outdoor display, but the display area may not displace parking spaces required to meet the parking requirements. Outdoor display within parking lots shall be situated and designated in such a way as not to cause a conflict between pedestrians and vehicles or impede traffic patterns.
- M. Front Yard display areas or areas abutting a public street may extend for no more than 25% of the linear width of the building where the building faces a street. (A building that is 100 feet in width may have no more than 25 feet of the frontage containing outdoor display.) The cumulative outdoor display area(s) outside of a designated semi-enclosed display area, shall total no more than 10% of the size of the footprint of the principal commercial building. All fencing shall comply with design regulations for fences, walls, and hedges. Merchandise may extend upward no more than 6 feet from the ground. Merchandise shall be removed from cardboard boxes and larger shipping containers and shall be displayed in a secured, neat fashion. Boxes, other than shoe boxes or packaging are not permitted in display area. Only merchandise such as planters and other devices that are normally placed directly on the ground are permitted to sit directly on the ground. Otherwise, merchandise must be displayed on tables, stands, or racks.
- N. Attached or detached designated display areas may be established adjacent to the principal building in the side or rear yard not abutting a public street and shall meet setbacks required for the principal commercial building. The display area shall be visually designated by use of fencing, wall, landscaping, or other barrier approved by the Administrator. The maximum height of fencing used as a barrier is 12 feet. If chain link, mesh, or wire fencing is used, it shall be coated in black or dark green. Chain link fence slats are prohibited. Barbed wire, razor wire, and other similar materials are prohibited. The display area may have a roof covered in metal, wood shakes, shingles, or roof-type covering made of canvass, screen, glass, Plexiglas, wood, or other material approved by the Administrator. The designated display area may cover an area no greater than the footprint of the principal building. (Greenhouses and Nurseries are permitted otherwise with specific conditions.) Display and storage racks within the designated display area may not extend above twenty feet or the height of the principal building, whichever is less.

4.6.10 OUTDOOR DISPLAY ON PUBLIC SIDEWALK

- A. Only permitted in conjunction with Commercial Buildings.
- B. The merchandise shall be owned by the merchant holding a current Certificate of Occupancy for the principal commercial building and shall be related to or also for sale at the principal commercial building in front of which the merchandise is located.
- C. The display area is limited to 25% of the linear width of the street-facing side of a building and shall extend no more than four feet into the sidewalk area from the building. (A building 100 feet in width may have an area 25' x 4' = 100 square feet of the frontage containing outdoor display.)
- D. The display area is limited to the portion of the sidewalk immediately abutting the principal building, not in front of any other building.
- E. A minimum of five feet in width along the sidewalk shall be maintained at all times as a clear, straight path for pedestrian traffic.

- F. Merchandise may be displayed only on one side of a building. Double-frontage display and corner lot display on two sides is prohibited. Merchandise shall be located adjacent to the principal building.
- G. Merchandise may extend upward no more than 6 feet from the ground.
- H. Merchandise may not hang from poles or trees.
- I. Merchandise may not be placed on landscaped areas or tree grates.
- J. Covers, shelters, metal carports, etc. may not be used to display merchandise.
- K. Individual advertising signage may not be placed on the merchandise.
- L. Businesses are prohibited from using outdoor amplified speaker/public address systems.
- M. Only merchandise such as planters and other devices that are normally placed directly on the ground are permitted to sit directly on the sidewalk. Otherwise, merchandise must be displayed on tables, stands, or racks. Merchandise shall be removed from cardboard boxes and larger shipping containers and shall be displayed in a secured, neat fashion. Boxes, other than shoe boxes for shoes, are not permitted in display area.
- N. Vending machines are not permitted on the public sidewalk.
- O. Outdoor display merchandise or fixtures may not interfere with vehicular sight distance.

4.6.11 ACCESSORY STRUCTURES, USES, AND FEATURES

- A. Shall be no taller than the principal building.
- B. Accessory buildings shall closely match the principal building in terms of construction materials, style, and color. The exterior walls of accessory buildings shall be clad in: brick, masonry, or stone; stucco; wood siding; concrete siding; metal; or vinyl siding. Wooden pallets, fabric, tarp, or other woven material is strictly prohibited as a building material for accessory structures. Metal carports are strictly prohibited.
- C. All sides of accessory buildings shall use materials consistent with those on the front if visible from public streets or neighboring properties. Piecemeal embellishment and frequent changes in material is prohibited.
- D. Where any sloped roofs and structural canopies are used, they will be covered with: asphalt shingles; natural clay tiles; slate; concrete tiles; ribbed metal; wood shakes; or shingles.
- E. Accessory buildings shall be no taller than the principal building.
- F. The aggregate floor area of all accessory buildings, excluding open patios and decks, may not exceed the total first floor area of the principal building.
- G. Truck trailers, Personal On-Demand Storage Units (PODS), vans, buses, and other vehicles are not permitted to be used for storage and are not permitted to be used as accessory structures, except that PODS may be permitted temporarily in accordance with Section 5.37.

4.6.12 PATIOS AND DECKS

- A. Patios for outdoor dining may be located in the front, side, or rear yard. Front yard patios for outdoor dining may be located at the sidewalk. If no sidewalk exists, the front setback is ten feet.
- B. Patios and Decks may be located in the side yard or rear yard and shall be setback ten feet from side or rear property lines.

4.6.13 DUMPSTERS

- A. Driveways to dumpsters shall be constructed to withstand the weight of a 25 ton truck. Construction of the base and surface shall be approved by the City.
- B. Shall be setback a minimum of 25 feet from any property line that is adjacent to property zoned Traditional Neighborhood District or Suburban Neighborhood District. Otherwise, the minimum setback is 10 feet.
- C. Shall be enclosed by a wooden privacy fence or a wall with any of the following finish materials: brick, stone, stucco, finished concrete, concrete block with stucco finish, or split-face block.

4.6.14 DOGHOUSES AND DOG LOTS

Reference the City of Lexington's Code of Ordinance, Chapter 8, Section 8-59, Setbacks and Standards for Stables, Pens, Enclosures, Dog Lots, Tethering, Underground Fencing, Containment Structures from Dangerous Dogs, Etc.

4.6.15 OUTDOOR STORAGE

- A. Includes the storage of equipment or materials, but does not include other accessory structures, uses, or features addressed otherwise in this ordinance.
- B. Outdoor storage is prohibited in the front or side yard.
- C. Outdoor storage is permitted in the rear yard only and must meet the following requirements:
 - 1. No more than 5% of the rear yard shall be used for outdoor storage;
 - 2. The storage area shall be divided into no more than two separate areas;
 - 3. The storage area shall be screened from view from any street or adjoining property by the installation of either a wooden privacy fence or an opaque landscaping screen to be approved by the Administrator;
 - 4. Shall not contain materials that are combustible;
 - 5. Shall not contain perishable materials that would attract rodents or insects or materials that would otherwise be harmful to human health;
 - 6. Shall be secured;
 - 7. The storage area shall be setback a minimum of 20 feet from any side or rear property line; and
 - 8. The storage area shall be kept clear of weeds, food waste, and other health hazards.

SEC 4.7 INDUSTRIAL BUILDING

(Factory, Industrial, and/or S-1 and S-2 Storage Occupancy)

4.7.1 DESCRIPTION

Industrial Buildings range in size and scale. Although a presence may be established through stature, the building may or may not project a sense of open invitation to the general public. Most people on-site at any given time are employees. Uses include manufacturing, assembly, warehousing, distribution, wholesale, and processing, and also include uses such as airport hangers. These building types are typically found and permitted within the Industrial District and to a lesser degree, the Business District. Note: Changes

to properties within the historic overlay district shall be regulated in accordance with the design standards found in Article 4.

4.7.2 SITE

- A.** Buildings shall parallel and front on a public or private street. The arrangement of multiple buildings on a single lot shall be done in a manner to establish building facades generally parallel to the frontage property lines along existing streets and proposed interior streets.
- B.** See Article 3, District Regulations for setbacks.
- C.** Development shall support a pedestrian environment. Extension of pedestrian facilities will be required where existing pedestrian facilities adjoin.
- D.** Elements such as satellite dishes, mechanical equipment, utility meters, storage areas, trash enclosures, transformers, generators, and similar features or other utility hardware will be screened from public view with materials similar to the structure, or they will be so located as not to be visible from any public view or from potential buildings nearby.
- E.** Dumpsters shall be screened by an enclosure constructed of wood, brick, block or other material approved by the Administrator and shall be a minimum of 25 feet from any property line.
- F.** Rooftop mechanical equipment will not be visible from the street.
- G.** Noise from HVAC or other operation equipment associated with the function of proposed structures will not exceed 55 decibels as measured on a sound meter from the nearest property line.
- H.** The street address number, a minimum of six inches in height, shall be posted in a conspicuous location on the side of the building fronting the public street.

4.7.3 RELATION TO EXHISTING ENVIRONMENT

- A.** Along existing streets, new buildings will respect the general spacing of structures, building mass and scale, materials, the design and placement of windows and doors, and street frontage relationships of existing buildings.
- B.** New development shall not overshadow adjacent sites in such a way as to prohibit existing or future solar energy usage or reasonable access to light.
- C.** Each building shall be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings shall thus be of similar scale, height, and configuration.

4.7.4 ARCHITECTURE AND BUILDING MATERIALS

- A.** Storage buildings, trailers, and mobile homes may not be used as an industrial building. (See Section 5.46 for temporary units during construction.)
- B.** Reflective or highly tinted glass is prohibited on street-facing façade windows.
- C.** Rooflines will accommodate simple lines such as hip, flat, shed, gable to front, or gable to side, and avoid excessive joints.
- D.** Exterior finish materials for the primary building shall be limited to: brick; stone; integrally tinted, textured masonry block; stucco; wood lap siding (if permitted by NC State Building Code); concrete siding; Exterior Insulation Finish System (EFIS); flat metal interlocking panels with stucco or orange peel finish; and/or decorative stamped

and stained concrete, or other material approved by the Administrator. Ribbed metal may be used on a roof or awning, but is prohibited as a finishing material for external walls or top courses. Metal wrapping is permitted for trim. Standing-seam metal as an exterior wall finish material is permitted for industrial buildings if said building is within the Industrial District.

- E. Where any sloped roofs and structural canopies are used, they may be covered with: asphalt shingles; natural clay tiles; slate; concrete tiles; ribbed metal; wood shakes or shingles, provided the roof includes required fire protection.
- F. The color of roof stacks, flashing, vents, power exhaust fans, and metal chimney caps will blend with the roof colors to the extent possible.
- G. Piecemeal patching with materials that do not match is prohibited.

4.7.5 LIGHTING

- A. Lighting intensities shall be controlled so that no more than one-fourth of a foot-candle of light spills over onto adjoining residential or potentially residential properties.
- B. Outdoor lighting will be designed, located, and mounted so as to protect the street and neighboring properties from direct glare or hazardous interference of any kind.
- C. No flickering or flashing lights will be permitted.

4.7.6 PARKING

A. PARKING REQUIREMENTS

1. If the building is within the Uptown District, accessory parking lots shall be located to the rear or be off-site within ¼ mile. Off-site parking within ¼ mile and on-street parking may be utilized.
2. The number of parking spaces required for an industrial building is directly tied to the proposed use for the building. Parking shall be adequate to provide for employee parking and function of the site.
3. All requirements of the North Carolina State Building Code shall be met concerning Handicapped Parking above the requirements contained herein.

B. PARKING LOT DESIGN

1. Parking lots shall be paved, gravel, concrete, brick paver or other similar material. Dirt or other dust causing material is not permitted.
2. Curb cuts will be minimized.
3. All parking lots will be curbed using a standard curb with a minimum width of 18 inches. This requirement may be waived by the City in order to permit sheet flow drainage into pervious areas or as part of an alternative engineered storm water retention system.
4. For buildings fronting North and South Main Street and East and West Center Street within the Uptown District, parking lots shall be located beside or behind the building. For properties fronting North and South Main Street and East and West Center Street within the Uptown District, and for properties fronting Winston Road Between 9th Street and Biesecker Road, Building shall face the major thoroughfare and parking lots shall be located beside or behind the building.
5. Adjoining parking lots shall be interconnected to the extent possible. Where pedestrian access is provided between adjoining uses and the operating hours are conducive to sharing, all of the required parking spaces may be shared. The joint

use of shared off-street parking between two uses shall be guaranteed by a contract or other legally binding document between two or more adjacent property owners and a copy shall be provided to the Administrative Staff.

6. Parking and vehicular surface areas, except for shared parking lots, interconnections and driveways crossing perpendicular or near perpendicular to the street, shall be set back from property lines and the street in order to provide for applicable screening and street trees.
7. Parking lots will be designed to allow pedestrians to move safely from their vehicles to the building. The use of internal sidewalks and/or crosswalks may be required.
8. Off-street parking areas will be designed to facilitate adequate movement and access by sanitation, emergency, and other public service vehicles.
9. Parking lots shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks, or landscaped areas.
10. Parking lots shall be designed so that cars are not required to back directly into public rights-of-way in order to park or leave.

4.7.7 LANDSCAPING

A. PARKING LOT LANDSCAPING

1. THRESHOLD

- a. Parking lots with five or less spaces are exempt from parking lot landscaping requirements.
- b. All areas not specifically required for parking or circulation shall be seeded in grass or landscaped.
- c. For lots with 50 spaces or less, landscaping will be required at the perimeter; for lots with more than 50 spaces, landscaping will be required at the perimeter and within the interior.
- d. Parking lot landscape areas adjacent to a street will replace required street trees.
- e. If the parking lot is adjacent to a required impact buffer, then the impact buffer shall replace required perimeter landscaping.

2. PERIMETER LANDSCAPING

All parking lots, including driveways, shall be screened up to a height of 3 feet using shrubs. There shall be no openings in the screening greater than 2 feet except openings for pedestrian passage, which should be at least 5 feet in width. In addition, large trees planted 60 feet on center shall be installed at the perimeter of the parking areas. The planting bed containing the shrubs and trees shall be a minimum of 8 feet in width. Where pre-existing overhead utility lines prevent the use of large trees, two small trees may be substituted for each large tree and shall be planted 30 feet on center. Existing landscaping or natural vegetation located in the perimeter landscape area that meets these standards may be applied toward these landscaping requirements. A brick wall 3 feet in height (matching the brick used in the principal structure) may be used in place of the shrubs, and the trees may be planted to the interior or exterior of the brick wall.

3. INTERIOR LANDSCAPING

Landscape islands shall have a minimum diameter of 8 feet, and a curb at least 6 inches in height. Each landscape island shall contain, at a minimum, one large tree, and shall be located so that no parking space is more than 80 feet from a tree. Where

pre-existing overhead utility lines prevent use of large trees, two small trees may be substituted for each large tree.

B. STREET TREES

1. A row of large trees planted 60 feet on center shall be provided along the public street.
2. The trees shall be planted between the sidewalk and street. If no sidewalk exists, the trees shall be planted within 10 feet of the back of curb or edge of pavement. If the building is set at the sidewalk, the trees may be incorporated into the sidewalk by use of grates, provided that a minimum of five feet clearance is required along the sidewalk.
3. Additional street trees will not be required where parking lot perimeter landscaping areas abut a street.

C. IMPACT BUFFER

An impact buffer shall be provided where the property is adjacent to any property zoned Suburban Neighborhood District or Traditional Neighborhood District.

1. The minimum impact buffer requirement may be met by any one of the following:
 - a. Preserving an existing natural vegetated area a minimum of 30 feet in width. (Some additional plantings may be required to reach a visually impervious buffer.)
 - b. Installing a 15-foot wide landscape area consisting of small trees planted 30 feet on center, and two staggered rows of medium or large evergreen shrubs planted 6 feet on center in order to provide continuous coverage. Small trees shall be a minimum of 6 feet in height at installation and shrubs shall be a minimum of 3 feet in height at installation.
 - c. Installing a six-foot high wooden shadowbox fence and installing a row of medium or large evergreen shrubs planted 6 feet on center. There shall be no more than one inch between pickets. Shrubs may be planted on either side of the fence. Shrubs shall be a minimum of 3 feet in height at installation.
 - d. Constructing a solid wall, a minimum of 6 feet in height, made of stone, brick, or block with stucco or similar finish.
2. Stream Protection Buffers will remain completely undisturbed.
3. Mechanical equipment is prohibited within the impact buffer area.
4. Permanent detention basins and temporary erosion and sedimentation control basins are prohibited within the impact buffer area.
5. Alternative screening methods that perform to the same or higher level may be approved.
6. Utility easements may cross but not be placed within the long dimension of an impact buffer area.
7. Pedestrian access may be required through the impact buffer area.
8. Where an impact buffer and a landscape area would be required, the impact buffer shall replace the requirement for a landscape area.

4.7.8 SIDEWALK

- A. A sidewalk shall be constructed along the fronting public or private street. Developments on corner lots shall provide for sidewalks along each public or private

street. One or both of these requirements may be waived by the approving authority based on the following findings of fact:

1. Requiring a sidewalk would not serve the public in any real way; and
 2. There is no existing sidewalk system in the vicinity to support a connection or future connection to sidewalks; or
 3. There are existing sidewalks that are easily accessible from the subject site that meet the needs of the public.
- B.** Sidewalks shall be concrete, brick pavers, or other similar material. Sidewalks may not be mulch, pine needles, dirt, gravel, or other dust causing material.
- C.** Sidewalks shall be a minimum of 5 feet in width and shall be constructed in accordance with the design and construction standards of the City of Lexington.
- D.** The property owner may dedicate sidewalks constructed along a public street as public right-of-way and the City may accept the public sidewalk for maintenance.

4.7.9 ACCESSORY STRUCTURES, USES, AND FEATURES

- A.** Shall be no taller than the principal building.
- B.** Accessory buildings shall closely match the principal building in terms of construction materials, style, and color. The exterior walls of accessory buildings shall be clad in: brick, masonry, or stone; stucco; wood siding; concrete siding; metal; or vinyl siding. Wooden pallets, fabric, tarp, or other woven material is strictly prohibited as a building material for accessory structures. Metal carports are strictly prohibited.
- C.** All sides of accessory buildings shall use materials consistent with those on the front if visible from public streets or neighboring properties. Piecemeal embellishment and frequent changes in material is prohibited.
- D.** Where any sloped roofs and structural canopies are used, they will be covered with: asphalt shingles; natural clay tiles; slate; concrete tiles; ribbed metal; wood shakes; or shingles.
- E.** Accessory buildings shall be no taller than the principal building.
- F.** The aggregate floor area of all accessory buildings, excluding open patios and decks, may not exceed the total first floor area of the principal building.
- G.** Truck trailers, Personal On-Demand Storage Units (PODS), vans, buses, and other vehicles are not permitted to be used for storage and are not permitted to be used as accessory structures, except that PODS may be permitted temporarily in accordance with Section 5.37.

4.7.10 DOGHOUSES AND DOG LOTS

Reference the City of Lexington's Code of Ordinance, Chapter 8, Section 8-59, Setbacks and Standards for Stables, Pens, Enclosures, Dog Lots, Tethering, Underground Fencing, Containment Structures from Dangerous Dogs, Etc.

4.7.11 OUTDOOR STORAGE

- A.** Includes the storage of equipment or materials, but does not include other accessory structures, uses, or features addressed otherwise in this ordinance.
- B.** Outdoor storage is prohibited in the front or side yard.
- C.** Outdoor storage is permitted in the rear yard only and must meet the following requirements:

1. No more than 25% of the rear yard shall be used for outdoor storage;
2. The storage area shall be divided into no more than two separate areas;
3. The storage area shall be screened from view from any street or adjoining property by the installation of either a wooden privacy fence or an opaque landscaping screen to be approved by the Administrator;
4. The storage area shall not contain materials that are combustible and shall be kept clear of weeds, food waste, and other health hazards.
5. The storage area shall be setback a minimum of 20 feet from any side or rear property line; and
6. The storage area shall be kept clear of weeds and organic material.

4.7.12 SIGNAGE

See Article 6 for Signage Regulations.

SEC 4.8 FENCES AND WALLS

4.8.1 FRONT YARD FENCES AND WALLS

- A. Fences and walls shall be setback a minimum of seven feet from the back of curb or edge of pavement if no sidewalk is present. Otherwise, setback shall be two feet from back of sidewalk if present. Fences all walls shall be located out of right-of-way and shall not interfere with vehicular site distance.
- B. Maximum height is four (4) feet.
- C. Fences or walls shall be constructed wholly or in combination of wood, stone, brick, decorative concrete block, wrought iron, or products created to resemble these materials.
- D. Materials such as, but not limited to, chain link, electric wire, barbed wire, razor wire, plywood, particle board, sheet metal, concrete slabs, concrete barriers, tarps or other woven/fabric material, sheets of tin, hog wire, chicken wire, palettes, and erosion screen are prohibited.
- E. Finish shall be to the exterior with support structures to the interior.
- F. Retaining walls over 5 feet in height will require a Certified Engineer's design and seal.

4.8.2 REAR AND SIDE YARD FENCES AND WALLS FOR CORNER LOTS

- A. Applicable for the side of the fence extending directly parallel to a public street.
- B. Fences and walls shall be setback a minimum of seven feet from the back of curb or edge of pavement if no sidewalk is present. Otherwise, setback shall be two feet from back of sidewalk if present. Fences all walls shall be located out of right-of-way and shall not interfere with vehicular site distance.
- C. The maximum height is four (4) feet with the follow exceptions:
 1. Fences or walls located in a side or rear yard that are located more than 25 feet from the back of curb shall meet the Rear and Side Yard regulations for interior lots.
 2. Fences or walls located in a side or rear yard that extends parallel to and within 25 feet of a public street may be six feet in height if a landscape screen is planted to the exterior of the fence or wall. The landscaping shall consist of a minimum of small trees planted thirty foot on center and a row of medium shrubs planted six feet on center between the small trees.

- D. Fences or walls shall be constructed wholly or in combination of wood, stone, brick, decorative concrete block, wrought iron, or products created to resemble these materials.
- E. Materials such as, but not limited to: chain link, electric wire, barbed wire, razor wire, plywood, particle board, sheet metal, concrete slabs, concrete barriers, tarps or other woven/fabric material, sheets of tin, hog wire, chicken wire, palettes, and erosion screen are prohibited.
- F. Finish shall be to the exterior with support structures to the interior.
- G. Retaining walls over 5 feet in height will require a Certified Engineer's design and seal.

4.8.3 REAR AND SIDE YARD FENCES AND WALLS FOR INTERIOR LOTS

- A. Although the City does not regulate the placement of fences relative to property lines, it is recommended that fences be constructed a minimum of 6 inches from adjoining private property lines. (Exception: See setbacks for rear and side yard fences for corner lots)
- B. Maximum height is six (6) feet.
- C. Fences or walls shall be constructed wholly or in combination of wood, stone, brick, decorative concrete block, wrought iron, chain link, or products created to resemble these materials. Materials such as, but not limited to, electric wire, barbed wire, razor wire, plywood, particle board, sheet metal, concrete slabs, concrete barriers, tarps or other woven/fabric material, sheets of tin, hog wire, chicken wire, palettes, and erosion screen are prohibited. Slats are not permitted in chain link or wire fencing except for dumpster enclosures.
- D. Finish shall be to the exterior with support structures to the interior.
- E. Retaining walls over 5 feet in height will require a Certified Engineer's design and seal.

4.8.4 OUTDOOR GARDEN AREAS FOR COMMERCIAL, MIXED-USE, AND/OR INDUSTRIAL DEVELOPMENTS

Fences and walls used to create outdoor garden areas in the side or rear yard adjacent to the building shall comply with the following:

- A. Maximum height is ten (10) feet.
- B. Fences or walls shall be constructed wholly or in combination of wood, stone, brick, decorative concrete block, wrought iron, chain link, or products created to resemble these materials. Slats are not permitted in chain link or wire fencing except for dumpster enclosures. Black screen for use as a sun or wind barrier may be applied to fencing.
- C. Materials such as, but not limited to, electric wire, barbed wire, razor wire, plywood, particle board, sheet metal, concrete slabs, concrete barriers, tarps or other woven/fabric material, sheets of tin, hog wire, chicken wire, palettes, and erosion screen are prohibited.
- D. Finish shall be to the exterior with support structures to the interior.
- E. Retaining walls over 5 feet in height will require a Certified Engineer's design and seal.

4.8.5 COURTYARDS IN UPTOWN, MIXED-USE, AND BUSINESS DISTRICTS

- A. Maximum Height is six (6) feet.
- B. May be adjacent to sidewalk, alley, or public right-of-way.

- C. Must be constructed wholly or in combination of stone, brick, wrought iron, or products created to resemble these materials. Black screen for use as a sun or wind barrier may not be applied to fencing. Materials such as, but not limited to, wood, electric wire, barbed wire, razor wire, plywood, particle board, sheet metal, concrete slabs, concrete barriers, tarps or other woven/fabric material, sheets of tin, hog wire, chicken wire, palettes, and erosion screen are prohibited.

4.8.6 FENCES ENCLOSING LARGE PARCELS AND/OR GATED COMMUNITIES

- A. Parcels in excess of 20 areas, and communities comprised of 20 or more dwelling units may install security full or partial perimeter fencing.
- B. Must be constructed wholly or in combination of wood, stone, brick, wrought iron, or products created to resemble these materials. Wooden privacy fences are not permitted. Slats are not permitted in chain link or wire fencing except for dumpster enclosures. Black screen for use as a sun or wind barrier may not be applied to fencing. Materials such as, but not limited to, electric wire, barbed wire, razor wire, plywood, particle board, sheet metal, concrete slabs, concrete barriers, tarps or other woven/fabric material, sheets of tin, hog wire, chicken wire, palettes, and erosion screen are prohibited.
- C. Must be setback a minimum of 20 feet from all public streets and public rights-of-way.

SEC 4.9 ABOVEGROUND PARKING DECK

4.9.1 DESCRIPTION

Parking decks may be accessory features or primary features. Because they are vertical buildings, design is regulated in much the same way as a commercial building. Note: Changes to properties within the historic overlay district shall be regulated in accordance with the design standards found in Article 3.

4.9.2 LOCATION

Locating parking structures at the interior of the block, surrounded by buildings, is the preferred placement.

4.9.3 SITE

- A. Buildings shall parallel and front on a public or private street.
- B. See Article 3, District Regulations for setbacks.
- C. Development shall support a pedestrian environment. Sidewalks are required with new construction.
- D. Dumpsters shall be screened by an enclosure constructed of wood, brick, block or other material approved by the Administrator and shall be a minimum of 25 feet from any property line.
- E. The street address number, a minimum of 6 inches in height, shall be posted in a conspicuous location on the side of the building fronting the public street.

4.9.4 RELATION TO EXISTING ENVIRONMENT

- A. Important street vistas shall terminate in a focal point, such as a building or other architectural or natural feature, not a parking deck.

- B. Along existing streets, new parking decks will respect the general spacing of structures, building mass and scale, materials, design and placement of windows and doors (or other openings), and street frontage relationships of existing buildings.
- C. Building materials will be similar to the materials already being used in the neighborhood, or if dissimilar materials are being proposed, other characteristics such as scale and proportion, form, architectural detailing, or color and texture, will be used to ensure that enough similarity exists to relate to the rest of the neighborhood.

4.9.5 ARCHITECTURE AND BUILDING MATERIALS

- A. Finish materials shall be limited to: brick, masonry, or stone; integrally tinted, textured masonry block; stucco; or concrete siding. Ribbed metal may be used on a roof or awning, but is not permitted as a finishing material for external walls or top courses.
- B. Parking decks shall have a recognizable top course consisting of, but not limited to: cornice treatments, other than just colored stripes or bands, with integrally textured materials such as stone, or other masonry, or differently colored materials; stepped parapets; and a cornice capping the top of a building wall.
- C. Parking decks shall have a recognizable base course consisting of, but not limited to: thicker walls, ledges or sills; integrally textured materials such as stone or other masonry; integrally colored and patterned materials such as smooth finished stone or tile; lighter or darker colored materials, mullions, or panels; and planters.
- D. Where two wall materials are combined on one façade, the “heavier” material shall be used on the first floor (e.g. use brick below with wood siding above).
- E. Lower floors shall be differentiated architecturally to create a sense of human scale.
- F. All sides of the parking deck will use materials consistent with those on the front if visible from public streets or neighboring properties.

4.9.6 LIGHTING

- A. Lighting intensities shall be controlled so that no more than one-fourth of a foot-candle of light spills over onto adjoining residential or potentially residential properties.
- B. Lighting will be designed, located, and mounted so as to protect the street and neighboring properties from direct glare or hazardous interference of any kind.
- C. No flickering or flashing lights will be permitted.

4.9.7 LANDSCAPING

A 20-foot wide landscape yard shall be provided around the outside of the parking deck and shall incorporate at a minimum the use of small trees planted 30 feet on center and a minimum of 8 medium shrubs per 100 linear feet.

4.9.8 SIDEWALK

- A. A sidewalk shall be constructed along the fronting public or private street. Developments on corner lots shall provide for sidewalks along each public or private street. One or both of these requirements may be waived by the approving authority based on the following findings of fact:
 1. Requiring a sidewalk would not serve the public in any real way; and
 2. There is no existing sidewalk system in the vicinity to support a connection or future connection to sidewalks; or

- 3. There are existing sidewalks that are easily accessible from the subject site that meet the needs of the public.
- B. Sidewalks shall be concrete, brick pavers, or other similar material. Sidewalks may not be mulch, pine needles, dirt, gravel, or other dust causing material.
- C. Sidewalks shall be a minimum of five feet in width and shall be constructed in accordance with the design and construction standards of the City of Lexington.
- D. The property owner may dedicate sidewalks constructed along a public street as public right-of-way and the City may accept the public sidewalk for maintenance.

4.9.9 SIGNAGE

See Article 6 for Sign Regulations.

SEC 4.10 PARKING LOT (PRINCIPAL USE)

4.10.1 DESCRIPTION

An area, not within a building, where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking. Parking lots impact the appearance and function of the community in much the same way as construction of buildings, and therefore design is regulated. The following standards apply to parking lots developed as a principal use. Accessory parking lot standards are contained within the design regulations by building type. Note: Changes to properties within the historic overlay district shall be regulated in accordance with the design standards found in Article 3.

4.10.2 SITE

- A. Locating parking lots at the interior of the block, surrounded by buildings, is the preferred method.
- B. Accessory parking lots within the Uptown District on properties fronting North and South Main Street, and East and West Center Street, shall be located to the rear or side of the principal building.

4.10.3 SHARDED PARKING LOTS

The joint use of shared off-street parking between two uses shall be guaranteed by a contract or other legally binding document between the property owners and a copy shall be provided to the Administrator.

4.10.4 DESIGN

- A. All requirements of the North Carolina State Building Code shall be met concerning Handicapped Parking.
- B. Parking lots shall be paved, concrete, brick pavers or other similar material. Pervious concrete or asphalt, grasscrete, and other green materials are encouraged. Gravel, mulch, dirt, or other dust causing material is not permitted. (Exception: Lots within the Industrial District may be gravel.)
- C. Curb cuts will be minimized.
- D. All parking lots will be curbed using a standard curb, or other type of curb approved by the City, with a minimum width of 18 inches. This requirement may be waived by

the City in order to permit sheet flow drainage into pervious areas or as part of an alternative engineered storm water retention system.

- E. Adjoining parking lots serving non-residential buildings shall be interconnected to the extent possible.
- F. Parking and vehicular surface areas, except for shared parking lots, interconnections and driveways crossing perpendicular or near perpendicular to the street, will be set back from property lines and the street in order to provide for applicable screening and street trees.
- G. Parking lots will be designed to allow pedestrians to move safely from their vehicles to the building. The use of internal sidewalks and/or crosswalks may be required.
- H. Driveways to parking areas shall not exceed 24 feet in width except as required by the City of Lexington or North Carolina Department of Transportation (NCDOT).
- I. Off-street parking areas will be designed to facilitate adequate movement and access by sanitation, emergency, and other public service vehicles.
- J. Parking lots shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks, or landscaped areas.
- K. Parking lots shall be designed so that cars are not required to back directly into public rights-of-way in order to park or leave.

4.10.5 LIGHTING

- A. Lighting intensities shall be controlled so that no more than one-fourth of a foot-candle of light spills over onto adjoining residential or potentially residential properties.
- B. Lighting will be designed, located, and mounted so as to protect the street and neighboring properties from direct glare or hazardous interference of any kind
- C. No flickering or flashing lights will be permitted.

4.10.6 LANDSCAPING

A. THRESHOLD

- 1. Parking lots with five or less spaces are exempt from parking lot landscaping requirements.
- 2. Lots within the Industrial District which are used in conjunction with a loading dock are exempt from parking lot landscaping requirements.
- 3. All areas not specifically required for parking or circulation shall be seeded in grass or landscaped.
- 4. For lots with more than five spaces and with 36 spaces or less, landscaping will be required at the perimeter; for lots with more than 36 spaces, landscaping will be required at the perimeter and within the interior.
- 5. Parking lot landscaping adjacent to a street will replace required street tree plantings.
- 6. If the parking lot is adjacent to a required impact buffer, then the impact buffer shall replace required perimeter landscaping.

B. PERIMETER LANDSCAPING

- 1. All parking lots, including driveways, shall be screened up to a height of 3 feet using shrubs. There shall be no openings in the screening greater than 2 feet except openings for pedestrian passage, which should be at least 5 feet in width.

2. In addition, large trees planted 60 feet on center shall be installed at the perimeter of the parking areas. The planting bed containing the shrubs and trees shall be a minimum of 8 feet in width.
3. Where pre-existing overhead utility lines prevent the use of large trees, two small trees may be substituted for each large tree and shall be planted 30 feet on center.
4. Existing landscaping or natural vegetation located in the perimeter landscape area that meets these standards may be applied toward these landscaping requirements.
5. A brick wall 3 feet in height (matching the brick used in the principal structure) may be used in place of the shrubs, and the trees may be planted to the interior or exterior of the brick wall.

C. INTERIOR LANDSCAPING

1. Landscape islands shall have a minimum diameter of 8 feet, and a curb at least 6 inches in height.
2. Large trees shall be planted within the interior landscape islands so that no space is more than 40 feet from a large tree.
3. Where pre-existing overhead utility lines prevent use of large trees, two small trees may be substituted for each large tree.

4.10.7 SIDEWALK

- A. A sidewalk shall be constructed along the fronting public or private street. Parking lots on corner lots shall provide for sidewalks along each public or private street. One or both of these requirements may be waived by the approving authority based on the following findings of fact:
 1. Requiring a sidewalk would not serve the public in any real way; and
 2. There is no existing sidewalk system in the vicinity to support a connection or future connection to sidewalks; or
 3. There are existing sidewalks that are easily accessible from the subject site that meet the needs of the public.
- B. Sidewalks shall be concrete, brick pavers, or other similar material. Sidewalks may not be mulch, pine needles, dirt, gravel, or other dust causing material.
- C. Sidewalks shall be a minimum of 5 feet in width and shall be constructed in accordance with the design and construction standards of the City of Lexington.
- D. The property owner may dedicate sidewalks constructed along a public street as public right-of-way and the City may accept the public sidewalk for maintenance.

4.10.8 VEHICLE STORAGE

The overnight storage of vehicles for sale, or other types of vehicles such as domestic and recreational vehicles such as boats, camper trailers, and utility trailers, passenger buses, school or activity buses, horse trailers, tractors, truck trailers, dump trucks, tractor trucks, semi-trailers, one-ton or larger commercially licensed trucks and vans, or house trailers shall be prohibited.

4.10.9 SIGNAGE

See Article 6 for Sign Regulations.

ARTICLE 5. CRITERIA FOR SPECIFIC USES

In addition to district and design regulations as well as all other State, Federal and local laws, the following requirements shall apply:

SEC 5.1 ABC-PERMITTED BUSINESS

- A. The establishment must hold an ABC permit issued by the State in order to serve alcohol.
- B. ABC-permitted businesses are only permitted within the Mixed-Use, Uptown, Business, and Industrial Zoning Districts in accordance with the requirements contained within this section.
- C. In addition to meeting all zoning ordinance regulations, the establishment must meet all local, State, and federal laws and codes.
- D. The primary use as stated on the Certificate of Occupancy shall meet the definition of a commercial use, but may not be a bar, brewery, distillery, winery, or nightclub. Examples of primary uses include, but are not limited to salons and spas, barber shops, gyms, game rooms, galleries, retail stores, massage therapists, and yoga studios. Must be open to the general public without age restrictions. Alcohol may be served to patrons of the primary use. The primary use must represent 80% of the space in use and square footage. Although a bar or seating area may be designated, it shall be clearly secondary to the primary business during all open hours. If the primary business becomes secondary to the bar at certain times, then the establishment must also meet the regulations for a bar.
- E. Exterior drinking areas are not permitted.
- F. ABC-permitted establishments are not limited to ground floor and may be permitted in upper story spaces.
- G. Elevated stage(s) of less than two hundred (200) square feet intended for musical performances, comedy, spoken word and/or other types of appurtenances for entertainment purposes are permitted.

SEC 5.2 ACCESSORY DWELLING

The intent of allowing accessory dwellings is to provide a living opportunity for relatives, elderly parents, college students, etc. in order to provide affordability, close proximity to a family, while establishing a level of independence and privacy.

- A. The principal use of the lot shall be a Single-family House, built to the standards of the North Carolina State Building Code and local ordinances.
- B. An accessory dwelling may be attached to, within, or separate from, the principal dwelling.
- C. The accessory dwelling shall be in the rear yard and shall setback 10 feet from side property lines and 25 feet from the rear property line.
- D. The accessory dwelling shall be built to the standards of the North Carolina State Building Code and other local ordinances.

- E. No more than one accessory dwelling will be permitted on a single deeded lot in conjunction with the principal dwelling unit.
- F. The principal dwelling unit shall be owner-occupied.
- G. The accessory dwelling shall be served by the driveway serving the principal dwelling, or may be served by a separate driveway from the rear.
- H. A detached accessory dwelling space may not exceed ½ the size of the principal dwelling; the lot must meet the maximum size allocations for accessory structures, including the accessory dwelling.
- I. The accessory structure may be a dwelling only, or may combine a dwelling with a garage, workshop, studio, or similar use.
- J. A detached accessory dwelling shall be located in the established rear yard and match the principal dwelling in color and material.
- K. The accessory dwelling shall be located outside of any required setback for the principal dwelling.
- L. No more than one additional off-street parking space may be created for the accessory dwelling.

SEC 5.3 ADULT ESTABLISHMENT

The intent of these conditions is to prevent the concentration of adult establishments, and to separate adult establishments from residential neighborhoods, schools, religious institutions, childcare centers, parks, and playgrounds which are frequented by children. Adult establishments are permitted in the Business District subject to the following conditions:

- A. Only permitted within Commercial Buildings.
- B. Any structure in which an adult establishment is the principal or accessory use shall be separated by a distance of at least one thousand (1,000) feet from any of the following principal or accessory uses: dwelling units, schools, religious institutions, childcare centers, public parks, playgrounds, hospitals, medical facilities, and government buildings - as measured from property line to property line by a straight line (not street distance).
- C. Any structure in which an adult establishment is the principal or accessory use shall be separated by a distance of at least five hundred (500) feet from any zoning district other than the Commercial or Industrial District - as measured from property line to district boundary line by a straight line (not street distance).
- D. Any structure in which an adult establishment is the principal or accessory use shall be separated by a distance of at least one thousand (1000) feet from any existing or permitted adult establishment – as measured from property line to property line by a straight line (not street distance).
- E. No more than one adult establishment may be located within the same structure or on the same deeded lot.
- F. An adult establishment lawfully operated as a conforming use is not rendered a nonconforming use by the subsequent location of a Single-family House, Duplex, Apartment Building or Unit, Attached House, other residential unit, church, school, public park, childcare center, Suburban Neighborhood District, Traditional Neighborhood District, Mixed Use District, Uptown District, or other residential district with respect to the spacing requirements above.

- G. All existing adult establishments that are nonconforming may be granted a two (2) calendar year amortization period from the effective date of this ordinance, at the end of which time each adult establishment shall either come into compliance with the requirements of this ordinance or discontinue the nonconforming aspects of its operation.

SEC 5.4 AUTOMOTIVE SERVICES

- A. No more than three (3) cars may be stored on site after operating business hours. Any cars stored on site must be located in the rear yard of the property.
- B. An impact buffer shall be provided where the property is adjacent to any property zoned Suburban Neighborhood District or Traditional Neighborhood District.
- C. Outdoor storage is prohibited in the front and side yard.

SEC 5.5 BAR

- A. The bar must hold an ABC permit issued by the State in order to serve alcohol.
- B. Bars are only permitted within the Mixed-Use, Uptown, Depot District, Business, and Industrial Zoning Districts in accordance with the requirements contained within this section.
- C. In addition to meeting all zoning ordinance regulations, the bar must meet all local, State, and federal laws and codes.
- D. Bars may contain retail or service accessory uses within the building. Prohibited accessory uses include any use excluded from the definition of commercial use. Accessory uses must be secondary in nature and floor area to the bar, utilizing less than 25% of the enclosed floor area. Provisions and areas for dogs may be provided and will not count as accessory use relative to space.
- E. Within the Mixed-Use, Business, or Industrial Zoning Districts, bars shall be separated by a minimum distance of five hundred (500) feet from any residential district (City or County jurisdiction), place of religious assembly, childcare center, elementary or secondary school, measured from the front doors, at the back of curb along the streets, but not in a direct line through buildings.
- F. Within the Uptown Zoning District and Depot District, permitted drinking areas outside of enclosed buildings must be cordoned with physical barriers, applicant must maintain ingress/egress requirements set forth in the ABC permit and applicable City codes. Said areas must be contained within the boundaries of the State issued ABC permit. Said areas must contain tables and chairs for seating such that the seating space covers at least 75% of the outside area. Said areas may not be used for standing room. Tables and chairs shall be removed from the sidewalk while the establishment is closed. A site plan for the exterior space barriers and seating shall be submitted to the City for approval and will be kept on file for future reference. A minimum of five (5) feet of any public sidewalk clearance must be maintained at all times. Said clear area shall not contain any barricades, nor shall the clear area be used for standing area for patrons or as a formal or informal designated smoking area.
- G. Bars are not limited to ground floor and may be permitted in upper story spaces that are not adjacent to buildings containing upper story living space. Bars are permitted on the ground floor if adjacent to buildings containing living spaces.

