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## *1.1 AUTHORITY AND APPLICABILITY*

Zoning provisions enacted herein are under the authority of **G.S. 160A-381**, which extends to cities the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community. It is further authorized under **G.S. 160A-382** which authorizes cities to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each class or type of building throughout each district, but that the regulations in one district may differ from those in other districts.

Subdivision provisions enacted herein are under the authority of **G.S. 160A-372** which provide for the coordination of streets within proposed subdivisions with existing or planned street and with other public facilities, the dedication or reservation or recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to acquire recreation

areas serving residents of more than one neighborhood in the immediate area, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding.

These regulations apply to the development and use of all land and structures within the corporate limits of the City of Belmont, North Carolina and within the extraterritorial jurisdiction exercised by Ordinance and as now or hereafter fixed, said territory being indicated on the Zoning Map as is on file at the Belmont Planning Department. This map and its boundaries shall be incorporated and made part of this Ordinance.

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

## *1.2 PURPOSE*

The purpose of this Ordinance is not merely to provide the minimum regulations necessary to facilitate safe and orderly growth, but to also ensure that growth forms an integral part of a community of functional neighborhoods and town centers; increases collective security and community identity to promote civic awareness and responsibility; and enhances the quality of life for the entire city to ensure the greatest possible economic and social benefits for all residents. As such, the purpose of this Ordinance is to ensure that the City grow and develop according to the guidelines and principles outlined in the City of Belmont Comprehensive Land Use Plan.

To these ends, the Land Development Code, Districts, and Maps have been prepared with due consideration of future growth; the promotion of a coherent

community scaled built environment, which respects local and regional architecture; the promotion of an integrated and balanced transportation system based on pedestrian, transit, and automobile use; the adequate provision of water and sewer infrastructure, schools, parks, and other public necessities; and for the preservation and enhancement of the natural environment through the protection and replenishment of City forests by landscaping of the public realm and supplemental plantings for projects which reduce existing tree cover resources.

The justification for the approach taken by this Ordinance is evidenced from existing urban areas which have grown largely under the prevailing model of development. Low density development increases the cost of

living in order to finance, maintain, and replace infrastructure. Auto dependent design standards increase paved surface areas which in turn increase water runoff, soil erosion, and water supply contamination. Low densities and increased paved surfaces also deplete urban forest cover, decrease property values, and increase traffic congestion, solar heating, noise, and pollution.

Under this model a majority of a municipality's time and money is spent replacing and extending infrastructure and mitigating the negative impacts of development. Assessed on a project by project basis the total effects and subsequent costs are hidden by immediate tax base increases and owner profits. However, if assessed at the community level, long

term, all additional development of the model described above becomes a burden on a community, and eventually the increased cost of building and living in such areas prevents growth from continuing. This occurs long before an area reaches full economic potential and physical build out. A development model that addresses these problems must treat a community as a highly complex entity, not merely as a collection of individual market segments or an opportunity for real estate speculation. The intent of this Ordinance is to avoid these problems by careful planning of the physical design of the City.

### ***1.3 TITLE***

This Ordinance is officially titled as "The Land Development Code of the City of Belmont, North Carolina", and shall be known as the "Land Development Code". The official map designating the various regulating districts shall be titled, "City of Belmont, Zoning Map", and shall be known as the "Zoning Map."

### ***1.4 SEPARABILITY***

If any Section or specific provision or standard of this Ordinance or any regulating district boundary arising from it is found by a court to be invalid or unenforceable for any reason, the decision of the court shall not affect the validity or enforceability of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

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

***1.5 ORDINANCE AND MAP INTERPRETATION***

The following rules shall apply in the interpretation of district boundaries and the location of centers shown on the zoning map:

- A. Boundaries delineating the centerline of streets, highways, or alleys shall follow such centerlines.
- B. Boundaries delineating lot lines shall follow such lot lines.
- C. Boundaries delineating the Corporate Limits shall follow such Corporate Limits.
- D. Boundaries shown approximately following the Extraterritorial Jurisdiction boundaries of the City of Belmont shall follow such boundaries.
- E. Boundaries indicated as following railroad lines shall be midway between the main tracks.
- F. Boundaries shown parallel to or extensions of features indicated in this Section shall be construed as such. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- G. Where the actual location of existing physical or natural features vary with those shown on the Zoning Map, or in other circumstances not covered by this Section, the Planning Board shall have the authority to interpret the District boundaries.
- H. Centers shown at the intersection of streets shall be at the intersection of the street centerlines.
- I. Centers shown at parks or other civic spaces shall be at the center of such areas.

***1.6 EFFECTIVE DATE***

These regulations shall become effective on August 7, 1995. Upon such date, these regulations shall replace the Belmont Regulating Ordinance adopted June 6, 1994, and any amendments to said Ordinance made after said date.

These regulations shall become effective on \_\_\_\_\_, 2001. Upon such date, these regulations shall supersede, repeal, and replace the Belmont Regulating Ordinance, as amended, adopted on August 6, 1995, the Belmont Subdivision Ordinance, adopted on August 7, 1995, the Belmont Sign Ordinance, as amended, adopted on December 7, 1992 and the Belmont Watershed Protection Ordinance, as amended, adopted on XXXX X, 1995.

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2.1 RULES OF CONSTRUCTION

For the purposes of these regulations, the following rules of construction apply.

- 1. These regulations will be construed to achieve the purposes for which they are adopted. Interpretations shall be guided by statements of intent.
2. The words "shall," "must," and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
3. The word "may" is permissive in nature except when used in the negative.
4. The word "should," whether used in the positive or the negative, is a suggested guideline.
5. References to "days" will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.
6. For purposes of interpreting this ordinance, certain words, concepts, and ideas are defined below. Except as defined herein, all other words used in this ordinance shall have their dictionary definition as contained in the American Heritage Dictionary of the English Language.

2.2 DEFINITIONS

AAA

Abandon: To cease the regular use or maintenance of a lot, building, or structure.

Abandonment: A property, use, or structure which has been physically, and objectively discontinued, relinquished, or vacated for a consecutive period of at least one-hundred eighty (180) calendar days.

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

Accessory Building and Use: A structure subordinate or incidental in square footage and primary use to the principal structure. Accessory structures and uses include detached garages (with or without rental units), storage buildings, pools and pool houses, material storage areas, piers and other water related structures, etc. In no event shall "accessory use" or "accessory structure" be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located.

Addition:

- (1) A structure added to the original structure after the completion of the original;
(2) An extension or increase in floor area or height of a building or structure.

Adjacent, Adjoining Lot or Land

A lot or parcel of land that shares all or part of a common lot line or boundary with another lot or parcel of land or that is directly across a public street or right-of-way.

Adult Bookstore: Notwithstanding the definitions of "Adult Bookstore" contained in G.S. 14-202.10(1), "Adult Bookstore" means a business establishment that:

- a. has one of its principal business purposes the sale or rental of: or
b. has a substantial or significant portion of its stock or trade for sale or rental of:
(i) "publications" that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified anatomical areas"; as defined in G.S. 14-202.10 (10), or "specified sexual activities", as defined in G.S. 14-202.10(11); and/or
(ii) "sexually oriented devices", as defined in G.S. 14-202.10(9).

As used in this definition, "publications" include, by way of illustration, books, magazines, compact discs other periodicals, movies, video-tapes, and other

products offered in photographic, electronic, magnetic, or other imaging medium.

In addition to all other information available to the Planning Director in making a determination whether a particular use is an "Adult Bookstore", any of the following shall indicate that an establishment has as one of its principal business purposes the sale or rental of (i) "publications" that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11); and/or (ii) "sexually oriented devices" as defined in G.S. 14-202.10(9):

- a. Restricted access to the business establishment or portions of the business establishment by persons under 16 years of age; and/or
- b. Posted signs or notices outside and/or inside the business establishment indicating that the material offered for sale or rental might be offensive; and/or
- c. The building or portion of the building containing the business establishment does not have windows or has windows that are screened or otherwise obstructed or are situated in a manner that restricts visual access from outside the building to materials displayed within for sale or rental.

**Adult Care Centers:** A place where daytime care is provided to 6 or more handicapped persons or senior citizens unrelated by blood or marriage to, and not legal wards or foster children of the attendant adult within an occupied residence.

**Adult Establishment:** Any place defined as an "Adult Establishment" or "Sexually Oriented Establishment" as defined by G.S. § 14-202.10 as such statute may be amended from time to time, including Adult Cabarets, except that the definition of "Massage Business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult Establishments specifically include any Massage Business where "massages" are rendered by any person exhibiting "Specified Anatomical Areas" and/or where "massages" are performed on any client's

"Specified Anatomical Areas". "Specified Anatomical Areas" are those defined by G.S. § 14-202.10 as such statute may be amended from time to time. Adult establishment may consist of, include, or have the characteristics of any or all of the following:

- 1. Adult or Sexually Oriented Bookstore Sales and Distribution
- 2. Adult or Sexually Oriented Paraphernalia Sales and Distribution
- 3. Adult or Sexually Oriented Cabaret
- 4. Adult or Sexually Oriented Mini Motion Picture Theater
- 5. Adult or Sexually Oriented Motion Picture Theater
- 6. Adult Retail

**Adult Mini-Motion Picture Theater:** Notwithstanding the definition of "Adult Mini-Motion Picture Theater" contained in G.S. 14-202.10(6), "Adult Mini-Motion Picture Theater" means an enclosed building with one or more viewing booths or partitioned areas designed to hold patrons for the presentation and viewing of motion pictures (film, videotape, laser disc, CD-ROM or other imaging media), where:

- a. one of the principal business purposes is the presentation and viewing of motion pictures in the viewing booths; or
- b. a substantial or significant portion of the stock of motion pictures available for viewing or that are actually viewed in the viewing booths:

Adult Mini Motion Picture Theaters are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities" as defined in G.S. 14-202.10(11) and/or "sexually oriented devices", as defined in G.S. 14-202.10(9).

In addition to all other information available to the Planning Director in making a determination whether a particular use is an "Adult Mini-Motion Picture Theater", any of the following shall be indicia that an establishment has as one of its principal business purposes the presentation and viewing in viewing booths motion pictures that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in G.S. 14-202.10(10), or "specified sexual activities", as defined in G.S. 14-202.10(11) and/or "sexual oriented devices", as defined in G.S. 14-202.10(9):

- a. Restricted access to the business establishment or portions of the business establishment where viewing booths are located by persons under 16 years of age; and/or
- b. Posted signs or notices outside and/or inside the business establishment indicating that the material offered for presentation and viewing in viewing booths might be offensive; and/or
- c. The portion of the building containing the viewing booths is screened or otherwise located or situated in a manner that restricts or limits complete visual access to the booths from the primary or principal clerk or cashier area.

**Adult Retail:** Any establishment which sells, rents, leases, distributes, purchases or trades in materials defined according to North Carolina General Statute Article 26A, 14-202.10. Said materials include all forms of audio, video, written, and digitized, information.

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

**Agricultural Use of Water:** The use of waters for stock watering, irrigation, and other farm purposes.

**Airport:** A facility intended and used as the place where one or more fixed-wing or rotary-wing aircraft is regularly stored, maintained, or repaired while not in flight, including an area that the aircraft may use to take off and land.

**Alley:** A service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.

**Alteration:** Any change or expansion in the size, configuration, or location of a structure; or any change or expansion in the use of a structure or lot, from a previously approved or legally existing size, configuration, location, or use.

**Amendment:** Any change by the City Council to the text of these regulations or the official Zoning maps.

**Arborist, Consulting:** a registered member of the American Society of Consulting Arborists or a professional in the field of arboriculture, who, on a regular basis, provides expert advice about trees and other woody plants, their care, safety, preservation and value. The consultant does not have a vested economic interest in the delivery of the services recommended, nor does the consultant deliver any paid service in lieu of a consulting fee. The consultant must be able to demonstrate proficiency and credibility through evidence of the following:

- 1. Documentation of substantial experience in arboricultural practice;
- 2. Documentation of degree acquisition and/or other forms of certified training.
- 3. Documentation of a referential record of practice in the field as a consultant through examples of arboricultural consultation problem solving situations.
- 4. Evidence of current membership in professional organizations within the field of arboriculture such as the National Arborist Association, International Society of Arboriculture, American Society of Consulting Arborists, Council of Tree and Landscape Appraisers, Utility Arborists Association, and Society of Municipal Arborists.

**Arcade:** A walkway adjacent to a building which is covered by a roof yet is not fully enclosed.

**Architectural Feature:** A prominent or significant part or element of a building, structure, or site.

**Architectural Style:** The characteristic form and detail of buildings. Common styles in Belmont include Colonial, Neo-Classical, Federal, American Victorian, Craftsman, and Arts & Crafts.

**Arena:** A structure or facility designed and intended to be used primarily for athletic events and containing seating for spectators of those events, but not including a raceway or drag strip.

**At or Above Grade:** Grade shall mean the elevation of the land or land level at a specific point.

**Auto Dependent Design:** The construction of buildings and development to accommodate the car as the predominant and most reasonably available method of transportation i.e.: drive through



windows, plentiful parking located in front of entrances; wide road lanes with the elimination of on-street parking, sidewalks, and street trees; and large intersections.

**Automobile/Boat/Heavy**

**Equipment/Manufactured Home Sales and Service:** Any building, premises, and land, in which or upon the primary use of land is a business which involves the maintenance, servicing or sale of new or used automobiles, boats, heavy equipment and/or manufactured homes generally but may include light trucks or vans, trailers, or recreation vehicles and including any vehicle leasing, rental, parking service, preparation or repair work conducted as an accessory use. This definition includes but is not limited to auto dealerships, auto body shops, auto service stations, boat repair or sales, car washes, convenience stores, gas stations, heavy equipment leasing, sales, or service, manufactured home sales or service, and oil/lube servicing. This does not include the sale of parts or related products (i.e. auto parts store).

**Automotive repair:** A building and its premises used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work. Minor repairs shall be limited to battery and tire changes, light and fuse replacement, wiper blade changes and similar activities. Also referred to as vehicle repair.

**Awning:** A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

**BBB**

**Base Flood Elevation:** The highest height, expressed in feet above sea level, of the level of floodwaters occurring in the regulatory base flood.

**Bedroom Unit:** A private room for sleeping quarters separated from other rooms, and accessible to a bathroom without crossing through another bedroom.

**Bed and Breakfast Inn:** A use that takes place within a building that, prior to such an establishment, was a single family residence, that consists of renting from one to eight dwelling rooms on a daily basis to tourists, vacationers, and business travelers, where meals are provided only to guests. The homeowner shall reside on site and employment shall not exceed two full time employees in addition to the owner(s).

**Berm:** A raised earth mound which is planted with ornamental vegetation

**Best Management Procedures (BMPs):** A structural or non-structural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

**Non-structural BMPs:** Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

**Structural BMPs:** Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. These may include wet detention ponds, detention basins, grass swales and ditches, and infiltration devices.

**Block:** A unit of land bounded by streets or by a combination of streets and public land, waterways, or any other barrier to the continuity of development.

**Board of Adjustment:** A quasi-judicial Board appointed by the Belmont City Council and Gaston County Commissioners which hears and decides on variances to the Regulating and Subdivision Ordinance of the City of Belmont. The Board can only grant variances according to strict interpretation of the Ordinances as adopted by City Council.

**Buffer (Non-Watershed) (*See also screening*)**  
An area of land, open space, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen adjacent land uses or property, or to separate development from a stream or water body, or an area intended to preserve vegetation along a designated corridor, or to separate one use or property from another so as to visually shield or block noise, lights, or other nuisances.

**Buffer (Watershed):** An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

**Build Out:** The completed construction of all phases of a development as allowed by all Ordinances which regulate an area. The scale of build out can be from a single lot to the entire City's jurisdiction.

**Buildable Area:** The area of a lot remaining after the minimum yard and open space requirements of the Ordinance has been met.

**Building:** Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

**Building Envelope:** The three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations, and minimum yard setbacks or build-to lines, buffers, easements, or other applicable regulations.

**Building face:** The dominant structural feature of the elevation of any side of a building. For example, the building face of a two-story dwelling with one-story porch is the two-story elevation of the structure.

**Building Footprint:** The land area on which a building is located or proposed for location.

**Building Mass:** The height, width, and depth of a structure.

**Building lines:** Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

**Building Permit:** A permit obtained from Gaston County Building Inspector as the City's agent for the construction, repair, alteration, or addition to

structure, which sets the inspection schedule and construction techniques for a particular project and specified use in accordance with adopted building codes and other prevailing standards for construction, and includes the City's necessary zoning approval.

**Building, Principal:** A building in which the principal use of the lot on which it is located is conducted.

**Building site:** (See also Development.) An area of land, or property where development is undertaken.

**Building Setback Line:** A line establishing the minimum allowable distance between the nearest vertical part of any building, excluding eaves, overhangs, porches, bay windows, covered porches, and decks, to the nearest edge of a street right-of-way, property line, or easement line, when measured perpendicular thereto.

**Build-To Line:** The line at which construction of a building is to occur on a lot. A build-to line runs parallel to the front property line and is established to create an even building facade line on a street.

**Built-upon Area (B.U.):** Built-upon areas shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

## CCC

**Caliper:** The size of tree's trunk diameter as measured six (6) inches above the ground for trees four (4) inches or less in diameter, and as measured twelve (12) inches above the ground for trees larger than four (4) inches in diameter.

**Canopy:** A permanent structure, not enclosed and not retractable, attached or unattached to a building, for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall.

## Canopy, Service Station

A structure constructed of rigid materials which is either free-standing or attached to a building that serves as an overhang intended to shield persons from the elements while using the service station.

**Capacity:** The maximum demand that can be accommodated by a public facility or service without exceeding the adopted level of service.

- A. For streets, capacity shall be measured by the maximum number of vehicles that can be accommodated by an intersection between 3 pm and 6 pm under prevailing traffic and control conditions at that street’s adopted level of service.
- B. For water and sewer, capacity shall be measured by the maximum volume that can be distributed and treated on a daily basis.
- C. For fire protection facilities, capacity shall be measured by the ISO rating.
- D. For law enforcement, capacity shall be measured by the number of law enforcement service units (LESU's) within the impact area.
- E. For parks, capacity shall be measured by number of community parks within the impact area.

**Capital Improvement:** A physical asset that 1) provides additional capacity, and 2) is identified as a capital improvement in the CIP. A physical asset shall be considered a capital improvement if: 1) it is constructed or purchased to provide, improve, or replace a public facility, and 2) has a cost of at least \$50,000 or is considered a long-term fixed asset. The cost of a capital improvement is generally non-recurring and may require multi-year financing. Capital improvements shall include physical assets providing additional capacity needed to accommodate the demand for public facilities generated by a proposed development, and shall include, for any public facility subject to this ordinance, assets identified as existing or projected needs in the capital improvements program. For purposes of this ordinance, capital improvements shall include those improvements identified as capital improvements in the CIP.

**Capital Improvements Program or “CIP”:** A schedule of future increases in the capacity of public facilities and Services adopted by the City Council in accordance with the requirements of Chapter 15 of this ordinance.

**Carport:** A roofed accessory structure providing space for the parking of motor vehicles and enclosed on not more than two sides. Carports attached to the principal structure are considered an addition to the principal structure and must meet the building setback requirement for the district.

**Carrying Capacity:** The amount of traffic which can be accommodated on a street without reducing

the service level of the street as defined by the North Carolina Department of Transportation or street design standards of the Belmont Subdivision Ordinance. Carrying capacity is determined by the amount of traffic per lane per hour.

**Certificate Of Appropriateness:** A certificate stating that work to be done on a structure within a Locally-Designated Historic District meets the criteria which maintains the structure as historic and a contributing structure to the District.

**Certificate of Occupancy (CO):** A document issued by a governmental authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with this Ordinance and all other applicable regulations.

**Change of Use:** The change in the use of a structure or land, for which a certificate of occupancy is required. Change of use shall include a change from one use to another use in the list(s) of permitted uses, and shall also include a change from one use to another use within any broad category of uses, such as from one use listed in the commercial use category to another use listed in the commercial use category, as herein defined.

**Church:** see Religious Institution.

**Civic Uses:** Uses intended to serve as public gathering places. Such uses include governmental offices, churches or other places of worship, schools, colleges and universities, post offices, and non-profit or charitable clubs and organizations.

**Clear-Cutting:** The large-scale, indiscriminate removal of trees, shrubs, and undergrowth with the intention of preparing real property for nonagricultural development purposes.

**Clinic, Veterinary:** A use or structure intended or used primarily for the testing and treatment of the physical disorders of animals; not principally used for the overnight boarding or grooming of wild animals; not permitting outdoor cages, pens, or runs for the confinement of animals unless expressly permitted in the district; and not used for the training of animals.

**Cluster Development:** The grouping of development on a portion of land in order to conserve land resources and minimize stormwater runoff impacts. This term includes both residential and non-residential development.

**Commencement of Construction:** The first placement of permanent evidence of a structure on a site pursuant to a duly issued building permit, such as the pouring of slabs or footings or any work beyond the stage of excavation, including the relocation of a structure. "Commencement of construction" does not include the installation of streets or walkways; nor the excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of temporary buildings, such as garages, sheds, or trailers, not part of the main structure nor occupied as dwelling units.

**Communication Tower:** A tower facility, either roof or ground mounted, that includes, but is not limited to, radio and television transmission towers or similar utilities, microwave towers, and cellular telephone communication towers and similar structures for wireless communication. This term shall not include radio transmission facilities for use by ham radio operators or two-way local radio facilities for business or governmental purposes.

**Commercial Use:** A category of uses that includes retail establishments, offices, professional and personal services, light manufacturing and assembly, financial services, health care services, skilled nursing facilities and congregate housing facilities, indoor motion picture theaters, conference centers, laboratories and associated research facilities whose products or waste products entail no special environmental handling requirements, studios, broadcast facilities (excluding towers), hotels and inns, theaters, restaurants without drive-through windows, bars, and day care facility as a principal use. Each use permitted in the commercial use category shall also meet any applicable conditions set out in Uses Permitted with Conditions. Excluded from the commercial use category are adult uses; vehicle, boat, or manufactured home sales, service, and repair; wholesale sales; heavy manufacturing; outdoor storage; outside commercial kennels, and other uses that, by their nature or service characteristics are auto dependent, have potential for environment degradation, or are otherwise incompatible with nearby residential use.

**Community Park:** A park that is intended for use by all residents of the City and is designated as a Community Park in the Parks and Greenway inventory maintained by the Planning Director and adopted by the City Council or which meets the following criteria:

1. Is adjacent to public schools to provide multiple or joint use of facilities and/or;

2. Provides recreational opportunities for the entire family and contains areas suited for intense active recreational purposes such a recreation center building, athletic fields, swimming, tennis, and walking/jogging trails. The park may also possess areas of natural quality for outdoor recreation such as viewing, sitting, and picnicking and;
3. Is a minimum of 5 acres per 1,000 people served and;
4. Has an average service radius of two miles.

The City hereby finds and determines that the designation "Community Park" does not depend exclusively upon its size, location, or function.

**Conditional Use:** A use subject to specific provisions or which requires the approval of the City Council before the issuance of a zoning permit.

**Congregate Housing:** Dependent or independent living facilities for the elderly; dormitories, orphanages, and similar uses, but not including group homes.

**Connectivity Ratio:** The number of street links divided by the number of nodes.

**Consent Agreement:** The executed contract between the City and developer that formally sets forth development approval and requirements to achieve adequacy.

**Conservancy Lot:** A large, privately owned lot constituting part of an area of open land. The purpose of the conservancy lot is to provide surrounding residents with visual access to greenway land while keeping the land under private ownership and maintenance. Only a small portion of such lots may be developed; the remainder must be protected through conservation easements and used in conformance with standards for greenway lands. Public access to conservancy lots is not required.

**Construction Activity Area (zone):** An area 20 feet around the building foot print.

**Construction Commences:** Construction has begun in accordance with the terms of a building permit, as set forth in NCGS § 160A-418.

**Contiguous:** Abutting directly or immediately adjacent to a boundary or separated only by a street, railroad or public utility right-of-way.

**Controlled Access Highway:** A roadway, according to State and Federal guidelines, designed for through traffic only with access connections at selected interchanges of public roads, with no direct access from private roads or drives.

**Convenience Store:** A use where certain retail goods and vehicular fuels are sold at the retail level. Such a use may permit car washes as an accessory use, but shall not allow the installation of such automotive items as lubricants, tires, batteries, or minor automobile repair and maintenance work.

**Copy:** Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.

**Correctional Institution:** A jail or other institutional facility used to confine and provide treatment or rehabilitation to violators of criminal laws, including facilities for persons who are participating in supervised work-release programs, whether such facilities provide confinement for all of each 24 hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station.

**Country Club:** Land area and buildings containing recreational facilities, clubhouses and customary accessory uses which are open to members and their guests, or to the general public on a fee basis.

**Critical Root Zone (CRZ):** A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for every inch of tree DBH, with a minimum of eight feet.

**Cul-de-sac:** A street designed with a closed end that does not intersect with another street and terminated by a vehicular turnaround.

**Cultural facility:** An indoor or outdoor theater, auditorium, or other building or structure designed, intended, or used primarily for musical, dance, dramatic, or other live performances, or a museum or gallery operated primarily for the display, rather than the sale, of works of art.

**Cut off Fixture:** An outdoor light fixture shielded or constructed in such a manner that no more than two and one half (2½) percent of the total light emitted by the fixture is projected above the horizontal plane of the fixture.

## DDD

**Day Care Center:** A location providing day care, as a principal use or an accessory use, provided on a less than 24-hour basis for any one client, either children or adults, according to the following limiting definitions:

**Adult Day Care Center:** An individual, agency, or organization providing supervision or care on a regular basis; usually for more than 6 adults in a place other than their usual place of abode; not an accessory to residential use.

**Child Care Center:** A place where daytime care is provided to 6 or more children who are not the legal wards or foster children of the attendant adult within an occupied residence or building.

**Day Care Home (accessory use):** Day care provided on a less than 24-hour basis for either children or adults, according to the following limiting definitions.

**Child Day Care Home (accessory use):** Supervision or care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for up to 5 children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

**Adult Day Care Home (accessory use):** Care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for up to 5 adults who do not reside in the dwelling.

**Deciduous Plant:** Those plants that annually lose their leaves.

**Dedication:** A fee simple transfer of land ownership to a homeowners association, governmental unit or agency, or non-profit land trust or conservancy for a specified purpose. Because a transfer of property rights is entailed, dedication must be made by written instrument and is completed with an acceptance.

**Dependent living facility:** Nursing homes, rest homes, and homes for the aged facilities, which are designed for persons who need a wide range of health and support services, such as medical, nursing, and personal services care, central dining facilities, and transportation services.

**Density, gross residential:** The number of residential dwelling units per acre of land, determined by dividing the number of dwelling units by the total number of acres in the parcel to be developed.

**Detention Basin/Pond:** Engineered facilities for storing or detaining rain water runoff from a site. Detention stores water on a site to allow time for pollutants precipitate out of the runoff. This cleans the water before it is allowed to flow to nearby surface waters (see watershed).

**Developer:** The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

**Development:** The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the subdividing of land into two or more parcels.

A. Except as provided in subsection C hereof, for the purposes of these regulations the following activities or uses shall be considered development:

1. The reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;
2. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land;
3. Alteration of the shore or bank of a pond, lake, river, or other waterway,
4. Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;
5. Clearing of land, including clearing or removal of vegetation and including any significant disturbance of vegetation or soil manipulation; or

6. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

B. Development includes all other activity customarily associated with it. When appropriate to the context development refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity when part of other operations or activities is not development. Reference to particular operations is not intended to limit the generality of this definition.

C. For the purposes of these regulations the following operations or uses shall not be considered development; some may, however, require a building permit:

1. Work involving the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed.
2. Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;
3. A change in use of land or structure from a use within a specified category of use to another use in the same category;
4. A change in the ownership or form of ownership of any parcel or structure;
5. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required bylaw, or
6. The clearing of survey cuts or other paths of less than four feet in width.

**Discharge:** The introduction, either directly or indirectly, of any man induced waste effluent into North Carolina surface waters.

**District:** An area delineated on the Regulating Map which sets forth standards and guidelines for all development within.

**District, Overlay:** A zoning district that encompasses one or more underlying zoning district and that imposes additional requirements above that required by the underlying zoning district.

**Disturbed Ground:** Any area of ground on a site which during construction is dug up, filled, graded, built on or used for storage or parking.

**Dormitory:** A building used as group quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar use. A dormitory shall not be considered a dwelling unit for purposes of determining the level of service for affordable housing or community parks.

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

**Drainageway:** Any natural or artificial watercourse, trench, ditch, swale, or similar depression into which surface water flows.

**Drip Line:** An imaginary vertical line extending from the outer most portion of the tree canopy to the ground that defines the exterior limits of the tree canopy.

**Drive-Through Facility:** A facility designed to enable a person to transact business while remaining in a motor vehicle.

**Driveway:** A private roadway providing ingress and egress from a street or thoroughfare to a property ~~and for the off street travel~~. Parking areas are separate from driveways, though the two may be combined.

**Duplex:** A detached house containing 2 dwelling units located on single deeded lot.

**Dwelling Unit:** A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

### EEE

**Easement:** A grant by the property owner of a strip of land for a specified purposes and use by the public, a corporation, or persons, such as for utilities.

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

**Elementary and secondary schools:** Publicly-owned or privately-owned preschools, elementary schools, middle schools, junior high schools, and high schools; but not including institutions the primary function of which is child day care.

**Encroachments:** Any portion of a structure or appurtenance extending beyond a designated zoning setback, easement, property line, or public right-of-way.

**Entertainment Use:** Any establishment which provides active recreational opportunities such as miniature golf, batting cages, arcades, carnival games, go-cart or other motorized vehicle tracks, waterslides, or passive recreation such as movie theaters.

**Entrance, Primary:** The principal, functional doorway for public or direct-entry access into a building.

**Events Facility:** A venue used for dining, social gatherings, or meetings accommodating groups of people.

**Environmentally Sensitive Area:** An area with one or more of the following environmental characteristics: steep slopes (15% or greater), flood plain, soils classified as having high water tables, soils classified as highly erodible, subject to erosion, or highly acidic, land incapable of meeting percolation requirements, stream corridors, mature stands of native vegetation, springs or aquifer recharge and discharge areas, wetlands and wetland transition areas, or habitats of endangered species.

**Esplanade:** A wide pedestrian walkway formal in design which runs parallel to a waterfront. An esplanade may be made of pavers, asphalt, crushed gravel, grass, or concrete.

**Essential Services:** Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam or water, the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two way radio facilities for business or governmental communications shall be deemed accessory uses and not essential services, provided no transmitter or antenna tower exceeds 180 feet in height. Essential Services are divided into three classes:

- Class 1** Transmission lines (above and below ground) including electrical, natural gas, and water/waste water distribution lines; pumping stations, lift stations, and telephone switching facilities (up to 200 square feet);
- Class 2** Elevated water storage tanks; package treatment plants; telephone switching facilities (over 200 square feet), substations, or other similar facilities used in connection with telephone, electric, steam, and water facilities; raw water treatment facilities.
- Class 3** Generation, production, or treatment facilities such as power plants, sewage treatment plants, and landfills.

**Evergreen:** Those plants that retain foliage throughout the year.

**Evergreen Screen:** Plants growing to a minimum 8 feet in height at maturity that retains foliage year round and are planted to provide a dense vegetative screen for purposes of visual mitigation.

**Existing Development:** Existing development, as defined for the purpose of this section, means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law based on at least one of the following criteria:

1. Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the development, or
2. Having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1), or
3. Having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).

**Existing Lot (of Record):** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

**Expansion:** An increase in the size of an existing structure or use, including physical size of the property, building, parking, and other improvements or structures.

**Exterior features:** The architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of 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, and including the landscaping and natural features of the parcel containing the structure.

**Extraterritorial Jurisdiction (ETJ):** The area outside municipal limits where the City of Belmont exercises planning, zoning, and subdivision powers.

**FFF**

**Façade:** The principal vertical surface of a building which is set along a frontage line. The elevation of a facade is the vertical surface area. Facades are subject to visual definition by building height, setback or build to lines, (a line prescribed for the full width of the facade above which the facade sets back; the location of a recess line is determined by the desired height to width ratio of the enfronting space or by a desired compatibility with existing buildings), and transition lines (a line prescribed for the full width of the facade expressed by a variation of material or by a limited projection such as a cornice or balcony).

**Family:** An individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit; or a group of not more than five persons not related by blood, marriage, or adoption living together as a single housekeeping unit, as in a group home.

**Farm, bonafide:** Any tract of land containing at least three acres which is used for dairying or for the raising of agricultural products, forest products, livestock or poultry, and which may include facilities for the sale of such products from the premises where produced. The definition of "farm" and "bona fide farm" shall not include agricultural industries.



**Farm Product Sales:** Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.

**Fence:** A structure used to delineate, enclose, screen, separate or define a boundary, particularly for privacy or to delineate the public or private realm of a property.

**FEMA (Federal Emergency Management Authority):** The agency responsible for the promulgation and maintenance of official Flood Hazard Boundary Map and/or Flood Insurance Rate Maps.

**Five (5) Minute Walk:** The five minute walk is the basic increment of good traditional neighborhood design. An average adult can walk ¼ mile (1320 feet) in five minutes. For the purposes of this code, higher densities of residential development are encouraged within a five minute walk of a designated neighborhood, village, and City centers. Properties just outside (within 130 feet) of the ¼ mile radius may qualify for privileges associated with this measurement provided there is a qualified pedestrian connection (sidewalk required) to the designated center.

**Floodway:** The channel of a stream, river, or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable surcharge (currently two feet).

**Flood Fringe:** The land area located between the limits of the floodway and the maximum elevation subject to inundation by the base (1% chance) flood.

**Flood Plain, Flood Hazard Area:** The low, periodically flooded lands adjacent to streams, rivers and lakes as designated by the Federal Emergency Management Authority (FEMA) as susceptible to flooding, and shown on the official Flood Hazard Boundary Map and/or Flood Insurance Rate Maps for the Belmont area.

**Floor:** The top surface of an enclosed area in a building (including the basement) such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

**Floor area:** The sum of the gross horizontal areas of each floor of the principal building' and any accessory buildings or structures, measured from the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space.

**Floor area ratio (FAR):** The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

**Frontage:** The lot boundary which coincides with a public thoroughfare or space. Also, the facade of a structure facing the street.

**Frontage Buildout Line:** The portion of lot frontage which has a building or wall running parallel to it.

**Funeral Home:** An establishment where the deceased are prepared for burial or cremation, where the body may be viewed, and where funeral services may be held.

## GGG

**Gambling/sweepstakes/game of chance establishment:** A business or enterprise, whether principal or accessory, which allows a person to play a legal game or entertainment with gambling paraphernalia, game boards, video terminals, mechanical, electro-mechanical, or electronic amusement devices or machines, or other gambling devices, for the paying out of money, property, checks, credit, or any representative value (except, however, that this definition shall not include legal games of chance operated by legitimate charitable or exempt organizations). Also, a business or enterprise, whether principal or accessory, where a person may play a legal game or entertainment at on-site machines/terminals/ computers that reveal the results of sweepstakes or similar contests associated with the purchase of Internet time, telephone time, or other retail good or service, and where redeemable sweepstakes rewards of any value may be paid out. This definition does not apply to any game or process regulated by the N. C. Education Lottery Commission.

**Garage:** An attached or detached structure to a residential building which may serve as an equipment storage building, parking enclosure, artist studio, or workshop.

**Gas Station:** A use where vehicular fuels are sold at the retail level and where the installation of such automotive items as lubricants, tires, batteries, and similar accessories takes place and where minor automobile repair and maintenance work is conducted.

**Gazebo:** A free standing, roofed, open sided structure providing a shady resting place.

**Government Building:** A building, use, or facility serving as a governmental agency, but not including a vehicle storage yard, correctional facility, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, educational or health institution, university, group home, or housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

**Grade:** The elevation of the land or land level at a specific point.

**Grade, Street:** The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel.

**Ground Cover:** A prostrate plant growing less than 2 feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides.

**Group Home:** A dwelling housing up to six (6) handicapped persons, including resident staff who live together as a housekeeping unit. As used herein "handicapped" shall mean a record of, or being regarded as having physical or mental impairment that substantially limits one or more of a persons' major life activities. This does not include alcohol or drug treatment centers, or work release facilities for convicts or ex-convicts. For purposes of this ordinance, a "group home" shall be deemed a "single-family home."

**HHH**

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

**Hazardous materials treatment facility:** A building, structure or use of land devoted, or intended to be devoted, primarily to changing by any method, technique or process, including incineration or neutralization, the physical, chemical, or biological character of any hazardous material regulated by the Federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.), and the "North Carolina Solid Waste Management Act", as amended (Article 13B. G.S. 130-166.16), so as to neutralize such material or render it nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in bulk. Such a use may also contain temporary storage facilities normally associated with these operations and of sufficient size to conduct a commercially feasible operation. However, under no circumstances is a hazardous materials treatment facility to be construed to be any of the following:

1. A facility which manufactures hazardous materials from component nonhazardous materials;
2. A facility or location for the long term or perpetual storage of hazardous materials; or
3. A facility for the treatment of hazardous materials which is clearly subordinate, incidental and related to the principal structure, building or use of land and is located on the same lot as the principal structure, building or use.

**Height:** The vertical distance from the mean grade elevation taken at the fronting street side of a structure to the parapet or roof line of a flat roof, the eave of a pitched roof, or the deck line of a mansard roof. Towers, spires, steeples, and enclosed roof top mechanical equipment are not counted in height measurements.

**Heliport:** A facility or structure that is intended or used for the landing and take-off of rotary-wing aircraft, including the regular repair, fueling, or maintenance of such aircraft, or the sale of goods or materials to users of such aircraft.

**Highway Capacity Manual:** The document entitled Highway Capacity Manual published by the Transportation Research Board of the National Research Council (Special Report 209, 3d ed. 1998), as said document may be amended, revised, replaced, or supplemented from time to time.

**Historic District:** A district or zone designated by a local authority or state or federal government

within which the buildings, structures, appurtenances, and places are of basic and vital importance because of their association with history; or because of their unique architectural style and scale, including color, proportion, form and architectural detail; or because of their being a part of or related to a square, park, or area the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical, or architectural motives or purposes.

**Historic Structure:** Any structure designated or eligible for designation on the National Register for Historic Places or by a local authority based on cultural, historical, or architectural motives or purposes.

**Home Occupation:** An occupation or profession conducted within a dwelling unit by a residing family member which is incidental to the primary use of the dwelling as a residence. Home Occupations are small and quiet non-retail businesses generally invisible from the frontage, seldom visited by clients and having only up to two employees. Home Occupations include day care centers where daytime care is provided to less than 6 children who are not the legal wards or foster children of the attendant adult within an owner-occupied residence.

**Hospital:** A health care facility the purpose of which is to provide for care, treatment, testing for physical, emotional, or mental injury, illness, or disability, and overnight boarding of patients, either on a for-profit or not-for-profit basis; but not including group homes.

**Hotel/Motel/Inn:** A building facility containing sleeping rooms offering transient lodging accommodations to the general public for rental or occupancy and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

### III

**Impervious Surface or Cover:** All areas covered by buildings, pavement (not including ungrouted pavers for sidewalks), gravel, and rooftops of stored merchandise i.e.: cars and manufactured housing displays, even if located on grass surfaces that prevents the absorption of surface water into the soil. Wooden slatted decks and pool surfaces are considered pervious surfaces.

**Independent Living Facility:** Congregate living facilities, such as rest homes and homes for the aged, which are designed for older persons or disabled persons who do not require health and support services, such as medical and nursing care, central dining, and transportation service, located on the site. Each living unit may be self-contained and is physically accessible to older or disabled persons. Distinguished from apartment building(s) by the provision of some communal services.

**Individual Private Facility:** Water-related structures constructed on an occupied single family residential lot for use by the owner or occupants which accommodate a maximum of two boats.

**Indoor Recreation:** Public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCA's, YWCA's or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Indoor recreation structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

**Industrial Discharge:** The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

1. wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
2. wastewater resulting from processes of trade or business, including wastewater from Laundromats and car washes, but not wastewater from restaurants;
3. stormwater will not be considered to be an industrial wastewater, unless it is contaminated with industrial wastewater; or
4. wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

**Industrial Uses and Development:** Any non-residential use that requires an NPDES permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

**Infill Lot Development:** The development of new housing or other buildings on scattered vacant sites in a built-up area.

**Institutional Uses:** Large scale civic and semi-civic uses such as elementary and secondary schools, colleges, hospitals, assisted living residences, convents, monasteries, hospices, and other long-term medical care facilities.

**Interconnected:** Refers to streets which provide through access to other streets; interconnected street systems may be either rectilinear or curvilinear.

**Internal Refractive Lens:** A glass or plastic lens installed between the lamp and the sections of the outer fixture globe or enclosure. Refractive refers to the redirection (bending) of the light as it goes through the lens, softening and spreading the light being distributed from the light source thereby reducing direct glare.

**Intersection Tier:** The designation of intersections for the application of adopted level of service standards.

**Interstate Highway:** A controlled access highway which is part of the Federal Interstate Highway System.

**Island, Landscape:** In parking lot design, built-up structures, usually curbed, placed at the end or middle of parking rows as a guide to traffic and for landscaping, signing, or lighting.

## JJJ

**Jail:** A building, and all accessory uses and structures, used to confine, house, and supervise persons who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station and not including any housing or other facilities for persons who are participating in work-release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

**Junk yard:** An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills. An establishment or place of business which stores or keeps for a period of 15 days or more materials within the meaning of "junk" as defined by NCGS 136-143(3) which had been derived or created as a result of industrial activity shall be deemed to be a junkyard within the meaning herein.

## KKK

**Kennel, commercial:** A use or structure intended and used for the breeding or accommodation of small domestic animals for sale or for the training or overnight boarding of animals for persons other than the owner of the lot, but not including a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

**Kennel, private:** A structure used for the outdoor accommodation of small domestic animals and not operated on a commercial basis.

## LLL

**Land Clearing and Inert Debris (LCID) landfill:** A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes meeting the standards of the State of North Carolina. A clean fill operation which is conducted to improve or recontour land, using only soil, is not construed to be such a landfill.

On-site LCID landfill. A LCID landfill which is located within the confines of property being developed or in use, and used only for the disposal of acceptable materials which are generated on the property being developed or used; a disposal site that is clearly an accessory use to the development activity.

Off-site LCID landfill. A LCID landfill which is itself the principal use of a property and is used for the disposal of acceptable materials, some or all of which are generated off the site of the property being used for the landfill.

**Land Development Standards Manual:** The most recent edition of the manual developed and published by the City of Belmont and setting forth standard details for the design and construction of various aspects of development.

**Land Disturbing Activity:** Any use of the land by any person that results in a change in the natural cover or topography and that may cause or contribute to sedimentation or soil compaction that affects the critical root zone.

**Land Use Segregation:** The practice of prohibiting mixed use development or close proximity of residential and non-residential uses. This is accomplished through zoning standards which emphasize the separation of all uses and the buffering and screening of dissimilar uses from one another.

**Landfill:** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the N.C. General Statutes or other applicable solid waste disposal statutes or rules. For the purpose of this ordinance this term does not include composting facilities.

**Landscaped Areas:** Any portion of a site or property containing vegetation following construction activity completion.

**Landscaping Plan:** The Site Plan Application prescribed by this Code which details pre-construction protection of existing vegetation and post-construction supplemental plantings.

**Landscaping:** The installation and maintenance, usually of a combination of trees, shrubs, plant materials, or other ground cover, including grass, mulch, decorative stone and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel. Any live plant material such as trees, shrubs, ground cover, and grass areas left in their natural state.

**Lighting Definitions:** The following are lighting related definitions that may be included in this ordinance.

**Candela:** A unit of luminous intensity, noted as cd.

**Color rendering index (CRI):** A quantitative measure of the ability of a light source to reveal the colors of various objects faithfully in comparison with an ideal or natural light source.

**Cutoff fixture:** A fixture that provides a shielding of the emitted light. A full cutoff fixture allows no emission of light above a horizontal plane through the fixture.

**Display lighting:** Lighting for uses such as auto dealership parking lots, outdoor storage areas, and outdoor display.

**Emergency lighting:** Lighting used by or for the purpose of Police Departments, Fire Departments, or other government entities for the purpose of public safety.

**Existing light fixture:** Light fixture installed, or approved by the City to be installed, pursuant to the effective date of this ordinance.

**Flood light (or spot light):** Light fixture or lamp that incorporates a reflector or a refractor to disperse or concentrate the light output into a directed beam in a particular direction.

**Footcandle (FC):** A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot and originally defined with reference to a standardized candle burning at one foot from a given surface.

**Full cut-off fixture:** An outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.

**Fully shielded fixture:** An outdoor light fixture is constructed so that, in its installed position all of the light emitted by the fixture is projected below the horizontal plane passing through the lowest light-emitting part of the fixture.

**Glare:** The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.

**Illuminating Engineering Society of North America (or IESNA):** The professional society of lighting engineers, including those from manufacturing

companies and others professionally involved in lighting.

**Light pollution:** Any artificial light that is emitted either directly or indirectly by reflection that alters the appearance of the night sky, interferes with astronomical observation, or interferes with the natural functioning of nocturnal native wildlife.

**Light trespass:** Any form of artificial illumination emanating from a fixture that penetrates other property other than that for which it is intended and permitted.

**Lumen:** The lumen is a unit of measurement for the brightness of light at the source. One foot-candle is one lumen per square foot.

**Luminaire:** The complete lighting system, which includes the lamp(s) and fixture.

**Luminaire pole height:** The measurement from a paved or landscaped surface at ground level under the fixture to the top of the luminaire.

**Maintained footcandles:** Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high pressure sodium and 0.64 for metal halide and mercury vapor.

**Motion sensors:** A mechanism for controlling illumination by turning lights on when activated by motion, remaining on during activity for a set amount of time (typically thirty [30] minutes) following the last detection of motion.

**Outdoor lighting:** Any outdoor artificial lighting device, fixture, lamp, or other similar device, whether permanently installed or portable, which is intended to provide illumination for either visibility or decorative effect. Such devices shall include, but not be limited to, area, search, spot, and flood lighting used for: buildings and structures, recreational facilities, parking lots, landscape lighting, business and advertising signs, roadways, walkways.

**Partially shielded fixture:** The outdoor lighting fixture is constructed so that, at least

ninety percent (90%) of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.

**Photocells:** A mechanism that is activated by the absence of sunlight and has the effect of illuminating a property all night. Photocells are permitted only at primary entrances and where the light source is fully shielded by opaque material.

**Security lighting:** A light used either commercially or residentially for protection of goods or property and is designed and used to discourage crime and undesirable activity.

**Linear Frontage:** The length of a property abutting a public right-of-way from one side lot line to another.

**Live/Work:** An attached building type with small commercial enterprises on the ground floor and a residential unit above. Commercial space may be a home-based business or may be leased independently; however, different NC State Building Code regulations apply in each case.

#### Loading Space

An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

**Logo:** Business trademark or symbol.

**Lot:** A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such access ways, parking area, yards, and open spaces required in these regulations.

**Lot of Record:** A lot described by plat or by metes and bounds which has been recorded in the office of the Register of Deeds.

#### Lot Types:

**Corner Lot:** A lot located at the intersection of two or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than 135°.

**Interior Lot:** A lot other than a corner lot with frontage on only one street.

**Through Lot:** A lot other than a corner lot with frontage on more than one street.

**Reverse Frontage Lot:** Any lot oriented to an abutting street in such a way that the intersection of the front building line, extended, and the street right of way line form an interior angle of less than 45 degrees is defined as having reverse frontage relative to said street.

**Single-Tier Lot:** A lot which backs upon a limited access highway, a railroad, a water body, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

**Lot, Flag:** A lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway.

**Lot Width:**

1. The distance between the side lot lines measured along a setback line or build-to line; or
2. If no setback is required for a lot according to this ordinance, and no setback has been established on a previously recorded plat, lot width is the distance measured between the side lot lines along the street right of way.

**MMM**

**M.A.I. Appraiser:** A member of the American Institute of Real Estate Appraisers.

**Maintained Easement:** A recorded right of way made of crushed gravel, pavement, or graded and cleared of brush, so as to permit access by vehicles.

**Major Development Plan:** A Plan depicting the subdivision of land and proposed improvements and/or buildings. Such a Plan combines the subdivision and site plan process to show the proposed build-out of a property on one, combined plan.

**Manufactured Home:** A dwelling unit, other than a modular home, fabricated in an off-site manufacturing facility for installation or assembly on the building site, which is at least eight feet in width and at least 32 feet in length, which bears a seal certifying that it was built to the standard adopted pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. Sec 5401 et seq., which is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles.

**Manufactured Home Park or Rental Community:** Any parcel of land under single ownership where land is rented and utilities are provided for the installation or placement of manufactured homes.

**Manufactured Home Subdivision:** Any parcel of land which is subdivided, with utilities extended for the installation or placement of manufactured homes.

**Manufacturing, Heavy:** The assembly, fabrication, production or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, or that otherwise do not constitute "light manufacturing," or any use where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, production or processing exceeds 25 percent of the floor area of all buildings on the lot. "Heavy manufacturing" shall include, but not be limited to, the following: enameling, lacquering, or the plating or galvanizing of metals; foundries or mills producing iron and steel products; industrial chemical manufacture; meat packing plants; mixing plants for concrete or paving materials, and manufacture of concrete products; oxygen manufacture and/or storage; pottery, porcelain, and vitreous china manufacture; poultry dressing for wholesale; pressure treating of wood; stonecutting; tire recapping and retreading; tobacco products manufacture; tobacco stemming and redrying plants. This shall include resource extraction and recycling and salvage operations.

**Manufacturing, Light:** The assembly, fabrication, production or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, production or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, production or processing does not exceed 25 percent of the floor area of all buildings on the lot. This shall not include uses that constitute “heavy manufacturing”, resource extraction, or recycling and salvage operations.

**Manufacturing, Neighborhood:** The assembly, fabrication, production or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building and are visually undifferentiated from an office building. This includes businesses utilizing the type of shipping and receiving normally associated with retail stores, but shall not include uses that require frequent deliveries by trucks with more than two axles.

**Marina:** A facility for the storing, servicing, fueling, berthing, and securing of boats and that may include eating, sleeping, and retail facilities for owners, crews, and guests. See Water Related Structure, Pier.

**Marina, Public Use:** A facility for the wet or dry storage, launching and mooring of boats, together with all accessory structures and uses as well as the sale of boats.

**Marina store:** A specialty retail store in which the merchandise is comprised of products that are associated with boating and water-related recreational uses, as well as typical convenience store items.

**Marine Railway:** A line of track running from the shoreline into a body of water to provide a runway for a wheeled or other apparatus to lower a boat into the water.

**Massing:** The shape and form a building or assemblage of buildings assumes through architectural design.

**Mass Transit:** A public common carrier transportation system for people having established routes and fixed schedules.

**Mechanical Equipment:** All HVAC (heating, ventilation, and air conditioning) equipment located on the roof of a building or outside a home or building.

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

**Mini-Storage Facilities:** A building containing separate enclosed storage spaces of varying sizes leased or rented on an individual basis.

**Mitigation:** Actions taken on-site and/or off-site to offset the effects of temporary or permanent loss of a buffer.

**Mixed Use:** The presence of residential and nonresidential complementary and integrated uses within the same complex or same building. Mixed use can also refer to different categories of nonresidential uses such as institutional, retail, and office within the same building or complex of building.

**Mixed-Use Building:** A building containing two or more distinct uses, at least one of which is residential.

**Modular Home:** A dwelling unit which is constructed in compliance with the State Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**Mooring or Float:** An object or structure secures in the water, such as by cables, lines, chains, or anchors, and intended or used for securing one or more boats in the water.

**Multi Family:** Three or more attached single family dwelling units located on lot of record.

NNN

**Native Ornamental Species:** Native woody plants, distinctively noted for their ornamental characteristics including flowering dogwood, (cornus florida), American Holly (Ilex Opaca), Eastern Redbud (Cercis Canadensis), American Hornbeam (Carpinus Caroliniana)

**Neighborhood Store:** A general retail operation



that typically sells groceries and other perishable and non-perishable household goods. The average size of such stores is 2,500 and may include additional uses including a café, a contract post office, an automatic bank teller, and a newsstand.

**Nightclub, *Private*:** Any commercial establishment serving alcoholic beverages and/or providing entertainment for patrons, including bars, lounges, taverns, cabarets, and similar establishments.

**Node:** The terminus or intersection of two (2) or more streets, including the head or bulb of a cul-de-sac.

**Nonconforming Lot:** A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

**Nonconforming Sign:** Any sign lawfully existing on the effective date of an ordinance, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

**Nonconforming Structure or Building:** A structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

**Nonconforming Use:** Any actual and active use lawfully being made of any land, building, sign or structure not otherwise abandoned, which exists on the effective date of this Code or on the effective date of any amendment thereto, and renders such existing use illegal within a district, or which does not comply in any fashion with any of the regulations of this ordinance or any amendments thereto. If the property or structure is vacant or unused on the effective date of this Code or any amendment thereto, it shall be conclusively presumed that the property or structure is subject to the provisions of this Code or any amendments thereto. A use or activity that was lawful prior to the adoption, revision or amendment of this Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

**Nonconforming Vacant Lot:** Any lot of record which does not meet the minimum area or width requirements established in these regulations or any amendment thereto, whichever may be applicable.

**Non-Funded Capital Improvement:** A capital improvement that appears in the capital improvements program but is beyond the CIP's planning horizon, so no funds have been budgeted for it by the City.

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

**Nuisance:** An interference with the enjoyment and use of property.

**Nursing Facility:** A nursing home as defined in NCGS § 131E-101. A nursing facility shall not be considered a dwelling unit for the purposes of determining the level of service for affordable housing or community parks.

## OOO

**Off-Street parking:** Parking which occurs on a lot and not on a street or other public right of way.

**Office Use:** Professional, service, and governmental occupations within a building or buildings which do not generally involve the on-site sale of goods to customers.

**On Site, Off Site:** Located on the lot relative to a use, or structure; or located off the lot relative to a use, or structure.

**Open Decks and Patios:** Permanent uncovered accessory structures that project from an existing principal use.

**Open Space:** Any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements. Urban open space assumes one or more of the forms detailed in Chapter 8, and may contain recreation equipment and amenities as indicated. Rural open space is site specific in its designation.

**Ordinance:** A document of regulations enforceable as municipal law.

**Ornamental Tree, Shrub:** A deciduous or evergreen tree or shrub planted primarily for its ornamental value or for screening purposes.

**Outdoor Sales:** The sale of products outside of a permanently constructed building. The display and sale of products and services primarily outside of a building or structure, including vehicles, garden supplies, gas, tires and motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber yards. This does not include occasional "sidewalk" sales or promotions.

**Outdoor Storage:** The storage of goods, products, or vehicles by their owner or on a commercial basis for others outside of a permanently constructed building, including but not limited to auto and boat sales and storage areas. The keeping of any goods, material, merchandise, or vehicles in an unenclosed area or in the same place for more than twenty-four hours. The outdoor storage of trees, plants, shrubs, and other types of live or natural vegetation shall be allowed in the front yard of a retail establishment whose primary business is the sale of such items.

**Outdoor Recreation:** Swimming pools, tennis courts, ball fields and ball courts which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. "Outdoor recreation" shall include any accessory uses, such as snack bars, pro shops, and club houses which are designed and intended primarily for the use of patrons of the principal recreational use.

**Out parcel:** A parcel of land associated with a shopping center or multi-tenant development, which is designated on an approved site plan as a location for a free standing structure with an intended use such as, but not limited to, banks, savings and loans, dry cleaners, service stations, offices, restaurants, retail establishments, or combination of uses thereof, and adjoins the shopping center or multi-tenant development, or the parking and service drives associated with it, on any side adjacent to a public right-of-way.

**Overlay District:** A set of regulations which add an additional layer of design provisions to an underlying regulating district.

**Overnight camping trailer park:** Any lot upon which two or more overnight camp sites and/or overnight camping trailers occupied for temporary shelter, dwelling, recreation, or vacation uses may be located on a non-profit or for profit basis.

**Owner:** Any full or part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal title to the whole or to part of a structure or parcel of land.

## PPP

**Parallel District:** A set of provisions that apply to a property as an optional set of standards to the underlying base district provisions. Once chosen only the provisions of the chosen district apply. Parallel Districts may apply to all or portions of a property.

**Parapet:** A low wall encircling the perimeter of a flat building roof, generally used to screen roof-mounted mechanical equipment.

**Parcel:** Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from other parcels which are designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

**Park:** Any land open for use by the general public for active or passive recreational purposes or as a refuge for wildlife. *See also Community Park.*

**Park and Ride Facility:** A parking lot designed for drivers to leave their cars and use mass transit facilities beginning, terminating, or stopping within immediate walking distance the park and ride facility

**Parking Area or Parking Lot:** All the area in square footage of land designated for the storage of cars. The parking area also includes all areas for storage and trash facilities. Any public or private area, under or outside of a building or structure, designed and used for parking or storing motor vehicles including parking lots, garages, private driveways, and legally designated areas of public streets.

**Parking Space:** A space which is designed for the parking or temporary storage of an automobile as prescribed by the Ordinance.

**Party Wall:** A common shared wall between two separate structures, buildings or dwelling units and lacking cross access between structures without exiting each structure.

**Paved:** Any surface area covered by crushed compacted gravel, concrete, asphalt, brick or stone pavers, or similar material in durability, appearance, and permeability.

**Pedestrian Oriented Development:** Any development type which accommodates the needs of the pedestrian. Such development will have parking to the side or rear of a building, will mix uses and provide them in proximity to one another, will allow the pedestrian the option of accomplishing certain trips without automobile use, and will provide a variety of interesting and detailed streetscapes which balance the need of the pedestrian and car equally.

**Pennant:** See Banner

**Perennial Stream or River:** Streams or rivers which flow year round and found on the United States Geological Survey Quad map(s) for the City of Belmont.

**Performance Guarantee:** Any security that may be accepted by the City or another government unit to assure that improvements required as part of an application for development will be satisfactorily completed.

**Permitted Uses:** Uses allowed to occur by right within a designated zoning or other planning district.

**Person:** An individual, corporation, governmental agency, business trust, estate trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

**Pervious Surface:** Any material that permits full or partial absorption of stormwater into previously unimproved land.

**Pier and Pier Facility:** A water-related structure extending into the water from the shore, whether floating or fixed to the river bottom, for use as a boat landing place or promenade, constructed of pylons and decking for mooring and access to a boat or watercraft.

**Pier Zone, Projection Envelope:** The area beyond which no structure may extend out into navigable waters.

**Planned Capital Improvement:** A capital improvement that is proposed to be funded through the capital improvements program.

**Planning Board:** The City of Belmont Planning Board, established by ordinance in accordance with NCGS 160A-361 and 160A-362.

**Planting Area:** The landscape area prepared for the purpose of accommodating the planting of trees, shrubs, and groundcovers.

**Planned Development:** A tract of land under single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved development plan.

**Planning Director:** The Planning Director of the City of Belmont or his or her designee.

**Planting Strip:** The area of land along the front property line parallel to a right-of-way reserved for tree planting and landscaping. Also called street tree planting easement.

**Plat, Final:** A map of all or a portion of a subdivision of land that is the legal instrument for recordation.

**Plat, Preliminary:** A map indicating the proposed layout of the subdivision that is submitted to the approving authority for preliminary approval.

**Platted Lot:** A lot surveyed and recorded at the county Register of Deeds office.

**Playground:** An active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.

**Plaza:** An urban open space, constructed entirely or largely of hard-surfaced paving blocks, stone, brick, or similar materials, framed on at least two sides by the vertical rise of building walls; occasionally framed by closely planted large maturing trees in lieu of buildings. May be used for occasional parking in front of a civic or public building.

**PM Peak Hour:** The one hour period in the afternoon or evening representing the highest hourly volume of traffic flow on the adjacent public street system.

**Pool Hall, Billiard Parlor, Game Room, Arcade:**

An establishment which operates six (6) or more amusement/recreation/skill tables or machines, whether or not a coin, token, or other payment is required for operation or play. Also, any establishment whose principal activity is the operation of such amusement/recreation/skill tables or machines, without regard to number. College student unions, ping-pong tables, and board games shall not fall under this category.

**Porch:** A projection from the outside wall of a dwelling covered by a roof which can project beyond a setback. Roofed open areas may be screened, attached to or part of and with direct access to or from a building.

**Portico:** An open porch or walkway covered by a roof and typically leading to the building entrance

**Premises:** A parcel of real property with a separate and distinct identifying number shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable zoning. Out parcels of shopping centers shall be considered on the premises of shopping center for the purpose of this ordinance.

**Principal building or structure:** A building or structure containing the principal use of the lot.

**Principal Use:** The primary purpose or function that a lot serves or is proposed to serve.

**Private Driveway:** A privately maintained roadway serving 2 or fewer lots, building sites or other division of land and not intended to be public ingress or egress

**Promenade:** See *esplanade*

**Project area:** Any area of land and/or water, regardless of the number of individual parcels contained therein, on which development is proposed under these regulations.

