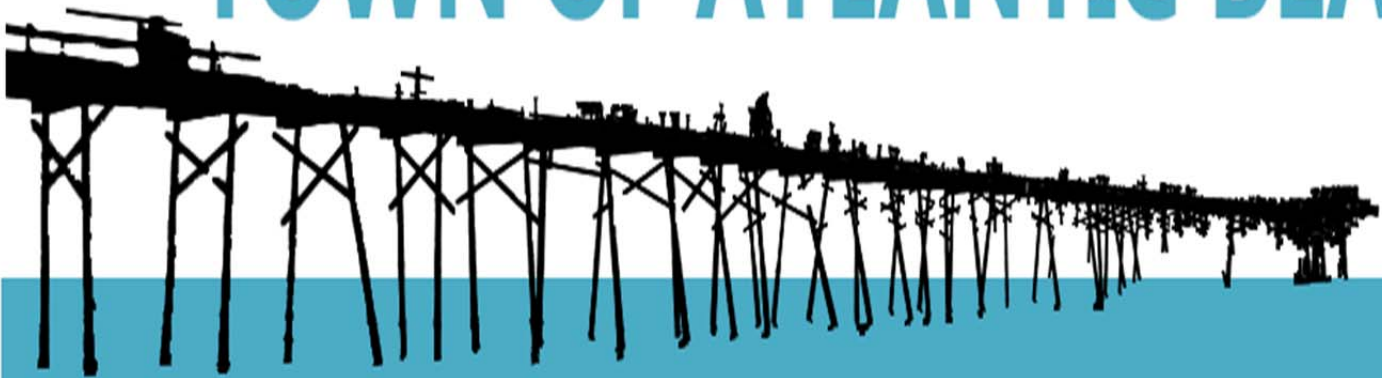


TOWN OF ATLANTIC BEACH



UDO UPDATE

MODULE 3: STANDARDS

Staff Review Draft

April 11, 2017

18.5.4. LANDSCAPING**A. PURPOSE AND INTENT**

The purpose of these provisions is to establish minimum requirements for the provision and maintenance of functionally adequate, attractive screening and buffering of structures, parking areas, driveways, and land uses. These standards are intended to:

1. Promote and increase design compatibility between different land uses, while ensuring attractive views from streets and adjacent properties;
2. Assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites;
3. Shield adjacent properties from potentially adverse external impacts of development, and development from potential negative impacts of adjacent land uses and activities;
4. Enhance the streetscape by separating the pedestrian from motor vehicles;
5. Abate glare and moderate temperatures of impervious areas;
6. Help filter air of fumes and dust;
7. Provide shade;
8. Attenuate noise;
9. Reduce the visual impact of large expanses of pavement;
10. Promote the preservation of open space;
11. Mitigate adverse grade changes between adjacent properties;
12. Improve the quality of the built and natural environments through air quality enhancements;
13. Promote energy conservation;
14. Reduce the amount and rate of stormwater runoff and erosion;
15. Improve stormwater runoff quality;
16. Increase in the capacity for groundwater recharge; and
17. Enhance the appearance and value of both residential and nonresidential development.

B. APPLICABILITY¹²¹

The standards in this section apply to the following forms of development:

1. **New Principal Building or Use**
Principal buildings or open uses of land constructed, reconstructed, or established after [*insert the effective date of this ordinance*].
2. **Changes in Use**
Changes in the principal use on a lot shall require the development to fully comply with these standards.
3. **Expansions or Remodeling**
All expansions or remodeling of principal buildings, parking areas, or open uses of land shall comply with the standards, subject to the requirements of **Section <>, Nonconforming Site Features**.
4. **Multi-Phase Development**
Multi-family, nonresidential, and mixed-use development that is planned and developed in phases shall be required to install landscaping that is associated with the active phase or phases only, unless an alternative arrangement is otherwise agreed to by the UDO Administrator and the developer. An active phase of a development is the one that is subject to permitted and on-going development activity.

¹²⁰ NOTE TO STAFF: These standards are intended to replace the standards in Article 10, Landscaping, of the current ordinance. The tree protection provisions have been relocated to their own section.

¹²¹ These standards are structured to require changes in use to fully comply with the landscaping requirements and additions, expansions, or remodeling to comply based on the value of the changes proposed, in accordance with the nonconforming site features standards in Article 18-8: Nonconformities.

5. Development in the CIR District

Development in the CIR district shall be subject to the standards in this section as well as the landscaping standards in Section <>, District-specific Standards. In the event of conflicting standards, the CIR district standards shall control.

C. EXEMPTIONS

The following forms of development are exempted from these standards.

1. An existing or proposed single-family detached or duplex dwelling on a residentially-zoned lot.
2. Routine maintenance of existing vegetation, such as pruning, watering, and fertilizing, outside the public right-of-way.
3. The removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, the burden of proof being placed on the remover.
4. Repaving or restriping of a parking lot, provided there is no increase in parking lot size.
5. Lot lines abutting platted street rights-of-way that are have remained unopened for at least ten years are exempted from streetscape buffer requirements.

D. LANDSCAPING PLAN REQUIRED¹²²

1. Generally

- a. A landscape plan depicting how required landscaping will be planted in accordance with these standards shall be included with an application for site plan, preliminary plat, zoning permit, or building permit, as appropriate, to ensure compliance with this section.
- b. The landscape plan shall be approved prior to, or concurrent with, the approval of a site plan, preliminary plat, zoning permit, or the issuance of a building permit.
- c. A landscape plan shall contain, as a minimum, the following:
 - i. Location of required planting material;
 - ii. Identification of trees and plants, including their scientific names;
 - iii. Minimum and maximum dimensions of all planting yard areas (see Section <>, Rules of Measurement);
 - iv. Calculations determining the number of canopy trees, understory trees, and shrubs required (see Section <>, Rules of Measurement);
 - v. Locations, species, and sizes of existing vegetation to be retained and counted towards minimum landscaping requirements; and
 - vi. Existing topography, or proposed topography where site grading is proposed to occur.

2. Stormwater Detention Pond Landscaping

If landscaping is proposed around or on the embankment of a stormwater detention pond, a landscape plan must be submitted for review to determine that the safety and functionality of the device will not be compromised by the addition of trees and/or shrubs.

3. Landscaping in Bio-retention Cells

Trees and shrubs used in bio-retention cells or rain gardens located in parking lots or within landscape yards may be counted toward tree or shrub requirements provided they meet the minimum specifications in Section <>, Plant Material Specifications.

4. Phased Development

Development that is planned in phases may submit a landscape plan for the entire development, or separate landscape plans for each phase, which shall be approved prior to approval of the final plat.

¹²² NOTE TO STAFF: This section replaces Section 10.7 of the current ordinance. It includes new requirements for phased development, stormwater detention and bio-retention facilities.

E. PLANT MATERIAL SPECIFICATIONS¹²³

1. Canopy Tree Size

- a. Canopy trees shall have a minimum height at maturity of 40 feet and a minimum crown width of 30 feet.
- b. All canopy trees shall have a minimum caliper size of two inches at planting.
- c. Evergreen trees shall be a minimum of six feet in height at planting.

2. Understory Tree Size

- a. Understory trees shall have a minimum height at maturity of 25 to 40 feet, except that trees to be placed below overhead utility lines may not exceed a mature height of 20 feet.
- b. Drought tolerant understory trees must have a minimum caliper size of one inch at planting.
- c. All other understory trees must have a minimum caliper size of 2 inches at planting.

3. Shrub Size and Variety

- a. All shrubs shall be at least a three-gallon size and have a minimum height or spread of 18 inches at the time of planting.
- b. Shrubs shall reach a minimum height of 36 inches and a spread of 30 inches within three years of planting.
- c. Decorative grasses may be proposed as a substitute for shrubs, provided the grasses meet the screening objectives and are approved by the UDO Administrator.

4. Native or Locally-Adapted Species

- a. Required landscaping materials shall be cold-hardy for the location where planted.
- b. Plant species used in required landscape yards must be native species or species of a locally adapted nature. Other species may be approved by the UDO Administrator.

5. Species Diversity

To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the following standards:

- a. When fewer than 20 trees are required on a site, at least two different species shall be utilized, in roughly equal proportions.
- b. When more than 20 but fewer than 40 trees are required to be planted on site, at least three different species shall be utilized, in roughly equal proportions.
- c. When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions.
- d. A larger number of different species than specified may be utilized.
- e. In no instance shall invasive species be utilized as landscaping materials to meet the requirements of this section.

6. Stabilization

- a. Required landscaping areas shall be stabilized and maintained with ground cover, mulch, or other approved materials to prevent soil erosion and allow rainwater infiltration.
- b. Required landscaping areas with slopes of 15 percent or more shall be stabilized with vegetative cover to minimize erosion and mulch washout.
- c. Use of landscape fabric on slopes of 15 percent or more is discouraged.