- H. Dance floors are limited to 200 square feet. Elevated stage(s) intended for musical performances, comedy, spoken word and/or other types of appurtenances for entertainment purposes are permitted.
- I. Music may not be played on the sidewalks outside of a special event permit. No coolers, bars, food containers, trash containers, games, stages, speakers, waitress stations, or the like may be located on the public sidewalk or any common shopping center sidewalk, exterior walkway, or the like.
- J. Trash and recycling collections containers may not be located on the public sidewalk except during the morning of pick-up.
- K. Permitted smoking areas shall be a minimum of twenty (20) feet from the front door of any other building entrance.

SEC 5.6 BED AND BREAKFAST

Two parking spaces, plus one parking space for each guest room shall be provided. On-street parking along the frontage of the property may be counted in satisfying the minimum parking requirements. Bed and Breakfast Inns are exempt from parking requirements if located within the Uptown District.

SEC 5.7 BREWERY

- A. The establishment must hold a brewery permit, as authorized in G.S. 18B-1104.
- B. An establishment may include accessory uses such as taprooms, bars, tasting room(s), restaurant, retail, demonstration areas, education and training facilities, or other uses incidental to the brewery.

SEC 5.8 CEMETERY

- A. Individual plots shall be a minimum of 20 feet from any adjoining property line.
- B. The perimeter of the cemetery shall be bordered by a landscape buffer with medium shrubs planted a maximum of 6 foot on-center. Additional plants and trees may be added. Other bordering, such as walls, may be used in conjunction with, or in lieu of shrubbery.

SEC 5.9 CHILDCARE – AT HOME BUSINESS

- A. The operation must be licensed by the North Carolina Department of Human Resources.
- B. Minimum Lot Size is one and one-half times the minimum lot size for single family houses within the zoning district.
- C. No more than one employee is permitted that is not a full-time resident of the property.
- D. Not permitted in Two-family Dwellings, Condominiums, Townhomes, or Apartment Units.
- E. The day care home operation shall be located within a One-family Dwelling and shall be occupied by the operator of the service.
- F. Outdoor play space shall be located in the rear yard and fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space.

- G. A day care home shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
- H. There are no specific limitations on the hours of operation.

SEC 5.10 CHILDCARE CENTER

- A. The operation must be licensed by the North Carolina Department of Human Resources.
- B. Outdoor play space shall be located in the rear yard and fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space.

SEC 5.11 CONSTRUCTION MATERIAL SUPPLY YARD (ACCESSORY USE)

- A. Construction Material Supply Yard refers to construction supply businesses that store larger materials outside, which are typically retrieved by an employee and loaded for the customer, as well as contractors that store materials used in the course of their work outside on site at the construction office. Retail home improvement businesses that display of merchandise typically loaded by the customer onto a cart is classified as outdoor display and regulated otherwise by this ordinance.
- B. The materials shall be owned by the merchant holding the Certificate of Occupancy for the principal building and shall be related to or also for sale at the principal building in front of which the merchandise is located.
- C. The merchandise shall be on the same parcel, or a contiguous parcel under the same ownership as the principal building.
- D. Materials may not be placed in required landscape areas, parking lot islands, or impact buffers.
- E. Storage of materials is prohibited on a vacant lot, the site of a vacant building, the site of a business outside of open operating hours, or the site of a closed or out-of-business use.
- F. Materials shall not interfere with vehicular sight distance.
- G. The material supply yard shall not be located in any front yard area. Any material supply yard abutting a public street shall be setback a minimum of 40 feet and shall be screened up to six feet in height with the use of a wooden privacy fence and/or shrubs. There shall be no break in the screening greater than 2 feet in width except for approved vehicular and pedestrian access.

SEC 5.12 CREMATORY

- A. Crematories that contain flue gas treatment, acid neutralization, activated carbon absorption, dust collection, and/or scrubber/filter systems that filter and to eliminate or substantially reduce emissions are exempt from the following three requirements, which are required otherwise:
 - 1. No such facility may be located within five hundred (500) feet, measured by a direct line, of an existing dwelling.
 - 2. No such facility may be located within one-half (1/2) mile, measured by a direct line, of an existing crematory/crematorium.

3. Any crematory operations shall contain no more than one (1) cremation chamber on site.
- B. Any funeral home or stand-alone crematory operation shall have a licensed crematory manager on staff and keep in full force and effect all other license required under the North Carolina Crematory Act, as amended or superseded.
- C. A certification by the North Carolina Department of Environment and Natural Resources that either all air quality regulations have been complied with or that no permits are required.
- D. A crematory must comply and remain in compliance with all applicable public health and environmental laws and rules and must contain the equipment which meets all of the standards established by the North Carolina Crematory Act, as amended or superseded, and any additional rules and regulations issued by the North Carolina Board of Funeral Services. Any building, new or existing containing crematory equipment shall meet the cremation equipment manufacturer's specifications for size, wall, floor, and ceiling clearances to ensure proper operation of equipment to prevent particulate matter, visible or invisible, from causing a public nuisance.

SEC 5.13 DAY CARE CENTER FOR ADULTS

- A. The operation must be licensed by the North Carolina Department of Human Resources.
- B. There is no limit on the hours of operation of an Adult Day Care Center, but it may not serve any client on a continuous 24-hour basis.

SEC 5.14 DEPENDENT CARE CENTER

Dependent Care Centers shall meet the design regulations for Apartment Buildings, Townhomes, Civic Building, or Commercial Building. Dependent Care Centers located in the Uptown District shall not contain residential units on the first floor.

SEC 5.15 DISTILLERY

The establishment must hold a distillery permit, as authorized in GS 18B-1105. An establishment may include accessory uses such as taprooms, bars, tasting room(s), restaurant, retail, demonstration areas, education and training facilities, or other uses incidental to the distillery.

SEC 5.16 DOG PARK

- A. Dog park must be protected by a secured fence being a minimum four (4) feet in height with a maximum six (6) feet in height.
- B. A minimum of two (2) seating benches or similar structures for sitting must be provided within the fenced area.
- C. A designated pet waste receptacle must be provided.
- D. At least one of the following must be provided:
 1. A plumbed drinking water station.
 2. Provide shaded area: either as a shelter structure or mature shade trees.

SEC 5.17 ELECTRONIC GAMING ESTABLISHMENT

- A. No electronic gaming operation may be located within ¼ mile of the property line of any church/house of worship or any public or private elementary, middle, or high

school, community college, library, public park or playground, daycare center, library, or residentially zoning district. Measurements shall be made as a straight-line measurement from the closest point on the property line.

- B.** No two (2) electronic gaming operations may be located within ½ mile of each other. Measurements shall be made as a straight-line measurement from the closest point on the property line.
- C.** No Electronic Gaming Establishment or equipment associated with these establishments shall be located in a business or other use that does not have a Certificate of Occupancy (c/o) specifically as an “Electronic Gaming Establishment.” Such games are not permitted as an accessory use to any other business or use.
- D.** Hours of operation shall be limited to between 10 a.m. and 10 p.m.
- E.** Neon lights, flashing lights, fluttering devices, and the like, shall not be visible from the exterior of the building.
- F.** At all times while open for business and while patrons are on the premises, all spaces within the electronic gaming establishment shall remain open for direct, unobstructed access by government officials including but not limited to building inspectors, zoning officials, police officers, fire department personnel and emergency response personnel. Entrance doors shall remain unlocked at all times while patrons are on the premises. Said government officials shall have direct access to the premises without requiring assistance from an employee, agent, or owner of the establishment.
- G.** Two (2) parking spaces will be required per machine and one (1) parking space will be required per employee.
- H.** An affidavit must be signed by the owner of any electronic gaming establishment and shall be notarized. The affidavit will state, in part, that the establishment will not offer any cash payouts and/or credits; will not operate any gaming machine; will not promote, operate, or conduct a server-based electronic game promotion; nor promote or conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize, all in accordance with N.C. General Statutes.

SEC 5.18 EVENT VENUE

- A.** One (1) parking space per four (4) seats or one (1) per four (4) person of maximum occupancy, whichever is greater. Parking requirements are exempt in the Depot District and the Uptown District. Parking requirements may be met by shared parking agreements with nearby uses.
- B.** Hours of operation, including set-up and break-down, for all outdoors events will be no earlier than 8 a.m. and no later than midnight.
- C.** Events must comply with the noise restrictions identified in the City of Lexington Code of Ordinances.
- D.** Event venue must comply with all ABC requirements.
- E.** Outdoor event venues must be 100 feet away from the nearest residentially occupied structure as measured from the nearest property line unless the residential unit is part of the event venue development.

SEC 5.19 FAMILY CARE HOME

No such facility may be located within one-half (1/2) mile, measured by a direct line, of an existing family care home.

SEC 5.20 FARMER'S MARKET

- A. The market shall be endorsed by the Davidson County Cooperative Extension.
- B. The market shall be a cooperative effort with multiple farmers and growers, not a single produce stand.

SEC 5.21 FLEA MARKET, INDOOR AND/OR OUTDOOR

- A. Minimum site development area: 20 acres
- B. Minimum separation of from other flea markets within the city limits: 7 miles
- C. An impact buffer is required around the perimeter of the site anywhere the property adjoins a public street or residentially zoned land or existing residential uses. The impact buffer shall be a minimum of 30 feet wide and shall contain two rows of staggered Nellie Stevens Holly trees planted 60 feet on center. Nellie Stevens Hollies shall be a minimum of two feet at planting. Anywhere the property adjoins a public street, the impact buffer shall also contain a row of crepe myrtles planted 60 feet on center between the Hollies and any public street. The Crepe Myrtles shall be a minimum of four feet at planting. If the property is fenced with chain link or similar fencing, the impact buffer shall be planted to the exterior of the fence if possible but must remain outside of the right-of-way. Breaks in the impact buffer are permitted at existing, approved driveways. Equivalent materials may be used to substitute with approval from the Administrative Staff. Existing opaque wooded areas of at least 50 feet in width may suffice for impact buffers where required.
- D. Tables and display sites must be maintained in straight rows for the purpose of emergency vehicle access. Travel lanes between tables must be 20 feet wide with 50-foot radius at end of rows.
- E. The applicant shall submit a site plan illustrating the following elements: tables, storage buildings, carports / covers, buildings, site perimeter and adjacent zoning and land uses, driveways, parking areas, fences with type and size identified, gates, existing wooded areas to be used for impact buffering, the proposed location of impact buffer and type of materials to be planted, and lighting.
- F. Display areas are limited to tables and may also contain storage building no greater than 10 x 12 to the rear of each display site, and may also contain a metal roof structure (i.e. carport or lean-to) over each display area. No display is permitted directly on the ground. No stacked boxes are permitted directly on ground. Additional table areas may be added by a separate development approval.
- G. The flea market may also be contained partially or in whole inside of a building that is constructed to NC Building Code.
- H. Final site plan shall be approved by the City of Lexington Fire Marshall and Building Inspector.
- I. Any buildings containing flea market or related activities will be required to provide public restrooms in accordance with the building code. However, portable restrooms may be located on the property for the convenience of the public during the initial start-up period that shall not exceed two years. The portable restroom area must be screened by a wooden wall a minimum of eight feet in height. The wall shall be constructed in the same manner as a shadow-box privacy fence to permit air flow. Other wall materials may be substituted that meet the overall objective of screening and air flow. Portable hand washing stations may be located outside of the screened restroom area. The

portable restroom area shall be located in a relatively inconspicuous area of the site. After the initial start-up period, the operator shall provide for indoor restroom facilities connected to public water, public sewer or an approved septic tank system. The Administrator shall inspect the portable restrooms at six-month intervals during the start-up period to ensure continued compliance. The number of portable restrooms shall be adequate for the number of persons on site. The portable restrooms must be maintained weekly through a contract with a service provider. A copy of the contract shall be provided to the Administrator.

SEC 5.22 FOOD TRUCKS

Food trucks are permitted with administrative approval (food truck permit) on public property, City owned property, County-owned property, and private property in accordance with the requirements contained herein:

- A.** An individual administrative approval / permit is required for the operation of a food truck unless it is permitted as part of a Special Event Permit. The City may limit or prohibit operation of a food truck at any given time and/or any location if it is found to be in conflict with the intent of this ordinance, any special event, event, or land use.
- B.** Proof of permit by a county health department within the State of North Carolina must be provided with the application for permit. The applicant shall provide proof that contact has been established with the Davidson County Health Department and an official from said department has cleared the applicant for operating a food truck within Davidson County.
- C.** In order to operate on City-owned property, the City Manager must grant permission in writing by signing the permit. In order to operate on County-owned property, the County Manager must grant permission in writing. In order to operate on private property, the property owner must grant permission in writing. Proof of permission shall be provided with the application for permit.
- D.** Food trucks are permitted within the Mixed Use District, Uptown District, Business District, Planned District, and the Industrial District. Food trucks will be permitted in the Traditional Neighborhood District or Suburban Neighborhood District in conjunction with a Special Event.
- E.** Minimum distances from certain elements and uses are required. Distance shall be measured in a straight line between the closest point of the proposed food truck location and the closet point of the buffered object, or in the case of a restaurant, measured from the closed point of the restaurant's main entrance.
 - 1.** Food trucks must be located at least 150 feet from the front door of any restaurant and/or a restaurant's accessory outdoor dining area during the operating hours of the restaurant.
 - 2.** Food trucks must be parked at least 15 feet from any fire hydrant.
 - 3.** Food trucks must be a minimum of 5 feet from any driveway, utility box or vault, handicapped ramp, building entrance or exit or emergency call box.
 - 4.** Food trucks must be located at least 150 feet from the boundary of any event under an approved Special Event Permit unless the food truck is included within said permit. Additional distance may be required by the City in order to avoid any negative impacts for the special event.

- F. Food trucks may not be parked on North and South Main Street except as part of a Special Event Permit.
- G. Parking stalls beyond the minimum requirement may be used to park a food truck. Required parking stalls may be utilized outside of normal operating hours or under a special event permit. Food trucks shall not be parked in front of a business on a public or private street during that business' operating hours without the business owner's written consent. Food trucks may not park in handicapped accessible parking spaces, nor in access or drive aisles.
- H. Temporary outdoor seating for food trucks may be utilized provided there is a minimum of 5 foot of clearance on any public sidewalks, and the seating may not be located in a public street unless part of an approved street closure.
- I. Food trucks and associated outdoor seating shall be removed from all permitted locations during impermissible hours of operation and shall not be stored, parked, or left overnight on any public street or sidewalk.
- J. A copy of the Permit shall be kept on the food truck at all times. These permits must each be renewed annually on July 1st.
- K. All distance requirements concerning food relative to the Barbecue Festival and Barbecue Capital Cookoff are applicable. (See Section Not permitted within ¼ mile of the boundary of either event unless part of the special event permit for that event.)
- L. A fire extinguisher of minimum Class 2A, 10B, and C grade will be kept on the truck. If deep frying is proposed, a Class K fire extinguisher must also be kept on the truck/trailer.
- M. A copy of vehicle or trailer registration, and location of approved grease disposal facility must be maintained on the truck as well.
- N. Food trucks may operate between the hours of 6:00 a.m. and 3:00 a.m., unless the food truck is located within 150 feet of a property with a one-family residential dwelling. When located within 150 feet of this residential dwelling, the hours of operation shall be between 7:00 a.m. and 10:00 p.m. This measurement is taken from the closest point on the residential structure, including any covered porches or overhangs, in a straight line to the closest point of the approved food truck location.
- O. Food trucks may not use audio amplification or free-standing signage. All equipment associated with the food truck, except tables and chairs, must be located within 3 feet of the food truck.
- P. The food truck operator is responsible for disposing of all trash associated with the operation of the food truck. City trash receptacles may not be used to dispose trash or waste. All areas relative to the food truck must be kept clean. Grease and liquid waste may not be disposed in tree pits, storm drains, the sanitary sewer system or public streets.
- Q. Additional conditions may be included on the Permit by the City in order for the food truck operation to comply with the intent of this ordinance and to protect the public health, safety, and welfare.

SEC 5.23 GREENHOUSE / NURSERY

- A. The site shall be designed in accordance with site regulations for a commercial or civic building.
- B. Only plants may be stored outdoors.

SEC 5.24 HAYFIELD

- A. A mowing and planting schedule must be submitted with the application for the Permit and shall include the crop type.
- B. The hayfield shall be a minimum of two acres.
- C. No outdoor storage is permitted.
- D. The hayfield must be mowed at least twice per year, once in the Spring and once in the Fall.
- E. A boundary of at least twenty feet adjacent to any private or public street or property line must be mowed at least once per month during growing season and once at the end of the regular growing season.

SEC 5.25 HOME OCCUPATION

- A. Examples of home occupations include beauty salon, barber shop, seamstress, massage therapist, internet business, Realty office, and other uses that typically only have one or two clients on site at any given time.
- B. Not permitted in two-family dwellings, duplexes, townhomes, condominiums, or apartment units.
- C. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
- D. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a dwelling and meeting the design standards for accessory structures.
- E. The use shall employ no more than one person who is not a resident of the dwelling.
- F. A home occupation housed within the dwelling shall occupy no more than 25 percent of the total floor area of the dwelling.
- G. There shall be no visible outside display of stock which is sold on the premises.
- H. Except for outdoor kilns used for the firing of pottery, there shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use. Outdoor kilns, if used, shall be located in the rear yard and screened from view from the street and by adjacent properties located in residential districts, shall have a secured work area, and shall be a minimum of 10 feet from abutting property lines.
- I. Only vehicles used primarily as passenger vehicles may be permitted in connection with the conduct of the home occupation.
- J. The home occupation shall not utilize mechanical, electrical, or other equipment that produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home occupation.
- K. Home occupations shall be limited to those uses that draw no more than one additional vehicle to the dwelling at a time, except that a short overlap is permissible to allow for waiting times.

SEC 5.26 MIXED USE

Dwelling units shall not be located on the first floor.

SEC 5.27 NIGHTCLUB

- A. Nightclubs must hold an ABC permit issued by the State in order to serve alcohol.
- B. In addition to meeting all zoning ordinance regulations, the establishment must meet all local, State, and Federal laws and codes.
- C. Nightclubs shall be separated by a minimum distance of one thousand (1,000) feet, measured by a direct line, from any residential zoning district (City or County jurisdiction), existing dwelling, place of religious assembly, childcare center, or elementary or secondary school.
- D. Permitted drinking areas outside of enclosed buildings must be cordoned with physical barriers, applicant must maintain ingress/egress requirements set forth in the ABC permit and applicable City codes. Said areas must be contained within the boundaries of the State-issued ABC permit. If located in the front, or any side of the building facing a public street, said areas must contain tables and chairs for seating such that the seating space covers at least 75% of the outside area and may not be used for standing room or dance areas. Tables and chairs shall be removed from any public sidewalk while the establishment is closed.

SEC 5.28 OUTDOOR DINING, PRIVATE PROPERTY

Patios, decks, and other outdoor dining facilities are required to be enclosed by a fence, railing, or wall at least three feet in height with the maximum opening of 4 inches and child-proof latches on any gate openings.

SEC 5.29 OUTDOOR DINING, PUBLIC SIDEWALK

- A. Only permitted for Restaurants.
- B. Only tables (with or without umbrellas) and chairs are permitted. No bars, stages, or other structures are permitted.
- C. Activities, tables, umbrellas, or chairs shall not interfere with or impede the safe and orderly flow of pedestrian and vehicular traffic; shall leave clear for pedestrian traffic a continuous area of paved sidewalk at least six (6) feet wide; and shall leave clear for access purposes an area at least three (3) feet wide next to the curb or edge of public streets where parking or standing of vehicles is permitted. No doorway to any building, alleyway or handicap accessibility may be blocked by activities related to the outdoor dining, tables, umbrellas, chairs, or related barriers.
- D. Tables shall have a maximum length of five (5) feet and a maximum width of three (3) feet.
- E. Tables and chairs shall be located only at grade level and may not be placed on any type of platform.
- F. Umbrellas are not permitted to extend beyond the edge of the table and chairs. The bottom edge of umbrellas shall be at least seven feet above the sidewalk. Umbrellas shall be secured and shall be removed or lowered during sustained winds of 15 miles per hour.
- G. The business shall agree to indemnify the City of Lexington from any damages or claims and shall provide evidence of a general liability insurance policy, which policy names the city as an additional insured, with minimum liability coverage of one hundred thousand dollars (\$100,000.00) per person bodily injury; three hundred

thousand dollars (\$300,000.00) per occurrence bodily injury and twenty-five thousand dollars (\$25,000.00) per person occurrence property damage.

- H. Activities authorized under this article shall comply with all applicable laws, ordinances and regulations, including but not limited to those pertaining to noise control, health, fire protection, litter control, business licenses, zoning, signs, and traffic safety.
- I. Tables, chairs and any related barriers placed on the sidewalk must be removed by 10:00 p.m. and may not be placed on the sidewalk prior to 7:00 a.m. Tables, chairs and any related barriers must be removed in inclement weather.
- J. Upon notice by the Administrator of any City Council endorsed event, including but not limited to the Barbecue Festival, which requires use of the sidewalks by the public, the business shall remove all tables, chairs and related barriers from the sidewalk.

SEC 5.30 OUTDOOR DISPLAY ON PRIVATE PROPERTY

- A. The merchandise shall be owned by the merchant holding the Certificate of Occupancy for the principal building and shall be related to or also for sale at the principal building in front of which the merchandise is located.
- B. The merchandise shall be on the same parcel, or a contiguous parcel under the same ownership as the principal building.
- C. Merchandise shall be located adjacent to the principal building and not be located in front of any other building.
- D. Vending machines are not permitted for outdoor display.
- E. Merchandise may not hang from poles or trees.
- F. Merchandise may not be placed in required landscape areas, parking lot islands, or impact buffers.
- G. Outdoor display of merchandise is prohibited on a vacant lot, the site of a vacant building, the site of a business outside of open operating hours, or the site of a closed or out-of-business use.
- H. Merchandise or fixtures may not interfere with vehicular sight distance.
- I. Outdoor display areas may not contain additional signage.
- J. Outdoor display is prohibited within the street right-of-way, except in accordance with Outdoor Display on Public Sidewalk (5.31).
- K. Outdoor display areas shall not contain or utilize metal carports, trailers / tractor-trailers, storage buildings, portable storage units, or similar structures as storage and/or display of merchandise.
- L. The parking lot area may be used for temporary outdoor display, but the display area may not displace parking spaces required to meet the parking requirements. Outdoor display within parking lots shall be situated and designated in such a way as not to cause a conflict between pedestrians and vehicles or impede traffic patterns.
 - 1. Front yard display areas or areas abutting a public street may extend for no more than 25% of the linear width of the building where the building faces a street. (A building that is 100 feet in width may have no more than 25 feet of the frontage containing outdoor display.) The cumulative outdoor display area(s) outside of a designated semi-enclosed display area, shall total no more than 10% of the size of the footprint of the principal commercial building. All fencing shall comply with design regulations for fences, walls, and hedges. Merchandise may extend upward

no more than 6 feet from the ground. Merchandise shall be removed from cardboard boxes and larger shipping containers and shall be displayed in a secured, neat fashion. Boxes, other than shoe boxes or packaging are not permitted in display area. Only merchandise such as planters and other devices that are normally placed directly on the ground are permitted to sit directly on the ground. Otherwise, merchandise must be displayed on tables, stands, or racks.

2. Attached or detached designated display areas may be established adjacent to the principal building in the side or rear yard not abutting a public street and shall meet setbacks required for the principal commercial building. The display area shall be visually designated by use of fencing, wall, landscaping, or other barrier approved by the Administrator. The maximum height of fencing used as a barrier is 12 feet. If chain link, mesh, or wire fencing is used, it shall be coated in black or dark green. Chain link fence slats are prohibited. Barbed wire, razor wire, and other similar materials are prohibited. The display area may have a roof covered in metal, wood shakes, shingles, or roof-type covering made of canvass, screen, glass, Plexiglas, wood, or other material approved by the Administrator. The designated display area may cover an area no greater than the footprint of the principal building. (Greenhouses and Nurseries are permitted otherwise with specific conditions.) Display and storage racks within the designated display area may not extend above twenty feet or the height of the principal building, whichever is less.

SEC 5.31 OUTDOOR DISPLAY ON PUBLIC SIDEWALK

- A. Only permitted in conjunction with Commercial Buildings.
- B. The merchandise shall be owned by the merchant holding a current Certificate of Occupancy for the principal commercial building and shall be related to or also for sale at the principal commercial building in front of which the merchandise is located.
- C. The display area is limited to 25% of the linear width of the street-facing side of a building and shall extend no more than four feet into the sidewalk area from the building. (A building 100 feet in width may have an area 25' x 4' = 100 square feet of the frontage containing outdoor display.)
- D. The display area is limited to the portion of the sidewalk immediately abutting the principal building, not in front of any other building.
- E. A minimum of five feet in width along the sidewalk shall be maintained at all times as a clear, straight path for pedestrian traffic.
- F. Merchandise may be displayed only on one side of a building. Double-frontage display and corner lot display on two sides is prohibited. Merchandise shall be located adjacent to the principal building.
- G. Merchandise may extend upward no more than 6 feet from the ground.
- H. Merchandise may not hang from poles or trees.
- I. Merchandise may not be placed on landscaped areas or tree grates.
- J. Covers, shelters, metal carports, etc. may not be used to display merchandise.
- K. Individual advertising signage may not be placed on the merchandise.
- L. Businesses are prohibited from using outdoor amplified speaker/public address systems.
- M. Only merchandise such as planters and other devices that are normally placed directly on the ground are permitted to sit directly on the sidewalk. Otherwise, merchandise

- must be displayed on tables, stands, or racks. Merchandise shall be removed from cardboard boxes and larger shipping containers and shall be displayed in a secured, neat fashion. Boxes, other than shoe boxes for shoes, are not permitted in display area.
- N. Vending machines are not permitted on the public sidewalk.
 - O. Outdoor display merchandise or fixtures may not interfere with vehicular sight distance.

SEC 5.32 OUTDOOR SALES, LEASE, OR DISPLAY OF LARGE VEHICLES, HEAVY EQUIPMENT, AND/OR FARM EQUIPMENT

- A. The use shall include: large vehicles, heavy equipment, and/or farm equipment refers to tractor trailers; one-ton or larger commercial vehicles, dump trucks, and the like; motor homes, campers, and the like; bulldozers, back hoes, skid steers, loaders, and the like; tractors, combines, tractor accessories, and the like.
- B. There shall be an office on-site, the office shall be a minimum of 500 square feet and shall meet the Article 4 Design Regulations for a commercial building. All structures shall meet NC State Building Code. In addition to the following, the development shall meet the design regulations for a Commercial Building except as pertains to parking requirements.
- C. The merchant shall have a current and valid certificate of occupancy to operate a business in the principal building on the lot. The outdoor sale, lease, and/or display of more than one vehicle at any given time is prohibited on a vacant lot, the site of a vacant building, the site of a business outside of open operating hours, or the site of a closed or out-of-business use.
- D. Lighting shall not illuminate any lot or structure used for residential purposes. The maximum height for lighting (pole mounted and wall mounted) shall be 20 feet, including the base/mounting fixture. Lighting shall be directed downward and light spillover minimized with the use of hoods and similar devices. Lighting fixtures that produce glare visible from adjacent property(s) and public rights-of-way are prohibited.
- E. All setbacks for the building and accessory structures are 15 feet.
- F. No merchandise shall be parked or displayed in required landscape areas.
- G. There shall be no outside storage of dismantled equipment on the lot.
- H. The applicant shall follow a washing plan that is determined to be environmentally safe and approved by the City. The plan shall meet the following requirements:
 - 1. Only biodegradable solvents are permitted.
 - 2. The washing area or facility shall have impervious flooring that drains to the public sanitary sewer system.
 - 3. The washing area may be open or enclosed and shall be considered an accessory structure if covered.
 - 4. The washing area shall be setback from the property line a minimum of five feet.
 - 5. The drain shall contain a trap approved by the Office of Community Development.
- I. All fencing shall comply with design regulations for fences, walls, and hedges except that chain link fencing may be used to surround parcels greater than two acres in size. Chain link fencing, if used in any yard area abutting a public street, shall be black or dark green.

- J. An impact buffer shall be provided where the property is adjacent to any property zoned Suburban Neighborhood District or Traditional Neighborhood District. The impact buffer requirement may be met by any one of the following:
 1. Preserving an existing natural vegetated area a minimum of 20 feet in width. (Some additional plantings may be required to reach a visually impervious buffer.)
 2. Installing a 15-foot wide landscape yard consisting of small trees planted 30 feet on center, and two staggered rows of medium or large evergreen shrubs planted 6 feet on center in order to provide continuous coverage. Small trees shall be a minimum of 6 feet in height at installation and shrubs shall be a minimum of 3 feet in height at installation.
 3. Installing a six-foot high wooden shadowbox fence and installing a row of medium or large evergreen shrubs planted 6 feet on center. Boards on each side of the fence shall have no more than 2 inches between pickets. Shrubs may be planted on either side of the fence and shall be a minimum of 3 feet in height at installation.
 4. Constructing a solid wall, a minimum of 6 feet in height, made of stone, brick, or block with stucco or similar finish.
- K. Stream Protection Buffers will remain completely undisturbed.
- L. Mechanical equipment is prohibited within the impact buffer area.
- M. Permanent detention basins and temporary erosion and sedimentation control basins are prohibited within the impact buffer area.
- N. Where existing topography prevents the strict application of these standards, alternative screening methods that perform to the same or higher level will be considered.
- O. Utility easements may cross but not be placed within the long dimension of an impact buffer area.
- P. Pedestrian access through the impact buffer area may be required by the approving authority.

SEC 5.33 OUTDOOR SALES, LEASE OR DISPLAY OF MANUFACTURED AND/OR MODULAR HOMES

- A. Excludes storage of salvage manufactured and modular homes.
- B. Lot shall front on a major or minor thoroughfare.
- C. Minimum lot size is 10 acres.
- D. Each manufactured home space shall be clearly numbered with a marker corresponding to a number on the site plan.
- E. Diagonal, perpendicular or parallel stacking so that the ends of the mobile home are readily visible will be prohibited.
- F. All siding shall be in place on all units (including double units).
- G. Depending on the overall slope of the site and closeness of the mobile/modular homes, temporary anchoring could be a requirement.
- H. No open-air repairs or demolition of any units will be allowed.
- I. No outside open storage of parts, building materials, or equipment will be allowed. All such storage shall be screened from public view or contained within an enclosed building and shall be shown on the site plan.
- J. All buildings on site shall meet the Design Requirements of Section 5 and Zoning District requirements for the district in which the development is to be located.

- K.** The radius of the turns at the ends of each isle shall be a minimum of 90 feet and shall remain clear of any permanent or temporary structures or parked vehicles.
- L.** A lock-box shall be located outside of any locked gate containing the keys to the gate. The Lexington Police Department and Lexington Fire Department shall be given a key to the lockbox.
- M.** The Lexington Police Department and Lexington Fire Department shall be given the name and phone number of a contact for emergency situations.
- N.** The developer shall provide an engineer's certification that the proposed plan will allow maneuverability for all fire trucks owned and operated by the Lexington Fire Department.
- O.** The developer shall provide an engineer's certification that all interior roads meet a minimum compaction to sustain fire department trucks within the site. This compaction shall be maintained throughout the duration of this use.
- P.** A fire lane, a minimum of 14 feet in width, shall be shown along and around all lanes of mobile/modular homes in order that a fire truck may pass freely through each section and make a single-point turn to reach the next lane. The fire lane shall be open at all times and there shall be a minimum setback of 20 feet from the fire lane to the end of each mobile/modular home or other structure. A minimum separation of 10 feet between each mobile/modular home shall be shown and maintained in order to decrease the chances of fire jumping from one to another.
- Q.** The maximum height for lighting (pole-mounted and wall-mounted) shall be 20 feet, including the base/mounting fixture. Floodlights are not permitted for parking lot illumination. Lighting shall be directed downward and light spillover minimized with the use of hoods and similar devices. Lighting fixtures that produce glare visible from adjacent property(s) and public rights-of-way are prohibited.
- R.** All fencing shall comply with design regulations for fences, walls, and hedges.
- S.** An impact buffer shall be provided where the property is adjacent to any property zoned Suburban Neighborhood District or Traditional Neighborhood District.
- T.** The impact buffer requirement may be met by any one of the following:
 1. Preserving an existing natural vegetated area a minimum of 20 feet in width. (Some additional plantings may be required to reach a visually impervious buffer.)
 2. Installing a 15-foot wide landscape yard consisting of small trees planted 30 feet on center, and two staggered rows of medium or large evergreen shrubs planted 6 feet on center in order to provide continuous coverage. Small trees shall be a minimum of 6 feet in height at installation and shrubs shall be a minimum of 3 feet in height at installation.
 3. Installing a six-foot high wooden shadowbox fence and installing a row of medium or large evergreen shrubs planted 6 feet on center. Boards on each side of the fence shall have no more than 2 inches between pickets. Shrubs may be planted on either side of the fence and shall be a minimum of 3 feet in height at installation.
 4. Constructing a solid wall, a minimum of 6 feet in height, made of stone, brick, or block with stucco or similar finish.
- U.** Stream Protection Buffers will remain completely undisturbed.
- V.** Mechanical equipment is prohibited within the impact buffer area.
- W.** Permanent detention basins and temporary erosion and sedimentation control basins are prohibited within the impact buffer area.

- X. Where existing topography prevents the strict application of these standards, alternative screening methods that perform to the same or higher level will be considered.
- Y. Utility easements may cross but not be placed within the long dimension of an impact buffer area.
- Z. Pedestrian access may be required through the impact buffer area.

SEC 5.34 OUTDOOR SALES, LEASE, OR DISPLAY OF MOTOR VEHICLES (NEW AND USED CAR AND/OR TRUCK AND/OR BOAT) LOTS

- A. There shall be an office on-site, the office shall be a minimum of 500 square feet and shall meet the Article 4 Design Regulations for a commercial building. All structures shall meet NC State Building Code. In addition to the following, the development shall meet the design regulations for a Commercial Building except as pertains to parking requirements.
- B. The merchant shall have a current and valid certificate of occupancy to operate a business in the principal building on the lot. The outdoor sale, lease, and/or display of more than one vehicle at any given time is prohibited on a vacant lot, the site of a vacant building, the site of a business outside of open operating hours, or the site of a closed or out-of-business use.
- C. The lot shall be a minimum one-half (0.5) acre in size and shall have a minimum of 200 linear feet of road frontage upon a public street. This distance shall be measured along the front property line, and is not cumulative for corner lots or double frontage lots.
- D. There shall be a minimum linear distance of 500 feet between the property lines of any proposed lot and any existing lot being used for the sale, lease, display, and service of motor vehicles.
- E. Lighting shall not illuminate any lot or structure used for residential purposes. The maximum height for lighting (pole mounted and wall mounted) shall be 20 feet, including the base/mounting fixture. Floodlights are not permitted for parking lot illumination. Lighting shall be directed downward and light spillover minimized with the use of hoods and similar devices. Lighting fixtures that produce glare visible from adjacent property(s) and public rights-of-way are prohibited.
- F. The hours of operation shall be between 7:00 a.m. and 9:00 p.m.
- G. All setbacks for the building and accessory structures are 15 feet.
- H. There shall be no more than one accessory structure on the lot, including but not limited to carports, storage buildings, and detached garages.
- I. Only motor vehicles may be sold on the lot. Sale, display, or lease of carports and/or storage buildings is not permitted.
- J. No cars shall be parked or displayed in required landscape areas.
- K. There shall be no storage of dismantled cars on the lot.
- L. The applicant shall follow a car-washing plan that is determined to be environmentally safe and approved by the City. The plan shall meet the following requirements:
 1. Only biodegradable solvents are permitted.
 2. The car washing area or facility shall have impervious flooring that drains to the public sanitary sewer system.
 3. The car washing area may be open or enclosed and shall be considered an accessory structure if covered.

4. The car washing area shall be setback from the property line a minimum of five feet.
 5. The drain shall contain a trap approved by the Office of Community Development.
- M.** The car display areas of a car lot shall not be treated as a commercial parking lot for the purpose of landscaping. The following landscape standards shall apply to any new car lot, and shall not be exempt for existing developed lots:
1. **Perimeter Landscaping:** Along the entire perimeter except for the driveway curb cuts, there shall be a landscape bed a minimum of 4 feet in width covered with grass or other approved vegetated ground cover, and said landscape bed shall contain either large species trees planted 60 feet on center or small species trees planted 30 feet on center.
 2. **Interior Landscaping:** For car lots of a size large enough to accommodate more than 36 cars (customer parking and display area combined), landscaping will also be required within the parking area in addition to perimeter landscaping. A minimum of one small tree shall be planted in prepared landscape islands situated so that no car is more than 80 feet from an interior tree. Landscape islands shall be a minimum diameter of 8 feet, with a curb of at least 6 inches in height and shall be evenly spaced across the lot to the greatest extent possible.
- N.** All landscape beds shall be prepared to a depth and diameter suitable to the tree type.
- O.** All fencing shall comply with design regulations for fences, walls, and hedges.
- P.** An impact buffer shall be provided where the property is adjacent to any property zoned Suburban Neighborhood District or Traditional Neighborhood District.
- Q.** The impact buffer requirement may be met by any one of the following:
1. Preserving an existing natural vegetated area a minimum of 20 feet in width. (Some additional plantings may be required to reach a visually impervious buffer.)
 2. Installing a 15-foot-wide landscape yard consisting of small trees planted 30 feet on center, and two staggered rows of medium or large evergreen shrubs planted 6 feet on center in order to provide continuous coverage. Small trees shall be a minimum of 6 feet in height at installation and shrubs shall be a minimum of 3 feet in height at installation.
 3. Installing a six-foot high wooden shadowbox fence and installing a row of medium or large evergreen shrubs planted 6 feet on center. Boards on each side of the fence shall have no more than 2 inches between pickets. Shrubs may be planted on either side of the fence and shall be a minimum of 3 feet in height at installation.
 4. Constructing a solid wall, a minimum of 6 feet in height, made of stone, brick, or block with stucco or similar finish.
- R.** Stream Protection Buffers will remain completely undisturbed.
- S.** Mechanical equipment is prohibited within the impact buffer area.
- T.** Permanent detention basins and temporary erosion and sedimentation control basins are prohibited within the impact buffer area.
- U.** Where existing topography prevents the strict application of these standards, alternative screening methods that perform to the same or higher level will be considered.
- V.** Utility easements may cross but not be placed within the long dimension of an impact buffer area.
- W.** Pedestrian access through the impact buffer area may be required by the approving authority.

- X. Car sales display areas shall contain no more than one car per 350 square feet of display area. The total size of the display area shall include drive lanes, display spaces, driveways. Required landscape areas, customer parking area, and building space will not be included in this calculation. Customer parking areas shall be treated as a parking lot for businesses relative to design regulations for development.
- Y. All cars on the lot shall be setback a minimum of five (5) feet from the back of curb, or edge of street if no curb exists, and shall be outside of public right-of-way and not permitted within any required landscape area. The setback shall be measured from the front most edge of the car. This requirement shall apply to all car/truck lots, except that any car/truck lots legally operating at the time of the adoption of this ordinance, shall be given a period of six months from the date of this ordinance to comply.
- Z. Car lots, customer parking and display area, shall be paved, concrete, brick pavers or other similar material. Gravel, mulch, dirt, or other dust causing material is not permitted.

SEC 5.35 OUTDOOR SALES, LEASE, OR DISPLAY OF METAL CARPORTS AND/OR STORAGE BUILDINGS

- A. The office shall be a minimum of 500 square feet. All structures shall meet NC State Building Code. In addition to the following, the development shall meet the design regulations for a Commercial Building.
- B. The merchant shall have a current and valid certificate of occupancy to operate a business in the principal building on the lot. The outdoor sale, lease, and/or display of more than one unit at any given time is prohibited on a vacant lot, the site of a vacant building, the site of a business outside of open operating hours, or the site of a closed or out-of-business use.
- C. The lot shall have a minimum of 200 linear feet of road frontage upon a public street. This distance shall be measured along the front property line, and is not cumulative for corner lots or double frontage lots.
- D. There shall be a minimum linear distance of 500 feet between the property lines of any proposed lot and any existing lot being used for the sale, lease, or display of carports and/or storage buildings.
- E. Front, side, and rear setback for the office and any units is 15 feet.
- F. No units shall be located in the landscaping yard.
- G. There shall be no construction or repair of units on the lot.

SEC 5.36 POND

- A. Ponds in residential subdivisions, including permanent detention ponds or any SCM that holds a permanent pool of water constructed as part of a permitted Stormwater Control Measure (SCM), must be protected by a fence and equipped with a self-closing and positive self-latching gate provided at all points of entry into the SCM with hardware for permanent locking. Pond fences not constructed as part of a SCM shall meet the design standards for Fences and Walls in Section 4, Development Regulations.
- B. Ponds, including permanent detention ponds constructed as part of a permitted SCM, shall be protected by a secured fence being a minimum four (4) feet in height with a maximum six (6) feet in height.

