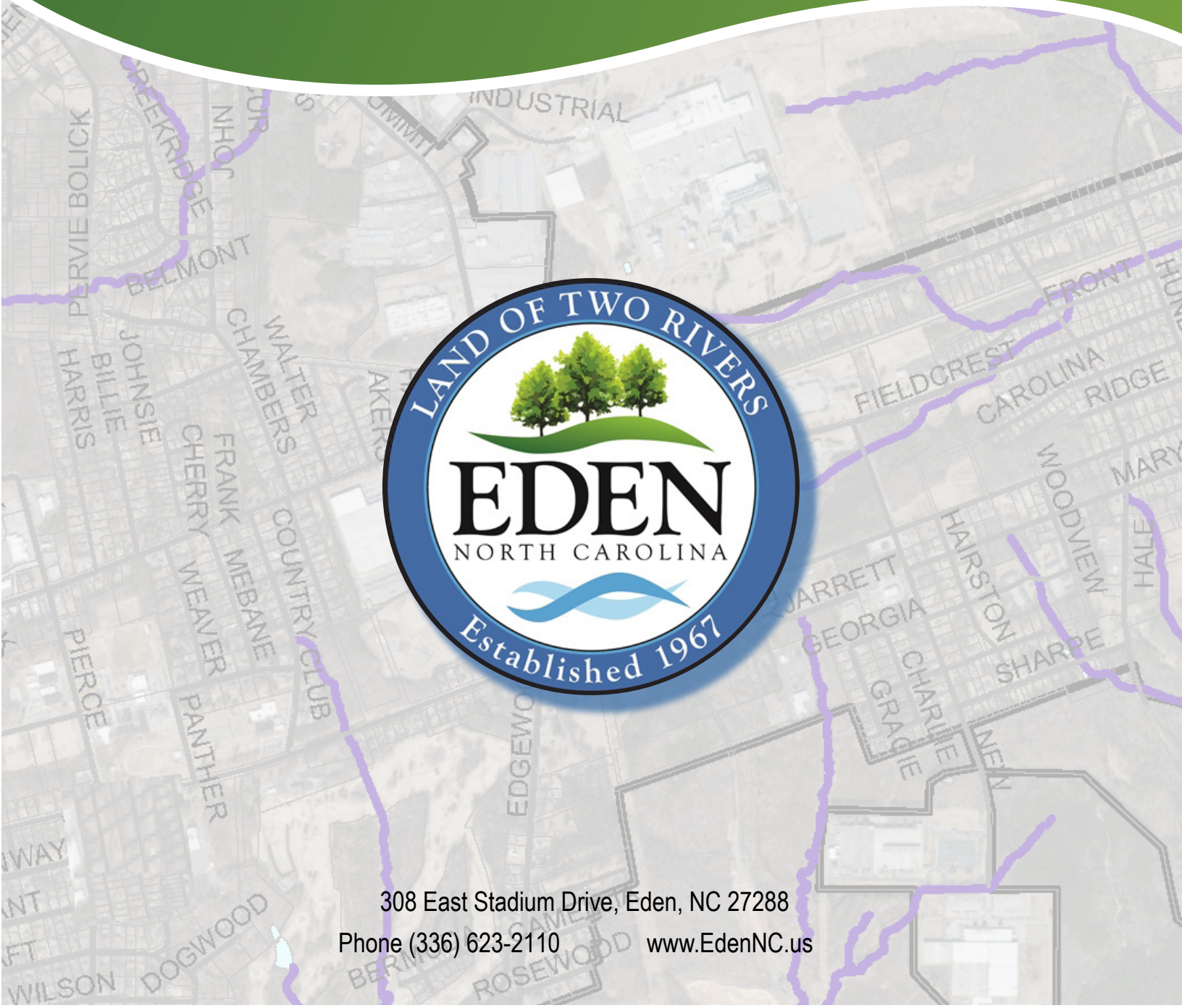
CITY OF EDEN

Unified Development Ordinance



LAND OF TWO RIVERS

EDEN

NORTH CAROLINA

Established 1967

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UNIFIED DEVELOPMENT ORDINANCE

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(Last Amended: August 16, 2022)

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ARTICLE 1 - GENERAL PROVISIONS

1.01 TITLE

This Ordinance is officially titled as the "City of Eden, North Carolina Unified Development Ordinance," and may be referred to as "the Unified Development Ordinance," "this Ordinance," or by one or more other abbreviated references ("the UDO," "this UDO," or "UDO").

1.02 AUTHORITY

The development regulations contained in this Ordinance have been adopted pursuant to the authority conferred by the North Carolina General Statutes (G.S.). Specifically, principal authorization comes in G.S. § 160D. The Unified Development Ordinance of Eden, North Carolina also uses powers granted in other sections of the G.S. relating to particular types of development or particular development issues.

1.03 JURISDICTION

The Eden UDO shall be effective throughout the City of Eden and its extraterritorial planning jurisdiction (ETJ) as identified on the Official Zoning Map of the City of Eden. This area is hereby referred to as the City of Eden Planning and Development Regulation Jurisdiction. However, pursuant to G.S. § 160D-903, property that is located in the extraterritorial jurisdiction which is used for bona fide farm purposes is exempt from the regulations of this UDO. The Planning and Development Regulation Jurisdiction of the City may be modified from time to time in accordance with G.S. § 160D. The Official Zoning Map is on file with the City Clerk and with the Administrator of this Ordinance. The Official Zoning Map and its boundaries shall be incorporated and made a part of this Ordinance.

1.04 PURPOSE AND INTENT

In order to protect and promote the health, safety, and general welfare of the City and its ETJ, the Eden UDO is adopted by the City Council to regulate and restrict by means of zoning and subdivision regulations the height and size of buildings and other structures; the appearance and design of developments; the percentage of lots that may be covered or occupied; the dimensions of setbacks; the size of open spaces; the density of population; the construction and installation of infrastructure; and the location, use and design of landscaping, buildings, structures, and land for trade, industry, residence, and other purposes.

The purpose of the regulations set forth in the Eden UDO shall be to fulfill the recommendations of the Eden Land Development Plan adopted in 2007 as may be amended from time to time.

1.05 REPEAL OF EXISTING ORDINANCES

The existing Zoning Ordinance adopted on July 16, 1968; existing Subdivision Regulations adopted on May 20, 1969; and existing Watershed Protection Ordinance adopted on July 1, 1993 as subsequently amended are hereby repealed. The Eden City Code of Ordinances *Chapter 4 Building Regulation and Codes Enforcement*, *Chapter 6 Article II - Nuisance and Junk Vehicles*, *Chapter 13, Section 13.52, Streets, Sidewalks and other Public Places and Chapter 2 Administration*, *Article III Planning Organization* as subsequently

subsequently amended are hereby repealed. The adoption of the Eden UDO, however, shall not affect nor prevent any pending or future prosecution of, or action to abate an existing violation of said ordinance.

1.06 CONSISTENCY WITH ADOPTED PLANS

In accordance with G.S. § 160D-605, it is the intention of the City Council that the Eden UDO implements the planning policies adopted for the City and its ETJ, as reflected in the City of Eden Land Development Plan and other related planning documents adopted by the Eden City Council.

While the City Council reaffirms its commitment that the Eden UDO and any amendment to it be in conformity with adopted planning policies, the City Council hereby expresses its intent that neither the Eden UDO nor any amendment to it may be challenged on the basis of any alleged non-conformity with any planning document.

A. AMENDMENT OF UDO AND LAND USE PLAN.

The Unified Development Ordinance of Eden, North Carolina also uses powers granted in other sections of the G.S. relating to particular types of development or particular development issues. Any amendments to or actions pursuant to this ordinance shall be consistent with the Land Use Plan.

The Land Development Plan for the City of Eden may be amended and this Unified Development Ordinance and the incorporated Official Zoning Map shall reflect those changes through appropriate amendments in accordance with this Ordinance.

B. VARIATION FROM ADOPTED PLANS.

Specific alignments, locations, or areas of public facilities noted in any adopted plan may be varied on a site by site basis provided the integrity of the proposed network and connections, location, or area shown in the plan are maintained. When adopting or rejecting any petition for a zoning text or map amendment, a brief statement explaining the reasonableness of the proposed rezoning shall be approved by the City Council.

1.07 CONFORMANCE TO UNIFIED DEVELOPMENT ORDINANCE

Except as otherwise specifically provided in the Eden UDO, no land shall be subdivided; no land or structure shall hereafter be used or occupied; no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development; no infrastructure shall be constructed or installed; and no structure, or part thereof, shall be constructed, erected, altered, or moved, unless in compliance with all of the applicable provisions of the Eden UDO.

All existing lots of record, platted prior to the adoption of this UDO or the prior Zoning Ordinance, Subdivision Regulations, or Watershed Protection Ordinance and upon which no buildings have been erected, shall be grandfathered upon the date of adoption of this UDO and shall not be subject to the new lot standards herein. However, buildings upon such lots shall be subject to standards in this ordinance including all related site improvements.

1.08 OFFICIAL ZONING MAP

The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk. If changes are made in accordance with the provisions of this Ordinance such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council with an entry on the Official Zoning Map. Per G.S. § 160D-105, the Administrator must maintain a paper or digital record of current and prior zoning maps beginning on January 1, 2021.

1.09 CONTINUED VIOLATIONS

Any violation of provisions existing on the effective date of the Ordinance shall continue to be a violation under this Ordinance and shall be subject to the penalties set forth at the time of the violation, unless the use, development, construction or other activity is clearly consistent with the express terms of this Ordinance.

1.10 TRANSITIONAL PROVISIONS

A. PRIOR VIOLATIONS CONTINUE.

1. Any violation of the previous ordinances shall continue to be a violation under this UDO, unless the development/property complies with the express terms of this Ordinance or the statute of limitations on enforcement has expired.
2. Any violation of the previous ordinances that is no longer a violation under this Ordinance shall not be considered a violation.
3. Violations of this Ordinance shall be subject to the penalties set forth in *Article 13 - Enforcement*, unless the development/property complies with the express terms of this Ordinance.

B. EXISTING NONCONFORMITIES.

If any use, building, structure, lot, sign, or site feature legally existed on January 1, 2021, but does not fully comply with the standards of this Ordinance, the use, building, structure, lot, sign, or site feature is considered nonconforming under this Ordinance and shall be subject to the requirements in *Article 11 - Nonconformities.*

C. PENDING APPLICATIONS.

1. Any UDO related application filed and accepted as complete before January 1, 2021, but still pending final action as of that date, may be decided in accordance with either the regulations in affect at the time the application was determined complete or the regulations in this Ordinance, as requested by the applicant in accordance with G.S. § 160D-108.
2. To the extent an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of *Article 11 - Nonconformities*.
3. If the development subject to an application approved under the City's prior development regulations fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this Ordinance.
4. Applications that have been filed prior to January 1, 2021, but not determined to be complete by the Administrator shall be reviewed and decided in accordance with this Ordinance.