¹²³ NOTE TO STAFF: Current Section 10.8 relies on a plant list included as an appendix to the current ordinance. These draft standards integrate several of the landscaping standards in the codified text and do not include the appendix. The Town needs to decide if it will maintain a recommended plant list, and if it will be an appendix to this UDO.

F. LANDSCAPING PLACEMENT¹²⁴

1. Grouping of Plant Material

- a. Except within a Type A perimeter buffer or within a parking lot perimeter area, required plant material may generally be grouped or clustered, however, the overall screening intent must be adequately addressed. Groupings or clusters shall be depicted on the landscape plan.
- b. Required plant material in a Type A perimeter buffer may not be grouped, and shall be planted according to the required on-center spacing in Table <>, Perimeter Buffer Types.
- c. Perimeter landscaping materials adjacent to parking lots, access drives, loading areas, and outdoor storage may not be grouped.

2. Multiple-Lot Development

- a. A multiple-lot development, such as a shopping center, that is configured and developed as a single entity shall be treated as a single lot for the purposes of applying the landscaping standards.
- b. Individual lots located within a multiple-lot development are not required to provide perimeter buffers along lot lines internal to the development, but the perimeter of the development shall be subject to the standards in Section <>, Perimeter Buffers.

3. Easements

- a. Trees shall not be located within a required easement.
- b. Shrubs may be planted within the outer three feet of an easement, subject to approval by the easement holder (whether such easement pertains to above or below ground rights).
- c. When landscaping is within an easement, the easement holder is responsible for replacement of any required vegetation if maintenance or other utility requirements result in its removal.
- d. When shrubs are planted in a drainage easement, they shall not impact the easement design or impede the flow of water through the easement.
- e. Where an easement and a required landscape area coincide, there is a prohibition on planting within the easement and the remaining width is not sufficient to properly contain required plant material, then the required landscaping area width shall be expanded outside the easement.

4. Fire Protection System

Minimum clear separation distances required by the current adopted version of the North Carolina Fire Code shall be maintained for landscaping near a fire protection system.

5. Plantings in the Right-of-Way

Required planting materials shall not be located within a public or private street right-of-way.

6. Permitted Encroachments

The following are permitted in required landscape areas as indicated, provided the landscaping requirements are met and there is no interference with visibility at intersections.

- a. The following features may be located entirely within required landscaping areas provided the screening function of the landscaping is maintained:
 - i. Landscaping features such as, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;
 - ii. Pet shelters;
 - iii. Ornamental entry columns, gates, fences, walls, and retaining walls;

¹²⁴ This is a new section that consolidates landscaping-related configuration elements. Some, but not all, of these issues are addressed in the current regulations, others are new.

ARTICLE 18-5. DEVELOPMENT STANDARDS

Section 18.5.4. Landscaping

Subsection H. Parking Lot Landscaping

- iv. Flagpoles of 30 feet in height or less;
- v. Lamp and address posts;
- vi. Utility cabinets of four feet in height or less;
- vii. Mailboxes; and
- viii. Signage.

b. The following features may cross a required landscaping area in a manner that minimizes the impact to the required landscaping:

- i. Driveways;
- ii. Utilities;
- iii. Sidewalks or pedestrian accessways; and
- iv. Stormwater management facilities.

7. Prohibited Features

The following features shall not be located within a required landscaping area:

- a. A principal building or open air use;
- b. An accessory structure or open air use;
- c. Off-street parking or loading areas; or
- d. Outdoor storage.

G. FEATURES WITHIN REQUIRED LANDSCAPING AREAS

1. Berms

- a. Berms may be used independently, or in conjunction with a wall or fencing, to meet the screening intent of a perimeter buffer or other required screening.
- b. Berms shall have a slope not exceeding 3:1 (horizontal to vertical), have a crown width at least ½ the berm height, and be no taller than six feet above the toe of the berm slope.
- c. Berms shall be stabilized with vegetation and ground cover.
- d. A berm may not damage the roots of existing healthy vegetation designated to be preserved.
- e. A berm shall not interfere with required a sight distance triangle.

2. Fences and Walls

- a. Opaque fences or walls, a minimum of five feet in height, constructed within required landscaping areas, may reduce the minimum and average perimeter buffer width requirement in accordance with **Table <>, Perimeter Buffer Types**.
- b. If utilized, fences or walls shall be located within the required landscaping area and all required shrubs shall be planted between the fence or wall and the lot line. Required trees may be planted behind the fence or wall.

3. Planters

- a. Planters, if provided, shall be constructed of masonry, stone, or pressure treated lumber stamped for ground contact. Other materials may be approved, based upon their durability, by the UDO Administrator.
- b. Planters shall have a minimum height of 30 inches and have an effective planting area of seven feet (measured in any direction) if trees are to be planted and an effective planting area of four feet (measured in any direction) if no trees are to be included.
- c. The minimum height of shrubs in the planter, except for ground cover, shall be six inches at the time of planting.

H. PARKING LOT LANDSCAPING¹²⁵

¹²⁵ NOTE TO STAFF: This section replaces Section 10.11 in the current ordinance. These draft standards include a requirement of one shade tree for every 12 parking spaces. These provisions simplify the interior planting island size and planting standards by specifying a single

All parking lots of four or more spaces serving multi-family, mixed-use, and nonresidential developments shall comply with the following parking lot landscaping standards:

1. Shade Trees

All parking lots shall include shade trees to reduce the heat island effect and soften the appearance of the parking lot, in accordance with the following standards:

- a. Parking lot landscaping shall include at least one canopy tree for every 12 parking spaces.
- b. Required canopy trees shall be placed such that no parking space is more than 60 feet from the trunk of a canopy tree.
- c. Required canopy trees shall be distributed throughout parking areas and may be located in landscape islands, landscape divider medians, between rows of parking, in driveway medians, and within ten feet of the perimeter of the parking lot.

2. Interior Plantings¹²⁶

a. Area to be Landscaped

For the purposes of this section, the interior of a parking lot shall be all of the area within the outer boundary of the parking lot including interior and corner landscape islands intended to fulfill the interior parking lot landscaping requirements, but not including perimeter parking lot landscaping.

b. Landscaping Islands and Strips

A parking aisle with more than 12 spaces in a single row shall provide and maintain landscaping islands at each end, or provide landscaping strips along the full length of the row, in accordance with the following standards.

- i. Islands shall have a minimum dimension of nine feet and a minimum area of 162 square feet, including the curb (if curbing is provided).
- ii. Landscape islands that do not contain canopy trees shall contain three or more shrubs and also may contain understory trees.
- iii. Landscaping islands intended for the placement of canopy or understory trees shall maintain a minimum width of seven feet.
- iv. Landscape strips between adjoining rows of parking spaces or serving as driveway medians shall have a minimum dimension of seven feet, including the curb (if provided). Landscape strips that do not have canopy trees shall include shrubs planted no more than 10 feet on-center.
- v. Landscaping strips running the full length of a row of parking spaces shall be provided so that no more than four rows of parking spaces are provided without a landscaping strip.

c. Separation of Light Poles and Trees

In order to prevent the need to excessively trim trees within landscape areas and to maintain the effectiveness of parking area lighting, light poles shall be spaced at least ten linear feet from a canopy tree trunk, to the maximum extent practicable.

d. Protection of Landscape Islands

Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops or other comparable methods.

dimension and a minimum square footage amount. These standards also mandate provision of a continuous planting strip every four rows of parking spaces for all lots, not just lots exceeding 40,000 square feet in area. These proposed standards revise the current perimeter planting requirements to run the full perimeter of the parking lot, and are required everywhere except in cases when parking lots on separate lots abut one another.

¹²⁶ NOTE TO STAFF: Additional discussion is necessary with respect to Section 10.11.5, Foundation Plantings, of the current ordinance. It is not uncommon to see requirements for landscaping plantings between front building walls and parking areas, but requirements for plantings along the perimeter of a building are uncommon and could create difficulties with normal operations. Additional discussion is needed.

The placement of plant material within landscape islands shall allow for a two-and-one-half-foot vehicle overhang from the face of the curb or wheel stop.

e. Protection of Pedestrian Accessways

Pedestrian accessways shall be located at least five feet from tree trunks, to the maximum extent practicable. In cases where a pedestrian accessway must be located closer than five feet from a tree trunk, wooden walkways, pervious pavers, or other method shall be used for the accessway.

f. Stormwater Management

A landscape island may be designed to function as a stormwater management device provided its landscaping performance function is maintained.

g. Structural Soil Required

Landscaping islands and strips located within a parking lot shall be comprised of properly prepared structural soil that has been properly amended and cultivated to support healthy vegetation.