- C. Pond Fences in residential subdivisions shall be constructed wholly or in combination of wooden material, stone, brick, decorative concrete block, wrought iron, aluminum post and picket fencing vinyl-coated or decorative chain link or engineered products created to resemble these materials. Any proposed pond fencing must be reviewed and approved by the UDO Administrator or his/her designee.
- D. Decorative chain link fence options include powder-coated black, dark brown, or dark green.
- E. Materials such as, but not limited to, non-decorative or uncoated galvanized chain-link, electric wire, barbed wire, razor wire, plywood, particle board, sheet metal, concrete slabs, concrete barriers, tarps or other woven/fabric material, sheets of tin, hog wire, chicken wire, palletes, and erosion screen are prohibited.
- F. Finish fencing materials must be to the exterior public view, with support structures to the interior.
- G. Any fence or other structure constructed around SCM ponds must not impede access to, including required maintenance and periodic inspections to the SCM.
- H. The fence and gate shall be void of any hole or openings larger than five (5) inches or (10) centimeters in dimension.
- I. Maximum mesh size for chain link fences shall be 2 ¼ inch (57 mm) square unless the fence has slats fastened at the top or the bottom that reduce the openings to not more than 1 ¾ inches (44 mm).
- J. Any fence, or other enclosure constructed must not impede nor encumber the design and intended function of the SCM. The UDO Administrator or his/her designee will perform a final, postconstruction inspection of any required fencing to ensure compliance with all State and City Codes and Ordinances.
- K. Ponds in permitted nonresidential development shall meet the design standards for Fences and Walls in Article 4, Development Regulations.
- L. Ponds within 200 feet of a residential structure constructed as part of permitted, nonresidential development must be protected by a secured fence. If a fence is reasonably determined to be impractical due to physical, or topographical features present a fence must be installed along the entirety of the closest lot line adjacent to the residential structure in such a way to create a substantial barrier from any adjacent residential structures.
- M. Unpaved walking trails, benches, landscaping and other pedestrian-scaled structures and/or amenities to be located around ponds are encouraged with new residential development. Proposals for amenities will be reviewed on a case-by-case basis and final approval by the UDO Administrator or his/her designee is required.

SEC 5.37 PORTABLE ON-DEMAND STORAGE (PODS)

- A. “Portable On-Demand Storage” means any container designed for the temporary storage of personal property, which is typically rented to owners or occupants of property for their storage use and is delivered and/or removed by truck or trailer. No person shall place a portable storage unit on private property without first obtaining approval permit from the Department of Business and Community Development. Each container will be issued a placard that must be prominently displayed indicating the date of placement and removal.
- B. Only one unit is permitted on a property.

- C. The size of any portable storage container shall not exceed sixteen (16) feet in length by eight (8) feet in width by eight (8) feet in height.
- D. Any portable storage container must be located on a driveway or other hard-surfaced area.
- E. PODS shall not be located less than 10 feet from side property line.
- F. PODS may be placed on a property for up to thirty (30) days. The City may permit the placement of a PODS container on a property for more than thirty (30) days, provided the property owner has an active building permit or has demonstrated that extenuating circumstances exist to justify the extension.
- G. In addition to the required placard, no more than one sign to be displayed on any PODS container.
- H. Any PODS container shall be maintained in good condition.

SEC 5.38 PRODUCE STAND

- A. The purpose of permitting this use is to support local farmers. Farmer's stands address individual farmers, as opposed to farmers markets, which are not considered here. In addition, the sale of fruits, vegetables, and plants from within an approved commercial building, nursery, or greenhouse is not considered here.
- B. A temporary permit shall be issued by the Administrative Staff for a period not to exceed 90 days.
- C. Wholesale is prohibited.
- D. Sale of fruits, vegetables, plants, and products produced by the applicant's farm such as honey, jellies, soaps, personal care products, and other similar products, are permitted.
- E. The produce stand, vehicle, table, or any other materials associated with the produce stand shall not interfere with vehicular site distance.
- F. Only one sign, identifying the name of the farm or farmer may be displayed. Such signage shall not exceed 15 square feet and shall be placed within 20 feet of the produce stand.
- G. The stand and setup shall be on private property.

SEC 5.39 PUSH CART VENDOR ON PRIVATE PROPERTY – ACCESSORY USE

- A. A business may apply to allow a licensed pushcart food vendor to set up on a regular basis at the place of business. (Otherwise, Special Event Permits may be issued to businesses holding the certificate of occupancy to include temporary use of food vendors or pushcart vendors as part of a special event.)
- B. Application for a Pushcart Vendor shall be on a form provided by the City. In addition to information required on the application, the application must provide a letter of approval by the Davidson County Health Department; and a copy of a valid business license from the State of North Carolina; and proof of an insurance policy, issued by an issuance company licensed to do business in the State of North Carolina, protecting the vendor and the City from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the permit. Such insurance shall name the City as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days advance written notice to the City. Such insurance shall afford minimum

- limits of three hundred thousand dollars (\$300,000.00) per person bodily injury, six hundred thousand dollars (\$600,000.00) per occurrence bodily injury and fifty thousand dollars (\$50,000.00) per occurrence property damage.
- C.** Limited to pushcarts only. No food vendor trucks, vans, trailers, or other motorized vehicles permitted.
 - D.** The pushcart vendor shall be located in close proximity to the front door of the business.
 - E.** Pushcarts shall not be located so as to be within 500 feet of any restaurant.
 - F.** The annual permit fee for a Pushcart Vendor shall be established by City Council.
 - G.** A permit issued pursuant to this article is valid for a period of one (1) year.
 - H.** The permit shall be posted on the pushcart and shall be visible to the public at all times during operation.
 - I.** The Administrative Staff will assign designated vending territories to pushcart vendors in order to avoid conflicts between vendors for space. The assignment will be made when permits are issued, but may be changed by the Administrator at any time due to conflict or change in circumstances. Vending is prohibited within one-hundred (100) feet of, or on the same block as another pushcart whichever is greater, except during festivals and other such events. The Administrator may temporarily suspend territory boundaries during special events such as parades or the Barbeque Festival. In addition, the Administrator may temporarily reassign territory locations to areas outside of a permitted special event. The special event permit will have priority over the pushcart vendor permit during the time period approved for the special event permit.
 - J.** The Vendor is responsible for the removal and disposal of all trash associated with the pushcart.
 - K.** No items relating to the operation of the vending may be placed anywhere other than in, on, or under the pushcart.
 - L.** The use of tables, crates, cartons, racks, or any other device to increase the selling or display capacity of the pushcart is prohibited.
 - M.** The vendor shall not solicit or conduct business with persons in motor vehicles.
 - N.** The vendor shall not sell anything other than that which he/she/they is licensed to vend in accordance with the approved Application for Permit for a Pushcart Vendor or the Davidson County Health Department.
 - O.** Music, the use of loud speakers, public address systems, radios, sound amplifier or similar devices to attract the attention of the public is prohibited. Music may be played low levels for persons in the immediate vicinity of the pushcart.
 - P.** No pushcart or any other item relation to the operation of the vending business shall lean against or hang from any building or other structure.
 - Q.** Operators of pushcarts shall not consume nor have consumed alcoholic beverages and/or illegal drugs, nor sell alcoholic beverages while operating the pushcart, all subject to compliance with the North Carolina General Statues.
 - R.** The pushcart shall not impede, endanger or interferes with the travel upon or use of the street or sidewalk. The pushcart vendor shall locate outside of any designated fire lane. A minimum of five (5) feet of clearance is required along any public or private. In the event it becomes necessary for the regulation of traffic or the safety or convenience of pedestrians, any official from Office of Community Development, the City Manager's Office, or any law enforcement officer of the City may direct vendors to move to another location. Refusal to comply with said order shall result in a revoked permit.

- S. Pushcarts are limited to forty-five (45) inches in width, seventy-two (72) inches in length, and sixty (60) inches in height. Canopies must be a minimum of seventy-eight (78) inches from the ground at the lowest point.
- T. Pushcarts shall not be motorized or propelled in any manner other than the walking motion of the person operating the pushcart, with the exception that a handicapped person may use a motorized system to propel the pushcart.
- U. Signage is limited to four (4) square feet and must be directly applied to the pushcart or the umbrella. In addition, the menu may be displayed in an area not to exceed two (2) square feet.

SEC 5.40 PUSH CART VENDOR ON PUBLIC SIDEWALK

- A. Application for a Pushcart Vendor Permit shall be on a form provided by the Office of Community Development. In addition to information required on the application, the application must provide a letter of approval by the Davidson County Health Department; and a copy of a valid business license from the State of North Carolina; and proof of an insurance policy, issued by an insurance company licensed to do business in the State of North Carolina, protecting the vendor and the City from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the permit. Such insurance shall name the City as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days advance written notice to the City. Such insurance shall afford minimum limits of three hundred thousand dollars (\$300,000.00) per person bodily injury, six hundred thousand dollars (\$600,000.00) per occurrence bodily injury and fifty thousand dollars (\$50,000.00) per occurrence property damage.
- B. The annual permit fee for a Pushcart Vendor shall be established by City Council.
- C. The permit shall be posted on the pushcart and shall be visible to the public at all times during operation.
- D. The Administrative Staff will assign designated vending territories to pushcart vendors in order to avoid conflicts between vendors for space. The assignment will be made when permits are issued, but may be changed by the Administrative Staff at any time due to conflict or change in circumstances. Vending is prohibited within one-hundred (100) feet of, or on the same block as another foot peddler or pushcart whichever is greater, except during festivals and other such events. The Administrator may temporarily suspend territory boundaries during special events such as parades or the Barbeque Festival. In addition, the Administrator may temporarily reassign territory locations to areas outside of a permitted special event. The special event permit will have priority over the pushcart vendor permit during the time period approved for the special event permit.
- E. Vending is prohibited within three hundred (300) feet of the grounds of any elementary or secondary school.
- F. Vending is prohibited within three hundred (300) feet of any church while church is holding a religious service.
- G. The Vendor is responsible for the removal and disposal of all trash associated with the pushcart.

- H. No items relating to the operation of the vending may be placed anywhere other than in, on, or under the pushcart.
- I. The use of tables, crates, cartons, racks, or any other device to increase the selling or display capacity of the pushcart is prohibited.
- J. The vendor shall not solicit or conduct business with persons in motor vehicles.
- K. The vendor shall not sell anything other than that which he/she/they is licensed to vend in accordance with the approved Application for Permit for a Pushcart Vendor or the Davidson County Health Department.
- L. Music, the use of loud speakers, public address systems, radios, sound amplifier or similar devices to attract the attention of the public is prohibited. Music may be played low levels for persons in the immediate vicinity of the pushcart.
- M. No pushcart or any other item relation to the operation of the vending business shall lean against or hang from any building or other structure.
- N. Operators of pushcarts shall not consume nor have consumed alcoholic beverages and/or illegal drugs, nor sell alcoholic beverages while operating the pushcart, all subject to compliance with Chapter 18, as amended, of the North Carolina General Statues.
- O. The pushcart shall not impede, endanger or interferes with the travel upon or use of the street or sidewalk. A minimum of five (5) feet of clearance is required along any sidewalk. In the event it becomes necessary for the regulation of traffic or the safety or convenience of pedestrians, any official from Office of Community Development, the City Manager's Office, or any law enforcement officer of the City may direct vendors to move to another location. Refusal to comply with said order shall result in a revoked permit.
- P. Pushcarts are limited to forty-five (45) inches in width, seventy-two (72) inches in length, and sixty (60) inches in height. Canopies must be a minimum of seventy-eight (78) inches from the ground at the lowest point.
- Q. Pushcarts shall not be motorized or propelled in any manner other than the walking motion of the person operating the pushcart, with the exception that a handicapped person may use a motorized system to propel the pushcart.
- R. Signage is limited to four (4) square feet and must be directly applied to the pushcart or the umbrella. In addition, the menu may be displayed in an area not to exceed two (2) square feet.

SEC 5.41 RECYCLING COLLECTION SITE

- A. Only permitted within Commercial or Industrial Buildings.
- B. Recyclable materials from residential sources shall be limited to tires, scrap metal such as lawnmowers and play equipment; white goods such as refrigerators, clothes dryers, and stoves; lead acid batteries; motor oil; oil filters; cardboard; any other recyclable materials currently in or added to an existing local program; and all future materials banned from North Carolina landfills.
- C. Building and site shall meet the design regulations for a commercial building.
- D. Beyond sorting recyclable materials, processing is prohibited.
- E. In addition to the zoning permit, the business must obtain all applicable permits required by the State of North Carolina.
- F. All materials will be collected and stored indoors. No outside storage is permitted.

- G. No more than two truck trailers will be permitted on site at any one time for the temporary storage of materials awaiting removal. Said trailers shall be removed on a regular basis and may not be used as permanent storage. Said trailers shall not be located in any front or side yard and shall be a minimum of fifty feet from any adjoining property line.

SEC 5.42 RECREATION FACILITY, OUTDOOR

- A. Buildings shall meet design standards for Commercial Buildings or Civic Buildings.
- B. Fences shall meet the design standards for Fences and Walls.
- C. Outdoor lighting will be designed, located, and mounted so as to protect the street and neighboring properties from direct glare or hazardous interference.
- D. Downcast or cut-off-type lighting fixtures will be generally used to illuminate pedestrian or traffic circulation corridors and signage.
- E. Sports field and other outdoor lighting will not shine directly into the yard, or into the windows, of a residence.

SEC 5.43 REFORESTATION

- A. A reforestation permit may be issued for areas undergoing an intentional reforestation process to become wooded, and is not meant for overgrown lawns or overgrowth of brush and undesirable vegetation.
- B. The area shall be cleared of any vines, including ivy and kudzu and such vines shall be sprayed as needed while not dormant for two consecutive growing seasons to prevent regrowth.
- C. The area shall contain trees or shall be planted with seedlings at the accepted separation distance based on species.
- D. A plan shall be submitted illustrating the area, existing and proposed trees, other plants, and other features such as fencing, hardscapes, etc. The Permit will be issued based on the plan, and the site will be inspected by the Administrative Staff to ensure compliance. Failure to complete clearing and planting activities within 90 days of the issuance of the Permit will result in an order to mow and/or clear and will nullify the Permit. The applicant will not be permitted to reapply for a Permit for Reforestation for the same property within six months of the date of the issuance of the original Permit.

SEC 5.44 RELIGIOUS INSTITUTION – UPTOWN DISTRICT

Churches and Religious Institutions within the Uptown District are not permitted within storefront commercial buildings originally designed for mercantile or business.

SEC 5.45 SELF-SERVICE STORAGE UNITS

- A. Storage unit doors may not front a public street.
- B. An office is required on-site.

SEC 5.46 SPECIAL EVENT AND TEMPORARY USE REGULATIONS FOR ALL DISTRICTS

5.46.1 DESCRIPTION. A special event is the temporary use (solely or partially) of a privately-owned occupied or vacant lot or building for a use or occupancy that is not approved or

operating under a Certificate of Occupancy for that location, and/or the temporary use of any portion of public right-of-way including a public street or sidewalk for a use other than normal. Elements of the temporary use often change the site character for the duration of the special event and may affect the ability of the site to comply with the design standards or district regulations under which it was originally approved. Examples of special events include, but are not limited to:

- A. A business holding a special tent sale for merchandise typically sold within the principal building;
- B. A business leasing out a parking lot during a one-day community event for non-profit agencies to set-up individual booths for fundraising activities;
- C. A restaurant having a band and/or dancing event outdoors different than normal food service operations for permitted outdoor dining;
- D. A business holding a customer appreciation event, seasonal or other type of promotion with outdoor food vendors (truck/trailer/pushcart/booth), demonstrations, activities, children's rides, and the like;
- E. A non-profit agency holding an outdoor fundraiser;
- F. A charitable or organized walk, run, or bicycle race that includes a registration process;
- G. A block party;
- H. A parade;
- I. A public protest held outdoors;
- J. A vigil held outdoors;
- K. The leasing of a vacant lot or part of a parking lot for a temporary seasonal use such as Christmas tree sales or Fourth of July fireworks sales;
- L. The leasing of a vacant lot or part of a parking lot for a temporary seasonal farmer's stand;
- M. Outdoor sales unrelated to the principal use in a private parking lot on the day of the Lexington Barbecue Festival;
- N. The Lexington Barbecue Festival;
- O. Christmas Open House, Summer Strolls, and other similar events held by Uptown Lexington, Inc.
- P. A mobile contractor's office and related equipment shed or container(s) are permitted in any district for the period covering the construction activities, for a period not to exceed one year. Temporary office and related structure(s) must be placed on the property where the construction activities are taking place.
- Q. An established business, not-for-profit, or religious organization that is relocating or expanding may use all or part of existing building(s), property and its appurtenances in business and industrial districts for the time period covering the related relocation and/or construction activity period, for a period not to exceed one year. Existing building(s) may require building improvements to meet NC Building Codes for specific types of occupancy.

5.46.2 PROHIBITED SPECIAL EVENTS AND TEMPORARY USES. Unless otherwise expressly permitted, the following special events and/or uses are prohibited:

- A. Outdoor flea markets;
- B. For-profit vendors selling merchandise/food/beverage from parking lots, vacant lots, unoccupied businesses, or other private property where a business has not received a

Special Event Permit, except that on the day of the Barbecue Festival or BBQ Capital Cook-off, property owners may be issued individual Special Event Permits for non-food / non-beverage sales in accordance with Special Event Regulations contained herein; or may be issued individual Special Event Permits for food/beverage sales that are located a minimum of one-quarter (1/4) mile from the boundary of the event as shown or described on the Special Event Permit.

- C. Any sales or activity deemed by the City to be in conflict with a previously approved special event due to the potential for increased liability and/or public safety risk;
- D. Yard sales at or in non-residential buildings or on vacant lots; and
- E. More than one yard sale at a residence within a three consecutive month time period.

5.46.3 MINIMUM REQUIREMENTS

- A. All tables, structures, tents, signs, activities, etc. shall be setback a minimum of ten feet from front, side, and rear property lines.
- B. Music may not be played outdoors between the hours of 11:00 p.m. and 6:00 a.m.
- C. For any use of public property or City-owned property, applicants shall obtain an insurance certificate for \$1 million general liability with the City assigned as additional insured. Said certificate must be approved by the City of Lexington Risk and Safety Manager. Additional insurance may be required in conjunction with alcohol sales on private property.
- D. For public safety and crowd control, applicants may be required to hire off-duty police officers by contacting the Lexington Police Department. The Chief of Police or his designee will determine the number of officers necessary.
- E. Adequate public restrooms and/or portable toilets shall be available on site. The Administrator will determine the number of portable toilets necessary based upon the projected number of attendees.
- F. All vendors preparing or serving food must be approved by the Davidson County Health Department.
- G. Any propane tanks must be secured and strapped to a table or other structures that prevent the tank from moving. Tanks are not permitted to set directly on the ground without being secured.
- H. There shall be an adequate number of 2A 10 BC fire extinguisher(s) on hand through the entirety of the event, including during set-up. The number required will be determined by the City Fire Chief or his designee.
- I. Water is not provided by the City unless approved by the City Manager or his designee.
- J. Electricity is not provided by the City unless approved by the City Manager or his designee. Applicants may request a temporary electrical service to be located on-site by contacting the electric provider. Normal charges will apply.
- K. All electrical cords must be secured in such a way as to not cause tripping hazards.
- L. Applicants shall arrange for trash collection and disposal for all public and private property affected by the event. Trash left on private lots, the City streets, and sidewalks from the event, if removed by the City, may require reimbursement from the applicants. Contact the City of Lexington Sanitation Department regarding trash collection and disposal.
- M. The applicant must receive prior approval for the closing of streets or sidewalks from the Police Chief, City Manager, or their designee. If the proposal is to close a street

under the jurisdiction of the North Carolina Department of Transportation (DOT) for more than two hours, approval may be required by City Council at the discretion of the Police Chief, City Manager, or their designee. The applicant shall provide to the City the written consent of any property or business owner that would be directly affected by any proposed street or alley closing associated with the special event. The applicant shall coordinate barricading closed streets with the City of Lexington Street Department.

5.46.4 APPROVAL OF SPECIAL EVENTS WITHIN THE MUNICIPAL SERVICE TAX DISTRICT. Special events within the Uptown Zoning District will be reviewed and recommended by the Uptown Lexington Special Event Review Committee.

5.46.5 EXEMPTIONS. The following special events and temporary uses are exempt from requiring administrative approval:

- A. Churches holding outdoor events on the church's property;
- B. Schools holding outdoor events on the school's property;
- C. Events held at commercial establishments initially designed and approved for outdoor events;
- D. Events held at City parks in accordance with the regulations and policies for City parks;
- E. Weddings and receptions held on private property;
- F. Graduations held on private property or school property;
- G. Religious ceremonies at religious institutions;
- H. Parking during and related to nearby approved temporary uses, special events, parades, other community-wide events; and
- I. Up to one yard sale a residence within a three consecutive month time period.

SEC 5.47 STABLE, COMMERCIAL

- A. Minimum tract size for a commercial stable is three acres.
- B. All barns, buildings, and structures related to the care of animals and to the conduct of the stable shall be located at least 100 feet from property boundaries.
- C. Pasture fencing must be located at least 10 feet from any property boundary.
- D. Maximum number of horses is 1 per acre of pasture.
- E. Pastures must be divided to allow for rotation.
- F. Fencing must meet design regulations for Fences and Walls except that electric fence or barbed wire may be used for pasture with a five foot setback from adjoining property lines.

SEC 5.48 STABLE, PRIVATE

- A. Only permitted as an accessory use.
- B. Minimum tract size is two acres including the principal building.
- C. All barns, buildings, and structures related to the care of animals and to the conduct of the stable shall be located at least 100 feet from property boundaries.
- D. Maximum number of horses is 1 per acre of pasture.
- E. Pastures must be divided to allow for rotation.

- F. Fences shall meet design regulations for Fences and Walls within the applicable district with the exception that electric fence or barbed wire may be used for pasture with a five foot setback from adjoining property lines.

SEC 5.49 SWIMMING POOL

Fences that are not contained within an outer fence and/or screened area shall meet the design standards for Fences and Walls.

SEC 5.50 TEMPORARY HEALTH CARE STRUCTURE

- A. The following terms and definitions shall apply to Temporary Health Care Structures in this section:
 - 1. **ACTIVITIES OF DAILY LIVING.** Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
 - 2. **CAREGIVER.** An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.
 - 3. **FIRST- OR SECOND-DEGREE RELATIVE.** A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.
 - 4. **MENTALLY OR PHYSICALLY IMPAIRED PERSON.** A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.
 - 5. **TEMPORARY FAMILY HEALTH CARE STRUCTURE.** A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143- 139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.
- B. The City will consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any Suburban Neighborhood or Traditional Neighborhood Zoning District on lots zoned for single-family detached dwellings.
- C. The City will consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any Suburban Neighborhood or Traditional Neighborhood Zoning District on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.
- D. Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsections (b) and (c) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures,

except otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

- E. Any person proposing to install a temporary family health care structure shall first obtain a permit from the City and pay a fee in accordance with the adopted fee schedule.
- F. The local government may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The local government may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the City of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation and annual renewal of the doctor's certification.
- G. Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, as if the temporary family health care structure were permanent real property.
- H. No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
- I. Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.
- J. The City may revoke the permit granted pursuant to subsection of this section if the permit holder violates any provision of this section or NCGS 160D. The City may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or NCGS 160D.
- K. Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

SEC 5.51 TIMBERING

A Land Disturbance Permit must be submitted to Administrative Staff and approved prior to the timbering of any area greater than 4,000 square feet.

SEC 5.52 TOWING OFFICE WITH ACCESSORY OUTDOOR STORAGE OF TOWED VEHICLES AND/OR OUTDOOR STORAGE OF VEHICLES IN COMMON OWNERSHIP

- A. There must be an office on-site a minimum of 500 square feet and the office must meet design regulations for Commercial Building.
- B. The storage area shall be gravel, asphalt, or concrete.
- C. Storage of vehicles is prohibited in the front or side yard and shall be enclosed by a wooden shadowbox fence meeting the design regulations for a fence found in Section 4. Fences shall not be chain link, chain link with slats or similar material, and shall not

contain any type of barbed wire, razor wire, or similar material. The fence shall be located a minimum of twenty-five feet from any public street right-of-way and a minimum of ten feet from any adjoining property line.

- D. Excludes storage of junk vehicles, recycling materials, scrap materials, junk, and debris.
- E. Excludes automobile crushing, dismantling, or salvage activities. (Requires a separate permit if accessory use.)
- F. Vehicles may not be stored for more than 30 days.
- G. No more than 5 gallons or one-quarter tank of gasoline, whichever is less, may be in any vehicle being stored.
- H. Only vehicles may be stored on the lot. No carports, storage buildings, or other merchandise may be displayed or stored on the lot.
- I. The perimeter of the storage area shall be landscaped in accordance with the landscaping requirements for a parking lot.
- J. The maximum height for lighting (pole mounted and wall mounted) shall be 20 feet, including the base/mounting fixture. Floodlights are not permitted for parking lot illumination. Lighting shall be directed downward and light spillover minimized with the use of hoods and similar devices. Lighting fixtures that produce glare visible from adjacent property(s) and public rights-of-way are prohibited.
- K. There shall be a minimum of 100 feet between any property used for the storage of towed vehicles and any property zoned: Suburban Neighborhood District; Traditional Neighborhood District; Mixed Use District; or Uptown District.
- L. Access or use of residential streets for transporting cars, car parts, or equipment is prohibited.

SEC 5.53 TRUCKING TERMINAL

- A. The area designated for truck parking shall be located no closer than 40 feet from an abutting street right-of-way. Truck parking areas are not classified as parking lots. Therefore, they are exempt from the parking standards of this ordinance, but subject to the alternative standards below.
- B. The area of truck parking shall be screened from view from the street(s) and from all abutting properties by an opaque landscape screen; wherever security fencing is desired, it shall be placed on the interior side of the screening materials.
- C. The use shall be located on or directly accessible to a major thoroughfare, expressway, or freeway; truck terminals shall not be sited such that residential or City streets are regularly traversed to access the larger capacity road.

SEC 5.54 UTILITY STATION

The exterior of the utility station shall be screened to the extent possible. Gates and areas of access may remain unscreened. Screening shall include a minimum of two staggered rows of medium evergreen shrubs planted 6 feet on center in order to provide continuous coverage. Shrubs shall be a minimum of 3 feet in height at installation.

SEC 5.55 UTILITY PLANT / TREATMENT PLANT

- A. Generation, production, or treatment facilities such as power plants, water and waste water treatment plants, and landfills.

- B. The area of active use will be enclosed by a fence, not easily climbable, at least six feet in height, and the fence shall be located at least 20 feet from the public street right-of-way and 10 feet from abutting property lines; and
- C. A minimum separation of 100 feet, fully vegetated, will be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent possible and supplemented with new plantings as may be required to provide a year-round opaque landscape buffer from abutting properties; and
- D. The site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with a semi-opaque landscape screen with expected height of at least 8 feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall or fence.

SEC 5.56 WINERY

- A. The establishment must hold an unfortified winery permit, as authorized in G.S. 18B-1101, or fortified winery permit, as authorized in G.S. 18B-1102.
- B. An establishment may include accessory uses such as bars, tap rooms, tasting room(s), restaurant, retail, demonstration areas, education and training facilities, or other uses incidental to the winery business.

SEC 5.57 WIRELESS TELECOMMUNICATIONS AND SMALL WIRELESS SUPPORT STRUCTURES AND FACILITIES REVIEW AND APPROVAL

5.57.1 All applications received by the City shall comply with the submittal requirements detailed herein and serve the application requirements provided by the City. All qualifying applications shall be reviewed and deficiencies noted and identified by the City to the applicant within 30 days of submission. Should no feedback be provided within that window, the application will be deemed approved after 45 days. Any deficiencies noted by the City may be addressed and resubmitted by the applicant after 30 days of notification by the City. This resubmission shall be considered to be the same application by the City. Deficiencies that are not present in the initial application and arise following this initial review and resubmission must be addressed through a new application. The City and the applicant do have the authority to mutually agree to an alternate review window for applications.

5.57.2 DENIAL OF PERMIT. The City may deny an application for a permit on the basis that it does not meet the City's applicable codes, local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, City utility poles or reasonable and nondiscriminatory stealth and concealment requirements, including: screening or landscaping for ground-mounted equipment, public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a ROW, or the historic preservation requirements pursuant to G.S. 160D and G.S. 160D-933.

- A. The City shall (1) document the basis for a denial, including the specific code provisions on which the denial was based, and (2) send the documentation to the applicant on or before the day the city denies an application. The applicant may cure the deficiencies identified by the City and resubmit the application within 30 days of the denial without paying an additional application fee. The City shall approve or deny

the revised application within 30 days of the resubmittal date. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

- 5.57.3** Co-location or any other modification of a wireless facility shall be permitted upon an existing wireless support structure or base station that has been deemed a non-conforming use by the City, provided that the co-location or modification(s) are determined to be an eligible facilities request, as detailed herein.
- 5.57.4 REVIEW OF ELIGIBLE FACILITIES REQUESTS.** Notwithstanding any other provision of this Chapter, the City shall approve applications for eligible facilities requests for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, within sixty (60) days according to the procedures established under 47 CFR 1.40001, *Wireless Facility Modifications*.
- 5.57.5** Applicant must obtain all other required permits, authorizations, approvals, agreements, and declarations that may be required for installation, modification, and/or operation of the proposed facility under Federal, State, or local law, rules, and/or regulations. Requirements may include however, not limited to private, local, and State encroachment agreements, and approvals by the Federal Communications Commission (FCC). An approval issued under this section is not in lieu of any other permit required under this Ordinance or Code of Ordinances, nor is it a franchise, license, or other authorization to occupy the public ROW, or a license, lease, or agreement authorizing occupancy of any other public or private property. It does not create a vested right in occupying any particular location, and an applicant may be required to move and remove facilities at its expense consistent with other provisions of applicable law. An approval issued in error that is based upon incomplete or false information provided by an applicant, or any application that conflicts with other requirements within this ordinance, is not valid. No person may maintain a small wireless (small cell) facility in place unless required by State or Federal authorization.
- 5.57.6** The property owner(s) or applicant shall submit a certification letter from a North Carolina certified land surveyor or licensed engineer which verifies that structure height complies with the approved development plan.
- 5.57.7** The applicant or owner of the facility shall maintain on site at all times the contact information for all parties responsible for the maintenance of the facility.
- 5.57.8** No telecommunications facilities shall, whether by individual or collective operation with other facilities, generate radio frequency emissions in excess of the standards established by the Federal Communications Commission.
- 5.57.9** The City may provide written notice to the applicant and/or owner of a small wireless facility of the requirement to relocate any facilities, or an associated utility pole, city utility pole, or wireless support structure upon which they are co-located, in the public right-of-way, to be paid for by the applicant and/or owner, as necessary for maintenance or reconfiguration of the right-of-way for other public projects, or to serve any other needs that serve the health and welfare of the City.
- 5.57.10** Co-location or any other modification of wireless telecommunications facilities or an existing nonconforming wireless support structure or base station shall not be construed as

an expansion, enlargement, or increase in intensity of a non-conforming structure and/or use, provided that the collocation or modification constitute an eligible facilities request.

5.57.11 All wireless telecommunication support structures, facilities and/or appurtenances shall require administrative development approval as part of a legal permitted use, provided they meet the requirements provided herein. A Development Approval granted by the City of Lexington City Council is required if a wireless support structure involves one of the following criteria:

- A. The setbacks required by the underlying zoning must be reduced to accommodate the proposed wireless support structure;
- B. A proposed stealth or non-stealth wireless support structure located within 200 feet from any property located in a residentially-zoned district that is currently used for residential purposes and contains primary structures; or
- C. A proposed antenna extension that meets the definition of a “substantial modification” as defined in Article 2.

5.57.12 PRESENCE OF EXISTING FACILITIES. Applicant shall provide evidence that reasonable efforts have been made to lease or otherwise acquire space on all existing wireless support structure greater than 75 feet in height within a 3,000 feet radius of the proposed new wireless support structure. No new freestanding wireless support structures shall be permitted unless the applicant demonstrates that:

- A. No existing or previously approved wireless support structures can reasonably be used for placement of the new wireless telecommunications equipment rather than constructing the proposed new freestanding wireless support structure;
- B. Residential, historic, and municipal recreational areas cannot be served with an alternative placement of wireless support structure(s); or
- C. The service the applicant wishes to provide necessitates the proposed height or proposed height increase of a substantially changed wireless support structure.

5.57.13 EFFECT OF PERMIT

- A. **AUTHORITY GRANTED.** No property right or other interest created. A permit from the City authorizes an applicant to undertake only certain activities in accordance with this section, and does not create a property right or grant authority to the applicant to impinge or encroach upon the rights of others who may already have an interest in the ROW.
- B. **DURATION.** Collocation of the small wireless facility shall commence within six (6) months of approval and shall be activated no later than one year from the permit issuance date, unless the City and the applicant agree to extend this period or a delay is caused by a lack of commercial power at the site.
- C. **POST CONSTRUCTION.** The applicant must submit as-built drawings in an acceptable digital or GIS format as determined by City staff as soon as reasonably practicable but no later than one hundred twenty (120) days after the completion of the installation and shall submit and maintain current contact information for the party responsible for the wireless facility on a form to be supplied by the City.

5.57.14 APPLICATION AND FEES

- A. PERMITTED USE.** Collocation of a small wireless (small cell) facility or a new or modified utility pole or wireless support structure for the collocation of a small wireless facility that meet the height requirements of N.C.G.S. 160D and 160D-936 shall be classified as permitted uses and subject to an administrative development approval if they are co-located:
1. In a City right of way (ROW) within any zoning district;
 2. Outside of ROW's on property located in non-residential zoning districts; or
 3. Outside of ROW's on vacant property located in residential zoning districts.
- B. PERMIT REQUIRED.** No person shall place any wireless support structure and/or facility without Development Approval.
- C. PERMIT APPLICATION.** All wireless facility applications for permits filed pursuant to this Chapter shall be provided by the City. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "trade secret" by clearly marking each page of such materials accordingly. Trade secret information shall be filed as a separate addendum to permit applications.
- D. APPLICATION REQUIREMENTS.** The wireless telecommunications facility permit application shall be made by the wireless provider or its duly authorized representative and shall contain the following:
1. The applicant's name, address, telephone number, and e-mail address;
 2. The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;
 3. A general description of the proposed work and the purposes and intent of the wireless facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
 4. A site plan, with sufficient detail to show the proposed location of items the applicant seeks to install in the right-of-way, including any above or below-ground manholes, hand holes, cabinets, junction boxes, poles, antennas; the size, type, depth of any conduit or enclosure; screening plan and any other relevant appurtenances;
 5. A wireless facility shall comply with all applicable codes, City utility policies, approved plans, and conditions of approval;
 6. An application must include an attestation that any small wireless facilities will be collocated on a utility pole, City utility pole or wireless support structure and that the small wireless facilities will be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the City and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site. In instances where an applicant seeks to construct a new pole, a statement regarding the infeasibility of collocation on existing structures is required;
 7. Pursuant to N.C.G.S. 160D and 160D-935: An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the City shall be allowed at the applicant's discretion to file a consolidated application for no more than 25 separate facilities and receive a single permit for the collocation of all the

small wireless facilities meeting the requirements of this section. The City may remove small wireless facility collocations from a consolidated application and treat separately, small wireless facility collocations if:

- a. Applicant provides incomplete information or;
 - b. Specific collocations are denied.
 - c. Then, the City may issue a separate permit for each collocation that is approved.
8. The applicant asserts, to the best of the applicant's knowledge, the truth of the information contained in the application.

5.57.15 PERMIT CONDITIONS. A Permit for the collocation of any small wireless facility shall provide that the collocation installation activity must commence within six months of approval and that the small wireless facility shall be activated no later than one year from the permit issuance date, unless the City and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site. In addition, the applicant shall be required to obtain all otherwise applicable work permits including however, not limited to, permits for work that will involve excavation in the ROW, affect traffic patterns or obstruct vehicular traffic in the ROW. In addition, the applicant shall provide proof of adequate insurance coverage, covering damages of the facility itself and all surrounding property before any permits are issued.

5.57.16 ROUTINE MAINTENANCE AND REPLACEMENT. The City shall not require an application or permit or charge fees for (a) routine maintenance; (b) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller. Nothing in this section shall prevent a City from requiring permits for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the City ROW.

5.57.17 INFORMATION UPDATES. Any amendment to information contained in a permit application shall be submitted in writing to the City within thirty (30) days after the change necessitating the amendment.

5.57.18 APPLICATION AND PERMIT FEES. Collocation of Small Wireless Facilities: Pursuant to N.C.G.S. §160D, and as may be amended from time to time, the City Council shall set an application fee for the collocation of small wireless facilities. The City Council shall incorporate such fees into the City's duly adopted fee schedules.

5.57.19 TECHNICAL CONSULTING FEES. Collocation of Small Wireless Facilities: Subject to the limitations provided in N.C.G.S. 160D-935, the City may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities, (ii) the amount charged by the city for permitting of any similar activity, or (iii) one hundred dollars (\$100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars (\$50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection. The City Council shall incorporate such fees into the City's duly adopted fee schedules.

5.57.20 APPLICATION FEES. Construction of New Wireless Support Structures or Substantial Structures Modification of Wireless Support Structures: Pursuant to N.C.G.S. 160D and 160-935, and as may be amended from time to time, the City Council shall set an

application fee, consulting fee or such other fees associated with the submission, review, processing and approval of an application to site a new wireless support structure, or to substantially modify a wireless support structure or wireless facility. The City Council shall incorporate such fees into the City's duly adopted fee schedules.

5.57.21 TECHNICAL CONSULTING FEES. Collocation and Eligible Facility Requests of Wireless Support Structures: The City may impose a fee not to exceed one thousand dollars (\$1,000) for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. The City may engage a third-party consultant for technical consultation and the review of a collocation application. The fee imposed by the City for the review of the application may not be used for either of the following: (1) Travel expenses incurred in a third party review of a collocation application; and (2) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement. The City Council shall incorporate such fees into the City's duly adopted fee schedules.

5.57.22 RIGHT-OF-WAY (ROW) RATES

- A. ANNUAL RATE.** The City may only charge a wireless provider for the use of a City ROW to construct, collocate, install, mount, maintain, modify, operate, or replace a utility pole, wireless facility or wireless support structure if the City charges other communications service providers or publicly, cooperatively or municipally owned utilities for similar uses of the ROW, to the extent allowed under N.C.G.S. 160D. Charges authorized by this section shall meet all of the following requirements:
1. The ROW charge shall not exceed the direct and actual cost of managing the ROW and shall not be based on the wireless provider's revenue or customer counts;
 2. The ROW charge shall not exceed that imposed on the other users of the ROW, including investor, City or cooperatively owned entities; and
 3. The ROW charge shall not be unreasonable, discriminatory, or violate any applicable law.
- B. CEASE PAYMENT.** A wireless provider is authorized to remove its facilities at any time from the City ROW's and cease paying the City compensation for use of the ROW's.

5.57.23 ATTACHMENTS TO CITY UTILITY POLES IN THE ROW

- A.** The City may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on City utility poles, in accordance with N.C.G.S. 160D.
- B. COLLOCATION ON CITY UTILITY POLES.** Pursuant to N.C.G.S. §160D, a wireless provider may collocate to a City utility pole. A request to collocate under this section may be denied only if there is insufficient capacity or space or for reason of safety, reliability and generally applicable engineering principles and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual costs of the City to be reimbursed by the wireless provider. The wireless provider shall comply with all applicable safety requirements including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration. Any collocation to a City utility

pole shall be subject to the terms and conditions of the City's duly approved and adopted Utility Pole Attachment Agreement.

- C. **RATES.** Pursuant to N.C.G.S. §160D, and as may be amended from time to time, the City Council shall set a "rate" for the collocation of a small wireless facility to a City utility pole. The City Council shall incorporate such rates into the City's duly adopted fee schedules.
- D. **MAKE READY WORK.** The City will provide a good faith estimate for any make-ready work necessary to enable the City utility pole to support the requested collocation, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a City utility pole necessary for the City utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety code, that is performed in preparation for a collocation installation.

5.57.24 STANDARDS

- A. **TELECOMMUNICATIONS FACILITIES.** All telecommunications facilities that are not "qualifying small wireless facilities," "qualifying utility poles," and that are not exempted in Section 5.57.29. Non-stealth telecommunications facilities are not permitted to locate on an existing utility pole.
- B. The provisions of these regulation do not permit the placement of telecommunications facilities of any type on privately-owned utility poles or wireless support structures, or upon private property, without meeting the design standards and/or other applicable provisions of this chapter and without the consent of the property owner.
- C. Before any communications tower is approved, a site plan showing location, height of existing and proposed towers(s), structural support wiring, cableing, anchoring and the like, along with proposed accessory structures or equipment, proposed landscaping, screening, points of ingress and egress, and any other features that are proposed or existing shall be submitted and approved.
- D. The applicant must provide documentation that the proposed tower complies with Federal Radio Frequency Emission standards.
- E. All lighting of towers must comply with FAA standards. No lighting shall present a glare to any adjoining properties or into any public right of way or a nuisance to aviation pilots.
- F. No signs or logos of any type shall be allowed on any tower at any time.
- G. Towers shall meet the American National Standards Institute (ANSI) standards and applicable Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations, and comply with all other Federal, State, and local laws and regulations. A structural engineer licensed to work in North Carolina shall certify that the plans for construction and erection or installation of the tower or antenna meet or exceed current safety and design standards of applicable codes.
- H. Support buildings located in any residential zoning district shall not be used as an employment center for any worker. Periodic maintenance and/or monitoring of equipment and/or instruments is not prohibited by this clause.

