



**TOWN OF DAVIDSON
LIVABILITY BOARD
216 S. MAIN STREET - TOWN HALL BOARD ROOM**

OCTOBER 16, 2017

- I. CALL TO ORDER**
- II. WELCOME AND RECOGNIZE NEW MEMBERS AND GUESTS**
- III. CHANGES TO THE AGENDA**
- IV. ADOPT MINUTES**
 - (a) Minutes September 19, 2017
- V. OLD BUSINESS**
 - (a) Tree Ordinance



Agenda Title: Minutes September 19, 2017

Summary:

ATTACHMENTS:

Description	Upload Date	Type
☐ Minutes September 19, 2017	10/12/2017	Cover Memo

Minutes - September 19, 2017

Present: Nicole Storey, Cheri Foreman, Marty Metzker, Mary Walsh, Jairo Cadena

Staff: Charlene Minor, Kathryn Spatz, Leslie Willis, Jesse Bouk

Guests: Jim Dumser, Eric Stabasefski

Absent: Daver Cable, John Cock, Stephanie, George Berger

July Meeting Minutes were changed & then approved. The watercraft lottery will be held in November 2017 not January 2018.

Meeting called to order: 7:07 pm

Roosevelt Wilson Park Public Input on site will be 10/28/17 10:00 a.m. to 1:00 p.m. There will be an opening ceremony of the Childrens Amphitheater. The public will be invited through door hanging signs and PSAs. The West Side Church Pastors will be asked to let their members know of the event. Ideas for the Parks & Rec Lakeside Site will also be requested at that time.

October 24, 2017 from 4:00-6:00 p.m. is the Board of Commissioners work session. Bailey Springs Park & the Town of Davidson Tree Ordinance will be discussed.

Kathryn Spatz gave update on progress of Bailey Springs Park. The Soil Erosion review was done by Mecklenberg Co. It is ready for informal bid. The playground bid will be separate. The Parks Subcommittee will discuss ideas tonight. There will be North & South sections, sand volleyball, two tennis courts, & a basketball court.

Different ideas were discussed about changes to the Watercraft Lottery. There were concerns racks were being used for storage & not being used by the owners.

The manhole cover art installation was discussed. It is on hold for now.

Sub-committee reports

- A. Parks & Rec- Bailey Springs Park will hopefully be completed, weather permitting, in January 2018.
- B. Walk and Rolls - Steedman offered to be the representative for the North Meck Greenway App.

Meeting adjourned at 8:29 pm.



Agenda Title: Tree Ordinance

Summary:

ATTACHMENTS:

Description	Upload Date	Type
❏ Tree Ordinance	10/12/2017	Cover Memo
❏ Chapter 15	10/12/2017	Cover Memo
❏ Chapter 16	10/12/2017	Cover Memo
❏ Tree Ordinance Presentation	10/12/2017	Cover Memo

Tree Preservation, Landscaping & Screening

9.1 Purpose & Intention

The purpose and intent of these regulations is to establish minimum standards for the preservation of existing and the planting of new trees and shrubbery in order to:

- Better control soil erosion;
 - Reduce the hazards of flooding;
 - Stabilize 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 and enhance the natural environment;**
 - Maintain and/or improve aesthetic values;
 - Increase species and age diversity of the urban forest;
 - Protect heritage and specimen trees;
 - Ensure compatibility between vegetation and adjacent infrastructure or utility systems; and
 - Provide habitat resources to native plants and animals.
 - Use of non-invasive and native plant materials; and
 - Maintain or increase the tree cover in all areas of the planning jurisdiction.
- **Protect and improve the existing tree canopy of the town in order to enhance the health and quality of life of the citizens of the town.**

An advisory board shall be established in accordance with Section 13 to assist the Planning Director and Board of commissioners in the above purposes and intent. [Note—does this advisory board exist?]

The town shall retain one or more certified arborists to assist with maintaining a town-wide tree inventory, approve [development] plans for both public and private property consistent with the provisions of this ordinance, assist with inspections and any other related matters the Planning Director may request from time to time (each a “Consulting Arborist”¹). The fees and expense of each Consulting Arborist shall be paid by the town from amounts on available in the Tree Fund².

9.2 Applicability & Administration

9.2.1 Applicability

The landscaping regulations apply to both public and private property, according to the following standards:

A. New Development: All standards of this section shall apply.

B. Existing Development: For changes of use and/or expansions of existing **non-conforming** development, all standards of this section shall apply. ~~C. Exemptions: The development of individual single family or duplex residences and building interior or exterior renovation projects are exempt from the requirements of this chapter.~~ **to the extent that any tree having a Caliper of twelve (12) inches DBH or more would be disturbed as a result of such proposed or actual development. [NTD—Section 9.3.3. requires permit for tree removal of ANY sized large or small maturing tree.]**

9.2.2 Administration

A. Alternate Methods of Compliance

1. Alternate landscaping plans, plant materials, or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation. Such situations may result from streams, natural rock formations, topography,

¹ **NTD—need to add definition to Chapter 16**

² **NTD—need to add definition to Chapter 16**

or other physical conditions; or from lot configuration, utility easements, unified development design, or unusual site conditions.

2. The Planning Director, in consultation with the Consulting Arborist, may approve an alternate plan that proposes different plant materials or methods provided that quality, effectiveness, durability, and performance are equivalent to that required by this chapter.

3. 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 chapter. This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots, and the level of screening height, spread, and canopy of the planting(s) at maturity.

4. No building permit shall be approved prior to the evaluation by the Planning Director of the landscaping plan for the related site, and [if, required by the Planning Director in his or her reasonable discretion,] a Performance Bond is posted to cover costs of non-compliance].

B. 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, in consultation with the Consulting Arborist, if:

1. There is no significant reduction in the quantity of plant material;
2. There is no significant change in size or location of plant materials; and
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.

C. Inspections

1. The Planning Director, the Consulting Arborist and authorized representatives of the town may periodically inspect sites subject to the provisions of this ordinance to confirm compliance.

2. A Certificate of Occupancy for the development shall not be issued unless (i) the landscaping required under this section is installed in accordance with these standards and in accordance with the approved master plan or preliminary plat, as certified by the Consulting Arborist [and (ii) a Performance Bond is posted covering costs of non-compliance after issuance of the Certificate of Occupancy]. The Planning Director or Consulting Arborist shall inspect the site one year after the issuance of a permanent Certificate of Occupancy in order to ensure continued compliance with the approved site plan and to ensure that the landscaping is properly maintained.

D. Replacement of Disturbed, Removed or Damaged Vegetation:

Any significant vegetation preserved or planted on private property during land development shall be maintained in good condition either by the developer, property owners association or individual property owner in perpetuity. The disturbance or material damage of any landscaped area or vegetation required to be maintained by this chapter shall constitute a violation. Such violations shall be ~~replaced or otherwise~~ remedied in accordance with the requirements of Section 45-15 hereof. The burden of proof that any material disturbance or damage to any landscaped area or vegetation was not caused by abuse or negligence ~~was not the cause of death~~ is on the person or organization responsible for vegetation installation and maintenance.

9.3 Tree Coverage & Preservation

9.3.1 Tree Coverage

A. Minimum Tree Coverage: All parcels shall maintain a minimum tree coverage according to their planning area classification as follows:

Table 9-1: Tree Planting Requirement		
Planning Area	Tree Planting Requirement	Approx. Canopy Coverage**
Rural	2 large maturing trees per 5,000 square feet of parcel	30% - 50%

	area, OR 1 large maturing tree and 1 small maturing tree per 3,000 square feet of parcel area	
NE/NG/VI/ EC1/EC2/CC	2 large maturing trees per 7,000 square feet of parcel area, OR 1 large maturing tree and 1 small maturing tree per 4,500 square feet of parcel area	20% - 40 %
LK/VC/VE/ VCom/NC1/ NC2/CBD/NS	2 Large maturing trees per 9,000 square feet of parcel area, OR 1 large maturing tree and 1 small maturing tree per 6,000 square feet of parcel area	15%

* Does not apply to Recreation Facility - Outdoor and Agriculture uses.

The Approximate Canopy Coverage column is not intended to be a binding requirement. Instead it is simply an estimate of the mature canopy coverage per site based on the Tree Planting Requirement. The canopy coverage calculation assumes an average canopy area of 700 square feet for large maturing trees and 200 square feet for small maturing trees. **Trees planted to satisfy the Tree Planting Requirement must have a minimum caliper at the time of planting of not less than 2-1/2 inches.

B. Primary Conservation Areas: The minimum tree coverage requirement may be met through the preservation of existing vegetation, new tree plantings, or a combination of both; however, every reasonable effort ~~should~~shall be made to meet the minimum tree coverage requirement through the preservation of existing trees ~~within primary conservation areas. Primary conservation areas are those areas which have been determined to be inappropriate for development because they contain stream buffers, flood plains, or slopes greater than 20 percent.~~

C. Credit Toward Coverage Requirement: All trees preserved or planted **(but excluding street trees and front yard trees required by the relevant development plan, if any)** to satisfy the various requirements of this ordinance may count toward the minimum tree coverage requirements established above.

9.3.2 Preservation of Existing Vegetation for Large Developments

A. Required Preservation Areas:

Regulations for tree preservation may vary according to the planning area and development type.

The following shall be preserved:

1. Trees and undergrowth **(excluding invasive species)** in designated open space in an approved plan, except for permitted pathways.
2. Mature trees as defined by this ordinance within the right-of-way or shading the street. (If the preservation of mature trees is in conflict with setback requirements, the Planning Director may grant exceptions on a case-by-case basis.)
3. Specimen trees as defined by this ordinance.
4. In any development, ~~including multi-family but excluding single-family or duplex,~~ a minimum of 20 percent of the mature tree canopy shall be preserved **or established**.

B. Other Preservation Areas: Existing vegetation in other areas shall be preserved whenever feasible according to the following standards:

1. The decision to preserve trees shown on the environmental inventory shall be made jointly by the Planning Director, **the Consulting Arborist, the** developer, and design team during the project approval process.
2. When selecting which trees to preserve, the following shall be considered: existing grading; age, condition and type of tree; and location of site improvements and utility connections.
3. Properties in the local historic district are subject to the Historic District Design Guidelines tree preservation requirements.

C. No tree save area may be located within a utility right-of-way or easement without written permission from the utility agency.

D. Credit Toward Required Plantings: Existing vegetation which is designated for preservation may be applied toward the requirements of this chapter.

E. Preservation During Construction

1. Trenching, placing backfill in the critical root zone (CRZ), driving or parking equipment in the CRZ, and dumping of trash, oil, paint or other materials detrimental to plant health in close proximity of the trees to be preserved is prohibited.
2. Protective barricades shall be placed around all trees designated to be saved, prior to the start of development activities or grading. Such barricades shall be erected at a radial recommended minimum distance of 1.5 feet for every inch of trunk diameter at breast height (DBH) or the dripline, whichever is greater. For example, a 12 inch diameter tree trunk at breast height should have a minimal radial protection zone of 18 feet. The circular diameter of protection around the trunk would be 36 feet.
3. Protective barricades shall consist of 2" x 4" posts with 1" x 4" rails or orange safety fence. 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.
4. 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, land disturbance within a tree dripline is strongly discouraged.
5. Where grading within a tree dripline cannot be avoided and is approved by the Administrator, cut and fill shall be limited to 1/4 to 1/3 of the area within the dripline. Tree roots must be pruned with clean cuts at the edge of the disturbed area, and no fill shall be placed within the dripline of a tree without venting to allow air and water to reach the roots. In the case of an approved construction or grading permit within the CRZ, a **certified arborist or arboriculturalist shall be retained by the developer³** to provide and implement recommendations to protect the tree.