3. Perimeter Plantings

a. Intent

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

b. Location

- i.** Required plant material shall be placed adjacent to the perimeter of the parking area.
- ii.** Depending upon the geometric relationship of the parking lot to the property lines or to topographic conditions, plant material may be placed away from the edge of the parking area, if necessary, to best achieve the intent of this section.

c. Planting Rate

- i.** Parking lot perimeter landscaping shall consist of a single continuous row of evergreen shrubs planted no greater than three feet on-center.
- ii.** Applicants may propose alternative plant species (such as native grasses) provided the proposed plant material provides a fully opaque screen to a minimum height of 36 inches above grade throughout the year.

d. Size of Plant Material

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

e. Alternatives

Perimeter parking lot plantings may be supplemented or replaced through use of a vegetated berm configured in accordance with Section <>, Berms, or a fence or wall that meets the screening objective and is configured in accordance with Section <>, Fences and Walls.

f. Exemption

Where off-street parking lots are adjacent to one another, but on different lots, perimeter plantings are not required along the common boundary of the parking lots.

I. PERIMETER BUFFERS¹²⁷

¹²⁷ NOTE TO STAFF: This section replaces the standards in Section 10.10 related to project boundary bufferyards in the current ordinance. These standards employ three buffer types with two alternatives each that are applied based on the zoning of the developing and adjacent

1. Purpose and Intent

These standards are proposed to eliminate or minimize potential nuisances, such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas through physical and visual separation between incompatible land uses, or between land uses and adjacent roadways.

2. Applicability

Development shall provide perimeter buffers in accordance with **Table <>, Buffer Application.**

3. Buffers Distinguished

Table <>, Buffer Configuration, establishes the standards for the following perimeter buffers:

- a. Type A Opaque Buffer;
- b. Type B Semi-Opaque Buffer; and
- c. Type C Intermittent Buffer.

4. Buffer Configuration

land. The narrow option requires inclusion of an opaque fence or wall. These standards include specified minimum and average depth requirements, along with minimum plant counts. The current opacity ratios are replaced with an easier system that distinguishes between a fully opaque, semi-opaque, or intermittent visibility level. The buffers related to streets are moved to the subsequent section. The buffer application table in Section 10.10.9(A) does not include the RMU district. It is included with the RS and GB districts in this draft. Additional discussion is needed on this issue.

TABLE <>: BUFFER CONFIGURATION

BUFFER TYPE	MINIMUM REQUIREMENTS	
	OPTION 1	OPTION 2
Type A Opaque Buffer		
[image placeholder]		
Intent: This landscape yard functions as an opaque screen from the ground to a height of 8 feet. This type of buffer prevents visual and auditory contact between uses and creates a strong impression of total separation. The image above shows the buffer at maturity.		
Average width (feet) [1]	15	12
Minimum width (feet) [1]	12	10
Canopy trees per every 100 linear feet (#) / on-center spacing (feet)	3/33	4/25
Understory trees per every 100 linear feet (#) / on-center spacing (feet)	6/16	2/50
Shrubs per every 100 linear feet (#)	25	[2]
Minimum evergreen shrub percentage (%)	100	20
Additional Standards	N/A	[3]

TABLE <>: BUFFER CONFIGURATION

BUFFER TYPE	MINIMUM REQUIREMENTS	
	OPTION 1	OPTION 2
Type B Semi-Opaque Buffer		
[image placeholder]		
Intent: This landscape yard functions as a partially opaque screen from the ground to a height of 6 feet. This type of buffer prevents visual contact between uses and creates a sense of spatial separation.		
Average width (feet) [1]	10	8
Minimum width (feet) [1]	8	5
Canopy trees per every 100 linear feet (#)	1/	1
Understory trees per every 100 linear feet (#) / on-center spacing (feet)	4/16	2/50
Shrubs per every 100 linear feet (#)	15	[2]
Minimum evergreen shrub percentage (%)	100	20
Additional Standards	N/A	[4]

TABLE <>: BUFFER CONFIGURATION

BUFFER TYPE	MINIMUM REQUIREMENTS	
	OPTION 1	OPTION 2
Type C Intermittent Buffer		
[image placeholder]		
Intent: This landscape yard functions as an intermittent visual screen from the ground to a height of 5 feet. It is intended to partially block visibility between different uses but not totally obstruct visual contact from one use to another. The image above shows the buffer at maturity.		
Average width (feet) [1]	5	4
Minimum width (feet) [1]	4	3
Canopy trees per every 100 linear feet (#)	1	N/A
Understory trees per every 100 linear feet (#) / on-center spacing (feet)	N/A	3/33
Shrubs per every 100 linear feet (#)	7	4
Minimum evergreen shrub percentage (%)	50	100
<p>NOTES:</p> <p>[1] In cases where the required district setback is less than the required perimeter buffer width, the perimeter buffer width shall be reduced, as necessary, along the building wall.</p> <p>[2] Shrubs shall be planted every six feet on-center along the full course of the fence or wall between the fence or wall and the lot line.</p> <p>[3] A six-foot opaque fence, wall, berm, or combination shall be provided within the required perimeter buffer.</p> <p>[4] A four-foot opaque fence, wall, berm, or combination shall be provided within the required perimeter buffer.</p>		

5. Buffer Application

Table <>, **Buffer Application**, specifies the type of perimeter buffer that new development shall provide between it and adjacent land, based on the zoning district of the development site and that of the adjacent land. The buffer type is indicated by a letter corresponding to one of the three buffer types described in Table <>, **Buffer Configuration**.

TABLE <>: BUFFER APPLICATION			
ZONING DISTRICT OF DEVELOPING LAND	ZONING DISTRICT OF ADJACENT LAND		
	CIR, CPY	MUN, MHI, COR	RSC, RSW, RSN, RSM, RSD, RMF
CIR, CPY	N/A	B	A
MUN, MHI, COR	C	N/A	A
RSC, RSW, RSN, RSM, RSD, RMF	B	C	N/A

6. Buffer Responsibility

a. Adjacent to Vacant Parcel

Where a developing parcel is adjacent to a vacant parcel and a perimeter buffer is required in accordance with this section, the developing parcel shall provide a minimum of one-half of the perimeter buffer required adjacent to the vacant land.

b. Adjacent to Existing Land Use(s)

- i.** Where a developing parcel is adjacent to an existing use and a perimeter buffer is required in accordance with this section, the developing parcel shall provide the full perimeter buffer required adjacent to the existing use in accordance with Table <>, **Buffer Configuration**, and Table <>, **Buffer Application**, unless a portion or all of a perimeter buffer that complies with the standards of this section already exists between the lots.
- ii.** Where part of a perimeter buffer exists, but the buffer does not fully comply with the standards of this section, the developing parcel shall be responsible for providing only the additional planting material on site necessary to meet the standards of this section.
- iii.** The landscape plan shall include photographs and a description of existing vegetation on adjacent lands that are to be counted towards meeting the perimeter buffer requirements in this section.

7. Buffer Location

- a.** Perimeter buffers required by this section shall be located along the outer perimeter of the lot and shall extend to the connecting lot lines.
- b.** In cases where the lot line is within a drainage swale, the perimeter buffer shall extend to the edge of the swale instead of the lot line.
- c.** A perimeter buffer may be located along shared access easements between parcels in nonresidential developments.

J. STREETYARD BUFFERS

Development subject to these landscaping standards shall provide a streetyard buffer in accordance with the following standards:

1. Where Required

Streetyard buffers shall be provided along all lot lines bounded by a collector or thoroughfare street right-of-way.

2. Required Plant Material

Streetyard buffers shall be configured in one of the following three ways:

- a. Two canopy trees per every 100 linear feet of property frontage of frontage;
- b. One canopy tree and two understory trees per every 100 linear feet of frontage; or
- c. In cases where overhead utilities are present, three understory trees per every 100 linear feet of frontage.

3. Configuration

- a. A streetyard buffer shall maintain a minimum width of ten feet.
- b. Driveway widths (measured at the inside edge of the buffer) are excluded from the streetyard buffer distance calculation.
- c. Required sight distance triangles are excluded from the buffer length determination, and streetyard buffer landscaping material shall not be located within a required sight distance triangle.
- d. While the streetyard buffer width is typically located parallel to the lot line, design variations are allowed subject to the approval of the UDO Administrator, as needed to address existing obstructions or topographic conditions.

K. PLANTING FLEXIBILITY¹²⁸

1. Credit for Existing Vegetation

- a. In order to encourage the preservation of established vegetation, credit shall be given for preservation within the proposed buffer or other required landscaping areas on a one-for-one basis. In limited cases, the UDO Administrator may allow the applicant to count established vegetation located outside of the required planting area (such as streetyard buffers) towards the landscaping requirement.
- b. Vegetation to be credited towards these requirements shall be protected in accordance with these standards before and during development of the site and maintained thereafter in a healthy growing condition.

