Article 14. Special Purpose & Overlay Zoning Districts

14.1 HDO HISTORIC DISTRICT OVERLAY
14.2 HDO-S STREETSIDE HISTORIC DISTRICT OVERLAY
14.3 NCO NEIGHBORHOOD CHARACTER OVERLAY
14.4 RIO RESIDENTIAL INFILL OVERLAY
14.5 CCO COTTAGE COURT OVERLAY
14.6 MHO MANUFACTURED HOME OVERLAY
14.7 MHP MANUFACTURED HOME PARK ZONING DISTRICT
14.8 ANDO AIRPORT NOISE DISCLOSURE OVERLAY DISTRICT

14.1 HDO HISTORIC DISTRICT OVERLAY

A. Purpose

The purpose of the HDO Historic District Overlay is to establish local historic districts to encourage the restoration, preservation, rehabilitation, and conservation of historically, architecturally, and archaeologically significant areas, structures, buildings, sites, and objects and their surroundings from potentially adverse influences which may cause the decline, decay, or total destruction of important historical, architectural, and archaeological features, which are a part of the City's heritage, and to review new construction design to ensure compatibility with the character of the district.

B. Applicability

The HDO Historic District Overlay is applied as an overlay zoning district which will supersede other zoning districts with respect to compatibility, context, and appropriateness of exterior features as described in item E below within a designated local historic district. An HDO Historic District Overlay cannot be applied in combination with any of the following: HDO-S Streetside Historic District Overlay, NCO Neighborhood Character Overlay, and RIO Residential Infill Overlay.

C. Designation

1. Historic District Overlays shall consist of areas that are deemed to be of special significance in terms of their history, architecture and/or culture and to possess integrity of design, setting, materials, feeling and association. The area, buildings, structures, sites, or objects shall be significant elements of the cultural, social, economic, political, or architectural history of the City or of the archaeological history or prehistory of the City and the conservation of such a district will provide for the education, pleasure, and enhancement of the quality of life of all residents of the City.

2. The Historic District Commission (HDC) shall make an investigation and report on the historical, architectural, or archaeological significance of the buildings, structures, features, sites, objects, or surroundings included in a proposed district, and prepare a description of the boundaries of the district.

3. The North Carolina Department of Natural and Cultural Resources, or an agent or employee designated by its Secretary, shall make an analysis of, and recommendations concerning, this report and description of proposed boundaries in accordance with state law. Failure of the Department to submit its written analysis and recommendations to the City Council within 30 calendar days after a written request for such analysis has been mailed to the Department shall relieve the City of any responsibility for awaiting such an analysis, and the City Council may at any time thereafter take any necessary action.

4. With respect to any changes in the boundaries of such district subsequent to its initial establishment or the creation of additional districts within the City, the investigative studies and reports shall be prepared by the Historic District Commission. Changes in the boundaries of an initial district or proposals for additional districts shall also be submitted to the Department of Natural and Cultural Resources in accordance with the provisions stated above.

5. The City Council shall designate the boundaries of a new HDO or change in boundary to an HDO in accordance with procedures set forth in Section 37.2 for amending the Zoning Map.

D. Certificate of Appropriateness Required

1. No exterior portion of any building or other structure, including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features, above-ground utility structures, any type of outdoor advertising sign, or important landscape and natural features may be erected, altered, restored, moved, or demolished within an HDO until after the property owner, or his/her designated agent, has contacted the Historic District Commission staff to determine whether the project will require a Certificate of Appropriateness (COA).

2. When a Certificate of Appropriateness is required, an application for a Certificate of Appropriateness shall be submitted and work may not begin until the Certificate of Appropriateness has been issued. A Certificate of Appropriateness shall be issued by the Historic District Commission prior to the issuance of a building permit or other permit granted, for the purposes of constructing, altering, moving, or demolishing structures. A Certificate of Appropriateness is required whether or not a building permit is required.

E. Exterior Features

Exterior features include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, exterior features mean the style, material, size, and location of all such signs. Exterior features may also include color and important landscape and natural features of the area.

F. Minor Works

The Historic District Commission has the authority to delegate to their professional staff approval of certain types of minor works consistent with the detailed standards approved by the Historic District Commission. Minor works do not involve substantial alterations, additions, or removals that could impair the integrity of the property and/or the district as a whole or would be incongruous with the special character of the district. Staff shall not deny a request for a Certificate of Appropriateness. All applications where it cannot be determined that the action is a minor work or where the application may be incongruous with the special character of the district shall be submitted to the Historic District Commission.

G. Interior Arrangement

The Historic District Commission has no jurisdiction over interior spaces, unless the arrangement of interior features directly affects the integrity of the exterior of the property and, therefore, would be incongruous with the special character of the district as a whole.

H. Ordinary Maintenance and Emergency Repair

Nothing in these provisions shall be construed to prevent the ordinary maintenance, repair, or removal of any exterior feature in a historic district which does not involve a change in design, material, or outer appearance nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature that a Building Inspector or similar official shall certify is required for public safety because of an unsafe or dangerous condition. In the event of an emergency, Historic District Commission staff may authorize the immediate restoration of any exterior feature to pre-disaster conditions. Historic District Commission staff shall be consulted and/or the feature shall be well documented photographically and such documentation shall be made available to the Historic District Commission for its files, if appropriate.

I. Restoration or Repair of Historic Features

The Zoning Administrator in consultation with the Historic District Commission Administrator may administratively approve the restoration or replacement of an historic feature necessitated in the Secretary of the Interior's Standards for the Treatment of Historic Properties as defined by the National Park Service (Secretary's Standards) if the feature would encroach into a required setback or required landscape yard that is not permitted by this Ordinance. Restoration or replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

J. Demolition or Removal

1. After the designation of a historic district, no building or structure located in that district shall be demolished or otherwise removed until the owner of the property has applied for a Certificate of Appropriateness for demolition or removal. If the Historic District Commission determines that the property does not have special significance and value toward maintaining the character of the historic district because of age, architectural style, associative history, designation as a local historic landmark, listed as a contributing building in the National Register of Historic Places, or structural condition, the Historic District Commission may grant a Certificate of Appropriateness for the immediate demolition or removal of the property.

2. If the property is determined by the Historic District Commission to have special significance and value toward maintaining the character of the district, the Historic District Commission may delay demolition or removal for no more than 365 days from the date of the approval. During this 365 day period, the Historic District Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building.

3. An application for a Certificate of Appropriateness authorizing the demolition of a building, structure, or site within the district may not be denied. The maximum period of delay authorized by this section shall be reduced by the Historic District Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. If the Historic District Commission finds that the building has no particular significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

4. If the Commission has voted to recommend designation of an area as an Historic District and final designation has not been made by City Council, the demolition or destruction of any building, site, or structure located in the proposed district may be delayed by the HDC for a period of up to 180 days or until City Council takes final action on the designation, whichever occurs first. Should City Council approve the designation prior to the expiration of the 180 day delay period, an application for a Certificate of Appropriateness for demolition shall then be filed. The maximum period of delay for a Certificate of Appropriateness for demolition shall be reduced by the HDC by the period of delay while the designation was pending.

K. Compliance with Other Applicable Laws

If site plans have been submitted that are not in compliance with this Ordinance or other identified state or local laws, then the Certificate of Appropriateness or any permits or certificates issued by the City may be revoked.
An applicant shall submit site plans that are in compliance with this Ordinance and with any other state or local laws designated by the Historic District Commission. If the Historic District Commission staff or the Historic District Commission determines that submitted site plans are not in compliance with this Ordinance or other state or local laws designated by the Historic District Commission, then the Historic District Commission staff or Historic District Commission shall not be required to proceed to review the application for the Certificate of Appropriateness until site plans have been submitted that are in accordance with this Ordinance and applicable state or local laws. If site plans have been submitted that are not in compliance with this Ordinance or other identified state or local laws, then the Certificate of Appropriateness or any permits or certificates issued by the City may be revoked.

L. Certificate of Appropriateness

1. Jurisdiction

The Historic District Commission has jurisdiction over the review, approval, and issuance of Certificates of Appropriateness for the exterior features of all properties and for the demolition or removal of any building or structure within a historic district as per this Section 14.1.

2. Review Standards

a. In considering an application for a Certificate of Appropriateness, the Historic District Commission shall first determine that the project is congruous with the special character of the historic district in terms of size, scale, and massing, as well as maintaining a pedestrian scale and orientation.

b. The Historic District Commission shall apply the Secretary of Interior's Standards for Rehabilitation (See 36 Code of Federal Regulations Section 67.7). (Hereinafter: Secretary's Standards), and the Historic District Design Standards adopted by the Historic District Commission. Approval of a Certificate of Appropriateness by the Historic District Commission should not be interpreted as approval for any other process, such as state or federal tax incentives.

3. Application

The applicant has the responsibility to submit an application for a Certificate of Appropriateness that is accurate, complete, and accompanied by sufficient information to fully depict the proposed development, alteration, rehabilitation, relocation, restoration, or demolition. A fee, as applicable, shall be provided to the Historic District Commission staff. If the applicant fails to submit a complete application and any required fee, then the application shall not be submitted for review to the Historic District Commission until the deficient requirements have been met to the satisfaction of the Historic District Commission staff.

4. Submission of Site Plan Compliance

An applicant shall submit site plans that are in compliance with this Ordinance and with any other local or State laws designated by the Historic District Commission. If the Historic District Commission staff or the Historic District Commission determines that submitted site plans are not in compliance with this Ordinance or other State or local laws designated by the Historic District Commission, then the Historic District Commission staff or Historic District Commission shall not be required to proceed to review the application for the Certificate of Appropriateness until site plans have been submitted that are in accordance with this Ordinance and applicable state or local laws.

5. Evidentiary Hearing Notice

The Historic District Commission staff shall follow the requirements for evidentiary hearing notice in Section 37.8.A.9 to inform the applicant, property owner if different from the applicant, and abutting property owners prior to the hearing.

6. Procedure

a. Prior to Evidentiary Hearing

i. All properly filed applications for a Certificate of Appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application is filed. An application is considered filed when accepted by the HDC at the initial public hearing.

ii. Staff may transmit all applications, analyses, reports, and written materials prior to the hearing, in written or electronic form, at the same time to the Historic District Commission, the applicant, and the property owner, if the property owner is not the applicant.

b. Evidentiary Hearing

i. The Historic District Commission evidentiary hearing shall follow its adopted Rules of Procedure and the quasi-judicial procedures and decision requirements of Section 37.8.A.11 and 37.8.A.12.

ii. Prior to issuance or denial of the Certificate of Appropriateness by the Historic District Commission, the applicant and persons of standing shall have the right to participate as a party at the hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Commission.

iii. All meetings of the Historic District Commission shall be open to the public in accordance with the North Carolina open meetings law.

iv. In all proceedings or public hearings before the Historic District Commission with regard to an application for a Certificate of Appropriateness, the burden of providing competent, material, and substantial evidence is upon the applicant and if the applicant fails to do so, the Historic District Commission shall deny the Certificate of Appropriateness.

v. Notwithstanding other provisions of this Ordinance, the Historic District Commission may require additional evidence or memoranda of authority to be submitted and may take the matter under advisement until such evidence or memoranda has been submitted and considered up to the 180 day limit.

7. Duration of Certificate of Appropriateness

a. A Certificate of Appropriateness shall be valid for 12 months from the date of issuance.

b. If a building permit is required, failure to procure a building permit within 12 months from the date of issuance shall be considered a failure to comply with the Certificate of Appropriateness and the Certificate of Appropriateness shall expire. The Certificate of Appropriateness may be renewed for an additional 12 months by staff upon written request of the applicant, before the permit expires in order to procure a building permit.

c. If a building permit is not required, the approved work shall be completed within 12 months from the date of issuance. The Certificate of Appropriateness may be renewed for an additional 12 months by staff upon written request of the applicant before the Certificate of Appropriateness expires.

d. No work authorized by any Certificate of Appropriateness that has expired shall thereafter be performed until a new Certificate of Appropriateness has been secured. To secure a new Certificate of Appropriateness, a new application shall be submitted to the Historic District Commission.

M. Appeals

1. An appeal in the nature of certiorari may be taken by any aggrieved party to the Mecklenburg County Superior Court from the Historic District Commission's action granting or denying the Certificate of Appropriateness pursuant to N.C.G.S. § 160D-1402, or as amended.

2. Pursuant to N.C.G.S. § 160D-406(k) the decision of the Historic District Commission shall be provided by personal delivery, email, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. Appeals shall be in accordance with N.C.G.S. § 160D-1405(d), or as amended. The staff member required to provide notice shall certify to the City that proper notice has been made. When first-class mail is used to deliver the notice, three days shall be added to the time to file the petition.

3. If a petition for review pursuant to N.C.G.S. § 160D-406(k) is filed, then the petitioner must order from the court reporter and pay for the original transcript of the hearing for delivery to the clerk of the Historic District Commission for the preparation of the filing of the record in superior court. If a court ultimately renders a decision in favor of the petitioner, then the City shall reimburse the petitioner for the cost of the transcript. In the event that the petitioner does not order the transcript and does not prevail on appeal, then the City shall request the Court to make the costs of the original transcript part of the costs of the action or recover the costs in the nature of debt owed.

N. Violations and Enforcement

The Zoning Administrator enforces Section 14.1 in accordance with Section 39.2.L. Failure to comply with these provisions constitutes a violation subject to enforcement action. Violations include but are not limited to:

1. Performing any work (including erecting, altering, restoring, moving, and/or demolishing any building, structure, private street, private sidewalk, site area or object) that requires a Certificate of Appropriateness without first obtaining a Certificate of Appropriateness.

2. A Certificate of Appropriateness is denied and the project is carried out in defiance of the denial.

3. Work is approved and a Certificate of Appropriateness is issued and the work is carried out in a manner inconsistent with the approval.

O. Notices of Violation

The Zoning Administrator enforces Section 14.1, in accordance with Section 39.2.L.2.

1. Upon recognition of a violation, a notice of violation will be issued by the Zoning Administrator to the property owner. 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 inform the property owner whether a civil penalty shall be assessed or shall specify a date by which the property owner shall comply. If a violation continues or is not corrected within the time specified in the notification, appropriate action may be taken to

correct and abate the violation and will subject that property owner to civil penalties and other authorized enforcement action. Each day's continuing violation shall be a separate and distinct offense and may be subject to any one, all, or a combination of the remedies authorized and prescribed by this Ordinance in accordance with Section 39.2.C.

2. The notice of violation shall be delivered to the property owner or person in control of the land, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the City that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

3. The property owner will have 30 days to either correct the violation or appeal the citation to the UDO Board of Adjustment through the Board's appeal procedure. If the property owner corrects the violation, no further action will be taken. If the property owner, in the opinion the Historic District Commission staff, is making a good faith effort to bring the violation into compliance, further enforcement action can be held in abeyance as long as that effort is continuing.

4. A notice of violation may be appealed. An appeal stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal.

P. Citations and Penalties

The Zoning Administrator is authorized to issue citations and penalties, in accordance with Section 39.2.L.3.

Q. Civil Judicial Remedies

Civil judicial remedies are provided in accordance with Section 39.2.L.4.

R. Other Remedies.

1. 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.

2. If any building, structure, site, area, or object designated as a historic landmark or located within a designated historic district is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the development regulations in Section 14.1, or other provisions of this Ordinance, the City, the Historic District Commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object. Such remedies shall be in addition to any others authorized by the City for a violation of the Ordinance.

S. Revocation of Building Permit

1. The Mecklenburg County Land Use and Environmental Services Agency, on its own authority or as directed by the Planning Director, shall revoke and require the return of any building permit by notifying the permit holder in writing stating the reason for the revocation. The revocation process shall follow the same review and approval process required for issuance of the permit. The revocation of a permit by administrative staff may be appealed in accordance with Section 37.8.B.

2. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of a Certificate of Appropriateness, or any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any building permit mistakenly issued in violation of an applicable State or local law may also be revoked.

3. If a Certificate of Appropriateness is required and has not been issued, then a building permit shall not be issued.

T. Denial or Revocation of Certificate of Compliance and Occupancy

1. Denial of Issuance

As stated in the Mecklenburg County Building Ordinance, Certificates of Compliance and Occupancy, the Mecklenburg County Land Use and Environmental Services Agency, on its own authority or as directed by the Planning Director, shall not issue a Certificate of Occupancy or Certificate of Compliance unless there has been

compliance with any Certificate of Appropriateness issued by the Historic District Commission. Compliance with a Certificate of Appropriateness shall include, but not be limited to, meeting all the requirements of the Certificate of Appropriateness, and in not doing any act that would have required a Certificate of Appropriateness.

2. Revocation

Further, pursuant to Mecklenburg County Building Ordinance, Revocation of Permits or Certificates, any permit for a Certificate of Occupancy or Certificate of Compliance issued by the Mecklenburg County Land Use and Environmental Services Agency, in violation of any of the Historic District provisions, stated herein, may be revoked by the Mecklenburg County Land Use and Environmental Services Agency, on its own authority or as directed by the Planning Director. Revocation requires written notification to the holder of the permit or certificate stating the reason for the revocation.

14.2 HDO-S STREETSIDE HISTORIC DISTRICT OVERLAY

A. Purpose

The purpose of the HDO-S Historic District Overlay Streetside is to provide for protection of the traditional development patterns of an area and to encourage the restoration, preservation, rehabilitation, and conservation of its historic structures, buildings, sites, and objects that are deemed to be of special significance. The focus is on maintaining an area's character and on preserving those key character-defining features of individual historic resources within the district, as viewed from the street right-of-way, excluding alleys. The HDO-S regulations are intended to:

1. To promote the preservation and continued use of areas that contain a number historic structures, buildings, sites, and objects of historic significance.

2. To preserve the integrity of historically significant resources found in the area by protecting against potentially adverse influences which may cause the decline, decay, or total destruction of important historical, architectural, and archaeological features, which are a part of the City's heritage.

3. To support sustainability by reusing existing built resources.

4. To ensure that new construction is compatible with the broader characteristics of the historic context of area, as viewed from the street.

B. Applicability

1. The HDO-S Historic District Overlay-Streetside is applied as an overlay zoning district which will supersede other zoning districts with respect to compatibility, context, and appropriateness of exterior features as described in Section 14.1.E within a designated local historic district.

2. The provisions of Sections 14.1.C through 14.1.L, the Historic District Overlay (HDO), govern the administration of a HDO-S. The violation and enforcement provisions of Sections 14.2.C through 14.2.J apply only to the following areas within the boundaries of each HDO-S:

a. The public right-of-way for primary and side streets, excluding alleys.

b. The first 50% of the depth, as measured from the heated thermal wall, of any existing principal building adjacent to a public right-of-way, excepting corner lots, which are subject to review of the entirety of the lot.

c. The lot area between the public right-of-way and the first 50% of the depth, as measured from the heated thermal wall, of any existing principal building.

d. 50% of the depth of the lot area adjacent to the public right-of-way for vacant lots excepting corner lots, which are subject to review of the entirety of the lot.

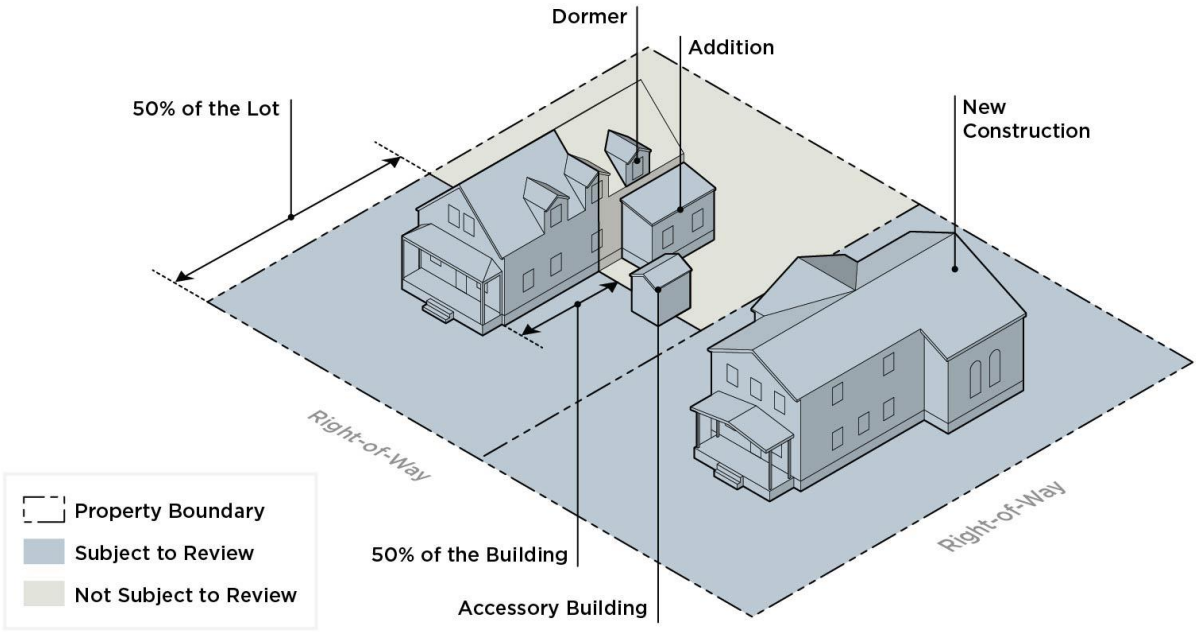
e. Any addition to a building or structure that projects beyond an existing building's maximum front and side wall or alters, above the existing eave line, the height or shape of the roof regardless of distance from the public right-of-way.

f. The entirety of any new principal accessory building construction on a vacant lot.

g. The entirety of any new accessory building construction located in whole or in part in areas outlined in items b through d above.

h. The entirety of any Historic Landmark and its designated boundary area that may be located within an HDO-S.

ILLUSTRATION OF APPLICABILITY (SECTION 14.2.B.2)



3. An HDO-S Streetside Historic District Overlay cannot be applied in combination with any of the following: HDO Historic District Overlay, NCO Neighborhood Character Overlay, and RIO Residential Infill Overlay.