FE. Replacement of Preserved Trees: Should any tree designated for preservation in the landscape plan die, the owner shall replace it within 180 days with landscaping equal to what would be required in this ordinance. **If such replacement does not occur within such time period, the Performance Bond may be drawn in order to pay the cost of replacement. In such case, the replacement tree shall be installed by the Consulting Arborist.**

9.3.3 Tree Removal

A. Permit Required: A permit shall be required for the removal or destruction of a large or small mature tree or trees on any property, whether publicly or privately owned. The permit shall be issued when the Planning Director, **in consultation with the Consulting Arborist,** has determined that **at least one of the following apply:**

1. The tree to be removed is dead, diseased or irreparably damaged, according to ~~a certified arborist~~ **the Consulting Arborist;**
2. The tree endangers the health or safety of the general public or structures on the property or adjacent properties;
and, to the extent that the applicable minimum tree coverage would be maintained after removal:
3. The tree is not a specimen tree, as defined by this ordinance;
4. The tree is not within a designated conservation area, such as common open space or property protected by conservation easement;
5. The tree is located within the permitted building envelop;
6. Tree removal is part of a greater development plan for which an approved landscape plan has been issued pursuant to this section; an approved development plan for which an approved grading and landscape plan has been issued shall serve as the tree permit.

B. For built-upon properties of record by July 2008~~2016~~ within the ~~Town~~**town's** incorporated limits, no large maturing tree larger than twelve inches in diameter at breast height may be removed ~~within the maximum front, rear, or side yard setback~~ without a permit from the town. **Permits for removal shall not be issued until all reasonable efforts to accommodate the owner's desired development without removal**

³ **Should this be replaced by Consulting Arborist?**

have been exhausted. Topping of trees is strictly prohibited. In addition, no activity that may affect a tree in the front yard setback may proceed without a tree permit.

Exception: A permit is not required for the area of an approved plan designated as single family or duplex residence exclusive of open space.

C. The issuance of a permit for removal of a large maturing tree having a DBH of [12 inches or greater][which would result in a violation of the minimum tree canopy] shall be conditioned upon payment of a remediation fee of \$ _____, to be paid into the Tree Fund.

D. Removal of a mature tree located within in a locally designated historic district requires a Certificate of Appropriateness in addition to a tree permit. Mature trees shall be replaced by a tree of similar species type. The tree must meet the requirements of Section 9.8 and meet the objectives of the Tree Canopy Management Plan.

9.4 Street Tree Plantings

9.4.1 Street Tree Requirements

A. Location: Except along a rural road, alley, or the park side of a parkway (See Section 6 - Town Street Classifications), trees shall be planted wherever a new street right-of-way is constructed, or where new construction occurs along an existing street right-of-way. For certain street types, as specified in the Town Street Classifications in Section 6, street trees must be planted in tree wells in the sidewalk.

B. Minimum Number:

1. Where at least an eight foot planting strip has been permitted and no overhead power lines are located within 15 feet of the on-center planting location, a minimum of one large maturing tree shall be planted every 45-50 feet on average linear feet **or as otherwise approved by the Consulting Arborist.** Existing trees may be applied toward this requirement.
2. For planting strips four to less than eight feet wide or those on center planting locations within 15 feet of an overhead power line, trees shall consist of one small maturing tree per 25 feet on average **or as otherwise approved by the Consulting Arborist.**
3. Tree may be planted (large maturing) on the back side of sidewalk when strip is less than eight feet.

C. Planting Strip: In general, the minimum planting strip width for street trees shall be the width indicated for the applicable street type in Section 6. For large canopy trees such as willow oaks and red maples, a wider planting strip may be required. Eight feet is the preferred width for these species⁴.

D. Planting Specifications: Street trees shall be installed in accordance with Section 9.8 - Installation and Maintenance Standards and the Tree Planting Specifications on file with the Planning Director.

E. Species: Street tree species shall be selected from the Suggested Plant Species List and Tree Canopy Management Plan on file with the Planning Director in accordance with their intended function **and in consultation with the Consulting Arborist** as follows:

1. Streets in commercial areas shall have trees which complement the face of the buildings and which shade the sidewalk.
2. Streets in residential areas shall provide for an appropriate canopy, which shades both the street and sidewalk.
3. High canopy trees are preferred for emergency vehicle maneuvering.
4. A diversity of tree species should be utilized in order to prevent the spread of pests and disease.

9.5 Site Landscaping

9.5.1 Applicability

The following provisions for site landscaping shall apply to all buildings with a setback less than five feet as defined in Section 2, except where such buildings have a zero foot setback from the public sidewalk.

⁴ **Discuss with Chad regarding width of planning strips.**

9.5.2 Minimum Requirements

A. New landscape materials and preserved vegetation shall be noted on the Open Space Plan as part of the Preliminary Plat. Specifications for the plan shall include at a minimum the following information:

1. General location, type and quantity of existing plant materials.
2. Existing plant materials and areas to be left undisturbed.
3. Methods and details for protecting the critical root zone (CZR) of existing plant materials and areas to be left undisturbed.
4. Locations, size and labels for all proposed plant materials.
5. Plant lists with common name, botanical name, quantity, and spacing and size of all proposed landscape material at the time of planting.
6. Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, lights, courtyards, walks or paved areas.
7. Planting and installation details as necessary to ensure conformance with all required standards.
8. Location of any proposed buildings, driveways, parking areas, required parking spaces, roads and other hard surface elements.
9. Location of overhead and underground utilities.
10. Location of signage.
11. Connections to existing and future properties.
12. Property boundaries.
13. Notes indicating compliance with the Tree Canopy Management Plan and Planning Ordinance.
14. Landscape plan shall be drawn to scale no smaller than 1 inch equals 100 feet and include a north arrow and necessary interpretive legends.

B. Minimum Required Area: A minimum five foot wide area, measured perpendicular from the building, shall be provided for landscaping along any side of the building facing a public right-of-way way or park. Up to 25 percent of the building width along the street or park may be exempt from this requirement in order to provide entrance walkways/ plazas.

C. Minimum Required Landscaping: The minimum required landscaping shall consist of one of the following every 40 linear feet:

1. Two understory trees;
2. 10 shrubs; or
3. Any equivalent combination thereof.

D. Location of Plantings: The 40 foot requirement shall only serve as a ratio for establishing the minimum required landscaping. In locating the minimum required landscaping care shall be taken to ensure that adequate space is provided for the width of tree spread, height and root system requirements.

E. Native plants, wildlife supporting species, and shade trees are preferred in all landscape settings. For a list of tree specifications, preferred tree species and prohibited vegetation, see the Suggested Tree Species List on file with the Planning Director.

9.6 Parking Area Landscaping

9.6.1 Applicability

The parking area landscaping standards of this section shall apply according to the following standards. For a list of tree specifications, preferred tree species and prohibited vegetation, see the Suggested Tree Species List on file with the Planning Director.

A. Existing Parking Lots: All expansions of impervious surfaces in existing parking lots with five or more spaces shall comply with this section.

B. New Parking Lots: All new parking lots shall comply with this section.

C. Small Parking Lots: For small lots (36 spaces or less), landscaping shall be required at the perimeter only, according to the standards of Section 9.6.2.

D. Large Parking Lots: For large lots (more than 36 spaces), landscaping shall be at the perimeter and the interior, according to the standards of Sections 9.6.2 and 9.6.3. In large lots, the landscaping shall be placed to break the lot into parking modules of not more than 36 spaces.

E. All areas not specifically required for parking or circulation shall be landscaped. Parking lots are to be treated as enclosed rooms for cars.

9.6.2 Parking Lots - Perimeter Landscaping & Screening

A. Minimum Width: Perimeter landscape areas shall be a minimum of eight feet in width adjacent to all parking spaces and travel areas. Screening within this area shall be provided by installing a continuous row or staggered row of medium evergreen shrubs planted five feet on center.

B. Required Trees: Large maturing canopy trees shall be planted not more than 40 feet on center.

C. Required Shrubs: A continuous row or staggered row of evergreen shrubs, with a minimum expected height at maturity of three feet, shall be installed at not more than six feet on center. If used in addition to a wall or fence, the evergreen shrubs shall be planted on the exterior side of such features.

D. Additional Requirements for Parking Lots Adjacent to Street Frontage: A masonry wall or garden hedge (minimum three feet in height) shall be installed along any street frontage adjacent to parking areas. At sidewalks with extensive pedestrian use, the masonry wall installed at the back of the sidewalk, is preferred.

E. Additional Requirements for Parking Lots Adjacent to Detached and Attached Houses: Off-street parking areas adjacent to Detached and Attached Houses, as defined in Section 2, shall be screened from such buildings by one of the following:

1. A garden wall, fence or hedge (minimum six feet in height); or
2. Evergreen shrubs planted at no more than of six feet on center and a minimum of three feet in height at the time of planting with an expected maturity height of at least six feet; or
3. A combination of the above options.

F. Natural Buffers: Where a natural buffer exists adjacent to parking areas, it is to remain undisturbed. The removal of undergrowth and limbing up of trees is prohibited. Only dead wood is allowed to be removed. All buffers required by the watershed protection regulations in Section 17 and the stream buffer overlay standards in Section 21 shall remain completely undisturbed, except for permitted pathways.

G. Existing Vegetation: Existing vegetation located in the perimeter landscape area which is designated for preservation may be applied toward the requirements of this section.

9.6.3 Parking Lots - Interior Landscaping

A. Landscape Islands

1. Landscape islands within parking lots shall be located so as to define and direct vehicular movement.
2. Landscape islands shall have a minimum width of eight feet.
3. Landscape islands with large maturing trees shall include a minimum of 200 square feet of pervious space per tree.

B. Minimum Spacing: Large maturing trees shall be planted within the interior landscape islands of parking lots so that no part of any parking space is more than 40 feet from a tree.

C. Other Landscaping Areas: All areas not specifically required for parking or circulation shall be landscaped.

9.7 Screening

9.7.1 Landscape Screens

A. Applicability: Landscape screens shall be required anywhere Section 3 - Use Standards specify a requirement for a landscape screen. Where landscape screens are required, they shall be installed in accordance with the provisions below.

B. Minimum Width: For a landscape screen, a minimum 15-foot wide pervious space shall be provided, unless another width is deemed appropriate by the Planning Director during the approval process based on site conditions.

C. Minimum Required Landscaping

1. A minimum of six large maturing trees and 40 shrubs shall be planted for each 100 linear feet of landscape screen area to provide continuous coverage.
2. Trees shall be a minimum 50 percent evergreen.
3. Shrubs shall be a minimum 75 percent evergreen.

