

## Article 2. Rules of Construction, Abbreviations, & Definitions

- 2.1 RULES OF CONSTRUCTION
- 2.2 GENERAL ABBREVIATIONS
- 2.3 GENERAL DEFINITIONS

### 2.1 RULES OF CONSTRUCTION

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

#### A. Illustrations, Diagrams, and Flowcharts

Illustrations, diagrams, and flowcharts are included in this Ordinance to illustrate the intent and requirements of the text. In the case of a conflict between the text and any illustration, diagram, or flowchart, the text shall control.

#### B. Tables and Matrices

Unless otherwise specifically indicated, a cell within a table or matrix that is blank and shaded denotes that the standard does not apply.

#### C. Days

Unless otherwise specifically indicated in this Ordinance, days are calculated as follows:

1. When a period of time is specified in days, such period of time shall be computed in calendar days.
2. In computing any specified period of time from a specified event, the day on which the event happens is deemed the day from which an act is authorized or required to be done.
3. If the period is of two days, Saturday, Sunday, or a public holiday is excluded if it is an intervening day between the day when an act is authorized or required to be done and the last day of the period.

#### D. Fractions

Any fraction of a half or more shall be rounded up to nearest whole number, and a fraction of less than a half will be rounded down to the nearest whole number, unless how such fraction is treated is specifically indicated in an Ordinance regulation.:

#### E. Mandatory, Permissive, and Prohibiting Terms

1. The terms “shall,” “must,” and “will” are mandatory, indicating an obligation to comply with the particular provision.
2. The terms “may,” “should,” “encouraged,” and “can” are permissive, indicating that compliance with a particular provision is not mandatory but allowed.
3. The terms “shall not,” “must not,” “will not,” “cannot,” and “may not” are prohibiting, indicating an action or other provision is prohibited.

#### F. Lists

Unless otherwise expressly indicated, lists of items or examples that use “including,” “such as,” or similar terms are intended to provide examples only and shall not be construed as being limited to the items or examples listed.

#### G. Conjunctions

1. “And” indicates that all connected words or provisions apply.
2. “Or” indicates that the connected words or provisions may apply singly or in any combination.
3. “Either [...] or” indicates that the connected words or provisions apply singly, but not in combination, referring to a choice between options.

## H. General Construction

1. The present tense includes the past and future tenses, and the future tense includes the present.
2. The singular includes the plural and vice versa.
3. Words denoting one gender apply to all genders.

## I. Terms Not Defined

Whenever a defined word or term appears in the text of this Ordinance, its meaning shall be construed as set forth in the definition. Words not defined shall be interpreted in accordance with the definitions considered to be normal dictionary usage.

## 2.2 GENERAL ABBREVIATIONS

The following abbreviations may be used within this Ordinance. Additional abbreviations may be used throughout this Ordinance.

**BTL** is an abbreviation for “build-to line.”

**BTZ** is an abbreviation for “build-to zone.”

**GFA** is an abbreviation for “gross floor area.”

**ft** is an abbreviation for “feet.”

**N/A** is an abbreviation for “not applicable.”

**NR** is an abbreviation for “nonresidential.”

**sf (lowercase)** is an abbreviation for “square feet.”

**ETJ** is an abbreviation for “extraterritorial jurisdiction.”

**SF (capitalized)** is an abbreviation for “single-family.”

**TH** is an abbreviation for “townhouse.”

**MF** is an abbreviation for “multi-family.”

**MF-A** is an abbreviation for “multi-family attached.”

**MF-S** is an abbreviation for “multi-family stacked.”

## 2.3 GENERAL DEFINITIONS

The terms used in this Ordinance are defined as follows, unless otherwise specifically indicated in this Ordinance. Article-specific definitions include: 1) definitions of uses listed within the Global Use Matrix in Article 15, found in Section 15.3; and 2) article-specific definitions are found within select articles in Part IX, Stormwater. In the case of a conflict between a term defined in this section, and that within the Article 15 or an article in Part IX, Stormwater, the definition within those specific articles controls.

**Abutting.** Having common property boundaries or lot lines which are not separated by a street.

**Accelerated Erosion.** Any increase over the rate of natural erosion as a result of land disturbing activity.

**Access Management.** Strategies associated with driveway plan approval that seek to link operational and access characteristics of each site to the public street system, by aligning access type, the number of driveways, and driveway spacing to land use, the site's geography, and street type.

**Access Restrictions.** Any restrictions to less than full vehicular movement at an access point, often as a condition of a driveway plan approval.

**Accessibility Ramp.** A ramp or similar structure that provides access to a building for wheelchairs and other mobility aids.

**Accessory Structure.** A structure located on the same lot as the principal building that is incidental and subordinate to the function of the principal building.

**Active Use.** A use listed in the Residential Uses category of the Use Matrix and nonresidential uses listed in the Commercial Uses category, the Industrial Uses category, and/or the Institutional and Governmental Uses category of the Use Matrix in Article 15.

**Adequate Erosion Control Measures, Structures, or Devices.** Measures, structures, or devices that control the soil material within the land area under responsible control of the person conducting the land disturbing activity.

**Adjacent.** Having common property boundaries or lot lines, or located directly across a street, alley, railroad, other transportation corridor, or body of water 100 feet or less in width.

**Adjoining.** See “Adjacent.”

**Administrative Decision.** Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in the development regulations.

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

**Affiliate.** A person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

**Alley.** A private or public right-of-way or easement and runs between two or more lots or located on a single lot, affording primary or secondary vehicular access to the properties which abut it, but not including a street, utility easement, or railroad right-of-way.

**Alteration (of a Structure).** A change, addition, or modification in construction, other than cosmetic or decorative, or any change in the structural members of buildings such as bearing walls, columns, beams, or girders.

**Alteration (of a Watercourse).** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification associated with development which may increase the FEMA or Community Base Flood Elevations.

**Amateur (ham) Radio Equipment.** An amateur (ham) radio station licensed by the Federal Communications Commission (FCC), including equipment such as, but not limited to, a tower or building-mounted structure supporting a radiating antenna platform and other equipment.

**Amenitized Tree Area.** An area that serves to meet green area requirements and includes planted trees and amenities, such as irrigation, landscaping, grass, seating, pathways, lighting, or other items, as approved by the Chief Urban Forester.

**Amenity Zone.** Hardscaped area located between the back of curb and the sidewalk or shared use path. Amenity zones include, but are not limited to, perimeter trees, landscaping, and street furnishings.

**Appeal.** An appeal is a process where parties request a higher authority to review an administrative decision or quasi-judicial decision in order to modify or reverse the decision.

**Arcade.** A succession of contiguous arches, each supported by columns or piers, designed to provide a sheltered walkway for pedestrians.

**Architectural Feature.** A part or projection of a structure that contributes to the overall aesthetics of the building, excluding signs, that is not necessary for the structural integrity of the structure or to make the structure habitable.

**Area Median Income (AMI).** The midpoint of a region's income distribution with half of the households earning more than the AMI and half earning less. Household income is calculated by its gross income.

**Average Grade.** See “Grade, Average.”

**Awning.** A roof like structure typically made of cloth, metal, or other material attached to a frame that extends from and is supported by a building. Awnings are typically erected over a window, doorway, or building front, and may be raised or retracted to a position adjacent to the building.

**Balcony.** A roofed or unroofed platform that projects from the exterior wall of a structure, above grade,, which is exposed to the open air, has direct access to the interior of the building, is surrounded by a parapet, railing, or balustrade, and is not supported by posts or columns extending to the ground.

**Banner.** A temporary sign printed upon flexible material mounted with or without rigid frames.

**Bay Window.** A window that projects outward from the structure, which does not rest on the building foundation or on the ground.

**Belt Course.** A continuous row or layer of stones or brick set in a wall that makes the horizontal line of the sills visually more prominent. A belt course is also called a string course or sill course.

**Berm.** An earthen mound designed to provide visual interest on a site, fully or partially screen undesirable views, reduce noise, and/or fulfill other similar purposes.

**Bicycle Facilities.** Any infrastructure and/or physical provisions to accommodate or encourage bicycling, including, but not limited to, parking and storage facilities, on-street facilities such as bicycle lanes, variously configured buffered/separated bicycle lanes, shared-use paths along streets, and shared off-street public paths.

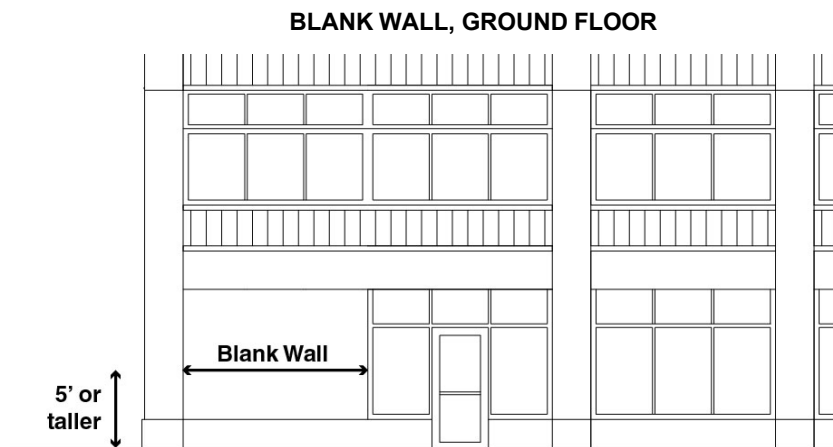
**Bicycle Parking Space.** An area occupied by a bicycle when using a bicycle parking device as designed.

**Bicycle Parking Spaces, Long-Term.** Bicycle parking spaces where bicycles will be stored for longer periods of time within a weatherproof storage area.

**Bicycle Parking Spaces, Short-Term.** Bicycle parking spaces available to visitors to the site where bicycles are stored for short stops, requiring a high degree of convenient access.

**Billboard.** See “Outdoor Advertising Sign” under “Off-Premise Advertising.”

**Blank Wall, Ground Floor.** The horizontal linear dimension of contiguous building wall that does not contain windows, doors, or decorative elements such as banding, medallions, artwork such as murals and mosaics, change in wall plane of at least three inches, or other architectural or material embellishment. Any wall less than five feet in height is not considered to be a blank wall.



**Blank Wall, Upper Floor.** The horizontal or vertical linear dimension of contiguous building wall that does not contain windows, doors, or decorative elements such as banding, medallions, artwork such as murals and mosaics, change in wall plane of at least three inches, or other architectural or material embellishment. A wall does not count as a blank wall as long as one of the dimensions of the wall area is less than the maximum blank wall area standard of the district.

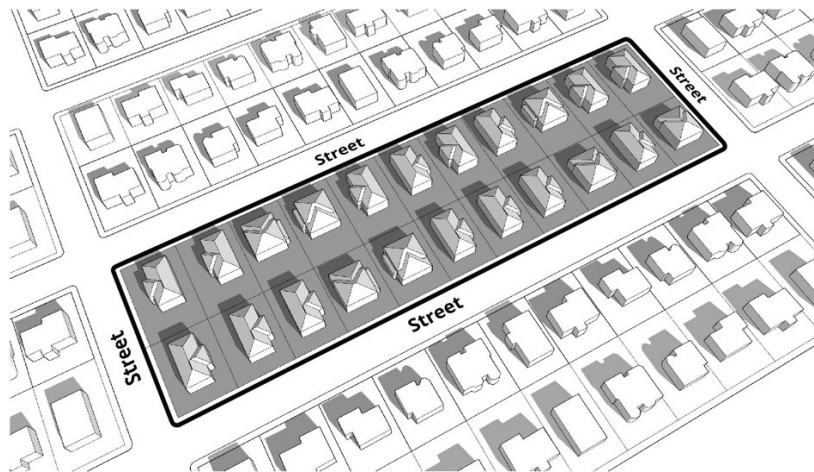
### BLANK WALL, UPPER FLOOR

If A, B, or both are less than the maximum blank wall dimension of the district, such area is not considered a blank wall.



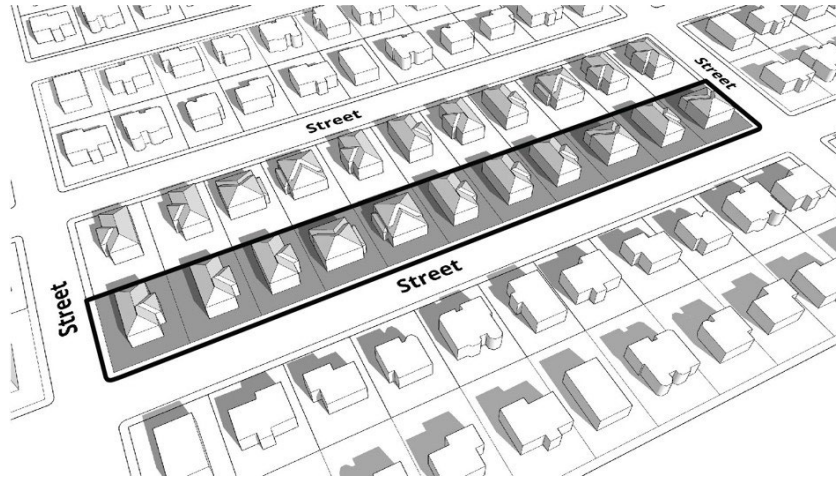
**Block.** A tract of land bounded by streets, or a combination of streets and railroad rights-of-way or municipal boundary lines.

### BLOCK



**Blockface.** Blockface is measured as that portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets, railroad rights-of-way, or municipal boundary lines.

#### BLOCKFACE



**Block Length.** The distance along a block between two adjacent intersections, measured from centerline to centerline.

**Board of Adjustment, UDO.** The UDO Board of Adjustment is an appointed, quasi-judicial citizen board that primarily considers appeals, variances, and requests for interpretation of the Unified Development Ordinance.

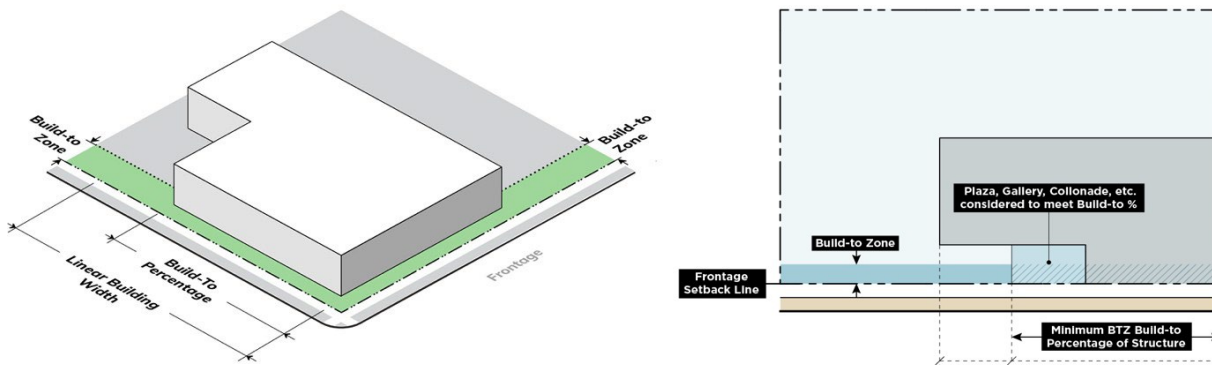
**Borrow.** Fill material that is required for on-site construction and is obtained from other locations.

**Breezeway.** A roofed outdoor passage connecting two buildings, such as a dwelling and garage, or halves of a building.

**Build-To Percentage.** The percentage of the building facade that shall be located within the build-to zone (BTZ), calculated by building facade, not lot width. Build-to percentage is further defined as:

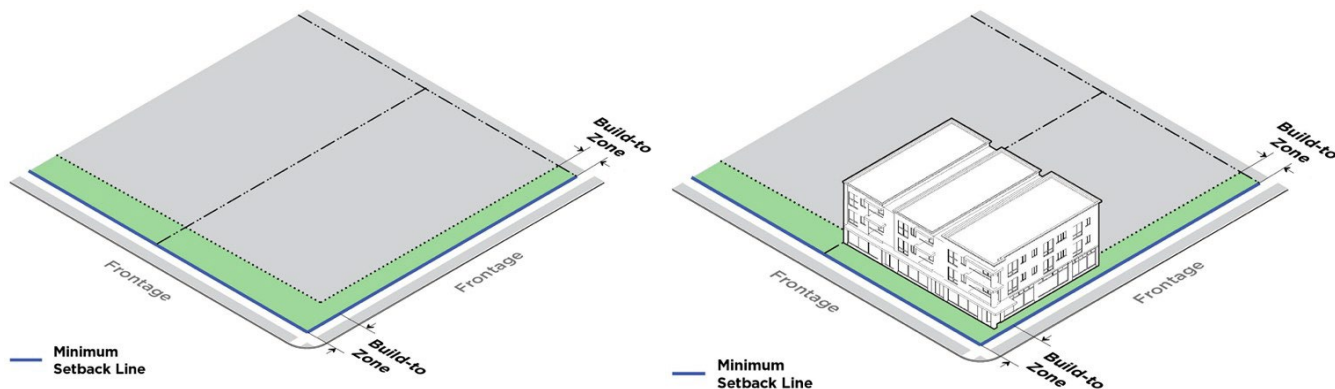
1. Facade articulation elements, such as window or wall recesses and projections, shall be considered to meet any required build-to percentage.
2. Public open spaces and outdoor dining areas that are bounded by a building facade and are no more than an average of 24 inches above or below grade are counted as meeting the build-to percentage.
3. Common or private open spaces of residential development bounded on three sides by a building and no more than an average of 24 inches above or below grade are counted as meeting the build-to percentage.

## BUILD-TO PERCENTAGE



**Build-To Zone (BTZ).** A build-to zone (BTZ) is the area on a lot, measured parallel from the required frontage setback line, where the minimum build-to percentage of a structure shall be located. A build-to zone sets a minimum and maximum dimension within which the building facade line shall be located per the requirements of the minimum build-to percentage.

## BUILD-TO-ZONE (BTZ)



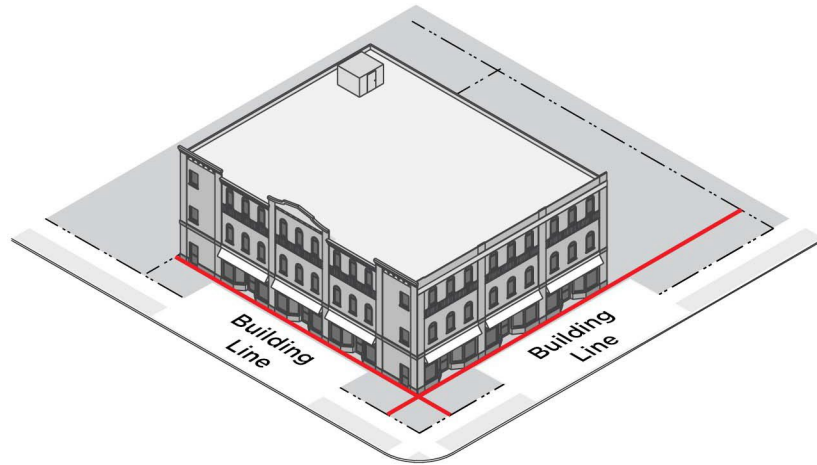
**Building.** Any structure having a roof supported by columns or walls used or intended for supporting or sheltering any use or occupancy.

**Building Coverage.** The portion(s) of a lot developed with principal buildings and accessory structures.

**Building Façade.** The exterior wall of a building

**Building Line.** A line that is tangent to the building's facade that is parallel to the front, side, and/or rear lot lines.

