



Chapter 2

PROCEDURES

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2.1. SUMMARY DEVELOPMENT REVIEW TABLE

- A. Table 2.1: Summary Development Review Table, identifies the authorities that review, comment, make a recommendation on, or decide specific development applications identified in this Ordinance. The table also identifies:
1. The relevant section of this Ordinance where procedural information may be found;
 2. If a public hearing is required; and
 3. If a required public hearing is conducted as a quasi-judicial public hearing.

2.2. COMMON REVIEW PROCEDURES

A. Overview or How to use this Section??

1. This section describes the standard procedural steps and rules generally applicable to development applications reviewed under this Ordinance, **except where** specified in [Section 2.3, Review Procedures for Specific Applications.](#)
2. **Common** review procedures headings in this section are highlighted in **dark blue** and followed by **CRP**. Specific procedures in Section 2.3, are denoted by a bold heading illustrated at right.
3. The flow charts of specific procedures in [Section 2.3, Review Procedures for Specific Applications](#), depict procedural steps that apply to the review of the particular type of development application.
4. The City of Burlington Procedures Manual is intended to supplement the information contained in Section 2.3, Review Procedures for Specific Applications in this Chapter by setting forth procedures, specifications and practices for efficient administration.

2.3.5 Comprehensive Plan Amendment

1. Purpose and Intent

- a. The purpose of this section is to provide a uniform means for amending the Comprehensive Plan (Destination Burlington) whenever the public necessity,

B. Purpose and Intent

1. This common review procedures section establishes the procedures used by the City for the processing of applications for development permits or approvals. It is the intent of this section to establish a uniform set of processes to foster greater efficiency and predictability for applicants, City residents, City staff, and elected and appointed officials during the review of development applications.

C. Pre-Application Conference (CRP)

1. Purpose
 - a. The purpose of a pre-application conference is to provide an opportunity for the applicant to learn about the submittal requirements, procedures, and standards applicable to a particular development application. A pre-application conference is also an opportunity for City staff to become familiar with, and offer preliminary comments about the scope, features, and impacts of the proposed development, as it relates to the standards in this Ordinance.

TABLE 2.1: SUMMARY DEVELOPMENT REVIEW TABLE

Table 2.1: Summary Development Review Table										
Type of Action: C = Comment; R = Recommendation; D = Decide; A = Appeal Type of Hearing: Public Hearing = { }; Quasi-Judicial Public Hearing = []										
Procedure	Relevant Ordinance Section	Technical Review Committee (TRC)	Stormwater Administrator	Planning Director or Designee	Engineering Director	Zoning Administrator	Historic Preservation Commission	Planning & Zoning Commission	City Council	Board of Adjustment (BOA)
Administrative Adjustment	2.3.1			C		D				[A]
Appeal	2.3.2									[D]
Certificate of Appropriateness							D/2/			[A]
Comprehensive Plan Amendment /3/				R				R	{D}	
Rezoning /3/		/4/		R				R	{D}	
Development Agreement /3/				R				R	{D}	
Final Plat				D						[A]
Floodplain Permit					D					[A]
Grading Permit /5/					D					
Interpretation				R		D				[A]
Planned Development /3/				R				R	{D}	
Preliminary Plat		D								[A]
Reasonable Accommodation				R						[D]
Sign Permit						D				[A]
Site Plan		D /4/								[A]
Special Use Permit										[D]
Stormwater Permit			D							[A]
Text Amendment /3/				C				R	{D}	
Temporary Use Permit						D				[A]
Variance										[D]
Vested Right Certificate /3/				C					{D}	
Voluntary Annexation										
Watershed Protection Permit			D							[A]
Watershed Variance		D /5/							[D] /5/	

NOTES:

- /1/ Appeals are made to the North Carolina Department of Insurance.
- /2/ The Planning Director or Designee or Designee shall review and decide any COA applications constituting "minor work."
- /3/ Appeals are made to the Superior Court for the county where the development is proposed.
- /4/ The TRC reviews site plans associated with a conditional rezoning prior to review by P&Z Commission.
- /5/ The Stormwater Administrator decides minor watershed variances and provides a recommendation to the City Council on major watershed variances. Major watershed variances require approval by the City Council prior to consideration by the North Carolina Environmental Management Commission.

2. Pre-Application Conference Required
 - a. A pre-application conference between the applicant and City staff is required before submittal of the following applications. The Planning Director or Designee shall determine which staff shall be in attendance at the conference based on the application.
 - 1) Rezoning;
 - 2) Planned Development District;
 - 3) Preliminary Plat;
 - 4) Site Plans;
 - 5) Special Use Permits; and
 - 6) Variances (including Watershed Variances).
 - b. Discussions at a pre-application conference are not binding on the City and do not constitute submittal for formal review of an application.
3. Scheduling
 - a. Applicants shall contact the Planning and Community Development Department to schedule a pre-application conference. The Planning Director or Designee shall then schedule the pre-application conference.
4. Fees
 - a. The initial pre-application conference is free of charge.

D. Neighborhood Information Meeting (CRP)

1. Purpose
 - a. The purpose of the neighborhood information meeting is to inform landowners and occupants of nearby lands about a development application that is going to be reviewed under this Ordinance, and to provide the applicant an opportunity to hear comments and concerns about the development proposal as a means of resolving conflicts and outstanding issues, where possible.
2. Applicability
 - a. A neighborhood information meeting is optional for any proposed development application, but may be encouraged by the Planning Director or Designee for certain applications prior to any public hearing or review by a board or commission.
 - b. The Planning Commission or City Council reserve the right to require this meeting by a simple majority vote on a motion, prior to taking action on the development application.
3. Procedure

When a neighborhood information meeting is conducted, it should be conducted in accordance Section <>, Procedure and comply with the following requirements:

 - a. Timing
 - 1) The meeting should be held at a time of day when the maximum number of neighbors may attend.
 - b. Form

so are we not going with the public notice procedure? a less formal procedure?

- 1) The neighborhood information meeting can take the form of a meeting or gathering between the applicant, or the applicant's representative, and landowners or other interested parties. Nothing shall prohibit multiple meetings from taking place.
- c. Notification
- 1) The applicant should provide notification of the meeting, by mail, a minimum of 10 days in advance of the meeting, to all landowners within 300 feet of the land subject to the application, as shown on the county tax listings.
 - 2) Failure of a party to receive notice of the meeting shall not invalidate the application.
- d. Information Provided
- The applicant should provide the following information to those attending a meeting:
- a) A description of the proposed development;
 - b) The purpose of the neighborhood information meeting;
 - c) The development review procedure(s) the application will follow;
 - d) The potential for changes in the applicant's development proposal as it proceeds through the review process;
 - e) Sources of further information about the development review process; and
 - f) Any additional information that would promote understanding of the development proposal.
- e. Conduct of Meeting
- 1) At the meeting, the applicant shall explain the development proposal and the proposed application, respond to questions and concerns neighbors raise about the application, and propose ways to resolve conflicts and concerns.
- f. Staff Attendance
- 1) City staff may, but are not required to, attend a neighborhood information meeting. Staff members shall not act as facilitators or become involved in discussion about a development proposal though they may provide information about City requirements or procedures.
- g. Written Summary
- 1) The applicant shall submit a written summary of the neighborhood information meeting that includes:
 - a) The date, time, and location of the meeting;
 - b) The method and date of notification about the meeting;
 - c) A list of landowners notified about the meeting;
 - d) A list of meeting attendees;
 - e) The description of the development proposal presented to the attendees; and
 - f) A summary of attendee comments, ideas, and suggestions from citizens to be incorporated into the development proposal.

- 2) The written summary shall be included with the application materials and be made available to the public for inspection.

E. Application Submittal and Acceptance (CRP)

1. Authority to File Applications
 - a. Unless expressly stated otherwise in this Ordinance, development applications reviewed under this Ordinance shall be submitted by the landowner, contract purchaser, or other person having a recognized property interest in the land on which development is proposed.
2. Application Content
 - a. The Planning Director or Designee is authorized to establish the application content and forms, which shall be maintained in the Procedures Manual.
 - b. The Planning Director or Designee may alter the requirements for submission of certain required information when, in the Planning Director or Designee's opinion, such information is otherwise not available or is not necessary to review the application.
3. Application Fees
 - a. The City Council shall establish application fees, and may amend and update those fees as necessary.
 - b. No action shall be taken on an application and no application approval shall be issued until all required application fees are paid in full.
4. Submittal and Review Schedule
 - a. The Planning Director or Designee is authorized to and shall establish specific rules for submittal and review schedules (including time frames for review) for the various types of development applications, which shall be maintained in the Procedures Manual.
5. Application Submittal
 - a. Applications shall be submitted to the Planning Director or Designee in the form established by the Planning Director or Designee, along with the appropriate application fee.
6. Completeness Review

On receiving a development application, the Planning Director or Designee shall determine, within seven days, whether the application is complete or incomplete. A complete application is one that:

 - a. Contains all information and materials identified in the Procedures Manual as required for submittal of the particular type of application;
 - b. Is in the form and number of copies required by the Procedures Manual;
 - c. Is legible and printed to scale (where appropriate);
 - d. Is signed by the person with the authority to file the application;
 - e. Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance;
 - f. Is accompanied by the fee established for the particular type of application;
 - g. Includes material associated with a pre-application conference, if one is required, and

h. Includes the written summary of a neighborhood information meeting, if one was conducted.

7. Application Incomplete

a. If the application is incomplete, the Planning Director or Designee shall notify the applicant of the deficiencies. The applicant may correct the deficiencies and resubmit the application for completeness determination in accordance with [Section <>, Submittal and Review Schedule](#).

8. Application Complete

a. On determining that the application is complete, it shall be considered as submitted, and the City shall commence review in accordance with the procedures and standards of this Ordinance.

F. Staff Review and Action (CRP)

1. Staff Review

- a. Applications shall be reviewed during the review cycle in place when the application is determined to be complete.
- b. When an application is determined complete, it shall be distributed by the Planning Director or Designee to all appropriate staff and review agencies for review and comment, and the preparation of a staff report, if appropriate.
- c. In considering the application, the Planning Director or Designee, the TRC, or other City staff (as appropriate), shall review the application, relevant support material, and any comments or recommendations from other staff and review agencies to which the application was referred.
- d. If deficiencies in complying with applicable standards of this Ordinance are identified, the Planning Director or Designee shall notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

2. Applications Subject to Decision by Staff

a. Decision

- 1) In cases where a development application is decided by the Planning Director or Designee, Zoning Administrator, Stormwater Administrator, Engineering Director, TRC, or other designated City staff, the appropriate City staff member(s) shall approve, approve with conditions, or disapprove the application based on the review standards set forth in [Section <> Review Procedures for Specific Applications](#).

b. Conditions of Approval

- 1) Conditions of approval shall be limited to those deemed necessary to ensure compliance with the standards of this Ordinance, and be related in both type and amount to the anticipated impacts of the proposal on the public and surrounding development. All conditions of approval shall be included in the development permit or approval.

G. Public Notification (CRP)

1. Public Hearing Scheduling

a. When a development application is subject to a public hearing, the Planning Director or Designee shall ensure that the public hearing is scheduled for a

regular meeting or a meeting specially called for that purpose by the review or decision-making authority.

2. Public Notification

- a. All development applications subject to public notification shall comply with the North Carolina General Statutes, the provisions listed in Table <>, Public Notification Requirements, the provisions of this section, and other provisions in this Ordinance related to public notice.
- b. Notification Requirements
 - 1) The Planning Director or Designee shall ensure public notification is provided in accordance with the timing requirements in Table <>, Public Notification Requirements, for the type of application and the type of notice. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.
- c. Published Notice Requirements
 - 1) When the provisions of this Ordinance require that public notice be published, the Planning Director or Designee shall have the required notice published in a newspaper that is regularly published once per week and has general circulation in the City.
- d. Mailed Notice Requirements
 - 1) Mailed notice specified in Table <>, Public Notification Requirements, shall be mailed to:
 - a) The applicant, if different from the landowner; and
 - b) All landowners within prescribed proximity as indicated in Table 2.2, Public Notification Requirements (including landowners located outside the City) whose address is known by reference to the latest county tax listing.
 - 2) Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed, postage paid. The content and form of the notice shall comply with Section <>, Notice Content, and the North Carolina General Statutes.
 - 3) A copy of the mailed notice shall be maintained in the Planning and Community Development Department for public inspection during normal business hours.
- e. Posted Notice Requirements. Posted notice shall be made by the Planning Director or Designee, and shall comply with the following:
 - 1) A sign shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion of the respective street. Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way.
 - 2) The content and form of the notice shall comply with Section <>, Notice Content, and the North Carolina General Statutes, Section .
- f. Notice Content

Unless expressly indicated otherwise, all notices, whether done by mail, publication, or posting shall:

 - 1) Identify the date, time, and place of the public hearing;

Table 2.2: Public Notification Requirements

Application Type	Decision-Making Body	Type of Public Notification "X" = Required		
		Published Notice	Mailed Notice	Posted Notice [1]
Appeal	Board of Adjustment	X	X [2]	X
Certificate of Appropriateness	Historic Preservation Commission		X [3]	
Comprehensive Plan Amendment	Planning & Zoning Commission	X		
	City Council	X [4]		
Rezoning	Planning & Zoning Commission	X	X [2]	X
	City Council	X [4]	X [2]	X
Development Agreement	Planning & Zoning Commission	X	X [2]	X
	City Council	X [4]	X [2]	X
Planned Development	Planning & Zoning Commission	X	X [2]	X
	City Council	X [4]	X [2]	X
Reasonable Accommodation	Board of Adjustment		X [2]	X
Special Use Permit	Board of Adjustment	X	X [2]	X
Text Amendment	Planning & Zoning Commission	X		
	City Council	X [4]		
Variance	Board of Adjustment	X	X [2]	X
Vested Rights Certificate	City Council	X [4]	X [2]	
Watershed Variance	City Council	X	X [2]	X

NOTES:
 [1] Posted notice provided between 10 and 25 days before the hearing.
 [2] Mailed notice provided to affected owners and landowners within 300 feet of the subject lot or site between 10 and 25 days before the hearing.
 [3] Mailed notice provided to all landowners in the subject LHO district between 10 and 25 days before the hearing.
 [4] Published notice provided once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before the hearing.

- 2) Describe the land involved by county parcel identification number (PIN) and street address or by its relationship to a fronting street and the nearest cross street (if applicable), and its size (except posted notice);
 - 3) Describe the nature and scope of the proposed development or action; and
 - 4) Identify the means to contact a City official for further information.
- g. Constructive Notice
- 1) Minor defects in any notice shall not impair the notice or invalidate proceedings if a bona fide attempt is made to comply with applicable

notice requirements. Minor defects in notice may include, but are not limited to:

- a) Errors in a legal description;
 - b) Errors existing in the county tax listing; or
 - c) Typographical or grammatical errors that do not impede communication of the notice to affected parties.
- 2) Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property or properties shall be strictly adhered to.

H. Quasi-Judicial Public Hearing Procedures (CRP)

1. If the development application is subject to a quasi-judicial public hearing by a decision-making body, the decision-making body shall hold a quasi-judicial public hearing in accordance with the following procedures.
 - a. Opportunity to Present Testimony and Evidence
 - 1) Any party with standing shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of the applicant, the applicant's representatives, City staff, and the City staff's representatives.
 - b. Not Bound by Rules of Evidence
 - 1) Except as otherwise provided in the North Carolina General Statutes, the body conducting a quasi-judicial public hearing is not bound by the rules of evidence, or limited to consideration of evidence that is admissible in a court of law. The body may consider all testimony and evidence it deems competent and material to the application under consideration, but the decision must be based on substantial, competent, material evidence in the record.
 - c. Limitation on Evidence
 - 1) The Chair or person presiding over the hearing may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and ad hominem attacks.
 - d. Conflicts of Interest
 - 1) A member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected person's 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. If an objection is raised to a member's participation and that member does not recuse themselves, the remaining members shall by majority vote rule on the objection.
 - e. Ex-Parte Communication
 - 1) Ex-parte communications between an applicant or an affected party

ALTERNATIVE TEXT FOR H(1)(B)

“Presentation of Evidence
The body conducting a quasi-judicial hearing shall base its decision solely on substantial, competent, and material evidence in the record. Although the body is not bound by the NC Rules of Evidence, key findings of fact should not be based solely on hearsay testimony. Further, hearsay testimony is disfavored unless the body has no other reasonable means of obtaining the same information.”

and a member of the decision-making body is prohibited. If it occurs, it shall be disclosed during the quasi-judicial public hearing.

I. Review by Advisory Body (CRP)

If an application requires review and a recommendation by an advisory body, such as the Planning and Zoning Commission, the advisory body shall review the application in accordance with the following procedures:

1. General
 - a. The advisory body, as appropriate, shall consider the application, relevant support materials, staff report, and any public comments. One of the decisions authorized for the particular type of application shall be recommended, based on the review standards applicable to the application type, as set forth in [Section <>, Review Procedures for Specific Applications](#).
2. Clearly State Factors for Recommendation
 - a. The recommendation shall clearly state the factors considered in making the recommendation and the basis or rationale for the recommendation.
3. Vote
 - a. A decision to recommend approval shall be decided by a simple majority of a quorum present.
 - b. A tie vote by members of the commission shall be forwarded without a recommendation.
4. Timing
 - a. Unless an application is deferred or continued in accordance with [Section <>, Deferral and Continuance](#), a recommendation on an application shall be made within 30 days from the date of the initial meeting where it is considered.
5. Failure to Recommend
 - a. If the advisory body fails to make a recommendation in the time allotted for an application to be reviewed and decided by the City Council, the application shall be forwarded to the City Council without a recommendation from the advisory body.

J. Decision by Decision-Making Body (CRP)

1. If an application is subject to a decision by the City Council, Board of Adjustment, or Historic Preservation Commission, the decision-making body shall review and decide the application in accordance with the following procedures:
2. General
 - a. The decision-making body shall conduct any required public hearing(s) and consider the application, relevant support materials, staff report, any advisory body recommendations, and public comments. After the conclusion of the public hearing, if required, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in [Section <>, Review Procedures for Specific Applications](#).