D. Existing Vegetation: Existing vegetation located in the required landscape screen area which is designated for preservation may be counted toward the minimum required landscaping for landscape screens.

9.7.2 Mechanical Equipment Screening

A. Rooftop Mechanical Equipment: Rooftop mechanical equipment shall not be visible from any street or public park/greenway. Unused equipment should be removed.

B. Other Project Elements

1. Required Screening: The following project elements shall be concealed and contained or screened from public view with materials similar to the structure or they shall be located so as not to be visible from any public view or from potential buildings nearby:

- a. Mechanical equipment;
- b. Utility meters;
- c. Storage areas;
- d. Solid waste containers (including dumpsters, compactors, recycling containers, and solid waste and recycling handling areas);
- e. Transformers;
- f. Generators; and
- g. Similar features or other utility hardware on the building, roof, or ground.

2. Design: These elements must be integrated with the site and building plan, be designed so as not to attract attention and be easily serviceable.

9.8 Installation & Maintenance Standards

All trees and shrubs required by this chapter shall meet the planting specifications provided below.

9.8.1 General Standards

A. Quality of Plantings: All new plant material shall be of good quality, installed in a sound, workmanlike manner and meet the standards set forth in the American Standard for Nursery Stock by the American Association of Nurserymen.

B. Contractor Warranty: The contractor shall warrant all new plant material for two years from time of installation.

C. Soil Compaction: Installation and construction practices shall be utilized which preserve existing topsoil or amend the soil to reduce compaction.

D. Staking and Groundcover: All trees shall be properly guyed or staked and mulched (3-4 inch layer) in accordance with accepted practices in the landscape industry, to prevent winds from loosening the roots.

E. Chain Link Fencing: Chain link and similar fencing materials, if used, shall be landscaped on their exterior side with evergreen shrubs minimum three feet in height and six feet on center at installation.

F. Sight Distance Triangles: No plants shall be planted within the sight distance triangle at an intersection, or driveway access points unless an unobstructed view between 30 inches and 72 inches in height is maintained.

G. Overhead Utility Lines: Public and private utilities which install overhead and underground utilities shall be subject to this ordinance and the industry's best pruning and trenching specifications. Where large maturing trees are required and overhead utility lines exist, small maturing trees planted one per 30 linear feet shall be substituted with the approval of the Planning Director.

H. Encroachment Agreement: No irrigation lines may be installed within the planting strip, or other portions of the public right-of-way, without an encroachment agreement executed by the town or NCDOT as appropriate.

Document comparison by Workshare Compare on Tuesday, December 13, 2016
9:39:58 AM

Input:	
Document 1 ID	interwovenSite://dmsproxy/Active/84829961/1
Description	#84829961v1<Active> - Davidson Tree Ordinance
Document 2 ID	interwovenSite://dmsproxy/Active/84829961/2
Description	#84829961v2<Active> - Davidson Tree Ordinance
Rendering set	MW Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Insertions	49
Deletions	18
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	67

VIOLATIONS & PENALTIES

15.1 NOTICE TO COMPLY

15.1.1 ADMINISTRATOR AUTHORITY

A. Inspections

1. The Planning Director or his/her designee, shall have the power to conduct such investigations as he/she may reasonably deem necessary to carry out his/her duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property or premises, public or private, to perform any duty imposed upon them by this ordinance.
2. No person shall refuse entry or access to the Planning Director or his/her designee or other authorized representative of the town who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with that representative while in the process of carrying out official duties.

15.1.2 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.

15.1.3 NOTICE OF VIOLATION

- A. **Notice of Violation:** If it is determined that a person has failed to comply or is no longer in compliance with the provisions of this ordinance, a notice of violation shall be served by the town upon that person by one of the service methods specified in paragraph B. The notice shall set forth that which will be necessary to comply with the ordinance.
- B. **Methods of Service:** The Planning Director shall notify the person responsible for a violation of any provision of this ordinance and give the responsible person a specified time to correct the violation. Notice of violation shall be given in writing and mailed or hand delivered to the address listed for the responsible person in the county property tax records, unless the Planning Director has actual knowledge that the person is residing at a different address. Service of any written notice is complete by hand delivering the notice or by depositing the notice in first class mail. No written notice will be given when the Planning Director has the authority to summarily remove, abate, or remedy a violation of this article. When a person has failed to comply with a notice of violation as described above, the Planning Director shall not be required to provide further notices of violation to that person with regard to the same property before taking any of the enforcement actions authorized by this ordinance.

15.2 PENALTIES FOR VIOLATION & ENFORCEMENT MECHANISMS

In case any structure or use 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 Building Inspector, any other appropriate town authority; or any person who may be damaged by such violation.

15.2.1 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 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.

15.2.2 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.

15.2.3 INJUNCTIONS & ORDERS OF ABATEMENT

- A. **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.
- B. **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.
- C. **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 material man'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 on 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.

15.2.4 STOP WORK ORDER ISSUANCE

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.

15.2.5 REVOCATION OF PERMITS

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.

15.2.6 CIVIL PENALTY

In addition to the other remedies cited in this ordinance for the enforcement of its provisions, and pursuant to NCGS 160A-175, the regulations and standards in this ordinance may be enforced through the issuance of civil penalties by the Planning Director.

- A. **Procedures for Civil Citations:** 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.
- B. **Schedule of Civil Penalties:** Unless otherwise provided in this ordinance, the following penalties are hereby established:
 - 1. Warning Citation: Correct Violation Within 10 Days

2. First Citation: \$50.00
 3. Second Citation For Same Offense: \$100.00
 4. Third And Subsequent Citations For Same Offense: \$500.00
- C. **Recovery of Penalties:** If the offender fails to pay the civil penalties within fifteen days after having been cited, the Town may recover the penalties in a civil action in the nature of debt.

15.3 SPECIFIC TYPES OF VIOLATIONS

15.3.1 LANDSCAPING VIOLATIONS

- A. **Violations:** Failure to comply with the landscaping and maintenance requirements of Section 9 of this ordinance, or the unauthorized disturbance, damage or removal of any vegetation required by this ordinance, shall constitute a violation. Where a landscaping violation is found to have occurred, the remedies specified in this section shall be enforced.
- B. **Replacement**
1. All landscaped areas and vegetation required by this ordinance which are disturbed or damaged shall be replanted to meet the standards of this ordinance as well as the approved site or master plan.
 - a. 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 ordinance taking into account any unique site conditions and significant vegetation remaining within the landscaped area.
 - b. 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 size.
 2. **Replacement Options:** Replacement of disturbed or damaged vegetation shall consist of one or a combination of any of the following measures:
 - a. Replant according to the requirements of Section 9.
 - 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 eight inches that is damaged or removed shall be replaced with one or more trees that have a caliper of at least 2.5 inches and a cumulative caliper equal to or greater than the original tree. Trees damaged or destroyed less than eight 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.

- 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 ordinance or interior preservation area identified on the landscape plan.

3. Other Replacement Standards

- a. Replantings shall 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.
- b. A replanting plan denoting the proposed installation shall be submitted to the Planning Director for approval. The plan shall take into consideration the development condition of the site, significant vegetation remaining within landscaped areas, and the required replacement of plant materials. The Planning Director may elect to present the replanting plan to the Board of Adjustment for final approval as necessary.

- C. **Civil Penalty:** Existing vegetation required to be preserved that has been damaged or destroyed during the course of development activity shall also be subject to a civil penalty. Such penalty shall be assessed at the rate of \$2.00 for every square foot area of vegetation damaged or destroyed, not to exceed \$30,000. This penalty may be assessed to the arborist or the property owner as appropriate.

15.3.2 SIGN VIOLATIONS

Any sign that has been installed without a permit or is otherwise in violation of this ordinance must be removed by the owner or property manager after notice has been given by the Planning Director. Provided the time to remove the sign is not less than 24 hours, notice shall be considered sufficient. Notice shall only be provided once for the violation. Repeat violations, occurring within twelve months, using the same or a similar sign at the same location (e.g., use of a plastic A-frame sign after being given notice of violation or continued use of an off-site sign to advertise a business) will not be provided another notice of violation but, instead, will be issued a civil citation.

For the second through fifth violations, \$100.00 per offense;

For the sixth through tenth violations, \$500.00 per offense,

For the eleventh and all future violations, \$1000.00 per offense.

Each day the illegal sign is in use is considered a separate offense. If the responsible person fails to pay the civil penalty or appeal the assessment within 15 days of being notified of the amount due, the town may recover the penalties in a civil action in the

nature of a debt. An appeal of a civil penalty assessment may be made to the Board of Adjustment.

15.3.3 FLOODPLAIN VIOLATIONS

Violation of the floodplain provisions of this ordinance including violation of conditions and safeguards established in connection with grants of Floodplain Development Permits or Variances shall be corrected in accordance with the provisions of Section 18.

15.3.4 DEMOLITION BY NEGLECT OF HISTORIC PROPERTIES

A. Conditions of Neglect Defined and Prohibited: Demolition by neglect is the destruction of a building through abandonment or lack of maintenance. In order to promote the preservation of the Historic District, owners shall maintain or cause to be maintained the exterior and structural features of their historic properties and not allow conditions of neglect to occur. The exterior features of any building or structure located within the local historic district shall be preserved by the owner or such other person who may have legal possession, custody, and control thereof against decay and deterioration and kept free from structural defects. The owner, or other person having such legal possession, custody, and control, shall upon written request by the town repair such exterior features if they are found to be deteriorating. Conditions of neglect include the following:

1. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.
2. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
3. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.
4. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
5. Deterioration or crumbling of exterior plasters or mortars.
6. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
7. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
8. Rotting, holes, and other forms of decay.

9. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.
10. Heaving, subsidence, or cracking of sidewalks, steps, or pathways.

B. Boarded Up Windows and Doors: Boarded-up windows and doors in areas in the historic district are prohibited with the following exceptions:

1. In order to protect a structure against further deterioration pending replacement of windows, doors, or storefronts a temporary exception to this standard can be authorized by the Design & Historic Review Board through the Certificate of Appropriateness process. (See Section 22)
2. All temporary boarded up windows which will remain for more than 30 days must be painted as specified and authorized by the Certificate of Appropriateness.
3. Property owners in the historic district who currently have windows or doors boarded-up must have such windows and doors replaced pursuant to a Certificate of Appropriateness, within six months of the effective date of this ordinance.

C. Petition and Action: The Design & Historic Review Board or Administrator may initiate a petition listing specific defects. Following the initiation of such petition the Administrator shall act under the following procedures to require the correction of deterioration or making of repairs to any historic landmark or significant structure located within the historic district so that such structure shall be preserved and protected in accordance with this ordinance.