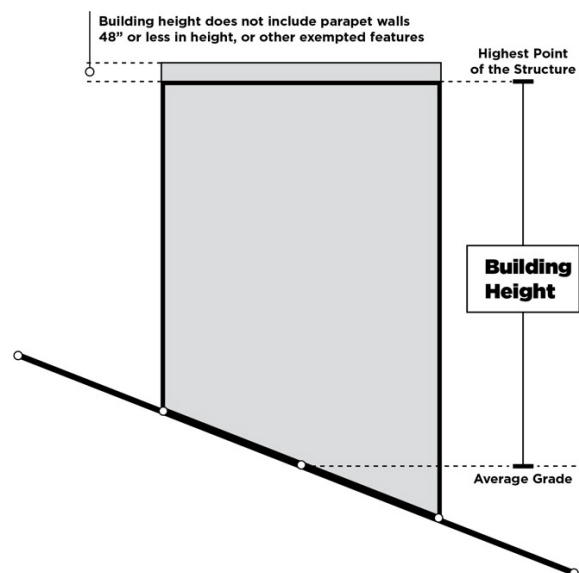
### BUILDING LINE



**Building Height.** Building height is the vertical distance between the average grade at the base of the structure and the highest point of the structure. The following shall not be included in the measurement of building height:

1. Any structures integral to the operation of the use, such as smokestacks, chimneys, cooling towers, water towers, elevator houses, mechanical stacks, and similar features.
2. Firewalls, chimneys, sky lights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building and any device no more than five feet in height used to screen around a roof top structure or equipment.
3. Parapet walls of 48 inches in height or less are not included in the maximum building height calculation. When parapet walls exceed 48 inches in height, the parapet wall is included in the maximum building height calculation.

### BUILDING HEIGHT

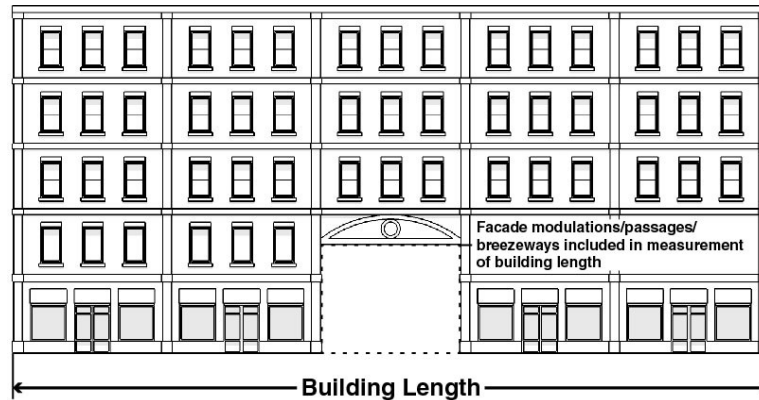




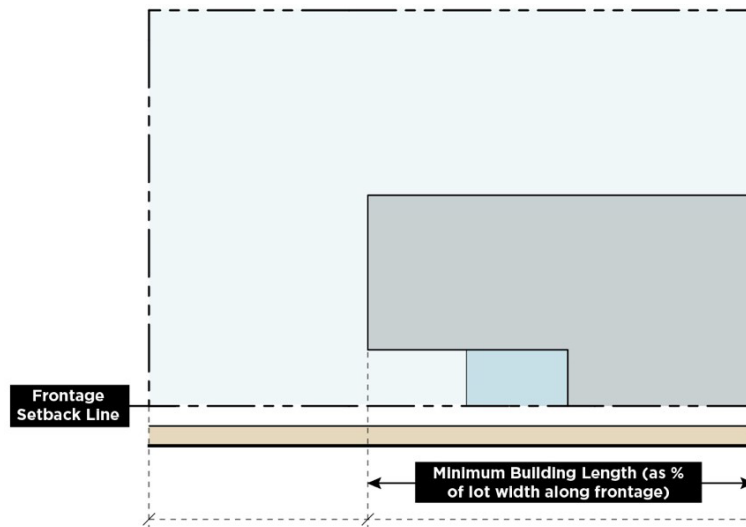
**Building Length.** Building length is measured as the length of the facade abutting a frontage. Passageways, breezeways, ground floor passages and similar building connections are included in the calculation of total building length.

1. **Building Length, Maximum.** The maximum length of a building allowed along a frontage, established either by a set amount of linear feet or a percentage of lot width
2. **Building Length, Minimum.** The minimum length a building shall be along a frontage, established either by a set amount of linear feet or a percentage of lot width.

**BUILDING LENGTH**



**MINIMUM BUILDING LENGTH**



**Building Site.** An area of land or property where development is undertaken.

**Built-Up Area (BUA).** That portion of a property that is covered by impervious or partially impervious surface including, but not limited to: buildings; pavement and gravel areas; and recreation facilities such as tennis courts (activity fields that have been designed to enhance displacement of runoff, such as compaction and grading or installation of sodded turf, and underground drainage systems for public parks and schools will be considered built-upon area.) Built-upon area does not include a wooden slatted deck or the water area of a swimming pool.

**Built-Up Area (BUA) Density.** The total built-upon area divided by the total project area as further defined in the Stormwater Control Measure (SCM) Design Manual.

**Bus Route/Bus Transit Route.** Specifically labeled or numbered travel routes over which a Charlotte Area Transit Service (CATS) bus operates for the purpose of picking up or dropping off passengers at regularly scheduled stops and intervals.

**Caliper.** The diameter measurement of the trunk taken six inches above ground level for trees up to and including four-inch caliper size. Measurement shall be taken 12 inches above the ground level for larger trees.

**Canopy.** A canopy is a roof-like cover designed for protection from the weather or as a decorative embellishment affixed to a building or freestanding, with supports that extend to the ground.

**Carport.** An open-sided roofed vehicle shelter, typically formed by extension of the roof from the side of a building, but may also be freestanding.

**Certificate of Occupancy.** A document issued by Mecklenburg County Code Enforcement, a division of the Mecklenburg County Land Use and Environmental Services Agency, to provide official verification that the declared scope of work permitted is in compliance with current building and land development regulations, and the building is suitable for occupancy.

**Certiorari.** Certiorari is a form of judicial review where a superior court is asked to hear an appeal of a quasi-judicial decision of a decision-making board, such as the UDO Board of Adjustment.

**Chamfered.** Building design where the corner or right-angled edge is cut away to make a sloping symmetrical edge.

**Change of Use.** A change of use is the change of the use of a structure or lot from one major land use category to another, such as commercial to residential use. Major land use categories are established in the Use Matrix in Article 15.

**Changeable Copy.** That portion of a sign that allows for a message to be changed.

**Charging Station.** A parking space intended for electric vehicles and served by vehicle battery charging equipment.

**Charlotte Area Transit System Director (CATS Director).** The Charlotte Area Transit System (CATS) Director, which may include their designee, in administration of the Ordinance.

**Charlotte Department of Transportation Director (CDOT Director).** The Charlotte Department of Transportation (CDOT) Director, which may include their designee, in administration of the Ordinance.

**Charlotte Streets Map.** The Charlotte Streets Map shows Charlotte's collector and arterial street network, and limited access roads. It also shows any local streets that include the Cross Charlotte Trail (XCLT) or other Urban Trail. The Charlotte Streets Map describes the expected future cross-section for each arterial street in the network.

**City Attorney.** The City Attorney or their designee.

**City Tree.** All planted trees in the street right-of-way and any naturally occurring trees three inches diameter in breast height (DBH) or greater in street right-of-way as specified in the Charlotte Tree Manual. For the purposes of this term, street right-of-way includes all segments of City-accepted and/or City Landscape Management-maintained public street rights-of-way (Charlotte Department of Transportation (CDOT) or North Carolina Department of Transportation (NCDOT)) in Charlotte's corporate city limits. Landscape Management maintains trees on NCDOT street right-of-way in the city limits except for road segments identified in Charlotte Tree Manual – City Landscape Management Maintenance Areas.

**Civil Judicial Remedies.** The means with which a civil court of law imposes a penalty or makes another court order to address a specific case involving a violation.

**Colonnade.** A sequence of columns either freestanding or part of a building, typically as pairs or multiple pairs of columns, that frames a walkway or open space, which may be covered or open to the air.

**Commercial Vehicles, Large.** Any vehicle designed or used for business purposes that has a gross vehicle weight rating (GVWR) of 13,000 pounds or more. Large vehicles also include commercial vehicles with a GVWR of less than 13,000 pounds if the height of the vehicle exceeds 9.5 feet, including any installed accessories such as ladder racks, cranes, compressors, hose reels, welders, etc., or the length of the cargo area/work platform exceeds 14 feet, not to include step bumpers less than 18 inches in length.

**Commercial Vehicles, Light.** Any vehicle designed or used for business purposes that has a gross vehicle weight rating (GVWR) of less than 13,000 pounds and a cargo area/work platform, including any installed accessories such as ladder racks, cranes, compressors, hose reels, welders, etc., that does not exceed the height of the cab of the vehicle. Cargo area/work platforms separate from the cab shall not exceed nine feet in length not to include step bumpers less than 18 inches in length. A pickup truck, sport utility vehicle, van, or similar vehicle may be considered a passenger vehicle if it is less than 13,000 pounds GVWR and has only the original showroom stock body/bed. A camper shell, toolbox within the bed, or similar accessory equipment will not disqualify the vehicle as a passenger vehicle. However, ladder racks, cranes, compressors, hose reels, welders, and similar equipment make the vehicle a commercial vehicle.

**Commercial Vehicles, Medium.** Any vehicle designed or used for business purposes that has a gross vehicle weight rating (GVWR) of less than 13,000 pounds and does not exceed 9.5 feet in height, including any installed accessories such as ladder racks, cranes, compressors, hose reels, welders, etc. Cargo area/work platform shall not exceed 14 feet in length, not to include step bumpers less than 18 inches in length.

**Completion of Construction or Development.** No further land disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent groundcover.

**Comprehensive Plan.** The Comprehensive Plan that has been officially adopted by the City pursuant to N.C.G.S. § 160D-501.

**Comprehensive Transportation Review (CTR).** An analysis that measures the multimodal transportation impacts created by a development and proposes transportation mitigations necessary to support the proposed development.

**Congregate Living.** A type of housing where each individual or household has a private bedroom, which may also have additional living space, but shares a common dining room, recreational room, and/or other facility.

**Connectivity.** Street or subdivision design which provides for public access, ingress, and egress within a development and with adjoining developments by one or more of the following: interconnecting streets, bike paths, and walkways. Connectivity facilitates vehicular, bicycle, and pedestrian transportation.

**Conservation Agreement Area.** An area that is subject to a conservation agreement that places a restriction, reservation, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of Mecklenburg County, the City of Charlotte, or a conservation group as approved by the Chief Urban Forester, pursuant to the Charlotte Tree Manual. Such agreement shall be appropriate to retain land or water areas predominantly in their natural, scenic, or open condition. This term includes County designated nature preserves, Tree Canopy Preservation Program (TCPP) properties, or conservation easements held by approved land conservation groups.

**Contractor Conducting the Land Disturbing Activity.** Any person who participates in the land disturbing activity, including, but not limited to, the general contractor and subcontractors with the responsibility for supervising the work on the tract for the changing of the natural cover or topography of the tract or any part thereof

**Cornice.** A horizontal decorative molding that crowns a building.

**Cottage Court Residential Development.** Small lot residential development of various dwelling types organized around a common open space, designed as a cohesive whole and maintained in shared stewardship by residents.

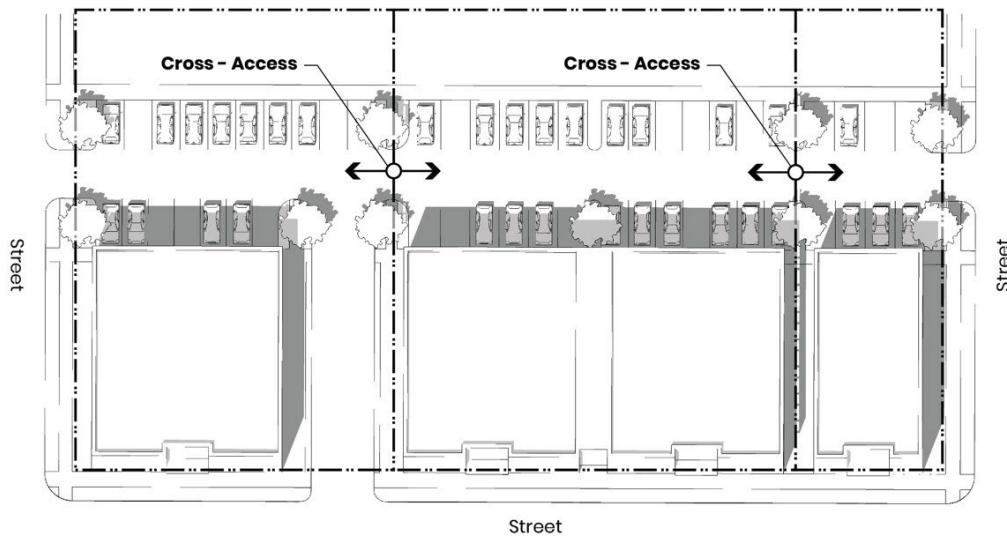
**Courtyard.** Open space, other than a required setback, unoccupied except by obstructions permitted in setbacks, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

**Critical Area.** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed.

**Critical Root Zone.** The area of soil around the tree where roots that provide stability and uptake of water and minerals are located, the main structural and functional part of the root system. It is a protected circular area around a tree with a radius equal to one foot per inch of tree diameter at breast height (DBH) with the tree trunk at the center of the circle.

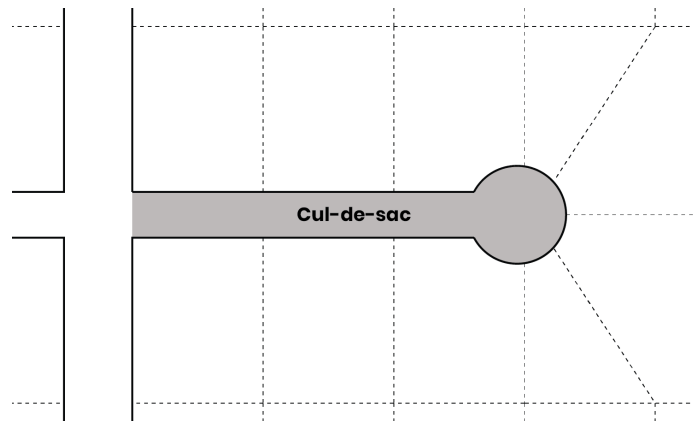
**Cross-Access.** A means of providing vehicular and pedestrian access between two or more properties, or between two or more sites located on one property. Cross-access may be provided by easement, drive aisle, alley, or service drive, and is separate from the public street system.

### CROSS-ACCESS



**Cul-De-Sac.** A street designed with a turnaround..

### CUL-DE-SAC New diagram



**Daily Vehicular Trips.** The total number of ingress and egress vehicle trips generated within a 24-hour weekday period by a land use or private development, per latest ITE Trip Generation.

**DBH (Diameter at Breast Height).** The diameter of a tree 4.5 feet above the average ground level

**Deck.** A roofless outdoor space built as an above ground platform projecting from the wall of a structure and connected by structural supports at grade and/or by the structure.

**Dedication.** Dedication is the conveyance of private land, either in fee simple or as an easement, for public use.

**Density.** The number of dwelling units per gross acres.

**Determination.** A written, final, and binding order, requirement, or determination regarding an administrative decision.

**Developer.** A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the property owner of land to be developed or who has been authorized by the property owner to undertake development on that property.

**Development.** Any of the following: a) the construction, erection, alteration, enlargement, renovation, substantial repair, or movement to another site, or demolition of any structure; b) the excavation, grading, filling, clearing, or alteration of land; or c) the subdivision of land as defined in N.C.G.S. § 160D-802.

1. **Development, Accessory.** Development as defined above of a land use listed in the Accessory Uses category of the Use Matrix in Article 15.
2. **Development, Campus.** Development as defined above of a land use listed in the Campus Uses category of the Use Matrix in Article 15.
3. **Development, Commercial.** Development as defined above of a land use listed in the Commercial Uses category of the Use Matrix in Article 15.
4. **Development, Industrial.** Development as defined above of a land use listed in the Industrial Uses category of the Use Matrix in Article 15.
5. **Development, Infrastructure.** Development as defined above of a land use listed in the Infrastructure category of the Use Matrix in Article 15.
6. **Development, Institutional and Governmental.** Development as defined above of a land use listed in the Institutional and Governmental Uses category of the Use Matrix in Article 15.
7. **Development, Mixed-Use.** Development as defined above of a project with a residential component listed in the Residential Uses category and a nonresidential component listed in the Commercial Uses category or the Industrial Uses category of the Use Matrix in Article 15.
8. **Development, Open Space, Recreation, and Agricultural.** Development as defined above of a land use listed in the Open Space, Recreation, and Agricultural Uses category of the Use Matrix in Article 15.
9. **Development, Public Health and Social Service.** Development as defined above of a land use listed in the Public Health and Social Service Uses category of the Use Matrix in Article 15.
10. **Development, Residential.** Development as defined above of a land use listed in the Residential Uses category of the Use Matrix in Article 15.
11. **Development, Temporary.** Development as defined above of a land use listed in the Temporary Uses category of the Use Matrix in Article 15.
12. **Development, Transportation.** Development as defined above of a land use listed in the Transportation Uses category of the Use Matrix in Article 15.

**Development Approval.** An administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations in the Ordinance, including subdivision plat approvals, permits issued, development agreements entered into, and building permits issued.

**Development Regulation.** A Unified Development Ordinance, zoning regulation, subdivision regulation, soil erosion and sedimentation control regulation, floodplain regulations, post-construction control regulation, water supply watershed regulation, drainage regulation, surface water improvement and management buffer regulations, tree regulations, historic district regulations, or any other regulation in the Ordinance that regulates land use and development.

**Director of Stormwater Services.** The Director of Stormwater Services or their duly authorized representatives.

**Discharge.** The addition of any man induced waste effluent either directly or indirectly to North Carolina surface waters.

**Discharge Point.** That point at which concentrated flow of discharge leaves a tract of land.

**Disturbance.** Any use of the land by any person or entity which results in a change in the natural cover or topography of the land.

**DNL (Day-Night Average Sound Level).** The noise metric is used to reflect a person's cumulative exposure to sound over a 24-hour period, expressed as the noise level for the average day of the year on the basis of annual aircraft operations.

**DNL Contour.** A line linking together a series of points of equal cumulative noise exposure based on the DNL. Such contours are developed based on aircraft flight patterns, number of daily aircraft operations by type of aircraft and time of day, noise characteristics of each aircraft, and typical runway usage patterns.

**Dock.** A fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels.

**Down-Zoning.** To reclassify a parcel of land through a zoning map amendment process by decreasing the intensity of the development of the land to be less intense than was allowed under the previous zoning district category, or reducing the permitted uses of the land to fewer uses than were allowed under its previous usage.

**Donation Box.** An unmanned receptacle designed with a door, slot, or similar opening intended to accept and store donated clothes and household items.

**Drainage Area.** That area of land that drains to a common point on a project site.

**Drainage Basin.** The area of land which drains to a given point on a body of water.

**Drip Line.** A vertical line running through the outermost portions of the tree crown extending to the ground.

**Drive-Through Lane.** An on-site driveway approach to a building opening, including windows or mechanical devices, where customers initiate and complete their transaction.

**Dwelling.** A structure, or portion thereof, designed or used exclusively for human habitation.

**Dwelling Unit.** A single unit providing complete, independent living facilities for a household, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Easement.** Authorization by an owner for the use, by others for a specific purpose, of a designated part of their property.

**Eave.** The projecting lower edges of a roof overhanging the wall of a structure.

**Electric Vehicle (EV) Charging Stations.** Electric vehicle (EV) charging stations are defined as follows:

1. **EV-Capable:** Reservation of space in the electrical room for a panel to serve the future EV chargers and continuous raceway from the reserved panel space to the future EV parking space.
2. **EV-Ready:** Installation of electrical panel capacity and raceway with conduit to terminate in a junction box or 240-volt outlet accessible to parking space.
3. **EVSE-Installed:** EV charging stations capable of providing a minimum of 32amp 7.2 kW.

**Endwall.** The wall of the end unit of a townhouse development that is not attached to another dwelling unit or party wall.

**Energy Dissipater.** A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

**Erosion.** The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

**Establishment.** A place of business.

**Evidentiary Hearing.** A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation.

**Existing Tree Canopy.** Tree canopy that has existed for at least two years prior to development as evidenced by City or County aerial photographs, or a tree survey of trees one-inch caliper and larger.

**Expansion (of a Building).** An increase in the floor area of a building. This may also be referred to as an addition to an existing building

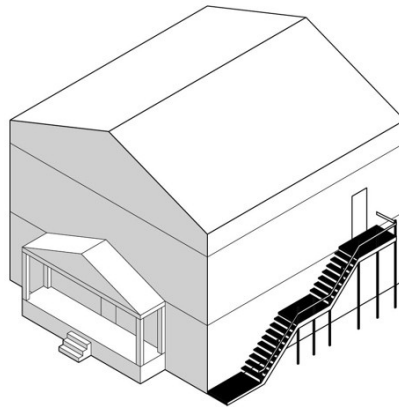
**Expansion (of a Use).** An increase in the area dedicated to the use.