C. Appeals
The appeal regulations in Section 14.1.M shall apply in the HDO-S Overlay District.

D. Violations and Enforcement
The Zoning Administrator enforces Section 14.2 in accordance with Section 39.2.L.

E. Notices of Violation
The Zoning Administrator enforces Section 14.2 in accordance with Section 39.2.L.2.

F. Citations and Penalties
The Zoning Administrator is authorized to issue citations and penalties, in accordance with Section 39.2.L.3.

G. Civil Judicial Remedies
Civil judicial remedies provided in Section 39.2.L.4 are available and shall apply in the HDO-S Overlay District.

H. Other Remedies
The other remedies provided in Section 14.1.R are available and shall apply in the HDO-S Overlay District.

I. Revocation of Building Permit
Building permits may be revoked in accordance with Section 14.1.S.

J. Denial or Revocation of Certificate of Compliance and Occupancy
A certificate of compliance and/or a certificate of occupancy may be denied or revoked in accordance with Section 14.1.T.

14.3 NCO NEIGHBORHOOD CHARACTER OVERLAY

A. Purpose

The NCO Neighborhood Character Overlay establishes regulations to preserve the existing character of a neighborhood and enhance its unique natural and architectural resources, while helping to foster compatible development within neighborhoods. The overlay district regulations are intended to:

1. Encourage development and redevelopment that is consistent with a neighborhood's character.

2. Provide a means to modify zoning district regulations and establish standards for specific neighborhoods of the City to manage growth and redevelopment, and to ensure compatible neighborhood development.

3. Create a transition between locally designated historic landmark properties and/or locally designated historic districts and residential areas.

B. Applicability

1. An NCO District may only be applied to an N1-A, N1-B, N1-C, N1-D, or N1-E Zoning District.

~~**2.** An NCO District cannot modify any standards located within existing declarations of covenants and restrictions.~~

~~**3**~~**2.** Once the NCO District is established, the standards of the Neighborhood Character Plan apply to single-family, duplex, and triplex dwellings within the NCO District and control over those of the underlying zoning district.

~~**4**~~**3.** All new construction, additions, changes, expansions, and alterations to existing single-family, duplex, and triplex dwellings shall comply with the standards of the Neighborhood Character Plan that has been adopted with the NCO District.

~~**5**~~**4.** An NCO Neighborhood Character Overlay cannot be applied in combination with any of the following: HDO Historic District Overlay, HDO-S Streetside Historic District Overlay, and RIO Residential Infill Overlay.

C. Eligibility

1. A majority of properties in an NCO District shall share one or more of the following criteria, thereby creating a cohesive and distinctive setting, character, or association:

a. Consistency in scale, proportion, and rhythm. This includes similarities in features such as lot width, building height, and front façade width, as well as the relationship of building massing and spacing as established by setbacks and placement of structures on the lot.

b. Similarity in existing streetscape characteristics or tree canopy.

c. Similarity in arrangement of on-site elements such as vehicle parking and accessory structures.

2. In addition to item 1 above, an NCO District shall meet the following standards:

a. The designated area shall be a minimum of 15 contiguous acres.

b. Where a lot is included in an NCO District, all lots on the same blockface shall be included.

c. The general pattern of development, including streets, lots, and buildings, for the proposed overlay district was established at least 25 years prior to the date of consideration of the NCO District designation.

d. A minimum of 75% of the lots within the proposed NCO District are developed.

D. Standards for NCO Districts

1. Residential Development Standards: Single-Family, Duplex, and Triplex

The following standards may be included in an NCO District Neighborhood Character Plan. Where no standards are specified in the Neighborhood Character Plan, those of the underlying district apply.

a. Minimum and/or maximum lot width or lot frontage

b. Minimum and/or maximum setbacks

c. Maximum height for principal and accessory buildings

d. Maximum building coverage

e. Surface parking (total square footage and location)

f. Tree planting/protection standards that exceed the requirements in Article 20.

2. Residential Development Standards: All Other Dwellings

Residential dwellings allowed by the district outside of those in item 1 are exempt from NCO District standards and are subject to those of the underlying district.

3. Nonresidential Development Standards

Nonresidential development allowed by the district are exempt from NCO District standards and are subject to those of the underlying district.

4. Uses

The uses allowed in the underlying zoning district apply.

E. Initiation of Neighborhood Character Plan

1. Establishment

a. Request to Initiate Neighborhood Character Plan Process

A request may be initiated in one of the following ways:

i. By a petition provided to the Planning Department signed by property owner(s) representing at least 25% of the land area and at least 25% of the lots within the proposed district; or

ii. By a majority vote of the City Council.

2. Determination of Eligibility

a. If the Planning Director determines that the area is eligible for designation as an NCO District, the applicant(s) will be notified of this decision and a public informational meeting will be scheduled. An appeal of the Planning Director's decision is governed by Section 37.8.B of this Ordinance.

b. If, based on the criteria in item C above, the Planning Director determines the area is not eligible for an NCO District designation, the applicant(s) will be notified of this in writing, including stated reasons for the decision.

c. If demand for the NCO District results in multiple applications requesting initiation of the Neighborhood Character Plan process at a similar time are received, the Planning Director shall have the discretion to establish quantitative and/or locational criteria in order to prioritize those applications.

3. Public Information Meeting for Eligibility
If the area is determined to be eligible for an NCO District, the Planning Director shall schedule a public informational meeting for the purpose of informing property owners in the proposed district of the nature of the pending request. The Planning Director shall send notice of the date, time, and place of the meeting by mail to all property owners within the proposed district and adjacent property owners. After the meeting, the Planning Department shall initiate the preparation of a Neighborhood Character Plan.

4. Neighborhood Character Plan (NCP)
A Neighborhood Character Plan (NCP) shall be prepared by City staff with the assistance of representatives of the proposed district and include, at a minimum, the following information:

a. Statement of purpose and intent.

b. A map that indicates the boundaries of the proposed NCO District.

c. A description of how the area developed.

d. A description of the existing and common characteristics of the area as defined in item C.1 above.

e. The standards to be established for the proposed district as allowed by item D.1 above.

5. Public Information Meeting for Neighborhood Character Plan
Upon completion of the proposed Neighborhood Character Plan, the Planning Director shall schedule a public meeting for the purpose of informing property owners in the proposed overlay district of the nature of any pending requirements. The Planning Director shall send notice as provided in item 3 above.

F. Petition for NCO District Zoning Map Amendment

1. Initiation
A zoning map amendment for the NCO District may be initiated:

a. By a majority vote of City Council to initiate a zoning map amendment; or

b. By a petition provided to the Planning Department signed by property owner(s) representing at least 51% of the land area and at least 51% of the lots within the proposed district.

2. Zoning Map Amendment and NCP

a. The Planning Director will initiate the zoning map amendment upon the action required in item 1.a or 1.b above.

b. Adoption of an NCO District requires an amendment to the Zoning Map and shall follow the process for a zoning map amendment in Section 37.2.

c. An NCP shall be approved by the City Council prior to approval of the zoning map amendment.

3. Amendments to Adopted NCO Districts
Any proposal to amend, modify, or dissolve any district boundaries in an adopted NCO District or the standards of a Neighborhood Character Plan is subject to the following.

a. District Boundary Amendments

i. Any proposal to add lots to an adopted NCO District shall follow the same adoption procedures set forth in this section (items 1 through 7 above) except that a new NCP is not required. The original NCP for the district can be amended to incorporate the expansion concurrently with the zoning map amendment.

ii. Any proposal to subtract lots from an adopted NCO District shall follow the same adoption procedures set forth in this section (items 1 through 7 above) except that a new NCP is not required. The original NCP for the district can be amended to incorporate the subtraction concurrently with the zoning map amendment.

b. Neighborhood Character Plan Amendments

i. A new petition to amend an NCP shall be signed by property owner(s) representing at least 25% of the land area and at least 25% of the lots within the existing district, or by a majority vote of the City Council. Such petition shall include all specific proposed amendments to the development standards of the NCP.

ii. A public information meeting scheduled by the Planning Director for the purpose of informing property owners in the existing district of the nature of the pending request. The Planning Director shall send notice of the date, time, and place of the meeting by mail to all property owners within the proposed district and adjacent property owners.

iii. An amended draft of the updated Neighborhood Character Plan shall be prepared in accordance with item E above.

iv. A petition, indicating support for the City to amend the Neighborhood Character Plan, shall be filed with the Planning Director. The petition to proceed shall be signed by property owner(s) representing at least 51% of the land area and at least 51% of the lots within the proposed district or by a majority vote of City Council.

v. The Planning Commission shall hold a public meeting to hear comments on the amended NCP and make a recommendation to be forwarded to the City Council. The City Council shall hold a public hearing to consider the amendment to the NCP and render a decision.

vi. The amended Neighborhood Character Plan is effective upon Council adoption.

14.4 RIO RESIDENTIAL INFILL OVERLAY

A. Purpose

The RIO Residential Infill Overlay District is intended to facilitate residential infill development in the Neighborhood 1 Zoning Districts that maintains and complements existing neighborhood pattern and scale through specific controls addressing height and dwelling unit size.

B. Applicability

An RIO District may be applied as follows:

1. Initiation

The RIO District may be initiated:

a. By a majority vote of City Council to initiate a zoning map amendment; or

b. By a petition provided to the Planning Department signed by 51% of property owners within the geographic area as defined in item 2.b below.

2. Location and Minimum District Area

a. An RIO may be applied as an overlay to the N1-A, N1-B, N1-C, N1-D, and N1-E Zoning Districts only.

b. An RIO District shall be applied to an area consisting of a minimum of 50 contiguous lots. Where a lot is included in an RIO District, all lots on the same block shall also be included, encompassing all blockfaces. Arterial fronting lots are not allowed within an RIO District and are exempt from this requirement.

c. A RIO Residential Infill Overlay cannot be applied in combination with any of the following: HDO Historic District Overlay, HDO-S Streetside Historic District Overlay, and NCO Neighborhood Character Overlay.

3. Exemptions

The standards of the RIO District do not apply to:

a. Nonresidential development.

C. Standards

1. Development Standards

The development standards of the underlying zoning district apply except for the following:

a. Front Setback from Street

The required front setback from the street for a residential building on a lot within the RIO District shall be the average of the two closest residential buildings on the same blockface, but no less than 10 feet. A survey of the setbacks of the two closest residential buildings on the same blockface will be required at the time of permitting.

b. Maximum Sidewall Height

All residential buildings on any lot within the RIO District shall meet the maximum sidewall height regulations below.

i. The sidewall height for all residential buildings is limited to 20 feet. The sidewall height may be increased above 20 feet if the average height of the facing sidewalls of residential buildings within the RIO District on both sides of the lot exceeds 20 feet. In such case, the sidewall height of the subject residential building may be increased up to this average height.

(A) Sidewalls shall be measured from the finished floor elevation at the ground floor to the eave or, if no eave is present on the building, to the bottom of the finished roof plane.

(B) For a lot that does not have residential buildings within the RIO District on both sides of the lot, the two closest residential buildings on the same blockface are used for averaging.

(C) When a sidewall height of greater than 20 feet is proposed, a sidewall height survey of the relevant residential building sidewalls is required at the time of plan submittal.

ii. If no residential buildings exist on the same blockface as a new residential building under development, the maximum building height for the zoning district controls.

iii. When an existing local street is extended for a new subdivision, as defined by Section 30.3.A, a 50' wide landscape yard may be used to establish a new blockface if it meets the following:

(A) The landscape yard shall be planted to Class B standards, per Table 20-2, for each 25' of width of landscape yard.

(B) The landscape yard shall abut, and be the depth of, the last existing residential lot(s) prior to the new local street extension.

(C) The new blockface shall only be for the purposes of establishing the maximum sidewall height requirements of this Section.

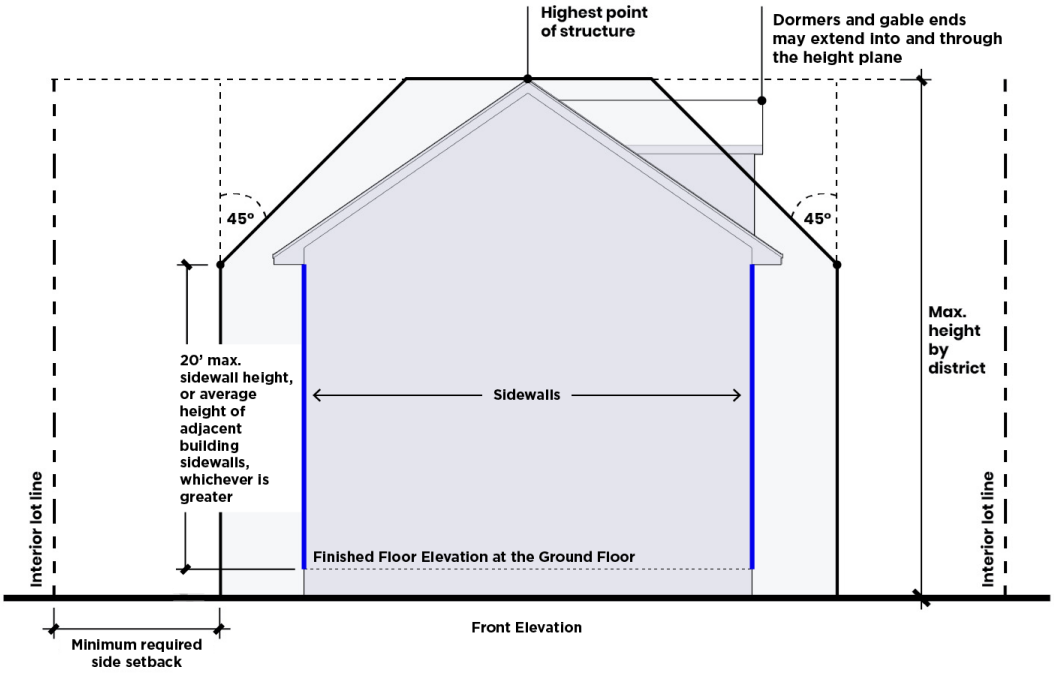
c. Building Height Plane

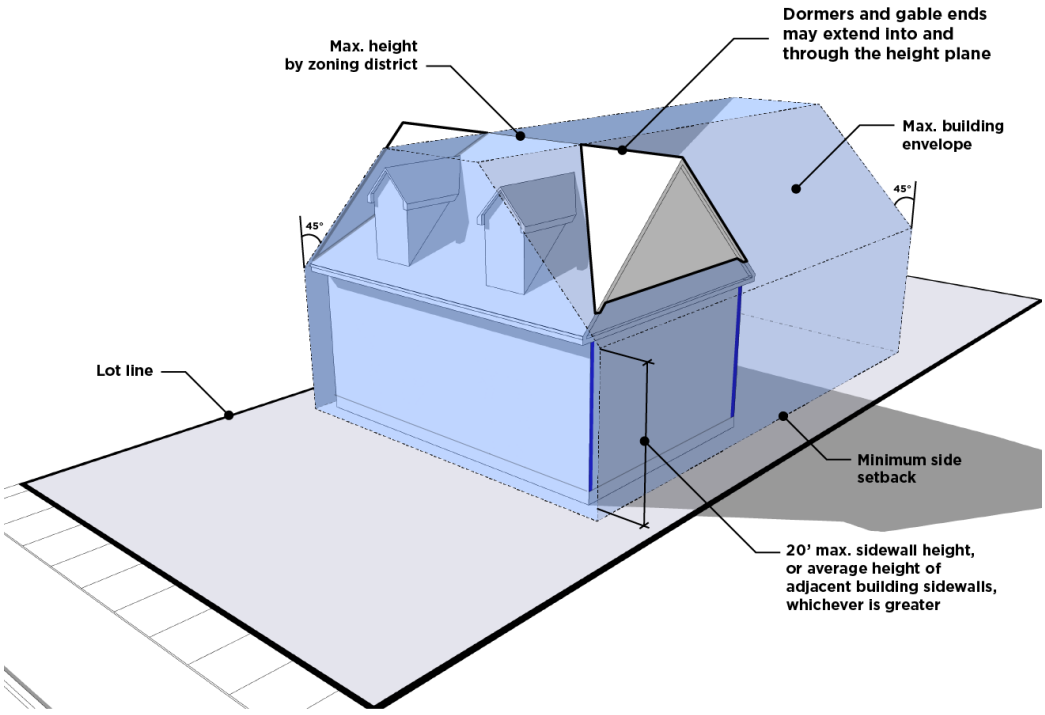
In addition to the maximum building height requirement for the zoning district, all residential buildings within the RIO District shall meet the building height plane regulations below.

i. One additional foot of height, above the maximum permitted sidewall height at the required minimum side setback, is allowed for each additional one foot in distance the portion of the building is located from the required minimum side setback. This establishes a building height plane of 45 degrees. The building height plane does not allow an increase in the maximum sidewall height. Buildings may not exceed the maximum building height of the district.

ii. Dormers and gable ends may extend into and through the 45 degree building height plane but shall comply with the maximum building height. The cumulative width of dormers extending into and through the building height plane shall be limited to 25% of the depth of the sidewall.

BUILDING HEIGHT PLANE





c. Maximum Building Size

All principal residential buildings on any lot within the RIO District are limited to a maximum building size, calculated as total heated square footage, as follows:

i. The total heated square footage of single-family dwellings on the subject blockface will be averaged. The applicant will be required to furnish Mecklenburg County tax records documenting this average at the time of permitting.

ii. The maximum size of a single-family, duplex, or triplex building will be the greater of the following:

(A) The average single-family dwelling size based on total heated square footage; or

(B) The number of residential units to be constructed multiplied by 800 square feet per unit.

iii. Single-family dwellings are permitted to exceed the maximum dwelling unit size by an additional 25%.

2. Uses

The uses allowed in the underlying zoning district apply. No uses allowed within the underlying district may be prohibited as part of the RIO District.

D. Approval Process

The application of an RIO District shall follow the procedure for a zoning map amendment in Section 37.2.

14.5 CCO COTTAGE COURT OVERLAY DISTRICT

A. Purpose

A cottage court residential development allows for small lot residential development in a manner that organizes various dwelling types around a common open space, designed as a cohesive whole and maintained in shared stewardship by residents.

B. Applicability

1. Cottage court residential development is allowed in the N1-A, N1-B, N1-C, N1-D, and N1-E Zoning Districts.

2. Cottage court residential development may take one of two forms:

a. A development may be designed with individual lots.

b. A development may also be designed as a multi-dwelling development, subject to the use limitations in item C below.

C. Use Limitations

1. Only single-family, duplex, and triplex dwellings are permitted in a cottage court residential development.

2. Accessory dwelling units are prohibited within a cottage court development.

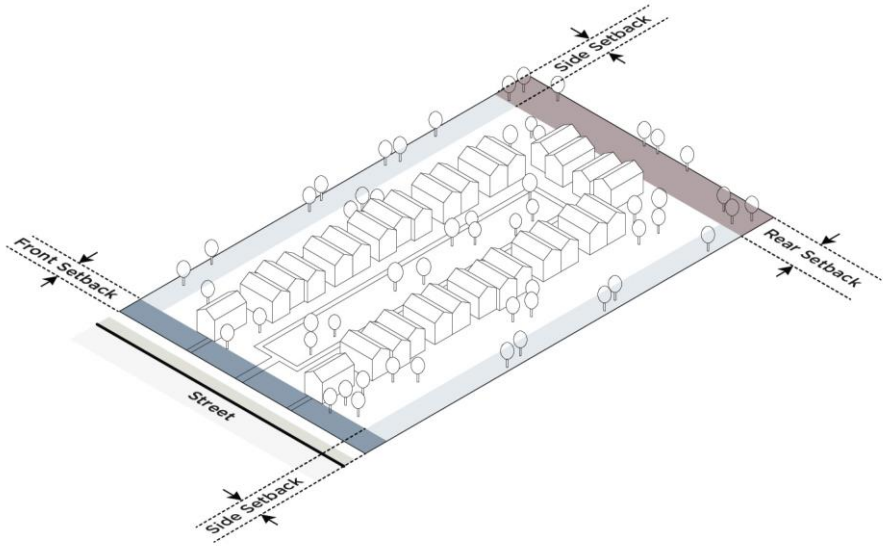
D. Development Standards

1. All standards of the base zoning district apply, with the following exceptions:

a. The minimum total lot area required for a cottage court is determined by calculating the cumulative lot area required by the base zoning district for the number of buildings to be constructed, and reducing the result by 50%.

b. Individual lots or building sites within the cottage court development are exempt from the base zoning district standards for lot area, lot width, setbacks, and building coverage. However, lot area, lot width, and setbacks apply to the cottage court development parcel.

SETBACKS FOR A COTTAGE COURT PARCEL



2. The minimum and maximum number of units allowed, based on the calculation of item 1 above, are as follows:

a. Cottage court residential development may be used for any development of four or more buildings and requires a minimum of four detached structures.

b. The maximum number of buildings within a cottage court development is 30. When a development site contains multiple cottage court developments, the maximum number of buildings within the development site in total is 30.

MAXIMUM NUMBER OF BUILDINGS WITHIN A COTTAGE COURT

3. All buildings within the cottage court shall front on a street or a common open space. When a cottage court is developed as buildings on individual lots that front on a common open space, such frontage is considered to meet any requirement for frontage on a street. However, all applicable emergency access requirements must be met.

4. Common open space areas shall meet the following standards:

a. The minimum size of the common open space area is 3,000 square feet or 500 square feet per dwelling unit, whichever is greater.

b. The common open space area shall maintain a minimum width of 30 feet, shall be contiguous and centrally located, and shall front on a public or network-required private street.

c. A maximum of 30% of the common open space area may be hardscape.

5. Dwellings oriented toward the common open space area shall provide a five foot minimum setback from the common area. Such setback does not count toward any required common area.

6. Vehicular access and parking for a cottage court shall meet the following standards:

a. Required off-street parking may be provided on individual development sites for each dwelling within the cottage court or in a shared parking area serving multiple dwellings on-site. Common parking areas shall contain no more than ten spaces each and shall be screened from adjacent properties in a Neighborhood 1 Place Type per the standards of Article 20. Parking shall not be located between principal structures and the street, or within any required common area.