**Property:** Real property and fixtures subject to the provisions of this Ordinance.

**Proposed right-of-way line:** The margin of a thoroughfare's right-of-way at its ultimate intended width determined by (1) the thoroughfare's classification and (2) dimensional requirements or locational criteria as established in the planning ordinance.

**Public Hearing:** A meeting open to the public advertised in advance in the local printed media, or as otherwise required by statute, concerning proposed ordinances, ~~or~~ amendments or other official City business which require public participation and input.

**Public utility structure:** An electricity or gas substation, water or wastewater pumping station, telephone repeater station or similar structure used as an intermediary switching, boosting, distribution, or transfer station for electricity, water, wastewater, cable television, or telephone services between the point of generation and the end user, or a public or private wastewater treatment plant or water treatment plant, but not including satellite dish antennae, facilities for the handling of solid waste, or radio, television, or microwave transmission or relay towers.

**Public Swimming Pool:** Any structure, chamber, or tank containing an artificial body of water used by the public for swimming, diving, wading, recreation, or therapy, together with buildings appurtenances, and equipment used in conjunction with the body of water, regardless of whether of fee is charged for its use. This term includes municipal, school, hotel, motel, apartment, boarding house, athletic, or other membership pools facility pools and spas. This definition does not include a private pool serving a single-family dwelling and used only by the residents of the dwelling and their guests.

**Public Utilities:** Above ground or underground publicly licensed utilities including water, sanitary sewer collection and distribution line, natural gas, cable television, stormwater drainage, transit or transportation, or electrical services and any associated structures such as pumping stations, treatment plants, transformer stations for providing to the public a utility service deemed necessary for the public health, safety, and welfare. Utility service to the public has been defined broadly to mean all consumers-industrial, commercial, or residential.

**QQQ**

**Quadrangle:** A rectangular area, such as a courtyard, enclosed by buildings.

**Quarry:** An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

**RRR**

**Recreation, Active:** Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or field.

**Recreation, Passive:** Activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, card games, chess, checkers, and similar table games.

**Recreational Facilities:** An area of land or combination of land and water resources for public use that is developed for active and/or passive recreational pursuits with various manmade features that accommodates such activities. Such areas shall be designed in the form of playgrounds, parks, squares, greenbelts, and parkways. They shall be designed to serve the immediate neighborhood in which they are located, or can be regional in scope, serving several neighborhoods.

**Recreational Vehicle:** A vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

**Redevelopment:** The demolition and reconstruction of a building or a portion of a building

**Regulatory Flood:** A flood representative of large floods reasonably characteristic of what can be expected to occur on a particular stream, with an average recurrence interval of 100 years, determined from an analysis of floods on a particular stream and other streams in the same general region.

**Religious institution:** A church, synagogue, temple, mosque, or other place of religious worship, including any customary accessory use or structures, church offices, religious bookstores serving the immediate congregation, parking lots, family life centers, outdoor recreational facilities, religious schools, cemeteries, dwelling units housing for persons employed by the religious institution and day care centers on the same site or sites contiguous to the principal use.

**Reservation:** The setting aside of parcels of land for a specific purpose. Reservations of land are encouraged for future development of streets, parks, and civic buildings.

**Residential Development and Use:** Any detached, duplex, triplex, quadriplex, attached, or multifamily dwelling, manufactured home, mobile home, group home for up to six clients, limited residence boarding house, or dormitory.

**Residuals:** Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission or other permitting authority.

**Restaurant:** A building or operation, the purpose of which is to accommodate the consumption of food and beverages.

**Restaurant, Fast Food:** An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building, in cars on the premises, or off the premises.

**Retail establishment:** A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer.

**Retail Sales:** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**Retention Basin/Pond:** Engineered facilities for storing or detaining rain water runoff from a site. Retention delays the flow off a site to prevent flooding.

**Roof, Flat:** Refers to the silhouette formed by a roof line or a particular roof system. This is separate

from the roof line which can be stepped or flat in appearance through architectural elements such as cornices, mansards, and parapets; or pitched as with residential homes.

**Roof Line:** The highest point of a flat roof or mansard roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.

**R-O-W (Right Of Way):** An area of land dedicated for public or private infrastructure such as streets, sidewalks, railroads, sewer lines, water lines, electric lines, and gas lines.

## SSS

**Sanitary Landfill:** A solid waste disposal facility designed to meet the minimum standards of the State of North Carolina wherein refuse and other waste defined by State standards is disposed of by utilizing acceptable landfill engineering technology.

**Satellite Dish Antenna:** Any antenna including any supporting structure designed to receive or transmit visual and/or verbal signals via orbiting satellites or similar sources, excluding microwave antennae.

**School:** Publicly owned or privately owned preschools, elementary schools, middle schools, junior high schools, vocational schools and high schools; but not including institutions the primary function of which is child day care.

**Screening:** A fence, wall, hedge, landscaping, buffer area or any combination of these provided to create a visual separation between certain land uses. A screen may be located on the property line or elsewhere on the site, as determined by the use to be screened.

**Sediment:** Solid particulate mineral or organic matter transported by water, air, or ice.

**Self-Storage Facility:** A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individually for varying periods of time. This use or structure may also be called a mini-storage or mini-warehouse facility.

**Semi-Cutoff Fixture:** An outdoor light fixture shielded or constructed in such a manner that it emits no more than five (5) percent of its light above the horizontal plane of the fixture, and no

more than twenty (20) percent of its light ten (10) degrees below the horizontal plane of the fixture.

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

**Setback:** The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the structure or its supporting member whichever is nearest to the property line or right-of-way.

**Shade Tree:** Any large maturing tree which provides a crown width sufficient to shade a minimum of 1,200 square feet.

**Shrub:** A woody, branching plant of relatively low height.

Shrub, Small: A shrub growing to less than 5 feet in height at maturity that is planted for ornamental purposes.

Shrub, Medium: A shrub growing 5 feet to 10 feet in height at maturity that is planted for ornamental or screening purposes.

Shrub, Large: An upright plant growing 10 feet to 20 feet in height at maturity that is planted for ornamental or screening purposes.

**Sight Triangle:** In Belmont, the triangular area formed by a diagonal line connecting two points located on intersecting property lines (or a property line and the curb or a driveway), each point being 35 feet from the point of intersection. The North Carolina Department of Transportation sight triangle is different, with each point being 10 feet and 70 feet from the point of intersection. Generally, nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

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

**Sign Structure or Support:** Any structure that supports or is capable of supporting a sign.

**Sign Types:** The following are types of signs included in this ordinance.

**Advertising:** A sign, other than a directional sign, which directs attention to or communicates information about a business, commodity, service, or event that exists or is conducted, sold, offered, maintained or provided at a location other than the premises where the sign is located. Any advertising sign allowed under this Code may display either a commercial or noncommercial copy.

**Arm:** A sign whose face is suspended from a support arm at a right angle from a ground mounted pier, pillar, column, or pole. The face of such sign shall not be more than three (3) feet from the ground.

**Banner:** A sign intended to be hung, with message or symbol applied to plastic or fabric of any kind, but excluding flags or emblems of any nation, organization of nations, state, city, or any fraternal, religious, or civic organization.

**Bulletin Board:** A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center, or similar noncommercial place of public assembly.

**Campaign or Election Sign:** A sign that advertises a candidate or issue to be voted upon on a definite election day.

**Canopy and Awning Signs:** A sign attached to or painted or printed onto a canopy or awning. The permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

**Construction Sign:** A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

**Directional or Instructional Sign:** An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance", "Exit", "Parking", "One-Way", or similar direction or instruction, but not including any advertising message. The name 'or logo of the business or use to which the sign is giving direction may also be included on the sign.

**Directory Sign:** A sign which identifies multiple uses in a planned development on a single sign; may be used for shopping centers, shopping streets or arcades, office complexes, schools, churches, institutional or business campuses, and similar large complexes which have a variety of tenants and/or uses.

**Government Sign:** A sign which is erected by a governmental authority for the purposes of indicating location, traffic control, or general advertisement of a governmental function or event.

**Ground Mounted Sign:** A sign which extends from the ground or which has a support which places the bottom thereof less than 3 feet from the ground.

**Flag:** A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature.

**Flashing Sign:** A sign that uses an intermittent or flashing light source to attract attention.

**Identification Sign:** A sign which displays only the name, address, and/or crest, insignia, trademark, occupation or profession of an occupant, or the name of any building on the premises.

**Incidental Sign:** A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to signs on automatic teller machines, gas pumps, or vending machines; or newspaper delivery boxes.

**Memorial Sign or Plaque:** A sign designating the name of a building and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, cut into or attached to a building surface

**Off-Premises Sign:** A sign that directs attention to a business, commodity, or service, conducted, sold, or offered at a location other than the premises on which the sign is erected.

**On-Premises Sign:** A sign that directs attention to a business, commodity, or service, that is conducted, sold, or offered on the premises on which the sign is erected.

**Portable or Movable Sign:** A sign that is not permanently attached to the ground, a structure, or a building, and which can easily be moved from one location or another. For example, a sign on wheels.

**Projecting Sign:** A sign which is affixed to a building and supported only by the wall on which it is mounted; considered a wall sign for purposes of this ordinance.

**Real Estate Sign:** A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

**Roof Sign:** A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

**Sandwich Board Sign:** A portable a-frame sign constructed with two faces which rest at an angle less than 45 degrees to each other.

**Temporary Sign:** A sign which is not permanently installed in the ground or affixed to any structure or building, and which is erected for a period of time as permitted in this ordinance.

**Vehicular sign:** Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this ordinance, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

**Wall Sign:** Any sign directly attached to an exterior wall of a building or dependent upon a building for its support. Signs directly painted on walls shall be considered wall signs.

**Wayfinding Sign:** a sign erected by the city to promote, connect, and enhance a pedestrian's or motorist's ability to locate landmarks, public facilities, and community attractions, in a unified sign system.

**Window Sign:** Any sign attached to or directly applied onto a window or glass door of a building intended for viewing from the exterior of the building.

**Significant Tree:** Any tree other than a pine tree with a caliper of 18 inches or more.

**Significant Vegetation:** A large canopy tree over 18 inches in diameter at breast height which displays a root zone, canopy, and structure characteristic of the particular species and is in good health and vigor.

**Single Family Home(s):** Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit (exception: rental studios and apartments). Such uses include family care homes and group homes as defined in this chapter.

**Site Plan, Site Specific Plan:** A diagram to scale showing the development plans for a project and containing all information required of Site Plans and/or Subdivision Plans.

**Site Survey:** A map done by a surveyor accurately depicting the scale distances and measurements of all planned structures on a lot which may include topographical information and existing naturally occurring and constructed elements or structures, such as streams, wetlands, rock outcroppings, etc.



**Small Maturing Tree:** A tree whose height is less than 35 feet at maturity and meets the specifications of "American Standards for Nursery Stock" published by the American Association of Nurserymen.

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

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

**Specimen Tree:** Any healthy, existing tree over 18 inches in caliper, excluding Sweet Gum, Catalpa, Wild Cherry, Wild Elm, Princess, Hackberry, and Tree-of-Heaven trees found in a field or open grown condition, or along the edge of a forest stand or tree stand and displaying the root zone, canopy, and structure characteristic of the particular species.

**Square:** A centrally located public open space that is urban in nature.

**Stadium:** A structure or facility designed, intended, or used primarily for athletic events or other performances and containing seating for spectators of those events, but not including a raceway or drag strip.

**Storm Water Runoff:** Rain which falls onto impervious surfaces and is not absorbed into the ground immediately. Storm water runoff carries pollutants off of paved surfaces into streams and rivers, and causes flooding by speeding up the rate of water flow into streams and rivers.

**Stormwater Drainage Facilities:** The system of inlets, pipes, channels, ditches and catch basin used to collect and transport stormwater.

**Story:** That part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of the roof. The under roof area with dormers does not count as a story.

**Street Link:** A section of the street network, or a local street, defined by a node at each end or at one end.

**Street Network:** The street system within the incorporated areas and extra territorial jurisdictions of the town.

**Street Orientation:** The direction of the architectural front facade of a building in relation to the street.

**Street, Private:** An undedicated private right-of-way or easement which affords access to abutting properties.

**Street, Public:** A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public, and eligible for maintenance by either the City of Belmont or the State of North Carolina.

**Street Right-Of-Way:** Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the City of Belmont or Gaston County, if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the City of Belmont; or has otherwise been established as a public street prior to the adoption of this ordinance.

**Street Vista:** A view framed by buildings at the termination of the axis of a thoroughfare.

**Street Yard:** The area of land along the front property line parallel to a R-O-W reserved for tree planting and landscaping.

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

**Subdivider:** Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision:** A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development of any type and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition:

1. The combination or recombination of portions of parcels platted and recorded prior to the effective date of this ordinance, or portions of lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to the standards of this ordinance and the appropriate planning area classification.
2. The division of land into parcels greater than 10 acres where street right-of-way dedication or reservation is not involved.
3. The creation of strips of land for the widening or opening of streets, sidewalks, or greenways, or the location of public utility rights-of-way.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where street right-of-way dedication or reservation is not involved and where the resultant lots are equal to or exceed the standards of the appropriate planning area classification.
5. The division of land into plots or lots for use as a cemetery.
6. The creation of a separate lot or property interest by a less than fee simple instrument, such as a lease, when the property interest created is divided from the original parcel for less than 10 years including option to renew.
7. The division of a tract or parcel into separate tracts or parcels, or the creation of interest in lots or parcels, by means of (a) a deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure) and (b) releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.

8. Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this Ordinance.
9. The division of a tract or parcel of land resulting from condemnation or deed in lieu of condemnation by either a public or private condemnor.

**Suburban Sprawl:** The name given to development designed according to segregated use zoning standards, and auto dependent criteria concerning access and parking. The resultant development provides for a low density landscape of independently designed uses connected by a system of hierarchical streets which do not provide through access. A majority of the land in this model is relegated to street and parking surfaces, and although the building density and population may be low, the amount of usable open space is minimal to none, and traffic congestion is common.

**Substantial Improvement:** Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds 50 percent of the assessed value of a structure as determined either before the expansion or improvement begins or before the damage occurred giving rise to the repair or reconstruction. Substantial improvement shall not include, however any repair or improvement required to bring the structure into compliance with existing state or City health, sanitary, safety, or building code specifications necessary to ensure safe habitation of the structure.

**Sustainable:** Having the ability to accommodate and maintain population growth and economic expansion through intelligent design.

**TTT**

**Temporary Amusements:** Any structure or parcel of land used for the gathering together of persons for such purposes as entertainment or amusement, whether or not an admission fee is charged including, but not limited to a haunted house, trail or castle, a wrestling/boxing exhibition, or any seasonal attraction.

**Temporary Family Health Care Structure:** A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other

than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted. See Section 6.2.25.

**Temporary Structures:** Buildings placed on a lot for a specific purpose which are to be removed within a specified time period. Examples of temporary structures are monitoring stations, mobile classroom or office space, construction trailers and guard houses, manufactured housing placed on a lot for temporary housing while principle home renovations are done, and produce stands. The duration permitted for a temporary structure is established by this ordinance.

**Temporary Use Permit:** A permit issued by the Board of Adjustment allowing a use which is not permitted within a district to continue as long as certain criteria are being met by the applicant.

**Thoroughfare:** Any street on the adopted thoroughfare plan or any street which is an extension of any street on the thoroughfare plan and which extends into the area not covered by the thoroughfare plan.

**Thoroughfare Plan:** The Official Thoroughfare Plan of the City of Belmont or the Official Gaston Cleveland Lincoln Metropolitan Planning Organization Thoroughfare Plan.

**Tinting:** The coloring of a window such that all translucence of that window is more than 50% opaque.

**Top of Bank:** The landward edge of the stream channel during high water, bankfull conditions at the point where water begins to overflow onto the floodplain.

**Toxic Substance:** Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression of reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

**Tract:** All contiguous land and water bodies under single or diverse ownership being developed as a unit consisting of one or more parcels or lots.

**Traditional Neighborhood:** A Traditional Neighborhood incorporates design principles to produce compact, mixed use, pedestrian scaled, sustainable communities. Traditional Neighborhoods pursue certain objectives through their design:

1. By bringing within walking distance most of the activities of daily living, the elderly and the young gain independence of movement.
2. By reducing the number and length of car trips, traffic congestion is minimized and road construction costs are reduced.
3. By organizing appropriate building densities, alternative forms of transportation can be easily provided when appropriate.
4. By providing public open spaces such as parks, squares, and streets, people can come to know each other and to watch over their collective security.
5. By providing a full range of housing types and workplaces, age and economic class are integrated and the bonds of community are strengthened.
6. By providing suitable sites for civic buildings, community awareness and civic responsibility are encouraged.

**Trails, Greenway:** Pedestrian paths for walking or jogging within parkways or greenbelts. Trails are informal in design and run through natural settings. They differ from the formal design of promenades and esplanades in parks and squares.

**Transit Shelter:** A covered structure at a transit stop.

**Transitional Setback or Yard:** That area, if any, along a thoroughfare, which lies between (a) the minimum setback or yard line for the planning area measured from the existing street right-of-way line and (b) the minimum setback or yard line measured from the Proposed Right-of-Way Line. There will be no transitional setback or yard when the existing street right-of-way and the proposed right-of-way line are the same.

**Transitional use:** A permitted use or structure that, by nature, level of activity, or physical scale, acts as a transition or intermediate use between two or more incompatible uses.

**Transit Station:** Any premises for the storage or parking of transit equipment and the loading and unloading of passengers.

**Tree and Root Protection Area:** The tree and root protection zone is that area of a lot which is not needed for building and driveway construction excluding the construction activity area, (an area 20 feet around the building foot print), any street right-of-way, utility easements, drainage ways, and soil absorption waste disposal areas. No construction activity, movement and placement of equipment, or material storage shall be permitted on the tree and root protection area. The root protection area includes an area, generally, 18-24 inches deep and a distance from the trunk of a tree equal to 1/2 its height or its drip line, whichever is greater.

**Tree Survey:** A description of the existing trees, understory vegetation, and topographical features on a site prior to development for the purpose of identification.

**Tree, Canopy:** Any large maturing tree which at maturity provides a crown width sufficient to shade a minimum of 1,200 square feet.

**Tree, Large Maturing:** A tree, usually deciduous, whose height is greater than 40 feet at maturity and meets the specification of "American Standards for Nursery Stock" published by the American Association of Nurserymen, that is planted to provide canopy cover shade. In the case of tree removal permits, the minimum size is 12" in caliper. *See also Canopy Tree.*

**Tree, Medium Maturing:** A tree, usually deciduous, whose height is 20-39 feet at maturity and meets the specification of "American Standards for Nursery Stock" published by the American Association of Nurserymen.

**Tree, Small Maturing:** A small to medium tree, growing 10-19 feet in height at maturity, that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage. In the case of tree removal permits, the minimum size is 8" in caliper.

**Tree, Specimen:** A tree that is unusually large or well shaped or provides a focal point or point of interest.

**Tree, Street:** A tree planted along the street within the right-of-way except along the park side of the parkway, a rural road or alley.

**Tree Topping:** An unacceptable method of pruning which involves the cutting of limbs back to a stub, bud, or a lateral branch not large enough to assume the terminal role and cause decay and spout production from the cut ends, resulting in a potentially hazardous situation.

**Trip Distribution:** The geographic distribution of trip ends attracted to the proposed development, usually expressed as a percentage of the total site trips generated by (and assignable to) streets located on the street network that lie within the impact area. [Reference: R. Keller & J. Mehra, Site Impact Traffic Evaluation Handbook (Federal Highway Administration, 1985)]

**Trip Ends:** The total of all trips entering plus all trips leaving a specific land use within a specific time period. [Reference: R. Keller & J. Mehra, Site Impact Traffic Evaluation Handbook (Federal Highway Administration, 1985)]

## UUU

**Underpinning:** The skirting around the base of a manufactured home or temporary structure which forms a continuous wall around the structure from the foundation or grade level, to the base, or bottom floor level, of the structure. Underpinning material is prescribed by this ordinance.

**Uses Permitted with Conditions:** This Ordinance lists all allowable uses by District. The allowable uses are split into 2 categories; uses permitted by right and uses permitted with conditions. The latter are provided with criteria that must be met in order for the use to be allowed within the district.

## VVV

**Variance:** Permission granted on the basis of proof of physical hardship by the Board of Adjustment following quasi-judicial proceedings to depart from or relax the literal requirements of this Ordinance relating to setbacks, side yards, frontage requirements, and lot size that, if applied to a specific lot, would significantly interfere with the use of the property.

**Vested Right:** The right to undertake and complete a development or use of property under the terms and conditions of an approved Site Specific Plan currently in effect or as otherwise allowed by law.

**Volume (Traffic):** The number of vehicles to pass a predetermined location during a specified period of time.

## WWW

**Warehouse or Distribution:** The operation of a facility for the principal use of storing of goods, materials, trailers, cars not currently for sale, or boats or for the distribution of goods and materials to another location. This shall include structures or buildings associated with the operation of such principal use but does not include manufacturing, or industrial incidental storage of raw materials used by the business on-site or finished product of the business made on-site.

**Wastewater Treatment Facility:** A facility operated by a licensed utility, in compliance with all applicable state, county, and City regulations, and intended or used for the treatment and surface or subsurface disposal of wastewater and which serves more than one use or more than four dwelling units; or a facility intended or used for the treatment and subsurface disposal of wastewater which serves only one use or up to four dwelling units.

**Waterfront Lot:** A lot which is deeded to the water line of a river and which may provide water access with permitted water-related structures. Waterfront lots may extend into the surface waters, but shall have all water rights designated to Duke Energy and/or its assigns.

**Water-Related Structure:** Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, marine railways, piers, floats and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water related structures.

**Wetlands:** Areas defined as wetlands under the jurisdiction of the US Army Corps of Engineers and subject to State and Federal regulation and protection. Wetlands generally include, swamps, marshes, bogs, and similar areas characterized by alluvial soils, plants, or hydrology.

**Wholesale Establishment:** A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise stored on the premises to persons who are intermediaries between the producer and the consumer.

**Wide-body Refractive Globe:** A translucent lamp enclosure used with some outdoor fixtures to provide a decorative look (including but not limited to acorn- and carriage lightstyle fixtures). “Wide-body” refers to a wider than average size globe (greater than 15.75” in diameter). “Refractive” refers to the redirection (bending) of the light as it goes through the lens, rendering the light fixture more effective. Wide-body refractive globes are intended to soften and spread the light being distributed from the light source thereby reducing direct glare.

### YYY

**Yard:** A yard is land area immediately adjacent to a building. Yards are broken into front, rear, and side. Front yards extend from the architectural front of a building to the fronting street or R-0W. Side yards extend from the sides of a building to a street R-O-W or property line. Rear yards extend from the back of a building to a property line or R-O-W. Yard configuration establishes building typologies.

### ZZZ

**Zero lot line:** The location of a building on a lot in such a manner that one of the building's sides rests directly on a lot line; also referred to as a side yard house.

**Zoning Administrator:** The employee(s) designated by the City Manager to oversee the administration and enforcement of these regulations

**Zoning District:** See *District*

**Zoning Permit:** Written permission issued by the City of Belmont Planning Department for the construction, or enlargement of a structure, including signs, or the grading or excavation of a site in preparation of construction or for the installation of underground utilities.

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**3.1 APPLICABILITY**

The following provisions shall apply throughout the jurisdiction of this Ordinance, regardless of the underlying regulating district.

**3.2 LOT STANDARDS**

No building, land or portion thereof shall be erected, used, moved, or altered except in conformity with the regulations specified for the district in which it is located.

- A. No yard or lot existing upon adoption of this Ordinance shall be reduced in size or area below the minimum requirements of the regulating district. Yards or lots created after the effective date of this Ordinance shall meet the minimum requirements established by this Ordinance.
- B. Every building erected, moved, or structurally altered shall be located on a lot conforming to the requirements of the regulating district.
- C. Front yard and side yard setbacks for infill structures shall be equal to the average setbacks for all principal structures within 300 ft or one block length (whichever is greater). For the purpose of saving mature trees, or in the case of steep topography, increased setbacks may be administratively approved by the Planning Director.
- D. Mixed-use or non-residential buildings on corner lots shall be considered to have 2 front yards and shall utilize the minimum front setback for each façade. Residential structures may reduce the required side yard setback for corner lots upon approval of the Planning Director.
- E. Only one principal building and its customary accessory building(s) shall be located on any lot, except in appropriate districts that permit a lot to contain both residential and non-residential uses in one or more principal structures or within the same structure.
- F. Nothing in this Ordinance shall require any change in the plans, construction, or designed use of any building or structure for which a building permit was secured prior to the adoption of this Ordinance, providing the building permit remains valid.
- G. All non-residential structures on a lot shall have access available from a public street for use by service or emergency vehicles.
- H. All lots shall front upon a street built in accordance with Chapter 9. Generally, all buildings shall front directly upon a street in a manner that creates a public space that is conducive to pedestrian use and shall provide adequate facilities for all types of traffic, including motorists, pedestrians, bicyclists, and transit users, and including of all levels of ability, such as those in wheelchairs, the elderly and the young. With the provision of lane or alley access, lots may front upon a close or a square, but shall be of sufficient design to allow for the provision of emergency services.
- I. Up to 4 residential lots platted prior to August 7, 1995 may be accessed from a public street via a privately maintained easement with a minimum width of 35 ft for use by service or emergency vehicles.



***3.3 IRREGULAR LOT SETBACKS***

Front, side and/or rear yards on any irregularly shaped lots shall be determined by the Zoning Administrator with respect to adjacent homes, and the maintenance of street vistas. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.

***3.4 BLOCKS***

The lengths, widths, and shapes of blocks shall be determined with due regard to:

- A. The provision of adequate building sites suitable to the special needs of the type of use contemplated, and adequate public open spaces accessible and visible to residents.
- B. District requirements and design criteria.
- C. Needs of non-vehicular (pedestrians and bicyclists) and vehicular traffic circulation and the control and safety of such traffic.
- D. Opportunities and constraints of topography, with convenient access to important physical and topographical features such as lakes and rivers, significant areas of trees and other natural features, and areas of high ground offering scenic views.

Blocks shall not be less than 200 feet nor more than 660 feet (1/8 mile), unless site and topography or other special circumstances are present as determined by the Planning Board and approved by City Council.

Blocks shall have sufficient width to allow 2 tiers of lots of minimum depth except where single tier lots are required to separate residential development from another type of use, or when abutting a perennial stream or lake.

***SECTION 3.5 TEMPORARY STRUCTURES/USES***

Temporary structures and uses shall be permitted in compliance with the provisions of this Ordinance and all other ordinances of the City of Belmont. The following temporary structures and uses shall be permitted:

The Planning Department may issue a temporary use permit for up to one (1) year only. At the end of one (1) year, the petitioner must file for another extension of up to one (1) year with the Planning Department. At that time, the petitioner must show that construction or plans for construction are proceeding in a diligent manner. The petitioner is allowed a maximum of two (2) extensions.

***3.5.1 CONSTRUCTION TRAILERS AND MOBILE SALES OFFICES***

Construction trailers may be permitted on all non-residential construction developments and residential developments with ten (10) or more dwelling units. Construction trailers and mobile residential neighborhood sales offices shall adhere to all district setbacks and shall not be permitted on the lot more than thirty (30)

days after the completion of the development or upon issuance of the final Certificate of Occupancy.

### ***3.5.2 TEMPORARY MANUFACTURED HOME USE***

Manufactured homes may be allowed as a temporary use in a zoning district in which such use is not permitted if a disaster occurs which results in the destruction or damage of an occupied single-family dwelling unit greater than sixty (60) percent of its current tax value. In this instance, a manufactured home may be placed on the lot containing the dwelling unit that was destroyed or damaged to give the occupants a place to live while a new dwelling unit is being constructed or damage to the original dwelling unit is being repaired. Such use is subject to the following conditions:

- A. The manufactured home shall not be placed in the front yard and shall be located no closer than fifteen (15) feet to another principal residential structure on another lot and no closer than ten (10) feet to any lot line.
- B. The Planning Department shall have the authority to issue a zoning permit for such temporary use on a one-time basis only for a period of nine (9) months. Such permit may be renewed on a one-time only basis [for a period not to exceed nine (9) months] by the Planning Board if it is determined upon information submitted by the applicant that:
  1. Construction of a new dwelling unit is proceeding with diligence; and,
  2. The granting of this permit will not materially endanger the public, health, welfare or safety; and,
  3. The location of the manufactured home on the site does not have a significant negative or adverse impact on the value of adjacent properties.

### ***3.5.3 TEMPORARY CLASSROOMS AND OFFICES***

Temporary structures may be used for temporary classroom space as a temporary use granted by the Planning Department. All such temporary structures shall be provided with underpinning, from the bottom of the walls to the ground, made of vinyl, pre-painted aluminum material, or other similar solid materials.

### ***3.5.4 TEMPORARY YARD AND GARAGE SALES***

Yard, garage, tag, patio and apartment sales are permitted without a permit, as an accessory use on any residential or institutional property in any district. Such sales on the same lot shall be limited to no more than two (2) days per calendar month. Additional regulations can be found in *Chapter 10 Signs*.

### ***3.5.5 SALES OF CHRISTMAS TREES AND OTHER AGRICULTURAL PRODUCTS***

These shall be allowed in all zoning districts. However, in a lot that contains a principal residential use, all such agricultural products sold shall be limited to those which are grown on premises.

### ***3.6 USES NOT EXPRESSLY PERMITTED OR CONDITIONAL***

Uses designated as "permitted uses" and "uses permitted with conditions" are allowed in a district as a matter of right. Uses classified as "conditional uses" are permitted upon approval of a development plan approved by the City Council.

Unless a use is allowed as a "permitted use", "use permitted with conditions", "conditional use", "nonconforming use", or "temporary use", then such use is prohibited.

### ***3.7 PARKING OF BOATS, COMMERCIAL AND RECREATIONAL VEHICLES***

#### ***3.7.1 PARKING AREA RESTRICTED***

No boats, recreational vehicles, non-operational trucks or automobiles, or covered trucks or automobiles (whether operational or not) may be stored in any front yard, including a driveway. All such storage shall be in the side or rear yards only.

#### ***3.7.2 RECREATIONAL VEHICLES***

A recreational vehicle shall not be considered a dwelling unit. The use of a recreation vehicle for living, sleeping or housekeeping and its connection to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a camping and recreational vehicle park designed to accommodate recreation vehicles.

#### ***3.7.3 COMMERCIAL VEHICLES***

Commercial vehicles limited to vans and trucks having a gross vehicle weight rating (GVWR) of up 18,000 pounds may be parked on an overnight basis on any lot of less than one (1) acre. This requirement does not prohibit vehicles from loading and unloading household goods in any Residential area for a period of up to twenty-four (24) hours.

No residentially developed lot may be used as the base of operation for any freight hauling truck.

### ***3.8 CONTAINMENT AREAS FOR TRASH AND RECYCLABLES***

All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be located and designed so as not to be visible from the view of adjacent streets and properties and shall be placed in the side or rear yards only. All containment areas shall meet the following standards:

- A. All containment areas shall be enclosed to contain windblown litter.
- B. The enclosure shall be at least as high as the highest point of the compactor or dumpster.
- C. The enclosure shall be made of a material that is opaque at the time of installation and compatible with and/or similar to the design and materials of the principal building.
- D. All compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support, allows for positive drainage, and conforms to the Gaston County Health Department regulations governing compactor pads.
- E. The enclosure shall contain gates to allow for access and security.
- F. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.

**3.9 ACCESSORY STRUCTURES**

**3.9.1 PERMITTED USES:**

The following uses are permitted within outbuildings:

Parking	Sauna
Gazebo	Workshop
Poolhouse	Conservatory
Equipment Enclosure	Rental Cottage (see 6.2.21)
Customary Home Occupation	Pet Shelter/Enclosure
Artist Studio Space	
Temporary Family Health Care Structure (see 6.2.25)	

For all residential lots, mechanical equipment (other than HVAC units), outdoor storage, carports/garages, pet shelters, and similar accessory structures, shall be located only within the rear yard.

Mailboxes, newspaper boxes, walls, fences, birdhouses, flagpoles, and pump covers may be placed in any front, side or rear yard.

Floor space in each permitted and non-permitted accessory structure shall be combined to tabulate the maximum allowed total floor area of all accessory structures, as stated in 3.9.2 (D).

**3.9.2 GENERAL REQUIREMENTS:**

- A. Accessory structures shall require the issuance of a zoning permit if the structure has one or more sides that are greater than twelve (12) linear feet in length.
- B. No accessory structure shall be located over water/sewer lines, storm drains, or other public health/safety facilities, easements or prescriptive easements; no shall they obstruct those facilities or city meters. Accessory structures which are in violation will be moved/destroyed at owner's expense.
- C. For lots less than or equal to 7,000 ft<sup>2</sup> in area, there shall be a minimum three (3) foot setback on rear lot lines.
- D. For lots less than one (1) acre, the total footprint area of all accessory structures (up to 2 permitted) shall not exceed 40% of the floor area of the principal structure, or 600 ft<sup>2</sup>, whichever is greater, and shall never exceed 25% of a rear yard. For pools, refer to Section 3.10.1.
- E. Maximum height: 26 feet.
- F. Accessory structures with a floor area of 200 ft<sup>2</sup> or greater shall be built on a permanent foundation and clad in brick, stone, stucco vinyl siding, wood siding (horizontal), wood clapboard, or a combination thereof. All accessory structures clad in a material other than brick and stone shall be painted (and primed) or clad in materials of a similar color to that of the principal structure and/or its trim.
- G. Accessory structures including detached garages and carports shall only be permitted in the rear yard.
- For lots one (1) acre in area or larger, 1 additional accessory structure not greater than six-hundred (600) square feet in area is permitted for each additional ½ acre.

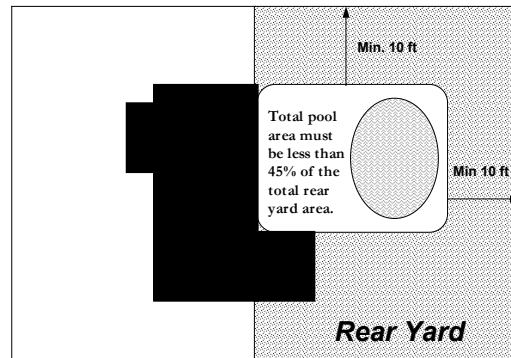
**3.10 ACCESSORY USES****1. POOLS (for Single Family Homes)**

All pools for single family homes, whether above-ground or in-ground, shall be built only in rear yards. The definition of a pool shall include all structures, and walks or patio areas of cement, stone, or wood, at or above grade, built for, and used in conjunction with the pool.

A pool as defined above shall not exceed 45% of a required rear yard.

Pools, as defined above, shall be setback a minimum of 10 ft from all side and rear property lines. Patio areas at grade have no setback requirements from rear and side lot lines

Pools shall have the pool area, including any pool-related structure(s) and areas as defined above, enclosed by a fence with a minimum height of four (4) feet and a maximum height of eight (8) feet.



**2. SATELLITE DISHES**

Satellite dishes less than 12 inches in diameter may be located anywhere on a lot. All other satellite dishes shall adhere to the following standards:

- A. Satellite dishes shall be no larger than four (4) feet in diameter
- B. The maximum height shall be fifteen (15) feet unless the applicant can prove:
  - 1. a less intrusive location is not possible and,
  - 2. a higher location will improve reception
- C. The dish must be installed and grounded properly.
- D. Satellite dishes may not be located in front or side yards, unless otherwise dictated by the existing natural or built environment, or mounted on any front façade of a principal structure and shall meet all setbacks applicable to accessory structures.
- E. Satellite dishes shall not be located on a roof.

**3.11 SEDIMENTATION AND EROSION CONTROL**

In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, or other drainage networks, the developer shall comply with all requirements of the North Carolina Sedimentation Pollution Control Act of 1973, as amended, and any other federal or state law or locally adopted ordinance.

The developer shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded, or otherwise protected. Temporary erosion and sedimentation control measures shall be placed in accordance with the approved Erosion Control Plan prior to any construction.

Erosion and sedimentation from land disturbance activities shall be controlled with silt fencing or any other method approved by the Code Enforcement Officer and the City Engineer to prevent siltation of adjoining parcels, lots, and streets.

**3.13 WATER AND SEWER PROVISIONS**

- A. Municipal water and sewer service is required for all new development in all districts except Rural Residential (R-R).

***SECTION 4.1 BUILDING TYPES ESTABLISHED***

Because of the established architectural vernacular of the City of Belmont in a wide-variety of common building types, this Code has established regulations specific to these typologies. These building types do not favor one specific architectural style over another, though certain styles are not appropriate for the types presented in this Code. Design regulations are not intended to promote the replication of the existing built form of Belmont, but to allow imaginative design that is respectful of its neighborhood.

The rich, architectural vocabulary of the City presents a wide variety of development opportunities using traditional forms while avoiding any perception of monotony. Buildings that are stylized in an attempt to use the building itself as advertising shall be discouraged, particularly where the proposed architecture is the result of a “corporate” or franchise style. The guidelines in this Chapter are intended to attach the same or greater level of importance to the overall building design as is placed on the use contained within. Buildings are expected to be added to the City of Belmont as long-term additions to the architectural vibrancy of the community. Unless otherwise noted, all buildings shall meet the following:

1. All buildings shall share a frontage line with a street or civic open space (Exception: Buildings in the H-C, BC-D, and IC-D districts that are interior to a site which have buildings that otherwise meet the frontage requirements such as significant outparcel buildings are not subject to this requirement).
2. Principal building entrances shall be from the fronting street.
3. All buildings, except accessory structures, shall have a main, useable entrance opening onto a street or square from the front facade. On a corner lot, the principal entrance in both design and function should be from the primary pedestrian street. Pedestrian connections from the principal entrance of the building to sidewalks on adjoining streets and parking lots shall be built. (Exception: Flex Commercial buildings may be accessed from entries located in the front half of the building)
4. Important street vistas (such as along City gateways and primary pedestrian streets) should terminate in a focal point, such as a building or other architectural or natural feature.
5. Adjacent buildings housing similar type uses that are located within the same or similar zoning districts should relate in similarity of scale, height, architectural style, and configuration.
6. Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically proportioned wherever possible.
7. All visibly exposed facades (exception: Single Family Homes and Duplexes) should have:
  - a) a recognizable base course consisting of, but not limited to thicker walls, ledges or sills; integrally textured materials such as stone or other masonry; integrally colored and patterned materials such as smooth finished stone or tile; lighter or darker colored materials, mullions, or panels; and/or planters; and
  - b) a recognizable top consisting of, but not limited to cornice treatments, other than just colored stripes or bands, with integrally textured materials such as stone or other masonry or differently colored materials; sloping roof with overhangs and brackets; stepped parapets; and/or a cornice capping the top of a building wall.

In accordance with Section 20.3.2, innovative planning or design ideas for development in any district where the proposed building types are different than those allowed by the base district requirements may be reviewed as a Conditional Use District.



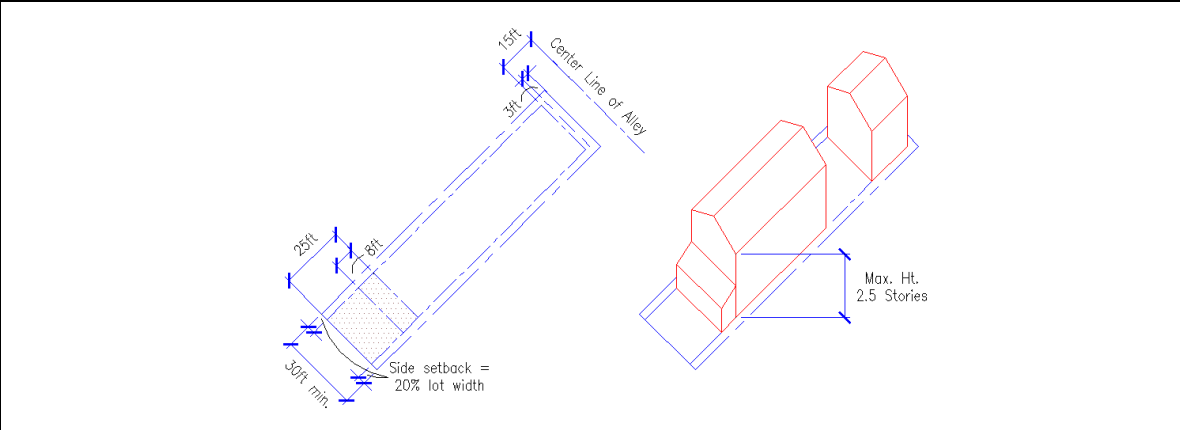
Required building materials may be substituted with materials that are similar in appearance and durability. Effective December 3, 2007, the requirements of this chapter shall apply to any new zoning permit application unless building elevations were approved as part of a conditional district rezoning.

**4.2 DETACHED HOUSE**

*Description: The detached house is the predominant building type in the City of Belmont. It is flexible in use (where permitted), accommodating single family uses, multi-family uses up to four units, home occupations, professional offices, and limited retail uses. When other building types are integrated with Detached Houses, the scale of the Detached House shall control (exception: Civic Buildings). The use permitted within the building is determined by the District in which it is located.*

**1. LOT REQUIREMENTS**

**Type A: Alley Lot** The alley lot is a lot with primary vehicular access is provided using a rear lane or alley only. This condition is required for lots less than 55 feet wide and permitted for all others. No curb cuts or driveways are permitted along the frontage except on previously platted lots.



**Setbacks:** Front yard and side yard setbacks for structures on infill lots shall generally be equal to the average setbacks for all principal structures within 300 ft or one block length (whichever is greater). Where no frontage condition currently exists, the minimum setbacks shall be as follows:

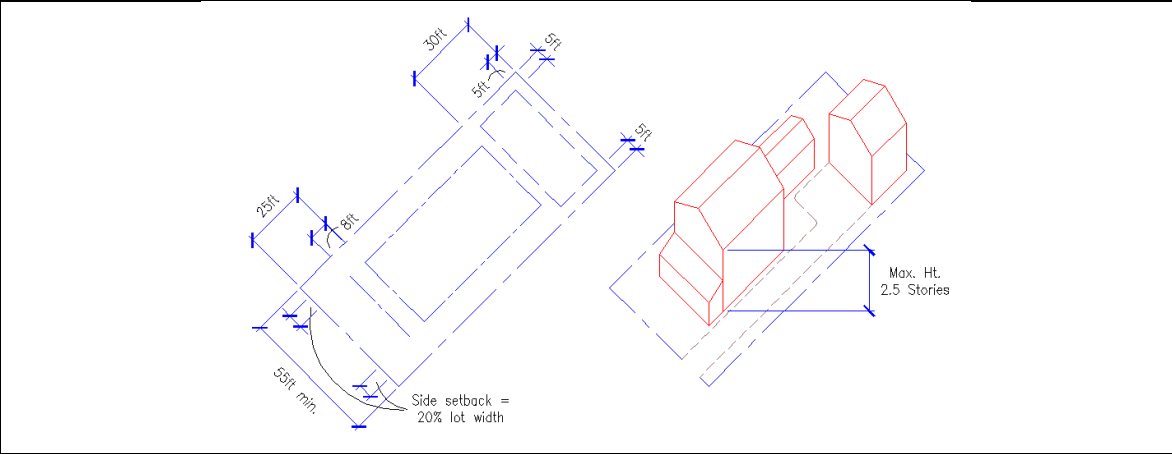
- Front:** 0-25 ft
- Side:** 20% of the lot width (In new developments, the entire setback may be allocated to one side with a minimum of 6 feet of total building separation)
- Rear:** Three (3) ft on lots with an area of less than or equal to 7,000 square feet; otherwise, 15 ft from centerline of alley or lane
- Accessory Structure Setback:** 3 ft \*

- Minimum Lot Width:** 30 Ft
- Maximum Height:** 2 ½ Stories
- Encroachments:** Balconies, stoops, stairs, chimneys, open porches, bay windows, and raised doorways are permitted to encroach into the required front or rear setback a maximum of 8 ft.
- Lot Coverage (Maximum Impervious):** 75%
- Vehicular Access to Lot:** For lots less than 55 feet wide, alley access is required. For all others the use of an alley is permitted.  
\*Excludes Temporary Family Health Care Structures
- Performance Standards may vary based on zoning classification. See zoning district classification in Chapter 5.**



**4.2 DETACHED HOUSE**

**Type B: Street Lot** The street lot is a medium or large sized lot (55 feet or greater in width) that provides primary vehicular access from the street.



**Setbacks:** Front yard and side yard setbacks for structures on infill lots shall generally be equal to the average setbacks for all principal structures within 300 ft or one block length (whichever is less). Where no frontage condition currently exists, the minimum setbacks shall be as follows:

**Front:** 20 ft (Exception R-R – 40 ft) If a house has a front-loaded (street-facing) garage, a minimum 30-foot parking pad in front of garage shall be required, and shall be measured from the property line/right-of-way to the garage door. This requirement shall apply to any new development which has not received schematic approval by the City of Belmont as of the adoption date of this amendment (June 4, 2012).

**Sides:** 20% of the lot width (The entire setback may be allocated to one side, unless prohibited by building code requirements).

**Sides (Infill Lots):** Lots  $\geq 10,000 \text{ ft}^2 = 12 \text{ ft}$   
 Lots  $< 10,000 \text{ ft}^2 = 8 \text{ ft}$

**Rear:** 30 ft

**Accessory Structure Side/Rear Setback:** For lots less than or equal to 7,000 square feet in area there shall be a minimum three (3) ft setback on rear lot lines; otherwise there shall be a minimum side or rear yard setback of five (5) ft. Accessory structure(s) must be located at least 10 ft from principal structure. Excludes Temporary Family Health Care Structures

**Minimum Lot Width:** 55 ft.

**Maximum Height:** 2 ½ Stories

**Encroachments:** Balconies, stoops, stairs, chimneys, open porches, bay windows, and raised doorways are permitted to encroach into any required front or rear setback a maximum of 8 ft.

**Lot Coverage (Maximum Impervious):** 50%

**Minimum Lot Size (Duplex Only):** 10,000 ft<sup>2</sup>

**Performance Standards may vary based on zoning classification. See zoning district classification in Chapter 5.**



**4.2 DETACHED HOUSE**

**2. ARCHITECTURAL REQUIREMENTS**

**A. General Requirements**

1. Useable porches and stoops should form a predominate motif of the building design and be located on the front and/or side of the home. Useable front porches are at least 6 feet deep and extend more than 50% of the facade.
2. Garages with front loading bays (if permitted) shall be recessed a minimum of one (1) foot from the front facade of the house and visually designed to form a secondary building volume. All garages with more than two bays shall be turned such that the bays are not visible from the street. At no time shall the width of an attached garage door exceed 45% of the total building facade.
3. Fences or walls shall be no greater than 8 feet in height behind the front building line. Fences shall be no greater than 4 feet in height and walls no greater than 3 feet in height in the front yard setback.
4. Garage doors are not permitted on the front elevation of any detached on a lot less than 55 feet wide.
5. Except for Single Family Homes on Type B-Street Lots and Single Family Homes located in neighborhoods developed specifically for seniors, to provide privacy, all front entrances shall be raised from the finished grade (at the frontage line) a minimum of 1½ feet.

**B. Materials**

1. Residential building walls shall be wood clapboard, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, stucco, approved vinyl, or similar material.

2. Garden walls may be of brick, stone or stucco matching the principal building. Front yard fences shall be wood picket, wrought iron or materials similar in appearance and durability. Side and rear yard fences may be chain link, wood, wrought iron, or similar material. All side and rear yard fences over 4 ft in height shall be wood or similar material.
3. Residential roofs shall be clad in wood shingles, standing seam metal, terne, slate, asphalt shingles or similar material.

**C. Configurations**

1. Main roofs on residential buildings shall be symmetrical gables or hips with a pitch between 4:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch roof shall be less than 4:12.
2. Two wall materials may be combined on one façade with the material that is more substantial in appearance (e.g., brick, stone or faux stone are deemed more substantial in appearance than materials such as vinyl, stucco or cementitious fiber siding) being below.
3. The undercroft of buildings shall be enclosed.

**D. Techniques**

1. Overhanging eaves may expose rafters.
2. Flush eaves shall be finished by profiled molding or gutters.



*Duplex*



*Professional Offices*

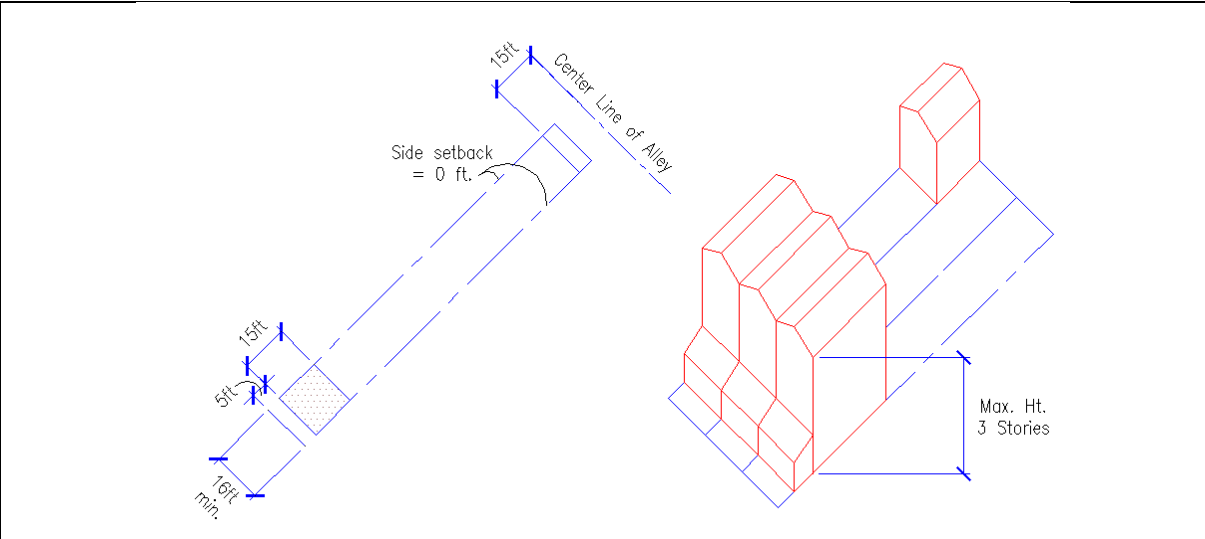


*Quadruplex*

**4.3 TOWNHOUSE**

*Description: The townhouse is a building with two or more residential units that are located side-by-side. When an entrance is provided at-grade, the townhouse may be used as a live-work unit. The use permitted within the building is determined by the District in which it is located.*

**1. LOT REQUIREMENTS**



**Setbacks:**  
**Front (Maximum):** 0-25 ft  
**Sides:** 0 ft (Corner-6 ft)  
**Rear:** 15 ft from centerline of alley or lane

**Parking and Vehicular Access:** Primary vehicular access is provided using a rear lane or alley only. Off-street parking shall be located in the rear yard only. No curb cuts or driveways are permitted along the frontage.

**Performance Standards** may vary based on zoning classification. See zoning district classification in Chapter 5.

**Minimum Lot Width:** 16 Ft  
**Maximum Height:** 3 Stories

**Encroachments:** Balconies, stoops, stairs, chimneys, open porches, bay windows, and raised doorways are permitted to encroach within the front yard. Upper story balconies may encroach into the right-of-way up to 5 feet with permission from the City.

**Accessory Structures:**  
**Side/Rear Setback:** 0 ft  
**Maximum Footprint:** 650 sq ft  
**Maximum Number of Structures:** 1



## 4.3 TOWNHOUSE

### 2. ARCHITECTURAL REQUIREMENTS

#### A. General Requirements

1. Useable porches and stoops should form a predominate motif of the building design and be located on the front and/or side of the building. Useable front porches are at least 6 feet deep and extend more than 50% of the facade.
2. Garage doors are not permitted on the front elevation of any townhouse building.
3. Fences or walls shall be no greater than 8 feet in height behind the front building line. Fences shall be no greater than 4 feet in height and walls no greater than 3 feet in height in the front yard setback.
4. All building elevations visible from the street shall provide doors, porches, balconies, and/or windows. A minimum of 60% of front elevations, and a minimum of 30% of side and rear building elevations, as applicable, shall meet this standard. "Percent of elevation" is measured as the horizontal plane (lineal feet) containing doors, porches, balconies, terraces and/or windows. This standard applies to each full and partial building story.
5. To provide privacy, all front entrances shall be raised from the finished grade (at the building line) a minimum of 1½ feet.
6. All multi-family and infill buildings shall provide detailed design along all elevations. Detailed design shall be provided by using at least three (3) of the following architectural features on all elevations as appropriate for the proposed building type and style (may vary features on rear/side/front elevations):
  - a. Dormers
  - b. Gables
  - c. Recessed entries
  - d. Covered porch entries
  - e. Cupolas or towers
  - f. Pillars or posts
  - g. Eaves (minimum 6 inch projection)
  - h. Off-sets in building face or roof (minimum 16 inches) Window trim (minimum 4 inches wide)
  - i. Bay windows
  - j. Balconies
  - k. Decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, ornamentation, and similar features)
  - l. Decorative cornices and roof lines (for flat roofs)

#### B. Materials

1. Residential building walls shall be wood clapboard, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, stucco, approved vinyl, or similar material.
2. Garden walls may be of brick, stone or stucco matching the principal building. Front yard fences shall be wood picket, wrought iron or materials similar in appearance and durability. Side and rear yard fences may be chain link, wood, wrought iron, or similar material. All side and rear yard fences over 4 ft in height shall be wood or similar material.
3. Residential roofs shall be clad in wood shingles, standing seam metal, terne, slate, asphalt shingles or similar material.

#### C. Configurations

1. Main roofs on residential buildings shall be symmetrical gables or hips with a pitch between 4:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch roof shall be less than 4:12.
2. Two wall materials may be combined horizontally on one facade. The heavier material should be below.
3. The undercroft of buildings shall be enclosed.

#### D. Techniques

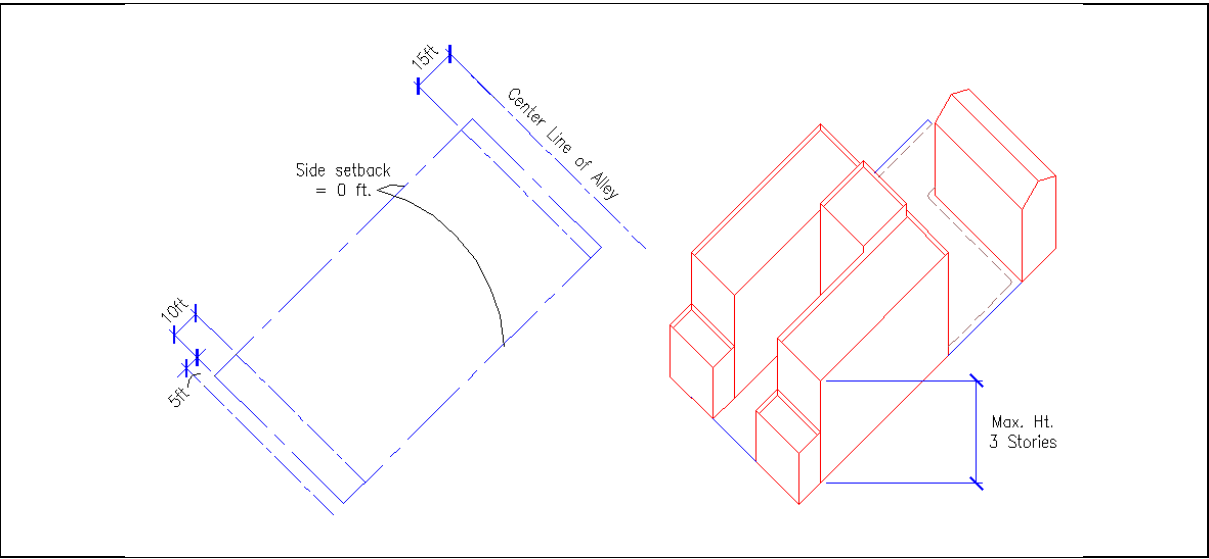
1. All buildings should be designed to adhere to the existing architectural pattern of the surrounding neighborhood.
2. Overhanging eaves may expose rafters.
3. Flush eaves shall be finished by profiled molding or gutters.
4. All rooftop equipment shall be screened from view.



**4.4 APARTMENT BUILDING**

*Description: A multiple-unit building with apartments vertically arranged and with parking located below or behind the building. Units may be for rental or for sale in condominium ownership or may be designed as continuing care facilities. The ground floor may be available for commercial uses. The use permitted within the building is determined by the District in which it is located.*

**1. LOT REQUIREMENTS**



**Setbacks:**  
**Front (Maximum):** 0-25 ft  
**Sides:** 0 ft (Corner-4 ft)  
**Rear:** 15 ft from centerline of alley or lane

**Parking and Vehicular Access:** Primary vehicular access is provided using a rear lane or alley only. Off-street parking shall be located in the rear yard only; except on corner lots where parking areas and structures may be allowed in the side yard subject to the issuance of a conditional use permit. No curb cuts or driveways are permitted along the frontage except for vehicular access to rear parking.

**Performance Standards may vary based on zoning classification. See zoning district classification in Chapter 5.**

**Maximum Height:** 3 Stories

**Accessory Structures:**  
**Side/Rear Setback:** 0 ft  
**Maximum Footprint:** 1,300 sq ft

Accessory structures over 1,300 sq ft are subject to the issuance of a conditional use permit.

**Encroachments:** Balconies, stoops, stairs, chimneys, open porches, bay windows, and raised doorways are permitted to encroach into the front setback. Upper story balconies may encroach into the right-of-way up to 5 feet with permission from the City.



## 4.4 APARTMENT BUILDING

### 2. ARCHITECTURAL REQUIREMENTS

#### A. General Requirements

1. Useable porches and stoops should form a predominate motif of the building design and be located on the front and/or side of the building. Useable front porches are at least 6 feet deep and extend more than 50% of the facade.
2. Garage doors are not permitted on the front elevation of any apartment building.
3. Fences or walls shall be no greater than 8 feet in height behind the front building line. Fences shall be no greater than 4 feet in height and walls no greater than 3 feet in height in the front yard setback.
4. All building elevations visible from the street shall provide doors, porches, balconies, and/or windows. A minimum of 60% of front elevations, and a minimum of 30% of side and rear building elevations, as applicable, shall meet this standard. "Percent of elevation" is measured as the horizontal plane (lineal feet) containing doors, porches, balconies, terraces and/or windows. This standard applies to each full and partial building story.
5. To provide privacy, all front entrances shall be raised from the finished grade (at the building line) a minimum of 1½ feet.
6. All multi-family and infill buildings shall provide detailed design along all elevations. Detailed design shall be provided by using at least three (3) of the following architectural features on all elevations as appropriate for the proposed building type and style (may vary features on rear/side/front elevations):
  - a. Dormers
  - b. Gables
  - c. Recessed entries
  - d. Covered porch entries
  - e. Cupolas or towers
  - f. Pillars or posts
  - g. Eaves (minimum 6 inch projection)
  - h. Off-sets in building face or roof (minimum 16 inches) Window trim (minimum 4 inches wide)
  - i. Bay windows
  - j. Balconies
  - k. Decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, ornamentation, and similar features)
  - l. Decorative cornices and roof lines (for flat roofs)

#### B. Materials

1. Residential building walls shall be wood clapboard, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, stucco, approved vinyl, or similar material.
2. Garden walls may be of brick, stone or stucco matching the principal building. Front yard fences shall be wood picket, wrought iron or materials similar in appearance and durability. Side and rear yard fences may be chain link, wood, wrought iron, or similar material. All side and rear yard fences over 4 ft in height shall be wood or similar material.
3. Residential roofs shall be clad in wood shingles, standing seam metal, terne, slate, asphalt shingles or similar material.

#### C. Configurations

1. Main roofs on residential buildings shall be symmetrical gables or hips with a pitch between 4:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch roof shall be less than 4:12.
2. Two wall materials may be combined horizontally on one facade. The heavier material should be below.
3. Exterior chimneys shall be finished in brick, siding, or other similar material.
4. The undercroft of buildings shall be enclosed.

#### D. Techniques

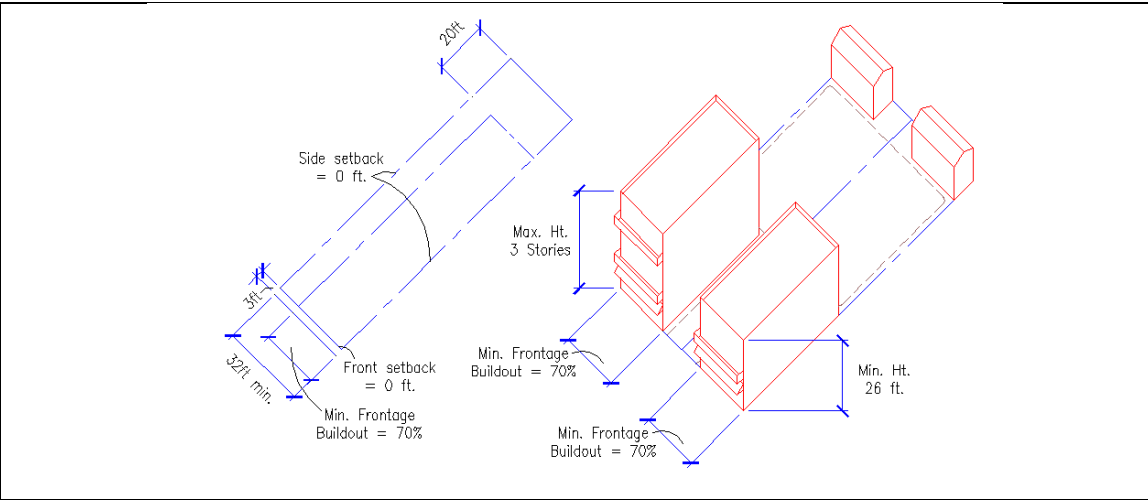
1. All buildings should be designed to adhere to the existing architectural pattern of the surrounding neighborhood.
2. Overhanging eaves may expose rafters.
3. Flush eaves shall be finished by profiled molding or gutters.
4. All rooftop equipment shall be screened from view.