D. APPROVED APPLICATIONS.

The following standards apply to applications approved prior to January 1, 2021.

1. Any development approvals shall remain valid until their expiration date.
2. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired.
3. Portions of developments, including subdivisions, reserved as future development sites where no lot lines are shown on an approved plan shall comply with the provisions of this Ordinance.
4. If an approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance.
5. Timelines for the commencement or expiration of development in accordance with an approved application shall be suspended in the event of legal challenge.

1.11 INTERPRETATION AND CONFLICT

A. INTERPRETATION.

1. This UDO establishes many, but not all, of the standards and procedures for development. Other portions of the City's Code of Ordinances, as well as other standards, shall apply to development, including, but not limited to, building codes, fire codes, utility, street and drainage design and construction standards.
2. The issuance of any development approval pursuant to this UDO shall not relieve the recipient from the responsibility to comply with all other City, County, State or federal laws, ordinances, rules or regulations.
3. References to other regulations or provisions of the UDO are for the convenience of the reader. The lack of a cross-reference does not exempt a land, building, structure, or use from other regulations.
4. The UDO contains numerous graphics, pictures, illustrations, and drawings to assist the reader in understanding and applying the UDO. However, to the extent that there is any inconsistency between the text of the UDO and any such graphic, picture, illustration, or drawing, the text controls unless otherwise provided in the specific section.

B. WORD INTERPRETATION

1. For the purpose of this ordinance, certain words shall be interpreted as follows:
    - **a.** Words in the present tense include the future tense.
    - **a.** Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the working indicates otherwise.
    - **b.** The word "person" includes a firm, association, corporation, trust, and company as well as an individual.
    - **c.** The word "structure" shall include the word "building".
    - **d.** The word "lot" shall include the words, "plot", "parcel", or "tract".
    - **e.** The word "shall" is always mandatory and not merely directory.
    - **f.** The word "will" is always mandatory and not merely directory.

g. The word "may" indicate an optional action or requirement, however the phrase "may not" is mandatory and equivalent to describing a prohibited action.

2. The Administrator is the ultimate, administrative authority in the interpretation of this Ordinance.

C. CONFLICT.

When provisions of the Eden UDO impose higher standards than are required in any other statute or local ordinance or regulation, provisions of the Eden UDO shall govern. When the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of the Eden UDO, the provisions of that statute or local ordinance or regulation shall govern.

1.12 FEES

Any action on an application listed in this Ordinance shall be subject to payment of the required fee in the amount as established by the City Council. All fees shall be paid to the City of Eden, North Carolina at the time of submittal of each application to cover the cost of advertising and other administrative expenses involved.

1.13 ADMINISTERING THE UDO

This UDO is intended to be administered in an efficient manner that provides appropriate opportunities for public involvement and an efficient development process. The roles of the City Council, Planning Board, Board of Adjustment, other boards and City staff are established in *Article 2 - Administration* of this ordinance.

1.14 EFFECTIVE DATE

This Unified Development Ordinance shall become effective on January 1, 2021.

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ARTICLE 2 – ADMINISTRATION

2.01 GENERAL MEETING PROCEDURES

A. OPEN MEETINGS.

All meetings of elected or appointed bodies under this Ordinance shall be open to the public in accordance with G.S. § 143-318 and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the respective bodies and approved by the City Council.

B. RULES OF PROCEDURE.

All boards shall adopt formal rules of procedure consistent with the level of decision-making vested with that board (e.g., advisory review, quasi-judicial). Any adopted rules of procedure shall be kept on file at City Hall and shall be made available to the public.

C. MINUTES.

Accurate minutes of each meeting shall be maintained by each board set out in this Article, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact. Each board set out in this Article shall keep records of its examinations and official actions. All of these minutes and records shall be filed in the office of the Administrator for the public record.

D. MEETINGS.

1. All bodies authorized under this Ordinance shall meet at regularly scheduled times and at such other times as determined by the chairperson as provided for in the rules of procedure.
2. Special meetings may be called at any time by the chairperson or by request of a majority of members of the board.

2.02 ADMINISTRATOR

A. THE ADMINISTRATOR.

The various provisions of this Ordinance shall be administered under the general direction of the City of Eden Planning and Inspections Department. For the purposes of this Ordinance, the Director of Planning & Inspections and their subordinate staff are collectively referred to as the Administrator. The Planning & Inspections Department will serve as the “gatekeeper” for all development applications and will advise applicants on appropriate personnel to contact.

B. POWERS AND DUTIES.

The Administrator shall have the following powers and duties, to be carried out in accordance with the terms of this ordinance:

1. Make all final decisions as to the interpretation and definitions of this UDO;

2. Recommend the amount and applicability of administrative Planning & Inspections fees;
3. Monitor and determine the adequacy of security instruments and escrow deposits and issuance of ministerial development approvals;
4. Serve as staff support for the City Council, Planning Board, Board of Adjustment, Historic Preservation Commission, Tree Board, Community Appearance Commission and Strategic Planning Commission;
5. Review and render interpretations of this UDO and the Official Zoning Map;
6. Make recommendations to the City Council, Planning Board, Board of Adjustment, Historic Preservation Commission, Tree Board, Community Appearance Commission and Strategic Planning Commission.
7. Accept applications for development approval; certify the completeness of submitted applications with the requirements of these regulations;
8. Review and prepare staff reports recommending approval, approval with conditions or denial of applications for amendments to the text of this UDO and all legislative and quasi-judicial applications;
9. Accept applications for, review, and approve, approve with conditions or deny, applications for all ministerial development approvals;
10. Monitor projects to ensure compliance with conditions of a development approval;
11. Monitor and assist in the enforcement of this UDO;
12. Review development applications to ensure that all necessary permits, licenses, franchises and approvals have been obtained from federal, state, local governmental districts, public and private utilities and other public agencies;
13. Serve as the chair of the Technical Review Committee (TRC);
14. Maintain a record of all permits, appeals, variances, certificates, reviews and such other transactions and correspondence pertaining to the administration of this UDO;
15. Oversee code enforcement and responsibilities related to ensuring compliance with the UDO, notification of violations, ordering actions on violations and keeping records of related activities;
16. Issue administrative modifications to this ordinance where appropriate;
17. Serve as Floodplain Administrator;
18. Coordinate erosion and sediment control activities;
19. Serve as Watershed Administrator.

C. RESPONSIBILITIES FOR REVIEW AND DECISIONS.

The Administrator shall serve as the reviewing entity and be responsible for final actions / decisions per *Section 3.01.B.3. Review Authority Table* of this Ordinance.

D. CONFLICTS OF INTEREST.

1. It shall be the duty of the Administrator and staff to avoid even the appearance of conflict of interest. Therefore, no administrative staff shall make a final decision on an administrative decision as required by G.S. § 160D if the outcome of his or her decision would have a direct, substantial, readily identifiable financial impact on him or her or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.
2. If a staff member has a conflict of interest, the decision shall be assigned to the staff member's supervisor or the supervisor's designee.

2.03 TECHNICAL REVIEW COMMITTEE (TRC)

A. POWERS AND DUTIES.

1. The TRC shall serve as a review and recommending body, assisting the Administrator, City Council, Planning Board and other boards where appropriate, with the review of applications for development approval. The TRC shall provide advice and recommendations on environmental, planning, fiscal, design, engineering, transportation, utility, geo-hydrological, water availability, sustainability, environmental and technical issues, and to assess the comments and reports of reviewing City departments, regional, state and federal agencies and officials, owner/applicants and other interested parties with standing.
2. The TRC shall meet at the request of the Administrator. An owner/applicant may be invited to attend meetings of the TRC only at the discretion of the Administrator.
3. The TRC shall make recommendations to the Administrator, City Council, Planning Board and other bodies for approval, conditional approval or denial of applications for development approval.

B. MEMBERSHIP.

1. The TRC shall be chaired by the Administrator (or their designee) and shall consist of technical staff and representatives of various City departments and possibly other key outside agencies on a project by project basis.
2. Members are appointed by the Administrator and shall include (but not be limited to) representatives from Fire, Municipal Services, Parks and Recreation, Planning and Inspections, Police, and Public Utilities. In addition, and as appropriate, the TRC may include, for a specific development approval application, representatives of other jurisdictions or service providers, including but not limited to representatives from additional law enforcement agencies, fire districts, school districts, other municipalities, county, public and private utilities, assessment or public improvement districts, and regional, state or federal agencies.

C. RESPONSIBILITIES FOR REVIEW AND DECISIONS.

The Technical Review Committee shall serve as the reviewing body for applications per *Section 3.01.B.3 Review Authority Table* of this Ordinance.

2.04 BOARD OF ADJUSTMENT

A. POWERS AND DUTIES.

The City of Eden Board of Adjustment shall have the following powers and duties to be carried out in accordance with the terms of this Ordinance:

1. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator in the carrying out or enforcement of any provision of this Ordinance. A concurring vote of 4/5 of the members of the Board shall be necessary to reverse, wholly or partly any order, requirement, decision, permit, determination or refusal.
2. To authorize upon appeal, in specific cases, such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, the following written findings are made:
    - **a.** Carrying out the strict letter of the Ordinance would result in an unnecessary hardship. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
    - **b.** The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
    - **c.** The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
    - **d.** The requested variance is consistent with the spirit, purpose, and intent of this Ordinance, such that the public safety is secured, and substantial justice is achieved.
3. The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action on cases as prescribed by this ordinance and G.S. § 160D. The board shall conduct its meeting in accordance with the quasi-judicial procedures set forth in this ordinance and its rules. Due notice shall be given to all parties in interest. All meetings of the board shall be open to the public. All evidence and testimony shall be presented publicly and all hearings, deliberations and actions of the board shall be conducted openly.

B. MEMBERSHIP AND QUORUM.

1. The Board of Adjustment shall consist of ten members. Seven members shall be citizens and residents of the City and shall be appointed by the City Council which shall appoint one member from each ward. Two members, nominated by the City Council, shall be citizens and residents of the extraterritorial area described in an ordinance adopted November 21, 1978 (amended June 17, 2008, effective August 31, 2008) and in Appendix A, pursuant to G.S. § 160D-307, and shall be appointed by the Rockingham County Board of Commissioners in accordance with G.S. § 160D-307. One member shall be nominated

by the Mayor and shall be appointed at large from the City of Eden Planning and Development Regulation Jurisdiction by the City Council. If, despite good faith efforts, residents of the extraterritorial area cannot be found to fill the seats reserved for extraterritorial residents, then the Rockingham County Board of Commissioners may appoint other residents of the county (including residents of the City of Eden) to fill these seats. If the Rockingham County Board of Commissioners fails to make these appointments within ninety days after receiving a resolution from the City Council requesting that they be made, then the City Council may make the appointments. Extraterritorial members shall have equal rights, privileges, and duties with the other members of the board and may vote on all matters coming before the board.