E. Small Unit Bonus

Cottage court developments may be eligible for a development bonus as follows if constructed with small dwelling units, as described in this section.

1. Eligibility

To receive the small unit bonus, all residential dwelling units in the cottage court development, including any bonus residential buildings, shall meet the following standards:

a. All dwelling units within residential buildings shall be 800 square feet or less in gross floor area.

b. All residential buildings shall not exceed 24 feet in height.

2. Bonus

a. The number of residential buildings able to be developed as part of the overall cottage court residential development may be increased by 25%, not to exceed five bonus buildings.

b. Bonus residential buildings shall meet the development standards of the cottage court development as set forth in item D above.

c. Any bonus residential buildings are not included in the calculation of minimum total lot area required for the overall cottage court development.

F. Approval Process

A CCO District will be approved as a zoning map amendment per Section 37.2.

14.6 MHO MANUFACTURED HOME OVERLAY DISTRICT

A. Purpose

The purpose of the MHO Manufactured Home Overlay District is to provide for the development of manufactured housing in select Neighborhood 1 Zoning Districts. The intent of the MHO District standards is to ensure compatibility of manufactured housing with existing residential dwellings.

B. Applicability

1. The MHO District can be applied over the following districts: N1-A, N1-B, N1-C, and N1-D Districts.

2. A contiguous area of at least five acres in size is required for application of the overlay. This minimum area does not apply to expansions of an existing MHO District where such expansion is contiguous to the boundaries of an existing MHO District.

C. Uses

1. Manufactured home dwellings are permitted in the MHO District, subject to the prescribed conditions of Article 15.

2. All uses permitted in the underlying district are permitted in the MHO District, subject to any required prescribed conditions of the underlying district.

14.7 MHP MANUFACTURED HOME PARK ZONING DISTRICT

A. Purpose

The MHP Manufactured Home Park Zoning District is intended to accommodate manufactured home parks.

B. Uses

Article 15 lists permitted, temporary, and accessory uses for the MHP Zoning District.

C. Manufactured Home Park Standards

1. Table 14-1: Manufactured Home Park Dimensional Standards establishes the dimensional standards for manufactured home parks in the MHP Zoning District.

Table 14-1: Manufactured Home Park Dimensional Standards	
Bulk	
Minimum District Area	2 acres
Maximum District Area	40 acres
Minimum District Lot Width	250’
Perimeter Setbacks (Measured From Property Line)	
Minimum Front Perimeter Setback	30’
Minimum Side Perimeter Setback	30’
Minimum Rear Perimeter Setback	30’

2. At least 10% of the total area of a manufactured housing park shall be devoted to recreational facilities for use by the residents of the park. Examples of such recreational facilities may include community buildings, gardens, outdoor play areas, swimming pools, and ball courts.

3. A manufactured home park shall construct internal access drives of 20 feet or greater in width. Internal access drives and circulation patterns shall be adequate to handle the traffic to be generated by the development.

D. Manufactured Home Stand Standards

1. Table 14-2: Manufactured Home Stand Dimensional Standards establishes the dimensional standards for manufactured home stands in the MHP District.

Table 14-2: Manufactured Home Stand Dimensional Standards	
Bulk	
Minimum Stand Area	2,000sf
Minimum Stand Width	35’
Maximum Manufactured Home Height	24’
Minimum Separation Between Manufactured Homes	20’ as measured from the outermost portion of the eaves on all sides of each manufactured home
Setbacks	
Minimum Front Setback (Measured From Internal Access Drive Edge)	20’

2. Only one manufactured home is permitted per stand.

3. All manufactured home stands shall front upon an internal access drive.

4. A sidewalk is required connecting either the driveway or a detached garage or carport, to a door or attached porch of the home.

E. Manufactured Home Standards

1. The area beneath a home shall be fully enclosed with durable skirting within 60 days of placement in the park or subdivision. As a minimum, such skirting shall be a product designed and sold for use as skirting or as approved by the Zoning Administrator.

2. The manufactured home shall have all wheels, axles, transporting lights, and towing apparatus removed.

3. The manufactured home shall be at least 12 feet in width along the majority of its length.

F. Standards for a Manufactured Home or Single-Family Dwelling on Individual Lots in the MHP Zoning District

1. One manufactured home or single-family dwelling may be permitted on a lot existing prior to June 1, 2023. The manufactured home or single-family dwelling shall be subject to the following standards:

a. The lot is not located within a manufactured home park.

b. The lot abuts a public street.

c. Only one dwelling shall be permitted per lot.

d. Subdivision of an existing lot shall be prohibited.

e. A manufactured home shall be subject to the standards of Section 14.7.E, shall meet the definition of "Dwelling – Manufactured Home" in Section 15.3, and shall be subject to N1-C building siting standards (Table 4-2) as well as other applicable provisions (such as but not limited to, those governing accessory structures) of this Ordinance.

f. A single-family dwelling shall be subject to the standards of the N1-C Zoning District, as well as other applicable provisions (such as, but not limited to, those governing accessory structures) of this Ordinance.

14.8 ANDO AIRPORT NOISE DISCLOSURE OVERLAY DISTRICT

A. Purpose

The purpose of the ANDO Airport Noise Disclosure Overlay District (ANDO District) is to provide mechanisms for the disclosure to residential property owners in the Charlotte Douglas International Airport environs that the use and enjoyment of property located within the ANDO District is subject to over flights and noise consistent with airport operations.

B. Required Disclosure Notice

1. An ANDO District Notice is required for all residential development and mixed-use development with a residential component that is wholly or partially located within the boundaries of the ANDO District.

2. All plats and site plans for residential development or mixed-use development that includes residential uses, submitted to the City for review and approval, shall include the ANDO District Notice.

3. The content of this notice is as follows:

Airport Noise Disclosure Overlay District Notice: "Noise Warning - This property, either partially or wholly, is zoned Airport Noise Disclosure Overlay District and lies within or near the noise exposure map areas of Charlotte Douglas International Airport and may be subject to noise that may be objectionable."

Article 20. Landscape, Screening, & Tree Preservation

20.1 LANDSCAPING AND SCREENING PURPOSE
20.2 SELECTION, INSTALLATION, AND MAINTENANCE
20.3 LANDSCAPE PLANTINGS
20.4 ALTERNATIVE LANDSCAPE REQUIREMENTS
20.5 REQUIRED SCREENING FOR PARKING LOTS
20.6 PARKING LOT INTERIOR LANDSCAPE
20.7 PARKING FACILITY DRIVEWAY AND MANEUVERING AREA LANDSCAPE
20.8 PARKING STRUCTURE LANDSCAPE AREA
20.9 LANDSCAPE YARD
20.10 LANDSCAPE YARD FOR RESIDENTIAL SUBDIVISIONS ABUTTING LIMITED ACCESS ROADS
20.11 LANDSCAPE YARD FOR RESIDENTIAL THROUGH LOTS AND COMMON OPEN SPACE ALONG AVENUES, BOULEVARDS, AND PARKWAYS
20.12 REQUIRED SCREENING FOR LOADING AND SERVICE AREAS
20.13 TREE PROTECTION PURPOSE AND EXEMPTION
20.14 HERITAGE TREES
20.15 GREEN AREA
20.16 FRONTAGE TREE PLANTING REQUIREMENT
20.17 TREE PLANTING REQUIREMENTS
20.18 TREE PROTECTION ADMINISTRATION AND PROCESS

20.1 LANDSCAPING AND SCREENING PURPOSE

The landscape and screening requirements established by this Article are intended to:

A. Preserve and enhance the appearance and character of the City.

B. Increase the compatibility of adjacent uses and minimize the potential negative impacts to neighboring uses.

C. Create transitional areas between uses or zoning districts of different intensities.

20.2 SELECTION, INSTALLATION, AND MAINTENANCE

The following standards apply to the landscape areas per Section 20.5 through 20.12 of this Article.

A. Selection

1. Only shrubs and trees listed on the Approved Plant Species list in the Charlotte Land Development Standards Manual (CLDSM) shall be used for any landscaping required by this Article.

2. All plants shall meet minimum quality requirements and be free of defects, and of normal health, height, leaf density, and spread as defined by the American Standard for Nursery Stock, ANSI Z60.1, latest available edition, American Horticulture Industry Association (AmericanHort).

B. Installation

All landscaping shall be installed according to sound horticultural practices in a manner designed to encourage quick establishment and healthy growth, and consistent with the CLDSM.

C. Species Diversity

Diversity among required plant material is required for visual interest and to reduce the risk of losing a large population of plants due to disease.

1. The species diversity requirements of this section apply as follows:

a. Species diversity applies to landscape plantings required by Section 20.2 through 20.12 of this Article.

b. Species diversity only applies to the installation of new plantings.

2. Table 20-1: Plant Diversity Requirements indicates the percentage of diversity required based on the total quantity of species being used. (*For example, if a development requires 45 shade trees, no more than 18 trees (40%) can be of any one species, and there shall be a minimum of five different species within the 45 trees.*)

Table 20-1: Plant Diversity Requirements		
Total Number of Plants per Plant Type	**Maximum Number of Any One Species**	**Minimum Number of Species**
1-4	100%	1
5-10	60%	2
11-15	45%	3
16-75	40%	5
76-500	25%	8
500-1,000	30%	10
1,000+	15%	15

D. Maintenance

1. Trees and vegetation, irrigation systems, fences, walls, and other similar items are considered landscape elements of a development.

2. All landscaping shall be free from disease, pests, weeds, and litter. All landscape elements shall be maintained in good repair or replaced periodically as needed to ensure their continued function, structural soundness, and aesthetically pleasing condition.

3. Any landscape element that dies or is seriously damaged, shall be removed and replaced within 30 days of the beginning of the subsequent growing season.

4. Any ornamental grasses or shrubs planted next to sidewalks shall be planted and maintained so that they do not encroach into sidewalks at maturity.

E. Existing Plantings

Existing plantings within the required landscape areas, such as the landscape yard, may be counted toward planting requirements of this Article, with the exception of trees planted pursuant to green area requirements per Section 20.15, frontage tree planting requirements per Section 20.16, and tree planting requirements per Section 20.17, with the approval of the Zoning Administrator in consultation with the Chief Urban Forester.

F. Additional Trees and Shrubs

Additional trees and shrubs may be installed in required landscape areas in excess of the requirements of this Article.

20.3 LANDSCAPE PLANTINGS

The following are the planting sizes required for each landscape area per Section 20.5 through 20.12 of this Article. All trees shall be allowed to grow to natural form and height.

A. Plantings Sizes for Parking Lot Screening

Shrubs shall be evergreen and shall be at least two feet in height when planted and an average height of three to four feet expected as normal growth within four years. A minimum spread of two feet shall be required at time of planting. However, such shrubs shall not exceed four feet in height at maturity.

B. Planting Sizes for Parking Structure Landscape Area

1. All trees, except for multiple stem small maturing trees, shall have a minimum trunk caliper of two inches and a minimum height of eight feet at planting.

2. Multiple stem small maturing trees shall be tree form, with three to a maximum of five trunks, and shall have a minimum height of ten feet at planting.

3. Shrubs shall be evergreen and shall be at least two feet in height when planted and an average height of five to six feet expected as normal growth within four years. A minimum spread of two feet shall be required at time of planting. Such shrubs shall be a minimum of six feet in height at maturity.

C. Planting Sizes for Landscape Yard

1. All trees, except for multiple stem small maturing trees, shall have a minimum trunk caliper of two inches and a minimum height of eight feet at planting.

2. Multiple stem small maturing trees shall be tree form, with three to a maximum of five trunks, and shall have a minimum height of ten feet at planting.

3. Shrubs shall be evergreen and shall be at least two feet in height when planted and an average height of five to six feet expected as normal growth within four years. A minimum spread of two feet shall be required at time of planting. Such shrubs shall be a minimum of six feet in height at maturity.

20.4 ALTERNATIVE LANDSCAPE REQUIREMENTS

A. The Zoning Administrator may alter the screening, landscape area, or landscape yards requirements of Section 20.1 through 20.12 of this Article per the Administrative Adjustment Standards in Section 37.4 in the event that one or more of the following conditions would make strict adherence to the requirements serve no meaningful purpose or would make it physically impossible to install and maintain the required landscape yard or screening:

1. The unusual topography or elevation of a development site.

2. The soil or other sub-surface conditions on the site.

B. The Zoning Administrator shall not alter the screening, landscape area, or landscape yard requirements of Section 20.1 through 20.12 of this Article unless the developer demonstrates that the modified landscape yard or screening will comply with the spirit and intent of this Article and that the existing site features and any additional landscape yard materials will screen the proposed use as effectively as the required landscape yard or screening.

20.5 REQUIRED SCREENING FOR PARKING LOTS

A. General Requirements

Screening for parking lots and associated maneuvering areas is required for parking lots of ten or more vehicle spaces at the edge of the parking lot.

1. The following exceptions apply:

a. When parking areas are shared between properties, parking lot screening is not required along any shared lot line and/or cross-access connection area.

b. When parking lot screening is required between abutting properties and a landscape yard per Section 20.9 is also required, the requirements of the landscape yard control.

c. Vehicle dealerships are not required to install parking lot screening in those areas of the parking lot used to display vehicles for sale along a street frontage.

d. Parking lot screening is not required if the Zoning Administrator determines that adherence to this requirement would serve no meaningful purpose including, but not limited to, the grade on the site and the distance of the parking lot to adjacent properties.

2. Parking lot screening shall be installed when:

a. A new principal building is constructed.

b. A new parking lot of ten or more spaces is constructed.

c. Spaces are added to an existing parking lot where the total of existing and new spaces is ten or more spaces.

d. At least 50% of the parking lot area is reconstructed. Resealing, restriping, or resurfacing of an existing parking lot is considered normal maintenance and incidental repair, and not reconstruction.

B. Design of Screening Areas

The screening area shall be improved as follows:

1. The screening area shall be at least five feet in width.

2. There shall be an additional minimum linear distance of two feet between the screening area and any wheel stops or bollards to accommodate vehicle bumper overhang. This is not included in the minimum five foot calculation.

3. The parking lot screening area shall be landscaped and designed as one or more of the following installations. Any required tree planting shall comply with the tree planting requirements of Sections 20.16 and 20.17 below, where applicable.

a. One shrub shall be planted for every five linear feet of screening area length. However, shrubs shall not be planted within four feet of a tree.

b. As an alternate to the shrub plantings in item a above, for screening along a frontage a low pedestrian wall a minimum of three feet and a maximum of four feet in height constructed of masonry, concrete, or similar permanent material may be installed. In this alternative, the parking lot screening area may be reduced to three feet in width. The requirements of item 2 above shall also apply to this alternative.

i. Shrubs, groundcover, perennials, ornamental grasses, and other planting types of species native or naturalized non-invasive to North Carolina shall be planted in front of such wall, facing toward frontages or adjacent properties, covering a minimum of 40% of the total screening area.

ii. Up to 30% of the total length of such wall may be designed as a seating wall. Where seating areas are included, the minimum wall height does not apply and plantings are not required in front of the seating wall. Seating areas shall be oriented towards the frontage.

4. The following may cover any remaining unplanted area:

a. Shrubs, groundcover, perennials, ornamental grasses, and other planting types of species native or naturalized non-invasive to North Carolina.

b. Stone, mulch, or other permeable landscape materials.

5. A fence or wall may be used for screening in accordance with Section 17.2.D and as follows:

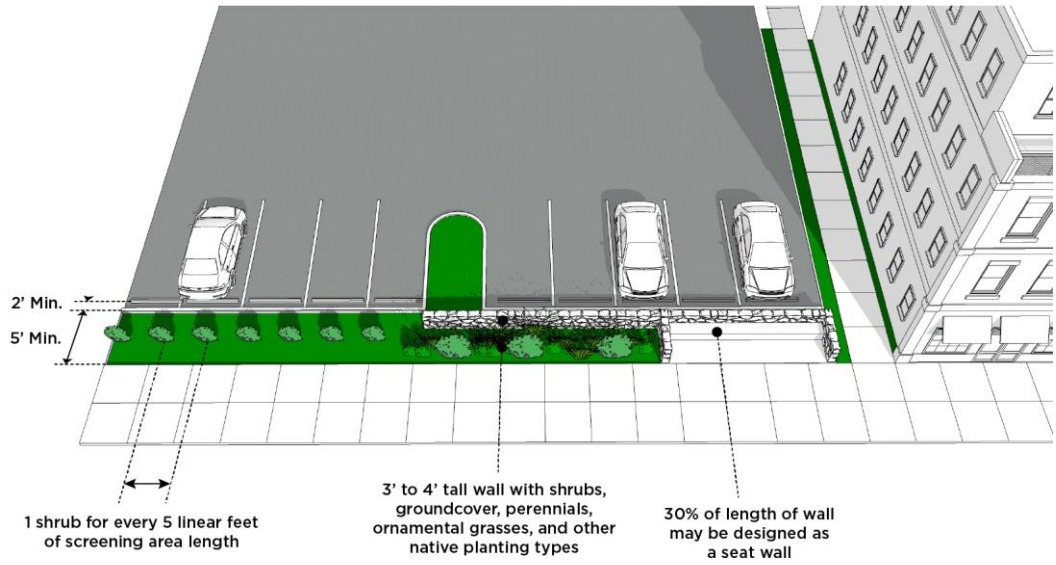
a. The area for the fence or wall shall be wide enough to accommodate the fence or wall and allow for its maintenance.

b. Any fences or walls used for screening shall be constructed in a durable fashion of brick, finished masonry, stone, wood posts and planks, metal, or other materials specifically designed as fencing materials, or any combination thereof as may be approved by the Zoning Administrator.

c. The fence or wall shall be a minimum of 75% opaque, and the finished side, as opposed to the side with the exposed structural supports, of the fence or wall shall face the abutting property. A chain link or similar fence with plastic, metal, or wooden slats shall not be used to satisfy the requirements of this section.

d. The minimum height of the fence or wall shall be four feet or whatever is sufficient to visually separate the uses.

PARKING LOT SCREENING



20.6 PARKING LOT INTERIOR LANDSCAPE

Interior parking lot landscaping is governed by Section 20.17 below.

20.7 PARKING FACILITY DRIVEWAY AND MANEUVERING AREA LANDSCAPE

A. The parking lot screening requirements of Section 20.5 shall apply to all driveway and maneuvering areas that are not adjacent to parking spaces for parking lots of ten or more spaces and for all driveway and maneuvering areas of parking structures.

B. When such driveway and maneuvering areas described in item A above are located within an established side or rear setback along an adjacent property line, a fence or wall a minimum of six feet to a maximum of eight feet may be used in place of the screening area except within the established setback along a frontage.

20.8 PARKING STRUCTURE LANDSCAPE AREA

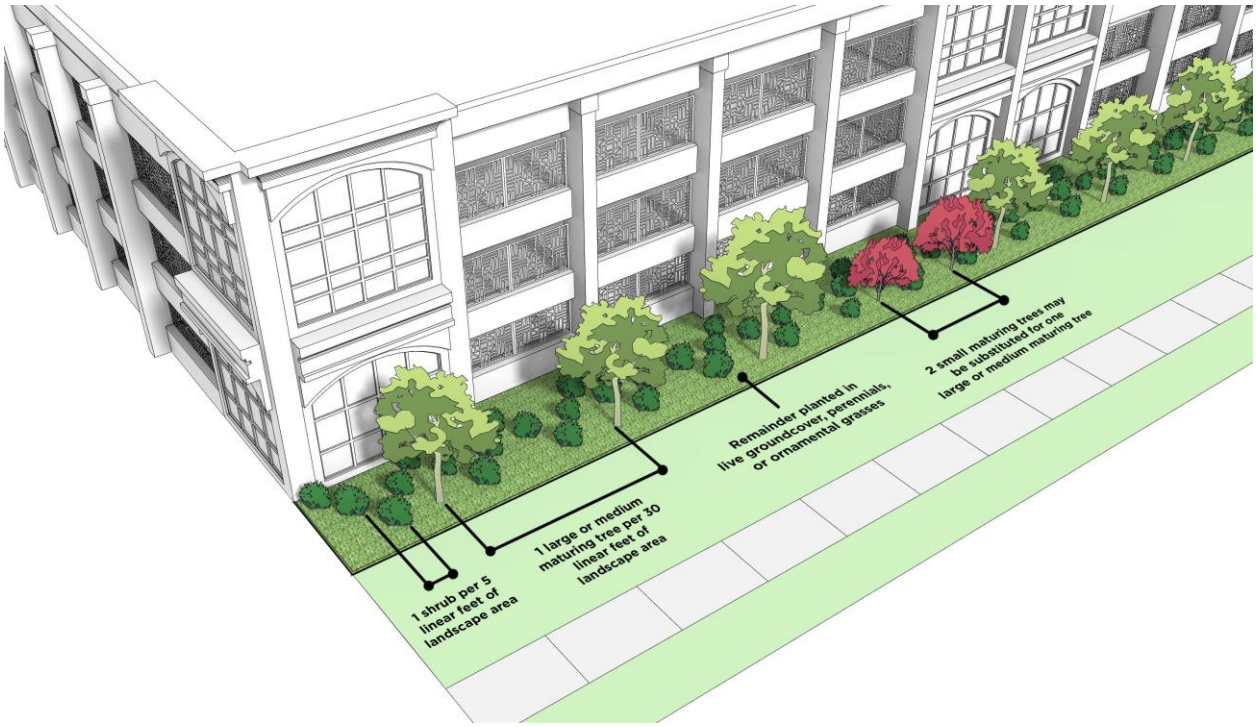
As required in Section 19.7 for the design of parking structures, when a landscape area is required, it shall be planted as follows:

A. One shrub shall be planted for every five linear feet of perimeter area. Shrubs may be varied in placement, rather than linearly spaced, but the total number of shrubs planted shall equal one shrub per five linear feet. However, shrubs shall not be planted within four feet of a tree.

B. A minimum of one large or medium maturing tree shall be provided for every 30 linear feet of the landscape area. Two small maturing trees may be substituted for one large or medium maturing tree. Trees may be spaced linearly on-center or grouped to complement an overall design concept.