2. Plantings in Shaded Areas

In cases where required landscaping material would be heavily shaded by buildings on either side of the lot line, required trees and shrubs may be planted outside the shaded area to improve their chances of survival.

3. Revisions to Approved Landscaping Plans

Due to seasonal planting problems and/or a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting plans may be approved by the UDO Administrator if:

- a. There is no reduction in the quantity of plant material.
- b. There is no significant change in size or location of plant materials.
- c. The new plants are of the same general category (i.e., shade tree, ornamental tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

4. Alternative Landscaping Plans

An alternate landscape plan may be approved by the UDO Administrator, that allows modifications to the requirements of this section. Natural physical conditions (such as wetland

¹²⁸ NOTE TO STAFF: This section consolidates the standards in Sections 10.11.2, 10.14, and 10.6.3 of the current ordinance with no substantive changes. However, Section 10.9.4, Hardship Relief, which authorizes the UDO Administrator to modify landscaping standards with no criteria has not been carried forward. Section 10.13, Alternative Methods of Compliance, has been replaced with a new more comprehensive section on alternative landscaping plans.

ARTICLE 18-5. DEVELOPMENT STANDARDS

Section 18.5.4. Landscaping

Subsection M. Required Maintenance

areas, topography, or non-arable soils), lot configuration, utility easements, desire to retain existing vegetation, and impractical situations that would result from application of this section, may justify approval of an alternate landscape plan.

a. Intent

Any alternate landscape plan approved shall meet the intent of the applicable planting yard(s) and the purpose and intent of the landscaping standards of this section.

b. Allowable Modifications

i. The following landscape standards may be modified by an alternate landscape plan.

- a).** The location of required plant materials;
- b).** The configuration of required plant materials; and
- c).** The number of required plant materials.

ii. The alternative landscape plan shall include justification for the modifications requested, based upon but not limited to the following:

- a).** The presence or planned location of public utilities, infrastructure, or easements;
- b).** The location of existing healthy vegetation or other beneficial site features to be retained after development;
- c).** The size, shape, or topographic elevation of the site relative to the street(s) it abuts; and
- d).** The need to protect solar access or avoid permanently shaded areas on the site.

L. TIME OF INSTALLATION

- 1.** A certificate of occupancy shall not be issued, until all seeding, trees, and plant material have been placed in accordance with the approved site plan and requirements of this section.
- 2.** A temporary certificate of occupancy may be issued for a period of 120 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon request to the UDO Administrator.

M. REQUIRED MAINTENANCE¹²⁹

1. Responsibility

The responsibility for maintenance of required landscaping areas shall remain with the owner of the property, his or her successors, heirs, assignees or any consenting grantee. Maintenance is required in order to ensure the proper functioning of the plantings as a landscaped area which reduces or eliminates nuisance and/or conflict.

2. Maintenance

- a.** All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to: watering, mulching, fertilizing, and pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.
- b.** Necessary pruning and trimming shall be in accordance with the Tree Care Industry Association (TCIA) Standards for the Professional Arborist, and shall not be interpreted to include topping of trees through removal of crown material or the central leader, or any other similarly severe procedures that may cause irreparable harm to the natural

¹²⁹ NOTE TO STAFF: This section carries forward the standards in Section 10.9.2 and 10.9.3 of the current ordinance. The current standards require a water source within 100 feet of landscaping as well as irrigation systems. We suggest this material not be included in the standards.

ARTICLE 18-5. DEVELOPMENT STANDARDS

Section 18.5.4. Landscaping

Subsection O. Revegetation

form of the tree, except where such procedures are necessary to maintain public overhead utilities. Any such activity shall be a violation of these zoning regulations.

- c. Dead or diseased plantings shall be removed. Unless specifically exempted (such as understory trees shaded by canopy trees), replacement plantings shall be provided for any required plants which die or are removed for any reason and shall meet all minimum standards and conform to these regulations.
- d. Natural water courses within a buffer shall be maintained in a natural condition consistent with any applicable regulations.
- e. Landscape structural features such as walls, fences, berms, or water features shall be maintained in a structurally safe and attractive condition.
- f. Where other uses, including pedestrian bicycle accessways, are allowed within a required landscaping area, these uses shall be maintained to provide for their safe use.

3. Failure to Maintain

- a. Failure to maintain required landscaping areas is a violation of this Ordinance, in accordance with Article 18-9: Enforcement.
- b. Through the course of enforcement of these standards, the Town may recover the cost of enforcement, including reasonable attorney fees.
- c. The Town may also, following reasonable notice and a demand that deficiency of maintenance be corrected, enter a landscaping area to conduct required maintenance. The cost of maintenance shall be charged to those persons having the primary responsibility for maintenance of the buffer area.

N. SITE INSPECTION¹³⁰

1. Post Construction Inspection

- a. A permanent certificate of occupancy for the development shall not be issued unless the landscaping required under this section is installed in accordance with these standards and in accordance with the approved site plan or subdivision plat.
- b. No person shall refuse entry or access to any staff or authorized representative, of the Town who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with that representative while in the process of carrying out official duties.

2. Follow-up Inspection

The UDO Administrator or his/her designee shall inspect the site one year after the issuance of a permanent certificate of occupancy in order to ensure compliance with the approved site plan and to ensure that the landscaping is properly maintained.

3. Periodic Inspection

- a. The UDO Administrator or his/her designee may periodically inspect sites subject to the provisions of this Ordinance. If, through inspection, it is determined that a person has failed to comply or is no longer in compliance with the provisions of this Ordinance, a notice to comply shall be served upon that person by registered mail with return receipt or other means by the Town.
- b. The notice shall set forth that which will be necessary to comply with the Ordinance.
- c. The Town shall have the power to conduct investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance and for this purpose may enter at reasonable times upon the property, public or private, for the purpose of inspecting the site(s) subject to the provisions of this Ordinance.

O. REVEGETATION¹³¹

¹³⁰ This section carries forward the standards in Section 10.15 and 10.19 of the current ordinance.

1. Damage or Removal of Vegetation is a Violation

- a. The damage, disturbance, or removal of any landscaping area or vegetation required by this section shall constitute a violation of this Ordinance.
- b. Damage or removal of existing vegetation required to be preserved during the course of development activity shall be subject to civil penalty of \$2.00 for every square foot area of vegetation damaged or destroyed, not to exceed \$30,000.00.

2. Replacement Required

- a. Any disturbed landscaping areas, areas of preserved existing vegetation, or required plant material shall be replaced in accordance with the approved development application and these standards.
- b. Trees or vegetation that die within one year of construction completion shall be removed and replaced with new vegetation of equal or greater size.

3. Revegetation Plan Required

In cases where required landscaping or existing vegetation required to be preserved is damaged, disturbed, or removed, a revegetation plan shall be submitted for review and approval by the UDO Administrator, in accordance with the following standards:

- a. Any tree with a caliper of at least eight inches that is damaged or removed shall be replaced with one or more trees that have a caliper of at least two and one-half (2½) inches and a cumulative caliper equal to or greater than the original tree.
- b. Trees damaged or destroyed less than eight inches in diameter shall be replaced to satisfy the performance criteria of this section.
- c. Understory trees and shrubs may also be required to restore the landscaping performance criteria for the disturbed area.

4. Location of Replacement Trees and Vegetation

- a. Replanting should be located within the vicinity of the violation.
- b. If the area is too small for sufficient growth, a more suitable location on the site may be selected, as permitted by the UDO Administrator.

P. EMERGENCIES

In the case of emergencies such as windstorms, ice storms, fire, or other disasters, the Town may waive the requirements of this Ordinance during the emergency period so that the requirements of this Ordinance will in no way hamper private or public work to restore order in the Town. This shall not be interpreted to be a general waiver of the intent of this Ordinance.

¹³¹ This section carries forward the standards in Section 10.17 and 10.18 of the current ordinance with significant re-writing for clarity, though the substance of the standards remains unchanged.

18.5.5. TREE PRESERVATION

A. GENERAL REQUIREMENTS

1. Existing vegetation shall be preserved whenever feasible.
2. The decision to preserve vegetation shall be made jointly by the TRC, developer and design team during the project approval process. ¹³³
3. Determinations on how vegetation shall be preserved will be based on the results of a protected tree survey as required by Section <>, **Tree Survey Required**.
4. Protected tree surveys are not required for the consideration of rezoning requests.
5. If it is determined that no protected trees exist on a proposed development site, the applicant shall provide documentation supporting this claim in conjunction with an application for a zoning permit.
6. When selecting which trees to preserve, the following shall be considered:
 - a. Existing and proposed grading;
 - b. Age, condition and type of tree; and
 - c. Location of site improvements and utility connections.
7. Trenching, placing backfill in the critical root zone (CRZ), driving or parking equipment in the CRZ, and dumping of trash, oil, paint or other materials detrimental to plant health in close proximity of the trees to be preserved is prohibited.
8. Requirements for the protection of trees during the construction phase of a project are outlined within Section <>, **Preservation of Trees During Construction**.
9. Should any tree designated for preservation in the landscape plan die during or subsequent to the construction phase of a project, the owner shall replace it within 180 days with landscaping equal to what would be required in this Ordinance.