2. Vacancies shall be filled by the Rockingham County Board of Commissioners or the Eden City Council, as applicable, as they occur.
3. The members shall be appointed for terms of three years, with the exception of the initial ten members. Three of the initial members shall be appointed for a term of one year; three for two years; and four for three years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. If a City member moves outside the City, or if an extraterritorial member moves outside the ETJ, that shall constitute a resignation from the board, effective upon the date a replacement is appointed. Officers shall be elected in accordance with the adopted rules of procedure. The council may appoint alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member. The ordinance may designate a planning board or governing board to perform any of the duties of a board of adjustment in addition to its other duties and may create and designate specialized boards to hear technical appeals.
4. A quorum for the board shall consist of the number of members equal to 4/5 of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take any official action.

C. ATTENDANCE.

It shall be the duty of all members to inform the administrative assistant of the board of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive regular meetings 30% or more of the meetings in a calendar year loses his status as a member of the board until reappointed or replaced by the governing body of their respective unit. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the board; except that in the event of a long illness or other such case for prolonged absence the member may be replaced.

D. RESPONSIBILITY FOR DECISIONS AND VOTING.

1. The Board of Adjustment shall be responsible for final actions and/or decisions per *Section 3.01.B.3 Review Authority Table* of this Ordinance.
2. The Board of Adjustment shall also have any additional powers and duties as may be set forth in other laws and regulations or at the direction of the City Council.

3. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

E. RULES OF CONDUCT.

Members of the Board of Adjustment may be removed for cause by the City Council, including violation of the rules stated below.

1. Faithful attendance to board meetings and conscientious performance of the duties required of board members shall be considered a prerequisite of continuing membership on the board.
2. Each member of the Commission shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit.
3. It shall be the duty of the Board of Adjustment to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any quasi-judicial matter in a manner that would violate the affected persons' constitutional rights to an impartial decision maker as required by G.S. § 160D. Violations include a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
4. In applying this rule the following procedure shall govern:
    a. A member who has a conflict of interest shall disqualify himself or herself and withdraw from participation in the matter. The member shall not sit with the Board of Adjustment during the consideration and discussion of that matter.
    b. Any member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Board of Adjustment. By majority vote, the Board of Adjustment may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.
    c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Board of Adjustment may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.
5. No board member shall vote on any matter that decides an application or appeal unless he has attended the public hearing on that application or appeal.
6. No board member shall discuss any case with any parties thereto before the hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from any member of the board or its administrative assistant before the hearing.

7. Members of the board shall not express individual opinions on the proper judgement of any case with any parties thereto before that case is determined. Violation of this rule shall be cause for dismissal from the board.

8. A member of the Board or any other body exercising the functions of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

2.05 CITY COUNCIL

A. POWERS AND DUTIES.

The City of Eden City Council shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

1. To conduct any and all business in accordance with their charter and the N.C.G.S.
2. To amend the City of Eden Land Development Plan and other plans as necessary.

B. RESPONSIBILITIES AND DECISIONS.

1. The City of Eden City Council shall have the following powers and duties to be carried out in accordance with the terms of this Ordinance.
2. The City Council shall render decisions regarding the following:
   - **a.** The City Council shall be responsible for actions and decisions per *Section 3.01.B.3 Review Authority Table* of this Ordinance.
   - **b.** Designation of Historic Landmarks and Historic Districts
     - **(1)** The designation of a historic landmark or district shall only be effective through the adoption of an ordinance by the City Council.
     - **(2)** No landmark or district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association. The landmark or district must lie within the City of Eden's Planning and Development Regulation Jurisdiction.

C. CONFLICTS OF INTEREST.

It shall be the duty of the City Council to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. No member shall vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. In applying this rule, the following procedure shall govern:

1. A member who has a conflict of interest shall disqualify himself or herself and withdraw from participation in the matter. The member shall not sit with the City Council during the consideration and discussion of that matter.
2. Any member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the Mayor. By majority vote, the Council may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.

3. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Council may, by majority vote (not considering the vote of the member with the alleged conflict), disqualify that member from all participation in the matter involved.

2.06 PLANNING BOARD

A. PURPOSE.

The City of Eden Planning Board is hereby created pursuant to G.S. § 160D-301 and the provisions of this Article.

B. POWERS AND DUTIES.

1. General

The City of Eden Planning Board shall have the following powers and duties to be carried out in accordance with the terms of this Ordinance.

- **a.** To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions;
- **b.** To identify needs and problems growing out of those needs;
- **c.** To determine objectives to be sought in development of the area;
- **d.** To establish principles and policies for guiding action in development of the area;
- **e.** To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical, social, and economic development of the area; To prepare and recommend to the City Council ordinances promoting orderly development along lines indicated in the comprehensive plan and advise it concerning proposed amendments of such ordinances;
- **f.** To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area and ordinances adopted in furtherance of such plan;
- **g.** To keep the City Council and the general public informed and advised as to these matters; and
- **h.** Perform any other related duties that the City Council may direct per G.S. § 160D-301.

2. Basic Studies

- **a.** As background for its comprehensive plan and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of physical features of the area; statistics on past trends and present conditions with respect to population, property values, the economic base of the area, and land use; and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts.
- **b.** In addition, the Planning Board may make, cause to be made, or obtain special studies on the location, the condition, and the adequacy of specific facilities; public and private utilities; and traffic, transportation, and parking facilities.
- **c.** All City officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work. The Board or its agents may, in the performance of its official duties, enter upon lands and make examinations of surveys and maintain necessary monuments thereon.

3. Comprehensive Plan

a. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall be and show the Planning Board's recommendations to the City Council for the development of said territory, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes, the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities, or terminals; and the most desirable pattern of land use within the area, including areas for farming and forestry, for manufacturing and industrial uses, for commercial uses, for recreational uses, for open spaces, and for mixed uses.

b. The plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the City and its environs that will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion for the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements.

4. Public Facilities

The Planning Board shall review with the Administrator and other City officials and report its recommendations to the City Council concerning the location, extent, and design of all proposed public properties; and the establishment of building lines, mapped street lines, and proposals to change existing street lines. It shall also make recommendations concerning other matters referred to it by the City Council.

5. Miscellaneous

a. The Planning Board may conduct such public hearings as may be required to gather information for the drafting, establishment, and maintenance of the comprehensive plan. Before adopting any such plan, it shall hold at least one public hearing thereon. The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.

b. Members or employees of the Planning Board when duly authorized by the City Manager, may attend planning conferences, meetings of planning associations, or hearings on pending planning legislation, and the Planning Board may authorize payment within the Boards budget of the reasonable traveling expenses incident to such attendance.

6. Annual Reporting & Budgeting

a. The Planning Board shall submit in writing to the City Council a report of its activities, an analysis of its expenditures to date for the current fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. All accounts and funds of the Planning Board shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act as shown in G.S. § 159-3.

b. The Planning Board is authorized to receive contributions from private agencies, organizations and individuals, in addition to any funds that may be appropriated for its use by the City Council. It may accept and disburse such contributions for special purposes or projects, subject to any specified conditions that it deems acceptable, whether or not such projects are included in the approved budget

7. Special Committees

The Planning Board may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Board members. The Board shall not delegate to any such committee its official powers and duties.

C. MEMBERSHIP AND QUORUM

1. The Planning Board shall consist of ten members. Seven members shall be citizens and residents of the City and shall be appointed by the City Council which shall appoint one member from each ward. Two members, nominated by the City Council, shall be citizens and residents of the extraterritorial area described in an ordinance adopted November 21, 1978 (amended June 17, 2008, effective August 31, 2008) and in Appendix A, pursuant to G.S. § 160D-307, and shall be appointed by the Rockingham County Board of Commissioners in accordance with G.S. § 160D-307. One member shall be nominated by the Mayor and shall be appointed at large from the City of Eden Planning and Development Regulation Jurisdiction by the City Council. If, despite good faith efforts, residents of the extraterritorial area cannot be found to fill the seats reserved for extraterritorial residents, then the Rockingham County Board of Commissioners may appoint other residents of the county (including residents of the City of Eden) to fill these seats. If the County Board of Commissioners fails to make these appointments within ninety days after receiving a resolution from the City Council requesting that they be made, then the City Council may make the appointments. Extraterritorial members shall have equal rights, privileges, and duties with the other members of the Board and may vote on all matters coming before the Board.

2. The members shall be appointed for terms of three years, with the exception of the initial ten members. Four of the initial members shall be appointed for a term of one year; three for two years; and three for three years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. If a City member moves outside the City, or if an extraterritorial member moves outside the City of Eden's Planning and Development Regulation Jurisdiction, that shall constitute a resignation from the Board effective upon the date a replacement is appointed.

3. The Planning Board shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Administrator or their designated appointee shall act as the administrative assistant to the Board, and subject to the direction

of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Board, supervising all clerical work of the Board, maintaining a file of all studies, plans, reports, recommendations and actions of the Board, as well as, providing other technical and professional assistance to the Board. The administrative assistant shall not be eligible to vote on any matter. The Board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which shall be a public record. The Planning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum.

D. ATTENDANCE

It shall be the duty of all Planning Board members to inform the administrative assistant of the Board of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Board until reappointed or replaced by the governing body of his respective unit. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the Board; except, that in the event of a long illness or other such case for prolonged absence, the member may be replaced.

E. RULES OF CONDUCT

1. Members of the Planning Board may be removed for cause by the City Council, including violation of the rules stated below

- **a.** Faithful attendance at all Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board.
- **b.** Each member of the Board shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Board as time and circumstances permit.

2. It shall be the duty of every Board member to avoid even the appearance of conflict of interest. Therefore, no member shall vote on, discuss, debate, advocate, influence, or otherwise participate before the Board in any matter that would substantially affect, directly or indirectly, his or her personal financial interests or the financial interests of a member of his household. This prohibition includes formal or informal consideration of the matter by the Board, whether conducted in public or private. This provision does not prohibit participation in advisory decisions that will have a similar effect on all citizens of the planning area or in which the financial interest is so insignificant or remote that it is unlikely to affect the member's official action in any way. In applying this rule, the following procedure shall govern:

- **a.** A member who has a conflict of interest shall disqualify himself or herself and withdraw from participation in the matter. The member shall not sit with the Planning Board during the consideration and discussion of that matter.
- **b.** Any member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member

making the request, and a copy shall be provided to the chairman of the Board. By majority vote, the Planning Board may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.

c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Planning Board may, by majority vote (not considering the vote of the member with the alleged conflict), disqualify that member from all participation in the matter involved.