1. Whenever a petition is filed with the Administrator charging that a structure is undergoing demolition by neglect, the Administrator (or a designated agent) shall, if his/her preliminary investigation discloses a basis for such charges, within 15 days issue and cause to be served upon the owner and/or such other person who may have legal possession, custody, and control thereof, as the same may be determined by reasonable diligence, a complaint stating the charges and offering the owner the opportunity to meet in person with the Planning Director not less than 30 nor more than 45 days after the serving of such complaint. The owner and/or parties in interest shall be given a right to answer to give testimony at the place and time fixed in the complaint; the town shall also be given notice of the hearing; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Planning Director. The purpose of the hearing is to receive evidence concerning the charge of deterioration and to ascertain whether the owner and/or other parties in interest wishes to petition the Board of Adjustment for a claim of undue economic hardship.
2. If after such notice and hearing, the Planning Director determines that the structure is undergoing demolition by neglect because it is deteriorating, according to the standards of this section, the Planning Director shall state in writing the findings of fact in support of such determination and shall issue and

cause to be served upon the owner and/or other parties in interest therein an order to repair within the time specified those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated. In the event that the owner and/or other parties in interest wish to petition for a claim of undue economic hardship, the Planning Director's order shall be stayed until after the Board of Adjustment's determination in accordance with the procedures of Section 15.3.4.F.

D. Methods of Service: Complaints or orders issued by the Planning Director shall be served upon persons either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Planning Director in the exercise of reasonable diligence, and the Planning Director shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest, then the serving of such complaint or order may be made by publishing the same once each week for two successive weeks in a newspaper generally circulated within the town. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

E. Safeguards from Undue Economic Hardship

1. When a claim of undue economic hardship is made owing to the effects of this article, the Planning Director shall notify the Board of Adjustment within 10 days following the hearing on the complaint. The Board of Adjustment shall schedule a hearing on the claim at its next regular meeting, within the limitations of its procedures for application deadlines. The petitioner shall present the information provided under Section 15.3.4.E.2 to the Board of Adjustment. The Board of Adjustment may require that an owner and/or parties in interest furnish such additional information that is relevant to its determination of undue economic hardship. The Board of Adjustment may direct its staff to furnish additional information as the board believes is relevant such as findings from the Design & Historic Review Board. The Board of Adjustment shall also state which form of financial proof it deems relevant and necessary to a particular case. In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reasons why such information cannot be obtained.
2. When a claim of undue economic hardship is made owing to the effects of this article, the owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship.
 - a. The minimum evidence for all property shall include the following:
 - i. Nature of ownership (individual, business, or nonprofit) or legal possession, custody, and control.
 - ii. Financial resources of the owner and/or parties in interest.

- iii. Cost of repairs.
 - iv. Assessed value of the land and improvements.
 - v. Real estate taxes for the previous two years.
 - vi. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.
 - vii. Annual debt service, if any, for previous two years.
 - viii. Any listing of the property for sale or rent, price asked, and offers received, if any.
- b. The minimum evidence for income producing property shall also include the following:
- i. Annual gross income from the property for the previous two years.
 - ii. Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management procedures were followed.
 - iii. Annual cash flow, if any, for the previous two years.
3. Within 60 days of the Board of Adjustment's hearing on the claim, the Board of Adjustment shall cause to be made a finding regarding the claim of undue economic hardship and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the Board of Adjustment shall report such a finding to the Planning Director. The Planning Director shall then cause to be issued an order for such property to be repaired within the time specified.
4. In the event of a finding of undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under the North Carolina law, loans or grants from the city, the county, or other public, private, or non-profit sources, acquisition by purchase or eminent domain, building code modifications, changes in applicable zoning regulations, or relaxation of the provisions of this article sufficient to mitigate the undue economic hardship. The Board of Adjustment shall report such finding and plan to the Planning Director. The Planning Director shall cause to be issued an order for such property to be repaired within the time specified, and in accordance with the provisions of the recommended plan.

- F. **Appeals:** Findings made by the Planning Director or by the Design & Historic Review Board may be appealed to the Board of Adjustment. To perfect such an appeal, application must be filed by an aggrieved party with the Board of Adjustment within 10 days following receipt of the order for repair of the property or determination. Appeals from the Board of Adjustment shall be in the nature of certiorari.
- G. **Other Town or County Powers:** Nothing contained within this article shall diminish the town's or county's power to declare a building as unsafe or a violation of the minimum building code.
- H. **Penalties and Remedies:** Enforcement of this article may be by either one or more of the following methods, and the institution of any action under any of these methods shall not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions.
1. **Equitable Remedy:** The town may apply for any appropriate equitable remedy to enforce the provisions of this article.
 2. **Order of Abatement:** The town may apply for and the court may enter an order of abatement. An order of abatement may direct that improvements or repairs be made, or that any other action be taken that is necessary to bring the property into compliance with this article. Whenever the party is cited for contempt by the court and the town executes the order of abatement, the town shall have a lien, in the nature of a mechanic's and materialman's lien, on the property for the cost of executing the order of abatement.
 3. **Civil Penalty:** No civil penalty shall be levied unless and until the Planning Director (or a designated agent) shall deliver a written notice by personal service or by registered mail or by certified mail, return receipt requested, to the person responsible for each violation indicating the nature of the violation and ordering corrective action. The notice shall also set forth the time period when corrective measures must be completed. The notice shall state that failure to correct the violation within the specified time period will result in the assessment of civil penalties and other enforcement action. If after the allotted time period has expired and after the hearing of any appeal by the Board of Adjustment, and no corrective action has been completed, a civil penalty shall be assessed in the amount of \$50.00 per day of continuing violation. The fine will be allocated to projects in the historic district.

DEFINITIONS

16.1 INTENT

For the purpose of interpreting this ordinance, certain words, concepts, and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their everyday meaning as determined by their dictionary definition.

16.2 RULES OF CONSTRUCTION

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

A. These regulations will be construed to achieve the purposes for which they are adopted. Interpretations shall be guided by statements of intent.

B. In the event of any conflict in standards applying to a project, the standard more consistent with the Comprehensive Plan shall apply.

C. The words “shall,” “must,” and “will” are mandatory in nature, implying an obligation or duty to comply with the particular provision.

D. The word “may” is permissive in nature except when used in the negative.

E. The word “should,” whether used in the positive or the negative, is a suggested guideline.

F. References to “days” will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.

G. 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 everyday dictionary definition.

H. Whenever the Administrator is required or permitted to exercise discretion with respect to any matter subject to this Planning Ordinance, the Administrator shall exercise that discretion in a manner most likely to create result that is consistent with (in the following order of priority):

A. The Comprehensive Plan;

B. The Planning Principles set out in the Preface to the Planning Ordinance; or

C. The purpose and intent of the specific Planning Ordinance provision to which the exercise of discretion applies.

At the request of any person affected by the exercise of discretion by the Administrator and who would have standing to appeal the Administrator’s decision, the Administrator shall provide a written statement explaining the basis for the decision in relation to the above standards.

16.3 DEFINITIONS

A

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

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

Accessory Dwelling: A dwelling unit which is located on the same lot as a detached or attached single family house is clearly subordinate in size to the main structure, and is owned by the owner of the principal dwelling unit.

Accessory Structure or Use: A use or above-ground structure that is to a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure; and is located on the same lot as the principal use or structure. In no event shall “accessory use” or “accessory structure” be construed to authorize a use or structure not otherwise permitted in the planning area in which the principal use is located.

Adjacent: Either abutting or being directly across a street, alley or other vehicular right-of-way.

Administrative Standard: A specific objective standard intended to be used by the Administrator in the evaluation of applications which do not require discretionary review. (See also “Discretionary Guideline”)

Administrator: The employee(s) or agent(s) designated by the Town Manager to oversee the administration and enforcement of these regulations. For the purposes of this ordinance, this shall collectively refer to the directors of each department and their subordinate staffs as well as the technical review committee assigned with the task of plan and subdivision review.

Adult Establishment: Any establishment having a substantial portion of materials or entertainment characterized by an emphasis on sexual activities, anatomical genital areas and/or the female breast as listed and defined in NCGS 14.202.10 (or any successor thereto).

Affordable Housing:

1. **Purchase:** Housing units which is sold at a purchase price such that the total cost of mortgage principal and interest, property taxes, and homeowners and condominium association fees, any mandatory maintenance fees, and homeowner’s insurance does not exceed 30 percent of the maximum specified income levels of purchasers, as established in Section 4. Calculation of housing codes shall be based on projected tax obligations, a 30-year fixed rate mortgage, a five percent down payment, and projected mortgage rates.
2. **Rental:** Housing which is available for rent at an annual rental rate that does not exceed 30% of the respective eligible income amounts to include a utility allowance.

Agriculture: 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.

Alcoholic Beverage Sales Store: The retail sales of beer, wine, and/or other alcoholic beverages for off-premise consumption as a primary use.

Amendment: Any change by the Board of Commissioners to the text of these regulations or the official district maps.

Appliance/Equipment Repair Shop: An establishment for the care, repair, or refurbishing of small appliances and equipment, such as televisions, computers, cleaning equipment, vacuum cleaners and similar devices within an enclosed building.

Appliance/Equipment Repair Shop: an establishment for the care, repair, or refurbishment of small appliances and equipment, such as televisions, computers, cleaning equipment, vacuum cleaners and similar devices within an enclosed building.

Arborist: A professional in the field of arboriculture who provides expert advice about trees and other woody plants, their care, preservation, and value.

Arborist, Consulting: A registered member of the American Society of Consulting Arborists or a professional in, their care, safety, preservation and value, selected by the Planning Director to serve as a “Consulting Arborist” under Chapter 9 of this Planning Ordinance. 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, or Society of Municipal Arborists.

There may be one or more Consulting Arborists engaged by the town at any time. The fees and expenses of each Consulting Arborist shall be paid from the Tree Fund.

Area Median Income (AMI): The area median income for the Charlotte-Gastonia-Rock Hill, NC-SC HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development.

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

Attached House Building Type: Residential buildings that have the outward appearance of detached houses but accommodate three or Four dwelling units sharing common walls, floors, or ceilings within one building. Examples include triplex and quadplex houses. Dwelling units may be located on a single lot of record, or subdivided for individual sale. In certain districts, each unit can also accommodate home occupations, professional offices, and/or limited retail uses. They are appropriate within a wide variety of lot sizes and urban environments.

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.

Awning: A structure made of cloth, metal, or flexible material affixed to a building in such a manner that it shades windows or doors below, but is not a constructed canopy.

B

Bank/Credit Union/Financial Services: Establishments that engage in financial transactions that create, liquidate, or change ownership of financial instruments. Banks, credit unions, and savings institutions may perform central banking functions, accept deposits, and lend funds. In addition to banks and credit unions, financial services institutions may include: credit agencies, trust companies, holding companies, savings and loan institutions, securities/commodity contract brokers and dealers, security and commodity exchanges and investment companies.

Bar/Tavern: A business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service or entertainment is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery and other beverage tasting facilities. Entertainment including live music, and/or dancing, comedy, etc. may also be included as an incidental use.

Basement: Area of house under roof, under the finished floor elevation. Basement floor area will not be included in FAR calculations.

Bed and Breakfast: A use within a detached house building type, excluding duplex, that consists of renting from one to five dwelling rooms on a daily basis to tourists, vacationers, and business travelers, where meals are provided only to guests. The owners/manager shall reside on-site and employment shall not exceed two full time employees in addition to the owner/manager.

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.

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

2. **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.

Billiard/Pool Hall: Any place where one or more billiard or pool tables are operated or maintained, except for private family use, whether such place is a social club or a business enterprise operated for profit.