B. TREE SURVEY REQUIRED

1. The primary objective of tree survey requirements is to provide better information about the presence and location of protected trees on sites proposed for development. This information is needed before plans for development are so far advanced that it is unreasonable and impractical to modify the plans to protect the trees identified on the tree survey.
2. Tree survey requirements do not obligate a property owner or developer to save trees by modifying a plan for development. However, knowing the location and size of protected trees helps the staff evaluate possible modifications to the proposed plans to preserve protected trees and improve the appearance of proposed development. ¹³⁴
3. A protected tree survey shall be required for any multi-family development, nonresidential development, or major subdivisions, with applications for site plan, preliminary plat or development plan. The protected tree survey shall show the general location, species and size of any tree.
4. For development plans where specific building locations are not shown, a more generalized survey of vegetation may be provided in lieu of a protected tree survey. This survey shall describe existing forest stands, indicating the average species and size of trees on the tract.

¹³² NOTE TO STAFF: This section carries forward the standards in Sections 10.3 through 10.6 and Section 10.12 of the current ordinance with no substantive modifications. The current standards seem vague and difficult to administer; however, significant change requires policy discussion and deliberation. Additional discussion is necessary.

¹³³ This is too vague – it does not say which trees or which trees in which locations must be retained. How can this standard be applied consistently?

¹³⁴ Additional discussion needed. These are expensive. They do provide value for applicants seeking to credit existing trees towards landscaping requirements, but surveying trees outside of required landscaping areas is not a good practice if an applicant is simply permitted to remove them anyway.

C. REMOVAL OF EXISTING TREES¹³⁵

1. A permit shall be required for the removal or destruction of a large or small mature tree or trees.
2. The permit shall be issued when the UDO Administrator or his/her designee has determined that:
 - a. The mature tree or trees to be removed are dead, diseased, irreparably damaged, hazardous, or creating or potentially creating damage to the property or injury to person; or
 - b. An approved landscape plan has been issued in accordance with this Ordinance.
3. A permit is not required for the area of an approved plan designated as single-family or duplex residence, exclusive of open space.
4. Trees to be removed from the public rights-of-way by electric utilities and other utilities must be replaced by such entity in equal quantity.

D. PRESERVATION OF TREES DURING CONSTRUCTION

The standards outlined within this section are recommended, and shall not be required unless deemed necessary through the permitting process.¹³⁶

1. Protective Barricades Required

Protective barricades shall be placed around all protected trees designated to be saved, prior to the start of development activities or grading, in accordance with the following:

- a. Protective barricades shall consist of two-inch × four-inch posts with one-inch × four-inch rails or orange safety fence.
- b. Protective barricades shall remain in place until development activities are complete.

2. Activity within Protective Barricades

- a. The area within the protective barricade shall remain free of all building materials, stockpiled soil or other construction debris.
- b. Construction traffic, storage of vehicles and materials, and grading shall not take place within the protective areas of the existing trees.

3. Location of Barricades

Barricades shall be erected at a recommended minimum distance from the base of protected trees according to the following standards:

a. Trees Ten Inches or Less in DBH

Protective barricades shall be placed a minimum distance of ten feet from the base of each protected tree, or outside the dripline, whichever is greater.

b. Trees Greater than Ten inches in DBH

Protective barricades shall be placed at a minimum distance equal to ten feet from the base of a protected tree plus an additional one foot for each additional one inch in DBH greater than ten inches of DBH, or outside the dripline, whichever is greater.

4. Access

Construction access to a site should occur where an existing or proposed entrance/exit is located.

5. Grading

- a. Except for driveway access points, sidewalks, curb and gutter, land disturbance within a

¹³⁵ NOTE TO STAFF: This section carries forward the standards in Section 10.12 of the current ordinance. What is a "large" tree? Must an applicant get a permit for removal of any tree? If so, why? It is unclear why there is mention of single-family or duplex development since these uses are not subject to these requirements anyway. Suggest this section be removed.

¹³⁶ NOTE TO STAFF: This is overly vague and inconsistent with other landscaping standards which require protected trees to be preserved via protection mechanisms during construction.

tree dripline is strongly discouraged.

- b. Where grading within a tree dripline cannot be avoided, cut and fill shall be limited to one-fourth ($\frac{1}{4}$) to one-third ($\frac{1}{3}$) of the area within the dripline, tree roots must be pruned with clean cuts at the edge of the disturbed area, and no fill shall be placed within the dripline of a tree without venting to allow air and water to reach the roots.

6. Trees in Open Space

Trees and undergrowth in designated open space in an approved plan shall remain undisturbed, except for permitted pathways.

E. CLEAR CUTTING

1. Prior to Development

- a. Properties shall not be clear-cut prior to undertaking development activities.
- b. Along public rights-of-way, a buffer consisting of all existing vegetation located in a required street yard shall be maintained, exclusive of areas required for access to the site.
- c. Applications proposing development of properties that failed to maintain such a buffer prior to development may be denied for a period of up to five years from the date of clearing in conformance with Section 160A-458.5 of the North Carolina General Statutes.

2. During Development

- a. Properties shall not be clear cut while undertaking development activities.
- b. The preservation of the maximum amount of existing vegetation and selective removal of existing trees throughout the site is strongly encouraged during project design and construction.
- c. In order to encourage such preservation, the UDO Administrator may count established vegetation preserved during development towards the landscaping requirement.

ARTICLE 18-5. DEVELOPMENT STANDARDS

Section 18.5.9. Design Standards

Subsection E. Building Material Standards

I. NONCONFORMING LIGHTING

1. Lighting fixtures that do not comply with these standards that were lawfully established as of August 24, 2009, may remain, and shall be considered nonconforming structures.
2. Any modifications, replacement, or expansions to the exterior lighting facilities serving a development shall conform to the standards of this Ordinance.

18.5.9. DESIGN STANDARDS

A. PURPOSE AND INTENT

These design standards are proposed to promote architectural compatibility and the preservation of architectural character throughout the Town. More specifically, the purposes of this section are to:

1. Encourage establishment of a strong sense of place with vibrant commercial, office, and mixed-use development in Town;
2. Encourage a more pedestrian-friendly environment through attention to human-scale design and site features;
3. Foster greater compatibility between adjacent residential and nonresidential development;
4. Limit the impacts of automobile-oriented development in commercial, office, and mixed-use areas; and
5. Enhance the appearance of development along major streets.

B. APPLICABILITY

The requirements of this section apply to the following forms of development:

1. New Construction

- a. Newly constructed residential development except single-family detached or duplex dwellings;
- b. Newly constructed nonresidential development; and
- c. Newly constructed mixed-use development.

2. Expansion, Additions, or Modifications of Existing Development

Expansion or modification of an existing commercial, office, institutional, or multi-family use that increases the total enclosed floor area by the greater of: 50 percent or 5,000 square feet.

C. EXEMPTIONS

1. The following forms of development are exempted from these standards:
 - a. Uses in the Utilities Use Category of **Table <>, Principal Use Table**;
 - b. Single-family dwellings (except manufactured homes); and
 - c. Duplex dwellings.
2. Development located in the CIR district shall comply with the applicable design standards in Section **<>, District-Specific Standards**, in addition to these standards. In cases where the standards conflict, the CIR district standards shall control.

D. BUILDING ORIENTATION¹⁴⁴

1. The primary entrance shall be architecturally and functionally designed on the front facade facing the primary public street.
2. The front facade of the principal structure shall be parallel to the front lot line and street.
3. Ground mounted mechanical equipment, solid waste storage, recycling storage, and restaurant operations shall be located to the rear or side yard and screened from view of the street. R

¹⁴³ These standards consolidate the provisions from Sections 7.5 and 7.6 into a single set of design standards. The current standards applied to single-family and duplex structures are not carried forward as state laws now prohibit these kinds of standards.

¹⁴⁴ This section carries forward the standards in Section 7.5.2 of the current ordinance, except for the requirement that adjacent buildings be compatible to one another as this is a very vague standard.