F. RESPONSIBILITIES, RECOMMENDATIONS, AND DECISIONS.

The Planning Board shall be responsible for review, recommendation, and actions per *Section 3.01.B.3 Review Authority Table* of this Ordinance.

2.07 HISTORIC PRESERVATION COMMISSION

A. PURPOSE.

1. The North Carolina General Statutes authorize cities to safeguard the heritage of the City by preserving any historic sites therein that embody important elements of its cultural, social, economic, political, archaeological or architectural history and to promote the use and conservation of such site for the education, pleasure and enrichment of the residents of the City, county and state as a whole.
2. The City Council desires to safeguard the heritage of the City by preserving and regulating historic landmarks and districts; to strengthen the economic base by the stimulation of the tourist industry; to establish and improve property values and to foster economic development.
3. The Historic Preservation Commission is hereby created to perform the duties of regulating historic districts and historic landmarks pursuant to G.S. § 160D-904.

B. POWERS AND DUTIES.

1. General

   a. Undertake an inventory of properties of historical, prehistorical, architectural and/or cultural significance.
   b. Recommend to the City Council structures, buildings, sites, areas or objects to be designated by ordinance as "historic landmarks" and areas to be designated by ordinance as "historic districts."
   c. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.
   d. Restore, preserve and operate historic properties.
   e. Recommend to the City Council that designation of any area as a historic district or part thereof, of any building, structure, site, area or object as a historic landmark be revoked or removed.
   f. Conduct an educational program with respect to historic landmarks and districts within its jurisdiction.
   g. Cooperate with the state, federal and local governments in pursuance of the purposes of this ordinance; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The City Council, or the Commission when authorized by the Council, may contract with the State or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with the state or federal law.
   h. No member, employee, or agent of the Commission may enter any private buildings, structures or lands without express consent of the owner or occupant thereof.
   i. Prepare and recommend the official adoption of a preservation element as a part of the City's comprehensive plan.
   j. Review and act upon proposals for alterations, demolition, or new construction within historic districts, or for the alteration or demolition of designated landmarks pursuant to this ordinance.

k. Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation when such action is reasonable, necessary or appropriate.

l. The Historic Preservation Commission shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.

2. Miscellaneous

a. Members or employees of the Historic Preservation Commission, when duly authorized by the City Manager or his or her designee, may attend conferences, meetings of preservation associations or hearings on pending preservation legislation and the Commission may authorize payment within the Commission's budget of the reasonable traveling expenses incident to such attendance.

b. The Historic Preservation Commission may, from time to time, establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Commission members. The Commission shall not delegate to such committee its official powers and duties.

3. The City Council shall have the right to accept gifts and donations in the name of the City for historic preservation purposes. It is authorized to make appropriations to the Commission in any amount necessary for the expenses of the operations of the Commission, and the Council may make additional amounts available as necessary for acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas or objects designated as historic landmarks or within designated historic districts, or of land on which buildings or structures are located, or to which they may be removed.

4. Annual Reporting and Budgeting

The Historic Preservation Commission shall submit in writing to the City Council a report of its activities, an analysis of its expenditures to date for the current fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. All accounts and funds of the Historic Preservation Commission shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control act as shown in G.S. § 159-307

C. MEMBERSHIP AND QUORUM.

1. The Historic Preservation Commission shall consist of eight members appointed by the City Council of which each Council member and the Mayor shall have the opportunity to nominate one member to the Commission. All members shall be residents of the City's Planning and Development Regulation Jurisdiction at the time of appointment; a majority of the members of the Commission shall have demonstrated special interests, experience or education in history, architecture, archaeology or related fields. The members shall be appointed for a term of three years with the exception of the eight initial members. Two of the initial members shall be appointed for a term of one year; three for two years; and three for three years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. If a member moves outside the Planning and

Development Regulation Jurisdiction of the City, that shall constitute a resignation from the Commission, effective immediately.

2. The Historic Preservation Commission shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Director of the Planning and Inspections Department or his/her designated appointee shall act as the administrative assistant to the Commission, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Commission, supervising all clerical work of the Commission, maintaining a file of all studies, plans, reports, recommendations and actions of the Commission, as well as providing other technical and professional assistance to the Commission. The administrative assistant shall not be eligible to vote on any matter.
3. Upon its first formal meeting, and prior to performing any duties under this ordinance or G.S. §160D-904 the Commission shall adopt rules of procedure governing the Commission's actions which are not inconsistent with this Article or state law. The Commission shall also adopt principles and guidelines for new construction, alterations, additions, moving and demolition of designated historic landmarks and properties in historic districts prior to recommendation for designation of any historic landmark or historic district pursuant to this Article. The Commission shall keep permanent minutes of all its meetings, which shall be a public record. The minutes shall record attendance of Commission members and the Commission's resolutions, findings, recommendations and actions. The Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum

D. ATTENDANCE.

It shall be the duty of all Historic Preservation Commission members to inform the administrative assistant of the Commission of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Commission until reappointed or replaced by the City Council. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the Commission; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

E. RULES OF CONDUCT.

Members of the Historic Preservation Commission may be removed for cause by the City Council, including violation of the rules stated below.

1. Faithful attendance at all Commission meetings and conscientious performance of the duties required of Commission members shall be considered a prerequisite of continuing membership on the Commission.
2. Each member of the Commission shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit.
3. It shall be the duty of every Commission member to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any decision regarding a matter to come before the

Commission where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. In applying this rule, the following procedure shall govern:

a. A member who has a conflict of interest shall disqualify himself and withdraw from participation in the matter. The member shall not sit with the Commission during the consideration and discussion of that matter.

b. Any Commission member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Commission. By majority vote, the Commission may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.

c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Commission may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.

4. No Commission member shall vote on any matter that decides an application unless he has attended the hearing on that application.

5. Members of the Commission shall not commit themselves on any question scheduled to be considered by the Commission prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Commission.

6. Members of the Commission shall not express individual opinions on the proper judgement of any application with any parties thereto before that case is determined. Violation of this rule shall be cause for dismissal from the Commission.

F. DESIGNATION OF HISTORIC DISTRICTS.

1. A historic district is hereby established as a district which overlaps with other zoning districts, the extent and boundaries of which are indicated on the zoning map for the City and its environs. The historic district now contains, and may in the future contain several different residential, commercial and industrial zoning classifications, and all uses permitted in any such district, whether by right or as a special use, shall be permitted in the historic district.

2. No historic district or districts shall be designated until:

a. The Historic Preservation Commission shall have prepared and adopted rules of procedure for the transaction of its business and its organization not inconsistent with this ordinance.

b. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and the description of the boundaries of such district has been prepared.

c. Principles and guidelines have been prepared and adopted for constructing, altering, restoring, moving or demolishing properties designated as a part of a district, that are not inconsistent with this ordinance.

d. The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the City Council within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the municipality of any responsibility for awaiting such analysis and said City Council may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

e. The City Council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendation prior to taking action to amend the zoning ordinance. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by this Article shall be prepared by the Commission and shall be referred to the Planning Board for its review and comment according to procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Cultural Resources in accordance with the provisions of this Article.

f. On receipt of these reports and recommendations, the City may proceed in the same manner as would otherwise be required for the adoption of an amendment of any appropriate zoning ordinance provisions.

G. DESIGNATION OF LANDMARKS.

1. Upon complying with the landmark designation procedures as set forth in this Article, the City Council may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

2. The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land areas of the property so designated and any other information the City Council deems necessary. For each building, structure, site, area or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in G.S. § 160D-904 and of this Article be observed prior to its demolition. For each designated landmark the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If an owner objects, the sign shall be placed on a nearby public right-of-way.

H. REQUIRED LANDMARK DESIGNATION PROCEDURES.

1. As a guide for the identification and evaluation of landmarks, the Commission shall undertake at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical and cultural significance within its jurisdiction. Such inventories and

any additions or revisions thereof shall be submitted as expeditiously as possible to the Division of Archives and History.

2. No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the Commission or the City Council until all of the following procedural steps have been taken:

a. The Historic Preservation Commission shall prepare and adopt rules of procedure, and prepare and adopt principles and guidelines, not inconsistent with this Article, for altering, restoring, moving, or demolishing properties designated as landmarks.

b. The Historic Preservation Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

c. The Department of Cultural Resources, acting through the State Historic Preservation Officer shall either upon request of the Department or at the initiative of the Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this Article. Any comments shall be provided in writing. If the Department does not submit its comments or recommendations in connection with any designation within 30 days following receipt by the Department of the investigation and report of the Commission, the Commission and the City Council shall be relieved of any responsibility to consider such comments.

d. Following the joint public hearing or separate public hearings, the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

e. Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the Commission in the Office of the Register of Deeds of Rockingham County, and the copy shall be made available for public inspection at any reasonable time. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds Office, and the Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments there to shall be given to the Codes Inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax records as maintained by the City as may be appropriate for such period as the designation remains in effect.

f. Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the Commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor appraising it for tax purposes.

2.08 COMMUNITY APPEARANCE COMMISSION

A. PURPOSE.

The Community Appearance Commission develops and carries out voluntary programs, policies and ordinances to improve community appearance and advises governmental agencies on aesthetic matters.

B. POWERS AND DUTIES.

1. General

- **a.** Initiate promote and assist in the implementation of programs of general community beautification in the City of Eden's Planning and Development Regulation Jurisdiction.
- **b.** Seek to coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities and programs bear upon the appearance of the City.
- **c.** Provide leadership and guidance in matters of area or community design and appearance to individuals, and to public and private organizations, and agencies.
- **d.** Make studies of the visual characteristics and problems of the City including surveys and inventories of an appropriate nature, and recommend standards and policies of design of the entire area, any portion or neighborhood thereof, or any project to be undertaken.
- **e.** Prepare both general and specific plans for the improved appearance of the City. These plans may include the entire area or any part thereof, and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the City or any part thereof within its area of Planning and Development Regulation Jurisdiction including public ways and areas, open spaces, and public and private buildings and projects.
- **f.** Request from the proper officials of any public agency or body, including agencies of the state and its political subdivisions, its plans for public buildings, facilities, or projects to be located within the City.
- **g.** Review these plans and make recommendations regarding their aesthetic suitability to the appropriate agency, or to the planning or governing board. All plans shall be reviewed by the Commission in a prompt and expeditious manner, and all recommendations of the Commission with regard to any public project shall be made in writing. Copies of the recommendation shall be transmitted promptly to the appropriate agency.
- **h.** Formulate and recommend to the City Council the adoption of amendments or ordinances regulating the use of property that will, in the opinion of the Commission, serve to enhance the appearance of the City and its surrounding area.
- **i.** Direct the attention of City officials to needed enforcement of any ordinance that may in any way affect the appearance of the City.
- **j.** Seek voluntary adherence to the standards and policies of its plans;
- **k.** Enter in the performance of its official duties and at reasonable times upon private lands and make examinations or surveys.

l. Promote public interest in and an understanding of its recommendations, studies and plans and to that end prepare, publish and distribute to the public such studies and reports as will, in the opinion of the Commission, advance the cause of improved municipal appearance.

m. Conduct public meetings and hearings, giving reasonable notice to the public thereof.