**Expansion (of a Structure).** An increase in the size of a structure.

**Exterior Lighting.** The illumination of an outside area or object by any man-made device that produces light by any means.

**Exterior Stairway.** One or more flights of stairs, and the necessary landings and platforms connecting them, to an entryway on another floor or level in a structure located on the exterior of a principal building.

#### EXTERIOR STAIRWAY



**Extraterritorial Jurisdiction (ETJ).** The authority of the City to apply its zoning regulations outside of the City boundaries.

**Façade.** The exterior wall of a building.

**Façade Modulation.** Variations in the plane of a building facade that break up the mass and bulk of a building. The modulation is the recessed or projected portion, of the building facade and/or architectural feature as distinguished from the building facade line.

**Familial Relationship.** A close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

**Family.** An individual or two or more persons related by blood, marriage, domestic partnership, adoption, foster child relationship, or legal guardianship together as a single housekeeping unit. Family also includes a group of not more than six persons not related by blood, marriage, domestic partnership, adoption, foster child relationship, or legal guardianship, living together as a single housekeeping unit.

**Feather Flag.** A freestanding attention-getting device typically constructed of cloth held taut by a single post. Also known as a sail.

**Fence.** A structure used as a boundary, screen, separation, means of privacy, protection, or confinement.

1. **Fence, Solid.** A fence that has, over its entirety, no distributed openings. A shadowbox design fence is considered a solid fence. A chain link fence with slats is not considered a solid fence.

**Flag.** Fabric containing an emblem or message designed to be flown from a flagpole which may be either freestanding or a mast arm flagpole that extends at an angle from a building.

1. **Flag, Commercial.** Flags designed to direct attention to or promote a business, product, service, event, or activity occurring on the site, which are flown from a mast arm flagpole.
2. **Flag, Noncommercial.** Flags that do not function to direct attention to or promote a business, product, service, event, or activity.

**Flag Lot.** See "Lot."

**Flashing Lighting.** Lighting that changes from a static intensity of illumination, through fading, pulsing, and/or other method, at a frequency of more than once every thirty seconds.

**Floodlight/Spotlight.** A powerful light or a grouping of several lights used to illuminate the exterior of a building or sign.

**Floodplain.** The land subject to inundation by the community base flood and is encompassed by the community special flood hazard area.

**Footcandle.** A unit of illuminance or illumination, equivalent to the illumination produced by a source of one candle at a distance of one foot and equal to one lumen incident per square foot.

**Forest Practice Guidelines.** The written directions related to water quality prepared by the North Carolina Department of Agriculture and Consumer Services Division of Forest Resources and the United States Forest Service, including, but not limited to, the Forestry Best Management Practices Manual prepared by the North Carolina Department of Agriculture and Consumer Services.

**Frontage.** A frontage is that part of the lot and/or building façade that faces either: 1) an existing or Ordinance required public or private street; 2) a street designated on the Charlotte Streets Map; 3) a platted right-of-way offered for dedication and at least 30 feet in width; or 4) a public space, such as an open space, public path, or transit corridor.

1. **Frontage, 2-3 Lane Avenue.** Frontage that includes the following street classifications: 2 lane avenue, 2 or more lane avenue, or 3 lane avenue, as defined by the associated Avenue street classification definition.
2. **Frontage, 4-5 Lane Avenue/Boulevard.** Frontage that includes the following street classifications: 4 lane avenue, 4 or more lane avenue, 5 lane avenue, 5 or more lane avenue, 4 or more lane boulevard, 5 or more lane boulevard, as defined by the associated Avenue or Boulevard street classification definitions.
3. **Frontage, 6 Lane Avenue/Boulevard.** Frontage that includes the following street classifications: 6 lane avenue, 6 or more lane avenue, 6 or more lane boulevard, 6 or more lane boulevard, as defined by the associated Avenue or Boulevard street classification definition.
4. **Frontage, Main Street.** Frontage for property fronting on a Main Street, as defined by the Main Street classification definition.
5. **Frontage, Other-Primary.** Frontage for property fronting on a collector street, a transit station, a public or network-required private local street abutting a Neighborhood 1 Place Type, or a public park or other publicly owned open space, or an off-street public path.



**6. Frontage, Secondary.** A frontage that is not designated in items 1 through 5 above or items 7 through 12 below, and includes public and network-required private local streets.

**7. Frontage, Parkway.** Frontage for property fronting on a Parkway, as defined by the Parkway street classification definition.

**8. Frontage, Limited Access.** Frontage for property fronting on a Limited Access Road, as defined by the Limited Access Road street classification definition.

**9. Frontage, Uptown Signature Street.** Frontage for a property fronting an Uptown Signature Street, as defined by the Uptown Signature Street classification definition.

**10. Frontage, Uptown Primary Street.** Frontage for a property fronting an Uptown Primary Street, as defined by the Uptown Primary Street classification definition.

**11. Frontage, Uptown Secondary Street.** Frontage for a property fronting an Uptown Secondary Street, as defined by the Uptown Secondary Street classification definition.

**12. Frontage, Linear Park.** Frontage for a property fronting Linear Park, as defined by the Linear Park Street classification definition.

**Freight Rail.** A railroad corridor or railroad right-of-way used to transport freight. Such corridor or right-of-way may also be used by intercity passenger railroad service. Freight rail does not include local, rapid transit rail service.

**Full Pond Elevation.** Elevation at which water begins to flow over the dam or spillway for the lake, referenced to mean sea level as determined by the United States Geological Survey (U.S.G.S.) Datum. The applicable full pond elevations are as follows: Mountain Island Lake at 647.5 feet and Lake Wylie and Lower Lake Wylie at 569.4.

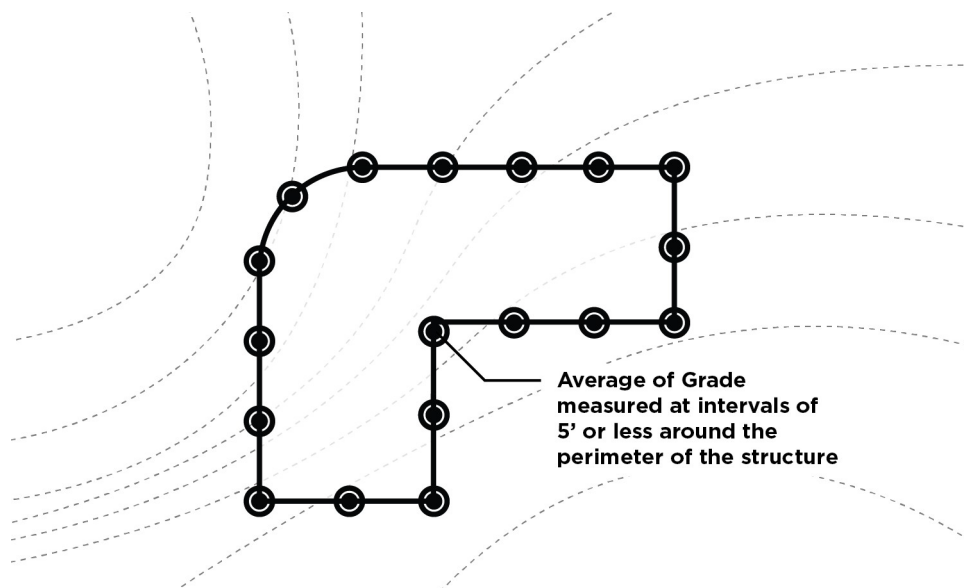
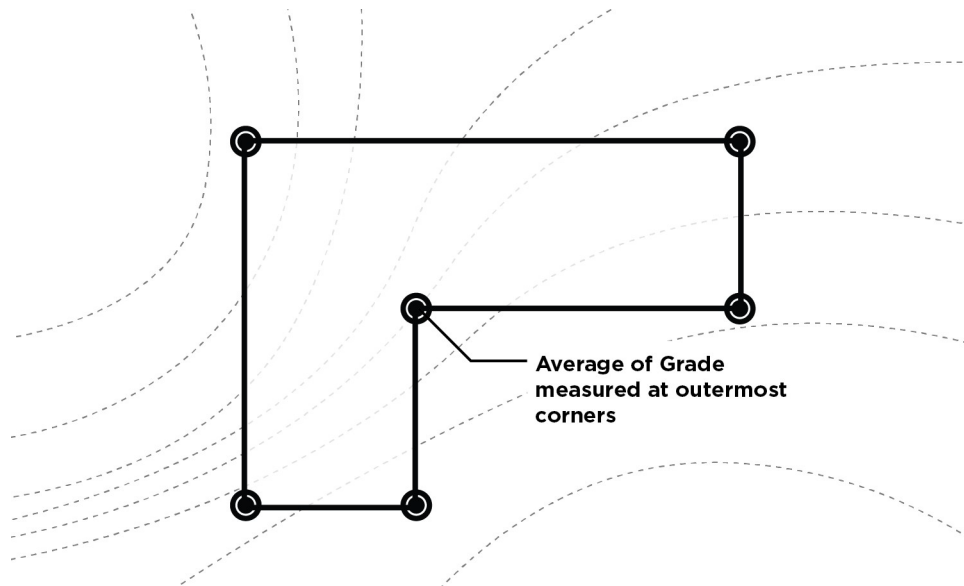
**Future Back of Curb.** The future back of curb shall be based on the Charlotte Streets Map for Main Streets, Avenues, and Boulevards, as well as local and collector streets with shared-use paths. The future back of curb location for all other local and collector streets is the location of the existing back of curb, unless otherwise specified by this Ordinance. If the street cross-section includes a ditch or swale instead of curb and gutter, the setback is measured from the top of the backslope. For streets not indicated on the Charlotte Streets Map, the top of backslope is considered future back of curb.

**Garage.** An accessory building or portion of a principal building designed to be used for the storage of motor vehicles and other household items of the occupants of the premises.

**Gallery.** A platform which projects from the exterior wall of a building, is exposed to the open air, and remains unenclosed, that has direct access to the interior of the building. A gallery is supported from the ground by columns or poles, and is surrounded by a parapet, railing, or balustrade.

**Grade, Average.** The average grade is determined by measuring the grade at the outermost corners of each elevation of the structure and calculating the average. Alternatively, average grade may be determined by measuring the grade at intervals of five feet or less around the perimeter of the structure and calculating the average.

## AVERAGE GRADE



**Grading.** Excavation or fill of material, including the resulting conditions thereof.

**Green Area.** An area and all affiliated vegetation, whether on-site or off-site, which is set aside, conserved, or dedicated, pursuant to the requirements of Section 20.15.

**Green Roof.** A vegetated area of a roof of a structure that is designed and planted to be covered at maturity by plants. Green roofs shall be subject to the specifications and standards of specific articles of the Ordinance when it is proposed to meet the requirements of those articles.

**Green Terrace.** A vegetated area on a horizontal surface of a structure that is lower in elevation than the roof and is designed and planted to be covered at maturity by plants.

**Green Wall.** A wall covered with live plants, which includes a growing medium, such as soil, water, or a substrate. A green wall is also called a living wall or vertical garden.

**Green Zone.** The space lying between the sidewalk and back of curb, or edge of pavement where no curb-and-gutter is present (typically a planting strip or hardscaped amenity zone) which serves as a buffer between pedestrians and vehicles. The green zone typically includes street trees and landscaping, and often includes street furnishings and utilities.

**Greenway.** A corridor of predominantly vegetated land preserved for bicycle and pedestrian travel and recreational use, including multi-use trails, such as the Cross Charlotte Trail. A designated greenway is one that is designated in the Mecklenburg County Greenways and Trails Master Plan. Greenways are not considered a public park (as the use is defined in Article 15).

**Gross Floor Area (GFA).** The gross floor area (GFA) of a structure is the sum of the gross horizontal areas of all floors of the structure as measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. GFA does not include any areas used exclusively for the surface parking lots and/or parking structures, or for building or equipment access, such as stairs, elevator shafts, and maintenance crawlspace.

**Groundcover.** Any low-growing plants that protect topsoil from erosion and drought conditions, and help to conceal bare earth and prevent weed growth.

**Ground Floor.** That floor of a building that is nearest the level of the ground. Where a change in elevation results in a new floor corresponding to the ground level along a frontage, such new portion of the building is also considered a ground floor.

**Ground Floor Activation.** A ground floor is considered activated when uses from the following use categories of the Use Matrix in Article 15 are located on the ground floor adjacent to pedestrian accessible pathways and vehicle roadways: Residential Uses category, Commercial Uses category, the Industrial Uses category, and/or the Institutional and Governmental Uses category.

**Guard Station.** A structure used to house personnel and security equipment, typically located at an entryway to a development.

**Half Street.** See "Partial Street".

**Hazardous Material.** Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

**Hazardous Tree.** A tree that presents a situation or condition that may result in personal injury, property damage, or disruption of human activities. Also:

1. In tree management, a tree or tree part that has a high likelihood of failure and causing damage or injury; and
2. In tree care or forestry operations, the presence of a condition or situation that may cause harm or injury to workers or others.

**Hedge Row.** A row of closely planted shrubs, bushes, or any kind of plant forming a boundary.

**Heritage Tree.** Any tree native to North Carolina per the US Department of Agriculture Natural Resource Conservation Service Plants Database with a DBH of 30 inches or greater.

**I-277 Loop.** The area of the city situated inside the boundaries of interstate highways 277 and 77.

**Illumination, External Sign.** Lighting of a sign from a light source external to the body of the sign, so that light is directed on to the face of the sign or directed in a manner so as to create silhouettes of letters or symbols that are placed in front of the light.

**Illumination, Internal Sign.** Lighting of a sign from internal sources, such as a light source within the framework of a sign cabinet and behind the face of the sign so that light is transmitted through the face of the sign.

**Impervious Surface.** Any structure or material that prevents, impedes, or slows infiltration or absorption of water directly into the ground. This includes, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts (activity fields that have been designed to enhance displacement of runoff, such as compaction and grading or installation of sodded turf, and underground drainage systems for public parks and schools will be considered built-upon area). Impervious surface does not include a wooden slatted deck or the water area of a swimming pool.

**Impervious Surface Coverage.** Impervious surface coverage is a measure of intensity of land use that represents the portion of a site that is occupied by impervious surfaces. Maximum impervious surface of a lot is calculated as the percentage of all impervious surface area against the total area of the lot.

**Inert Debris.** Solid waste consisting solely of material that is virtually inert, that is likely to retain its physical and chemical structure under expected conditions of disposal, and that will not pose a threat to groundwater standards. Inert debris includes material such as concrete, brick, concrete block, uncontaminated soil, rock, and gravel.

**Infill.** The development of vacant or under-used parcels within areas that are already largely developed.

**Internal Planting Area.** A planting area located on private property outside the public right-of-way.

**Invasive Plant Species.** Any shall be any species listed in the North Carolina Invasive Plant Council list of invasive species.

**Land Conservation Group.** A nonprofit land trust or similar organization approved by the City as listed in the Charlotte Tree Manual that permanently protects land, water, trees and wildlife habitat to enhance quality of life in Charlotte and Mecklenburg County.

**Land Development Approval.** Final approval of development projects submitted to the City, including, but not limited to: 1) commercial, subdivision, and/or urban-zoned projects; or 2) plats, both singularly or related to the aforementioned projects.

**Land Disturbing Activity.** Any use of the land by any person in residential, governmental, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the groundcover or topography and that may cause or contribute to sedimentation.

**Landscape Yard.** Land area with landscape plantings and other components used to separate one use or development from another and/or to shield or block noise, lights, or other nuisances.

**Large Maturing Shade Tree.** Any tree the height of which is 35 feet or greater at maturity and has a limb spread of 30 feet or more at maturity.

**Large Waste Container.** A dumpster, compactor, open-top container, and detachable container that is used for collecting, storing, or transporting residential solid waste. A large waste container has a minimum capacity of two cubic yards and picked up by a specially equipped truck for transporting the waste materials to the disposal site.

**Larger Common Plan of Development or Sale.** Any contiguous area where multiple separate and distinct construction or land disturbing activities will occur under one plan. A plan is any announcement or piece of documentation including, but not limited to, public notice or hearing, drawing, permit application, zoning request, or site design or physical demarcation, including but not limited to, boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

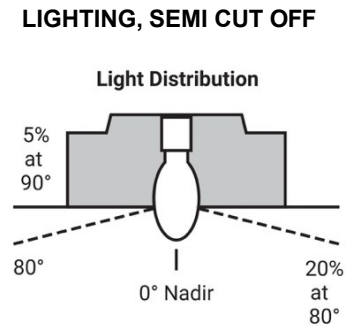
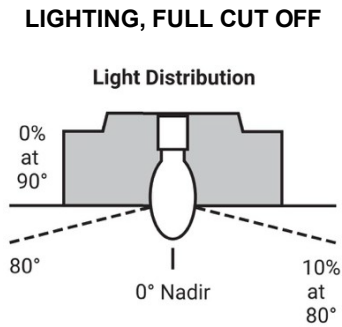
**Legislative Decision.** A decision by the City Council after a legislative hearing regarding the adoption, amendment, or repeal of an Ordinance regulation or a zoning map amendment.

**Legislative Hearing.** A public hearing to solicit public comment on a proposed legislative decision.

**Light Pole Banner.** Banners mounted on and with arms installed perpendicular to a light pole.

**Lighting, Full Cut Off.** A light distribution where the candela value is zero at or above horizontal (90° above nadir) and does not exceed 10% at or above a vertical angle of 80° above nadir.

**Lighting, Semi Cut Off.** A light distribution where the candela value does not exceed 5% of the maximum intensity at or above horizontal (90° above nadir) and 20% at or above a vertical angle of 80° above nadir.

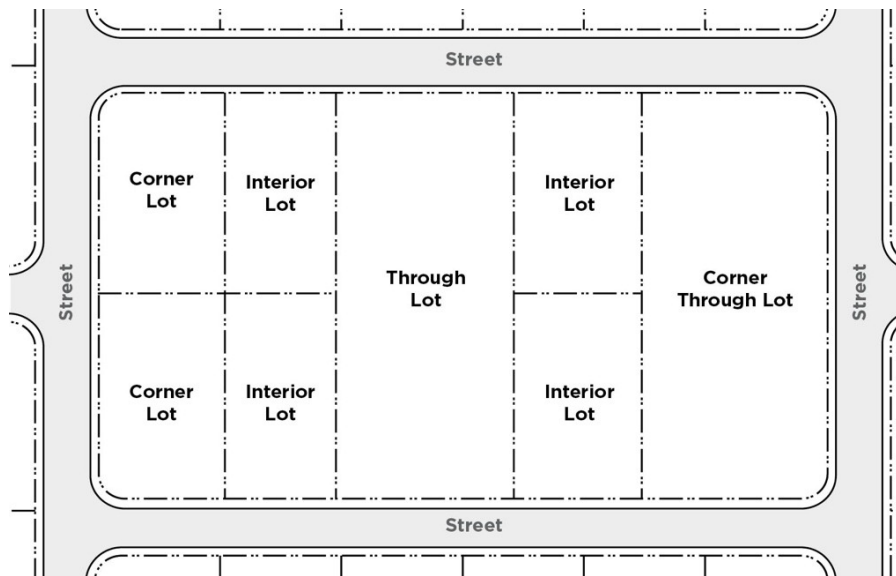


**Loading Space.** An unobstructed area, not located within the public right-of-way, maintained for the temporary parking of trucks and other delivery vehicles for the purpose of loading and unloading goods, wares, materials, and merchandise.