**4.5 SHOPFRONT BUILDING**

*Description : A small scale structure which can accommodate a variety of uses. A group of shopfront buildings can be combined to form a mixed-use neighborhood center. Individual shopfront buildings can be used to provide some commercial service, such as a neighborhood store, in close proximity to homes. Office buildings, hotels and inns can be placed in shopfront buildings. The use permitted within the building is determined by the District in which it is located.*

**1. LOT REQUIREMENTS**



**Minimum Height:** 26 ft  
**Maximum Height:** 3 Stories (42 feet)

**Setbacks:**  
**Front (Maximum):** 0 ft  
**Sides:** 0 ft  
**Rear:** 20 ft

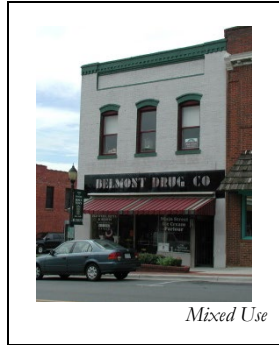
**Frontage Buildout (Min.):** 70%

**Parking and Vehicular Access:** Primary vehicular access is provided using a rear lane or alley only. Off-street parking shall be located in the rear yard only. No curb cuts or driveways are permitted along the frontage.

**Minimum Lot Width:** 32 ft (Lots platted prior to 1995 – 16 ft)

**Encroachments:** Upper story balconies may encroach into the right-of-way up to 3 feet with permission from the City.

**Accessory Structures:**  
**Side/Rear Setback:** 0 ft



## 4.5 SHOPFRONT BUILDING

### 2. ARCHITECTURAL REQUIREMENTS

#### A. General Requirements

1. At least 70% of the width of street level frontages shall be in windows or doorways. Street level windows shall be visually permeable. Mirrorized glass is not permitted in any location. Faux or display casements are not permitted in lieu of exterior window treatments for the frontage elevation.
2. No frontage wall shall remain unpierced by a window or functional general access doorway for more than 16 feet.
3. The principal, functional doorway for public or direct-entry access into a building shall be from the fronting street. Corner entrances may be provided on corner lot buildings.
4. Decorative cornices shall be provided for buildings with a flat roof. Alternatively, eaves shall be provided with a pitched roof.
5. A building canopy, awning, or similar weather protection may be provided and should project 3-5 feet from the façade.

#### B. Materials

1. Commercial building walls shall be brick, cast concrete, stone, marble, or other materials similar in appearance and durability. Regular or decorative concrete block and EIFS-type stucco may be used on building walls not visible from a public street or as an accent material only. All accessory buildings shall be clad in materials similar in appearance to the principal structure.
2. Pitched roofs shall be clad in wood shingles, standing seam metal, corrugated metal, slate, asphalt shingles or similar material.
3. Signs on the inside of glazed openings may be neon.

4. Rear and side yard fences and walls shall be brick, stucco, wrought iron, stone, or materials similar in appearance and durability. Maximum fence and wall height shall be 8 feet.

#### C. Configurations

1. All visibly exposed facades shall have a recognizable base course, which shall align with the sill level of the first story consisting of, but not limited to: thicker walls, ledges or sills; integrally textured materials such as stone or other masonry; integrally colored and patterned materials such as smooth finished stone or tile; lighter or darker colored materials, mullions, or panels; and/or planters.
2. All visibly exposed facades shall have a recognizable top consisting of, but not limited to: cornice treatments, other than just colored stripes or bands, with integrally textured materials such as stone or other masonry or differently colored materials; sloping roof with overhangs and brackets; stepped parapets; and/or a cornice which shall terminate or cap the top of a building wall.
3. Two wall materials may be combined horizontally on one facade. The heavier material should be below.
4. Sky-lights shall be flat (non-bubble).

#### D. Techniques

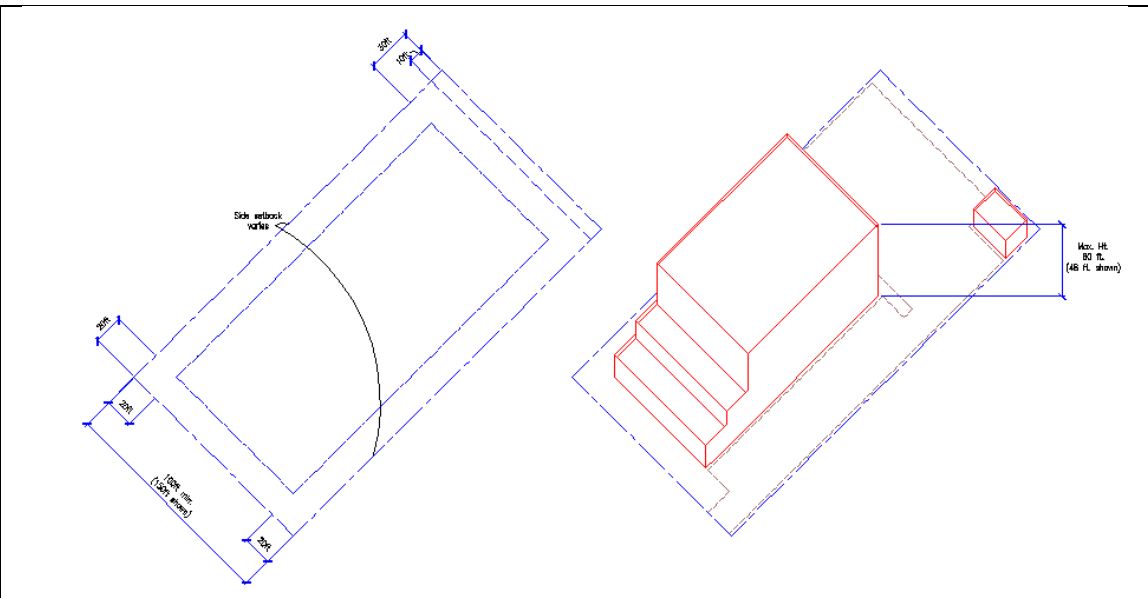
1. Stucco shall be float finish.
2. Windows shall be set to the inside of the building face wall.
3. All rooftop equipment shall be screened from view.



**4.6 WORKPLACE BUILDING**

**Description:** A building available for manufacturing and its related functions. Offices within the building should enfront the street. Loading is accommodated to the rear. Existing industrial buildings may be converted to loft buildings which are defined as multiple-unit buildings with units available for either residential or commercial use. The ceilings must be high to permit a greater distance from windows required in commercial units. Units may be for rental or for sale in condominium ownership. The use permitted within the building is determined by the District in which it is located.

**1. LOT REQUIREMENTS**



**Setbacks:** Front yard and side yard setbacks for structures on infill lots shall generally be equal to the average setbacks for all principal structures within 300 ft or one block length (whichever is greater). Where no frontage condition currently exists, the minimum setbacks shall be as follows:

**Front:** 10 - 20 ft  
**Side:** varies  
**Rear:** 30  
**Accessory Structure Setback:** 10 ft  
**Rear/Side Parking Setback:** 10 ft

**Minimum Lot Width:** 100 Ft  
**Minimum Lot Size:** 1 acre

**Maximum Height:** 60 ft in BC-D/IC-D otherwise three stories

**Parking and Vehicular Access:** Off-street parking shall be located in the side or rear yard only except as permitted in the underlying district. A circulation driveway is permitted in the front yard.



**4.6 WORKPLACE BUILDING**

**2. ARCHITECTURAL REQUIREMENTS**

**A. Materials**

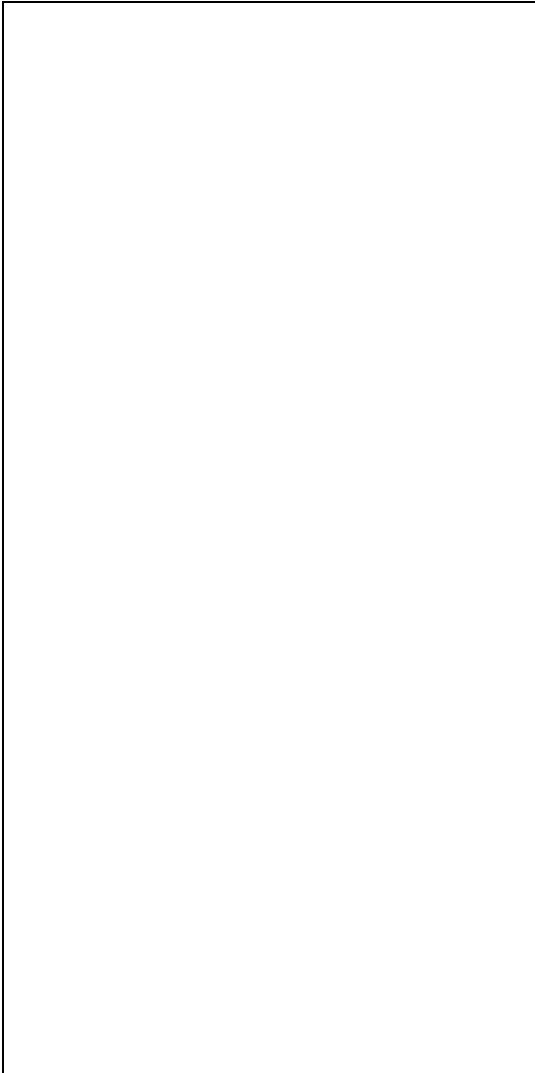
1. All building walls visible from a public street shall be brick, cast concrete, stucco, stone, marble, decorative concrete masonry unit or other materials similar in appearance and durability.
2. Pitched roofs shall be clad in wood shingles, standing seam metal, corrugated metal, slate, diamond tab asphalt shingles or similar material.
3. Front and side yard fences and walls shall be brick, stucco, wrought iron, stone, or materials similar in appearance and durability. Maximum fence height shall be 5 feet. Rear yard fences and walls shall be made of brick, stucco, wrought iron, stone, wood, chain linked, or similar material. (barbed wire fences are only permitted in rear yards not visible from a street). Maximum fence height shall be 8 feet.

**B. Configurations**

1. Two wall materials may be combined horizontally on one facade. The heavier material should be below.
2. Skylights shall be flat (non-bubble).

**C. Techniques**

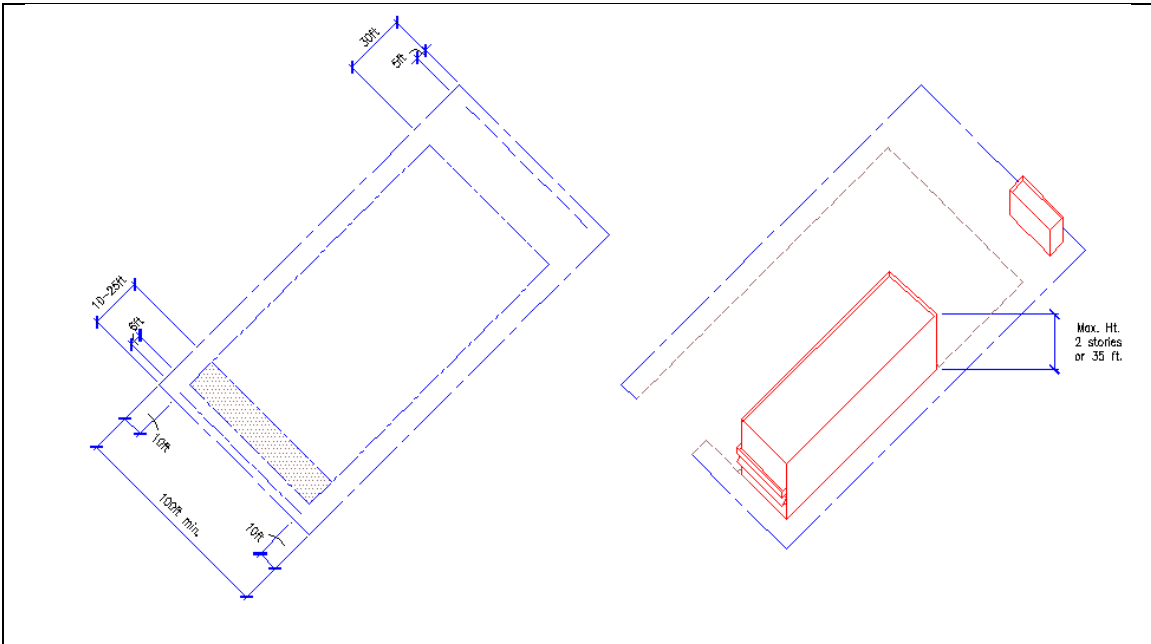
1. Stucco shall be float finish.
2. Windows shall be set to the inside of the building face wall.
3. All rooftop equipment shall be screened from view.



**4.7 FLEX COMMERCIAL BUILDING**

***Description:** Similar to a shopfront in use, the highway commercial building is specifically coded for automobile-oriented uses that are found along Wilkinson Boulevard and in circumstances allowed under the NC-C zoning district provisions found in chapter 5.6. This building type provides convenient automobile access from the fronting thoroughfare, while minimizing the negative impacts of parking lots on an active pedestrian realm. The use permitted within the building is determined by the District in which it is located.*

**1. LOT REQUIREMENTS**



**Setbacks:** Front yard and side yard setbacks for structures on infill lots should generally be equal to the average setbacks for all principal structures within 300 ft or one block length (whichever is greater). Where no frontage condition currently exists, the minimum setbacks shall be as follows:

- Front:** 10ft
- Side:** 4 (8 ft for corner lot)
- Rear:** 30 ft
- Accessory Structure Setback:** 5 ft

**Minimum Lot Width:** 100 Ft  
**Maximum Height:** 2 stories or 35 feet, whichever is less

**Encroachments:** Balconies, stoops, stairs, open porches, and raised doorways are permitted to encroach into the front setback a maximum of 6 ft.

**Parking and Vehicular Access:** Off-street parking shall be located in the side or rear yard only except as permitted in the underlying district. A circulation driveway is permitted in the front yard.





**4.7 FLEX COMMERCIAL BUILDING**

**2. ARCHITECTURAL REQUIREMENTS**

**A. General Requirements**

1. Street level windows shall be visually permeable. Mirrorized glass is not permitted in any location. Faux or display casements are not permitted in lieu of exterior window treatments for the frontage elevation.
2. No frontage wall shall remain unpierced by a window or functional general access doorway for more than 32 feet.
3. The principal, functional doorway for public or direct-entry access into a building shall be from the fronting street and located in the front half of the building (side entries permitted). Corner entrances shall be provided on corner lot buildings.
4. Decorative cornices shall be provided for buildings with a flat roof. Alternatively, eaves shall be provided with a pitched roof.
5. A building canopy, awning, or similar weather protection may be provided and should project 3-5 feet from the façade.

**B. Materials**

1. Commercial building walls shall be brick, cast concrete, stone, marble, or other materials similar in appearance and durability. Regular or decorative concrete block and EIFS-type stucco may be used on building walls not visible from a public street or as an accent material only.

Existing flex-commercial structures with non-conforming building wall materials may upgrade to EIFS-type stucco, Dryvit®, or an architectural panel resembling these materials. If an architectural panel is proposed, planning department staff shall have final approval of the material, on a case-by-case basis, after a physical sample has been submitted.

2. Pitched roofs shall be clad in wood shingles, standing seam metal, corrugated metal, slate, asphalt shingles or similar material.
3. Signs on the inside of glazed openings may be neon.

4. Front and side yard fences and walls shall be brick, stucco, wrought iron, stone, or materials similar in appearance and durability. Maximum fence height shall be 5 feet. Rear yard fences and walls shall be made of brick, stucco, wrought iron, stone, wood, chain linked, or similar material. (barbed wire fences are only permitted in rear yards not visible from a street). Maximum fence height shall be 8 feet.

**C. Configurations**

1. All visibly exposed facades shall have a recognizable base course, which shall align with the sill level of the first story consisting of, but not limited to: thicker walls, ledges or sills; integrally textured materials such as stone or other masonry; integrally colored and patterned materials such as smooth finished stone or tile; lighter or darker colored materials, mullions, or panels; and/or planters.
2. All visibly exposed facades shall have a recognizable top consisting of, but not limited to: cornice treatments, other than just colored stripes or bands, with integrally textured materials such as stone or other masonry or differently colored materials; sloping roof with overhangs and brackets; stepped parapets; and/or a cornice which shall terminate or cap the top of a building wall.
3. Two wall materials may be combined horizontally on one facade. The heavier material should be below.
4. Sky-lights shall be flat (non-bubble).

**D. Techniques**

1. Stucco shall be float finish.
2. Windows shall be set to the inside of the building face wall.
3. All rooftop equipment shall be screened from view.



*Gas Station*

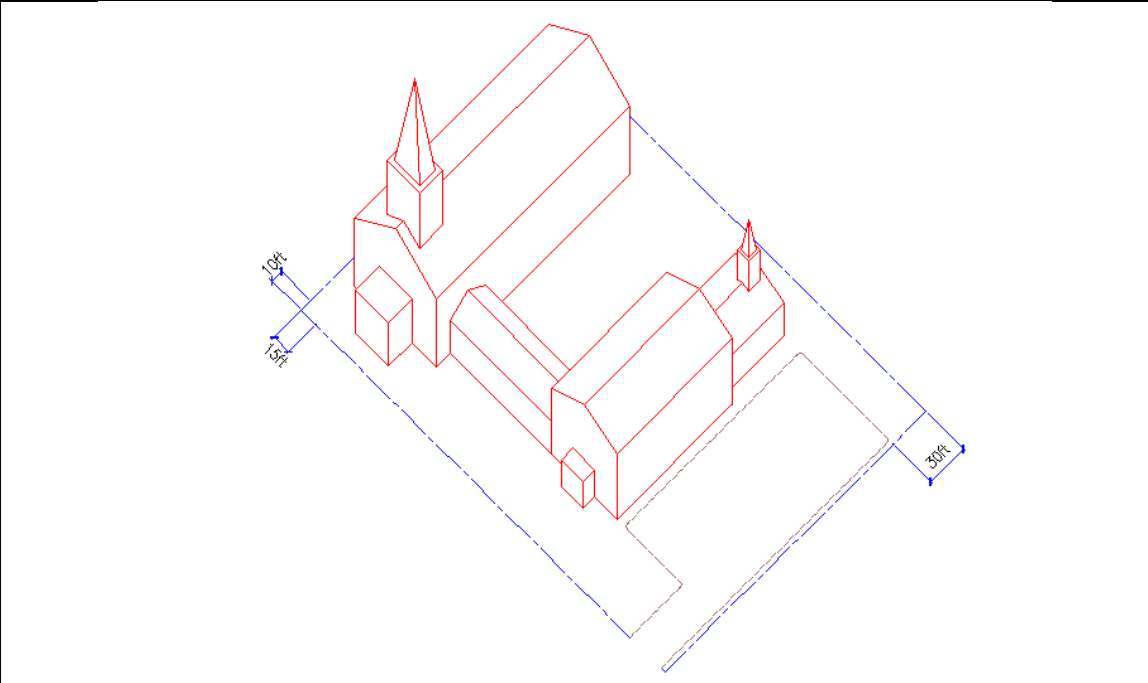


*Pharmacy with Drive Thru*

**4.8 CIVIC/INSTITUTIONAL BUILDING**

*Description: Specialized buildings intended to serve as public gathering places. Such uses include governmental offices, churches or other places of worship, schools, hospitals, post offices, and non-profit or charitable clubs and organizations.*

**1. LOT REQUIREMENTS**



**Setbacks (Minimum):**  
**Front:** 0 ft  
**Sides:** 15  
**Rear:** 30 ft

**Accessory Structures less than 500 ft<sup>2</sup>:**  
 (Used Primarily for Storage, max 2 Permitted)  
 Side and Rear Setback: 5ft.  
 Maximum Height: 15 ft.

**Accessory Structures greater than 500 ft<sup>2</sup>:**  
 Side and Rear Setback: 20 ft.  
 Maximum Height: 26 ft.

**Minimum Lot Width:** 70 Ft  
**Minimum Lot Size:** none

**Maximum Height:** 3 Stories (Exception R-R, G-R – 2 Stories)

**Encroachments:** Balconies, stoops, stairs, open porches, bay windows, and raised doorways are permitted to encroach into the front setback a maximum of 10 ft.



Church

**4.8 CIVIC/INSTITUTIONAL BUILDING**

**B. ARCHITECTURAL REQUIREMENTS**

**A. General Requirements**

- 1. Schools, churches, and government buildings should be built so that they terminate a street vista whenever possible, and shall be of sufficient design to create visual anchors for the community.
- 2. Off-street parking shall be provided in the side or rear yards only.
- 3. Building(s) incidental to the principal structure shall be behind a line a minimum of 20 ft from the front facade of the structure, and if more than one, shall be arranged to create secondary gathering spaces within the lot.
- 4. Parking shall be located towards the interior of the lot. On-street parking may be used to fulfill parking requirements. Parking may not occur within a front setback or corner side setback.
- 5. Front setbacks may be altered to preserve views or significant trees.

**B. Materials**

- 1. Civic building walls shall be clad in clapboard, stone, stucco, brick, or marble. Decorative cast concrete and wood or vinyl siding may be used as a secondary element on facades facing public streets.
- 2. Civic roofs shall be clad in slate, sheet metal, corrugated metal, or asphalt shingles, or other material similar in appearance and durability.
- 3. Gutters and down spouts shall be made of copper or galvanized painted metal, or other material similar in appearance and durability.
- 4. The orders, if provided, shall be made of wood or cast concrete.
- 5. Stained glass or other decorative window treatments are encouraged.
- 6. Front and side yard fences and walls shall be brick, stucco, wrought iron, stone, or materials similar in appearance and durability. Maximum fence height shall be 6 feet. Rear yard fences and walls shall be brick, stucco, wrought iron, stone, wood, chain linked, or similar material. Maximum fence height shall be 8 feet. For security and safety reasons, public safety station (police/fire departments, etc.) fences shall be exempt from the above requirements but shall be subject to review by the Planning Department in accordance with the spirit and intent of this ordinance.

**C. Configurations**

- 1. Two wall materials may be combined horizontally on one facade. The heavier material should be below.
- 2. Flat roofs are allowed, but principal civic buildings adjacent to residential structures are encouraged to have pitched roofs or similar architectural features to ensure compatibility.

**D. Techniques**

- 1. Windows shall be set to the inside of the building face wall.
- 2. All rooftop equipment shall be screened from view.





### 5.1 GENERAL PROVISIONS

This Code establishes the following Districts for use as Zoning categories:

Rural Residential (RR)  
 Suburban Residential (SR)  
 General Residential (GR)  
 Neighborhood Center Residential (NC-R)  
 Neighborhood Center Commercial (NC-C)  
 Downtown District (DD)  
 Highway Commercial (HC)  
 Infill Development (INF-D)  
 Traditional Neighborhood Development (TN-D)  
 Business Campus Development (BC-D)  
 Institutional Campus District (IC-D)  
 Historic Preservation Overlay (HP-O)  
 Watershed Protection Overlay (WP-O)  
 Highway Corridor Overlay (HC-O)  
 Rural Commercial (RC)  
 Manufactured Housing Development (MH-D)  
 Conditional Districts (CD)  
 South Point Peninsula Overlay (SPP-O)

In addition, each District has a corresponding Conditional District (CD) as outlined in Section 5.18. The overlay zoning districts are not eligible for conditional district, although the underlying zoning district(s) are.

These Districts are a cross-matrix of both the Building Types listed in Chapter 4 as well as the **Permitted Uses, Uses Permitted with Additional Requirements, and Uses Permitted subject to the issuance of a Conditional Use Permit** in accordance with Section 15.10.

All uses permitted in this Code have been divided into seven (7) general categories and are defined as follows:

- Residential:** Premises available for long-term human habitation by means of ownership and rental, but excluding short-term letting of less than a month's duration
- Lodging:** Premises available for short-term human habitation, including daily and weekly letting
- Office:** Premises available for the transaction of general business, but excluding commercial sales and manufacturing
- Commercial:** Premises available for the commercial sale of merchandise and prepared foods, but excluding manufacturing
- Manufacturing:** Premises available for the creation, assemblage, and repair of items including their retail sale except when such activity creates adverse impacts

- Civic:** Premises available for not-for-profit organizations dedicated to religion, arts and culture, education, government, social service, transit, and other similar functions
- Other:** Uses not otherwise classified but permitted with Additional Conditions in Chapter 6 and/or subject to the issuance of a Conditional Use Permit in accordance with Section 15.10.

Within these categories, the uses are defined as Open, Limited, and Restricted indicating the general permissiveness within each use category.

Uses shall only be allowed in those zoning districts in which they are listed in the various general zoning districts contained in Chapter 5. The Land Development Code text does not identify all potential uses. Many allowable uses are contained within identified use categories (i.e., commercial use, light manufacturing, etc.) For instance, a “blueprinting service” is not specifically identified in any particular zoning district but meets the definition of a “commercial use.” Thus, a blueprinting service would be allowed in any district where “commercial uses” are allowed. Conversely, a “day care center”, which meets the definition of a “commercial use”, is specifically listed as being allowed in certain districts only. Accordingly, “day care centers” and similar uses which are specifically identified are only allowed in those identified zoning districts and are prohibited in all other zoning districts.

**5.2 RURAL RESIDENTIAL (RR)**

Rural Residential districts are coded to accommodate very low density residential development and agricultural uses, protect natural vistas, and landscape features that define our rural heritage.

The intent of this district is to maintain a rural boundary, preserving agricultural and forested areas on the perimeter of Belmont until utility infrastructure can be installed to allow for planned growth.

<p><b>1. Permitted Building Types</b></p> <p>Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p><b>Detached House – Street Lot Only Civic Building</b></p>
<p><b>2. Specific District Provisions</b></p>	<p><b>1. Minimum Lot Size (Subject to increase by the Gaston County Health Dept)</b>                  Lots platted prior to June 6, 2002: 20,000 sq ft.                  Lots platted after June 6, 2002: 2 acres</p> <p><b>2. Lot Width</b>                  Minimum Lot Width at Right-of-Way: 40 ft</p>

3. Permitted Uses (Rural Residential RR)	
<b>Residential</b>	<b>Limited Residential:</b> The number of dwellings is limited by the required lot dimensions and the provision of public water and sewer service. <i>Permitted Uses:</i> Single Family Homes, Duplexes, Manufactured Housing, and Bona Fide Farms
<b>Lodging</b>	<b>Limited Lodging:</b> The number of bedrooms available for lodging is limited by the requirement of one assigned parking space for each bedroom, in addition to the parking requirement for each dwelling. Food service may only be provided to guests. <i>Permitted Uses:</i> Rental Cottages (in Ancillary Buildings) <sup>1</sup> and Bed and Breakfast Inns <sup>1</sup>
<b>Office</b>	<b>Restricted Office:</b> Customary home occupation uses are permitted only provided the office use is restricted to the first floor or ancillary building and by the requirement of one assigned parking space for each 400 sq ft, in addition to the parking requirement for each dwelling. <i>Permitted Uses:</i> Home Occupations <sup>1</sup>
<b>Commercial</b>	<b>Restricted Commercial:</b> Drive-in Theatres shall be permitted with a minimum lot size of 3 acres, and with the establishment of a Type A buffer/screening around the perimeter of the property. (See Chapter 11.2) Day Care Centers and Day Care Homes <sup>1</sup> . All other commercial uses are forbidden.
<b>Manufacturing</b>	<b>Restricted Manufacturing:</b> Manufacturing uses are not permitted.
<b>Civic</b>	<b>Open Civic:</b> Civic uses shall be permitted, except those uses that exceed 25,000 square feet shall be subject to the issuance of a Conditional Use Permit.
<b>Other</b>	Cemetery <sup>1</sup> , Essential Services-Class 1 & 2 <sup>1</sup> , Recreational Facilities <sup>1</sup> , Water-related Structures <sup>1</sup> , Temporary Family Health Care Structure <sup>1</sup>

<sup>1</sup>See Additional Conditions in Chapter 6  
<sup>2</sup>Subject to the issuance of a Conditional Use Permit

**5.3 SUBURBAN RESIDENTIAL (SR)**

The Suburban Residential District is coded to allow low to moderate density development in areas farther from central Belmont, but to ensure that these areas develop along the same traditional lines as central Belmont. This District is intended to be the predominant residential district for areas identified on the Comprehensive Land Use Map as Suburban Neighborhood and Semi-Rural Neighborhood.

<p><b>1. Permitted Building Types</b></p> <p>Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p style="text-align: center;"><b>Detached House – Alley and Street Lot Townhouse Civic Building</b></p>
<p><b>2. Specific District Provisions</b></p> <p>District provisions may vary if lots are located within the South Point Peninsula Overlay District. See Chapter 5.19</p>	<p><b>1. Minimum Lot Size</b> The minimum lot size for a duplex home shall be 21,780 square feet, except with approval of a Conditional Use permit.</p> <p><b>2. Maximum Development Density</b> Maximum Density (on a project by project basis): 3 Units/Acre</p> <p><b>3. Permitted Building Type Ratio</b> The maximum number of Detached House-Alley Lot and Townhouse buildings in an SR development shall not exceed 30% of the total number of units.</p> <p><b>4. Lot Width</b>  On infill lots, the minimum lot width shall be equal to the average lot width of lots within 300 feet or 1 block length (whichever is greater), except with approval of a Conditional Use permit.</p>

3. Permitted Uses (Suburban Residential SR)	
<b>Residential</b>	<p><b>Limited Residential:</b> The number of dwellings is limited by the required lot dimensions and the provision of public water and sewer service.</p> <p><b>Permitted Uses:</b> Single Family Homes, Duplexes, and Townhouses (in new developments only, no townhouses are permitted on infill lots in the SR District)</p>
<b>Lodging</b>	<p><b>Limited Lodging:</b> The number of bedrooms available for lodging is limited by the requirement of one assigned parking space for each bedroom, in addition to the parking requirement for each dwelling. Food service may only be provided to guests.</p> <p><b>Permitted Uses:</b> Rental Cottages (in Ancillary Buildings)<sup>1</sup> and Bed and Breakfast Inns<sup>1</sup></p>
<b>Office</b>	<p><b>Restricted Office:</b> Customary home occupation uses are permitted only provided the office use is restricted to the first floor or ancillary building and by the requirement of one assigned parking space for each 400 sq ft, in addition to the parking requirement for each dwelling.</p> <p><b>Permitted Uses:</b> Home Occupations<sup>1</sup></p>
<b>Commercial</b>	<p><b>Limited Commercial:</b> The area permitted for commercial uses is limited to the first story at corner locations. Parking shall be negotiated on a site-by-site basis.</p> <p><b>Permitted Uses:</b> Day Care Centers and Day Care Homes<sup>1</sup></p>
<b>Manufacturing</b>	<p><b>Restricted Manufacturing:</b> Manufacturing uses are not permitted.</p>
<b>Civic</b>	<p><b>Open Civic:</b> Civic uses shall be permitted, except those uses that exceed 25,000 square feet shall be subject to the issuance of a Conditional Use Permit.</p>
<b>Other</b>	<p>Cemetery<sup>1</sup>, Essential Services-Class 1 &amp; 2<sup>1</sup>, Recreational Facilities<sup>1</sup>, Water-related Structures<sup>1</sup>, Temporary Family Health Care Structure<sup>1</sup></p>

<sup>1</sup>See Additional Conditions in Chapter 6  
<sup>2</sup>Subject to the issuance of a Conditional Use Permit

**5.4 GENERAL RESIDENTIAL (GR)**

The General Residential District is coded to permit the health of the City’s historical neighborhoods as well as providing for the City’s expansion with new development along the same traditional lines under which they were established. This District is intended to be the predominant residential district for the City and represents the largest land area on the Zoning Map.

<p><b>2. Permitted Building Types</b></p> <p>Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p><b>Detached House – Alley and Street Lot Townhouse Civic Building</b></p>
<p><b>2. Specific District Provisions</b></p> <p>District provisions may vary if lots are located within the South Point Peninsula Overlay District. See Chapter 5.19</p>	<p><b>1. Minimum Lot Size</b> For Lots platted prior to June 6, 2002, the minimum lot size is 4,000 square feet. The minimum lot size for a duplex home shall be 10,000 square feet, except with approval of a Conditional Use permit.</p> <p><b>2. Maximum Development Density</b> Maximum Density (on a project by project basis): 6 Units/Acre</p> <p><b>3. Permitted Building Type Ratio</b> The maximum number of Detached House-Alley Lot and Townhouse buildings in a GR development shall not exceed 30% of the total number of units.</p> <p><b>4. Lot Width</b> On infill lots, the minimum lot width shall be equal to the average lot width of lots within 300 feet or 1 block length (whichever is greater), except with approval of a Conditional Use permit.</p>



3. Permitted Uses (General Residential GR)	
<b>Residential</b>	<p><b>Limited Residential:</b> The number of dwellings is limited by the required lot dimensions and the provision of public water and sewer service.  <i>Permitted Uses:</i> Single Family Homes, Duplexes, and Townhouses (in new developments only, no townhouses are permitted on infill lots in the GR District)</p>
<b>Lodging</b>	<p><b>Limited Lodging:</b> The number of bedrooms available for lodging is limited by the requirement of one assigned parking space for each bedroom, in addition to the parking requirement for each dwelling. Food service may only be provided to guests.  <i>Permitted Uses:</i> Rental Cottages (in Ancillary Buildings)<sup>1</sup> and Bed and Breakfast Inns<sup>1</sup></p>
<b>Office</b>	<p><b>Restricted Office:</b> Customary home occupation uses are permitted only provided the office use is restricted to the first floor or ancillary building and by the requirement of one assigned parking space for each 400 sq ft, in addition to the parking requirement for each dwelling.  <i>Permitted Uses:</i> Home Occupations<sup>1</sup></p>
<b>Commercial</b>	<p><b>Limited Commercial:</b> The area permitted for retail is limited to the first story at corner locations. Parking shall be negotiated on a site-by-site basis.  <i>Permitted Uses:</i> Day Care Centers and Day Care Homes<sup>1</sup>; Events Facility<sup>1,2</sup>, Temporary Amusements<sup>1,2</sup></p>
<b>Manufacturing</b>	<p><b>Restricted Manufacturing:</b> Manufacturing uses are not permitted.</p>
<b>Civic</b>	<p><b>Open Civic:</b> Civic uses shall be permitted, except those uses that exceed 25,000 square feet shall be subject to the issuance of a Conditional Use Permit.</p>
<b>Other</b>	<p>Cemetery<sup>1</sup>, Essential Services-Class 1 &amp; 2<sup>1</sup>, Recreational Facilities<sup>1</sup>, Water-related Structures<sup>1</sup>, Temporary Family Health Care Structure<sup>1</sup></p>

<sup>1</sup>See Additional Conditions in Chapter 6  
<sup>2</sup>Subject to the issuance of a Conditional Use Permit

**5.5 NEIGHBORHOOD CENTER RESIDENTIAL (NC-R)**

The Neighborhood Center Residential District is coded to provide for areas for residential and mixed-use development in close proximity to existing and planned commercial centers. The intent is to create higher density residential areas that compliment commercial districts with physical proximity and pedestrian interaction. Different housing types and lot styles are encouraged as well as office and civic uses.

<p><b>1. Permitted Building Types</b></p> <p>Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p style="text-align: center;"><b>Detached House – Alley and Street Lot Townhouse Apartment Building Civic Building</b></p>
<p><b>2. Specific District Provisions</b></p>	<p>1. <b>Minimum Lot Size:</b> 2,700 square feet (May be computed as an average lot size for developments that utilize condominium ownership or are otherwise held in common ownership by a single entity). This may be reduced subject to the approval of a Conditional District rezoning.</p>

3. Permitted Uses (Neighborhood Center Residential NC-R)	
<b>Residential</b>	<b>Open Residential:</b> The number of dwellings is limited by the required lot dimensions and the provision of public water and sewer service. <i>Permitted Uses:</i> Single Family Homes, Duplexes, and Multi-Family
<b>Lodging</b>	<b>Limited Lodging:</b> The number of bedrooms available for lodging is limited by the requirement of one assigned parking space for each bedroom, in addition to the parking requirement for each dwelling. Food service may only be provided to guests. <i>Permitted Uses:</i> Rental Cottages (in Ancillary Buildings) <sup>1</sup> and Bed and Breakfast Inns <sup>1</sup>
<b>Office</b>	<b>Open Office:</b> The area available for office use is limited by the requirement of one assigned parking space for each 400 sq ft. <i>Permitted Uses:</i> Home Occupations <sup>1</sup> , Live-Work Units, Professional Offices Uses
<b>Commercial</b>	<b>Limited Retail:</b> The area permitted for commercial uses is limited to the first story at corner locations. Parking shall be negotiated on a site-by-site basis. <i>Permitted Uses:</i> Day Care Centers and Day Care Homes <sup>1</sup> , Events Facility <sup>1,2</sup> , Funeral Home <sup>1,2</sup>
<b>Manufacturing</b>	<b>Restricted Manufacturing:</b> Manufacturing uses are not permitted.
<b>Civic</b>	<b>Open Civic:</b> Civic uses shall be permitted, except those uses that exceed 25,000 square feet shall be subject to the issuance of a Conditional Use Permit.
<b>Other</b>	Cemetery <sup>1</sup> , Essential Services-Class 1 & 2 <sup>1</sup> , Recreational Facilities <sup>1</sup> , Water-related Structures <sup>1</sup> , Temporary Family Health Care Structure <sup>1</sup>

<sup>1</sup>See Additional Conditions in Chapter 6  
<sup>2</sup>Subject to the issuance of a Conditional Use Permit

**5.6 NEIGHBORHOOD CENTER COMMERCIAL (NC-C)**

This District is coded to provide pedestrian-scaled higher density residential homes and opportunities for limited scale commercial activities along existing mixed use corridors and at the functional center of new neighborhoods. Developments in the NC-C Districts are to emulate the Main Street characteristics of Downtown and East Belmont, and encourage pedestrian use through connections to adjacent neighborhoods and the construction of mixed use buildings. NC-C may be used to apply initial zoning to existing commercial buildings outside of downtown and East Belmont, and to allow for neighborhood-scaled commercial development outside the downtown commercial/civic area and village centers as shown on the comprehensive land use plan map.

<p><b>1. Permitted Building Types</b>                  Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p style="text-align: center;"> <b>Detached House</b>  <b>Townhouse</b>  <b>Apartment Building</b>  <b>Shopfront</b>  <b>Civic Building</b>  <b>Flex commercial building (only in areas located outside downtown and East Belmont)</b> </p>
<p><b>2. Specific District Provisions</b></p>	<ol style="list-style-type: none"> <li>1. Maximum Building Footprint: 6,000 square feet for buildings located in the Downtown Commercial and Civic area and the Catawba Street Corridor area as shown on the Belmont Comprehensive Land Use Plan. No maximum outside of these areas.</li> <li>2. To maintain pedestrian scale, accessibility, and integration with the surrounding neighborhoods, Neighborhood Center Commercial Districts should not exceed 30 acres or extend 1/8 of a mile from the central focus of the area.</li> <li>3. New Neighborhood Center Commercial Districts shall be located a minimum of 1/4 mile from each other.</li> <li>4. A conditional use permit shall be required for any building with a gross floor area of greater than 50,000 square feet.</li> </ol>

3. Permitted Uses (Neighborhood Center Commercial NC-C)	
<b>Residential</b>	<b>Open Residential:</b> The number of dwellings is limited by the required lot dimensions and the provision of public water and sewer service. <i>Permitted Uses:</i> Single Family Homes, Duplexes, and Multi-Family
<b>Lodging</b>	<b>Open Lodging:</b> The number of bedrooms available for lodging is limited by the requirement of one assigned parking space for each bedroom, in addition to the parking requirement for each dwelling. Food service may be provided at all times. <i>Permitted Uses:</i> Rental Cottages (in Ancillary Buildings) <sup>1</sup> , Bed and Breakfast Inns, and Hotels <sup>1</sup>
<b>Office</b>	<b>Open Office:</b> The area available for office use is limited by the requirement of one assigned parking space for each 400 sq ft. <i>Permitted Uses:</i> Home Occupations, Live-Work Units, and Office Uses
<b>Commercial</b>	<b>Open Commercial:</b> The area available for commercial use is limited to the requirement of one assigned parking space for each 400 square feet of gross space. <i>Permitted Uses:</i> Commercial Uses, Drive-through Commercial <sup>1&amp;2</sup> , Restaurants <sup>1</sup> , Private Night Clubs <sup>2</sup> , Funeral Homes <sup>1</sup> , Convenience Stores (in flex commercial buildings only) <sup>1</sup> , Neighborhood Stores <sup>1</sup> , and Day Care Centers and Day Care Homes <sup>1</sup>
<b>Manufacturing</b>	<b>Restricted Manufacturing:</b> Neighborhood Manufacturing. <sup>1</sup>
<b>Civic</b>	<b>Open Civic:</b> Civic uses shall be permitted.
<b>Other</b>	Cemetery <sup>1</sup> , Essential Services-Class 1 & 2 <sup>1</sup> , Parking Structures <sup>1</sup> , Recreational Facilities <sup>1</sup> Outdoor Storage of Landscaping/Garden Supplies/Live Plants <sup>1</sup> , Water-related Structures <sup>1</sup> , Temporary Family Health Care Structure <sup>1</sup>

<sup>1</sup>See Additional Conditions in Chapter 6

<sup>2</sup>Subject to the issuance of a Conditional Use Permit

**5.7 DOWNTOWN DISTRICT (DD)**

The Downtown District is coded to encourage the redevelopment and expansion of the traditional City center. This center is intended to serve as the civic, cultural, and governmental hub of activity for the entire Belmont community.

Commercial components of the Downtown may exceed 18,000 square feet within a single building. Individual buildings are encouraged to be mixed vertically with street level commercial and upper level residential. Higher densities of residential development are encouraged.

<p><b>1. Permitted Building Types</b>                  Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p style="text-align: center;"> <b>Detached House</b>  <b>Townhouse</b>  <b>Apartment Building</b>  <b>Shopfront Building</b>  <b>Civic Building</b> </p>
<p><b>2. Specific District Provisions</b></p>	<p>1. Loading areas are permitted in the rear yard only.</p>

3. Permitted Uses (Downtown District DD)	
<b>Residential</b>	<b>Open Residential:</b> The number of dwellings is limited by the required lot dimensions and the provision of public water and sewer service. <i>Permitted Uses:</i> Single Family Homes, Duplexes, and Multi-Family
<b>Lodging</b>	<b>Open Lodging:</b> Food service may be provided at all times. <i>Permitted Uses:</i> Rental Cottages (in Ancillary Buildings), Bed and Breakfast Inns, and Hotels
<b>Office</b>	<b>Open Office:</b> <i>Permitted Uses:</i> Home Occupations, Live-Work Units, and Office Uses
<b>Commercial</b>	<b>Open Commercial:</b> Permitted Uses: Commercial Uses, Restaurants, Night Clubs and Bars with Live Music <sup>1</sup> , Entertainment Uses Excluded Uses: Drive-through Commercial, Automotive, Boat & Heavy Equipment Sales and Service, Adult Establishments, Adult Video Stores, Pool Halls, Billiard Parlors, Game Rooms, and Arcades.
<b>Manufacturing</b>	<b>Restricted Manufacturing:</b> Neighborhood Manufacturing. <sup>1</sup>
<b>Civic</b>	<b>Open Civic:</b> Civic uses shall be permitted.
<b>Other</b>	Cemetery <sup>1</sup> , Essential Services-Class 1 & 2 <sup>1</sup> , Parking Structures <sup>1</sup> , Recreational Facilities <sup>1</sup> , Temporary Uses <sup>1</sup> , Temporary Family Health Care Structure <sup>1</sup> Outdoor Storage of Landscaping/Garden Supplies <sup>1</sup> , Water-related Structures <sup>1</sup>

<sup>1</sup>See Additional Conditions in Chapter 6  
<sup>2</sup>Subject to the issuance of a Conditional Use Permit

**5.8 HIGHWAY COMMERCIAL (HC)**

The intensity of commercial development in the Highway Commercial district is established by the traffic of the fronting thoroughfare. Though coded primarily for auto dependent development along the frontage, buildings that do not front along Wilkinson Boulevard shall be scaled to the pedestrian.

The intent of these regulations is to facilitate convenient access, minimize traffic congestion, and reduce the visual impact of excessive signage and parking lots. In addition to Wilkinson Boulevard, North Main Street, McAdenville Road, and Park Street in the proximity of Wilkinson Boulevard and the south side of I-85 may be designated for Highway Commercial development.

<p><b>1. Permitted Building Types</b>                  Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p style="text-align: center;"><b>Townhouse                  Apartment Building                  Shopfront Building                  Flex Commercial Building                  Civic Building</b></p>
<p><b>2. Specific District Provisions</b></p>	<ol style="list-style-type: none"> <li>1. Parking shall be in the side or rear yard only. Parking may be permitted in the front yard subject to the issuance of a Conditional Use Permit provided:                         <ol style="list-style-type: none"> <li>a. There exists no practical alternative for the location of such parking because of the unique needs generated by a specific use</li> <li>b. The parking in the front yard, if provided, shall be set back a minimum of 10 feet from the right-of-way and shall be screened using a Type B-Semi Opaque Screen (11.2.B)</li> </ol> </li> <li>2. Loading areas in the rear yard only.</li> <li>3. Uses greater than 50,000 square feet shall be subject to the issuance of a Conditional Use Permit.</li> </ol>



3. Permitted Uses (Highway Commercial HC)	
<b>Residential</b>	<b>Open Residential:</b> The number of dwellings is limited by the required lot dimensions and the minimum parking requirements of 1 ½ assigned spaces per unit. <i>Permitted Uses:</i> Multi-Family
<b>Lodging</b>	<b>Open Lodging:</b> The number of bedrooms available for lodging is limited by the parking requirements of Chapter 9. Food service may be provided at all times. <b>Permitted Uses:</b> Rental Cottages (in Ancillary Buildings), Bed and Breakfast Inns, Motels, and Hotels
<b>Office</b>	<b>Open Office:</b> The area available for office use is limited by the parking requirements of Chapter 9. <b>Permitted Uses:</b> Home Occupations, Live-Work Units, and Office Uses
<b>Commercial</b>	<b>Open Commercial:</b> The area available for commercial use is limited to the parking requirements of Chapter 9.  <b>Permitted Uses:</b> Retail Commercial Uses, Restaurants, Private Nightclubs <sup>1,2</sup> , Entertainment Uses, Adult Establishments <sup>1&amp;2</sup> , and Adult Video Stores <sup>1&amp;2</sup> , Automotive/Boat/Heavy Equipment/Manufactured Home Sales and/or Service <sup>1&amp;2</sup> , Day Care Centers and Day Care Homes <sup>1</sup> , Convenience Stores <sup>1</sup> , Drive-through Commercial <sup>1</sup> , Events Facility <sup>1</sup> , Temporary Amusements <sup>1</sup> , ABC package store/beer and wine (exclusive) discount store, Body/skin piercing establishment, Cash-advance/vehicle title loan service, Gambling/sweepstakes/games of chance establishment, Palm reading/fortune telling/psychic reading/tarot reading establishment, Pawn shop, Tattoo parlor and/or permanent cosmetic salon.
<b>Manufacturing</b>	<b>Restricted Manufacturing:</b> No manufacturing activity is permitted.
<b>Civic</b>	<b>Open Civic:</b> Civic uses shall be permitted.
<b>Other</b>	Essential Services-Class 1 & 2, Parking Structures, Recreational Facilities <sup>1</sup> , Outdoor Storage <sup>1</sup> , Water-related Structures <sup>1</sup>

<sup>1</sup>See Additional Conditions in Chapter 6  
<sup>2</sup>Subject to the issuance of a Conditional Use Permit

**5.9 INFILL DEVELOPMENT (INF-D)**

The intent of this District is to design infill developments in built-up environments that adhere to the following neighborhood design principles:

- Integration of existing street systems
- Flexibility of housing types
- Small-scale commercial uses that serve the immediate neighborhood
- Creation of a useable and coherent public realm
- Reservation of prominent sites for civic uses, where practical

Though it is similar to the Traditional Neighborhood Development, Infill Development has a more limited range of permitted building types and uses.

<p><b>1. Permitted Building Types</b>                  Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p style="text-align: center;"><b>Detached House – Alley and Street Lot</b>  <b>Townhouse</b>  <b>Apartment Building</b>  <b>Shopfront Building</b>  <b>Civic Building</b></p>												
<p><b>2. Specific District Provisions</b></p>	<ol style="list-style-type: none"> <li>1. Minimum project size: 3 acres</li> <li>2. Maximum project size: 40 acres (Projects in excess of 40 acres shall be developed as a TN-D)</li> <li>3. Shopfront Buildings shall not exceed a maximum footprint are of 6,000 square feet.</li> <li>4. The total number of multi-family units shall not exceed 35% of the total residential units or 25 acres, whichever is less, except with a Conditional Use Permit.</li> </ol>												
<p><b>3. Gross Land Allocation by Use</b>                  The percentages are allocated on a gross area basis inclusive of the street rights-of-way.</p>	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Use</u></th> <th style="text-align: left;"><u>Minimum - Maximum</u></th> </tr> </thead> <tbody> <tr> <td>Single-Family Uses</td> <td>15% - 75%</td> </tr> <tr> <td>Duplex and Multi-Family Uses</td> <td>10% - 40%</td> </tr> <tr> <td>Lodging/Office/Retail Uses</td> <td>2% - 10%</td> </tr> <tr> <td>Civic Uses</td> <td>2% - no maximum</td> </tr> <tr> <td>Open Space</td> <td>Per Chapter 7</td> </tr> </tbody> </table>	<u>Use</u>	<u>Minimum - Maximum</u>	Single-Family Uses	15% - 75%	Duplex and Multi-Family Uses	10% - 40%	Lodging/Office/Retail Uses	2% - 10%	Civic Uses	2% - no maximum	Open Space	Per Chapter 7
<u>Use</u>	<u>Minimum - Maximum</u>												
Single-Family Uses	15% - 75%												
Duplex and Multi-Family Uses	10% - 40%												
Lodging/Office/Retail Uses	2% - 10%												
Civic Uses	2% - no maximum												
Open Space	Per Chapter 7												

2.8 Permitted Uses (Infill Development INF-D)	
<b>Residential</b>	<b>Open Residential:</b> The number of dwellings is limited by the required lot dimensions and the provision of public water and sewer service. <i>Permitted Uses:</i> Single Family Homes, Duplexes, and Multi-Family
<b>Lodging</b>	<b>Limited Lodging:</b> The number of bedrooms available for lodging is limited by the parking requirements of Chapter 9. Food service may only be provided in the morning. <b><i>Permitted Uses:</i></b> Rental Cottages (in Ancillary Buildings) <sup>1</sup> and Bed and Breakfast Inns <sup>1</sup>
<b>Office</b>	<b>Limited Office:</b> Customary home occupation uses are permitted only provided the office use is restricted to the first floor or ancillary building and by the requirement of one assigned parking space for each 400 sq ft, in addition to the parking requirement for each dwelling. <b><i>Permitted Uses:</i></b> Home Occupations <sup>1</sup> and Live-Work Units <b><i>Exceptions:</i></b> Offices (in existing Workplace buildings only)
<b>Commercial</b>	<b>Limited Commercial:</b> Commercial uses are forbidden with the following exceptions: One Neighborhood Store shall be permitted for each 300 units in a neighborhood.  <b><i>Permitted Uses:</i></b> Day Care Centers and Day Care Homes <sup>1</sup> and Neighborhood Store <sup>1</sup>
<b>Manufacturing</b>	<b>Restricted Manufacturing:</b> Manufacturing uses are forbidden.
<b>Civic</b>	<b>Open Civic:</b> Civic uses shall be permitted, except those uses that exceed 25,000 square feet shall be subject to the issuance of a Conditional Use Permit.
<b>Other</b>	Essential Services, Class 1 & 2 <sup>1</sup> , Recreational Facilities <sup>1</sup> , Water-related Structures <sup>1</sup> , Temporary Family Health Care Structure <sup>1</sup>

<sup>1</sup>See Additional Conditions in Chapter 6  
<sup>2</sup>Subject to the issuance of a Conditional Use Permit

**5.10 TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TN-D)**

The intent of this District is to allow for the development of fully integrated, mixed-use pedestrian-oriented neighborhoods that minimize traffic congestions, suburban sprawl, infrastructure costs, and environmental degradation. Traditional Neighborhoods adhere to the following design principles:

- All neighborhoods have identifiable centers and edges
- Edge lots are readily accessible to commercial and/or recreation by non-vehicular means (a distance not greater than ¼ mile)
- Uses and housing types are mixed and in close proximity to one another
- Street networks are interconnected and blocks are small
- Civic buildings are given prominent sites throughout the neighborhood

<p><b>1. Permitted Building Types</b></p> <p>Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p style="text-align: center;"><b>Detached House – Alley and Street Lot</b>  <b>Townhouse</b>  <b>Apartment Building</b>  <b>Shopfront Building</b>  <b>Workplace Building</b>  <b>Civic Building</b></p>
<p><b>2. Specific District Provisions</b></p>	<ol style="list-style-type: none"> <li>1. <b>Minimum project size:</b> 40 acres</li> <li>2. <b>Maximum project size:</b> 200 acres (Projects in excess of 200 acres should be developed as multiple Traditional Neighborhoods, each individually subject to all such provisions)</li> <li>3. The entire land area of the TND shall be divided into blocks, streets, and lots and optional natural or greenbelt areas.</li> <li>4. Similar land categories shall generally front across streets. Dissimilar categories shall abut at rear lot lines. Corner lots which front on streets of dissimilar use shall be set back the same as the adjacent use with the lesser setback.</li> <li>5. Large-scale, single use (conference spaces, theaters, athletic facilities, etc.) shall occur behind or above occupiable street front space.</li> <li>6. The long axis of streets exceeding 500 feet in length shall have appropriate termination with either a public monument, specifically designed building facade, or a gateway to the ensuing space.</li> <li>7. No portion of the TND is further than 660 feet (1/8 mile) from an open space as defined in Chapter 7.</li> <li>8. See Section 5.19 for residential district performance standards if located within the South Point Peninsula Overlay District</li> </ol>

<p><b>3. Gross Land Allocation by Use</b></p> <p>The percentages are allocated on the gross land area including street rights-of-way.</p>	<table border="0"> <thead> <tr> <th style="text-align: left;"><u>Use</u></th> <th style="text-align: left;"><u>Minimum - Maximum</u></th> </tr> </thead> <tbody> <tr> <td>Single-Family Uses</td> <td>15% - 75%</td> </tr> <tr> <td>Duplex and Multi-Family Uses</td> <td>10% - 40%</td> </tr> <tr> <td>Lodging/Office/Commercial/Manuf. Uses*</td> <td>2% - 40%</td> </tr> <tr> <td>Civic Uses</td> <td>2% - no maximum</td> </tr> <tr> <td>Open Space</td> <td>Per Chapter 7</td> </tr> </tbody> </table> <p>*The developer may request that the city council waive the lodging/office/commercial/manufacturing uses after five years of the plat being recorded or after 50% build out of residential units in the development, whichever is sooner, if the development is located within one (1) street-mile of a Village Center or Downtown Commercial and Civic Center as shown on the Belmont comprehensive land use plan map.</p>	<u>Use</u>	<u>Minimum - Maximum</u>	Single-Family Uses	15% - 75%	Duplex and Multi-Family Uses	10% - 40%	Lodging/Office/Commercial/Manuf. Uses*	2% - 40%	Civic Uses	2% - no maximum	Open Space	Per Chapter 7
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Civic Uses	2% - no maximum												
Open Space	Per Chapter 7												
<p><b>4. Permitted Uses (Traditional Neighborhood Development TN-D)</b></p>													
<p><b>Residential</b></p>	<p><b>Open Residential:</b> The number of dwellings is limited by the required lot dimensions and the provision of public water and sewer service.  <i>Permitted Uses:</i> Single Family Homes, Duplexes, and Multi-Family</p>												
<p><b>Lodging</b></p>	<p><b>Open Lodging:</b> The number of bedrooms available for lodging is limited by the requirement of one assigned parking space for each bedroom, in addition to the parking requirement for each dwelling. Food service may be provided at all times.  <i>Permitted Uses:</i> Rental Cottages (in Ancillary Buildings), Bed and Breakfast Inns<sup>1</sup>, and Hotels</p>												
<p><b>Office</b></p>	<p><b>Open Office:</b> The area available for office use is limited by the requirement of one assigned parking space for each 400 sq ft.  <i>Permitted Uses:</i> Home Occupations, Live-Work Units, and Office Uses</p>												
<p><b>Commercial</b></p>	<p><b>Open Commercial:</b> The area available for commercial use is limited to the requirement of one assigned parking space for each 400 square feet of gross-commercial space.  <b>Permitted Uses:</b> Commercial Uses, Restaurants, Drive-through Commercial<sup>1,2</sup>, and Neighborhood Stores<sup>1</sup></p>												
<p><b>Manufacturing</b></p>	<p><b>Limited Manufacturing:</b> The area available for manufacturing use is limited to the building.  <i>Permitted Uses:</i> Light Manufacturing Uses (no outdoor storage permitted)</p>												
<p><b>Civic</b></p>	<p><b>Open Civic:</b> Civic uses shall be permitted.</p>												
<p><b>Other</b></p>	<p>Cemetery<sup>1</sup>, Essential Services-Class 1 &amp; 2<sup>1</sup>, Parking Structures<sup>1</sup>, Recreational Facilities<sup>1</sup>, and Water-related Structures<sup>1</sup></p>												

<sup>1</sup>See Additional Conditions in Chapter 6

<sup>2</sup>Subject to the issuance of a Conditional Use Permit

**5.11 BUSINESS CAMPUS DEVELOPMENT (BC-D)**







In order to maintain an attractive and viable environment in which to locate workplaces, the City of Belmont has created this district to promote the existing academic campus setting in the City and the southern piedmont region.

Business Campus Developments are coded to permit the development of corporate office campus, light industrial uses and heavy industrial uses. Such developments are typically too large in scale to fit within a neighborhood environment and must be designed in a manner that is more appropriate to their technology, production methods, and/or operations.

Business Campus Developments are coded to achieve the high quality site design and use flexibility inherent in campus design. This is accomplished through attention to a building’s architectural compatibility with other buildings and the relationship of buildings to the public realm.

This district may not be used to circumvent other Sections in this Code.