E. BUILDING MATERIAL STANDARDS¹⁴⁵**1. Allowable Materials**

a. The following material are allowed on principal structures in the Town:

i. Nonresidential Development

The predominant exterior building materials for nonresidential and mixed-use development shall be of high quality, and may include:

- a). Brick;
- b). Rock, stone, or tinted and textured concrete masonry units;
- c). Natural, decay-resistant, high quality exterior wood siding, shingles, or clapboards;
- d). Cementitious siding (sheet or plank);
- e). High-quality, architectural metal (stainless steel, copper, brushed nickel, brass, but excluding corrugated metal siding); and
- f). Transparent glass windows and doors.

ii. Multi-family Development

- a). Exterior materials on multi-family development shall be durable and residential in character.
- b). The predominate exterior building materials may include:
 - i). Wood clapboard siding,
 - ii). Wood shingles;
 - iii). Brick;
 - iv). Stone;
 - v). Stucco;
 - vi). Vinyl or aluminium siding.
- c). Suggested pitched roof materials include asphalt shingles, standing seam metal, slate, or similar materials.

b. Artificial materials which closely resemble these materials shall also be allowed, but are subject to approval by the UDO Administrator.

2. Color**a. Primary Colors**

Overly bright, neon, or "day-glow" colors shall not be used as primary exterior building colors.

b. Accent Colors

Building trim and accent areas may feature brighter colors, including primary colors, but these colors may not comprise more than 15 percent of any building facade.

3. Configuration

- a. Where two or more materials are proposed on a building façade, the heavier or more massive material (like stone) shall be located below the lighter or less massive material (stucco).
- b. Heavier details may be permitted as details on corners or around doors and windows.
- c. Material changes shall take place at logical locations, such as the intersection of building wings or internal corners.
- d. Material changes shall not take place at outside corners, and material returns shall be included for a distance of at least two feet past an exterior building corner.

4. Standards for Facades Visible from Roadways and Residential Areas

¹⁴⁵ These standards consolidate the provisions from Section 7.5.3.1, 7.5.3.2, 7.5.4.2, and portions of Section 7.6.4 related to materials.

ARTICLE 18-5. DEVELOPMENT STANDARDS

Section 18.5.9. Design Standards

Subsection H. Awnings and Canopies

All facades that are visible from a public roadway or abutting a residential zoning district or use shall be constructed of one or a combination of the following materials: concrete aggregate, stucco, brick, stone, glass or wood, faced concrete block.

5. Prohibited Materials

No portion of building constructed of unadorned (unfaced) concrete masonry units or corrugated and/or sheet metal may be visible from a public roadway.

F. MASSING & ARTICULATION

1. Purpose and Intent

These massing and articulation standards are proposed to help ensure greater pedestrian orientation and architectural compatibility. This is achieved by limiting long monotonous or unbroken building walls in favor of building projections, recesses, offsets or other architectural features that provide visual interest. These standards are intended to:

- a. Reduce the apparent mass and bulk of building, as seen from the public realm;
- b. Ensure that all building walls receive some form of architectural treatment;
- c. Ensure an equal level of treatment to all buildings (including buildings on outparcels) in a multi-building development.
- d. Encourage buildings to present a continuity of style on all facades visible from the public realm.

2. Building Mass

- a. Buildings or developments with 15,000 or more gross square feet of floor area shall configure buildings to appear as individual volumes containing 15,000 or fewer square feet through the use of offsets, building wings, and lateral connections like breezeways.
- b. These standards are not intended to limit the maximum size of a building, rather, they are intended to minimize the mass or bulk size of a building as seen from the public realm.

3. Building Articulation

Buildings subject to these standards shall be configured so that no single facade fronting a public street or public open space shall extend for longer than 35 linear feet without inclusion of one or more of the following features:

- a. The use of projections or recesses in the building façade wall with a depth of between 18 inches and 36 inches from the primary facade plane and a minimum span of eight feet; or
- b. The use of columns or other architectural detail to provide visual interest. Where used, columns should be harmonious with the general design of the structure.

G. FENESTRATION

1. Building subject to these standards shall be configured so that building facades facing public streets shall include a window or functional general access doorway at least every 20 feet along the facade. False or display casements are an allowable alternative, as approved by the UDO Administrator.
2. At least 25 percent of the first floor of the street facade(s) shall be transparent (including all sides facing a street right-of-way). False or display casements are not permitted in lieu of exterior window treatments for the frontage elevation.
3. Street level windows shall be visually permeable.
4. Mirrored or reflective glass is not permitted in any location.
5. A window shall be measured as follows:
 - a. Maximum sill height (first floor): 42 inches;
 - b. Minimum area: 16 square feet;
 - c. Minimum width: Three feet; and
 - d. Minimum height: Four feet.

ARTICLE 18-5. DEVELOPMENT STANDARDS

Section 18.5.9. Design Standards

Subsection J. Alternative Compliance

6. Ventilation grates or emergency exit doors located at the first floor level oriented toward a public street shall be decorative.

H. AWNINGS AND CANOPIES

1. When used, awnings and canopies shall be placed at the top of window or doorway openings.
2. No awning shall extend more than the width of the sidewalk or ten feet, whichever is less.
3. Awnings must be self-supporting from the wall.
4. No supports shall rest on or interfere with the use of pedestrian walkways or streets.
5. In no case shall any awning extend beyond the street curb or interfere with street trees or public utilities.

I. ROOFS

1. Roof pitches less than 3:12 and flat roofs shall require a parapet wall on all sides visible from the street. Parapet walls shall fully screen all roof-top mechanical equipment from the street.
2. A pitched roof shall have eaves a minimum of 12 inches from the building face.
3. Parapet walls shall have decorative cornices or caps.
4. Roof-mounted mechanical equipment shall be screened from view by a parapet wall matching the primary building materials.

J. ALTERNATIVE COMPLIANCE

Alternative compliance may be obtained provided the design satisfies the intent of this section. In such cases, the UDO Administrator shall have the authority to approve the following:

1. Materials of construction not listed, provided the materials used are implemented in a manner that enhances the surrounding area;
2. Increase the maximum size of a single retail structure as a distinct mass by up to 25 percent, provided the structure is designed in a manner that enhances the surrounding area; and
3. Reduced transparency requirements.

18.5.10. SIGNAGE**A. PURPOSE AND INTENT¹⁴⁷**

The erection of signs is controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on streets and sidewalks. The provisions of this section are more specifically intended to:

1. Promote traffic safety;
2. Ensure residents and visitors can locate desired goods, services, and destinations;
3. Reflect the aesthetics desired by residents; and
4. Provide only the minimum interference with individual property rights necessary to ensure public health, safety, and welfare.

B. APPLICABILITY¹⁴⁸

1. Except for the sign types exempted from these standards identified in **Section <>, Exclusion**, signs may only be erected, affixed, placed, painted, or otherwise established in the Town in accordance with the standards in this section.
2. All signs shall be constructed and designed, according to generally accepted engineering practices, to withstand wind pressures and load distribution as specified in the current building code.

C. EXCLUSIONS¹⁴⁹

The following shall not be subject to these standards, but may be subject to other standards in this Ordinance, including the requirement to obtain a building permit:

1. Fence-wrap signs affixed to fences surrounding a construction site;¹⁵⁰
2. Flags and insignia of any government;
3. Legal notices required by governmental bodies, public utilities, or civic associations;
4. Historical markers, memorial signs, plaques, or grave markers;
5. Signs denoting the location of underground utilities;
6. Integral decorative or architectural features of buildings, except moving parts or moving lights;

¹⁴⁶ NOTE TO STAFF: This section carries forward the standards from Article 11 of the current code with several significant changes. As mentioned in the Code Assessment, federal laws with respect to the regulation of signs have changed dramatically based on the US Supreme Court's ruling in the Town of Reed vs. Gilbert case. Essentially, the holding from this case is that sign standards that require the regulator to read the sign's message to determine which kind of sign standards to apply are not content-neutral. Court precedent has indicated that sign standards must be content neutral (to pass muster under the 1st Amendment to the Constitution), or must withstand the strict scrutiny doctrine. To withstand strict scrutiny, standards must be developed with a compelling governmental interest and must be narrowly tailored to achieve that specific interest. In practice, most sign standards are focused on aesthetics, and thus will NOT pass the test of strict scrutiny. As a result, local governments across the country are now revising their sign standards in two or three key ways: First, sign standards may not be structured in ways that require the sign to be read to determine which set of standards to apply (in other words, no longer may a community apply differential sign standards based on sign type – you may not have special standards for “for rent” signs versus “directional signs”). Second, sign standards may not distinguish between “commercial” signs versus “noncommercial” signs (since doing so requires reading the sign's message). Third, the Court has ruled that speaker-based standards (sign standards that relate to a particular kind of use, like signs for a restaurant or a signs for a vacation rental) are not content neutral, and must also pass strict scrutiny. One of the best ways to address this new court precedent is to maintain the time, place, and manner provisions for signs that most communities (including Atlantic Beach) already have, and revise any specific sign-type standards into a set of generic time, place, and manner sign standards that differ by type of zoning district. Fortunately, the Town's current sign standards are already organized in this fashion, and will only require some moderate adjustment to avoid the strict scrutiny doctrine. In addition to these changes, we have also revised the structure of the current sign regulations to have a more logical organization.

¹⁴⁷ This is a new section.