C. The remainder of the required landscape area outside of shrub and tree masses shall be planted in groundcover, turf, perennials, ornamental grasses, and other planting types of species native or naturalized non-invasive to North Carolina.

PARKING STRUCTURE LANDSCAPE AREA



20.9 LANDSCAPE YARD

A. Certain uses or zoning districts, because of their character and/or intensity, may create adverse impacts when developed abutting other less intensive uses or zoning districts. A landscape yard provides a transition between these uses and/or zoning districts that minimizes adverse impacts.

B. When a landscape yard is required by this section, and a site does not have a landscape yard or the existing landscape yard on the site does not meet the standards of this section, a landscape yard shall be installed when any of the following actions occur:

1. Construction of a new principal or accessory structure.

2. An addition to an existing principal structure.

3. Establishment of a new principal or accessory use conducted primarily outdoors.

4. A change of use category within the Use Matrix found in Article 15, or an additional principal or accessory use is established on the site, when abutting a Neighborhood 1 Place Type.

5. Expansion of a parking lot by the addition of 10 or more parking spaces.

C. A landscape yard shall not be required along the shared property line of abutting lots developed with a nonresidential use or mixed-use, and located in a Neighborhood 1 or Neighborhood 2 Place Type.

D. Upon an applicant's request, if the Zoning Administrator determines that the requirement for a landscape yard is unrelated to the proposed construction's anticipated impacts on adjacent properties, the Zoning Administrator may modify the landscape yard requirement, per the Administrative Adjustment Standards in Section 37.4, to the extent necessary to relate to the proposed construction's anticipated impacts and to make the requirement roughly proportional to those anticipated impacts. The Zoning Administrator may reduce the landscape yard requirement up to 50% of the required landscape yard width but to a remaining width of no less than 10'.

E. When a landscape yard is required by item B above and there is insufficient area on the site for the required landscape yard, such landscape yard may be modified to install only a portion of the required landscape. The applicant is required to show that the landscape yard cannot be accommodated on the site. The Zoning Administrator will make the determination that a portion of required landscape yard does not have to be installed.

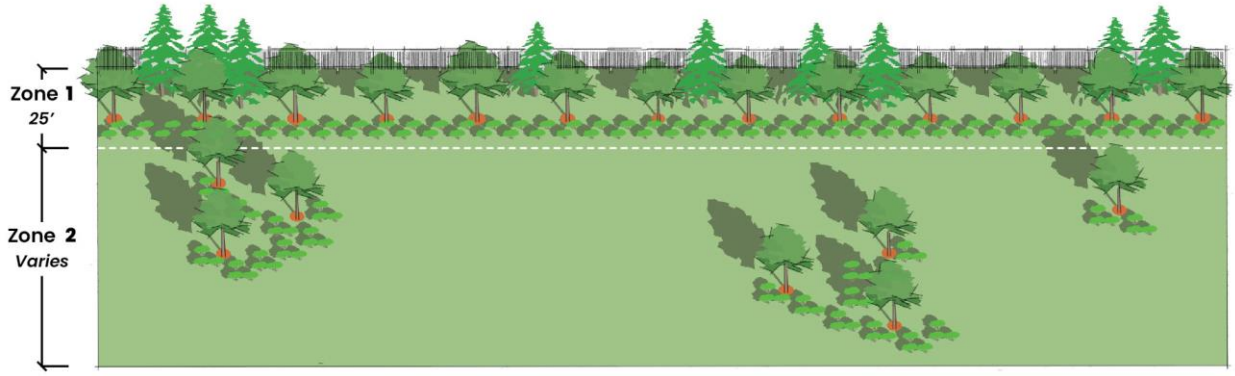
F. Table 20-2: Landscape Yard Class describes the width and design of each class of landscape yard. Table 20-3: Required Landscape Yards by Zoning District indicates when and which class of landscape yard is required. Where a use has prescribed conditions that require a specific class of landscape yard, those conditions control over the requirements of Table 20-3.

1. For the Class A landscape yard, the landscape yard is divided into Zone 1 and Zone 2 as follows:

a. Zone 1 comprises the first 25 feet of the landscape yard, measured perpendicularly from the rear or side lot line.

b. Zone 2 comprises the remainder of the required landscape yard outside of Zone 1. Within Zone 2, plantings may be grouped to complement an overall design concept. The remainder of the required landscape area in Zone 2 outside of required shrub and tree masses shall be planted in turf, groundcover, perennials, ornamental grasses, and other planting types of species native or naturalized non-invasive species to North Carolina.

CLASS A LANDSCAPE YARD: ZONE 1/ZONE 2

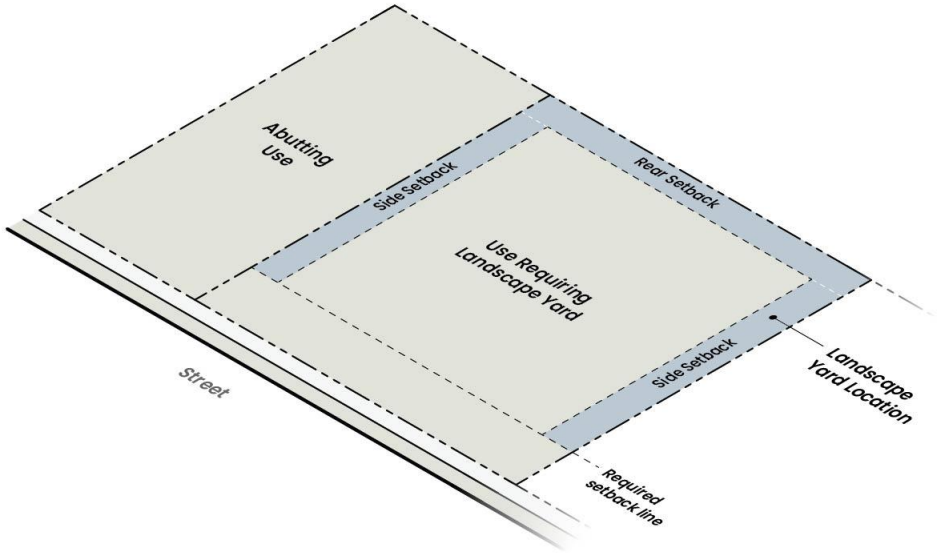


G. Landscape yards as required by Table 20-3 shall be located within the established rear setback and within the established side setback but behind the required front setback. The following also apply:

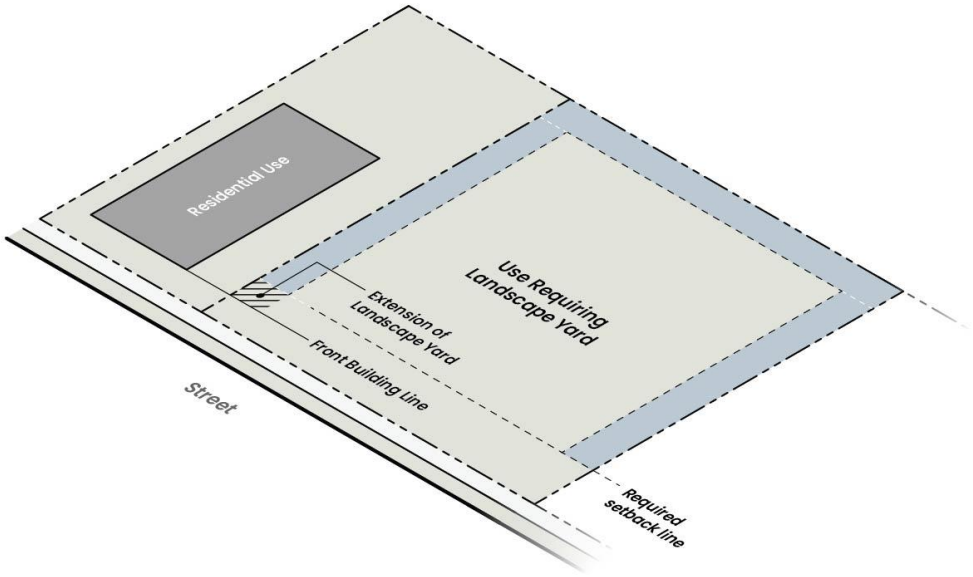
1. In certain circumstances in Table 20-3, landscape yards may be specifically required for other setback areas outside the side or rear setback.

2. For a nonresidential use that requires a landscape yard in a side setback because it abuts an existing residential use, and where the front building line of the residential use is located closer to the back of curb, the side setback landscape yard shall be extended to meet the front building line of the residential structure.

LOCATION OF LANDSCAPE YARDS



LANDSCAPE YARD WITH SIDE SETBACK EXTENSION



H. Landscape yards may be located within established setbacks and shall be reserved for the planting of material and installation of screening as required by this section unless other features are allowed by item I below. No parking, principal or accessory structures, outdoor storage, or required on-site open space, shall be located in the landscape yard area.

I. When a fence or wall is installed, it shall be a minimum of 75% opaque, constructed of wood posts and planks, vinyl, brick, finished masonry, or stone, and erected within 18 inches of the lot line along 100% of the landscape yard length with the exception of ingress/egress points. The finished side of the fence, as opposed to the side with exposed structural supports, shall face the abutting property.

J. The following shall also be permitted within a landscape yard:

1. Sidewalks and paths no greater than six feet in width designed perpendicular (90 degrees) or to an angle no less than 75 degrees to the landscape yard. A required off-street trail connection shall be permitted to exceed this six-foot dimension but shall be no wider than the rest of the trail on the site.

2. Within Zone 2 of the Class A landscape yard, limited amenities, not associated with any required on-site open space on the site, such as seating areas, walking paths, and picnic tables for the use of the on-site users.

3. Utility lines per item J below.

4. Stormwater facilities per item K below.

5. Cross-access connections between adjacent parcels.

K. Utility lines, including stormwater and water/sewer, within a landscape yard shall meet the following requirements:

1. Utility easements are permitted to cross a landscape yard perpendicularly (90 degrees) or to an angle a no less than 75 degrees to the landscape yard.

2. The removal of any tree larger than eight inches in diameter to accommodate utility lines shall require the approval of the Zoning Administrator in consultation with the Chief Urban Forester.

3. If utility easements run at an angle between zero and up to 75 degrees within a landscape yard, the width of the landscape yard shall be increased by the width of the utility easement.

L. Certain elements of a required stormwater facility, designed in accordance with Part IX. Stormwater and other regulations of this Ordinance, may encroach into a required landscape yard for up to 25% of the required landscape yard width. These elements include, but are not limited to, the embankment, inlets, pipes, rip rap, and any stormwater related easement, or similar elements. Such encroachments shall be approved by the Zoning Administrator, in consultation with the Stormwater Administrator. Stormwater related easement, for the purposes of this article includes, but is not limited to, storm drainage easements (SDE), public storm drainage easements (PSDE), and conservation easements.

M. Any requirement to install a landscape yard abutting a park or greenway shall be waived in its entirety unless the property is located within the Commercial Place Type or Manufacturing and Logistics Place Type.

Table 20-2: Landscape Yard Class			
Requirements	**Landscape Yard Class**		
	A	**B**	**C**
Width of Landscape Yard	Development Site Size: Up to 3 acres: 40' 3+ acres up to 7 acres: 65' 7+ acres to 10 acres: 85' More than 10 acres: 100'	25'	10'
Shrubs	Zone 1: 1 evergreen shrub per 2 linear feet Zone 2: 1 evergreen shrub per 300sf	1 evergreen shrub per 3 linear feet	1 evergreen shrub per 5 linear feet
Large Maturing and Medium Maturing Trees	Zone 1: 1 tree per every 30 linear feet Zone 2: 1 tree per every 2,500sf of landscape yard area in Zone 2	1 tree per every 30 linear feet	1 tree per every 50 linear feet
Required % of Trees to be Evergreen Trees	Zone 1: 40% Zone 2: Not required	40%	40%
Small Maturing Tree Substitution (*Cannot substitute for required evergreen trees*)	Zone 1: Not permitted Zone 2: In lieu of planting 1 required tree, 2 small maturing trees may be planted	In lieu of planting 1 required tree, 2 small maturing trees may be planted	In lieu of planting 1 required tree, 2 small maturing trees may be planted
Fence/Wall	Zone 1: Optional Zone 2: Not permitted The width of Zone 2 may be reduced by 25% if a fence/wall is provided in Zone 1	Optional	Fence/wall required
Fence/Wall Height [1]	6' min.	6' min.	6' min.

[1] The Charlotte Douglas International Airport is not subject to minimum or maximum fence height requirements.

Table 20-3: Required Landscape Yards by Zoning District			
Zoning District of Property Under Development	**Development Type Required to Install Landscape Yard Per Section 20.9.B**	**Landscape Yard Required for Development When:**	**Landscape Yard Class Required**
N1-A, N1-B, N1-C, N1-D, N1-E, N1-F	Nonresidential or mixed-use development	Abutting residential use	B
	Multi-family, or multi-dwelling development	Abutting single-family, duplex, triplex, or quadraplex dwelling	C
N2-A, N2-B	Nonresidential or mixed-use development	Abutting residential use	B
	Multi-family, or multi-dwelling development use	Abutting single-family, duplex, triplex, or quadraplex dwelling	C
N2-C	Nonresidential or mixed-use development	Abutting residential use	B
	Multi-family, or multi-dwelling development use	Abutting single-family, duplex, triplex, or quadraplex dwelling	B
CG	Development in the zoning district	Abutting Neighborhood 1 or Neighborhood 2 Place Type	B
CR	Development in the zoning district	Abutting Neighborhood 1 or Neighborhood 2 Place Type	A
TOD-NC, TOD-TR	Development in the zoning district	Abutting Neighborhood 1 Place Type	B
	Development in the zoning district	Abutting Neighborhood 2 Place Type, unless zoned N2-C Zoning District	C
TOD-UC, TOD-CC	Development in the zoning district	Abutting Neighborhood 1 Place Type	B
	Development in the zoning district	Abutting Neighborhood 2 Place Type, unless zoned N2-C Zoning District	B
NC	Development in the zoning district	Abutting Neighborhood 1 Place Type	B
	Development in the zoning district	Abutting Neighborhood 2 Place Type, unless zoned N2-C Zoning District	C
CAC-1, CAC-2	Development in the zoning district	Abutting Neighborhood 1 Place Type	B
	Development in the zoning district	Abutting Neighborhood 2 Place Type, unless zoned N2-C Zoning District	B
RAC	Development in the zoning district	Abutting Neighborhood 1 Place Type	B
	Development in the zoning district	Abutting Neighborhood 2 Place Type, unless zoned N2-C Zoning District	B
UE	Development in the zoning district	Abutting Neighborhood 1 Place Type	B
	Development in the zoning district	Abutting Neighborhood 2 Place Type, unless zoned N2-C Zoning District	B
UC	None required	None required	
IC-1, IC-2, OFC, OG, RC	Development in the zoning district	Abutting Neighborhood 1 Place Type	B
	Development in the zoning district	Abutting Neighborhood 2 Place Type, unless zoned N2-C Zoning District	B
IMU	Development of an industrial use in the zoning district	Abutting any other zoning district except ML-1, ML-2, I-1(CD), or I-2(CD) Zoning District	B
	Development in the zoning district	Abutting Neighborhood 1 or Neighborhood 2 Place Type	B
ML-1, ML-2	Development in the zoning district	Abutting any other zoning district except CR, ML-1, ML-2, I-1(CD), or I-2(CD) Zoning District	A
	Development in the zoning district	Abutting CR Zoning District	B
	Development in the zoning district - required for area along a street frontage	When located across the street from a Neighborhood 1 or Neighborhood 2 Place Type	B

N. Additional Landscape Yard Standards

The following may be located within landscape yards required by this article when they meet minimum requirements for this article and the articles listed below:

1. Open space per Article 16.

2. Tree save areas per Article 20 if any trees planted for tree save areas are in addition to any trees required for landscape areas per the requirements of this article.

3. Water supply water quality buffers per Article 23.

4. Post-construction water quality buffers per Article 25.

5. SWIM water quality buffers per Article 26.

6. Floodplains per Article 27.

7. Areas for greenways or parks per Article 32 offered for dedication and accepted by Mecklenburg County Park and Recreation.

20.10 LANDSCAPE YARD FOR RESIDENTIAL SUBDIVISIONS ABUTTING LIMITED ACCESS ROADS

The following landscape requirements apply to residential subdivisions developed with single-family, duplex, and/or triplex dwellings that abut a Limited Access Road, unless a noise abatement or screening wall is provided.

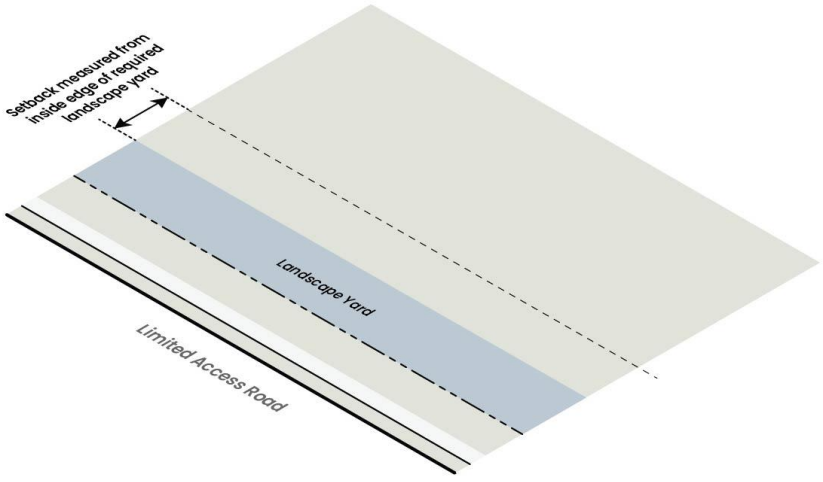
A. A Class B landscape yard per Table 20-2 is required along the lot line that abuts the Limited Access Road. The landscape yard shall be shown on the plat and may be located within common open space or as an easement within lots. The landscape yard shall not be used for any purpose except for plantings, except for the following:

1. Utility lines per Section 20.9.I.

2. Stormwater facilities per Section 20.9.J.

B. Any required setback that abuts the landscape yard shall be measured from the inside edge of the landscape yard.

SETBACK MEASUREMENT FOR RESIDENTIAL SUBDIVISIONS ABUTTING LIMITED ACCESS



20.11 LANDSCAPE YARD FOR RESIDENTIAL THROUGH LOTS AND COMMON OPEN SPACE ALONG AVENUES, BOULEVARDS, AND PARKWAYS

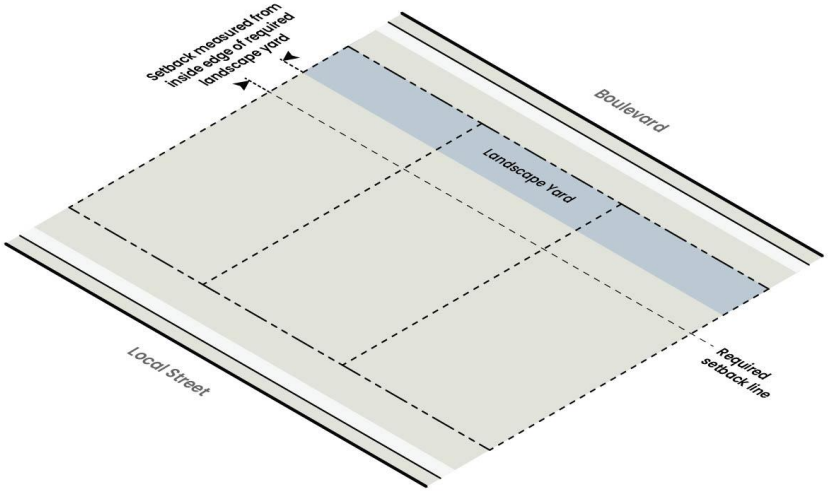
The following landscape requirements apply to residential subdivisions developed with through lots for single-family, duplex, and/or triplex dwellings, as well as common open space, unless a noise abatement or screening wall is provided. These requirements are applicable along Avenues, Boulevards, and Parkways.

A. A Class B landscape yard per Table 20-2 is required along the lot line that abuts the Avenue, Boulevard, or Parkway. The landscape yard shall not be used for any purpose except for plantings. The landscape yard shall be shown on the plat and may be located within common open space or as an easement within lots.

B. A berm shall be permitted in the landscape yard in addition to plantings. Berms shall be a minimum of four feet in height. Berms between four feet and six feet in height shall have a maximum slope of 2.5:1 as measured from the exterior property line. Berms over six feet in height shall have a maximum slope of 3.5:1 as measured from the exterior property line.

C. For residential through lots, the side or rear setback shall be measured from the inside edge of the landscape yard.

SIDE AND REAR SETBACK MEASUREMENT FOR RESIDENTIAL THROUGH LOTS



20.12 REQUIRED SCREENING FOR LOADING AND SERVICE AREAS

A. Certain principal uses, accessory uses, and accessory structures may require screening within their prescribed conditions and standards (Articles 15 and 17).

B. The following areas shall be screened from abutting lots and from view from a public or network-required private street:

1. Loading Areas

Screening of loading areas is not required if a landscape yard per Section 20.9 is provided along any frontage or along any setbacks where loading area screening would be required.

a. Screening - All Zoning Districts Except ML-1 and ML-2 Zoning Districts

Outdoor loading areas shall be screened along all frontages and along required side and rear setbacks with a minimum 75% opaque wall or fence that is a minimum of six feet and a maximum of eight feet in height. The wall or fence shall be constructed of wood posts and planks, brick, finished masonry, or stone and erected within 18 inches of the lot line. The finished side of the fence, as opposed to the side with exposed structural supports, shall face abutting properties or frontages. For uses that require only one loading space, and the loading space is located within a surface parking lot, the loading space may use the required screening for the parking lot per Section 20.5.

b. Screening - ML-1 and ML-2 Zoning Districts

Outdoor loading areas to the side or rear of buildings are not required to be screened. Any loading areas visible from a public or network-required street shall install parking lot screening per Section 20.5.

c. Internal Loading Areas

The doors for internal loading areas located along a frontage shall remain closed when not in use. This does not apply in the ML-1 and ML-2 Zoning Districts.