<p><b>1. Permitted Building Types</b>                  Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p style="text-align: center;"><b>Detached House – Alley and Street Lot                  Townhouse                  Apartment Building                  Shopfront Building                  Workplace Building                  Civic Building</b></p>
<p><b>2. Specific District Provisions</b></p>	<p><b>1. Minimum District Size:</b> 40 Acres</p> <p><b>2. Minimum District Setbacks</b>                  (as measured from exterior District boundary)  <b>Parking:</b> 80 ft  <b>Light Manufacturing Uses:</b> 200 ft  <b>Heavy Manufacturing Uses:</b> 400 ft</p> <p><b>3. Maximum Building Height (within District only):</b> 5 Stories or 60 ft</p> <p>4. For infill lots, parking shall be allowed only in the side and rear yards, except as approved by a conditional use permit.</p> <p>5. Individual parcel(s) may be zoned BC-D contingent upon:</p> <ul style="list-style-type: none"> <li>• The parcel(s) is (are) adjacent to an existing BC-D district; and,</li> <li>• Workplace and civic/institutional building types shall be the only building types permitted, except upon approval of a conditional district rezoning; and</li> <li>• Only office and professional uses shall be allowed.</li> </ul>

<p><b>3. General Provisions</b></p>	<ol style="list-style-type: none"> <li>1. Internal setbacks and the location of parking areas shall be set during the review process. Consideration shall be given to the placement of buildings in a manner that encourages pedestrian activity and facilitates the provision of public transit.</li> <li>2. A coherent, interconnecting network of internal streets shall be designed to accommodate the various uses found within the District.</li> <li>3. The street network shall be designed in a manner to facilitate bus transit. Front doors shall be located to provide easy access to the interior of buildings from transit stops.</li> <li>4. The interior of new Business Campus Developments shall maintain a well-defined open space network to give prominence to important structures and allow for assembly and pedestrian circulation.</li> <li>5. Where practical, buildings are encouraged to integrate into the urban fabric.</li> <li>6. All buildings shall front upon a street, square, green, park, or quadrangle. Buildings not fronting on a street shall provide for vehicular access from a rear alley or street. Such streets shall be constructed to the public street standards detailed in Section 6.0 but may be privately maintained.</li> <li>7. Public streets, parking areas and private driveways may encroach into setbacks that do not abut public external streets or residential uses up to 40 feet.</li> <li>8. All buildings shall be designed in a manner that is pedestrian in scale and massing unless a technological requirement demands a different trajectory.</li> </ol>												
<p><b>4. Permitted Building Type Mix</b> The percentages are allocated on the gross land area.</p>	<table style="margin-left: auto; margin-right: auto;"> <tr> <td><b>Detached House – Alley and Street Lot</b></td> <td><b>0% - 30%</b></td> </tr> <tr> <td><b>Townhouse</b></td> <td><b>0% - 30%</b></td> </tr> <tr> <td><b>Apartment Building</b></td> <td><b>0% - 30%</b></td> </tr> <tr> <td><b>Shopfront Building</b></td> <td><b>0% - 20%</b></td> </tr> <tr> <td><b>Workplace Building</b></td> <td><b>55% - 100%</b></td> </tr> <tr> <td><b>Civic Building</b></td> <td><b>unlimited</b></td> </tr> </table>	<b>Detached House – Alley and Street Lot</b>	<b>0% - 30%</b>	<b>Townhouse</b>	<b>0% - 30%</b>	<b>Apartment Building</b>	<b>0% - 30%</b>	<b>Shopfront Building</b>	<b>0% - 20%</b>	<b>Workplace Building</b>	<b>55% - 100%</b>	<b>Civic Building</b>	<b>unlimited</b>
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<b>Civic Building</b>	<b>unlimited</b>												
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5. Permitted Uses (Business Campus Development BC-D)	
<b>Residential</b>	<p><b>Open Residential:</b> The number of dwellings is limited by the requirement of 1.5 assigned parking spaces for each dwelling, a ratio that may be reduced according to the shared parking standard.</p> <p><b>Permitted Uses:</b> Single Family Homes, Duplexes, and Multi-Family</p>
<b>Lodging</b>	<p><b>Open Lodging:</b> The number of bedrooms available for lodging is limited by the requirement of one assigned parking space for each bedroom, in addition to the parking requirement for each dwelling. Food service may be provided at all times.</p> <p><b>Permitted Uses:</b> Rental Cottages (in Ancillary Buildings)<sup>1</sup>, Bed and Breakfast Inns<sup>1</sup>, and Hotels</p>
<b>Office</b>	<p><b>Open Office:</b> The area available for office use is limited by the requirement of one assigned parking space for each 250 sq ft, a ratio that may be reduced according to the shared parking standards.</p> <p><b>Permitted Uses:</b> Office Uses, Live-Work Units</p>
<b>Commercial</b>	<p><b>Restricted Commercial:</b> Free-standing commercial uses are forbidden. Commercial uses are permitted as an auxiliary use within buildings containing primarily office uses such as cafeterias and restaurants, and specialty stores.</p> <p><b>Permitted Uses:</b> Commercial Uses, Restaurants<sup>1</sup>, and Day Care Centers and Day Care Homes<sup>1</sup>. Drive-through Commercial<sup>1</sup>; Events Facility<sup>1</sup>; Temporary Amusements<sup>1</sup></p>
<b>Manufacturing</b>	<p><b>Open Manufacturing:</b> The area available for manufacturing use is limited to the building and a contiguous yard to its rear screened from view. The parking requirement shall be negotiated according to the specific manufacturing activity.</p> <p><b>Permitted Uses:</b> Light Manufacturing Uses, Heavy Manufacturing Uses<sup>2</sup></p>
<b>Civic</b>	<p><b>Open Civic:</b> Civic Uses, Hospitals<sup>2</sup></p>
<b>Other</b>	<p>Cemetery<sup>1</sup>, Essential Services-Class 1 and 2<sup>1</sup>, Essential Services-Class 3<sup>2</sup>, Parking Structures<sup>1</sup>, Recreational Facilities<sup>1</sup>, Water-related Structures<sup>1</sup></p>

<sup>1</sup>See Additional Conditions in Chapter 6  
<sup>2</sup>Subject to the issuance of a Conditional Use Permit




**5.12 INSTITUTIONAL CAMPUS DEVELOPMENT (IC-D)**

The intent of this District is to allow for the continued and future use, expansion, and new development of academic and religious campuses, as well as government and health-care facilities with a total development size larger than 15 acres.

This district is coded to promote the many varied uses associated with such institutions while maintaining the overall design integrity of the traditional campus setting.

<p><b>1. Permitted Building Types</b>                  Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p style="text-align: center;"><b>Detached House – Alley and Street Lot</b>  <b>Townhouse</b>  <b>Apartment Building</b>  <b>Shopfront Building</b>  <b>Workplace Building</b>  <b>Civic Building</b></p>
<p><b>2. Specific District Provisions</b></p>	<p><b>1. Minimum District Size:</b> 15 Acres</p> <p><b>2. Minimum District Setbacks</b>                  (as measured from exterior District boundary)  <b>Front (as defined by the Main Entrances):</b> 80 ft  <b>All other sides:</b> 25 feet</p> <p><b>3. Maximum Building Height (within District only):</b> 5 Stories or 60 ft</p> <p>4. Buildings within an IC-D development are exempt from the building type requirement listed in Section 4.1 but shall be aligned in a manner that creates formal space such as squares and quadrangles to give prominence to important structures and to allow for gathering and pedestrian circulation</p> <p>5. Parking areas shall not encroach into any required front setback and must be set back at least ten feet from all side and rear yards. Parking areas in the side and rear yards must be screened with a solid wall or fence that is at least four feet in height. Parking areas shall be interconnected within the property.</p>

<p><b>3. General Provisions</b></p>	<ol style="list-style-type: none"> <li>1. Internal setbacks and the location of parking areas shall be set during the review process. Consideration shall be given to the placement of buildings in a manner that encourages pedestrian activity and facilitates the provision of public transit.</li> <li>2. A coherent, interconnecting network of internal streets shall be designed to accommodate the various uses found within the District.</li> <li>3. The street network shall be designed in a manner to facilitate bus transit. Front doors shall be located to provide easy access to the interior of buildings from transit stops.</li> <li>4. The interior of new Institutional Campus Developments shall maintain a well-defined open space network to give prominence to important structures and allow for assembly and pedestrian circulation.</li> <li>5. All buildings shall front upon a street, square, green, park, or quadrangle. Buildings not fronting on a street shall provide for vehicular access from a rear alley or street. Such streets shall be constructed to the public street standards detailed in Section 6.0 but may be privately maintained.</li> <li>6. Public streets, parking areas and private driveways may encroach into setbacks that do not abut public external streets or residential uses up to 40 feet.</li> <li>7. All buildings shall be designed in a manner that is pedestrian in scale and massing unless a technological requirement demands a different trajectory.</li> </ol>													
<p><b>4. Permitted Building Type Mix</b></p> <p>The percentages are allocated on the gross land area.</p>	<table style="margin-left: auto; margin-right: auto;"> <tr> <td><b>Detached House – Alley and Street Lot</b></td> <td><b>0% - 30%</b></td> </tr> <tr> <td><b>Townhouse</b></td> <td><b>0% - 30%</b></td> </tr> <tr> <td><b>Apartment Building</b></td> <td><b>0% - 30%</b></td> </tr> <tr> <td><b>Shopfront Building</b></td> <td><b>0% - 20%</b></td> </tr> <tr> <td><b>Workplace Building</b></td> <td><b>55% - 100%</b></td> </tr> <tr> <td><b>Civic Building</b></td> <td><b>unlimited</b></td> </tr> </table>		<b>Detached House – Alley and Street Lot</b>	<b>0% - 30%</b>	<b>Townhouse</b>	<b>0% - 30%</b>	<b>Apartment Building</b>	<b>0% - 30%</b>	<b>Shopfront Building</b>	<b>0% - 20%</b>	<b>Workplace Building</b>	<b>55% - 100%</b>	<b>Civic Building</b>	<b>unlimited</b>
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5. Permitted Uses	
<b>Residential</b>	<p><b>Open Residential:</b> The number of dwellings is limited by the requirement of 1.5 assigned parking spaces for each dwelling, a ratio that may be reduced according to the shared parking standard.</p> <p><b>Permitted Uses:</b> Single Family Homes, Duplexes, and Multi-Family</p>
<b>Lodging</b>	<p><b>Open Lodging:</b> The number of bedrooms available for lodging is limited by the requirement of one assigned parking space for each bedroom, in addition to the parking requirement for each dwelling. Food service may be provided at all times.</p> <p><b>Permitted Uses:</b> Rental Cottages (in Ancillary Buildings) <sup>1</sup>, Bed and Breakfast Inns<sup>1</sup>, Hospice and Assisted Living Facilities, Hotels<sup>1</sup></p>
<b>Office</b>	<p><b>Open Office:</b> The area available for office use is limited by the requirement of one assigned parking space for each 250 sq ft, a ratio that may be reduced according to the shared parking standards.</p> <p><b>Permitted Uses:</b> Home Occupations<sup>1</sup>, Office Uses, Live-Work Units</p>
<b>Commercial</b>	<p><b>Restricted Retail:</b> Free-standing commercial uses are not permitted. Events facility<sup>1</sup>, Day Care Centers and Day Care Homes<sup>1</sup>, Restaurants<sup>1</sup></p>
<b>Manufacturing</b>	<p><b>Restricted Manufacturing:</b> Manufacturing uses are not permitted. Uses</p>
<b>Civic</b>	<p><b>Open Civic:</b> Civic Uses, Hospitals<sup>2</sup>.</p>
<b>Other</b>	<p>Cemetery<sup>1</sup>, Essential Services-Class 1 and 2<sup>1</sup>, Essential Services-Class 3<sup>2</sup>, Parking Structures<sup>1</sup>, and Recreational Facilities<sup>1</sup>, Water-related Structures<sup>1</sup></p>

<sup>1</sup>See Additional Conditions in Chapter 6  
<sup>2</sup>Subject to the issuance of a Conditional Use Permit

### ***5.13 HISTORIC PRESERVATION OVERLAY (HP-O)***

#### ***1. INTENT***

The historical heritage of Belmont is one of our most valued and important assets. The Historic Preservation Overlay (HP-O) district is created to encourage the restoration, preservation, rehabilitation, and conservation of districts, buildings, sites, and objects with historical and/or architectural significance and to prevent the decline, decay, and/or demolition of such districts, buildings, sites, and objects.

It is the intent of this district to create a process for the local designation of historic districts. It is strongly recommended that this process be completed after the designation of such districts on the National Register of Historic Places.

It is further intended that such an overlay be designated with the support of the affected property owners.

#### ***2. USES PERMITTED***

All uses permitted in the underlying zoning district shall be permitted in the HP-O. Regulations promulgated under the authority of this Section shall not be construed to further regulate the use of the structures in the underlying zoning districts.

#### ***3. REGULATION OF EXTERIOR FEATURES***

No exterior feature of any building or other structure, landscape or natural feature, above-ground utility structure or any type of on-premise sign shall be erected, altered, restored, moved or demolished within a Historic Preservation Overlay District until an application for a Certificate of Appropriateness has been submitted to and approved by the Historic Preservation Commission. Exterior features include the architectural style, general design, color and general arrangement of the exterior of the 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 refers to the style, material, size, color, and location of all such signs.

#### ***4. FEATURES NOT CONSIDERED***

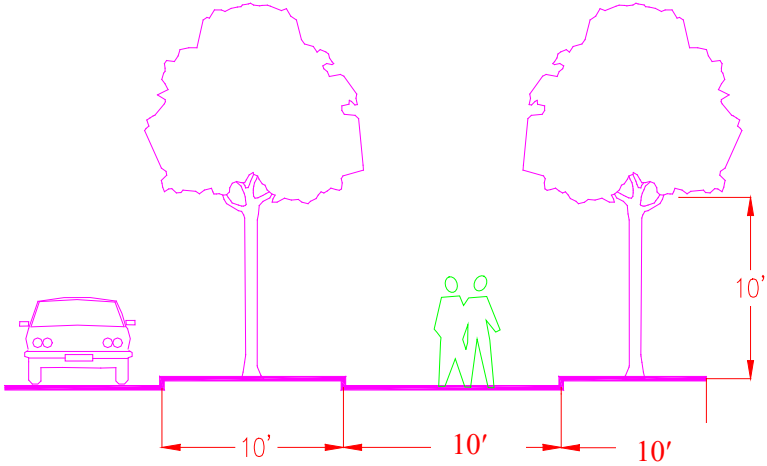
The Historic Preservation Commission shall not consider interior arrangement nor take any action to restrict interior changes except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, or outdoor advertising signs in the Historic Preservation Overlay District which would be incongruous with the historic aspects.

### 5. STANDARDS AND DESIGN GUIDELINES

1. All buildings, structures, features, sites, objects, or surroundings in a Historic Preservation Overlay District shall be subject to the design guidelines adopted by the Historic Preservation Commission. These guidelines shall be based upon the United States Secretary of the Interior's Standards for Rehabilitation which are as follows:
2. A property shall be used for its historical purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
3. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
4. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
5. Most properties change over time; those changes that have acquired historical significance in their own right shall be retained and preserved.
6. Distinctive features, finishes, and constructive techniques or examples of craftsmanship that characterize a property shall be preserved.
7. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new one shall match the old in design, color, texture, and other visual qualities and where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
8. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
9. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
10. New additions, exterior alterations, or related new construction shall not destroy historical materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the *massing*, size, and architectural features to protect the historic integrity of the property and its environment.
11. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**5.15 HIGHWAY CORRIDOR OVERLAY (HC-O)**

This District is coded to preserve and improve the transportation efficiency, non-motorized mobility, and aesthetics of the Wilkinson Boulevard corridor. All provisions of the underlying district shall be effective except those specifically stated in this chapter.

<p><b>1. Streetscape Requirements</b></p>	<p>All development shall provide the following improvements across the frontage:</p> <ul style="list-style-type: none"> <li>• 10 foot landscape strip between the curb and multi-use path</li> <li>• 10 foot wide multi-use path</li> <li>• 10 foot (minimum) landscape strip behind the sidewalk</li> <li>• Canopy Trees planted 40 feet on-center on both sides of the multi-use path staggered every 20 feet (Where aerial utility lines prohibit the installation of Canopy Trees, Small Maturing Trees may be substituted with permission of the Planning Director)</li> </ul>  <p>The diagram illustrates the streetscape layout. From left to right: a car is positioned on the road. To its right is a 10-foot wide landscape strip. This is followed by a 10-foot wide multi-use path. To the right of the path is another 10-foot wide landscape strip. Finally, a canopy tree is shown with a height of 10 feet. The trees are staggered every 20 feet along the multi-use path.</p>
<p><b>2. General Provisions</b></p>	<ol style="list-style-type: none"> <li>1. <b>Minimum lot frontage:</b> 200 feet</li> <li>2. <b>Minimum Lot Area:</b> 2 acres (applicable for Automotive/Boat/Heavy Equipment/Mobile Home Sales and/or Services, Mini-Storage Facilities, and Hotels/Motels only)</li> <li>3. <b>Lot Provisions:</b> The HC overlay shall exist along the entire length of the Wilkinson Boulevard corridor within the city's zoning jurisdiction (including the ETJ). The HC overlay shall consist of lots fronting along the boulevard for a depth measured from the center-line of the right-of-way to the rear of the affected property, but not to exceed 500 feet in length (depth).</li> </ol>

<p><b>2. Access Management</b></p>	<p>1. Driveways shall be limited in accordance with the following standards. Where the NC DOT Driveway Manual conflicts, the stricter of the two standards shall prevail.</p>								
	<table border="0"> <tr> <td style="text-align: center;"><u><b>Frontage (feet)</b></u></td> <td style="text-align: center;"><u><b>Number of Driveways Allowed</b></u></td> </tr> <tr> <td style="text-align: center;">≤ 500</td> <td style="text-align: center;">1</td> </tr> <tr> <td style="text-align: center;">501-999</td> <td style="text-align: center;">2</td> </tr> <tr> <td style="text-align: center;">&gt;1000</td> <td style="text-align: center;">3</td> </tr> </table>	<u><b>Frontage (feet)</b></u>	<u><b>Number of Driveways Allowed</b></u>	≤ 500	1	501-999	2	>1000	3
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	<u>Residential</u>	100							
	<u>Commercial</u>	400							
<p>2. The minimum distance between a driveway and an intersection shall be as follows. Where the NC DOT Driveway Manual conflicts, the stricter of the two standards shall prevail.</p>									
<table border="0"> <tr> <td style="text-align: center;"><u><b>Street Type</b></u></td> <td style="text-align: center;"><u><b>Minimum Distance (feet)</b></u></td> </tr> <tr> <td style="text-align: center;"><u>Major/Minor Thoroughfare</u></td> <td style="text-align: center;">500</td> </tr> <tr> <td style="text-align: center;"><u>Local/Collector Street</u></td> <td style="text-align: center;">200</td> </tr> </table>	<u><b>Street Type</b></u>	<u><b>Minimum Distance (feet)</b></u>	<u>Major/Minor Thoroughfare</u>	500	<u>Local/Collector Street</u>	200			
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<u>Local/Collector Street</u>	200								
<p>3. The Minimum Spacing between median openings shall be 1000 feet. Where the NC DOT Median Crossover Guidelines conflict, the stricter of the two standards shall prevail.</p>									

## 5.16 RURAL COMMERCIAL (RC)

### 1. INTENT

Rural Commercial is coded for commercial clusters along primary rural corridors within the extraterritorial jurisdiction of the city and for existing commercial clusters within the City which are less pedestrian oriented in design than NC-C development.

Carrying capacity of the road or intersection is the factor which limits the size of R-C development.

Uses located in R-C districts shall draw from a local area as opposed to a regional area characteristic of H-C development.

South Point Road, Perfection Avenue and South New Hope Rd. are the designated primary rural corridors along which R-C development can occur.

### 2. USES PERMITTED

Commercial Uses (Including Commercial, Business, Service, Office, and Wholesaling) up to 20,000 square feet

Exclusions: Uses listed above which involve on-site manufacturing, outdoor storage of hazardous materials, warehousing and/or storage necessitating daily truck travel (not including servicing of establishments located within the district or mini-storage facilities), machine shops, auto parts and supply stores, mining, adult retail, pool halls and gaming rooms, and gambling facilities.

### 3. USES PERMITTED WITH CONDITIONS

Essential Services, Class 1, 2, & 3 (Class 3 is allowed as a conditional use only)

Commercial uses exceeding 20,000 square feet in area

Indoor storage of hazardous material (\*Fireworks sales shall not be permitted except as a minor stock item)

Service Stations and Garages

Drive In Theaters

Water-related Structures<sup>1</sup>



**4. LOT PROVISIONS/ SETBACKS/ ENCROACHMENTS**

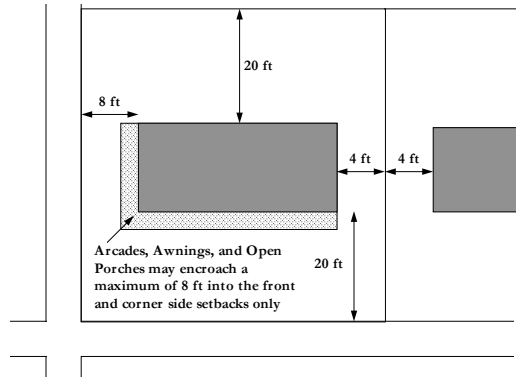
Lot Width (min): 40 feet

Front Setback (min): 20 feet

Side Setback (min): 4 feet (Corner Lot - 8 ft)

Rear Setback (min): 20 feet

Arcades, awnings, and open porches shall be permitted to encroach a maximum of 6 ft into front setbacks and *corner side* setbacks only.



**5. BUILDING HEIGHT**

The vertical distance from the mean elevation of the finished grade relative to the frontage street, to the roof line of the structure.

All uses - Maximum 35 ft.

Exceptions:

- Roof equipment not intended for human occupancy and which is necessary to the structure upon which it is placed.
- Principal buildings not intended for human occupancy such as solariums, atriums and greenhouses.
- Institutional Campus Development with conditions.

**6. PARKING AND LOADING REQUIREMENTS**

Parking requirements shall be as follows:

Offices: 1 per 300 sq ft  
 Commercial: 1 per 250 sq ft  
 Restaurant/Night Clubs/Lounges/Bars: 1 per 75 sq ft  
 Hotels/ Motels/Bed and Breakfast Inns: 1 per room or suite  
 Drive-thru Business: 11 car lengths for first windows plus 7 for each additional window  
 All other Uses: 1 per 250 sq ft

Off Street Loading Requirements shall be as follows:

Office/Restaurant/Hotel  
 Less than 5,000 sq ft: None  
 5,000-50,000 sq ft: 1  
 Over 50,000: 2 plus 1 for each additional 100,000 sq ft of space

All Other Uses  
 Less than 5,000 square feet: None  
 5,000-20,000 square feet: 1  
 Over 20,000 square feet: 2 plus 1 for each additional 30,000 sq ft

## 7. ARCHITECTURAL STANDARDS

All walls **visible** from a public right-of-way shall be clad with the same material required for the front of the building (see A. Materials below).  
Approved metal paneling may not exceed 40% of any facade of a structure visible from a ROW.

All walls **not visible** from a public right-of-way may be constructed of cinder block. Blocks or approved metal paneling shall be painted to match the overall color scheme of the rest of the building.

**A. Materials**

1. Building walls may be clad in brick, cast concrete, stucco, wood or wood clapboard, approved metal paneling, or material that is similar in appearance and durability.
2. Pitched roofs shall be clad in wood shingles, slate, sheet metal, corrugated metal, or diamond tab asphalt shingles.

**B. Configurations**

1. Two wall materials may be combined horizontally on one facade. The heavier material must be below.
2. Roof pitch may not vary within a development.

**C. Techniques**

1. Stucco shall be float finish.
2. All rooftop equipment shall be enclosed in building material that matches the structure or is visually compatible with the structure.

**5.17 MANUFACTURED HOUSING DEVELOPMENT (MH-D)****1. INTENT**

Manufactured housing is a recognized form of affordable housing.

The MH-R district is coded to allow for the development of neighborhoods which utilize manufactured housing as its principle building type. Manufactured housing neighborhoods can only occur in a MH-R district.

The intent is to treat manufactured housing with the same design considerations applied to homes built to the Standards set forth in the North Carolina Building Code and those codified in this Ordinance.

The minimum development size shall be 5 acres. Max size 40 acres

**2. USES PERMITTED**

Manufactured Housing  
Essential Utility Services, Class 1 & 2<sup>1</sup>  
Water-related Structures<sup>1</sup>

**3. USES PERMITTED WITH CONDITIONS**

Customary Home Occupations

**4. LOT AND BUILDING PROVISIONS**

The following lot sizes are to be the minimum size requirements and may be increased due to requirements for placement of well and septic tank systems, such as soil conditions and separation distances, the topography of the land or other environment conditions. The applicant shall indicate on the application, the number of bedrooms per house for which the septic tank system should be evaluated.

Porches, patios, and bay windows may encroach into a front yard setback only.

CATEGORY	Water & Sewer Available	Water or Sewer Available	Well & Septic Tank
MINIMUM LOT SIZE	8000 sq ft	10,000 sq ft	20,000 sq ft
LOT WIDTH AT BUILDING LINE	60 ft	70 ft	90 ft
LOT WIDTH AT STREET RIGHT-OF-WAY	40 ft		
FRONT SETBACK	20 ft		
SIDE SETBACK	12 ft	15 ft	
REAR SETBACK	30 ft		
MAXIMUM HEIGHT	35 ft		
ENCROACHMENTS (Rear yard setbacks)	(10ft)	(12ft)	(12ft)

**5. ACCESSORY STRUCTURES**

The following uses are permitted within outbuildings:

- Parking
- Gazebo
- Poolhouse
- Sauna
- Workshop
- Equipment Enclosure

Trash containers, mechanical equipment and outdoor storage shall be located only within the rear yard.

Mailboxes, newspaper boxes, walls, fences, birdhouses, flagpoles, and pump covers may be placed in any front, side or rear yard. Doghouses may be placed in rear yards only.

**Lots Over 10,000 sq ft**

Accessory structures shall not exceed 40% of the total area of the principle structure. At no time shall the total area of an accessory use exceed 25% of the rear yard. Such uses shall only be permitted in the rear yard. Accessory structures with a total area exceeding 500 square feet shall be constructed using materials and features similar to the principle structure.

- Minimum side and rear setbacks: 5 ft
- Minimum setback from principle structure: 10 ft
- Maximum Height: 26 ft

**Lots Under 10,000 sq ft**

Accessory structures shall not exceed 500 sq ft.

- Minimum side and rear setback: 5 ft
- Minimum setback from home: 10 ft
- Maximum height: 26 ft

Accessory structures in rear yards that abut a publicly dedicated street shall be set in the portion of the rear yard opposite the street.

**6. ACCESSORY USES**

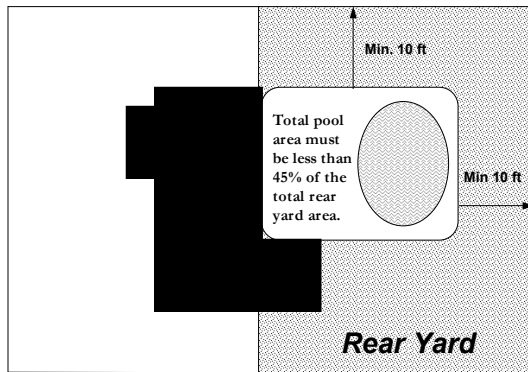
**(A) POOLS**

All pools, whether above-ground or in-ground, shall be built only in rear yards. The definition of a pool shall include all structures, and walks or patio areas of cement, stone, or wood *at or above grade*, built for, and used in conjunction with the pool.

A pool as defined above shall not exceed 45% of a required rear yard.

Pools, as defined above, shall be setback a minimum of 10 ft from all side and rear property lines. Patio areas *at grade* have no setback requirements from rear or side lot lines

Pools shall have the rear yard enclosed by a privacy fence with a minimum height of four (4) feet and a maximum height of eight (8) feet.



**(B) SATELLITE DISHES**

Satellite dishes less than 20 inches in diameter may be located anywhere on a lot. All other satellite dishes shall adhere to the following standards:

1. Satellite dishes shall be no larger than eight (8) feet in diameter
2. The maximum height shall be fifteen (15) feet unless the applicant can prove:
  - a) a less intrusive location is not possible and,
  - b) a higher location will improve reception
3. The dish must be installed and grounded properly.
4. Satellite dishes may not be located in front or side yards and shall meet all setbacks applicable to accessory structures.
5. Satellite dishes shall be screened from view with dense landscaping materials, fences, or other solid materials, to the extent that it does not impair reception.
6. Satellite dishes with a reflective surface shall be painted a subdued or natural color.
7. Satellite dishes shall not be located on a roof.

## 7. MANUFACTURED HOUSING STANDARDS

In no instance may a manufactured home be used for a nonresidential purpose. A manufactured home must bear a seal certifying that it was built to the standards adopted on July 1, 1976 that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

### Materials

1. The exterior siding consists of wood, hardboard, vinyl, brick or aluminum and shall be comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.
2. The roof shall be finished with a type of shingle that is commonly used in standard residential construction.
3. A continuous, permanent brick foundation or curtain wall, unpierced except for required ventilation and access, shall be installed upon a poured concrete footer after placement on the lot, and before occupancy.

### Configurations

1. The minimum width (the width being the narrower of the two overall dimensions) of the main body of the manufactured home as assembled on the site shall be at least twenty-two (22) feet for a distance extending along the length (the length being the longer of the two overall dimensions) of at least twenty (20) feet.
2. Stairs, porches, entrance platforms and other means of entrance and exit to the manufactured home shall be installed and constructed in accordance with the standards set by the by the NC Department of Insurance.
3. The pitch of the roof of the manufactured home shall have a minimum vertical rise of four (4) feet for each twelve (12) feet of horizontal run, or the standard of each individual manufacturer's equivalent to a 4' x 12' roof pitch. Not applicable to existing manufactured home parks.
4. The roof of the manufactured home shall have an overhang (eave) extending at least ten (10) inches from each vertical exterior wall. A site installed gutter may be counted in the width of the eave.

### Techniques

1. The manufactured home is set up on the site in accordance with the standards set by the NC Department of Insurance.
2. The manufactured home shall face the fronting street
3. The tongue, axes, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

**8. GENERAL PROVISIONS**

- a) No manufactured home shall be located within a 100 year *flood plain* as established by the most recent Federal Emergency Management Agency map.
- b) All parking shall be on-site in side or rear yards and driveways only.
- c) Developments with twenty or more homes shall have at least four entrances/exits.
- d) Streets shall follow the provisions of Section 3.15 (b). Private streets do not require curb and gutter. Sidewalks shall be provided as per Section 3.15 (d). *Note: These references are for a previous Ordinance. For current reference, please see Chapter 8.*
- e) Open Space shall be provided for as per Section 3.15(h) and 3.16 *Note: These references are for a previous Ordinance. For current standards, please see Chapter 7.*
- f) Landscaping shall be provided for as per Section 3.15( I) and 3.15 (j). *Note: These references are for a previous Ordinance. For current reference, please see Chapter 11.*

**5.18 CONDITIONAL DISTRICTS (CD)**

Conditional Districts provide for orderly and flexible development under the general policies of the base district without the constraints of the general district standards. Because Conditional District developments are constructed in a comprehensive manner, they establish their own building, street, block, and lot pattern which may be unique from other surrounding blocks or neighborhoods. This Conditional District may be used in any district but is not intended to relieve hardships that would otherwise be handled using a variance procedure.

**A. Applicability:**

District	Minimum Area Required
Rural Residential (R-R)	40 Acres
Suburban Residential (S-R)	15 Acres
General Residential (G-R)	15 Acres
Neighborhood Center-Residential (NC-R)	None
Neighborhood Center-Commercial (NC-C)	None
Downtown District (D-D)	None
Highway Commercial (H-C)	2 Acres
Infill Development (INF-D)	3 Acres
Traditional Neighborhood Development (TND)	30 Acres
Business Campus Development (BC-D)	10 Acres
Institutional Campus Development (IC-D)	15 Acres
Rural Commercial	2 Acres
Manufactured Home Residential (MH-R)	5 Acres
South Point Peninsula Overlay District	10 Acres

**B. Modification to General Provisions:**

Within a Conditional District (CD), any proposed use must be allowed in of the corresponding Base District. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to city ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. If no specific request is made by the petitioner to the change in the development standards or if the petition is silent on the point, it shall be understood that the underlying zoning district guidelines and standards



shall apply. In addition to the modification of specific district provisions (except use), the following General Provisions as detailed in Chapters 4-11 may be varied if specifically requested by the petitioner as part of a Conditional District application:

CH	Title	Exception to modifications:
4	Building Type Requirements	
5	District Provisions	Uses permitted may not be varied unless the use proposed is not currently defined or contemplated by the Code
6	Additional Requirements for Certain Uses	
7	Open Space	May substitute required open space for payment in lieu in accordance with Section 7.2. Amount required may not be reduced.
8	Streets and Greenways	Variations already permitted by Section 8.1. No further modifications permitted.
9	Parking	
10	Signs	Only standards in Section 10.1, 10.2, and 10.3 may be varied. Signage may exceed the permitted amount by no more than 50%.
11	Tree Protection and Landscaping	No further modifications permitted. Alternate Methods of Compliance provided in Section 11.5.

**C. Establishment of a Condition District (CD)**

For the Development Plan Review Process for the establishment of a Conditional District (CD), please see Section 15.6.

**5.19 SOUTH POINT PENINSULA OVERLAY DISTRICT (SPP-O)**

The South Point Peninsula Overlay is coded to allow low to moderate density development in areas farther from central Belmont in keeping with the adopted Comprehensive Land Use Map. This overlay provides the opportunity to fulfill the vision of the Suburban Neighborhood, Semi-Rural Neighborhood, and the Village Center Neighborhoods while providing flexibility through the Conditional Zoning process.

<p><b>1. Permitted Building Types</b>                  Except where topographic or pre-existing building conditions prohibit, all new buildings shall front on public streets.</p>	<p style="text-align: center;"><b>Detached House – Alley and Street Lot                  Townhouse                  Civic Building                  TND Building Types*</b></p> <p>* Underlying zone must be TND and requires Conditional Zoning</p>
<p><b>2. Specific District Provisions</b>                  Any exceptions to these requirements may be considered through a Conditional Zoning District.</p>	<p><b>1. Minimum Lot Size</b>                  The minimum lot size for a duplex home shall be 21,780 square feet, except with approval of a Conditional Use permit.</p> <p><b>2. Maximum Development Density</b>                  Maximum Density (on a project by project basis): 3 Units/Acre                  Exceptions may be considered or developments within a planned village center as represented in the Comprehensive Land Use Map by Conditional Zoning.</p> <p><b>3. Permitted Building Type Ratio</b>                  The maximum number of Detached House-Alley Lot and Townhouse buildings in a GR or SR development shall not exceed 30% of the total number of units. See TND ratios if applicable. Conditional Zoning District Required.</p> <p><b>4. Lot Width</b>                  On infill lots, the minimum lot width shall be equal to the average lot width of lots within 300 feet or 1 block length (whichever is greater), except with approval of a Conditional Use permit.</p> <p><b>5. Setbacks – See Building Types</b></p>

**6.1 PURPOSE**

The City of Belmont finds that there are certain uses that exist which may be constructed, continued, and/or expanded provided they meet certain mitigating conditions specific to their design and/or operation. Such conditions ensure compatibility among building types so that different uses may be located in proximity to one another without adverse effects to either. This Chapter specifies those requirements that must be met by all the uses listed in the Uses Permitted with Conditions section for each District in Chapter 5.

Each use shall be permitted in compliance with all conditions listed for the use in this chapter. Certain uses are classified as **Conditional Uses** and require City Council approval in accordance with Section 15.10.

**6.2.1 ADULT ESTABLISHMENTS (Permitted in HC Only)\* Conditional Use**

- a) No such Adult Establishment shall be located less than 1,000 ft from a school, church, day care center, civic building, park, lot in residential use, lot with residential districting or other Adult Establishment.
- b) All openings shall have an opaque glazing to discourage visibility of the interior.
- c) The maximum floor area of each use shall be 3000 square feet.
- d) No exterior signage or building element shall be pornographic in nature or convey any such idea or element.
- e) An Adult Establishment lawfully operated as a conforming use is not rendered a nonconforming use by the subsequent location of a house, church, school, public park, child care center, or residential district with respect to the spacing requirements above.

**6.2.2 AUTOMOTIVE/BOAT/HEAVY EQUIPMENT/MANUFACTURED HOME SALES AND/OR SERVICE (HC)\* Conditional Use**

- a) Large surface parking lots should be visually and functionally segmented into several smaller lots. The size of any single surface parking lot shall be limited to three acres, unless divided by a street, principal building, or Type A Opaque Screen/Buffer.
- b) No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.

**6.2.3 PRIVATE NIGHTCLUBS (NC-C, D-D, H-C)\* Conditional Use**

- a) Live music shall not be audible off the premises at decibel levels louder than normal background noise after 11:00 pm, if such establishments are located within 350 feet of a residence. (Not applicable in D-D)
- b) The City Council may impose specific hours of operation and other appropriate conditions to minimize intrusiveness dependent upon prevailing neighborhood conditions and/or adjacency to residential development.

**6.2.4 BED AND BREAKFAST INNS (RR, SR, GR, NC-R, NC-C, H-C, INF-D, BC-D, IC-D)**

- a) Single family homes used as bed and breakfast inns shall have a minimum heated floor area of 1,500 square feet.
- b) Single family homes used as bed and breakfast inns may not subdivide existing rooms into less than 200 sq ft.
- c) The bed and breakfast inn shall be owner-occupied. (This requirement may be waived with the issuance of Conditional Use Permit).
- d) All guest parking shall be to the rear of the home. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking. There shall be one space per room of lodging.

**6.2.5 CEMETERY (RR, SR, GR, NC-R, NC-C, TN-D, BC-D, IC-D)**

- a) Embalming or cremation facilities are not permitted except where permitted by right.
- b) Brick walls between 1.5' and 4' are permitted along the perimeter.
- c) Wood or wrought iron fences between 2.5' and 8' are permitted along the perimeter.
- d) Setbacks from all street right-of-ways and adjacent properties to a wall or grave shall be a minimum of 8 ft.

**6.2.6 DAY CARE CENTERS AND DAY CARE HOMES (RR, SR, GR, NC-R, NC-C, H-C, INF-D, TN-D, BC-D, IC-D)**

All day care centers (but not all day care homes) shall be located on a lot that has direct access onto an arterial or collector street as identified on the most recently adopted version of the Gaston-Cleveland-Lincoln MPO's Functional Classification System Map.

**A. Child day care center**

A child day care center must be contained within a permitted building type for the District in which it is to be located.

Play space must be provided in accordance with the regulations of North Carolina Department of Human Resources. Outdoor play space must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space; play space may not be in the established front yard.

**B. Adult day care center**

An adult day care center must be contained within a permitted building type for the District in which it is to be located.

There is no limit on the hours of operation of an adult day care center, but it shall not serve any client on a continuous 24-hour basis.

**C. Child day care home**

The day care operation must be located within the residential dwelling unit occupied by the operator of the service. Preschool instruction and daytime care is limited to 5 children not related to the operator.

Play space must be provided in accordance with the regulations of the North Carolina Department of Human Resources. Outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space; it is prohibited in any front yard.

A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained. A zoning permit shall be issued annually by the City of Belmont to any child day care home to ensure compliance with all applications.

**D. Adult Day Care Home**

An adult day care home must be located within the residential dwelling unit occupied by the operator of the service. Care is limited to no more than five (5) adults who do not reside in the dwelling.

An adult day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained. A zoning permit shall be issued annually by the City of Belmont to any adult day care home to ensure compliance with all applications.

**6.2.7 DRIVE-THROUGH COMMERCIAL (NC-C, H-C, BC-D, TN-D/CD)**

- a) Drive-through windows and services shall be located and accessed on the side or rear of a building.
- b) Drive-through windows and services located and accessed on the side of a building in the Neighborhood Center-Commercial district shall be approved as a **Conditional Use**, limited to one lane, and shall be screened from off-site view from a public street.
- c) Vehicle queuing for drive-through uses shall be located outside of and physically separated from the right-of-way of any street. This area shall not interfere with the efficient internal circulation of the site, adjacent property, or adjacent street right-of-way.
- d) In the NC-C District drive-through facilities shall be screened from off-site view from a street right of way by of a Type A buffer with a minimum width of 10 ft.
- e) Drive-through windows and services for drug stores are allowed in TN-D/CD and shall be approved as a “Conditional Use” limited to one lane with an additional by-pass lane, and shall be screened with at least a Type B buffer (min. height 4 feet) if facing an existing residential property.
- f) Drive-through windows and services located and accessed on the side/rear of a building in the Business Campus Development district shall be approved as a Conditional Use and limited to four lanes. If an existing residential property is located adjacent to the drive-through facility or is across a public street, a Type A buffer (min. width 10 ft.) shall be required.

**6.2.8 ESSENTIAL SERVICES, CLASS 1 & 2 (All Districts) (Free-Standing Wireless Communications Towers exceeding 35 ft in Height, and Electric Substations Require Conditional Use Permit)**

- a) Wireless communications towers in all districts (except HC and BC-D districts) may not exceed the maximum permitted height for a given district except as a component of an existing or proposed structure not intended for human occupancy (i.e. Church bell towers and steeples) or attached to existing or proposed public infrastructure such as street lights, water towers and electrical transmission towers. All such towers shall be designed using stealth design elements. Wireless communications facilities attached to existing or proposed structures such as water towers, transmission towers, church steeples, streetlights, bell towers, or similar structures do not require a Conditional Use permit.
- b) The maximum height of all wireless communications towers in the HC district and any BC-D district shall be 180 feet; provided, however, that the maximum height of a tower may be

greater than 180 feet, but less than 200 feet when such tower is designed and constructed to accommodate the present or potential co-location of an additional wireless communications service provider or public safety communication use.

- c) Free standing wireless communications towers in HC and BC-D districts shall be setback a distance equal to the total height measured from grade elevation from all adjoining properties of differing designation.
- d) No wireless communications tower shall be sited within 1 mile of another wireless communications tower except as a component of existing public utility infrastructure.
- e) All ancillary structures shall be screened with an opaque screen of landscaping, wood fence, or wall, or any combination thereof.
- f) All wireless communications towers in the HC and BC-D districts shall be constructed using a monopole design.
- g) All Essential Service facilities shall be located outside of all front and side yards and shall provide Type A Opaque Screening around all ground facilities.

**6.2.9 EVENTS FACILITY (G-R, NC-R, NC-C, H-C, D-D, BC-D, IC-D)**

- a) Must be located on or have direct access to an arterial or collector street as identified on the most recently adopted version of the Gaston-Cleveland-Lincoln MPO's Functional Classification System Map..
- b) In a G-R district, an events facility must be on a lot that is at least 2 acres in area and may only be allowed with a conditional use permit.

**6.2.10 FUNERAL HOME (NC-R, NC-C, H-C)**

- a) Minimum lot size is 1 acre.
- b) A funeral home shall be located on a lot that has direct access onto an arterial or collector street as identified on the most recently adopted version of the Gaston-Cleveland-Lincoln MPO's Functional Classification System Map.

**6.2.11 CONVENIENCE STORES (NC-C, HC)**

- a) Gasoline pumps, canopies, and associated service areas are prohibited in any established front yard abutting a street.
- b) All areas where vehicles are stored temporarily shall be considered as parking lots and must comply with the provisions of Chapter 10.
- c) All such vehicle storage areas shall be located at the rear of the building.
- d) The outdoor service area of a car wash shall be placed in the rear yard only and screened from view.
- e) Lighting provided by canopies shall be per the specifications of Chapter 10.

**6.2.12 HOME OCCUPATIONS (RR, SR, GR, NC-R, NC-C, H-C, INF-D, TN-D, BC-D, IC-D)**

A home occupation is permitted accessory to any dwelling unit (except manufactured housing) in accordance with the following requirements:

- a) The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
- b) A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure that meets the requirements of this Code.
- c) The use shall employ no more than one person who is not a resident of the dwelling.
- d) A home occupation housed within the dwelling shall occupy no more than 25 percent of the total floor area of the dwelling.
- e) There shall be no visible outside display of stock in trade which is sold on the premises.

- f) There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.
- g) Operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor from a street.
- h) Only non-commercial vehicles will be permitted in connection with the conduct of the home occupation.
- i) The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home occupation.
- j) Home occupations shall be limited to those uses which do not draw clients to the dwelling on a regular basis.
- k) No business identification or advertising signs are permitted.

**6.2.13 Hotels (IC-D)**

- a) Hotels shall be allowed in IC-D if they promote the many varied uses associated with the institutions while maintaining the overall design integrity of the traditional campus setting.
- b) Incidental commercial uses shall be allowed in association with the hotel. Examples include, but are not limited to: catering establishments, restaurants, and gift shops.

**6.2.14 MANUFACTURED HOUSING (RR, MH-D, and Existing Manufactured Home Parks)**

- a) A continuous, permanent brick foundation or curtain wall, unpierced except for required ventilation and access, shall be installed upon a poured concrete footer after placement on the lot, and before occupancy.
- b) The minimum width (the width being the narrower of the two overall dimensions) of the main body of the manufactured home as assembled on the site shall be at least twenty-two (22) feet for a distance extending along the length (the length being the longer of the two overall dimensions) of at least twenty (20) feet. In general terms, this only permits double-wide manufactured housing.
- c) The manufactured home shall front on a street such that the primary entrance is aligned to the street.
- d) The manufactured home is set up on the site in accordance with the standards set by the NC Department of Insurance.
- e) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
- f) In no instance may a manufactured home be used for a nonresidential purpose.
- g) A manufactured home must bear a seal certifying that it was built to the standards adopted on July 1, 1976 that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction.

**6.2.16 NEIGHBORHOOD STORES (NC-C, TN-D, INF-D)**

- a) The building may contain additional uses including a café, a contract post office, an automatic bank teller, and a newsstand.
- b) No uses associated with the operation of a gas station are permitted.

**6.2.17 NEIGHBORHOOD MANUFACTURING (NC-C, D-D)**

- a) To avoid blank walls and dead space that inhibit pedestrian activity, neighborhood manufacturing uses with storefronts along pedestrian oriented streets (Ex: Main Street and East Catawba Street) shall provide active storefronts. Active storefronts shall include large display windows, commercial sales areas, merchandise, show rooms, or similar areas that

enliven the street. Such uses shall not exceed 2,500 ft<sup>2</sup> in total manufacturing area. Neighborhood manufacturing uses shall be limited to existing non-residential development fronting on East Catawba Street and Main Street. Neighborhood manufacturing uses outside these designated corridors may be approved upon the issuance of a conditional use permit.

**6.2.18 OUTDOOR STORAGE EXCEPT FOR LANDSCAPING/GARDEN SUPPLIES/LIVE PLANTS (HC, BC-D)**

- a) All outdoor storage shall be located in the side or rear yard only and shall be screened from view with Type B Landscaping (Semi-Opaque Screen).

**6.2.19 OUTDOOR STORAGE OF LANDSCAPING/GARDEN SUPPLIES/LIVE PLANTS (NC-C, D-D)**

- a) Outdoor storage of landscaping/garden supplies/live plants shall only be permitted as an auxiliary and seasonal use of an established business that conducts its primary operations in a permanent building.
- b) The total area of outdoor storage for a business shall not exceed 40% of the gross building area in which the business is located and operates.
- c) All outdoor storage shall be located in the side and/or rear yard only.
- d) No detached/attached trailers, sheds, metal shelters, or other accessory structures may be used in connection with the outdoor storage.

**6.2.20 RECREATIONAL FACILITIES (RR, SR, GR, NC-R, NC-C, H-C, INF-D, TN-D, BC-D, IC-D)**

- a) All recreational facilities shall be treated as parks in design and landscaping. All structures associated with a recreational facility shall be located toward the perimeter of the lot.
- b) Recreational facilities are encouraged to be built adjoining school campuses, parks, greenbelts, parkways, greenways, or waterfronts.
- c) Parking shall be to the rear and/or side of the building(s).
- d) The principal building shall face the fronting street and shall not be setback a distance that inhibits pedestrian access. All public swimming pools shall comply with 15A NCAC 18A .2500 Rules Governing Public Swimming Pools available from the Gaston County Health Department. Pools and other active uses should be screened and/or buffered with a Type A Opaque Screen/Buffer from any existing or proposed residential property to minimize noise and visual trespass.

**6.2.21 RENTAL COTTAGE (In Outbuildings) (RR, SR, GR, NC-R, NC-C, H-C, INF-D, TN-D, BC-D, IC-D)**

- a) Minimum floor area shall be 480 sq ft.
- b) The principal building shall be owner-occupied.
- c) Rental cottages may only be constructed on the second story of a garage, studio, workshop or similar outbuilding use that is accessory to the principal structure.

**6.2.22 RESTAURANTS (NC-C, DD, H-C, TN-D, BC-D, IC-D)**

- a) Outdoor seating shall not obstruct sidewalks or streets, but may encroach upon sidewalks.

**6.2.23 TEMPORARY AMUSEMENTS (GR, HC, BC-D)**

- a) The applicant must comply with city fire department and county building inspection department safety recommendations. A certificate of occupancy must be obtained before the attraction may be opened to the public.
- b) The audience of any temporary attraction must be orderly at all times, and it shall be unlawful for any person attending such event to create a disturbance in the audience.



- c) Amplified sound equipment shall not be permitted outside of the structure used as a temporary attraction.
- d) Parking shall be provided in a ratio equivalent to one space per 25 sq. ft. of the total space used for the attraction, including auxiliary and administrative areas.
- e) Flashing, rotating, or intermittently illuminated lighting may not be visible from the area surrounding the building.
- f) If any part of the site abuts a residential neighborhood or parcel, the temporary attraction may not issue tickets or queue additional patrons after 10:00 p. m. local time.
- g) A temporary amusement facility may only be allowed in the GR zoning district by conditional use permit and shall be located within a civic building or a publicly-owned park.
- h) A temporary amusement attraction is limited to a maximum of 45- operational days.
- i) The applicant shall obtain a zoning permit from the Planning and Zoning Department prior to set-up and/or operation of proposed temporary amusement use.

**6.2.24 WATER-RELATED STRUCTURES (All Districts)**

- a) All water-related structures shall be approved by Duke Power Shoreline Management prior to any construction. Prior to the issuance of zoning compliance for a building permit, the applicant must obtain and submit the required authorization from the Duke Energy Shoreline Management or any other pertinent outside agency. All water-related structures shall be in conformance with all applicable Federal Energy Regulatory Commission (FERC) and Duke Energy Shoreline Management regulations.
- b) A marina is permitted by right subject to other provisions of this article. A public-use marina is allowed when accessed by means of any property zoned other than G-R, S-R, and R-R. A private-use marina is allowed when it is part of a residential subdivision or multi-family development provided it is managed by an organized homeowners' association or property management firm. A public-use marina may include boat sales, boat repair, and related merchandise sales. Free-standing restaurants and a marina store (new development with parking) are allowed on any property zoned BC-D or IC-D as an adaptive re-use of under-utilized properties. An existing structure in these zones may be used for the sales and service of boats. Boat repair services shall be conducted inside the building and the occupancy must be approved by building inspections and a fire inspector. Outdoor storage of watercraft not located in marina slips shall be screened using a Type A opaque buffer (see Ch. 11). This requirement may be waived only if the boat storage area is interior to a site and the boats are not visible from a residence, a right-of-way, or a waterway. Fuel pumps are allowed only at the marina dock.

**6.2.25 TEMPORARY FAMILY HEALTH CARE STRUCTURE (RR, SR, GR, NC-R, NC-C, INF-D, TN-D, BC-D, IC-D)**

- a) A temporary family health care structure is permissible in compliance with N.C.G.S 160A-383.5. Associated definitions:
  - i. Activities of daily living: Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
  - ii. Caregiver: An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.
  - iii. First or second degree relative: A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew or niece and includes half, step and in-law relationships.
  - iv. Mentally or physically impaired person: A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this state.
- b) Only one temporary family health care structure shall be allowed on a lot or parcel.

- c) Structure shall comply with all setback requirements that apply to the primary structure, shall not be placed on a permanent foundation, and shall connect to municipal water, sewer, and electric utilities serving the property.
- d) Structure shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the structure may continue to be used, or may be reinstated on the property within 60 days of its removal.
- e) The caregiver shall obtain a zoning permit from the city prior to installation of such structure and shall provide all necessary documentation of compliance with this section.

## 7.0 OPEN SPACE

The intent of these requirements is to allow for the usage of centrally located unencumbered land as neighborhood open spaces and not to permit the use of leftover or otherwise unusable land to fulfill the requirements of this Chapter. Open space as defined by this Chapter is also distinct from those areas that are environmentally significant and must be protected in their pristine state as dedicated open space is designed to supplement the human habitat through its use and enjoyment.

### 7.1 OPEN SPACE DEDICATION

All residential developments with more than 8 total units shall be required to dedicate open space. To encourage development of residential units in the Downtown District, all such residential development shall be exempt from these provisions. The amount of useable open space required for dedication shall be determined using the Open Space Dedication Matrix. These figures are based upon similar dedication requirements throughout the State of North Carolina with three minor adaptations:

- First, the matrix was designed to base open space requirements on the number of bedrooms in a given development rather than the usual dedication based upon the dwelling unit. This more accurately reflects the needs of the residents, as the number of bedrooms within a given development is a better representation of the actual number of residents who would use open space.
- Second, the matrix is established to encourage the preservation of land. By allowing for an increase in densities, the matrix provides for an increasing requirement in open space dedication. For example, a 50-acre subdivision of 100 lots developed at a density of 2 units per acre would generally require 3.44 acres or 7% of dedicated open space. In contrast, this same tract of land subdivided into 400 lots (or condos) at a density of 8 units per acre would require 15.15 acres or 30% of dedicated open space. These figures are based upon an average of 3 bedrooms per unit.
- Third and final, this matrix has been developed with regard to the availability of accessible open space in close proximity to the proposed development. Developments within a ½ mile (10 minute) walk (along sidewalks or other pedestrian access) to existing publicly dedicated open space (parks, greenbelts, etc.) are granted a reduction in required open space dedication of 25%. Similarly, developments that are adjacent to existing publicly dedicated open space are granted a 50% reduction in required dedication.

Because the open space dedication requirements are based upon preliminary estimations of bedroom units in a given development, changing market conditions and final build-out of a project may yield a different bedroom count. In order to accommodate for variations, this code will permit variations to the estimated number of bedrooms up to 10%. Variations in excess of 10% may allow a payment in lieu of additional dedication. Variations in excess of 25% will require the dedication of additional open space.

For the purposes of good faith estimation, all single family developments will dedicate open space at a rate of 3.5 bedrooms per unit unless otherwise stipulated. Attached homes and apartments will dedicate open space at a rate of 2-4 bedrooms in accordance with building specifications.

**OPEN SPACE DEDICATION MATRIX**

	Gross Dwelling Units per Acre				Proximity to Parks
	0-2	2-6	6-10	+10	
<b>Estimated Number of Bedrooms X</b>	500	520	550	580	Base
	375	390	413	435	Within 1/2 Mile
	250	260	275	290	Adjacent
All figures are in square feet					

**How to use this matrix:**

1. Determine average density for proposed development (Gross Dwelling Units per Acre).
2. Determine average number of bedrooms per dwelling unit (good faith estimate).
3. Multiply number of bedrooms by the number of units to get to the estimated number of bedrooms.
4. Multiply the estimated number of bedrooms by figures shown in the matrix which relate to the density of the site and its proximity to existing open space.

**EXAMPLE:**

A developer wants to subdivide a 50 acre tract of land into 120 lots. The average number of bedrooms per lot is 3.5 (some 3 bedroom, some 4 bedroom). The tract is not within 1/4 mile walking distance to any publicly dedicated open space. How much open space is required for dedication?

The density (in dwelling units per acre) is 2.4. There are an estimated 420 bedrooms. Using the multiplier of 520 as shown in the matrix, the required amount of useable open space to be required is 218,400 square feet or 5.01 acres or 10% of the total area.

**SECTION 7.2 PAYMENT IN LIEU OF OPEN SPACE DEDICATION**

If open space within a development is physically impractical due to unusual topographic conditions then the City Council may, at its discretion, accept either an equitable amount of land in another location or a fee paid to the City in lieu of dedication. The following formula shall be used to determine the fee:

$$\frac{\text{(Assessed Value of On-Site Property)}}{\text{X ((Yearly Adjusted Inflation Rate) (\# of Years Since Last Revaluation)+1)}} = \text{Payment in Lieu of Open Space Dedication Fee}$$

- **Assessed Value of On-Site Property** equals the value of the required amount of land to be dedicated as a percentage of the assessed valuation of the site prior to subdivision. (i.e. If the total acreage is 100 and the total assessed value equals \$500,000 and the required open space dedication is 15 acres, then the Assessed Value of the Open Space Dedication would be 15% of \$500,000 or \$75,000.
- **Yearly Adjusted Inflation Rate** is based upon prevailing inflation rates as reported annually in the Wall Street Journal or other reliable financial reporting medium. (i.e. 3%)
- **Number of Years Since Last Revaluation** is the total number of years since the last revaluation was conducted by the taxing authority.

**Example:**

Assessed Valuation: \$75,000  
 Inflation Rate: 3%  
 Yrs Since Last Revaluation: 6  
 Cost of Off-Site Open Space: \$88,500

$$\frac{(75,000)}{\text{X } ((.03 \text{ X } 6)+1)} = \text{\$ 88,500}$$

Payments in lieu of dedication shall be approved as part of the Schematic. Any disagreement in the amount of required payment shall be resolved by conducting a professional appraisal of the fair market value of the property. The professional appraiser shall be mutually agreed upon by the City or appointed by the City should an agreement not be reached. All payments made in lieu of dedication shall be made at the time of Construction Document approval. Failure to submit the required fee along with such applications will delay approval of such submissions until payment is rendered. All funds received for payment in lieu of dedication shall be used for the acquisition, development, or redevelopment of public open space within the same general area of the new development; within the City .

**SECTION 7.3 OPEN SPACE GENERAL PROVISIONS**

1. Open space is defined as all areas not covered by building or parking lots, dry detention structures, streets, required setbacks, or golf courses.
2. Open space shall be planned and improved, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and may contain one or more of the following improvements: landscaping, walls, fences, walks, statues, utilities, irrigation, fountains, ball fields, and/or playground equipment.
3. Significant stands of trees, stream bed areas, and other valuable topographic features shall be preserved within the required open space areas where practical. Areas noted on any adopted Master Plan as open space shall be preserved and dedicated where practical and feasible and may be left unimproved in accordance with the Plan.
4. Playground equipment, statues, and fountains should be located toward the interior of squares and parks away from the public right-of-way to provide for adequate safety of the user.
5. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 4 feet in height. (Exception: Fences used in conjunction with ball fields.) Watershed District development shall allocate required open space in the form of one or more of the types listed in this Chapter.
6. Waterfront development shall provide 50% of the required open space as waterfront parks along its shoreline. This requirement may be reduced to a minimum of 25% if off-water open space is dedicated with an area equal to 1 ½ times the required waterfront dedication. The design shall be such as to form a central public space or esplanade for the neighborhood to provide waterfront access and views to residents. A minimum of 30% of the perimeter of the park shall be bordered by the water.
7. Open space should provide focal points for the neighborhood and City. A central square or green, for example, may comprise a majority of the area required for dedication.
8. Dedicated open space shall be separately deeded to either a homeowner's association, a non-profit land trust or conservancy, Gaston County, or to the City of Belmont (upon approval by the City Council) or it may be held in private ownership with conservation easements recorded in the Gaston County Register of Deeds in a form approved by the City.
9. Required buffers provided in accordance with Section 11.2.A (Type A Opaque Screen/Buffer) for the edge of all yards abutting a right-of-way for Interstate 85 or an active rail corridor shall be credited at a rate equal to a maximum of 50% of their area towards the required open space dedication, not to exceed 25% of the total open space dedication. In order to qualify for such credit, the buffer area shall be separately deeded and shall remain undisturbed except for any required supplemental plantings.

**SECTION 7.4 OPEN SPACE TYPES**

All required open space shall be classified in accordance with this Section. Open space, which is not classified under these types, shall not be counted toward the dedication requirement of this Code. Variations to street frontage requirements for certain open space types shall be permitted upon approval of the City Council with a recommendation from the Planning Board as part of a Preliminary Plat.

**TYPE I - COMMON AREA OPEN SPACE**

Common area open spaces are designed to serve the residents of the immediate block or neighborhood. Ownership and maintenance of such common areas shall be in fee simple title to a homeowners association or similar organization.

Common Area Open Space

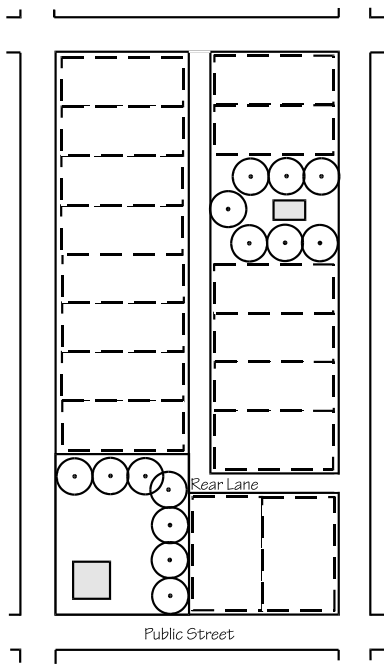
- Playgrounds
- Close
- Attached Squares
- Plazas
- Forecourts
- Detached Squares
- Greens
- Parks
- Parkways/Greenways

**TYPE II - PUBLIC OPEN SPACE**

Public open spaces shall be dedicated to a local government or non-profit conservancy organization for ownership and maintenance. Public open spaces shall maintain free and public access. Hours of access may be restricted in accordance with health and safety guidelines.

Public Open Space

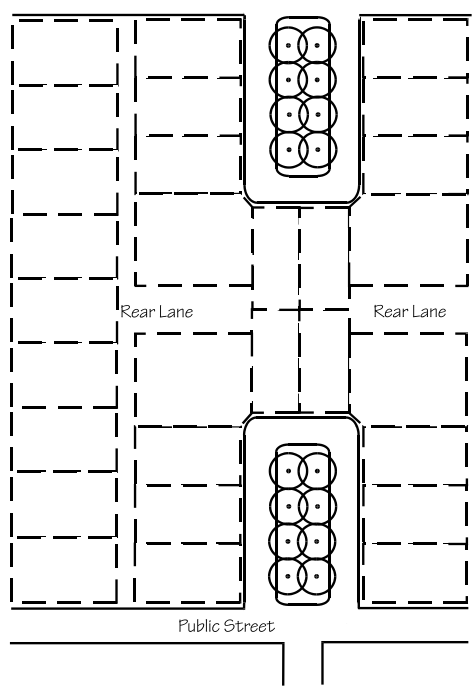
- Attached Squares (Civic Only)
- Plazas (Civic Only)
- Detached Squares (Downtown District or NC-C Only)
- Greens
- Parks
- Parkways/Greenways



**A. PLAYGROUNDS**

Playgrounds provide sunny and shaded play areas for children as well as open shelter with benches for parents. Playgrounds may be built within squares and parks or may stand alone within a residential block. Playgrounds should be fenced, lockable and lit if not part of a Square or Park. Playing surfaces may be covered in sand, wood chips, or other equivalent material. Paths and walkways may be paved in concrete, crushed gravel, brick paver, or similar material, or partially paved.