¹⁴⁸ This is a new section.

¹⁴⁹ This section builds on the standards in Section 11.3.9. The allowance for two menu boards is not carried forward since regulations cannot refer to commercial or noncommercial messages.

¹⁵⁰ NOTE TO STAFF: The General Assembly has exempted fence wrap construction signs from local regulations. This exemption supersedes Section 11.3.6 of the current regulations. We have also removed the current exclusion for window signs given the standards in Sections 11.5.2 and 11.5.4 in the current ordinance related to window signs.

ARTICLE 18-5. DEVELOPMENT STANDARDS

Section 18.5.10. Signage

Subsection F. Signs Permitted without a Sign Permit

7. Signs directing and guiding traffic on private property that do not exceed four square feet in area per sign;
8. Signs that are not visible from off-site areas;
9. Handicapped parking signs;
10. Up to one incidental sign on a residential structure or a commercial establishment that does not exceed four square feet in area and configured so that the top of the sign is within five feet of the grade elevation;
11. Yard sale signs; or
12. Up to two non-permanent, professionally manufactured sandwich board-style signs of up to six square feet in sign area per side for each business establishment in a nonresidential district.

D. PROHIBITED SIGNS¹⁵¹

The following signs, sign construction, and displays are prohibited:

1. Any sign which the UDO Administrator determines obstructs the view of bicyclists, pedestrians, or motorists using any street, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal;
2. Illuminated, highly reflective signs or spot lights that the Police Department determines hampers the vision of motorists, pedestrians, or bicyclists;
3. Signs, lights, rotating disks, words, and other devices, which resemble traffic signals, traffic signs, or emergency vehicle lights;
4. Signs, other than government signs, which contain lights, rotating disks, words and other devices not erected by a public authority, which may be erroneously construed as government signs, or emergency warning signs;
5. Any sign which interferes with free passage from or obstructs any fire escape, downspout, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light, drainage, or air;
6. Any sign placed on any curb, sidewalk, utility pole, street sign post, hydrant, bridge, tree, or public street;
7. Any sign located in such a way as to intentionally deny an adjoining landowner visual access to an existing sign;
8. Flashing, fluttering, swinging, rotating signs;
9. Signage in or affixed to a motor vehicle, boat, or trailer;
10. Roof signs or signs above the parapet of a building;
11. Electronic message boards in a residential district;
12. Any sign or flag the UDO Administrator deems to be significantly worn, torn, dilapidated, damaged, tattered, or otherwise in disrepair - such signs may be removed by the UDO Administrator 60 days after written notice to the owner;
13. Banners;
14. Windblown devices such as pennant, streamers, spinners, balloons, gas- or air-filled figures, and other similar devices;
15. Homemade signage serving a commercial or business establishment; and
16. Off-premises signs, including billboards. Off-premises signs may remain in place until they are modified or damaged to a point that exceeds 50 percent of the sign's established value, and must then be removed.

E. OBSOLETE OR ABANDONED SIGNS

¹⁵¹ NOTE TO STAFF: This section carries forward the standards in Section 11.4 of the current ordinance. However, additional discussion is needed regarding banners, which are prohibited except for real estate open houses (not allowed since you must read the sign), special events (not allowed since you must read the sign), or for non-profit uses (not allowed since you may not treat commercial and noncommercial signage differently). We have left the current prohibition of off-premise signs in, though this issue has not yet been decided by the courts since you must read a sign to determine if it is off-premise.

Nonconforming signs or parts of signs which advertise or pertain to a business, product, service, commodity, event, activity, or purpose which either no longer exists, has been discontinued or has not been in use for 180 days or more shall be deemed to be an abandoned sign and shall be removed by the UDO Administrator within 60 days of notice to the owner at the owner's expense.

F. SIGNS PERMITTED WITHOUT A SIGN PERMIT¹⁵²

The following signs may be installed without a sign permit, but are subject to the standards in this section and may be required to obtain building permit approval.

1. Governmental Signage

Temporary or permanent signs erected and maintained by or required by the Town, Carteret County, the State of North Carolina, or the Federal government, including, but not limited to:

- a. Signs posted by or under the authority of Municipal, County, State, or Federal authorities for crime prevention, public safety, health, zoning, and identification; or
- b. Signs or flags erected by any government advertising Town-sponsored events, Town-related information or used decoratively.

2. Safety Signage¹⁵³

Safety signage of up to two square feet in sign area per sign that used to direct traffic into, around, or off a site, including:

- a. Signs posted upon private property relating to private parking or warning the public against trespassing against danger from animals or other dangers or dangerous conditions; or
- b. Private unofficial traffic signs indicating on-site directions, entrances, exits, or hazards.

3. Flags

Flags shall be allowed provided that:

- a. A maximum of two flags shall be allowed per business or residence;
- b. Flags shall not unreasonably distract a driver of a motor vehicle by interfering with a sight line or sight distance triangle; and
- c. Flag poles shall not exceed 30 feet in height.

4. Temporary Signage¹⁵⁴

Each lot shall be allowed up to one temporary sign per street frontage, subject to the following standards:

- a. Temporary signage on lots occupied by a single-family detached, duplex, or townhouse dwelling shall not exceed six square feet of sign area per sign;
- b. Temporary signage on lots with all other uses shall not exceed 32 square feet of sign area per sign;
- c. Temporary signs shall not be illuminated; and
- d. Temporary signs may remain in place for up to 30 days per lot. This 30-day period may be renewed by the UDO Administrator up to 12 times per lot per year.

5. Political Signs¹⁵⁵

¹⁵² NOTE TO STAFF: Section 11.3.7 sets out special standards for religious or non-profit organizations. Local governments may not establish sign standards that distinguish between commercial or non-commercial purposes. We suggest the standards be addressed through the proposed temporary or special event sign standards.

¹⁵³ NOTE TO STAFF: Current code section 11.3.2 refers to these signs as "incidental" signs. We suggest this be changed to "safety signs" since we may no longer refer to individual sign types that require reading the sign. Use of the term safety signage is more akin to the purpose of these signs, and is more likely to pass the strict scrutiny test.

¹⁵⁴ NOTE TO STAFF: These standards replace the standards in Section 11.3.4, Real Estate Signs, from the current code. Sign standards may no longer reference specific functions (like for sale or for rent). This approach allows these kinds of signs without violating court precedent. However, temporary signs have a maximum duration, which must be identified in the standards.

ARTICLE 18-5. DEVELOPMENT STANDARDS

Section 18.5.10. Signage

Subsection J. Sign Standards in Mixed Use Districts

Political signs (campaign and election signs) are permitted without a permit, provided that:

- a. The party responsible for erecting the sign shall be held responsible for any violations;
- b. No political signs are allowed on Town-owned property (this does not apply to Town right-of-way);
- c. Sign placement and duration shall be in accordance with Section 136-32 of the North Carolina General Statutes.

6. Special Event Signage

Special event signs shall be allowed in accordance with the following standards:

- a. Only one on-premise sign per lot shall be permitted per event. Portable signs may be used for such purposes.
- b. Signs shall be erected no sooner than 14 days before and removed seven days after the event.
- c. No special event sign shall exceed 32 square feet.
- d. No lot shall have both temporary signage and special event signage.
- e. Special event signs made from non-permanent materials are acceptable with staff approval which shall be based upon issues of safety, location, durability, length of time for display, and other such relevant factors.

G. SIGN PERMIT REQUIRED

Unless exempted by Section <>, Exclusions, or Section <>, Signs Permitted Without a Sign Permit, all signs shall require a sign permit in accordance with Section <>, Sign Permit, prior to construction, installation, or display. Whether the sign is new, part of new construction, or an existing sign, the following information will be required as part of the permit application:

1. A detailed description of any new sign for which a permit is required, including, but not limited to: a detailed drawing of the sign showing size, height, and site location relative to property lines and street right-of-way.
2. Existing signs must meet these requirements if, for any reason, the sign is to be changed or altered. Normal copy changes and routine maintenance matters, without changes in construction, size, height, or lighting are exceptions to this requirement.
3. Prior to issuance of a sign permit, all fees in accordance with the associated fee schedule shall be paid. Some signs may require building and electrical permits as determined by the Building Inspector.
4. Upon notification of completion by the permit holder, the UDO Administrator shall inspect the sign to verify conformance with applicable codes and the issued permit. The Building Inspector shall inspect the signs where applicable for electrical and structural compliance.

H. MEASUREMENT

Sign face area and maximum height are determined in accordance with Section <>, Signage.

I. SIGNS STANDARDS IN RESIDENTIAL DISTRICTS¹⁵⁶

Development allowed in residential districts, including but not limited to: residential subdivisions, multi-family developments, manufactured home parks, churches, and recreational facilities may incorporate the following forms of signage:

1. Up to one ground-mounted or monument sign per entrance may be utilized, provided it does not exceed 20 square feet in face area, and seven feet in height.
2. Home occupations may install up to one sign with an area of no greater than four square feet on the residence within which the home occupation resides.