Board of Adjustment: The Board of Adjustment of the Town of Davidson.

Brewery, Large: An establishment where beer and malt beverages are made on the premises at an annual rate of over 15,000 barrels (465,000 gallons) per year. May include beverage tasting facilities

Brewpub: An establishment where food, beer and malt beverages are made on the premises where 40% or more of the beer produced on site is sold and / or consumed on site. Where allowed by law, brew pubs may sell beer “to go” and /or distribute to offsite accounts. Brewpubs must meet all NC ABC laws and other applicable state and/or county regulations.

Buffer (See also Screening): A strip of land with natural or planted vegetation, located between a structure or use and a side or rear property line, intended to spatially separate and visually obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

Buffer, Stormwater: A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of bodies of water and from the bank of each side of streams or rivers.

Building: A temporary or permanent structure having a roof supported by columns or walls and which can be used for the shelter, housing, or enclosure of persons, animals, or goods.

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

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

Building Types: Names that are used to describe different categories of structures in accordance with the manner in which they address the street and the types of uses they typically accommodate. The specific building types, as outlined in Section 2, are as follows: Institutional,

Detached House, Attached House, Townhouse, Live/Work, Storefront, and Workplace. (Also see specific building type definitions in this section.)

Built-Up Area (BUA): 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.)

Business Support Services: These establishments provide any of the following: document preparation, telephone answering, telemarketing, mailing (except direct mail advertising), court reporting, and steno typing. They may operate copy centers, which provide photocopying, duplicating, blueprinting, or other copying services besides printing. They may provide a range of support activities, including mailing services, document copying, facsimiles, word processing, on-site PC rental, and office product sales as an incidental use.

C

Caliper: A standard trunk diameter measurement for trees. This measurement is taken 6 inches above the ground for up to and including 4-inch caliper size, and twelve inches above the ground for larger sizes.

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.

Car Wash (Accessory Use Only): An automated or staffed facility used for the cleaning and detailing of automobiles as an accessory use to a gasoline service station.

Cemetery: A parcel of land used for internment of the dead in the ground or in mausoleums.

Certificate of Appropriateness: A Certificate of Appropriateness is required from the Historic Preservation Commission when an owner of a structure within the local historic district wants to make changes to the exterior of their property. The certificate grants permission to follow through with proposed work that is compatible with the Historic District Guidelines.

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.

Close: A front space for buildings interior to the block. The close is a superior alternative to the cul-de-sac, as the focus is a green rather than vehicular paving. Close is one of the Park types established in Section 7.4.2.

College/University: A use, whether privately-owned or publicly-owned, providing academic education beyond the high school level, and granting degrees or diplomas at the associate, baccalaureate, or graduate levels.

Columbarium: A structure of vaults lined with recesses for urns containing cremated human remains, or any other structure or space, including a space of ground, used or intended to be used for the placement of urns containing cremated human remains.

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.

Commercial 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 used only for commercial wireless communication. This term shall not include radio transmission facilities for use by ham radio operators or 2-way local radio facilities for business or governmental purposes.

Commercial, Primary: Uses that provide personal or business services, such as animal hospital or veterinary clinic with no outside facilities; automobile accessories and supplies (excluding installation); banquet/ meeting facility; business support services; catering establishment; conference center; entertainment venue, including live music, dancing, or comedy; health club; hotel/inn, including conference center as accessory use; and printing, lithographing, or publishing.

Commercial, Secondary: Uses that by their nature or service characteristics are auto dependent, have potential for environmental degradation, or are otherwise incompatible with nearby uses. Uses include animal hospital or veterinary clinic with outside facilities; automotive repair and service; contractor, plumber or electrician supply yards with office and service as auxiliary uses; funeral home/ mortuary; kennel – commercial; research laboratory and development facilities whose products or waste products entail no special environmental handling requirements; marina – commercial; nursery/garden center; and wholesale establishments.

Commercial Services: Uses that provide personal services often in small storefronts, such as appliance or computer repair; bank, credit union, or financial institution; cosmetic services, including hair and nail salon and barber shop; clothing alterations, tailoring and dressmaking; dry cleaning or laundry services, including coin-operated laundries, but not including industrial dry cleaning or laundry; day spa; healthcare, medical, dental, optical, or auditory clinics (outpatient only) or laboratories; locksmith; massage therapy; non-permanent make-up services; pet grooming; private postal services; shoe repair; and weight loss center. Includes the small-scale production and processing of painting, sculpture, pottery, musical instruments and photography; individual and group instruction and training in the arts; production rehearsal; martial arts training studios; yoga, and similar instruction.

Commercial, Restricted: A retail or personal service establishment that may tend to have a blighting and/or deleterious effect on surrounding areas and that may need to be separated from

other similar uses to minimize its adverse impact. Uses include billiard/pool hall, check-cashing service, piercing or tattoo parlor and similar services; palmistry; and pawnshop, including lending of money on security of pledged goods. These uses may also include accessory retail sales of products related to the services provided.

Community Garden: An exterior area available for the small scale production of vegetables and flowering plants, cultivated by a group with either one large plot or individual plots. Does not include large - scale crop production nor wholesale or retail nursery and garden center. Community Garden is one of the Park types established in Section 7.4.2.

Community Support Facility: A non-profit or government facility providing personal assistance to individuals in need; such assistance to individuals may include temporary shelter, food services provisions, counseling, instruction, medical services, and other incidental services.

Conference Center: A facility for hosting meetings, conferences, banquets and similar events usually for 500 persons or less. A conference center may or may not be an auxiliary use to a hotel.

Convention Center: A large building or group of buildings designed for public assembly such as conferences, meetings, conventions, trade shows and exhibitions for large groups, usually more than 500 persons, to promote and/or share common interests. Convention centers may include auditoriums, concert halls, exhibition space, lecture halls and meeting rooms, administrative offices, parking facilities, hotel accommodations, food preparation and serving, and other similar uses.

Consultant: Certified professionals such as engineers, arborists, biologists, foresters and horticulturists that are approved by the Administrator; one who gives professional or expert advice.

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.

Courtyard: Courtyard means an unroofed area that is bound on at least three sides by roofed interior spaces, provided the two opposing walls are each at least 10 feet in depth.

Critical Area: The area adjacent to a water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area of the Lake Norman Watershed is shown on the Watershed Overlay District map.

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 a foot of radial distance for every inch of tree DBH, with a minimum of 8 feet.

Cultural/ Community Center: Facility designed, intended or used to promote cultural advancement and serve the community, such as musical dance, dramatic, and other live performances, a library, or museum.

D

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:

1. **Child Day Care Center:** An individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults; usually serving more than 6 children at a time; not an accessory to residential use.
2. **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 abode; not an accessory to residential use.

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

1. **Child Day Care Home:** 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 8 children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.
2. **Adult Day Care Home:** 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 8 adults who do not reside in the dwelling.

Day Treatment Center: A state-licensed facility providing behavioral health treatment programs, outpatient care, substance abuse treatment and treatment of mental or nervous disorders. Consumers, or patients, may be residents of their own home, a substitute home, or a group care setting, however, the day treatment must be provided in a setting separate from the consumer's residence.

Deciduous Plant: Those plants that annually lose their leaves.

Dependent Living Facility: Nursing homes, rest homes, and homes for the aged, 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.

Detached House Building Type: The predominant residential building type in Davidson. A dwelling unit that is developed with no party walls and with open yards on all sides, including modular homes, but not including manufactured homes, mobile homes, or recreational or motor vehicles. Typically accommodates single-family residences. In certain districts, they can also

accommodate home occupations, professional offices, or limited retail uses. They are appropriate within a wide variety of lot sizes and urban environments.

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, excluding existing public road rights-of-way.

Developer: Any person seeking approval under these regulations for any form of development.

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.

1. Except as provided in subsection 3 hereof, for the purposes of these regulations the following activities or uses shall be considered development:
 - a. The reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;
 - b. 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;
 - c. Alteration of the shore or bank of a pond, lake, river, or other waterway,
 - d. Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;
 - e. Clearing of land, including clearing or removal of vegetation and including any significant disturbance of vegetation or soil manipulation; or
 - f. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
2. 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
3. For the purpose of these regulations the following operations or uses shall not be considered development; some may, however, require a building permit:
 - a. 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.

- b. Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;
- c. A change in use of land or structure from a use within a specified category of use to another use in the same category;
- d. A change in the ownership or form of ownership of any parcel or structure;
- e. 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
- f. The clearing of survey cuts or other paths of less than 4 feet in width.
- g. Construction of an individual single family home or duplex on a lot that a) is included in an approved master plan or minor subdivision, or b) existed prior to the effective date of this ordinance by a process that did not require subdivision approval.

Development, Large: _____.

Diameter at Breast Height (DBH): The tree trunk diameter measured in inches at a height of 4.5 feet above the ground. Generally used for measuring existing trees.

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

Distillery, Craft or Micro-distillery: An independently owned distillery with maximum production of 50,000 proof gallons per year.

Distribution Center: Establishments engaged in transferring, loading and unloading merchandise to and from retailers, contractors, trucking and freight companies, manufacturers, institutions, farms, wholesalers, or other professional businesses. This includes establishments such as trucking terminals, goods transfer facilities, and other similar establishments.

Dormitory: A building which is occupied or intended to be occupied as the dwelling for more than 6 persons who are not related by blood, marriage, or adoption but who are enrolled in, affiliated with, or employed by the same educational, religious, or health institution. "Dormitory" shall include fraternity/ sorority house, but shall not include a, hotel/ inn, group home, , halfway house, mobile/ manufactured home.

Drip Line: An imaginary vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Dry Cleaning and Laundry Services: Coin-operated laundries, dry cleaning , and laundry pick-up stores without dry cleaning or laundry equipment, or dry cleaning and laundry stores that do not provide cleaning services to other collection stations or stores.

Dwelling Unit: A room or combination of rooms designed for year-round habitation, containing a bathroom and kitchen facilities, and designed for or used as a permanent residence by at least one family.

E

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

Eligible Households: Persons or households whose (a) annual gross income does not exceed 50% (Very Low Income), 80% (Low Income), 120% (Moderate Income), and 150% (Middle Income) of the area median household gross income for persons or households, as defined by HUD Income Limits and (b) whose assets do not exceed the limits adopted by the Town Board.

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 2 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 3 classes:

1. **Class 1:** Transmission lines (above and below ground) including electrical, natural gas, and water/waste water distribution lines; pumping stations, lift stations, telephone switching facilities (up to 200 square feet), and wireless telecommunications facilities (stealth only), public safety facilities, and public works facilities and supply yards. Free-standing wireless telecommunications facilities erected on publicly-owned land primarily for public safety purposes are permitted.
2. **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, and wireless telecommunication facilities (tower). Monopole cell towers designed to resemble trees are prohibited.
3. **Class 3:** Generation, production of electricity or natural gas, or waste water treatment plants, sanitary landfills, waste management facilities, materials recovery and waste transfer facility, hazardous materials treatment facilities, land clearing and inert debris (LCID) landfill, or junk yard or salvage yard.

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 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.

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.

F

Facade: The vertical surfaces of a building. The elevation of a facade is the vertical surface area.