Minimum Size: 10,000 square feet  
Maximum Size: 20,000 square feet

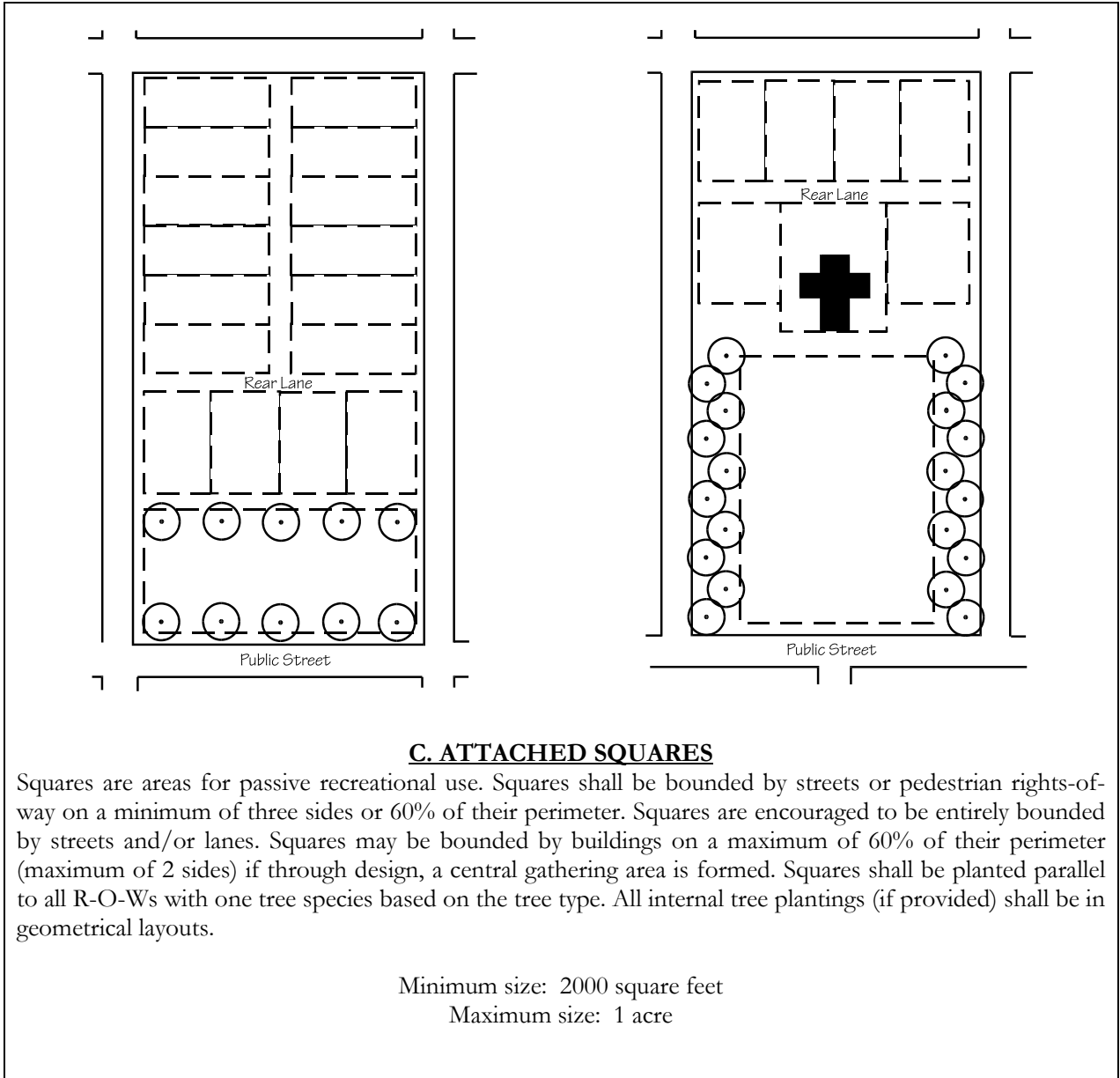


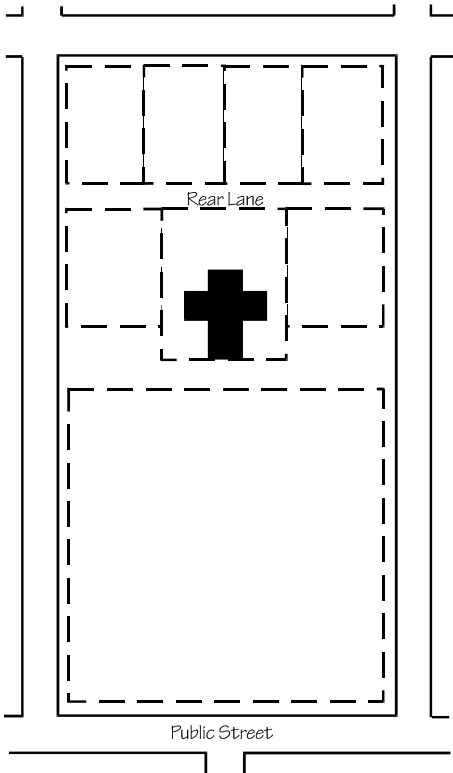
**B. CLOSE**

A close is a front space for buildings interior to the block. It may be pedestrian or it may have a roadway loop around a green area. Its minimum width must coincide with emergency vehicle turning radii. The close is a superior alternative to the cul-de-sac, as the focus is a green rather than vehicular paving. The close provides additional frontage for deep squares and organic blocks.

The paved area used for cars should not exceed 50% of the total area of the close.







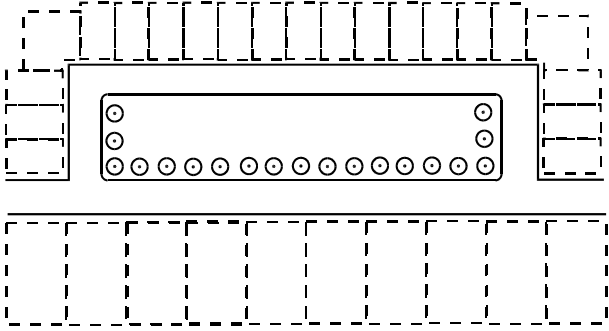
**D. PLAZA**

A plaza is an open area adjacent to, or part of, a civic building or facility. Plazas function as gathering places and may incorporate a variety of non-permanent activities such as vendors and display stands. Limited parking is also permitted. Plazas are always paved in brick or other type of paver, or crushed stone. Plazas shall be level, stepped, or gently sloping (less than 5% grade).

The following sizes are recommended but may be larger or smaller depending on the building or facility design. At no time shall a plaza's horizontal length or width be greater than 3 times the height of the surrounding building(s).

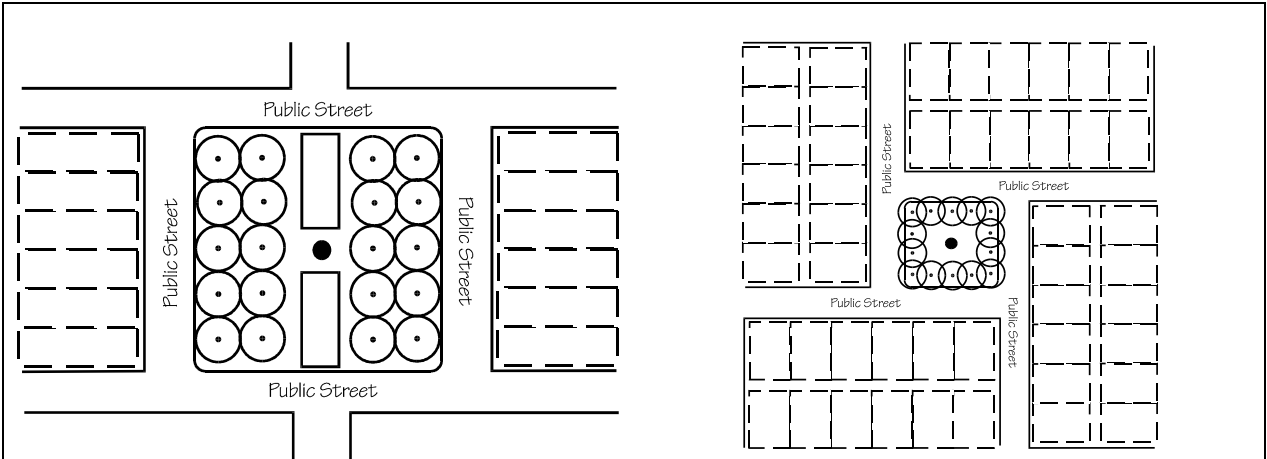
Minimum size: 2,000 sq ft  
 Maximum size: 30,000 sq ft

Plazas may be left unplanted. If planted, the trees should form a frame to the plaza space or for the structure which the plaza services.



**E. FORECOURTS**

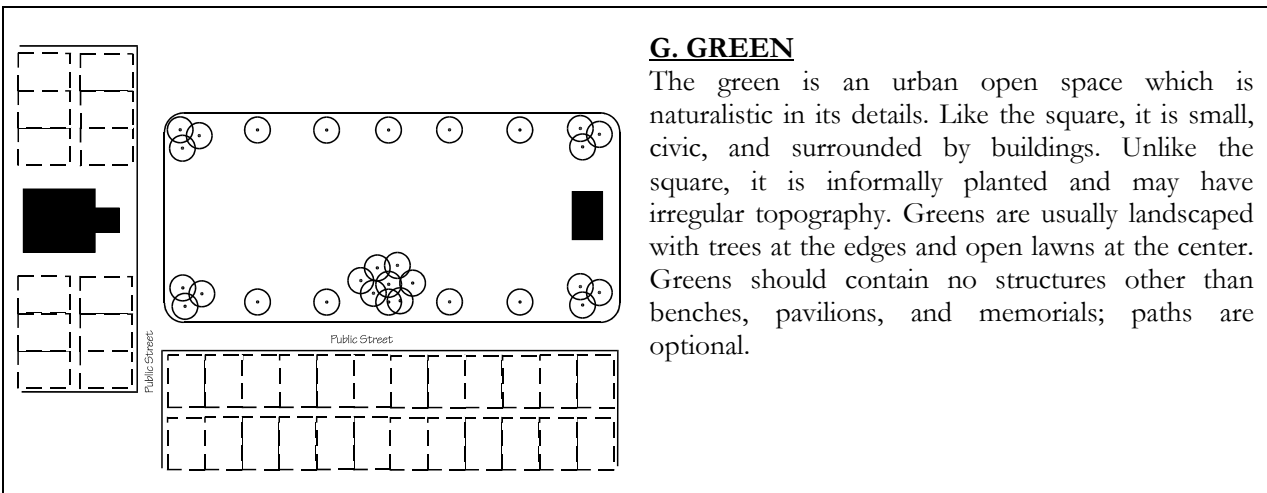
Forecourts are open space areas which act as buffers between residential and non-residential buildings or streets. Forecourts are entirely bounded by streets. It is recommended that forecourts be planted parallel to all street right-of-ways with one tree species.



**F. DETACHED SQUARE**

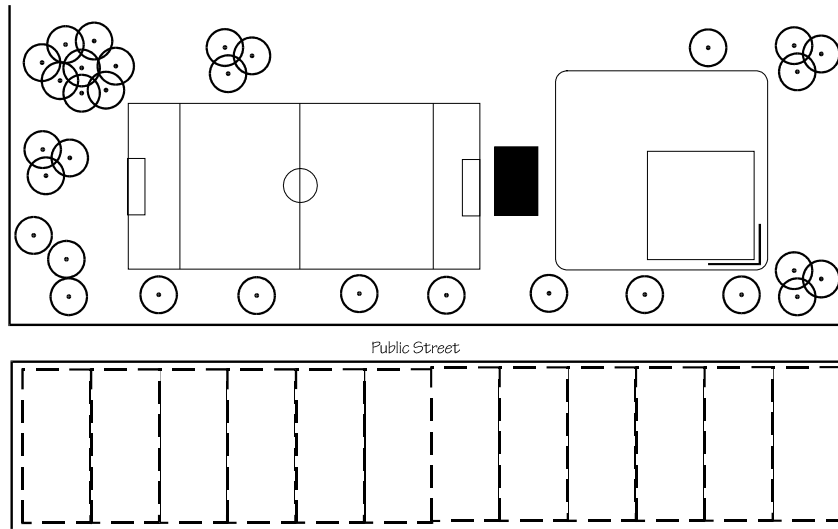
Detached squares bordered on all sides by roads are particularly formal. Since adjacent buildings provide much of the population using any public space, detached squares are less likely to be used than other types though it remains appropriate as a means to symbolically enhance important places, intersections, or centers. Detached Squares shall be planted along the perimeter of the square or may be used to preserve a specimen tree or small stand of trees.

Minimum Size: 200 sq ft  
 Maximum Size: 1 acre



**G. GREEN**

The green is an urban open space which is naturalistic in its details. Like the square, it is small, civic, and surrounded by buildings. Unlike the square, it is informally planted and may have irregular topography. Greens are usually landscaped with trees at the edges and open lawns at the center. Greens should contain no structures other than benches, pavilions, and memorials; paths are optional.



**H. PARKS**

Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 50% of their perimeter (subject to lot line configurations). Parks are encouraged to be entirely bounded by streets.

Minimum size: 1 acre

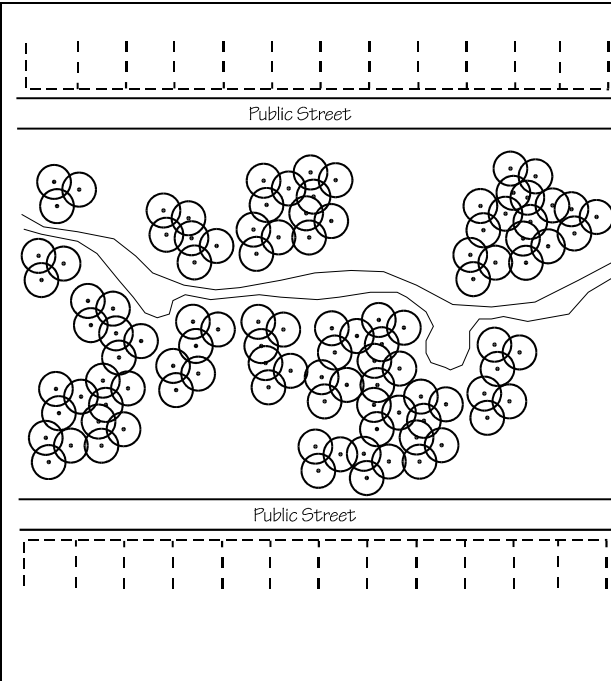
Large parks should create a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, significant stands of trees).

Trees shall be planted parallel to all perimeter R-O-Ws with one species type, a minimum of 15 ft to a maximum of 30 ft on center. Trees shall limb up a minimum of 15 ft at maturity.

Promenades and Esplanades within a park may be formally planted with trees parallel to the walkway. Areas under dense tree plantings shall be paved with crushed gravel. Interior portions of parks are encouraged to be kept free of tree plantings. Areas for active recreational use and any facilities which accompany such use shall have a tree planting design which integrates the structures into the park and defines the areas set aside for active use from areas of passive use. Plantings in interior portions of parks are encouraged to follow topographical lines.

There shall be no areas within a park of undergrowth or limbs lower than 12 ft from the ground.

Parks may be combined with parkways and greenbelts.

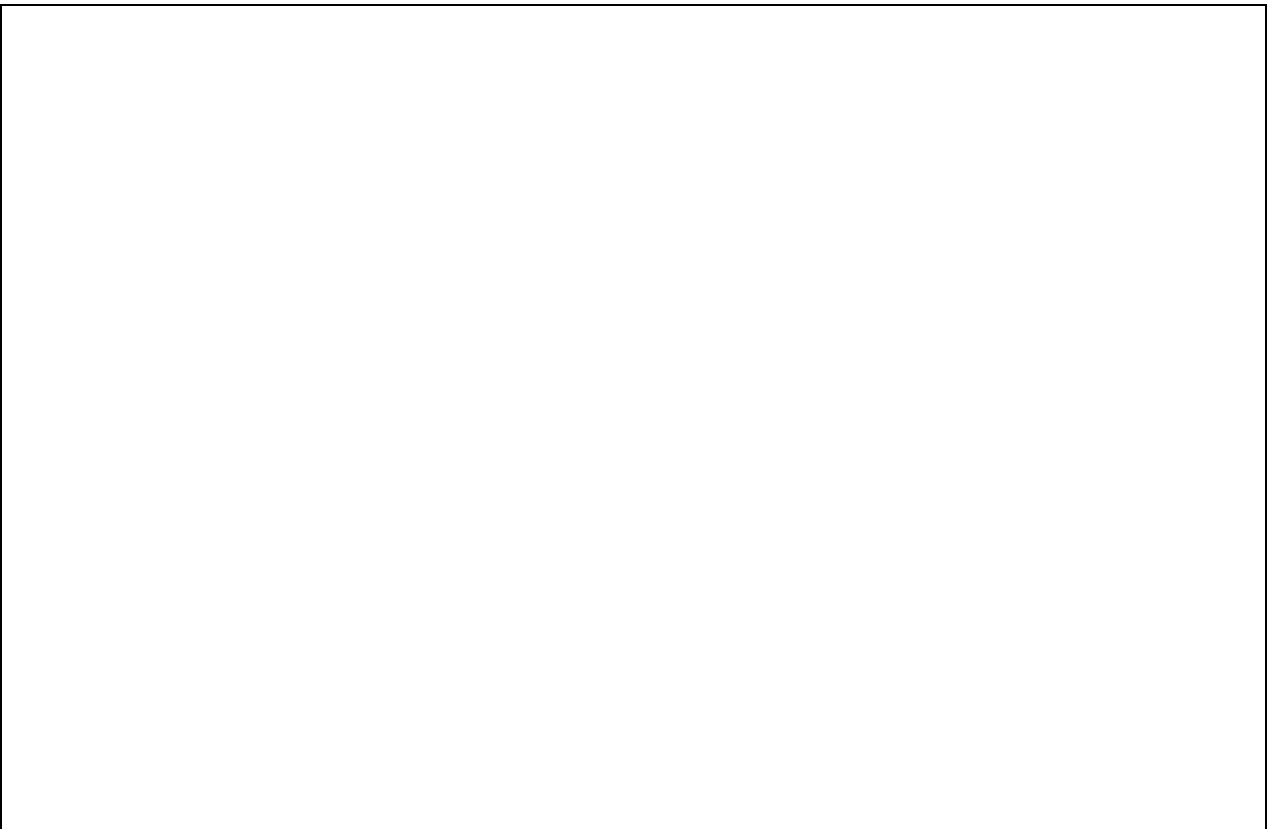


**I. PARKWAYS / GREENWAYS**

Parkways and greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods. Parkway are to be entirely bounded by streets or pedestrian R-O-Ws within developed areas. Greenways are exempt from this requirement.

Parkways and greenways differ from parks and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography. Parkway and greenways may be used for certain active recreational uses and shall provide at a minimum, recreation trails approved by the Planning Department for walking, jogging, or bicycling.

Interior areas shall remain natural and any additional plantings shall be informal in design.



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### *8.1 GENERAL STREET DESIGN PRINCIPLES*

This Code encourages the development of a network of interconnecting streets that work to disperse traffic while connecting and integrating neighborhoods with the existing urban fabric of the City. Equally as important, the Code encourages the development of a network of sidewalks and bicycle lanes that provide an attractive and safe mode of travel for pedestrians and cyclists.

It is the intent of this ordinance to build streets that are integral components of community design. Streets shall be detailed to compliment neighborhoods and commercial centers and shall be pedestrian in scale. In addition to these standards, streets shall conform to the provisions of City of Belmont Land Development Standards Manual and the City of Belmont Pedestrian Transportation Plan Design Guidelines. Streets are encouraged to be designed with on-street parking. All streets shall be landscaped. In an effort to protect this investment, the City views streets as the most important public space and therefore has developed a set of principles which provide adequate facilities for all types of traffic, including motorists, pedestrians, bicyclists, and transit users, and including of all levels of ability, such as those in wheelchairs, the elderly and the young.

Streets shall interconnect within a development and with adjoining development. Cul-de-sacs are permitted only where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs should be provided with development adjacent to open land to provide for future connections. Streets shall be planned with due regard to the designated corridors shown on the Thoroughfare Plan.

- Streets shall be designed as the main public space of the City and shall be scaled to the pedestrian.
- Streets shall be bordered by sidewalks on both sides.
- Streets shall be designed with street trees planted in a manner appropriate to their function. Commercial streets shall have trees which compliment the face of the buildings and which shade the sidewalk. Residential streets shall provide for an appropriate canopy, which shades both the street and sidewalk, and serves as a visual buffer between the street and the home.
- Wherever possible, street locations should account for difficult topographical conditions, paralleling excessive contours to avoid excessive cuts and fills and the destruction of significant trees and vegetation outside of street-rights-of way on adjacent lands.
- All streets shall be constructed in accordance with the design and construction standards in this code and shall permit public access whether by easement or by public dedication. Closed or gated streets are strictly prohibited.
- All on-street parking provided shall be parallel. Curb or angle parking is permitted upon approval of the Planning Board and the City Council when the fronting buildings are more than 22 feet in height to ensure a safe and usable pedestrian realm.
- The use of traffic calming devices such as raised intersections, landscaping bulb-outs, and traffic circles are encouraged as alternatives to conventional traffic control measures.

Minor variations and exceptions to street cross-sections may be permitted with approval of the Planning Director and the City Engineer. Such exceptions include variations to the pavement width, tree planting areas, street grade, and centerline radii in accordance with principles above. Right-of-way widths should be preserved for continuity. All new streets shall be classified in accordance with the street hierarchy detailed in this Chapter.

## 8.2 STREET ENGINEERING AND DESIGN SPECIFICATIONS

Street designs shall permit the comfortable use of the street by cars, bicyclists, and pedestrians. Pavement widths, design speeds, and the number of vehicle lanes should be minimized without compromising safety. The specific design of any given street must consider the building types which front on the street and the relationship of the street to the City's street network. New development with frontages on existing publicly maintained streets shall be required to upgrade all their frontages to meet the standards of this Section. The following specifications shall apply to street design:

### 1. TREES

All street trees shall be installed in accordance with *City of Belmont Land Development Standards Manual*. Large canopy trees shall be planted in a planting strip at an average distance of 40 feet on-center as shown in the cross-sections in **Section 8.3 Street Design**

### 2. STREET MARKERS AND TRAFFIC CONTROL SIGNS

All street markers and traffic control signs posted in accordance with the Manual of Uniform Traffic Control Devices shall be installed by the developer prior to the issuance of any certificates of occupancy for any building on that street.

### 3. SIDEWALKS

Sidewalks shall be constructed along both sides of all streets except alleys and lanes. Residential sidewalks shall be a minimum of 5 ft in width. Sidewalks serving mixed use and commercial areas shall be a minimum of 8 ft in width (10-12 ft is preferable in front of shopfronts). All sidewalks shall be paved with brick or concrete pavers, concrete, or a similar material. Concrete sidewalks shall be a minimum of 4" in depth. Sidewalk material may vary according to the overall design and character of the development. The City Council may grant exceptions to this in accordance with the Belmont Public Infrastructure Acceptance Policy. Streets that serve less than 8 Detached Home-Street Lots from the nearest intersection may install sidewalk on one side of the street.

### 4. BIKE PATHS

Bike lanes a minimum of 4 ft in width shall be installed by all development (except single family homes) with frontage along the following collector streets and minor thoroughfares: Perfection Avenue, Belmont-Mt. Holly Road, McAdenville Road, Park Street, Keener Boulevard, Armstrong Ford Road, R.L. Stowe Road, Stowe Road, Nixon Road, and South Point Road. Bike lanes and bike paths shall be designed according to the *North Carolina Bicycle Facilities Planning and Design Guidelines*, published by NCDOT and shall include all appropriate signage and pavement markings.

### 5. PLANTING STRIPS

The minimum width of all planting strips shall be 6 feet. For streets with a design speed greater than 25 miles per hour, the minimum width shall be 8 feet.



## 6. CUL-DE-SACS & CLOSES

Where practical, a close (as defined in Section 8.4-Open Space Types) should be used in place of a cul-de-sac. Cul-de-sacs, if permitted, shall not exceed 250 ft in length from the nearest intersection with a street providing through access (not a cul-de-sac). Cul-de-sacs and closes shall be designed to facilitate the turning radius of emergency vehicles.

## 7. INTERSECTIONS

- A. All streets shall intersect at right angles as nearly as possible and no street shall intersect at less than 60 degrees.
- B. Where practical, intersections should be aligned to create four-way intersections.
- C. Off-set intersections for Local Streets, Parkside Drives, and Minor Street should be at least 125 feet apart measured from centerline to centerline. This dimension may be reduced upon approval of the City Engineer. A larger spacing in according with AASHTO standards may be required for all other streets.
- D. Property lines at street intersections shall be rounded with a minimum radius of 20 feet. At an angle of intersection of less than 90 degrees, a greater radius may be required.
- E. Proper sight lines in accordance with the Belmont Land Development Standards shall be maintained at all intersections of streets so as permit adequate sight distance. Where the posted speed limit is less than 20 mph the intersection sight distance may be reduced to 105 feet.
- F. Bulb-outs are discouraged on narrow streets (less than 30' face-of-curb to face-of-curb) but encouraged on wider streets.
- G. The sight triangle for all streets under the jurisdiction of the City of Belmont shall be formed by a diagonal line connecting two points located on intersecting property lines (or a property line and the curb or a driveway), each point being 35 feet from the point of intersection. At the intersection of two streets, each with a posted street limit of 20 mph or less, this dimension may be reduced to 5 feet subject the approval of the City Engineer.

## 8. CURB RADII

Curb radii shall be designed to reduce pedestrian crossing times along all streets requiring sidewalks. In general, curb radii should not exceed 20 ft.

## 9. UTILITY LOCATION

Underground utilities shall be located in alley and lanes. If no alley or lane is provided, then a 5-foot (minimum) utility easement shall be provided behind the sidewalk located within either the right-of-way or a public utility easement.

## 10. CURBS AND DRAINAGE

Curbs shall be constructed in accordance with *City of Belmont Land Development Standards*. Vertical face curbing is required along all streets with on-street parking and around all required landscaping areas and parking lots. Mountable curbing is permitted around center medians, roundabouts, and other features in order to facilitate the infrequent use by vehicles with larger turning radii. Valley curbing is permitted along streets which serve homes with front-loaded off-street parking or that have infrequent on-street parking. Streets with a grade exceeding 2% shall use standard curbs. Drainage shall be provided using curb and gutter piped systems along all streets except in Rural Residential areas and along parkways that may use open swales upon approval of the Planning Director and the City Engineer. All drainage grates must be safe for bicyclists. Bicycle-safe drainage grates are Types E, F, and G as approved by the NCDOT.

## 11. CENTERLINE RADIUS

A 90 ft. minimum centerline radius shall be used for Local Streets, Parkside Drives, and Minor Streets between reverse curves though they may be reduced to 45 ft for design speeds less than 20 mph. All other streets shall be in accordance with AASHTO standards.

#### ***12. STREET LIGHTS***

Street lights shall be installed by the developer on all streets.

#### ***13. POSTED STREET SIGNS***

All streets shall be posted with signs in accordance with the Manual of Uniform Traffic Control Devices.

#### ***14. RESERVED***

#### ***15. ACCESS MANAGEMENT ON A COLLECTOR STREET***

In order to promote public safety and to minimize the probability of collisions between vehicles/vehicles and vehicles/pedestrians, automobile and vehicle access to houses in a new subdivision (major development plan) on a collector street shall meet the one of the following requirements:

- Driveways directly accessing the collector street shall be limited to a maximum of ten (10) per one thousand (1,000) linear feet of street. For street segments less than one thousand (1,000) feet, the ratio shall remain one (1) driveway per one hundred (100) feet on average. For houses on corner lots, driveways and garages openings should be located on the side (non-collector) street.
- Alternatively, vehicular access must be provided by a public or private alley with no direct access to the collector street.

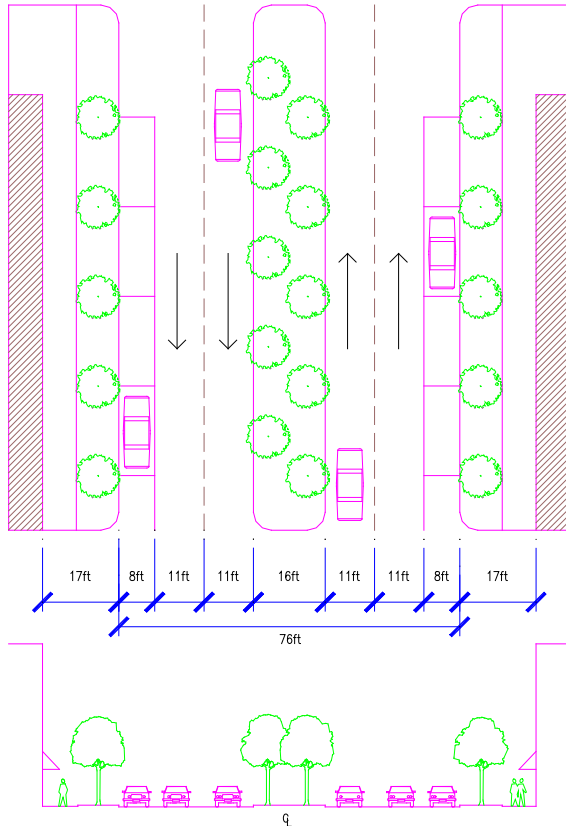
The following roads are designated as collector streets:

Acme Road	Main Street (N. and S.)
Armstrong Road	McAdenville Road
Armstrong Ford Road	McLeod Avenue
Beatty Drive	Mellon Road
Belmont-Mount Holly Rd.	Myrtle Street
Boat Club Road	Nixon Road
Boat Launch Road	Park Street
Cason Street	Parkdale Road
Central Avenue (N. and S.)	Perfection Avenue
Davis River Road	R. L. Stowe Drive
Eagle Road	Reese Wilson Road
East Catawba Avenue	South New Hope Road
Gaither Road	South Point Road
Henry's Chapel Road	Stowe Road
Hickory Grove Road	Tucker Road
Jim Grier Road	Wilkinson Boulevard
Keener Boulevard	Woodlawn Avenue

### ***8.3 STREET DESIGNS***

**A. BOULEVARD**  
*110 ft ROW*

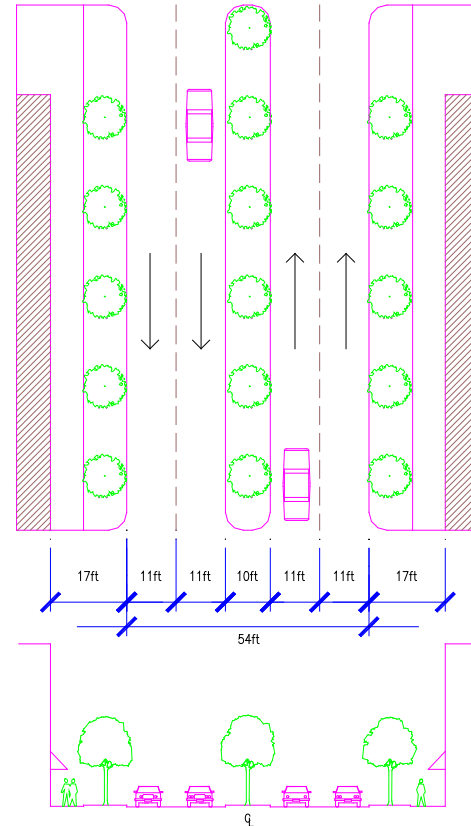
The boulevard serves as a long-distance, medium-speed vehicular corridor which traverses an urbanized area. It is usually lined by parallel parking, wide sidewalks, or side medians planted with trees. Center medians may be continuously planted or have trees in individual planting areas. Buildings uniformly line the edges.



<b>Design Speed</b>	25-35 mph
<b>Min. Centerline Radius</b>	90 ft
<b>Pavement Width (F-F)</b>	30-16-30 ft
<b>ROW Width</b>	110 ft
<b>Curb Radius</b>	15 ft
<b>Drainage</b>	Curb & Gutter
<b>On Street Parking</b>	Yes
<b>Street Trees</b>	Yes
<b>Sidewalks</b>	Yes

**B. BOULEVARD**  
*100 ft ROW*

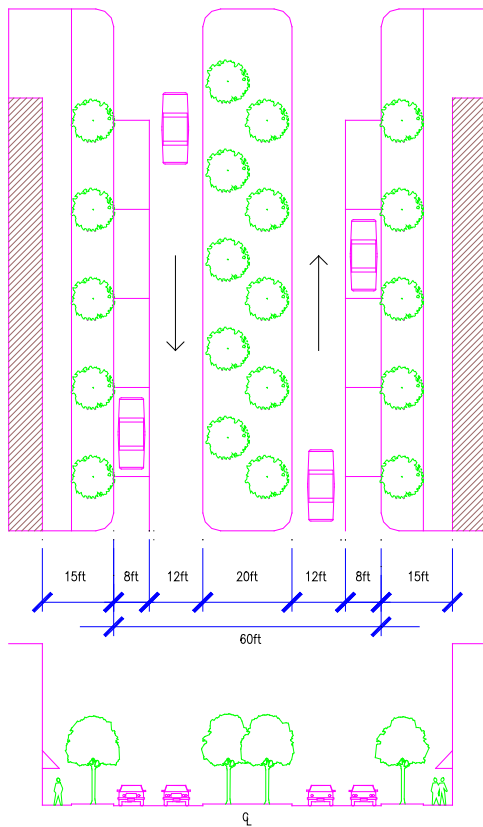
The boulevard serves as a long-distance, medium-speed vehicular corridor that traverses an urbanized area. It is usually lined by wide sidewalks or side medians planted with trees. Center medians may be continuously planted or have trees in individual planting areas. Buildings uniformly line the edges.



<b>Design Speed</b>	25-35 mph
<b>Min. Centerline Radius</b>	90 ft
<b>Pavement Width (F-F)</b>	22-10-22 ft
<b>ROW Width</b>	100 ft
<b>Curb Radius</b>	15 ft
<b>Drainage</b>	Curb & Gutter
<b>On Street Parking</b>	No
<b>Street Trees</b>	Yes
<b>Sidewalks</b>	Yes

**C. AVENUE**  
*90 ft ROW*

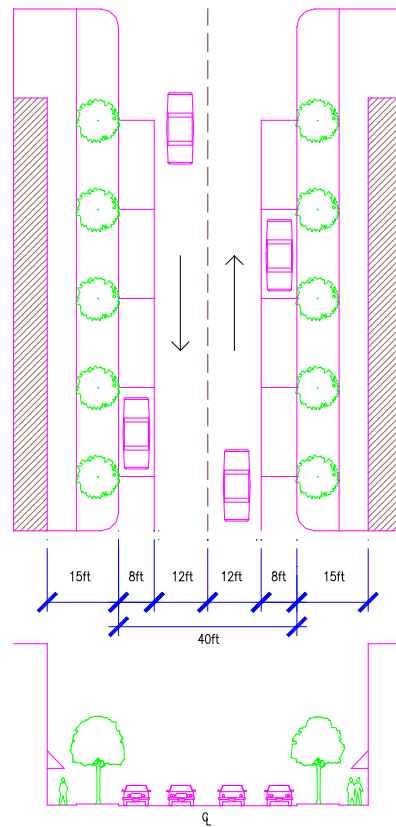
The avenue is a short-distance, medium-speed connector which transverse an urbanized area. It is unlike a Boulevard, in that its axis is terminated by a civic building or monument. The avenue is typified by carefully landscaped edges including three or more individual rows of street trees within the ROW.



<b>Design Speed</b>	25-30 mph
<b>Min. Centerline Radius</b>	260 ft
<b>Pavement Width (F-F)</b>	18-14-18 ft
<b>ROW Width</b>	90 ft
<b>Curb Radius</b>	15 ft
<b>Drainage</b>	Curb & Gutter
<b>On Street Parking</b>	Yes (Marked)
<b>Street Trees</b>	Yes
<b>Sidewalks</b>	Yes

**D. MAIN STREET**  
*70 ft ROW*

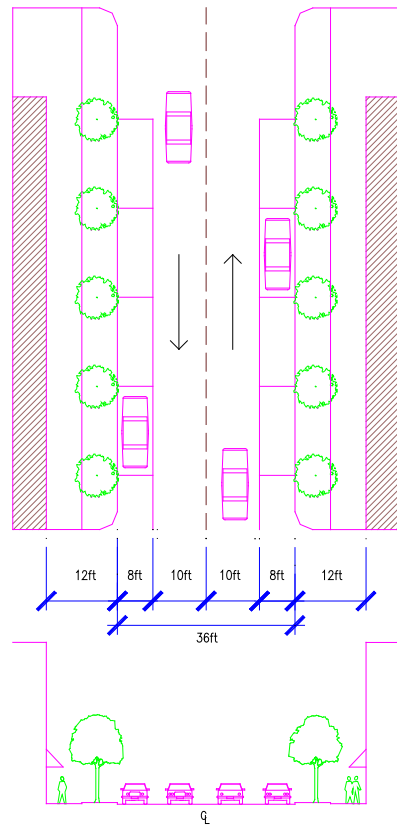
The main street serves as a small-scale, low-speed connector. Main streets provide frontage for high-density buildings such as offices, shops, apartment buildings, and rowhouses. A main street is urban in character, with raised curbs, closed drainage, wide sidewalks, parallel parking, trees in individual planting areas, and buildings aligned on short setbacks.



<b>Design Speed</b>	25-30 mph
<b>Min. Centerline Radius</b>	260 ft
<b>Pavement Width (F-F)</b>	38 ft
<b>ROW Width</b>	70 ft
<b>Curb Radius</b>	15 ft
<b>Drainage</b>	Curb & Gutter
<b>On Street Parking</b>	Yes (Marked)
<b>Street Trees</b>	Yes
<b>Sidewalks</b>	Yes

**E. RESIDENTIAL MAIN STREET**  
*60 ft ROW*

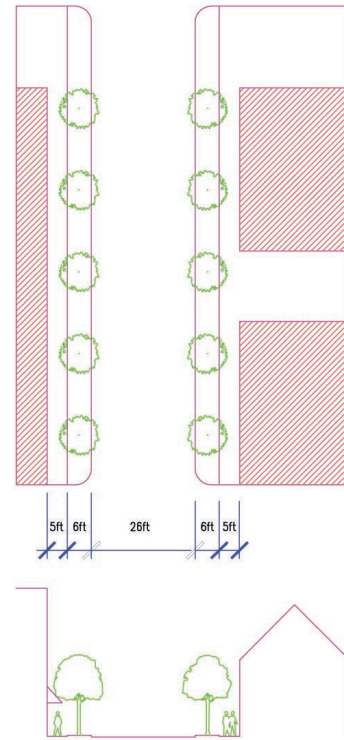
The residential main street serves as a small-scale, low-speed connector. Residential main streets provide frontage for high-density residential buildings such as apartment buildings and rowhouses. A residential main street is urban in character, with raised curbs, closed drainage, wide sidewalks, parallel parking, trees in individual planting areas, and buildings aligned on short setbacks.



<b>Design Speed</b>	20-25 mph
<b>Min. Centerline Radius</b>	90-165 ft
<b>Pavement Width (F-F)</b>	36 ft
<b>ROW Width</b>	60 ft
<b>Curb Radius</b>	15 ft
<b>Drainage</b>	Curb & Gutter
<b>On Street Parking</b>	Yes (Marked)
<b>Street Trees</b>	Yes
<b>Sidewalks</b>	Yes (6 ft min)

**F. LOCAL STREET**  
*50 ft ROW*

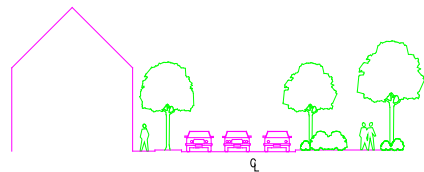
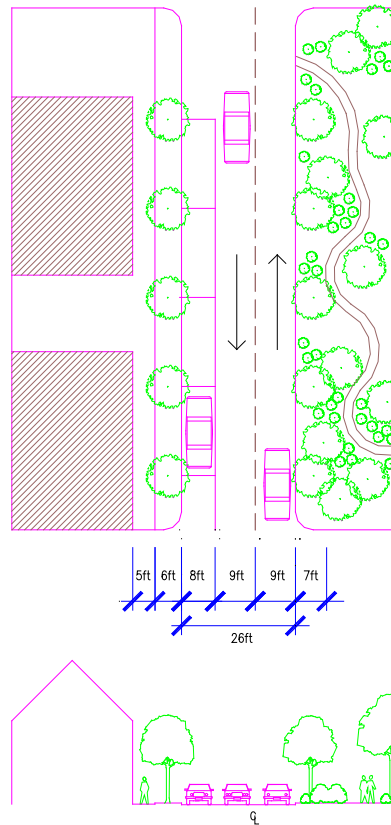
The local street serves as a small-scale, low-speed connector. Local streets provide frontage for medium-to-low-density residential buildings such as detached homes and duplexes. A local street is urban in character, with raised or rolled curbs, closed drainage, sidewalks, occasional parallel parking on one side, trees in continuous planting areas, and buildings aligned on medium setbacks.



<b>Design Speed</b>	20-25 mph
<b>Min. Centerline Radius</b>	50-90 ft
<b>Pavement Width (F-F)</b>	26 ft
<b>ROW Width</b>	50 ft
<b>Curb Radius</b>	15 ft
<b>Drainage</b>	Curb & Gutter
<b>On Street Parking</b>	Yes (Expected but not marked)
<b>Street Trees</b>	Yes
<b>Sidewalks</b>	Yes (5 ft min)

**G. PARKSIDE DRIVE**  
*42-50 ft ROW*

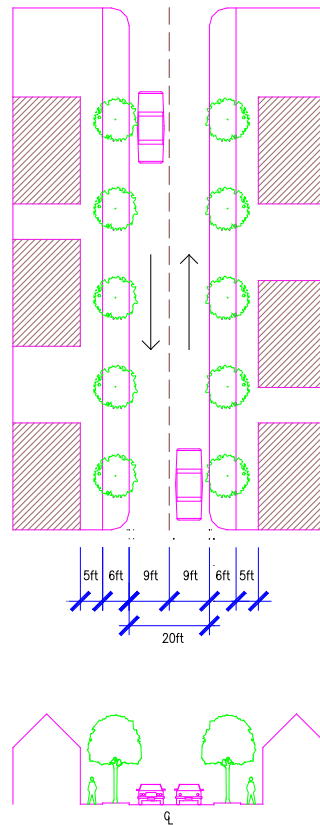
The drive defines the natural edge between an urban and a natural condition, usually along a waterfront, a park, or a greenbelt. One side of the drive has the urban character of a main street with sidewalk, parallel parking, and buildings, while the other has the natural qualities of a rural road with naturalistic plantings and rural detailing.



<b>Design Speed</b>	20 mph
<b>Min. Centerline Radius</b>	50-90 ft
<b>Pavement Width (F-F)</b>	26 ft
<b>ROW Width</b>	42-50 ft
<b>Curb Radius</b>	15 ft
<b>Drainage</b>	Curb & Gutter / Open Swale
<b>On Street Parking</b>	Yes (Expected but not marked)
<b>Street Trees</b>	Yes (One Side)
<b>Sidewalks</b>	Yes (One Side)

**H. MINOR STREET**  
*40-50 ft ROW*

The minor street is a small-scale, low-speed connector. It serves low-density residential buildings which accommodate all parking on-site. A minor street tends to be more rural in character with rolled curbs, open or closed drainage, narrow sidewalks, continuous plantings, and buildings set way back though this condition may also be appropriate for short urban blocks where on-street parking is not expected

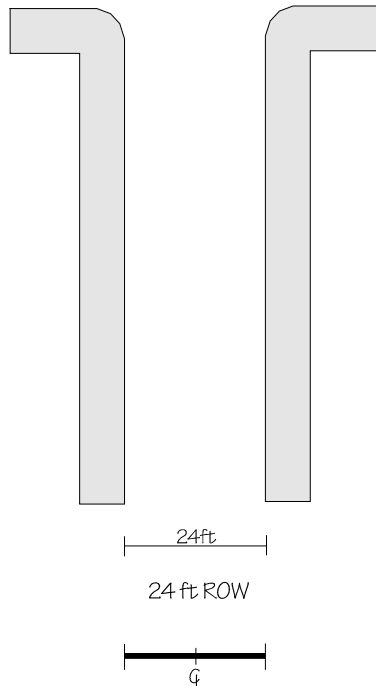


<b>Design Speed</b>	15 mph
<b>Min. Centerline Radius</b>	50-90 ft
<b>Pavement Width (F-F)</b>	18-24 ft
<b>ROW Width</b>	40-50 ft
<b>Curb Radius</b>	15 ft
<b>Drainage</b>	Curb & Gutter / Open Swale
<b>On Street Parking</b>	Yes (One way streets only)
<b>Street Trees</b>	Yes
<b>Sidewalks</b>	Yes

### I. REAR ALLEY

*24 ft ROW*

The alley is a narrow access route which services the rear of buildings on a street. Alleys have no sidewalks, landscaping or building setbacks. Alleys are used by trucks and must accommodate dumpsters. They are usually paved to the edges, with center drainage via an inverted crown.

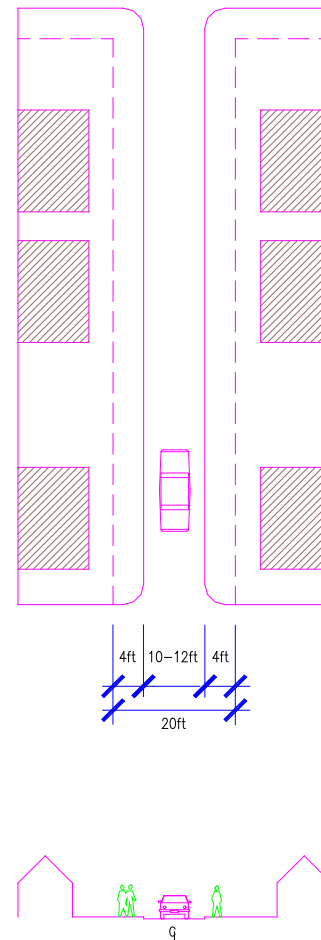


<b>Design Speed</b>	N/A
<b>Min. Centerline Radius</b>	N/A
<b>Pavement Width</b>	24 ft
<b>ROW Width</b>	24 ft
<b>Curb Radius</b>	5 ft
<b>Drainage</b>	Curb & Gutter
<b>On Street Parking</b>	Yes
<b>Street Trees</b>	No
<b>Sidewalks</b>	No

### J. REAR LANE

*20 ft ROW*

The rear lane is a narrow access route behind neighborhood streets. Lanes generally have a narrow strip of paving in the center and serve as areas for underground utilities.



<b>Design Speed</b>	N/A
<b>Min. Centerline Radius</b>	N/A
<b>Pavement Width</b>	10 ft with 1 ft ribbon curb on each side
<b>ROW Width</b>	20 ft
<b>Curb Radius</b>	20 ft
<b>Drainage</b>	Open Swale / Closed Inverts
<b>On Street Parking</b>	N/A
<b>Street Trees</b>	No
<b>Sidewalks</b>	No

### ***8.5 GENERAL GREENWAY DESIGN PRINCIPLES***

The Code encourages the development of a network of multipurpose trails that connect active and passive parks, schools, cultural sites, neighborhoods, and commuter destinations. When a greenway is part of a development, the following standards apply:

- A. Greenways shall be planned following the designated circulation system shown on the Comprehensive Plan map, the Parks and Recreation Master Plan, and the City of Belmont Pedestrian Transportation Plan.
- B. Greenways shall connect to new development wherever possible. Greenway stubs should be provided when development is adjacent to open land scheduled for greenway construction to provide for future connections. Stubs must extend to the neighboring property line
- C. Greenways should be designed to fit the contours of the land and should minimize removal of significant trees.
- D. All greenways shall be constructed in accordance with the design and construction standards in this code, and the City of Belmont Pedestrian Transportation Plan and shall be maintained for public access whether by easement or by public dedication.

Minor variations and exceptions to greenway cross-sections may be permitted with approval of the Planning Director and the Parks and Recreation Director.

### ***8.6 GREENWAY ENGINEERING AND DESIGN SPECIFICATIONS***

Greenway designs shall permit comfortable use by both bicyclists and pedestrians. Refer to the North Carolina Bicycle Facilities Planning and Design Guidelines and the City of Belmont Pedestrian Transportation Plan for specific information on engineering details.

#### **1. Floodway Trails**

Multi-use trails within the floodway (within the “Managed Use Zone”, see Stream Buffers, Section 22) are designed to accommodate a variety of user including walkers, joggers, cyclists, and rollerbladers. These trails are typically positioned within the floodway, but not directly adjacent to streams. A minimum of 20’ vegetative buffer between the stream and trail should be left intact. . Floodway trails shall be a minimum of 10’ wide. These trails shall be 2” machine-laid asphaltic concrete surface with a 4” aggregate base over compacted soil.

#### **2. Floodplain Trails**

These multi-use trails are positioned outside of the floodway, within the floodplain (within the “Managed Use Zone”, see Stream Buffers, Section 17). Significant vegetative buffer between the stream and trail should be left intact. Floodplain trails shall be a minimum of 10’ wide. These trails shall be composed of 2” machine-laid asphaltic concrete surface with a 4” aggregate base over compacted soil.

#### **3. Upland Trails**

Upland multi-use trails are positioned completely outside designated floodplains (within the “Upland Zone”, see Stream Buffers, Section 17). The existing vegetation in the Streamside Zone and Managed Use Zone shall remain intact. Upland trails provide the most habitat and water quality benefits. They shall be a



minimum of 10' wide, and composed of 2" machine-laid asphaltic concrete surface with a 4" aggregate base over compacted soil.

#### **4. Boardwalk Trails**

Boardwalks, or wood surface trails, are typically required when crossing wetlands or other poorly drained areas. The supporting members for boardwalk trails shall be treated lumber or equivalent. Decking material shall be composite (wood/polymer) recycled material or equivalent. Boardwalk trails must be a minimum of 5' wide.

#### **5. Drainage**

Greenways must have a cross slope of 2% to adequately provide for drainage. Slope should be in one direction instead of crowning. On curves, the cross slope should be towards the inside of the curve. In addition, to insure proper stormwater runoff and trail longevity, catch basins with drains and underground culverts may be required. Natural ground cover should be preserved on each side of the path for erosion control.

#### **6. Bridges**

Railings or barriers on both sides of a bicycle path bridge must be a minimum of 54" high. Ends of railings must be offset away from the adjoining path to minimize the danger of cyclists running into them. Bridge decks shall be designed for a live load of 85 psf. Concrete decks must have bicycle-safe expansion joints. Wood decks must have smooth joints and be laid at least 45 degrees to the direction of travel.

#### **7. Clearance**

The vertical clearance to obstructions must be 8' minimum. 10' may be required for the passage of maintenance vehicles.

#### **8. Grades**

Long downhill grades should be avoided through careful planning. A 5% grade is the maximum grade recommended. Sustained grades should be limited to 2%.

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## ***9.0 PARKING***

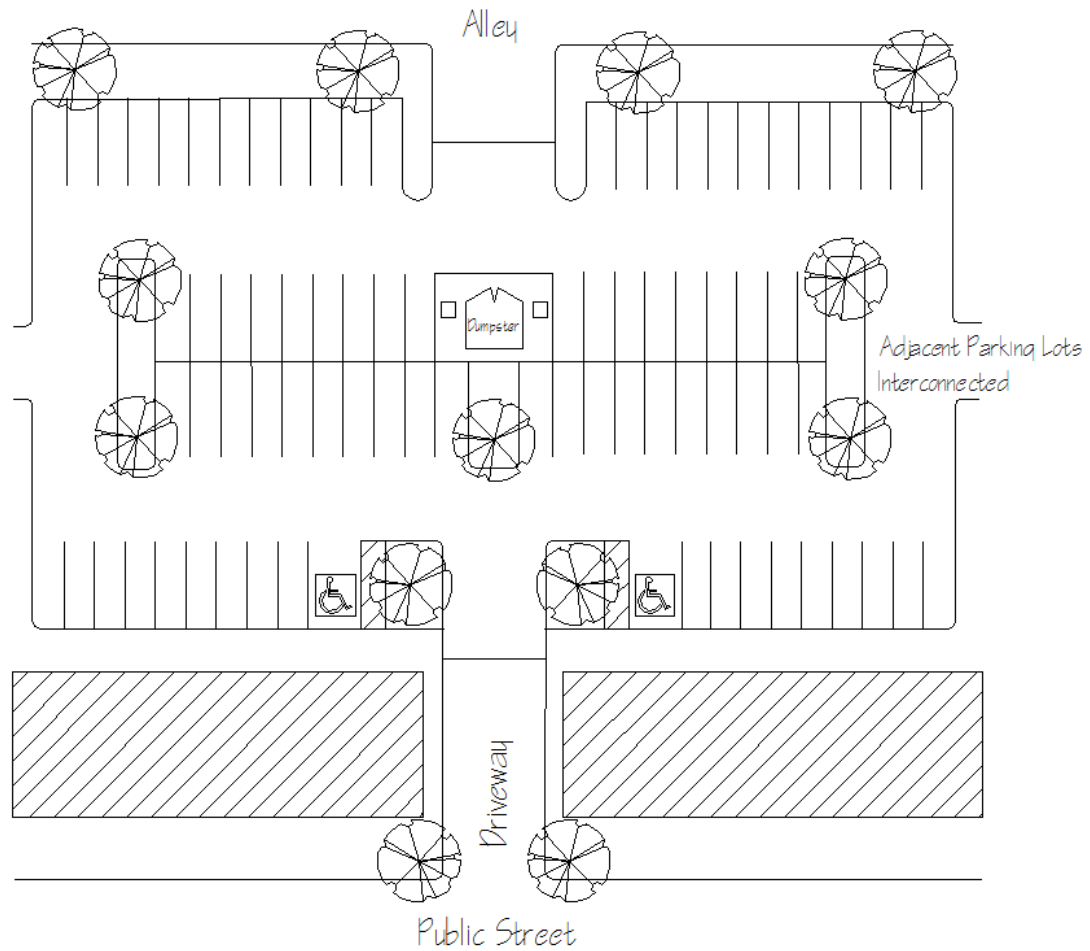
### ***9.1 OFF-STREET PARKING AREA DESIGN SPECIFICATIONS***

Off-street parking areas should be designed to minimize breaks in the pedestrian environment along the public street and create safe and comfortable passage for pedestrians.

The following standards shall therefore be met.

- A. Curb cuts shall be minimized.
- B. No off-street parking area shall be located within any front yard except for single-family residential uses or as noted with specific Building Type or District requirements. All off-street parking spaces for multi-family buildings shall be in the rear yard only.
- C. All off-street parking spaces for multi-family buildings shall be in the rear yard only.
- D. Parking lots shall be placed behind buildings; side of the building parking will be permitted only as indicated by building type. Off-street parking is not permitted in front of the primary building façade, except for detached homes, where specified in an adopted street section, or detailed as a public plaza or square.
- E. Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building. On small lots (36 spaces or less), this may be achieved by providing a sidewalk at the perimeter of the lot. On larger lots, corridors within the parking area should channel pedestrians from the car to the perimeter of the lot or to the building. These corridors are delineated by a paving material that differs from that of vehicular areas and are planted to provide shade. Small posts or bollards may be included.
- F. Adjoining parking lots serving non-residential buildings shall be interconnected.
- G. Parking, loading, and other vehicular access should occur at mid-block or in the alley.
- H. Parking areas shall not abut pedestrian-oriented street intersections or civic buildings, be adjacent to squares or parks, or occupy lots which terminate a vista.
- I. Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency, and other public service vehicles without posing a danger to pedestrians or impeding the function of the parking area.
- J. Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility, or other structure.
- K. Disabled parking shall be provided in accordance with the North Carolina State Accessibility Code.
- L. All parking areas shall be curbed using a standard curb with a minimum width of 1'6". This requirement may be waived in an area that is subject to the City's Water Supply Watershed Ordinance to permit sheet flow drainage into pervious areas or as part of an alternative engineered storm water retention system.
- M. In order to minimize the impact of large expanses of impervious surfaces on the environment, 5% of the parking spaces of all lots in excess of 36 spaces shall be constructed using pervious pavement systems. This figure shall be calculated on a development-wide basis.

**9.2 GENERAL PARKING REQUIREMENTS**



*Typical Parking Arrangement*

**1. MINIMUM PARKING RATIOS**

All square footage is in leasable square feet. Uses less than 2,500 leasable square feet are exempt from parking requirements in the D-D and NC-C Districts only. Parking requirements may be satisfied using on-street parking in front of buildings or public lots within 300 ft of primary building entrances.

Use Type	Required Parking Spaces
Residential (All types)	1 per bedroom up to 2 per unit*
Retail Uses	1 per 250 square feet
Office Uses	1 per 300 square feet
Theaters	1 per 3 seats
Restaurants	1 per 4 seats
Manufacturing/Warehousing/Light Assembly	.25 per 1000 square feet of non-office space
Bed & Breakfast Inns/ Hotels/ Motels	1 per room or suite
Marinas	1 per boat slip
Civic Uses (Assembly Uses Only)	1 per 4 seats

\*Driveways shall be designed to accommodate the required parking spaces. The driveway parking area is measured from the property line (back of the sidewalk) to the front of the house.

In an effort to establish a limit on the amount of impervious surfaces and to reduce the urban heat island effect, the maximum number of parking spaces allowed shall be 125% of the number of required parking spaces in the above table. Structured parking facilities are exempt from this maximum.

**Exceeding Maximum Parking Ratios:** The Planning Director may approve parking spaces in excess of the maximum parking ratio, but only if he or she finds that the applicant has proven that the additional spaces are necessary for the normal operation of the business or organization. If the applicant requests parking in excess of 200% of the minimum ratio, then he or she must receive a conditional use permit.

Any additional parking spaces over the maximum (125% of the minimum) must be no more than 30 feet from the base of a large shade tree and must be constructed from an approved pervious material. The pervious material must be properly maintained, using a technique found in the NCDENR stormwater BMP manual.

**2. PARKING SPACE DIMENSIONS**

- A. Parking space dimensions (other than those designed for the disabled) shall be eighteen (18) feet long and nine (9) feet wide. Parking spaces shall be dimensioned in relation to curbs or aisles, so long as their configuration, area, and dimensions satisfy the requirements of this Section.
- B. Parallel parking space dimensions shall be a minimum of twenty (20) feet by eight (8) feet. This dimension is measured from the face of the curb and may include the gutter.
- C. Parking spaces for compact cars shall be a minimum of eight and one half (8.5) feet wide and sixteen (16) feet long. Compact car spaces may be used in place of a standard size

parking space. The total number of compact car parking spaces may not exceed 15% of the total number of parking spaces.

**3. AISLE AND DRIVEWAY WIDTHS FOR PARKING LOTS**

The following provisions apply to all driveways and parking lots except those for single family homes and duplexes.

- A. Parking lot area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking:

<u>Aisle Width</u>	<u>Angle of Parking</u>				
	<b>0</b>	<b>30</b>	<b>45</b>	<b>60</b>	<b>90</b>
One Way Traffic	13	13	13	18	20
Two Way Traffic	19	19	20	22	24

- B. Driveways shall be a maximum of twelve (12) feet in width for one-way traffic and twenty-four (24) feet in width for two-way traffic. In no case shall a driveway width exceed twenty-four (24) feet, except as required by the City of Belmont or the North Carolina Department of Transportation (NCDOT).

**4. SHARED PARKING**

- A. The joint use of shared off-street parking between two uses may be made by contract between two or more adjacent property owners. Adjacent lots in a HC District shall be interconnected.
- B. Where vehicular access is provided between adjoining non-residential sites and the operating hours of adjoining uses do not overlap, the uses may share up to 50% of required parking spaces. Shared use of parking shall be guaranteed by a contract or other legally binding document.
- C. Residential buildings may meet or contribute to meeting parking requirements with on-street parking if individual driveways are minimized and the fronting street is specifically designed to meet the parking needs of the residential buildings.

**5. BICYCLE PARKING**

All non-residential development with more than 36 parking spaces, recreation facilities, and multi-family residential buildings where no garages are provided shall include an area for parking bicycles. This area may be a designated parking space within the parking lot near the building or an area outside the parking lot adjacent to the building. The bike parking area must include a bike rack. The Downtown District is exempt from these requirements.

**6. OVERFLOW PARKING**

Off-street areas used for special event parking (to accommodate occasional overflow volumes) may be constructed of any dust-free compacted, pervious ground cover; the owner of the property shall be responsible for the maintenance of such parking in a clean and dust-free condition. Grass and mulch are examples of acceptable pervious ground cover.