2. Waste Containers, Recycling Stations, and Solid Waste Service Areas

a. Screening

Large waste containers, rollout waste containers for nonresidential uses, recycling stations, and solid waste handling areas located outside of an enclosed structure are subject to the following standards. This does not apply to recycling collection centers as a principal use, which are addressed by Article 15.

i. Large waste containers, rollout waste containers for nonresidential uses, recycling stations, and solid waste handling areas shall be fully enclosed on three sides by a minimum 75% opaque fence or wall, which shall be constructed of wood posts and planks, brick, finished masonry, or stone, or a wall extension of the principal building, which does not have to be structural, a minimum of one foot above the height of the container to a maximum of two feet above the height of the container in height. A wall extension, which is not required to be structural, shall be constructed as an integral part of the building's architectural design.

(A) When below grade (deep well) refuse collection and recycling systems are used, they shall be screened by a decorative wall, solid fence, or year-round landscaping. The wall, fence, or plantings must be of a height equal to or greater than the above ground height of the refuse collection and recycling equipment being screened.

ii. The enclosure shall be gated. Such gate shall be a minimum 75% opaque and a minimum height to match the height required by item i above. The gate shall be maintained in good working order and shall remain closed except when pick-ups occur.

iii. When not being serviced, large waste containers, rollout waste containers for nonresidential uses, and recycling stations shall remain in the enclosure with the gate closed.

b. Internal Service Areas

The doors for internal service areas located along a frontage shall remain closed when not in use. This does not apply in the ML-1 and ML-2 Zoning Districts.

20.13 TREE PROTECTION PURPOSE AND EXEMPTION

A. The purpose of the tree protection provisions of this Article are to preserve, protect and promote the health, safety, and welfare of the public by providing for the regulation of the planting, maintenance, and removal of trees located on property owned or controlled by the City and on new developments and alterations to previous developments on private property within the City and extraterritorial jurisdiction (ETJ).

B. The intent of the tree protection standards of this Article are to:

1. Protect, facilitate, and enhance the aesthetic qualities of the community to ensure that tree removal does not reduce property values.

2. Emphasize the importance of trees and vegetation as both visual and physical buffers.

3. Promote clean air quality by reducing air pollution and carbon dioxide levels in the atmosphere, returning pure oxygen to the atmosphere, and increasing dust filtration.

4. Reduce the harmful effects of wind and air turbulence, heat and noise, and the glare of motor vehicle lights.

5. Minimize increases in temperatures on lands with tree cover.

6. Maintain moisture levels in the air of lands with tree cover.

7. Emphasize the importance of safeguarding native ecosystems through native tree preservation.

8. Preserve underground water reservoirs and facilitate the return of precipitation to the groundwater strata.

9. Prevent soil erosion.

10. Provide shade and mitigate heat island effects.

11. Minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters by facilitating a natural drainage system and amelioration of stormwater drainage problems.

12. Conserve natural resources, including adequate air and water.

13. Maintain and enhance the tree canopy cover across the City.

C. Exemption for Forestry Operations

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 shall be exempt from Sections 20.13 through 20.18 of this Article. If the 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 activity on the site.

20.14 HERITAGE TREES

A. Applicability

The requirements of this section shall apply to development activity, including grading in anticipation of such development, within the corporate limits of the City and the City's extraterritorial jurisdiction (ETJ), whenever development would result in any of the following:

1. New construction of a principal structure.

2. Cumulative increase in built-upon area (BUA) or building coverage equal to or greater than 5% or 1,000 square feet, whichever is less.

3. Approval of a subdivision as defined by Article 30.3.A.

B. Heritage trees shall be protected to the greatest extent possible, as specified below :

1. Heritage trees may be removed when a City-issued tree work permit is requested and approved, or the standards listed under item 2 below are met. No removal activities shall commence until such permit is issued, any applicable mitigation payments have been received, and a planting plan has been approved, unless removal is permitted per item 2 below. Owners and persons who remove a heritage tree or disturb the critical root zone of a heritage tree without a tree work permit are subject to the civil penalties set forth in Section 4.1 of the UDO Zoning Administration Manual (Charlotte Tree Manual). The critical root zone of a heritage tree shall only include the root area located on the parcel or site where the trunk/main plant stem is rooted in the ground. For purposes of this subsection, a development plan approved by the City constitutes a tree work permit. Tree work permits for the removal of heritage trees shall only be granted in the following instances subject to specified mitigation requirements below:

a. The tree and/or critical root zone are located within an area where a structure or improvement may be placed and imposes a documented and confirmed conflict. A documented and confirmed conflict may include but not be limited to the location of structures, site design elements, and required streets as allowed or required by other articles of this Ordinance. Mitigation, per item 3 below, shall be required.

b. Preservation of the tree would unreasonably restrict use of the property. An unreasonable restriction per this section shall mean, significant restriction or negative impact to public/private utility service, restriction of property access, restriction of the ability to remedy significant damage to an existing building or structure, or other restrictions of public infrastructure that reasonable maintenance cannot prevent. Mitigation, per item 3 below, shall be required.

c. The tree is sufficiently diseased, injured, dead, in danger of falling, creates an imminent and undue hazard to life and property that reasonable maintenance cannot mitigate, creates unsafe sight distance, or conflicts with other sections of this Ordinance or provisions of other ordinances or regulations. Mitigation shall not be required.

2. Heritage trees that are sufficiently diseased, injured, dead, or are in danger of falling shall not be required to obtain a City-issued tree work permit or mitigate the tree loss prior to removal. Trees removed without a permit due to health or hazard shall be either certified by an ISA-certified arborist or adequately documented through picture, video or other documentation prior to removal. Heritage trees that are in declining health may be removed without a City-issued tree work permit only when certified by an ISA-Certified arborist prior to removal. For the purpose of this section, a “tree in declining health” shall mean a tree that can be expected to fall within a 1-3 year time period per an assessment by an ISA-Certified arborist.

3. Mitigation

Owners and persons authorized by the City to remove a heritage tree, per the conditions stated in this section shall comply with the following mitigation actions:

a. Required Tree Replanting

One tree shall be planted on the property in mitigation pursuant to Section 4.1 of the UDO Zoning Administration Manual. Trees replanted to meet this mitigation requirement shall be in addition to other trees required by this article.

b. Heritage Tree Mitigation Payment
A heritage tree mitigation payment shall be required for every heritage tree removed per the fee ~~set by the Charlotte Tree Manual~~established by City Council. The required mitigation payment may be reduced or eliminated where trees are replanted on the property in addition to those required by item a above and other tree replanting required by this Article. The rate of reduction shall be subject to Section 4.1 of the UDO Zoning Administration Manual.

c. Specimen Tree Preservation
Specimen trees may be preserved to meet all Heritage Tree mitigation requirements specified above. Only large hardwoods and large softwoods, per the definition of this term in Article 2, shall be used to meet this mitigation option. One specimen tree preserved shall meet the mitigation requirements for the removal of one Heritage Tree approved for removal. The critical root zone of specimen trees preserved shall be identified and protected as a part of the required Tree Compliance Plan per Section 20.18 below, and pursuant to Section 4.1 of the UDO Zoning Administration Manual.

i. Collected fees from mitigation per this item shall be deposited into ~~the Canopy Care Fund~~the account, or its equivalent, in the City's financial system as established in Section 20.18.D.1.c.

4. No tree disturbing activity may impact any heritage tree prior to approval and issuance of applicable tree work permits by the City. Certain impacts to critical root zones shall be permitted subject to Section 4.1 of the UDO Zoning Administration Manual and the CLDSM.

5. It shall be the duty of the property owner to maintain, plant, and/or replace mitigation and heritages trees on private property as required by this section. Trees shall be allowed to grow to their natural height and form. Pruning of these trees may be allowed where a tree work permit has been issued. Topping is prohibited. Property owners will not be held liable for any pruning conducted by utility providers.

20.15 GREEN AREA

A. Applicability and Exemptions

1. Applicability
The green area requirements of this section shall apply to all development activity, including grading in anticipation of such development, within the corporate limits of the City and the City's extraterritorial jurisdiction (ETJ), whenever development would result in any of the following:

a. New construction of a principal structure.

b. Cumulative increase in built-upon area (BUA) or building coverage equal to or greater than 5% or 1,000 square feet, whichever is less.

c. Approval of a subdivision as defined by Article 30.3.A.

2. Compliance
The intent of green area compliance is for a site to reach full compliance, even if an initial project(s) only requires proportional compliance. Green area requirement compliance shall be achieved as follows:

a. Full Compliance
Development activity that cumulatively impacts 75% or more of a site, with cumulative impact considered for all development permitted on June 1, 2023 or later, shall fully comply with green area requirements.

b. Proportional Compliance
The following development activities qualify for proportional compliance with green area requirements when a site retains an existing principal building and when there is less than 75% cumulative disturbance of the site area:

i. Construction of an additional principal structure.

ii. Expansion of an existing principal structure.

iii. Removal and replacement of an existing structure.
iv. Expansion of existing built-upon area.

v. Any combination of items i through iv above.

Sites qualifying for proportional compliance shall provide, at a minimum, the same percentage of the required green area as the percentage of the site being disturbed by the subject development activity.

Tier 3 and Tier 4 sites, per Table 20-4 below, eligible for proportional compliance per this section may also meet the green area requirements of this section through Tier 1 Green Area Credit options per Table 20-5 (below) upon a determination by the Chief Urban Forester that compliance cannot otherwise feasibly be achieved via the Green Area Credit options provided to the site by its assigned Tier. The determination of the Chief Urban Forester shall be pursuant to the provisions of Section 4.1 of the UDO Zoning Administration Manual (Charlotte Tree Manual).

3. Exemptions

The following are exempt from the requirements of this section as specified below:

a. Increases in built-upon area (BUA) or building coverage on lots where the existing principal structure is a single-family detached home, duplex, triplex or quadraplex.

b. Construction of a new single-family detached home, duplex, triplex, or quadraplex as a principal structure on a single lot, unless such construction is any of the following:

i. Part of an approval of a new subdivision as defined by Section 30.3.A or Section 30.3.D,

ii. Constructed on three or more contiguous/adjacent lots, or

iii. Part of a multi-dwelling development.

c. Public projects undertaken by public entities on public property, or public entities and owners of public property unless such projects do any of the following:

i. Increase building coverage.

ii. Impact existing trees required or protected by Section 20.14 through Section 20.17 or Chapter 21 of the City Code of Ordinances.

Where public projects are exempt from this section, such projects shall be subject to interdepartmental or interagency agreements and land development standards pursuant to Section 4.1 of the UDO Zoning Administration Manual.

B. Standards by Tier

Green area, perimeter planting and internal planting requirements are differentiated by Place Type as designated within the four tiers established within Table 20-4 below:

Table 20-4: Tier Assignment of Place Types

Tier 1 Place Types	Tier 2 Place Types	Tier 3 Place Types	Tier 4 Place Types
Regional Activity Center Place Type Community Activity Center Place Type Campus Place Type - If zoned IC-2 or RC Zoning District	Manufacturing and Logistics Place Type Neighborhood Activity Center Place Type Commercial Place Type Innovation Mixed-Use Place Type Neighborhood 2 Place Type - If zoned N2-C Zoning District	Neighborhood 2 Place Type - All zoning districts other than N2-C Zoning District Campus Place Type - All zoning districts other than IC-2 or RC Zoning District	Neighborhood 1 Place Type Parks and Preserves Place Type

C. Required Green Area

15% or more of a development site that is subject to the applicability of this section shall be green area to be credited as provided for in Table 20-5 Green Area Credits.

D. Green Area Credits

The standards and methods for calculating required green area for sites shall be as follows:

1. Green area credits shall be used to achieve the required 15% green area pursuant to item B above. Green area credits are based on the corresponding multipliers for each credit and found in Table 20-5.

2. The process for calculating a property's green area credit shall be as follows:

a. The area of each green area credit is multiplied by its corresponding multiplier.

b. The resulting green area credits are added together.

c. The sum of these green area credits is then divided by the total land area of the development site to determine the green area percentage, which shall constitute at least 15% of the site per item B above.

3. All Green Area Credits shall comply with technical standards per Section 4.1 of the UDO Zoning Administration Manual.

4. Green Area Method for Calculation

Square footage for existing and dedicated street rights-of-way, railroad rights-of-way and utility easements and for existing ponds and lakes shall be subtracted from the total site area before the required percent of the green area is calculated.

Table 20-5 Green Area Credits				
Green Area Credits	**Multipliers**			
	Tier 1	**Tier 2**	**Tier 3**	**Tier 4**
Tree save - Preservation of existing on-site contiguous tree canopy (See Section 20.15.D)[1]	1	1	1	1
Replanted Tree Save- Planting trees at 36 trees per acre - where less than 15% of the site has existing trees	1	1	1	1
Replanted Tree Save Mitigation- Replanting trees at 36 trees per acre to replace trees that were removed	1	0.67	*See footnote 2*	*See footnote 2*
Land donation to the City's Tree Canopy Preservation Program (TCPP), both on-site or off-site, per site requirements in Section 4.1 of the UDO Zoning Administration Manual	1.25	1.25	1.25	1.25
Land dedication to Mecklenburg County Park and Recreation (See Section 20.15.F) [3]				1
Green roof /terrace – planted over at least 2 inches but less than 4 inches of growth medium	0.5	0.25		
Green roof /terrace - planted over at least 4 inches but less than 8 inches of growth medium	0.75	0.5		
Green roof /terrace - planted over at least 8 inches of growth medium	1	0.75		
Green walls (not to exceed 50% of green area credits)	0.5	0.25		
Off-site mitigation (See Section 20.15.H) [4]	1	0.67		
Amenitized tree areas (See Section 20.15.I)	1	0.67		
Payment-in-Lieu (See Section 20.15.G) [4]	1	0.5		
High-Quality Tree Incentives				
Preservation of specimen or heritage trees (calculated by drip line)	2	2	2	2
Preservation of existing on-site tree canopy contiguous with existing tree save or conservation agreement areas on adjacent property	1.25	1.25	1.25	1.25
Preservation of existing on-site tree canopy contiguous with intermittent and perennial streams [5]	1.25	1.25	1.25	1.25
Preservation of existing on-site tree canopy on steep slope in excess of 33%	1.25	1.25	1.25	1.25

[1] The Chief Urban Forester may approve preservation of non-contiguous fragments to meet the requirements of this section per the Tree Canopy Manual (Section 4.1 of the Zoning Administration Manual), where the preservation of these existing trees would better meet the intent of this Ordinance.

[2] In Tier 3 and Tier 4, as part of the required green area, the removal of existing trees may only be approved by the Chief Urban Forester pursuant to the Charlotte Tree Manual's Green Area Guideline when the tree and critical root zone are located within the buildable area where a City-required structure or site improvement will be placed and there is no other reasonable location, and/or preservation would unreasonably restrict use of and/or access to the property. The area of existing trees removed shall be replanted with trees at 150% of the area removed at 36 trees per acre.

[3] Only permitted for residential development in N1-A, N1-B, N1-C, N1-D, and N1-E subject to the applicability of this section.

[4] Payment-in-Lieu and off-site mitigation may not be used in combination to meet the requirements of this section.

[5] Intermittent and perennial streams within the project boundary shall be delineated by a certified professional using U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology and shall be shown in the Tree Planting and Green Area Plan along with all areas where this green area option is to be used.

E. Tree Save Standards

The following standards shall apply to all tree save areas within the required green area.

1. Tree save areas shall be free of invasive plant species unless otherwise approved by the Chief Urban Forester. If an area proposed for tree save contains invasive plant species at the time of such proposal, such invasive plant species shall be removed prior to final plat approval for subdivisions. If there is no final plat for a project, the invasive plant species shall be removed prior to the issuance of the final certificate of occupancy. Invasive plant species are considered removed if they are no longer living in or under the tree canopy. Property owners are required to maintain this condition for compliance with this section.

2. Pursuant to Section 4.1 of the UDO Zoning Administration Manual, any alterations to the tree save area in Tier 3 and Tier 4 Place Types shall be accomplished without mechanized tools and vehicular equipment and made of organic, environmentally friendly materials, unless otherwise approved by the Chief Urban Forester. For sites located in Tier 1 or Tier 2 Place Types, alterations to the tree save area do not have to meet the above standard. However, if alterations are made or amenities are added, these changes shall be made in a manner that is not detrimental to the saved trees or their critical root zone. Alterations and addition of any amenities shall be approved by the Chief Urban Forester.

3. Any tree save area less than 30 feet in width shall be delineated on site with boundary and property lines by a licensed surveyor prior to the first submittal of plans.

4. No structure shall be allowed within ten feet of the tree save area. A building restriction note shall be indicated on the record plat pursuant to Section 4.1 of the UDO Zoning Administration Manual. For sites located in Tier 1 or Tier 2 Place Types, the ten foot building restriction may be counted toward the tree save area requirement as long as this area continuously and directly abuts a tree save area and remains pervious. However, regulatory trees may not be planted within this ten foot building restriction area.

5. Additional amenity elements including, but not limited to, benches, trails, gazebos, sheds, fences, may be permitted by the Chief Urban Forester pursuant to Section 4.1 of the UDO Zoning Administration Manual.

6. Tree save areas may include areas dedicated to Mecklenburg County Park and Recreation for greenways or parks or the City of Charlotte for the Tree Canopy Preservation Program, Urban Arboretum Trail, or other City trail projects. Dedicated tree save areas may include passive use recreation areas and additional amenity elements per Section 20.15.E.5 and per special agreement between the City and Mecklenburg County Park and Recreation. Greenway placement, trail placement, park design, and final location of all amenity elements shall be coordinated with the Chief Urban Forester pursuant to Section 4.1 of the UDO Zoning Administration Manual so that the effective tree save area required is achieved and maintained.

7. Tree save areas on sites in Tier 1, 2, and 3 Place Types or nonresidential sites in Tier 4 Place Types may include existing tree canopy which overhangs existing underground utility easements based upon adherence to Section 4.1 of the UDO Zoning Administration Manual and approval by the Chief Urban Forester.

8. Tree save areas may include the planting of small maturing trees in accordance with Duke Energy's, or its successor's, approved planting list, within 25 feet of power distribution lines. This allowance shall only be granted where planting is in adherence with Section 4.1 of the UDO Zoning Administration Manual and approved by the Chief Urban Forester.

9. In local historic districts designated by a Historic District Overlay (Section 14.1) and Neighborhood Character Overlay Districts as designated by a Neighborhood Character Overlay (Section 14.2), the requirements of overlay districts apply in addition to the regulations of this section.

10. Tree Save Standards Overlap

The following may be located within tree save areas when they meet minimum requirements for this article and the articles listed below:

a. 50% of the open space per Article 16 may be tree save areas per Article 20, so long as such tree save area abuts the remaining required open space and includes allowed amenities to provide passive recreation.

b. Landscape yards per Article 20 if trees planted or preserved are in addition to minimum tree save requirements.

c. Water supply water quality buffers per Article 23.

d. Post-construction water quality buffers per Article 25.

e. SWIM water quality buffers per Article 26

f. Floodplains per Article 27.

g. Areas for greenways or parks per Article 32 offered for dedication and accepted by Mecklenburg County Park and Recreation.

11. The following additional standards apply only to tree save areas for single-family, duplex, triplex, and quadraplex residential development subject to approval of a subdivision per Article 30.3.A.

a. Additional Trees- Canopy Voids
In instances where tree save is used to meet green area requirements, where groups of trees within a tree save area have gaps that are not expected to fill in with time, as determined by the Chief Urban Forester, additional trees shall be planted for the entire area to qualify as tree save area, pursuant to approval by the Chief Urban Forester. If root disturbance or construction activities occur within the drip line of any tree designated as protected in the tree protection plan, only the area being protected shall be included in the calculated tree save area.

b. Criteria for New Trees
New trees planted in common open spaces to satisfy the requisite tree save area requirement shall be at least 0.75 inch caliper shade trees. New trees planted within individual lots to satisfy the requirement shall be at least 1.50 inch caliper trees.

F. Land Dedication to Mecklenburg County Park and Recreation
As a green area credit option for required green area, the property owner may select one of the following options:

1. Dedicate 1/3 of land required for green area to Mecklenburg County Park and Recreation (Park and Recreation) for park development, so long as the land meets Park and Recreation standards and is accepted by Park and Recreation. If selecting this option, and dedicating 1/3 of the land required for green area, a reduction in minimum lot size by 5% would be allowed. This land shall be subject to special agreement between the City and Park and Recreation.

2. Dedicate all land required for green area to Mecklenburg County Park and Recreation (Park and Recreation) for park development, so long as the land meets Park and Recreation standards and is accepted by Park and Recreation. If selecting this option, and dedicating all of the land required for green area, a reduction in minimum lot size by 10% would be allowed. This land shall be subject to special agreement between the City and Park and Recreation, which shall preserve 2/3 of the land as on-site tree save. Park land and tree save shall be abutting.

G. Payment-In-Lieu
A payment may be made by a developer or a property owner to a City administered tree preservation ~~fund~~account, per item 1 below. The payment shall be a percentage of the tax value of the land being developed pursuant to Section 4.1 of the UDO Zoning Administration Manual. The tax value of the land being developed shall not exceed 90% of the average tax value of land in the City limits and of the ETJ, excluding the land within the boundaries of I-77/I-277 and in accordance with the Charlotte Tree Manual. The City shall update the average tax value of the land for this formula with each County property revaluation. Payment-in-lieu may be used for a portion of the required 15% green area or the entire required green area in accordance with the requirements of this section.