3. Quasi-Judicial Procedures
 - a. Required quasi-judicial public hearings (see [Table <> Summary Development Review Table](#)) shall be conducted in accordance with [Section <>, Quasi-Judicial Public Hearing Procedures](#).
4. Remand
 - a. The decision-making body may remand the application to City staff or the appropriate advisory body for further consideration of new information or specified issues or concerns, if appropriate. In addition, the City Council may, in accordance with [Section <>, Neighborhood Information Meeting](#), require the applicant to conduct a neighborhood information meeting before rendering a decision on the application.
5. Clearly State Factors for Decision
 - a. Unless stated otherwise in this Ordinance, the decision shall clearly state the factors considered in making the decision and the basis or rationale for the decision.
6. Application Revision
 - a. The decision-making body may revise an application to apply more restrictive requirements, or in any other instance where there will be no substantial change to the application and the revision is necessary to better serve the purpose and intent of this Ordinance. In cases where an application is revised by a decision-making body in this manner, additional public notification or public hearings are not required.
7. Vote
 - a. Quasi-Judicial Hearing
 - 1) Members of a decision-making body board making a quasi-judicial decision shall not participate in or vote 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.
 - b. Legislative Public Hearing
 - 1) A board member shall recuse themselves from voting on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family.
8. Failure to Act
 - a. Upon failure of the decision-making body to act on a request following a public hearing, if required, and any properly followed continuance procedures, the application shall be deemed denied.
9. Timing
 - a. The decision-making body shall take action on the application as promptly as reasonably possible in consideration of the public interest.

K. Conditions of Approval (CRP)

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

L. Notification of Decision or Action (CRP)

1. Timing
 - a. Except where otherwise stated in this Ordinance, the Planning Director or Designee shall provide the applicant written notification of a decision or action within 10 days after a final decision on a development application.
2. Copy of Decision
 - a. In addition, the Planning Director or Designee shall make a copy of the decision available to the public in the offices of the Planning and Development Department, during normal business hours.

M. Effect of Development Approval (CRP)

1. Approval Limited
 - a. Approval of a development application in accordance with this Ordinance authorizes only the particular use, plan for development, or other specific activity approved.
2. Permit Prerequisite
 - a. In the event a permit or development approval is a prerequisite to another permit or development approval (e.g., administrative adjustment or variance approval prior to a site plan approval), development may not take place until all prerequisite approvals are obtained. Approval of one development application does not guarantee approval of any subsequent development application.

N. Deferral and Continuance (CRP)

1. An applicant may request that an advisory or decision-making body's consideration of a development application at public hearing be deferred or continued by submitting a written request for deferral to the Planning Director or Designee.
2. Planning Director or Designee Action
 - a. If public notification has not been provided in accordance with this Ordinance, the Planning Director or Designee shall consider and decide the deferral or continuance request. A request for deferral or continuance shall be approved only in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, or bring the application into closer alignment with the City's adopted policy guidance or the requirements of this Ordinance.
3. Advisory or Decision-Making Body Action
 - a. If public notification has been provided in accordance with this Ordinance, the request for deferral or continuance shall be placed on the public hearing agenda of the advisory or decision-making body on the date the application is to be considered and possibly acted upon by the body. The advisory or decision-making body may approve the request for good cause.
 - b. The applicant shall be responsible for any additional public notification expenses resulting from the request to defer.
4. General Requirements
 - a. No more than one deferral or continuance may be granted.
 - b. The deferral or continuance shall not exceed six months in duration.
 - c. A second deferral request shall be considered a withdrawal of the application.

O. Withdrawal (CRP)

1. An applicant may withdraw an application at any time.
2. If an applicant withdraws an application for the same land after public notification two times within a single year, the same application may not be resubmitted for a period of one year from the date of the second withdrawal.

P. Limitation on Subsequent Applications (CRP)

1. If a development application requiring a public hearing is denied, no application proposing the same or similar development on all or part of the same land shall be submitted within one year after the date of denial unless the decision-making body waives this time limit in accordance with subsection (2) below.
2. The applicant may submit a written request for waiver of the time limit, along with a fee to defray the cost of processing the request, to the Planning Director or Designee, who shall transmit the request to the decision-making body. The decision-making body may grant a waiver of the time limit only on a finding by two-thirds of its membership that the owner or agent has demonstrated that:
 - a. There is a substantial change in circumstances relevant to the issues or facts

- considered during review of the prior application; or
- b. New or additional information is available that was not available at the time of review of the prior application; or
- c. The new application proposed to be submitted is materially different from the prior application; or
- d. The final decision on the prior application was based on a material mistake of fact.

Q. Expiration of Permit or Development Approval (CRP)

1. General
 - a. Development approvals granted in accordance with this Ordinance shall expire as provided in [Section 2.3, Review Procedures For Specific Application](#), for the particular type of development permit or approval.
 - b. If no expiration period is provided in [Section 2.3, Review Procedures For Specific Application](#), then the development approval does not expire.
 - c. A change in ownership of the land shall not affect the established expiration time period. The filing of an appeal shall delay the established expiration period until final resolution of the appeal.
2. Extension of Expiration Time Period
 - a. Except as otherwise provided in [Section 2.3, Review Procedures For Specific Applications](#), for the particular type of development permit or approval, the Planning Director or Designee may, on receipt of written request for extension before the expiration date and on a showing of good cause, grant one or more extensions of the expiration time period for up to a cumulative total of one year.
 - b. Any further extensions shall be subject to approval by the decision-making body that granted the development permit or approval, on submittal of a request for extension to the Planning Director or Designee before the expiration date and a showing of good cause.

2.3. REVIEW PROCEDURES FOR SPECIFIC APPLICATIONS

A. Purpose and Intent

1. This section sets out supplemental procedures, standards, and related information for each of the specific applications for which the City staff, appointed commissions, or the City Council must either review, forward a recommendation, or decide. They apply in addition to the standard procedures set forth in [Section 2.2, Common Review Procedures](#), unless otherwise specified in this Ordinance.

B. Overview

1. Structure of Procedures
 - a. For each type of development application reviewed under this Ordinance, the following sections state the purpose of the development permit or approval, the steps in the review process, the review standards for the application, and provisions addressing expiration and amendment, if applicable.

- b. Development application provisions in this section are organized in alphabetical order in accordance with the sequence of procedures in [Table 2.1, Summary Development Review Table](#).
2. Procedural Flowchart Legend
 - a. Each development application review procedure in this section includes a procedural flowchart that depicts the steps in the review process. White boxes indicate actions of the applicant. Grey boxes indicate actions of City staff. Black boxes show quasi-judicial public hearings, and green boxes show public hearings or public meetings (as appropriate). Boxes with dashed lines show optional steps.

2.3.1 Administrative Adjustment

A. Purpose and Intent

1. This section provides an administrative mechanism for allowing minor adjustments to certain numeric standards (e.g., setbacks) in this Ordinance, based on specific review criteria, with the intent of providing relief where application of a standard creates practical difficulties in allowing development that otherwise advances the purposes served by this Ordinance and where the adjustment is compatible with the surrounding development. Administrative adjustments are reviewed and approved administratively based upon a set of clear and measurable criteria. They are accomplished outside of the variance process, and as such do not rely on demonstration of a “hardship.”

B. Applicability

1. Except where otherwise prohibited, an administrative adjustment may be requested for a modification or deviation to any of the following:
 - a. A zoning district dimensional standard in Chapter 3: Districts;
 - b. A numeric use-specific standard in Chapter 4: Uses;
 - c. A numeric requirement in Chapter 5: Standards; or
 - d. A numeric requirement in Chapter 6: Subdivisions.
 - e. In no instance shall an administrative adjustment application seek to reduce the required minimum lot area in a zoning district, the maximum allowable residential density on a lot, the minimum required separation distance between two uses, or the numeric standards in Chapter 7: Environment.

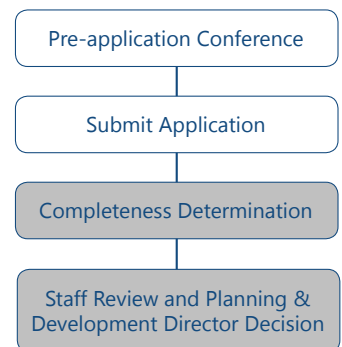
C. Administrative Adjustment Amount

1. An administrative adjustment may allow a deviation from a numeric standard by up to 20 percent in the urban portion of the City, as identified on the Official Zoning Map. The maximum amount of deviation authorized by an administrative adjustment outside the urban portion of the City is 10 percent.

D. Timing of Review

1. An administrative adjustment may be requested either as a stand-alone application, or in combination with another application for development review.
2. In cases when submitted concurrently with another application, the

ADMINISTRATIVE ADJUSTMENT



administrative adjustment portion of the application shall be reviewed and decided prior to the other portion(s) of the application.

E. Administrative Adjustment Procedure

1. Pre-Application Conference

a. Optional (see [Section ◊, Pre-Application Conference](#)).

b. Application Submittal and Acceptance

1) Applicable (see [Section ◊, Application Submittal and Acceptance](#)).

c. Staff Review and Action

1) Applicable (see [Section ◊, Staff Review and Action](#)).

2) The Planning Director or Designee shall review and comment on a requested administrative adjustment in accordance with the standards in this Ordinance and the City's adopted policy guidance.

3) The Zoning Administrator shall review and decide applications for an administrative adjustment in accordance with [Section ◊, Administrative Adjustment Review Standards](#).

F. Administrative Adjustment Review Standards. An administrative adjustment shall be approved if the applicant demonstrates all of the following:

1. The administrative adjustment is consistent with the type and thresholds for an administrative adjustment established in this section;

2. The administrative adjustment is consistent with the character of development on surrounding land, and is compatible with surrounding land uses;

3. The administrative adjustment is either:

a. Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;

b. Supports an objective or goal from the purpose and intent statements of the zoning district where it is located;

c. Saves healthy existing trees; or

d. Preserves environmentally sensitive lands;

4. The administrative adjustment will not pose a danger to the public health or safety;

5. Adverse impacts resulting from the administrative adjustment will be fully mitigated; and

6. The development standard being adjusted is not the subject of a previously approved administrative adjustment on the same site.

G. Conditions of Approval

1. Applicable (see [Section ◊, Conditions of Approval](#)).

H. Effect

1. Approval of an administrative adjustment allows consideration of any concurrent and related applications.

I. Amendment

1. Amendment of an administrative adjustment may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

J. Expiration

1. If an administrative adjustment is associated with another permit or development approval, the expiration of the administrative adjustment shall be the same as the permit or development approval with which it is associated.

K. Appeal

1. Applicable (see [Section <>, Appeal](#)).

2.3.2 Appeal

B. Purpose and Intent

1. Unless otherwise provided by statute or this Ordinance, this section sets out the procedure and standards for an appealing any decision or interpretation by a City official made pursuant to this Ordinance.

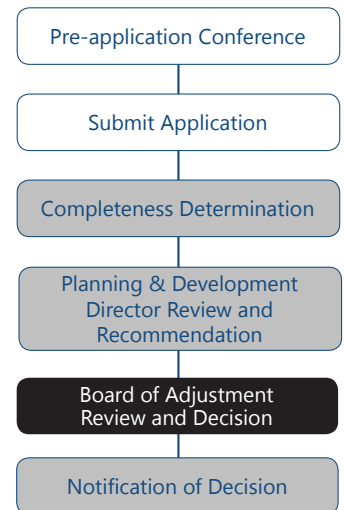
C. Initiation

1. An appeal shall be initiated by filing a written notice of appeal with the Planning Director within 30 days of the date the written determination or decision being appealed is made (except where otherwise specified in this Ordinance).

D. Appeal Procedure

1. Pre-Application Conference
 - a. Optional (see [Section <>, Pre-Application Conference](#)).
2. Application Submittal and Acceptance
 - a. Applicable (see [Section <>, Application Submittal and Acceptance](#)).
 - b. The written notice of appeal shall include a statement of the error or improper decision or determination, the date of the decision or determination, the grounds for the appeal, and all related support materials.
3. Staff Review
 - a. Applicable (see [Section <>, Staff Review and Action](#)).
 - b. On accepting a notice of appeal, the Planning Director or Designee shall transmit to the BOA the appeal and the record of material considered by the decision-maker in making the decision or determination (including but not limited to, the application and support materials, staff report, other plans, documents, reports, and studies considered in making the decision, and any minutes, transcripts, or record of the meetings held to consider and make the decision).
 - c. The Planning Director or Designee, Engineering Director, Zoning Administrator, or Chairman of the Historic Preservation Commission, as appropriate, shall review and comment on appeals of their decisions or related to the aspects of this Ordinance for which they are responsible for administering.

A. APPEAL



4. Public Notification
 - a. Applicable (see Section ◊, Public Notification).
 5. BOA Review and Decision
 - a. Applicable (see Section ◊, Decision by Decision-Making Body, and Section ◊, Quasi-Judicial Public Hearing Procedures).
 - b. The BOA, at the conclusion of a quasi-judicial public hearing, shall decide the application for appeal.
 - c. The decision shall be based on the competent, material, and substantial evidence in the record of the appeal, as supplemented by arguments presented at the quasi-judicial hearing, and the standards in Section ◊, Appeal Review Standards.
 - d. The decision shall be one of the following:
 - e. Affirmation of the decision or determination (in whole or in part);
 - f. Modification of the decision or determination (in whole or in part); or
 - g. Reversal of the decision or determination (in whole or in part).
 - h. A vote to reverse or modify a decision or determination shall require approval of a majority of a quorum present at the hearing.
 - i. Each decision shall be made in writing and reflect the BOA's determination of contested facts and their application to the standards in this Ordinance.
 - j. The written decision shall be signed by the Chair or other duly authorized member of the BOA.
 - k. The decision of the BOA shall be effective upon the filing of the written decision.
 6. Notification of Decision
 - a. The decision of the BOA shall be delivered by personal service, electronic mail, or by first-class mail to the applicant, the landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person providing notification of decision shall certify that proper notification has been made.
- E. Appeal Review Standards
1. The BOA is limited to the following determinations in considering the appeal:
 - a. Whether the decision-maker erred in the interpretation of the standards of this Ordinance; and
 - b. Whether the decision-maker erred in determining whether a standard of this Ordinance was met.
 2. The BOA shall not hear any evidence or make any decision based on hardships or special conditions. (Such matters may only be considered in the context of an application for a variance.)
- F. Effect
1. An appeal stays all proceedings in furtherance of the action appealed, unless the City official from whom the appeal is taken certifies to the BOA, after notice of appeal has been filed, that because of facts stated in the certificate a stay would, in the City official's opinion, cause imminent peril to life or property or

because the violation is transitory in nature, a stay would seriously interfere with enforcement of this Ordinance.

2. If certification by a City official is filed, administrative proceedings shall not be stayed except through issuance of a restraining order by a court of competent jurisdiction.
3. If the appeal is not stayed, the appellant may file for an expedited hearing of the appeal, and the BOA may, in its discretion, consider the appeal within 15 days of the date the request is filed.
4. The filing of an appeal prevents the filing of an application for a rezoning, conditional rezoning, or special use permit for the same land subject to an appeal application, as well as the filing of a text amendment application by the same party filing the appeal until the appeal application is decided or appealed to the courts.

G. Appeal

1. Any decision by the BOA shall be subject to Superior Court review by proceedings in the nature of certiorari.

2.3.3 Building Permit

A. Purpose and Intent

1. The building permit procedure is proposed to ensure that development (including remodeling, renovations, and commercial building fit-ups) comply with the applicable state building and fire codes in order to give reasonable assurance that a building is safe from structural failure, fire hazards from electrical and heating systems, electrical shock, and other health risks. The procedure also helps establish a permanent record of the work performed and the associated inspections conducted by the City.

this will probably be gone.

B. Applicability

1. Unless exempted in accordance with this Ordinance or the North Carolina State Building Code, no excavation shall be commenced, no building construction, addition, alteration, repair, movement to another site, demolition of any building, no wall or fence erected exceeding \$100 in cost, nor sign erected, unless exempted by [Section <>, Signs](#), until a building permit is approved and issued in accordance with the procedures and standards of this section.

C. Building Permit Procedure

1. Pre-Application Conference
 - a. Optional (see [Section <>, Pre-Application Conference](#)).
2. Application Submittal and Acceptance
 - a. Applicable (see [Section <>, Application Submittal and Acceptance](#)).
3. Staff Review and Action
 - a. Applicable (see [Section <>, Staff Review and Action](#)).

- b. The Zoning Administrator shall review and decide the application for a building permit in accordance with [Section ◊, Building Permit Review Standards](#).
 - c. All applications for a building permit shall also be granted a certificate of occupancy or a certificate of compliance upon satisfactory completion of all required building and site inspections in accordance with [Section ◊, Building Permit Review Standards](#).
 - d. A temporary certificate of occupancy may be issued by the Zoning Administrator prior to the completion of all construction or changes if occupancy will not violate any health or safety considerations of any applicable codes.
 - 1) The Zoning Administrator shall specify the duration of the temporary certificate of occupancy, which shall not exceed 90 days.
 - 2) If all remaining work is not completed within the specified timeframe of the temporary certificate of occupancy, the Zoning Administrator shall order the applicant to cease occupancy immediately. Occupancy shall not recommence until a certificate of occupancy is obtained in accordance with this section.
 - e. In the event the work identified in the development permit or approval is not complete, the applicant may request to submit a financial guarantee (see [Section ◊, Financial Guarantees](#)) in an amount necessary to ensure that any work not completed as specified in the development permit or approval will be completed within the specified time-frame for a certificate of occupancy or a temporary certificate of occupancy.
- D. Building Permit Review Standards. A building permit shall be issued on a decision that the application complies with:
- 1. The North Carolina State Building Code;
 - 2. The applicable requirements of the county Health Department;
 - 3. All standards or conditions of any prior applicable permits and development approvals; and
 - 4. All other applicable requirements of this Ordinance and the City Code of Ordinances.
- E. Effect
- 1. Applicable (see [Section ◊, Effect of Development Approval](#)).
 - 2. Building permits authorize only the use, arrangement, and construction set forth in such approved plans and no other use, arrangement, or construction.
- F. Amendment
- 1. Amendment of a building permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
- G. Expiration
- 1. A building permit shall expire and become null and void if the development it

authorizes is not commenced within 90 days of the permit issuance.