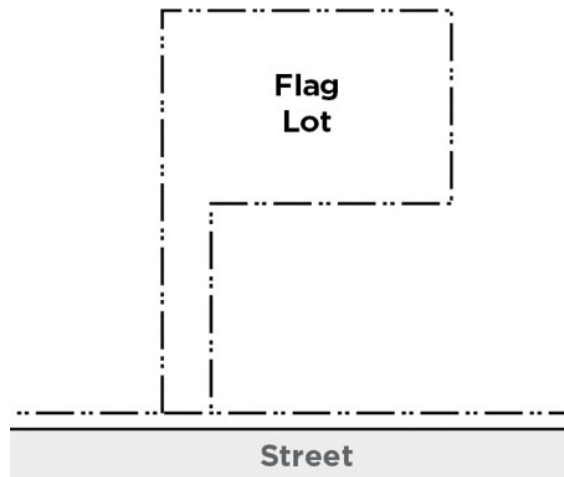
**Lot.** Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries, which have been established through some legal instrument such as a recorded deed or map. A lot may be established as distinct from other lots which are designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit. Lots are also referred to as parcels. The following defines the types of lot configurations:

1. **Interior Lot.** A lot other than a corner or through lot, bounded by two interior side lot lines.
2. **Corner Lot.** A lot situated at the junction of, and abutting on, two or more intersecting streets.
3. **Through Lot.** A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot. A through lot is also called a double frontage lot or reverse frontage lot.
4. **Corner Through Lot.** A lot which fronts upon three streets of which two streets do not intersect at the boundaries of the lot.
5. **Flag Lot.** A lot platted so that the main building site area (the "flag") is set back from the street on which it fronts and includes an access strip (the "pole") connecting the main building site with the street.

## LOT TYPES



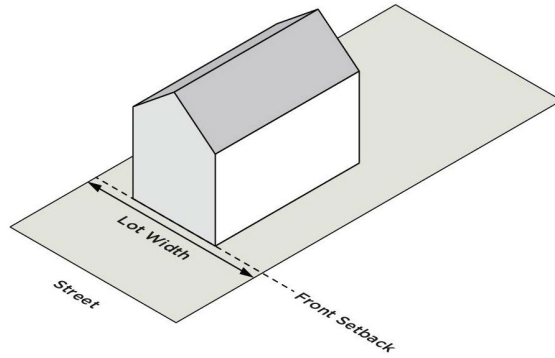
## FLAG LOT



**Lot Area.** The total area within the boundaries of a lot, excluding any street or railroad right-of-way, usually defined in square footage. For lots located on an existing publicly maintained street that do not have any record of right-of-way dedication, the lot area is the total area within the boundaries of the lot minus the area within the maintained street.

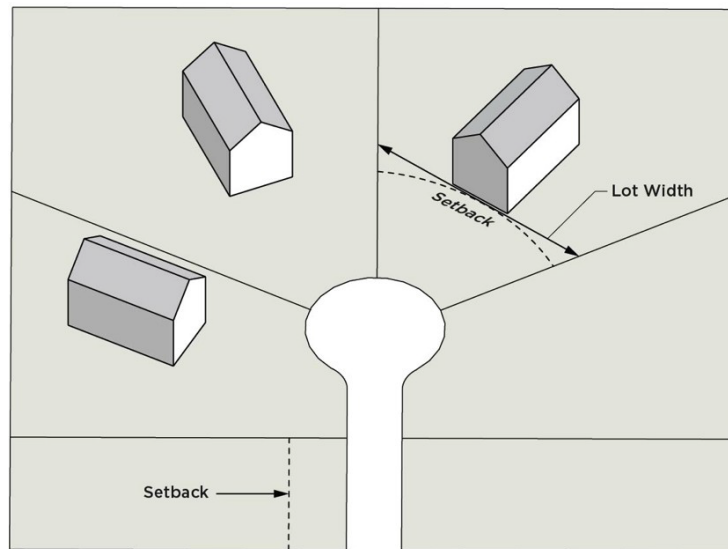
**Lot Width.** The distance between the side lot lines measured along the setback line as established by this Ordinance, unless one of the following conditions apply:

## LOT WIDTH



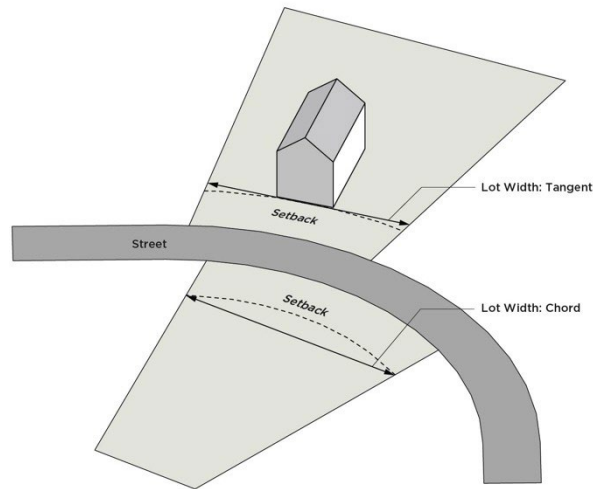
1. For cul-de-sac lots, along the turnaround portion of a cul-de-sac street, the distance between the side lot lines measured along a setback line shown on a duly recorded plat when the setback line on the plat is greater than the setback required by this Ordinance; or

## LOT WIDTH ALTERNATIVE (ITEM 1)



2. On lots located on the outside curve of a street, the lot width shall be measured along a line tangent to the midpoint of the setback projected to the side lot lines. On lots located on the inside curve of a street, the lot width shall be measured along the chord of the setback arc where it intersects the side lot lines.

## LOT WIDTH ALTERNATIVE (ITEM 2)



**Lot Line.** A line dividing one lot from another lot or from a street or alley.

**Low Impact Development (LID).** The integration of site ecology and environmental goals and requirements into all phases of urban planning and design from the individual residential lot level to the entire watershed.

**Luminaire.** A complete lighting unit for the purpose of generating usable and controllable light that is comprised of one or more lamps, parts designed to distribute the light, parts used to position and protect the light source, and a means to connect the light source(s) to an electrical supply.

**Manufactured Home Stand.** The area of a manufactured home site that has been reserved for the placement of a manufactured home.

**Marquee.** A permanent roof-like structure constructed of permanent building materials that extends from the wall of a structure with no supports extending to the ground providing protection from the elements.

**Mass.** The size or physical bulk of a building.

**Master Plan.** A long-term plan that provides a conceptual layout to guide future growth and development.

**Mean Sea Level.** The National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on the Flood Insurance Rate Maps for Mecklenburg County are referenced.

**Mechanical Equipment.** Equipment related to the operation of a structure, such as, but not limited to, heating, ventilation, and air conditioning (HVAC) equipment, personal electrical generators, and swimming pool pumps and filters. Mechanical equipment does not include accessory utility equipment.

**Mixed-Use Building.** A building that contains both nonresidential and residential uses.

**Modular Home.** A method of construction for residential dwellings. Modular homes are built in multiple sections, called modules, at a facility and then delivered to the site where the modules are set onto the building's foundation and joined together to make a single building. Modular buildings and modular homes shall conform to all zoning requirements for the dwelling type and shall meet all local and state residential building code requirements.



**Mullion.** A vertical or horizontal element that forms a division between units of a window or screen or is used decoratively. When dividing adjacent window units, its primary purpose is a rigid support to the glazing of the window.

**Multi-Tenant Nonresidential Development.** A development under unified control that contains multiple separate businesses, offices, light manufacturing facilities, and research uses, and may include accessory and supporting uses, that is designed, planned, and constructed on an integrated and coordinated basis. Examples include, but are not limited to, research parks, office parks, industrial parks, or a combination of such uses.

**Multi-Use Development.** A development site of more than one building that contains a mix of nonresidential and residential buildings, some or all of which may be mixed-use buildings as well.

**Multi-Use Path.** A pathway serving both pedestrians and bicyclists located in an independent off-street alignment.

**Nadir (Lighting).** The angle pointing directly downward from the luminaire.

**NCDOT.** North Carolina Department of Transportation.

**Nit.** A unit of measurement of the intensity of visible light, where one nit is equal to one candela per square meter.

**Noncommercial Message.** Messages and emblems that do not function to direct attention to or promote a business, product, service, event, or activity, either on-site or off-site. Examples of noncommercial messages include, but are not limited to, signs advocating a public issue, recommending a candidate for office, and personal messages.

**Nonconforming Lot.** Any lawfully existing lot on the effective date (June 1, 2023) of these regulations, or any subsequent amendment thereto, which does not meet the minimum area or width requirements established by these regulations.

**Nonconforming Sign.** Any lawfully existing sign on the effective date (June 1, 2023) of these regulations, or any subsequent amendment thereto, which does not comply with the Ordinance regulations.

**Nonconforming Structure.** Any lawfully existing structure on the effective date (June 1, 2023) of these regulations, or any subsequent amendment thereto, which does not comply with the Ordinance regulations.

**Nonconforming Use.** Any lawfully existing use of a building, structure, or land on the effective date (June 1, 2023) of these regulations, or any subsequent amendment thereto, which does not comply with the Ordinance regulations.

**Non-Point Source (NPS) Pollution.** Forms of pollution caused by sediment, nutrients, organic and toxic substances originating from land use activities and carried to lakes and streams by surface runoff.

**Nonresidential Development.** All development other than residential development, agriculture, and silviculture.

**Off-Street Public Path.** A pathway typically shared by pedestrians and bicyclists which is located outside of the street right-of-way, but within a public right-of-way or easement, including, as applied in this Ordinance, greenways, transit trails, off-street trail connections, and bicycle and pedestrian connections.

**Off-Street Trail Connections.** A publicly accessible trail connection from a public or network-required private street to a park or off-street public path.

**Open Space.** Land and water areas designed and reserved for use as active or passive recreation areas.

1. **Open Space, Common.** Open space maintained for the shared use of the residents and/or tenants of the development
2. **Open Space, Public.** Open space maintained for the use of the general public. Public open space may include parks, plazas, and public seating areas.

**3. Open Space, Private.** Open space reserved for the sole use of the resident of the associated dwelling unit and/or tenant of the associated tenant space.

**Paper Street.** A right-of-way, no less than 30 feet in width, for a street offered for dedication on a final recorded plat which has not been constructed or accepted by the city for maintenance.

**Parapet.** The extension of the main wall or walls of a building above the roof level. Also called a parapet wall.

**Parcel.** See "Lot."

**Parkway.** Streets with the primary function of moving large volumes of motor vehicles efficiently from one part of the city to another. They are designed to serve high traffic volumes at relatively high speeds and typically have very limited direct access to land uses.

**Partial Street.** A street that lies along a property line between two properties and is partially improved on only one of the properties at a time.

**Patio.** A hard surface that adjoins a principal structure designed and intended for dining or recreation and not used as a parking space. Patios are constructed such that its finished walking surface is laid or poured directly on finished grade.

**Pedestrian.** Anyone who travels on foot as well as those with disabilities who require assistive devices.

**Pedestrian and Bicycle Connection.** A paved shared-use facility connecting a cul-de-sac to a street, off-street public path, or park.

**Pedestrian Facilities.** Sidewalks, shared use paths, and similar facilities intended for pedestrian mobility.

**Pennant.** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind. Streamers are considered pennants.

**Permanent Enclosed Area.** An area that is structurally enclosed by a solid floor constructed of subfloor and foundation, ceiling, and solid walls, which may have partitions and/or windows.

**Person(s).** An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

**Phase of Grading.** One of two types of grading: rough or fine.

**Place Types.** Place Types are a classification system that provides guidance on the land uses, transportation amenities, and building form that is appropriate for an area, as set forth in the Charlotte Future 2040 Comprehensive Plan. The Charlotte Future 2040 Policy Map assigns a Place Type designation to each property in the City's jurisdiction.

**Planning Commission.** The Charlotte-Mecklenburg Planning Commission, including any duly appointed committee of that body provided for and authorized to act for the whole Planning Commission by the Interlocal Cooperation Agreement of July 2, 1984, as may be amended.

**Planning Director.** The Director of Charlotte Planning, Design, and Development Department, which may include their designee in administration of the Ordinance.

**Planting Area.** Ground surface free of built upon area and/or paved material which is reserved for required tree planting.

**Planting Strip.** Ground surface free of built upon area and/or paved material, located between the back of curb and the sidewalk or shared use path. Planting strips typically include perimeter trees and other plantings.

**Porch.** An architectural feature that projects from the exterior wall of a structure and is covered by a roof or eaves.

1. **Porch, Enclosed.** A porch enclosed by walls, screens, lattice, or other material. A screened-in porch is an enclosed porch.
2. **Porch, Unenclosed.** A porch that is open on all sides that do not abut a principal building wall.

**Portable Sign Structure.** A sign structure that is intended, by design and construction, to rest upon and/or be supported by the ground and can be moved and reused. Portable sign structures include, but are not limited to, signs mounted upon a trailer, wheeled carrier, or other non-motorized mobile structure, with wheels or without wheels. Portable sign structures do not include A-frame or temporary off-premises advertising signs.

**Porte Cochere.** A permanent structure built over a driveway or entry drive that provides temporary shelter to persons exiting a vehicle.

**Prescribed Conditions.** Standards for a principal, accessory, or temporary use, typically used to mitigate impacts of such use on adjacent areas.

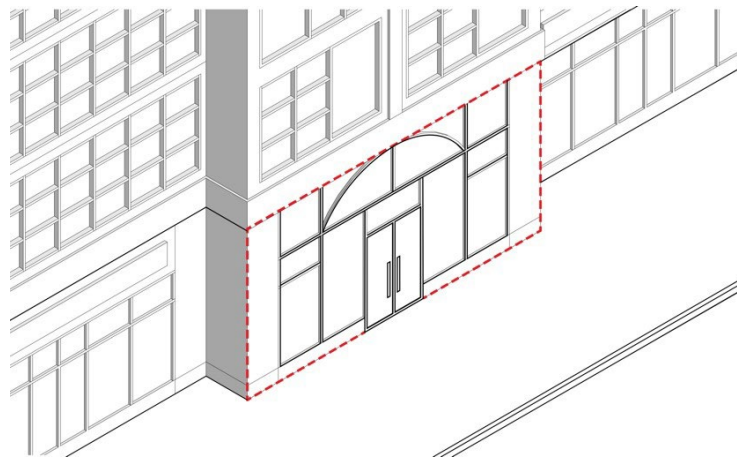
**Principal Building or Structure.** A building or structure containing the primary use of the lot.

**Primary Pedestrian Entrance.** The main public entrance to a building for commercial, industrial, mixed-use, public, and institutional uses. For residential buildings, the primary pedestrian entrance is the front door. For multi-family buildings in which each unit does not have its own exterior entrance, the primary pedestrian entrance may be a lobby, courtyard, etc.

**Prominent Entrance.** A building entrance that is visually distinctive from the remaining portions of the facade where it is located and is parallel and directly connected to adjacent pedestrian facilities.

1. For nonresidential, mixed-use, and multi-family stacked units, entrances that contain at least three of the following are considered a prominent entrance: decorative pedestrian lighting/sconces; architectural details carried through to upper stories; covered porches, canopies, awnings, or sunshades; archways; transom or sidelight windows; terraced or raised planters; common outdoor seating enhanced with specialty details, paving, landscaping, or water features; double doors; stoops or stairs.
2. For multi-family attached units, entrances that contain one or more of the following features are considered a prominent entrance: porches, raised steps and stoops with or without roof overhangs, decorative railings.

#### PROMINENT ENTRANCE



**Property.** All real property subject to land-use regulation by the City and County. The term includes any improvements or structures customarily regarded as a part of real property.

**Property Owner, Landowner, or Owner.** The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the Mecklenburg County tax abstract to determine who is a property owner.

**Protected Area.** The area adjoining and upstream of the Critical Areas of water supply watersheds where risk of water quality degradation from pollution, while still greater than non-watershed designated areas, is less than in the Critical Areas.

**Public Path.** A constructed pathway used for recreation and pedestrian and/or bicycle traffic. A public path includes a transit trail, a shared used path, and a greenway trail.

**Pump Island.** The elevated concrete platform on which fuel dispensing pumps are located.

**Quasi-Judicial Decision.** A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation.

**Rapid Transit Corridor.** A typically linear area that is reserved for rapid transit infrastructure.

**Rapid Transit Station.** The designated stations where passengers embark and disembark along a rapid rail line or a bus rapid transit stop.

**Recycling Station.** The area designated for the collection and temporary storage of recyclables.

**Reservation.** The process of reserving land for the potential use by the City, County, or other agency for streets, transit lines, greenways, or other public facilities.

**Retail and Shipping Service Lockers.** A secure, self-service kiosk, not regulated by the USPS, for customers to receive packages.

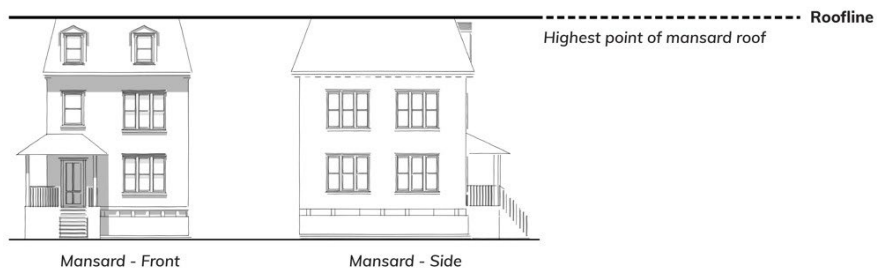
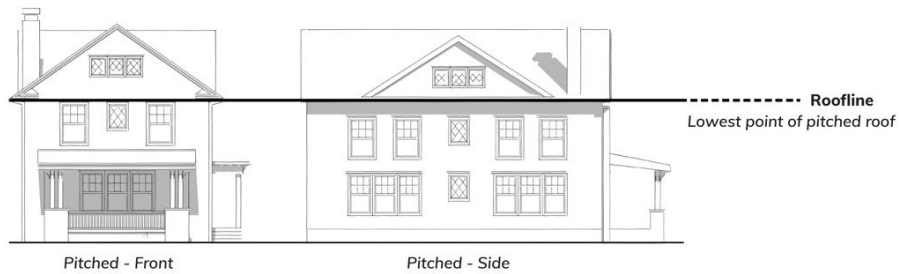
**Retail Center.** A commercial development under unified control consisting of three or more separate retail goods establishments, personal service establishments, restaurants/bars, offices, and amusement facilities, that is designed, planned, and constructed on an integrated and coordinated basis. Also called a shopping center.

**Reuse.** The occupancy of a pre-existing structure for an active use. Reuse may include the rehabilitation or modification of an existing structure to serve the needs of a new use.

**Right-of-Way.** the area on, below, and above an existing or proposed public roadway, highway, street, bicycle lane, sidewalk, or similar facility, and associated adjacent land that is dedicated or otherwise legally established for public use.

**Roofline.** The highest point of a flat roof and mansard roof, and the lowest point of a pitched roof, excluding any cupolas, chimneys, or other minor projections.

## ROOFLINE



**Satellite Dish.** A dish antenna designed for transmitting signals to a receiver or receiving station or for receiving television, radio, data, communication, or other signals from other antennas, satellites, or other services.

**Screening.** A fence, wall, hedge, landscaping, earth berm, buffer area or any combination of these provided to create a visual and/or physical separation between certain land uses. Screening may be located on the property line or elsewhere on the site.

**Searchlight.** An attention-getting device where an artificial light of high intensity is shined upward in a focused beam and can turn in any direction to attract attention to a location. Also known as sky-beams or sky spotlights

**Security Gate(s).** Gates located at the entry to a lot or development, where access is controlled by automatic gate openers, a manned guard station, or similar means.

**Sediment.** Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

**Sedimentation.** The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land disturbing activity or into a wetland, lake, or watercourse.

**Separation.** When principal uses are required to be measured a certain distance from another use or district, the distance measured, in a straight line, from the nearest point of the lot line on which such principal use is proposed to be located to the nearest point on the lot line where the other use or district is located, unless otherwise specifically required to be measured differently by this Ordinance.