- I.** The City of Lexington has a preference for telecommunications infrastructure, equipment and/or facility types, and offers the following guidance for telecommunication facilities in the preferred order as follows: Collocations on existing wireless support structures; concealed (stealth) telecommunications facilities on existing buildings and/or structures (especially within the Uptown Zoning District and Local Historic Districts); new concealed (stealth) wireless support structures; non-stealth telecommunications facilities on existing buildings/structures; and new freestanding non-stealth wireless support structures (unipoles).
- J.** Non-stealth wireless communications facilities shall be of the unipole type, lattice and/or guyed towers are not permitted.
- K.** Commercial advertising shall not be allowed on the tower or any of its related facilities. However, an identification wall sign is allowed on any equipment shelter, provided it not exceed 10 percent of the wall area.
- L.** The exterior appearance of all wireless support structures and all associated support structures and buildings shall be compatible with the other buildings in the surrounding area.
- M.** Telecommunication facilities shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations. Telecommunications facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community. Business and Community Development staff shall offer guidance to the applicant and any final color choice shall be at the discretion of the Director or his/her designee.
- N.** Within any National Register or Local Historic Districts, any wireless communications equipment support structures shall be black in color.
- O.** Any telecommunications facilities including those associated with the installation and operation of Optical Distribution Networks (ODN's) located within any National Register or Local Historic Districts including however, not limited to above or below-ground manholes, hand holes, cabinets, junction boxes, poles, antennas, enclosures or other relevant appurtenances shall be blended with the surrounding building material colors to achieve stealth or camouflage to the extent practicable. Earth-toned, non-brilliant colors and finishes (such as black, grey, tan, brown or slate) shall be used to achieve compatibility with surrounding structures in order to respect the existing special character of these districts. Business and Community Development staff shall offer guidance to the applicant and any final color choice shall be at the discretion of the Director or his/her designee.
- P.** Concealed (stealth) wireless support structures shall be designed to complement the physical landscape in which they are intended to be located. Examples of stealth wireless support structure that may be considered complementary include, but are not limited to, faux pine trees, unipoles/slick sticks, bell towers, etc. New stealth wireless support structures shall be configured and located in a manner that shall minimize adverse effects, including visual impacts on the landscape, horizon, and adjacent properties. New freestanding stealth wireless support structures shall be designed to be

compatible with adjacent structures and landscapes with specific design considerations such as architectural designs, scale, color, screening and texture.

- Q.** Non-stealth communications facilities placed on or near existing buildings or structures shall be appropriately camouflaged to blend in with the surroundings, and non-reflective paints and adhesives shall be used.
- R.** Except when located or placed in a paved ROW and/or sidewalk, vegetative screening shall be provided to minimize the negative appearance of any above-ground, at-grade telecommunications facilities such as cabinets, boxes, distribution hubs and/or other equipment. Medium to large shrubs shall be placed at four feet, on center along the perimeter and facing a public street.
- S. TELECOMMUNICATION FACILITIES UP TO 75 FEET IN HEIGHT (STEALTH OR NON-STEALTH):**
 - 1. Tower shall be adequately protected by a non-climbable fence with a lockable, or otherwise secured gate;
 - 2. A landscape area shall be located along the exterior of the fence and shall contain, at a minimum, small trees planted thirty (30) feet on center, and large shrubs planted eight feet on center between the small trees;
 - 3. Equipment storage accessory structures related to the tower cannot exceed 144 square feet gross floor area and shall meet all required setback requirements for an accessory structure.
- T. TELECOMMUNICATION FACILITIES GREATER THAN 75 FEET IN HEIGHT (STEALTH OR NON-STEALTH):**
 - 1. Tower shall be completely surrounded by secure fencing, being a minimum of eight feet in height. This fencing shall be installed around the site and include any parking or accessory structures, and accessory equipment.
 - 2. A landscape area shall be located along the exterior of the fence except the gate. The landscape area shall contain, at a minimum, large trees planted forty (40) feet on center, and large shrubs planted eight feet on center between the trees.
 - 3. The fenced area shall be setback from side, and rear property lines of adjacent properties in the Suburban Neighborhood, Traditional Neighborhood, Mixed Use, or Uptown Districts, an amount equal to 200% the height of the tower. Otherwise the fenced area shall be setback from side and rear property lines an amount equal to 80% of the height of the tower.
 - 4. The front setback for the fenced area shall be equal to 80% of the height of the tower.
 - 5. Tower colors shall blend with surroundings. Towers and accessory structures may not be artificially lighted, except where otherwise required by the FAA, FCC or other Federal or State agencies.
- U.** Wireless support structures shall be constructed to accommodate antenna arrays as follows:

Wireless support structure height	Antenna arrays supported through engineering and construction
>150 ft	6+
121-150 ft	5+
<120 ft	4+

5.57.25 PLACEMENT

- A.** Antenna may be located on existing communication towers, water towers, or other existing utility towers or structures.
- B.** No portion of a telecommunications facility may be placed in the public ROW in a manner that:
 - 1.** Obstructs vehicular, pedestrians, bicycle or access by other modes of transportation;
 - 2.** Obstructs sight lines or visibility for traffic, traffic signage, or signals, including all access for persons with disabilities;
 - 3.** Results in ground-mounted, above-ground equipment cabinets in the public right-of-way associated with the support structure that are 10% larger in height or overall volume than other equipment cabinets in the same area; or
 - 4.** Involves placement of pole-mounted equipment (other than cabling) whose lowest point is lower than eight feet above grade level.
 - 5.** No wireless telecommunications support structure, equipment or facility shall interfere with or impede the safe and orderly flow of pedestrian and vehicular traffic; shall leave clear for pedestrian traffic a continuous area of paved sidewalk at least six (6) feet wide; and shall leave clear for access purposes an area at least three (3) feet wide next to the curb or edge of public streets where parking or standing of vehicles is permitted. No doorway to any building, alleyway or handicap accessibility may be blocked by wireless telecommunications support structures, equipment or facilities.
- C.** If the telecommunications facility is an accessory use or on the same parcel as a principal building, the facilities shall be located within the rear yard.
- D.** Non-stealth telecommunications facilities on existing buildings or structures shall be allowed as a permitted use on land used for any purpose in Business Zoning and Industrial Zoning Districts, and on land used for non-residential purposes in Mixed Use, Suburban Neighborhood, Traditional Neighborhood and Uptown Zoning Districts. Non-stealth telecommunications facilities on existing buildings or structures are prohibited in the public right-of-way.
- E.** Concealed (stealth) antennae shall be allowed as a permitted use in all non-residential zoning districts, and on residentially-zoned land used for non-residential purposes.

5.57.26 SETBACKS

- A.** Stealth wireless support structure must comply with the minimum building setbacks for the zoning district in which they are located. They shall also satisfy the following setback requirements: All residentially-zoned properties containing existing dwelling units shall be minimally separated at its property line from the proposed wireless support structures by a distance equivalent to the wireless support structures' height(s); all existing dwelling units in a non-residential zoning district shall be minimally separated from the proposed wireless support structures by a distance equivalent to the wireless support structures' height(s); all non-residentially-zoned properties shall be minimally separated from the proposed wireless support structures by a distance equivalent to either one-half the wireless support structures' height(s) or the required buffer width for that property, whichever is greater; and all adjacent road right-of-way

boundaries shall be minimally separated from all buildings by a distance equivalent to the proposed wireless support structures' height(s).

- B.** Non-stealth wireless support structure must comply with the minimum building setbacks for the zoning district in which they are located. They shall also satisfy the following setback requirements: The setback distance from existing property lines in all zoning districts for all towers shall be 100 feet, or one foot for every one foot of tower height, whichever is greater, all existing dwelling units in residential and non-residential zoning districts shall be minimally separated from the proposed wireless support structures by the greater of either 200 feet or a distance twice that of the wireless support structures' height(s); and all adjacent road ROW boundaries shall be minimally separated from all buildings by a distance equivalent to the proposed wireless support structures' height(s).

5.57.27 HEIGHT

- A.** If located in the ROW of any public road or street, stealth antennae shall be located on an existing utility pole that does not exceed a height of 35 feet above the immediately local ground area. Regardless of placement relative to a public right-of-way, stealth antennae on an existing utility pole shall not be higher than ten (10) feet above the pole's highest point.
- B.** If located in the ROW of any public road or street, non-stealth antennae shall not exceed a height of 50 feet above the immediately local ground area.
- C.** Stealth and non-stealth telecommunications facilities on existing buildings or structures located outside of the ROW and not on an existing utility pole shall have the following maximum heights, relative to the height of the structure it is mounted upon:

MAXIMUM STRUCTURE HEIGHT	MAXIMUM TOTAL HEIGHT (measured from height of structure including antennae)
150-180 ft	15% of structure height
75-149 ft	25% of structure height
<75 ft	40% of structure height

- D.** The maximum permitted height for freestanding stealth or non-stealth wireless telecommunications support structures shall be 180 feet.
- E.** New Antenna collocated upon wireless support structures may not extend greater than 25 feet beyond the height of the tower.
- F.** The ground-mounted components of all non-stealth and stealth telecommunications facilities near existing buildings or structures shall be located flush to grade whenever possible to avoid inconveniencing the public or creating a potential hazard.
- G.** All structure-mounted telecommunications facilities shall be designed to meet current building standards and wind load requirements.
- H.** The property owner(s) or applicant shall submit a certification letter from a North Carolina certified land surveyor or licensed engineer verifying that the structure's height complies with the approved development plan.

5.57.28 SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY (ROW)

- A. The City may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on City utility poles, in accordance with N.C.G.S. 160A-400.56(a).
- B. MAXIMUM SIZE OF PERMITTED USE.** A wireless provider may collocate small wireless (small cell) facilities along, across, upon, and under any City ROW. Subject to this section, a wireless provider may place, maintain, modify, operate and replace associated utility poles, City utility poles, conduit, cable, and related appurtenances and facilities along, across, upon, and under any City ROW. The placement, maintenance, modification, operation and replacement of utility poles and City utility poles associated with the collocation of small wireless facilities, along, across, upon, and under any City ROW shall be classified as permitted uses and subject to an administrative development approval under Section 2.4 if the wireless provider meets the following requirements:
1. Each new utility pole and each modified or replacement utility pole or City utility pole installed in the ROW shall not exceed 50 feet above ground level;
 2. Each new small wireless facility in the ROW shall not extend more than 10 feet above the utility pole, City utility pole or wireless support structure on which it is collocated.
- C. OTHER REQUIREMENTS.** Any wireless provider that seeks to construct or modify a utility pole, wireless support structure or wireless facility shall be subject to the following requirements:
1. Collocations of small wireless facilities are preferred on existing poles where feasible;
 2. Installations of small wireless facilities are preferred at property lines and street corners where feasible;
 3. Small wireless facilities shall be located such that they do not interfere with, or cause a dangerous condition with, public infrastructure and/or health or safety facilities such as however, not limited to: Electric utility high-voltage lines, fire hydrants, fire stations, police stations, other local government buildings, fire escapes, water valves, gas valves, underground utility vaults, valve housing structure, or any other public health or safety facility. New facilities shall not be installed directly over any water, sewer, gas or reuse main or service line;
 4. New wireless support structures erected for installations of small wireless facilities shall have the same type of material as existing poles in the immediate area. The design provisions in Section 5.57.24 shall apply;
 5. Wireless support structures shall not be lighted or marked by artificial means, except when mounted on an existing light pole or where illumination is specifically required by the Federal Aviation Administration or other Federal, State, or local regulations. Notwithstanding the preceding sentence, the mounting of small wireless facilities on light poles is permitted;
 6. The City may require a wireless provider to repair all damage to a city ROW directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, City utility poles, or utility poles and to return the ROW to its functional equivalence before the damage. If the wireless provider fails to make the repairs

required by the City within a reasonable time after written notice, the City may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The City reserves the right to enforce these provisions according to procedures adopted herein and/or other sections of the City of Lexington's Code of Ordinances in order to recover the costs of the repairs;

7. The City shall have authority to enforce its Local Historic Preservation Standards consistent with grants of authority under State law, the Preservation of Local Zoning Authority under 47 U.S.C. § 332(c) (7), the requirements for facility modifications under 47 U.S.C. § 1455(a), or the National Historic Preservation Act of 1996, 54 U.S.C. § 300101, et seq., as amended, and the regulations, local acts, and City charter provisions adopted to implement those laws; notwithstanding anything herein to the contrary pursuant to N.C.G.S. 160A-400.55(h), the City may maintain an action to recover the cost of the repairs;
8. Within any National Register or Local Historic Districts, small wireless facilities and their associated appurtenances shall be stealth by design using camouflaged finishes, disguised or screened facilities, hidden, and/or blended facilities and equipment with the surrounding environment to the extent practicable. The design provisions in section 5.57.24 shall apply;
9. Any tree disturbing activity within any National Register or Local Historic Districts necessary for the installation or collocation of small wireless facilities shall comply with the City's Historic District Design Standards;
10. No wireless facility may bear any signs or advertising devices other than certifications, warnings, or other information as required by Federal or State law and/or regulation or by this Ordinance;
11. Wireless facility owners shall place company identification markers on support structure, poles and/or facilities reflecting current contact information;
12. New wireless facilities on existing poles shall comply with otherwise applicable rules imposed by the pole owner including, when applicable, the National Electric Safety Code.
13. **UNDERGROUNDING PROVISIONS.** Applicant shall comply with nondiscriminatory undergrounding requirements that prohibit electric utilities, telecommunications or cable providers from installing structures in the public ROW, provided such requirements shall not prohibit the replacement of existing structures.

5.57.29 PERMITTED EXEMPTIONS.

Antenna or similar telecommunications equipment in form and/or function, for government and/or emergency service operations, subject to the following requirements:

- A. A temporary telecommunications facility that: upon the declaration of a state of emergency by Federal, State, or local government, and a written determination of public necessity by City of Lexington designees; except that such facility must comply with all Federal and State requirements and must be removed at the conclusion of the emergency; and
- B. Temporary structures necessary to continue providing service while a wireless support structure or other structure upon which the existing telecommunications facility has been placed (e.g. a water tank) is undergoing maintenance, replacement, or

reconstruction, rendering use of the existing telecommunications facility unusable, excepting that: the temporary facility must be located on site and no taller than the existing wireless support structure or other structure; as for all permanent facilities, the temporary facility must meet the placement and setback requirements detailed herein; the temporary facility must be removed within 60 days of the conclusion of the operation that necessitated its use, or within one year, whichever is shorter, unless the time is administratively extended based upon evidentiary cause provided to the City of Lexington's Business and Community Development Department; or public safety facilities or installations required for public safety on public or private property, including transmitters, repeaters, and remote cameras, so long as the facilities are designed to match the supporting structure.

5.57.30 OPERATIONS AND MAINTENANCE

- A.** All wireless support structures, facilities and related equipment, including, but not limited to: fences, cabinets, poles, support structures and landscaping, shall be maintained in good working conditions over the life of the use. This shall include keeping the structures maintained to the visual standards established at the time of approval. The wireless facility shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than 30 calendar days from the date of notification by the City. In public rights-of-way, damaged or deteriorated components must be corrected within 5 business days of notification.
- B.** All wireless support structures, facilities and related equipment shall be maintained in good working order. A wireless facility that ceases to provide its intended service or falls to disrepair, and is not repaired or removed within 30 calendar days shall be considered abandoned. A wireless services provider may also declare a facility abandoned. Abandoned facilities must be removed within 180 days of declaration either by the owner or the City. After 180 days of abandonment, the City may remove the facility, recovering costs of removal, including legal services costs, from the owner of that facility in accordance with N.C.G.S. 160A-400.54(g).
- C.** The applicant or owner of the wireless telecommunications facility shall maintain on site at all times the contact information for all parties responsible for the maintenance of the facility.
- D.** No telecommunications facilities shall, whether by individual or collective operation with other facilities, generate radio frequency emissions in excess of the standards established by the Federal Communications Commission.
- E.** The City may provide written notice to the applicant and/or owner of a wireless communication facility of the requirement to relocate any facilities located in the public ROW, to be paid for by the applicant and/or owner, as necessary for maintenance or reconfiguration of the ROW for other public projects, or to serve any other needs that serve the health and welfare of the City.
- F.** Equipment, mobile or immobile, not used in direct support of the telecommunications facility, may not be stored or parked on the site unless related to current repairs and/or maintenance activities.

5.57.31 REMOVAL, RELOCATION OR MODIFICATION OF SMALL WIRELESS FACILITIES IN WITHIN THE PUBLIC RIGHT-OF-WAY (ROW)

- A. NOTICE.** Within ninety (90) days following written notice from the City, wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities within the ROW whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the ROW's.
- B. EMERGENCY REMOVAL OR RELOCATION OF FACILITIES.** The City reserves the right and privilege to cut or move any small wireless facility located within the ROW's of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the wireless provider and provide the wireless provider an opportunity to move its own facilities prior to cutting or removing a facility and shall notify the wireless provider after cutting or removing a small wireless facility.
- C. ABANDONMENT OF FACILITIES.** The City may require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the City may cause such wireless facility to be removed and may recover the actual cost of such removal from the wireless services provider. A wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates in any way that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to be used unless the wireless services provider gives the City reasonable evidence that it is diligently working to place such wireless facility back in service.
- D. LIABILITY.** Applicant hereby assumes all risk for liability for damages that may occur to persons or property on account of the proposed work, whether completed by applicant or applicant's agent or contractor completing, installing, or maintaining the work on applicant's behalf. Applicant shall procure and maintain liability insurance to protect the City from liability and damages on account of injuries to workers, as provided by law, and to protect the City from liability and damages occasioned by the proposed work.
- E.** Applicant shall procure and maintain in continuous effect, during the pendency of the encroachment, "Certificates of Insurance" or other satisfactory evidence to show applicant carries:
- 1.** Commercial General Liability insurance and Commercial Automobile Liability insurance covering the city against claims, injury or damage to persons or property, both real and personal, caused by the proposed work, in amounts of One Million U.S. Dollars (\$1,000,000.00) per occurrence (combined single limit), including bodily injury and property damage, and Two Million U.S. Dollars (\$2,000,000.00) annual aggregate, and Two Million U.S. Dollars (\$2,000,000.00) foreach personal injury liability; and
 - 2.** Statutory workers' compensation and employer's liability insurance of One Million U.S. Dollars (\$1,000,000.00) per accident / per disease, per employee / per disease, policy limits;

3. All required liability insurance coverages shall include the City as an additional insured. Applicant shall notify the city at least thirty (30) days in advance of any cancellation of any required insurance that is not replaced;
 4. Applicant shall procure proof that all contractors and all of their subcontractors who perform work on behalf of applicant hereunder shall carry and maintain, in full force and effect, during any period of work in the ROW's, workers' compensation and employers' liability, commercial general liability and automobile liability insurance coverages of the type that applicant is required to obtain under this Section 5.57.31 with the same limits;
 5. Applicant may self-insure any required coverage as long as it or its affiliated parent maintains a net worth of at least \$200 million as evidenced in annual certified financials.
- F. INDEMNIFICATION.** Applicant shall defend, indemnify, and hold harmless the City, its Council, boards, commissions, officials, officers, agents, volunteers, and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses, including court costs and reasonable attorney's fees resulting from the alleged acts or omissions of permittee, Applicant's officers, agents, or employees in connection with the permitted work. This indemnity provision shall be applicable regardless of the merit or outcome of such claim or suit. The indemnification set forth in this subsection shall commence upon the issuance of a permit to applicant.

ARTICLE 6. SIGN REGULATIONS

SEC 6.1 DESCRIPTION

A sign is any object, device, structure, or part thereof, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, characters, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or of any fraternal, religious or civic organization; works of art which in no way identify a product; or scoreboards located on athletic fields.

SEC 6.2 COMPLIANCE – NON-CONFORMING SIGNS

Existing non-conforming signage may be replaced with new signage that results in bringing the overall site more into compliance with this ordinance in terms of the number of signs, size, placement, or type; however, replacing only the sign face of an existing non-conforming building, freestanding, group development, high-rise or projecting sign where there is no increase in sign area, does not invoke this requirement for moving toward compliance.

SEC 6.3 COMPLIANCE WITH LOCAL HISTORIC DISTRICT OVERLAY AND LANDMARKS

Signs within a local historic district overlay or on a local historic landmark property shall comply with local historic district overlay and landmark requirements of this Ordinance, as applicable.

SEC 6.4 EXEMPT SIGNS

- 6.4.1** Signs within this section qualify as “exempt” from the requirements of this Ordinance due to one or more of the following factors that promote a compelling governmental interest:
- A.** The sign aids in the safe and efficient vehicular and pedestrian movement, circulation, and wayfinding;
 - B.** The sign enables a governmental entity to perform public service, outreach, or event information and fulfill other governmental responsibilities;
 - C.** The sign aids a community enhancement program or recognition of cultural or historical aspects of the community;
 - D.** The sign provides recognition of civic points of interest;
 - E.** The sign provides minimal to no visual impact to persons off-site; or
 - F.** The sign fulfills requirements of other codes or statutes.
- 6.4.2 TYPES OF EXEMPT SIGNS.** Unless otherwise specified, the following signs are exempt from the requirements of this Ordinance and are allowed, without a sign permit, in addition to other regulated temporary and permanent signs. However, such signs shall remain in good repair and not be dilapidated or damaged, and shall not create a hazard to pedestrians, cyclists, or motorists. Exempt signs may have requirements found within other sections of this Ordinance; or other local, state, or federal rules, codes, or statutes.
- A. SIGNS NOT LEGIBLE.** Signs not legible from a public right-of-way or adjacent property shall be exempt from this Ordinance.
 - B. GOVERNMENT SIGN.** Types of Government signs:

1. Identification and directional signs erected by, or on behalf of, a governmental entity/agency, including but not limited to, municipal boundaries, city and county points and places of interest, or civic institutions within the city or county;
 2. Signs supported or sponsored by a governmental entity for community enhancement and historic recognition, including but not limited to historic or memorial markers, and officially designated historic landmark signs;
 3. Government-sponsored announcements or events; and
 4. Other signs required, or specifically allowed, by a federal, state, or local law including but not limited to public hearing postings, tree protection notices; fence wrap signage for construction sites per NCGS 160A-381(i) and 153A-340(n), as amended; and riparian buffer signs.
- C. SAFETY OR WARNING SIGN.** A permanent or temporary sign that solely provides warnings, or control the movement or direction of vehicular and pedestrian traffic to solely facilitate safe pedestrian or vehicular circulation. Such signs, as applicable, shall meet FHWA Manual or Uniform Traffic Control Devices standards. Types of Safety Signs:
1. Street name, address, and other similar traffic control and circulation signs;
 2. Construction and general warning signs, and general safety-related signs.

SEC 6.5 ADMINISTRATIVE DEVELOPMENT APPROVAL REQUIRED

Although all signs shall comply with the regulations contained herein, not all signs require a Development Approval. All prohibited signs, non-conforming signs, and illegal signs shall be removed from a site prior to issuance of a Development Approval for new signage. An Administrative Development Approval (sign permit) is required for the erection, painting, installation, or application of the following types of signs:

- A. Building Sign
- B. Ground Mounted Sign
- C. High-Rise Sign
- D. Marquee
- E. Projecting Sign
- F. Community Sign
- G. Signs that would otherwise require an electrical permit
- H. Temporary Sign Temporary banners for special announcements, promotions, or events

SEC 6.6 COMMERCIAL AND NON-COMMERCIAL MESSAGE

Non-commercial message. Whenever the ordinance permits a commercial sign, a non-commercial message may be substituted for the commercial message. The right to substitute the non-commercial message does not waive any other requirement imposed by the UDO as to the number, size, type, construction, location, lighting, safety, or other regulated attribute. For the purpose of this Section, the following definitions shall apply:

- A. SIGN, COMMERCIAL MESSAGE.** A sign that conveys a message of a commercial nature including commercial activity, content, commodity, service, entertainment, product, transaction, use, or advertising for any business.
- B. SIGN, NON-COMMERCIAL MESSAGE.** A sign which has no commercial content, but instead involves only the expression of ideals opinions, or beliefs.

SEC 6.7 CALCULATION METHODS

The following calculation methods will be used to determine the permitted size and number of signs:

- A. BUILDING WIDTH.** A measurement of the width of the face of a building extending parallel or near parallel to, and fronting directly upon a public street. Additional square footage will not be added for awnings, canopies, or the sidewalls of recesses that are not parallel or near parallel (less than a 45-degree angle) to the front plane of the buildings, etc. Calculations will be based only on the side(s) of a building fronting directly upon a public street. If a building side is at more than a 45-degree angle against the street, then it will not be considered as fronting that street. If the building has no direct public street frontage, then the Administrative Staff may declare the frontage based on private streets, access easements, or visual frontage. This measurement shall be used to calculate allowable size of building signs.
- B. WINDOWS AND DOORS.** Window area for each side of a building shall be the cumulative amount of measurements in square footage of all glass windows, excluding the frame, located on that side of the building. Door area shall be a measurement of one side of the door, excluding the frame.
- C. SIGN SIZE (COPY AREA).**

 - 1. Individual lettering: White, tan, black or brown individual lettering that contains no other graphic or logo is measured and regulated based on the height of the letters. Up to one letter in each word may extend up by half the maximum permitted height of the other letters for capitalization or emphasis.
 - 2. Individual lettering with graphic or logo or individual lettering a color other than white, tan, black, or brown will be calculated based on area. The area shall be measured by a single box for the entire sign area including all words, logos, and graphics. If the signage will be divided into separate and distinct signs, a box may be drawn around each of the signs individually and all boxes shall be measured and added for a cumulative amount.
 - 3. Backlit Panel / Internally Illuminated: The entire area that is back-lit, regardless of the color, will count toward the size calculation.
- D. SIGN HEIGHT.** The height of a sign will be measured from the ground, extending to the highest point on the support structure including any decorative portions of the structure.
- E. SUPPORT STRUCTURE.** The structure, support, or frame for the copy area will not count in the size calculation, but may contain no additional copy, or back-lighting. The highest point of the support structure will be used to determine the height of the sign. The support structure may not contain patterns, pictures, or other copy that independently function as signage.
- F. SEPARATION.** Minimum required separation shall be measured in a direct line from one sign to the other. The electronic posting of fuel prices, where no other electronic changeable copy is included on the sign, shall not be considered as electronic changeable copy for the purposes of required minimum separation.

SEC 6.8 PROHIBITED SIGNS – ALL DISTRICTS

The following sign types are hereby defined, established, and prohibited in all districts, except when otherwise expressly permitted in this Ordinance:

- A. **ABANDONED SIGN.** A sign on an occupied site that is relative to a former occupant, with the exception of Historic Signs.
- B. **AWNING SIGN, VERTICAL.** A sign that is attached to an awning and extends above the awning in a vertical or near vertical direction. (As opposed to signage painted directly onto an awning surface.)
- C. **BALCONY SIGN.** A sign attached to, located on, painted on, or applied to a balcony.
- D. **BANNERS.** A sign intended to be hung, with message or symbol applied to plastic or fabric of any kind, but excluding flags or emblems of any nation, organization of nations, state, city, or any fraternal, religious, or civic organization. Excludes lamppost arm banners. (See Section 6.11 for Temporary Banners.)
- E. **BILLBOARD SIGN.** An off-premises advertising sign that is affixed to the ground or to a building, the primary purpose of which is to display advertising where the copy or poster on the sign can be changed frequently and the advertising space is for lease.
- F. **BLINKING / FLASHING SIGN.** A sign that uses an intermittent, blinking, or flashing light source to attract attention. Signs that light and unlight individual letters or portions of the signs at intervals. Signs that electronically and intermittently change messages at intervals and/or scroll copy. Exception: electronic changeable copy signs that are otherwise specifically permitted within this section.
- G. **CANOPY SIGN.** A sign attached to, located on, painted on, or applied to a canopy detached from or extending from the principal building, except that canopies over gas pumps and the like may contain signage as contained within Section 6.10, Business District and Industrial District Sign Regulations.
- H. **CHIMNEY SIGN.** A sign attached to, located on, painted on, or applied to a chimney.
- I. **DECORATIVE FLAGS.** Flags other than national, state, municipal, or religious, that are used for decoration or to attract attention, whether or not the flag contains copy or a logo.
- J. **DILAPIDATED SIGNS.** A sign in disrepair.
- K. **MERCHANDISE SIGN.** A sign that is legible from public right-of-way that is applied directly to outdoor merchandise such as carports, storage buildings, cars, etc.
- L. **MOVING SIGNS.** A sign that uses movement to attract attention.
- M. **NEON OUTLINING.** The use of neon tubing to outline windows, doors, or other features of a building.
- N. **OFF-PREMISE SIGNS.** A sign that directs attention to a business, commodity, or service, conducted, sold, or offered at a location other than the premises on which the sign is erected. (Excludes sidewalk signs.) Except that religious institutions may obtain a permit for one off-premise directional sign in accordance with the following:
 - 1. The sign shall be out of the public right-of-way.
 - 2. The sign shall be located at a nearby thoroughfare.
 - 3. Maximum height is four feet.
 - 4. Maximum size is six square feet.
 - 5. Spot lighting is permitted, and back lighting / internal lighting is prohibited.
 - 6. Changeable copy is prohibited.

- O. PORTABLE SIGNS.** A sign not permanently attached to the ground, a structure, or a building, and which can easily be removed. (Excludes sidewalk signs as otherwise expressly permitted within this section.)
- P. RIGHT-OF-WAY SIGN.** A sign not erected by a public authority and located within the public right-of-way, or within utility easements, whether the sign be located on utility poles, lamp posts, in the ground, or otherwise. (Excludes sidewalk signs as otherwise expressly permitted within this section.)
- Q. ROOF SIGNS.** A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.
- R. STREAMERS.** A series of attached shapes, especially flags or pennants, that is attached to buildings, structures, features, or merchandise and that moves with wind.
- S. VEHICULAR SIGN.** A sign applied to a parked vehicle or trailer that is legible from the public right-of-way where the primary purpose of the vehicle is stationary advertisement. For the purposes of this ordinance, vehicular signs will not include business logos, identification, or advertising on vehicles primarily used for other business purposes as evidenced by the fact that the vehicle is typically moved on a daily basis.
- T. WINDSOCK.** A sign or decorative figure, or character that is inflated with air and moves with wind to attract attention to a site.

SEC 6.9 PERMITTED SIGN TYPES ESTABLISHED

The following Sign Types are hereby defined, established, and permitted in accordance with the tables of regulations by building type and use that follow:

- A. BUILDING SIGN.** (1) Any sign painted on, directly attached to, or displayed on an exterior wall of a building in a manner parallel with the wall surface, and (2) any sign painted or printed on an awning. Building signage includes projection signs where allowed and changeable copy at percentages allowed.
- B. ELECTRONIC CHANGEABLE COPY SIGN.** Also referred to as electronic message boards/panels. Signs that electronically display changing or moving messages, symbols, or scenes. Includes LED signs. May be applied as a ground-mounted sign, a building sign, or projection sign. All electronic changeable copy signs are considered back-lit.
- C. COMMUNITY SIGN.** A sign identifying the name of a platted subdivision, apartment complex, townhomes with more than one building, residential neighborhood, or residential community. Not a group development sign.
- D. GROUND MOUNTED SIGN FOR FREESTANDING COMMERCIAL BUILDING.** A self-supporting sign that extends from the ground in either a solid monument style or pole style.
- E. GROUND MOUNTED SIGN FOR GROUP DEVELOPMENT.** A sign that combines identification for the overall development with identification for each of the multiple entities within the group development into one freestanding sign. Examples include shopping centers, mixed-use buildings, business centers, campus settings, and complexes. Not a community sign.
- F. HIGH-RISE SIGN.** An on-premise, large-scale freestanding sign used to attract the attention of motorists traveling along Interstates and Business 85/HWY 29 for properties with direct frontage on Interstates and Business 85/HWY 29 right-of-way.

- G. MANUAL CHANGEABLE COPY SIGN.** A sign that provides tracks for letters, numbers, and symbols so that copy may be changed manually. May be applied as ground mounted sign or a building sign, but not as a projection sign.
- H. MARQUEE.** The sign area of an establishment that feature constantly changing venues such as a theater, movie theater, coliseum, sports facility, etc., where games or showings are displayed and changed frequently. Traditionally marquees were applied as a canopy with an exterior of changeable copy, but more modern applications of marquees are more in the nature of a building sign and utilize manual or electronic changeable copy.
- I. MENU.** The regular menu of a restaurant posted in a window or on the outside wall of a building in order to allow patrons to preview the menu choices.
- J. PROJECTION SIGNS.** A type of building sign in which the greater square footage area is not parallel and is perpendicular or near perpendicular to the wall of the building. Projection signs are larger in scale than shingle signs and are typically not placed beneath an awning and are meant to target vehicular traffic.
- K. SIDEWALK SIGN.** A sign designed to post daily specials and other advertising messages, targeting pedestrians along a sidewalk for a business immediately adjacent to the portion of the sidewalk being used to display the sidewalk sign.
- L. SHINGLE SIGN.** A sign in which the greater square footage area is not parallel, but is perpendicular or near perpendicular to the wall of the building, and is located beneath an awning or canopy targeting pedestrian traffic.
- M. WINDOW / DOOR SIGN.** Any sign that is painted on, attached to, or suspended behind or in front of a window or door which is intended for viewing from the exterior of the building and/or clearly legible from public right-of-way.

SEC 6.10 SIGN REGULATIONS BY ZONING DISTRICT, BUILDING TYPE, USE

Suburban Neighborhood & Traditional Neighborhood District

- A) Signs shall be made of painted wood or metal, or other material similar in appearance and durability approved by the Administrator. Flat signs shall be framed with raised edges. Wood signs shall use only high-quality exterior grade wood with suitable grade finishes. The finish shall be dull or matte in order to reduce glare and enhance legibility.
- B) Sign colors, materials, and details shall be compatible with the building, as well as with other signs used on the building or its vicinity.
- C) Building signs shall fit within the existing façade features, shall be confined to signable areas, and shall not interfere with door and window openings, conceal architectural details or obscure the composition of the facade where they are located.
- D) Whenever possible, building signs within the same blockface shall be placed at the same height, in order to create a unified sign band.
- E) Spot-lighting shall require shielding of light source.
- F) Signs shall be mounted so that the method of installation is concealed. Signs applied to masonry surfaces on buildings shall be mechanically fastened to mortar joints, and not directly into brick or stone. Drilling to provide electrical service shall also follow the same rule.
- G) Window / Door signs shall be directly affixed to or painted onto the glass. Suspension of internally-lit signs is prohibited.

One and up to four-family Dwelling(s)

<i>Building Sign</i>		<i>Permitted Signs and Regulations</i>	
Maximum Number		1 (not permitted in conjunction with ground-mounted sign).	
Maximum Size		4 (four) square feet.	
Illumination		Spot-lighting permitted. Internal lighting prohibited.	
Changeable Copy		Prohibited.	
<i>Ground-Mounted Sign</i>		<i>Permitted Signs and Regulations</i>	
Maximum Number		1 (not permitted in conjunction with building sign).	
Maximum Size		4 (four) square feet.	
Maximum Height		4 (four) feet.	
Placement		Placing sign(s) in public street right-of-way(s) prohibited. Placement of sign(s) shall not interfere with vehicular sight-distance at street intersections.	
Illumination		Spot-lighting permitted. Internal lighting prohibited.	
Changeable Copy		Prohibited.	
Maximum Number		1 (one).	

Suburban Neighborhood & Traditional Neighborhood District	
Commercial Building	
<i>Building Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	Not Applicable.
Maximum Size	1 (one) square foot of signage is permitted for each 1 (one) linear foot of building width that fronts upon a public street, with a maximum of 100 square feet on any one side.
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.
Placement	Allowed square footage may be applied to other sides of the building for maximum visibility, but may not be increased or combined to exceed 100 square feet on any one side. Building signage shall not be divided into more than two separate signs on any one side of a building except in the case of group development.
Changeable Copy	<p>(1) Up to 50% of copy area.</p> <p>(2) Not permitted in conjunction with changeable copy ground-mounted sign.</p> <p>(3) Not permitted in Group Development.</p> <p>(4) May be either manual or electronic changeable copy. However, the following requirements shall apply to electronic changeable copy building signs:</p> <p>a) Electronic changeable copy is limited to a maximum of one change per 30 second period. No scrolling, blinking, flashing permitted.</p> <p>b) Electronic changeable copy requires a minimum separation of 200 feet from any other electronic changeable copy sign.</p> <p>c) Maximum of one electronic changeable copy panel permitted per side.</p> <p>d) Electronic changeable copy requires a minimum separation of 100 feet from a residential dwelling. (exception: see (f) below)</p> <p>e) The face of such sign shall not face directly into a residential dwelling if located within 200 feet. (exception: see (f) below)</p> <p>f) If light from the sign is shielded in such a way as to not directly illuminate any residential units with masonry, evergreen vegetation, or other method approved by administrative staff, then the distance limits of (d.) and (e.) above may be varied.</p>

Suburban Neighborhood & Traditional Neighborhood District

Commercial Building (Continued)

<i>Ground-Mounted Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (one) per street front with a minimum separation of 100 feet.
Maximum Size	32 (thirty-two) square feet.
Maximum Height	8 (eight) feet.
Placement	Placing sign(s) in public street right-of-way(s) prohibited. Placement of sign(s) Shall not interfere with vehicular site-distance at street intersections.
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.
Changeable Copy	Up to 50% of copy area may be manual changeable copy. Electronic changeable copy prohibited.
Maximum Number	1 (one) per street front with a minimum separation of 100 feet.
<i>Window/Door Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Size	<p>1) Up to 10% of the window area and up to 10% of the glass portion of a door area on any side of a principal building fronting a public street.</p> <p>2) Window and door signs on any one side of a building totaling more than 16 (sixteen) square feet will be considered as, and calculated into, the permissible amount of building signage.</p>
Placement	Allowed square footage may be applied to other sides of the building for maximum visibility, but may not be combined.
Changeable Copy	Prohibited.

Mixed Use & Uptown District

The following Design Regulations shall apply:

Three types of signage are used to attract and direct patrons within the Uptown District and Mixed Use District: building signs or sometimes projection signs allow a person driving along the street to easily find the building by a glance without much effort or distraction from driving, smaller creative projecting or “shingle” signs placed between 7 and 8 feet above the sidewalk serve to attract the attention of pedestrians and direct them to the specific store location, and window signs invite customers into the store upon reaching the location. In addition, multi-tenant direction signs may be necessary to give specific directions concerning the locations of businesses without doors fronting the sidewalk. Each of these types of signs has an appropriate size and scale to guide the customer at any point along the trip. A sign that is out of scale will detract from the business and not assist the potential customer with finding the location. Increasing the level of simplicity relative to size improves readability of larger (building) signs, thus greatly improves effectiveness. Small scale window signs can become more complex without obscuring the openness of the business, as the customer is more at leisure to absorb additional information while standing outside of the business.

Most Uptown buildings were built with a space, commonly a recessed or obvious sign “frame” located between the first and second level, specifically for the placement of a building sign. The eye naturally falls to this central area of a building and simple lettering in this designated space is visible and much easier to quickly read from a passing vehicle. Often this designated space remains blank, while ill-fitting, complicated signage is applied elsewhere on the building. Back-lit plastic illustrated color panels are in conflict with the historic environment and detract from the shopping experience sought in Uptown. Highlighting the architecture of the building through appropriate placement of signage gains positive attraction for the business and unites the Uptown area as a shopping and dining destination. Occasionally, a creative yet simple projection sign will serve the same purpose, but only if it is not in competition with too many other existing projection signs, trees, or architectural features.

- 1) Building signs on buildings with two or more stories shall be located between the first and second level, centered over the storefront or business opening. Building signs shall fit within the existing façade features, shall be confined to signable areas, and shall not interfere with door and window openings, conceal architectural details or obscure the composition of the facade where they are located.
- 2) Building signs on one-story buildings shall be centered horizontally and vertically between the top of the building and the awning or door or center of the building.
- 3) Whenever possible, building signs within the same blockface shall be placed at the same height, in order to create a unified sign band.
- 4) Plastic back-lit illustrated panels are prohibited (excludes individual separate back-lit letters)
- 5) Signs shall be made of painted wood or metal, or other material similar in appearance approved by the Administrator. Flat signs shall be framed with raised edges. Wood signs shall use only high- quality exterior grade wood with suitable grade finishes. The finish shall be dull or matte in order to reduces glare and enhance legibility. (excludes individual separate back-lit letters)
- 6) Sign colors, materials, and details shall be compatible with the building, as well as with other signs used on the building or its vicinity.
- 7) Spot-lighting shall require shielding of light source.
- 8) Warm fluorescent bulbs may be used to illuminate the interior of display cases. The outlining of building features in Neon tubing is prohibited.

Signs shall be mounted so that the method of installation is concealed. Signs applied to masonry surfaces shall be mechanically fastened to mortar joints, and not directly into brick or stone. Drilling to provide electrical service shall also follow the same rule.

Mixed Use & Uptown District	
One and up to four-family Dwelling(s)	
<i>Building Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (not permitted in conjunction with ground-mounted sign).
Maximum Size	4 (four) square feet.
Illumination	Spot-lighting permitted. Internal lighting prohibited.
Changeable Copy	Prohibited.
<i>Ground-Mounted Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (not permitted in conjunction with building sign).
Maximum Size	4 (four) square feet.
Maximum Height	4 (four) feet.
Placement	Placing sign(s) in public street right-of-way(s) prohibited. Placement of sign(s) Shall not interfere with vehicular site-distance at street intersections.
Illumination	Spot-lighting permitted. Internal lighting prohibited.
Changeable Copy	Prohibited.
Commercial Building	
<i>Building Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	No more than 3 (three) sign areas on any side of a freestanding commercial building.
Maximum Size	1 (one) square foot of signage is permitted for each 1 (one) linear foot of building width that fronts upon a public street, OR Individual lettering may exceed maximum permitted square footage in accordance with the following: <ul style="list-style-type: none"> 1) Shall not contain any additional logo(s) or graphics, only the lettering spelling the name of the business or initials of the business. 2) Space(s) between lettering shall be no greater than half the average width of the individual letters. 3) Individual lettering shall be white, tan, black, or brown. 4) Maximum height is 24 inches. 5) No more than one letter in each word may be 1 and 1/2 times the maximum permitted height.