1. Collected monies from the green area payment-in-lieu process per this item shall be deposited into ~~the Tree Conservation Fund~~the account, or its equivalent, in the City's financial system as established in Section 20.18.D.1.a

H. Off-Site Mitigation
An applicant may convey or protect, at no cost to the City, an amount of land equal to the required green area acreage, or a portion thereof, within the City or ETJ, to a land conservation group or the City, for the purpose of preserving off-site tree canopy to meet the requirements of this section, per Table 20-5. Mitigation shall be:

1. Approved by the Chief Urban Forester.

2. In compliance with Section 4.1 of the UDO Zoning Administration Manual.

I. Amenitized Tree Area
Amenitized tree areas shall be subject to the following requirements:

1. Trees shall be planted at 36 trees per acre on-site.

2. Planting areas shall be a minimum of ten feet wide.

3. No more than 25 percent of impervious paved areas will be allowed within amenitized tree areas. Gravel pathways in amenitized tree areas will be considered pervious.

4. Trees may be planted in alternative locations, such as but not limited to, rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the Chief Urban Forester. Greater than 25 percent impervious paved area may be allowed within alternative locations being used to meet the amenitized tree area requirement if minimum soil volume, amended soil, subdrainage, irrigation, planting area, and other applicable design standards per the CLDSM, Charlotte Tree Manual, or as approved by the Chief Urban Forester, are met.

5. Amenities may include, but are not limited to, irrigation, landscaping, grass, seating, pathways, and lighting or other items, as approved by the Chief Urban Forester.

6. Amenitized Tree Area Standards Overlap
The following may be located within amenitized tree areas when they meet minimum requirements for this article and the articles listed below:

a. Open Space per Article 16.

b. Landscape yards per Article 20.

c. Water supply water quality buffers per Article 23.

d. Post-construction water quality buffers per Article 25.

e. SWIM water quality buffers per Article 26.

f. Floodplains per Article 27.

g. Areas for greenways or parks per Article 32 offered for dedication and accepted by Mecklenburg County Park and Recreation.

J. Trees required by this section, or protected as a condition of a previously approved development plan, which die, are missing, or are otherwise deemed unhealthy by the City, shall be removed and replaced by the property owner, normally during the next planting season which is November through March pursuant to the Charlotte Tree Manual.

Parcels that are already in compliance shall maintain that compliance with these standards. Trees of the same approved species as those existing may be used to replace dead, missing, or unhealthy trees. The property owner is required to use large maturing shade trees as replacements whenever possible. Nothing in this section is intended to impose a requirement that the property owner maintain more trees than those required for the site even if they have voluntarily done so in the past.

K. It shall be the duty of the property owner to maintain, plant, and/or replace trees required by this section. Trees shall be allowed to grow to their natural height and form. Pruning of these trees may be allowed where a tree work permit has been issued. Topping is prohibited. Property owners will not be held liable for any pruning conducted by utility providers.

20.16 FRONTAGE TREE PLANTING REQUIREMENT

A. Construction of a new single-family, duplex, triplex or quadraplex structure within the Neighborhood 1 and Neighborhood 2 Zoning Districts, except as part of an approval of a new subdivision as defined by Section 30.3.A or as part of a multi-dwelling development, shall be required to plant a minimum of one large maturing tree for every 40 feet of lot width or one small maturing tree for every 30 feet of lot width between the residential building and the public street right-of-way, pursuant to Section 4.1 of the UDO Zoning Administration Manual. Trees may be planted within the right-of-way to meet the requirements of this section unless the project is adjacent to NCDOT right-of-way. A minimum of one tree per lot shall be required.

1. Sites with demonstrated constraints including water meters, sewer lines, driveways, and sight triangles may meet this requirement through payment-in-lieu, or planting in alternate locations pursuant to the Charlotte Tree Manual.

B. Existing large maturing shade trees two-inch caliper or greater preserved between the building and the public street right-of-way may be counted towards this requirement if they are adequately protected during construction.

C. Trees planted in the public street right-of-way to meet this requirement shall be a minimum of two-inch caliper. Large maturing trees shall not be planted within 25 feet of overhead power distribution. Small maturing trees may be planted where overhead power distribution lines would interfere with normal growth of large maturing trees. Large and small maturing trees shall not be planted within any electric utility rights-of-way for overhead transmission lines, without documented and confirmed authorization of the corresponding utility provider.

D. Trees required by this section or protected as a condition of a previously approved development plan, which die, are missing, or are otherwise deemed unhealthy by the City, shall be removed and replaced by the property owner, normally during the next planting season which is November through March pursuant to the Charlotte Tree Manual.

Parcels that are already in compliance shall maintain that compliance with these standards. Trees of the same approved species as those existing may be used to replace dead, missing, or unhealthy trees. The property owner is required to use large maturing shade trees as replacements whenever possible. Nothing in this section is intended to impose a requirement that the property owner maintain more trees than those required for the site even if they have voluntarily done so in the past.

E. It shall be the duty of the property owner to maintain, plant, and/or replace trees required by this section. Trees shall be allowed to grow to their natural height and form. Pruning of these trees may be allowed where a tree work permit has been issued. Topping is prohibited. Property owners will not be held liable for any pruning conducted by utility providers.

20.17 TREE PLANTING REQUIREMENTS

A. Applicability and Exemptions

1. Applicability. The tree planting requirements of this section shall apply to all development activity, including grading in anticipation of such development, within the corporate limits of the City and the City's extraterritorial jurisdiction (ETJ), whenever development would result in any of the following:

a. New construction of a principal structure.

b. Cumulative increase in built-upon area (BUA) or building coverage equal to or greater than 5% or 1,000 square feet, whichever is less.

c. Approval of a subdivision as defined by Article 30.3.A.

2. Compliance

The intent of tree planting compliance is for a site to reach full compliance, even if an initial project(s) only requires proportional compliance. Tree planting requirement compliance shall be achieved as follows:

a. Full Compliance

Development activity that cumulatively impacts 75% or more of a site, with cumulative impact considered for all development permitted on June 1, 2023 or later, shall fully comply with tree planting requirements.

b. Proportional Compliance

The following development activities qualify for proportional compliance with tree planting requirements when a site retains an existing principal building and when there is less than 75% cumulative disturbance of the site area:

i. Construction of an additional principal structure.

ii. Expansion of an existing principal structure.

iii. Removal and replacement of an existing structure.

iv. Expansion of existing built-upon area.

v. Any combination of items i through iv above.

Sites qualifying for proportional compliance shall provide, at a minimum, the same percentage of the required tree plantings as the percentage of the site being disturbed by the subject development activity.

3. Exemptions. The following are exempt from the requirements of this section as specified below:

a. Increases in built-upon area (BUA) or building coverage on lots where the existing principal structure is a single-family detached home, duplex, triplex or quadraplex.

b. Construction of a new single-family detached home, duplex, triplex, or quadraplex as a principal structure on a single lot, unless such construction is any of the following:

i. Part of an approval of a new subdivision as defined by Section 30.3.A or Section 30.3.D,

ii. Constructed on three or more contiguous/adjacent lots, or

iii. Part of a multi-dwelling development.

c. Public projects undertaken by public entities or on public property public entities and owners of public property unless such projects do any of the following:

i. Increase building coverage.

ii. Impact existing trees required or protected by Sections 20.14 through Section 20.17 or Chapter 21 of the City Code of Ordinances.

Where public projects are exempt from this section, such projects shall be subject to interdepartmental agreements and land development standards pursuant to the Charlotte Tree Manual.

B. General Requirements

1. All trees planted pursuant to this Article shall be planted in amended soils and shall be included as an approved plant species within the CLDSM. All trees shall comply with the latest available edition of the American Standard for Nursery Stock, ANSI Z60.1, American Horticulture Industry Association (AmericanHort).

a. Where two-inch minimum caliper trees are specified, the minimum height for single stem trees shall be eight feet and multi-stem trees shall have three to five stems and be a minimum height of eight feet.

b. Where three-inch minimum caliper trees are specified, the minimum height for single stem trees shall be ten feet, and multi-stem trees shall have three to five stems and be a minimum height of ten feet.

2. The entire planting area for all trees shall contain amended on-site soil or a soil mix and provide the minimum planting area as specified in the Charlotte Tree Manual.

3. At least 75% of new required trees shall be native species. Sites required to plant more than 20 trees shall plant multiple species pursuant to the Charlotte Tree Manual.

4. Large maturing trees shall not be planted within 25 feet of overhead power distribution. Small maturing trees may be planted where overhead power distribution lines would interfere with normal growth of large maturing trees. Large and small maturing trees shall not be planted within any electric utility rights-of-way for overhead transmission lines, without documented and confirmed authorization of the corresponding utility provider.

5. Required trees shall be located at least ten feet from buildings unless otherwise approved by the Chief Urban Forester.

6. Required trees shall be located at least ten feet from on-site underground utilities, where feasible, unless otherwise approved by the Chief Urban Forester. For the purposes of this standard, underground utilities mean primary service lines for water, sewer, City-maintained stormwater, electric, gas, cable TV, and data transmission lines.

7. The required separation between site lighting and trees on a site shall conform to the standards of Table 20-6: Site Lighting and Tree Separation Requirements below.

8. Trees required by this section or protected as a condition of a previously approved development plan, which die, are missing, or are otherwise deemed unhealthy by the City, shall be removed and replaced by the property owner, normally during the next planting season which is November through March pursuant to the Charlotte Tree Manual.

Parcels that are already in compliance shall maintain that compliance with these standards. Trees of the same approved species as those existing may be used to replace dead, missing, or unhealthy trees. The property owner is required to use large maturing shade trees as replacements whenever possible. Nothing in this section is intended to impose a requirement that the property owner maintain more trees than those required for the site even if they have voluntarily done so in the past.

9. It shall be the duty of the property owner to maintain, plant, and/or replace trees required by this section. Trees shall be allowed to grow to their natural height and form. Pruning of these trees may be allowed where a tree work permit has been issued. Topping is prohibited. Property owners will not be held liable for any pruning conducted by utility providers.

Table 20-6: Site Lighting and Tree Separation Requirements

Tier (Per Table 20-4)	Height of Site Lighting	Minimum Distance Required
Tier 1 & Tier 2	15' or above	20'
	Less than 15'	10'
Tier 3 & Tier 4	15' or above	30'
	Less than 15'	15'

C. Perimeter Planting

Perimeter trees are located in planting strips, amenity zones, or planting areas along or otherwise adjacent to public streets and network-required private streets. These trees are intended to provide shade and other environmental benefits along streets for pedestrians and other users of public rights-of-way.

1. General Perimeter Planting Requirements

a. For all projects subject to the applicability of this Article, large maturing trees per the CLDSM shall comprise 75% of the required perimeter trees planted in locations without overhead power distribution lines that obstruct normal growth. Small maturing trees per the CLDSM shall be planted where overhead power distribution lines obstruct normal growth of large maturing trees.

b. Alternative to Perimeter Planting

Existing large maturing trees two-inch caliper or greater within 20 feet of the back of the curb may be counted towards the perimeter planting requirement if they are preserved and adequately protected during construction per the CLDSM, and the Charlotte Tree Manual.

c. Additional Perimeter Planting Standards

The following may be located within areas designated for perimeter planting when they meet minimum requirements for this article and the articles listed below:

i. Water supply water quality buffers per Article 23.

ii. Post-construction water quality buffers per Article 25.

iii. SWIM water quality buffers per Article 26

iv. Floodplains per Article 27.

v. Areas for greenways or parks per Article 32 offered for dedication and accepted by Mecklenburg County Park and Recreation.

2. Tier 1, 2, and 3 Perimeter Planting Requirements

a. The requirements of this section apply to development within the Place Types listed under Tier 1, 2, or 3 per Table 20-4 above. For development subject to this section, large maturing or small maturing trees shall be planted subject to the location and spacing standards below. Trees shall be of a minimum two-inch caliper for Tier 3 sites and a minimum three-inch caliper for Tier 1 and Tier 2 sites.

b. Perimeter Planting Location
Trees shall be planted in any planting strip or amenity zone established pursuant to Article 33 unless the project is subject to item 4.c below. Any trees in an established amenity zone may be planted using tree pits or curbed planters as detailed in CLDSM.

c. Perimeter Planting Quantity and Spacing

i. If large maturing trees are planted:

(A) One tree shall be planted for every 40 feet of frontage or fraction thereof.

(B) The minimum spacing shall be 40 feet.

ii. If small maturing trees are planted:

(A) One tree shall be planted for every 30 feet of frontage or fraction thereof.

(B) The minimum spacing shall be 30 feet.

3. Tier 4 Perimeter Planting Requirements

a. Applicability
The requirements of this section apply to development within the Place Types listed under Tier 4 per Table 20-4 above. For development subject to this section, large maturing or small maturing trees shall be planted subject to the location and spacing standards below and shall be of a minimum two-inch caliper.

b. Perimeter Planting Location
Trees shall be planted in the planting strip or amenity zone pursuant to Article 34 unless the project is subject to item 4.c below. If trees cannot be planted within the planting strip or amenity zone due to an insufficient planting area or soil volume, then trees shall be planted within 20 feet from the back of curb, subject to the requirements of this Article.

c. Perimeter Planting Quantity and Spacing

i. If large maturing trees are planted:

(A) One tree shall be planted for every 40 feet of frontage or fraction thereof.

(B) The minimum spacing shall be 40 feet.

ii. If small maturing trees are planted:

(A) One tree shall be planted for every 30 feet of frontage or fraction thereof.

(B) The minimum spacing shall be 30 feet.

4. Special Conditions
Modification to perimeter planting requirements for any tier may be granted for the following special circumstances:

a. Site Constraints
If the required number of trees cannot be planted as required above due to site constraints, the alternatives listed below, either individually or in combination, may be used. Site constraints include, but are not limited to, driveway locations, sight triangles, sight lines, and above ground utility locations, as determined by the Chief Urban Forester.

i. The minimum spacing between large maturing trees may be reduced from 40 feet to 30 feet. The minimum spacing between small maturing trees may be reduced from 30 feet to 20 feet. For any reduced spacing, only species listed in the Charlotte Tree Manual or approved by the Chief Urban Forester shall be planted.

ii. If tree planting in the planting strip or amenity zone is infeasible, alternative locations for tree planting shall be considered. However, in all instances, trees required by this section shall be planted within 20 feet of the back of curb.

Where these options are not feasible as determined by the Chief Urban Forester, a payment-in-lieu may be made to the City for perimeter trees that cannot be planted in the planting strip or amenity zone pursuant to the Charlotte Tree Manual. The site may not opt out of all required perimeter trees. Collected fees from City tree mitigation and payment-in-lieu processes per this item shall be deposited into the ~~Street Tree Planting Fund~~ account, or its equivalent, in the City's financial system as established in Section 20.18.D.1.b

b. Railroad, Transit, or Utility Rights-of-Way

When a railroad, transit, or utility right-of-way separates the perimeter planting strip from a City right-of-way, the perimeter planting strip and tree planting requirements shall still be met.

c. NCDOT Maintained Street Rights-of-Way

When NCDOT planting guidelines or other standards prohibit perimeter tree planting within NCDOT-maintained street rights-of-way, the perimeter tree planting requirement shall still be met as specified below:

i. In Tier 1, 2, or 3 Place Types (per Table 20-4), trees shall be planted on-site in alternative locations within 20 feet of the right-of-way, or in locations otherwise approved by the Chief Urban Forester.

ii. In Tier 4 Place Types (per Table 20-4) located within Charlotte's ETJ, all required perimeter trees are allowed to be planted in the required frontage setback.

D. Internal Planting

Internal trees are located on private property outside of public rights-of-way. These trees are intended to provide shade and other environmental benefits in parking lots and other locations internal to sites. 75% of trees planted in parking areas shall be large maturing trees. The remainder of the trees may be either small or large maturing trees. Requirements for internal planting are as follows:

1. Tier 1 and 2 Internal Planting Requirements

The requirements of this section apply to development within the Place Types listed under Tier 1 and 2 per Table 20-4 above.

a. Internal Planting Area and Quantity

Whenever the built upon area exceeds 10,000 square feet, a planting area is required as follows:

i. A planting area equal to 10% of the total built upon area shall be provided. This planting area shall be located on private property and shall be in addition to any perimeter planting and green area requirements. This planting area requirement may be reduced in the following instances:

(A) In Regional Activity Centers, the planting area may be reduced to 5% of the total built upon area

(B) In Tier 1 sites, two trees may be planted for every 10,000 sq ft of built upon area subject to the allowances in item (A) below, subject to the Charlotte Tree Manual and CLDSM.

ii. One large maturing tree shall be planted per 10,000 square feet of built upon area or fraction thereof. Additional trees may also be required to satisfy the locational requirements of Section 20.17.D.1.b, below. A sufficient number of trees shall be planted to satisfy both requirements.

b. Internal Planting Location

i. Tree plantings required by this section may be located anywhere on the site, however, each internal surface parking space shall be no more than 40 feet from a tree trunk.

ii. In Tier 1 sites, trees required by this section may be located on rooftops, in permanent planters, on raised or at grade plazas, on the top open-air level of a parking structure, or other locations approved by the Chief Urban Forester.

2. Tier 3 and Tier 4 Internal Planting Requirements

The requirements of this section apply to development within the Place Types listed under Tier 3 and Tier 4 per Table 20-4 above. This requirement does not apply to residential subdivisions of single-family, duplex, triplex and quadraplex homes in an Neighborhood 1 Place Type.

a. Internal Planting Area and Quantity

Whenever the built upon area of a site exceeds 10,000 square feet, a planting area is required as follows:

i. A planting area equal to 10% of the total built upon area shall be provided. This planting area shall be located on private property and shall be in addition to any perimeter planting and green area requirements.

ii. One large maturing tree shall be planted per 10,000 square feet of built upon area or fraction thereof. Additional trees may also be required in addition to this quantity to satisfy the locational requirements of Section 20.17.D.1.b, below. A sufficient number of trees shall be planted to satisfy both of these requirements.

b. Internal Planting Location

Tree plantings required by this section may be located anywhere on the site, however, each internal surface parking space shall be no more than 40 feet from a tree trunk. Modifications of strict adherence to these requirements are granted for the following:

i. The distance requirement may increase to 60 feet from a tree trunk if continuous islands, running the length of the parking area, are provided at a minimum width of eight feet.

3. Special Conditions

Modification to internal planting requirements may be granted for the following special circumstances:

a. Multi-Family Planting

For parking spaces located in driveways for individual multi-family attached dwellings, the required trees may be located elsewhere on the site as approved by the Chief Urban Forester. The number of trees shall equal the quantity required by Section 20.17.D.2.a, above.

b. Existing Trees

In meeting these internal planting requirements, credit may be given for existing trees subject to the following:

i. Credit shall only be granted if the following conditions are met:

(A) The applicant includes in the tree survey referenced in Section 20.18.A, all existing trees of two-inch DBH or greater which are proposed to satisfy the planting requirements of this section.

(B) The applicant provides for the protection of healthy trees identified and proposed to satisfy the planting requirements of this section, during the entire development period, beginning prior to the commencement of site work and continuing through to issuance of the certificate of occupancy pursuant to approved tree protection requirements per CLDSM, the Charlotte Tree Manual, and Section 20.14.

ii. The Chief Urban Forester may deem trees to be ineligible for this credit if the minimum protection standards are not met, or if trees are observed to be injured or threatened.

c. Bus and Tractor Trailer Lots

Bus and tractor-trailer lots are not required to meet the 40-foot distance requirement above when trees are planted 40 feet apart around the edge of the parking area in a minimum ten foot wide planting area. Trees planted pursuant to this requirement may count as trees required per Section 20.6.

4. Additional Internal Tree Standards

Internal trees may be located within the following areas when they meet minimum requirements for this article and the articles listed below:

a. Open Space per Article 16.

b. Landscape yards per Section 20.9 if internal trees planted or preserved are in addition to minimum landscape yard requirements.

c. Water supply water quality buffers per Article 23.

d. Post-construction water quality buffers per Article 25.

e. SWIM water quality buffers per Article 26.

f. Floodplains per Article 27.

g. Areas for greenways or parks per Article 33 offered for dedication and accepted by Mecklenburg County Park and Recreation.

20.18 TREE PROTECTION ADMINISTRATION AND PROCESS

A. Plan Submittal and Process

1. Tree Survey for Conditional Zoning Map Amendment

A tree survey shall be required for all conditional zoning map amendments. A tree survey required by this section shall include identification of the following:

a. All City trees eight inches DBH or greater and all planted City trees.

b. All existing heritage trees on the property.

c. Any existing areas of the site used for credit toward meeting previously approved tree save or green area requirements.

2. Tree Compliance Plan

All applications for land development approval subject to the applicability of Section 20.15, Section 20.16, and Section 20.17 shall be required to submit to the Planning Department a tree compliance plan which shall include a tree survey, a tree and critical root zone protection plan, and tree planting and green area plan for all City trees, heritage trees, specimen trees, tree save areas, areas subject to green area requirements, and tree protection zones, as applicable.

a. Tree Survey for Land Development Approval

A tree survey required by this section shall include identification of the following:

i. All City trees of eight inches DBH or greater and all planted City trees.

ii. Any trees of two-inches caliper or larger being saved for credit toward planting requirements.

iii. All existing heritage trees and their critical root zones on the property within 50 feet of proposed land disturbing activity or that are being used for green area credit.

iv. All existing specimen trees that are used for tree save, green area credit, or heritage tree mitigation and their critical root zones.

v. Any existing areas of the site used for credit toward meeting previously approved tree save or green area requirements

vi. Any area of the site to be used for credit toward meeting new green area requirements per Section 20.15.B. Green roof and green wall area used for credit toward green area requirements shall be delineated by unique identifiers on the plan from other green area credits used to achieve required on-site green area.

b. Tree and Critical Root Zone Protection Plan

A tree and critical root zone protection plan pursuant to the Charlotte Tree Manual shall include identification of location and protection plan for the following trees and their critical root zones:

i. All City trees of eight inches DBH or greater and all planted City trees.

ii. Any areas of the site used to meet tree save or green area.

iii. Any trees of two-inch caliper or larger being saved for credit toward planting requirements per Section 20.16 and 20.17.

iv. Any existing heritage trees being saved per Section 20.14.

v. Any existing specimen trees that will be used for green area credit or heritage tree mitigation.

c. Tree Planting and Green Area Plan

All applications for land development approval subject to the applicability of Section 20.14, 20.15, 20.16 and Section 20.17, shall include a tree planting and green area plan, as applicable. The tree planting and green area plan shall include all trees, including the location of each, required to be planted or preserved pursuant to the requirements of Section 20.14, 20.15, 20.16 and Section 20.17 and shall be submitted to the Planning Department in written/design form and shall conform to the provisions of this Article and all specifications set out in the Charlotte Land Development Standards Manual (CLDSM) and Charlotte Tree Manual.