**Septic System.** A ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field.

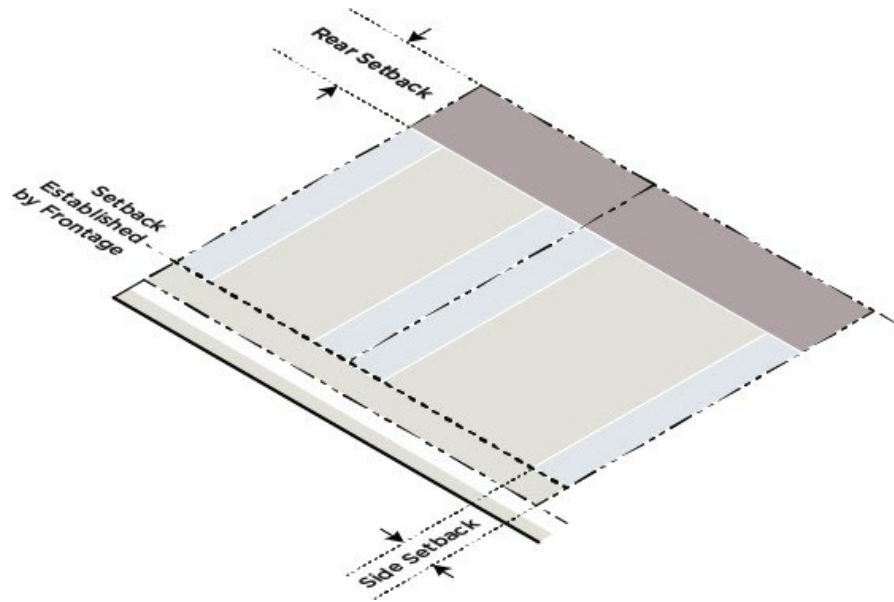
**Setback.** The minimum dimension a structure may be located as measured from a curb line, lot line, right-of-way line, or other point set by the Ordinance, along frontages and side and rear lot lines. Principal buildings, parking and maneuvering areas, accessory structures, and other site elements are generally not allowed to locate unless specifically permitted by the Ordinance. A setback shall be located at or behind the required pedestrian/bicycle facilities and planting strip/amenity zone.

1. A rear setback is a required setback located along the rear lot line dividing the lot from another lot. On a corner lot, the location of side and rear setbacks shall be determined by the property owner.
  - a. A rear setback may be measured as a radius from the furthest property corner from the frontage in either of the following conditions:
    - i. The lot is an interior lot that is triangular in shape.
    - ii. One side of the lot has an interior angle of at least 135 degrees and acts as an extension of the side setback.
2. A side setback is a required setback located along a side lot line(s) that divides the lot from another lot. On a corner lot, the location of side and rear setbacks shall be determined by the property owner.
3. A front setback is a required setback located along the lot line dividing the lot from the right-of-way. On a corner lot, where required setbacks are not established by a frontage, the front setback is along the narrower frontage.
  - a. For flag lots, the front setback is measured from the rear lot line of the lot that separates the flag portion of the lot from the street.
4. A corner side setback is a required setback for corner lots where required setbacks are not established by a frontage. A corner side setback is located along the lot line dividing the lot from the right-of-way along the longer frontage.
5. On a through lot, where required setbacks are not established by a frontage, both setbacks along a street shall be considered front setbacks.
6. On a corner through lot, where required setbacks are not established by a frontage, the front setback requirement for the district shall be applied to the two opposing street fronts and the third street front shall be considered a corner side setback.
7. Measurement of setbacks shall be as follows:
  - a. The setback on frontages is measured from the future back of curb at the outermost point from the centerline, unless otherwise specified by this Ordinance.
  - b. The setback on non-street frontages (transit stations, off-street public paths, public parks, and other publicly-owned open spaces) shall be measured from a property line or right-of-way line.

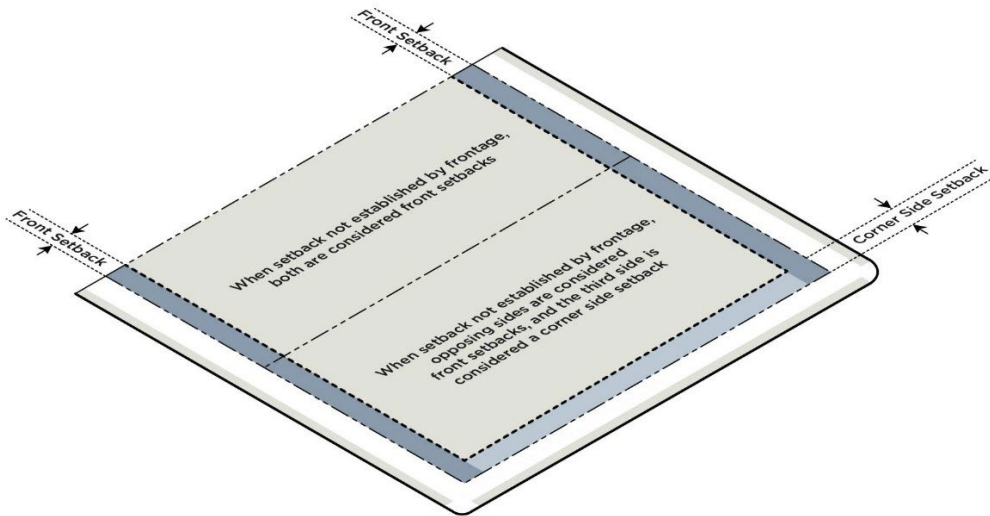
**Setback, Established.** An established setback is the area between the curb line, lot line, or other point set by the Ordinance and the building line of a principal building or structure.

**Setback, Required.** See "Setback."

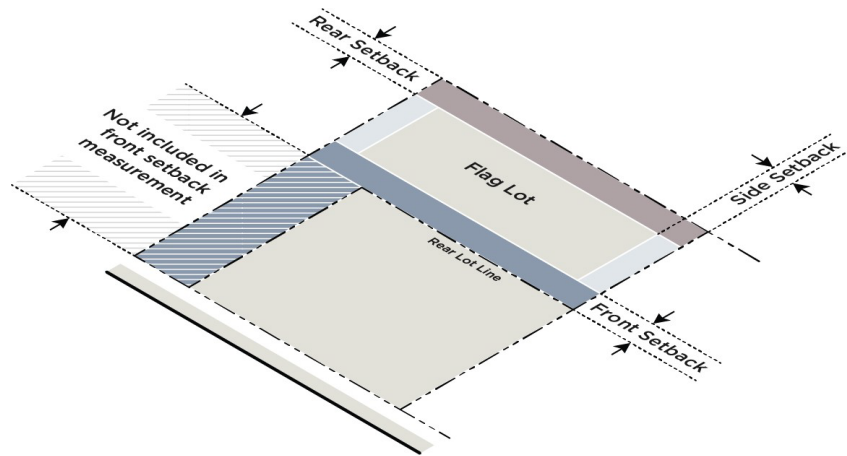
## SETBACK



## SETBACK - THROUGH LOT



## SETBACK – FLAG LOT



**Setback Line.** See “Setback.”

**Service Area.** Those areas on a site reserved for building services, such as solid waste storage and collection areas.

**Shadowbox.** Shadowbox design within display windows, where the window display is designed with a background enclosure against which signs are mounted to block views into the establishment, is considered a window sign and the entire area of the shadowbox is subject to the maximum sign area limitation.

**Shared-Use Path.** A pathway serving both pedestrians and bicyclists located along a street, between the curb and adjacent development.

**Sidewall.** A wall that forms the side of a structure.

**Sidewalk.** An improved pedestrian facility located within public right of way, an easement, or on private property. Public sidewalks located along a street are typically separated from the street by a planting strip or amenity zone.

**Sight Distance.** The length of street visible to the driver who is traveling along the street or waiting to enter or cross the street.

**Sign.** A structure, device, or object using words, letters, figures, designs, emblems, symbols, fixtures, colors, illumination, and/or projected images. The terms below are types of signs referenced in the sign regulations.

1. **Sign, A-Frame.** A temporary sign ordinarily in the shape of the letter “A” or some variation thereof, which is displayed on the ground, not permanently attached to the ground, and usually two-sided, generally connected at the top and separated at the bottom.
2. **Sign, Accessory Use.** A sign for a use which is customarily or typically subordinate to and serving a principal use.
3. **Sign, Animated.** A sign that uses moving or changing lights to depict action, movement, or the optical illusion of movement of part of the sign structure, sign, or pictorial segment, or including the movement of any illumination or the flashing or varying of light intensity to create a special effect or scene.
4. **Sign, Awning.** A sign printed or displayed upon an awning.
5. **Sign, Balloon.** A sign or advertising device designed to be airborne or inflated and tethered to the ground or other structure. This includes any air-inflated signs and any signs that inflate and move via air inflation.



- 6. Sign, Canopy.** A sign printed or displayed upon a canopy.
- 7. Sign, Decorative.** A pictorial representation, including illustrations, words, numbers, or decorations; emblem; flag; banner; pennant, that promotes or celebrates the city, its neighborhoods, civic institutions, or public activities or events in the city. Decorative signs may either be designed and displayed by the city directly or may be donated to the city on a permanent basis or for a limited period of time.
- 8. Sign, Drive-Through.** A ground sign constructed along drive-through lanes for drive-through facilities. A drive-through sign does not include parking lot, parking structure, and site circulation signs.
- 9. Sign, Electronic.** A sign designed where a portion of the sign area uses changing light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the electronic display panel to display a message or messages in text and/or image from where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs are not considered electronic message signs. Electronic outdoor advertising signs are not considered electronic signs and are regulated separately.
- 10. Sign, Flashing.** A sign with an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic signs or video display screens.
- 11. Sign, Government.** Any temporary or permanent sign erected by and maintained for any governmental purposes.
- 12. Sign, Ground.** A sign that is placed on and/or supported by the ground, independent of a structure on the lot.
- 13. Sign, Historic.** A historically significant sign, as designated by the criteria and process of Section 22.11.D, that has been moved from its original location to be reused on another site to promote the protection of nonconforming signs that represent important aspects of the City's heritage, to enhance the character of the community by considering such signs during development, and to assist owner(s) in the preservation and restoration of their signs.
- 14. Sign, Landmark.** A landmark sign is a historically significant sign, as designated by the criteria and process of Section 22.11.D, that is allowed to be restored and retained on-premise to promote the protection of nonconforming signs that represent important aspects of the City's heritage, to enhance the character of the community by considering such signs during development, and to assist owner(s) in the preservation and restoration of their signs.
- 15. Sign, Marquee.** A sign printed or displayed upon a marquee.
- 16. Sign, Monument.** A sign that is placed on or supported by the ground, independent of a structure on the lot, that has a greater width than height. Monument signs may be designed with a solid base or with two columns on either side supporting a sign face, where there is no more than 12 inches from the ground to the bottom of the suspended sign face.
- 17. Sign, Moving.** A sign where all or a portion of the sign and/or sign structure rotates, revolves, moves, elevates, or in any way alters position or geometry. This includes any sign that gives the appearance of movement, including signs designed to be moved by wind or other natural elements.
- 18. Sign, Off-Premise Advertising.** A sign directing attention to or promoting a business, product, service, event, or activity that is not sold, produced, manufactured, furnished, or conducted at the site upon which the sign is located.
- a. Outdoor Advertising Sign.** A permanent sign directing attention to or promoting a business, product, service, event, or activity that is not sold, produced, manufactured, furnished, or conducted at the site upon which the sign is located. Outdoor advertising signs may be static or electronic. Also known as a billboard or a permanent off-premise advertising sign.

**b. Temporary Off-Premise Advertising Sign.** A temporary sign directing attention to or promoting a business, product, service, event, or activity that is not sold, produced, manufactured, furnished, or conducted at the site upon which the sign is located. A temporary off-premise advertising sign is intended for display for a short period of time, is not permanently mounted or installed on-site, and typically cannot be reused. Temporary off-premise advertising signs are usually constructed of light materials such as cardboard or vinyl.

**19. Sign, On-Premise Advertising.** A sign directing attention to or promoting a business, service, or activity that is furnished, or conducted at the site upon which the sign is located.

**20. Sign, Pole.** A detached sign erected and maintained on a freestanding frame, mast, or pole and not attached to any building.

**21. Sign, Projecting.** A sign that is attached to a rigid structure that extends more than 18 inches beyond the surface of the structure to which it is attached.

**22. Sign, Rider.** A smaller additional temporary sign attached to the main temporary sign to provide limited additional information.

**23. Sign, Roof.** A sign that is installed on the roof structure of any building with the principal support attached to the roof structure.

**24. Sign, Skyline.** A sign attached to the topmost band or bands of the building facade.

**25. Sign, Temporary Outdoor Sales.** A sign for displays of temporary outdoor retail sales.

**26. Sign, Vehicle.** A sign that is attached to or painted on a vehicle. This definition does not include signs painted on or applied to vehicles, trucks, or buses that are being operated and stored in the normal course of business, such as signs located on delivery trucks, moving vans, trailers, and rental trucks, provided that they are parked or stored in areas related to their use as business vehicles and that all such vehicles are in operable condition.

**27. Sign, Wall.** A sign that is attached directly to an exterior wall of a building or dependent upon a building for support and projects 18 inches or less from the wall of a structure with the exposed face of the sign in a plane substantially parallel to the face of the wall. Window signs, roof signs, and skyline signs are not considered wall signs. Painted and projected wall signs are types of wall signs but regulated separately by Article 22.

**a. Sign, Wall – Painted.** A sign that is painted, applied, or affixed directly on the exterior wall of a building or structure. A painted wall sign is not limited to only the application of paint but includes other methods of application and/or material, including, but not limited to tiles or screen printing.

**b. Sign, Wall – Projected.** A sign that is projected by an optical device that projects an image directly onto the exterior wall of a building or structure by light or other technological means.

**28. Sign, Window.** A sign that is attached to, placed upon, or printed on the interior or exterior of a window or door of a building, or displayed on the interior within two feet of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary.

**Sign Cabinet.** A type of wall-mounted sign constructed as within a box where the flat sign face is not an integral part of the structure and is specifically constructed to allow the sign face to be changed without any alteration to the box structure.

**Sign Face.** The area of a sign on which copy is intended to be placed.

**Sill.** A shelf or slab of stone, wood, or metal at the base of a window on a building facade.

**Site.** All contiguous or adjacent land and bodies of water being disturbed, developed, or planned to be disturbed or developed as a unit, regardless of ownership. Site is also referred to as tract or development site.

**Site Plan.** A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

**Solar Panel.** An energy system that uses the power of the sun to capture, store, and transmit energy.

**Solid Waste.** Any hazardous or non-hazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, agricultural, and land clearing operations. This term does not include the following:

1. Fowl and animal fecal waste.
2. Solid or dissolved material in any of the following:
  - a. Domestic sewage and sludge generated by the treatment thereof in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharge effluents to the surface waters.
  - b. Irrigation return flows.
  - c. Wastewater discharges and the sludge incidental thereto and generated by the treatment thereof which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 et seq.) and permits granted under N.C.G.S. § 143-215.1 by the Environmental Management Commission.
3. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the N.C.G.S.
4. Any radioactive material as defined by the North Carolina Radiation Protection Act (N.C.G.S. § 104E-1 through 104E-23).
5. Mining refuse covered by the North Carolina Mining Act (G.S. 74-46 through 74-68) and regulated by the North Carolina Mining Commission (as defined under N.C.G.S. § 143B-290).

**Specimen Tree.** A tree or group of trees considered to be an important community asset due to its unique or noteworthy characteristics or values. A tree may be considered a specimen tree based on its size, age, rarity or special historical or ecological significance as determined by the City. Examples include large hardwoods (e.g., oaks, poplars, maples, etc.) and softwoods (e.g., pine species) in good or better condition with a DBH of 20 inches or greater, and smaller understory trees (e.g., dogwoods, redbuds, sourwoods, persimmons, etc.) in good or better condition with a DBH of ten inches or greater.

**State Watershed Standard.** A quality standard for an applicable watershed classification as established by the North Carolina Environmental Management Commission.

**Steep Slope.** Areas that exceed a certain percent land inclination as specified within the article where the term is used.

**Stoop.** An exterior floor typically constructed of stone, concrete, and/or masonry, with a finished floor elevation higher than the adjacent ground level, often with steps leading up to it, and utilized primarily as an access platform to a structure. A stoop may be roofed and designed with railings but cannot be enclosed.

**Storm Drainage.** The natural and manmade network, of structures, channels, and underground pipes that convey stormwater to local creeks, streams, and rivers.

**Storm Drainage Facility.** The system of inlets, conduits, channels, ditches, and appurtenances that serve to collect and convey stormwater through and from a given drainage area.

**Stormwater Control Measure (SCM).** Also known as "Best Management Practice" or "BMP", a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

**Stormwater Runoff.** The direct runoff of water resulting from precipitation in any form.

**Stream.** A channel on the land surface for conveying water.

**Stream, Perennial.** A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. Such streams are defined by a certified professional using U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology and shall be confirmed (as needed) by Charlotte-Mecklenburg Storm Water Services.

**Street, Network Required.** Any public or private street intended to meet the connectivity standards as required by the Subdivision, Streets, and Other Infrastructure Articles of this Ordinance and constructed to the applicable standards of the Charlotte Land Development Standards Manual (CLDSM).

**Street, Non-Network Required Private.** An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to private buildings or land uses, to parking and service areas and which is not maintained by the public, as described in the Charlotte Land Development Standards Manual (CLDSM), and which is privately maintained. See 11.13 of the CLDSM.

**Street, Public.** A street accepted by or offered for maintenance to the City or North Carolina Department of Transportation (NCDOT). This may include a public right-of-way or fee simple tract of land not less than 30 feet in width, set aside for public travel, which has been established prior to the effective date of this ordinance, or has been dedicated or offered for dedication to the City of Charlotte or the State of North Carolina for public travel by the recording of a subdivision plat.

**Street Classifications.** (See definitions below)

**1. Arterial Streets.** Streets that are moderate to high-volume surface streets (not including freeways or interstates) that provide for both short distance and city-wide travel. Arterials are shown on the Charlotte Streets Map as Main Streets, Avenues, Boulevards, or Parkways. They are shown on the Charlotte Region Transportation Planning Organization (CRTPO) Comprehensive Transportation Plan (CTP) as Minor Thoroughfares, Other Major Thoroughfares, and Boulevards.

**2. Avenue.** Arterial streets that serve a diverse set of functions in a wide variety of land use contexts and provide a balance of service for all modes of transportation. They provide access from neighborhoods to commercial areas, between areas of the city and, in some cases, through neighborhoods.

- a. **2 Lane Avenue.** Avenues with two travel lanes and no center space.
- b. **2 or more Lane Avenue.** Avenues with two travel lanes and center space.
- c. **3 Lane Avenue.** Avenues with three travel lanes and no center space.
- d. **4 Lane Avenue.** Avenues with four travel lanes and no center space.
- e. **4 or more Lane Avenue.** Avenues with four travel lanes and center space.
- f. **5 Lane Avenue.** Avenues with five travel lanes and no center space.
- g. **6 or more Lane Avenue.** Avenues with six travel lanes and center space.

**3. Boulevard.** Streets that are intended to move large numbers of vehicles, often as "through traffic," from one part of the city to another and to other lower level streets in the network. Modal priority on boulevards shifts somewhat towards motor vehicles while still accommodating pedestrians and cyclists as safely and comfortably as possible. All boulevards include center space, typically designed as continuous planted medians.

- a. **4 or more Lane Boulevard.** Boulevards with 4 travel lanes and center space.

- b. **5 or more Lane Boulevard.** Boulevards with 5 travel lanes and center space.
  - c. **6 or more Lane Boulevard.** Boulevards with six travel lanes and center space.
  - d. **6 or more or More Lane Boulevard.** Boulevards with more than six travel lanes and center space.
- 4. Collector Street.** Streets that collect traffic from local streets and other collectors and distribute the traffic to higher volume streets and roads.
- 5. Limited Access Roads.** An interstate or freeway designed for high-speed traffic which has limited or no access to adjacent property, and typically includes a high degree of separation of opposing traffic flows.
- 6. Local Street.** A street that provides access to residential, industrial, or commercial districts, as well as to mixed use areas and that is not designated as a collector, arterial, or limited access roadway.
- a. **Local Residential Medium Street.** One of two local street cross-sections typically used for residential land uses, constructed to the width as prescribed by the Charlotte Land Development Standards Manual (CLDSM).
  - b. **Local Residential Wide Street.** One of two local street cross-sections typically used for residential land uses, constructed to the width as prescribed by the CLDSM, to include on-street parking.
  - c. **Local Office Commercial Narrow Street.** One of two local street cross-sections typically used for non-residential land uses, constructed to the width as prescribed by the CLDSM.
  - d. **Local Office Commercial Wide Street.** One of two local street cross-sections typically used for non-residential land uses, constructed to the width as prescribed by the CLDSM, to include on-street parking.
  - e. **Local Industrial Street.** A local street cross-section typically used for industrial land uses, constructed to the width as prescribed by the CLDSM.
- 7. Main Street.** Destination streets that provide access to and function as centers of civic, social, and commercial activity. They are designed to provide the highest level of comfort, security, and access for pedestrians.
- 8. Parkway.** Streets with the primary function of moving large volumes of motor vehicles efficiently from one part of the city to another. They are designed to serve high traffic volumes at relatively high speeds and typically have very limited direct access to land uses.
- 9. Uptown Streets.** A subset of the City-wide Charlotte Streets Map, with classifications applied to streets inside I-277.
- a. **Uptown Signature Street.** Streets that form the spine of the Uptown street network and support major activity corridors.
  - b. **Uptown Primary Street.** Streets that connect subareas, activity centers and transit stations or transit stops to the Signature streets.
  - c. **Uptown Secondary Street.** All other non-local streets which serve the sub-areas of Uptown and link to the Primary and Signature streets.
  - d. **Linear Park.** Sub-category of Signature Streets with enhanced streetscape width.