2. Annual Reporting & Budgeting

a. The Commission shall submit in writing to the City Council a report of its activities, a statement of its expenditures to date for the current fiscal year, and its requested budget for the next fiscal year. All accounts and funds of the Commission shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act all shown in G.S. § 159-307.

b. The Commission may receive contributions from private agencies, foundations, organizations, individuals and the state or federal government, or any other source in addition to any sums appropriated for its use by the City Council. It may accept and disburse these funds for any purpose within the scope of the authority and as specified in this chapter.

3. Special Committees

The Community Appearance Commission may, from time to time, establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Commission members. The Commission shall not delegate to any such committee its official powers and duties.

4. Miscellaneous

a. The Community Appearance Commission shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.

b. Members or employees of the Community Appearance Commission, when duly authorized by the City Manager, may attend conferences, meetings of appearance associations, or hearings on pending appearance legislation, and the Commission may authorize payment within the Commission's budget of the reasonable traveling expenses incident to such attendance

C. MEMBERSHIP AND QUORUM.

1. The Community Appearance Commission shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Administrator or their designated appointee shall act as the administrative assistant to the Commission, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Commission, supervising all clerical work of the Commission, maintaining a file of all studies, plans, reports, recommendations and actions of the Commission, as well as providing other technical and professional assistance to the Commission. The administrative assistant shall not be eligible to vote on any matter.

2. The Commission shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which shall be a public

record. The Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with its duties. All meetings shall be open to the public. A majority of the members, excluding vacant positions, shall constitute a quorum

3. The Community Appearance Commission shall consist of eight members appointed by the City Council of which each Council member and the Mayor shall have the opportunity to nominate one person to the Commission. The membership shall be comprised of City of Eden representatives and ETJ representatives in a ratio proportional to their respective populations.
4. Where possible, appointments shall be made in such a manner as to maintain on the Commission at all times a majority of members who have had special training or experience in a design field such as architecture, landscape design, horticulture, urban planning, or a related field. The members shall be appointed for a term of three years. If a member of the Commission moves outside the Planning and Development Regulation Jurisdiction, that shall constitute a resignation from the Commission, effective upon the date a replacement is appointed.
5. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

D. ATTENDANCE.

It shall be the duty of all Community Appearance Commission members to inform the administrative assistant of the Commission of any anticipated absence and notification shall be immediately after receipt of the agenda. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the Commission until reappointed or replaced by the City Council. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the Commission; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

E. RULES OF CONDUCT.

Members of the Community Appearance Commission may be removed for cause by the City Council including violation of the rules stated below.

1. Faithful attendance at all Commission meetings and conscientious performance of the duties required of Commission members shall be considered a prerequisite of continuing membership on the Commission.
2. Each member of the Commission shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Commission as time and circumstances permit.
3. It shall be the duty of every Commission member to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. In applying this rule the following procedure shall govern:

    a. A member who has a conflict of interest shall disqualify himself/herself and withdraw from participation in the matter. The member shall not sit with the Commission during the consideration and discussion of that matter.

b. Any Commission member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Commission. By majority vote, the Commission may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.

c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Commission may, by majority vote (not considering the vote of the member with the alleged conflict), disqualify that member from all participation in the matter involved.

4. Members of the Commission shall not commit themselves on any question scheduled to be considered by the Commission prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Commission.

2.09 TREE BOARD

A. PURPOSE.

The City Council desires to encourage the protection of trees within the City and to express the City's intent to use trees to create a more natural and amenable human environment. The regulations contained in this section shall govern the planting, maintenance and removal of trees on municipally owned public property and rights-of-way. This shall include the trimming or removal of trees on public land when they obscure streetlights, or constitute a hazard to pedestrian or vehicular traffic, or otherwise endanger the public health, safety or welfare. This section is not intended to cause hardship to any person who uses the utmost care and diligence to protect trees within the City or on public property.

B. DUTIES AND RESPONSIBILITIES.

1. General

- **a.** To investigate, report and make recommendations on any matter of question falling within the scope of its work, when requested by the City Council.
- **b.** To facilitate the planting, growth and protection of trees within the City.
- **c.** To coordinate and sponsor an annual City-wide Arbor Day observance.
- **d.** To conduct and maintain an accurate survey of trees located on municipally owned property.
- **e.** To investigate and pursue grants, loans or contributions from governmental agencies, public or private corporations, and individuals.
- **f.** To develop programs and promotions within the City which will encourage public participation and cooperation.
- **g.** To develop and maintain a list of tree species to be used as a guide for planting.
- **h.** To develop and maintain a set of detailed guidelines including spacing between trees; minimum distances trees may be from curbs or curb lines, sidewalks, and street corners; the location of trees relative to overhead and underground water lines, sewer lines or other utilities; and any other criteria needed to regulate the planting, maintenance and removal of municipally owned trees.

2. Annual Reporting and Budgeting

- **a.** The primary duty of the Tree Board shall be the administration and maintenance of the Tree Ordinance. In connection with this responsibility, the Tree Board shall submit in writing to the City Council a report of its activities, an outline of projects for the following year, an analysis of its expenditures to date for the current fiscal year, and its requested budget of funds needed for operation during the ensuing fiscal year. All accounts and funds of the Tree Board shall be administered substantially in accordance with the requirements of the Local Government Fiscal Control Act, all as shown in G.S. § 159-307. Upon its acceptance and approval, this annual report shall constitute the office Comprehensive City Tree Plan for the City of Eden, North Carolina
- **b.** The Tree Board is authorized to receive contributions from private agencies, organizations, and individuals, in addition to any funds that may be appropriated for its use by the City Council. It may accept and disburse such contributions for special purposes or projects, subject to any specified

conditions that it deems acceptable, whether or not such projects are included in the approved budget.

3. Miscellaneous

a. The Tree Board shall have the power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may elect.

b. Members or employees of the Tree Board, when duly authorized by the City Manager, may attend conferences, meetings or hearings on pending legislation and the Tree Board may authorize payment within the Board's budget of the reasonable traveling expenses incident to such attendance.

4. Special Committees

The Tree Board may from time to time establish special committees to assist it in studying specific questions and problems. The membership of such committees shall not be limited to Board members. The Board may not delegate to any such committee its official powers and duties.

C. MEMBERSHIP AND QUORUM.

1. The Tree Board shall elect a chair and create and fill such offices as it may determine. The term of the chair and other officers shall be one year, with eligibility for reelection. The Administrator or their designated appointee shall act as the administrative assistant to the Board, and subject to the direction of the chair, shall be responsible for taking minutes of all meetings, conducting all correspondence of the Board, supervising all clerical work of the Board, maintaining a file of all studies, plans, reports, recommendations and actions of the Board, as well as, providing other technical and professional assistance to the Board. The administrative assistant shall not be eligible to vote on any matter.

2. The Board shall adopt rules for transaction of its business which are in keeping with the provisions of this Article. The rules shall include the provisions of this section in addition to the rules the Board shall adopt. The Board shall establish a regular meeting schedule and shall meet frequently enough so that it can handle the duties as prescribed by this Article. All meetings of the Board shall be open to the public. All deliberations and actions of the Board shall be conducted openly. A majority of the members, excluding vacant positions, shall constitute a quorum. All actions of the Board shall be taken by majority vote, a quorum being present. The Board shall keep minutes of its proceedings, showing the vote of each member. A copy of the record shall be maintained on file for public inspection in the office of the secretary.

3. The Tree Board shall consist of eight members appointed by the City Council of which each council member and the mayor shall have the opportunity to nominate one person to the board. All members shall be residents of the City's Planning and Development Regulation Jurisdiction at the time of appointment.

4. Where possible, appointments shall be made in such a manner as to maintain on the Commission at all times a majority of members who have had special training or experience in landscape architecture, horticulture, urban planning or a closely related field. The members shall be appointed for a term of three years with the exception of the original eight members. Three of the initial members shall be appointed for a term of one year; two for two years; and three for three years. If a member of the board moves

outside the Planning and Development Regulation Jurisdiction, that shall constitute a resignation from the Board, effective upon the date a replacement is appointed. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term

D. ATTENDANCE.

1. It shall be the duty of all members to inform the Administrator or his or her designee of any anticipated absence and notification shall be immediately after receipt of the agenda.
2. A member who misses three consecutive meetings or more than 30% of the meetings in a calendar year loses his status as a member of the board until reappointed or replaced by the City Council.
3. Absences due to sickness, death or other emergencies of like nature shall be regarded as proved absences and shall not affect the member's status on the board; except, that in the event of a long illness or other such case for prolonged absence the member may be replaced.

E. RULES OF CONDUCT.

Members of the Tree Board may be removed for cause by the City Council, including violation of the rules stated below.

1. Faithful attendance at all Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board.
2. Each member of the Board shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Board as time and circumstances permit.
3. It shall be the duty of every Board member to avoid even the appearance of conflict of interest. Therefore, no member shall participate in or vote on any decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. In applying this rule, the following procedure shall govern:
    a. A member who has a conflict of interest shall disqualify himself/herself and withdraw from participation in the matter. The member shall not sit with the Board during the consideration and discussion of that matter.
    b. Any board member may seek an opinion from the City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the Board. By majority vote, the Board may seek the opinion of the City Attorney as to the applicability of this section to a particular decision or set of facts.
    c. If an opinion is received from the City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Board may, by majority vote (not considering the vote of the member with the alleged conflict), disqualify that member from all participation in the matter involved.
4. Members of the Board shall not commit themselves on any question scheduled to be considered by the Board prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Board.

F. TREE PLANTING, MAINTENANCE, AND REMOVAL.

1. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs on municipally owned land along streets, alleys, avenues, lanes, squares and public grounds, as is necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
2. The Tree Board may, as an agent of the City, plant, maintain, remove or cause to be removed any municipally owned tree or part thereof which is in an unsafe condition, which by reason of its nature is or may become injurious to public improvements and utilities, or which is affected with any fungus, disease, insect or other injurious condition.

G. TREE TOPPING.

It shall be unlawful for any person, firm, or City department to top any tree on public property without prior approval of the Tree Board. Topping is defined as severe pruning of tree limbs larger than three inches in diameter within the tree's crown which removes the normal canopy and or disfigures the tree. Approval for topping will be granted only in cases where trees have been severely damaged, where they interfere with or are an imminent threat to public property or utilities, or where other pruning practices are deemed impractical.

H. REMOVAL OF STUMPS.

All tree stumps shall be removed to a point below the surface of the ground. The resulting hole or indentation shall be filled with topsoil to the level of the surrounding land. In no case shall a stump or portion of a stump remain above ground.