- a. If development authorized by a building permit commences but is discontinued for a continuous period of 12 months, the permit shall expire and become null and void.
- b. If the work described in any building permit has not been substantially completed within two years of the date of issuance the permit shall expire.
- c. Following expiration, any further work as described in the expired permit shall not proceed unless and until a new building permit has been obtained.
- d. An extension of a building permit of up to three months may be granted by the Zoning Administrator in cases where work has been regularly and diligently performed but additional construction time is required because of the size and complexity of the job.

H. Appeal

1. An appeal of a decision on a building permit may be filed with the North Carolina Commissioner of Insurance, in accordance with Section 160A-434 of the North Carolina General Statutes.

2.3.4 Certificate of Appropriateness

1. Purpose and Intent

- a. This Certificate of Appropriateness (COA) procedure is intended to insure that any exterior work or other development visible from the public realm maintains the integrity and character of the City's historic districts or historic landmarks. This supports home values within the district while also protecting the City's historical resources for future generations.

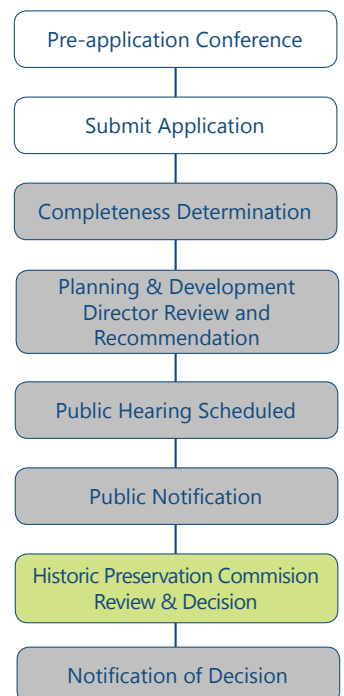
2. Applicability. Unless exempted in accordance with Section [◇, Exemptions](#), no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on a landmark property or within a historic district until after an application for a certificate of appropriateness as to exterior features has been submitted to an approved by the HPC.

- a. For purposes of this section, "exterior features" means the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture and color of building materials, the size and scale of a building or structure, and the type and style of all windows, doors, light fixtures, steps, pavement, masonry walls, fences, decks, signs, and other appurtenant features. It also includes major replacement or redesign of landscaping, and the removal of mature trees over 12 inches in DBH. Making any changes in the character of street paving, street width, street lighting, street trees, walls, fences, sidewalks, or utilities (including installation or removal); and making any changes to the exterior of buildings or structures on property or streets in which the State, County, City and all public agencies or utilities have a fee or other interest.

3. Exemptions. The requirements of this section shall not apply to:

- a. The ordinary maintenance, repair, or replacement of streets, sidewalks, pavement markings, utility service lines, street signs, traffic signs, and street

CERTIFICATE OF APPROPRIATENESS



- light fixtures, provided such activities comply with the purpose and intent of this section and any guidelines adopted by the HPC; or
- b. The immediate restoration of utility service or tree removal, in the event of an emergency.
4. Timing
 - a. A COA must be obtained prior to issuance of a Building Permit.
 5. Certificate of Appropriateness Procedure
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>](#), [Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - 2) An application shall include sketches, drawings, photographs, specifications, descriptions, and other information, which clearly show the proposed development.
 - c. Staff Review
 - 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review the application, prepare a staff report, and provide a recommendation in accordance with [Section <>](#), [Certificate of Appropriateness Review Standards](#).
 - 3) Minor Work
 - a) If the development proposed is identified by the HPC as “minor work”, the Planning Director or Designee may review and make a decision on the application in accordance with the standards in [Section <>](#), [Certificate of Appropriateness Review Standards](#).
 - b) If the Planning Director or Designee disapproves the minor work, the application shall be forwarded to the HPC for a final decision in accordance with [Section <>](#), [HPC Review and Decision](#).
 - d. Public Notification
 - 1) Applicable (see [Section <>](#), [Public Notification](#)).
 - e. HPC Review and Decision
 - 1) Applicable (See [Section <>](#), [Decision by Decision-Making Body](#)).
 - 2) The HPC shall consider the application, relevant support materials, the staff report, and testimony or evidence given at the public hearing, and make one of the following decision, based on the standards in [Section <>](#), [Certificate of Appropriateness Review Standards](#):
 - a) Approval of the certificate of appropriateness in part, or as submitted;
 - b) Approval of the certificate of appropriateness, subject to conditions of approval; or
 - c) Denial of the certificate of appropriateness in part or as submitted. The HPC shall not deny an application except for the

purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, appurtenant features, or signs that are incompatible with the applicable historic district guidelines or standards.

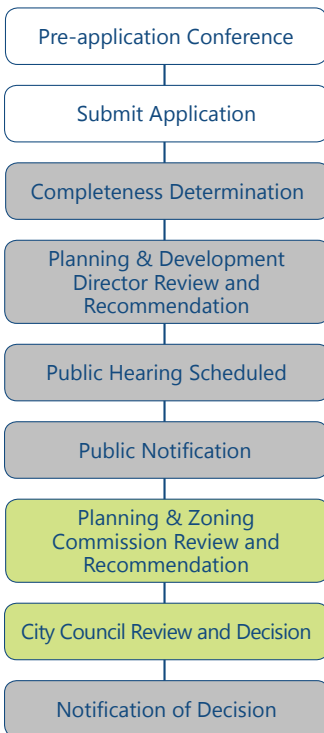
6. Certificate of Appropriateness Review Standards
 - a. A certificate of appropriateness shall be approved if the applicant demonstrates the proposed development complies with the applicable guidelines for the historic district or structure and is in character with the district.
 - b. In making its decision on the application, the HPC shall not consider the interior arrangement of a building or structure, unless consent has been given by the owner of a landmark structure in accordance with Section 160A-400.9.b of the North Carolina General Statutes.
7. Condition of Approval
 - a. Applicable (see [Section <>, Conditions of Approval](#)).
8. Delay in Relocation, Demolition, or Destruction
 - a. The effective date of a COA authorizing the relocation, demolition, or destruction of a designated building, structure, or site within the historic district may be delayed for a period of up to 365 days from the date of approval, except the maximum period of delay authorized by this section shall be reduced by the HPC where the landowner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from the property by virtue of the delay.
 - b. During this period the HPC shall negotiate with the landowner and with any other parties in an effort to find a means of preserving the building or site.
 - c. If the HPC finds a building or site within a historic district has no special significance or value toward maintaining the character of the district, it shall waive all or part of the period and authorize demolition or removal before expiration of the time period.
 - d. If the HPC has voted to recommend designation as a historic district, and final designation has not been made by the City Council, the relocation, demolition, or destruction of any building, site or structure located in the proposed district may be delayed by the HPC for a period of up to 180 days or until the City Council takes final action on the designation, whichever occurs first.
 - e. An application for a COA authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied, except where the HPC finds the landowner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.
9. Amendment
 - a. Amendment of a certificate of appropriateness may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
10. Expiration

- a. Unless otherwise stated in the approval of a COA, it shall expire and be null and void if a building permit is not issued or construction or installation commenced for development approved by the certificate within 18 months of the date of issuance.
 - b. If work on development approved under a COA is started then discontinued for a period exceeding 12 months, the COA shall expire and become null and void.
11. Appeal
- a. Appeal of a decision on a COA shall be reviewed and decided by the BOA in accordance with [Section <>, Appeal](#).

2.3.5 Comprehensive Plan Amendment

1. Purpose and Intent
 - a. The purpose of this section is to provide a uniform means for amending the Comprehensive Plan (Destination Burlington) whenever the public necessity, changed conditions, convenience, general welfare, or appropriate land use practices justify or require doing so.
2. Comprehensive Plan Amendment Procedure
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>, Pre-Application Conference](#)).
 - b. Neighborhood Information Meeting
 - 1) Optional (see [Section <>, Neighborhood Information Meeting](#)).
 - c. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).
 - 2) Applications may be initiated by the City Council, the Planning and Zoning Commission, the Planning Director or Designee, any person who may submit applications in accordance with [Section <>, Authority to File Applications](#), or any other interested party.
 - d. Staff Review
 - 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review the application, prepare a staff report, and provide a recommendation in accordance with [Section <>, Comprehensive Plan Amendment Review Standards](#).
 - e. Public Notification
 - 1) Applicable (see [Section <>, Public Notification](#)).
 - f. Planning and Zoning Commission Review and Recommendation
 - 1) Applicable (see [Section <>, Review by Advisory Body](#)).
 - 2) The Planning and Zoning Commission shall conduct a review of the application and make a recommendation on it in accordance with [Section <>, Comprehensive Plan Amendment Review Standards](#).
 - g. City Council Review and Decision
 - 1) Applicable (see [Section <>, Decision by Decision-Making Body](#)).

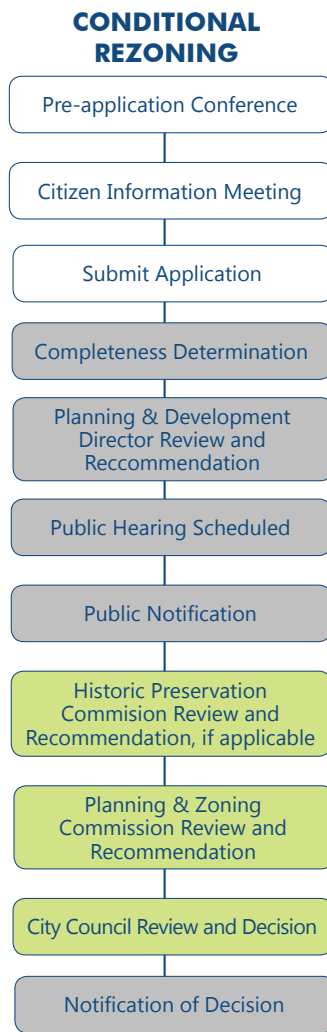
COMPREHENSIVE PLAN AMENDMENT



- 2) The City Council, after the conclusion of a public hearing, shall decide the application in accordance with [Section <>, Comprehensive Plan Amendment Review Standards](#).
 - 3) The decision shall be one of the following:
 - a) Adoption of the comprehensive plan amendment as proposed;
 - b) Adoption of a revised comprehensive plan amendment;
 - c) Denial of the comprehensive plan amendment; or
 - d) Remand of the comprehensive plan amendment application to the Planning and Zoning Commission for further consideration.
3. Comprehensive Plan Amendment Review Standards
- a. Amending the comprehensive plan is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or deny a proposed comprehensive plan amendment, the City Council may consider whether and the extent to which the proposed plan amendment is appropriate and is consistent with the City's adopted policy guidance.
4. Amendment
- a. Amendment of a comprehensive plan amendment may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

2.3.6 Rezoning

1. Purpose and Intent
 - a. The conditional zoning districts allow for the establishment of certain uses or site configurations that, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. The development of these uses cannot be predetermined or controlled by general district standards. In order to accommodate these uses, specific development standards are established for those uses that allow for flexibility in development while protecting existing developed areas.
2. Applicability
 - a. Land within any zoning district is available for rezoning to one of the five conditional zoning districts established in Chapter 3: Districts.
3. Conditional Zoning District Procedure
 - a. Pre-Application Conference
 - 1) Required (see [Section <>, Pre-Application Conference](#)).
 - b. Neighborhood Information Meeting
 - 1) Optional (see [Section <>, Neighborhood Information Meeting](#)).
 - c. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).



- 2) Conditional rezoning applications may only be initiated by the landowner(s) of the land subject to the application.
 - 3) An application for a conditional rezoning shall include a master plan that illustrates the proposed development in order to demonstrate proposed conditions where text does not provide an adequate description.
 - 4) When required, a transportation impact analysis shall be submitted for review with the submittal of an application for a conditional zoning. The procedure for preparation of a transportation impact analysis is described in the Procedures Manual.
- d. Staff Review
- 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review the application, prepare a staff report, and provide a recommendation in accordance with [Section <>](#), [Conditional Rezoning Review Standards](#).
- e. Public Notification
- 1) Applicable (see [Section <>](#), [Public Notification](#)).
- f. Planning and Zoning Commission Review and Recommendation
- 1) Applicable (see [Section <>](#), [Review by Advisory Board](#)).
 - 2) The Planning and Zoning Commission, following a public hearing, shall make a recommendation on the application in accordance with [Section <>](#), [Conditional Rezoning Review Standards](#).
 - 3) During its review of the application, the Planning and Zoning Commission may recommend revisions or additions to the proposed conditions consistent with the provisions of [Section <>](#), [Conditions of Approval](#). Only those revisions agreed to in writing by the applicant shall be incorporated into the application.
 - 4) Upon completion of the public hearing, the Planning and Zoning Commission shall comment on the application's consistency with the City's adopted policy guidance.
- g. City Council Review and Decision
- 1) Applicable (see [Section <>](#), [Decision by Decision-Making Body](#)).
 - 2) The City Council, after the conclusion of a public hearing, shall decide the application in accordance with [Section <>](#), [Conditional Rezoning Review Standards](#).
 - 3) The decision shall be one of the following:
 - i. Adoption of the conditional zoning district as proposed;
 - ii. Adoption of a revised conditional zoning district;
 - iii. Denial of the conditional zoning district; or
 - iv. Remand of the conditional zoning district application to the Planning and Zoning Commission for further consideration.
 - 4) As part of the decision, the City Council shall adopt a written statement of consistency and reasonableness that:
 - a) Describes whether the decision is consistent with all applicable City adopted policy guidance; and

- b) Explains why the decision is reasonable and in the public interest.
 - h. Changes to Application. The landowner may make changes, including changes recommended by the Planning and Zoning Commission or the City Council, to the application for a conditional rezoning at any time prior to the City Council's decision. All changes shall be made in writing to the Planning Director or Designee, and shall be signed by all landowners or those authorized to submit the application.
- 4. Conditional Rezoning District Review Standards. The advisability of a conditional rezoning is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining to approve or deny a conditional rezoning, the City Council may consider the following standards:
 - a. Consistency with Adopted Policy Guidance
 - 1) Whether and the extent to which the proposed conditional rezoning is appropriate for its proposed location, and is consistent with the City's adopted policy guidance.
 - b. Reasonableness/Public Interest
 - 1) Whether an approval of the conditional rezoning is reasonable and in the public interest.
 - c. Review Factors
 - 1) Whether the applicant's proposed conditional rezoning, including the proposed use(s), written conditions, and master plan, will satisfactorily:
 - 2) Result in a development that is compatible with surrounding development character and land uses;
 - 3) Minimize or effectively mitigate any identified adverse impact on adjacent and nearby land, such as that caused by traffic, parking, noise, lighting, trash, loading areas, etc.;
 - 4) Minimize or effectively mitigate any identified adverse environmental impact on water and air resources, minimize land disturbance, preserve trees, and protect habitat;
 - 5) Minimize or effectively mitigate any identified adverse impact on municipal facilities and services, such as streets, potable water and wastewater facilities, parks, police, and fire; and
 - 6) Minimize or effectively mitigate any identified adverse effect on the use, enjoyment, or value of adjacent lands.
 - d. Changes in the Area
 - 1) There have been changes in the type or nature of development in the area of the proposed conditional rezoning that support the application.
 - e. Development Patterns
 - 1) The proposed conditional rezoning district will likely result in development that promotes a logical, preferred, and orderly development pattern.
- 5. Conditions of Approval
 - a. Only conditions mutually agreed to by all the landowner(s) of the land to

be conditionally zoned and the City Council may be approved as part of a conditional rezoning.

- b. Conditions shall be limited to those that address conformance of development and use on the site with City regulations and adopted policy guidance and that address the impacts reasonably expected to be generated by the development or use of the site.
- c. Conditions may be in the form of text or plans and maps, or both.
- d. No condition shall be made part of the application which:
 - 1) Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;
 - 2) Establishes a minimum size of a dwelling unit;
 - 3) Establishes a minimum value of buildings or improvements;
 - 4) Excludes residents based upon race, religion, or income; or
 - 5) Obligates the City to perform in any manner relative to the approval of the conditional rezoning or development of the land.

6. Effect

- a. Lands rezoned to a conditional zoning district shall be subject to all the standards, conditions and plans applicable to that specific conditional zoning district. These standards, plans and approved conditions are perpetually binding on the land as an amendment to this Ordinance and the Official Zoning Map, and may only be changed in accordance with the procedure set forth in this Ordinance.
- b. This district shall be identified on the Official Zoning Map.
- c. No permit or development approval shall be issued for development subject to a conditional rezoning except in accordance with the approved conditions and an accompanying master plan.

7. Amendment

- a. Material Changes are Amendments
 - 1) Changes that materially affect the basic configuration of the development or are beyond the scope of a minor change are not considered minor changes, and shall be reviewed and considered in accordance with the procedures and standards established for the original approval of a conditional rezoning application.
- b. Minor Changes
 - 1) The Planning Director or Designee shall have the delegated authority to administratively approve a minor amendment to an approved conditional rezoning master plan so long as the requested change does not significantly alter the plan or its conditions and that the change does not have a significant impact upon abutting properties. Any decision must be in writing stating the grounds for approval or denial.
 - 2) A request for a minor administrative amendment shall require a letter, signed by all the property owners of the affected property, to the Planning Director or Designee detailing the requested change. The applicant must provide any additional information deemed necessary by the Planning Director or Designee to review the request.
 - 3) A minor amendment that seeks to increase the intensity of the

development are limited for non-residential development to 10 percent of the approved requirement or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10 percent of the development or no more than five dwelling units, whichever is less.