Mixed Use & Uptown District	
Commercial Building (Continued)	
Placement	Allowed square footage may be applied to other sides of the building for maximum visibility, but may not be combined.
Illumination	Spot-lighting permitted. Back-lighting prohibited (except for individual lettering). Neon prohibited.
Changeable Copy	Prohibited.
Projection	Permitted. Lowest point of sign must be a minimum of 7 (seven) feet above ground level.
<i>Ground-Mounted Sign for Freestanding Commercial Buildings</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (one) permitted per street front with a minimum separation of 50 (fifty) feet between any other ground-mounted sign for the same business or on the same parcel.
Maximum Size	32 (thirty-two) square feet per sign.
Maximum Height	8 (eight) feet.
Placement	Placing sign(s) in public street right-of-way(s) prohibited. Placement of sign(s) shall not interfere with vehicular sight-distance at street intersections.
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.
Changeable Copy	Up to 50% of copy area may be manual changeable copy. Electronic changeable copy prohibited except for the electronic posting of automotive fuel prices.
Additional	Not permitted in conjunction with a Ground-Mounted sign for group development.
<i>Ground-Mounted Sign for Group Development</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (one) permitted per street front with a minimum separation of 50 (fifty) feet between any other ground-mounted sign for the same business or on the same parcel, with a maximum of 2 (two) signs.
Maximum Size	75 (seventy-five) square feet per sign. May not be combined.
Maximum Height	20 (twenty) feet.

Mixed Use & Uptown District	
Commercial Building (Continued)	
Placement	Placing sign(s) in public street right-of-way(s) prohibited. Placement of sign(s) Shall not interfere with vehicular sight-distance at street intersections.
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.
Changeable Copy	<p>1) Up to 50% of copy area.</p> <p>2) Electronic changeable copy is limited to a maximum of 1 (one) change per 30 (thirty) second interval. No scrolling, blinking, flashing permitted.</p> <p>3) Electronic changeable copy requires a minimum separation of 200 feet from any other electronic changeable copy sign.</p>
Additional	Not permitted in conjunction with a Ground-Mounted sign for individual units within the same group development.
<i>Window/Door Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	Not Applicable.
Maximum Size	<p>1) Up to 10% of the window area and up to 10% of the glass portion of a door area on any side of a principal building fronting a public street.</p> <p>2) Window and door signs on any one side of a building totaling more than 16 (sixteen) square feet will be considered as, and calculated into, the permissible amount of building signage.</p>
Placement	The amount of allowed square footage may be applied to windows/doors in other sides of the building for maximum visibility, but may not be combined.
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.
Changeable Copy	Prohibited.

Mixed Use & Uptown District	
Commercial Building (Continued)	
<i>Sidewalk Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Size	6 (six) square feet per side, maximum 2 (two) sides.
Placement	1) A continuous 5-foot wide clearance along the sidewalk shall be maintained. 2) Sign shall be self-supporting and may not be attached to any fixture(s) within the public right-of-way.
Illumination	Spot-lighting permitted. Internal lighting prohibited.
Changeable Copy	1) No changeable copy tracks or electronic changeable copy. 2) Handwritten changeable copy only.
Additional	1) Minimum number of 3 (three) tenants/units/businesses/buildings. 2) Not permitted in conjunction with a ground mounted sign. 3) No individual ground mounted signs are permitted for tenants or outparcels. 4) The sign shall be removed from the sidewalk at the end of each business day.
<i>Shingle Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (one) per establishment
Maximum Size	6 (six) square feet
Placement	Under awning, but at least 7 (seven) feet above ground at lowest point.
Illumination	Spot-lighting permitted. Back-lighting prohibited.
Changeable Copy	Prohibited.
<i>Menu (food/services)</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (one) per establishment.
Maximum Size	2 (two) square feet; Lettering shall be no greater than 2 (two) inches in
Placement	May be posted in a window, or within a cabinet or protective covering on the exterior wall of a restaurant.
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.
Additional	Permitted only for restaurants, spas, salons, barber shops, and the like.

Business & Industrial District

The following Design Regulations shall apply:

- 1) Building signs shall be architecturally compatible with the style, materials, colors, and details of the building, as well as with other signs used on the building or its vicinity.
- 2) Building signs shall fit within the existing façade features, shall be confined to signable areas, and shall not interfere with door and window openings, conceal architectural details or obscure the composition of the facade where they are located. Signs shall be placed on a façade only in a manner historically appropriate to the style of the building.
- 3) Whenever possible, building signs within the same blockface shall be placed at the same height, in order to create a unified sign band.
- 4) Flat building signs shall be framed with raised edges except for individual lettering.
- 5) Wood signs shall use only high-quality exterior grade wood with suitable grade finishes.
- 6) Spot-lighting shall require shielding of light source.
- 7) Warm fluorescent bulbs may be used to illuminate the interior of display cases. Neon signs placed inside the display case shall insure low intensity colors.
- 8) Signs shall be mounted so that the method of installation is concealed. Signs applied to masonry surfaces of buildings shall be mechanically fastened to mortar joints, and not directly into brick or stone. Drilling to provide electrical service shall also follow the same rule.
- 9) Signs shall not interfere with vehicular sight distance.

One and up to four-family Dwelling(s)

<i>Building Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (not permitted in conjunction with ground-mounted sign).
Maximum Size	4 (four) square feet.
Illumination	Spot-lighting permitted. Internal lighting prohibited.
Changeable Copy	Prohibited.
<i>Ground-Mounted Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (not permitted in conjunction with building sign).
Maximum Size	4 (four) square feet.
Maximum Height	4 (four) feet.
Placement	Placing sign(s) in public street right-of-way(s) prohibited. Placement of sign(s) Shall not interfere with vehicular site-distance at street intersections.
Illumination	Spot-lighting permitted. Internal lighting prohibited.
Changeable Copy	Prohibited.

Business & Industrial District	
Commercial Building	
<i>Building Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	No more than 3 (three) sign areas on any side of a freestanding commercial building.
Maximum Size	<p>1 (one) square foot of signage is permitted for each 1 (one) linear foot of building width that fronts upon a public street, OR Individual lettering may exceed maximum permitted square footage in accordance with the following:</p> <ol style="list-style-type: none"> 1) Shall not contain any additional logo(s) or graphics, only the lettering spelling the name of the business or initials of the business. 2) Space(s) between lettering shall be no greater than half the average width of the individual letters. 3) Individual lettering shall be white, tan, black, or brown. 4) Maximum height is 24 (twenty-four) inches when placed up to 30 (thirty) feet from the back of curb; Maximum height is 36 (thirty-six) inches when placed more than 30 (thirty) feet from the back of curb. 5) No more than one letter in each word may be 1 and 1/2 times the maximum permitted height.
Placement	Allowed square footage may be applied to other sides of the building for maximum visibility, but may not be combined.
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.
Changeable Copy	<ol style="list-style-type: none"> 1) Up to 50% of copy area. 2) Not permitted in conjunction with changeable copy ground-mounted sign. 3) Not permitted in Group Development. 4) Electronic changeable copy is limited to a maximum of 1 (one) change per 30 (thirty) second interval. No scrolling, blinking, flashing permitted. 5) Electronic changeable copy requires a minimum separation of 200 feet from any other electronic changeable copy sign. 6) Maximum of one electronic changeable copy panel permitted, per side.

Business & Industrial District		
Commercial Building (Continued)		
<i>Ground-Mounted Sign for Freestanding Commercial Buildings and Group Development</i>	<i>Permitted Signs and Regulations</i>	
<i>Site with no public street frontage</i>		<i>Maximum size per Ground Sign(s) permitted</i>
Maximum Number	1 (one) per business or group development.	<p>1) Freestanding building - 50 square feet each for parcels with 100 feet or less of public street frontage and up to 75 square feet each for parcels with more than 100 feet of public street frontage.</p> <p>2) For parcels with direct street frontage, or fronting service roads directly adjacent to right-of-way of Business 85, U.S. 29/70, and U.S. 64, the maximum size shall be 75 square feet.</p> <p>3) Group Development - 100 square feet with space for each business or outparcel.</p>
<i>Site with frontage on 1 (one) public street</i>		
Maximum Number	Refer to Maximum size per public street frontage →	
<i>Site with frontage on 2 (two) public streets</i>		
Maximum Number	2 (two) per business or group development. There shall be no less than 100 linear feet between any two ground signs onsite.	
<i>Site with frontage on 3 (three) or more public streets</i>		
Maximum Number	3 (three) per business or group development. There shall be no less than 100 linear feet between any of the three ground signs onsite.	
Maximum Height	20 (twenty) feet. Must not interfere with vehicular site distances.	
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.	

Business & Industrial District	
Commercial Building (Continued)	
Changeable Copy	<p>1) Up to 50% of copy area.</p> <p>2) Electronic changeable copy is limited to a maximum of 1 (one) change per 30 (thirty) second interval. No scrolling, blinking, flashing permitted.</p> <p>3) Electronic changeable copy requires a minimum separation of 200 feet from any other electronic changeable copy sign.</p> <p>4) Only 1 (one) electronic changeable copy panel permitted per side.</p>
Additional	<p>1) Group Development Signs are not permitted in conjunction with ground-mounted signs for individual units within the group development. No individual ground-mounted signs are permitted for tenants or outparcels.</p> <p>2) "Public streets" will be defined as "dedicated as public-right-of-way, accepted by the City or State for maintenance". Excludes alleys.</p> <p>3) Multiple public street frontages may be combined for purposes of calculating street frontages.</p>
<i>Window/Door sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	Not Applicable.
Maximum Size	Up to 10% of the window area and up to 10% of the glass portion of a door area on any side of a principal building fronting a public street.
Placement	The amount of allowed square footage may be applied to windows/doors in other sides of the building for maximum visibility, but may not be increased.
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.
Changeable Copy	Prohibited.

Business & Industrial District	
Commercial Building (Continued)	
<i>Sidewalk Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	Each business with a public or private sidewalk of at least 8 (eight) feet in width may contain 1 (one) sidewalk sign.
Maximum Size	6 (six) square feet per side.
Placement	1) A continuous 5-foot wide clearance along the sidewalk shall be maintained. 2) Sign shall be self-supporting and may not be attached to any fixture(s) within the public right-of-way.
Illumination	Spot-lighting permitted. Internal lighting prohibited. Neon prohibited.
Additional	The sign shall be removed from the sidewalk at the end of each business day.
<i>Shingle Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (one) per establishment.
Maximum Size	6 (six) square feet.
Placement	1) Under the low cornice immediately above the first floor storefront. 2) Distance from the lower edge of the signboard to the ground will be 7 (seven) feet or greater.
Illumination	Back-lighting not permitted. Neon not permitted.

Business & Industrial District	
Commercial Building (Continued)	
<i>High Rise Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (one).
Maximum Size	200 square feet.
Maximum Height	50 feet.
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.
Changeable Copy	<p>1) Up to 50% of copy area.</p> <p>2) Electronic changeable copy is limited to a maximum of 1 (one) change per 30 (thirty) second interval. No scrolling, blinking, flashing permitted.</p> <p>3) Electronic changeable copy requires a minimum separation of 1,000 (one thousand) feet from any other electronic changeable copy sign.</p>
Additional	May include lots contiguous to Business 85/HWY 29 right-of-way or fronting service roads that are directly contiguous to Business 85/HWY 29 right-of-way. Lots shall be a minimum one (1) acre in size and shall have a minimum of 200 linear feet of road frontage along the highway right-of-way or fronting service roads.
<i>Marquee sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	Not Applicable.
Maximum Size	Up to 25% of the front of the theater may be covered with a marquee.
Illumination	Spot-lighting permitted. Back-lighting permitted.
Changeable Copy	Permitted.
Additional	Permitted for theaters, cinemas and other similar entertainment venues, only.

Business & Industrial District	
Commercial Building (Continued)	
<i>Menu (food/services)</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (one) per establishment.
Maximum Size	2 (two) square feet; Lettering shall be no greater than 2 (two) inches in height.
Placement	May be posted in a window, or within a cabinet or protective covering on the exterior wall of a restaurant.
Illumination	Spot-lighting permitted. Back-lighting prohibited. Neon prohibited.
Additional	Permitted only for restaurants, spas, salons, barber shops, and the like.
<i>Canopy Sign</i>	<i>Permitted Signs and Regulations</i>
Maximum Number	1 (one) per public street frontage of the parcel.
Maximum Size	1 square foot of signage per each linear foot of canopy width facing a public street. Signage may be divided to be placed on non- public street facing side, but may not be combined to increase size on any one side.

Conditional Zoning District
Signage shall be included within the development proposals and shall be approved with the Conditional Zoning.

SEC 6.11 TEMPORARY SIGNAGE

Signs compliant with the provisions of this subsection are exempt from the provisions for permanent signs and are not included in the total square footage of allowable permanent signage. Signs that do not meet the provisions of this subsections are subject to the provisions for permanent signs. Unless permitted by the North Carolina Department of Transportation or City of Lexington, extensions into the right-of-way are prohibited.

- A. TEMPORARY BANNERS.** Temporary banners require the issuance of a sign permit and are subject to the following provisions:
1. Only (1) one temporary banner will be permitted per establishment at any given time.
 2. The applicant may apply for a temporary sign permit for a banner to be issued for a period not to exceed 60 days.
 3. The applicant may apply for an extension for an additional period of time, not to exceed 30 days. The extension may be denied if the banner has become worn, if the location of the banner does not comply with the original permit, or if it is determined that the banner does not otherwise comply with this ordinance.
 4. The temporary sign may be no larger than 32 square feet.
 5. The banner shall be placed according to either of the following two methods:
 - a. Attached securely to the building so that the banner does not move by wind, or
 - b. Located on the ground or on an existing freestanding sign, but not interfering with vehicular sight distance.
 6. **STREET BANNERS**
 - a. May not exceed 75 square feet per side.
 - b. The street banner may be hung over North or South Main Street and in other locations approved by the City.
 - c. Only employees or designees of the City of Lexington are authorized to hang banners over streets.
 - d. The construction design and material of a banner intended to be hung over public streets shall be approved by the City of Lexington Electric Department.
 - e. Banners to be hung over streets shall be constructed of mesh material in order to allow air penetration.
 - f. Banners to be hung over streets shall be a minimum of 18 feet above the street.
- B. TEMPORARY FREESTANDING SIGNAGE.** Temporary freestanding signs require the issuance of a sign permit and are subject to the following provisions:
1. Only (1) one temporary freestanding sign will be permitted per establishment at any given time.
 2. The applicant may apply for a temporary sign permit for a freestanding sign to be issued for a period not to exceed 60 days.
 3. The applicant may apply for an extension for an additional period of time, not to exceed 30 days. The extension may be denied if the sign has become worn, if the location of the sign does not comply with the original permit, or if it is determined that the sign does not otherwise comply with this ordinance.
 4. Temporary signs may not exceed 8 feet in height.
 5. One temporary freestanding sign not larger than three (3) square feet may be placed on a property by, or with permission, the property owner, or occupant, at any time.

6. Temporary freestanding signs no larger than six (6) square feet may be placed on a developed and occupied property for a period not to exceed 60 days.
 7. One (1) temporary freestanding sign per street frontage may be placed on any property when the property is under active development, or being offered for rent or sale, and may remain in place for the duration of development, vacancy, or sale.
- C. TEMPORARY YARD SIGNAGE.** Temporary yard signs do not require the issuance of a permit by the Office of Business and Community Development. Temporary yard signs on private property are permitted between the dates of July 5th and November 30th and are subject to the following provisions:
1. Affixing signs, banners, windflags, advertising feather flags used for commercial or business purposes or any moving or flashing sign to any utility poles or structures, telecommunications poles or structures, traffic signs or signals, or any other regulatory or directional signs, public or private, is prohibited.
 2. Yard signs must be securely affixed to the ground and may be no larger than three (3) square feet in size.
 3. Yard signs must be placed fully on private property and not within any public right-of ways.
- D.** Yard signs must not block or impede foot traffic or sidewalks.
- E.** Yard signs must not impede, interfere, or block vehicular line-of-sight distance at intersections.

ARTICLE 7. SUBDIVISIONS AND INFRASTRUCTURE

SEC 7.1 LOT STANDARDS

Previously platted lots within the Suburban Neighborhood and Traditional Neighborhood Districts shall not be re-subdivided to a size and/or width less than 80% of lots appearing on the same plat, or other platted lots within 200 feet.

All new lots must comply with the lot standards within the relative zoning district, including conditional zoning.

SEC 7.2 INFRASTRUCTURE CONSTRUCTION STANDARDS

7.2.1 STREETS AND BLOCKS

- A. All public and private streets, driveways, sidewalks, etc. shall be constructed in accordance with specifications and regulations of the City of Lexington Code of Ordinances as well as the Lexington Infrastructure Development Standards (LIDS) Manual.
- B. Street cross-sections of public streets shall conform to the detail drawings in Appendix A of the LIDS Manual. For public streets with an alternate number of lanes, or with on-street parking, the proposed cross-section must be approved by the City Engineer prior to use.
- C. Street cross-sections of private streets that differ in any capacity from the City of Lexington Detail Drawings 1100 Series must be approved by the City Engineer prior to use.
- D. All One-family residential developments, proposing 30 units or more must utilize public interior streets.
- E. All multifamily developments must have private interior streets unless otherwise approved by the City Engineer.
- F. All streets require drainage management with curb and gutter on both sides unless waived by the City Engineer. Types of curb and gutter allowable in the City of Lexington are specified in the LIDS Manual.
- G. Streets are designed to be only as wide as necessary to accommodate the vehicular mix serving adjacent land uses while providing adequate access.
- H. The use of traffic calming devices such as raised intersections, lateral shifts, and traffic circles are encouraged as alternatives to conventional traffic control measures. All traffic calming devices must be approved by the City Engineer and the City Fire Code Official.
- I. All new streets shall have sidewalks constructed on at least one side. (See Sidewalk regulations.)
- J. Streets will interconnect within a development and with adjoining development. Permanent cul-de-sacs (that cannot be extended in the future) are permitted only where topographic conditions and/or exterior lot line configurations offer no practical

alternatives for connection or through traffic. Street stubs shall be provided with development adjacent to open land to provide for future connections. Stubs shall extend to the property line and end with a hammerhead turn around or alternate turnaround design approved by the City. Where possible, parallel streets will connect in a loop, block, or U-shape as opposed to ending in individual cul-de-sacs. The maximum permitted length of a cul-de-sac is 500 feet with a radius of 50' paved terminus with no median and a minimum radius of 55' paved terminus with a median. Length of dead-end streets shall be measured from a line extended along the edge of pavement of the intersecting street to the termination of the pavement at the "dead end."

- K.** Where deemed necessary by the Administrator, a pedestrian crosswalk at least 10 feet in width may be required to provide convenient public access to a public areas such as a park, greenway, or school. Crosswalks shall comply with the Americans with Disabilities Act.
- L.** Streetlights will be installed by the developer along all streets. Spacing shall be approved by the City and will be based on the type of lighting. Streetlights may be staggered or squared.
- M.** The placement of streets shall create blocks that are generally be rectilinear in shape and range from a minimum of 150 feet to a maximum of 600 feet in length between cross-streets. Exceptions:
 - 1.** Topography is prohibitive to meeting said requirements and meeting said requirements would require grading to a much greater extent than an alternative street and block pattern; or
 - 2.** Meeting said requirements would mean that natural features including but not limited to knolls, habitats, wetlands, stands of trees, or streams, would be removed, disturbed, or damaged to a greater extent than an alternative street and block pattern; or
 - 3.** Meeting said requirements would create a conflict with existing buildings, public spaces, streets, or lots.
- N.** Blocks will have sufficient depth to allow 2 tiers of lots of minimum depth except where single tier lots are required to separate residential development from another type of use, or when abutting a perennial stream or lake.
- O.** Sites being developed in multiple phases, shall be subject to any and all regulations of this Ordinance upon reaching the appropriate threshold under the rules of a larger "common plan of development."; as defined by the North Carolina Department of Environmental Quality.
- P.** A traffic operations analysis and trip generation report is required for any residential development that creates 30 units or more, but less than 100 units. A traffic impact analysis report will be required for any residential development that creates 100 units or more. All commercial and industrial development will require the submission of a trip generation report and may require a traffic impact analysis at the discretion of the City Engineer or designee. For a scope of each analysis and/or report type, refer to Section 5.5 of the LIDS manual.
- Q.** Any development of more than 30 units shall provide two or more connections to one or more public collector or thoroughfare streets, configured so that vehicles are not required to utilize the same exit from the development or any existing neighborhood.

- R. The developer may be required to make improvements to existing public streets should they be recommended as part of any traffic study or required pursuant to Section 1.4 of the LIDS Manual.
- S. Developments that will be constructed in multiple phases may require a Negative Access Easement on the property of the future phase at all street stub locations.

7.2.2 SIDEWALKS

- A. All new streets shall have sidewalks constructed on at least one side.
- B. Sidewalks shall be concrete, brick pavers, or other similar material. Sidewalks may not be mulch, dirt, gravel, or other dust causing material.
- C. Sidewalks shall be a minimum of 5 feet in width and shall be constructed in accordance with the design and construction standards of the City of Lexington and shall follow specifications and requirements set forth by the Public Right-of-Way Accessibility Guidelines (PROWAG) and Americans with Disabilities Act (ADA).
- D. For all new residential subdivisions where the property adjoins existing sidewalks on both adjacent properties having common street frontage, the developer shall install sidewalk and dedicate the sidewalk for public right-of-way in order to connect to the existing sidewalk system.
- E. For all new development, including one-family dwellings, where the property does not adjoin existing sidewalks, but the property fronts a thoroughfare, the developer shall install sidewalk and dedicate the sidewalk for public right-of-way.

7.2.3 UTILITIES

- A. All private and public sanitary sewer and water distribution systems must be designed and constructed in accordance with all State of North Carolina and City of Lexington standards.
- B. The City of Lexington may require the improvement of existing water distribution systems based on the flow(s) on the required pre-development forms. The required improvements shall be determined based on the Needed Fire Flow (NFF) defined by the Insurance Service Office (ISO) for water systems and shall be based on the engineered capacity calculations for sanitary sewer.
- C. The City of Lexington may require the improvement of existing off-site sanitary sewer systems, including pumpstations, if the flows proposed by the development will cause, or appear to cause, the capacity of any components of the downstream system to be exceeded. Any required improvements will not be the financial responsibility of the City of Lexington.
- D. All new utilities shall be underground unless otherwise approved by the utility department.
- E. Developments must utilize the City of Lexington's water distribution system when the proposed development has direct access to the City's water system via easement, common area, or right-of-way.
- F. When a proposed development is voluntarily annexed into the City of Lexington, the development (or developer) will be required to extend City of Lexington water and sewer wherever feasible. The City may choose, at its discretion, to contribute to the utility extension to increase the feasibility.

- G. All developments must install a fire hydrant along the existing frontage of the project if the nearest hydrant is greater than 600ft from the furthest proposed entrance, driveway, or connecting road. Measurements shall be taken in both directions along the road, as a firetruck travels.

7.2.4 STORMWATER

- A. All proposed stormwater improvements included with any development that requires permits are subject to the requirements of this chapter and required to be designed and constructed per Lexington, NCDOT, or NCDEQ specifications, whichever is more restrictive.
- B. The City of Lexington may require the analysis and/or improvement of existing off-site stormwater infrastructure if development or redevelopment will cause increased runoff to the offsite system(s). The analysis and/or improvement shall be 500 linear feet maximum from the point of connection furthest downstream measured along the centerline. The required improvements shall be determined based on the hydraulic calculations of the proposed and existing systems.
- C. The City shall reserve the right to deny connection to a public system should the required analysis show that the system will exceed capacity further than the 500 feet limit downstream of the proposed connection.

SEC 7.3 DEVELOPMENT APPROVAL

7.3.1 EXEMPT SUBDIVISIONS AND PLATS. The following subdivisions and plats are “exempt” and do not require development approval:

- A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance.
- B. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
- C. The public acquisition by purchase of strips of land for the widening or opening of streets; or for public transportation system corridors including but not limited to sidewalks, bicycle lanes, greenways, bus lanes, bus stops, or passenger rail facilities; or for public utilities.
- D. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this ordinance.
- E. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with interstate succession under Chapter 29 of the General Statutes.

7.3.2 EXPEDITED ADMINISTRATIVE APPROVAL. Pursuant to GS 160D-802(c) the City will only provide signatures for a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

- A. The tract or parcel to be divided is not exempt.
- B. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- C. The entire area of the tract or parcel to be divided is greater than 5 acres.

- D. After division, no more than three lots result from the division.
- E. After division, all resultant lots comply with all of the following:
 - 1. All lot dimension size requirements of the applicable land-use regulations, if any.
 - 2. The use of the lots is in conformity with the applicable zoning requirements, if any.
 - 3. A permanent means of ingress and egress is recorded for each lot.

7.3.3 SUBDIVISIONS REQUIRING ADMINISTRATIVE APPROVAL. All subdivisions and plats that are not declared exempt are under the authority of the Administrator for approval. Except for exempt subdivisions, no subdivision within the City jurisdiction shall be filed or recorded until it shall have been approved in accordance with these regulations. The process for approval is as follows:

A. STEP 1 - PRELIMINARY SUBMITTAL AND REVIEW PROCESS

1. PRELIMINARY / SKETCH PLAN

- a. The purpose of Preliminary Plan review is to allow applicants to receive high-level regulatory based guidance intended to reduce future review cycles and expedite project timelines.
- b. A Preliminary / Sketch Plan is not required for subdivision approval, and there is no requirement for the amount of information shown on the plan. Staff comments shall be based on the information provided.
- c. Each project must still go through a formal construction plan review after the approval of the Preliminary Plat regardless of the number or level of comments.
- d. All plans submitted prior to Preliminary Plat approval are reviewed as “Preliminary;” however, only one round of preliminary review shall be provided per project.

2. PRELIMINARY PLAT

- a. The Developer shall submit a Preliminary Plat to the Administrator. The Administrator will review the plat to determine if it is consistent with the regulations of this ordinance.
- b. The Administrator shall provide development approval in writing. Upon approval of the Preliminary Plat, the developer shall have Construction Plans prepared and sealed by a professional engineer or professional landscape architect registered in the State of North Carolina.
- c. The property remains unsubdivided under Preliminary Plat approval and individual parcels may not be sold until a Final Plat is approved.

3. FIRE HYDRANT FLOW TESTING

- a. The existing fire flow shall be measured at the nearest hydrant(s) to the proposed tap location of the development.
- b. The fire flow test shall be done by a third-party at the cost of the property owner, developer, or engineer.
- c. The owner of the water distribution system serving the hydrant shall be notified at least 48-hours prior to the test and shall have a representative present at the time of testing to operate the hydrant(s).
- d. The existing flow shall be recorded on the City Fire Hydrant Flow Test Form.
- e. The completed form must be submitted to the City of Lexington Engineering Department.

- f. The City of Lexington Fire Marshal or designee may request that additional testing be done after any constructed improvements to demonstrate adequate flow.

B. STEP 2 - SUBMITTAL OF CONSTRUCTION PLANS

1. CONSTRUCTION PLANS

- a. Construction Plans prepared and sealed by a professional engineer or landscape architect shall consist of complete construction drawings and specifications of all easements, streets, traffic control devices, streetlights, sanitary sewers, stormwater facilities, water distribution system facilities, sidewalks, and other improvements required by Section 8 of this Ordinance and any additional technical standards as adopted by the City.
- b. Construction Plans, along with a Development Review Application, applicable fees, and all other pertinent forms shall be submitted online via the City of Lexington website, or by delivery of electronic media by other means.
- c. The Administrator shall delegate the authority to review and approve all Construction Plans to the Technical Review Committee (TRC).
- d. If corrections are necessary, the TRC shall issue corrections to the applicant in the form of a corrections letter and/or comments/redlines placed directly on the submitted plans. Upon receiving corrections from the TRC, the applicant or engineer shall have 120 calendar days to submit a revised set of construction plans or show substantial progress in another concurrent process related to the development, otherwise the construction plans shall expire and an entirely new application and review process for the construction plans will be required including the readministration of any applicable fees.
- e. After all TRC reviews and approvals, the Construction Plans are signed as “Approved for Construction” by the TRC. No work shall be initiated relative to the installation of general improvements until such time as all aspects of the developer's Construction Plans are “Approved for Construction” and all applicable permits have been issued.
- f. All improvements required pursuant to these regulations shall be constructed to the (LIDS) manual, and where applicable, the requirements and authorization of the appropriate state agency, utility company, or local franchisee.
- g. Prior any land disturbing activities, a Land Disturbance Permit is required to be obtained from the Public Services Department. In addition, an Erosion Control Permit must be obtained from the North Carolina Department of Environmental Quality (NCDEQ) prior to any land disturbing activities one (1) acre or more in size.
- h. All installations of improvements shall conform to the approved Construction Plans unless necessary field corrections are approved by the respective city department.
- i. If any person or entity chooses to make modifications in design and/or specifications after plan approval, such changes shall be subject to additional review(s) and approval by the TRC under a Revision to an Approved Plan (RTAP). Additional reviews conducted subsequent to the first RTAP shall be subject to any and all applicable fees. It is the responsibility of the developer or

engineer of record to notify City staff in advance of any changes being made to the approved set drawings.

- j. Improvements and infrastructure that is not installed per the approved construction plans will not be accepted by the City of Lexington until the improvements have been reinstalled to match the approved plans or the City approves the alteration via RTAP. The City is under no obligation to accept any alterations to the approved construction plans if improvements or infrastructure were installed/constructed without prior approval.
- k. In the event that actual construction work deviates from the approved Construction Plans and/or design specifications, such unapproved work shall constitute a violation of this Ordinance. The developer or their contractor shall be required to correct the installed improvements to conform to the approved Construction Plans before the City will accept any public infrastructure or before performance guarantees are released.
- l. The Administrator may take such other actions as may be deemed appropriate including, but not limited to, issuance of a Stop Work Order, revocation of permits already issued and/or withholding of future approvals and permits until the violation is corrected.

2. STORMWATER IMPROVEMENTS

- a. Stormwater Control Measures in subdivisions are subject to the permitting, approval, development standards, maintenance, and performance securities as described in Chapter 15 of the City of Lexington Code of Ordinances.
- b. Construction Plans will not be approved, nor construction allowed to commence, until plans for all required Stormwater Control Measures (SCM) are submitted and approved and the applicant has been issued a Stormwater Management Permit.
- c. In addition to plans, the applicant shall provide a cost estimate for each SCM along with the submittal of an approved performance security (bond, letter of credit, or other form of guarantee) and an operation and maintenance agreement before issuance of a Stormwater Management Permit.
- d. In cases where the Construction Plan applicant does not intend to develop the site, Construction Plan approval may be given after successful review. However, permits must be obtained by the developer or contractor of the site and construction shall not commence until all necessary permits have been issued.

3. UTILITY IMPROVEMENTS

- a. All sanitary sewer and water distribution plans must contain a licensed North Carolina Professional Engineer's seal.
- b. Applicants are required to provide the Water Resources Department with approved NCDEQ Sewer Extension Permit and/or Water Main Extension before the sanitary sewer and/or water distribution systems will be approved for construction.

C. STEP 3 - INSPECTIONS, AS-BUILTS DRAWINGS, AND SHOP DRAWINGS

1. INSPECTION OF IMPROVEMENTS

- a. Prior to beginning construction, the developer shall arrange with the City's Construction Inspector a pre-construction meeting for the purpose of coordinating construction activities.
 - b. During the preparation of land and the installation of general improvements; periodic inspections shall be made to ensure conformity with the approved plans, specifications, and standards. Appropriate agencies of the City and State may make inspections at any time during the progress of work.
 - c. All improvements required by these regulations shall be inspected prior to acceptance by the City. Where inspections are made by individuals or agencies, other than the City's Inspector or designee, the developer shall provide the City's Inspector with written reports of each final inspection. It shall be the responsibility of the developer to notify the City's Inspector or designee of the commencement of construction of improvements two (2) full working days prior thereto. Refer to the LIDS manual for a complete list of all required inspections.
 - d. The final lift of asphalt surface course for residential subdivision streets shall be withheld until a minimum of (100%) one hundred percent of the subdivision is occupied (occupied means a certificate of occupancy has been issued) or at least one (1) year has lapsed from the application of the intermediate course layer (all documentation to be provided by the developer and approved by the City Engineer or designee). All known asphalt and base failures shall be repaired prior to application of the final lift of asphalt surface course.
 - e. The developer or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these regulations and the standards and specifications of other public agencies.
- 2. AS-BUILTS AND SHOP DRAWINGS**
- a. Prior to issuance of any building permits, the developer shall electronically submit to the City Engineer copies of the As-Built Drawings for each of the required improvements that have been completed at the time of the submission of building permit application(s).
 - b. Prior to beginning construction, the developer or engineer shall electronically submit to the City Engineer copies of the Shop Drawings for all structures, materials and features specified and shown on the Construction Plans.
 - c. The elevations shown on the As-Built Drawings shall be based on a survey performed by a Licensed Surveyor and must be re-certified by the design engineer indicating the date when the As-Built survey was made.
 - d. As-Built Drawings shall show all features listed in Article 8 of this ordinance.
 - e. Shop Drawings must be reviewed and approved prior to beginning construction.
 - f. As-Built Drawings must be reviewed prior to final inspection.
- 3. PERFORMANCE GUARANTEE**
- a. After construction of a passable street and once each lot on the proposed subdivision has access to public water and public sewer, the developer may propose a Performance Guarantee for the remaining improvements including:
 - (1) Placement of the final lift of asphalt,
 - (2) Sidewalk construction,

- (3) Required landscaping,
 - (4) General site clean-up,
 - (5) Backfill to curb,
 - (6) Curb and gutter,
 - (7) and lot improvements.
- b. Performance Guarantees must be reviewed and approved by the City Engineer and the Public Services Director.
 - c. Only a final plat for the phase(s) of development that are complete, or are covered within an approved Performance Guarantee may be approved for recording.
 - d. The Performance Guarantee shall be in the form of a performance bond, letter of credit, or other form of guarantee as security for the improvements. The security shall be in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of completion of the improvements. The amount of the escrow or letter of credit shall be reduced upon the acceptance only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the developer.
 - e. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.
 - f. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the City, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements.
 - g. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the City that the improvements for which the performance guarantee is being required are complete. The City shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to City acceptance. When required improvements that are secured by a bond are completed to the specifications of the City, or are accepted by the City, if subject to its acceptance, upon request by the developer, the City shall timely provide written acknowledgement that the required improvements have been completed.
 - h. The City Engineer shall also require evidence from the developer that all contractors have been paid in full prior to the release of the performance guarantee.
 - i. Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from

officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Section.

- j. In those cases where the developer defaults on the terms of the guarantee, the City Attorney may then:
 - (1) Declare the guarantee to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the guarantee is declared to be in default;
 - (2) Obtain funds under the security and the City complete the improvements itself or through a third party;
 - (3) Assign its right to receive funds under the security to any third party, including a subsequent owner of the development for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the development; and
 - (4) Exercise any other rights available under the law.

D. STEP 4 - ACCEPTANCE OF IMPROVEMENTS AND FINAL PLAT

1. FINAL INSPECTION AND WARRANTY

- a. The installation of improvements in any subdivision shall, in no case, serve to bind the City to accept such improvements for maintenance, repair, or operation thereof. Such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.
- b. Once the developer has submitted As-Builts and Shop Drawings to the City Engineer, City staff shall perform a final inspection of the streets and utilities for compliance with current City of Lexington development standards.
- c. Any improvements covered under a Performance Guarantee must be completed prior to the final inspection.
- d. Before a site can pass final inspection, the developer shall remove all equipment, materials, and general construction debris from the subdivision and from any lot, street, public way, or property therein or adjacent thereto. Dumping of such debris into sewers, onto adjacent property, or onto other land in the City is prohibited.
- e. The developer shall also be required to demonstrate compliance with the NCDEQ erosion control standards of the overall site prior to the final inspection. All grading, excavations, open cutting, and similar land surface disturbances completed by the developer shall be mulched, seeded, sodded, or otherwise protected to ensure compliance with these standards.
- f. Upon successful passing of the final inspection, the developer must sign a one (1) year warranty statement for all improvements in the right-of-way and all easements. During this one-year warranty period the developer is responsible for all repairs, maintenance, and upkeep of the streets and utilities.
- g. After the warranty statement is signed, the developer will receive a written letter of acceptance from the City Engineer or their designees, and the streets and utilities will be accepted for maintenance as part of the City's public street and utility system. Any performance bond, letter of credit, or other form of guarantee will be released at this time.

- h. City staff will perform a warranty inspection at eight (8) and eleven (11) months after the final inspection to determine any construction defects or inadequacies prior to the end of the one-year warranty period.
- i. At the end of the one-year warranty period, the developer may request an inspection of the streets and utilities by City staff to insure they still meet the current standards of the City of Lexington. Any deficiencies occurring during this warranty period shall be repaired by the private owners.
- j. The City shall not have any responsibility with respect to any street, or other improvement, notwithstanding the use of the same by the public, unless the street or other improvements have been accepted.

2. FINAL PLAT

- a. The Final Plat, developed in accordance with North Carolina General Statutes, shall be signed by all owners of the property and substantially matching the Preliminary Plat approved by the Administrator.
- b. The developer may submit Final Plat copies for only that portion of the approved Preliminary Plat that is proposed for recordation and development at that time, if such portion conforms to all requirements of this Ordinance.
- c. The Final Plat application shall be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks, and easements, and the subdivision plat shall be marked with a notation indicating the formal offers of dedication.
- d. Upon submittal of the copies of the Final Plat and other required materials, the Administrator shall review the application for completeness and shall initiate and coordinate review by affected City and State agencies in order to determine substantial compliance with the approved Preliminary Plat and general compliance with the provisions of this Ordinance and other applicable laws and regulations.
- e. The Administrator may find the application incomplete if:
 - (1) Any of the information required by this Ordinance is not provided;
 - (2) The Final Plat does not conform to the conditions attached to the approval of the Preliminary Plat;
 - (3) The plat is in conflict with the provisions of this Ordinance and no variance has been approved.
- f. In addition to the criteria as set forth in this Ordinance, the Administrator shall not approve a Final Plat unless and until satisfactory evidence is filed that the Final Plat is in a form acceptable for recording with the Register of Deeds, and that all improvements have been satisfactorily installed or a Performance Guarantee has been signed by the developer. The developer will also be required to submit a final subdivision plat fee, payment of all design costs for improvements, and appropriate performance surety.
- g. Except as provided in a Performance Guarantee, all developers shall be required to complete, to the satisfaction of the Administrator, City Engineer, and Water Resources Director, all street, sanitary, and other public improvements of the subdivision as required by this Ordinance before the Final Plat is recorded. In the event the developer is unable to complete the required improvements, and such improvements are deemed necessary for the preservation of the public

health and safety, the City may compel the delivery of the deed and guarantees in order to complete the improvements as required.

- h.** The Administrator shall sign the plat. The action of the Administrator shall be noted on all copies of the Final Plat to be retained as required for records or further action of the department or other affected agencies of the City or State.
- i.** The developer shall place reference monuments in the subdivision as required by North Carolina General Statute 47-30.
- j.** Approved final plats shall be filed by the developer for recording with the Register of Deeds of Davidson County within sixty (60) days of the date of approval; otherwise, such approval will be null and void unless the Administrator has granted an extension. In this case, a new application shall be required.
- k.** The developer shall return a copy of the recorded plat to the office of the Administrator.
- l.** Approval of the Final Plat for a subdivision or section thereof shall not be deemed to be acceptance by the city or state of any street, alley, public space, utility or other physical improvements shown on the Final Plat and engineering plans for the maintenance, repair or operation thereof.

SEC 7.4 EXPIRATION

The preliminary plat will expire one year from the date of approval if work has not substantially commenced by installing infrastructure that has passed inspection by the City or if the project is declared as abandoned by the Administrator based on the following findings of fact:

- A.** The applicant has failed to call for inspection of infrastructure for a period of 180 consecutive days; and/or
- B.** The applicant has not applied for any other permits necessary for the development of the property such as driveway permits from NC Department of Transportation or an Erosion Control Permit from NC Division of Environmental and Natural Resources; and/or
- C.** The applicant has failed to submit a final plat for the project.

SEC 7.5 MODEL HOME

One model home or townhome building may be constructed and occupied in each phase of a residential development before final plat approval, provided that the home has access to public water and sewer and the subsurface of the street on which the lot fronts is in place. The model may be occupied as a sales office for the residential development in which it is located, but may not be occupied as a dwelling unit until the final plat is approved.

SEC 7.6 HOMEOWNERS / PROPERTY OWNERS ASSOCIATIONS

A Homeowners/Property Owners Association is required for all subdivisions requiring any subdivision that includes residential development of more than five units, or any more than two commercial parcels and shall provide for the long-term maintenance of any stormwater control measures and any common areas.