**Street Furnishings.** Physical features included as part of the streetscape, e.g., benches, bike racks, lighting, trash receptacles, and banners.

**Street Line.** The boundary of a street right-of-way.

**Streetcar.** A rail vehicle which runs on tramway tracks along streets.

**Streetcar Stop.** The designated stops where passengers embark and disembark along the streetcar line.

**Streetscape.** The area within a public or private street right-of-way that contains sidewalks, landscape or trees, street furniture, and similar features.

**Strobe Light.** A device used to produce flashes of light in regular intervals.

**Structure.** Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. Structure also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and other accessory construction.

**Stub Street.** A street that is designed to extend to the property line with a temporary barricade and has the intent to be extended to provide for future access and connectivity.

**Sublot.** A platted parcel of land which is a divided unit of a lot for the development of a duplex, triplex, quadraplex, or townhouse dwelling and associated land.

**Subdivision.** Divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets. Exceptions to this definition of subdivision are specified in Section 30.3.B.

**Subsidiary.** An affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

**Sunshade.** A projection extending from the sun-side facade of a building that reduces heat gain by deflecting sunlight.

**Tasting Room.** A designated area of a micro-brewery, micro-winery, or micro-distillery, located on the premises of the production facilities, where guests may sample the beer, wine, and spirits made on-site.

**10-Year Storm.** A rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

**Thoroughfare Plan.** The most recent Map approved by the Charlotte Regional Transportation Planning Organization (CRTPO) which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation.

**Tolled.** To postpone or suspend the running of a time period.

**Top of Bank.** The landward edge of the stream during high water or bank full conditions at the point where the water begins to overflow onto the floodplain.

**Topping.** Any pruning practices that result in more than one-third of the foliage and limbs being removed. This includes pruning that leads to the disfigurement of the normal shape of the tree.

**Topsoil.** Natural, fertile soil capable of sustaining vigorous plant growth that is of uniform composition throughout with an admixture of subsoil, has an acidity range of pH 5.5-7.0.

**Total Phosphorus (TP).** A nutrient that is essential to the growth of organisms but when it occurs in high enough concentrations it can negatively impact water quality conditions. Total phosphorus includes both dissolved and suspended forms of reactive phosphorus, acid hydrolysable phosphorus and organic phosphorus as measured by Standard Method 4500-P.

**Total Suspended Solids (TSS).** Total suspended matter in water which includes particles collected on a filter with a pore size of two microns as measured by Standard Method 2540-D, which is commonly expressed as a concentration in terms of milligrams per liter (mg/l) or parts per million (ppm).

**Tract.** See "Site."

**Traffic Calming.** A measure (or measures) that reduce(s) vehicle speeds.

**Transit Corridor.** A typically linear area that is defined by and accommodates one or more modes of fixed-guideway transit such as light rail, bus rapid transit, commuter rail, or streetcar.

**Transit Trail.** A multi-use trail located adjacent to a rapid transit line

**Transparency.** The required amount of window area as a percentage of the specified facade area. Doors are included in ground floor transparency when such doors are designed with glass or other transparent materials. Garage entrances shall not be included in ground floor transparency.

1. To qualify as transparent for the calculation, the glazing shall meet the following standards:
  - a. Glazing shall have a minimum of 40% VLT and no more than 15% VLR.
  - b. The following do not meet the ground floor or upper floor transparency requirements and do not count in meeting the standard:
    - i. Windows with shadowboxes on the interior
    - ii. Glass block
    - iii. Printed window film, regardless of whether it allows views into or out of the building.
2. Visible Light Transmittance (VLT) and Visible Light Reflectance (VLR) are defined as
  - a. Visible Light Reflectance (VLR): The amount of visible light that is reflected out by a glazing system. A high VLR percentage blocks more daylight from passing through the window.
  - b. Visible Light Transmission (VLT): The amount of light (daylight) that travels through a glazing system. A high VLT percentage allows more daylight to pass through.

### TRANSPARENCY



**Transportation Adjustments.** The ability, upon demonstration to the City of eligibility, to modify certain select Subdivision, Streets, and Other Infrastructure (SSI) standards and/or requirements due topographical constraints, unusual site-specific conditions related to the land, and/or because the standards or requirements are not roughly proportional to a proposed development's anticipated impacts on the transportation network.

**Transportation Demand Management (TDM).** The application of strategies and physical improvements to reduce single-vehicle travel demand, or to redistribute those trips to other modes of transportation.

**Transportation-Intensive Uses.** A subset of specific non-residential land uses falling within the major land use categories, per the Use Table. These uses are expected to generate higher levels of activity for multiple modes of transportation relative to other uses.

**Tree Disturbing Activity.** It shall be considered a disturbing activity when a person performs or contracts to perform any of the following activities:

1. Spray, fertilize, remove, destroy, cut, top, damage, trim, prune, remove, cut, or carve or otherwise severely prune any tree or its root system not in accordance with the Charlotte Tree Manual
2. Attach any object, including, but not limited to, rope, wire, nail, chain, or sign, to any such tree or shrub not in accordance with the Charlotte Tree Manual
3. Alter the natural drainage, excavate, or lay any drive within the critical root zone.
4. Perform excavation or construction work, which shall include but not be limited to driveway installations, irrigation work, tree removal and/or grading of any kind, within the drip line of any tree without first installing a fence, frame, or box in a manner and of a type and size satisfactory to the City to protect the tree during the excavation or construction work.

**Tree Evaluation Formula.** A formula for determining the value of trees and shrubs as published by the International Society of Arboriculture.

**Tree Protection Zone.** A distance equal to the designated zoning district setback or 40 feet from the front property line, whichever is less, or from the side lot line on a corner lot. For Tier 1 and Tier 2 Place Types per Article 20, the tree protection zone shall be the same as the required planting strip. This definition does not apply to development in Tier 4 Place Types per Article 20.

**Tree Save Area.** An area measured in square feet containing existing or replanted healthy tree canopy preserved or planted in accordance with Article 20 and the Charlotte Tree Manual.

**Tree, Large Maturing.** Any tree the height of which is 35 feet or greater at maturity.

**Tree, Small Maturing.** Any tree the height of which is less than 35 feet at maturity.

**Turn Lanes.** A traffic lane designed to separate turning vehicles from through vehicles traveling in the same direction.

**25-Year Storm.** A rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years and of a duration that will produce the maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.

**Use, Accessory.** A use located on the same site as the principal use and is incidental and subordinate to the principal use.

**Use, Principal.** The main use of a structure or lot.

**Use, Temporary.** A use established for a fixed period of time.. Such use shall be discontinued upon the expiration of such time, that does not involve the construction or alteration of any permanent structure.

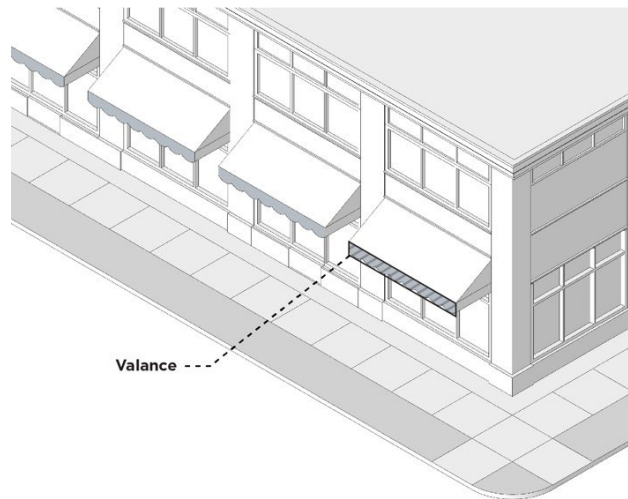
**Utilities, Above Ground Accessory Structures.** Above ground accessory structures for utilities include appurtenances and components for infrastructure: natural gas, water, sewer, stormwater, electricity, telephone (excluding wireless communications), cable television, fiber optic, and others.

**Utilities, On-Site.** Above ground or underground utility structures, such as backflow preventers and pedestals.

**Valance.** That portion of a non-structural awning that hangs generally perpendicular from the edge of an awning.



## VALANCE



**Value-Added Product.** A change in the physical state or form of the product such as making raspberries into jam.

**Variance.** An exception to an ordinance that may be granted on a case-by-case basis by the UDO Board of Adjustment where practical difficulties unique to the property in question prevent full compliance with such provisions permitted in the UDO.

**Velocity.** The average velocity of flow through the cross-section of the main channel at the peak flow of the design storm. The cross-section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

**Video Display Screen.** A sign, or portion of a sign, that displays an electronic video, whether pre-recorded or streaming.

**Walking Distance.** The distance by which a person can walk along a publicly accessible street and/or path system from a location to a set destination.

**Wastewater Facilities.** Facilities that treat water carrying wastes from homes, businesses, and industries that is a mixture of water and dissolved or suspended solids.

**Water Facilities.** Systems or structures designed to collect, treat, or distribute potable water, and includes water wells, treatment plants, storage facilities, and transmission and distribution mains.

**Water Dependent Structures.** Those structures for which the use requires access or proximity to or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads, and similar structures. Ancillary facilities such as restaurants/bars, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

**Water Quality Buffer.** A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

**Water Quality Buffer Widths.** Viewed aerially, the water quality buffer width is measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.

**Watershed.** The entire land area contributing surface drainage into a stream, creek, lake or other body of water.

**Wetland.** Land having the vegetative, soil and hydrologic characteristics to be regulated by Sections 401 and 404 of the Federal Clean Water Act as defined by the United States Army Corps of Engineers.

**Wind Turbine.** A wind energy conversion system typically consisting of a turbine apparatus and the associated control or conversion mechanisms A) Horizontal axis means the rotating axis of the wind turbine is horizontal or parallel with the ground B) Vertical axis means the rotating axis of the turbine stands vertical or perpendicular to the ground.

**Working Day.** Any day on which the offices of a City agency are officially open, not including Saturdays, Sundays, and other holidays designated by the City Council.

**Zoning District.** A specifically delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings. Zoning districts are divided into the following categories:

1. **Zoning Districts, Campus.** IC-1, IC-2, OFC, and RC-1 Zoning Districts
2. **Zoning Districts, Community Activity Centers.** CAC-1 and CAC-2 Zoning Districts
3. **Zoning Districts, Commercial.** CG and CR Zoning Districts
4. **Zoning Districts, Innovation Mixed-Use.** IMU Zoning District
5. **Zoning Districts, Manufactured Home Park.** MHP Zoning District
6. **Zoning Districts, Manufacturing and Logistics.** ML-1 and ML-2 Zoning District
7. **Zoning Districts, Neighborhood 1.** N1-A, N1-B, N1-C, N1-D, N1-E, and N1-F Zoning Districts
8. **Zoning Districts, Neighborhood 2.** N2-A, N2-B, and N2-C Zoning Districts
9. **Zoning Districts, Neighborhood Centers.** NC Zoning District
10. **Zoning Districts, Regional Activity Centers.** RAC, UE, and UC Zoning Districts
11. **Zoning Districts, Transit-Oriented Development.** TOD-UC, TOD-NC, TOD-CC, and TOD-TR Zoning Districts

**Zoning Map Amendment.** An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes: 1) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations; and 2) the application of an overlay zoning district or a conditional district. Zoning map amendment does not include: 1) the initial adoption of a Zoning Map by a local government; 2) the repeal of a Zoning Map and readoption of a new Zoning Map for the entire planning and development regulation jurisdiction; or 3) updating the Zoning Map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the zoning district.

## Article 28. Soil Erosion & Sedimentation Control

- 28.1 PURPOSE
- 28.2 APPLICABILITY
- 28.3 REQUIREMENTS, OBJECTIVES, AND STANDARDS
- 28.4 PLANS AND PERMITS
- 28.5 ADMINISTRATION
- 28.6 STORMWATER ADMINISTRATOR
- 28.7 DEFINITIONS

### 28.1 PURPOSE

This article is adopted for the purposes of:

- A. Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent pollution of water and other damage to lakes, wetlands, watercourses, and other public and private property by sedimentation.
- B. Permitting development of the City with the least detrimental effects from pollution by erosion and sedimentation.
- C. Establishing procedures through which these purposes can be fulfilled.

### 28.2 APPLICABILITY

- A. The requirements of this article apply to all land-disturbing activity within the corporate limits of the City and the extraterritorial jurisdiction (ETJ).
- B. This article shall not apply to the following land-disturbing activities:
  - 1. Activities including production and activities relating or incidental to the production of crops, grains, fruits, ornamental and flowering plants, dairy, livestock, poultry, and other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
    - a. Forage and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
    - b. Dairy animals and dairy products.
    - c. Poultry and poultry products.
    - d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
    - e. Bees and apiary products.
    - f. Fur-producing animals.
    - g. Mulch, ornamental plants, and other horticultural products.
  - 2. An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this article shall apply to such activity and any related land-disturbing activity on the tract.
  - 3. Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the North Carolina General Statutes.
  - 4. For the duration of an emergency, activities essential to protect human life.
  - 5. Land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in N.C.G.S. § 113A-56(a).

6. Activities undertaken to restore the wetlands functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Federal Clean Water Act.

7. Activities undertaken pursuant to Federal Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2.

C. The definitions of Section 28.7 only apply to this article. Unless specifically defined in Section 28.7, other words or phrases used in this article are as defined in Article 2 for general definitions or Article 15 for use definitions. In the case of a conflict between a term defined in Article 2 or Article 15 and this article, the definition in Section 28.7 controls.

## 28.3 REQUIREMENTS, OBJECTIVES, AND STANDARDS

### A. General Requirements

#### 1. Erosion and Sedimentation Control Measures

All land-disturbing activities, including those that disturb less than an acre, shall provide adequate erosion control measures, structures, or devices in accordance with this article sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of the tract.

#### 2. Plan Required

No person shall initiate, direct, allow, or conduct any land-disturbing activity on a tract that meets any of the following criteria without having a copy of an erosion and sedimentation control plan (hereinafter referred to as "plan") on the job site approved by the City:

a. Uncovers one acre or more. In determining the size of the disturbed area, lands being developed as a unit shall be aggregated regardless of ownership.

b. In borrow and waste areas covered by item D.6 below, with a disturbed area one acre or greater.

#### 3. Compliance

Plans submitted to the Stormwater Administrator shall comply with this section and Section 28.4 of this article.

#### 4. Protection of Property

Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity and associated sedimentation.

#### 5. Conflicts; Applicability of More Restrictive Rules

Whenever conflicts exist between the regulations in this article and federal, state, or local laws, ordinances, or rules, the more restrictive provision shall apply.

### B. Basic Control Objectives

A plan shall include adequate erosion control measures, structures, or devices to address the following control objectives:

#### 1. Identify Critical Areas

On-site areas that are subject to severe erosion and off-site areas that are especially vulnerable to damage from erosion and/or sedimentation are to be identified and receive special attention.

#### 2. Limit Time of Exposure

All land-disturbing activity shall be planned and conducted to limit exposure to the shortest feasible time.

#### 3. Limit Exposed Areas

All land-disturbing activity shall be planned and conducted to minimize the size of the area to be exposed at any one time.

#### 4. Control Surface Water

Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

## **5. Control Sedimentation**

All land-disturbing activity shall be planned and conducted to prevent sedimentation damage.

## **6. Manage Stormwater Runoff**

When the increase in the velocity of stormwater runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the discharge point so as to minimize accelerated erosion of the site and to decrease sedimentation to any lake or watercourse.

## **C. Mandatory Standards for Land-Disturbing Activity**

No land-disturbing activity subject to the control of this article shall be undertaken except in accordance with the following:

### **1. Lake, Watercourse and Wetland Protection**

Additional erosion control measures, structures, or devices as specified in the City and Mecklenburg County Soil Erosion and Sedimentation Control Policies and Procedures statement issued by the Stormwater Administrator shall be required to provide a higher level of protection to lakes, watercourses, and wetlands from sedimentation.

### **2. Graded Slopes and Fills**

The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control measures, structures, or devices. In any event, slopes left exposed shall, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent groundcover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills shall be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

### **3. Fill Material**

Materials being used as fill shall be consistent with those described in the North Carolina Administrative Code (NCAC) per 15A NCAC 13B .0562 unless the site is permitted by the North Carolina Department of Environmental Quality (hereinafter referred to as NCDEQ) Division of Waste Management to operate as a landfill. Not all materials described in 15A NCAC 13B .0562 may be suitable to meet geotechnical considerations of the fill activity and should be evaluated accordingly.

### **4. Groundcover**

Whenever land-disturbing activity is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent groundcover sufficient to restrain erosion after completion of construction or development. Provisions for a permanent groundcover sufficient to restrain erosion shall be accomplished within 21 calendar days following completion of construction or development. For an area of a site that is inactive for a period of 21 calendar days or longer, temporary groundcover shall be required

### **5. Prior Plan Approval**

No person shall initiate any land-disturbing activity on a tract if one acre or more is to be disturbed unless a plan for that activity has been submitted and approved in accordance with Section 28.4.

### **6. Pre-Construction Conference**

If one acre or more is to be uncovered, the person conducting land-disturbing activity, or an agent of that person shall contact the Stormwater Administrator at least 48 hours before commencement of the land-disturbing activity. The purpose is to arrange an on-site meeting with the Stormwater Administrator to review and discuss the approved plan and the proposed land-disturbing activity.

### **7. Monitoring**

The landowner, financially responsible party, person conducting land-disturbing activity, or an agent of those persons, shall inspect all erosion and sedimentation control measures at least once a week and within 24 hours after any storm event of greater than one inch of rain per 24 hour period, or more frequently if required by federal or state law. The person performing this monitoring shall have certification or commensurate training and experience approved by the Stormwater Administrator.

a. If one acre or more is to be disturbed, a record of inspections shall be kept by the person conducting the land-disturbing activity, or an agent of that person, until six months after construction is completed and grading permit termination is approved by the Stormwater Administrator. The record shall include all monitoring and inspection elements as required by the North Carolina General Permit, NCG01 (NCG01). Additional record keeping may be required by federal or state law and as stated on the approved plans.

b. Corrective action for repairs and maintenance indicated on the record shall be initiated within 24 hours after a rain event or within 24 hours of the last inspection if a rain event did not prompt the inspection, unless additional time is allowed by the Stormwater Administrator. The date of the completion of such repairs shall be noted. The records of inspection shall be made available to the Stormwater Administrator upon request.

c. Persons who have had a notice of violation or repeated warning about off-site sedimentation or non-maintenance of adequate erosion control measures, structures, or devices may be required to provide the Stormwater Administrator with a self-inspection record for the particular tract.

### **8. Sedimentation Control Buffer**

No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or watercourse unless a sedimentation control buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25% of the sedimentation control buffer zone nearest the land-disturbing activity.

#### **a. Projects On, Over, or Under Water**

This sedimentation control buffer requirement shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or watercourse.

#### **b. Sedimentation Control Buffer Measurement**

Unless otherwise provided, the width of a sedimentation control buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25% of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

### **9. Adherence to Approved Plans**

The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

## **D. Design and Performance Standards**

### **1. Design Storm**

Adequate erosion control measures, structures, and devices shall be planned, designed, constructed and maintained so as to provide protection from the calculated maximum peak of runoff from the 10-year storm. Runoff rates shall be calculated using the procedures in the USDA, Natural Resource Conservation Service's (formerly Soil Conservation Service's) National Engineering Field Manual for Conservation Practices, or other acceptable calculation procedures including, but not limited to, the Charlotte-Mecklenburg Storm Water Design Manual.

### **2. Innovative Measures**

Erosion and sedimentation measures applied alone or in combination to satisfy the intent of this article are acceptable if they are sufficient to prevent adverse secondary consequences. Innovative techniques and ideas shall be considered and may be used following approval by the Stormwater Administrator if it can be demonstrated that such techniques and ideas are likely to produce successful results.