Façade, Front: The exterior wall of the building that contains the main building entrance and faces the primary publically-accessible right-of-way, pedestrian way, or open space.

Family: An individual, or 2 or more persons related by blood, marriage, or adoption living together as a single housekeeping unit; or a group of not more than 5 persons not related by blood, marriage, or adoption living together as a single housekeeping unit, including a group home.

Family Care Home: A home with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than 6 resident persons with disabilities and is certified by the State of North Carolina (NCGS, Section 122C-3(11) 6 as amended.

Farm, Bona Fide: Any tract of land containing at least 3 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 use to an agricultural use.

Finished Floor Elevation: The elevation of the floor of the first floor of a building (excluding basements) above mean sea level.

Fire and Police Station: A facility for government agencies that administer, oversee, and manage public safety. Excludes vehicle impoundment lots, jails, or correctional institutions, and essential services 1, 2, or 3.

Flag Lot: A lot in which the proposed building site is located behind other lots fronting on the same street. Flag lots are prohibited in master plans, site plans, and minor subdivisions except farmhouse cluster and low-impact.

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): A ratio of the square footage (see definition of "square footage") of the primary dwelling unit divided into the total square footage of the associated parcel of land.

Fraternity/Sorority House: A structure used to provide living quarters for fraternal or sisterhood organization members while such persons are attending college.

Frontage: The lot boundary which coincides with a public thoroughfare or space.

Funeral Home/ Mortuary: Establishment for preparing the dead for burial or internment, conducting funerals, providing facilities for wakes, arranging transportation for the dead, and selling caskets and related merchandise.

G

Gasoline Service Station: Any premises where gasoline and other petroleum products are sold. Service stations shall not include premises where heavy repair automobile repair and maintenance activities such as engine overhauls, automobile painting, and body work are conducted. Minor repairs and maintenance may be conducted but shall be limited to battery and tire changes, car washes, cleaning and detailing services, light and fuse replacement, wiper blade changes and similar activities.

Golf Course: Land and buildings used primarily for playing and practicing the sport of golf. Such uses may include golf course driving ranges, par 3 golf courses, country clubs, and maintenance and storage facilities associated with the operation of a golf course.

Government Services: A use or facility serving as a governmental agency, but not including a single-purpose 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 adjacent to the site.

Greenway: A linear natural preserve which incorporates a multi-use path in accordance with the minimum standards specified in Sections 6.

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 residential home provided by an agency, organization, or individual for persons who need sheltered living conditions, but not including persons who are dangerous to others as defined in NCGS , Section 122C-3(11)b, as amended.

H

Halfway Home: A residential facility where persons are aided in readjusting to society following a period of imprisonment, hospitalization or institutionalized treatment related to a criminal offense.

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. Section 6901 et seq.), and the “North Carolina Solid Waste Management Act”, as amended (Article 13B. NCGS 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.

Historic District, Local: As described in the Local Historic Overlay District of Section 2, as amended.

Historic District, National: As described in the National Register of Historic Places report (#MK2442, dated June 1, 2009), as amended.

Home Occupation: A business, profession, occupation, or trade which is conducted within a residential building or accessory structure for the economic gain or support of a resident of the dwelling and which is incidental and secondary to the residential use of the building

Horse Farm: Any tract of land of 3 or more acres which is principally used for the breeding, training, riding, and/or maintenance of horses, and those uses which are accessory thereto,

including one dwelling unit and facilities for the sale of horses raised or maintained on the immediate premises.

Hospital: A health care facility the purpose of which is to provide for care, treatment, and 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 family care home, halfway home or residential care facility.

Hotel/Motel/Inn: A building containing more than 4 individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services, with entries to a room from an interior space.

I

Impervious Ground Cover: Any structure or ground cover consisting of asphalt, concrete, stone, brick, terrazzo, roofing, ceramic tile or any other natural or man-made material that prevents the absorption of surface water into the soil.

Income Limits: Median Family Income Limits tables for the Charlotte/Gastonia/Rock Hill MSA published by HUD on an annual basis, which document is hereby incorporated by this reference. This document is available on the web at <http://www.huduser.org/datasets/il/il08/>. A copy of this publication is also maintained by the Administrator.

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 multi-family or attached housing by the provision some communal services.

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. Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.
4. Stormwater will not be considered to be an industrial wastewater, unless it is contaminated with industrial wastewater.

Institutional Building Type: Public buildings (e.g., churches, libraries, post offices, lodges, day care centers, schools, fire stations, and town halls) and semi-public buildings (e.g., hospitals and religious institutions) that serve as landmarks and public gathering places. They have a sense of prominence within their respective neighborhoods.

Interconnected: Refers to streets which provide through access to other streets.

J

Jail: A building, and all accessory uses and accessory 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/Salvage Yard: A parcel of land on which waste material or inoperative vehicles and other machinery are collected, stored, salvaged, or sold.

K

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. Commercial kennel may include outdoor facilities.

L

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.

1. **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.
2. **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 Mecklenburg County Engineering Department 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.

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.

LED: Light-emitting-diode is a semiconductor diode that emits light when a voltage is applied to it and that is used especially in electronic devices.

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

Live/Work Building Type: An attached building type, similar to a townhouse, with small commercial enterprises on the ground floor and a residential unit above. Each unit has its own entrance, is a minimum of 2 stories and provides off-street parking behind the building only. Commercial space may be a home-based business or may be leased independently; however, different NC State Building Code regulations apply in each case.

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. All contiguous parcels (i.e. those sharing at least one common line) under common ownership as of March 22, 2005, or any time thereafter, shall be considered one lot of record. The Administrator has the authority to interpret this provision in a reasonable manner in order to accomplish its intent. A person shall be deemed to own any parcel:

1. Owned by his or her spouse on March 22, 2005;
2. Acquired by his or her spouse, either parent, or any child or lineal descendant after March 22, 2005;
3. Owned by any entity where 80% or more of the ownership or beneficial interest is held by such person, his or her spouse, either parent, or any child or lineal descendant.

The Administrator has the authority to interpret this provision in a reasonable manner in order to accomplish its intent.

Lot Types:

1. **Corner Lot:** A lot located at the intersection of 2 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.
2. **Interior Lot:** A lot other than a corner lot with frontage on only one street.
3. **Through Lot:** A lot other than a corner lot with frontage on more than one street.

Lot Width:

1. The distance between the side lot lines measured along a setback line or build-to line; or
2. The distance between the side lot lines measured along an established setback line (when that line is greater than the setback or build-to line required by this ordinance) along the turnaround portion of a cul-de-sac street; or
3. 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.

M

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.

Manufactured/Mobile Home: A movable or transportable dwelling unit, other than a modular home, of at least 8 feet in width and at least 32 feet in length, constructed to be transported on its own chassis and including one or more components for transporting the unit.

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

Manufacturing and assembly, Heavy: The assembly, fabrication, or processing of goods and materials using processes which do not meet the definition of light manufacturing and assembly.

Manufacturing and Assembly, Light: A non-residential use that involve the assembly, fabrication, processing or developing of goods and materials. Facilities are typically designed to look and generate impacts like a typical office building, but rely on special power, water, or waste disposal systems for operation. Noise, smoke, fumes, odors, glare or noxious conditions or health or safety hazards are confined within an inclosed building, insofar as practical.

Marina - Commercial: A facility for the wet or dry storage, launching and mooring of boats, together with all accessory structures and uses.

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.

Massage Therapy: Health massage or bodywork therapy, performed by a practitioner credentialed in one of the following ways:

1. Having a diploma or certificate from an institute or school of health massage, which has been accredited by either the American Massage Therapists Association, the National Therapists Association, or from an accredited college or university school of education for massage therapy; or
2. Providing verification and documentation of at least 500 hours of experience in the practice of health massage/bodywork therapy and 3 letters of reference from state licensed health care professionals or licensed therapists on their professional letterhead.

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

Master Plan: A plan depicting 1) more than two buildings on a single lot, or 2) subdivision of land that is not a low impact, conservation, or exempt subdivision.

Materials Recovery and Waste Transfer Facilities: Establishments primarily engaged in operating facilities for separating and sorting recyclable materials from nonhazardous waste streams (i.e., garbage); and/or operating facilities where commingled recyclable materials, such as paper, plastics, used beverage cans, and metals, are sorted into distinct categories.

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

Medical/Dental/Auditory/Optical Clinic: A use or structure intended or used primarily for the testing and treatment of human physical or mental disorders.

Micro-Brewery: A small usually independent brewery that produces fewer than 15,000 barrels (465,000 gallons) per year of specialized beers. The product may be sold and distributed to a retailer or sold directly to customers, often for consumption on the premises.

Mezzanine: an intermediate floor between main floors of a building, often with a low ceiling or a projecting balcony. Mezzanines with less than 50% of the floor area of the floor below shall not be considered a story.

Mini-Warehouse/Self-Storage: A building or buildings containing separate enclosed storage spaces of varying sizes leased or rented on an individual basis.

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 secured in the water, such as by cables, lines, chains, or anchors, and intended or used for securing one or more boats in the water.

Multifamily Building Type: A building or portion thereof containing 2 or more dwelling units on a single lot where each unit has a separate entrance from the outside or through a common vestibule. A multifamily structure where dwelling units are available for lease or rent for less than one month shall be considered hotel/inn.

Mural: Any picture, scene or diagram painted on any exterior wall or fence that does not serve as advertising. To be defined as a mural it must meet the following standards:

1. Include no specific commercial product or text, although it may include such generic products as automobiles, furniture, soft drinks or other items where the brand is not apparent; and
2. Includes no legible text, picture, symbol or device of any kind that relates to a commercial business, product or service offered on the premises where the wall is located.

MUTCD: The Manual on Uniform Traffic Control Devices as published and maintained by the Federal Highway Administration (FHWA).

N

NCGS: North Carolina General Statutes.

Neighborhood Park: Protected natural spaces that provide opportunities for active and passive recreation. They may include ball fields, tennis courts, basketball courts, fitness areas, paths, trails, meadows, waterbodies, woodland, open shelters, performance areas and other recreational amenities. Neighborhood Park is one of the Park types established in Section 7.4.2.

Nonconforming Structure: Any structure, lawfully existing on the effective date of these regulations or on the effective date of any subsequent amendments to these regulations including the district maps, which does not comply with all of the standards and regulations of this ordinance or any amendments thereto.

Nonconforming Use: Any use being made of any land, building or structure, lawfully existing on the effective date of these regulations or on the effective date of any amendments to these regulations including the district maps which does not comply with all of the regulations of this ordinance or any amendments thereto.

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

Normal Pool Elevation: The Lake Norman normal pool elevation which is at the specified contour interval above the Mean Sea Level, United States Geological Survey (U.S.NCGS) Datum.

Nursery and Garden Center: Establishments that grow and sell plants mainly to be transplanted to another location. Such uses include orchards, greenhouses, and nurseries, primarily engaged in retailing plants, vines, or trees and their seeds.

O

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

Office: A use or structure in which business or professional services are conducted or rendered.

Open Space: Land set aside and protected from development. Any area which cannot be divided into building lots, or improved as streets, rights-of-way, or parking, and is subject to a permanent open space easement. Open space may also include portions of private building lots subject to a permanent open space easement.