SEC 7.7 PAYMENT AND/OR DEDICATION IN LIEU OF IMPROVEMENTS

- 7.7.1 TRANSPORTATION AND UTILITIES.** The City may accept, in lieu of required street construction, funds for City use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development, and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the City pursuant to this subdivision shall be used only for development of roads, including design, land acquisition, and construction. However, the City may undertake these activities in conjunction with the Department of Transportation under an agreement between the city and the Department of Transportation. Any formula adopted by the City to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The regulation may require a combination of partial payment of funds and partial dedication of constructed streets when City Council determines that a combination is in the best interests of the citizens of the area to be served.
- 7.7.2 RECREATION AREAS AND OPEN SPACE.** The City may accept the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or, alternatively, for payment of funds to be used to acquire or develop recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area. All funds received by the City pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. The formula to determine the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes. The City may accept a combination or partial payment of funds and partial dedication of land when the City Council determines that this combination is in the best interests of the citizens of the area to be served.
- 7.7.3 COMMUNITY SERVICE FACILITIES.** The City may require the construction of community service facilities in accordance with local plans, policies, and standards.
- 7.7.4 SCHOOL SITES.** The City may require and/or accept the reservation of school sites in accordance with plans approved by City Council. In order for this authorization to become effective, before approving such plans, the City of Lexington City Council and the Board of Education having jurisdiction at the site shall jointly determine the location and size of any school sites to be reserved. Whenever a subdivision is submitted for approval that includes part or all of a school site to be reserved under the plan, the City Council shall immediately notify the board of education and the board of education shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the City Council in writing and no site shall be reserved. If the board of education does wish to reserve the site, the subdivision or site plan shall not be approved without such reservation. The board of education shall then have 18 months beginning on the date of final approval of the subdivision or site plan within which to acquire the site by purchase or by initiating condemnation proceedings. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the landowner may treat the land as freed of the reservation.
- 7.7.5 POWER LINES EXEMPTION.** This ordinance shall not require a developer or builder to bury power lines meeting all of the following criteria:

- A. The power lines existed above ground at the time of first approval of a plat or development plan by the City, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
- B. The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

SEC 7.8 PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS

- 7.8.1** Any person who, being the owner or agent of the owner of any land located within the City of Lexington, that subdivides land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the Office of the Davidson County Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction of this penalty. The City may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance. Building permits required pursuant to G.S. 160D-1110 may be denied for lots that have been illegally subdivided. In addition to other remedies, the City may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.
- 7.8.2** The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved or recorded with the register of deeds, provided the contract does all of the following:
- A. Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
 - B. Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
 - C. Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessee to close any earlier than five days after the delivery of a copy of the final recorded plat.
 - D. Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessee to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

7.8.3 The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved and recorded with the register of deeds.

ARTICLE 8. PLANS AND PLAT SUBMITTAL STANDARDS

Plans and Plats should contain the information necessary for the approving authority to determine consistency with regulations and render a development approval decision. The following standards shall be used for guidance in preparing plans and plats for submittal. The City of Lexington may require the approved plans be submitted in .dwg format. Depending on the scope of the development, the approving authority may accept plans that do not contain all features herein, but still convey relative information:

Land Development/Civil Site Plans for Technical Review Committee (TRC) Approval	
Required Submissions and Format	1 (one) digital file per plan in .pdf format 1 (one) digital file per calculations package in .pdf format (if applicable)
General Submittal Requirements ^{1,3}	1) Title Block: Site/project name; Date and any revisions w/date(s); Sheet title and number; North Carolina Professional Engineer's Seal. 2) Parcel Number(s) 3) Property Owner(s) 4) Property boundaries and adjoining property boundaries 5) Vicinity Map 6) North Arrow 7) Legible Scale 8) Applicable Notes/Data Blocks 9) Utility Access 10) Existing and Proposed Zoning 11) Development Table (see LIDS Manual for Required Data Blocks)
General List of Sheets ^{1,2,3}	1) Cover Sheet 2) Lexington TRC Summary Sheet** 3) Existing Conditions Plan** 4) Site Plan showing all building dimensions and setbacks from property lines ** 5) Grading and Storm Drainage plan 6) Roadway Profile(s) 7) Erosion Control Plan (Initial, Intermediate and Final Phase as applicable) 8) Erosion Control Basin Enlargement and Details 9) Drainage Area Plan 10) SCM Drainage Area Plan 11) SCM Enlargement and Details 12) Water Distribution Plan 13) Sanitary Sewer Plan and Profile(s) 14) Utility Plan 15) Planting, Landscaping and/or Lighting Plan 16) Details

**Required for all development plans reviewed by the Technical Review committee (TRC).

¹ See LIDS Manual Section 5 and Appendix B for specific sheet requirements (notes, scaling, features, etc.).

² Multiple sheets may be combined as long as the information is like-kind, no information is omitted, and all information is legible at an appropriate scale as defined in the LIDS Manual. The TRC reserves the right to request that sheets be divided for legibility.

³ Not all sheets will be required for every site/project; however, the TRC may request additional sheets or information be provided.

Building Elevations Plans for Technical Review Committee (TRC) Approval	
Number and Format	One (1) digital file in .pdf or .jpeg format. Can be a photograph or architectural rendering illustrating the proposed appearance of the building or structure.
Title Block	<ol style="list-style-type: none"> 1) Name and contact information for applicant 2) Date and any revision dates 3) Parcel number(s) 4) Project name 5) Property Owner(s) 6) Size of site
Features	<ol style="list-style-type: none"> 1) Building elevation(s) containing: <ol style="list-style-type: none"> a) Color palletete b) Exterior finish materials c) Height of all structures d) Dimensions of windows and doors e) Design and intensity of building lighting fixtures f) Legend of symbols g) Roof pitches 2) Photo(s) or renderings illustrating like construction from all sides, and/or front, rear, left side, and right side color illustrations of proposed building(s). 3) Proposed building signage, if applicable (art, dimensions, and placement).

Plats (Preliminary and Final)	
NCGS Standards	Plats must be drawn in accordance with North Carolina General Statutes 47-30.
Number and Format	One (1) digital file in .pdf or .jpeg format. Can be a photograph or architectural rendering illustrating the proposed appearance of the building or structure.
Title Block	<ol style="list-style-type: none"> 1) Name and contact information for applicant 2) Date and any revision dates 3) Parcel number(s) 4) Project name 5) Property Owner(s) 6) Size of site
General As-built Requirements ^{1,2}	<ol style="list-style-type: none"> 1) Names of adjacent property owners 2) Property lines and lot areas 3) Recreation areas 4) Right-of-ways 5) Site boundaries, distances and intersecting boundaries 6) Street Names 7) Trails, greenways or bicycle facilities 8) Zoning districts on site and within 100 feet 9) Easements

Plats (Preliminary and Final) Continued	
Features	<p>The location, dimension and/or description of the following features with notation describing if the feature is existing or proposed, to remain or be removed or altered.</p> <ol style="list-style-type: none"> 1) 1% floodplain(s) and watercourse(s) and impact buffer(s) 2) Proposed stormwater device locations 3) Any and all easements 4) Right-of-way of public or private, greenways, railways and alleys 5) Proposed parcel lines
Development Table	<p>Proposed:</p> <ol style="list-style-type: none"> 1) Acreage in residential uses 2) Acreage in recreation area(s) 3) Acreage in non-residential uses 4) Gross density per acre 5) Total number of lots 6) Total number of non-residential units 7) Total number of residential units 8) Total percentage of impervious surfaces
Certifications	<ol style="list-style-type: none"> 1) Professional Surveyor's Seal, with source of boundary 2) Certificate of approval 3) Certificate of survey and accuracy 4) Certificate of ownership and dedication 5) Flood elevation certification 6) Review Officer certification 7) NCDOT certification if applicable 8) Certificate of Approval for Recording by the City of Lexington 9) Certificate of Acceptance for Maintenance of infrastructure improvements if applicable

Land Development As-builts and shop drawings for City approval	
Required Submissions and Format ¹	One (1) digital file per platted phase/site in .pdf format**
	One (1) digital file per platted phase/site in .dwg format
General As-built Requirements ^{1,2}	2) Date and any revision dates 3) Parcel number(s) 4) Project name 5) Property Owner(s) 6) Size of site
Features	1) Building elevation(s) containing: <ul style="list-style-type: none"> a) Color palletete b) Exterior finish materials c) Height of all structures d) Dimensions of windows and doors e) Design and intensity of building lighting fixtures f) Legend of symbols g) Roof pitches 2) Storm drainage structures 3) Storm drainage pipes (slope, material and size) 4) Sanitary sewer structures (Rim and invert elevations and locations of all cleanouts) 5) Sanitary sewer pipes (slope, material, and size) 6) Water (location of all appurtenances, hydrants, valves, and meters) 7) Stormwater control measures (SCM) ¹ 8) Lot pad elevations**
Typical Shop Drawing/ Material Submittal Requirements ^{1,2,3}	1) Non-standard headwalls 2) Non-standard drainage structures 3) All box, arch and bottomless culverts 4) Underground detention systems 5) Retaining walls 6) Precast concrete pipe and structures 7) Water main appurtenances 8) Sewer/storm manhole ring and cover, and storm frame and gate

**Required for all as-built submissions

¹ The list defined in this section is generalized, see LIDS manual Section 5 for all requirements

² Not all as-builts or shop drawing requirements shown will pertain to every submittal, the TRC may request additional information be provided

³ List of requirements is not all inclusive and will vary based on the complexity of the project and the structures and features specified on the construction documents

ARTICLE 9. LANDSCAPE METHODS AND STANDARDS

SEC 9.1 LANDSCAPED AREAS

- A. An area will be considered landscaped if it meets the following requirements:
 - 1. 1 large tree per 800 square feet; and/or
 - 2. 1 small tree per 400 square feet; and/or
 - 3. 1 large shrub per 200 square feet; and/or
 - 4. have 50% of the area planted in small shrubs, flowers, or lawn or decorative grasses.
- B. Areas covered in grass, dirt, field grass, or other unkempt groundcover void of the minimum amount of trees and shrubs are not considered landscaped.
- C. Hayfields permitted as a Principal or Accessory Use shall not be considered landscaped.
- D. Outside of a wooded area, the ground covering in and around landscaped areas shall be lawn grass, mulch, pine needles, decorative grass, brick chips, stone (not gravel), or other similar material approved by the Administrative Staff.

SEC 9.2 PRESERVATION OF EXISTING VEGETATION

- A. Existing trees or stands of trees in good health and condition will be preserved whenever feasible.
- B. When selecting which trees to preserve, the following will be considered: existing and proposed grading; age, condition, and type of tree; and location of site improvements and utility connections.
- C. Trenching, placing backfill, driving, or parking equipment in the critical root zone, and the dumping of trash, oil, paint, or other materials detrimental to plant health in close proximity of the trees to be preserved is prohibited.
- D. The area within the protective barricade will remain free of all building materials, stockpiled soil, or other construction debris. Construction traffic, storage of vehicles and materials, and grading will not take place within the protective areas of the existing trees.
- E. Barricades will be erected at a minimum distance of 10 feet from the base of protected trees, or outside the dripline, whichever is greater.
- F. Where grading within a tree dripline cannot be avoided, cut and fill will be limited to $\frac{1}{4}$ to $\frac{1}{2}$ of the area within the dripline, tree roots shall be pruned with clean cuts at the edge of the disturbed area, and no fill will be placed within the dripline of a tree without venting to allow air and water to reach the roots.

SEC 9.3 STANDARDS FOR TREES AND SHRUBS

- 9.3.1 QUALITY.** All new plant material will be of good quality, installed in a sound, workman-like manner and meet the standards set forth in the American Standard for Nursery Stock by the American Association of Nurserymen.

9.3.2 METHODS.

- A. Installation and construction practices will be utilized which preserve and replace existing topsoil or amend the soil to reduce compaction.
- B. Plants may not interfere with vehicular site distance.

9.3.3 LARGE TREES. Large Trees include Deciduous and Evergreen Trees that mature between 40 and 100 feet in height.

- A. Unless otherwise stated in this ordinance, at installation, large trees will not be less than 8 feet in height with a minimum 2-inch caliper.
- B. Where large trees are required and overhead utility lines exist, small trees planted at a double rate may be substituted.
- C. Acceptable species of **Large Evergreen Trees** include: Japanese Fir, Atlas Cedar, Deodar Cedar, Cedar of Lebanon, Leyland Cypress, Eastern Red Cedar, Southern Magnolia, Norway Spruce, Oriental Spruce, Colorado Spruce, Lacebark Pine, Longleaf Pine, White Pine, Scotch Pine, Loblolly Pine, Japanese Black Pine, Douglas Fir, Laurel Oak, Live Oak, Canadian Hemlock and Carolina Hemlock.
- D. Acceptable species of **Large Deciduous Trees** include: Norway Maple, Red Maple, Silver Maple, Sugar Maple, European Hornbeam, Pecan, Southern Catalpa, Sugar Hackberry, Common Hackberry, Yellowwood, Persimmon, Beech, European Beech, White Ash, Maidenhair Tree, Thornless Honeylocust, Kentucky Coffee Tree, Sweet-Gum, Tulip Tree, Cucumber Tree, Dawn Redwood, Black Tupelo, Empress Tree, London Plane Tree, Sycamore, Sargent Cherry, Sawtooth Oak, White Oak, Scarlet Oak, Bur Oak, Water Oak, Pin Oak, Willow Oak, Eastern Red Oak, Black Oak, Weeping Willow, Japanese Pagoda Tree, Bald Cypress, American Linden, Littleleaf Linden, American Elm, and Japanese Zelkova.

9.3.4 SMALL TREES. Small Trees include Deciduous and Evergreen Trees that mature at between 10 and 35 feet in height.

- A. Unless otherwise stated in this ordinance, at installation, Small Trees will be a minimum height of 6 feet in height.
- B. Acceptable species of **Small Evergreen Trees** include: Arizona Cypress, Loquat, Hybrid Holly, Foster Hybrid Holly, Dahoon, Myrtle-Leaved Holly, Nellie Stevens Holly, American Holly, Devilwood, Austrian Pine, Virginia Pine, Carolina Cherry-Lauren, Japanese Evergreen Oak, Ring-Cupped Oak, Palmetto, and Windmill Palm.
- C. Acceptable species of **Small Deciduous Trees** include: Trident Maple, Amur Maple, Paperbark Maple, Japanese Maple, Laceleaf Japanese Maple, Manchustriped Maple, Ohio Buckeye, Serviceberry, River Birch, European White Birch, Japanese White Birch, American Hornbeam, Eastern Redbud, Flowering Dogwood, Kousa Dogwood, Cornelian-Cherry Dogwood, Smoketree, Washington Hawthorn, Russian Olive, Chinese Parasol Tree, Franklinia, Carolina Silverbell, Chinese Witch-Hazel, Chinese Flame Tree, Golden-Rain-Tree, Golden-Chain, Crape Myrtle, Bigleaf Magnolia, Saucer Magnolia, Umbrella Magnolia, Apple, Flowering Crab Apple, White Mulberry, Weeping White Mulberry, Sourwood, Pistachio, Pissard Plum, Sour Cherry, Peach, Japanese Cherry, Weeping Cherry, Yoshino Cherry, Pomegranate, Callery Pear, Goat Willow, Common Sassafras, Mountain-Ash, Chinese Elm, Blackhaw Viburnum, Southern Blackhaw.

9.3.5 SMALL SHRUBS. Small shrubs, including dwarf and semi-dwarf varieties, are typically used for ornamentation and mature at 4 feet.

- A. Small shrubs are not used to meet impact buffer and screening requirements.
- B. There is no requirement regulating the minimum height at installation.
- C. Examples of **Small Evergreen Shrubs** include: Satsuki Hybrid Azalea, Kurume Azalea, Warty Barberry, Harland Boxwood, Korean Boxwood, Dwarf Boxwood, Dwarf Hinoki Cypress, Rockspray Cotoneaster, Alexander Laurel, Winter Daphne, Evergreen Bittersweet, Dwarf Japanese Euonymus, Dwarf Gardenia, Saint John's Wort, Carissa Holly, Dwarf Horned Holly, Japanese Holly, Heller Japanese Holly, Kingsville Japanese Holly, Repanden Japanese Holly, Stokes Japanese Holly, Japanese Holly, Dwarf Yaupon, Prostrate Juniper, Parsons Juniper, Tamarix Juniper, English Lavender, Coastal Leucothoe, Drooping Leucothoe, Curlyleaf Ligustrum, Yunnah Honeysuckle, Oregon Holly-Grape, Mugo Pine, Otto Luyken, Indian Hawthorn, Rosemary, Japanese Skimmia, Reeves Skimmia, David Viburnum, and Adam's Needle Yucca.
- D. Examples of **Small Deciduous Shrubs** include: Beautyberry, Japanese Flowering Quince, Slender Deutzia, Dwarf Fothergilla, Snowhill Hydrangea, Kalm Saint John's Wort, Goldflower, Winter Jasmine, and Bush Cinquefoil.

9.3.6 MEDIUM SHRUBS. Medium shrubs, some of which may be used to form hedges, mature at between 4 and 6 feet in height.

- A. Unless otherwise stated in this ordinance, at installation, medium shrubs shall be a minimum of 2 feet in height.
- B. Acceptable species of **Medium Evergreen Shrubs** include: Glossy Abelia, Japanese Acuba, Glenn Dale Azalea, Kaempferi Azalea, Wintergreen Barberry, Japanese Boxwood, American Boxwood, Spreading Euonymus, Japanese Fatsia, Cape-Jasmine, Dwarf Burford Holly, Convexa Japanese Holly, Hetzi Japanese Holly, Littleleaf Japanese Holly, Roundleaf Japanese Holly, Japanese Holly, Flowering Jasmine, Pfitzer Juniper, Mountain-Laurel, Leatherleaf Mahonia, Cluster Mahonia, Northern Bayberry, Nandina, Mountain Andromeda, Japanese Andromeda, Narrow-Leaved English Laurel, Schipka Laurel, Zabel Laurel, Scarlet Firethorn, Lowdense Pyracantha, Yeddo-Hawthorn, Carolina Rhododendron, Hybrid Rhododendron, Delavay Tea Olive, Japanese Yew, Sandankwa Viburnum, Mound-Lily Yucca
- C. Acceptable species of **Medium Deciduous Shrubs** include: Mollis Azalea, Mentor Barberry, Japanese Barberry, American Beautyberry, Japanese Beautyberry, Flowering Quince, Spreading Cotoneaster, Vernal Witch-Hazel, Bigleaf Hydrangea, Oakleaf Hydrangea, Kerria, Japanese Rose, Rugose Rose, Reeves Spirea, Snowmound Spirea, Thunberg Spirea, and Rabbiteye Blueberry.

9.3.7 LARGE SHRUBS. Large shrubs may be used to form hedges, typically for impact buffers and screening, and mature at between 6 and 12 feet in height.

- A. Unless otherwise stated in this ordinance, at installation, large shrubs shall be a minimum of 3 feet in height.
- B. Acceptable species of **Large Evergreen Shrubs** include: Indian Azalea, Tree Boxwood, Bottlebrush, Camellia, Sasanqua Camellia, Japonica Camellia, Tea Plant, Cleyera, Franchet Cottoneaster, Thorny Elaeagnus, Evergreen Euonymus, Pineapple

Guava, English Holly, Chinese Holly, Burford Holly, Japanese Holly, Inkberry Holly, Lusterleaf Holly, Longstalk Holly, Perny Holly, Yaupon Holly, Weeping Yaupon Holly, Anise Tree, Florida Anise Tree, Hetzi Juniper, Hollywood Juniper, Laurel, Florida Leucothoe, Variegated Chinese Privet, Loropetalum, Sweet Bay, Banana Shrub, Wax-Myrtle, Myrtle, Oleander, Fortune Tea Olive, Fragrant Tea Olive, Holly Osmanthus, Curlyleaf Tea Olive, Fraser Photinia, Red Photinia, Chinese Photinia, Pittosporum, Podocarpus, English Laurel, Formosa Firethorn, Intermediate Yew, Oriental Arborvitae, Japanese Viburnum, Sweet Viburnum, Leatherleaf Viburnum, Laurustinus Viburnum, and Spanish-Bayonet.

- C. Acceptable species of **Large Deciduous Shrubs** include: Flame Azalea, Exbury Hybrid Azalea, Pinxterbloom Azalea, Butterfly-Bush, Sweetshrub, Wintersweet, Fringetree, Pampas Grass, Willowleaf Cotoneaster, Scotch Broom, Pride of Rochester, Silverberry, Cherry Elaeagnus, Autumn Elaeagnus, Winged Euonymus, Strawberry-Bush, Pearlbush, Common Fig Tree, Border Forsythia, Common Witch-Hazel, Rose of Sharon, Peegee Hydrangea, Possumhaw, Winterberry, Beautybush, Winter Honeysuckle, Star Magnolia, Sargent Crabapple, Sweet Mockorange, Hardy Orange, Plumleaf Azalea, Bridal Wreath Spirea, Vanhoutte Spirea, Persian Lilac, Common Lilac, Salt Cedar, Burkwood Viburnum, Linden Viburnum, Judd Viburnum, Chinese Snowball, European Snowball, Doublefile Viburnum, Wright Viburnum, Chaste Tree, and Weigela.

SEC 9.4 ALTERNATIVE METHODS OF COMPLIANCE

- A. Alternate landscaping plans, plant materials, or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements or where necessary to protect existing vegetation. Such situations may result from streams, natural rock formations, topography, or other physical conditions; or from lot configuration, utility easements, unified development design, or unusual site conditions.
- B. The Administrative Staff may approve an alternate plan that proposes different plant materials or methods provided that quality, effectiveness durability, and performance are equivalent to that required by this ordinance.
- C. The performance of alternate landscaping plans will be evaluated by the Administrative Staff to determine if the alternate plan meets the intent and purpose of this ordinance. This determination will take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots, and the level of screening height, spread, and canopy of the planting at maturity.
- D. Determinations of the Administrative Staff regarding alternate methods of compliance may be appealed to the Board of Adjustment.

SEC 9.5 REVISIONS TO APPROVED LANDSCAPE PLANS

Minor revisions to planting plans may be approved by the Administrative Staff if there is no reduction in the quantity or quality of plant material.

SEC 9.6 LANDSCAPE INSTALLATION REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY

A Certificate of Occupancy for the development will not be issued unless the landscaping required under this section is installed in accordance with these standards and in accordance with the approved site plan or subdivision plat. The Administrative Staff may issue a temporary Certificate of Occupancy with a landscape extension for not more than six months.

SEC 9.7 MAINTENANCE AND REPLACEMENT OF DISTURBED AND DAMAGED VEGETATION

- A.** The owner of the property is responsible for the continued proper maintenance of all landscaping materials required by this ordinance and will keep them in a proper, neat and orderly appearance, free from refuse and debris.
- B.** The City of Lexington will not be responsible for the maintenance of any vegetation required by this ordinance unless such vegetation is located on property owned by the City of Lexington.
- C.** The disturbance of any landscaped area or vegetation required by this ordinance is prohibited. Any disturbed or damaged landscaped areas and vegetation will be replanted to meet the standards of this ordinance.
- D.** Trees or vegetation required by this ordinance that die will be removed within 30 days and replaced with new vegetation meeting the standards of this ordinance within 90 days.

ARTICLE 10. VESTED RIGHTS AND PERMIT CHOICE

SEC 10.1 FINDINGS

Development approval typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. It is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation. The provisions of this section strike an appropriate balance between private expectations and the public interest.

SEC 10.2 PERMIT CHOICE

- A. If an application is submitted for a development approval in accordance with requirements of this ordinance and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. (For the purpose of this ordinance, an application is not considered submitted if it is incomplete.) If the applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. This section applies to all development approvals issued by the State and the City.
- B. Where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.
- C. If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the local or State government for a period of six consecutive months or more, the application review shall be discontinued and the development regulations in effect at the time permit processing is resumed shall be applied to the application.

SEC 10.3 PROCESS TO CLAIM VESTED RIGHT

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Administrator or Administrative Staff, who shall make an initial determination as to the existence of the vested right. The decision of the Administrator or Administrative Staff may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de

novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-405(c).

SEC 10.4 TYPES AND DURATION OF STATUTORY VESTED RIGHTS

10.4.1 Except as provided by this section and subject to subsection 10.2 of this section, amendments in development regulations shall not be applicable or enforceable with regard to development that has been permitted or approved so long as the development approval remains valid and unexpired. Each type of vested right listed in this subsection is defined by and is subject to the limitations provided in this section. Vested rights established under this section are not mutually exclusive. The establishment of a vested right under this section does not preclude the establishment of one or more other vested rights or vesting by common law principles. Vested rights established by City approvals are as follows:

- A. SIX MONTHS - BUILDING PERMITS.** A building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.
- B. TWO YEARS -** All other local development approvals expire two years after issuance unless work has substantially commenced. Expiration of a development approval shall not affect the duration of a vested right established under this section or vested rights established under common law.
- C. THREE TO FIVE YEARS - SITE-SPECIFIC VESTING PLANS.**
 - 1. DURATION.** A vested right for a site-specific vesting plan shall remain vested for a period of three years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the City. At development approval, the City may provide that rights regarding a site-specific vesting plan shall be vested for a period exceeding three years, but not exceeding five years, if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions, or other considerations. This determination shall be in the discretion of the approving authority and shall be made following the regular review process for that permit type.
 - 2. RELATION TO BUILDING PERMITS.** A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S. 160D-1109 and G.S. 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this subsection exists.
 - 3. REQUIREMENTS FOR SITE-SPECIFIC VESTING PLANS.** For the purposes of this section, a "site-specific vesting plan" means a plan submitted to the City pursuant to this section describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a site plan a conditional zoning, or any other development approval as may be issued and determined by the City. Unless otherwise expressly provided by the City, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed

buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. A variance shall not constitute a site-specific vesting plan and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

- 4. PROCESS FOR APPROVAL AND AMENDMENT OF SITE-SPECIFIC VESTING PLANS.** If a site-specific vesting plan is based on an approval required by the City, the City shall provide whatever notice and hearing is required for that underlying approval. The site-specific vesting plan can be approved as part of the underlying approval and be for up to five years. The two-year duration of the underlying approval shall not affect the duration of the site-specific vesting plan established under this subdivision. The City may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by its terms and conditions will result in a forfeiture of vested rights. City Council shall not require a landowner to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be deemed approved upon the effective date of the decision approving the plan or such other date as determined by City Council upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and City Council as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized in Section A.
- D. SEVEN YEARS - MULTIPHASE DEVELOPMENTS.** A multiphase development shall be vested for the entire development with the regulations in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development. For purposes of this subsection, "multiphase development" means a development containing 25 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.
- E. INDEFINITE - DEVELOPMENT AGREEMENTS.** Development agreements shall be of a reasonable term specified in the agreement.
 - 1. CONTINUING REVIEW.** Following approval or conditional approval of a statutory vested right, the City may make subsequent reviews and require subsequent approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The City may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

SEC 10.5 EXCEPTIONS

The provisions of this section are subject to the following:

- A. A vested right, once established as provided for by subdivision (c) or (d) of subsection (10.4) of this article, precludes any zoning action by the City that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except when any of the following conditions are present:
 1. The written consent of the affected landowner.
 2. Findings made, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the approved vested right.
 3. The extent to which the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the City Council, together with interest as is provided in G.S. 160D-106. Compensation shall not include any diminution in the value of the property that is caused by such action.
 4. Findings made, after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the City of the vested right.
 5. The enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved vested right, in which case the City may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.
 - a. The establishment of a vested right under subdivision (C) or (D) of subsection (10.4) of this section shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by the City, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.

SEC 10.6 NONCONFORMING SITUATIONS AND USES

Notwithstanding any provision of this section, the establishment of a vested right under this article shall not preclude, change, or impair the authority of the City to adopt and enforce development regulation provisions governing nonconforming situations or uses.

SEC 10.6 MISCELLANEOUS PROVISIONS

A vested right obtained under this article is not a personal right but shall attach to and run with the applicable property. After approval of a vested right under this article, all successors to the original landowner shall be entitled to exercise such rights. Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this article, nothing in this article shall be construed to alter the existing common law. However, a permit expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.

ARTICLE 11. NONCONFORMITIES

Where legally existing lots, structures or uses of land become prohibited by the passage or amendment of this ordinance or the extension of jurisdiction, these nonconformities may continue only under the terms of this ordinance and additional conditions may be applied by the City. The intent of this section is to move nonconforming situations toward conformance to the extent possible. In order to accomplish this, nonconforming activities may be approved within specified parameters issued by the Administrator if the overall proposal maintains or decreases the degree of nonconformity.

SEC 11.1 NONCONFORMING LOTS OF RECORD

Legally existing, nonconforming lots of record may be developed only in accordance with the following provisions:

- A. SINGLE LOT OF RECORD.** A single, nonconforming vacant lot which does not conform to the area or width requirements of the zoning district in which it is located may be developed for any use permitted by these regulations in the zoning district in which it is located provided that all applicable setback requirements are met.
- B. ADJOINING LOTS IN SINGLE OWNERSHIP**
 - 1. Where two (2) or more adjoining nonconforming vacant lots are held in one ownership, such lots shall be combined to create a single lot for the purpose of development if the resulting lot be a more conforming lot.
 - 2. If said combination, however, results in the creation of a single lot that is more than 1 ½ times the minimum lot width at building line, minimum required street frontage, and minimum lot size, then the lots may be combined into lots which need only meet the zoning district setback requirements for the development proposed.
 - 3. A nonconforming lot may be developed if, at the effective date of this ordinance, the subdivision in which the lot was located had received preliminary or final plat approval.

SEC 11.2 NONCONFORMING STRUCTURES

A nonconforming structure may continue only in accordance with the following provisions:

- A.** Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.
- B.** Nonconforming structures shall be permitted to expand by not more than 20% and shall be permitted to add accessory structures as long as setback requirements and design regulations are met for the zoning district.
- C.** The footprint of a nonconforming principal or accessory structure may not be enlarged in a way that increases its nonconformity except for size.
- D.** Accessory structures that would be permitted with a conforming use may be constructed in accordance with design regulations for a conforming building type for the district.
- E.** A nonconforming principal or accessory structure may be replaced by another structure if the proposed design, architecture, or building materials will bring the structure more

into compliance with the design regulations or maintain the same level of compliance, provided that the structure remains generally within the same footprint as the proceeding nonconforming accessory structure, or becomes more conforming in terms of size, placement, or setback.

- F. If a nonconforming structure is damaged to an extent of 60 percent or greater of its assessed value for tax purposes, it may be rebuilt only in conformance with the requirements of this ordinance.
 - 1. If a nonconforming structure is damaged to an extent less than 60 percent of its assessed value for tax purposes, a building permit for reconstruction of the structure shall be secured no later than 180 days from the date of its damage. Reconstruction of the structure may be permitted provided it is constructed in the same manner in which it originally existed, or in a manner that brings the structure more into compliance with this ordinance.
 - 2. Nonconforming structures may only be moved or relocated, so as to make the structure more conforming.

SEC 11.3 NONCONFORMING COMMERCIAL BUILDING IN TRADITIONAL OR SUBURBAN NEIGHBORHOOD DISTRICTS

A nonconforming commercial building located in the Traditional Neighborhood Zoning District or Suburban Neighborhood Zoning District that has been abandoned for more than 180 days may be used for a commercial use. The level of commercial intensity of the new use should be similar to the previous use and generally, commercial uses permitted within the Mixed-Use District shall be considered appropriate. The Board of Adjustment may authorize such use and may impose such conditions as necessary to ensure that the use does not negatively impact adjoining properties. Such conditions may address issues including, but not limited to, landscaping, parking, lighting, maintenance, and signage improvements. In addition to design conditions, other improvements may be required to comply with NC State Building Code and/or Fire Code. In order to approve said use, the Board shall hold a hearing and as a result of the hearing, shall first find that the proposal, along with any conditions prescribed by the Board, meets each of the following findings of fact: 1) The use will be reasonably compatible with the surrounding area; and 2) The use will not endanger the public health, safety, or welfare; and 3) The use will not substantially injure the value of adjoining property. Said proceedings shall be held in a quasi judicial manner.

SEC 11.4 NONCONFORMING MANUFACTURED HOMES OUTSIDE OF MANUFACTURED HOME ZONING DISTRICT

- A. Normal repair and maintenance may be performed to allow the continuation of nonconforming manufactured homes.
- B. A nonconforming manufactured home may only be replaced by a one-family dwelling as defined in Article 4 of this Ordinance.
- C. If a nonconforming manufactured home is damaged to an extent less than 60 percent of its assessed value for tax purposes, a building permit for repair of the structure shall be secured no later than 180 days from the date of its damage. Repair of the structure may be permitted provided it is constructed in the same manner in which it originally existed, or in a manner that brings the structure more into compliance with this ordinance.

- D. If a nonconforming manufactured home is damaged to an extent of 60 percent or greater of its assessed value for tax purposes, it may only be replaced by a one-family dwelling per the requirements of Article 4 of this Ordinance.
- E. If a nonconforming manufactured home is abandoned for one hundred-eighty days (180) or more, a manufactured home will not be permitted to be replaced on the property.
- F. A nonconforming manufactured home may only be moved or relocated on its current lot so as to make the structure more conforming.

SEC 11.5 NONCONFORMING MANUFACTURED HOMES WITHIN A MANUFACTURED HOME ZONING DISTRICT

A nonconforming manufactured home may be replaced with a newer model manufactured home provided the design regulations for a Manufactured Home are met as they pertain to the structure, but not necessarily the lot configuration. Single-wides may be replaced by a newer single-wide or double-wide meeting the design regulations. Double-wides may only be replaced with a newer double-wide meeting the design regulations.

SEC 11.6 NONCONFORMING SIGNS

- A. Existing non-conforming signage may only be replaced with new signage that results in bringing the overall site more into compliance with this ordinance in terms of size, placement, or type.
- B. The face of a nonconforming sign may be changed, but the size may not be increased and the sign structure may not be altered.
- C. Under no circumstances may replacement of existing nonconforming signage result in an increase in the nonconformity.

SEC 11.7 NONCONFORMING ACTIONS

Nonconforming actions shall not be extended any nonconformity rights and shall be corrected upon notice from the Administrator or other City official.

SEC 11.8 NONCONFORMING USES

- A. A nonconforming use may not be changed, expanded, increased, intensified, extended, or enlarged in any way as to maintain or increase the degree of nonconformity.
- B. A nonconforming use may not be changed to another nonconforming use.
- C. If a nonconforming use is abandoned for one hundred-eighty (180) days or more, the use will not be allowed to re-establish.
- D. Once a nonconforming use has been changed to a conforming use, it may not thereafter be used for any nonconforming use.

SEC 11.9 NONCONFORMING AND DEFICIENT LANDSCAPING AND IMPACT BUFFERS

- A. A change of use with no building expansion or increase in impervious surface will not require compliance with the landscaping and impact buffer requirements.
- B. Demolition and reconstruction of a principal building will require that the entire site fully comply with landscaping and impact buffer requirements.
- C. Expansion of the principal building by more than twenty (20) percent will require that the entire site fully comply with all landscaping and impact buffer requirements.

- D. Any expansion of a parking lot will require that the newly created parking area comply with the landscaping, and if applicable, impact buffer requirements.
- E. Expansion of a parking lot by more than forty (40) percent in area will require that the entire parking lot area comply with landscaping and if applicable, impact buffer requirements.

SEC 11.10 NONCONFORMING PLANS WITH VALID ZONING PERMIT

- A. Any site-specific plan for the development of property and/or construction of a building that has received final approval by the City Council and holds a current, valid zoning permit, but does not conform to the provision of this ordinance may be developed as approved.
- B. Any amendment or modification to an approved site-specific plan shall comply with the provisions of this ordinance.
- C. Nothing herein is intended to prohibit the exercise of any vested right established by common law, ordinance, or statute.

SEC 11.11 SUBDIVISION OF LOTS WITH NON-CONFORMING STRUCTURES

Lots that contain existing structure(s) may be subdivided, provided that each resulting lot conforms to the minimum buildable lot regulations for the applicable building type within the district and each structure meets the required setbacks against any new property line established with the subdivision.

SEC 11.12 NONCONFORMITIES RESULTING FROM GOVERNMENT ACQUISITION

Any lot reduced in size by municipal, county, or state condemnation or purchase of land will retain nonconforming status to the extent that the land acquisition causes noncompliance with this ordinance.

ARTICLE 12. DEFINITIONS

For purposes of interpreting this ordinance, certain words, concepts, and ideas are defined below. Except as defined herein, all other words used in this ordinance will be defined as found in accredited dictionary.

Aa

Abandon: To cease the development or regular use of a lot, building, or structure for more than 180 consecutive days. For the purpose of development under progress for which a certificate of occupancy has not yet been issued, but a building permit has been issued, a site will be considered abandoned if progress towards obtaining a certificate of occupancy has not been made as evidenced by an approved building, mechanical, electrical, or plumbing inspection within the 180 consecutive day period.

Abandoned sign: A sign on an occupied site that is relative to a former occupant, with the exception of Historic Signs.

ABC-Permitted Business: An establishment permitted by the State for on-premises sale and consumption of alcoholic beverages pursuant to NCGS Chapter 18B, as amended, where the primary use as stated on the Certificate of Occupancy meets the definition of a commercial use, but is not a bar, brewery, distillery, winery, or nightclub, and where alcohol is offered and served to patrons of the primary use. Examples include, but are not limited to: salons and spas, barber shops, gyms, game rooms, galleries, retail stores, massage therapists, and yoga studios. The business is open to the general public without age restrictions. If accessory uses are present, the primary use represents a minimum of 80% of the space in use and square footage. Although a bar or seating area may be designated as an accessory use, it is clearly secondary to the primary business during all open hours. For the purpose of this ordinance, the definition of ABC-permitted business excludes restaurants.

Abutting: Having common property boundaries or lot lines that are not separated by a street, alley, or other vehicular right-of-way such as a railroad.

Accessory Dwelling Unit: An Accessory Dwelling Unit is a second living unit complete with kitchen, bathroom and sleeping facilities, located on a property where the principal use is a one-family dwelling. Must comply with NC State Building Code. Also, traditionally referred to as “Mother-In-Law Apartment,” or “Granny Flat.”

Accessory Structure: A structure that is subordinate to and serves a principal use or building; is clearly subordinate in area, extent, or purpose to the principal use or building served; and is located on the same parcel as the principal use or building.

Adjacent: Either abutting or being directly across a street.

Administrative decision: Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Administrative Hearing: A proceeding to gather facts needed to make an administrative decision.

Adult Establishment: Adult cabarets, adult bookstores, adult mini-motion picture theaters, and all other places described in North Carolina General Statutes 14-202.10.

Agricultural Industry: Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial plant production (not retail nurseries), commercial fish or poultry hatcheries, and other similar activities.

Airport: Any existing airport within the City of Lexington including but not limited to the Davidson County Airport.

Airport Elevation: The highest point of an airport's useable landing area measured in feet above mean sea level. The Davidson County Airport elevation is 733 feet.

Alley: A private street or easement located through the interior of blocks and providing vehicular, utilities, and service access to the side or rear of properties.

Aluminum-Clad Wooden Windows: Windows that combine solid wooden frames on the inside with a protective aluminum shell on the outside.

Amusement, outdoor: Any business establishment which is primarily engaged in providing an amusement activity such as a miniature golf course, skateboard course, water slide, mechanical ride, par 3 golf course, golf driving range, go-cart or motorcycle course, fish ranch, or similar activity to the general public.

Amusement, indoor: Any indoor business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink, bowling alley, movie theater, or similar activity as a principal use open to the general public.

Animal-based Agricultural Industry: Land uses and economic activities including ranches, farms or feedlots primarily engaged in keeping, grazing, breeding or feeding animals.

Antenna: Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Apartment Building: A residential building accommodating several households in individual units under a single deed/ownership. The units may be in one or more buildings. The entire property, including buildings, units, common areas, and amenities are managed by an entity.

Appeal: A request to a higher authority for review and determination of a decision.

Applicable codes: The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Applicant: Any person who submits an application for a special event, development or building permit.

Application: A request submitted by an applicant to the local government for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, city utility pole, or a wireless support structure.

Architect: An individual, partnership, corporation or other legal entity licensed to practice the profession of architecture under the education law of the State of North Carolina.

Architraves: The lowest part of a classical entablature, symbolizing a beam laid across capitals of columns, or as more commonly used in connection with houses, the molded trim around a door or window opening.

Artificial Siding (Synthetic Siding): Synthetic or engineered siding material that is not original to the structure including vinyl, aluminum, spray-on vinyl, stucco applied over masonry, among others.

Asbestos Cement (transite): Any form of building material composed of compressed asbestos and cement compounds to create thin plates used in siding, cladding or insulation in construction and commercial applications.

Attached Commercial Units: Attached Commercial buildings contain individual leasable or fee simple units for multiple tenants or owners and have a separate entrance directly from the outside for each unit. There may be one, or a series of one- or multiple-story buildings contained within a development. Residential units may be located in the upper stories.

Automobile Crushing: The crushing, dismantling, and any accessory storage or salvage of crushed or dismantled automobiles or parts. Often automobile crushing activities are an accessory use within a junk yard.

Automotive Repair: A building and its premises used for the storage, care, repair, restoring, or refinishing of motor vehicles including major repairs such mechanical overhauling, body work, and reupholstering. Most cars are left on-site for more than one day to undergo repair.

Automotive Service: A building and its premises used for the service of motor vehicles limited to minor maintenance work such as fueling, oil changes, inspections, battery and tire changes, light and fuse replacement, wiper blade changes, and similar activities. Cars are typically serviced while the customer is waiting, though the car may be left for short periods of time, usually less than 24 hours.

Aviation services: Services or industries providing support services to the aviation industry. Services can range from flight operations, maintenance, repair, training and consulting.

Awning: A retractable or fixed structure made of cloth, metal, or other material, not to include tarps or other non-fitted woven material, affixed to a building for the purpose of providing shelter for patrons or as a decorative feature on a building wall.

Awning signs, vertical: A sign that is attached to an awning and extends above the awning in a vertical or near vertical direction. (As opposed to signage painted directly onto an awning surface.)

Bb

Back lighting: A method used in lighting an object, especially related to signage, where the source of illumination is from within or behind the object of illumination.

Balcony sign: A sign attached to, located on, painted on, or applied to a balcony.

Baluster: A short upright member that supports a handrail. Balusters for porch balustrades can be lathe- turned or simple square posts.