### **3. Responsibility for Maintenance**

During the development of a tract, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any section of this article, The North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it (referred to as "Act" within this article), or any order adopted pursuant to this article or the Act. After development, the landowner or person in possession or control of the land shall install and maintain all necessary permanent erosion and sediment control measures.

#### **4. Additional Measures**

Whenever the Stormwater Administrator determines that accelerated erosion and sedimentation continues or shall likely continue, despite installation and maintenance of protective practices, the person conducting the land-disturbing activity shall be required to take additional protective action necessary to achieve compliance with the conditions specified in this article.

#### **5. Storm Drainage Facilities Protection**

Persons shall design the plan and conduct land-disturbing activity so that the post-construction velocity of the 10-year storm does not exceed the maximum nonerosive velocity tolerated by the soil of the receiving watercourse or the soil of the receiving land.

#### **6. Borrow and Waste Areas**

If the same person conducts the land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, N.C.G.S. 74, Article 7, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered by the approving authority as separate land-disturbing activities.

#### **7. Temporary Access and Haul Roads**

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

#### **8. Operations in Lakes or Watercourses**

Land-disturbing activity in connection with construction in, on, over, or under a lake or watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disruption of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics-

### **28.4 PLANS AND PERMITS**

#### **A. Erosion and Sedimentation Control Plans**

##### **1. Plan Requirements**

All plans required for land-disturbing activities as identified in Section 28.3.A.2 shall meet the following:

- a.** Plans shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this article. Plan content may vary to meet the needs of site-specific requirements. Detailed guidelines for plan preparation may be obtained from the Stormwater Administrator.
- b.** Plans shall contain an authorized statement of financial responsibility and ownership signed by the person financially responsible for the land-disturbing activity or that person's attorney-in-fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agent(s). If the person financially responsible is not a resident of North Carolina, an agent in the state shall be designated in the statement for the purpose of receiving service of process and notice of compliance or noncompliance with the plan, the Act, this article, or rules or orders adopted or issued pursuant to this article.
- c.** Except as provided in item 4 below, if the person submitting the plan (hereinafter referred to as "the applicant") is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan shall include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.
- d.** The land-disturbing activity described in the plan shall comply with all federal, state, and local water quality laws, rules, and regulations, including, but not limited to, the Federal Clean Water Act. The Stormwater Administrator may require supporting documentation.
- e.** The land-disturbing activity described in the plan shall not result in a violation of rules adopted by the North Carolina Environmental Management Commission to protect riparian buffers along surface waters.

- f. The land-disturbing activity described in the plan shall not result in a violation of any local ordinance, law, rule, or regulation.
- g. If the plan is submitted for land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (N.C.G.S. §113A-1, et seq.), such as required on tracts involving public money or public land, a complete environmental document shall be presented for review. The Stormwater Administrator' time for reviewing the plan shall not commence until a complete environmental document is available for review.
- h. The plan shall be filed digitally with the Stormwater Administrator. A copy of the stamped, approved plan shall be maintained on the job site.
- i. Effort should be made not to uncover more than 20 acres at any one time. If more than 20 acres are proposed to be uncovered at any one time, the plan shall contain the following:
  - i. The method of limiting the time of exposure and amount of exposed area to achieve the objectives of this article.
  - ii. A cut/fill analysis that shows where soil shall be moved from one area of the tract to another as ground elevation is changed.
  - iii. Construction sequence and construction phasing to justify the time and amount of exposure.
  - iv. Techniques to be used to prevent sedimentation associated with larger disturbed areas.
  - v. Additional erosion control measures, structures, and devices to prevent sedimentation.

## 2. Plan Review Process

### a. Timeline for Decisions on Plans

- i. The Stormwater Administrator shall review each complete plan submitted and within 30 days of receipt thereof shall notify the applicant, that it has been approved, approved with modifications, or disapproved.
- ii. Should the plan be filed and not reviewed within the specified timeframe, the land-disturbing activity may commence subject to Section 28.3.C.6 and item A.1.e, above, and the Stormwater Administrator shall endeavor to review the plan on an expedited schedule.
- iii. If the plan is disapproved, the Stormwater Administrator shall notify the applicant and, if required, the Director of the Division of Energy, Mineral, and Land Resources (NCDEMLR) within the NCDEQ of such disapproval within ten days thereof. The Stormwater Administrator shall advise the applicant and the Director of NCDEMLR in writing as to the specific reasons that the plan was disapproved. The applicant shall have the right to appeal the Stormwater Administrator decision as provided in Section 37.8.B.
- iv. The Stormwater Administrator will review each revised Plan submitted and within 15 days shall notify the applicant, that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a revised Plan within 15 days of receipt shall be deemed approval.

### b. Approval

The Stormwater Administrator shall only approve a plan upon determining that it complies with all applicable state and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The Stormwater Administrator shall condition approval of plans upon the applicant's compliance with federal and state water quality laws, regulations, and rules. Plans for which land-disturbing activity has not commenced within three years from the initial plan approval date are void.



**c. Disapproval of Plans**

**i. Disapproval for Content**

The Stormwater Administrator may disapprove a plan based on its content. A disapproval based upon a plan's content shall specifically state in writing the reasons for disapproval.

**ii. Other Disapprovals**

Any plan that is not in accordance with the requirements set forth in Section 28.4.A.1 above shall be disapproved. Additionally, a plan may be disapproved upon a finding that the financially responsible person or any parent or subsidiary thereof:

- (A) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation or is not in compliance with the provisions of the notice; or
- (B) Has failed to pay a civil penalty assessed pursuant to the Act, or a local ordinance adopted pursuant to the Act, by the time the payment is due; or
- (C) Has been convicted of a misdemeanor pursuant to N.C.G.S. §113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act; or
- (D) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to the Act.

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

**3. Amendments to Plans**

**a. City-Required Revisions**

If the Stormwater Administrator, either upon review of such plan or upon inspection of the job site, determines that the plan is inadequate to meet the requirements of this article or that a significant risk of accelerated erosion or off-site sedimentation exists, a revised plan may be required. Pending the preparation of the revised plan, work on the affected area shall cease unless approved to continue under conditions outlined by the Stormwater Administrator.

**b. Submission of Revisions or Amendments**

Amendments or revisions to a plan shall be made in written and/or graphic form and may be submitted at any time under the same requirements for submission of original plans. Until such time as the Stormwater Administrator approves any amendments or revisions, the land-disturbing activity shall not proceed, except in accordance with the plan as originally approved or under conditions outlined by the Stormwater Administrator per item a above.

**4. Transfer of Plans**

The Stormwater Administrator may transfer an erosion and sedimentation control plan approved pursuant to this article without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or shall occur as provided in this subsection.

- a. The Stormwater Administrator may transfer a plan if the following conditions are met:
  - i. The successor-owner of the property submits to the City a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.
  - ii. The Stormwater Administrator finds the following:
    - (A) The plan holder is one of the following:
      - (1) A natural person who is deceased.
      - (2) A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

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

(4) A person who has sold the property on which the permitted activity is occurring or shall occur.

(B) The successor-owner holds title to the property on which the permitted activity is occurring or shall occur.

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

(D) There shall be no substantial change in the permitted activity.

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

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

d. Notwithstanding changes to law made after the original issuance of the plan, the Stormwater Administrator may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Stormwater Administrator from requiring a revised plan pursuant to N.C.G.S. §113A-54.1(b) or item A.3 above.

#### **5. Display of Plan Approval**

A plan approval issued under this section shall be prominently displayed on the site until all construction is complete, all temporary sedimentation and erosion control measures are removed, the site has been stabilized, and the grading permit has been terminated and approved by the Stormwater Administrator. A copy of the stamped plan may serve to satisfy this requirement.

#### **6. Failure to File or Follow a Plan**

Any person engaged in land-disturbing activity who fails to file a plan required by and in accordance with this article shall be deemed in willful violation of this article. Any person who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in willful violation of this article.

### **B. Permits**

1. No person shall undertake any land-disturbing activity on a tract that disturbs one or more acres without obtaining the following:

a. An NCG01 permit by completing and submitting an electronic notice of intent (E-NOI) form requesting a certificate of coverage (COC) and obtaining the coverage certificate under the NCG01 Construction Site Stormwater General Permit. The letter of approval from the City shall contain a notice of the NCG01 permit requirement and the acreage approved for disturbance.

b. A stamped and approved soil erosion and sedimentation control plan subject to Section 28.4.A.

c. A land disturbance permit from the Stormwater Administrator. The only exceptions to the requirement for a land disturbance permit are land-disturbing activities that:

i. Have been preapproved by the Stormwater Administrator at a pre-construction conference for the purpose of installing erosion and sedimentation control measures indicated on the approved plan; or

ii. Are for the purpose of fighting fires; or

iii. Are for the stockpiling of raw or processed sand, stone, or gravel in existing material processing plants and existing storage yards, provided that sediment control measures are utilized to protect against off-site damage; or

- iv. Do not equal or exceed one acre of disturbed area. In determining the size of the disturbed area, lands being developed as a unit shall be aggregated regardless of ownership. Although a plan and a permit may not be required for a land-disturbing activity comprising less than one acre, such activity is subject to all other requirements of this article.

## 28.5 ADMINISTRATION

- A. Appeals and variances of this article shall be subject to Article 37.
- B. Inspections and enforcement actions of this article shall be subject to Article 39.

## 28.6 STORMWATER ADMINISTRATOR

### A. Designation

The Director of the City of Charlotte department responsible for management of the City's NPDES MS4 Stormwater permit has been designated as the Stormwater Administrator. The Stormwater Administrator is authorized to administer and enforce Article 28.

### B. Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of this Ordinance and other laws, the Stormwater Administrator shall have the following powers and duties under this article:

1. To review and approve or disapprove applications submitted pursuant to Article 28.
2. To make determinations and render interpretations of Article 28.
3. To establish application requirements and schedules for submittal and review of applications and appeals.
4. To enforce Article 28 in accordance with its enforcement provisions in Article 39.
5. To maintain records, maps, and official materials as they relate to the adoption, amendment, enforcement, or administration of Article 28.
6. To provide expertise and technical assistance upon request to the City Council and the UDO Board of Adjustment.
7. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.
8. To provide information and recommendations relative to variances and information as requested by the UDO Board of Adjustment in response to appeals.
9. To prepare and make available to the public a Stormwater Regulations Administrative Manual.
10. To take any other action necessary to administer the provisions of Article 28.

## 28.7 DEFINITIONS

The definitions of this section apply only to this article. Unless specifically defined in this section, other words or phrases used in this article are as defined in Article 2 for general definitions or Article 15 for use definitions. In the case of a conflict between a term defined in Article 2 or Article 15 and this article, the definition in this section controls.

**Sedimentation Control Buffer.** The strip of land adjacent to a lake or watercourse.

**Day, Working.** Days exclusive of Saturday, Sunday, and City government holidays during which weather conditions or soil conditions permit land disturbing activity to be undertaken.

**Groundcover.** Any vegetative growth or other material that renders the soil surface stable against accelerated erosion.

**Lake or Watercourse.** Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension and which could be damaged by accumulation of sediment.

**Natural Erosion.** The wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

**Mulch.** Horticultural products composed primarily of plant remains or mixtures of such substances.

**Parent.** An affiliate that directly, or indirectly through one or more intermediaries, controls another person.

**Permit.** The permit to conduct land-disturbing activities issued by the Stormwater Administrator.

**Uncovered.** The removal of groundcover from, on, or above the soil surface.

**Undertaken.** The initiating of any activity, or phase of activity, which results or will result in a change in the groundcover or topography of a tract of land.

## Article 37. Amendments & Development Approvals

- 37.1 AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
- 37.2 ZONING MAP AMENDMENTS
- 37.3 ADMINISTRATIVE MINOR AMENDMENTS
- 37.4 ADMINISTRATIVE ADJUSTMENTS
- 37.5 HISTORIC DISTRICT CERTIFICATE OF APPROPRIATENESS
- 37.6 VESTED RIGHTS
- 37.7 PERMIT CHOICE
- 37.8 **VARIANCES AND APPEALS**
- 37.9 DEVELOPMENT REVIEW AND APPROVAL PROCESSES

### 37.8 VARIANCES AND APPEALS

#### A. Variances

Removed for purposes of this review.

#### B. Appeals

##### 1. Appeals of Administrative and Quasi-Judicial Actions

- a. Appeals to the UDO Board of Adjustment can be initiated for administrative decisions by staff, administrators, directors, and designees. Administrative decisions include, but are not limited to:
  - i. Orders, decisions, determinations, and interpretations of Ordinance regulations
  - ii. Subdivision preliminary plan
  - iii. Subdivision final plat
  - iv. Notices of violation (NOV)
  - v. Assessment of penalties and remedies
  - vi. Compliance orders
  - vii. Cease and desist order
  - viii. Stop work order
  - ix. Disapproval or modification of a proposed erosion and sedimentation control plan
  - x. Corrective Action

##### 2. Time to Appeal

Removed for purposes of this review.

##### 3. Initiation

Removed for purposes of this review.

**4. Filing a Notice of Appeal**

Removed for purposes of this review.

**5. Determination of Completeness**

Removed for purposes of this review.

**6. Supplementary Regulations**

Specific articles of this Ordinance have supplementary regulations related to appeals. These articles are arranged in alphabetical order below.

**a. Post Construction Stormwater Control Appeals (Article 25)**

Removed for purposes of this review.

**b. Soil Erosion and Sedimentation Control Plan Appeals (Article 28)**

**i. Disapproval or Modification of Proposed Plan**

Procedures for an appeal of the disapproval or modification of the proposed plan are as follows:

(A) The disapproval or modification of any proposed plan by the Stormwater Administrator shall entitle the person submitting the plan (petitioner) to file a written request for an appeal with the clerk of the UDO Board of Adjustment within 30 days after receipt of the notice of disapproval or modification. Notice of the disapproval or modification sent by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service. The request for a hearing filed with the clerk shall be accompanied by a filing fee as established by the UDO Board of Adjustment. Failure to timely file such demand and fee shall constitute a waiver of any rights to appeal under Article 28 and this article, and the UDO Board of Adjustment shall have no jurisdiction to hear the appeal.

(B) Within five days of receiving the request for an appeal, the clerk of the UDO Board of Adjustment shall notify the Stormwater Administrator. As soon as possible after the receipt of the notice, the clerk of the UDO Board of Adjustment shall set a time and place for the hearing and notify the petitioner by mail of the date, time, and place of the hearing. As per N.C.G.S. § 160D-406, notices of hearings shall be mailed to: 1) the person or entity whose appeal, is the subject of the hearing; 2) to the owner of the property that is the subject of the hearing, if the owner did not initiate the hearing; and 3) to the owners of all parcels of land adjacent to the parcel of land that is the subject of the hearing. The time specified for the hearing shall be either at the next regularly scheduled meeting of the UDO Board of Adjustment or as soon thereafter as practical, or at a special meeting. The hearing shall be conducted by the UDO Board of Adjustment in accordance with Section 37.8.B.9 through 37.8.B.14.

(C) If the UDO Board of Adjustment upholds the disapproval or modification of a proposed plan following the public hearing, the petitioner shall have 30 days from the receipt of the decision to appeal the decision to the North Carolina State Sedimentation Control Commission pursuant to Title 15, Article 4B, Section .0018(b) of the North Carolina Administrative Code and N.C.G.S. § 113A-61(c). Notice given by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

**ii. Notice of Violation with Penalty Appeal**

Procedures for an appeal of the issuance of a Notice of Violation with an assessment of a civil penalty are as follows:

(A) If the UDO Board of Adjustment finds that the violation has occurred, but that in setting the amount of the penalty, the Stormwater Administrator has not considered or given appropriate weight to either mitigating or aggravating factors, the UDO Board of Adjustment shall either decrease or increase the per day civil penalty within the range allowed by Section 39.2.F.2.d. Any decision of the UDO Board of Adjustment which modifies the amount of the civil penalty shall include, as part of the findings of fact and conclusions of law, findings as to which mitigating or aggravating factors exist and the appropriate weight that should have been given to such factors by the Stormwater Administrator in setting the amount of the civil penalty levied against the petitioner.

(B) Any person issued a notice of violation with penalty may file a request with the Sedimentation Control Commission for remission of the assessment within 30 days of receipt of the notice. A remission request shall be accompanied by a waiver of the right to a contested case hearing pursuant to N.C.G.S. § 150B-22 of the North Carolina General Statutes and stipulation of the facts on which the assessment was based.

**c. Drainage Appeals (Article 24)**

Removed for purposes of this review.

**7. Stay of Enforcement and Penalties**

a. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any penalties/fines assessed while:

- i. The appeal is pending to the UDO Board of Adjustment.
- ii. Any subsequent appeal is pending to Mecklenburg County Superior Court.
- iii. The appeal is pending from a civil proceeding.
- iv. Any subsequent appeal that is authorized by law.

b. However, if the designated administrator who made the decision certifies to the board after the notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property, or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court.

c. If enforcement proceedings are not stayed, the person filing the appeal may file a request with the designated administrator for an expedited hearing of the appeal, and the UDO Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed.

d. The following stay of proceedings provisions apply to specific sections of this Ordinance. In the case of any conflicts, the standards below shall control:

**i. Post Construction Stormwater Control (Article 25)**

Removed for purposes of this review.

**ii. Drainage (Article 24)**

Removed for purposes of this review.

**iii. Tree Appeals (Article 20, Sections 20.12 through 20.18)**

Removed for purposes of this review.

**8. Staff Review and Recommendation**

Removed for purposes of this review.

**9. Scheduling of Hearing and Notice**

Removed for purposes of this review.

**10. Transmittal of Administrative Materials**

Removed for purposes of this review.

**11. Evidentiary Hearing**

Removed for purposes of this review.

**12. Quasi-Judicial Decision**

- a. The UDO Board of Adjustment shall follow quasi-judicial procedures in reviewing the appeal, determining the contested facts, and making a quasi-judicial decision, based on competent, material, and substantial evidence in the record.
- b. The UDO Board of Adjustment may reverse or affirm, wholly or partly, or may modify the administrative or quasi-judicial decision appealed from and shall make any order, requirement, decision, determination, or interpretation that ought to be made. The Board shall have all the powers of the designated administrator or director or their designee who made the decision.
- c. The UDO Board of Adjustment requires a majority vote of members to reverse any order, requirement, decision, determination, or interpretation of any administrative official under an appeal, per the City Charter. Vacant positions on the Board and members who are disqualified from voting on an appeal shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- d. If either party contemplates an appeal to a court of law, the party shall request and obtain, at that party's own costs, a transcript of the proceedings.

### **13. Written Decisions and Delivery**

- a. Each quasi-judicial decision shall be reduced to writing, reflect the UDO Board of Adjustment's determination of contested facts and their application to the applicable standards, and be approved by the UDO Board of Adjustment and signed by the Chairperson, or other duly authorized member.
- b. The written decision may be issued in print or electronic form. Any decision issued exclusively in electronic form shall be protected from editing, once issued. The written decision shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, if not the applicant, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. If the notice is sent by first-class mail, the notice shall be sent to the last address listed for the property owner or the affected property on the Mecklenburg County tax abstract, and to the address provided in the application if the owner is not the applicant.
- c. Any party or entity who wishes to receive a copy of the written decision of the UDO Board of Adjustment, shall file a written request for a copy of the UDO Board of Adjustment decision with the clerk to the UDO Board of Adjustment prior to the date the decision becomes effective.
- d. The UDO Board of Adjustment staff member required to deliver the decision notice shall certify to the City that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.
- e. The UDO Administrator shall maintain the records of all appeal actions.

Remainder removed for purposes of this review.



## Article 39. Enforcement

### 39.1 INSPECTIONS

### 39.2 ENFORCEMENT

#### 39.1 INSPECTIONS

Section 39.1.A provides regulations and procedures applicable to all inspections and investigations related to this Ordinance. Subsequent sections provide supplementary information that is specific to the various articles. Supplementary sections are arranged alphabetically by article title. The following articles do not have supplementary information related to inspections by the designated administrators: zoning (Articles 3 through 21), water supply watershed protection (Article 23), surface water improvement and management (SWIM) buffers (Article 26), floodplain regulations (Article 27), and tree protection (Article 20, Sections 20.12 through 20.18).