¹⁵⁵ NOTE TO STAFF: While identification of particular sign types, like political signs, is not consistent with the *Reed* ruling, state law protects these signs. From a practical standpoint, we suggest standards for these particular signs be included until the Supreme Court clarifies the direction from the *Reed* decision.

¹⁵⁶ This section carries forward Section 11.5.1 of the current ordinance with no substantive changes.

ARTICLE 18-5. DEVELOPMENT STANDARDS

Section 18.5.10. Signage

Subsection K. Sign Standards in Commercial Districts

J. SIGN STANDARDS IN MIXED USE DISTRICTS¹⁵⁷

Signs on lots in the MUN and MHI districts shall comply with the requirements in **Table <>, Sign Standards in Mixed-Use Districts.**

TABLE <>: SIGN STANDARDS IN MIXED-USE DISTRICTS

TYPE OF SIGN	MAXIMUM FACE AREA [1] [2]	MAXIMUM HEIGHT	MAXIMUM NUMBER OF SIGNS PER LOT	ADDITIONAL STANDARDS [3]
Wall Sign on Front Façade [4]	5% of wall area	Below the roof, soffit, or parapet	None	Wall signs shall not project more than 12 inches outwards from the wall
Window Sign	10% of total window and glass door area	Top of ground floor window or door	None	Window signs shall not be placed on faux windows or structural glass
Projecting Sign	12 sf per side	8 feet above grade	1	No portion of the sign may be located within three feet of the street paving
Awning Sign	Sign copy area limited to the drip flap	Awnings on ground floor only	1	N/A
Monument Sign	12 sf per side	3½ feet above grade	1	Signs shall be located at least five feet from a lot line and at least ten feet from the street right-of-way
Portable Sign	24 inches by 36 inches	4 feet above grade	2	

NOTES:

[1] Regardless of the composition of signage, the maximum available sign area per development shall be 40 square feet (not counting signage excluded from these standards).

[2] "sf" = square feet

[3] Signs shall also be subject to the standards in **Section <>, Additional Sign Specifications.**

[4] Wall signs are not permitted on side or rear building façades.

K. SIGN STANDARDS IN COMMERCIAL DISTRICTS¹⁵⁸

Signs on lots in the CIR, CPY, and COR districts shall comply with the requirements in **Table <>, Sign Standards in Commercial Districts.**

TABLE <>: SIGN STANDARDS IN COMMERCIAL DISTRICTS

¹⁵⁷ NOTE TO STAFF: This section carries forward the standards in Section 11.5.4 related to signage in the COD and CDD districts. This is particularly problematic given that the COD applies to all areas zoned GB. We have revised the applicability of these standards to be applicable to the new MHI and MUN mixed use districts, but the impact on nonconformities is unclear. Additional discussion is needed. One approach may be to remove the mixed use standards and use the most permissive mixed use standard for the nonresidential sign provisions. This table consolidates the standards in Sections 11.5.4, and 11.6. Inconsistencies between these sections have been resolved. Additional discussion is needed.

¹⁵⁸ NOTE TO STAFF: This table consolidates the standards in Sections 11.5.2, 11.5.3, and 11.6. Inconsistencies between these sections have been resolved.

ARTICLE 18-5. DEVELOPMENT STANDARDS

Section 18.5.10. Signage

Subsection L. Additional Sign Specifications

TYPE OF SIGN	MAXIMUM FACE AREA [1] [2]	MAXIMUM HEIGHT	MAXIMUM NUMBER OF SIGNS PER LOT	ADDITIONAL STANDARDS [3]
Wall Sign on Front Façade	Greater of: 1 sf per linear foot of wall frontage, or 5% of wall area	Below the roof, soffit, or parapet	No Limit	Wall signs shall not project more than 12 inches outwards from the wall
Wall Sign on Side or Rear Façade fronting a street	½ sf per liner foot of wall frontage			
Window Sign	25% of total window and glass door area	Top of ground floor window or door	No Limit	Window signs shall not be placed on opaque doors, faux windows, or structural glass
Projecting Sign	12 sf per side	8 feet above grade	1	No portion of the sign may be located within three feet of the street paving
Awning Sign	Sign copy area limited to the awning's drip flap	Awnings on ground floor only	1	None
Freestanding Sign	50 sf total	15 feet above grade	1	Signs shall be located at least five feet from a lot line and at least ten feet from the street right-of-way
Freestanding Sign serving a shopping center	Up to 6 tenants: 100 sf; 7-14 tenants: 125 sf; 15+ tenants: 150 sf	20 feet above grade	1 per street frontage	
Monument Sign serving an outparcel in a shopping center	50 sf total	4 feet above grade	1 per outparcel	Signs shall be at least ten feet from the street right-of-way

NOTES:
 [1] Regardless of the composition of signage, the maximum available sign area per development shall be 200 square feet (not counting signage excluded from these standards).
 [2] "sf" = square feet
 [3] Signs shall also be subject to the standards in [Section <>, Additional Sign Specifications](#).

L. ADDITIONAL SIGN SPECIFICATIONS

1. Wall Signs¹⁵⁹

- a.** No wall sign or its supporting structure shall cover any window or part of a window, nor shall it extend on the roofline, parapet, or mansard roof.
- b.** Canopy and awning signs may be substituted for part or all of the allowable wall signage per premises.
- c.** Signs may be painted or printed onto a canopy or awning.
- d.** In no instance shall a canopy or awning sign extend into a street right-of-way.
- e.** No wall sign shall be attached to any cupola, tower, or other architectural feature that is above the roofline.

¹⁵⁹ NOTE TO STAFF: This is the first use of the term "canopy sign." The current standards do not adequately address this kind of signage.

2. Freestanding and Monument Signs

Any freestanding or monument sign greater than three and one-half feet in height as measured from the grade of the road upon which it fronts shall be located outside the required sight distance triangle.

3. Projecting Signs

- a. A projecting sign shall not project more than four feet from a building wall.
- b. A projecting sign shall not extend vertically above the roofline or parapet of a building.
- c. Projecting signs may be substituted for wall signs serving individual tenants of a shopping center, provided:
 - i. A projecting sign shall not project into any required setback or yard.
 - ii. There shall be more than one projecting sign per business entrance.

4. Electric Signs

- a. No electric sign shall be so located with relation to pedestrian traffic as to permit it to be easily reached by any person.
- b. The bottom of such sign shall be located a minimum of ten feet above the grade if the sign is within 15 feet of the edge of the street right-of-way.
- c. All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code.

M. SIGN ILLUMINATION

Unless otherwise indicated in this Ordinance, all signs may be illuminated, in accordance with the following:

1. General Standards

- a. All illuminated signs shall have their lighting directed in such a manner as to illuminate only the face of the sign and does not shine directly into or cause glare onto a public right-of-way or residential uses.
- b. All electric signs shall be in accordance with Article 9, Part III, Outdoor Lighting, the Building and National Electric Code, and shall obtain all required building permits.
- c. All wiring to freestanding or monument signs or to lighting equipment erected after the effective date of this section must be underground.

2. Signs near Residential Uses

No sign serving or within 150 feet of a residential use shall be illuminated between the hours of midnight and 6:00 a.m., unless there is no spillover of lighting or glare to the residential area beyond the boundaries of the lot where the lighting is located.

3. Flashing or Intermittent Lights

No sign shall contain or be illuminated by flashing or intermittent light or lights of changing degrees of intensity.

N. INSPECTIONS AND INVESTIGATIONS

1. Removal of Illegal Signs in Right-of-Way and Public Properties

The UDO Administrator may remove and destroy or otherwise dispose of any sign placed on public property or within any public right-of-way. This shall only apply to signs in violation of this Ordinance. Penalties may be levied for each such sign as prescribed Article 18-9: Enforcement.

2. Periodic Inspection Authorized

- a. The UDO Administrator will periodically inspect signs in order to determine whether there are any violations of this Ordinance.
- b. The UDO Administrator shall have the all the power to conduct such investigations as may be reasonably necessary.
- c. The Udo Administrator may enter, at reasonable times, upon any property, public or

private, for the purpose of investigating and inspecting signs. No person shall refuse entry or access to any authorized representative of the UDO Administrator who requests entry for purposes of inspection, and who represents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties.

- d.** The UDO Administrator may require written statements, or the filing of reports with respect to pertinent questions relating to signs.

3. Citations

- a.** If, through inspection, it is determined that a person has failed to comply with the provisions of these regulations, the UDO Administrator shall issue a warning citation to the violator.
- b.** Violations shall be corrected within two weeks of the issuance of a citation.
- c.** If the violation is not corrected within the specified time period, the violator shall be subject to the provisions of Article 18-9: Enforcement.