**7. STRUCTURED PARKING**

Where above-ground structured parking is located at the perimeter of a building, it should be screened in such a way that cars are not visible from adjacent buildings or the street. Locating structured parking at the interior of the block, surrounded by buildings, is the preferred method.

**9.3 STANDARDS FOR PARKING LOT LANDSCAPING**

Parking lots are to be treated as enclosed rooms for cars. For small lots (36 spaces or less), landscaping shall be required at the perimeter; for large lots (more than 36 spaces), landscaping shall be at the perimeter and the interior. In large lots, the landscaping shall be placed to break the lot into parking modules of not more than thirty-six spaces. The perimeter yard of all parking lots shall be screened with a Type B (Semi-Opaque Screen) in accordance with 11.2 (B). The interior yard of all parking areas shall be landscaped with Type C (Interior Plantings) in accordance with 11.2 (C).

10.0 SIGNS

10.1 GENERAL PROVISIONS

1. The scale of the signs should be appropriate for the building on which they are placed.
2. Signs should not obscure architectural features and should be integrated with the design of the building.
3. Buildings should provide signage that is pedestrian-oriented.
4. All buildings may provide wall-mounted incidental signage such as tenant identification, historical markers, or bulletin boards on any wall face provided they do not exceed 6 square feet in area.
5. Signs should reflect the proportional and dimensional relationships of the structure.
6. Sandwich board signs may be placed on sidewalks in the NC-C and Downtown Districts provided they maintain clear pedestrian access. Neither face shall exceed 3 feet in width or 12 square feet in area.
7. Arm Signs may be used in lieu of Monument Signs.
8. Projecting Signs may be used in lieu of wall signs but not in addition to them.
9. Awning Signs may be used in lieu of wall signs, but may be combined with a Projecting Sign.

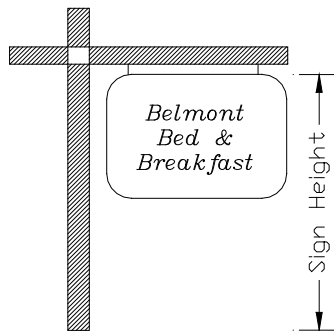
10.2 PERMITTED SIGNAGE BY DISTRICT

<p><b><u>1. Primarily Residential Districts</u></b> (R-R, G-R, INF-R)</p> <p><i>RESERVED</i></p>	<p><b><u>3. Civic Uses</u></b> (All Districts)</p> <p><u>Ground Mounted</u> Max Area: 32 sq. ft. Max Height: 6 ft. 1 per street frontage -no closer than 200 ft. - max. 3</p> <p><u>Building Wall</u> 2 sq. ft. per lineal foot of wall frontage, up to 150 square feet (See also 10.3.5)</p>
<p><b><u>2. Neighborhood Identification</u></b> Maximum of 2 per neighborhood Max. Area: 32 sq. ft. Max. Height: 6 ft.</p>	
<p><b><u>4. Mixed-Use Districts</u></b> (NC-C, D-D, INF-D, TN-D)</p> <p><u>Building Wall</u> 2 sq. ft. per lineal foot of wall frontage (See also 10.3.5)</p> <p><b>OR</b></p> <p><u>Ground Mounted</u> (For buildings set back more than 25 feet) Max. Area: 32 sq. ft. Max. Height: 6 ft. 1 per street frontage -no closer than 200 ft. - max. 3</p>	<p><b><u>5. Primarily Commercial Districts</u></b> (H-C, R-C, BC-D)</p> <p><u>Building Wall and Ground Mounted</u> Max. Wall Area: 10% Max. Ground Mounted Area: 32 sq. ft. Max. Height: 6 ft. 1 per street frontage - no closer than 200 ft. - max. 3</p> <p><b>OR</b></p> <p><u>Wall Only</u> 2 sq. ft. per lineal foot of wall frontage up to 150 square feet (See also 10.3.5)</p>
<p><b><u>6. Multi-Tenant Identification</u></b> (includes shopping centers, office complexes, etc.) Max. Area: 64 sq. ft. Max. Height: 6 ft. 1 per street frontage - no closer than 200 ft. - max. 3 No individual tenant ground mounted signs permitted</p>	



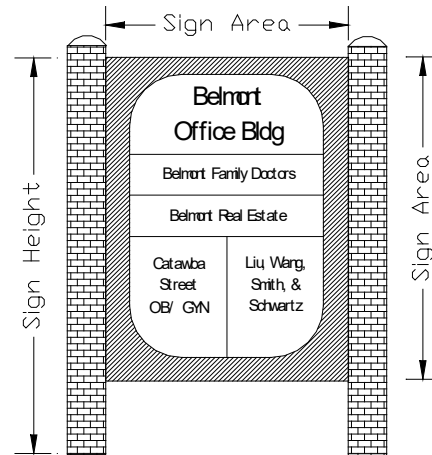
10.3 SIGNAGE TYPES

10.3.1 ARM SIGN



**Maximum Height:** 6 feet  
**Maximum Area:** 6 square feet

10.3.2 MONUMENT SIGN



**Maximum Height:** 6 feet  
**Maximum Area:** 32 square feet

- a. Only buildings set back more than 25 feet from the right-of-way may use a Monument Sign.
- b. All ground mounted signs shall be located a minimum of five (5) feet behind the street right-of-way.
- c. No ground mounted sign greater than five (5) square feet in area shall be located closer than ten (10) feet to any adjacent lot line. A fifteen- (15) foot side-yard setback shall be required if the side lot line abuts a residential district.
- d. An arm sign may be substituted for a ground mounted sign but shall meet all height and area requirements as provided.
- e. The maximum height shall be as measured from street grade or the sidewalk (where one exists), whichever is less.
- f. Subdivisions are permitted one double-faced sign in the center of right-of-way at the main entrance. Otherwise, two single-faced signs are permitted on either side of the main entrance, outside the right-of-way. Subdivisions with multiple entrances may, with permit, have sign(s) at each entrance no closer than 500 feet as measured by street frontage

**10.3.3 AWNING SIGN STANDARDS**

Maximum Area: 50% of Awning area

**Under-Awning Sign Standards:**

Maximum Dimensions:

Height: 16" Width: 36"

Sign Clearance: 8 feet

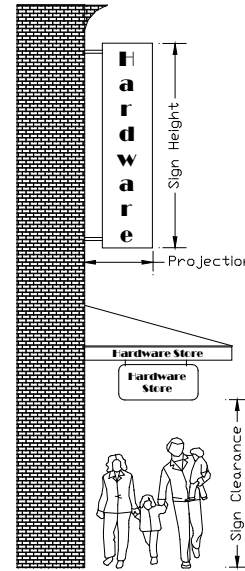
**10.3.4 PROJECTING SIGN STANDARDS**

Maximum Height: 8 feet\*

\*Sign may not extend beyond the top of the parapet or the eaves (on a pitched roof)

Maximum Area: 1 square foot for each lineal foot of storefront

Maximum Projection from Wall: 3 feet



**10.3.5 WALL SIGN STANDARDS**

**Maximum Area:** 2 square feet for each lineal foot of wall facing a public street, with a maximum amount of 150 square feet (The maximum permitted aggregate area of wall signs includes the area of any windows or doorways.)

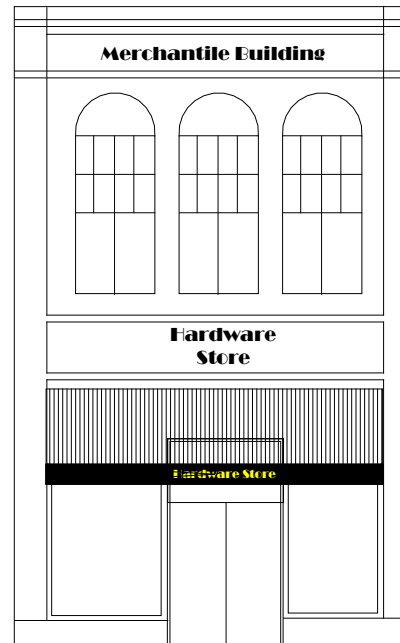
**Location:** Between first floor window and window sill of second floor, or on sign frieze area of building if original to building (Exception: Building identification which is an integral part of the building's design and architectural character shall not be considered a sign for the purposes of this Standard.)

**Maximum Area (Walls not fronting a public street):** 5% of wall area (exceptions may be granted for artistic murals).

**Windows:** Signs may be placed on or behind windows but at no such time shall the opacity (visibility into the building) be less than 80% of the total window area.

**Additional Requirements:**

- a) No wall sign shall project more than 12 inches from the building wall. Further, no wall sign or its supporting structure shall cover any window or part of a window, nor shall it extend beyond the highest point of a roofline, parapet, or mansard roof.
- b) Principal building walls and service station canopies may have signage on all faces which front on a public street. Such signage shall not exceed 2 square feet for each lineal foot of wall facing a public street with a maximum of 150 square feet.



**SECTION 10.4 SIGNS NOT REQUIRING PERMIT**

The following types of signs are exempt from permit requirements and may be placed in any zoning district subject to the provisions of this Ordinance. Such signs shall otherwise be in conformance with all applicable requirements contained in this Ordinance. There shall be no limit as to the number of such signs on any lot, except as herein prescribed. All such signs (except government signs) shall be located outside a street right-of-way unless otherwise granted permission for such location by the City of Belmont or NCDOT.

1. Government signs including but not limited to traffic control signage, wayfinding signs, city logo signs and NCDOT logo signs. The maximum sign area for such sign shall be determined by the appropriate agency.
2. Memorial signs, plaques or grave markers which are noncommercial in nature.
3. Flags, pennants, insignia, or religious symbols of any government, non-profit or not-for-profit organization when not displayed in connection with a commercial promotion or as an advertising device. No such flag pole shall exceed 35 ft. in height. Flags shall not exceed 60 square feet. Limit 3 per site.
4. Integral decorative or architectural features of buildings; works of art; so long as such features or works do not contain letters, trademarks, moving parts or lights.
5. Public interest and incidental (less than 2 square feet) signs.
6. On-premise directional and instructional signs not exceeding six (6) square feet in area apiece.
7. Identification signs for residential uses (excluding home occupations) not exceeding six (6) square feet in area [one (1) only per premises].
8. Incidental commercial copy signs, however, in no case shall a drive-in service window menu board be oriented to a public right-of-way or exceed thirty-two (32) square feet in area.
9. Campaign and election signs provided that:
  - a. Each sign shall not exceed twenty (20) square feet in area and six (6) feet in height on private property and six (6) square feet in area and 3 ½ feet in height within an NCDOT maintained right-of-way.
- b. All such signs may be erected no sooner than 30 days in advance of the beginning date of “one-stop” early voting for the election for which they were made.
- c. All such signs shall be removed within ten (10) days after the election or primary for which they were made.
- d. No sign shall be placed in any city maintained right-of-way, fully controlled access highway, on any telephone pole or street sign, or on any public property.
- e. Campaign signs are permissible within an NCDOT maintained right-of-way in compliance with N.C.G.S. 136-32. Requirements include:
  - i Permission shall be obtained from property owner, business, or religious institution fronting the NCDOT maintained right-of-way where a sign is erected.
  - ii Signs shall be no closer than three (3) feet from the edge of pavement of the road, and shall not obscure motorists’ visibility at an intersection.
10. Temporary real estate signs advertising a specific property for sale, lease, rent or development shall be located as follows:
  - a. One sign per street frontage advertising real estate not greater than ten (10) square feet in area in a R-R, G-R, or INF-R District and thirty-two (32) square feet in area in all other districts may be located on the property being advertised. Corner lots are permitted a second sign that may be oriented along the second street so long as the two signs are at least one hundred (100) feet apart as measured by the shortest straight line.

- b. In addition to the on-site real estate sign(s), a maximum of three (3) directional signs, each not exceeding four (4) square feet in area, shall be permitted off the subject premises.
  - c. All such temporary signs shall be removed within seven (7) days after the property has been sold, rented, leased, etc.
  - d. No sign allowed under this subsection shall be lighted.
11. Temporary construction signs provided that:
- a. Signs in conjunction with any residential use shall not exceed ten (10) square feet each.
  - b. Signs in conjunction with all other uses shall have a maximum area of thirty-two (32) square feet each.
  - c. Only one (1) such sign oriented per street front per development shall be erected. Any two such signs located on the same premises shall be located at least one hundred (100) feet apart as measured by using a straight line.
  - d. Such signs shall not be illuminated.
  - e. Such signs shall only appear at the construction site.
  - f. Such signs shall be removed within seven (7) days after a completion of the project.
12. Temporary farm product signs provided that:
- a. One on-premises sign may be used. Said sign shall be located off the street right-of-way and at least ten (10) feet away from any side lot line. Such sign shall have a maximum area of nine (9) square feet and may not be illuminated.
  - b. A maximum of two off-premise signs shall be permitted. Said off-premise signs may be no greater than four (4) square feet apiece and shall not be illuminated. No such sign shall be allowed in the street right-of-way nor within ten (10) feet of a side lot line.
13. Temporary special event signs and banners for religious, charitable, civic, fraternal or similar non-profit or not-for-profit organizations provided that:
- a. Signs shall be erected no sooner than twenty-one (21) days prior and removed no later than two (2) days after the event.
  - b. No such sign shall exceed thirty-two (32) square feet.
  - c. No such sign shall be illuminated.
  - d. Signs may be placed with the right-of-way at locations designated by the city.
14. Temporary displays as part of a holiday or civic event.
15. Signage within ballfield and sports stadiums containing commercial copy that is directed within the facility including, but not limited to, banners, fixed placards, and scoreboards.
16. One (1) on-premise and three (3) off-premises yard sale signs per yard sale. All such signs shall be removed within twenty-four hours after the yard sale has been terminated. No such sign shall be greater than four (4) square feet in area.
17. Bulletin boards, directory signs, and signs which contains information of a non-commercial nature. Such bulletin boards and signs may have a maximum area of thirty-two (32) square feet. Such signs shall not be illuminated.
18. Window Signs
19. "Warning", "No Trespassing" and similar informational signs
20. Signs not visible from a public right-of-way or residential dwelling.
21. Any sign inside a building, not attached to or placed within an external window or piece of glass that is not legible more than three (3) feet beyond the building in which it is located.
22. Historical plaques mounted in accordance with the United States Secretary of the Interior's Standards for Rehabilitation.
23. Banners and flags for special events and grand openings, used in conjunction with a commercial building, project, or enterprise are

permitted for a period not to exceed fourteen (14) days provided that:

- a. All banners shall be attached to frontage wall of a principal structure.
  - b. No such banner shall be attached to a roof structure or above the second floor level.
  - c. No such banner shall be attached to any existing signs, placed within a right-of-way, attached to any fences, strung between posts, or in any other method except as outlined in (a).
- d. The maximum number displayed at any time shall be two (2).
24. Other banners, provided that there be no more than one (1) attached banner per building, with such banner being no greater than thirty-two (32) square feet in area.

**SECTION 10.5 PROHIBITED SIGNS**

1. Any sign, which the planning director determines, obstructs the view of bicyclists or motorists using any street, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal shall be prohibited.
2. Signs which contain lights, rotating disks, words and other devices not erected by a public authority which may be erroneously construed as government signs or emergency warning signs. An example of this is a sign which contains a picture of a traffic sign plus the word "Stop", "Yield", etc.
3. Any sign (other than a government sign), banner or display placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other surface located on, over, or across any public street or right-of-way, or any banner, placed on stakes on a property, unless otherwise permitted.
4. Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign.
5. Flashing signs, signs with flashing or reflective disks, signs with flashing lights or lights of changing degree of intensity or color or signs with electrically scrolled messages.
6. Pole signs
7. Portable signs, except as permitted in Section 11.1.6.
8. Vehicular signs
9. Rotating or moving signs.
10. Roof signs that extend above the highest point of a pitched roof, mansard roof, or parapet.
11. Off-premise advertising signs (e. g., billboards).
12. Inflatable signs [including inflated balloons having a diameter of greater than two (2) feet].
13. Any sign whose sign face was initially constructed and designed to be placed and/or transported on wheels, regardless if said sign face is removed from its base and placed on or in the ground so as to otherwise classify said sign as a "free-standing" sign as herein defined.
14. Other signs not expressly permitted in this ordinance.

10.6 SIGN ILLUMINATION

1. All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign. All lighted signs shall meet all applicable electrical codes.
2. No commercial sign within 100 linear feet of a pre-existing residential structure may be illuminated between the hours of 12:00 midnight and 6:00 a.m. A residence shall be deemed "pre-existing" for purposes of this Section if it has a valid building permit in effect for construction of said structure or if construction of said structure was complete on or prior to the effective date of this provision.
3. Illuminated signage shall be externally illuminated except as identified in the table below. Civic use signs and signs located in the stated districts may either be internally or externally illuminated. Any sign except a temporary sign may be externally illuminated.

Zoning District	Internally Illuminated	Externally Illuminated	Performance Standards
H-C	Yes	Yes	See 10.6 (1)(2) & 10.7
BC-D	Yes	Yes	See 10.6 (1)(2) & 10.7
IC-D	Yes	Yes	See 10.6 (1)(2) & 10.7
TN-D	Yes <sup>1&amp; 2</sup>  Halo-lit Signs Only	Yes	<sup>1</sup> Sign Program Required Halo-lit Signs only; <sup>2</sup> Outside of Center City District as identified in the Belmont Comprehensive Land Use Plan See 10.6 (1)(2)
NC-C	Yes <sup>1&amp; 2</sup>  Halo-lit Signs Only	Yes	<sup>1</sup> Sign Program Required- Halo-lit Signs only; <sup>2</sup> Outside of Center City District as identified in the Belmont Comprehensive Land Use Plan See 10.6 (1),(2)
RC	Yes <sup>1&amp; 2</sup>  Halo-lit Signs Only	Yes	<sup>1</sup> Sign Program Required- Halo-lit Signs only; <sup>2</sup> Outside of Center City District as identified in the Belmont Comprehensive Land Use Plan; See 10.6 (1)(2)
<u>Civic Use</u> in all other Districts not listed above	Yes <sup>1</sup>	Yes	See 10.6 (1),(4),(5) & 10.7
All other Districts	No	Yes	See 10.6 (1)(2)

4. Internally illuminated civic use signs located outside of the H-C, IC-D, BC-D Districts and Belmont Historic District, as defined by the National Register of Historic Places, are subject to the following:

- a. Internally illuminated identification signs are limited to monument signs only. Internal illumination shall be a Halo lit style sign. A halo lit sign is a sign of an opaque material illuminated from behind to form a “halo” of light around the silhouetted letters or symbols. An illuminated cabinet sign with routed aluminum and push through acrylic detail may be used to achieve the halo affect however it must have opaque face (front illumination is prohibited).
  - b. All emitted light shall be white.
  - c. Message boards and reader boards are limited to 50% of allowable monument sign area and shall comply with Section 10.7 of this Chapter.
5. Civic use signs located within the Belmont Historic District, as defined by the National Register of Historic Places, shall be limited to external illumination.

#### **10.7 MESSAGE BOARDS AND READER BOARDS [Including but not limited to light emitting diodes (LED) or liquid crystal display (LCD)]**

1. Internally illuminated message/reader boards may be incorporated within conforming monument signs in the H-C, IC-D, and BC-D Districts.
2. Civic uses located outside of the H-C, IC-D, BC-D, and the Historic Belmont District, as defined by the National Register of Historic Places, may incorporate an illuminated message/reader board within conforming monument signs subject to section 10.6 of this Chapter.
3. Message/reader board signs shall not exceed a maximum illumination of 5,000 nits (candelas per square meter) during the daylight hours and a maximum illumination of 500 nits between dusk and dawn, as measured from the sign’s face at maximum brightness. The applicant or sign manufacturer must provide either written certification from the manufacturer that the light intensity has been factory-programmed not to exceed above listed light levels or provide an isolux lighting plan certified by an electrical engineer.
4. Messages may not change more frequently than once every fifteen minutes. Messages must change instantaneously and must not use animation, scrolling, flashing, special effects, or changing degree of intensity of brightness or color.
5. Messages may only contain monochromatic text, with the background being a darker color than the text. Neon or other high intensity colors may not be used for background. Graphics, logos, or pictures may not be used in the messages.

#### **10.8 MAINTENANCE AND UPKEEP OF SIGNS**

All signs and all components thereof, including supports, braces, anchors, etc., shall be kept in a good state of repair, in compliance with all building and electrical codes, and in conformance with the requirements of this Ordinance. Any sign which is determined by the Planning Director as being insecure, in danger of falling or otherwise endangering the public safety shall be immediately removed by its owner unless it is repaired and made to otherwise comply with the requirements of this Ordinance.



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## ***11.0 TREE PROTECTION AND LANDSCAPING***

### ***11.1 INTENT***

The landscaping regulations apply to both public and private property. These regulations will not prohibit any individual resident of Belmont from removing or pruning any tree on his or her property, nor will they prohibit harvesting timber in accordance with G.S. 160A-458.5. The purpose and intent of these regulations is to establish minimum standards for preservation of existing and the planting of new trees and vegetation in order to:

- Better control soil erosion
- Reduce the hazards of flooding
- Stabilize the ground water tables
- Absorb carbon dioxide
- Provide shade for cooling
- Screen noise, dust, and glare
- Enhance property values
- Provide architectural interest and human scale
- Preserve, protect, and enhance the natural environment
- Maintain and/or improve aesthetic values
- Promote a diversity of species in the urban forest

### ***11.2 REQUIRED LANDSCAPING***

The five types of landscaping are defined as follows, and shall meet the following performance requirements:

#### ***A. TYPE A (Opaque Screen/Buffer)***

##### ***LOCATION & REQUIRED USAGE:***

- Rear and/or side transition yards between HC, BC-D, or IC-D lots and all other Districts (Minimum width: 30 ft)
- Rear and/or side transition yards between all other Districts (except RR, GR, INF-D, and TN-D) and adjacent residential and civic uses (Minimum width 10 ft to 30 ft.)
- Edge of all yards abutting right-of-way for Interstate 85 (Minimum width: 50 ft)
- Edge of all yards abutting right-of-way for active rail corridors (Minimum width: 20 ft)

This type functions as an opaque screen from the ground to a height of at least eight (8) feet. This type excludes visual contact between uses and creates a strong impression of spatial separation. Composition of the Type A landscaping may include a wall, wood fence, landscaped earthen berm, planted vegetation, existing vegetation, or any appropriate combination of these elements. Intermittent planting of deciduous and evergreen trees shall obtain a height at maturity of no less than 20 feet and have no unobstructed openings wider than ten (10) feet between tree canopies upon maturity. Shrub plantings shall have a minimum height of three (3) feet at installation and have no unobstructed openings wider than four (4) feet. At least 50% of the required trees, and at least 75% of the required shrubs, shall be evergreen species locally adapted to the area. Where a natural buffer exists, it is to

remain undisturbed. Supplemental planting may be required in addition to native materials. All buffers required by the watershed ordinance and stream buffer ordinance shall remain completely undisturbed.

### ***B. TYPE B (Semi-Opaque Screen)***

#### ***LOCATION & REQUIRED USAGE:***

- Perimeter Yard of all parking areas visible from the street (NC-R, NC-C, INF-D, TN-D, HC, IC-D) (Minimum width: 10 ft)

This type functions as a semi-opaque screen from the ground to at least a height of four (4) feet for screening of car lights and glare. Composition of the Type B landscaping may include a wall, fence, planted vegetation, existing vegetation, or any appropriate combination of the elements. Shrub plantings shall have no unobstructed openings wider than four (4) feet. At least 75 % of the required shrubs shall be evergreen species locally adapted to the area.

All side yard parking areas in the Downtown and Neighborhood Center-Commercial districts shall be screened from the sidewalk by low walls, fences or constructed as a continuation of the building wall a minimum of three (3) feet in height. Landscaping may be used in combination with walls or fences but shall not exceed 50% of the total required width. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental plantings may be required in addition to native materials. The minimum height upon installation for effectively screening storage areas is 6 feet. This type of planting should be opaque to screen the off-site view of parking areas from neighboring properties and streets.

### ***C. TYPE C (Interior Plantings)***

#### ***LOCATION & REQUIRED USAGE:***

- Interiors of all parking areas with more than 10 parking spaces

This type functions as a tree ceiling over a parking area providing shelter from sun and rain and minimizing the impact of runoff by providing “green” surface area on which to collect. Large maturing canopy trees shall be planted in a manner that provides shade for the entire parking area at maturity. To this end, no parking space shall be less than 60 ft from the base of a canopy tree.

All rows of parking must terminate with landscaped islands that are at least 9 ft wide, and at least as long as the adjacent parking space. Islands at the end of a single row of parking shall be at 18 ft long and must contain at least one shade tree that is at least 4” in caliper at the time of planting. Islands at the end of a double row of parking must be at least 36 ft long and must contain at least two shade trees that are at least 4” in caliper when planted. These landscaped islands must be at least 200 square feet in area, as measured from the back of the curb to the back of the curb. These new planting requirements may be modified in order to protect existing trees on site where a parking area is planned.

If parking lot lighting is installed in a landscaped island, then the lighting should be designed to accommodate the trees planted in the island.

The use of differing species around the parking area is encouraged to promote diversity in the overall urban tree canopy. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental plantings may be required in addition to native materials.

***D. TYPE D (Street Tree Canopy)***

***LOCATION & REQUIRED USAGE:***

- Along all street frontages (All Districts)

This type functions as a unifying element along all street frontages by establishing an attractive and consistent streetscape and scale. Street tree plantings soften the transition of the public street to the private yard and provide shelter from sun and rain to pedestrians and drivers. Trees shall be spaced at a minimum average of 10-40 ft on-center. Trees shall be planted parallel to the street within a well-defined planting strip of consistent width (min. of 6 feet) located between the curb and sidewalk, or in tree wells located in the sidewalk. Tree selections shall be provided for in accordance with *City of Belmont Street Tree Selection*.

***E. TYPE E (Residential Tree Canopy)***

***LOCATION & REQUIRED USAGE:***

- For all new single-family houses

This type functions to maintain and/or replenish the urban tree canopy in areas of new residential development. Each lot shall provide canopy trees in accordance with the following schedule:

<u>Lot Size</u>	<u>Required Number of Canopy Trees</u>
Less than 5,000 sq ft	1 Front Yard
5,001-10,000 sq. ft	1 Front yard, 1 Rear yard
10,000-15,000 sq. ft	1 Front yard, 2 Rear yard
15,001-20,000 sq. ft	2 Front yard, 2 Rear yard
More than 20,000 sq. ft	3 Front yard, 3 Rear yard

The use of differing species to be planted in residential yards is encouraged to promote diversity in the overall urban tree canopy. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental plantings may be required in addition to native materials. Existing healthy canopy trees over 6” in caliper may be counted towards fulfilling this requirement, provided that tree protection measures are used and maintained during construction. If there is a question regarding the health of a tree that cannot be resolved between the City of Belmont and the developer, the City may require that the developer hire a Certified Arborist to examine the tree in question. Required street trees may be counted towards the fulfillment of this requirement. All other trees required under this Section shall be planted within the private lot.

### 11.3 TREE PRESERVATION

#### 11.3.1 General Provisions

Wooded sites, in addition to their economic and environmental significance and value as a natural resource, offer the distinct advantages of providing shade and aesthetically pleasing views. Vegetation on sloping sites plays a critical role in maintaining aesthetic quality, water quality, and in minimizing erosion and downstream flooding. At a minimum, selective retention of certain significant vegetation should occur, particularly in areas or portions of a site that are located within a fragile ecological setting.

Significant forest stands, natural vegetation, specimen trees, severe natural topography, drainage features and water courses should be preserved to the extent that is reasonable and practical while otherwise not unreasonably prohibiting development. Forested and vegetated areas whose physical site conditions render them unsuitable for development should be set aside as conservation areas or as open space. Isolated pockets of existing trees or specimen trees should be protected as a valuable asset of the property.

Determination of the need to preserve significant vegetation on the site is also a function of a site's buildable area or potential for development as suggested below:

- A. *Prime Buildable.* Land with little or no building restrictions that occur as a result of slope conditions or site topography. These areas are defined as slopes less than 10% and generally offer the least opportunity for the preservation of existing tree canopy, forest stands, or significant vegetation outside of satisfying open space dedication requirements.
- B. *Secondary Buildable.* Areas with slopes of 10 to 15%, site preparation techniques should minimize grading. Such areas require selective clearing and grading. These areas offer limited opportunity for the preservation of existing tree canopy, forest stands, or significant vegetation outside of satisfying open space dedication requirements.
- C. *Conserved.* Areas with slopes of 15% to 25% with severe slope restrictions. These areas offer optimal opportunity for the preservation of existing tree canopy, forest stands, or significant vegetation outside of satisfying open space dedication requirements.
- D. *Preserved.* Natural floodplain and floodways, wetland areas, and slopes exceeding 25%.

#### 11.3.2 Restriction of certain forestry activities prohibited.

- A. In accordance with NCGS 160A-485, the following definitions apply to this section:
  - (1) *Development.* – Any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest use.
  - (2) *Forest management plan.* – A document that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives. A forest management plan shall include silvicultural practices that both ensure optimal forest productivity and environmental protection of land by either commercially growing timber through the establishment of forest stands or by ensuring the proper regeneration of forest stands to commercial levels of production after the harvest of timber.
  - (3) *Forestland.* – Land that is devoted to growing trees for the production of timber, wood, and other forest products.

- (4) Forestry. – The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.
  - (5) Forestry activity. – Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.
- B. A city shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates either:
- (1) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes.
  - (2) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.
- C. This section shall not be construed to limit, expand, or otherwise alter the authority of a city to:
- (1) Regulate activity associated with development. A city may deny a building permit or refuse to approve a site or subdivision plan for either a period of up to:
    - a. Three years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under city regulations governing development from the tract of land for which the permit or approval is sought.
    - b. Five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under city regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the city regulations.
  - (2) Regulate trees pursuant to any local act of the General Assembly.
  - (3) Adopt ordinances that are necessary to comply with any federal or State law, regulation, or rule.
  - (4) Exercise its planning or zoning authority under this Article.
  - (5) Regulate and protect streets under Article 15 of this Chapter. (2005-447, s. 2.)

### 11.3.3 Preservation of Existing Vegetation

In order to protect the existing tree canopy of wooded areas and to enhance the tree canopy of areas of diminished canopy, the following tree save and tree planting areas are required for all new developments, and vary depending on the type and density of the development.

For residential developments with an overall density of three (3) units per acre or less, at least 25% of the healthy mature deciduous tree canopy shall be preserved. Tree preservation may be achieved through the following means:

- A. Clustering smaller building lots closer together in order to avoid conserved or preserved areas and to minimize clearing in secondary buildable areas, as outlined in Section 11.3.1. By clustering lots together, greater common open space with tree preservation is achieved. Clustered lots are typically 10,000 square feet or smaller, so tree preservation on the building lot is not required.
- B. Where lots are greater than 10,000 square feet, tree preservation shall occur on or adjacent to the rear of the building lot. Trees may either be saved in the rear yard along

the rear 10 feet of the rear property line as shown in Diagram A below or by providing a buffer strip of common area at least 20 feet in width between lots that back up to another lot as shown in Diagram B below. Building lots with large natural areas or common areas behind them are not required to preserve trees in the rear yard.

- C. Where lots would be required to save trees on them in the manner described in paragraph 11.3.2.B above that have utility or stormwater conflicts in the rear yard, the tree canopy that would be required for preservation shall either be saved elsewhere on the lot or shall be replaced by planting new trees on the lot to equal the canopy removed from the lot.

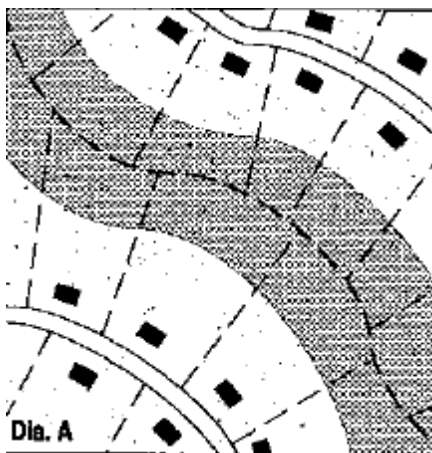
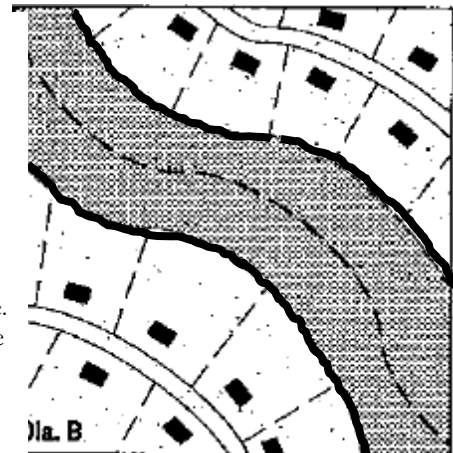


Diagram A on the left shows a tree save area in the rear 10 feet of building lots.

Diagram B on the right shows a tree save area as 20 feet wide common space. The building lots are less deep to accommodate this common area.

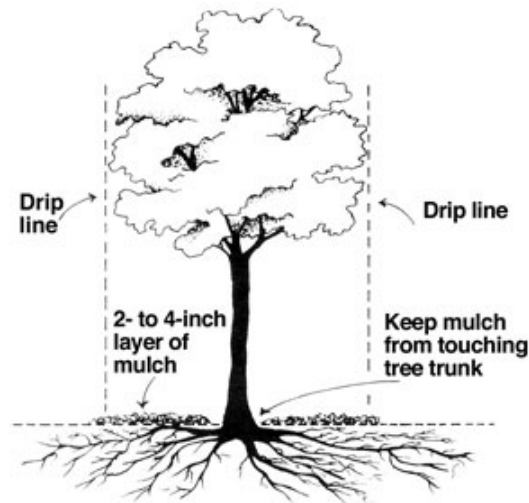


- D. For residential developments in the General Residential (G-R) or Suburban Residential (S-R) zoning districts with an overall density greater than three (3) units per acre, healthy mature deciduous trees shall be preserved in conserved and preserved areas, as outlined in Section 11.3.1. Residential developments in the Neighborhood Center Residential (NC-R), Infill Residential (INF-D), Neighborhood Center Commercial (NC-C), and all mixed use or nonresidential developments shall only be required to save mature healthy deciduous trees in preserved areas, as outlined in Section 11.3.1.
- E. Where utility or stormwater requirements conflict with these tree save requirements, the tree canopy that would be required for preservation shall be replaced by planting new trees on the lot or in another location within the proposed development. While the preference for tree plantings is for on-site plantings to mitigate for tree removal, in such cases of conflicts between trees and utility or stormwater requirements the City may allow for tree-banking that would allow a developer to plant an equal amount of the canopy removed from the lot in a city park or to pay into a tree-banking fund an amount equal to the canopy removed from the lot. This tree-banking fund would be used for streetscape projects, plantings in parks, or other urban forestry activities that benefit the public.
- F. Tree save areas in the rear portion of residential properties, in common areas between the rear portion of residential properties, or open space areas other than greenways/parkways must be maintained free of invasive plant species, including, but not limited to kudzu, English ivy, and non-native bamboo, unless such invasive species are acting as an existing natural erosion control device. Should any tree designated for

preservation in open space areas as defined in Chapter 7 of the Land Development Code, other than greenways/parkways, die for any reason including acts of God within two years of the subdivision plat containing the open space being recorded, the developer or owner shall replace it by planting deciduous trees in the amount equal to the total number of caliper inches that was removed (example, removing a 20" oak tree would require planting five deciduous trees that each had 4" caliper or four deciduous trees that each had 5" caliper). The tree must either be replaced within 180 days of death or a bond placed with the planning department for 150% of the cost of tree replacement if the tree dies during a time of year unsuitable for planting. Areas in a development that are to remain undisturbed or natural and do not meet the type of open space required by Chapter 7 of the Land Development Code are exempt from the requirements of this paragraph.

**G. Method for Designating Tree Save Areas**

A tree save area shall be considered the combined areas of the tree protection zone and the critical root protection zone. The critical root and tree protection zone will be measured as a radial distance from the tree trunk to one foot past the drip line. If root disturbance or construction activities occur within the drip line of any tree designated as protected, only the area actually being protected will be included in the tree save area.



**H. Heritage Tree Protection**

To the maximum extent feasible, heritage trees located on any site subject to the ordinances or this Land Development Code must be preserved. For proposed residential developments with an overall density of 3 units per acre or less, a minimum of 25% of the heritage trees on the property must be saved. It is the City of Belmont’s preference that the heritage trees saved in a residential development be scattered throughout the property being developed.

For proposed residential developments with an overall density greater than 3 units per acre or for mixed-use and nonresidential developments, there is no minimum number of heritage trees required for preservation. However, it is the City of Belmont’s preference that these developments preserve heritage trees wherever possible and will provide options to a developer to encourage the preservation of heritage trees. These options to



encourage preserving heritage trees on high density residential, mixed-use, or nonresidential properties include, but are not limited to, reduced setbacks, increased density, and planting 2.5” caliper trees on some streets instead of the required 4” caliper trees.

Where a project saves heritage trees and is subject to the canopy tree requirements of this Chapter, 150 percent of the heritage tree canopy area shall count toward the required canopy tree requirements. A person proposing to remove a heritage tree on a development plan must identify the proposed tree removal on a site plan or major subdivision plan submitted for approval to the City of Belmont. Anyone who removes a heritage tree that is required to be saved without City of Belmont approval is subject to one or more of the civil penalties in Section 18.3. Heritage trees on single-family or duplex residential property are exempt from this section, although property owners are encouraged to preserve heritage trees on their property. Plans representing the removal of heritage trees will be granted only where:

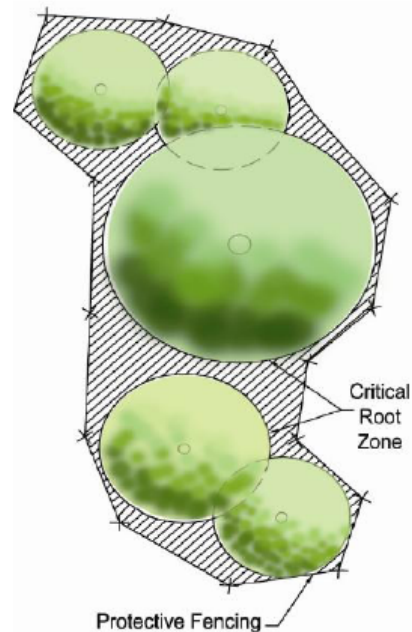
1. The tree is located within that portion of the lot where buildings or improvements are permitted. The developer should demonstrate that there is no other reasonable location for the building or improvement and that preservation would unreasonably restrict use of the property; or
2. The tree is diseased, dying or dead or causes a safety hazard to nearby buildings or pedestrian or vehicular traffic; or
3. The tree is causing significant structural damage to a building or other structure that reasonable maintenance cannot prevent; or
4. Removal is necessary to allow construction of a road or drive that is essential for access to the site.

#### 11.3.4 Preservation of existing vegetation during construction

Protective barricades shall be placed around all trees designated to be saved, prior to the start of development activities or grading. These barricades must consist of 2”x 4” posts with 1”x 4” rails, orange safety fence, or a similar treatment. Every construction or development site must have a weatherproof sign posted at the construction office or permit board stating in both English and Spanish, “Tree Protection Area: Do Not Enter.” This sign must also state that the violation for driving or parking vehicles or equipment or engaging in development activities within the protective barricade area will result in a civil penalty issued by the City of Belmont up to \$1,000 per incident. This sign must reference this section of the ordinance and must include the City Seal.

Protective barricades shall remain in place until development activities are complete. The area within the protective barricade shall remain free of all building materials, stockpiled soil or other construction debris. Construction traffic, storage of vehicles and materials, and grading shall not take place within the protective areas of the existing trees. Barricades shall be erected around the perimeter of the tree protection zone.

The diagram on the right is representative of the area for a tree protection fence. Fencing is required to be maintained around the perimeter of the tree protection zone.

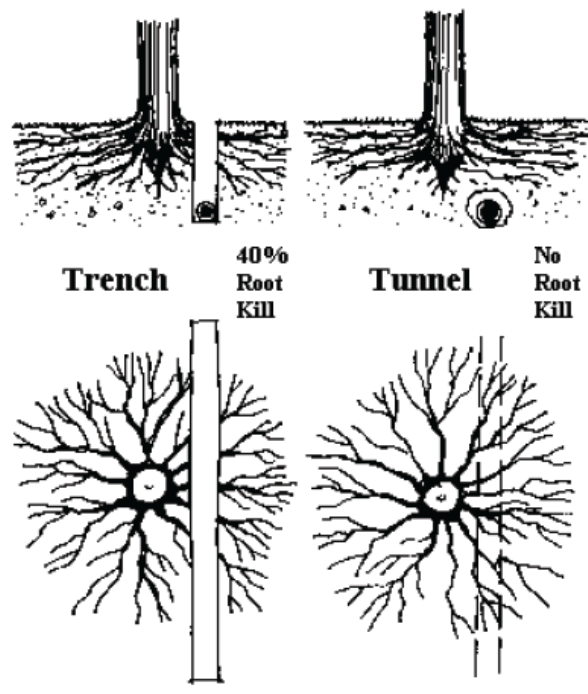


Construction access to a site should occur where an existing or proposed entrance/exit is located.

Except for driveway access points, sidewalks, and curb and gutter, all land disturbance within a tree dripline is prohibited. Sidewalks and driveways shall be routed and placed to accommodate existing trees. A tree protection plan, designed by a Certified Arborist, showing how the trees will be protected from the land disturbing activities must be included in the construction documents for review and approval.

Trenching, placing backfill in the critical root zone (CRZ), driving or parking vehicles and equipment in the CRZ, and dumping of trash, oil, paint or other materials detrimental to plant health within the area of the protective barricades is strictly prohibited. Violations are subject to the penalties found in Sections 11.3.4 and 18.3.

Where underground utilities must be located near existing trees, open trenching is not allowed in the CRZ. Underground utilities must be installed using boring or tunneling under the root zone. Since most roots are within the first 18" of ground, the bore or tunnel must be at least 3 feet deep for trees less than 12" caliper. For trees greater than 12" caliper, the bore or tunnel must be at least 4 feet deep. At no time can a bore or tunnel be within 3 feet of a tree trunk. If the Planning Director determines that there is no practical means of boring or tunneling due to necessary grades for a utility line, and a tree must be removed, then a tree or group of trees with equal caliper must be planted on the site.



#### 11.4 PLANTING STANDARDS

1. All new plant material shall be of good quality, installed in a sound, professional manner and meet the standards set forth in the American National Standards Institute (ANSI) A300 standards. Contractor shall warrant all new plant material for 2 years from time of installation.
2. All trees shall be properly guyed or staked and mulched (3- 4" layer) in accordance with accepted practices in the landscape industry, to prevent winds from loosening the roots. Tree stakes must be removed within one year of tree planting. As a courtesy, the City of Belmont will notify the developer of this requirement within eleven months of the tree planting. If the contractor fails to remove stakes after one year and after being notified by the City of Belmont, then the City will remove the stakes and will assess the contractor for the removal expense.
3. Where large maturing trees are required and overhead utility lines exist, small maturing trees planted 1 per 30 lineal feet shall be substituted with the approval of the Planning Director.
4. The owner of commercial or institutional property is responsible for the continued proper maintenance of all landscaping materials that are required in Section 11.2 and shall keep them in a proper, neat and orderly appearance, free from refuse and debris. The canopy of trees planted in areas adjacent to pedestrian or vehicular traffic, such as along streets or in parking lots, shall be raised to a height of eight feet or  $\frac{1}{2}$  of the height of the canopy and be maintained at a height of eight feet. All dead or unhealthy plant material, except for Type E landscaping, shall be replaced within 180 days to maintain the quality of the landscaping. In no instance will the City of Belmont be responsible for the maintenance of any vegetation unless such vegetation is located within the public right of way of a City maintained street or is located on property owned by the City of Belmont.

5. Where new landscape materials are to be installed, the type of material used shall be complimentary to plant materials existing on the property and on adjoining properties. Use of native plant materials is encouraged.
6. At installation, large maturing trees shall not be less than 10' in height with a minimum 2-1/2" caliper. Small maturing trees shall be a minimum of 1-1/4" caliper and have a minimum height of 8'. Installation and construction practices shall be utilized which preserve and replace existing topsoil or amend the soil to reduce compaction. New trees to be planted shall come from the list of approved species found in the City of Belmont Minimum Standards Policy for Development Improvements.
7. At installation, evergreen trees shall not be less than 8' in height with a minimum 2" caliper.
8. At installation, small shrubs shall be a minimum 18" in height and medium or large shrubs a minimum 30". Installation and construction practices shall be utilized which preserve existing topsoil or amend the soil to reduce compaction.
9. No plants shall be planted within the sight distance triangle at an intersection, or driveway access points unless an unobstructed view between 30" and 72" in height is maintained.
10. Existing vegetation may be applied toward the requirements of this ordinance.
11. Chain link and similar fencing materials for non-residential development, if visible from rights-of way, shall be landscaped on their exterior side a Type B Semi-Opaque Screen.

**11.5 ALTERNATIVE METHODS OF COMPLIANCE**

- A. The performance of alternate landscaping plans shall be evaluated by the Planning Director to determine if the alternate plan meets the intent and purpose of this ordinance.
- B. Decisions of the Planning Director regarding alternate methods of compliance may be appealed to the Board of Adjustment.
- C.

**11.6 REVISIONS TO APPROVED LANDSCAPE PLANS**

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

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

**11.7 INSPECTION OF SITES**

Planning department staff and authorized representatives of the City may periodically inspect sites subject to the provisions of this ordinance.

If, through inspection, it is determined that a person has failed to comply or is no longer in compliance with the provisions of this ordinance, a notice to comply shall be served upon that person by registered mail with return receipt or other means by the City. The notice shall set forth that which will be necessary to comply with the ordinance.

The City shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance and for this purpose may enter at reasonable times upon the property, public or private, for the purpose of inspecting the site(s) subject to the provisions of this ordinance. No person shall refuse entry or access to any staff or authorized representative, of the City who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with that representative while in the process of carrying out official duties.

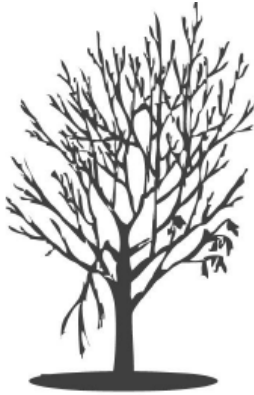
A certificate of occupancy for the development shall not be issued unless the landscaping required under this section is installed in accordance with these standards and in accordance with the approved site plan or subdivision plat. The planning department shall inspect sites consisting of non-residential developments and common open spaces in residential development one year after the issuance of a permanent certificate of occupancy in order to ensure compliance with the approved site plan and to ensure that the landscape is properly maintained.

### ***11.8 EMERGENCIES***

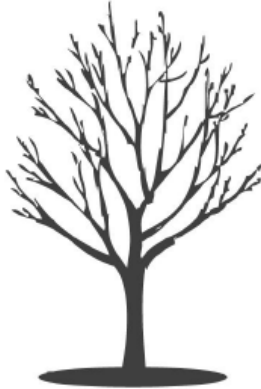
In the case of emergencies such as windstorms, ice storms, fire, or other disasters, the City may waive the requirements of this ordinance during the emergency period so that the requirements of this ordinance will in no way hamper private or public work to restore order in the City. This shall not be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

### ***11.9 TREE MAINTENANCE***

Trees must be properly maintained in order to provide for a healthy and diverse tree canopy. Property owners must maintain their trees in order to prevent damage to buildings, pedestrians, or vehicles. All pruning shall conform to the standards of ANSI A300. To ensure that commercial tree pruning meets these standards, any form of business operation performing tree pruning in the city limits or ETJ for a fee must first obtain an annual tree maintenance permit from the Planning and Zoning Department. Individuals are not required to obtain such permit to remove or maintain trees on their own property. However a commercial tree or landscaping service must obtain its tree maintenance permit when it applies for its annual privilege license in order to do work in Belmont. . This permit will require that the tree professional will use proper methods and will only perform the minimal pruning necessary to protect the health of the tree.



**Before Pruning**  
Mature trees often need pruning due to crowded foliage, broken and dead branches, and asymmetrical shape.



**After Proper Pruning**  
After pruning, trees should retain a symmetrical appearance and tree-like form. A minimum canopy spread of 20 feet must be maintained.



**After Excessive Pruning**  
Pruning in excess of one fourth (25%) of the required canopy spread is prohibited. Tree-topping (hatracking) is prohibited.

Tree topping, also known as “rounding over,” “heading,” “hat-racking,” and other terms to describe an improper pruning practice where more than 25% of the tree canopy or branches are removed, causes severe stress to a tree. This practice removes the leaves and healthy leaf buds from a tree, causing massive growth of small shoots below the cut in order to grow leaves. These shoots are not as strong as the branches or limbs that have been removed and are not attached at the proper location to the trunk. As a result, these new shoots can break easily from the tree during wind or ice events and pose a danger to people and objects below the tree. Tree topping also produces an ugly tree and can decrease adjacent property values. In order to protect the public health and safety, tree topping is prohibited by a commercial tree maintenance or service company on any tree in the city limits or ETJ.

The trees in the center of the picture to the right have been topped recently. Multiple shoots will form to compensate for the lost canopy. These shoots can pose a safety risk, as they will break much more easily than the original limbs.

Note the difference in appearance between the topped trees and the natural trees surrounding them.



**11.10 DEFINITIONS**

As used within this ordinance, the following terms shall have the meanings set forth in this section:

**ANSI** American National Standards Institute (ANSI) is a private, non-profit organization (501(c) 3) that administers and coordinates the U.S. voluntary standardization and conformity assessment system. This includes tree care operations for trees, shrubs and other woody plant maintenance. [www.ansi.org](http://www.ansi.org).

**Alternative Methods of Compliance** Alternate tree planting plans, plant materials, planting methods, or reforestation may be used where unreasonable or impracticable situations would result from application of the tree planting and preservation requirements.

**Appeal** An action requesting reversal or modification of a decision made by the Planning Director based on his/her interpretations of the code. Appeals are made to the Board of Adjustment.

**Auguring** A practice to reduce the damage to and loss of individual trees where underground construction involves a tree's CRZ (Critical Root Zone).

**Caliper** Diameter measurement of tree-trunk taken at 6 inches above ground level for trees up to and including trees 4 inches in caliper. For larger trees, measurement of caliper shall be taken at 12 inches above ground level.

**Canopy** The uppermost spreading branchy layer of a tree.

**Canopy Cover** The area that falls within a tree's drip line.

**Canopy Tree** A deciduous tree with height at maturity greater than 35 feet which produces significant shade due to the size and shape of its canopy.

**Certified Arborist** A person who is properly licensed through a combination of either a professional certification or ISA certification as a Certified Arborist.

**Clear Cut** Felling and removal of all trees from an area. Typically an indiscriminant removal of trees except in the case of silviculture harvesting where tree removal is followed up with a forest replanting or regeneration effort to keep the land forested.

**Cluster of Trees** A group of trees gathered together in their natural state.

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

**Deciduous** Plants or trees that lose their leaves annually.

**Developer** A person or company who engages in development activities as defined below.

**Development** The act, process or state of erecting buildings or structures, or making improvements that require submittal of a non-residential site plan, a minor subdivision plan, or a major development plan as required in Chapter 15 of the Land Development Code.

**Development permits** A permit issued by the planning director that authorizes the recipient to make use of property in accordance with the requirements of this ordinance.

***Drip Line*** An imaginary vertical line extending from the outermost portion of the tree *canopy* to the ground.

***Evergreen*** Plants or trees that retain their leaves throughout the year.

***Existing Tree Canopy*** Tree canopy that existed for at least 2 years prior to development as evidenced by the Town or County aerial photography and/or satellite imagery.

***Exotic/Invasive Species*** An alien species that becomes established in natural or semi-natural ecosystems or habitats and threatens native plants and when such species spread they threaten biological diversity. Invasive species include English Ivy-Hedera helix, Chinese Wisteria-Wisteria sinensis, Japanese Wisteria-Wisteria floribunda, Japanese Honeysuckle-Lonicera japonica, Kudzu-Pueraria Montana, and non-native bamboo.

***Forest Management Plan*** A document that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives.

***Grading or Land Disturbing*** Any use of land by any person that results in a change of the natural cover or topography and that may cause or contribute to sedimentation or soil compaction.

***Heritage Tree*** Any tree that is 12 inches in diameter or larger measured at 4.5 feet above grade (i.e. diameter at breast height).

***Land clearing*** The large scale indiscriminant removal of trees, shrubs, and undergrowth with the intention of preparing real property for non-agricultural development.

***Large Maturing Tree*** A tree whose height is greater than 60 feet at maturity and meets the specification of "American Standards for Nursery Stock" published by the American Association of Nurserymen. See also Canopy Tree.

***Medium Maturing Tree*** A tree whose height is 30-60 feet at maturity and meets the specification of "American Standards for Nursery Stock" published by the American Association of Nurserymen.

***Monoculture*** A single, homogeneous culture without diversity or dissension.

***Native Species*** Refers to a tree species whose geographic range during pre-colonial times included the Piedmont of North Carolina, and can be found at the NC Division of Forest Resources.

***Parking Area*** All vehicular use areas including parking areas, vehicle storage areas, access and maneuvering areas and the like.

***Parking Lot Plantings*** Planting areas within and adjacent to parking areas designed to shade and improve the attractiveness of large areas of pavement.

***Planting Strip*** A ground surface located outside of any public right-of-way that is free of impervious cover and/or paved material and is reserved for landscaping purposes.

***Planting Yard*** A planting yard is a strip of land (of various widths) provided along the perimeter of a site for the installation of plant material in a combination of canopy trees, and/or under story trees and shrubs.

***Protective Fencing*** A physical and visual barrier installed around the critical root zone of a tree to prevent damage to the tree and its root system. Protective fencing or barricades consist of 2"x 4"



posts with 1”x 4” rails, orange safety fence, or a similar treatment, and are at least four feet tall. Every construction or development site must have a weatherproof sign posted at the construction office or permit board stating in both English and Spanish, “Tree Protection Area: Do Not Enter.” This sign must also state that the violation for driving or parking vehicles or equipment or engaging in development activities within the protective barricade area will result in a civil penalty issued by the City of Belmont in the amount of \$1,000 per incident. This sign must reference Section 11.3.3 and must include the City Seal.

**Pruning** The cutting off or removal of dead or living parts of a tree or shrub. See ANSI standards for recommended pruning practices.

**Small Maturing Tree** A tree whose height is less than 30 feet at maturity and meets the specifications of “American Standards for Nursery Stock” published by the American Association of Nurserymen.

**Stand** A group of trees of sufficiently uniform and/or complimentary species composition, age, and condition that they may be considered homogenous unit for management purposes.

**Street Tree** A tree planted within or adjacent to a public right-of-way as required by the city.

**Sustainable** Capable of being continued with minimal negative long-term effects on the environment, the economy, and on residents’ quality of life.

**Topping** The inappropriate removal or cutting back of major portions of a tree by any pruning practice resulting in more than 25% of the foliage and limbs being removed. This includes any pruning that leads to disfigurement of the normal shape of the tree. Topping is also referred to as “heading”, “stubbing”, “rounding”, or “dehorning”.

**Tree Inventory** The gathering of accurate information on the health and diversity of the community forest on a development site or within Belmont.

**Tree Protection Zone** The critical root and tree protection zone is defined as the critical area above and below ground with a radius equivalent to one foot outside of the drip line.

**Tree Save Area** One or more areas of a site which includes existing trees and their tree protection zone. The purpose of a tree save area is to encourage the preservation of healthy clusters of trees or heritage trees.

**Urban Forest** Trees or plants in the town.

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## **12.0 SITE LIGHTING**

### **12.1 Applicability**

1. A permit for the construction, reconstruction, or expansion of any structure or use of land shall be issued only if the site plan (or construction plan) is in compliance with the requirements of this chapter.
2. Routine maintenance, including changing the lamp, ballast, starter, photo control, lens and other required components, is allowed for all existing fixtures.
3. When a building or site is renovated, any new or replaced outdoor lighting fixture must conform to the requirements of this Code.

### **12.2 Light Level Measuring**

1. Light levels are designed, calculated and measured in footcandles. All footcandle values are maintained footcandles, and shall be tested 100 hours after first being turned on.
2. Measurements are to be made at ground level, with the light-sensor portion of the meter lying flat on the ground, pointing upward.

### **12.3 General Exemptions**

1. Emergency lighting: Lighting required for public safety in the reasonable determination of public safety officials with authority.
2. Decorative lighting: Low-wattage fixtures (comprised of incandescent bulbs of less than eight [8] watts each or other lamps of output less than one hundred [100] lumens each) used for holiday decorations.
3. Lighting installed in the public right-of-way.

### **12.4 Prohibited Sources**

The following light fixtures and sources shall not be used:

1. Searchlights or laser source lights used for advertising purposes.
2. Light sources that lack color correction (less than 70 CRI) or do not allow for uniform site lighting.

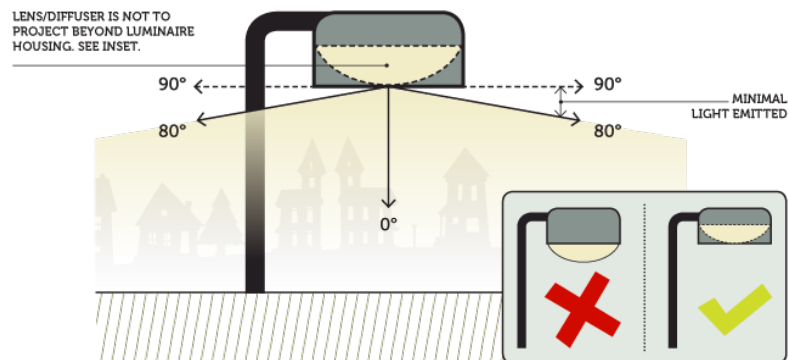
3. Flashing, revolving, or intermittent exterior lighting visible from any property line or street.

## 12.5 Design & Installation Requirements

1. The maximum light level shall not exceed 1.0 footcandle measured at the property line of any residential district and 2.0 footcandles measured at the right-of-way line of a street or non-residential property line.
2. Lighting shall not be oriented onto adjacent properties, streets, or sidewalks.
3. Service connections for all freestanding lighting fixtures must be installed underground.

## 12.6 General Standards for Lighting Fixtures

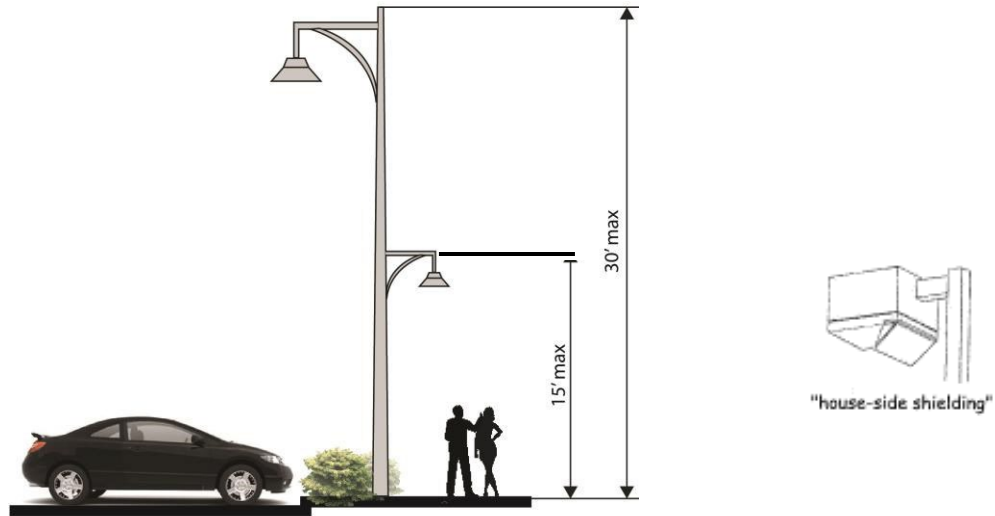
1. All light fixtures must be full cutoff, except, however, non-cutoff (unshielded) fixtures can be used when the maximum initial lumens generated by each fixture is less than 5,000 initial lamp lumens.<sup>1</sup> These fixtures must feature globes or vertical glass planes and must be coated with an internal white frosting to diffuse light.



Example of Full Cutoff Fixture

2. Light fixtures within parking areas may be mounted no higher than 30 feet.
3. Light fixtures within pedestrian areas may be mounted no higher than 15 feet.

<sup>1</sup>Lumen is equal to one foot-candle falling on one square foot of area.



4. Light fixtures located within 50 feet of the property line of a residential district may be no higher than 15 feet unless equipped with shielding to meet the maximum allowed footcandles as measured at the property line.

## 12.7 Standards for Specific Uses

1. Vehicular Canopies: These canopies are often installed at gas stations and convenience stores.
  - a. Lighting under a vehicular canopy must be less than 24 maintained footcandles (average) and designed to prevent glare offsite.
  - b. Light fixtures mounted on canopies may be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy or shielded by the fixture or edge of the canopy so that light is restrained to seventy (70) degrees or less from vertical.