#### A. **Applicable to All Inspections and Investigations**

1. City and County administrative staff may enter and inspect any premises, including land, buildings, and structures, within the jurisdiction of the City to determine compliance with the terms of applicable development approvals, or rules or orders adopted or issued pursuant to this Ordinance, and applicable state and local laws. In exercising this power, staff may enter any premises within the jurisdiction of the City or County at all reasonable hours for the purposes of inspection, investigation, or other enforcement action, upon presentation of proper credentials, so long as the appropriate consent has been given for inspection of areas that are not open to the public or an appropriate inspection warrant has been secured.
2. If, through inspection, it is determined that a property owner or person in control of the land has failed to comply or is no longer in compliance with this Ordinance or rules or orders issued, a written notice of violation may be issued in accordance with Section 39.2.A.1.
3. No person shall willfully resist, delay, obstruct, hamper, or interfere with any authorized City or County representative, Director or agent while inspecting and/or investigating or attempting to inspect and/or investigate an activity regulated in this Ordinance.
4. The City or County may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable state and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by N.C.G.S. § 160D, Article 11, shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to N.C.G.S. § 160D-1116 has been issued.
5. In an emergency issued by the state or County, such as a windstorm, ice storm, fire, or other disaster, the requirements of this article may be waived by the City during the emergency period so that the requirements of this article shall in no way hamper private or public work to restore order in the City. This shall not be interpreted to be a general waiver of the intent of this article.

#### B. **Post Construction Stormwater Inspection - Additional Regulations (Article 25)**

Removed for purposes of this review.

#### C. **Sign Inspection – Additional Regulations (Article 22)**

Removed for purposes of this review.

#### D. **Soil Erosion and Sedimentation Control Inspection - Additional Regulations (Article 28)**

This section supplements Section 39.1.A.

1. The Stormwater Administrator may, in accordance with Section 39.1.A.1, upon presentation of proper credentials, or an appropriate inspection warrant if necessary, inspect the sites of land-disturbing activity at all reasonable hours to ensure compliance and determine whether the activity is being conducted in accordance with Article 28, rules or orders adopted or issued pursuant to Article 28, and the approved plan. The Stormwater Administrator may also inspect whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activity. Notice of the right to inspect shall be included in the notification of each plan approval or issuance of the permit. No person shall willfully resist, delay, obstruct, hamper, or

interfere with the Stormwater Administrator while they are inspecting or attempting to inspect a land-disturbing activity for compliance with Article 28.

2. The Stormwater Administrator may conduct such investigation as is reasonably deemed necessary to carry out their duties as prescribed in Article 28 and enter at all reasonable hours upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.

3. No person shall refuse entry or access to the Stormwater Administrator who requests entry for purpose of inspection or investigation.

4. The Stormwater Administrator shall also have the power to require written statements or the filing of reports under oath as a part of investigating land-disturbing activity.

**E. Storm Drainage Inspection - Additional Regulations (Article 24)**

Removed for purposes of this review.

**F. Subdivision, Streets, and Other Infrastructure Inspection – Additional Regulations (Articles 29 through 34)**

Removed for purposes of this review.

## **39.2 ENFORCEMENT**

Section 39.2.A provides enforcement regulations and procedures applicable to all enforcement actions for notices of violation, citations, penalties, criminal penalties, stop work orders, injunctions, orders of abatement, and other remedies. Subsequent sections provide supplementary regulations that are specific to the various articles. Supplementary sections are arranged in alphabetical order by article title.

### **A. Applicable to all Enforcement Actions**

Any person who violates any of the sections of this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance, shall be subject to any one, all, or a combination of the civil penalties prescribed in this section. Penalties assessed under this article are in addition to and not in lieu of compliance with the requirements of this Ordinance. The person performing the work, the property owner, and the person contracting for the performance shall be jointly and severally liable for any penalty or other enforcement action imposed pursuant to this Ordinance or other applicable provision of law.

#### **1. Notice of Violation**

a. If, through inspection and/or investigation, it is determined that a property owner or person in control of the land has failed to comply or is no longer in compliance with this Ordinance or rules, orders, or approvals issued pursuant to this Ordinance, the designated administrator of each article may issue a written notice of violation.

b. A notice of violation shall identify the nature of the violation, contain the address or other description of the site upon which the violation occurred or is occurring, and shall set forth the measures necessary to achieve compliance with this Ordinance. The notice shall specify a date by which the person shall comply or remedy each violation and/or inform the person if a civil penalty will be assessed. If a violation continues or is not corrected within a reasonable period of time, as provided in the notification, appropriate action may be taken to correct and abate the violation, including civil and criminal penalties, as allowed by applicable law.

c. When applicable, the notice of violation shall state that, if not corrected, each day's continuing violation is a separate and distinct offense and is subject to additional civil penalties.

d. The notice of violation shall be delivered to the holder of the development approval, and to the property owner, if the property owner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity.

e. The notice of violation may be posted on the property.

f. The person providing the notice of violation shall certify to the City that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

g. Except as provided by N.C.G.S. § 160D-1123 or otherwise provided by law, a notice of violation may be appealed in accordance with Section 37.8.B. An appeal stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal.

## **2. Citations and Penalties**

Violation(s) of this Ordinance may subject the offender to a civil penalty that may be recovered by the City in a civil action in the nature of debt if the offender does not pay the penalty within the prescribed period of time in the notice of violation. Civil penalties associated with specific articles are described in the supplementary regulations located in Sections 39.2.B through 39.2.L and arranged in alphabetical order by article title.

## **3. Criminal Penalties**

Criminal penalties may be imposed in specific articles or regulations of this UDO, when allowed under State law. Where misdemeanors may be imposed in this Ordinance, they are listed in the supplementary regulations and are located in the following sections of this article: Section 39.2.B, "Floodplain Violations and Enforcement", and Section 39.2.F, "Soil Erosion and Sedimentation Control Violations and Enforcement."

## **4. Stop Work Orders**

Whenever any work or activity subject to regulation pursuant to this Ordinance is undertaken in substantial violation of State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped.

a. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved, if that person is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail.

b. The staff person or persons delivering the stop work order shall certify to the City that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by N.C.G.S. § 160D-1208, a stop work order may be appealed in accordance with Section 37.8.B. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

## **5. Injunctions and Order of Abatement**

a. When any person violates an Ordinance regulation that makes unlawful a condition existing upon or use made of real property or any rule or order adopted or issued, or any term, condition or provision of an approved development approval or permit, the Director of a Department or the Administrator responsible for administering the applicable Article may either before or after the institution of any other action or proceeding authorized by this Ordinance, authorize the City Attorney to institute a civil action in the name of the City for a mandatory or prohibitory injunction and order of abatement requiring correction of the unlawful condition upon or cessation of the unlawful use of the property, or threatened violation. When a violation of the Ordinance occurs, the City may apply to the Mecklenburg County Superior Court for a mandatory or prohibitory injunction and order of abatement requiring correction of the unlawful condition upon or cessation of the unlawful use of the property.

b. In addition to an injunction, the court may enter an order of abatement as a part of the judgment. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the Ordinance.

c. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt, and the City may execute the order of abatement. The City shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Mecklenburg County Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

d. An action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violation in specific articles of this Ordinance.

## **6. Other Remedies**

Subject to the provisions of the development regulation, any development regulation may be enforced by any remedy provided by N.C.G.S. § 160A-175.

a. In addition to other remedies, professional staff may withhold approval for the issuance of a permit, or a certificate of occupancy to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance, use of the land, building or structure or to prevent any illegal act, business, or use in or about the site or premises.

b. In addition to other remedies, professional staff may suspend or revoke a permit, development approval, or a certificate of occupancy issued under the provisions of this Ordinance if it is determined that the permit was issued in error, or on the basis of incorrect information. Revocation of a development approval is authorized for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable development regulations; or for false statements or misrepresentations made in securing the approval; or any State law delegated to the City or County for enforcement purposes in lieu of the State. Revocation of a permit, development approval, or certificate of occupancy is also authorized when the site, parcel, building or structure, or any portion thereof, is in violation of any applicable provision of the sign regulations that would create a public health and safety hazard.

i. Written notice of the suspension or revocation of a permit, development approval, or a certificate of occupancy shall be given in accordance with the same provisions for issuance of the permit, development approval, or certificate of occupancy, and by notifying the holder of the permit, development approval, or certificate of occupancy in writing, stating the reason for the revocation or suspension. The same development review and approval process required for issuance of the approval shall be followed.

c. Any party aggrieved by the suspension or revocation of a permit, development approval or a certificate of occupancy may appeal the decision in accordance with Section 37.8.B.

### **B. Floodplain Violations and Enforcement – Additional Regulations (Article 27)**

Removed for purposes of this review.

### **C. Historic District Overlay Enforcement –**

Removed for purposes of this review.

### **D. Post Construction Storm Water Violations and Enforcement – Additional Regulations (Article 25)**

Removed for purposes of this review.

### **E. Sign Violations and Enforcement – Additional Regulations (Article 22)**

Removed for purposes of this review.

**F. Soil Erosion and Sedimentation Control Violations and Enforcement – Additional Regulations (Article 28)** This section supplements Section 39.2.A.

**1. Notice of Violation**

- a.** If it is determined that a person engaged in land-disturbing activity has failed to comply with the North Carolina Sedimentation Pollution Control Act, the soil erosion and sedimentation control regulations in Article 28, or rules or orders adopted or issued, or has failed to comply with an approved plan, the Stormwater Administrator shall issue a written notice of violation to the property owner, the property owner's agent, or other person in possession or control of the land, in accordance with N.C.G.S. § 113A-61.1.
- b.** Notices of violations shall be provided to the property owner, the property owner's agent, or other person in possession or control of the land. The notice shall, if required, specify a date by which the person shall comply with Article 28 and shall advise that the person may be subject to civil penalties, and if the violation is not corrected within the time specified, may be subject to additional civil penalties, including those provided in any other authorized enforcement action.
- c.** If the person engaged in the land-disturbing activity has not received a previous notice of violation, under Article 28 or its predecessor, the City shall offer assistance in developing corrective measures. Information on how to obtain assistance in developing corrective measures shall be included in the notice of violation. Assistance may be provided by referral to a technical assistance program on behalf of the approving authority, referral to a cooperative extension program, or by the provision of written materials such as NCDEQ guidance documents.
- d.** The notice of violation may be served by any means authorized under N.C.G.S. Chapter 1A-1, Rule 4.
- e.** In determining the measures required and the time for achieving compliance, the Stormwater Administrator shall take into consideration the technology and quantity of work required and shall set reasonable and attainable time limits.
- f.** The Stormwater Administrator shall use local rainfall data approved by the Stormwater Administrator to determine whether the design storm identified in Article 28 has been exceeded.

**2. Penalties**

- a.** Any person who violates Article 28, or rules or orders adopted or issued pursuant to Article 28, or who initiates or continues a land-disturbing activity for which a plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. A civil penalty may be assessed from the date the violation first occurs. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation through a notice of violation that complies with the notice requirements in Section 39.2.A.1, unless the penalty is assessed concurrently with the notice of violation. Refusal to accept the notice or failure to notify the Stormwater Administrator of a change of address shall not relieve the violator's obligation to comply with Article 28 or to pay such a penalty.
- b.** The maximum civil penalty for each violation of Article 28 is \$5,000. Each day of continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this section for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is \$25,000.

- c. Civil penalties may be assessed concurrently with a notice of violation for any of the following:
  - i. Failure to submit a plan.
  - ii. Performing land-disturbing activities without an approved plan and pre-construction conference or permit.
  - iii. Obstructing, hampering, or interfering with an authorized representative who is in the process of carrying out official duties.
  - iv. A repeated violation for which a notice was previously given on the same tract or to the person responsible for the violation. For the purposes of this section (Section 39.2.F), person responsible shall mean:
    - (A) The developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity.
    - (B) The landowner or person in possession or control of the land who has directly or indirectly allowed the land-disturbing activity or has benefited from it or has failed to comply with any section of this Article, the Act, or any order adopted pursuant to this Article or the North Carolina Sedimentation Pollution Control Act.
    - (C) The contractor with control over the tract or the contractor conducting the land-disturbing activity.
  - v. Willful violation of Article 28.
  - vi. Failure to install or adequately maintain erosion control measures, structures, or devices per the approved plan and additional measures per Section 28.3.D.4 such that it results in sedimentation in a wetland, lake, or watercourse, or other designated protected areas.
  - vii. Failure to install or adequately maintain erosion control measures, structures, or devices per the approved plan and additional measures per Section 28.3.D.4 such that it results in off-site sedimentation.
- d. The amount of the civil penalty shall be assessed pursuant to the following:
  - i. **Violations Involving Conducting a Land-Disturbing Activity Without an Approved Plan**  
Any person engaged in a land-disturbing activity without a required approved plan and preconstruction conference or permit in accordance with Article 28 or who initiates, directs, or allows a land-disturbing activity without a required, approved plan and preconstruction conference or permit shall be subject to a civil penalty of \$5,000 per day, per violation. The penalty may be decreased based on mitigating circumstances located in Section 39.2.F.2.e.
  - ii. **Violations Resulting in Sediment Entering a Wetland, Lake, or Watercourse**  
Violations resulting in sediment entering a wetland, lake, or watercourse subject the violator to a civil penalty of \$3,000 per day, per violation. The penalty may be increased up to \$5,000 per day or decreased, based on mitigating circumstances in Section 39.2.F.2.e.
  - iii. **Violations Resulting in Off-Site Sedimentation**  
Violations that result in off-site sedimentation subject the violator to a civil penalty of \$1,000 per day, per violation. The penalty may be increased up to \$5,000 per day or decreased, based on mitigating circumstances in Section 39.2.F.2.e. Violations of this type may include, but are not limited to, the following:
    - (A) Conducting land-disturbing activities beyond the limits of an existing permit without approval of an amended plan and permit that result in off-site sedimentation.
    - (B) Failure to properly install or maintain erosion control measures in accordance with the approved plan or the Charlotte Land Development Standards Manual that results in off-site sedimentation.

(C) Failure to retain sediment from leaving a land-disturbing activity as required by Article 28.

(D) Failure to restore off-site areas affected by sedimentation during the time limitation established in a notice of violation and as prescribed in the City of Charlotte and Mecklenburg County Soil Erosion and Sedimentation Control Policies and Procedures.

(E) Any other violation of Article 28 that results in off-site sedimentation.

**iv. Violations Not Resulting in Off-Site Sedimentation**

Violations of Article 28 that do not result in off-site sedimentation subject the violator to a civil penalty of \$500 per day, per violation. The penalty may be increased up to \$5,000 per day or decreased, based on mitigating circumstances in Section 39.2.F.2.e. Violations of this type may include, but are not limited to, the following:

(A) Failure to comply with the mandatory standards for land-disturbing activity as specified in Section 28.3.C, except Sections 28.3.C.4 and 28.3.C.5.

(B) Failure to submit to the Stormwater Administrator for approval an acceptable revised erosion and sedimentation control plan after being notified by the Stormwater Administrator of the need to do so.

(C) Failure to maintain adequate erosion control measures, structures, or devices to confine sediment.

(D) Failure to follow the provisions on the approved plan.

(E) Any other action or inaction that constitutes a violation of Article 28 that did not result in off-site sedimentation.

v. The Stormwater Administrator is authorized to vary the amount of the per diem penalty set out in Section 39.2.F.2 to take into account any relevant mitigating and aggravating factors.

e. In determining the amount of the civil penalty, the Stormwater Administrator shall consider any relevant mitigating and aggravating factors, including, but not limited to:

i. The effect, if any, of the violation.

ii. The degree and extent of harm caused by the violation.

iii. The cost of rectifying the damage.

iv. Whether the violator saved money through noncompliance.

v. Whether the violator took reasonable measures to comply with Article 28.

vi. Whether the violation was committed willfully.

vii. Whether the violator reported the violation to the Stormwater Administrator.

viii. The prior record of the violator in complying or failing to comply with Article 28 or any other erosion and sedimentation control regulations or law.

f. Repeat violators may be charged by a multiple of the base penalty determined in Section 39.2.F.2. The penalty for a repeat violator may be doubled for each previous time the person responsible for the violation was notified of a violation of Article 28 or any other soil erosion and sediment control regulation or the North Carolina Sedimentation Pollution Control Act. In no case may the penalty exceed the maximum allowed in Section 39.2.F.2.b.

i. The Stormwater Administrator shall determine the amount of the civil penalty and notify the person responsible of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be provided in accordance with 39.2.A.1 and shall direct the violator to either pay the assessment, contest the assessment through an appeal as specified in Section 37.8.B, or file with the

North Carolina Sedimentation Control Commission for remission. A remission request shall be accompanied by a waiver of the right to a contested case appeal hearing pursuant to N.C.G.S. Chapter 150B and stipulation of the facts on which the assessment was based. If a violator does not pay a civil penalty assessed by the Stormwater Administrator within 30 days after it is due or does not request an appeal hearing as provided in Section 37.8.B, the Stormwater Administrator, with authorization from the City Manager, shall request the City Attorney to institute a civil action in the name of the City to recover the amount of the assessment. The civil action shall be brought in the Mecklenburg County Superior Court.

ii. A civil action shall be filed within three years of the date the assessment was due. An assessment that is not appealed is due when the violator is served with a notice of assessment. An assessment that is appealed is due at the conclusion of the administrative and judicial review of the assessment.

iii. The clear proceeds of civil penalties collected by the City under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with N.C.G.S. § 115C-457.2. Clear proceeds include the full amount of all civil penalties and fines collected, diminished only by the actual costs of the collection, not to exceed 20% of the amount collected. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis.

### **3. Criminal Misdemeanors**

Any person who knowingly or willfully violates any provision of Article 28, or rule or order adopted or issued by the City or the County, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor and may be subject to a fine not to exceed \$5,000. This is in addition to any civil penalties that may be charged. Each day of continuing violation shall constitute a separate violation.

### **4. Injunctive Relief**

a. Whenever the Stormwater Administrator has reasonable cause to believe that any person is violating or threatening to violate Article 28 or any term, condition, or provision of an approved plan, the Stormwater Administrator, with the written authorization of the City Manager, may, either before or after the institution of any other action or proceeding authorized by Article 39.2.D, authorize the City Attorney to institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. See Section 39.2.A.5 on injunctions. The action shall be brought pursuant to N.C.G.S. § 160A-175 in the Mecklenburg County Superior Court.

b. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. See Section 39.2.A.5 for injunctions and orders of abatement. 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 Article 28.

### **5. Other Remedies**

#### **a. Restoration of Areas Affected by Failure to Comply**

The Stormwater Administrator may require a person who engaged in any land-disturbing activity and failed to retain sediment generated by the activity to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil penalty or injunctive relief authorized under Sections 39.2.F.2 and 39.3.F.4.

#### **b. Withholding Approval of a Certificate of Occupancy**

With regard to the development of any tract that is subject to Article 28, no certificate of occupancy shall be issued where any of the following conditions exist:

i. There is a violation of Article 28 with respect to the tract.

ii. If there remains, due and payable to the City, civil penalties that have been levied against the person conducting the land-disturbing activity for violations of Article 28. If a penalty is under appeal, the Stormwater Administrator may require that the amount of the fine, and any other amount that the



person would be required to pay under Article 28, if the person loses the appeal, be placed in a refundable account or surety prior to issuing the certificate of occupancy.

iii. The requirements of the plan have not been completed and the building for which a certificate of occupancy is requested is the only building then under construction.

iv. In the instance of multiple buildings on a single parcel, the requirements of the plan have not been completed and the building for which a certificate of occupancy is requested is the last building then under construction.

v. On a tract which includes multiple parcels created pursuant to the applicable subdivision regulations, the requirements of the plan have not been completed with respect to the parcel for which the certificate of occupancy is requested.

**G. Storm Drainage Violations and Enforcement – Additional Regulations (Article 24)**

Removed for purposes of this review.

**H. Subdivision, Streets, and Other Infrastructure Violations and Enforcement – Additional Regulations (Articles 29 through 34)**

Removed for purposes of this review.

**I. Surface Water Improvement and Management (SWIM) Buffers Violations and Enforcement – Additional Regulations (Article 26)**

Removed for purposes of this review.

**J. Tree Protection Violations and Enforcement – Additional Regulations (Article 20, Sections 20.12 through 20.18)**

Removed for purposes of this review.

**K. Water Supply Watersheds – Additional Regulations (Article 23)**

Removed for purposes of this review.