I. PLANTING BY PRIVATE CITIZENS.

Citizens are strongly encouraged to contact the Tree Board prior to planting to ensure compliance with these guidelines.

J. PERMITS REQUIRED.

1. It shall be unlawful for any person, firm, or private group to prune, treat, or remove any tree on municipally owned property without first obtaining a permit from the City. The Tree Board will review the permit application and may inspect the tree(s) in question to determine whether or not a permit should be issued. If the Tree Board does not approve the permit, reasons for such action shall be made in writing to the applicant.
2. A fee shall be charged for issuance of a permit. The permit fee shall be established by the City Council. All fees are due and payable when the permit application is submitted. All fees paid are non-refundable.

K. INTERFERENCE WITH TREE BOARD.

It shall be unlawful for any person, firm, or City department to prevent, delay or interfere with the Tree Board, or any of its agents, while engaging in activities authorized by this Article.

L. APPEAL TO CITY COUNCIL.

1. Any person may appeal any ruling or order of the Tree Board to the City Council. An appeal must be made in writing and must include the following:

a. A description and justification of the proposed activity;
b. A description of the tree(s) to be affected including approximate size, location and specie(s); and
c. Specific reasons for appeal.

2. Thirteen copies of the appeal must be submitted to the Tree Board at least two weeks prior to the City Council meeting at which the appeal is to be heard. The Tree Board shall convey eleven copies to the City Clerk. The chairman of the Tree Board or an alternate shall be present for the appeal discussion at the City Council meeting and should be prepared to defend or retract the appealed action.

2.10 WATERSHED REVIEW BOARD

The Board of Adjustment is hereby established as the Watershed Review Board.

A. POWERS AND DUTIES.

1. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Administrator in the enforcement of this Ordinance.
2. The Watershed Review Board shall have the power to authorize, in specific cases, minor watershed variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured and substantial justice done. In addition, the City of Eden shall give notice of the pending variance to all other local governments having jurisdiction in and all other entities obtaining water from the designated watershed where the variance is being considered and the City shall allow reasonable comment period for all such local governments and entities.

   a. Applications for a watershed variance shall be made on the proper form obtainable from the Administrator and shall include the following information:

      (1) A site plan, drawn to a scale of at least one inch to forty feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
      (2) A complete and detailed description of the proposed watershed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.
      (3) The Administrator shall notify in writing each local government having jurisdiction in the watershed. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

   b. Before the Watershed Review Board may grant a watershed variance, it shall make the following findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

      (1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

         (a) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate

to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

(b) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

(c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.

(d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.

(e) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

(2) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

(3) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

c. In granting the watershed variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

d. The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

e. A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Occupancy Permit for such use is not obtained by the applicant within six months from the date of the decision.

f. If the application calls for the granting of a major watershed variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

(1) The variance application

(2) The hearing notices

(3) The evidence presented

(4) Motions, offers of proof, objections to evidence, and rulings of them

(5) Proposed findings and exceptions

(6) The proposed decision, including all conditions proposed to be added to the permit

g. The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

(1) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that:

(a) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted; and

(b) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations granting the proposed variance.

(2) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that:

(a) the property owner can secure a reasonable return from or make a practical use of the property without the variance; and

(b) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

3. Approval of all development greater than the low-density option.

B. APPEALS FROM THE WATERSHED REVIEW BOARD.

Appeals from the Watershed Review Board must be filed with Superior Court within 30 days from the date of the decision. The decisions by the Superior Court will be in the manner of certiorari.

ARTICLE 3 – DEVELOPMENT AND ADMINISTRATIVE REVIEW PROCEDURES

3.01 DEVELOPMENT PROCESSES AND PERMITS

A. PURPOSE AND INTENT

In order to establish an orderly process to develop land within the City of Eden's planning and development regulation jurisdiction consistent with standard development practices and terminology it is the purpose of this Section to provide a clear and comprehensible development process.

B. PROVISIONS AND APPLICABILITY

The provisions of this section shall be applicable to all development activity under the planning and development regulation jurisdiction of the City of Eden.

1. Permit to Start Construction Required

No land shall be used or occupied, and no structures shall be erected, moved, extended, or enlarged, nor shall any timbering, clearing and grubbing, or filling of any lot for the construction of any building be initiated until the Administrator has issued an appropriate permit which will certify that the proposed work is in conformity with the provisions of this Ordinance.

2. Fees and Inspections

a. The City of Eden is authorized to establish fees to be charged by the City for the administration of the regulations in this Ordinance. Based on the City's official fee schedule, fees shall be paid to the City to cover the cost of processing, advertising and other administrative expenses regarding each application and/or development plan as specified in this Ordinance.

b. Agents and officials of the City are authorized to inspect land development activities to ensure compliance with this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance, and to determine whether the measures required in approved development plans are being appropriately followed. Notice of the right to inspect shall be included in the certificate of approval of each plan.

c. No person shall willfully resist, delay or obstruct an authorized representative, employee or agent of the City while that person is inspecting or attempting to inspect a land development activity.

d. The City shall also have the power to require written statements or filing reports under oath, with respect to pertinent questions relating to the land development activity.

3. Review Authority Table

Development / Permit Process	Process Type	Review / Recommendation	Final Action	Appeal Process	Public Notice Level
Appeal of Administrative Decision	Quasi-Judicial	Administrator	Board of Adjustment	Superior Court	1
Administrative Modification of Setbacks	Administrative	Administrator	Administrator	Board of Adjustment	N/A
Certificate of Appropriateness (Major)	Quasi-Judicial	Administrator	Historic Preservation Commission	Board of Adjustment	1, 2, and 3
Certificate of Appropriateness (Minor)	Administrative	Administrator	Administrator	Historic Preservation Commission	N/A
Certificate of Compliance	Administrative	Administrator	Administrator	Board of Adjustment	N/A
Conditional Zoning	Legislative	Planning Board	City Council	Superior Court	1, 2, and 3
Special Use Permit	Quasi-Judicial	Administrator / Technical Review Committee	City Council	Superior Court	1, 2, and 3
Erosion and Sediment Control Permit	Administrative	Administrator / TRC	Administrator	Board of Adjustment	N/A
Minor Subdivision / Final Plat	Administrative	Administrator / Technical Review Committee	Administrator	Board of Adjustment	N/A
Floodplain Development Permit	Administrative	Administrator	Administrator	Board of Adjustment	N/A
Site Plan	Administrative	Administrator / Technical Review Committee	Administrator	Board of Adjustment	N/A
Construction Plans	Administrative	Administrator / Technical Review Committee	Administrator	Board of Adjustment	N/A
Major Subdivision	Administrative	Administrator / Technical Review Committee	Administrator	Board of Adjustment	N/A
Rezoning (Map Amendment)	Legislative	Planning Board	City Council	Superior Court	1, 2, and 3
Stormwater Permit	Administrative	Administrator / Technical Review Committee	Administrator	Board of Adjustment	N/A
Text Amendment	Legislative	Planning Board	City Council	Superior Court	1, 2, and 3
Tree Protection Permit	See Zoning Compliance Permit				
Variance	Quasi-Judicial	Board of Adjustment	Board of Adjustment	Superior Court	1, 2, and 3
Administrative Vested Right	Administrative	Administrator / Technical Review Committee	Administrator	Board of Adjustment	N/A
Zoning Compliance Permit	Administrative	Administrator	Administrator	Board of Adjustment	N/A
Public Tree Removal / Maintenance Permit	Administrative	Administrator	Tree Board	City Council	N/A
Transportation Impact Analysis	Administrative	Administrator / Technical Review Committee	Per primary development / permit process	Per primary development / permit process	Per primary development / permit process

4. Application Completeness

a. Applications to Be Complete

(1) No application is complete unless all of the information required herein is included and all filing fees have been paid. The Administrator shall consider an application that includes such information deemed complete.

(2) Additional information may be required by the Administrator to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance. Failure to provide additional requested required information may result in application denial or in a determination of incompleteness. The presumption established by this UDO is that all required application information herein or otherwise requested by the Administrator is necessary.

(3) Review for completeness of application forms is solely for the purpose of determining whether preliminary information required for submission constitute a decision as to whether the application complies with the provisions of the UDO.

(4) Any incomplete application shall not be reviewed further until all information deemed necessary is produced. A determination of an incomplete application is an administrative decision and may be appealed to the Board of Adjustment.

b. Evidence of Authority

No application shall be considered complete without written affirmation from the landowner either as applicant or through express written consent.

5. Public Notice

The following procedures have been established for development processes/permits that require notification of the public prior to consideration and/or approval.

a. Level 1: Published Notice - General

A notice shall be published in a newspaper of general circulation in the City once a week for two successive weeks. The first publication shall appear no less than ten days or more than 25 days prior to the date fixed for the public hearing. The notice shall include the time, place and date of the hearing/meeting and include a description of the property and the nature of the proposal.

b. Level 2: Mailed Notice / Full Community Notice

(1) The owners of property within 100 feet on all sides of the subject property shall be notified of the hearing/meeting by first class mail. Such notification shall be postmarked at least ten but not more 25 days prior to the date of the meeting at which the matter is to be heard.

(2) As an alternative, to the mailed notice requirements in Section 3.01.B.5.b.(1) above and per G.S. § 160D-602(b), the City may elect to serve notice through a full community notification for pending actions that affect at least fifty properties with at least fifty different property owners. The City shall publish notice of the hearing/meeting in a newspaper of general circulation in the City. Two advertisements shall be published in separate calendar weeks. Each advertisement shall not be less than ½ of a newspaper page in size. The advertisement shall only be effective

for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail.

c. Level 3: Posted Notice

In addition to providing published or mailed notice, as required in above, a sign shall be placed in a prominent location on the subject property(ies) or on an adjacent public street or highway right-of-way with a notice of the pending action and a phone number (designated City contact person or department) to contact for additional information. The notice shall be posted within the same time period specified for mail noted in Section 3.01.B.5.b. above.

6. Application Requirements

a. The following general standards for various applications have been identified as a means to create a hierarchy of submissions for permits/processes.

b. The City's official application checklists are intended to provide further guidance to applicants as to the necessary level of detail for certain permit/process types. Permits/processes for which checklist requirements are needed are marked with "●" in the table below:

Development Permit/Process	Existing Conditions Map	Sketch Plan	Master Plan	Construction Plan	Final Plat	Building Elevations	As-built Drawings
Administrative Modification of Setbacks	●[1]	●[1]		●[1]		●[1]	●[1]
Conditional Zoning District / Conditional Rezoning[3]	●	●[1]	●			●[1]	
Special Use Permit[3]	●		●			●[1]	
Erosion and Sediment Control Permit [2]	●			●			●[1]
Final Plat Review					●		●[1]
Flood Development Permit	●			●			●[1]
Site Plan Review[3]	●[1]		●[1]	●	●[1]	●[1]	●[1]
Construction Plan Review	●			●		●[1]	●[1]
Major Subdivision [3]	●		●[1]	●	●		●[1]
Minor Subdivision/Final Plat[3]	●[1]	●[1]			●		●[1]
Tree Protection Permit	●[1]	●[1]				●[1]	
Variance	●[1]	●[1]				●[1]	●[1]
Administrative Vested Right			●[1]				

Zoning Compliance Permit		●				●[1]	
Stormwater Permit [2]	●			●			●[1]
Transportation Impact Analysis (TIA)	See 3.12.						