8. Expiration
 - a. If no application for approval of a preliminary plat, site plan, or other development approval for any part of the land is submitted within three years after approval of the conditional rezoning, the Planning and Zoning Commission may forward a recommendation to the City Council to initiate an application to rezone the land to a base zoning district determined to be appropriate. Prior to making such a recommendation, the Planning and Zoning Commission shall determine that the landowner(s) has been notified and given a reasonable opportunity to comment.

2.3.7 Development Agreement

1. Purpose and Intent
 - a. The purpose for this section is to establish the procedure for consideration of a development agreement. This section authorizes the City Council to enter into a development agreement with a developer, subject to Section 160A-400.20 of the North Carolina General Statutes. A development agreement provides more regulatory certainty, establishes a schedule for development, coordinates the provision of public facilities, and improves management of environmentally sensitive lands.
2. Development Agreement Procedure
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>](#), [Pre-Application Conference](#)).
 - b. Neighborhood Information Meeting
 - 1) Optional (see [Section <>](#), [Neighborhood Information Meeting](#)).
 - c. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - d. Staff Review
 - 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review the application, prepare a staff report, and provide a recommendation in accordance with [Section <>](#), [Development Agreement Standards](#).
 - e. Public Notification
 - 1) Applicable (see [Section <>](#), [Public Notification](#)).
 - f. Planning and Zoning Commission Review and Recommendation
 - 1) Applicable (see [Section <>](#), [Review by Advisory Body](#)).
 - 2) The Planning and Zoning Commission, following a public hearing, shall make a recommendation on the application in accordance with [Section <>](#), [Development Agreement Review Standards](#).
 - g. City Council Review and Decision



- 1) Applicable (see [Section <>, Decision by Decision-Making Body](#)).
 - 2) The City Council, after the conclusion of a public hearing, shall decide the application in accordance with [Section <>, Development Agreement Review Standards](#).
 - 3) The action taken shall be one of the following:
 - a) Enter into the development agreement, as submitted;
 - b) Enter into the development agreement, subject to changes agreed to in writing by the developer; or
 - c) Not enter into the development agreement.
 - h. Recordation
 - 1) Within 14 days after entering into a development agreement, the applicant shall record the agreement in the office of the Register of Deeds of the county the subject land is located.
3. Development Agreement Review Standards. For consideration of the City to participate in a development agreement, a development subject to the agreement shall comply with the applicable standards in Section 160A-400.25 of the North Carolina General Statutes, and the following:
- a. The development shall demonstrate the impact on existing and future provisions of capital improvements by the City, including at least one of the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreation, and health systems and facilities.
4. Limitations
- a. In entering into a development agreement, the City may not exercise any authority or make any commitment that is unauthorized by general or local act, and may not impose any unauthorized tax or fee.
5. Effect
- a. Burdens and Benefits
 - 1) The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.
 - b. Rights and Obligations
 - 1) Rights and obligations established by a development agreement shall not preclude or supersede rights and obligations established pursuant to other law regarding building permits, site specific development plans, phased development plans, group developments, or other provisions of law.
 - c. Building and Housing Code
 - 1) A development agreement shall not exempt the property landowner or developer from compliance with the State Building Code or the City's Minimum Housing Code.
 - d. Identify Subsequently Enacted Laws
 - 1) Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are

those in force at the time of execution of the agreement.

- e. Application of Subsequently Adopted Laws
 - 1) Except for grounds specified in Section 160A-385.1(e) of the North Carolina General Statutes, the City may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.
 - f. Change in State or Federal Law
 - 1) If state or federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the City, by ordinance after notice and a hearing, may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the development agreement.
 - g. Vested Rights
 - 1) This Ordinance does not abrogate any rights preserved by Sections 160A-385 or 160A-385.1 of the North Carolina General Statutes, or that may vest pursuant to common law or otherwise in the absence of a development agreement.
6. Approval of Debt
- a. If any of the obligations of the City in the development agreement constitute debt, the City shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the City, with any applicable constitutional and statutory procedures for the approval of the debt. The agreement shall be signed by the City Attorney, Finance Director, and the City Clerk.
7. Periodic Review and Breach of Agreement
- a. Annual Review
 - 1) During any period of time in which a permit or development approval subject to a development agreement is active, the Planning Director or Designee shall review the development at least once every year for compliance with the agreement and file a report with the City Council. The developer must demonstrate good faith compliance with the terms of the development agreement. Failure to meet a commencement or completion date specified in the development agreement shall not, in and of itself, constitute a material breach of the agreement, but must be judged based upon the totality of the circumstances.
 - b. Material Breach
 - 1) If the City Council finds and determines that the developer has committed a material breach of the terms or conditions of the development agreement, the City shall serve written notice of the breach upon the developer within a reasonable time after the periodic review. Such notice shall set forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and shall provide the developer a reasonable time in which to cure the material breach.
 - c. Failure to Cure Material Breach
 - 1) If the developer fails to cure the material breach within the time

given, then the City Council may unilaterally terminate or modify the development agreement, provided that notice of termination or modification may be appealed to the BOA in the manner provided in Section 160A-388.b of the North Carolina General Statutes.

8. Amendment
 - a. Mutual Consent
 - 1) A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.
 - b. Minor Change
 - 1) The Planning Director or Designee may approve minor changes of the development agreement with the mutual consent of the other parties to the agreement, without following the same procedures as required for initial approval of the agreement, upon making written findings that the proposed minor changes would not significantly change the use, intensity, or design of the development, would be consistent with the purposes and goals of the agreement, would comply with this Ordinance, and would not adversely affect the public health, safety, or general welfare.
 - c. Material Changes are Amendments
 - 1) Consideration of a proposed material change of a development agreement beyond the scope of a minor change shall be reviewed and considered in accordance with the procedures and standards established for the original approval of a development agreement.

2.3.8 Final Plat

FINAL PLAT



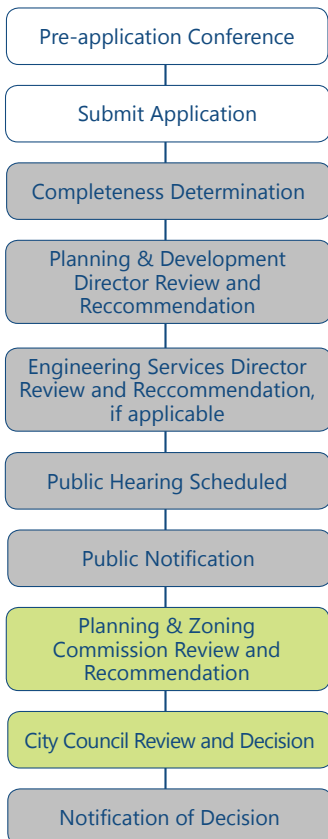
1. Purpose and Intent
 - a. The purpose for this section is to establish a procedure for the review and approval of a final subdivision plat so that lots may be conveyed by the subdivider. The intent for the final plat is delineate individual lot boundaries and to describe and dedicate rights-of-way and easements.
2. Applicability
 - a. A final plat, reviewed and approved in accordance with this section, shall be required for all subdivisions of land required to obtain a preliminary plat under this Ordinance. A landowner shall not submit an application for final plat review until a preliminary plat is approved and all required improvements serving the subdivision are installed and inspected by the City, or the developer provides a financial guarantee in accordance with [Section <>, Financial Guarantees](#). The final plat may depict all or only a portion of the land subject to a preliminary plat.
3. Final Plat Review Procedure
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>, Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).

- c. Staff Review and Action
 - 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review and decide the application for final plat approval in accordance with [Section <>, Final Plat Review Standards](#).
 - d. Recordation
 - 1) Once a final plat is approved, a signed statement by the Planning Director or Designee shall be entered on the face of the plat. The final plat may not be recorded without this and all other required certifications. Failure to record the final plat in accordance with [Section <>, Expiration](#), shall render the plat null and void.
4. Final Plat Review Standards. A final plat shall be approved if it complies with the following:
- a. The final plat is prepared and sealed by a licensed professional land surveyor or professional engineer;
 - b. The final plat is in substantial conformance with the preliminary plat and all applicable requirements in Chapter 6: Subdivisions, and the associated documents;
 - c. All required improvements depicted on the preliminary plat and final plat, are installed and inspected by the City, or are subject to a financial guarantee (see [Section <>, Financial Guarantees](#));
 - d. The final plat complies with all standards and conditions of any applicable permits and development approvals; and
 - e. The final plat complies with all other applicable requirements of this Ordinance and the City Code of Ordinances.
5. Effect
- a. General
 - 1) Approval of a final plat allows the sale or conveyance of lots within the subdivision. Building permits may be issued following recordation of the final plat.
 - b. Acceptance of Public Infrastructure
 - 1) Approval and recordation of a final plat constitutes dedication by the owner and acceptance by the City and the public of the right-of-way of each public street, alley, or utility easement shown on the plat.
 - 2) Approval of the final plat does not constitute acceptance for maintenance responsibility of any improvements within such right-of-way or easement and the City assumes no responsibility to open, operate, repair, or maintain any improvements until it is in the public interest to do so. Improvements within such right-of-ways or easements, such as utilities, streets, drainage facilities or sidewalks may be accepted for maintenance by the City Council, when appropriate.
 - 3) The subdivider shall retain responsibility for public improvements until maintenance responsibility is accepted by the City, NCDOT, or a public utility provider, as appropriate.

6. Amendment
 - a. Amendment of a final plat approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
7. Expiration
 - a. A final plat shall be null and void unless it is recorded in the office of the Register of Deeds for the county where the development is located within 60 days of approval.
 - b. If a final plat is not recorded within two years of the associated preliminary plat approval, or if there is a lapse of more than two years between the recording of different sections or phases, then the preliminary plat shall expire. In such cases, the City may record a notice of expiration in the office of the Register of Deeds for the county where the development is located.
 - c. An expired preliminary plat may be resubmitted in accordance with [Section <>, Preliminary Plat](#), and shall be reviewed in accordance with the standards of this Ordinance.
8. Appeal
 - a. Applicable (see [Section <>, Appeal](#)).

2.3.9 Floodplain Development Permit

FLOODPLAIN PERMIT



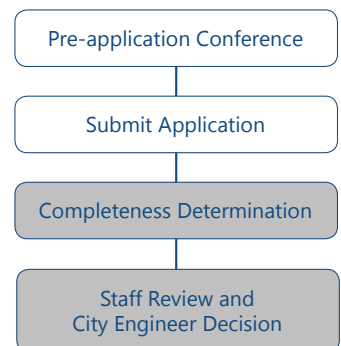
1. Purpose and Intent
 - a. This section sets out the procedure for the review and issuance of floodplain development permit to reduce the potential for damage to land and life from flooding or floodwaters, on land in a special flood hazard area within the City's zoning jurisdiction.
2. Applicability
 - a. Development located within the special flood hazard area shall obtain a floodplain development permit in accordance with this section prior to or concurrent with an application for a site plan or building permit.
3. Floodplain Development Permit Procedure
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>, Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).
 - c. Staff Review and Action
 - 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Engineering Director, serving as the Floodplain Administrator, shall review and decide the application in accordance with [Section <>, Floodplain Development Permit Review Standards](#).
4. Floodplain Development Permit Review Standards. A floodplain development permit shall be approved if it complies with the following:

- a. The permit is issued prior to the commencement of development; and
 - b. The development complies with all applicable standards in [Section <>, Flood Damage Prevention](#).
5. Conditions of Approval
 - a. Applicable (see [Section <>, Conditions of Approval](#)).
 6. Effect
 - a. Approval of a floodplain development permit authorizes an applicant to obtain all required elevation certificates or other required certificates and proceed with development following issuance of a building permit.
 7. Amendment
 - a. Amendment of a floodplain development permit approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
 8. Expiration
 - a. A floodplain development permit shall expire and become null and void if the development it authorizes is not commenced within six months of permit issuance.
 9. Appeal
 - a. Applicable (see [Section <>, Appeal](#)).

2.3.10 Grading Permit

1. Purpose and Intent
 - a. This section sets out the review procedure for regulating grading and land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation.
2. Applicability
 - a. The standards in this section apply to any land disturbing activity subject to [Section <> Soil Erosion and Sedimentation Control](#).
3. Grading Permit Procedure
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>, Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).
 - c. Staff Review and Action
 - 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Engineering Director shall review and decide the application in

GRADING PERMIT



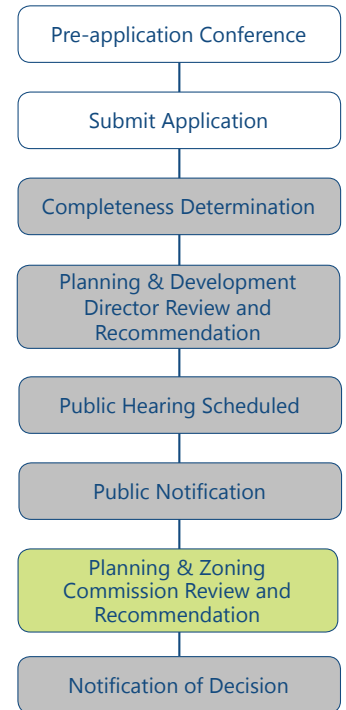
- accordance with [Section <>, Grading Permit Review Standards](#).
- 3) A pre-construction conference shall be conducted on-site with the applicant.
 - 4) Following the pre-construction conference, the Engineering Director shall issue the grading permit.
4. Grading Permit Review Standards
 - a. A grading permit shall be approved in accordance with a soil erosion and control plan developed in accordance with [Section <>, Soil Erosion and Sedimentation Control](#).
 5. Conditions of Approval
 - a. Applicable (see [Section <>, Conditions of Approval](#)).
 6. Effect
 - a. Applicable (see [Section <>, Effect of Development Approval](#)).
 - b. The applicant shall post the approved grading permit in a prominent location on the site where the land disturbance is occurring at all times while it is in effect.
 7. Amendment
 - a. Amendment of a grading permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
 8. Expiration
 - a. The grading permit shall be null and void if work authorized is not completed within one year from the issuance of the permit.
 - b. The Engineering Director may, on receipt of a written request for an extension filed at least 30 days prior to the expiration date, renew a grading permit for an additional 180 days, for good cause.
 9. Appeal
 - a. Applicable (see [Section <>, Appeal](#)).

2.3.11 Interpretation

1. Purpose and Intent
 - a. This section sets out the procedure for the Zoning Administrator to interpret the provisions of this Ordinance, boundaries on the Official Zoning Map, or how unlisted uses should be classified in accordance with [Section <>, Use Classifications, Categories, and Use Types](#).
2. Applicability
 - a. The Zoning Administrator is responsible for interpretations of boundaries on the Official Zoning Map and all provisions of this Ordinance, including, but not limited to:

- 1) Interpretation of the meaning of the text;
 - 2) Interpretation of whether an unlisted use in [Table <>, Principal Use Table](#), is comparable to a listed use or not, and should be allowed in a zoning district or prohibited in that district; and
 - 3) Interpretation of compliance with a condition of approval.
3. Interpretation Procedure
- a. Pre-Application Conference
 - 1) Optional (see [Section <>, Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).
 - 2) An application for a formal written interpretation may be initiated by any person having an interest in the matter in question.
 - c. Staff Review and Action
 - 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review the request and make recommendation in accordance with [Section <>, Interpretation Review Standards](#), and forward that recommendation to the Zoning Administrator.
 - 3) The Zoning Administrator shall review the request and make an interpretation or determinations in accordance with [Section <>, Interpretation Review Standards](#).
 - 4) The Zoning Administrator may request additional information as necessary to make a interpretation or determination.
 - 5) Prior to rendering an interpretation the Zoning Administrator may consult with the City Attorney, City Manager, and other affected City officials.
4. Interpretation Review Standards
- a. Text Provisions and Compliance With Conditions of Approval. Interpretation of the text and its application shall be based on the standards in [Section <>, Rules of Language Construction](#), and the following considerations:
 - 1) The intended purpose of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption;
 - 2) When the legislative intent of a provision is unclear, the Zoning Administrator shall consider the clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision as established in [Section <>, Definitions](#), and by the common and accepted usage of the term;
 - 3) The general purposes served by this Ordinance, as set forth in [Section <>, General Purpose and Intent](#); and
 - 4) Consistency with the City's adopted policy guidance.
 - b. Unlisted Uses, Determination of whether an unlisted use is similar to a use identified in [Table <>, Principal Use Table](#), shall be based on consistency with the City's adopted policy guidance and the following standards:
 - 1) The function, product, or physical characteristics of the use;

INTERPRETATION



- 2) The impact on adjacent lands created by the use;
- 3) The type, size, and nature of buildings and structures associated with the use;
- 4) The type of sales (retail, wholesale), and the size and type of items sold and displayed on the premises;
- 5) The types of items stored (such as vehicles, inventory, merchandise, chemicals, construction materials, scrap and junk, and raw materials including liquids and powders);
- 6) The volume and type of vehicle traffic generated by the use, and the parking demands of the use;
- 7) Any processing associated with the use, including assembly, manufacturing, warehousing, shipping, distribution, and whether it occurs inside or outside a building;
- 8) Any dangerous, hazardous, toxic, or explosive materials associated with the use;
- 9) The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes; and
- 10) Any prior determinations made by the Planning Director or Designee or decisions made by the BOA.

5. Effect

a. General

- 1) A written interpretation shall be binding on subsequent decisions by the Zoning Administrator or other administrative officials in applying the same provision of this Ordinance in the same circumstance, unless the interpretation is modified in accordance with this section, the interpretation is later determined to be in error, or the text of this Ordinance is amended.
- 2) The Zoning Administrator shall maintain a record of written interpretations that shall be available in the Planning and Development Department for public inspection, on reasonable request, during normal business hours.

b. Approval of Unlisted Use

- 1) After the Zoning Administrator determines the use category or use type in which the unlisted use is best classified then the unlisted use shall be subject to all applicable requirements of that use category or use type.
- 2) After making a determination of an unlisted use, the Zoning Administrator shall determine whether the unlisted use is likely to be common or recur frequently, and whether its omission is likely to lead to uncertainty and confusion. On determining that the unlisted use is likely to be common and would lead to confusion if unlisted, the Zoning Administrator shall request that the Planning Director or Designee initiate an application for a text amendment. Until final action is taken on the text amendment, the Zoning Administrator's decision shall be binding.
- 3) If after making a determination of an unlisted use, the Zoning Administrator determines that the unlisted use is of an unusual or transitory nature, and unlikely to recur frequently, the determination

shall be binding without further action or amendment of this Ordinance.