3. Spatial Tree Data Plan

To certify completion of a development project, applicants shall submit “spatial tree data” plans as specified in the CLDSM, and Charlotte Tree Manual for all required perimeter trees, internal trees, mitigation trees, and green area credits. Trees planted pursuant to Section 20.16 shall not require a “spatial tree data" plan. “Spatial tree data” plans shall be submitted to the Planning Department prior to release of permit holds.

4. Platting and Recording of Green Area

Prior to issuance of certificates of occupancy, boundaries for tree save, amenitized tree area, replanted tree save, and any off-site mitigation area used to meet green area requirements shall be required to be surveyed and be described in metes and bounds and be recorded on the final plat.

B. Tree Work Permits

1. Persons requesting to perform any tree disturbing activity to trees subject to Section 20.14, Section 20.15, Section 20.16, or Section 20.17 of this Article, or trees protected as a condition of a previously approved development plan, shall obtain a tree work permit from the General Services Department or the Planning Department before the activities commence, pursuant to the Charlotte Tree Manual. For purposes of this section, a development plan subject to the applicability of this Article that is approved by the City constitutes a tree work permit.

2. The City shall have the authority to review all requests for tree work permits and to grant, deny, or attach reasonable conditions to such permits.

3. Individual tree work permits shall not be required for Charlotte Department of Transportation (CDOT), Charlotte Area Transit System (CATS), and North Carolina Department of Transportation (NCDOT) projects so long as tree preservation and protection requirements are included in the project plans.

C. Tree Planting Delay Requests

Requests for a delay in complying with Section 20.14, Section 20.15, Section 20.16 or Section 20.17 of this Article due to poor weather conditions for planting shall be considered following a written request directed to the Planning Department. Permit holds shall be released upon approval of a planting delay. Denied tree planting delay requests shall not change the timeframe during which the planting shall be completed. Failure to comply shall be deemed a willful violation of this article and shall result in penalties as provided for in Article 39.

D. Tree Mitigation ~~Funds~~Accounts

Deposit of collected mitigation and/or payment-in-lieu revenue during permitting processes shall be deposited into City accounts or equivalents, as follows:

1. The City of Charlotte shall maintain the following ~~funds~~ accounts for the purpose of collecting and spending mitigation fees pursuant to the requirements of this Article and the Charlotte Tree Manual. These ~~funds~~ accounts shall include the following:

a. Tree Conservation ~~Fund~~Accounts

The City of Charlotte shall establish a Tree Conservation ~~Fund~~ Account to support the acquisition, protection, management, and long-term conservation of land in the City of Charlotte and its ETJ solely for the purposes of tree canopy conservation. The Tree Conservation ~~Fund~~ Account shall directly and only ~~fund~~ support the City's Tree Canopy Preservation Program (TCPP). Collected fees will be allocated as designated in Section 4.2 of the UDO Zoning Administration Manual (Tree Canopy Preservation Program Manual). Collected fees and monies from the green area payment-in-lieu process, per Section 20.15.F.1, and any collected fees from mitigation processes ~~specified~~ with the intent and purpose to support TCPP, any grant funding specified to support TCPP, and all other monies collected with the intent and purpose of supporting TCPP shall be deposited into the Tree Conservation ~~Fund~~Account. Fees collected shall only be spent on the following funding areas:

i. Acquisition of Property

The Tree Conservation ~~Fund~~ Account shall be used to purchase forested property and/or property that may be reforested following the guidance set forth in Section 4.2 of the UDO Zoning Administration Manual. The purchase of property for inclusion into the TCPP shall be authorized by the City Council and explicitly protected and preserved in perpetuity as forested land. All TCPP and Urban Arboretum Trail sites shall be assigned an official conservation designation.

ii. Property Management

The Tree Conservation ~~Fund~~ Account shall be used to support TCPP property management needs to ensure properties are maintained adequately to align with the City's Comprehensive Plan, and as required by the Unified Development Ordinance, applicable conservation easements, management plans and Section 4.2 of the UDO Zoning Administration Manual.

iii. Program Management/Staff Support

The Tree Conservation ~~Fund~~ Account shall be used to support the salary, benefit costs, and general overhead costs for up to 3 full-time equivalent (FTE) staff positions and 1 intern position to assist in managing TCPP.

iv. Long-Term Stewardship

The Tree Conservation ~~Fund~~ Account shall support long-term property management needs in the event annual property management funding level is insufficient to adequately maintain TCPP sites.

v. Urban Arboretum Trail (UAT)

The Tree Conservation ~~Fund~~ Account shall be used to support procurement of plant material, design services, site preparation services, installation services and other tree canopy and/or tree-themed program development items for UAT.

b. Street Tree Planting ~~Fund~~Account

The City of Charlotte shall establish a Street Tree Planting ~~Fund~~ Account to support City-managed public tree planting and public tree inventory initiatives in the City of Charlotte's corporate limits, and tree canopy assessment and policy initiatives. Collected fees and monies from City tree mitigation, planting strip payment-in-lieu processes, tree pit payment-in-lieu processes, and other monies collected ~~specified~~ with the intent and purpose of supporting~~to support~~ the interests of public tree planting, public tree inventory, and tree canopy assessment and policy initiatives, shall be deposited into the Street Tree Planting ~~Fund~~Account.

c. Canopy Care ~~Fund~~Account

The City of Charlotte shall establish a C~~c~~anopy C~~c~~are ~~fund~~ Account to support the sustainable preservation, maintenance, and/or regeneration of Charlotte's tree canopy. Canopy Care ~~Funds~~ funding may also be used to increase awareness of the trees and other tree canopy resources in the City of Charlotte. Collected monies shall be allocated as designated pursuant to the Charlotte Tree Manual (Canopy Care Funding Framework). Collected monies from heritage tree mitigation, ~~and~~ payment-in-lieu processes collected with the intent and purpose of supporting the sustainable preservation, maintenance, and/or regeneration of

Charlotte's tree canopy, ~~as specified above,~~ and any other monies collected ~~monies~~ specified to support ~~the fund~~Canopy Care shall be deposited into the Canopy Care ~~Fund~~Account. Funds collected shall be spent in the following funding areas:

i. Large Tree Assistance Program
The Canopy Care ~~Fund~~ Account shall be used to support a City-managed assistance program to help residents maintain tree canopy on private property.

ii. Heritage Tree Mitigation Planting
The Canopy Care ~~Fund~~ Account shall be used to support a City-managed assistance program to help residents plant mitigation trees and support general tree planting on private property.

iii. Program Management/Staff Support
The Canopy Care ~~Fund~~ Account shall be used to support the salary, benefit costs, and general overhead costs for up to one full-time equivalent (FTE) staff position and one intern position to assist in managing Canopy Care ~~Fund~~ Account supported programs.

iv. Canopy Care Grant Program Establishment
The Canopy Care ~~Fund~~ Account shall be used to support a City-managed canopy care grant ~~fund~~ program targeting tree planting or tree care on private property, cankerworm banding, and other tree canopy management needs pursuant to the Charlotte Tree Manual. All non-profit organizations, places of worship, organized community groups, and neighborhood and homeowners' associations within the City of Charlotte and its ETJ are eligible.

E. Administrative Adjustments and Emergencies

1. Administrative Adjustments

a. Administrative adjustments to quantitative standards may be requested in accordance with Section 37.4.A. Requests for administrative adjustments of quantitative standards shall only be considered for the following standards included within Table 20-7 Tree Protection Adjustments.

Table 20-7: Tree Protection Adjustments

Section Eligible for Adjustment	Standard to be Adjusted	Decision Maker
Section 20.14	Tree Protection Requirements	Chief Urban Forester
Section 20.15	Green Area	Chief Urban Forester
Section 20.16	Minimum Caliper Requirements	Chief Urban Forester
Section 20.17	Tree Planting, Spacing and Quantity	Chief Urban Forester
Section 20.17	Site Lighting and Tree Separation	Chief Urban Forester
Section 20.17	Alternative to Perimeter Planting	Chief Urban Forester

b. If strict compliance with the standards of Sections 20.13 through 20.18 conflict with existing federal or state statutory or regulatory requirements the developer may submit a specific alternate plan for planting to the Chief Urban Forester for consideration. This plan shall meet the purposes and standards of this Article but may suggest measures other than those in Section 20.15. In addition, if the developer seeks a modification of planting requirements based upon a contention that the planting required by Sections 20.13 through 20.18 would pose a threat to health and safety due to a conflict with existing federal or state statutory or regulatory requirements, a modification shall only be considered upon receipt of a written explanation of the alleged conflict created by the planting requirement and a copy of the statute or regulation that creates the conflict. The Chief Urban Forester shall review the alternate proposal and advise the applicant of the disposition of the request within 15 working days of submission by the applicant. Any appeals by the applicant shall be in accordance with Article 37.

2. Appeals
Any determinations and decisions pursuant to this section may be appealed to the UDO Board of Adjustment as per Article 37.

3. Emergencies

In an emergency such as a windstorm, ice storm, fire, or other disaster, the requirements of this Section 20.13 through 20.18 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.

F. Administration

1. Appeals and variances of this Article shall be subject to Article 37.

2. Inspections and enforcement actions of this Article shall be subject to Article 39.

G. Chief Urban Forester

The Chief Urban Forester shall be charged with the following duties:

1. To interpret, administer and enforce the provisions of Sections 20.13 through 20.18 of this Article.

2. To lead and supervise the work and activities of staff, and supervise the tree regulation review, enforcement, and compliance.

3. To lead City-wide and department urban forestry goals and initiatives.

4. To serve as a liaison for the Charlotte Tree Advisory Commission, and interdepartmental committees.

5. To interpret and translate information to the public on regulatory processes, planning initiatives, and land use policies related to urban forestry and tree canopy.

6. Prepare and make available to the public a Charlotte Tree Manual which includes guidelines for compliance with this Article.

7. To designate appropriate other person(s) who shall carry out the powers and duties of the Chief Urban Forester.

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)

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, enter and inspect any land, building, structure, or premises at all reasonable hours to ensure compliance with Article 25, or rules or orders adopted or issued pursuant to Article 25, and to investigate to determine whether the activity is being conducted in accordance with Article 25 and the approved Stormwater Management Plan, the Charlotte-Mecklenburg Storm Water Services Design Manual, the Charlotte-Mecklenburg Stormwater Control Measure (SCM) Design Manual and Administrative Manual and whether the measures required in the plan are effective. The Stormwater Administrator shall also have the power to require written statements or the filing of reports under oath as part of an investigation.

2. No person shall willfully resist, delay, obstruct, hamper, or interfere with the Stormwater Administrator while inspecting and/or investigating or attempting to inspect and/or investigate an activity under Article 25.

3. Inspections and investigations may be conducted or established on any reasonable basis including, but not limited to: routine inspections and/or investigations; random inspections and/or investigations; inspections and/or investigations based upon complaints or other notice of possible violations; and joint inspections and/or investigations with other agencies inspecting and/or investigations under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in the SCMs; and evaluating the condition of SCM's.

C. Sign Inspection – Additional Regulations (Article 22)
This section supplements Section 39.1.A.

1. The Zoning Administrator may periodically inspect signs in order to ensure compliance with Article 22.

2. The Zoning Administrator may require written statements or the filing of reports with respect to pertinent questions relating to signs.

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 28and 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)
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, enter and inspect any land, building, structure, or premises at all reasonable hours to ensure compliance with Article 24, rules or orders adopted or issued pursuant to Article 24, and investigate to determine whether the activity is being conducted in accordance with Article 24 and the approved Stormwater Management Plan, the Charlotte-Mecklenburg Storm Water Services Design Manual, the Charlotte-Mecklenburg Stormwater Control Measure (SCM) Design Manual and Administrative Manual, and whether the measures required in the plan are effective. The Stormwater Administrator shall also have the power to require written statements or the filing of reports under oath as part of an investigation.

2. No person shall willfully resist, delay, obstruct, hamper, or interfere with the Stormwater Administrator while they are inspecting and/or investigating or attempting to inspect and/or investigate an activity for compliance with Article 24. The Stormwater Administrator, to the extent permitted by law, may seek the issuance of a search warrant to determine compliance with Article 24.

3. The inspections and investigations outlined in this section may be conducted or established on any reasonable basis including, but not limited to, routine inspections and/or investigations; random inspections and/or investigations; inspections and/or investigations based upon complaints or other notice of possible violations; and joint inspections and/or investigations with other agencies under environmental or safety laws. Inspections may include, but are not limited to, reviewing grading, surface water, construction methods and materials of storm drainage, and the location of permanent structures, walls, and fences.

4. The Stormwater Administrator shall also have the power to require written statements or the filing of reports under oath as part of an investigation.

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

This section supplements Section 39.1.A.

1. The City shall be notified two days in advance of the work to be started in a subdivision so that an authorized representative of the City may be assigned to make any and all necessary inspections of the work performed.

2. Inspectors, may in accordance with Section 39.1.A.1, upon presentation of proper credentials, access to all parts of the work to ascertain whether or not the work as performed is in accordance with the specifications in Articles 29 through 34.

3. No material may be placed nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications in Articles 29 through 34.

4. If any dispute arises as to the material furnished or the manner of performing the work, the inspector shall have authority to reject materials and/or suspend work until the question or issue can be referred to and decided by the appropriate agency. The contractor shall remove any work or material condemned as unsatisfactory by the inspector and shall rebuild and replace the work or material to the standard required by the specifications, all at their own expense.

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)

This section supplements Section 39.2.A.

1. Penalties for Violation

a. Misdemeanor

Violation of the provisions of the floodplain regulations in Article 27 or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of floodplain development permits, variances, or conditions, shall constitute a Class 1 misdemeanor.

b. Fines and Imprisonment
Any person who violates Article 27 or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500 or imprisoned for not more than 30 days. Each day such violation continues shall be considered a separate offense.

c. Other Action
Nothing herein contained shall prevent the City or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement, or other similar equitable relief.

2. Corrective Procedures

a. Violation
If the Floodplain Administrator finds violations of Article 27 and notifies the property owner, building occupant, or permittee of the violation, the owner, occupant, or permittee shall immediately remedy each violation of law cited in the notice.

b. Notice of Violation and Order

i. If the property owner or occupant of a building or property fails to take prompt corrective action, the Floodplain Administrator may issue a written notice of violation, in accordance with Section 39.2.A.1.

ii. If the Floodplain Administrator finds that the building or development is in violation of the floodplain regulations, they may issue an order in writing, to the property owner, or occupant. The order shall require the property owner or occupant to remedy the violation within a period, not less than 60 calendar days, nor more than 180 calendar days. If the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken within a lesser period as may be feasible. If no corrective action is taken as ordered, the Floodplain Administrator, with the written authorization of the City Manager, shall have the authority to enter upon the property to perform the work necessary to correct the condition and the owner or occupant shall be responsible for the actual costs incurred.

c. Appeal
Any property owner or occupant who has received a notice of violation or order to take corrective action may appeal the order to the UDO Board of Adjustment in accordance with Section 37.8.B.

d. Failure to Comply with Order
If the property owner or occupant of a building or property fails to comply with an order to take corrective action from which no appeal has been taken or fails to comply with an order of the UDO Board of Adjustment following an appeal, they shall be guilty of a Class 1 misdemeanor and shall be punished at the discretion of the court. In addition, the owner or occupant shall be subject to civil enforcement as described in this section.

e. Insurance Coverage
Issuance of an order to take corrective action may impact insurance coverage through the National Flood Insurance Program including, but not limited to, denying coverage. The Floodplain Administrator may notify the property owner and a lender with a security interest in the property that the order to take corrective action may impact flood insurance coverage until the violation is corrected and the order rescinded.

C. Historic District Overlay Enforcement –
The Zoning Administrator provides enforcement for Sections 14.1 and 14.2. The enforcement actions and requirements in Section 39.2.A are supplemented in the following sections:

1. Historic District Overlay (HDO):

a. Section 14.1.N, “Violations and Enforcement”;

b. Section 14.1.O, “Notices of Violation”;

c. Section 14.1.P, “Citations and Penalties”;

d. Section 14.1.Q, “Civil Judicial Penalties”;

e. Section 14.1.R, “Other Remedies”;

f. Section 14.1.S, “Revocation of Building Permit”; and

g. Section 14.1.T, “Denial or Revocation of Certificate of Compliance and Occupancy”.

2. Streetside Historic District Overlay (HDO-S):

a. Section 14.2.D, “Violations and Enforcement”;

b. Section 14.2.E, “Notices of Violation”;

c. Section 14.2.F, “Citations and Penalties”;

d. Section 14.2.G, “Civil Judicial Penalties”;

e. Section 14.2.H, “Other Remedies”;

f. Section 14.2.I, “Revocation of Building Permit”; and

g. Section 14.2.J, “Denial or Revocation of Certificate of Compliance and Occupancy”.

D. Post Construction Storm Water Violations and Enforcement – Additional Regulations (Article 25)
This section supplements Section 39.2.A.

1. Violations

a. Failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by Article 25, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to Article 25, is unlawful and shall constitute a violation of Article 25.

b. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair, or maintain any structure, SCM, practice, or condition in violation of the Article 25 shall be subject to the remedies, penalties and/or enforcement actions in accordance with this section. For the purposes of Article 25, responsible person(s) shall include but not be limited to:

i. Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of Article 25, or fails to take appropriate action, so that a violation of Article 25 results or persists.

ii. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development, or redevelopment of the property.

2. Notice of Violation and Order to Correct
If, through inspection and/or investigation, it is found that any building, structure, or land is in violation of Article 25, the Stormwater Administrator may issue a written notice of violation to the responsible person/entity, in accordance with Section 39.2.A.1. The notice shall, if required, specify a date by which the responsible person/entity shall comply with Article 25, and advise that they are subject to remedies and/or penalties or that failure to correct the violation within the time specified will subject the responsible person/entity to remedies and/or penalties as described in this section. 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. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action to correct and abate the violation to ensure compliance with Article 25.

3. Extension of Time

A responsible person/entity who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. Upon determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the responsible person/entity requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days. The Stormwater Administrator may grant 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the responsible person/entity violating Article 25. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction shall be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

4. Emergency Enforcement

If a violation seriously threatens the effective enforcement of Article 25 or poses an immediate danger to the public health, safety, or welfare or the environment, the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty specified in this section.

5. Remedies and Penalties

a. Civil Penalties

Any person who violates any of the provisions of Article 25 or rules or other orders adopted or issued pursuant to Article 25 may be subject to a civil penalty. A civil penalty may be assessed from the date the violation occurs. The Stormwater Administrator shall determine the amount of the civil penalty and shall notify the violator of the amount of the penalty and the reason for assessing the penalty. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation except as provided in this section in which case the penalty is assessed concurrently with a 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 25 or to pay such a penalty.

b. Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

c. Penalties Assessed Concurrent with Notice of Violation

Penalties may be assessed concurrently with a notice of violation for any of the following, in which case the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they shall be paid or be subject to collection in the nature of a debt. Notices of violations shall be provided in accordance with Section 39.2.A.1.

i. Failure to submit a Stormwater Management Plan.

ii. Performing activities regulated by Article 25 without an approved Stormwater Management Plan.

ii. 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 project and to the same responsible person/entity responsible for the violation.

v. Willful violation of Article 25.

vi. Failure to install or maintain an SCM per the approved plan.

d. Amount of Penalty

The civil penalty for each violation of Article 25 may be up to the maximum allowed by law, and in accordance with the Stormwater Regulations Administrative Manual. 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 25.

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 25 or any other erosion and sedimentation control regulations or law.

e. Failure to Pay Civil Penalty Assessment

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, in accordance with Section 37.8.B, the Stormwater Administrator shall request the City Attorney to initiate a civil action to recover the amount of the assessment. The civil action shall be brought in Mecklenburg County Superior Court or in any other court of competent jurisdiction. A civil action shall be filed within three years of the date the assessment was due. An assessment that is appealed is due at the conclusion of the administrative and judicial review of the assessment.

f. Appeal of Remedy or Penalty

The issuance of an order of restoration and/or notice of assessment of a civil penalty by the Stormwater Administrator shall entitle the responsible party or entity to an appeal before the UDO Board of Adjustment if such person submits written request for an appeal hearing to the clerk of the UDO Board of Adjustment within 30 days of the receipt of an order of restoration and/or notice of assessment of a civil penalty. The request for an appeal shall be accompanied by a filing fee as established by the City Council. The appeal of an order of restoration and/or notice of assessment of a civil penalty shall be conducted as described in Section 37.8.B.

g. Additional Remedies

i. Withholding of Certificate of Occupancy

The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

ii. Disapproval of Subsequent Permits and Plan Approvals

As long as a violation of Article 25 continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Stormwater Administrator may disapprove, any request for permit or plan approval or authorization provided for by Article 25 or other regulations of the City, as appropriate for the land on which the violation occurs.

iii. Injunction, Abatements, Etc.

The Stormwater Administrator, with the written authorization of the City Manager, may authorize the City Attorney to institute a civil action in the name of the City in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement requiring the correction of a violation of Article 25. Any person violating Article 25 shall be subject to the full range of equitable remedies provided in the general statutes or at common law.

iv. Correction as Public Health Nuisance, Costs as Lien, Etc.
If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by N.C.G.S. § 160A-193, the Stormwater Administrator, with the written authorization of the City Manager, may request the City Council to cause the violation to be corrected upon a finding that the violation is dangerous or prejudicial to public health or safety, and the costs of the action shall be paid by the person in default. If the expense is not paid, it is a lien against the property.

v. Restoration of Areas Affected by Failure to Comply
By issuance of an order of restoration, the Stormwater Administrator may require a person who engaged in a land-disturbing activity and failed to comply with Article 25 to restore the waters and land affected by such failure so as to minimize the detrimental effects of the resulting pollution. This authority is in addition to any other civil penalty or injunctive relief authorized in this section.