Recessed gas station lighting on the left; non-recessed lighting on the right

## 2. Security and Display Lighting

- a. Security lighting should utilize the lowest possible illumination in order to effectively allow proper surveillance.
- b. The use of motion sensors, timers, photocells, or other means to activate lighting during times when it is needed as required to conserve energy, provide safety and promote compatibility between different land uses is permitted.
- c. In order to direct light downward and minimize the amount of light spill from the light source, all security lighting fixtures shall be full cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA) or shielded at a minimum.

## 3. Recreational Facilities

- a. The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed eighty (80) feet from finished grade.
- b. All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, visors or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing field or performance area.
- c. The hours of operation for the field lighting system for any game or event shall not exceed one (1) hour after the end of the event. The security and egress illumination lighting systems may remain turned on for any amount of time deemed necessary to remove people safely.
- d. Light levels for sports field illumination shall comply with, but not exceed, IESNA standards. Where new sporting facility lighting is installed adjacent to an existing residential property, the intent shall be made for all installations to limit property line light levels to a maximum of two (2) footcandles at grade level. When not installed adjacent to a residential property, light levels at the property line shall not exceed four (4) footcandles at grade level. All possible means of shielding must be applied if this level has not been met. Owner must prove to the planning department that these means have been exhausted, and the intent has been made to meet these goals.

## 12.8 Compliance

1. A photometric site plan and cut sheets for all proposed exterior fixtures shall be included with the required application for a site plan. Information to be submitted shall include:
  - a. A photometric diagram showing predicted levels of maintained lighting from the proposed fixtures.

- b. The location and height of all lighting poles, building mounted lighting fixtures, and ground mounted lighting fixtures.
- c. The zoning district classifications of all properties abutting the site.
- d. The manufacturer's product descriptions showing that the proposed lighting fixture meets the requirements of the code.
- e. Manufacturer data shall include the wattage and lumen output of all new lighting fixtures.

**015.1 PURPOSE AND INTENT**

The purpose of these requirements is to establish an orderly process to develop land within the jurisdiction of the City of Belmont consistent with standard development practices and terminology. It is the intent of this Chapter to provide a clear and comprehensible development process that is fair and equitable to all interests including the petitioners, affected neighbors, City staff and related agencies, the Planning Board, and the City Council.

It is also the intent of this Chapter to ensure that land, parcels, and lots are appropriately subdivided so that their use and development complies with all applicable requirements of this Code and to ensure that compliance is in a manner generally harmonious with surrounding properties and without the endangerment of the health, safety, and general welfare of existing, prospective, or future owners, users, surrounding and adjoining properties, and the public. This Chapter provides for adequate and efficient provision of facilities and/or infrastructure, and the dedication of land, rights-of-way, and easements, so as not to burden the fiscal resources of the City. These provisions include the construction of buildings and utilities, streets and sidewalks, landscaping, recreational open spaces, and other provisions required for the public good of the City of Belmont.

The Belmont City Council shall adopt from time to time, a schedule of fees and review schedule for application and processing as specified in this ordinance.

This process, as established, provides the applicant an opportunity to submit a Schematic Design for review and approval by the City prior to the submission of Construction Documents. This Schematic Design shall be the guiding document in the review of the Construction Documents for final approval and permitting.

**15.2 APPLICABILITY**

The Provisions of this Section shall be applicable to all Minor Subdivisions, Site Plans, Major Development Plans, and Vested Rights Applications. In general, this review process shall be used for all development other than individual detached homes (as permitted) and their accessory structures on a single lot. The Planning Director or designee may waive the required Development Review Process only in the following cases when he determines that the submission of a Development Plan in accordance with this Chapter would serve no useful purpose:

- A. Accessory Structures for all building types; or
- B. Any enlargement of a principal building by less than twenty percent (20%) of its existing size provided such enlargement will not result in site or landscaping improvements or the expansion of parking areas; or
- C. A change in principal use where such change would not result in a change in lot coverage, off-street parking access or other external site characteristics.

For the purposes of this Chapter, the following definitions shall apply:

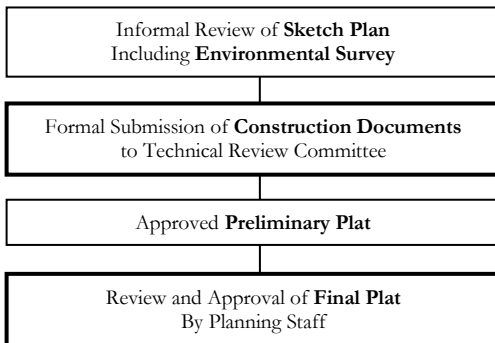
**Site Plan:** Development Plan for individual building or buildings not exceeding 30,000 square feet in gross floor area on previously platted lots

**Minor Subdivision:** Development Plan involving the subdivision of land into seven (7) residential lots or fewer, or up to three (3) non-residential lots.



**Major Development Plan:** Development Plan involving any of the following categories: the subdivision of land into eight (8) or more lots; individual building(s) exceeding 30,000 square feet in gross floor area; or, the subdivision of land into four (4) or more non-residential lots.

**15.3 MINOR SUBDIVISION REVIEW PROCESS**



Minor Subdivisions will be approved administratively by the Planning Department.

The Applicant may submit a Sketch Plan for informal review by the Planning Department. Upon a determination of both completeness and general conformity with this Code, the Planning Department will notify the applicant to proceed to the next step.

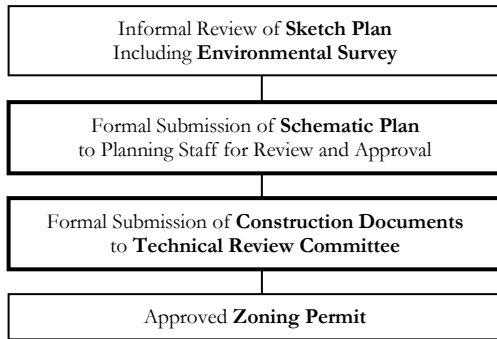
The Applicant shall then submit the Construction Documents along with an Environmental Survey for review by the Technical Review Committee (TRC). The

TRC may require that the Application be circulated to the relevant City, County, and State agencies and officials for comment(s) as to the proposed development’s conformance to all applicable standards and requirements and whether approval is recommended.

Once the TRC deems the Construction Documents to be complete in information provided and in compliance with all provisions of this Code, it may be approved and a Preliminary Plat may be issued within 60 days. Final Plats will be reviewed by the Planning Department and approved administratively.

*No grading or infrastructure construction work may commence prior to approval of the Preliminary Plat.*

**15.4 SITE PLAN REVIEW PROCESS**



Site Plans will be approved administratively by the Planning Department.

The Applicant shall submit a Sketch Plan along with an Environmental Survey to the Planning Department for a non-binding review. Upon determination of completeness and general conformity with this Code, the Planning Department will authorize the Applicant to submit the Schematic Design for formal review.

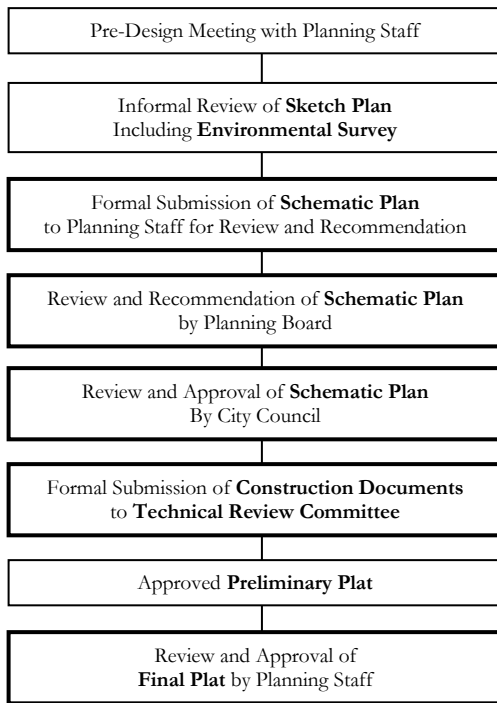
The Planning Department will review and make comment on the Schematic Design. When the Planning Department determines that the application is complete and complies with the Code it shall be approved. If the Schematic Design is denied, the reasons for denial shall be stated in writing and the applicant may resubmit the Development for further review.

Following approval of the Schematic Design by the Planning Department, the Applicant shall submit the Construction Documents for review by the Technical Review Committee. The TRC may require that the Application be circulated to the relevant City, County, and State agencies and officials for comment(s) as to the proposed development’s conformance to all applicable standards and requirements and whether approval is recommended.

Once the TRC deems the Construction Documents to be complete in information provided and in compliance with all provisions of this Code, it may be approved and a Zoning Permit may be issued.

***No grading or infrastructure construction work may commence prior to issuance of a Zoning Permit.***

**15.5 MAJOR DEVELOPMENT PLANS**



Major Development Plans will be reviewed by the Planning Board and approved by the City Council.

The Applicant shall submit a Sketch Plan along with an Environmental Survey to the Planning Department for a non-binding review. Upon determination of completeness and general conformity with this Code, the Planning Department will authorize the Applicant to submit the Schematic Design for formal review.

The Planning Department will review and make comment on the Schematic Design. When the Planning Department determines that the application is complete and complies with the Code it shall be forwarded to the Planning Board. The Planning Department shall provide a written notice to owners of properties adjacent to land under consideration for the Major Development Plan at least 10 days, but not more than 25 days, prior to the Planning and Zoning Board meeting at which the Major Development Plan is under consideration. A sign shall also be posted on property under consideration for a Major Development Plan at

least 10 days, but not more than 25 days, prior to the Planning and Zoning Board meeting. The Planning Board shall have 40 days from the date of their first review to recommend that the Schematic Design be approved, approved with conditions, or denied.

Following the Planning Board review, the Schematic Design shall be submitted to the City Council for their review and approval. The Planning Department shall provide a written notice to owners of properties adjacent to land under consideration for the Major Development Plan at least 10 days, but not more than 25 days, prior to the City Council meeting at which the Major Development Plan is under consideration. A sign shall also be posted on property under consideration for a Major Development Plan at least 10 days, but not more than 25 days, prior to the City Council meeting. The City Council shall have 90 days from the date of their first review to approve, approve with conditions, or deny the Schematic Design. If they deny the Schematic Design, they shall state their reason(s) for denial in writing and permit the applicant to resubmit the Development for further review.

Following denial by the City Council, the Applicant may file a new Application and associated fee. Unless the City Council explicitly states conditions that must be met prior to the resubmission of an Application, the Applicant shall not submit a new Application for the same property within one (1) year of the date of denial by the City Council unless the Application is significantly different from the previously denied Application. All Applications shall be resubmitted for full review unless the Application is resubmitted to address conditions set forth by the City Council.

Approval of a Major Development Plan shall constitute final City Council approval for all phases of the development except for any required approval of Construction Documents.

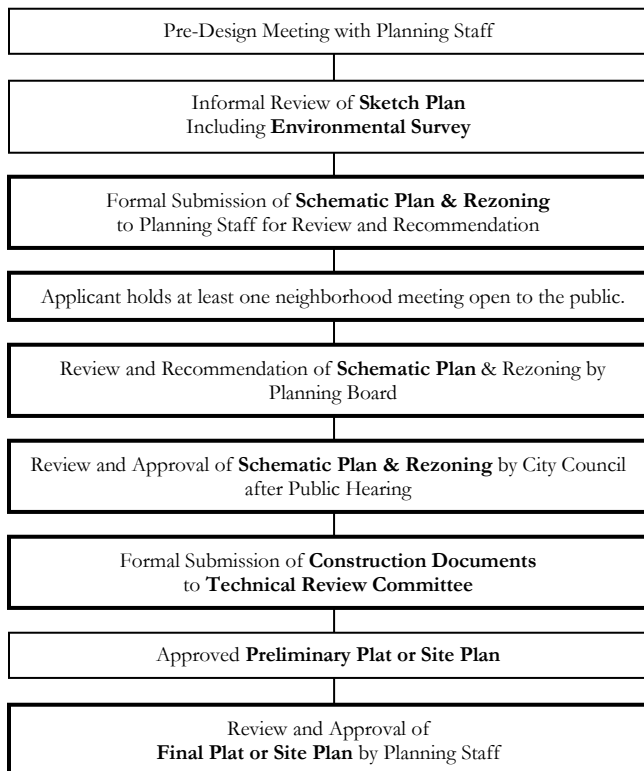
Following approval of the Schematic Design by the City Council, the Applicant shall submit the Construction Documents for review by the Technical Review Committee. The TRC may require that the Application be circulated to the relevant City, County, and State agencies and officials for comment(s) as to

the proposed development’s conformance to all applicable standards and requirements and whether approval is recommended.

Once the TRC deems the Construction Documents to be complete in information provided and in compliance with all provisions of this Ordinance, it may be approved and a Preliminary Plat may be issued. This phase does not confer any approvals for individual site plans.

***No grading or infrastructure construction work may commence prior to approval of the Preliminary Plat.***

**15.6 CONDITIONAL DISTRICTS**



A Conditional District is a Rezoning combined with a Major Development Plan. It will be reviewed by the Planning Board and approved or denied by the City Council.

**1 Procedure:** The procedure for approval of the Master Plan shall follow the procedure outlined in the table to the left and in Section 20.2, Changes and Amendments to the Land Development Code & Zoning Map (Rezoning).

Following approval of the Conditional District rezoning and the Schematic Plan by the City Council, the applicant shall submit Construction Documents to the Technical Review Committee for approval. The Construction Documents shall implement the approved Schematic Plan with any changes, additions and conditions required and approved by the City Council.

**2 Final Approval by Stages:** If so reflected on the Master Plan, the City Council may allow the staging of final development. Each

phase of development shall adhere to all applicable provisions and standards of this section and the applicable CD Master Plan.

**3 Decisions:** Decisions by the City Council shall be by majority vote, unless a valid Protest Petition in accordance with Section 20.1.5 has been filed, in which case, a three-fourths (3/4) majority vote of eligible members shall be required for approval. In considering an application for the establishment of a Conditional District, the Planning Board may recommend and the City Council may attach reasonable and appropriate conditions on the location, nature, and extent of the proposed use and its related design. The applicant will have a reasonable opportunity to consider and respond to any additional requirements proposed by either the Planning Board or the City Council prior to final action.

**4 Qualifications of Applicant:** Conditional District classification shall only be considered upon the request of the owners of all the property to be included. A CD shall consist of land under unified control which may be planned and developed as a single development or as an approved programmed series of development phases by multiple developers. "Unified control" means that all land to be included within a

CD shall be owned or otherwise under the legal control of the person or legal entity which has applied for a Conditional District. Such person or entity shall be legally capable of providing a commitment to the city that the CD development will comply with all documents, plans, standards and conditions ultimately approved by the city.

**5 Standards of District to be Met:** Within an approved Conditional District, no use shall be permitted except those permitted in the underlying district and pursuant to the conditions imposed on the Conditional District in the approval of the rezoning. The City Council may impose additional reasonable and appropriate conditions or safeguards to serve the purpose and intent of this Section, and to preserve public welfare and justice. In addition to the Schematic Plan, the applicant shall provide the exact land use classifications proposed for the Conditional District. Such use classifications may be selected from any of the uses, whether permitted, by right or conditional, allowed in the general zoning district upon which the Conditional District is based. Uses not otherwise permitted within the general zoning district shall not be permitted within the Conditional District.

**6 Substantial Changes:** Any substantial change to a Master Plan that results in a net increase to the number of lots or a change in building size, location or appearance, or a change in parking or traffic patterns shall be reviewed by the Planning Board and approved or denied by the City Council as an amended Conditional District. The following changes to a Conditional District Schematic Plan shall require approval by the City Council:

- Land area being added or removed from the Conditional District.
- Modification of special performance criteria, design standards, or other requirements specified by the enacting ordinance.
- A change in land use or development type beyond that permitted by the approved Master Plan.
- When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access.
- When there is an increase in the total number of residential dwelling units originally authorized by the approved Master Plan.
- When the total floor area of a commercial or industrial classification is increased more than ten percent beyond the total floor area last approved by City Council.

All other changes to a CD Master Plan or subsequent Final Plan shall be considered for approval by the Planning Director. However, if in the judgment of the Planning Director, the requested changes alter the basic development concept of the CD, the Planning Director may require concurrent approval by the City Council.

**7 Rescission of Conditional Districts:** Unless the City Council has approved a Conditional District which either is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant must secure a valid building permit within a twelve (12) month period from date of approval of the conditional district. In addition, if the project for which a conditional district was approved is not complete and a valid building permit is not in place at the end of said twelve month period, the Planning Director shall notify the applicant of either such finding, and within sixty (60) days of said notification, the planning department shall make a recommendation concerning the rescission of the conditional district to the City Council. The City Council may then rescind the conditional district, or extend the life of the conditional district for a specified period of time.

**15.7 EFFECT OF APPROVAL OF THE PRELIMINARY PLAT**

Only after receiving Preliminary Plat approval for a Minor Subdivision or Major Development Plan as prescribed by this Chapter and other written approval and necessary permits from the appropriate regulating agencies, shall the developer begin grading, soil erosion, and infrastructure construction on the development.

Approved preliminary plats are valid for 1 year from the date of approval by the City of Belmont. Reasonable and necessary extensions may be granted at the City Council's sole discretion if a written request by the developer is made to the City Council forty-five (45) days prior to the 1-year anniversary of preliminary plat approval. Upon expiration of approval prior to final plat approval and recordation, a new application for subdivision will be required in accordance with the process before development can recommence.

Approval of a preliminary plat constituting an individual phase of a multi-phase project, which has not been entirely approved, does not constitute approval by the City of any remaining phases. For approved preliminary plats consisting of multiple phases, only the phase that is to be

developed for sale immediately shall be submitted for final plat approval.

Any substantial change to a Major Development Plan that results in a net increase to the number of units or heated floor area by more than 5% shall be reviewed by the Planning Board and approved or denied by the City Council as an amended Schematic Design.

All required infrastructure improvements for the preliminary plat shall be in place within 1 year of preliminary plat approval. If circumstances beyond the control of the developer do not allow for the completion of the required work within the 1 year period or the size of the phase is such that 1 year is insufficient time to complete all required work, then the developer may file a written request for an extension with City Council no later than forty-five (45) days prior to the 1 year anniversary of preliminary plat approval by the City as provided above. If infrastructure work is not completed within 1 year and/or no extension request is filed with City Council and approved, preliminary plat approval becomes null and void on the day of the one (1)-year anniversary and a new application will be required.

**15.7 REVIEW AND APPROVAL OF FINAL PLAT**

The developer shall initiate the final subdivision plat approval process by submitting the Final Plat and copies of any required improvement guarantees to the Planning Department. The Planning Director or designee will then have thirty (30) calendar days to approve or deny the Final Plat. During the review period, the Planning Director or designee will confirm the accuracy of the Final Plat. If substantial errors are found, including inconsistencies with the approved preliminary plat, the plat shall not be approved and the review period suspended until the applicant has corrected such errors. A list of the needed corrections shall be provided to the applicant. Once complete, the Final Plat shall be approved or denied by the Planning Director or designee within thirty (30) calendar days of the date of final completed submission.

The Final Plat shall constitute all portions of the approved preliminary plat. No Final Plat shall be approved unless and until the developer has installed in that area all improvements required by

this ordinance or has posted any required improvement guarantees as prescribed by this Ordinance in Section 15.12.

Any conditions placed by the City on the approval of the Final Plat shall be addressed by the developer within forty-five (45) days. Failure of the developer to meet the forty-five (45)-day response period shall cause the conditional approval of the City to be null and void.

Approved Final Plats must be filed by the applicant for recording with the Register of Deeds of Gaston County within thirty (30) days of the date of approval by the Planning Director or designee; otherwise, such approval shall be null and void. After recordation, the developer shall provide twenty (20) copies of the registered plat to the City for distribution to the various state and local government agencies and public utilities along with one (1) certified mylar copy for permanent file in the Planning Department.

**15.8 RESUBDIVISION PROCEDURES**

For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision.

Resubdivision of lots on already approved and recorded plats can occur subject to the following requirements:

- A. No lot or tract of land shall be created or sold that is smaller than the minimum size as required by this Ordinance for the District in which the subdivision is located.
- B. Drainage, easements, or rights-of-way shall not be changed.
- C. Street alignment and block sizes shall not be changed.
- D. The property line between the back of lots shall not be changed to cause the rear setback of any lot to become non-conforming.
- E. The rear portion of lots shall not be subdivided from the front part except for lots with frontage on two streets (double frontage lots).
- F. The character of the area shall be maintained.

**15.9 PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS:**

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of City of Belmont, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the office of the register of deeds, shall be guilty of a misdemeanor.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The City of Belmont may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this ordinance.

**15.10 PROCEDURES FOR APPROVAL OF CONDITIONAL USE PERMITS****1. General Procedures:**

The consideration of the Conditional Use Permits shall be processed as a Major Development Plan in Section 15.5 and conducted as a quasi-judicial process by the City Council. Public notice shall be given in that same manner as required for zoning map amendments, which is described in Section 20.2.5. Notices by mail and sign posting shall also be required prior to the Planning and Zoning Board's consideration of a conditional use permit request. During the public hearing, all parties presenting testimony and evidence shall be duly sworn. Testimony both in favor and against the Conditional Use Permits application shall be presented and will be considered towards formulating the Findings-of-Fact prescribed in this section.

**2. Approval Requirements:**

The evaluation and approval of the Conditional Use Permit shall be based upon the sworn testimony and evidence presented at the hearing relevant to the following Findings of Fact, each of which must be found in the affirmative by the City Council in order to approve a conditional use permit:

- A. The use meets all required principles and specifications of the Code and any adopted land use plans; and,
- B. The proposed plan if developed according to the plan submitted and approved, will be visually and functionally compatible to the surrounding area; and,
- C. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed.

In approving an application for a Conditional Use Permit, the City Council may attach fair and reasonable ad hoc conditions which tend to support the required finding of facts as listed herein. The applicant shall have up to 60 calendar days to consider and respond to any additional requirements prior to approval or denial by the City Council. The City Council may not require the landowner to waive a vested right as a condition of Conditional Use Plan approval.

The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the plan would be contrary to one or more of these findings) shall rest entirely with the applicant or landowner.



### 3. Public Notification

The City of Belmont shall give notice of all conditional use permit public hearings. Said notice shall become a part of the record of the proceedings of the City Council. Notice shall be given in the following manner:

- A. Notice shall be sent by the City by first class mail to the applicant and to the owners of all parcels of land abutting the parcel of land that is subject to the hearing. Said notice shall be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing;
- B. A notice of the public hearing shall be prominently displayed by the City on the site that is subject to the hearing or on an adjacent street right-of-way. Said notice shall be posted at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing; and,
- C. Notice shall also be posted by the City in a conspicuous location in the City Hall at least ten (10) days prior to the date of the public hearing.

**15.11 VESTED RIGHTS REQUIREMENTS****1. General Procedures**

Pursuant to G.S.160A-385.1 and notwithstanding any other provision or amendment thereto, a landowner may apply for approval of a site-specific development plan as defined in the statute that shall entitle said landowner to develop property in accordance with said plan.

All requests for Vested Rights shall be accompanied by a Schematic Plan in accordance with the provisions of this Chapter. A request to extend Vested Rights to a previously approved Development Plan shall be reviewed and approved by the City Council after notice and public hearing.

**2. City Council Action**

The City Council shall determine whether or not to accord a vested right after the review and consideration of the Planning Board. The City Council may not require the landowner to waive his vested right as a condition of development approval. The City Council may approve the vested rights for a period greater than two (2) years where it is found that due to (i) the sizing and phasing of the development; or (ii) the level of investment; or (iii) the need for the development; or (iv) economic cycles; or (v) market conditions, building permits for all phases of the development cannot be secured within two years, provided the total period does not exceed five (5) years from the date of plan approval of the site

**3. Effect of Approval Of Vesting**

The effect of the City Council approving a vested plan shall be to vest such site plan for a period of two (2) years to five (5) years as approved by the City Council from the date of approval.

A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the approved site-specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the vested right previously accorded.

A vested right, once established as herein provided, shall preclude any zoning action by the City which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the approved site specific development plan except under the following conditions where such rights are terminated and revoked:

- A. The affected landowner provides written consent to the City of his desire to terminate the vested right; or,
- B. The City determines after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the plan; or,
- C. Compensation is made by the City to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,

- D. The City determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the City Council of the plan; or,
- E. Upon the enactment or promulgation of a State or Federal law or regulations which precludes development as contemplated in plan. In such case the City may (after having advertised and conducted a public hearing) modify the affected provisions upon a finding that this change in State or Federal law has a fundamental effect on the plan.

Once a vested right is granted to a particular plan, nothing in this section shall preclude the City from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are consistent with the original approval.

The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the City from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.

#### **4. Construction Document Process for Vested Site-Specific Plans**

Preliminary Plats for Minor Subdivisions with previously vested site-specific plans shall be reviewed for compliance and consistency and subsequently approved by the Planning Director or designee in accordance with the provisions of Section 15.3 of this Ordinance, providing the proposed Preliminary Plat for the Minor Subdivision does not deviate from, and is subdivided in accordance with the previously approved site specific plan.

Preliminary Plats for Major Development Plans with previously vested site-specific plans shall be reviewed for compliance and consistency and approved by the Planning Director or designee, providing the proposed Preliminary Plat for Major Subdivision does not deviate from, and is subdivided in accordance with the previously approved site specific plan.

#### **5. Revocation or Expiration of A Vested Right**

The vested right, resulting from the approval of a site-specific development plan, may be revoked by the City Council if the City Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of this Code. The vested right shall otherwise expire at the end of the approval period established by the Planning Board.

A building permit issued by the Gaston County Building Inspector pursuant to G.S. 160A-417 may not expire or be revoked because of the running of time on a piece of property while a plan has been approved and the vested right period has not otherwise expired.

**15.12 IMPROVEMENT GUARANTEES**

In lieu of meeting the requirement for the completion, installation and dedication of any and all public infrastructure improvements (e.g., water, sewer, streets, sidewalks, storm drainage, trees, supplemental buffer plantings, street lights, etc.) prior to final plat approval for subdivisions or Certificate of Occupancy for Site Plans, the City of Belmont or its authorized agent may enter into a written agreement with the developer whereby the developer shall agree to complete all required improvements. Once said agreement is signed by both parties and the financial security required herein is provided, the final plat or Certificate of Occupancy may be approved by the Planning Director or designee or authorized agent, if all other requirements of this ordinance are met. To secure this agreement, the developer shall provide either one, or a combination of the following guarantees equal to 1.50 times the entire cost of the improvements secured:

**1. Surety Performance Bond(s):**

The developer shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina, and approved by the City Council or its designee. The bond shall be payable to the City of Belmont (or its authorized agent) and shall be in an amount equal to 1.50 times the entire cost, as estimated by the developer and verified by the City Engineer, of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are accepted by the City. Any expenses associated with the cost verification by the City shall be paid entirely by the developer.

**2. Cash or Equivalent Security:**

The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the City (or its authorized agent) or in escrow with a financial institution designated as an official depository of the City. The amount of deposit shall be equal to 1.50 times the entire cost, as estimated by the developer, and verified by the County, of installing all required improvements.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the City of Belmont (or its authorized agent) an agreement between the financial institution and himself guaranteeing the following:

- a) That said escrow amount will be held in trust until released by the City of Belmont and may not be used or pledged by the developer in any other transaction during the term of the escrow; and
- b) That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification of the City to the financial institution of an estimate of the amount needed to complete the improvements, immediately pay to the City the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the City any other instruments fully endorsed or otherwise made payable in full to the City.

### 3. Default

Upon default, meaning failure on the part of the developer to complete the required improvements in the time required by this ordinance or as spelled out in the performance bond or escrow agreement, then the surety, or financial institution holding the escrow account, shall, if requested by the City, pay all or any portion of the bond or escrow fund to the City of Belmont up to the amount needed to complete the improvements based on an estimate by the City. Upon payment, the City, in its discretion, may expend such portion of said funds, as it deems necessary to complete all or any portion of the required improvements. The City shall return to the developer any funds not spent in completing the improvements.

### 4. Release of Guarantee Security

The City may release a portion of any security posted as the improvements are completed and recommended for approval by the City Manager. Within 30 days after receiving the City Manager's recommendation, the City of Belmont shall approve or disapprove said improvements. When the City of Belmont approves said improvements, it shall immediately release the portion of the security posted which covers the cost of the improvements approved by the City.

### 5. Payment in Lieu: Sidewalks

As an alternative to the construction of sidewalks, the City of Belmont may, at its discretion, accept a payment made to the City in lieu of sidewalk construction. The City shall use such payment only for the construction of sidewalks within the same general area of the new development, with the City of Belmont.

The amount of the payment shall be determined by the Public Works Director of the City of Belmont. The amount of the payment shall be based upon the length of the sidewalk as required for the project times its width as required by the Land Development Code times the unit cost currently paid by the City of Belmont for sidewalk construction.

Payment in lieu of sidewalk construction shall be approved as part of the Schematic Plan. All payments made in lieu of construction shall be made at the time of Construction Document approval. Failure to submit the required fee will delay approval of such submissions until payment is rendered.

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## 16.1 GENERAL PROVISIONS

In addition to the regulations contained herein, the following provisions shall apply to all Development Plans subject to this ordinance. All Development Plans shall:

- A. Be designed to facilitate the most advantageous development of the entire neighboring area by protecting and enhancing the stability, character, and environment of the area.
- B. Be consistent with all adopted public plans, including all specifications and requirements of the Code.
- C. Provide open space as defined and required in this Ordinance, which encourages frequent use, attention, and the presence of people through placement and design. Where possible, the natural terrain, drainage, and vegetation of a site shall be preserved with superior examples contained in parkways and greenways.
- D. Have streets that extend existing streets into and through the development.
- E. Not have reserve strips adjoining street rights-of-ways for the purpose of preventing access. Reverse frontage and flag lots are disallowed except with special approval ~~due~~ necessitated by extreme topographic circumstances or site conditions.
- F. Where no frontage condition currently exists, have lots and associated new construction front on the existing street.
- G. Protect and preserve stands of significant trees, vistas from high ground, or natural water features or courses.
- H. Incorporate bike paths, sidewalks, pedestrian paths, greenways, and other pedestrian facilities to connect with similar planned or existing local or regional facilities as shown on official plans and maps of the City of Belmont, the Belmont Pedestrian Transportation Plan, neighboring municipalities, or Gaston County. Designs shall encourage pedestrian and bicycle use by being spatially defined by buildings, trees, and lighting, and by discouraging high-speed traffic.
- I. Be designed to accommodate and/or support existing and proposed public transportation routes and facilities.
- J. Provide for adequate improvements on all development sites, including streets, greenways, utilities, and drainage.

## 16.2 LAND SUITABILITY

Land subject to flood hazard, improper drainage, erosion or that is for topographical or other reasons unsuitable for residential use as determined by the City of Belmont, shall not be platted or developed for residential use nor for any other uses that will continue or increase the danger to health, safety, or property unless the hazards can be and are corrected.

A. Flood Hazard Area Development

The land designated within Special Flood Hazard Area zones and Floodway Areas in Zone AE subject to periodic inundation by 100-year flood as shown on FEMA flood insurance rate maps for the Belmont area shall be identified on all plats. Land designated as Special Flood Hazard Area Flood Zone shall be built on only in accordance with the City of Belmont Flood Damage Prevention Ordinance. No grading, clearing, removal of significant vegetation, the placement of structures, fill, or any other encroachment activity shall occur within designated Special Flood Hazard Area zones which would interfere with the natural water course without approval from the City of Belmont Planning Director based upon certification that such activity mitigates the potential adverse impact of flood hazard. Streets and utility lines and structures may be placed within the flood hazard area only if their elevation is raised above maximum flood heights or if they are otherwise flood protected.

B. Watershed Development

All land located within the designated Water Supply Watershed Protection District as shown on the official Belmont Watershed Protection Map shall comply with all provisions of this Ordinance regarding Watershed Protection. The Watershed Protection provisions of this Ordinance shall take precedence over all other provisions of this ordinance with regard to density, open space dedication, and built-upon areas.

C. Demolition Landfill Development

Areas that have been used for the disposal of solid waste shall not be subdivided into commercial or residential building sites. This includes areas that have been used for the disposal of trash, demolition waste, construction debris, stumps, and other waste materials.

**16.3 REQUIRED IMPROVEMENTS FOR ALL DEVELOPMENT PLANS**

All Development Plans shall be required to install or provide the following improvements:

- Public Water Supply Distribution and Fire Hydrants
- Public Sewer
- Public Streets (paved) and other Public Rights-of-Way
- Easements
- Sidewalks
- Curb and Gutter
- Street Lights
- Pedestrian Crossings (as applicable)
- Underground Wiring
- Dedicated Open Space
- Landscaping (Including Supplemental Tree Plantings)
- Tree Save Areas, where applicable
- Transportation improvements to mitigate impacts on safety, traffic congestion, and transportation operations as defined in Section 16.4.



**16.4 CONFORMANCE WITH ADOPTED PLANS****A. OPEN SPACE DESIGNATION**

Where the designation of certain significant topographical features is shown on the City of Belmont Parks and Recreation Master Plan or similarly adopted plan, all new development involving the subdivision of land under this Chapter shall make every effort to reserve those features as dedicated open space. The reservation of designated open space areas shall count towards the open space dedication requirements set forth in this Ordinance.

**B. CITY STREET AND THOROUGHFARE PLANS**

Where a proposed Development Plan includes any part of a City street or thoroughfare which has been designated as such on the official Thoroughfare Plan adopted by the City, North Carolina Department of Transportation, or Gaston-Cleveland-Lincoln-Metropolitan Planning Organization (GCLMPO), or as part of any Transportation Plan adopted by the City of Belmont, a right-of-way shall be platted in the location shown on the Plan at the width specified in this Ordinance.

As a condition of approval, the Developer shall be required to construct the proposed street or thoroughfare within the borders of their Development in accordance with the adopted standards or plans for such construction. In instances where such a street is scheduled for construction by the City or the North Carolina Department of Transportation, the Developer may make a payment in lieu of construction equal to his pro-rata share of the costs of construction. Major thoroughfares and Interstate highway construction are exempted from this requirement.

**C. RESERVATION OF SCHOOL SITES AND OTHER PUBLIC BUILDINGS**

If the Gaston County Board of Education ~~have~~ has determined the specific location and size of any school site or other public building to be reserved and if this information appears in any comprehensive plan over which other local governments have jurisdiction, the Planning Department shall immediately notify the appropriate authority if all or part of the reserved location is included in the proposed subdivision. The responsible authority shall promptly decide whether it still wishes the site to be reserved. The responsible authority shall then have eighteen (18) months beginning upon the date of final plat approval within which to acquire the site as provided in G.S. 160A-372. If the Belmont City Council, the Board of Education, or any other local government having jurisdiction has not purchased or begun proceedings to condemn the site within eighteen (18) months, the developer may treat the land as freed from reservation.

If the total development size exceeds two hundred (200) acres or five hundred (500) housing units, the developer shall reserve adequate (minimum of 16 usable acres) prominent sites for the location of schools. Sites reserved for civic uses may include up to one-half (1/2) of their total area towards the open space dedication requirement.

## 16.5 ENVIRONMENTAL SURVEY

Identification of existing trees, understory vegetation, known endangered species, wetlands, streams and creeks, floodplains, and topographical features on a site prior to the advanced preparation of development plans enables the reasonable and practical planned preservation of existing vegetation while considering unique site conditions. This requirement provides the City and the applicant the ability to evaluate the proposed development in order to preserve vegetation, to improve the appearance of the development proposed, and to encourage the use of the existing forest and tree canopy, specimen trees, and significant vegetation to satisfy the requirements of this Chapter. An environmental survey is intended to identify forest stands or trees of a uniform size and species (homogeneous trees); specimen trees of varying sizes and species, particularly free standing or open-grown or field grown trees; a distinctive tree line or forest edge; existing watercourses; and previously documented endangered species habitats.

For the sketch plan and schematic design review phase, the environmental survey requirements are:

- A. Provide an aerial photo(s) of the entire development site at a scale no smaller than 1 inch equals 50 feet. Aerial photography obtained from Gaston County (at the appropriate scale) is acceptable. For the sketch plan, this aerial photo is sufficient to show the vegetated area of the property.
- B. Denote the dripline of any existing forest stand, as measured between existing tree trunks 6 inches or greater located at the edge of the stand.
- C. For schematic plans, a survey showing the location all free standing, open grown or field-grown specimen trees with a Diameter at Breast Height (DBH) of 12 inches or larger located in the tree save areas, as required in Section 11.3.2 on the site.
- D. Show all other important natural features influencing site design such as the location of wetlands, rock outcroppings, site topography at two foot contour intervals, perennial streams, natural drainageways, lakes, and other water bodies, and floodplains indicating both the flood fringe and the flood way.
- E. A slope analysis showing areas with slopes between 10-15%, 15-25% and greater than 25%.
- F. Denote the presence of any known endangered species indicated in any surveys completed by Gaston County, the State of North Carolina, or other Governmental Agency.

## 16.6 BUFFER DELINEATION

The following buffer delineations are required:

- A. Buffer boundaries including all buffer zones must be clearly delineated on all Development Plans for approval by the City, on all Construction Documents, including grading and clearing plans, erosion and sediment control plans, and site plans.
- B. Buffer boundaries including all buffer zones must be clearly delineated on-site prior to any land disturbing activities. Where existing trees are to be preserved in a buffer zone, limits of grading shall maintain a minimum 20' separation from the base of each tree on the upland side of the buffer.
- C. Buffer boundaries including all buffer zones as well as all buffer requirements must be specified on the record plat, on individual deeds, and in property association documents for lands held in common.

### 16.7 SKETCH PLAN REQUIREMENTS

In addition to information on the Environmental Survey, the sketch plan shall show in simple sketch form the proposed layout of streets, lots, buildings, public open spaces, and other features in relation to existing conditions. It shall also include the following information:

- A. The boundary lines of the property being subdivided.
- B. The existing topographic conditions of the property including contours not exceeding 5 feet. Gaston County topographic information may be used to fulfill this requirement.
- C. Aerial photograph of the site. The most recent Gaston County aerial photography may be used to fulfill this requirement.
- D. The location, names, and right-of-way width of any existing streets on or within 300 feet of the land to be subdivided.
- E. Illustrative elevations for any buildings proposed.

The size and number of completed applications shall be set by the Technical Review Committee.

## 16.8 SCHEMATIC DESIGN PLAN REQUIREMENTS

The size and number of completed applications shall be set by the Technical Review Committee. The Schematic Design Plan must be drawn to the following specifications and must contain or be accompanied by the information listed below. No processing or review of a Schematic Design Plan will proceed without all of the following information:

- A. The boundary, as determined by survey, of the area to be developed with all bearings and distances shown and the location within the area, or contiguous to it, of any existing streets, railroad lines, water courses, easements, or other significant features of the tract.
- B. Scale denoted both graphically and numerically with north arrow and declination.
- C. A vicinity map at a scale no smaller than 1 inch equals 1,200 feet showing the location of the subdivision with respect to adjacent streets and properties.
- D. The location of proposed buildings, parking and loading areas, streets, alleys, easements, lots, parks or other open spaces, site reservations (i.e. school sites), property lines and, building setback lines with street dimensions, tentative lot dimensions, and the location of any building restriction areas (i.e. flood hazard areas, watershed protection districts, and/or jurisdictional wetlands.) Site calculations shall include total acreage of tract, acreage in parks and other non-residential uses, total number and acreage of parcels, the total number of housing units, and number of equivalent residential units. Illustrative Landscape Plan denoting compliance with Chapter 11 Tree Protection and Landscaping provisions of this Code.
- E. Calculations and plans required for compliance with the Watershed Protection requirements per Chapter 13.
- F. The proposed name of the development, street names, the owner's name and address, the names of adjoining subdivisions or property owners, the name of the City, Township, county, and state in which the development is located, the date of plan preparation, and the zoning classification of the tract to be developed and of adjoining properties.
- G. Typical cross-sections of proposed streets. Where a proposed street is an extension of an existing street, the profile of the street shall include 300 feet of the existing roadway, with a cross section of the existing street. Where a proposed street within the development abuts a tract of land that adjoins the development and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.
- H. A timetable for estimated project completion for each phase proposed.
- I. Original contours at intervals of not greater than 5 feet for the entire area to be subdivided (2 feet is preferred) and extending into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property and 50 feet at all other points of common project boundaries. Gaston County digital topography may be used to satisfy this requirement but should be field-verified to ensure accuracy.

In addition to the above required information, the following additional information may be required by the Planning Director or designee, the Planning Board, or the City Council on a discretionary site-specific basis:

- K. Illustrative elevations of all proposed buildings (except detached homes) including views from all public rights-of-way.
- L. Original contours at intervals of not greater than 2 feet for the entire area to be subdivided and extending into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property and 50 feet at all other points of common project boundaries.
- M. Environmental Impact Statement, pursuant to Chapter 113A of the North Carolina General Statutes, if: the development exceeds 2 acres in area, and, if the Planning Board deems it necessary ~~due to~~ because of the nature of the land or peculiarities in the proposed design.
- N. Development Permit and Certification application with supporting documentation as required by the Belmont Flood Damage Prevention Ordinance.
- O. All proposed common access water-related structures (i.e. boat launches and community piers) shall be forwarded to Duke Energy for written comments prior to administrative approval.
- P. Written comments from Duke Energy detailing any potential impacts on environmentally significant areas noted on any Shoreline Management Plan.

## 16.9 CONSTRUCTION DOCUMENT REQUIREMENTS

The Construction Documents for Minor Site Plans, Major Site Plans, Conditional Use Plans, Major Subdivisions, Vested Rights, and Master Plans shall be submitted in accordance with the specifications of this Section except where specifically noted. Construction Documents shall constitute the complete submittal requirements for Site Plans and Preliminary Plats required prior to construction.

The size and number of completed applications shall be set by the Technical Review Committee. No certifications other than the Certificate of Survey and Accuracy as in Section 16.12 (K) (1) must be provided in connection with the submission.

Construction Drawings must be drawn to the following specifications and must contain or be accompanied by the applicable information listed below. No processing or review of Construction Documents will proceed without all of the following information:

- A. The boundary, as determined by survey, of the area to be subdivided with all bearings and distances shown and the location within the area, or contiguous to it, of any existing streets, railroad lines, water courses, easements or other significant features of the tract.
- B. Scale in feet denoted both graphically and numerically with north arrow and declination.
- C. A vicinity map at a scale no smaller than 1 inch equals 1,200 feet showing the location of the subdivision with respect to adjacent streets and properties.
- D. Existing topography and finish grading with contours drawn at two (2) foot intervals. The Planning Director, at his or her discretion, may permit the use of County topographic data in five (5) foot intervals on a site-specific basis. This requirement may be waived for developments smaller than one (1) acre or where he determines that there is insufficient topographic change to warrant such information.
- E. The proposed name of the Development, street names, the owner's name and address, signature of the owner or owner's duly authorized agent, the name of the surveyor, the names of adjoining subdivisions or property owners, the name of the township, county, and state in which the development is located, the date of preparation, and the zoning classification of the tract to be developed and of adjoining properties.
- F. A statement from the City regarding the availability of adequate water and sewer capacity for the proposed development.
- G. **Environmental Survey** in accordance with **Section 15.5**
- H. **Landscape Plan** in accordance with **Chapter 11** and **Lighting Plan** showing compliance with **Chapter 12**.
- I. The plans for utility layouts, including sanitary sewers, storm sewers, and water lines, illustrating connections to existing systems. All water supply systems and sewage collection systems noted on the Construction Documents shall conform to current City standards. All storm drainage systems shall conform to the Belmont Land Development Code Standard Manual.
- J. The location and size of all utility lines, easements, and rights-of-way including water, sewer, storm sewer, natural gas, electric, and telecommunications.
- K. The location of proposed buildings, parking and loading areas, streets, alleys, easements, lots, parks or other open spaces, reservations (i.e. school sites), property lines, building setback lines with street dimensions, tentative lot dimensions, and the location of any building restriction areas (i.e. flood hazard areas, watershed

- protection districts, and/or jurisdictional wetlands).
- L. Site calculations shall include total acreage of tract, acreage in parks and other non-residential uses, total number and acreage of parcels, the total number of housing units, area of all mixed-use and non-residential buildings, and gross project density per acre.
  - M. The location and dimensions of an off-street parking and loading spaces, and walkways indicating the type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of parking spaces provided.
  - N. The location, size, height, and orientation of proposed signs.
  - O. The location and dimensions of proposed recreation areas, open space, and required amenities and improvements including the calculated area of all required open space dedications in accordance with **Chapter 7**.
  - P. The location and dimensions of any sidewalks, curb and gutters to be installed along public street frontages. Include other required street improvements designated in **Chapter 8** of this Ordinance, in the Belmont Transportation Plan, or in the Gaston Urban Area Metropolitan Planning Organization Thoroughfare Plan or Transportation Improvement Program.
- Required right-of-way shall be drawn in the location shown on any official plan at the width specified in this Ordinance.
- Q. Typical cross sections of proposed streets showing rights-of-way, pavement widths, grades, and design engineering data for all corners and curves. Where a proposed street is an extension of an existing street the profile of the street shall include 300 feet of the existing roadway, with a cross section of the existing street. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.
  - R. The location of any existing or proposed demolition landfills in the site. Such sites shall not be used for building.
  - S. A copy of the full soil erosion and sedimentation permit application including forms, plans, and calculations submitted to North Carolina Department of Natural Resources-Erosion Control Office. A copy of the approval letter must be submitted prior to Site Plan or Preliminary Plat approval.
  - T. Final proposed elevations of all non-single family and duplex buildings proposed for construction as part of this Site Plan approval. Subsequent buildings within the development may be handled as separate Site Plans. Such elevations shall include all facades visible from public streets.

In addition to the above required information, the following additional information may be necessary for unique sites:

- V. Where a proposed water and sewer system does not contemplate the use of facilities owned and operated by the City, the proposed facility plans as approved by the appropriate agency shall be submitted with the Construction Documents.
- W. Where public or community water supply and/or sewerage systems are not available or to be provided, a written statement from the Gaston County Health Department shall be submitted with the Construction Documents indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal.
- X. Watershed Protection Permit application and supporting calculations and plans in accordance with **Chapter 153 of the Belmont Municipal Code.**
- Y. Development Permit and Certification application with supporting documentation as required by the Belmont Flood Damage Prevention Ordinance.
- Z. All proposed common access water-related structures (i.e. boat launches and community piers) shall be forwarded to Duke Energy for written comments prior to approval by the City Council.
- AA. Written comments from Duke Energy detailing any potential impacts on environmentally-significant areas noted in any Shoreline Management Plan.

#### 16.10 LANDSCAPE PLAN SUBMITTAL REQUIREMENTS

A landscape plan shall be required for all development proposals. Before the removal of any trees, an approved landscape plan is required. The plan must include, at a minimum, the following information:

- A. General location, type and quantity of existing plant materials.
- B. Existing plant materials and areas to be left in natural state.
- C. Methods and details for protecting the critical root zone (CRZ) of existing plant materials during construction.
- D. Locations, size and labels for all proposed plants.
- E. Plant lists with common name, botanical name, quantity, and spacing and size of all proposed landscape material at the time of planting.
- F. Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, lights, courtyards, walks or paved areas.
- G. Planting and installation details as necessary to ensure conformance with all required standards.



**16.11 EASEMENTS**

Easements shall be provided on all Construction Documents as follows:

- |   |  |
|---|--|
| <p>A. <b>Utility Easements:</b> Easements for underground or above ground utilities shall be provided for and centered along rear or side lot lines, and shall be a minimum of 10 feet in width. Easements for water lines, sanitary sewers, and storm drains shall be centered on the pipe and shall be a minimum of 20-ft in width.</p> | <p>C. <b>Landscape Easements:</b> Landscape easements along streets should be designed in accordance with the provisions of Chapter 11 Tree Protection and Landscaping. The City may require landscape easements for developments where industrial or commercial uses abut residential uses.</p> |
| <p>B. <b>Drainage Easements:</b> Where a development is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as shall be adequate to maintain the overall integrity of the drainage area and provide for its periodic maintenance.</p>                   | <p>D. <b>Public Access Easements:</b> Public Access Easements shall be provided for sidewalks, trails, greenways, and other pedestrian and bicycle facilities that provide connections other than within public rights-of-way.</p>   |

**16.12 FINAL PLAT REQUIREMENTS**

The final plat shall be prepared by a registered land surveyor, licensed to practice in the State of North Carolina and must be drawn to a scale no smaller than one (1) inch equals one-hundred (100) feet, and shall meet the requirements of the Gaston County Register of Deeds Office. The final plat shall constitute all portions of the preliminary plat site, which the subdivider proposes to record, and develop at the time. The plat shall be submitted on the following media:

- Three (3) 24" X 36" (preferred) or 36" X 48" copies
- Three (3) 24" X 36" (preferred) or 36" X 48" mylar originals
- One (1) 11" X 17" reduced black and white copy
- Digital File of Recorded Plat in AutoCad (R14 or later) tied to 1983 NAD Coordinate System for incorporation into the City GIS system as maintained by Gaston County

No Final Plat shall be approved unless and until the subdivider has installed in the platted area all improvements required by this ordinance or has posted Improvement Guarantees in accordance with Chapter 15. The Final Plat shall contain the following:

- A. The exact boundary of the tract of land being subdivided showing clearly the disposition of all portions of the tract.
- B. Scale denoted both graphically and numerically with north arrow and declination. A vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
- C. As built drawings and plans of all water, sewer, and storm drainage system facilities, ~~illustrating~~ that illustrate their layouts and connections to existing systems. Such plans shall show all easements and rights-of-way, to demonstrate that the facilities are properly placed and the locations of all fire hydrants, blow-off valves, manholes, pumps, force mains, and gate valves are indicated. This information shall not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
- D. Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street, alley line, lot line, building line, easement line, and setback line. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second.
- E. The lines and names of all streets, alley lines, lot lines, lot and block numbers, lot addresses, building setback lines, easements, reservations, on-site demolition landfills and areas dedicated to public purpose with notes stating their purposes. All lots subject to flooding shall be noted with the following statement:  

"Any construction or use within the areas delineated as floodway are subject to the restrictions imposed by the Belmont Flood Damage Prevention Ordinance."
- F. The accurate locations and descriptions of all monuments, markers, and control points.
- G. Underground and aerial utility easements shall be shown.
- H. The name of the township in which the subdivision is located, the name of the subdivision, the name of the owner, the name, registration number, and seal of the registered surveyor under whose supervision the plat was prepared, and the date of the plat.
- I. Submittal of payment in lieu of dedicated open space (if applicable).

J. All the following certifications must appear on the Final Plat:

**1. Certificate of Survey and Accuracy.** I, \_\_\_\_\_, certify that this map was (drawn by me)(drawn under my supervision) from (an actual survey made by me)(an actual survey under my supervision)(deed description recorded in Book\_\_\_\_, Page\_\_\_\_, Book\_\_\_\_, Page\_\_\_\_, etc)(other); that the error of closure as calculated by latitudes and departures is 1:\_\_\_\_, that the boundaries not surveyed are shown as broken lines plotted from information found in Book\_\_\_\_, Page\_\_\_\_; that this map was prepared in accordance with G.S. 47- 30 as amended. Witness my hand and seal this\_\_\_\_ day of\_\_\_\_, A.D., \_\_\_\_\_ (year).

\_\_\_\_\_  
Surveyor

Official Seal \_\_\_\_\_  
License or Registration Number

I (officer authorized to take acknowledgments) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this \_\_\_\_ day of\_\_\_\_, A.D., \_\_\_\_\_ (year).

Official Seal \_\_\_\_\_  
Signature of Officer

**2. Certificate of Ownership and Dedication.** I hereby certify that I am the owner of the property shown and described herein, which is located in the subdivision jurisdiction of the City of Belmont and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, preserve and protect all significant trees over 18 inches diameter in the tree and root protection area, plant supplementary trees if required, and dedicate all streets, alleys, walks, parks, and other sites and easements, to public or private uses as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines that are located in public utility easements or rights-of-way to the City of Belmont.

\_\_\_\_\_  
Date \_\_\_\_\_  
Owner(s)



The following Certificate shall be placed on the final plat only when the proposed subdivision is not to be connected to publicly owned and operated water supply and sewage disposal systems.

**5. Certification of Approval of Water Supply and Sewage Disposal Systems.** I hereby certify that the water supply and sewage systems installed or proposed for installation in \_\_\_\_\_ Subdivision meet necessary public health requirements and are hereby approved.

\_\_\_\_\_  
Date County Health Officer or Authorized Representative

All plats approved in the City of Belmont’s jurisdiction must have one of the following Watershed Certificates on the final plat:

**6a. Certificate of Approval for Recording.** This property is located within a Public Water Supply Watershed. Development restrictions may apply. I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the City of Belmont for recording at the Gaston County Register of Deeds Office.

\_\_\_\_\_  
Date Watershed Director, City of Belmont

OR

**6b. Certificate of Approval for Recording.** I certify that this plat is not within a designated Public Water Supply Watershed.

\_\_\_\_\_  
Date Watershed Director, City of Belmont

OR

**6c. Certificate of Approval for Recording.** I certify that this plat is within a designated Public Water Supply Watershed, and that the owner and developer have submitted plans and obtained permits for construction prior to the effective date of the Ordinance, and that they are exempt from its provisions.

\_\_\_\_\_  
Date Watershed Director, City of Belmont



## SECTION 16.14 TRAFFIC IMPACT ANALYSIS (TIA)

Traffic impacts, and how to mitigate them, are an important consideration for our community when a significant development is proposed. Public policy makers, citizens and developers all have a stake in understanding and responding to additional demands on the transportation system. A Traffic Impact Analysis (TIA) is a tool used to evaluate the incremental impacts on the surrounding transportation infrastructure and how to mitigate them to maintain safe traffic and transportation operations.

- A. TIA Determination: The Planning Director or his/her designee shall determine the need for a TIA upon receipt of a development application accompanied by a sketch or schematic plan. If warranted, the transportation consultant assigned by the city shall prepare the TIA. At the discretion of the North Carolina Department of Transportation (NCDOT) and the City, a transportation technical memorandum, in lieu of a full TIA report, may be allowed for some developments. If proposed street connections are not consistent with adopted plans, then an explanation or proposed transportation mitigation alternative that is equal or better shall be discussed in the study. NCDOT and the City will be responsible for determining whether the alternative mitigation plan meets and/or exceeds the performance standards of the proposed street connections in the adopted plans.
  
- B. Minimum Thresholds for TIAs: A TIA will be required to accompany the development plan when expected gross trip generation is **1000 total trips or more both entering and exiting the site in a 24-hour period, and/or 100 total trips both entering and exiting the site during either the am or pm peak (prior to any trip reductions applied- see Section G (8)). The gross trip generation will be calculated by the City based on information (proposed project summary and development plan) provided by the applicant and the final determination for requiring the TIA will be by the Planning Director.** The Planning Director or his/her designee may also determine the need for a TIA or Transportation Technical memorandum based on special circumstances associated with the development, even if the gross trips falls below this threshold. This may be due to location, an intersection or thoroughfare nearby that is at or above capacity, the nature of the use, or one of the following:
  1. Traffic generated from a non-residential development that could potentially significantly impact adjacent residential neighborhoods.
  2. Traffic operation problems for current and/or future years on nearby streets are expected to be significantly aggravate by traffic generated from the proposed new development.
  3. Major and minor thoroughfares near the site are experiencing noticeable delays
  4. Traffic safety issues exist at the intersection or street that would serve the proposed new development.
  5. The proposed land use differs significantly from the adopted Comprehensive Land Use Plan for the City.
  6. The internal street or access system is not anticipated to accommodate the expected traffic generation.
  7. The proposed development project includes a drive through facility, or other uses such as schools that require significant on site circulation that may have an off-site impact to adjoining roads and/or intersection.
  8. The amount and/or character of traffic is significantly different from a previously approved TIA, or more than 24 months have passed since completion of previous TIA.
  
- C. Scoping Meeting – A mandatory scoping meeting is required prior to beginning the TIA to discuss the requirements and strategies for a TIA specific to the site and the proposed development.

Background information shall be submitted by the applicant five or more business days prior to the scoping meeting and shall include a conceptual site plan showing proposed access points, proposed land use and densities, structure and parking envelopes. The City, the transportation consultant assigned by the City, and the applicant(s) are required to attend the mandatory scoping meeting and the NCDOT district staff will be invited and encouraged to attend if access to a state road is involved. The applicant may invite members of his/her development team as needed.

- D. Memorandum of Understanding (MOU) – An MOU, documenting the understood scope of the project, shall be prepared by the transportation consultant assigned by the City. The MOU shall be signed by the applicant, the City, and the NCDOT District Engineer if access to a state road is involved before the consultant can begin work on the TIA. Failure by the applicant to provide accurate information or failure by the assigned transportation consultant to follow the MOU shall result in disapproval of the TIA. If significant changes are made to the scoping parameters documented in the MOU, a revised MOU will be required.
- E. Fees – After the scoping meeting, the transportation consultant assigned by the City shall submit a summary of consultant fees for preparing the TIA to the City. Per the MOU, the applicant(s) shall agree to provide payment in full to the City for preparation of the TIA so that the City can release the work to the consultant. The City may require all or a portion of the estimated fees to be paid to the City prior to commencement of the work. Any additional services incurred by the transportation consultant in addition to the MOU must be approved by the City and agreed to and paid for by the applicant prior to performance of the additional work.
- F. Transportation Mitigation Agreement (TMA) – Upon completion of the TIA, certain on or off-site transportation mitigation measures may be required as recommended by the TIA. If so, the transportation consultant assigned by the City shall prepare a Transportation Mitigation Agreement (TMA) which will summarize the following:
  - 1. Development plan
  - 2. Phasing and timing of development (if applicable)
  - 3. Site access and points of ingress/egress
  - 4. On and off-site improvements required to adequately mitigate the project impacts to the City’s transportation system, including vehicular, pedestrian, and bicycle improvements.
  - 5. Trigger points and deadlines for construction of any improvements.

The TMA must be signed by the applicant, City and the NCDOT District or Division Engineer if the mitigation involves a state roadway. All required mitigation measures must be implemented prior to final Certificate of Occupancy (CO), or the applicant(s) shall provide a cost estimate to the City for review and provide a payment in lieu for said measures prior to CO.

- G. TIA Outline and Contents – The outline and contents of what is required to be included in the TIA will be discussed at the scoping meeting and included in the MOU. A detailed summary of the expected content and methodologies to be used in the TIA is discussed below.
  - 1. Cover/Signature page – Includes the project name, location, name of the applicant, contact information for the applicant, and date of the study. The name, contact information, registration number, signature, and seal of a duly qualified and registered professional engineer in the State of North Carolina are also required to appear on this page.



2. Table of Contents – Includes a list of all section headings, figures, tables, and appendices included in the TIA report. Page numbers shall denote the location of all information, excluding appendices, in the TIA report.
3. Executive Summary – Includes a description of the study findings, a general description of the project scope, study horizon years, probable transportation impacts of the project, and mitigation measure recommendations. Technical publications, calculations, documentation, data reporting, and detailed design shall not be included in this section.
4. Project Description – Includes a detailed description of the development, including the size of the parcel, development size, existing and proposed uses for the site, anticipated completion dates (including phasing). It shall also include the square footage of each use and/or the number and size of dwelling units proposed, and a map and copy of the site plan provided by the applicant(s).
5. Site Description – Includes a description of the project location within the City and region, existing zoning and use (and proposed use if applicable), and key physical characteristics of the site, including general terrain and environmentally sensitive or protected areas.
6. Site Access – A complete description of the ingress/egress of the site shall be explained and depicted. It shall include number of driveways, their locations, distances between driveways and intersections, access control (full-movement, leftover, right-in/right-out, etc.) types of driveways (two-way, one-way, etc.), traffic controls, etc. Internal streets (lanes, flow, and queuing), parking lots, sidewalks, bicycle lanes, and designated loading/unloading areas shall also be described. Similar information for adjacent properties, including topographic grade relationship, shall be provided to evaluate opportunities for internal connections. The design, number, and location of access points to collector and arterial roadways immediately adjacent to the site must be fully analyzed. The number of access points shall be kept to a minimum and designed to be consistent with the type of roadway facility. Driveways serving the site from state roads shall be designed in accordance with the NCDOT's Policy on Street and Driveway Access and/or the City standards, as applicable.
7. Study Area – The limits of the study area shall be based on the location, size and extent of the proposed project, and an understanding of existing and future land uses and traffic conditions surrounding the site. The limits of the study area for the TIA shall be reviewed and approved by the City and NCDOT staff at the mandatory scoping meeting. At a minimum, the study area shall include all streets and signalized intersections within a 1-mile radius of the proposed site and/or where site traffic estimated for build-out of the project will constitute 10% or more of any signalized intersection approach during the peak hour. Unsignalized intersections between the required signalized intersections will be added to the scope as directed by the City. To initially determine the impacts, the City will maintain a database of recent peak-hour intersection turning movement counts. The applicable intersection counts will be equated to current year baseline volumes. Based on the proposed development program submitted by the applicant, a preliminary trip generation analysis, distribution and assignment will be performed within the area surrounding the site and compared to the current year base volumes. Related impacts or current operational problems, may dictate that other intersections be included in the study area as determined by City staff and/or NCDOT staff. A narrative describing the

study area shall identify the location of the proposed project in relation to the existing transportation system and list the specific study intersections and/or segments. Any unique transportation plans or policies applicable to the area (e.g., CATS bus service and future plans) shall be mentioned. A site location map shall be provided and shall identify natural features, major and minor roadways within the study area, study intersections, and a boundary of the site under consideration.