6. Appeal
 - a. Applicable (see [Section <>, Appeal](#)).

2.3.12 Minor Plat

1. Purpose and Intent
 - a. This section establishes a procedure for the subdivision of land into five or fewer lots in accordance with State and City law.
2. Applicability
 - a. Unless exempted in accordance with Section 160A-376 of the North Carolina General Statutes, all divisions of land including five or fewer individual lots with no construction of public streets or installation of public infrastructure, shall comply with the provisions of this section.
3. Minor Plat Procedure
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>, Pre-Application Conference](#)).
 - b. Neighborhood Information Meeting
 - 1) Optional (see [Section <>, Neighborhood Information Meeting](#)).
 - c. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).
 - d. Staff Review and Action
 - 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review and decide the application in accordance with [Section <>, Minor Plat Review Standards](#).
4. Recordation
 - a. Once a minor plat is approved, a signed statement by the Planning Director or Designee shall be entered on the face of the plat. The minor plat may not be recorded without this and all other required certifications. Failure to record the minor plat in accordance with [Section <>, Expiration](#), shall render the minor subdivision plat null and void.
5. Minor Plat Review Standards. A minor plat shall be approved if it complies with the following:
 - a. The minor plat is prepared and sealed by a licensed professional land surveyor or professional engineer.
 - b. The minor plat is in substantial conformance with the preliminary plat and all applicable requirements in Chapter 6: Subdivisions;
 - c. The minor plat complies with all standards and conditions of any applicable permits and development approvals; and
 - d. The minor plat complies with all other applicable requirements in this

MINOR PLAT



Ordinance and the City Code of Ordinances.

6. Effect
 - a. General
 - 1) Approval of a minor plat allows the sale or conveyance of lots within the subdivision. Building permits may be issued following recordation of the minor plat.
7. Amendment
 - a. Amendment of a minor subdivision plat may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
8. Expiration
 - a. Applicable (see [Section <>](#), [Expiration of Permit or Development Approval](#)).
 - b. A minor plat shall be null and void unless it is recorded in the office of the county Register of Deeds where located within 60 days of approval.
9. Appeal
 - a. Appeals may be filed in accordance with the procedure in [Section <>](#), [Appeal](#).

2.3.13 Planned Development District

1. Purpose and Intent
 - a. This section provides a uniform means for amending the Official Zoning Map to establish a Planned Development District (PDD) in the same manner as a conditional rezoning. A planned development district provides the maximum amount of flexibility in terms of deviations from the standards in this Ordinance with the expectation that the resulting development quality will exceed that that would have otherwise resulted from strict adherence to the standards.
2. Applicability
 - a. A planned development district may be established on any land in the City's planning jurisdiction.
3. Planned Development District Procedure
 - a. Pre-Application Conference
 - 1) Required (see [Section <>](#), [Pre-Application Conference](#)).
 - b. Neighborhood Information Meeting
 - 1) Optional (see [Section <>](#), [Neighborhood Information Meeting](#)).
 - c. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - 2) PDD applications may only be initiated by the landowner(s) of the land subject to the application.

- 3) The application shall include a master plan map and a statement of intent and development standards completed in accordance with [Section <>, Standards Applied to All Planned Development Districts](#).
 - 4) To ensure unified control, the application shall also include a copy of the title(s) to all land that is part of the proposed PDD zoning classification.
 - 5) When required, a transportation impact analysis shall be submitted for review with the submittal of an application for a planned development.
- d. Staff Review
- 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review the application, prepare a staff report, and provide a recommendation in accordance with [Section <>, Planned Development District Review Standards](#).
- e. Public Notification
- 1) Applicable (see [Section <>, Public Notification](#)).
- f. Planning and Zoning Committee Review and Recommendation
- 1) Applicable (see [Section <>, Review by Advisory Body](#)).
 - 2) The Planning and Zoning Commission, following a public hearing, shall make a recommendation on the application in accordance with [Section <>, Planned Development District Review Standards](#).
 - 3) Upon completion of the public hearing, the Planning and Zoning Commission shall comment on the application's consistency with the City's adopted policy guidance.
- g. City Council Review and Decision
- 1) Applicable (see [Section <>, Decision by Decision-Making Body](#)).
 - 2) The City Council, after the conclusion of a public hearing, shall decide the application in accordance with [Section <>, Planned Development District Review Standards](#). The decision shall be one of the following:
 - a) Adoption of the planned development district as proposed;
 - b) Adoption of a revised planned development district;
 - c) Denial of the planned development district; or
 - d) Remand of the planned development district application to the Planning and Zoning Commission for further consideration.
 - 3) As part of the decision, the City Council shall adopt a written statement of consistency and reasonableness that:
 - a) Describes whether the decision is consistent with all applicable City adopted policy guidance; and
 - b) Explains why the decision is reasonable and in the public interest.
- h. Changes to Application. The landowner may make changes, including changes recommended by the Planning and Zoning Commission or the City Council, to the application for a planned development district at any time prior to the City Council's decision. The applicant may only propose changes

PLANNED DEVELOPMENT



in accordance with the following:

- 1) Changes shall be made in writing to the Planning Director or Designee; and
 - 2) Changes shall be signed by all landowners or their agents.
- i. Designation on the Official Zoning Map
- 1) The Planning Director or Designee shall place the planned development district classification on the Official Zoning Map promptly after approval of a planned development district classification by the City Council.

4. Planned Development District Review Standards

- a. The advisability of establishing a planned development district classification is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or deny a planned development district, the City Council shall consider the standards in [Section <>, Planned Development Districts](#).

5. Effect

- a. Lands rezoned to a planned development district shall be subject to the approved master plan map and the statement of intent and development standards document. The master plan map and the statement of intent and development standards document are binding on the land as an amendment to the Official Zoning Map. The applicant may apply for and obtain subsequent development permits and approvals necessary to implement the planned development master plan map and the statement of intent and development standards document in accordance with the appropriate procedures and standards in this Ordinance. Any permits or development approvals shall comply with the planned development master plan map and the statement of intent and development standards document.

6. Amendment

- a. Minor Changes. Subsequent plans and permits for development within a planned development district may include minor changes to the approved master plan map or statement of intent and development standards, provided the development continues to meet the minimum requirements of this Ordinance. Minor changes are limited to changes that have no material effect on the character of the planned development or any of its terms or conditions or changes that address technical consideration that could not reasonably be anticipated at the time of the planned development approval. The following minor changes may be approved by the Planning Director or Designee:
 - 1) Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
 - 2) Changes to the configuration of parking areas;
 - 3) Changes to the configuration or location of open space or placement of required amenities;
 - 4) Changes to the configuration of landscape yards, including types of materials;
 - 5) Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general

- architectural character;
 - 6) Changes in the proportion of housing types by up to 15 percent; and
 - 7) Changes to the arrangement or location of buildings provided there is no increase in the number of buildings or size.
 - b. Material Changes are Amendments. Changes that materially affect the basic concept of the planned development master plan map or basic parameters establishing the terms and conditions or that exceed the scope of a minor change are not considered minor changes. They shall be considered amendments. Amendments include, but are not limited to:
 - 1) Changes in use designations;
 - 2) Density/intensity increases;
 - 3) Decreases in open space;
 - 4) Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);
 - 5) Change in the location of any public easement; or
 - 6) Change in the proportion of housing types by more than 15 percent.
 - c. Amendments shall be reviewed and considered in accordance with the procedures and standards established for the original approval of a planned development application.
- 7. Expiration
 - a. If no application for approval of a preliminary plat or site plan for any part of the planned development is submitted within two years after approval of the planned development, the Planning and Zoning Commission may forward a recommendation to the City Council to initiate an application to rezone the land to a base zoning district determined to be appropriate. Prior to making such a recommendation, the Planning and Zoning Commission shall determine that the landowner(s) has been notified and given a reasonable opportunity to comment.

2.3.14 Preliminary Plat

- 1. Purpose and Intent
 - a. This section establishes a procedure for the subdivision of land into two or more lots along with construction of public streets or public infrastructure, in accordance with State and City law.
- 2. Applicability
 - a. Unless exempted by Section 160A-376 of the North Carolina General Statutes, all preliminary plats shall comply with the provisions of this section.
- 3. Preliminary Plat Review Procedure
 - a. Pre-Application Conference
 - 1) Required (see [Section <>](#), [Pre-Application Conference](#)).
 - b. Neighborhood Information Meeting

PRELIMINARY PLAT



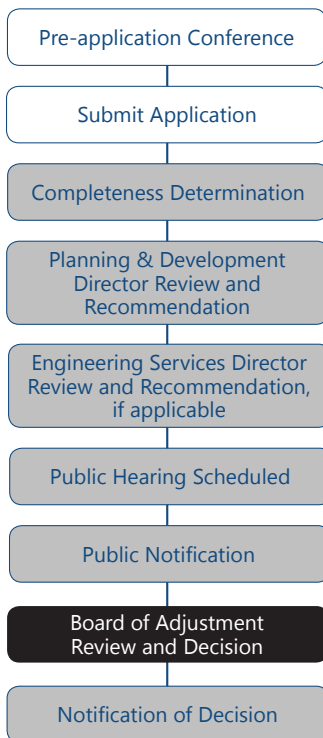
- 1) Optional (see [Section <>](#), [Neighborhood Information Meeting](#)).
- c. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - 2) A preliminary plat shall be prepared by a licensed professional surveyor, registered professional landscape architect, or licensed professional engineer.
- d. Staff Review and Action
 - 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The TRC shall review and decide an application for a preliminary plat in accordance with [Section <>](#), [Preliminary Plat Review Standards](#).
 - 3) The TRC may grant conditional approval of a preliminary plat. In the case of a conditional approval, the applicant shall revise the preliminary plat to address the conditions of approval and re-submit the revised plat to the Planning Director or Designee, who shall convert the conditional approval to an approval upon finding the revised preliminary plat complies with all conditions of approval. If the plat is not revised within 60 days of a conditional approval, then it shall be deemed denied.
 - 4) If the preliminary plat is denied, then the reasons shall be stated in writing. The applicant may revise and resubmit a preliminary plat that has been denied.
- 4. Preliminary Plat Review Standards. An application for a preliminary plat shall be approved if the application complies with:
 - a. All applicable standards in Chapter 6: Subdivisions;
 - b. All standards or conditions of any prior applicable permits and development approvals; and
 - c. All other applicable requirements of this Ordinance and in the City Code of Ordinances.
- 5. Effect
 - a. General
 - 1) Approval of a preliminary plat authorizes the submittal of street and utility construction plans, and soil erosion and sedimentation control plans.
 - b. Street and Utility Construction Plans
 - 1) Street and utility construction plans for all public improvements associated with the preliminary plat shall be approved prior to street and utility construction and prior to the approval of a final plat in accordance with [Section <>](#), [Street and Utility Construction](#).
 - 2) In the case of a multi-phase subdivision, street and utility construction plans shall include all improvements within a phase and all public improvements outside the phase but necessary to serve development within that phase.
 - c. Grading Permit
 - 1) An approved preliminary plat authorizes the submittal of soil erosion and sedimentation control plans and the issuance of a grading permit in accordance with [Section <>](#), [Grading Permit](#). Any approved soil

erosion and sedimentation control devices, and approved permanent runoff control structures may be installed prior to the approval of street and utility construction plans in accordance with [Section <>](#), [Permanent Runoff Control Structures/Soil Erosion and Sedimentation Control Devices](#).

- d. Final Plat
 - 1) An approved preliminary plat, along with approved street and utility construction plans, allows the applicant to submit for final plat approval in accordance with [Section <>](#), [Final Plat](#).
 - e. Financial Guarantees
 - 1) All public improvements that have not been installed by the developer, and inspected and accepted by the City shall comply with the requirements in [Section <>](#), [Financial Guarantees](#), prior to the recordation of a final plat.
 - f. As-Built Plans
 - 1) As-built plans for all public improvements shall be submitted in accordance with [Section <>](#), [As-Built Plans Required](#).
6. Amendment
 - a. Amendment of a preliminary plat approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
 7. Expiration
 - a. An approved preliminary plat shall be valid for two years from the date of approval and may be extended in accordance with [Section <>](#), [Final Plat](#).
 8. Appeal
 - a. Applicable (See [Section <>](#), [Appeal](#)).

2.3.15 Reasonable Accommodation

1. Purpose and Intent
 - a. This section provides a procedure for reasonable accommodation of eligible persons in cases where the strict application of the standards of this Ordinance would deprive them of their right to equal opportunity to use a dwelling under the federal Fair Housing Act.
2. Eligible Persons
 - a. For the purposes of this section, an eligible person is a person who meets the definition of a disabled or handicapped person under federal law.
 - b. A person recovering from substance abuse is considered a person with a disability or handicap provided they are not currently engaging in the illegal use of controlled substances.
3. Reasonable Accommodation Procedure
 - a. Pre-Application Conference

**REASONABLE
ACCOMMODATION**

- 1) Optional (see [Section <>](#), [Pre-Application Conference](#)).
- b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - 2) An application for reasonable accommodation may be made by any of the following:
 - a) A person with a disability or handicap, or their legal representative.
 - b) A provider of housing for persons with disabilities or handicaps.
 - 3) In addition to the requirements of [Section <>](#), [Application Submittal and Acceptance](#), an application for reasonable accommodation shall also include the following:
 - a) The basis for the claim that the applicant or persons receiving services from the applicant is considered disabled or handicapped under federal law;
 - b) The Ordinance provision from which the reasonable accommodation is being requested; and
 - c) An explanation of why the reasonable accommodation is necessary to make specific land or development available for the applicant.
- c. Staff Review
 - 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review the application, and after consultation with the City Attorney, prepare a staff report, and provide a recommendation in accordance with [Section <>](#), [Reasonable Accommodation Review Standards](#).
- d. Public Notification
 - 1) Applicable (see [Section <>](#), [Public Notification](#)).
- e. Board of Adjustment (BOA) Review and Decision
 - 1) Applicable (see [Section <>](#), [Review and Action by Decision-Making Body](#), and [Section <>](#), [Quasi-Judicial Public Hearing Procedures](#)).
 - 2) The BOA, after the conclusion of a quasi-judicial public hearing, shall decide the application.
 - 3) The decision shall be based on the competent, material, and subsequent evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the standards in [Section <>](#), [Reasonable Accommodation Review Standards](#).
 - 4) The decision shall be one of the following:
 - a) Approval of the reasonable accommodation application as proposed;
 - b) Approval of the reasonable accommodation application with revisions; or
 - c) Denial of the application.
 - 5) Each decision shall be made in writing and reflect the BOA's

determination of contested facts and their application to the standards in this Ordinance.

- 6) The written decision shall be signed by the Chair or other duly authorized member of the BOA.
- 7) The decision of the BOA shall be effective upon the filing of the written decision.

f. Notification of Decision

- 1) The decision of the BOA shall be delivered by personal service, electronic mail, or by first-class mail to the applicant, the landowner, and to any person who has submitted a written request for a copy prior to the date the decision become effective. The person providing notification of decision shall certify that proper notification has been made.

4. Reasonable Accommodation Review Standards

- a. A reasonable accommodation application shall be approved on a finding the proposed accommodation:
 - 1) Will be used by an individual or individuals with a disability or handicap protected under federal law;
 - 2) Is the minimum needed to provide accommodation; and
 - 3) Is reasonable and necessary.
- b. For the purposes of this section, an accommodation is reasonable if it would not undermine the legitimate purposes of this Ordinance, it does not constitute a substantial alteration of this Ordinance or other City standard, and it will not impose significant financial and administrative burden upon the City.
- c. For the purposes of this section, an accommodation is necessary if it would provide direct or meaningful therapeutic amelioration of the effects of the particular disability or handicap, and would afford handicapped or disabled persons equal opportunity to use housing in the City.

5. Conditions of Approval

- a. Applicable (see [Section <>, Conditions of Approval](#)).

6. Effect

- a. Applicable (see [Section <>, Effect of Development Approval](#)).
- b. A reasonable accommodation shall not affect an applicant's obligation to comply with other applicable standards in this Ordinance that are not the subject of the reasonable accommodation application.

7. Amendment

- a. Amendment of an application for reasonable accommodation may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

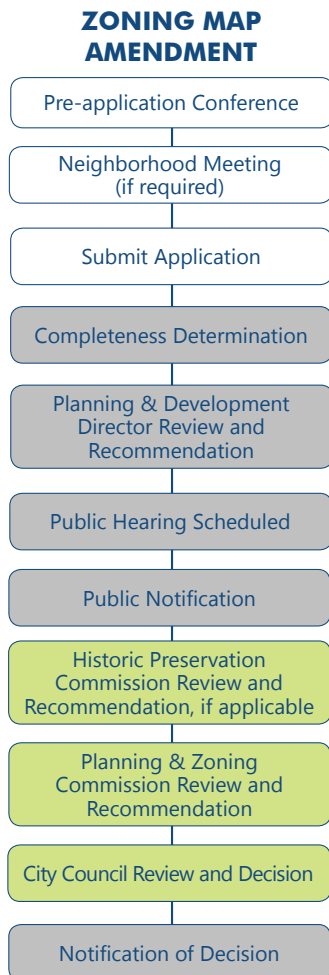
8. Expiration

- a. Approval of a reasonable accommodation shall describe the conditions or events that would terminate the reasonable accommodation or cause it to expire.

9. Appeal

- a. Any decision by the BOA shall be subject to Superior Court review by proceedings in the nature of certiorari.

2.3.16 Rezoning (Zoning Map Amendment)



1. Purpose and Intent

- a. This section provides a uniform means for reviewing and deciding proposed amendments to the Official Zoning Map whenever the public necessity, general welfare, the City's adopted policy guidance, or appropriate land use practices justify or require doing so.
- b. This procedure sets out the requirements for amendments to the zoning district designation of land within the City's planning jurisdiction as well as for land coming into the City's planning jurisdiction via annexation.