Balustrade: A series of balusters connected on top by a handrail and sometimes by a bottom rail; used on porches, stairs, balconies, etc.

Banner: A sign intended to be hung, with message or symbol applied to plastic or fabric of any kind, but excluding flags or emblems of any nation, organization of nations, state, city, or any fraternal, religious, or civic organization. Excludes lamppost arm banners.

Bar: An establishment permitted by the State for on-premises sale and consumption of alcoholic beverages pursuant to GS Chapter 18B, as amended, where the primary use is the consumption of alcoholic beverages along with gathering, socializing, watching TV, listening to music or entertainment, and the like. There may be accessory uses such as retail or service, which are ancillary to the primary use. The term bar includes pubs, saloons, wine bars, sports bars, dog bars, taverns, lounges, etc. The establishment may or may not have an actual bar counter, bartender, and back bar. Likewise, other ABC-permitted businesses may contain a bar counter, but not meet the definition of a bar. The definition is based in the primary use and intent of the space. If food is served, it is less than the amount required to meet the State's definition of a restaurant. (If the establishment meets the State's definition of a restaurant, it is regulated as such.) A bar has an occupancy capacity of 99 people or less and is less or equal to 1,500 square feet of enclosed space, as defined by the latest edition of the North Carolina Fire Code. Establishments exceeding this occupancy and size may be regulated as a nightclub.

Bargeboard (also known as vergeboard): A wooden member, usually decorative, suspended from and following the slope of a gable roof. Bargeboards are used on buildings inspired by Gothic forms.

Billboard sign: An off-premise advertising sign that is affixed to the ground or to a building, the primary purpose of which is to display advertising where the copy or poster on the sign can be changed frequently and the advertising space is for lease.

Blinking/flashing sign: A sign that uses an intermittent, blinking, or flashing light source to attract attention. Signs that light and unlight individual letters or portions of the signs at intervals. Signs that electronically and intermittently change messages at intervals and/or scroll copy. Exception: electronic changeable copy signs that are otherwise specifically permitted within this section.

Bond (brick): The arrangement of bricks in a wall providing strength and decoration. Common, English, and Flemish bond arrangements include variations in long face bricks (stretchers) and short face bricks (headers).

Base station: A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

Bed and Breakfast Home: As defined by North Carolina General Statutes 130A-247, as amended. Currently, "a business in a private home of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that meets all of the following criteria: a) Does not serve food or drink to the general public for pay; b) Serves the breakfast meal,

the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home; c) Includes the price of any meals served in the room rate. The price of additional meals served shall be listed as a separate charge on the overnight guest's bill rate at the conclusion of the overnight guest's stay; d) Is the permanent residence of the owner or the manager of the business.

Belt Course: A projecting horizontal band on an exterior wall marking the separation between floors or levels.

Best Management Practices (BMPs): A structural or non-structural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals. Non-structural BMPs refer to non-engineered methods to control the amount of non-point source pollution such as land-use controls and vegetated buffers. Structural BMPs refer to engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply such as wet detention ponds, detention basins, grass swales and ditches, and infiltration devices.

Blank Wall: An exterior building wall with no openings and generally constructed of a single material, uniform texture, and on a single plane.

Bracket: Projecting support member found under roof eaves or other overhangs.

Brewery: An establishment permitted by the State as a brewery pursuant to GS 18B-1104, as amended, which is primarily engaged in the production and distribution of beer, cider, fermented malt, or other beverages containing alcohol, where the majority of product is for off-site sale and consumption, along with accessory uses such as tasting room(s), restaurant, retail, demonstration areas, education and training facilities, or other uses incidental to the brewing business.

Bona fide farm purposes: Agricultural activities as set forth in G.S. 160D-903.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building Elevation: An exterior façade of a structure, or its head-on view, or drawn representation thereof.

Building Footprint: The two dimension area of a building area including covered porches, covered balconies, covered walkways and the like.

Building Line: A line tangent to the exterior surface of a building or structure, or the surface of cantilevered projections therefrom, usually parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

Building Permit: An official administrative authorization issued by the local government prior to beginning construction consistent with the provisions of G.S. 160D-1110.

Building Scale: The relationship between the mass of a building and its surroundings, including the width of street, open space, and mass of surrounding buildings.

Building sign: (1) Any sign painted on, directly attached to, or displayed on an exterior wall of a building in a manner parallel with the wall surface, and (2) any sign painted or printed on an awning. Building signage includes projection signs where allowed and changeable copy at percentages allowed.

Building Size: The area of a building. Each floor area shall be added individually to arrive at the total building size.

Build-to Line: The required front building line relative to the street.

Built-in Gutters: Gutters which are integral to the roof structure; usually concealed behind a decorative cornice.

Cc

Caliper: The diameter of a tree trunk at six inches above the ground for small trees and 12 inches above the ground for large trees.

Came: A slender rod of cast lead, with or without grooves, used in casements and stained-glass windows to hold the panes or pieces of glass together.

Canopy: A fixed structure made of cloth, metal, or other material, not to include tarps or other non-fitted woven material, not enclosed and not retractable, attached or unattached to a building, for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall.

Canopy sign: A sign attached to, located on, painted on, or applied to a canopy detached from or extending from the principal building, except that canopies over gas pumps and the like may contain signage as contained within Article 4 for Business District and Industrial District Sign Regulations.

Cap flashing: A waterproof sheet that seals the tops of cornices and walls.

Capital: The topmost member, usually decorated, of a column or pilaster.

Carpport: a covered structure used to offer limited protection to vehicles, primarily cars, from the elements. The structure can either be free standing or attached to a wall or structure. Unlike most structures a carport does not have four walls, and usually has one or two.

Carwash: any facility in which power driven or steam cleaning machinery is used for the exterior and interior washing and cleaning of automobiles and other motor vehicles. Such facility and equipment may be designed for self-service or full-service operation.

Casing: The finished visible framework around a window or door.

Casement: A window sash that is hinged on the side.

Cast Iron: A type of iron, mass-produced in the nineteenth century, created by pouring molten iron into a mold; used for ornament, garden furniture, and building parts.

Cemetery: A place dedicated to and used, or intended to be used, for permanent interment of human remains. A cemetery may contain land or earth interments; mausoleum, a vault, and crypt interments; a columbarium or other structure or place used or intended to be used for the inurnment of cremated human remains; or any combination of one or more of such structures or places.

Change of Use: The change in the use of a structure or land, for which a new certificate of occupancy is required. Includes a change in use from one permitted use to another, even if the business owner remains the same.

Charter: As defined in G.S. 160A-1(2).

Chimney sign: A sign attached to, located on, painted on, or applied to a chimney.

City: As Defined in G.S. 160A-1(2). Refers to the City of Lexington, North Carolina.

City right-of-way: A right-of-way owned, leased, or operated by a city, including any public street or alley that is not a part of the State highway system.

City utility pole: A utility pole owned by the City in the rights-of-way, including a utility pole that provides lighting or traffic control functions, including light poles, traffic signals, and structures for signage, and (2) a pole or similar structure owned by the City in the ROW that supports only Wireless Facilities.

Childcare: All definitions related to childcare shall be the most current definitions adopted under the North Carolina Administrative Code, as amended.

Civic Building: A building used for public purposes, including but not limited to: churches, cultural uses, community facilities, libraries, municipal buildings, governmental agencies, post offices, and schools. Civic buildings are classified as commercial buildings.

Clapboard: Thin boards tapered along one side laid horizontally over one another to sheath a wall surface. They are applied with the thick edge lapped over the thin edge of the board underneath.

Colonnade: A row of regularly spaced columns supporting an entablature.

Colonnette: A diminutive column which is usually either short or slender.

Color: The sensible perception of hue, value and saturation characteristics of surfaces of window components. In the event of disagreement, the Munsell system of color identification shall govern.

Collocation: The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, city utility poles, or wireless support structures.

Common Plan of Development: Any area where multiple separate and distinct construction or land-disturbing activities will occur under one (1) plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

Commencement of Construction: The first placement of permanent evidence of a structure on a site pursuant to a duly issued building permit, such as staking, digging, clearing, grading, or the pouring of slabs or footings.

Commercial Building: Commercial Buildings are classified according to the type of occupancy. For the purpose of this ordinance, the classifications are grouped as follows:

- Assembly, Education and/or Institutional: Commercial Buildings classified for Assembly, Education, and/or Institutional Occupancy are commonly recognized in relation to, and synonymous with, the use for which the building was designed. Examples include churches, libraries, and schools. The scale and architectural sophistication of these buildings shall match their civic importance.
- Mercantile and/or Business: Commercial Buildings classified for Business and/or Mercantile occupancy include a variety of common forms such as shopfronts in the Uptown District, shopping centers, mixed use buildings, condominiums, free-standing buildings, as well as gas stations. Regardless of the form, these buildings share design features that convey a sense of invitation to the public.
- Factory, Industrial, S-1 and S-2 Storage: Commercial buildings classified for Factory, Industrial, and/or S-1 and S-2 Storage range in size and scale. Although a presence may be established through stature, the building typically does not project a sense of open invitation to the general public. Most people onsite at any given time are employees. Uses include manufacturing, assembly, warehousing, distribution, wholesale, and processing, and also include uses such as airport hangers. These building types are typically found and permitted within the Industrial District and to a lesser degree, the Business District.

Commercial Use: A set of uses with a purpose in commerce, community, cultural, service, and/or retail activity. The following uses are not to be considered commercial uses for the purpose of this Ordinance and are individually regulated otherwise, prohibited, or included in the definition of “Industrial Use:” Adult Use; Animal based Agricultural Industry; Airport; Construction Material Supply Yard; Correctional Facility; Dispatch centers or base operations for commercial vehicles where large vehicles are stored on- site such as bus terminals, trucking facilities, truck trailer storage or rental, and the like; Electronic Gaming Operations; Hazardous or Infectious Material Treatment Facility; Kennel, Commercial; Industrial Uses; Flea Market – Indoor or Outdoor; Junkyard; Landfill; Lumber Mill and Lumber Storage Yard; Mobile Food Trailer; Nightclub, Private Club; Outdoor Storage and Inventory; Outdoor sales, lease, display, and/or service of Boats, Carports, Heavy Equipment, Farm Equipment, and/or Lawn Care Equipment, Manufactured Homes and/or Modular Homes, Motor Vehicles (new and used car / boat / truck lots), Storage Buildings; Organic Material Supply Yard (mulch, soil, pine needles, etc.); Petroleum Storage Facility; Power Generation Plant; Pub, Private Club; Quarry; Raceway and Drag Strips; Recyclable Processing Plant; Slaughter House or Meat Packing Plant; Solid Waste Incineration; Uses that have potential for environmental degradation, or are otherwise incompatible with nearby residential use; Utility Material Supply Yard; Utility Treatment Plant; Wine Bar, Private Club.

Communication Antenna: A device attached to a tower or other structure that is used to receive signal and is not a stand-alone structure.

Communications facilities: A set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications service: Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

Communications service provider: A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

Communication Tower: A tower facility, either roof or ground mounted, that includes, but is not limited to, radio and television transmission towers, or similar utilities, microwave towers, and cellular telephone communication towers, and similar structures for wireless communication. This term will not include radio transmission facilities for use by ham radio operators or two-way local radio facilities for business or governmental purposes.

Community Sign: A sign identifying the name of a platted subdivision, apartment complex, townhomes with more than one building, residential neighborhood, or residential community. Not a group development sign.

Composite Windows: Window frames made from any combination of materials such as fiberglass, wood products, vinyl, or other engineered materials.

Comprehensive plan: A comprehensive plan that has been officially adopted by the governing board pursuant to G.S. 166D-501.

Conditional zoning: A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Condominiums: Condominiums are units with individual deeds where the property owned is the airspace inside of the walls. The common areas are managed by a Property Owner's Association. The scale can range from two units to a series of multiple units in multiple buildings. For the purpose of this ordinance, residential condominiums shall be considered as Townhomes and commercial and mixed-use condominiums shall be considered as commercial buildings.

Configuration: The number, shape, organization and relationship of panes (lights) of glass, sash, frame, muntins, or tracery.

Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of four thousand (4,000) feet.

Conical Zone: A zone established on the area that commences at the periphery of the horizontal zone and extends outward therefrom for a distance of four thousand (4,000) feet, and upward at a slope of 20:1.

Console: A scroll-shaped projecting bracket that supports a horizontal member.

Construction Material Supply Yard: refers to construction supply businesses that store larger materials outside, which are typically retrieved by an employee and loaded for the customer, as well as contractors that store materials used in the course of their work outside on site at the construction office.

Convenience store: easy-access retail stores of 5,000 square feet or less in gross floor area, which carry a range of merchandise oriented to convenience and travelers' shopping needs. These stores may be part of a fueling or service station or an independent facility.

Conversion: The changing of any one building type to another building type. Typically involves changes to a building that will enable it to meet the occupancy of a classification not previously approved through the NC Building Code for that building.

Coping: A protective cap, top, or cover of a wall parapet, commonly sloping to protect masonry from water.

Copy: Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.

Corbel: An architectural member which projects upward and outward from a wall that supports a horizontal member.

Corbelling: A series of projecting courses of bricks, each stepped out further than the one below, found on chimneys and walls.

Corner Lot: See “Lot, Corner”

Corner Board: A board that is used as trim on the exterior corner of a wood-frame structure, and against which the ends of the siding boards are fitted.

Cornice: A projecting molding that tops the elements to which it is attached; used especially for a roof or the crowning. The uppermost portion of entablature where the roof and wall meet.

Correctional Institution: A jail or other institutional facility used to confine and provide treatment or rehabilitation to violators of criminal laws, including facilities for persons who are participating in supervised work-release programs, whether such facilities provide confinement for all of each 24 hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station.

Crematory/Crematorium: The building or buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office, and other parts of the crematory business. (G.S. 90-210.121). A crematory may be part of, or separate from the primary land use of a funeral home operation.

Cresting: A decorative element, frequently of iron, usually located at the peak or edge of a roof.

Crocket: An ornamental foliate form placed at regularly spaced intervals on the slopes and edges of the spires, pinnacles, gables, and similar elements of Gothic buildings.

Critical Area: The area adjacent to a water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed.

Cultural Facility: An indoor or outdoor theater, auditorium, or other building or structure designed, intended, or used primarily for library, musical, dance, dramatic, other live performances, or a museum or gallery operated primarily for the display and/or sale of works of art.

Cupola: A dome on a circular or polygonal base crowning a roof or turret.

Dd

Day: One calendar day.

Day Care Center for Adults: A principal or accessory use for the care of adults, with a focus on activities as opposed to health care.

Deciduous Plant: Those plants that annually lose their leaves.

Decision-making board: A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this Chapter.

Deck: A wooden or composite platform built above the ground and connected to the main building. It is generally enclosed by a railing for safety. Access may be from the house through doors and from the ground via a stairway. Residential decks can be constructed over steep areas or rough ground that is otherwise unusable. Decks may also be covered by a canopy or pergola to control sunlight.

Decorative flag: Flags other than national, state, municipal, or religious, that are used for decoration or to attract attention, whether or not the flag contains copy or a logo.

Decorative Masonry: Terra cotta, cast-stone or natural stone (such as limestone, marble, brownstone or granite) facade areas and/or any ornamental feature which is a component of the facade such as, belt courses, banding, water tables, cornices, corbelled brick work, medallions, enframements, and surrounds, and ornamental bonding patterns, e.g. tapestry brick or diaper patterns.

Demolition: Dismantling or razing of all or part of an existing improvement.

Dentil: A small, square, tooth-like block in a series beneath a cornice.

Dependent Care Center: A principal or accessory use designed for persons who need a wide range of health and support services, such as medical, nursing, and personal services care, central dining facilities, and transportation services. Does not include homeless shelters.

Details: The dimensions and contours of both the stationary and moveable portions of a window, and moldings.

Determination: A written, final, and binding order, requirement, or determination regarding an administrative decision.

Developer: Any person seeking approval under these regulations for any form of development.

Developer: A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development: Constructing, erecting, improving, or substantially changing any structure or site.

Development: The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; the excavation, grading, filling, clearing, or alteration of land; the subdivision of land as defined in G.S. 160D-802; the initiation or substantial change in the use of land or the intensity of use of land.

Development regulation: A development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, stormwater control regulation, wireless telecommunication facility regulation, historic

preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this Chapter, or a local act or charter that regulates land use or development.

Dilapidated sign: A sign in disrepair.

Discharge: The introduction, either directly or indirectly, of any man induced waste effluent into North Carolina surface waters.

Display Window: The large glazed portion of the storefront, and the associated framing, above the bulkhead and below the transom, extending from pier to pier. The display window is typically used for the display of goods and to provide daylight and visibility into the commercial space.

Distillery: An establishment permitted by the State as a distillery pursuant to GS 18B-1105, as amended, which is primarily engaged in the production and distribution of spirituous liquor, and sells the majority of product for off-site sale and consumption, along with accessory uses such as tasting room(s), restaurant, retail, demonstration areas, education and training facilities, or other uses incidental to the brewing business.

Dog Lot: A fenced area meant to contain a dog. Fenced-in yards that contain the general area of the yard and outside areas for persons, are not dog lots.

Dog Park: One or more parcels used for the purpose of providing an enclosed space for canines to interact in a controlled environment, under the supervision of their attendants. Dog parks may be considered an accessory use if part of a larger, common development.

Doric: One of five classical orders, recognizable by its simple capital. The Greek Doric column has a fluted shaft and no base; the Roman Doric column may be fluted or smooth and rests on a molded base.

Dormer: A vertical structure, usually housing a window that projects from a sloping roof and is covered by a separate roof structure.

Double-hung Window: A type of window composed of an upper and lower sash that slide vertically past each other, and are moveable by means of sash cords and weights.

Drip Line: An imaginary vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Drip molding: A projecting molding around the head of a door or window frame, often extended horizontally at right angles to the sides of the frame, intended to channel rain away from the opening; also called a drip lintel.

Dunnage: Supports for air conditioning and other equipment above the roof of a building.

Dwelling: A building that contains one or up to four dwelling units as defined by the North Carolina Residential Code intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes. This building type is reviewed, permitted and inspected under the North Carolina Residential Building Code.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Ee

Easement: An interest in land owned by another that entitles its holder to specific, limited use or ingress and egress onto, out or across a real property.

Eave: Edge of sloping roof that projects or overhangs past the vertical wall.

Egg and dart: An ornamental band molding of egg forms alternating with dart forms.

EFIS (Exterior Insulation Finish Systems): a building product that provides exterior walls with a finished surface, insulation and waterproofing in an integrated composite system. EIFS is also known as "synthetic stucco" and "Senergy", "Finestone", "Dryvit" or "Sto" – which are popular EIFS brands.

Electronic changeable copy sign: Also referred to as electronic message boards/panels. Signs that electronically display changing or moving messages, symbols, or scenes. Includes LED signs. May be applied as a ground mounted sign, a building sign, or projection sign. All electronic changeable copy signs are considered back-lit.

Elevation: 1) The front, rear, or side of a building; 2) A drawing of a face of a building with all the features shown, as if in a single vertical plane.

Electronic Gaming: businesses or enterprises where persons utilize electronic machines (including but not limited to computers and gaming terminals) to conduct games of chance or sweepstakes, and where cash, merchandise or anything else of value is redeemed or otherwise distributed or placed on an account or other record, whether or not the value of such distribution is determined by electronic games played or by predetermined odds.

Eligible facilities request: A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Emergency: A condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the right-of-way to be unusable and result in loss of the services provided.

Emporium: A large retail space or store, characterized by the selling of a large variety of articles or items.

Enframement: A general term referring to any elements surrounding a window or door.

Engineer: Any individual, partnership, corporation or other legal entity licensed to practice the profession of engineering under the education law of the State of North Carolina.

English bond: A pattern of brickwork with alternate courses of headers and stretchers.

Entablature: A major horizontal member carried by a column(s) or pilaster(s); it consists of an architrave, a frieze, and a cornice. The proportions and detailing are different for each order, and strictly prescribed.

Entrance recess: The recessed opening in the facade leading up to the doorway of a storefront or building entrance.

Environmental Constraints: Features, natural resources, or land characteristics that are sensitive to improvements.

Equipment compound: An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

Equitable Remedy: A court decision which prescribes a method of ‘equitable’ compliance with the terms and conditions of the Land Use Ordinance.

Establishment: A manufacturing, commercial or retail business or profession.

Event Venue: A multi-purpose venue facility hosting special events such as graduations, weddings, anniversaries, holiday gatherings, trade shows, corporate functions or parties, concert settings, and general gatherings. An event center could typically have a catering kitchen, indoor and/or outdoor seating and a stage or event area.

Evidentiary hearing: A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this Chapter.

Existing Development: Projects that are built or projects that, at a minimum, have established a vested right.

Existing Structure: A previously erected support structure or utility pole that is capable of supporting the installation of wireless facilities.

Existing windows: The windows existing at the time of designation or windows which have been changed subsequent to designation pursuant to a permit issued by the Commission.

Eyebrow dormer: A curved dormer with no sides, covered by a smooth protrusion from the sloping roof.

Ff

Façade: The principal vertical surface of a building which is set along a frontage line; the front wall of a building or any architecturally distinguished wall of a building.

Facility(ies): Wireless telecommunication facilities.

Fall zone: The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Family Care Home: A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities.

Fanlight: A semicircular or semielliptical window above a door, usually inset with radiating glazing bars.

Farm: Any tract of land containing at least three acres which is used for dairying or for the raising of agricultural products, forest products, livestock, or poultry, and which may include facilities for the sale of such products from the premises where produced. Does not include agricultural industries.

Farmers Market: An indoor or outdoor market operated through the local Agricultural Extension office whereby local farmers are able to gather, display, and sell their produce and wares.

Farmer's Stand: A temporary seasonal location on private property for a local farmer from within Davidson County to set up and sell produce that was grown on a local farm by the person selling the produce. Excludes the wholesaling of produce.

Fascia: A horizontal, flat element often combined with a cornice and architrave. The flat board that covers the ends of roof rafters.

FCC: The Federal Communications Commission of the United States.

Fee: A one-time charge.

Fences and Walls: Any linear structure in excess of two feet in height, solid or otherwise, used as 1) a barrier intended to prevent escape or intrusion by people, vehicles, or animals, and/or 2) to mark a boundary, and/or 3) to visually define a space, and/or 4) to block view or noise.

Fenestration: The design and placement of windows and doors on a building; the arrangement, proportioning and design of window and door openings in a building.

Festoon: A carved ornament in the form of a band, loop, or wreath, suspended from two points; also called a "garland" or "swag."

Fiber Cement: A class of composite building or siding material that is made from a combination of cement, cellulose (wood), sand and water. These materials are either painted or coated in the factory or installed then painted after installation.

Finial: The crowning ornament of a pointed element, such as a spire.

Finish: The visual characteristics including color, texture and reflectivity of all exterior materials.

Fixture: An appliance or device attached to the façade (e.g., awning, sign, lighting fixture, conduit, or security gate).

Flag Lot: A lot configuration that results in one building fronting the rear or side of another building, typically created with an access strip with street frontage leading to a lot widening to the rear of another lot.

Flashing: Overlapping pieces of non-corrosive metal installed to make watertight joints at junctions between roof and walls, around chimneys, vent pipes, and other protrusions through the roof.

Flea Market: A market, indoor or outdoor, where individual booths or spaces are leased to for-profit vendors to sell a variety of merchandise and where sales tax is charged by each vendor. Indoor Flea Markets may also be referred to as "Emporiums." Excludes produce stands, farmers markets, and special events held by local non-profit agencies.

Flemish bond: A pattern of brickwork in which each course consists of headers and stretchers laid alternately; each header is centered between the stretcher above and the stretcher below it.

Floor: The top surface of an enclosed area in a building (including the basement) such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

Floor Area: The sum of the gross horizontal areas of each floor of the principal building' and any accessory buildings or structures, measured from the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space.

Floor Plan: A scaled drawing showing the horizontal arrangement of one level of the building that typically indicates walls, doors and dimensions.

Foliage: Decorative leafage, often applied to capitals or moldings.

Food Truck: a large motorized vehicle (such as a van) or trailer, equipped to cook, prepare, serve, and/or sell food. Some, including ice cream trucks, sell frozen or prepackaged food; others have on-board kitchens and prepare food from scratch, or they reheat food that was prepared in a bricks and mortar commercial kitchen.

Four-family Dwelling: A building with four dwelling units under a single deed, and suitable for four, individual occupancies. Four-family dwellings are constructed to the standards of the North Carolina State Building Code.

Frame: The stationary portion of a window unit that is affixed to the facade and holds the sash or other operable portions of the windows.

French door or French window: A tall casement window that reaches to the floor, usually arranged in two leaves as a double door.

Freight transport facility: One or more parcels, structures, or both for temporarily accumulating and/or storing products or goods until they are sold and/or transported, or distributed to retail outlets or customers.

Frieze: 1) The middle horizontal member of a classical entablature, above the architrave and below the cornice; 2) A similar decorative band in a stringcourse, or near the top of an interior wall below the cornice.

Front Yard: See "Yard."

Frontage: The lot boundary which coincides with a public thoroughfare or space. The façade of a structure facing the street.

Gg

Gable: The part of the end wall of a building between the eaves and a pitched or gambrel roof.

Galvanized Iron: Iron that has been coated with zinc to inhibit rusting.

Gambrel Roof: A roof that has two pitches on each side with the lower pitch being steeper.

Garage: a walled, roofed structure for storing a vehicle or vehicles that may be part of or attached to a home ("attached garage"), or a separate outbuilding or shed ("detached garage"). Residential garages typically have space for one or two cars.

Gas Station: Any premises where fuel and convenience goods are sold, but automotive services are not offered.

Gateway: A principal point of entrance into a city, district, or neighborhood.

Gazebo: An outdoor shade structure with a solid roof and open sides. Typically of an octagonal shape with a built-in floor or placed on a slab (with or without screening).

Glazing: 1) The material, usually glass, that fills spaces between sash members (rails, stiles and muntins), commonly referred to as panes or lights; 2) Fitting glass into windows and doors.

Glazing Bar: See mullion.

Gothic Sash: A window sash pattern composed of mullions that cross to form pointed arches.

Governing board: The city council or board of county commissioners. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and means any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

Government Building: A building, use, or facility serving as a governmental agency, but not including a vehicle storage yard, correctional facility, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, educational or health institution, university, group home, or housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

Grade: The elevation of the land or land level at a specific point.

Grasscrete: An alternative paving material consisting of approximately 50% concrete or asphalt and 50% hole filled with seeded dirt, mulch, stone, brick, or other pervious material.

Greenhouse: A structure enclosed by glass, plastic, or other similar material and used for the cultivation or protection of tender plants.

Greenway: An asphalt multi-modal trail built on public right-of-way, though typically not found adjacent to streets. Greenways serve a dual purpose in providing a form of active recreation and also as an alternative transportation route connecting community designation points.

Grille: A decorative, openwork grating, usually of iron, used to protect a window, door, or other opening.

Grid Street Pattern: An interconnected system of streets that is primarily a rectilinear grid in pattern.

Grocery Store: A retail establishment that sells such products as staple foods, accessory food items, and household goods intended for home preparation and consumption.

Ground mounted sign for freestanding commercial building: A self-supporting sign that extends from the ground in either a solid monument style or pole style.

Ground mounted sign for group development: A sign that combines identification for the overall development with identification for each of the multiple entities within the group development into one freestanding sign. Examples include shopping centers, mixed-use buildings, business centers, campus settings, and complexes. Not a community sign.

Group Development: Two or more buildings or attached non-residential units on one or more parcels that function as one destination. Outparcels shall be considered as part of a group development.

Gutter: A shallow channel of metal or wood set immediately below and along the eaves of a building to catch and carry off rainwater.

Gymnasium: A building containing space and equipment for various indoor sports activities. The use may include spectator, locker room, pool, and shower accommodations.

Hh

Hayfield: A parcel or a portion of a parcel equal to or greater than two acres in size and otherwise undeveloped, used for growing and harvesting hay for the feeding of horses, cows, or other farm animals in another location. Not a pasture for grazing.

Hazardous Material: Any substance listed as such in: Superfund Amendments and Reauthorization Act (SARA) Section 302, Extremely Hazardous Substances, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Hazardous Substances, or Section 311 of Clean Water Act (CWA) (oil and hazardous substances).

Hazardous Materials Treatment Facility: A building, structure, or use of land devoted, or intended to be devoted, primarily to changing by any method, technique or process, including incineration or neutralization, the physical, chemical, or biological character of any hazardous material regulated by the Federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.), and the "North Carolina Solid Waste Management Act", as amended (Article 13B. G.S. 130-166.16), so as to neutralize such material or render it non-hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in bulk. Such a use may also contain temporary storage facilities normally associated with these operations and of sufficient size to conduct a commercially feasible operation. However, under no circumstances is a hazardous materials treatment facility to be construed to be any of the following: A facility that manufactures hazardous materials from component non-hazardous materials; A facility or location for the long term or perpetual storage of hazardous materials; or A facility for the treatment of hazardous materials which is clearly subordinate, incidental, and related to the principal structure, building or use of land and is located on the same lot as the principal structure, building, or use.

Hazard to Navigation: An obstruction determined by Administrator in consultation with the Federal Aviation Authority Inspector, to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.

Head: The upper horizontal part of a window frame or window opening.

Header: A masonry wall unit of brick which is laid so that its short end is exposed.

Heavy manufacturing: A type of land use on one or more parcels with buildings used for the production, finishing, handling, packaging, distribution and logistics of finished goods. Final production goods may be classified as combustible and/or hazardous, often requiring additional permitting by State and Federal agencies. Heavy manufacturing facilities are large in scale and buildings typically vary in height and massing and exceed 10,000 square feet in area. Because of the intensity and neighboring impacts on land uses, heavy manufacturing uses and developments are allowed only within the Industrial Zoning District.

Height: Mean sea level elevation unless otherwise specified.

High-rise sign: An on-premise, large-scale freestanding sign used to attract the attention of motorists traveling along Interstates and Business 85/HWY 29 for properties with direct frontage on Interstates and Business 85/HWY 29 right-of-way. (I-285 and I-85)

Hipped Roof: A roof that slopes upward from all four sides of a building.

Historic Appearance: The visual appearance of a structure or site at a specific point in time after it has undergone alterations or additions which enhance or contribute to the building or site's special architectural, aesthetic, cultural, or historic character.

Historic Fabric: A building's original or significant historic façade construction material or ornament, or fragments thereof.

Historic windows: (1) windows installed at time of construction of the building; or (2) windows of a type installed at time of construction of similar buildings in similar periods and styles; or (3) windows installed at time of major facade alterations 30 or more years ago.

Home Occupations: A business, profession, occupation, or trade which is conducted within a residential building or accessory structure for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building.

Homeless Shelter: A shelter for the temporary care, feeding, and shelter of homeless persons.

Hood: A projection that shelters an element such as a door or window.

Hospital: A health care facility the purpose of which is to provide for care, treatment, testing for physical, emotional, or mental injury, illness, or disability, and overnight boarding of patients, either on a for-profit or not for-profit basis; but not including group homes.

Horizontal Surface: A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which coincided with the perimeter of the horizontal zone.

Horizontal Zone: A zone established by swinging arcs of ten thousand (10,000) feet radii from the center of the end of the primary surface of the runway and connecting the adjacent arcs by lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

Hotel: A building containing individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services, with entries to a room from an interior space.

House: See One-family Dwelling

HVAC Equipment: Window, through-wall and yard-mounted heating, ventilation, and air conditioning equipment, including window louvers, wall-mounted grilles and stove, bathroom and/or dryer vents.

Ii

Impact Buffer: A portion of land along the perimeter of a development to provide visual and functional separation between adjacent land uses. Impact buffers are generally densely planted

vegetation areas that can contain features such as fencing, walls, earthen berms, or other visual screening.

Impervious Ground Cover: Incapable of being penetrated by storm water runoff. Any structure or ground cover consisting of asphalt, concrete, stone, brick, terrazzo, roofing, ceramic tile, or any other natural or man-made material that prevents the absorption of surface water into the soil.

Improvement: Any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment.

Indoor Fitness: Public or private health or exercise clubs, tennis or other racquet courts, swimming pools, or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Indoor recreation structures may include accessory uses, such as snack bars, pro shops, and locker rooms that are designed and intended primarily for the use of patrons of the principal recreational use.

Industrial Discharge: The discharge of industrial process treated wastewater or wastewater other than sewage and includes: Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource; Wastewater resulting from processes of trade or business, including wastewater from Laundromats and car washes, but not wastewater from restaurants; Stormwater will not be considered to be an industrial wastewater, unless it is contaminated with industrial wastewater; or Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

Industrial Use: Uses engaged in the manufacture, predominantly from raw or previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding the following uses, which are regulated individually: Animal-based Agricultural Industries; Communication Tower; Correctional Facilities; Hazardous or Infectious Material Incineration, Handling, or Storage Facilities; Junk Yards; Landfill; Lumber Mills and Lumber Storage Yard; Petroleum Storage Facilities; Power Generation Plants; Quarries; Raceway and Drag Strips; Recyclable Processing Plant; Sanitary Landfill; Slaughter House or Meat Packing Plant; Solid Waste Incineration.

Infill Development: The development of previously subdivided lots in a subdivision between or beside existing, developed or improved lots. Multiple unimproved lots may be classified as infill lots if they share a boundary with an existing developed lot, or if an existing structure is within 300 feet along any shared street frontage.

Injunction: A court order that prohibits a party from doing something (restrictive injunction) or compels a party to do something (mandatory injunction).

Inn: An establishment providing accommodations, food, and drink, especially for travelers.

Interconnected: Refers to streets which provide through access to other streets.

Interior Lot: See "Lot, Interior"

Internet Sweepstakes Business / Internet Café: Any business that utilizes computer terminals or machines equipped with legal sweepstakes software to promote the sale of internet usage by

revealing sweepstakes winnings. Excludes the operation of illegal video gambling machines and any other such device as declared illegal by the State of North Carolina. Excludes business support space where sweepstakes software is not utilized.

Interstate Frontage: Properties adjacent to right-of-way of future I-295 or I-85, or properties that front on a service road that is adjacent to right-of-way of future I-295 or I-85. This does not include properties adjacent to State highways or business routes.

Ionic: One of the five classical orders, characterized by capitals with spiral elements called “volutes,” a fascinated entablature, continuous frieze, dentils in its cornice, and by its elegant detailing.

Jj

Jamb: The side parts of a window frame or window opening, as distinct from head and sill.

Jigsaw Carving: Wooden ornament cut with a thin narrow saw blade.

Joinery: The art and practice of joining several small pieces of wood together to form woodwork such as doors, panels, cabinets, etc.

Joist: One of a series of parallel timber beams used to support floor and ceiling loads, and supported in turn by larger beams, girders, or bearing walls; the widest dimension is vertically oriented.

Junkyard: One or more parcels, structures or both which is maintained, operated, or used for storage, keeping, buying or selling parts from inoperable automotive or recreational vehicles.

Kk

Kennel, Commercial: A use or structure intended and used for the breeding or accommodation of small domestic animals for sale or for the training or overnight boarding of animals for persons other than the owner of the lot, but not including a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

Key: A block, often used in a series, which projects beyond the edge of the enframing of an opening and is joined with the surrounding masonry. A block handled in such a manner is keyed to the masonry; see quoin.

Keystone: The central wedge-shaped member of a masonry arch; also used as a decorative element on arches in wood structures.

Ll

Landowner or owner: The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

Land Clearing and Inert Debris (LCID) Landfill: A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth, or other solid waste meeting the

standards of the State of North Carolina. A clean fill operation which is conducted to improve or re-contour land, using only soil, is not construed to be such a landfill. An on-site LCID landfill is located within the confines of property being developed or in use, and used only for the disposal of acceptable materials which are generated on the property being developed or used; a disposal site that is clearly an accessory use to the development activity. An off-site LCID landfill is itself the principal use of a property and is used for the disposal of acceptable materials some or all of which are generated off the site of the property being used for the landfill.

Land Disturbing Activity: Any use of the land by any person that results in a change in the natural cover or topography.

Landscape Area: The area prepared for the purpose of accommodating the planting of trees, shrubs, and groundcovers.

Landscaping: The installation and maintenance, usually of a combination of trees, shrubs, plant materials, or other ground cover, including grass, mulch, decorative stone, and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel. Also, any live plant material such as trees, shrubs, ground cover, and grass areas left in their natural state.

Landscape improvement: A physical betterment of real property or any part thereof, consisting of natural or artificial landscaping, including but not limited to grade, terrace, body of water, stream, rock, hedge, plant, shrub, mature tree, path, walkway, road, plaza, wall, fence, step, fountain, or sculpture.

Large shrubs: plant varieties that may be used to form hedges, typically for impact buffers and screening, and mature at between 6 and 12 feet in height.

Large trees: Deciduous and Evergreen Trees that mature between 40 and 100 feet in height.

Larger than Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Large Vehicles, Heavy Equipment, and/or Farm Equipment: Tractor trailers; one-ton or larger commercial vehicles, dump trucks, and the like; Motor Homes, campers, and the like; bulldozers, back hoes, skid steers, loaders, and the like; tractors, combines, tractor accessories, and the like.

Latticework: Thin strips of wood arranged in a netlike grid pattern, often set diagonally.

Law: Local, State, or Federal law, statute, common law, code, rule, regulation, order, or ordinance.

Leaded window: A window composed of small panes, usually diamond-shaped or rectangular, held in place by narrow strips of cast lead.

Leade: A horizontal or vertical cylinder, usually made of metal, which carries water from the gutter to the ground.

Legislative decision: The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of this Chapter.

Legislative hearing: A hearing to solicit public comment on a proposed legislative decision.

Light: A pane of glass; a window, or a compartment of a window.

Light manufacturing: A type of land use on one or more parcels with buildings used for the production, finishing, handling, packaging, distribution and logistics of noncombustible and/or nonhazardous goods. Buildings typically are no more than one story in height and do not exceed 10,000 square feet in area.

Lighting: The method or equipment for providing artificial illumination.

Lintel: A horizontal structural element over an opening which carries the weight of the wall above it.

Local act: As defined in G.S. 160A-1(5).

Local government: A city or county.

Linear Frontage: The length of a property abutting a public right-of-way from one side lot line to another.

Lodge: A private meeting place for Masons, Veterans, and other such organizations.

Loggia: 1. An arcaded or colonnaded structure, open on one or more sides, sometimes with an upper story; 2. An arcaded or colonnaded porch or gallery attached to a larger structure.

Logging (timbering): the process of cutting, processing, and moving trees to a location for transport. It may include skidding, on-site processing, and loading of trees or logs onto trucks or skeleton cars.

Logo: Business trademark or symbol.

Lot: 1: a portion of land; 2: a measured parcel of land having fixed boundaries and designated on a plat or survey. Though the terms "Lot," "Parcel," and "Tract" are technically interchangeable, the term Lot typically refers to a numbered portion of land appearing on a recorded plat.

Lot Line: A property line of a parcel, tract, or lot.

Lot of Record: A lot described by plat or by metes and bounds which has been recorded in the Office of the Register of Deeds prior to the effective date of this ordinance.

Lot, Corner: A lot located at the intersection of two or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than one hundred and thirty five degrees (135°).

Lot, Interior: A lot other than a corner lot with frontage on only one street.

Lot, Through: A lot other than a corner lot with frontage on more than one street.

Lot, Reverse Frontage: Any lot oriented to an abutting street in such a way that the intersection of the front building line, extended, and the street right-of-way line form an interior angle of less than 45 degrees is defined as having reverse frontage relative to said street.

Lot Width: The distance between the side lot lines measured along a setback line or build-to line; or the distance between the side lot lines measured along an established setback line (when that line is greater than the setback or build-to line required by this ordinance) along the turnaround

portion of a cul-de-sac street; or if no setback is required for a lot according to this ordinance, and no setback has been established on a previously recorded plat, lot width is the distance measured between the side lot lines along the street right-of-way.

Lumber Storage Yard: One or more parcels, structure or both where bulk supplies of lumber and other building materials are stored, offered or kept for retail sale.

Lunette: A crescent-shaped or semicircular area or opening on a wall surface.

Mm

Mansard Roof: A roof with a double slope on all four sides, the lower slope being longer and steeper than the upper.

Manual changeable copy sign: A sign that provides tracks for letters, numbers, and symbols so that copy may be changed manually. May be applied as ground mounted sign or a building sign, but not as a projection sign.

Manufactured Home: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site, which is at least eight feet in width and at least 32 feet in length, which bears a seal certifying that it was built to the standard adopted pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. Sec 5401 et seq., which is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles.

Manufacturing: Assembly, fabrication, or processing of finished products or parts, predominantly from raw or previously prepared materials, including treatment, packaging, incidental storage, sales, and distribution of such products.

Marquee sign: The sign area of an establishment that feature constantly changing venues such as a theater, movie theater, coliseum, sports facility, etc., where games or showings are displayed and changed frequently. Traditionally marquees were applied as a canopy with an exterior of changeable copy, but more modern applications of marquees are more in the nature of a building sign and utilize manual or electronic changeable copy.

Masonry: Wall building material, such as brick or stone, which is laid up in small units.

Massing: The shape and form a building or assemblage of buildings assumes through architectural design. The three-dimensional bulk of a structure: height, width, and depth.

Match: Either an exact or approximate replication. If not an exact replication, the approximate replication shall be so designed as to achieve a suitable, harmonious and balanced result.

Materials: The substances used to fabricate the various elements and details of a building.

Mature tree: Any tree with a trunk diameter of 12" or greater.

Mean Sea Level (MSL): The National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on the Flood Insurance Rate Maps for Davidson County are referenced.

Meat Processing Facility: A facility designed, maintained and operated for the purposes of slaughtering and processing animals bred for meat consumption.

Meeting rail: A sash rail in a double-hung window designed to interlock with an adjacent sash rail.