8. Existing Conditions – Shall include a narrative and map that represents AM and PM peak-hour turning-movement volumes for all intersections within the study area. Traffic volumes shall be 15-minute interval weekday turning-movement counts (Tuesday through Thursday) and no more than twelve months old. The required count timeframes are from 6:30-8:30 a.m. and 4:30-7:00 p.m.; however, site-specific conditions may necessitate additional or different traffic counting hours and/or days depending on the development program and location within the City. These unique circumstances will be determined and directed by the City. For example, 12-hour turning movement counts shall be required to complete the analysis if a traffic signal warrant analysis is required as part of the TIA. The City will determine if additional peak hours or weekend analyses shall be included in the TIA at the mandatory scoping meeting. For example, if the development is nearby a school that significantly alters traffic volumes at times other than the peak hours described above, additional study hours will be required. Traffic volumes shall also represent weeks that have no observed federal, state, or local holidays and periods of the year when local schools are in session. The source of existing traffic volume information shall be explicitly stated (e.g., City counts, new counts collected by the applicant, NCDOT counts, etc.). If previous counts were obtained, only counts collected within the one year of the Scoping Meeting will be deemed acceptable. Summary sheets for existing turning movement counts shall be included in the appendix of the TIA report. A separate narrative and map shall be prepared to describe the characteristics of surrounding major roadways, including functional classification, number of lanes, posted speed limit, existing average daily traffic volumes, typical cross section, intersection control, and lineal distance between major roadways. Field notes for the existing conditions investigation may be included in the appendix of the TIA report.
  
9. Future Year Conditions – Unless otherwise approved by the City, future year conditions for a single-phase development shall be analyzed for the year the development is expected to be at full occupancy (build-out year) and five years after the build-out year (build-out + 5). For multiple-phased development, the scenarios shall be completed in order, with any improvements specified by development included in the subsequent build scenarios, including five years after the full build-out year (build-out + 5). Specific analysis periods to include in the study shall depend greatly upon the development program, proposed project phasing plan, and significant improvements programmed for the surrounding transportation system. The approved offsite developments and transportation projects to be included in the base future-year background conditions for the transportation system within the study area shall be determined during the scoping meeting. Transportation improvements assumed in the future-year background conditions analysis may include those with an expected completion date concurrent with that of the development and funded through either by the City of Belmont, State of North Carolina Transportation Improvement Program, or indicated as a required condition of approval from another nearby development application. Only projects approved by the City at the scoping meeting may be included in the analysis as future existing infrastructure. Those improvements committed by other projects must be clearly identified in the report as

approved offsite development road improvements. Adjacent development traffic information used in the development of the future year background traffic volumes shall be included in the appendix of the TIA report. Unfunded, planned infrastructure projects may be mentioned in the TIA, but the description shall specifically identify that these projects are not included in the background condition. Future year background traffic volumes shall be forecasted using historical growth rate information, regional models, and/or TIA reports for development approved by the City but not yet built. A narrative and map shall be prepared that presents turning movement volumes for each peak hour for all intersections identified within the study area. Future year base traffic volumes, other development volumes, and site traffic volumes shall be clearly separated and combined in the map.

10. Trip Generation – Base trip generation for the proposed land use(s) shall be calculated using data published in the latest version of the Institute of Transportation Engineers’ (ITE) Trip Generation Manual. Data limitations, data age, choice of peak hour of adjacent street traffic, choice of independent variable, and choice of average rate versus equation shall be discussed at the mandatory scoping meeting. Local trip generation rates may be acceptable if appropriate validation is provided by the applicant to support them. Any deviation from ITE trip generation rates shall be discussed in the mandatory scoping meeting and documented in the MOU if approved by the City and NCDOT. The NCDOT Municipal School Transportation Assistance (MSTA) calculator shall be used to calculate projected trip generations for school sites.
  - a. Internal Capture – Base trip generation may be reduced by rate of internal capture when two or more land uses are proposed using methodology recommended in the most current Trip Generation Handbook published by the ITE. Reductions for internal capture shall be applied to multi- or mixed-use sites only, and reductions greater than 10% in any peak hour require consultation and acceptance by the City and NCDOT. The internal capture reduction shall be applied before pass-by trips are calculated.
  - b. Pass-by Trips – Pass-by trips are those made as intermediate trips between an origin and primary destination (i.e., home to work, home to shopping, etc.). However, pass-by trips are not diverted from another roadway. Base trip generation may be reduced by rate of pass-by capture using methodology recommended in the most current Trip Generation Handbook published by the ITE. Pass-by trips associated with the development program may not exceed 10% of the existing peak-hour volume reported for the adjacent public street network. This network shall include the streets that provide primary access to/from the site. For example, if a site access drive that connects to a low-volume local street, which its primary access to a major collector road, the traffic on the major collector shall be used as the adjacent street for pass-by calculation purposes. Evaluation of diverted trips may apply depending on the specifics of each site. A trip generation table shall summarize all trip generation calculations for the project.
11. Trip Distribution – External trip distribution shall be determined on a project-by-project basis using one of several sources of information available to transportation and land planning professionals. Potential sources for determining project trip distribution may include the regional travel demand model, market analysis, existing traffic patterns, or professional judgment. At the City’s direction, multiple trip

distributions may be required for differing land use types. Regardless of methodology, the procedures followed and logic for estimating trip distribution percentages must be well-documented in the TIA. Trip distribution percentages proposed for the surrounding transportation network shall be discussed during the scoping meeting and shall be approved by the City and NCDOT before proceeding with the TIA. A map showing the percentage of site traffic on each street included in the study area shall be included in the TIA.

12. Trip Assignment – Project traffic shall be distributed to the surrounding transportation system based on the site’s trip generation estimates and trip distribution percentages. Future year build-out traffic forecasts (i.e., future year background traffic plus project traffic) shall be represented in graphic formats for AM and PM peak-hour conditions at all intersections included in the study area. If the project will be built in phases, traffic assignments shall be reported for each phase. Pass-by traffic shall be included at the driveways and access points for evaluating driveway volumes. Multiple assignment analyses may be required if the traffic control at the access drives varies (i.e., right-in/right-out vs. stop controlled vs. signalized).
  
13. Capacity Analysis – Level-of-Service (LOS) and delay is the primary measures of effectiveness for impacts to the transportation system, and is defined by the most current edition of the Highway Capacity Manual (HCM). Unless otherwise noted, Synchro LOS and delay shall be reported for all signalized intersections and approaches identified in the study area. Based on HCM, LOS for unsignalized intersections is not defined as a whole; instead, only the individual stop-controlled or yield approaches shall be reported based on the HCM reports determined through the Synchro analysis. Existing signalized intersections shall be modeled based on existing signal timing plans provided by either the City or NCDOT. Existing signal timing plans shall be included in the appendix of the TIA report. If a traffic signal is part of a coordinated system it must be analyzed as such under all conditions. Other standard practices and default input values for evaluating signalized intersections shall be consistent with the most recent guidelines published by the NCDOT, Traffic Engineering and Safety Systems Branch, Congestion Management Unit (“Capacity Analysis Guidelines”). The City may also require safety, traffic simulation, gap and/or other analyses appropriate for evaluating a development application. Additional analyses and/or traffic capacity or simulation tools (such as VISSIM) required for the TIA shall be identified during the scoping meeting. Capacity calculations shall be included for the existing and all future year scenarios, as described in Section G (19)). Impacts from the proposed project shall be measured by comparing the future year background conditions to the future year build-out conditions. Requirements for mitigation are described in Section G (19). All TIA reports submitted to the City shall use SYNCHRO, SimTraffic or VISSIM analysis software for signalized and unsignalized intersections, or Sidra Software, for roundabouts, consistent with policies released by the NCDOT. A narrative, table, and map shall be prepared that summarizes the methodology and measured conditions at the intersections reported in LOS (LOS A – F), the intersection and approach signal delay for signalized intersections, the approach delay for unsignalized intersections, and 95th percentile queue lengths for all movements. Capacity analysis worksheets and auxiliary turn lane warrants for unsignalized intersections shall be included in the appendix of the TIA report.
  
14. Queuing Analysis – 95th percentile and simulation analysis of future year queues shall be consistent with NCDOT’s Traffic Engineering and Safety Systems Branch,

Congestion Management Unit current practices and published Capacity Analysis Guidelines. Turn lanes and storage lengths for the major street (uncontrolled) approaches at unsignalized intersections shall be identified using volume thresholds published in the NCDOT's Policy on Street and Driveway Access to North Carolina Highways (see Warrant for Left- and Right-Turn Lanes Nomograph, pg. 80). Recommendations for left and right turn lanes serving the site shall be designed to both account for the NCDOT warrants described above and to meet future year capacity needs identified in the TIA report. For projects that include drive-through facilities, pick-up/drop-off areas, or entrance gates, a queuing analysis may be required by the City to ensure that vehicle stacking will not adversely impact the public transportation system. The queuing analysis must be performed using accepted transportation engineering procedures approved by the City. If a TIA is required for a new school site, the internal circulation and ingress/egress of the site shall be modeled using a "dummy signal" in the SYNCHRO software as prescribed by NCDOT Municipal School Transportation Assistance (MSTA) department.

15. Crash Analysis – A summary of crash data (type, number, and severity) for the most recent 3-year period at each study location is required. Traffic Engineering Accident Analysis System reports will be provided by the City and/or NCDOT and shall be included in the appendix of the TIA report. For locations with prevalent crash types and/or frequency, a discussion shall be included describing factors that may be contributing to the incidents. At a minimum, the proposed development features shall not contribute to factors potentially involved in collision rates. If contributing factors are identified, recommendations to eliminate or mitigate these features shall be included.
16. Traffic Signal Warrants – City staff and NCDOT may consider potential signal locations at the scoping meeting. However, traffic flow progression is of paramount importance when considering a new traffic signal location. A new traffic signal shall not cause an undesirable delay to the surrounding transportation system. Installation of a traffic signal at a new location shall be based on the application of warrants criteria contained in the most current edition of the Manual on Uniform Traffic Control Devices (MUTCD) and engineering judgment. Traffic signal warrants shall be included in the appendix of the TIA report. Additionally, spacing of traffic signals within the City must adhere to NCDOT requirements. Pedestrian movements must be considered in the evaluation and adequate pedestrian clearance provided in the signal cycle split assumptions. If a signal warrant analysis is recommended in the TIA, the City and/or NCDOT may decide to defer a signal warrant analysis until after the development has opened to allow use of actual turning movement counts at an intersection. The TIA recommendations must clearly state that this analysis shall occur at a specified date following the opening of the development. The applicant must issue a bond or letter of credit in the name of the City for the estimated cost of the signal warrant analysis and resulting signal prior to final approval of the TIA. The cost shall be established based on an engineer's estimate provided by the engineer of record for the applicant; however, final approval of the dollar amount rests with the City.
17. Mitigation Measure Recommendations – This section of the TIA report shall provide a description of the study's findings regarding impacts of the proposed project on the existing and future transportation system and describe the location, nature, and extent of all mitigation measures recommended to the applicant to improve and/or maintain the future year background conditions level-of-service (LOS) conditions through

phasing and ultimate build-out of the project. This mitigation will be based on the build-out year scenario. The applicant is required to mitigate transportation deficiencies caused solely by the projected impact of their proposed development, and not unacceptable background conditions or other deficiencies caused by offsite development within the defined study area.

The applicant shall be required to identify mitigation improvements to the roadway network if at least one of the following conditions exists when comparing future year background conditions to future year build-out conditions:

- a. the total average delay at an intersection or individual approach increases by 25% or greater, while maintaining the same LOS,
- b. the LOS degrades by at least one level,
- c. or the LOS is "D" or worse in background conditions and the proposed project shows a negative impact on the intersection or approach

If the background LOS (intersection or approach) is inadequate (i.e., "D," "E," or "F"), the applicant will be expected to mitigate only the impact caused by the proposed project. For example if the background LOS of an approach is LOS F with 85 seconds of delay, and the project traffic increases the delay to 95 seconds (LOS F), the applicant will be required to mitigate the added 10 seconds of delay on the approach, not required to mitigate the inadequate background delay. City staff and NCDOT will review the recommendations in the final version of the TIA and will have the ultimate determination in the scope of the required mitigation measures.

For multi-phase developments, the capacity analyses scenarios shall address the phasing of improvements for each phase of development. The build-out + 5 scenario will require the analysis of only five years beyond the full build-out year. The build-out + 5 scenario analysis is not used for mitigation purposes. A narrative and table shall be prepared that summarizes the methodology and measured conditions at the intersections reported in LOS (LOS A–F) and average control delay for each intersection and approach.

A narrative and map shall also be prepared that describes and illustrates recommended improvements, by development phase if necessary, for mitigating the projected impact of the proposed development.

- 18. Compliance with Adopted Transportation Plans – All TIA reports must include a statement of compliance with plans, programs, and policies adopted by the City of Belmont for maintaining a safe and efficient multi-modal transportation system.

## ***17.0 NONCONFORMITIES***

### **17.1 Purpose and Applicability**

The purpose of this section is to regulate and limit the continued existence of uses and structures established prior to the effective date of this Ordinance (or any amendment subsequent thereto) that do not conform to this Ordinance. Any nonconformity created by a change in the classification of property or the text of these regulations shall also be regulated by the provisions of this section. Many nonconformities may continue, but the provisions of this section are designed to curtail substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming uses in order to preserve the integrity of the area in which it is located and the intent of this Ordinance.

### **17.2 Nonconforming Uses**

1. Nonconforming uses of land or structures, and nonconforming structures that contain nonconforming uses, may continue only in accordance with the provisions of this section, but this section shall only apply to the extent said nonconformities fully and clearly meet the definition of “non-conforming use” in Chapter 2 of this ordinance.
2. Normal structural repair and maintenance may be performed to allow the continuation of a nonconforming use. Also, a nonconforming use may be re-established in case of damage to the structure in which it is located (to an extent of less than 60 percent of its assessed value) due to fire or other disaster event pursuant to the issuance of a permit by the Planning Director. This shall include, as well, the repair or reconstruction of any structure or on-site utility, parking or street infrastructure in support of said nonconforming use. If said structure was also nonconforming, the reconstruction shall meet the requirements of the applicable District. An application must be filed for such building permit no later than 60 days after the structure has been destroyed or damaged, otherwise the use will not be allowed to be rebuilt. The building permit shall expire six months after it is issued unless prior thereto a substantial beginning of the reconstruction shall have occurred and thereafter diligently pursued.
3. A nonconforming non-residential use shall not be expanded, changed or enlarged, nor shall such a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located (either attached or detached). However, if a nonconforming non-residential use can expand within the existing structure, it may do so as long as the Planning Director determines that the interior expansion will not have a negative impact upon surrounding conforming uses. Any occupation of additional lands beyond the boundaries of the lot on which said nonconforming use is located is prohibited. An existing nonconforming residential use may be enlarged or altered. Any such enlargement or alteration shall be in compliance with all yard requirements and other regulations of such structures as required in the specific District.
4. Once a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
5. If a nonconforming use is abandoned for one hundred-eighty (180) days or more, the use shall not be allowed to re-establish. All new uses in said structure shall thereafter be conforming. If said use is located in a structure which is destroyed (i.e. received damage to an extent of more than 60 percent of its assessed value at the time of destruction), a use may

only be allowed to re-establish in accordance with the Code in effect in the area in which it is located. Assessed value shall be determined by using tax assessment records provided by the tax assessor's office for the year in which the structure was destroyed.

6. If a nonconforming manufactured home, located on the same lot as a principal structure, is occupied by the blood-relative of the owner-occupant of the principal structure, such manufactured home may be permitted, subject to 3.5.2 of this Code.

### 17.3 Nonconforming Principal Structures

1. A nonconforming structure containing a use permitted in the District in which it is located may continue only in accordance with the provisions of this Chapter.
2. Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.
3. A nonconforming structure may not, under any circumstances, be enlarged or altered in a way which increases its nonconformity.
4. If a nonconforming structure is damaged to an extent greater than 60 percent of its assessed value for tax purposes, it may be rebuilt only after the issuance of a permit from the Planning Director. A building permit for reconstruction of such structure must be secured no later than 180 days from the date of its destruction. In the issuance of said permit, the Planning Director shall follow these standards:
  - a. If the structure can be rebuilt on the same lot and meet all district and building type requirements, it shall be.
  - b. If the structure cannot be rebuilt at the same size (ground floor area) in accordance with the minimum standards of the district in which it is located or building type, then it shall be placed on the lot in as conforming a manner as possible.
  - c. A nonconforming structure shall not be rebuilt in a manner which increases its nonconformity.
  - d. The reconstruction of a nonconforming non-residential structure (at the same or smaller size) shall require the installation of sufficient parking, landscaping or buffering in accordance with the provisions of this Chapter.
5. Should a nonconforming structure be moved for any distance on the lot upon which it is located, if possible, it shall be moved so as to make the structure conforming. Otherwise the structure, if moved shall be placed on the lot in as conforming a manner as possible.
6. A nonconforming manufactured home used as a principal residential structure may only be replaced in accordance with the design criteria found in including, but not limited to Section 6.12 Additional Requirements for Manufactured Homes.
7. A non-conforming manufactured home neighborhood may continue to place and replace manufactured homes on previously platted lots or previously approved spaces, as well as make any necessary improvements to the neighborhood infrastructure, but shall not be permitted to expand the area or number of units contained within the boundary of the park.



#### 17.4 Nonconforming Accessory Uses and Structures

1. A nonconforming accessory use or accessory structure may be expanded only if the nonconforming features of that use or structure are not expanded so as to increase the degree of nonconformity.
2. No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located. No non-conforming accessory use or structure shall become or replace any terminated principal non-conforming use or structure.

#### 17.5 Nonconforming Lots

1. Except as provided in 17.5.2 and 17.5.3 of this section, a nonconforming vacant lot may be developed for any of the uses permitted by these regulations in the District in which it is located, provided that the use meets all applicable yard and setback requirements for the District in which the lot is located.
2. A nonconforming vacant lot shall not be developed if it could be combined with an adjoining lot (owned by the same person) on or after the effective date of these regulations in order to create a single lot. If said combination, however, results in the creation of a single lot that is more than 1 ½ times the minimum lot width or area required in the District, then the single lot may be divided into two lots of equal width and area without being further classified as nonconforming. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street.
3. A nonconforming lot may be developed if, at the effective date of this ordinance or any subsequent date upon which the lot became nonconforming, the lot is located in (i) a subdivision in which the lot was located had received preliminary plat approval; or (ii) a subdivision in which the lot was located had received final plat approval.

#### 17.6 Nonconforming Signs

1. Except as herein provided, nonconforming signs that were otherwise lawful on the effective date of this ordinance may be continued.
2. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign or causes a previously conforming sign to become nonconforming.
3. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this ordinance. Once a nonconforming sign is removed from the premises or otherwise taken down or moved, said sign may only be replaced with a sign which is in conformance with the terms of this ordinance.
4. Minor repairs and maintenance of nonconforming signs necessary to keep a nonconforming sign for a particular use in sound condition are permitted so long as the nonconformity is not in any means increased.
5. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this ordinance, and

the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign shall be considered "destroyed" if it receives damage to an extent of more than 50 percent of the sign's value immediately prior to the sign having received said damage.

6. The message of a nonconforming multi-tenant identification sign may be changed so long as it does not create any new nonconformities.
7. If a nonconforming on-premise sign which advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that has for a period of at least 180 days not been operated, conducted or offered, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within 30 days after the 180 day period has expired.

Notwithstanding the above, if there is an expansion to the heated square footage of an existing business, or a change in use to an existing building (except multi-tenant buildings), and there were one or more on-premise nonconforming signs which advertised the former or current business or use, any new signs used, and all new sign faces for the new use or business must meet all sign requirements for the underlying planning area.

8. If a nonconforming sign remains blank for a continuous period of 180 days, that sign shall be deemed abandoned and shall, within 30 days after such abandonment, be altered to comply with this ordinance or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this ordinance, a sign shall be deemed "blank" if:
  - a. It advertises a business, service, commodity, accommodations, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
  - b. The advertising message it displays becomes illegible in whole or substantial part; or
  - c. It does not contain an advertising message. (For such purposes, the terms "Sign For Rent", "Sign For Lease", "Building For Rent", "Building For Lease", "Building for Sale", etc. shall not be deemed to be an advertising message).
9. All non-conforming off-premise advertising signs and roof signs shall be removed within 5 ½ years of the date of the original adoption of the Sign provisions contained herein on December 7, 1992 except as provided in Section 17.6.10 below. All other non-conforming advertising signs, except for civic buildings, shall be removed within seven (7) years of the date of the original adoption of the Sign provisions contained herein on December 5, 1994.
10. North Carolina General Statute 136-131.1 requires that "just compensation" be paid upon removal of certain outdoor advertising signs adjacent to the highway on the national system of Interstate for which a valid permit has been issued. This subsection shall not require that any sign be removed if compensation must be paid upon removal of such sign due to any State or Federal law that mandates such form of "just compensation" upon removal. Should any such State or Federal requirement become inoperative or otherwise apply to apply to a given sign, then such a sign shall be subject to removal in accordance with Section 17.6.9.
11. Certain nonconforming signs may be brought into conformity with the Highway Commercial (H-C) general parcel ground-mounted sign provisions (maximum height of 6 feet, maximum square footage of 32 square feet) if the following conditions are met:

- a) The nonconforming sign must be an on-premises sign at the location of an on-going commercial concern holding a valid City of Belmont privilege license on January 1<sup>st</sup>, 2002.
  - b) The affected business must be located on a non-conforming residential parcel.
  - c) A maximum of one sign is permitted.
  - d) A commercial sign permit fee must be paid and a valid sign permit must be obtained.
  - e) The proposed sign shall conform to all other requirements of the sign ordinance except those noted herein.
  - f) A sign previously permitted under this provision may be replaced only if the affected business holds a valid City of Belmont business privilege license at the time the existing sign is destroyed or damaged beyond repair.
  - g) If the business ceases operation for a period of 90 consecutive days, the sign must be removed and may not be replaced.
12. In the event that a residential or commercial property is annexed by the City of Belmont, and this property contains one or more non-conforming signs under the terms of this ordinance, one of the following conditions shall apply:
- a) In the event of a voluntary annexation, the Belmont City Council may, at its discretion, direct that the non-conforming sign(s) be replaced with a conforming sign or signs within 180 days of the date of annexation, as a stipulation of the annexation request. The sign(s) shall be replaced at the owner's expense, and shall be subject to the permitting process, but the customary sign permit application fee shall be waived.
  - b) In the event of involuntary annexation, the affected property owner(s) shall be given a period of seven (7) years to replace any non-conforming signs located on the premises, from the effective date of the annexation. The City of Belmont shall notify the property owners(s) of this provision and deadline by certified letter with return receipt. The Belmont City Council may also, at its discretion, choose this option for voluntary annexations.

### 17.7 Nonconforming Landscaping, Screening, and Lighting

1. If there is a change of use or an expansion to the heated square footage of an existing business, the lot shall fully comply with all street yard landscaping, and screening requirements.
2. Expansions to the parking area or loading areas which increase the total area more than 40 percent shall be required to comply with all applicable parking and loading area landscaping and screening.
3. Outdoor light fixtures installed prior to the effective date of this Code are exempt from the provisions of this Chapter 12, provided, however, that no change in use, replacement, and structural alteration of outdoor light fixtures shall be made unless it thereafter conforms to the provisions of this Code.

### 17.8 Nonconforming Street Frontages

1. If there is a change of use or an expansion to the heated square footage, or to the parking area or loading areas which increase the total area more than 40 percent, of an existing non-residential or multi-family use, the lot shall fully comply with all street improvement

requirements of Chapter 8 along the fronting public streets including, but not limited to turning and storage lanes, sidewalks, bike lanes, and curb and gutter.

2. New developments shall be required to comply with all street improvement requirements of Chapter 8 along the fronting public streets including, but not limited to turning and storage lanes, access management, sidewalks, bike lanes, and curb and gutter.

### 17.9 Nonconforming Plans

Any site specific plan (including but not limited to master plans, preliminary plats, final plats, conditional district plans, special use permit plans) for the development of property and/or construction of a building which has received final approval by the applicable Town governmental body for development and/or construction, but does not conform to this Code, may be developed and/or constructed in accordance with the ordinance, rules, and regulations, including any conditions imposed by the governmental body, and the details of the site specific plan, pursuant to which such plan was approved. Any plan approved prior to the adoption of this Code, but which conforms to its provisions, shall be administered, interpreted, amended and implemented in accordance with the provisions of this Code.

The owner of property which contains an approved site specific plan identified above may elect to develop such property and/or construct such building in accordance with the terms and provisions of this Code in lieu of this ordinance, rules and regulations pursuant to which the plan was approved. An owner who wishes to make such election shall notify the Planning Director who shall approve plan and notify the property owners (if required) in writing of the additional approvals or modifications, if any, which may be necessary in order for the plan to conform to the Code. In making such finding, the Planning Director shall require additional approvals and/or modifications only if such are necessary in order to avoid a result which would not occur under the original approved plan or under a de novo review under this Code.

Any amendment or modification to an approved site specific plan identified above, which would have required approval by the City Council pursuant to the ordinance, rule or regulation by which the plan was approved originally, shall be reviewed and approved (or denied or conditioned) in accordance with the terms and provisions of this Code as if it were an amendment or modification to a plan originally approved under this Code.

Nothing herein is intended to prohibit the exercise of any vested right established by common law, ordinance or statute.

### 17.10 Nonconformities in a Watershed Area

Existing development as defined in this Code may be continued and maintained subject to the provisions provided herein. Expansions to structures or modifications to plans classified as existing development must meet the requirements of this Code however, the built-upon area of the existing development is not required to be included in the built-upon area calculations.

1. Vacant Lots. This category consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of Gaston County. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following:
  - a. Where the lot area is below the minimum specified in this ordinance the Watershed Administrator is authorized to issue a watershed protection permit.

- b. Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this ordinance, or if this is impossible, reduce to the extent possible the nonconformity of the lots.
2. Occupied Lots. This category consists of lots, occupied for residential purposes at the time of the adoption of this ordinance. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this ordinance, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.
3. Uses of Land. This category consists of uses existing at the time of adoption of this ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:
  - a. When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
  - b. Such use of land shall be changed only to an allowed use.
  - c. When such use ceases for a period of at least six months, it shall not be re-established.
4. Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:
  - a. Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
  - b. The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

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## **18.0 ADMINISTRATION**

### **18.1 Planning Administration**

The various provisions of the City of Belmont Land Development Code shall be administered by the City of Belmont Planning Department under the primary direction of the Planning Director. The Planning Director shall maintain a record of all permits and approvals on file in the City Hall, and copies shall be made available on request to interested parties.

### **18.2 Zoning Permit**

#### **1. Permit Required**

No building, sign or other structure (except as otherwise provided for in this ordinance) shall be erected, moved, extended or enlarged or structurally altered, nor shall the use conducted within the building change, nor shall any excavation or filling of any lot for the construction of any building be commenced, nor shall any change in the use of a property be commenced until the Planning Director has issued a zoning permit for such work. The fee for a zoning permit shall be established by the fee schedule approved by the City Council.

#### **2. Expiration of Zoning Permit**

Any zoning permit issued in accordance with this Code will lapse and become invalid if the work authorized by it is suspended or abandoned for a period of at least one (1) year or if a building permit for development or improvements authorized by said permit is not secured within six (6) months from the date of issuance. The zoning permit shall also lapse for any development or improvements not requiring a building permit, if such developments or improvements are not started within six (6) months from the date of issuance.

#### **3. Conditions for Approval**

Zoning permits issued on the basis of dimensional plans approved by the Planning Director authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction which differs from that authorized shall be deemed a violation of this ordinance and shall be punishable as indicated in this section.

#### **4. Zoning Permit Not Required**

Notwithstanding any other provisions of this ordinance, no zoning permit is necessary for the following uses:

- A. Street construction or repair
- B. Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way
- C. Specific signs exempted in Section 10.
- D. Mailboxes, newspaper boxes, walls, fences, birdhouses, flag poles, pump covers, and doghouses
- E. Interior alterations and renovations which do not alter the footprint or height of an otherwise conforming use and/or structure

### **5. Right of Appeal**

If a request for a zoning permit is disapproved or if a ruling of the Planning Director is questioned, any aggrieved party may appeal such ruling to the Board of Adjustment in accordance with this section.

### **6. Certificate of Occupancy**

No structure hereafter erected, moved, structurally altered or changed in use shall be used or occupied until a certificate of occupancy has been issued by the Gaston County Building Inspection Department. Any certificate of occupancy issued shall state that the structure or portion of a structure is in compliance with the information stated on the zoning permit and with all applicable provisions of this ordinance. A record of all certificates of occupancy shall be kept on file in the office of Gaston County Building Inspection Department and copies shall be furnished, on request, to all interested parties. If a certificate of occupancy is denied, the reasons for such denial shall be specified in writing and provided to the applicant.

## ***18.3 VIOLATIONS AND PENALTIES***

### **1. Complaints Regarding Violations**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Any written complaint stating fully the cause and basis thereof shall be filed with the Planning Director who shall properly record such complaint, immediately investigate, and take action as provided by this ordinance.

### **2. Penalties for Transferring Lots in Unapproved Subdivisions**

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of City of Belmont, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the office of the register of deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The City of Belmont may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this ordinance.

### **3. Penalties for Violation**

In case any structure, use, or landscaping is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this ordinance as herein provided, an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation may be instituted by the Planning Director, the Gaston County Building Inspector, any other appropriate City authority; or any person who may be damaged by such violation.



**A. Criminal**

Any person, firm, or corporation convicted of violating the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed five hundred dollars (\$500) and/or imprisoned for a period not to exceed thirty (30) days. Each day of violation shall be considered a separate offense, provided that the violation of this ordinance is not corrected within thirty (30) days after notice of said violation is given.

**B. Equitable Remedy**

The Planning Director may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this ordinance. It is not a defense to the Planning Director's application for equitable relief that there are other remedies provided under general law or this ordinance.

**C. Injunction**

Enforcement of the provisions of this ordinance may also be achieved by injunction. When a violation occurs, the Planning Director may, either before or after the institution of other authorized action, apply to the appropriate division of the General Court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

**D. Order of Abatement**

In addition to an injunction, the Planning Director may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:

1. Buildings or other structures on the property be closed, demolished, or removed;
2. Fixtures, furniture or other moveable property be moved or removed entirely;
3. Improvements, alterations, modifications or repairs be made; or
4. Any other action be taken that is necessary to bring the property into compliance with this ordinance.

**E. Execution of Court Decisions**

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

**F. Stop Work Order Issuance and Revocation of Permits**

Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this ordinance, the Planning Director may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work.

The Planning Director may revoke any permit (e.g. Building Certificate of Occupancy) by written notification to the permit holder when violations of this ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this ordinance, or a permit has been mistakenly issued in violation of this ordinance.

**G. Civil Penalty**

In addition to the other remedies cited in this ordinance for the enforcement of its provisions, and pursuant to North Carolina General Statute 160A-175, the regulations and standards in this ordinance may be enforced through the issuance of civil penalties by the Planning Director.

Subsequent citations for the same violation may be issued by the Planning Director if the offender does not pay the citation (except as otherwise provided in a Warning Situation) after it has been issued unless the offender has sought an appeal to the actions of the Planning Director through the Board of Adjustment. Once the ten-day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Planning Director.

The following penalties are hereby established:

Warning Citation	Correct Violation Within 10 Days
First Citation	\$50.00 per violation or per tree (May be applied per tree or shrub for landscaping installation violations) and \$2.00 for every square foot area of vegetation damaged or destroyed
Second Citation For Same Offense	\$500.00
Third and Subsequent Citations for Same Offense	\$1,000.00

If the offender fails to pay the civil penalties within three (3) days after having been cited, the City may recover the penalties in a civil action in the nature of debt.

## H. Replacement of Disturbed and Damaged Vegetation

The disturbance of any landscaped area or vegetation required by this Code shall constitute a violation of the site or master plan. All disturbed landscaped areas and vegetation shall be replanted to meet the standards of this section as well as the approved site or master plan.

Where the vegetation that has been disturbed or damaged existed on the site at the time the development was approved, all replacement vegetation shall meet the standards set forth in this section taking into account any unique site conditions and significant vegetation remaining within the landscaped area. Trees or vegetation that die within one year of construction completion, because of contractor negligence, shall be removed and replaced with new vegetation of equal or greater in size.

Existing vegetation required to be preserved that has been damaged or destroyed during the course of development activity shall be subject to civil penalty and replaced in accordance with the requirements of this section.

A revegetation plan shall be submitted that takes into consideration the development condition of the site, significant vegetation remaining within landscaped areas, and the replacement plant materials. The City of Belmont may require equal amounts of new vegetation to be installed equal to the size of the vegetation removed.

Replacement consists of one or a combination of any of the following measures:

- A. Replant according to the requirements of this Chapter 12. A replanting plan denoting the proposed installation shall be submitted to the City of Belmont for approval. The Planning Director may elect to present the replanting plan to the Technical Review Committee for final approval.
- ~~B.~~ Replace damaged or destroyed significant vegetation in both perimeter and or interior landscaped areas with an equal amount of new vegetation according to the size of vegetation removed. Any tree with a caliper of at least 8 inches that is damaged or removed shall be replaced with one or more trees that have a caliper of at least two and one half inches and a cumulative caliper equal to or greater than the original tree. Trees damaged or destroyed less than 8 inches in diameter shall be replaced to satisfy the performance criteria of this section. Understory plantings may also be required to restore the buffer performance criteria for the disturbed area. A revegetation plan denoting the proposed installation shall be submitted to the Planning Director for approval.
- C. For all other cases where existing vegetation is damaged or removed, the type and amount of replacement vegetation required shall be of the type and amount that is necessary to provide the type of landscaping required under this Section or interior preservation area identified on the landscape plan.

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

**18.4 APPEALS AND VARIANCES****Reserved****1. Appeals Procedure**

The Board of Adjustment shall hear and decide appeals from and review any final and binding order, requirement, decision, interpretation or citation made by the Planning Director and apply such interpretation to particular fact situations.

- A. The Board of Adjustment may, after having held a public hearing on the matter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed.
- B. The Board of Adjustment shall have all the powers of the Planning Director in making any order, requirement, decision, interpretation or determination with reference to an appeal.
- C. An appeal of a written decision made by the Planning Director may be made by the City, the owner of the property in question or other qualified party who has standing per NCGS 160A-393(d). Said decision shall be in writing and delivered to the property owner and the person who sought the decision, if different than the property owner. Said delivery shall be via personal delivery, electronic mail or by first-class mail. The owner of the property in question shall have thirty (30) days of receipt of the decision made by the Planning Director to file an appeal.  
Any other person or party with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. One means of providing “constructive notice” shall be if the party(ies) receiving a final decision post notice of said decision for a minimum of ten (10) days on the property in question with a sign containing (1) the words “Zoning Notice” or “Subdivision Notice” in letters at least six (6) inches high and (2) identifying the means to contact a City official for information about the decision. Notwithstanding the timeframe for processing hearing requests contained in Section 18.4(5) herein, the appellant may request for an expedited hearing of the appeal per NCGS 160A-388(b1)(6). If an expedited hearing request is made, a public hearing shall be held within fifteen (15) days of the filing of such request. Applications for appeals shall be on a form issued by the City and shall be filed with the City Clerk. The grounds for making the appeal request shall be stated on the application.
- D. Upon receipt and verification of a valid appeal request, the Planning Director shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The Planning Director shall also provide a copy of the record to the appellant and to the owner of the property that is subject to the appeal, if the appellant is not the owner.
- E. The City official who made the decision that is being appealed shall be present at the public hearing as a witness. The appellant shall not be limited at the public hearing to matters stated in the appeal notice referenced in Section 18.4(5). The Board of Adjustment shall have the authority to continue a public hearing if it determines that the appellant or the City would be unduly prejudiced by the presentation of matters not presented in the notice of appeal.
- F. The appellant and the City may agree to mediation or other forms of dispute resolution to settle the appeal request.

## 2. Variance Procedure

The Board of Adjustment shall have the power to vary any of the provisions of this ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. (**NOTE:** It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.);
2. The hardship results from the conditions that are peculiar to the property, such as location, size or topography. (**NOTE:** Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.);
3. The hardship did not result from actions taken by the applicant or the property owner. (**NOTE:** The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship); and,
4. The requested variance is consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by a variance. The Board of Adjustment, in granting a variance, may prescribe conditions that are reasonably related to the variance. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this ordinance and shall be punishable as provided herein. Unless otherwise authorized by the Board of Adjustment and included in its decision to grant a variance, any order of the Board of Adjustment in granting a variance shall expire, if a building permit, or certificate of occupancy (for a use for which a building permit is not required), has not been obtained within one year from the date of its decision.

## 3. Application Procedure

The following regulations apply to all applications submitted to the Board of Adjustment:

- A. Before a petition for an appeal, or, variance is heard and a quasi-judicial public hearing conducted by the Board of Adjustment, an application form provided by the City shall be submitted to the City along with a fee in accordance with fee schedule established by the City Council. Said fee shall be waived for any petition initiated by City officials on behalf of the City of Belmont. All applications shall be accompanied by a map clearly identifying the subject property, all abutting pieces of properties (i.e., all adjacent properties and properties traversed and/or separated by a road, stream, right-of-way, or any similar natural or man-made configuration). In addition, a list of names and addresses of the owners of said properties, from the most recent official tax records, shall be provided by the applicant.
- B. With respect to an application for an appeal, the filing of any application stays enforcement of the action appealed from unless the Planning Director certifies to the Board of Adjustment that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the ordinance. In that event, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with this ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations, the appellant may request and the Board of Adjustment may grant a stay of a final decision of permit applications affected by the issue being appealed.

- C. Within five days after having received an application for an appeal or variance, the City official receiving such application shall determine whether the application is complete. If the official determines that the application is not complete, they shall serve a written notice on the appellant or petitioner specifying the application's deficiencies. The City shall take no further action on the application until the deficiencies are remedied. If the City fails to so notify the appellant or petitioner, the application shall be deemed complete.

#### 4. Public Notification

The City of Belmont shall give notice of all Board of Adjustment public hearings. Said notice shall become a part of the record of the proceedings of the Board of Adjustment. Notice shall be given in the following manner:

- A. Notice shall be sent by the City by first class mail to the applicant and to the owners of all parcels of land abutting the parcel of land that is subject to the hearing. Said notice shall be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing;
- B. A notice of the public hearing shall be prominently displayed by the City on the site that is subject to the hearing or on an adjacent street right-of-way. Said notice shall be posted at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing; and,
- C. Notice shall also be posted by the City in a conspicuous location in the City Hall at least ten (10) days prior to the date of the public hearing.

#### 5. Decisions

- A. Except as provided in Section 18.4(1)(C), the Board of Adjustment shall hold a public hearing on an application no later than 45 days after a complete application has been filed with the City. The application shall be received by the Board of Adjustment at least fifteen (15) days prior to the Board meeting at which the application is to be considered. The public hearing shall be held in a quasi-judicial manner with either the Chairman or the Board Clerk being authorized to administer oaths to witnesses coming before the Board of Adjustment. The Board of Adjustment shall decide on the matter which was presented at the public hearing within 31 days of the close of the public hearing.

The concurrent vote of four-fifths (4/5) of the Board of Adjustment members [i.e., at least four (4) voting members] shall be necessary to grant a variance. A majority of the Board of Adjustment members [i.e., at least three (3) voting members] shall be required to decide all other matters coming before the Board. For purposes of this subsection, vacant members of the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority if there are no qualified alternate members available to take the place of such members. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application.

- B. Every quasi-judicial decision made by the Board shall be based upon competent, material and substantial evidence in the record. All Board decisions shall be in writing and signed by the Board chair or other duly authorized member of the Board. The written decision shall reflect the Board's determination of contested facts and their application to the applicable

standards. Any quasi-judicial decision of the Board shall become effective upon filing of the written decision with the City Clerk. All decisions of the Board of Adjustment shall be delivered by the Planning Director or his designee by personal delivery, electronic mail 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 effective date of the decision. The person who made such deliveries shall certify that proper notice of the decision as herein provided has been made.

6. Subpoenas

The Board Chairman, or in the Chairman's absence, anyone acting as Chairman, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing per NCGS 160A-393(d), may make a written request to the Chairman explaining why it is necessary for certain witnesses or evidence to be compelled. The Chairman shall issue requested subpoenas that he determined to be relevant, reasonable in nature and scope, and not oppressive. The Chairman shall rule on any motion to quash or modify a subpoena. Decisions made by the Chairman regarding a subpoena may be appealed to the full Board of Adjustment.

## 7. Variance - Effect of Approval

If an application for a variance is approved by the Board of Adjustment, the owner of the property shall have the ability to (i) develop the use in accordance with the stipulations contained in the variance or (ii) develop any other use listed as a "permitted use" for the zoning district in which it is located.

## 8. Appeals of the Board of Adjustment's Decisions

- A. An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of fifteen (15) days after the effective date of the Board of Adjustment's decision. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the Board of Adjustment, if, in its judgment, such change in facts, evidence or conditions has not been proven. A public hearing shall not be required to be held by the Board of Adjustment to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least three (3) voting members. In the event that the Board of Adjustment finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing except that the application fee shall be waived.
- B. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the effective date of denial of the original application.

Every decision of the Board of Adjustment under this Section shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari per NCGS 160A-393. . Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court by the later of thirty (30) days of the effective date of the decision, or after a written copy thereof is given in accordance with Section 18.4(5)(B). When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.



## 18.5 CERTIFICATES OF APPROPRIATENESS

### 1. Application Requirements and Procedures

#### A. Certificate of Appropriateness Required

No exterior feature of any building or other structure, landscape or natural feature, above-ground utility structure or any type of on-premise sign shall be erected, altered, restored, moved or demolished within a Historic Preservation Overlay District until and after an application for a Certificate of Appropriateness has been submitted to and approved by the Historic Preservation Commission. Exterior features include the architectural style, general design, color and general arrangement of the exterior of the 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 refer to the style, material, size, color, and location of all such signs.

#### B. Minor Works

The Planning Director shall have the authority to issue a Certificate of Appropriateness for the following types of minor works provided they meet the design standards approved by the Historic Preservation Commission:

- Storm Windows
- Storm Doors
- Fences for Rear Yards
- Shutters and Blinds
- Installation of temporary handicapped facilities (including hand-railings)
- Paint Color (including main structure, roof, porch, decking, and porch ceiling palettes)
- Signage
- Awnings
- Minor Landscaping changes (including tree removal, tree planting, and screening of mechanical equipment)
- Minor exterior alterations (including underpinning)
- Rear Yard Decks
- Brick Paths, Walkways, and Driveways

#### C. Demolition

An application for a Certificate of Appropriateness authorizing the demolition of a building or structure within the Historic Preservation Overlay District may not be denied. The effective date of such a Certificate may be delayed for a period up to 365 days from the date of approval. The maximum period shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of delay.

During the period of delay, the Commission may negotiate with the owner, city departments and any other parties involved in an effort to find a means of preserving the building. In the event that the Commission finds that the building has no 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.

**D. Preservation of Historic Features in Public Rights-of-Way**

In order to prevent destroying or seriously damaging the historic, architectural, or aesthetic values of the physical features lying within public rights-of-way, all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes to the character of streetscapes, pavings, and sidewalks.

**E. Required Information.**

All applications for Certificates of Appropriateness must contain the following material as applicable:

1. Site plan drawn to scale showing the location of existing and proposed structures and property lines of such structures, parking, driveways, and landscaping.
2. Scaled drawings showing all exterior architectural detailing for the proposed project.
3. Building materials and color samples.
4. Photographs.
5. Any other information specifically required to show adherence to the design guidelines established by the Commission.
6. A fee in accordance with the fee schedule adopted by the City Council of City of Belmont.

**F. Public Notification.**

Notice shall be sent by the City by first class mail to the applicant, and to owners of all contiguous properties at least ten (10) days prior to the public hearing. Notice shall also be posted by the Planning Director in a conspicuous location in the City Hall at least ten (10) days prior to the public hearing. Both notices shall indicate the nature of the public hearing and the date, time and place at which it is to occur.

**2. Decisions**

The Historic Preservation Commission shall hold a public hearing on an application no later than forty-five (45) days after a complete application has been filed with the Planning Director. The application shall be received by the Commission at least ten (10) days prior to the next regularly scheduled meeting of the Commission. The Commission shall decide on the matter which was presented at the public hearing within forty-five (45) days of the close of the public hearing.

If the Commission determines that the proposed construction, reconstruction, alteration, restoration, moving, or demolition of a structure is appropriate, it shall approve and issue to the applicant a Certificate of Appropriateness. If the Commission determines that a Certificate of Appropriateness should not be issued, it shall place in its records the reason for the denial and shall notify the applicant of such determination, furnishing him a copy of its reasons, and its recommendations, if any, as they appear in the records of the Commission. In all matter coming before the Commission, the applicant shall have the burden of providing clear, competent and material evidence in support of the application.

A Certificate of Appropriateness shall be valid for a period of six months from the date of issuance. Failure to secure a building permit within a six (6) month period shall be considered as a failure to comply with the Certificate of Appropriateness and the Certificate shall become null and void. If a

building permit is not required, failure to complete the approved work with six (6) months of the date issuance shall also cause the Certificate to expire. The Certificate may be renewed by the staff upon written request of the applicant if the request is received not more than one (1) year from the date of original issuance.

All decisions of the Historic Preservation Commission shall be in writing and filed with the Planning Director.

### **3. Appeals of the Historic Preservation Commission's Decisions**

- A. An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of fifteen (15) days after the date of the Historic Preservation Commission's decision. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the Historic Preservation Commission, if, in its judgment, such change in facts, evidence or conditions has not been proven. A public hearing shall not be required to be held by the Historic Preservation Commission to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four (4) voting members. In the event that the Historic Preservation Commission finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing except that the application fee shall be waived.
- B. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.
- C. Every decision of the Historic Preservation Commission under this Section shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board is filed in the office of the Historic Preservation Commission, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Historic Preservation Commission or the Chairman of the Historic Preservation Commission at the time of the Board's hearing of the case, whichever is later.

### **4. Interior Arrangements Not Considered**

The Historic Preservation Commission shall not consider interior arrangement nor take any action to restrict interior changes except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, or outdoor advertising signs in the Historic Preservation Overlay District which would be incongruous with the historic aspects.

### **5. Certain Changes Not Prohibited**

Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic Preservation Overlay District which does not involve a change in design, material, color, or outer appearance thereof, nor to prevent the construction,

reconstruction, alteration, restoration, moving or demolition of any such feature which the building inspector or similar official shall certify as required for public safety because of an unsafe or dangerous condition.

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## ***19.0 BOARDS AND COMMITTEES***

### ***19.1 BOARDS AND COMMITTEES ESTABLISHED***

The following Boards and Committees are hereby established in fulfillment of the goals of the planning ordinance:

Planning Board  
 Board of Adjustment  
 Technical Review Committee  
~~Historic Preservation Commission~~

All boards and committees shall follow the rules of procedure outlined in *Suggested Rules of Procedure for Small Local Government Boards*, published by the Institute of Government, as amended by the City Council.

### ***19.2 PLANNING BOARD***

#### **19.2.1 Authority and Responsibility**

The establishment of the Planning Board for the City of Belmont is granted under the authority of G.S. 160A-361. The Planning Board shall have the following duties and responsibilities:

- A. To review and make a recommendation on the Schematic Design of all Major Development Plans.
- B. To render opinions and make recommendations on all issues and petitions related to the Code and other land use plans which may be adopted from time to time which require approval by the City Council.

#### **19.2.2 Membership and Terms of Office**

In accordance with G.S. 160A-361, -362, the Planning Board shall consist of a total of eight (8) members with at least one (1) member residing in the extraterritorial jurisdiction (ETJ). The total membership of the Planning Board shall, at a minimum, be proportional to the population of City residents in relation to ETJ residents, rounded down to the nearest whole number.

Planning Board representatives from within the City limits shall be appointed by the Belmont City Council. Representatives from the ETJ area shall be appointed by the Gaston County Board of Commissioners upon consideration of a recommendation by City Council. ETJ members of the Planning Board shall have equal rights, privileges, and duties with the inside members of the Board, regardless of whether the matters to be decided arise within the corporate limits of the city or within the extraterritorial area.

Planning Board member terms shall be staggered. To allow for staggered terms, three (3) initial appointments will be for terms of three (3) years; three (3) initial appointments will be for terms of two (2) years; and two (2) initial appointments will be for terms of one (1) year. Following the initial appointments, Planning Board terms shall be three (3) years. An appointee to the Planning Board shall not serve more than two (2) consecutive terms or a

maximum of seven and a half (7.5) years if a member has filled an unexpired term, after which a member must wait three (3) years before being eligible for reappointment. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

The Planning Board shall elect its chair from among its members. The chair shall serve a maximum of two (2) consecutive one (1) year terms. An ETJ member may be elected to serve as chair on a basis that is proportional to the number of ETJ members serving on the Board.

### **19.3 BOARD OF ADJUSTMENT**

#### **19.3.1 Authority and Responsibility**

The establishment of the Board of Adjustment for the City of Belmont is granted under the authority of G. S. 160A-388. The Board of Adjustment shall have the following duties and responsibilities:

- A. To hear and decide appeals from any order, decision, determination, or interpretation made by the Planning Director pursuant to or regarding these regulations.
- B. To hear and decide petitions for variances from the requirements of these regulations.

#### **19.3.2 Membership and Terms of Office**

The Board of Adjustment shall consist of a total of five (5) members with at least one (1) member residing in the extraterritorial jurisdiction (ETJ). The total membership of the Board of Adjustment shall, at a minimum, be proportional to the population of City residents in relation to ETJ residents, rounded down to the nearest whole number.

Board of Adjustment representatives from within the City limits shall be appointed by the Belmont City Council. Representatives from the ETJ area shall be appointed by the Gaston County Board of Commissioners upon consideration of a recommendation by City Council. ETJ members of the Board of Adjustment shall have equal rights, privileges, and duties with the inside members of the Board, regardless of whether the matters to be decided arise within the corporate limits of the city or within the extraterritorial area.

The Board of Adjustment member terms shall be staggered. To allow for staggered terms, two (2) initial appointments will be for terms of three (3) years; two (2) initial appointments will be for terms of two (2) years; and one (1) initial appointment will be for a term of one (1) year. Following the initial appointments, Board of Adjustment terms shall be three (3) years. An appointee to the Board of Adjustment shall not serve more than two (2) consecutive terms or a maximum of seven and a half (7.5) years if a member has filled an unexpired term, after which a member must wait three (3) years before being eligible for reappointment. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

The Board of Adjustment shall elect the Board of Adjustment chair from among its members. The chair shall serve a maximum of two (2) consecutive one (1) year terms. An ETJ member may be elected to serve as chair on a basis that is proportional to the number of ETJ members serving on the Board.

**19.4 TECHNICAL REVIEW COMMITTEE (TRC)****19.4.1 Authority and Responsibility**

The Technical Review Committee shall have the following duties and responsibilities:

- A. To review and approve all Construction Documents;
- B. To conditionally approve Construction Documents subject to final review by the Planning Director;
- C. To establish the technical requirements for all applications including submission schedules, size and number of drawings, etc.
- D. To establish a regular meeting schedule

**19.4.2 Membership**

The Technical Review Committee shall consist of the following members:

Planning Director  
 City Engineer  
 Director of Public Works  
*Director of Utilities*  
 City Manager  
 Fire Chief  
 Police Chief (as appropriate)  
~~Planning Board member and an alternate Planning Board member (to be appointed to 1 year terms by the City Council upon the recommendation of the Planning Board)~~  
~~City Council member and an alternate City Council member (to be appointed to 1 year terms by the City Council)~~  
~~Citizen Appointee (to be appointed to a 1 year term by the City Council)~~  
 Any other person deemed appropriate by the City Manager or the Committee

**19.5 HISTORIC PRESERVATION COMMISSION****~~19.5.1 Authority and Responsibility~~**

~~The Historic Preservation Commission shall have the following duties and responsibilities:~~

- ~~A. Undertake an inventory of properties of historical, architectural, and/or cultural significance;~~
- ~~B. Recommend to the City Council areas to be designated by ordinance as "Historic Preservation Overlay Districts"; and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks";~~
- ~~C. Acquire by any lawful means the fee or lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or other legally binding restrictions which will secure appropriate rights or public access and promote the preservation of the property;~~
- ~~D. Restore, preserve and operate historic properties;~~



- ~~E. Review and act upon proposals for alterations, demolitions, or new construction within historic districts through the application for Certificates of Appropriateness;~~
- ~~F. Develop and adopt guidelines to be used in the review of alterations, demolitions, or new construction within Historic Preservation Overlay Districts.~~
- ~~G. Conduct an education program with respect to historic properties and districts within its jurisdiction;~~
- ~~H. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof;~~
- ~~I. Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.~~

~~The Commission is empowered to establish guidelines for approval of minor modifications, and to delegate to the Planning Director the authority to approve minor modifications. However, no request for approval of a minor modification may be denied without approval of the Commission.~~

#### **19.5.2 Membership**

~~In accordance with G.S. 160A 451-455, and G.S. 160A 400, the Historic Preservation Commission shall consist of a total of seven members. Representation shall be provided for the extra-territorial jurisdiction by appointing at least one resident of the extraterritorial jurisdiction.~~

~~Representatives from within the City limits shall be appointed by the City Council. Representatives from the ETJ area shall be appointed by the Gaston County Board of Commissioners.~~

~~Where possible, the City Council shall appoint to a majority of the Commission those residents who have had special training or experience in a design field, such as architecture, landscape architecture, horticulture, planning, or a closely related field.~~

~~The term of office shall be three years, although initial appointments shall be made for one, two and three years so the terms may be staggered. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. The City Council shall appoint the Historic Preservation Commission chair. The chair shall serve a one year term.~~

#### **19.6 5 MEETINGS, HEARINGS AND PROCEDURES OF ALL BOARDS AND COMMISSIONS COMMITTEES**

All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and rules of procedure adopted by *said boards and committees*, the Planning Board, Technical Review Committee, and the Historic Preservation Commission. Such rules of procedures may be amended by the respective Board or *Commission committee* membership.

Any rules of procedure adopted by any board or committee shall be kept on file at the offices of the Planning Director and shall be made available to the public at any meeting or hearing.

**19.7.6 STAFF**

The Planning Director or his/her designee shall serve as staff to the Planning Board, Technical Review Committee, and ~~the Historic Preservation Commission~~ *other committees as appointed.*

**19.8 7 ATTENDANCE POLICY FOR BOARDS AND COMMISSIONS COMMITTEES**

Any member of a Board or ~~Commission~~ *committee* who attends less than 75% of the regular and special meetings held by the board during any one year period may be removed from the board. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided herein. The Chairman of the board or committee shall notify the City Clerk if a member is absent 25% of the meetings, and a new appointment may be made by the City Council or Gaston County Board of Commissioners to fill that vacancy.

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### ***20.1 INTENT AND AUTHORITY***

The purpose of this Chapter is to set forth procedures for amending the text of these regulations and the zoning classification of land as shown on the Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. Procedures for making amendments to the Land Development Code or Zoning Map are also set forth. When reviewing any petition to amend the Land Development Code or Zoning Map, the City staff, Planning and Zoning Board, and City Council shall consider whether the requested amendment is consistent with the goals, objectives, and principles of the City of Belmont Comprehensive Land Use Plan.

### ***20.2 CHANGES AND AMENDMENTS TO THE LAND DEVELOPMENT CODE & ZONING MAP***

#### **1. Amendments Initiated by the City of Belmont**

The City Council may from time to time, on its own motion or on the recommendation of the Planning Board, amend, supplement, change, modify, or repeal the boundaries or regulations herein or subsequently established. In addition, the City Council may take such action on the petition of a private citizen in accordance with the following procedures.

#### **2. Amendments by Petition**

The petition, including a precise description of the proposed change, shall be submitted to the Planning Director not later than three weeks prior to the meeting of the City Council at which the petition is to be heard. When the petition concerns a specific piece of property, the owner(s) or designee(s) must sign the petition. When considering a petition for the re-classification of property to any district neither the Planning Board nor the City Council shall evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district, provided, however, such information may be presented and considered when on an application for a Conditional District (CD).

#### **3. Content of Application**

- A. Each noncontiguous parcel of land for which rezoning is requested shall be deemed as a separate application, and said application fee shall accompany each application. For the purpose of this paragraph, land located and adjacent on either side to the rear and all property directly across any street or public right-of-way from the subject property shall be deemed to be contiguous.
- B. Each application for a rezoning of land shall be accompanied by a map, drawn to scale, with the following information either shown on the map or accompanying it:
  1. The subject property plus such additional property as to show the location of the subject property with reference to the nearest street intersection, railroad, stream or other feature easily identifiable on the ground. In

addition, all property lines which abut the property, and property owners' names and addresses of all contiguous properties shall be furnished.

3. A Metes and bounds survey will now only be required with a rezoning application if a portion of a lot is being proposed for rezoning. If an entire lot is proposed for rezoning, no metes and bounds survey will be required.
  4. The present and proposed zoning classification of the lot(s) in question.
  5. The property identification number(s) of the lot(s) in question as issued by the Gaston County Tax Department.
- C. An application for the rezoning of land to a Conditional District (CD) shall be submitted in accordance with **Section 16.8 Schematic Design Requirements**.
- D. An application for a change in the text of the Code shall be on an application form provided by the Planning Department. The application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore.

#### 4. Planning Board Review and Recommendation

Once the petition is complete, the Planning Director shall refer the petition to the Planning Board for review and recommendation to the City Council. The Planning Board shall have a maximum of forty (40) days from the date they first meet to make such recommendation. If a recommendation is not made during said time period, the application shall be forwarded to the City Council without a recommendation from the Planning Board. The Planning Board, at their discretion, may receive public input at their meeting, but are not required to conduct a public hearing in accordance with 20.2.5 and 20.2.6 below.

- A. If a recommendation is made to the City Council by the Planning Board concerning a petition for rezoning, said recommendation shall be as follows:
1. Grant the rezoning as requested, or
  2. Grant the rezoning with a reduction of the area requested, or
  3. Grant the rezoning to a more restrictive general zoning district or districts, or
  4. Grant the rezoning with a combination of 1 and 2 above, or
  5. In the case of a Conditional District rezoning petition, grant the rezoning subject to approved conditions enumerated on the accompanying Schematic Design, or
  6. Recommend that the application be denied.
- B. If a recommendation is made to the City Council by the Planning Board concerning a petition to amend the text of this Code, it shall be as follows:
1. Adoption of the amendment as written, or
  2. Adoption of the amendment as revised by the Planning Board, or

3. Rejection of the amendment.

### **5. Public Hearing and Notification**

In order for an amendment to the Land Development Code or Zoning Map to be made in accordance with this Section, a public hearing must first be held by the City Council. Notification of the public hearing shall be as follows:

- A. A notice shall be published in a newspaper having general circulation in the town once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
- B. A notice of a proposed Zoning Map shall be sent by first class mail by the Planning Director to the affected property and to all contiguous property owners.

The first class mail notice required under 20.2.5 (B) of this section shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners.

In any case where this section eliminates the notice required by subsection 20.2.5 (B) of this section the City shall publish once a week for four successive calendar weeks in a newspaper having general circulation in the area with a map showing the boundaries of the area affected by the proposed ordinance or amendment. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the City's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the City Council that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, a city shall post one or more prominent signs on or immediately adjacent to the subject property area reasonably calculated to give public notice of the proposed rezoning.

### **5. City Council Review and Approval (or Denial)**

In case of protest against an amendment, duly signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change or of those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one hundred (100) feet there from or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all the members of the City Council.

No protest against any proposed amendment shall be valid or effective unless it is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Planning Director in sufficient time to allow the City at least two (2) normal business days before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.

Once the public hearing has been conducted the City Council shall render a decision on the petition. The decision of the City Council shall be in the form of any of the various options listed in Sections 20.2.4 (A) and (B). Alternatively, the City Council may send the application back to the Planning Board for further study and consideration. The petitioner shall have the right to withdraw his petition at any time prior to the final decision being rendered by the City Council. The City Council shall have the authority to call for additional public hearings on any amended petition brought before them.

#### ***20.4 REHEARING***

An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of fifteen (15) days after the date of the City Council decision. In addition, specific information to enable the City Council to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the City Council, if, in its judgment, such change in facts, evidence or conditions have not been proven. A public hearing shall not be required to be held by the City Council to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four (4) voting members. In the event that the City Council finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing except that the application fee shall be waived.

Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application. For purposes of this section, if a request for rezoning of property to a general zoning district is denied by the City Council, submittal of a request for rezoning to a conditional zoning district for that property shall not be considered to be a "similar application."

Every decision of the City Council shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board is filed in the office of the Planning Director, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Planning Director at the time of the Council's hearing of the case, whichever is later.

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