[1] *As needed by the Administrator.*

[2] *Issued in conjunction with construction plans.*

[3] *May also require a TIA, per Section 3.12, Transportation Impact Analysis.*

c. Existing Conditions Map

An existing conditions map is intended to identify existing developed conditions and natural features including, but not limited to, the following:

(1) Rights of way
(2) Existing structures
(3) Cemeteries
(4) Bridges or culverts
(5) Utilities
(6) Driveways and curb cuts
(7) Sidewalks, surface parking and loading areas
(8) Streets with pavement width
(9) Existing easements
(10) Natural features such as large stands of trees, water features, special flood hazard area
(11) Soils type
(12) Existing topography
(13) A survey shall be required when any proposed improvements, uses, or structures are within twice the setback from the property line.

d. Sketch Plan

(1) A sketch plan shall show in simple sketch form the dimensions of the lot on which the proposed building or use is to be constructed or conducted and the following:

(a) Proposed layout of existing and proposed streets,
(b) Existing or proposed lot(s) layout, building(s) location and size,
(c) Nature of land use, parking areas and means of ingress/egress,
(d) Environmental conditions (i.e. Special Flood Hazard, wetlands, Impervious Surface Area, etc.)

(2) Sketch Plans shall be reviewed as binding documents for compliance of Unified Development Ordinance conformance, but shall be nonbinding when used in the review for pre-application conferences for all other development application processes in which a sketch plan is required. All plans shall be submitted at a scale not less than one inch equals fifty feet (for Site Plans) or one inch equals 200 feet (for Subdivisions) unless otherwise authorized by the Administrator.

e. Master Plan

(1) A master plan is intended to provide a detailed two-dimensional drawing that illustrates all of the required site features including:

(a) Buildings and parking areas
(b) Streets locations, street sections, and new and existing rights-of-ways
(c) Property lines and setbacks
(d) Required or proposed buffers,
(e) Conceptual landscaping
(f) All related development calculations (e.g. density, proposed building areas, number of parking spaces, impervious surface coverage) in sufficient detail to show compliance with this Ordinance.

(2) Detailed engineering drawings such as subsurface utilities (e.g., water and sewer) and on-site stormwater facilities are not required for Master Plans, except that horizontal water and sewer locations shall be indicated as required by the utility provider.

f. Construction Plan

(1) Construction Plans shall constitute a full and complete set of engineered drawings necessary for final permitting and construction.

(2) All plans shall be submitted at a scale not less than one inch equals fifty feet unless otherwise authorized by the Administrator.

(3) All streets, utilities, and stormwater, and other infrastructure systems shall be designed and constructed in accordance with the City's adopted standards and specifications and other utility provider requirements where applicable.

g. Final Plat

(1) The final plat shall be prepared by a professional land surveyor, licensed to practice in the State of North Carolina and shall be drawn to a scale no less than one inch equals 100 feet, and shall meet the requirements of G.S. § 47-30.
(2) The final plat shall constitute an accurate survey of the entire phase as shown on the approved plan and shall include all the relevant notes and certifications.

h. Building Elevations

In order to reasonably evaluate the appearance, function, and impact of nonresidential and multifamily buildings, it is necessary to submit scaled drawings of each elevation. These drawings should be in color and shall accurately represent the building heights, floor levels, architectural features, fixtures, and building materials.

i. As-Built Drawings

The "as built" drawings shall show the final design specifications for all public infrastructure. The designer of the infrastructure shall certify, under seal, that the installed infrastructure is in substantial compliance with the approved plans and designs and with the requirements of this Ordinance. A final

inspection and approval by the Administrator shall occur before the release of any performance securities.

3.02 REQUIREMENTS FOR HEARINGS AND DECISIONS

A. STANDARDS FOR CONDUCT OF QUASI-JUDICIAL HEARINGS

Per G.S.§ 160D-102, a quasi-judicial decision is a process that involves the finding of facts regarding a specific application of development regulation and the exercise of discretion when applying the standards of this Ordinance. Quasi-judicial decisions include decisions involving variances, special use permits, and appeals of administrative decisions. Decisions on the approval of major site plans and major subdivision preliminary plats are quasi-judicial in nature if this Ordinance authorizes a decision-making board to approve or deny the application based on one or more generally stated standards requiring a discretionary decision based on findings of fact. As a result, the following standard procedures are incorporated as appropriate per G.S. § 160D-406.

1. Contact with Decision-Making Board Members

Contact with any members of a decision-making board prior to the public hearing by any individual regarding the matter is prohibited.

2. Conflict of Interest

A member of the decision-making board shall not participate in or vote on a quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

3. Participants to be Sworn

All participants in the public hearing shall be duly sworn in prior to the submission of any testimony.

4. Competent Evidence Required

a. All decisions shall be based on competent evidence entered in as part of the record.

b. The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if

(1) The evidence was admitted without objection, or

(2) The evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it.

c. The term "competent evidence," as used in this Section, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

(1) The use of property in a particular way would affect the value of other property.

(2) The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.

(3) Matters about which only expert testimony would generally be admissible under the rules of evidence.

5. Cross-Examination Permitted

The cross-examination of witnesses submitting testimony shall be permitted upon request.

B. DECISION STANDARDS

Each decision-making board under the provisions of this Ordinance shall ensure that the rights of petitioners have not been prejudiced because of the decision-making body's findings, inferences, or conclusions. In addition, such decision shall not be:

1. In violation of constitutional provisions, including those protecting procedural due process rights.
2. In excess of the statutory authority conferred upon the City or the authority conferred upon the decision-making board by Ordinance.
3. Inconsistent with applicable procedures specified by statute or Ordinance.
4. Affected by other error of law.
5. Unsupported by substantial competent and material evidence in view of the entire record.
6. Arbitrary and capricious.

C. DECISION RECORDS

The following shall become part of the official record of decision:

1. Documents and exhibits submitted to the decision-making board;
2. Meeting minutes;
3. Any party may request, at their expense, a transcript of the proceedings from any recorded audio/video if available.

3.03 ADMINISTRATIVE PERMITS

A. ZONING COMPLIANCE PERMIT

A zoning compliance permit indicates compliance with the provisions of this Ordinance and shall be required for the construction or development of any new use within the planning and development regulation jurisdiction of the City of Eden, and any other site improvement as indicated in the UDO. In addition to new uses, a zoning compliance permit shall be required for expansions of existing uses, changes of use, any uses permitted with special conditions (*Article 5 – Individual Use Standards*) and any signage requiring a permit (*Article 7 - Signs*).

1. Application Prior to Building Permit

A zoning compliance permit application shall be presented to the Administrator prior to applying for a building permit. No building permit shall be issued for any activity within the City's planning and development regulation jurisdiction until such zoning permit is approved.

2. Pre-Application Process

No meeting is required but applicants are encouraged to call or visit the Administrator prior to requesting a zoning permit to determine what information is required for the application.

3. Determination of Compliance

Once an application containing all needed elements is submitted, the Administrator shall review the application and approve or deny it based on compliance with the standards contained in this Ordinance.

4. Appeals

Per *Section 3.01.B.3. Review Authority Table.*

5. Permit Validity and Extensions

a. Per *Section 3.11 Establishment of Administrative Vested Rights.*

b. The Administrator shall grant one extension of this time period for six months upon submittal by the applicant of sufficient justification for the extension. Sufficient justification may include delays in other outside agency permits, financing institution delays, or other similar reasons beyond the control of the applicant.

B. CERTIFICATE OF APPROPRIATENESS (COA)

1. Certificate of Appropriateness Required

a. From and after the designation of a landmark or historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor any above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark or within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission (HPC).

b. The City shall require such a certificate to be issued by the HPC prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of the ordinance. A certificate of appropriateness shall be required whether or not a building or other permit is required.

(1) For purposes of this Article "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs. "Exterior features" shall not include paint type or color.

(2) Except as provided in subsection B.2 below, the HPC shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features in the district or of the landmark which would be incongruous with the special character of the landmark or district.

c. Notwithstanding subsection B.1 above, the jurisdiction of the HPC over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the Office of the Register of Deeds of Rockingham County and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the HPC's jurisdiction over the interior.

(1) All of the provisions of this section are applicable to the construction, alteration, moving and demolition by the state, its political subdivisions, agencies and instrumentalities, provided however that they shall not apply to interiors of buildings or structures owned by the state.

(2) The state and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. § 121-12(a) from any decision of the local commission. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the HPC shall be binding upon the State and the HPC

d. The City and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating work in a historic district for any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the city or public utility companies.

2. Requirements for Issuance of Certificates of Appropriateness

a. An application for a certificate of appropriateness shall be obtained from and when completed, filed with the Administrator.

3. Contents of an Application

a. The application for a COA shall, in accordance with the HPC's rules of procedure, contain data that is reasonably necessary to determine the nature of the application. An application for a COA shall not be considered complete until all required data has been submitted. Applications shall be considered by the HPC at its next regular meeting, provided they have been filed, complete in form and content 15 calendar days before the regularly scheduled meeting of the HPC. Otherwise, they shall be deferred until the next meeting or considered at a special meeting of the Commission.

b. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.

4. Public Notification & Hearing

a. See *Section 3.01.B.5 – Public Notice.*

5. Action on an Application

a. The action on an application shall be approval, approval with modifications, or denial in accordance with *Section 3.02.A – Standards for Conducting of Quasi-Judicial Hearing.*

b. Prior to any final action on an application the review criteria in this ordinance shall be used to make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district or landmark.

c. All applications for Certificates of Appropriateness shall be reviewed and acted upon within a reasonable time as defined by the rules and procedure, not to exceed 180 days from the date the application is filed. As part of its review procedure the HPC may view the premises and seek the advice of the Department of Cultural Resources, Division of Archives and History, or other such experts as it may deem necessary.