E. Sign Violations and Enforcement – Additional Regulations (Article 22)
This section supplements Section 39.2.A.

1. Enforcement

a. If, through inspection, it is determined that a person has failed to comply with the provisions of Article 22, the Zoning Administrator shall issue to the violator either: 1) a warning citation for violations associated with, but not limited to, temporary-type signs such as portable signs, banners, and feather flags; or 2) a notice of violation for violations associated with permanent-type signs.

b. Violators issued a warning citation shall correct the violation within ten days and violators issued a notice of violation shall correct the violation within 30 days. If the violation is not corrected within the specified time period, the violator is subject to further enforcement action.

c. If a person continues to fail to comply with a particular provision of the sign regulations after the imposition of any one type of penalty, the person shall continue to remain subject to the remedies prescribed in this section for the continued violation of the particular provision of these regulations. The sign regulations in Article 22 may be enforced by any one, all, or a combination of the penalties and remedies authorized and prescribed in Section 39.2.A and in this section.

2. Notice of Violations
Upon recognition of a zoning violation, the Zoning Administrator may issue a notice of violation, in accordance with Section 39.2.A.1.

3. Citations and Penalties

a. The Zoning Administrator may issue written citations to any person if there is a reasonable cause to believe that the person has violated any provision of the sign regulations in Article 22. A violator shall be deemed to be the owner of the premises, the agent of the owner authorized to be responsible for the premises, the occupant of the premises, or the holder of the development approval. Citations may be directly issued or delivered to the occupant, lessee, or person having immediate beneficial use of the property, or the holder of the development approval. If the violator cannot be readily found, then the citation may be mailed to the last known mailing address as shown in the Mecklenburg County tax abstract, or by making other reasonable efforts to communicate the existence of the violation to violator, in accordance with Section 39.2.A.1.

b. The initial citation for each violation shall be $50. The issuance of a second citation for any violation that has not been corrected shall be in an amount up to $200 for the first and second citation, up to $500 for the third citation, and up to $500 thereafter. Any unpaid citations and delinquency charges shall be cumulative and shall subject the violator to a possible civil penalty to be recovered in a civil action in the nature of debt.

c. The citation shall direct the violator to make payment to the Planning Department within 15 days of the date of the citation, or alternatively pay the citation by mail. If the violator does not make such payment or does not mail the citation and payment within 15 days of the issuance, a delinquency charge of $10 shall be added to the amount shown on the citation. The citation shall inform the violator that a civil complaint may be filed if the citation and delinquency charge is not paid within 15 days from the date of

delinquency. Further, the citation shall state that the violation is a continuing violation and additional citations may be issued with escalating amounts for a continuing violation.

4. Civil Judicial Remedies

a. The City may institute any appropriate action or proceedings to prevent any structure from being erected, constructed, reconstructed, altered, repaired, converted, maintained, or any structure or land from being used in violation of the sign regulations or other City regulations in order to restrain, correct, or abate the violation. The General Court of Justice shall have jurisdiction to issue such orders as may be appropriate.

b. If the sign regulations make unlawful a condition existing upon or use made of real property, then the sign regulations may be enforced by injunction and order of abatement and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of Article 22 occurs, the City may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. See also Section 38.6.

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 North Carolina Sedimentation Pollution Control 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.

g. 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.

h. 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.

i. 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 39.2.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)

This section supplements Section 39.2.A.

1. Violations

a. Failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by Article 24 or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to Article 24, is unlawful and shall constitute a violation of Article 24.

b. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair, or maintain any structure, practice, or condition in violation of Article 24 shall be subject to the remedies, penalties, and/or enforcement actions in accordance in this section. For the purposes of Articles 24 and 39, responsible person(s) shall include but not be limited to:

i. Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of Article 24, or fails to take appropriate action, so that a violation of Article 24 results or persists.

ii. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development, or redevelopment of the property.

2. Notice of Violation and Order to Correct

If, through inspection and/or investigation, it is found that any building, structure, or land is in violation of Article 24, the Stormwater Administrator may issue a written notice of violation to the responsible person/entity, in accordance with Section 39.2.A.1. The notice shall, if required, specify a date by which the responsible person/entity shall comply with Article 24, and advise that they are subject to remedies and/or penalties or that failure to correct the violation within the time specified will subject the responsible person/entity to remedies and/or penalties as described in this section. 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. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action to correct and abate the violation and to ensure compliance with Article 24.

3. Extension of Time

A responsible person/entity who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. Upon determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the responsible person/entity requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 60 days. The Stormwater Administrator may grant 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the responsible person/entity violating this Ordinance. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction shall be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

4. Emergency Enforcement

If a violation seriously threatens the effective enforcement of Article 24 or poses an immediate danger to the public health, safety, or welfare or the environment, the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty specified in this section and Section 39.2.A.2 (Stop Work Orders) and Section 39.2.A.3 (Injunctions and Orders of Abatement).

5. Remedies and Penalties

a. Civil Penalties

Any person who violates any of the provisions of Article 24 or rules or other orders adopted or issued pursuant to Article 24 may be subject to a civil penalty. A civil penalty may be assessed from the date the violation occurs. The Stormwater Administrator shall determine the amount of the civil penalty and shall notify the violator of the amount of the penalty and the reason for assessing the penalty. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation except as provided in this section in which case the penalty is assessed concurrently with a 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 24 or to pay such a penalty.

b. Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

c. Penalties Assessed Concurrent with Notice of Violation

Penalties may be assessed concurrently with a notice of violation for any of the following, in which case the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they shall be paid or be subject to collection in the nature of a debt:

i. Failure to submit a Storm Drainage Plan.

ii. Performing activities regulated by Article 24 without an approved Storm Drainage Plan.

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 project and to the same responsible person/entity responsible for the violation.

v. Willful violation of Article 24.

vi. Failure to install or maintain storm drainage per the approved plan.

d. Amount of Penalty

The civil penalty for each violation of Article 24 may be up to the maximum allowed by law, and in accordance with the Stormwater Regulations Administrative Manual. 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 24.

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 24 or any other erosion and sedimentation control regulations or law.

e. Failure to Pay Civil Penalty Assessment

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 in accordance with Section 37.8.B, the Stormwater Administrator shall request the City Attorney to initiate a civil action to recover the amount of the assessment. The civil action shall be brought in Mecklenburg County Superior Court or in any other court of competent jurisdiction. A civil action shall be filed within three years of the date the assessment was due. An assessment that is appealed is due at the conclusion of the administrative and judicial review of the assessment.

f. Appeal of Remedy or Penalty

The issuance of an order of restoration and/or notice of assessment of a civil penalty by the Stormwater Administrator may be appealed by the responsible party or entity before the UDO Board of Adjustment if a written request for an appeal hearing is submitted to the clerk of the UDO Board of Adjustment within 30 days of the receipt of an order of restoration and/or notice of assessment of a civil penalty. The appeal of an order of restoration and/or notice of assessment of a civil penalty shall be initiated and conducted as described in Section 37.8.B.

g. Additional Remedies

i. Withholding of Certificate of Occupancy

The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

ii. Disapproval of Subsequent Permits and Plan Approvals

As long as a violation of Article 24 continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Stormwater Administrator may disapprove, any request for permit or plan approval or authorization provided for by Article 24 or other regulations of the City, as appropriate for the site on which the violation occurs.

iii. Injunction, Abatements, Etc.

The Stormwater Administrator, with the written authorization of the City Manager, may authorize the City Attorney to institute a civil action in the name of the City in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement requiring the correction of a violation of Article 24. Any person violating Article 24 shall be subject to the full range of equitable remedies provided in the North Carolina General Statutes or common law.

iv. Correction as Public Health Nuisance, Costs as Lien, Etc.

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by N.C.G.S. § 160A-193, the Stormwater Administrator, with the written authorization of the City Manager, may request the City Council to cause the violation to be corrected upon a finding that the violation is dangerous or prejudicial to public health or safety, and the costs of the action shall be paid by the person in default. If the expense is not paid, it is a lien against the property.

v. Restoration of Areas Affected by Failure to Comply

By issuance of an order of restoration, the Stormwater Administrator may require a person who engaged in a land-disturbing activity and failed to comply with Article 24 to restore the waters and land affected by such failure so as to minimize the detrimental effects. This authority is in addition to any other civil penalty or injunctive relief authorized in Article 24.

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

This section supplements Section 39.2.A.

1. Subdivision Plats - Violation

A plat of a subdivision filed or recorded in the Office of the Register of Deeds of the County without the approval of the Planning Department, will be considered null and void**.**

2. Subdivision Penalties

a. Injunction

The City, through the City Attorney, or Mecklenburg County, through the County Attorney, may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved. The court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulations. All administrative actions and activities relating to such land, including the issuance of any grading, construction, building or occupancy permit, shall be suspended. This section will not affect the sale or transfer of any land, a plat of which was recorded prior to January 1, 1966, for Mecklenburg County and February 29, 1956, for the City of Charlotte.

b. Civil Penalty

Any person who fails to install or maintain the required stormwater control measure (SCM) in accordance with this article shall be subject to a civil penalty of not more than $500. No penalties shall be assessed until the person alleged to be in violation has been provided a notice of violation in accordance with 39.2.A.1. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation shall be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. Each day that the violation continues shall constitute a separate violation.

c. Other Remedies

In addition to other remedies, the City may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct. Building permits may be denied for lots that have been illegally subdivided. pursuant to N.C.G.S. 160D-1110.

3. Streets and Other Infrastructure Violations and Penalties

a. Enforcement

The streets and other infrastructure regulations in Articles 29 through 34 may be enforced by any one, all, or a combination of the penalties and remedies authorized and prescribed in Section 39.2.A.1 If a person continues to fail to comply with a particular provision of the regulations after the imposition of any one type of penalty, the person shall continue to remain subject to the remedies prescribed in this section for the continued violation of the particular provision of these regulations.

b. Citations and Penalties

i. The Subdivision, Streets, and Infrastructure Administrator may issue written citations to any person if there is a reasonable cause to believe that the person has violated any provision of the streets and other infrastructure regulations in Articles 30 through 34, in accordance with Section 39.2.A.1. A violator shall be deemed to be the owner of the premises, the agent of the owner authorized to be responsible for the premises, or the holder of the development approval. Citations may be directly issued or delivered to the occupant, lessee, or person having immediate beneficial use of the property, or the holder of the development approval. If the violator cannot be readily found, then the citation may be mailed to the last known mailing address as shown in the Mecklenburg County tax abstract, or by making other reasonable efforts to communicate the existence of the violation, in accordance with Section 39.2.A.1.

ii. The initial citation for each violation shall be $50. The issuance of a second citation for any violation that has not been corrected shall be in an amount up to $200 for the first and second citation, up to $500 for the third citation, and up to $500 thereafter. Any unpaid citations and delinquency charges shall be cumulative and shall subject the violator to a possible civil penalty to be recovered in a civil action in the nature of debt.

iii. The citation shall direct the violator to make payment to the City of Charlotte within 15 days of the date of the citation, or alternatively pay the citation by mail. If the violator does not make such payment or does not mail the citation and payment within 15 days of the issuance, a delinquency charge of $10 shall be added to the amount shown on the citation. The citation shall inform the violator that a civil complaint may be filed if the citation and delinquency charge is not paid within 15 days from the date of delinquency. Further, the citation shall state that the violation is a continuing violation and additional citations may be issued with escalating amounts for a continuing violation.

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

This section supplements Section 39.2.A.

1. Notice of Violation and Civil Penalties

a. The civil penalty for each violation of Article 26 may be up to the maximum allowed by law, and in accordance with the Stormwater Regulations Administrative Manual. 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 26.

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 26 or any other erosion and sedimentation control regulations or law.

b. Each day that the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been issued a written notice of violation, in in accordance with Section 39.2.A.1.

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

This section supplements Section 39.2.A.

1. Notice of Violation

a. If, through inspection, it is determined that a property owner or person in control of the land has violated an applicable development approval, the tree regulations, rules or orders issued pursuant to Article 20, Sections 20.12 through 20.18~~.~~, the Chief Urban Forester may issue a written notice of violation in accordance with Section 39.2.A.1. The notice shall also inform the person whether a civil penalty shall be assessed and shall specify a date by which the person shall comply with this Ordinance. The notice shall advise that failure to correct the violation within the time specified will subject that person to the civil penalties as provided in Section 39.2.J.2 below or any other authorized enforcement action.

2. Civil Penalties

a. Civil penalties for violations of the tree regulations in Article 20, Sections 20.12 through 20.18, shall be assessed pursuant to the following:

i. Failure to provide approved tree as-built plans within the time frame specified may result in assessment of penalties not to exceed $1,000.

ii. Failure to plant original or replacement trees in accordance with Article 20 shall be $50 for each tree not planted. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation as provided in Section 39.2.A.1. If the site is not brought into compliance within the time specified in the notice of violation, a civil penalty may be assessed from the date the notice of violation is received. The failure to plant each individual tree shall constitute a separate, daily, and continuing violation.

iii. Injury or damage to, or destruction of, trees and shrubs protected by Article 20, Sections 20.12 through 20.18, that result in the total loss of the tree or shrub shall be assessed in accordance with the tree evaluation formula or other generally accepted industry evaluation methods. However, the maximum civil penalty for each tree injured, damaged, or destroyed shall not exceed $20,000. No notice of violation is needed prior to the assessment of a civil penalty issued pursuant to this subsection.

iv. Injury or damage to, or destruction of, trees and shrubs protected by Article 20, Sections 20.12 through 20.18, that do not result in the total loss of the trees shall be assessed for each tree or shrub in accordance with the tree evaluation formula or other generally accepted industry evaluation methods. However, the maximum amount of the penalty shall not exceed $1,000. No notice of violation is needed prior to the assessment of a civil penalty issued pursuant to this subsection.

v. Failure to install or maintain required tree protection measures in accordance with Article 20, Sections 20.13 through 20.18, shall be a penalty of $1,000. No civil penalty shall be assessed until the person has been issued a notice of violation by the Chief Urban Forester, as provided in Section 39.2.A.1. If the site is not brought into compliance within the time specified in the notice of violation, a civil penalty may be assessed from the date the notice of violation is received. The failure to install the required tree protection measures shall constitute a separate, daily, and continuing violation. Injury or damage to, or destruction of, trees in the tree protection zone and tree save area and/or green area resulting from inadequate or omitted tree protection measures constitutes a separate violation which may subject the violator to any other applicable penalty set forth in this section.

vi. Any other action that constitutes a violation of Article 20, Sections 20.12 through 20.18, may subject the violator to a civil penalty of $50, and each day of continuing violation shall constitute a separate violation. However, the maximum amount of the penalty shall not exceed $1,000.

b. Penalties assessed are in addition to, and not in lieu of, compliance with the requirements of Section Article 20, Sections 20.12 through 20.18.

c. A nonmonetary penalty, in the form of increased or additional planting requirements, may be assessed in addition to or in lieu of any monetary penalties prescribed under this section. Civil penalties collected pursuant to Sections 20.23 through 20.18 ~~shall be credited to the general fund as a nontax revenue and~~ shall be used to further the purposes, intent, enforcement and requirements of Sections 20.13 through 20.18. Collected fine revenue shall be deposited in City accounts or equivalents. The Charlotte Tree Advisory Commission shall be consulted with regard to use of collected ~~funds~~fine revenue.

3. Notice

The City Chief Urban Forester shall determine the amount of the civil penalty, in accordance with Section 39.2.J.2 for any violations of Article 20, Sections 20.12 through 20.18, and shall notify the responsible person of the amount of the penalty and the reason for assessing the penalty. The notice of violation shall be provided in accordance with Section 39.2.A.1. The notice of assessment shall direct the violator to either pay the assessment or file an appeal in accordance with Section 37.8.B. If payment of assessed penalties is not received within 30 days after it is due, or if no request for an appeal hearing has been made in accordance with Section 37.8.B, the assessment shall be considered a debt due and owed to the City, and the matter shall be referred to the City Attorney for institution of a civil action to recover the amount of the debt. The civil action may be brought in the Mecklenburg County Superior Court or in any other court of competent jurisdiction.

4. Civil Action for Unpaid Assessment

If payment of assessed penalties if not received within 30 days after it is due, or if no request for an appeal hearing has been made in accordance with Section 37.8.B, the assessment shall be considered a debt due and owned to the City, and the matter shall be referred to the City Attorney for institution of a civil action to recover the amount of the debt. 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.

5. Injunctive Relief

See Section 39.2.A.3 for procedures related to injunctive relief.

a. Upon determination of 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. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil penalty prescribed for a violation of Article 20, Sections 20.12 through 20.18.

6. Order to Take Corrective Action

a. If the owner or occupant of a property does not perform the duties set out Sections 20.14, 20.15.J, 20.16.D, and 20.17.B.8 of this Ordinance and Chapter 21 of the Code of Ordinances, the City may order the pruning, removal, or treatment of trees on private property that cause obstructions, present insect, or disease problems, or otherwise present a danger to public health, safety, or welfare. The order shall be in writing and provided by personal delivery, email or first-class mail to the property owner or occupant responsible for such condition and shall be acted upon within 30 days from the time of the receipt of the order. Orders provided by first-class mail are deemed received on the third business day following deposit of the order for mailing with the U.S. Postal Service. The staff person, or person providing the order shall certify to the City that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.

b. If, after 30 days, the owner or occupant has not responded or acted to prune, remove, or treat the trees, the City shall have the authority to enter upon the property to perform the work necessary to correct the condition and bill the owner or occupant for the actual costs incurred. In situations deemed critical to the public health, safety, or welfare, the City may act without prior notification to the property owner or occupant.

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

1. Notice of Violation and Civil Penalties

a. If the Stormwater Administrator determines that a person/entity violated the water supply watershed regulations in Article 23, they may issue a written notice of violation to the person/entity in violation, in accordance with 39.2.A.1. The notice shall, if required, specify a date by which the violator shall comply with Article 23, and advise that they are subject to remedies and/or penalties or that failure to correct the violation within the time specified will subject them to remedies or penalties as described in Article 39.

b. Any person who fails to install or maintain the required stormwater control measure (SCM) in accordance with Article 23 shall be subject to a civil penalty of not more than $500. No penalties shall be assessed until the person alleged to be in violation has been provided a notice of violation in accordance with Section 39.2.A.1. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation shall be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. Each day that the violation continues shall constitute a separate violation.

c. The civil penalty for other and each violation of Article 23 may be up the maximum allowed by law, and in accordance with the Stormwater Regulations Administrative Manual. 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 23.

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 23 or any other erosion and sedimentation control regulations or law.

d. Re-Vegetation of Disturbed Water Quality Buffers Required

Should existing vegetation within the water quality buffer in all watersheds be disturbed except as allowed by Article 23, or should vegetation, which was added to a water quality buffer pursuant to the requirement that existing vegetation in the water quality buffer be enhanced, be disturbed except as allowed by Article 23, Charlotte-Mecklenburg Storm Water Services shall require that any vegetation remaining in the water quality buffer be enhanced in accordance with the most recent version of the "Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines" so that the buffer can effectively perform its intended functions.

L. Zoning Violations and Enforcement – Additional Regulations (Articles 3 through 22)

This section supplements Section 39.2.A.

1. Enforcement

a. The zoning regulations in Articles 3 through 22 may be enforced by any one, all, or a combination of the penalties and remedies authorized and prescribed in Section 39.2.A. If a person continues to fail to comply with a particular provision of the zoning regulations after the imposition of any one type of penalty, the person shall continue to remain subject to the remedies prescribed in this section for the continued violation of the particular provision of these regulations.

b. The Zoning Administrator shall have the power to impose fines and penalties for violations of the zoning regulations, and may withhold approval for building permits, certificates of occupancy, and certificates of compliance and secure injunctions and abatement orders to further ensure compliance with the zoning regulations. Each day's continuing violation shall be a separate and distinct offense and may be subject to any one, all, or a combination of the remedies authorized and prescribed in Section 39.2.A and in this section.

2. Notices of Violations

Upon recognition of a zoning violation, the Zoning Administrator may issue a notice of violation of the zoning regulations, in accordance with Section 39.2.A.1.

3. Citations and Penalties

a. The Zoning Administrator is authorized to issue written citations to any person if there is a reasonable cause to believe that the person has violated any provision of the zoning regulations in Articles 3 through 22. A violator shall be deemed to be the owner of the premises, the agent of the owner authorized to be responsible for the premises, the occupant of the premises, or holder of the development approval. Citations may be directly issued or delivered to the occupant, lessee, or person having immediate beneficial use of the property, or the holder of the development approval. If the violator cannot be readily found, then the citation may be mailed to the last known mailing address as shown in the Mecklenburg County tax abstract, or by making other reasonable efforts to communicate the existence of the violation to the owner, agent, or occupant, in accordance with Section 39.2.A.1.

b. The initial citation for each violation shall be $50. The issuance of a second citation for any violation that has not been corrected shall be in an amount up to $200 for the first and second citation, up to $500 for the third citation, and up to $500 thereafter. Any unpaid citations and delinquency charges shall be cumulative and shall subject the violator to a possible civil penalty to be recovered in a civil action in the nature of debt.

c. The citation shall direct the violator to make payment to the City of Charlotte within 15 days of the date of the citation, or alternatively pay the citation by mail. If the violator does not make such payment or does not mail the citation and payment within 15 days of the issuance, a delinquency charge of $10 shall be added to the amount shown on the citation. The citation shall inform the violator that a civil complaint may be filed if the citation and delinquency charge is not paid within 15 days from the date of delinquency. Further, the citation shall state that the violation is a continuing violation and additional citations may be issued with escalating amounts for a continuing violation.

4. Civil Judicial Remedies

a. The City may institute any appropriate action or proceedings to prevent any erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, that is in violation of zoning and City regulations in order to restrain, correct or abate the violation, to prevent occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business or use in or about the premises. The General Court of Justice shall have jurisdiction to issue such orders as may be appropriate.