Outdoor Storage: See Storage, Outdoor.

Outdoor Lighting: Any light source that is installed or mounted outside of an enclosed building, but not including street lights installed or maintained along public or private streets.

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.

P

Parapet: A low wall encircling the perimeter of a flat building roof, often 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: Improved space set aside for public use and recreation that is comprised of one or more of the following typologies as outlined in Section 7.

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

Parking as a Principal Use: A stand-alone parking lot or structure (deck/garage) that is available for public or private use, but that is not accessory to another use.

Parking Lot: An area, not within a building, where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking. A parking area may also include areas for storage and trash facilities.

Pawnshop: Premises operated by a pawnbroker who is engaged in the business of lending money on the security of pledged goods and who may also purchase merchandise for resale from dealers and traders. (Subject to NCGS, Chapter 91A)

Pedestrian Oriented Development: Any development type which accommodates the needs of the pedestrian. Such development has parking to the rear of a building, a mixture of uses in proximity to one another, allows the pedestrian the option of accomplishing certain trips without automobile use, and provides a variety of interesting and detailed streetscapes which balance the need of the pedestrian and car equally.

Pedestrian Passageway: Public spaces between buildings, allowing pedestrian access from the rear of a building to the public sidewalk. These passageways can be attractive, successful locations for store entries, window displays, and cafe seating. Pedestrian Passageway is one of the Park types established in Section 7

Pedestrian Way: A public right-of-way that is intended for pedestrians only. Typically built of brick pavers, concrete, or other hardscape materials and extensively landscaped. A woonerf is considered a pedestrian way for purposes of this ordinance.

Person: An individual, corporation, governmental agency, business trust, estate trust, partnership, association, 2 or more persons having a joint or common interest, or any other legal entity.

Performance Bond: A payment bond issued in favor of the town to secure the obligations of any _____ with respect to the its obligations to preserve existing tree canopy, meet tree planting requirements, maintenance, etc.

Personal Services - Restricted: A personal service establishment that may tend to have a blighting and/or deteriorating effect upon surrounding areas and that may need to be dispersed from other similar uses to minimize its adverse impacts, including check-cashing services and tattooing, piercing, and similar services. These uses may also include accessory retail sales of products related to the services provided.

Pier: A structure extending into or along the water for use as a landing place for boats or as a promenade.

Places of Assembly: A use of property which has two or more of the following characteristics:

1. Attracts people at specific times thereby creating a potential for high traffic volume;
2. Attracts people who are being dropped off at the property thereby creating a potential for high traffic volume and vehicle stacking;
3. Results in a large number of vehicles parking off of the property, either on the public streets or in nearby parking areas not owned or controlled by the owner of the Place of Assembly;

4. Is a nonresidential use that is permitted by right or through a vested right in one or more planning areas that are predominantly residential uses.

In determining whether or not a use is a Place of Assembly, and therefore similarly situated to a church or school use, (i) religious uses and secular uses will not be differentiated, and (ii) exemption from payment of real property ad valorem taxes will not be a factor.

Places of Assembly include but are not limited to:

1. Elementary and Secondary School
2. Religious Institutions
3. Day care center
4. Indoor recreational facilities
5. Movie theaters
6. Art, music, dance and drama schools
7. trade association or union meeting facilities
8. Fraternal organizations

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

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

Planned Development: A tract of land under single 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 Town of Davidson.

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.

Playground: Playgrounds provide permanent play equipment sunny and shaded play areas for children as well as shelters with benches for parents. Playgrounds may be built within squares or parks or may stand alone within a residential block. Playground is one of the Park types established in Section 7.

Plaza: A paved, open area adjacent to a civic or commercial building. Plazas function as gathering places and may contain a variety of intermittent activities, such as vendors and display stands. Plaza is one of the Park types established in Section 7.

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.

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 or building.

Professional Services: Services that make available the knowledge and skills of their employees to sell expertise and perform professional, scientific, and technical service to others. Uses include accounting, tax, bookkeeping, and payroll services; advertising media, and photography services and studios, architectural, engineering, and related services; broadcast facilities (without towers); consulting services; employment agencies; financial consulting, including investment banking, securities, brokerages and insurance-related services but excluding banks, credit unions or financial institutions; graphic, industrial and interior design services; legal services; personal trainers; real estate services; travel agencies; and tutoring services.

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.

Proposed Right-of-Way Line: The margin of a street's right-of-way at its ultimate intended width determined by both the street's classification and the dimensional requirements or locational criteria as established in the planning ordinance.

Protected Area: The area adjoining and upstream of the critical areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the critical area.

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.

Q

Quadrangle: An 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.

R

Raceway: Metal channel boxes used for mounting individual channel letters.

Recreation Facility - Indoor: Uses or structure for amusement or active recreation including billiard/pool hall; gymnasium, natatorium, fitness center including aerobics, dance and cheerleading, martial arts, yoga, athletic equipment, indoor running track, climbing facility, court facility, skating rink. This definition is inclusive of both non-profit and for-profit operations and home owner/ property owner associations. Indoor recreation facility 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.

Recreation Facility - Outdoor: Use or structure for active outdoor amusement or recreation including uses not primarily conducted within a structure such as swimming pool, tennis court, ball field, or court , skateboard park, miniature golf, and outdoor theatre. This definition is inclusive of both non-profit and for profit operations and home owner/property owner associations. Such uses 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.

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

Redesignation of Land: A change in the district assigned to a lot pursuant to a public hearing before the Board of Commissioners and a subsequent decision by the Board. (Also called a “Rezoning” or a “Map Amendment”.)

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 structure, such as a school, day care center, or dwelling, located on the same lot.

Research Laboratory: A facility equipped for basic and applied research or experimental study, testing, or analysis in the natural sciences, including any educational activities associated with and accessory to such research, but not including a medical, dental, optical, or veterinary clinic.

Residential Care Facility: A staffed premises (not a single-family dwelling) with paid or volunteer staff that provides full-time care to more than 6 individuals. Residential care facilities include dependent and independent living facilities, group homes (NCGS 131D), nursing homes (NCGS 131E-101), residential child-care facilities (NCGS 131D-10.2), assisted living residences (NCGS 131D-2), adult care homes (NCGS 131D-2), retirement housing, congregate living services, assisted living services, continuing care retirement centers, skilled nursing services and orphanages. This term excludes residential/family care homes and halfway houses.

Retail, Primary: Uses in which the principal purpose is the sale of goods, products, merchandise, or services directly to the consumer. Retail establishments promote high walk-in customer counts, are shopping destinations, provide visual interest and create active street life but are not detrimental to the district in which they are located. Uses include, but are not limited to: alcoholic beverage retail sales; bar/tavern/nightclub, beer or wine shops, or brewpubs;

clothing, shoe, dry goods, or notions store; cosmetic and beauty supply store; department, furniture, home furnishings and small appliances; drugstore; electronics store; grocery store; hardware, paint, hobby, or handcraft store; indoor movie theater with six screens or fewer; interior decorating store (with incidental interior consulting); music/ video sales or rental; optical/auditory store (with incidental exam); pet shop; vintage or consignment shop; sporting goods store; and variety store.

Retail, Secondary: Art or antique shop, including art supplies and framing materials; book, stationery, card store, or newsstand; florist, flower or plant store; gift shop; restaurant, coffee shop, or delicatessen; specialty food store, including bakery, fruit, vegetable, fish, or meat market.

Restaurant: A retail business selling ready-to-eat food and/or beverages for on or off-premise consumption. Customers may be served from an ordering counter (i.e. cafeteria or limited service restaurant); at their tables (full-service restaurant); and, at exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter, but does not include mobile food service (food trucks) or vending carts.

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

Ridgeline: The top most point of a roof pitch, excluding chimneys, antennas or utility equipment.

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.

Rezoning: See “Redesignation of Land”.

S

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.

School: Publicly owned or privately owned preschools, elementary schools, middle schools, junior high schools, vocational schools, high schools, colleges and universities; but not including institutions where 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. A screen may be located on the property line or elsewhere on the site, as determined by the use to be screened.

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

Setback Established: The distance between a street right-of-way line and the front building line of a principal building or structure, as constructed, projected to the side lot lines. See also “Yards”.

Setback Required: The minimum distance required by this ordinance or established by recorded plat between the street right-of-way line and the front building line of a principal building or structure, projected to the side lines of the lot. In the Village Center district, the setback is measured from the back of the curb to the building line. See also “Yards”.

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

1. **Small:** A shrub growing to less than 5 feet in height at maturity that is planted for ornamental purposes.
2. **Medium:** A shrub growing 5 feet to 10 feet in height at maturity that is planted for ornamental or screening purposes.
3. **Large:** An upright plant growing 10 feet to 20 feet in height at maturity that is planted for ornamental or screening purposes.

Sight Triangle: 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), with one point 10 feet and one 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, respectively, from the point of 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. Flags of nations or artwork that intends to identify a product or business are considered signs.

Sign Area: The sign area is calculated by drawing one parallelogram around the text, images, and logos adding a 2-inch border on all sides and calculating the size of the resulting box.

Sign Board: The sign area together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed and all of its components, including the frame. The sign structure is not considered a component of the sign board.

Sign Copy: Texts, images, and logos used or displayed for the purpose of advertising.

Sign Package: Application submittal requirements for commercial and mixed-use developments.

Single Family Home: A free standing detached building type designed for and/or occupied by one household. These residences may be individually owned as residences or residences owned by rental or management companies. Also includes factory-built, modular housing units that comply with NC State Building Code.

Site Plan: Plan view drawing including but not limited to existing and proposed structure footprints, rooflines, driveways, sidewalks, outbuildings and accessory structures, landscaping, tree preservation, important environmental features, walkways and stormwater facilities. See Section 7 for more information.

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.

Solar Farm (Utility-Scale, Ground-Mounted Solar Application): A solar photovoltaic facility, along with its ancillary equipment, whose primary purpose is to generate electric power from sunlight for sell or for use by the property owner, but excluding roof mounted solar collectors.

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. Section 1251 et seq.) and permits granted under NCGS 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 (NCGS 104E- 1 through 104E-23); or

5. Mining refuse covered by the North Carolina Mining Act (NCGS 74-46 through 74-68), and regulated by the North Carolina Mining Commission (as defined under NCGS 143B-290).

Square / Green: Open spaces that are spatially defined by building frontages and/ or landscaping. They provide space for unstructured recreation and civic purposes. Square / Green is one of the Park types established in Section 7.

Square Footage: For detached house building type, square footage shall mean the heated floor area of all floors of the primary dwelling, including any above-grade, attached garage and the livable floor space above the garage (whether heated or not), but excluding the area of any basement (whether heated or not).

Stable/Riding Academy: A facility, the principal use of which is the provision of lessons in horseback riding on a non-profit or for profit basis.