Mechanical equipment: Includes, but not be limited to, heating, venting and air conditioning equipment, water tanks and their supporting structures, satellite dishes, stair and elevator bulkheads, screens, dunnages, baffles and other accessory installations but shall not include telecommunication equipment and conventional television antennas. Mechanical equipment can also include unenclosed decks, garden trellises, or associated railings.

Medium shrubs: plant varieties which may be used to form hedges, mature at between 4 and 6 feet in height.

Member: A component part of a window.

Menu sign: The regular menu of a restaurant posted in a window or on the outside wall of a building in order to allow patrons to preview the menu choices.

Merchandise sign: A sign that is legible from public right-of-way that is applied directly to outdoor merchandise such as carports, storage buildings, cars, etc.

Metal Roofing: Standing seam metal used for roof covering. Galvanized or prefinished.

Micro wireless facility: A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Minimally Visible: Refers to any rooftop addition which when viewed from any public thoroughfare, projects into the maximum line of sight from such public thoroughfare by not more than 12 inches in height, or, due to its placement and size does not call attention to itself nor detract from any significant architectural features.

Minor Modification: A change to a development plan that does not result in an increase of more than 10% of building space, number of residential units, or paved area. A change to a development plan that does not reduce the pedestrian or amenity facilities.

Mixed use: a type of urban development, urban planning and/or a zoning type that blends residential, commercial, cultural, institutional, or entertainment uses into one space, where those functions are to some degree physically and functionally integrated, and that provides pedestrian connections.

Modification: Any work to an existing improvement or landscape improvement other than (a) ordinary maintenance or repair; or (b) any Addition.

Modillion: A projecting scroll-shaped bracket or simple horizontal block arranged in series under the soffit of a cornice.

Molding (Moulding): A piece of trim that introduces varieties of outline or curved contours in edges or surfaces as on window jambs and heads. Moldings are generally divided into three categories: rectilinear, curved and composite-curved. Moldings can be milled from natural wood, or extruded from polymer resins or other synthetic materials.

Motel: A building containing individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Motels are distinctive from hotels in that the location is often on highways and roadsides, with separate entry doors from the exterior for each room.

Motorsports Racing Facility: One or more parcels, structures, tracks, trails or other related structures designed for the purposes of racing, testing, or maintenance of any vehicle that is accelerated by internal combustion, electrical, alternative fuels or other means of acceleration.

Monopole: A structure composed of a pole or tower used to support antennas or related equipment. A monopole also includes a monopine, monopalm and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole.

Moving (non-stationary) sign: A sign that uses movement to attract attention.

Mullion: A vertical support dividing a window or other opening into two or more parts.

Multifamily Development: The development of three (3) or more dwellings on a single parcel of land.

Municipal Solid Waste Landfill (MSWLF): A municipal solid waste landfill (MSWLF) is a discrete area of land or excavation that receives household waste. A MSWLF may also receive other types of nonhazardous wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial nonhazardous solid waste.

Muntin: A tertiary framing member that subdivides the sash into individual panes, lights or panels. Note: Grids placed between two sheets of glass are not considered muntins.

Nn

Neon sign: The use of neon tubing to outline windows, doors, or other features of a building.

Newel: The main post at the foot of a stairway or stoop.

Nightclub: A place of entertainment open at night usually serving food and alcoholic beverages and may include however, not limited to: space for dancing, elevated stage(s), musical performances, comedy, spoken word and/or other types of appurtenances for entertainment purposes. A nightclub establishment has an occupancy capacity greater than 99 people and being equal to, or greater than 1,500 square feet of enclosed space, as defined by the latest edition of the North Carolina Fire Code.

Nonconforming Structure: Any structure, which lawfully existed prior to the adoption, revision, or amendment of this ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the district requirements in which it is located.

Nonconforming Use: Any use, which lawfully existed at a particular location prior to the adoption, revision, or amendment of this ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the district requirements in which it is located.

Nonconforming Lot: Any lot of record which existed prior to the adoption, revision, or amendment of this ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the district requirements in which it is located.

Non-Precision Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of four thousand (4,000) feet at a horizontal distance of ten thousand (10,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

Non-profit Organization: A not for profit organization pursuant to Internal Revenue Code section 501(c)(3), 501(c)(4) or 501(c)(6).

Non-significant features: The interior architectural features of the designated interior that the HPC has determined do not contribute to the special historic, cultural, and/or aesthetic character for which the interior was designated. These features comprise all of the interior architectural features of the interior with the exception of those features that are underscored in the designation report.

Notice of Violation: A notice from the Office of Community Development and/or Historic Preservation Commission that work on a landmark site or within an historic district was performed without a permit or was not performed in accordance with a permit issued by the Office of Community Development and/or the Historic Preservation Commission.

Oo

Oblique: View in which a three-dimensional object is represented by a drawing (oblique drawing) in which the face, usually parallel to the picture plane, is represented in accurate or exact proportion, and all other faces are shown at any convenient angle other than 90°.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limited height set forth herein.

Occupiable space: A room, or enclosure and accessory installations thereof, which are intended for human occupancy or habitation.

Off-premise sign: A sign that directs attention to a business, commodity, or service, conducted, sold, or offered at a location other than the premises on which the sign is erected. (Excludes sidewalk signs.)

Off-Street Parking: Parking which occurs on a lot and not on a street or other public right-of-way.

Office: A use or structure in which business or professional services are conducted or rendered.

One-family Dwelling: A single dwelling unit individually deeded, meeting a minimum of three-foot side setbacks, and suitable for single-family occupancy. Single-family Houses are constructed to the standards of the North Carolina State Building Code.

Open Land: Land which does not contain a principle building.

Operation: The manner in which a window unit opens, closes, locks, or functions; e.g., casement, double- hung, etc. If non-operable, a window unit (such as a side light) is identified as "fixed."

Ordinance: Any ordinance adopted by the City of Lexington City Council.

Oriel: A projecting bay window carried on corbels or brackets.

Orientation: The placement of structure on a lot, specifically the relationship of primary elevation to the street.

Original appearance: The visual appearance of a structure or site at approximately the time of its completed initial construction.

Outdoor Display: The incidental display of merchandise outside of a principal building in an area that is no more than ten percent (10%) of the size of the principal building footprint and where the amount of merchandise on outdoor display is no more than ten percent (10%) of the total inventory of merchandise on site.

Outdoor Dining: An outdoor dining area that is incidental to a principal building.

Outdoor Sales: The display of merchandise outside of a principal building in an area that is more than ten percent (10%) of the size of the principal building footprint, or the display of merchandise outside of a principal building where the amount of merchandise is more than ten percent (10%) of the total inventory of merchandise on site.

Outdoor Lighting: Any light source that is installed or mounted outside of an enclosed building, but not including street lights installed or maintained along public or private streets.

Outdoor Storage: The storage of materials or merchandise other than approved accessory structures, uses, or features, outside of a principal or accessory storage building enclosed on four sides. Storage of materials under pole sheds or carports that are not enclosed on at least three sides with the open side not visible from the public street or adjoining properties is considered outdoor storage.

Out Parcel: A parcel of land associated with a shopping center or multi-tenant development, which is designated on an approved plat as a location for a free standing structure and/or use.

Pp

Packaging: An establishment or building used to package goods for transport or final retail distribution.

Palladian Window: A three-part window opening with a tall, round-arched center window flanked by smaller rectangular windows and separated by posts or pilasters.

Panel: A portion of a flat surface recessed, or raised from the surrounding area, distinctly set off by molding or some other decorative device.

Panning: An applied material, usually metal, that covers the front (exterior) surface of an existing window frame or mullion.

Parapet: A low wall encircling the perimeter of a flat building roof, generally used to screen roof-mounted mechanical equipment.

Parcel: Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries and identified by the Davidson County Tax Department with a Parcel Identification Number. Though the terms “Parcel,” “Lot,” and “Tract” are technically interchangeable, the term Parcel typically is used to identify the property apart from an individual survey.

Parish: A dwelling unit to provide shelter for an employee, typically the minister, of a religious institution.

Park: Property and/or facilities operated by a government entity and dedicated to the public for recreational activities including: sports; hiking, biking, and horseback riding along greenways and trails; passive recreation; playgrounds; and the like.

Parking Deck: An accessory or principal building for the storage of vehicles. Design is regulated in much the same way as a commercial building.

Parking Lot: An area, not within a building, where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking.

Parting strip: The small member, usually wood and usually removable, that separates the upper and lower sash pockets in the jamb of a double-hung window.

Patio: An outdoor paved area at ground level adjoining a house or other building.

Paver: A block of stone used in sidewalk or areaway paving.

Pebble Dash (Roughcast): a coarse plaster surface used on outside walls that consists of lime and sometimes cement mixed with sand, small gravel, and often pebbles or shells.

Pediment: 1. The triangular space forming the gable end of a roof above the horizontal cornice.
2. An ornamental gable, usually triangular, above a door or window.

Permit: A written authorization required by the City to perform an action or initiate, continue, modify, or complete a project.

Person: An individual, corporation, governmental agency, business trust, estate trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Person: An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

Pervious: Permeable or open to passage or entrance of storm water runoff.

Petroleum Storage Facility: One or more parcels, structures or both where bulk supplies of petroleum, related distillates, and other related products are stored.

Pier: 1. A column designed to support concentrated load. 2. A member, usually in the form of a thickened section, which forms an integral part of a wall; usually placed at intervals along the wall to provide lateral support or to take concentrated vertical loads. 3. A vertical supporting member

or element (usually of brick, stone, or metal) placed at intervals along a wall, which typically separate each storefront opening from the adjacent storefront opening.

Pilaster: An engaged pier or pillar, often with capital and base. A shallow pier or rectangular column projecting slightly from a wall, representing a classical column with base, shaft, and capital.

Pitch: The angle of slope of a roof or berm.

Planned Development (PD): Development under single ownership or unified control, which includes one or more principal buildings or uses on one or more parcels and follows an overall approved plan in terms of general uses, function, design, infrastructure, and public space. Features typically include common driveways, common parking, common signage plan, and common landscaping plan.

Planning and development regulation jurisdiction: The geographic area defined in Part 2 of this Chapter within which a city or county may undertake planning and apply the development regulations authorized by this Chapter.

Planning board: Any board or commission established pursuant to G.S. 160D-301.

Platted Lot: A lot appearing on a Plat that has been recorded at the Office of the Davidson County Register of Deeds.

Playground: One or more parcels used for active recreational use and includes fixed improvements such as ball courts, shelters, tables and seating.

Plinth: A platform base supporting a column or pilaster.

PODS: Specifically, “Personal On-Demand Storage” containers, or similar devices that act as a portable storage unit.

Pointing: The treatment of joints between bricks, stone, or other masonry components by filling with mortar; also called tuck-pointing.

Pole: A single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of the Code.

Pond: an area filled with water, either natural or artificial, that is smaller than a lake. It may arise naturally in floodplains as part of a river system, or be a somewhat isolated depression in areas of low elevations. This includes detention ponds constructed as part of stormwater runoff controls in land development.

Portable sign: A sign not permanently attached to the ground, a structure, or a building, and which can easily be removed.

Porte-cochere: A roofed structure, extending from an entrance to a building, over an adjacent driveway to provide shelter while entering or leaving a vehicle.

Portico: A small porch composed of a roof supported by columns, often found in front of a doorway.

Power Generation Plant: One or more parcels, structures or both used for the primary purpose of converting an energy input into electricity production to provide and distribute power to an area greater than the principal use on the site.

Precision Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

Precision Instrument Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

Precision Instrument Runway: A runway having an existing precision approach procedure. Also, a runway for which a precision approach procedure is planned.

Premises: A parcel of real property with a separate and distinct identifying number shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable planning.

Primary (principal) Façade: A facade facing a street or a public thoroughfare that is not necessarily a municipally dedicated space, such as a mews or court.

Primary Surface: A surface longitudinally centered on a runway. The primary surface extends two hundred (200) feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is one thousand (1,000) feet.

Principal Building: A building containing the principal use of the lot.

Principal Structure: A structure containing the principal use of the lot.

Principal Use: The primary purpose or function that a lot serves or is proposed to serve.

Processing: An establishment or building used in preparing, changing or treating inputs into either a new or final stage of a production activity.

Produce Stand: A business that displays and sells fruits, vegetables, plants, flowers and the like.

Production Shop: A light manufacturing establishment where noncombustible and/or nonhazardous goods are produced, fabricated, finished, assembled, or prepared along with warehousing, storage, inventory, in one part of the building and other administrative, retail, service, and/or office functions are located in another portion of the same building. A Production shop building is small-scaled with a maximum of 10,000 square feet in area and may contain shipping ramps and other structures related to logistics, inventory, or freight shipping and receiving.

Professional Service: A category of commercial uses where a particular care or service is provided to clients primarily on a one-to-one basis. Examples include doctors, dentists, accountants, massage therapy, chiropractic services, salons, and spas.

Project Area: Any area of land and/or water, regardless of the number of individual parcels contained therein, on which development is proposed under these regulations.

Projection sign: A type of building sign in which the greater square footage area is not parallel and is perpendicular or near perpendicular to the wall of the building. Projection signs are larger in scale than shingle signs and are typically not placed beneath an awning and are meant to target vehicular traffic.

Property: All real property subject to land-use regulation by a local government. The term includes any improvements or structures customarily regarded as a part of real property.

Property Owner: Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner.

Protected Area: The area adjoining and upstream of the Critical Areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the Critical Area.

P.S.I.: Pounds per square inch, a term generally used when describing water pressure when cleaning a building.

Public Thoroughfare: Any publicly accessible right of way including, but not limited to a street, sidewalk, public park, and path.

Public Alley: An alley dedicated for public purpose and accepted by the City of Lexington for maintenance.

Public Park: Any land owned by a governmental body and made available for use by the general public for active or passive recreational purposes or as a refuge for wildlife, including greenways.

Public Sidewalk: A paved path provided for public pedestrian use and usually located at the side of a street within the right-of-way.

Public Street: A street dedicated for public purpose, meeting the City of Lexington standards, and accepted for maintenance by the City of Lexington.

Pushcart: any rubber-wheeled vehicle used for displaying, keeping, or storing any article by a vendor or peddler (other than a motor vehicle, bicycle, or trailer) which may be moved without the assistance of a motor and which does not require registration by the department of motor vehicles.

Pushcart Vendor: A person who sells, or offers prepared food, fresh flowers, or washed fresh fruit from a pushcart.

Qq

Quarry: An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

Quadruplex: A building containing four residential living units.

Quasi-judicial decision: A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances,

special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

Quoin: Decorative masonry units at corners of walls differentiated from the main wall by material and/or projection.

Rr

Rail: A horizontal sash member.

Rate: A recurring charge.

Recycling Collection: A principal or accessory site that collects paper products, glass, metal cans, and other non-organic recoverable resources from the public, sorts the materials and then sells or distributes the materials to a recycling processing plant. No reprocessing takes place on site. No dismantling takes place on site.

Recycling Processing Plant: An industrial business that is not a junkyard, auto salvage, car crushing, or towing storage lot, in which recoverable resources such as paper products, glass, metal cans; and other products are recycled, reprocessed, and treated to return to such productions to a condition in which they may again be used for production.

Recreation Facility, Indoor: A commercial or membership indoor facility such as an indoor field, arena, court, or natatorium, which is used for a variety of non-motorized sports such as swimming, tennis, soccer, football, lacrosse, basketball, horseback events, volleyball, etc. including any accessory structures, outdoor fields, clubhouses, shops, concessions and other related facilities.

Recreation Facility, Outdoor: A commercial or membership outdoor field, court, swimming pool, trail, track, or course constructed and used for a variety of non-motorized sports such as swimming, tennis, bicycling, horseback riding or events, golf, soccer, baseball, lacrosse, basketball, softball, football, skating/skateboarding, running, volleyball, etc. including any accessory structures, clubhouses, shops, concessions and other related facilities.

Redevelopment: The demolition and reconstruction of a building or a portion of a building.

Reforestation: The process to establish or return an area to a wooded state, meaning an area that is dominated by trees and other woody plants and contains at a minimum, 100 trees per acre with at least fifty percent of those trees having a minimum two-inch caliper.

Regulatory Flood: A flood representative of large floods reasonably characteristic of what can be expected to occur on a particular stream, with an average recurrence interval of 100 years, determined from an analysis of floods on a particular stream and other streams in the same general region.

Rehabilitation: Any repair work that requires a permit.

Relief: Carved or molded ornament that projects from a flat surface.

Religious Institution: A church, synagogue, temple, mosque, or other place of religious worship, including any customary accessory use or structure, such as a school, day care center, or dwelling, located on the same lot.

Repair: Any work done on any window to correct any deterioration or decay of or damage to a window or any part thereof and to restore same, as closely as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage. The term "ordinary repair" shall refer to work that does not require a permit.

Repointing: Process of renewing mortar joints; see pointing.

Residential Awning: Any awning on a residential building and any awning on a commercial or mixed-use building except for storefront awnings.

Residential Use: The human habitation of a dwelling unit.

Restaurant: A building or operation, the purpose of which is to accommodate the consumption of food and beverages.

Research facility: An establishment or building used to conduct research activities for industrial, medical, academic purposes, applied or otherwise.

Restoration: The process of returning, as nearly as possible, a building or any of its parts to its original form and condition.

Retaining Wall: A low wall of masonry that keeps earth in a fixed position.

Retractable Awning: An awning attached to a frame which allows it to be extended out or folded or rolled back tight against the building façade.

Return: The part of a molding, cornice, or wall surface that changes direction, usually at a right angle, toward the building wall.

Reveal: The side of an opening for a door or window between the frame and the outer surface of a wall, showing the wall's thickness.

Reversible Alteration: An alteration in which the altered feature can be readily returned to its appearance prior to the alteration.

Retail: The sale of goods, products, or merchandise directly to the consumer.

Riding Academy: A facility the principal use of which is the provision of lessons in horseback riding on a nonprofit or for-profit basis.

Right-of-way: Land dedicated for public use; the strip of publicly owned land used for public infrastructure such as streets and sidewalks, railroads, power, and public utilities.

Right-of-way sign: A sign not erected by a public authority and located within the public right-of-way, or within utility easements, whether the sign be located on utility poles, lamp posts, in the ground, or otherwise.

Roof Plan: A drawing showing the arrangement of fixtures on the roof.

Rooftop addition: A construction or an installation of mechanical equipment and/or occupiable space situated on any structure's roof.

Rock-faced: Masonry treated with a rough surface that retains or simulates the irregular texture of natural stone.

Roll-down gate: A security gate with a mechanism that allows it to roll up and down.

Roof sign: A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

Rooming House: A One-family Dwelling where the individual bedrooms are rented to tenants, but other areas within the house and on the grounds, such as bath facilities, kitchen, living room, and porches, are treated as common area. "Family-style" meals are prepared on-site and provided for all of the residents on a daily basis. The manager resides on-site and employs no more than two other full-time employees.

Rosette: A round floral ornament usually carved or painted.

Round arch: A semicircular arch.

Rowhouse: One of a group of an unbroken line of attached houses that share common side walls, known as party walls.

Rubble stone: Irregularly shaped, rough-textured stone laid in an irregular manner.

Runway: A defined area on an airport that is prepared for landing and takeoff of aircraft along its length.

Runway Larger than Utility with a Visibility Minimum as low as $\frac{3}{4}$ Mile Non-precision Instrument Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

Rustication: Rusticated stonework composed of large blocks of masonry separated by wide, recessed joints; often imitated in other materials for decorative purposes.

Ss

Salvage Yard: One or more parcels, structures or both which is maintained, operated, or used for the collection, storage, buying or selling of refurbished or repaired parts and components of automotive or recreational vehicles. Salvage yards can operate to collect and process scrap metals for the purposes of retail or wholesale trade.

Sanitary Landfill: A solid waste disposal facility designed to meet the minimum standards of the State of North Carolina wherein refuse and other waste defined by State standards is disposed of by utilizing acceptable landfill engineering technology.

Sash: The secondary part of a window which holds the glazing in place; may be operable or fixed; usually constructed of horizontal and vertical members; sash may be subdivided with muntins. The framework of a window, usually moveable, into which panes of glass are set.

Saw Mill: A mechanized facility for cutting logs into timber for carpentry.

Scale: The height and width relationship of a building to surrounding buildings.

School: Publicly-owned or privately-owned preschools, elementary schools, middle schools, high schools, vocational schools, college; but not including institutions the principal function of which is child day care.

Scissor Gate: A security gate with a sideways retractable mechanism.

Screening: A fence, wall, hedge, landscaping, buffer area or any combination thereof provided to create a visual separation between certain land uses.

Search Ring: The area within which a wireless support facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Seasonal Sells: The selling of a very limited type of merchandise that directly pertains to a particular holiday or season of the year, including the sale of fireworks in conjunction with the Fourth of July, Christmas trees during November and December, and produce stands during the Spring, Summer, and early Fall. Otherwise, the sale of non-perishable materials such as shoes, clothing, art, crafts, etc. are to be considered seasonal.

Secondary Façade: A façade that does not face a public thoroughfare or mews or court and that does not possess significant architectural features.

Section Drawing: A drawing representing a vertical plane cut through the structure.

Security gate: A movable metal fixture installed in front of a storefront or inside the display window or door to protect the store from theft or vandalism when the store is closed. A security gate can be either the roll-down or scissor variety.

Segmental arch: An arch that's in the form of a segment of a semicircle.

Self-service storage facility: Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property. No occupant may use a self-service storage facility for residential purposes. A self-service storage facility is not a safe-deposit box or vault maintained by banks, trust companies, or other financial entities.

Semi-detached: A building attached to a similar one on one side but unattached on the other.

Setback, Front: The minimum distance required by this ordinance or established by recorded plat between the existing right-of-way, access easement, or property line and the front building line of building or structure, projected to the side lines of the lot. See also Yards.

Setback, Rear: The minimum distance required by this ordinance or established by recorded plat between the rear property line and the rear building line of a building or structure, projected to the side lines of the lot. See also Yards.

Setback, Side: The minimum distance required by this ordinance or established by recorded plat between the side property line and the side building line of a building or structure, projected to the rear property line and the public street that the property fronts or the front property line. Side

setbacks on corner lots are measured from the existing right-of-way, access easement, or property line as a front setback.

Shaft: The vertical segment of a column or pilaster between the base and the capital.

Shed Dormer: A dormer window covered by a single roof slope without a gable.

Shed Roof: A roof pitched in a single direction.

Shiplap: Wooden siding rabbeted so that the edge of one board overlaps adjoining boards creating a flush joint.

Shingle: A unit composed of wood, cement, asphalt compound, slate, tile or the like, employed in an overlapping series to cover roofs and walls.

Shingle sign: A sign in which the greater square footage area is not parallel but is perpendicular or near perpendicular to the wall of the building, and is located beneath an awning or canopy targeting pedestrian traffic.

Shop Drawings: Shop Drawings (also known as Fabrication Drawings) are detailed plans that show design intent. Shop drawings are provided by the contractor, manufacturer, supplier, or engineer and show all information necessary to manufacture, fabricate, assemble, and install the components of specified structures and features on the construction drawings. Shop drawings are typically of structures such as precast concrete storm drainage and sanitary sewer structures, storm drainage pipe, manholes, inlet grates, retaining walls, stairs and railing, water line appurtenances, fire hydrants, as well as proprietary stormwater control devices such as underground detention systems, etc.

Shopfront Building: A one or two-story commercial building with retail display windows which fronts directly on a public sidewalk. Typically found in Uptown District.

Shopping Center: A series of attached commercial units located on one common parcel and under single management.

Short-term Rental: A dwelling unit, or any portion thereof, that is used and/or advertised through online platform, or other media, for transient occupancy for a period of less than one month. Commonly referred to as Airbnb.

Shouldered Arch: An arch composed of a square-headed lintel supported at each end by a concave corbel.

Shutter Dogs: The metal attachments which hold shutters in an open position against the face of a building.

Sidelight: A vertically framed area of fixed glass, often subdivided into panes, flanking a door.

Sidewalk: A minimum five-foot wide, concrete walkway constructed on public right-of-way, typically adjacent to a street.

Sidewalk Café: An area adjacent a street-level eating or drinking establishment located within the sidewalk area of the public right-of-way exclusively for dining, drinking, and pedestrian circulation.

Sidewalk Display: The outdoor display of merchandise similar to the merchandise sold within the establishment for sale by the same commercial establishment.

Sidewalk sign: A sign designed to post daily specials and other advertising messages, targeting pedestrians along a sidewalk for a business immediately adjacent to the portion of the sidewalk being used to display the sidewalk sign.

Sight line drawing: A drawing representing an uninterrupted view from eye level.

Sign: Any object, device, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or of any fraternal, religious or civic organization; works of art which in no way identify a product; or scoreboards located on athletic fields. Sign types are defined in Section 6.

Signage: Any lettering or logos in general, used to advertise a store, goods, or services.

Sign band: The flat, horizontal area on the facade usually located immediately above the storefront and below the second story windowsill where signs were historically attached. A sign band may also occur within a decorative band course above a storefront.

Significant Feature: An exterior architectural component of a building that contributes to its special historic, cultural, and/or aesthetic character, or in the case of an historic district, that reinforces the special characteristics for which the historic district was designated.

Significant landscape improvement: Any landscape improvement which is a character-defining element in its historic district, contributing to the special aesthetic and historic character for which the district was designated, and including but not limited to those landscape improvements identified as landscape features in the designation report.

Sill: 1. The lower horizontal part of a window frame or window opening; also the accessory member which extends as a weather barrier from frame to outside face of wall. 2. The horizontal member at the bottom of a window or door.

Site: A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or building, together with any accessory structures or uses.

Site plan: A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

Skirt: A bottom finishing piece of fabric that hangs from the lower edge of an awning.

Small shrubs: plant including dwarf and semi-dwarf varieties, are typically used for ornamentation and mature at 4 feet.

Small trees: Deciduous and Evergreen Trees that mature at between 10 and 35 feet in height.

Small wireless facility: A wireless facility that meets the following qualifications: 1) Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet; 2) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For the purposes of this subdivision (G.S. 160D-931), the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Soffit: 1) The exposed underside of any architectural element, especially a roof; 2) The underside of a structural component such as a beam, arch, or recessed area.

Solar Farm: A land use where a series of photovoltaic solar collectors are placed in an area for the purpose of generating and distributing electric power for an area greater than the principal use on the site. Also referred to as a Solar Power Plant and Photovoltaic Farm.

Solid Waste: Any hazardous or non-hazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, institutional, commercial, agricultural, and land clearing operations. This term does not include the following: Fowl and animal fecal waste; Solid or dissolved material in any of the following: Domestic sewage, and sludge generated by the treatment thereof, in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharges effluent to the surface waters; Irrigation return flows; or Wastewater discharges, and the sludge incidental thereto and generated by the treatment thereof, which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 et seq.) and permits granted under G.S. 143-215.1 by the Environmental Management Commission; Oils and other liquid hydrocarbons controlled under Article 21A of Section 143 of the North Carolina General Statutes; Any radioactive material as defined by the North Carolina Radiation Protection Act (G.S. 104E- 1 through 104E- 23); or Mining refuse covered by the North Carolina Mining Act (G.S. 74-46 through 74- 68), and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290).

Spalling: The chipping or erosion of masonry caused by abuse or weathering.

Spandrel: 1) A panel between the top of one window and the sill of another window on the story directly above it; 2) An irregular, triangular wall segment adjacent to an arched opening.

Spandrel Area: The portion of the facade below the sill of an upper story window and above the lintel of the window or display window directly below it or above the lintel of a window or display window and the building cornice or top of building.

Special event: the temporary use (solely or partially) of a privately-owned occupied or vacant lot or building for a use or occupancy that is not approved or operating under a Certificate of Occupancy for that location, and/or the temporary use of any portion of public right-of-way including a public street or sidewalk for a use other than normal. Elements of the temporary use often change the site character for the duration of the special event and may affect the ability of the site to comply with the design standards or district regulations under which it was originally approved.

Special use permit: A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

Special windows: (1) those windows in which the complexity of the muntin pattern or the molding profiles is one of the characteristics of the style and age of the building; or (2) windows having one or more of the following or similar attributes, including but not limited to: (i) Bay or oriel window (ii) Curved glass (iii) Multi-pane sash, i.e., 12 or more panes in a single sash in which a typical pane does not exceed 30 square inches of open (glazed) area (iv) Stained or otherwise crafted glazing for artistic effect (v) Highly decorated (carved or otherwise embellished) sash or frame (vi) Non-rectilinear sash or frame.

Stable: A structure used to keep livestock, especially horses. Generally, a stable will be divided into several stalls for separating animals. A stable must be a private, accessory structure and not for commercial use.

Stile: A main vertical member of a door or window.

Stoop: The steps which lead to the front door; from the Dutch “stoep.”

Storefront: The first story area of the façade that provides access or natural illumination into a space used for retail or other commercial purposes.

Storefront Bay: The area of the storefront defined by and spanning the two piers.

Storefront Infill: The framing, glazing, and cladding contained within a storefront opening in the facade.

Storefront Opening: The area of the facade framed by the piers and lintel, which contains storefront infill.

Storage building: An attached or detached building without indoor temperature control used to store personal items.

Storm Drainage Design Manual: The most recent edition of the manual adopted by the City Council setting forth standard details for the design and construction of stormwater management systems.

Stormwater Buffer: A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channeled, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Stormwater Control Measure (SCM): also known as "Best Management Practice" or "BMP," means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

Story: That part of a building or structure above ground level between a floor and the floor or roof next above.

Streamers: A series of attached shapes, especially flags or pennants, that is attached to buildings, structures, features, or merchandise and that moves with wind.

Street Furniture: Functional elements of the streetscape, including but not limited to benches, trash receptacles, transit shelters, planters, telephone booths, kiosks, signposts, street lights, bollards, and removable enclosures.

Street Orientation: The direction of the architectural front façade of a building in relation to the street.

Street, Private: An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained or intended to be maintained by the public. Excludes private driveways that are constructed to serve as access directly from a public street to a property under single ownership or for internal access to outparcels within a shopping center when an access easement is in place.

Street, Public: A corridor dedicated for common communication, utility and transportation use including an improved surface that meets the construction standards of the City of Lexington for a street and may be public or private. Excludes private driveways that are constructed to serve as access directly from a public street to a property under single ownership or for internal access to outparcels within a shopping center when an access easement is in place.

Street Right-of-Way: Street right-of-way will mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina, or the City of Lexington, if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the City of Lexington; or has otherwise been established as a public street prior to the adoption of this ordinance.

Street Trees: Large trees planted along a street in or near the right-of-way to establishing a lining of the street in a uniform pattern.

Streetscape: The built and planted elements of a street that define its character.

Stretcher: A masonry unit or brick laid horizontally with its length parallel to the wall.

Stringcourse: A narrow horizontal band of masonry, extending across the façade, which can be flush or projecting, and flat surfaced, molded, or richly carved.

Structure: Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently.

"Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

Stucco: A coating for exterior walls made from Portland cement, lime, sand, and water.

Studio: An attached or detached building, room or other space where services are offered using specialized means such as recording, television, art or digital media equipment. Services offered are often related to the visual, musical, dance or martial arts.

Subdivision: All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets.

Subframe: A secondary frame set within a masonry opening.

Subsequent Use: Any use that occupies a structure after the initial occupancy.

Substantial Improvement: Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds 50 percent of the assessed value of a structure as determined either before the expansion or improvement begins or before the damage occurred giving rise to the repair or reconstruction.

Substantial modification: The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

1. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
2. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
3. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Sugaring: A term describing the deterioration of stone caused by the breaking up or dissolving of the stone surface.

Surround: The ornamental frame of a door or window.

Swag: A carved ornament in the form of a draped cloth or a festoon of fruit or flowers.

Sweepstakes Business: See Electronic Gaming Establishment

Swimming pool: A water retaining structure used for purposes such as leisure and exercise. Pools can be sunk into the ground or built above it, as a freestanding construction or as part of a building or other structure.

Synthetic: Any material that is produced or fabricated from combining different substances; not natural.

Synthetic Resin: Any class of synthetic substances used to make plastic or polymer building materials and products. They are viscous liquids that are capable of hardening permanently, into the shape of a production mold.

Tt

Temporary: Lasting for a limited time or occurring at limited intervals. The Administrator may establish time limits or maximum number of intervals based on the nature of the use or structure. Typically, temporary structures are defined as being limited to a three-month time period and temporary uses are defined as being limited to periods of less than one week, or no more than once per week for a period of no more than three months.

Temporary Health Care Structures: A transportable residential structure providing an environment facilitating a caregiver's care for a mentally or physical impaired person. Temporary healthcare structures are pre-assembled and placed on the site as an accessory use.

Temporary Structure: A building placed on a lot for a specific purpose which is to be removed within a specified time period. Examples of temporary structures are monitoring stations, mobile classrooms, construction trailers, and produce stands.

Terra cotta: Hard fired clay, either glazed or unglazed, molded into ornamental elements, wall cladding, and roof tiles.

Texture: The exterior finish of a surface, ranging from smooth to coarse.

Thoroughfare: A facility with a functional purpose of moderate to low mobility and high access. The facility has no control of access, traffic signals, driveways with full movements, and a minimum of 2 travel lanes without a median. Connections are provided primarily at at-grade intersections.

Tie rod: A metal tension rod connecting two structural members, such as gable walls or beams, acting as a brace or reinforcement; often anchored by means of a metal plate in such forms as an "S" or a star.

Timbering: The act of harvesting trees on one or more parcels to be sold at current market rate.

Timber and Forest Product Processing Facility: One or more parcels, structures or both existing for the primary purpose of gathering, sorting, cutting, chipping, grinding, pulpwood processing, or other value-added activities in the timber and forest product industry. Timber processing facilities are primarily involved in the production of one of the four major wood product categories being sawn timber, wood based panels, wood chips, paper and paper products and components for the utilities and railroad industries.

Tongue-and groove: An edge joint of two boards consisting of a continuous raised fillet or tongue on one edge that fits into a corresponding rectangular groove cut into the edge of the other board.

Towing or wrecker service: A person engaged in the business or offering the services of a vehicle wrecker or towing service, whereby disabled motor vehicles are towed or otherwise removed from the place where they are disabled by use of a wrecker so designed for that purpose or by a truck, automobile, or other vehicle so adapted to that purpose, or in the business of storing disabled motor vehicles.

Townhomes: Dwelling units on parcels with individual deeds and common areas maintained by homeowners associations. Scale can range from two attached units to a longer series of attached residences in multiple buildings.

Tracery: An ornamental configuration of curved mullions in a Gothic sash.

Tract: A defined area of land. Though the terms “Tract,” “Lot,” and “Parcel” are technically interchangeable, the term “Tract” commonly refers to a portion of land greater than three acres in size.

Transition Surfaces: These surfaces extend outward at right angles (ninety-degree angles) to the runway centerline and extend at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.

Transom: 1) A horizontal bar of wood or stone across a window; 2) The cross-bar separating a door from the window, panel, or fanlight above it. 3) The window above the transom bar of a door. 4) The glazed area above a display window or door separated from the main window area or door by a transom bar.

Transom bar: A horizontal element that subdivides an opening, usually between a door and window.

Trefoil: A three-lobed decorative form used in Gothic architecture.

Triplex: A building containing three residential living units.

Trucking terminal: The use of land, buildings, or structures, or portions thereof, where transports are stored, rented, leased, kept for hire, or parked for remuneration or from which trucks or transports are dispatched as common carriers, or where goods are stored temporarily for further shipment.

Tuck-Pointing: See pointing.

Turret: A small tower, usually supported by corbels and at the corner of a building.

Two-family Dwelling: A building with two dwelling units under a single deed, and suitable for two individual occupancies. Two-family Dwellings are constructed to the standards of the North Carolina State Building Code.

Uu

Utility pole: A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

Utility Station: An electricity or gas substation, water or wastewater pumping station, telephone repeater station, or similar structure used as an intermediary switching, boosting, distribution, or transfer station for electricity, water, wastewater, cable television, or telephone services between the point of generation and the end user, or a public or private wastewater treatment plant or water treatment plant, but not including satellite dish antennae, facilities for the handling of solid waste, or radio, television, or microwave transmission or relay towers.

Vv

Variance: A requested deviation from the regulations contained within this ordinance.

Vested right: The right to undertake and/or complete a development and use of property under the terms and conditions of a local government-approved site plan.

Vehicular Sight Distance: The line of vision needed by a motorist to safely move from a driveway or side street onto a street. The vehicular sight distance is typically contained within the triangular area formed by a diagonal line connecting two points located on intersecting property lines (or a property line) and the curb or a driveway, the first point being 15 feet from the point of intersection along the street or driveway in which the vehicle is located and the second point being 30 feet from the point of intersection along the street or driveway perpendicular to the vehicle's direction of travel. Variations in lot layout and topography may alter the size of the area required.

Vehicular sign: A sign applied to a parked vehicle or trailer that is legible from the public right-of-way where the primary purpose of the vehicle is stationary advertisement. For the purposes of this ordinance, vehicular signs will not include business logos, identification, or advertising on vehicles primarily used for other business purposes as evidenced by the fact that the vehicle is typically moved on a daily basis.

Vehicular Surface Area: Any portion of a parking lot, driveway, holding area, lane, or street used for vehicular travel or storage.

Veneer: A decorative facing applied to an exterior wall, typically either made of or made to look like brick or stone.

Vinyl: A plastic material created from a polymer of a vinyl compound or resin, used in building materials and coverings.

Vinyl Siding: Sheets of thermal plastic compound made from chloride or vinyl acetates, as well as some plastic made from styrene or other chemicals, usually fabricated to resemble clapboard.

Visual Termination: A point, surface, building, or structure terminating a vista or view, often at the end of a straight street or coinciding with a bend.

Visually Impervious: A buffering or screening device which partially or totally blocks the view to, or from, adjacent sites by a discernible factor ranging up to 100 percent.

Volute: A carved spiral form in classical architecture; often used in pairs as in the capitals of Ionic columns.

Vousoir: A wedge-shaped component of an arch.

Ww

Warehouse: A large-scale building that is used for warehousing and wholesaling. Truck and/or rail loading areas are typically prominent features of the site.

Warehousing: The indoor storage of goods, materials, or merchandise for shipment to, or processing on, other property.

Waste transfer station: a building or processing site for the temporary deposition of waste. Transfer stations are often used as places where local waste collection vehicles will deposit their waste cargo prior to loading into larger vehicles. These larger vehicles will transport the waste to the end point of disposal in an incinerator, landfill, or hazardous waste facility, or for recycling.

Wastewater Treatment Facility: A facility operated by a licensed utility, in compliance with all applicable state, county, and City regulations, and intended or used for the treatment and surface or subsurface disposal of wastewater and which serves more than one use or more than four dwelling units; or a facility intended or used for the treatment and subsurface disposal of wastewater which serves only one use or up to four dwelling units.

Watercourse: A natural channel through which water flows.

Watershed: The entire land area contributing surface drainage into a specific stream, creek, lake, or other body of water.

Water Table: A belt course differentiating the foundation from a masonry building on its exterior walls.

Water tower: A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

Wholesale Establishment: A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise stored on the premises to persons who are intermediaries between the producer and the consumer.

Window/door sign: Any sign that is painted on, attached to, or suspended behind or in front of a window or door which is intended for viewing from the exterior of the building and/or clearly legible from public right-of-way.

Windsock: A sign or decorative figure, or character that is inflated with air and moves with wind to attract attention to a site.

Winery: An establishment primarily engaged in the production and distribution of unfortified or fortified wine and sells the majority of product for off-site sale and consumption. The establishment must hold an unfortified winery permit, as authorized in G.S. 18B-1101, or fortified winery permit, as authorized in G.S. 18B-1102. An establishment may include accessory uses such as tasting room(s), restaurant, retail, demonstration areas, education and training facilities, or other uses incidental to the winery business. In addition, on-site vineyards may be present or not.

Wireless facility: Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include any of the following: a) The structure or improvements on, under, within, or adjacent to which the equipment is collocated; b)

Wireline backhaul facilities; or c) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider: Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless provider: A wireless infrastructure provider or a wireless services provider.

Wireless services: Any services, using licensed or unlicensed wireless spectrum, including the use of Wi- Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless services provider: A person who provides wireless services.

Wireless support structure: A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a city utility pole is not a wireless support structure.

Wood Shingles: Thin tapered rectangular pieces of wood installed in overlapping rows to cover walls or roofs; the butt of the shingles can be cut in a variety of shapes to give a distinctive pattern to a wall surface.

Wooded: An area included within an approved reforestation area, dedicated natural open space, or an area that is dominated by trees and other woody plants and contains at a minimum, 100 trees per acre with at least fifty percent of those trees having a two-inch or greater caliper. Also commonly referred to as forest.

Working Day: Any day on which the offices of the City of Lexington are officially open, not including Saturdays, Sundays, and other holidays designated by the City Council.

Workshop: An attached or detached building, room or other space where things are produced or repaired using machines and/or tools.

Yy

Yard, Front: The area between the front building line of a principal building or structure and the public or private street upon which the property fronts, projected to the side property lines.

Yard, Rear: The area between the rear building line of a principal building or structure and the property line farthest from the public or private street fronting the parcel, projected to the side property lines.

Yard Sale: An informal, irregularly scheduled event held not more than once during a consecutive three-month period at a residential dwelling for the sale of used goods by the occupant of the dwelling. The seller is not required by law to collect sales tax. The goods in a yard sale are unwanted items from the household occupied by the homeowners conducting the sale. Yard sales occurring at intervals of more than once per three consecutive month time period shall be considered a business use. Wholesaling is prohibited.

Yard, Side: The area between the side building line of a principal building or structure and the side property line, not projecting into the front or rear yard. For corner lots, measurement shall begin at street instead of the property line.

Zz

Zero lot line: The location of a building or structure on a lot in such a manner that one of the building's or structure's sides rests directly on a parcel line.