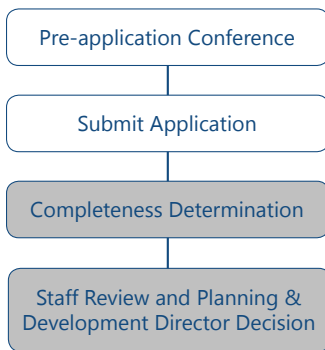
2. Rezoning Procedure

- a. Pre-Application Conference
 - 1) Required in cases where the application seeks to establish a new zoning district with a higher maximum allowable density or non-residential intensity (see [Section <>](#), [Pre-Application Conference](#)).
- b. Neighborhood Information Meeting
 - 1) Optional (see [Section <>](#), [Neighborhood Information Meeting](#)).
- c. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - 2) Applications may be initiated by the City Council, the Planning and Zoning Commission, or all landowner(s) of the land in the proposed application.
- d. Staff Review
 - 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The Planning shall review the application, prepare a staff report, and provide a recommendation in accordance with [Section <>](#), [Rezoning Review Standards](#).
- e. Public Notification
 - 1) Applicable (see [Section <>](#), [Public Notification](#)).
- f. Planning and Zoning Commission Review and Recommendation
 - 1) Applicable (see [Section <>](#), [Review by Advisory Body](#)).
 - 2) The Planning and Zoning Commission shall make a recommendation on the application in accordance with [Section <>](#), [Rezoning Review Standards](#), and shall comment on the application's consistency with applicable City adopted policy guidance.
- g. City Council Review and Decision
 - 1) Applicable (see [Section <>](#), [Decision by Decision-Making Body](#)).
 - 2) The City Council, after conducting a public hearing, shall decide the application in accordance with [Section <>](#), [Rezoning Review Standards](#).

- 3) The decision shall be one of the following:
 - a) Adoption of the rezoning as proposed;
 - b) Adoption of the rezoning to a zoning district designation of lesser intensity;
 - c) Denial of the rezoning; or
 - d) Remand of the rezoning application to the Planning and Zoning Commission for further consideration.
- 4) In making its decision, the City Council shall adopt a written statement of consistency and reasonableness that:
 - a) Describes whether the decision is consistent with the City's adopted policy guidance; and
 - b) Explains why the decision is reasonable and in the public interest.
- h. Designation on Official Zoning Map
 - 1) The Planning Director or Designee shall make changes to the Official Zoning Map promptly after approval of a rezoning application by the City Council.
3. Rezoning Review Standards
 - a. The advisability of an amendment to the Official Zoning Map is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or deny a proposed rezoning, the City Council may weigh the relevance of and consider the following:
 - b. Consistency with Adopted Plans
 - 1) Whether and the extent to which the proposed rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the City's adopted policy guidance.
 - c. Reasonableness/Public Interest
 - 1) Whether an approval of the rezoning is reasonable and in the public interest.
 - d. Other Factors
 - 1) Other factors as the City Council may determine to be relevant.
4. Effect
 - a. Applicable (see [Section <>, Effect of Development Approval](#)).
5. Amendment
 - a. Amendment of an approved rezoning may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

2.3.17 Sign Permit

1. Purpose and Intent

SIGN PERMIT

- a. This section sets out the procedure for consideration of signage applications in accordance with the standards in [Section <>, Signage](#), and the City's adopted policy guidance.
2. Applicability
 - a. All signs, unless exempted in accordance with [Section <>, Signage](#), shall obtain a sign permit in accordance with this section before being erected, replaced, relocated, repaired, or altered.
3. Sign Permit Procedure
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>, Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).
 - c. Staff Review and Action
 - 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Zoning Administrator shall review and decide the application in accordance with [Section <>, Sign Permit Review Standards](#).
4. Sign Permit Review Standards. A sign permit shall be approved on a decision the application complies with:
 - a. The standards in [Section <>, Signage](#);
 - b. The State Building Code;
 - c. All standards or conditions of any prior applicable permits and developments approvals; and
 - d. All other applicable requirements of this Ordinance and in the City Code of Ordinances.
5. Conditions of Approval
 - a. Applicable (see [Section <>, Conditions of Approval](#)).
6. Effect
 - a. Applicable (see [Section <>, Effect of Development Approval](#)).
7. Amendment
 - a. Amendment of a sign permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
8. Expiration
 - a. If the work authorized by a sign permit is not commenced within six months from the date of issuance, the permit shall become null and void.
9. Appeal
 - a. Applicable (See [Section <>, Appeal](#)).

2.3.18 Site Plan

1. Purpose and Intent. It is the purpose of this section to establish a procedure which will enable the City to consider site plan applications for improvements to land within the City's planning jurisdiction. The intent of the site plan procedure is to:
 - a. Implement the City's policies related to physical development;
 - b. Provide for the efficient and rational allocation of facilities and resources;
 - c. Promote economy and efficiency in the provision of municipal services;
 - d. Ensure orderly, high quality development that is consistent with the preferred community character;
 - e. Avoid foreclosure of future development opportunities; and
 - f. Permit present development of land commensurate with fair and orderly planning for future development.
2. Applicability. Site plan review is applicable to any development activity that includes constructing a building or increasing the amount of impervious surface other than those forms of development listed in [Section <>, Exemptions](#).
3. Exemptions
 - a. The following forms of development are exempted from the standards in this section:
 - 1) Construction of a single-family detached dwelling on an individual lot;
 - 2) Establishment of an accessory use or structure;
 - 3) Enlargements of existing principal structures by up to 20 percent of the total gross floor area, provided the enlargement does not result in a need for additional parking spaces or landscaping; and
 - 4) Changes of use that do not result in increased lot coverage, the need for additional parking spaces, or additional landscaping.
 - b. Development exempted from site plan review is still required to obtain a building permit in accordance with the State Building Code and [Section <>, Building Permit](#).
4. Site Plan Review Procedure
 - a. Pre-Application Conference
 - 1) Required (see [Section <>, Pre-Application Conference](#)).
 - b. Neighborhood Information Meeting
 - 1) Optional (see [Section <>, Neighborhood Information Meeting](#)).
 - c. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).
 - 2) If a landscape plan approval, grading permit, or other related permit is required, it shall be obtained concurrently with the site plan approval.
 - 3) When required, a transportation impact analysis shall also be submitted for review with a site plan application. The procedure for

SITE PLAN



preparation of a transportation impact analysis is described in the Procedures Manual.

- d. Staff Review and Action
 - 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The TRC shall review and decide the application in accordance with [Section <>](#), [Site Plan Review Standards](#).
 - 3) The TRC may grant conditional approval of a site plan pending additional revision by the applicant. In the case of a conditional approval, the applicant shall revise the site plan to address all TRC comments and re-submit the revised plan to the Planning Director or Designee, who shall convert the conditional site plan approval to an approval, upon finding the revised site plan complies with all TRC comments. Failure to submit a revised site plan within 60 days shall render the conditional approval null and void.
5. Site Plan Review Standards. A site plan shall be approved if the application complies with:
 - a. All standards or conditions of any prior applicable permits and development approvals;
 - b. All applicable requirements of this Ordinance and the City Code of Ordinances; and
 - c. That all applicable standards, conditions, and requirement are accurately depicted on the site plan.
6. Conditions of Approval
 - a. Applicable (see [Section <>](#), [Conditions of Approval](#)).
7. Effect
 - a. General
 - 1) Approval of a site plan authorizes the submittal of street, site, and utility construction plans, as applicable, and the submittal of an application for a building permit in accordance with [Section <>](#), [Building Permit](#).
 - b. Street and Utility Construction Plans
 - 1) Street and utility construction plans for all public improvements associated with the site plan shall be approved prior to street and utility construction and prior to the approval of a final plat in accordance with [Section <>](#), [Final Plat](#).
 - 2) In the case of a multi-phase site plan, street and utility construction plans shall include all improvements within a phase and all public improvements outside the phase but necessary to serve development within that phase.
 - c. Grading Permit
 - 1) Upon issuance of a grading permit in accordance with [Section <>](#), [Grading Permit](#), any approved soil erosion and sedimentation control devices, and approved permanent runoff control structures may be installed prior to the approval of street and utility construction plans in accordance with [Section <>](#), [Soil Erosion and Sedimentation Control](#).

- d. Financial Guarantees
 - 1) In cases where public improvements have not been installed, inspected, or accepted by the City, the applicant may request the City consider a financial guarantee for public improvements in accordance with [Section <>](#), [Financial Guarantees](#), prior to occupancy of the development.
- e. As-Built Plans
 - 1) As-built plans for all public improvements shall be submitted in accordance with [Section <>](#), [As-Built Plans Required](#).
- 8. Amendment
 - a. Amendment of a site plan approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
- 9. Expiration
 - a. Site plan approval shall expire and become null and void if the development approved in the site plan does not begin within 18 months of issuance of the site plan approval.
- 10. Appeal
 - a. Applicable (See [Section <>](#), [Appeal](#)).

2.3.19 Special Use Permit

- 1. Purpose and Intent
 - a. This section sets out the procedure for consideration of an application for a special use permit. A special use is a use that may be appropriate in a zoning district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.
- 2. Applicability
 - a. Uses identified as requiring a special use in [Table <>](#), [Table of Permitted Uses](#), shall be approved as a special use in accordance with the procedures and standards of this section, prior to development.
- 3. Special Use Permit Procedure
 - a. Pre-Application Conference
 - 1) Required (see [Section <>](#), [Pre-Application Conference](#)).
 - b. Neighborhood Information Meeting
 - 1) Optional (see [Section <>](#), [Neighborhood Information Meeting](#)).
 - c. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - 2) An application shall be submitted only by the landowner(s), and shall include a site plan (see [Section <>](#), [Site Plan](#)) depicting the proposed



- use and site configuration.
- 3) When required, a transportation impact analysis shall also be submitted for review. The procedure for review of a transportation impact analysis is described in the Procedures Manual.
- d. Staff Review
 - 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The TRC shall review the application, prepare a staff report, and provide comments in accordance with [Section <>](#), [Special Use Review Standards](#).
 - e. Public Notification
 - 1) Applicable (see [Section <>](#), [Public Notification](#)).
 - f. Board of Adjustment Review and Decision
 - 1) Applicable (see [Section <>](#), [Decision by Decision-Making Body](#), and [Section <>](#), [Quasi-Judicial Public Hearing Procedures](#)).
 - 2) The Board of Adjustment, after the conclusion of a quasi-judicial public hearing, shall decide the application in accordance with [Section <>](#), [Special Use Review Standards](#). The decision shall be the one of the following:
 - a) Approval of the special use permit as proposed;
 - b) Approval of a revised special use permit; or
 - c) Denial of the special use permit.
 - 3) Any conditions of approval shall meet or exceed the minimum requirements of this Ordinance.
4. Special Use Review Standards
 - a. A special use permit shall be approved upon a finding that the applicant demonstrates the proposed special use:
 - b. Will not materially endanger the public health or safety if located where proposed;
 - c. Complies with all required standards, conditions, and specifications of this Ordinance, including Chapter 4: Uses;
 - d. Will not substantially injure the value of the abutting land, or the special use is a public necessity;
 - e. Will be in harmony with the area in which it is to be located; and
 - f. Is in general conformity with the City's adopted policy guidance.
 5. Conditions of Approval
 - a. Applicable (see [Section <>](#), [Conditions of Approval](#)).
 6. Effect
 - a. Applicable (see [Section <>](#), [Effect of Development Approval](#)).
 - b. A special use permit and the associated site plan approval are perpetually binding and run with the land, unless amended.
 - c. An action invalidating a special use permit condition of approval for any reason shall render the entire special use permit null and void.

7. Amendment

a. Minor Changes

- 1) The Board of Adjustment may approve a minor change to a special use permit requested by the applicant without comments from the TRC and without a public hearing, upon receipt of a report from the Planning Director or Designee on the proposed minor change.
- 2) A minor change includes changes to conditions of a special use permit or associated site plan which will result in equal or better performance of the conditions and that do not alter the objectives and purposes of the special use.
- 3) In granting a minor change, the Board of Adjustment may require such conditions as will address the objectives of the requirements or conditions changed.

b. Material Changes are Amendments

- 1) A material change to a special use permit or to an associated site plan that alter the objectives and purposes of the requirements or conditions of the special use permit constitute an amendment to the special use permit.
- 2) An amendment includes but is not limited to:
 - a) Boundary changes;
 - b) Use changes; and
 - c) Increases in density or intensity of development.
- 3) Amendments of a special use permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

8. Expiration

a. General

- 1) Unless otherwise stated in the special use permit approval, a special use permit shall expire and become null and void 18 months if construction has not begun or an applicant has not requested an extension in accordance with [Section <>, Extension](#).
- 2) If development approved as a special use is discontinued for a period exceeding 18 months, or if a special use is replaced by a use otherwise permitted by right in the zoning district, the special use permit approval is deemed abandoned and the special use approval is null and void.

b. Extension

- 1) An applicant may request an extension of a special use approval in writing to the Planning Director or Designee at least 30 days prior to expiration.
- 2) Extension requests are considered as minor changes and shall be reviewed and approved by the Board of Adjustment in accordance with [Section <>, Minor Changes](#).

2.3.20 Stormwater Permit

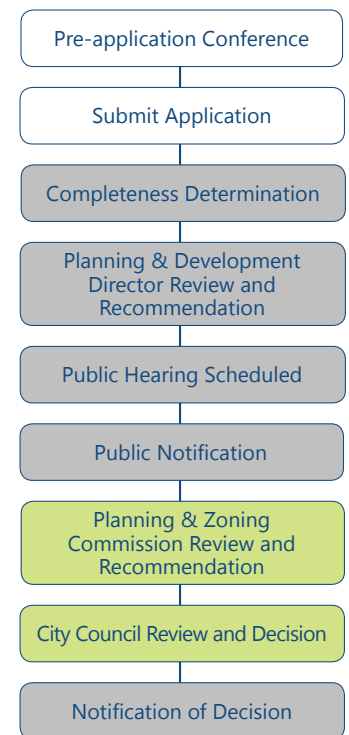
1. Purpose and Intent
 - a. This section sets out the procedure for consideration of a stormwater permit. **Section <>, Stormwater**, is intended to protect, maintain, and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and non-point and point source pollution associated with new development and redevelopment as well as illicit discharges into municipal separate stormwater systems.
2. Applicability
 - a. The standards in this section shall be applicable to all development and redevelopment, including, but not limited to, site plan, subdivision, and grading permit applications, unless exempt pursuant to **Section <>, Stormwater**.
3. Stormwater Permit Procedure
 - a. Pre-Application Conference
 - 1) Optional (see **Section <>, Pre-Application Conference**).
 - b. Application Submittal and Acceptance
 - 1) Prior to acceptance of a stormwater permit application, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized by the development.
 - 2) The submittal of the stormwater permit application shall occur after approval of the stormwater management concept plan and associated maintenance plan by the Stormwater Administrator.
 - c. Staff Review and Action
 - 1) Applicable (see **Section <>, Staff Review and Action**).
 - 2) Within 60 calendar days after a complete application is submitted, the Stormwater Administrator shall review and decide the application.
4. Stormwater Permit Review Standards. A stormwater permit shall be approved if the application complies with:
 - a. The standards in **Section <>, Stormwater**;
 - b. The approved stormwater management concept plan and associated maintenance plan;
 - c. All standards or conditions of any prior applicable permits and developments approvals; and
 - d. All other applicable requirements of this Ordinance and in the City Code of Ordinances.
5. Conditions of Approval
 - a. Applicable (see **Section <>, Conditions of Approval**).
6. Effect
 - a. Applicable (see **Section <>, Effect of Development Approval**).

7. Amendment
 - a. Amendment of a site plan approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
8. Expiration
 - a. Stormwater permit approval shall expire and become null and void if the development approved in the stormwater permit does not begin within six months of issuance of the stormwater permit approval.
9. Appeal
 - a. Applicable (See [Section <>, Appeal](#)).

2.3.21 Text Amendment

1. Purpose and Intent
 - a. This section provides a uniform means for amending the text of this Ordinance whenever the public necessity, changed conditions, convenience, general welfare, or appropriate land use practices justify or require doing so.
2. Text Amendment Procedure
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>, Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).
 - 2) Applications may be initiated by the City Council; any board, commission, or department of the City; any landowner; or any resident of the City.
 - c. Staff Review
 - 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review the application, prepare a staff report, and provide a recommendation in accordance with [Section <>, Text Amendment Review Standards](#).
 - d. Public Notification
 - 1) Applicable (see [Section <>, Public Notification](#)).
 - e. Planning and Zoning Commission Review and Recommendation
 - 1) Applicable (see [Section <>, Review by Advisory Body](#)).
 - 2) The Planning and Zoning Commission, shall make a recommendation on the application in accordance with [Section <>, Text Amendment Review Standards](#), and shall comment on the proposed text amendment's consistency with adopted City adopted policy guidelines.
 - f. City Council Review and Decision
 - 1) Applicable (see [Section <>, Decision by Decision-Making Body](#)).