Storage, Outdoor:

1. All goods and materials not returned to an enclosed building at the end of each business day, regardless of whether such goods or materials are kept on the premises for retail sale, wholesale sale, storage, or use by a business on or off the lot. (To be classified as goods for sale and therefore exempt from regulation as outdoor storage, items must be placed within an enclosed building at the end of each business day.)
2. Up to 2 storage trailers placed on a single lot or in conjunction with a single principal use;
3. All items awaiting or in process of repair except customary passenger vehicles awaiting repair which are not visibly damaged or are not used or intended to be used as “parts” vehicles; (rather than being considered outdoor storage, such vehicles may await repair in any conforming off-street parking lot associated with the principal use);
4. Vehicles with more than 2 axles, boats, manufactured homes, and trailers of tractor trailers awaiting or in process of repair.

Storefront Building Type: Minimum two story building, adjacent to the public sidewalk, that includes a high percentage of transparency (windows and doors) on the ground level facade to encourage pedestrian activity. Storefront buildings may accommodate a variety of uses. A group of storefront buildings can be combined to form a mixed-use center. Individual storefront buildings can provide some commercial uses close to homes.

Storm Drainage Design Manual: The most recent edition of the manual adopted by the Town Board setting forth standard details for the design and construction of stormwater management systems.

Story: A story is a habitable level in a building, typically no more than 15 feet in height from finished floor to finished ceiling. The following elements shall not be calculated as stories:

1. Under-roof areas with dormers,
2. Unoccupied attics less than seven feet above the eaves, and
3. Raised basements less than four feet above the lowest grade at the front facade.

Street Line: The outer boundary of a street right-of-way.

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

Street, Private: An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

Street, Public: A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Davidson 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 Town of Davidson or Mecklenburg 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 Town of Davidson; or has otherwise been established as a public street prior to the adoption of this ordinance.

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 2 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 are exempt from 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 district 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 2 acres into not more than 3 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 district 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 2 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.

Substantial Improvement: Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds 50% 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 Town health, sanitary, safety, or building code specifications necessary to ensure safe habitation of the structure.

T

Temporary Use or Structure: An event, structure, or use placed on a lot for a specific purpose which is to be removed within a specific time period. See Section 3.3.; Temporary Use Standards.

Theater - Indoor: A specialized theater for showing movies or motion pictures on a projection screen or a stage for live performances. This category also includes cineplex and megaplexes,

complex structures with multiple movie theaters, each theater capable of an independent performance.

Theater - Outdoor: An establishment for the performing arts with open-air seating for audiences.

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 most recent map adopted by the Board of Commissioners which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation.

Town Attorney: The attorney for the Town of Davidson, duly retained by the Board of Commissioners.

Town Manager: The Town Manager of the Town of Davidson.

Townhouse Building Type: A residential buildings with two or more dwelling units that share common walls. Each unit has its own entrance, is a minimum of two stories and provides off-street parking behind the building only. Units are typically aligned close to the public sidewalk, although sometimes with a small variations in setback to provide landscaping or private courtyards.

Traditional Neighborhood: A traditional neighborhood incorporates design principles that produce compact, mixed use, pedestrian scaled communities. The following conventions are generally employed in the design of traditional neighborhoods.

1. The neighborhood is limited in area to that which can be traversed in a 10 to 15 minute walk.
2. Residences, shops, workplaces, and civic buildings are located in close proximity.
3. A well-defined and detailed system of interconnected streets serve the needs of the pedestrian, bicyclists, and the car equally, providing multiple routes to all parts of the neighborhood.
4. Physically defined open spaces in the form of plazas, squares, and parks, in addition to finely detailed public streets, provide places for formal and informal social activity and recreation.
5. Private buildings form a clear edge, delineating the private from the public realm.
6. Civic buildings reinforce the identity of the neighborhood, providing places of assembly for social, cultural, and religious activities.
7. Traditional Neighborhoods pursue certain objectives through their design, including:

- a. Independence of movement for the elderly and young by bringing many activities of daily living within walking distance.
- b. Reduced traffic congestion and road construction costs by reducing number and length of car trips.
- c. Use or preparation for future use of alternative forms of transportation by organizing appropriate building densities.
- d. Improved security of public spaces organized to stimulate informal surveillance by residents and business operators.
- e. Enhanced sense of community and improved security through provision of a range of housing types and workplaces in proximity to one another.
- f. Accessible places for public assembly and civic engagement by identification of suitable sites for civic buildings.

Transit Shelter: A covered structure at a transit stop.

Transitional Setback or Yard: That area, if any, along a street, which lies between the minimum setback or yard line for the district measured from the existing street right-of-way line and 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.

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

Tree Fund: A fund established with the [Town Finance Director] to hold amounts received under Performance Bonds, fines under Chapter 15 of this Planning Ordinance and [Developer Arborist Fees]¹. Amounts in the Tree Fund shall be used to pay the fees and expenses of Consulting Arborists, including but not limited to out-of-pocket expense relating to the maintenance and care and inventorying of existing tree canopy.

Tree, Large Maturing: A tree, usually deciduous, whose height is greater than 35 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” DBH. See also canopy tree.

Tree, Small Maturing: A small to medium tree, growing 15 feet to 40 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” DBH.

¹ Need to add somewhere in Chapter 9 a requirement that developers pay a fee into this fund to cover costs of Consulting Arborists.

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.

V

Vehicle Rental/Leasing/Sales: Establishments which may have showrooms or open lots for selling, renting or leasing vehicles. May include car dealers for automobiles and light trucks, mobile homes, motorcycle, ATV, or boat and marine craft dealers. This definition shall also include taxi and limousine services or other uses that include the storage/display of automobiles as a primary characteristic of the use.

Vested Right: The right to undertake and/or complete a development and use of property under the terms and conditions of a local government-approved site plan.

Veterinary Clinic: 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.

Vines: A woody plant that has a spreading pattern of growth. Vines may be used on the ground, on walls and on trellises.

Vocational School: A use, whether privately-owned or publicly-owned, that trains persons in specific trades or occupations such as mechanics, computers, or similar skills.

W

Waste Management Facility: Any use that meets the definition for Sanitary Landfill, Off-Site LCID Landfill, Junkyard or Materials Recovery and Waster Transfer Facility.

Wastewater Treatment Facility: A facility operated by a licensed utility, in compliance with all applicable state, county, and town 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 4 dwelling units; or a facility intended or used for the treatment and subsurface disposal of wastewater which serves only one use or up to 4 dwelling units.

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

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

Watershed Administrator: The individual appointed and duly sworn by the Board of Commissioners to administer and enforce the provisions of this ordinance as follows:

1. The Watershed Administrator shall issue permits according to the provisions of this ordinance. A record of all permits issued shall be kept on file in the office of the Watershed Administrator.
2. The Watershed Administrator or designee shall serve as staff to the Board of Adjustment when it is serving in its capacity as the Watershed Review Board.

Wholesale Establishment: A building, property, or activity the principal use 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.

Wireless Telecommunication Facility: Equipment constructed in accordance with Section 332(c)(7) of the Communications Act at a single location by a private business user, governmental user or commercial wireless service provider to transmit, receive, or relay electromagnetic signals (including microwave). Such facility includes antennas or antenna arrays, wireless telecommunication towers, support structures, transmitters, receivers, base stations, combiners, amplifiers, repeaters, filters, or other electronic equipment; together with all associated cabling, wiring, equipment enclosures and other improvements.

1. **Stealth:** Equipment that is unobtrusive in its appearance such as the co-location on existing tower facilities; and the placement of equipment on flagpoles, buildings, silos, water tanks, lighting standards, steeples, and electric transmission towers.
2. **Tower:** The construction of new free-standing facilities or facilities that extend more than 20 feet above the normal height of the building or structure on which they are placed. The following shall not be included in this definition:
 - a. Amateur radio facilities with antennas mounted on supporting structures less than 100 feet in height;
 - b. Residential antennas for receiving television or AM/FM radio broadcasts;
 - c. Residential satellite dishes; or,
 - d. Commercial or industrial satellite dishes that are less than 20 feet in height.

Woonerf: An ultra-low-speed narrow lane with shared space for pedestrians, cyclists, and cars. Commonly used as community space where children can play legally and safely. Their design aims to reduce automobiles' dominance by limiting their speed to a walking pace. Typically, they have minimal demarcation between vehicle traffic areas and pedestrian areas.

Workplace Building Type: Minimum two story building that includes a required percentage of transparency on the ground level facade. May have either single or multiple uses or tenants. Office, industrial, commercial, and residential uses are typical. Southern mill villages provide examples of these buildings reasonably coexisting with other businesses and homes.

Working Day: Any day on which the offices of the Town of Davidson are officially open, not including Saturdays, Sundays, and other holidays designated by the Board of Commissioners.

Y

Yard, Rear, Required: When required by this ordinance or established through recorded plat, a minimum distance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot, projected to the side lines of the lot on which the building or structure is located.

Yard, Rear, Established: The distance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot, projected to the side lines of the lot on which the building or structure is located.

Yard, Side, Required: When required by this ordinance or established by recorded plat, a minimum distance between the side lot line and the side building line, extending from the established setback to the required rear yard. For buildings not set back from the street right-of-way, the side yard shall be defined as extending from the street line to the required rear yard.

Yard, Side, Established: The distance between the side lot line and the side building line, extending from the established setback to the established rear yard. For buildings not set back from the street right-of-way, the side yard shall be defined as extending from the street line to the established rear yard.



Proposed Amendments to Town of Davidson Tree Ordinance

Why are we proposing amendments to the ordinance? Changes to the ordinance are needed to:

- Recognize the tree canopy as an important community asset for the health and welfare of the citizens of Davidson and to its future as a unique, special place to live and visit.
- Recognize that Davidson's tree canopy is about 48% (as of 2012) and the Town's goal is to maintain or increase the canopy, not lose trees.
- Address deficiencies in the existing ordinance with respect to the approval of multi-lot developments and the preservation of large trees and existing tree canopy, and provide Town with tools for monitoring compliance and enforcement.

What are the most significant components of the ordinance amendments?

- I. Expands the scope of the ordinance to cover minimum tree coverage and any removal of large trees (12” DBH* and greater), including pre-existing and established residential lots.
- II. Requires use of professional arborist expertise in plan review and implementation.
- III. Requires performance bonds to ensure implementation of planned landscaping and tree planting for multi-lot developments.
- IV. Provides Town with a self-funding Tree Fund to help pay for monitoring of compliance by professional arborists and care of existing canopy.
- V. Increases the tree coverage requirements for new developments and improves the quality of tree canopy.

*diameter of trunk at breast height (4.5 feet height)

What are the key recommended revisions?

- I. Require the use of certified arborists for development plan review, site assessment, tree preservation and protection during construction, and other aspects of monitoring compliance with the ordinance.
- II. Expand the applicability of the ordinance to single lot development and existing lots. Permits for removal can be issued only after all reasonable efforts are exhausted to accommodate the owner's desired development without removal.
- III. Require performance bonds for project landscaping and specify that the bond may be drawn if damaged or dead trees are not replaced in a timely manner (180 days).
- IV. Require trees planted under the ordinance be a minimum of 2.5" caliper.
- V. Increase the tree coverage requirements for new developments by excluding street trees and front yard trees in calculating the 20% canopy at maturity requirement.
- VI. Expand the required approval for removal of 12" caliper trees from only the setback area to all areas of any built-on parcel.
- VII. Provide for payment of a remediation fee (\$ to be determined) for removal of approved trees exceeding 12" caliper.