TEXT AMENDMENT



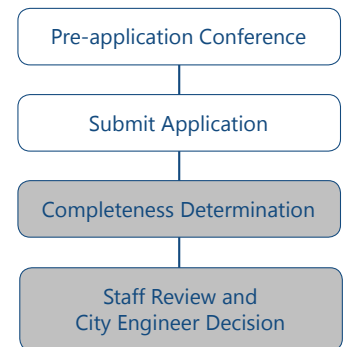
- 2) The City Council, after the conclusion of a public hearing, shall decide the application in accordance with [Section <>, Text Amendment Review Standards](#).
 - 3) The decision shall be one of the following:
 - a) Adoption of the text amendment as proposed;
 - b) Adoption of a revised text amendment;
 - c) Denial of the text amendment; or
 - d) Remand of the text amendment application to the Planning and Zoning Commission for further consideration.
 - 4) In making its decision, the City Council shall adopt a written statement of consistency and reasonableness that:
 - a) Describes whether the decision is consistent with the City's adopted policy guidance; and
 - b) Explains why the decision is reasonable and in the public interest.
3. Text Amendment Review Standards. The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the City Council may weigh the relevance of and consider whether and the extent to which the proposed text amendment:
- a. Is consistent with the City's adopted policy guidance;
 - b. Is not in conflict with any provision of this Ordinance or the City of Burlington Code of Ordinances;
 - c. Is required by changed conditions;
 - d. Addresses a demonstrated community need;
 - e. Addresses an unforeseen matter not present when the Ordinance was adopted;
 - f. Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the City;
 - g. Would result in a logical and orderly development pattern;
 - h. Addresses other factors determined to be relevant by the City Council; and
 - i. Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, and the natural functioning of the environment.
4. Effect
- a. Applicable (see [Section <>, Effect of Development Approval](#)).
5. Amendment
- a. Amendment of a text amendment approval may only be reviewed and considered in accordance with the procedures and standards established for

its original approval.

2.3.22 Temporary Use Permit

1. Purpose and Intent
 - a. This section allows for the establishment of specific temporary uses of limited duration, provided that such uses do not negatively affect adjacent land, and provided that such temporary uses are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.
2. Applicability
 - a. The standards in this section apply to non-permanent uses that take place on a temporary basis whether on the same site or in different locations in the jurisdiction.
3. Temporary Use Permit Procedures
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>](#), [Pre-Application Conference](#)).
 - b. Application Submittal and Action
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - c. Staff Review and Action
 - 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The Zoning Administrator shall review and decide the application in accordance with [Section <>](#), [Temporary Use Review Standards](#).
4. Temporary Use Review Standards. All temporary uses shall comply with the following standards, unless the Zoning Administrator determines that they do not apply or are otherwise not applicable:
 - a. The applicant has written permission from the landowner, or is otherwise authorized to make use of the land;
 - b. Obtain the appropriate permits and licenses from the City and other agencies;
 - c. Comply with the requirements for temporary signs in [Section <>](#), [Signage](#) (if signage is proposed);
 - d. Meet public utility and City requirements for proper connection to water, sewer, electrical and other utility service connections, as applicable;
 - e. Not violate the applicable conditions of approval that apply to a site or use on the site;
 - f. Not result in a situation where the principal use, if present, fails to comply with the standards of this Ordinance;
 - g. Contain sufficient land area for the temporary use and for the parking and traffic movement associated with the temporary use, without impacting environmentally sensitive lands;
 - h. Not remain in place for more than 90 days if located within a special flood hazard area;

TEMPORARY USE



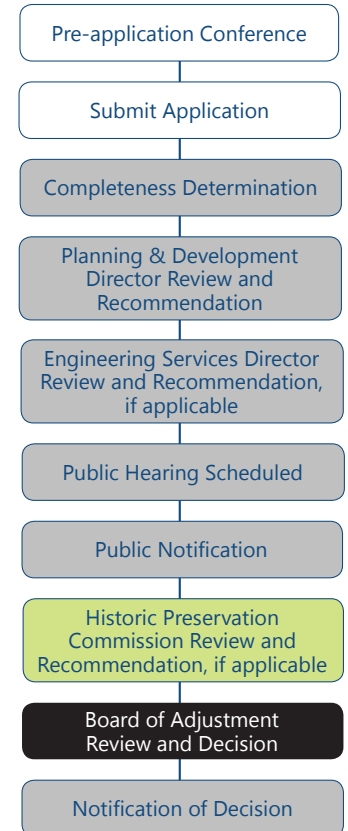
- i. Provide adequate on-site restroom facilities; and
 - j. Cease all outdoor activities within 500 feet of a residential use by 10:00 pm.
5. Conditions of Approval
- a. Applicable (see [Section <>](#), [Conditions of Approval](#)).
 - b. In approving a temporary use, the Zoning Administrator is authorized to impose conditions upon the premises benefited by the permit as may be necessary to reduce or minimize any potential adverse as long as the condition relates to a situation created or aggravated by the proposed temporary use. These conditions may include, but are not limited to the following:
 - 1) Provision of temporary parking facilities, including vehicular access and egress;
 - 2) Control of nuisance factors, such as the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;
 - 3) Regulation of placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
 - 4) Provision of sanitary and medical facilities;
 - 5) Provision of solid waste collection and disposal;
 - 6) Provision of security and safety measures;
 - 7) Use of an alternate location or date;
 - 8) Modification or elimination of certain proposed activities;
 - 9) Regulation of operating hours and days, including limitation of the duration to a shorter time period than requested or specified in this subsection; and
 - 10) Submission of a financial guarantee to ensure that any temporary use will be removed from the lot or site within a reasonable time and the lot or site will be restored to its former condition.
6. Effect
- a. Applicable (see [Section <>](#), [Effect of Development Approval](#)).
7. Amendment
- a. Amendment to an approved temporary use may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
8. Expiration
- a. An approval of temporary use is valid to not more than one year. When necessary, the temporary use application may be reissued for a limited time. The Zoning Administrator will identify the specific date of expiration in the conditions of the original approval and for any granted extension.
9. Appeal

10. Applicable (see [Section <>](#), [Appeal](#)).

2.3.23 Variance

1. Purpose and Intent
 - a. This section sets out a procedure for the consideration of deviations or “variances” from certain standards in this Ordinance when the applicant can demonstrate that a strict application of this Ordinance would create a hardship.
2. Applicability
 - a. Development that would otherwise be subject to undue and unique hardship from the application of the standards in this Ordinance may seek relief from this Ordinance in accordance with this section.
 - b. In no instance shall a variance be used as a means of allowing a use type not otherwise permitted in a zoning district.
 - c. Deviations from the water supply watershed protection standards in this Ordinance shall only be granted in accordance with the standards in [Section <>](#), [Watershed Variance](#).
3. Variance Procedure
 - a. Pre-Application Conference
 - 1) Required (see [Section <>](#), [Pre-Application Conference](#)).
 - b. Neighborhood Information Meeting
 - 1) Optional (see [Section <>](#), [Neighborhood Information Meeting](#)).
 - c. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - d. Staff Review
 - 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review the application, prepare a staff report, and provide a recommendation in accordance with [Section <>](#), [Variance Review Standards](#).
 - e. Public Notification
 - 1) Applicable (see [Section <>](#) [Public Notification](#)).
 - f. BOA Review and Decision
 - 1) Applicable (see [Section <>](#), [Decision by Decision-Making Body](#), and [Section <>](#), [Quasi-Judicial Public Hearing Procedures](#)).
 - 2) The BOA, after the conclusion of a quasi-judicial public hearing, shall decide the application for a variance.
 - 3) The decision shall be based on the competent, material, and substantial evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the standards in [Section <>](#), [Variance Review Standards](#).
 - 4) The decision shall be one of the following:

VARIANCE



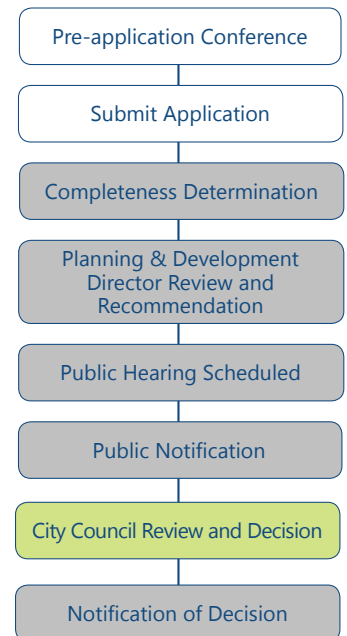
- a) Approval of the variance as proposed;
 - b) Approval of the variance with revisions; or
 - c) Denial of the variance.
- 5) Each decision shall be made in writing and reflect the BOA's determination of contested facts and their application to the standards in this Ordinance.
 - 6) The written decision shall be signed by the Chair or other duly authorized member of the BOA.
 - 7) The decision of the BOA shall be effective upon the filing of the written decision.
- g. Notification of Decision
- 1) The decision of the BOA shall be delivered by personal service, electronic mail, or by first-class mail to the applicant, the landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person providing notification of decision shall certify that proper notification has been made.
4. Variance Review Standards
- a. Required Findings. A variance shall be approved on a finding the applicant demonstrates all of the following:
 - 1) Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - 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.
 - 3) The hardship did not result from actions taken by the applicant or the landowner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship.
 - 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
5. Conditions of Approval
- a. In granting a variance the BOA may prescribe conditions of approval to ensure compliance with the standards of this section, and to assure that the use of the land to which the variance applies will be compatible with surrounding lands and will not alter the essential character of the neighborhood.
 - b. A variance granted subject to a condition of approval shall be permitted as long as there is compliance with the condition.
 - c. Violation of a condition of approval shall be deemed a violation of this Ordinance.

6. Effect
 - a. Approval of a zoning variance authorizes only the particular regulatory relief approved by the BOA. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Ordinance or any other applicable laws, and does not indicate that the development for which the variance is granted should receive other permits or development approvals under this Ordinance unless the relevant and applicable portions of this Ordinance are met.
7. Amendment
 - a. Amendment of a variance may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
8. Expiration
 - a. If the BOA does not include a time period by which development subject to a zoning variance, development shall commence within 12 months of the date of issuance of the variance or the variance shall expire and become null and void.
9. Appeal
 - a. Any decision by the BOA shall be subject to Superior Court review by proceedings in the nature of certiorari.

2.3.24 Vested Rights Certificate

1. Applicability
 - a. Vested rights may be established, in accordance with Section 160A-385.1 of the North Carolina General Statutes and this section, for approved site specific development plan or phased development plan including the following:
 - 1) Site plan;
 - 2) Planned Development district;
 - 3) Conditional zoning master plan;
 - 4) Preliminary plat; or
 - 5) Minor plat.
 - b. Any application for a vested rights certificate shall be processed concurrently or after the approval of the site specific development plan.
2. Vested Rights Certificate Procedure
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>](#), [Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - 2) An application for a vested rights certificate shall be submitted concurrently with the application for of the qualifying site specific development plan and shall be considered attached to that plan.

VESTED RIGHTS CERTIFICATE



- 3) Applications may be initiated by the landowner or any person who may submit an application in accordance with [Section <>, Authority to File Applications](#).
- c. Staff Review
 - 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Planning Director or Designee shall review the application, prepare a staff report, and comment on the application in accordance with [Section <>, Vested Rights Certificate Review Standards](#).
- d. Public Notification
 - 1) Applicable (see [Section <>, Public Notification](#)).
- e. City Council Review and Decision
 - 1) Applicable (see [Section <>, Decision by Decision-Making Body](#)).
 - 2) The City Council, after the conclusion of a public hearing, shall decide the application in accordance with [Section <>, Vested Rights Certificate Review Standards](#).
 - 3) The decision shall be one of the following:
 - a) Approval of the vested rights certificate as proposed;
 - b) Approval of a revised vested rights certificate; or
 - c) Denial of vested rights certificate; or
 - 4) The vested rights certificate is deemed established upon the valid approval or conditional approval by the City Council of a qualifying site specific development plan to which the application for a vested rights certificate was attached.
3. Vested Rights Certificate Review Standards. A vested right certificate shall be approved if the applicant demonstrates:
 - a. The vested right certificate is for a qualifying site specific development plan or phased development plan; and
 - b. Any required variances have been obtained.
4. Effect
 - a. Applicable (see [Section <>, Effect of Development Approval](#)).
5. Amendment
 - a. Amendment of vested rights certificate may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
6. Duration
 - a. Except as provided below, a vested right certificate that has been approved as provided in this ordinance shall be valid for a period of two years unless specifically and unambiguously provided otherwise pursuant to Subsection (b). This vested rights certificate shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.
 - b. Notwithstanding the provisions of Subsection (a), the City may provide

that the vested rights certificate shall be valid for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances including but not limited to the size of the development, the level of investment, the need for or desirability of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific development plan is approved.

- c. All parts of a multi-phased development shall be vested with the provisions of this Ordinance in effect at the time of approval of the initial phase of the multi-phase development. A vested right established in accordance with this section shall remain vested for a period of seven years from the date of approval of the initial phase.
 - d. Upon issuance of a building permit, the expiration provisions of Section 160A-418 and the revocation provisions of Section 160A-422 of the North Carolina General Statutes shall apply, except that a building permit shall not expire or be revoked because of the running of time while a vested right certificate under this section is outstanding.
7. Termination. A vested rights certificate shall terminate:
- a. At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
 - b. With the written consent of the affected landowner;
 - c. Upon findings by the City Council, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;
 - d. Upon payment to the affected landowner of 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 consultants' fee incurred after approval by the City, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
 - e. Upon findings by the City Council of the City, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the approval authority of the site specific development plan; or
 - f. Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify by ordinance after notice and a hearing the affected provisions upon a finding that the change in state or federal law has a fundamental effect on the plan.
8. Voluntary Annexation.
- a. A petition for annexation filed with the City in accordance with Section 160A-31 or Section 160A-58.1 of the North Carolina General Statutes shall contain a signed statement declaring whether or not any vested rights with respect to the properties subject to the petition has been established under Section 160A-385.1 or Section 153A-344.1 of the North Carolina General Statutes. A statement that declares that no vested rights has been

established or the failure to sign a statement declaring whether or not vested rights have been established, shall be binding on the landowner and any such vested rights shall be terminated.

2.3.25 Voluntary Annexation

1. Applicability: The City Council may consider voluntary annexation petitions, prepared in accordance with the standards in this section, from:
 - a. The landowner of land that is contiguous with the City’s corporate limits; and
 - b. The landowner of land that is not contiguous to the corporate limits when the proposed voluntary annexation complies with the following standards:
 - 1) The land proposed for annexation is no more than 3 miles from the contiguous corporate limits; and
 - 2) No portion of the land proposed for annexation is closer to the contiguous corporate limits of another municipality unless the land is subject to an approved annexation agreement that includes the land within the City’s planning area; and
 - 3) If the land proposed for annexation is part of a recorded subdivision, all lots in the recorded subdivision are part of the annexation petition; and
 - 4) The combined total land area associated with the annexation, when added to all other noncontiguous land areas annexed by the City does not exceed 10 percent of the land area located within the City’s contiguous corporate limits.

2. Voluntary Annexation Review Procedure
 - a. Pre-Application Conference Applicable ((see Section ◊, Pre-Application Conference).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see Section 2.3.4, Application Submittal and Acceptance).
 - 2) The voluntary annexation petition shall be signed by all the landowners of land proposed for annexation.
 - 3) Applications shall be accompanied by an application for a zoning map amendment for the subject land in accordance with Section ---, Zoning Map Amendment, unless the land is within the City’s Extraterritorial Jurisdiction.
 - 4) The voluntary annexation petition shall include a signed statement declaring whether or not any vested right with respect to the land subject to the petition has been established under Section 160A-385.1 or 153A-344.1 of the North Carolina General Statutes.
 - c. Staff Review
 - d. Applicable (see Section ◊ Staff Review and Action).
 - e. Following receipt of a voluntary annexation petition the City Clerk shall investigate and certify whether the petition is legally sufficient. If certified as legally sufficient, the petition shall be reviewed in accordance with this

VOLUNTARY ANNEXATION

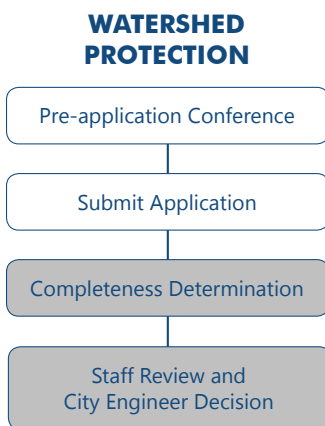


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- section.
- f. The TRC shall review the application and comment on the City's ability to provide municipal services.
3. The Planning and Development Director shall review the application, prepare a staff report, and provide a recommendation in accordance with Section ---, Voluntary Annexation Review Standards.
 4. Public Notification Applicable (see Section <, Public Notification).
 5. City Council Review and Decision
 - a. Applicable (see Section < Action by Decision-Making Body).
 - b. The City Council, after the conclusion of a public hearing, shall decide the application in accordance with Section ---, Voluntary Annexation Review Standards.
 - c. The decision shall be one of the following:
 - 1) Approval of the voluntary annexation petition;
 - 2) Denial of the voluntary annexation petition; or
 - 3) Remand of the voluntary annexation petition to the Planning and Development Director for further review.
 6. Voluntary Annexation Review Standards: Approval of a voluntary annexation is a matter committed to the legislative discretion of the City Council. The voluntary annexation petition may be approved upon a finding the petition complies with all the standards in Section 160A-31 or Section 160A-58 of the North Carolina General Statutes, as appropriate, and:
 - a. The voluntary annexation petition bears the signatures of all landowners within the area to be annexed;
 - b. The area to be annexed can be adequately served by the same municipal services provided within the City's primary corporate limits;
 - c. The debt obligations from serving the subject lands do not exceed the anticipated revenues to the City; and
 - d. The public health, safety, and welfare of City residents and the residents of the lands proposed for annexation will be best served by the annexation.
 7. Recording: An ordinance approving a voluntary annexation adopted by the City, together with a map of the annexed area, shall be recorded in the office of the Register of Deeds for the county where the land is located within a reasonable period of time after adoption of the annexation.
 8. Effect
 - a. Within 60 days of voluntary annexation, the City Council shall adopt a zoning district classification for the land involved. The City Council may consider a City-initiated or landowner-initiated zoning map amendment immediately following approval of the annexation.

- b. Upon the effective date of annexation, the land shall be subject to the debts, laws, ordinances and regulations of the City, and shall be entitled to the same privileges and benefits as other parts of the City.
9. Expiration: Land may be de-annexed only by act of the North Carolina General Assembly.

2.3.26 Watershed Protection Permit

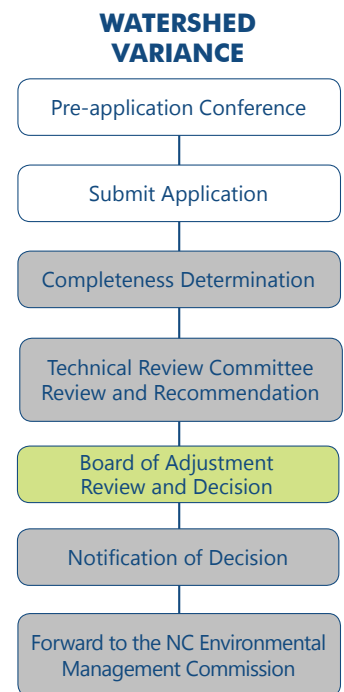


1. Purpose and Intent
 - a. This section sets out a procedure for the review of development that is located within a designated water supply watershed area for the purpose of ensuring that potable water quality is not negatively impacted.
2. Applicability
 - a. The standards in this section shall apply to all development located within a designated water supply watershed as indicated on the Official Zoning Map.
3. Watershed Protection Permit Procedures
 - a. Pre-Application Conference
 - 1) Optional (see [Section <>](#), [Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - c. Staff Review and Action
 - 1) Applicable (see [Section <>](#), [Staff Review and Action](#)).
 - 2) The Stormwater Administrator shall review and decide the application in accordance with [Section <>](#), [Watershed Protection Permit Review Standards](#).
4. Watershed Protection Permit Review Standards
 - a. A Watershed protection permit shall be approved on a decision the application complies with the standards in [Section <>](#), [WPO Standards](#).
5. Conditions of Approval
 - a. Applicable (see [Section <>](#), [Conditions of Approval](#)).
 - b. Issuance of a watershed protection occupancy permit shall be a condition of every watershed protection permit.
6. Effect
 - a. Applicable (see [Section <>](#), [Effect of Development Approval](#)).
 - b. Approval of a watershed protection permit authorizes an applicant to apply for a watershed protection occupancy permit.
7. Amendment
 - a. Amendment of a watershed protection permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

8. Expiration
 - a. If the work authorized by a watershed protection permit is not commenced within 12 months from the date of issuance, the permit shall become null and void.
9. Appeal
 - a. Applicable (See [Section <>](#), [Appeal](#)).

2.3.26 Watershed Variance

1. Purpose and Intent
 - a. Development that would otherwise be subject to undue and unique hardship from the applications of the State's watershed protection standards in this Ordinance may seek relief from those standards in accordance with this section.
2. Variances Distinguished
 - a. There are two types of watershed variance:
 - b. Major Watershed Variances. A major watershed variance is a variance from the minimum State watershed protection rules that result in the relaxation of:
 - 1) Any buffer, density, or built-upon area requirement by a factor greater than five percent under the high density option;
 - 2) Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system;
 - 3) Any management requirement by a factor of 10 percent under the low density option; or
 - 4) Any variance that pertains to activities impacting Zone 1 of a surface water buffer.
 - c. Minor Watershed Variances. A minor watershed variance is a variance from the minimum state watershed protection rules that result in the relaxation of:
 - 1) Any buffer, density or built-upon area requirement by a factor of up to five percent under the high density option;
 - 2) Any management requirement by a factor of 10 percent under the low density option; or
 - 3) Any variance that pertains to activities impacting Zone 2 of a surface water buffer.
3. Major Watershed Variance Procedure
 - a. Pre-Application Conference
 - 1) Required (see [Section <>](#), [Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>](#), [Application Submittal and Acceptance](#)).
 - c. Staff Review



- 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Stormwater Administrator shall review the application and the associated watershed development plan, and provide a recommendation in accordance with [Section <>, Watershed Variance Review Standards](#).
 - 3) In the case of water supply watersheds, the City shall notify and allow a reasonable comment period for all local governments having jurisdiction in the applicable designated watershed and any entity using the water supply for consumption where a major watershed variance is being considered.
- d. City Council Review and Recommendation
- 1) The City Council shall review the application and make a recommendation in accordance with [Section <>, Watershed Variance Review Standards](#).
 - 2) In making a watershed variance recommendation, the City Council may suggest conditions to assure that the use of the land will be compatible with surrounding lands and will not alter the essential character of the neighborhood.
 - 3) If the City Council recommends approval, the application shall be forwarded to the North Carolina Environmental Management Commission (EMC) with a report containing the findings of fact for City Council's favorable recommendation, conclusions of law, a recommended decision, recommended conditions and a record of the Council's decision on the request.
 - 4) If the City Council does not recommend approval, it shall be deemed disapproved and shall not be forwarded to the EMC.
4. Minor Watershed Variance Procedure
- a. Pre-Application Conference
 - 1) Optional (see [Section <>, Pre-Application Conference](#)).
 - b. Application Submittal and Acceptance
 - 1) Applicable (see [Section <>, Application Submittal and Acceptance](#)).
 - c. Staff Review
 - 1) Applicable (see [Section <>, Staff Review and Action](#)).
 - 2) The Stormwater Administrator shall review and decide the application in accordance with [Section <>, Watershed Variance Review Standards](#).
 - 3) In approving a watershed variance, the Stormwater Administrator may apply conditions to assure that the use of the land will be compatible with surrounding properties and will not alter the essential character of the neighborhood.
5. Watershed Variance Review Standards
- a. Required Findings. A watershed variance (major or minor) shall be approved upon a finding the applicant demonstrates all of the following:
 - 1) Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

- 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.
 - 3) The hardship did not result from actions taken by the applicant or the landowner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship.
 - 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- b. Other Considerations. In addition to the making the required findings in subsection (1) above, the Stormwater Administrator and City Council, as applicable, may also consider the following:
- 1) The watershed variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.
 - 2) None of the following may be used as the basis for approving a watershed variance:
 - a) Neither the nonconforming use of lands, buildings, or structures in the same zoning district, or the permitted use of lands, buildings, or structures in other zoning districts, or personal circumstances;
 - b) Hardships resulting from factors other than application of the relevant standards of this Ordinance;
 - c) The fact that land or a structure may be utilized more profitably or be more marketable with a variance; or
 - d) Financial hardship.
6. Effect
- a. Applicable (see [Section <>](#), [Effect of Development Approval](#)).
 - b. The Stormwater Administrator shall keep a record of all watershed variances.
7. Amendment
- a. Amendment of a watershed variance may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
8. Expiration
- a. An approved watershed variance is part of an approved plan and shall have the same duration as the original plan approval.

2.4. ENFORCEMENT

A. Purpose

1. This section establishes procedures through which the City seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this section are intended to encourage the voluntary correction of violations, where possible.

B. Compliance Required

1. Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the City.

C. Violations

1. Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided by this ordinance and by State law.
 - a. Development Without Authorization
 - 1) Engaging in any development, use, construction, land disturbance, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required plans, permits, certificates, or other forms of authorization as set forth in this Ordinance.
 - b. Development Inconsistent with Authorization
 - 1) Engaging in any development, use, construction, land disturbance, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.
2. Violation by Act or Omission
 - a. Violating, by act or omission, any term, variance, modification, adjustment, condition, or qualification placed upon any required plan, permit, certificate, or other form of authorization for the development, use, construction, land disturbance, or other activity upon land or improvements thereon.
3. Use in Violation
 - a. Erecting, constructing, altering, repairing, maintaining, or using any building or structure, or use any land in violation of this Ordinance or any regulation made under the authority conferred thereby.
4. Subdivide in Violation
 - a. Subdividing land in violation of this Ordinance or transfer or sell land by reference to a plat or map showing a subdivision of land before the plat or map has been properly approved under this Ordinance and recorded in the office of the county Register of Deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from being deemed a violation this Ordinance.

5. Continue a Violation

- a. Each day a violations continues is a separate and distinct offense.
- 6. Violation of Environmental Regulations
 - a. Violating the rules or regulations of Section <>, Stormwater, Section <>, Riparian Buffer Protection, Section <>, Flood Damage Prevention, or Section <>, Soil Erosion and Sedimentation Control.
- D. Responsible Persons
 - 1. General
 - a. The landowner, tenant, or other occupant of any land or structure may be held responsible for the violation and is subject to the remedies and penalties set forth in this article.
 - 2. Failure by City does not relieve Individual
 - a. Failure of a City official charged with enforcement responsibility to observe or recognize conditions which violate the intent and purpose of this Ordinance, or to deny the issuance of a development or grading permit, shall not relieve the landowner from responsibility for the condition or damages resulting there from and shall not result in the City, its officers, or agents being responsible for conditions or damages resulting there from.
 - 3. Remedy Upon Notice
 - a. Upon notice of a violation, the landowner and any other responsible person shall immediately remedy the violation.
- E. Enforcement Responsibilities
 - 1. The Stormwater Administrator, Planning Director or Designee, the Engineering Director, Zoning Administrator, as well as other designated City employees, shall have responsibility for enforcement of this Ordinance.
 - 2. Investigations
 - a. As appropriate, any of the persons listed in Section <>, Enforcement Responsibilities, has the power to conduct such investigation as may be deemed necessary to carry out their duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating any complaints or alleged violations of this Ordinance.
 - 3. Inspections
 - a. As appropriate, any of the persons listed in Section <>, Enforcement Responsibilities, has the right upon presentation of proper credentials, or inspection warrant if necessary, to enter on any premises within the jurisdiction at any reasonable hour for the purposes of inspecting the sites of any complaints or alleged violations, or determination of compliance or other enforcement action of this Ordinance. However, if any person charged with enforcing this Ordinance cannot obtain permission to enter from the landowner, tenant, or other lawful occupant, the City shall obtain an administrative search warrant prior to entering the property.
 - 4. Supporting Documentation

- a. As appropriate, any of the persons listed in **Section <>, Enforcement Responsibilities**, has the power to require written statements, certificates, certifications, or the filing of reports with the respect to pertinent questions relating to complaints or alleged violations of this Ordinance.
 5. Interference
 - a. No person shall refuse entry or access to any authorized representative or agent of the City who requests entry for purposes of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out their official duties.
- F. Enforcement of Specific Environmental Regulations
 1. Chapter 7: Environment, contains the regulations for Stormwater (Section <>), Riparian Buffer Protection (Section <>), Flood Damage Prevention (Section <>) and, Soil Erosion and Sedimentation Control (Section <>). Each of these has specific procedures for enforcement. These procedures may be mandated by State or Federal regulations and/or conflict with procedures in **Section <>, Enforcement**. When in conflict or superseded by State or Federal regulation, enforcement shall follow those procedures listed in the applicable sections of Chapter 7: Environment. However, this does not limit the City from using all of the enforcement procedures available to resolve any violation of this Ordinance.
- G. Enforcement Procedure
 1. When any of the persons listed in **Section <>, Enforcement Responsibilities**, finds a violation of this Ordinance, it shall be their duty to notify the responsible persons of the violation.
 2. Notice of Violation . If the landowner or occupant of the land, building, structure, sign, or use in violation fails to take prompt action, any of the persons listed in Section <>, Enforcement Responsibilities, as appropriate, shall give the owner or occupant written notice (by certified or registered mail to their last known address, by personal service, or by posting notice conspicuously on the property) of the following:
 3. Violation Exists
 - a. That the land, building, structure, sign, or use is in violation of this Ordinance;
 - b. Nature of the Violation
 - 1) The nature of the violation, and citation of the Section(s) of this Ordinance violated;
 - c. Remedy
 - 1) The measures necessary to remedy the violation;
 - d. Allowable Time Period
 - 1) The time period in which the violation must be corrected; except that no time period need be given for grading without a permit or interference with official duties;
 - e. Penalties that May be Assessed
 - 1) That penalties or remedies may be assessed; and

f. Appeal

- 1) That the party cited has the right to appeal the notice in accordance with [Section <>, Appeal](#).

4. Failure to Comply With Order

- a. If the owner or occupant of land fails to comply with a notice of violation from which no appeal has been taken, or a final decision by the BOA following an appeal, the landowner or occupant shall be subject to such remedies and penalties as may be provided for by State law or by [Section <>, Remedies](#).

H. Remedies

1. Civil Penalties

- a. Any person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in [Section <>, Assessment of Civil Penalties](#). It is the responsibility of the City Council to establish the amount(s) of the civil penalty for each type of violation of this Ordinance.

2. Denial of Permit or Certificate

- a. As appropriate, any of the persons listed in [Section <>, Enforcement Responsibilities](#), may withhold or deny a permit, certificate, or other authorization for the same land, subdivision, building, structure, sign, or use in which there is an uncorrected violation of a provision of this Ordinance, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

3. Conditional Permit or Temporary Certificate

- a. As appropriate, any of the persons listed in [Section <>, Enforcement Responsibilities](#), shall condition the authorization of any permit or certificate for land, subdivision, building, structure, sign, or use with a violation or outstanding enforcement action upon the correction of the violation, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.

4. Stop Work Orders

a. General

- 1) Whenever a building, structure, sign, or part thereof is being constructed, altered, repaired, moved, or demolished in violation of this Ordinance, any of the persons listed in [Section <>, Enforcement Responsibilities](#), as appropriate, may order the work to be immediately stopped.

b. Order in Writing

- 1) The stop work order shall be in writing and directed to the landowner, occupant, or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.

c. In Accordance with State Statutes or Building Code

- 1) Such action shall be in accordance with Section 160A-421 of the North Carolina General Statutes or the State Building Code.

5. Revocation of Permits

- a. As appropriate, any of the persons listed in [Section <>, Enforcement Responsibilities](#), may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates may be revoked for any substantial departure from the approved application, plans, or specifications; refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of an applicable State or City law may also be revoked.

6. Criminal Penalties

a. Violation Erosion and Sedimentation Control

- 1) Any person who knowingly or willfully violates any soil erosion and sedimentation control provision of this Ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which a soil erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, is guilty of a misdemeanor punishable by imprisonment not to exceed 90 days, or by a fine not to exceed \$5,000, or both.

b. All Other Violations

- 1) Any violation of this Ordinance may be enforced as a misdemeanor as provided for by Section 14-4 of the North Carolina General Statutes, subject to a maximum fine of \$500, and Section 113A-64 of the North Carolina General Statutes, subject to a maximum fine of \$5,000.

7. Injunctive Relief

a. Action by City Council

- 1) Whenever the City Council has reasonable cause to believe that any person is violating or threatening to violate this Ordinance, or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved development plan, or soil erosion and sedimentation control plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the City, for injunctive relief to restrain, correct, abate, mandate, or enjoin the violation or threatened violation.

b. Superior Court

- 1) The action shall be brought in the Superior Court of the appropriate county. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation.

c. No Relief from Criminal Penalties

- 1) The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

8. Order of Abatement

a. General

- 1) In addition to an injunction, the City may apply for and the court may enter an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:
 - a) That buildings or other structures on the property be closed, demolished, or removed;
 - b) That fixtures, furniture, or other moveable property be moved or removed entirely;
 - c) That improvements, alterations, modifications, or repairs be made; or
 - d) That any other action be taken as necessary to bring the property into compliance with this Ordinance.

b. Lien

- 1) As appropriate, any of the persons listed in [Section <>](#), **Enforcement Responsibilities**, may execute the Order of Abatement and have a lien placed on the property in the nature of a mechanic's and material man's lien for the cost of executing the order.

9. Equitable Remedy

- a. The City may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. The fact that other remedies are provided under general law or this Ordinance shall not be used by a violator as a defense to the City's application for equitable relief.

10. State and Common Law Remedies

- a. In addition to other enforcement provisions contained in this section, the City Council may exercise any and all enforcement powers granted to it by state law or common law.

11. Previous Enforcement

- a. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.
- b. Remedies; Cumulative and Continuous

12. Cumulative Violations

13. All such remedies provided herein shall be cumulative. To the extent that North Carolina law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

14. Repeat Violations

- a. If a landowner or occupant repeats the same violation within a two year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies.

I. Assessment of Civil Penalties

1. Responsible Parties

- a. Any person who violates any provision of this Ordinance, including the owner or occupant of any land, building, structure, sign, use of land, or part thereof, may be held responsible for the violation and subject to the penalties and remedies provided in this Ordinance.

2. Notice

a. Notification Required

- 1) Civil penalties may not be assessed until the responsible person in violation has been notified in accordance with **Section <>, Enforcement Procedure**.

b. Civil Penalty Imposed

- 1) If after receiving a notice of violation under **Section <>, Enforcement Procedures**, the person fails to take corrective action or file an appeal, a civil penalty may be imposed in accordance with this section.

c. Notice of Penalty Assessment

- 1) Notice of the civil penalty assessment shall be served in the same manner as a notice of violation.

d. Assessment Contents

- 1) The assessment notice shall state the nature of the violation, the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 15 days of the date of the notice.

e. Separate Notices

- 1) Separate notices must be provided for the first or second violations. The City may, in its discretion, treat the first notice for a violation as the final notice for chronic violators.

f. Assessment Until Compliance

- 1) Civil penalties may be assessed until compliance is achieved.

3. Continuing Violation

- a. For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

4. Demand for Payment

- a. If compliance is not achieved, then any of the persons listed in **Section <>, Enforcement Responsibilities**, as appropriate, shall make written demand for payment of penalties that have accrued while the property has been in violation. The demand for payment shall be sent to the responsible person in violation and must include a description of the violation for which the civil penalties have been imposed.

5. Nonpayment

- a. If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to legal counsel to institute a civil action for recovery of the civil penalty. Moreover,

if the civil penalty is not paid within the time prescribed, any of the persons listed in [Section <>, Enforcement Responsibilities](#), as appropriate, may have a criminal summons or warrant issued against the violator. Upon conviction, the violator is subject to any criminal penalty the court may impose pursuant to Section 14-4 of the North Carolina General Statutes.

6. Penalties

a. General

- 1) Any person who violates any provision of this Ordinance shall be subject to assessment of a civil penalty that is a multiple of the penalty for each succeeding violation over the course of a calendar year.

b. Soil Erosion and Sedimentation Control Penalty Use

- 1) Civil penalties collected for soil erosion and sedimentation control violations must be used or disbursed as directed by Section 113A-64(a) of the North Carolina General Statutes.