6. Appeals

Per *Section 3.01.B.3. Review Authority Table.*

7. Submission of New Applications

a. If a Certificate of Appropriateness is denied, a new application affecting the same property may be submitted only if substantial change, as determined by the HPC, is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

8. Review Criteria for Certificates of Appropriateness (Major)

a. It is the intent of these criteria, and the design guidelines, to ensure, insofar as possible, that changes to a designated landmark or structures in a historic district shall be in harmony with the reasons for designation.

b. When considering a Certificate of Appropriateness, the HPC shall take into account the historic or architectural significance of the structure, as well as the effect of such change or additions upon other structures in the vicinity. In a historic district it is not the intention of these criteria or the guidelines to require the reconstruction or restoration of individual or original buildings or prohibit the demolition, except as provided in this section, or removal of same or to impose architectural styles from particular historic periods. In considering new construction on a landmark or in a historic district the HPC shall encourage contemporary design which is harmonious with the character of the district.

c. The following criteria shall be considered, when relevant, along with companion design guidelines and the guidelines of the Secretary of the Interior in reviewing an application for a certificate of appropriateness:

(1) Lot coverage, defined as the percentage of lot area covered by primary structures.

(2) Setback, defined as the distance from the lot lines to the building(s).

(3) Building height.

(4) Spacing of buildings, defined as the distance between adjacent buildings.

(5) Building materials.

(6) Proportion, shape, positioning, location, pattern and sizes of windows and doors.

(7) Surface textures.

(8) Roof shapes, forms and materials.

(9) Use of local or regional architectural traditions.

(10) General form and proportions of buildings and structures, and relationship of any additions to the main structure.

(11) Expression of architectural detailing, such as lintels, cornices, brick bond, and decorative elements.

(12) Orientation of the building to the street.

(13) Scale, determined by the size of the units of construction and architectural details in the relation to the human scale and also by the relationships of the building mass to adjoining open space and nearby buildings and structures.

(14) Proportion of width to height of the total building facade.

(15) Archaeological sites and resources associated with standing structures.

(16) Major landscaping efforts that would impact known archaeological sites.

(17) Appurtenant features and other features such as lighting.

(18) Structural condition and soundness.

9. Certificate of Appropriateness (Minor)

a. A Certificate of Appropriateness application, when determined to involve a minor work, may be reviewed and approved by the Administrator according to specific review criteria and guidelines.

b. The Administrator may preliminarily deny an application; however, such application will automatically be put before the HPC for review.

c. Minor works are alterations, additions or removals that do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or the district as a whole.

d. Such minor works shall be limited to those listed in the HPC's rules of procedure and/or in the adopted principles and guidelines for historic districts or landmarks. A denial of an application involving a minor work by the Administrator may be appealed to the Commission.

10. Certain Changes Not Prohibited

a. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in design, materials, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the Codes Inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition.

b. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations.

c. Nothing in this section shall be construed to regulate paint type or color.

d. Nothing in this section shall be construed to prevent the maintenance or in the event of emergency, the immediate restoration of any existing above-ground utility structure without approval by the HPC.

11. Conflict with Other Laws

a. Whenever any standard adopted for the designation of landmarks or districts requires a longer waiting period or imposes higher standards with respect to a designated landmark or district than are established under any other statute, charter provision, or regulation, this section shall govern.

b. Whenever the provisions of any other statute, charter provision or regulation require a longer waiting period or impose higher standards than are established under this section such other statute, charter provision, ordinance or regulation shall govern.

12. Enforcement and Remedies

a. Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Administrator.

b. Failure to comply with the Certificate of Appropriateness shall be a violation of this ordinance and is punishable according to established procedures and penalties for such violations.

c. A certificate of appropriateness shall expire six (6) months after the date of issuance if the work authorized by the certificate has not been commenced. If after commencement, the work is discontinued for a period of six (6) months the permit therefore shall immediately expire.

d. No work authorized by any certificate which has expired shall thereafter be performed until a new certificate has been secured.

e. In case any building, structure, site, area or object designated as a historic landmark or located within a historic district designated pursuant to this section is about to be demolished whether as result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with this ordinance, the City, the HPC, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation or to prevent any illegal act or conduct with respect to such a building, structure, site, area or object.

f. Such remedies shall be in addition to any others authorized for violation.

13. Delay in Demolition of Landmarks and Buildings within Historic Districts.

a. An application for a Certificate of Appropriateness authorizing the demolition or destruction of a designated landmark or a building, structure, or site within the district may not be denied except as provided in subsection c below. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the HPC where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During such period the HPC shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the HPC finds that a building or site within the historic district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal. If the HPC has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the City Council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the HPC for a period of up to 180 days or until the City Council takes final action on the designation, whichever occurs first.

b. The City Council may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

c. An application for a Certificate of Appropriateness authorizing the demolition or destruction of a building, site or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the HPC finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

C. CERTIFICATE OF COMPLIANCE

Issuance of a certificate of compliance shall be required prior to the occupancy or use of any new construction and re-occupancy or re-use of any renovation/rehabilitation. Certificates of compliance insure that a completed development project has complied with all the applicable requirements of this Ordinance and all other applicable federal, state and local regulations. Certificates of compliance are issued by the Administrator and certify compliance with applicable regulations of this Ordinance.

1. Determination of Compliance

Upon receipt of the request for a certificate of compliance, the Administrator shall inspect the site for compliance with the approved plan and the applicable standards of this Ordinance. The applicant shall be notified of any deficiencies in the building(s) or site that prevents the issuance of the certificate of compliance or the certificate shall be issued.

2. Appeals

Per Review Authority Table, *Section 3.01.B.3*.

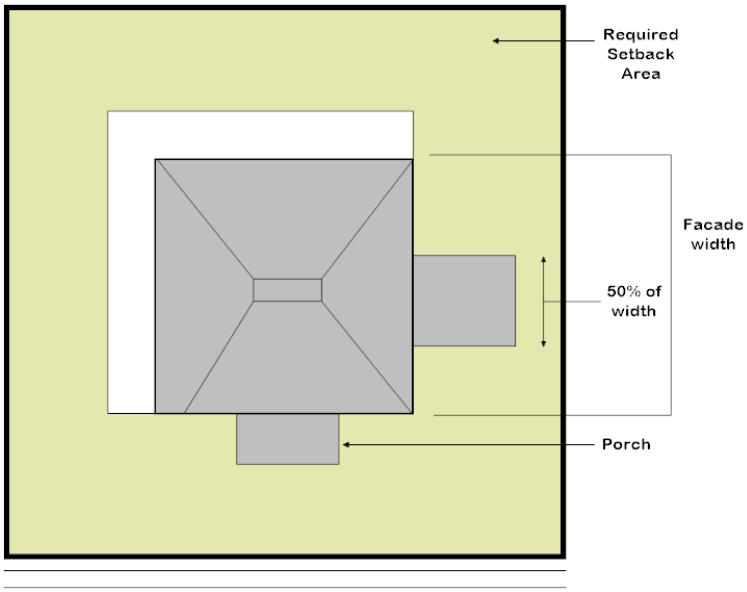
D. ADMINISTRATIVE MODIFICATION OF SETBACKS

In keeping with the purpose of these regulations to accomplish coordinated, balanced, and harmonious development in a manner which will best promote the health, safety, and general welfare while avoiding undue and unnecessary hardships, on approval by the City Manager, the Administrator is authorized to approve certain requests for deviation from dimensional standards.

1. Conditions for Modification of Setbacks

Requests for deviation from required setbacks set forth in this ordinance by up to ten percent of the required setbacks or 24 inches, whichever is greater, may be considered upon determination that one or more of the following conditions exists:

a. There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; the lot has topographic limitations that require placement of the structure into the required setback area; or the structure is physically in line with an existing, legally established wall or walls of a principal structure already within the minimum setback area.



b. The part of the proposed structure that would encroach into the minimum setback area is less than fifty percent of the width of the affected building facade(s), provided the part of the structure that would encroach into a front setback shall either be open (such as a porch or screen room) or not subject to occupancy (such as chimney).

c. The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life safety code, flood hazard reduction, Americans with Disabilities Act standard, or other public safety code requirements.

d. The proposed structure will allow the preservation of significant existing vegetation.

e. A good faith error was made in the location of a building foundation not exceeding 1 foot due to either field construction error or survey oversight.

2. Administrative Authority is Permissive Only

The authority given to the Administrator to grant such modification shall be construed to be permissive and not mandatory and the Administrator may decline to make such modification. In the event this occurs, the applicant shall have the right to submit an application to the Board of Adjustment to grant a variance. Nothing in this section shall be construed as limiting the Administrator's duties and rights under this chapter, or an applicant's right to appeal the decision of the Administrator to the Board of Adjustment.

E. ENVIRONMENTAL PERMITS

1. Stormwater Management

Development activities tend to increase the volume of stormwater runoff due to the elimination of pervious surfaces through paving and the construction of buildings and other structures. Stormwater runoff impacts the public health, safety and welfare by flooding private and public property, by discharging pollutants,

such as oils and greases, into receiving water bodies, and by making public streets and roads unsafe. Therefore, applicants for development authorization in which the total impervious surface will exceed 20,000 square feet, shall not be entitled to a zoning compliance permit until such time as the applicant has submitted a stormwater management plan demonstrating compliance with this section.

a. Plan Protection

The stormwater management plan shall be prepared, signed and sealed by a registered or licensed North Carolina professional with qualifications appropriate for the type of system required and to the degree they are permitted to do so under the law.

b. Conceptual Stormwater Management Plan

The Purpose of a conceptual stormwater management plan is to demonstrate the likelihood that a development undergoing site plan review or special use review will meet the standards for stormwater management contained in this section. When a conceptual stormwater management plan is required, the following requirements shall apply

(1) The plan shall show the location of proposed improvements, shall only include stormwater related features, and shall not be shown on any other plan such as a site plan, an erosion control plan, or a landscape plan.
(2) Calculations, including all assumptions of the pre- and post-development stormwater runoff rate in cubic feet per second generated by the peak runoff from a ten-year storm
(3) Identification of drainage areas
(4) A general layout of stormwater drainage features within the development
(5) If applicable, a statement describing the feature or features proposed to limit the post development stormwater runoff rate to the pre-development stormwater runoff rate, and the proposed location and size of feature(s)
(6) Location of the point(s) of discharge of the stormwater system
(7) Location of connection(s) to the City stormwater sewer system, if applicable

If in the opinion of the Administrator, the conceptual stormwater management plan does not adequately address the requirements of the stormwater resolution, additional information may be required.

c. Contents of Final Stormwater Management Plan

Final stormwater management plans shall contain the following elements:

(1) A plan showing all pre- and post-development features with

(a) A table listing and describing each feature and whether it is impervious

(b) Each feature's area in square feet or acres and the percent each feature represents of the total area

(c) Identification and delineation of all drainage areas and point(s) of discharge of the stormwater system. This plan shall be drawn in a suitable easy to read scale and shall be a separate document and not part of any other plan.

(2) Topographic contours or spot elevations for all pre- and post-development areas. Topographic contours or spot elevations shall clearly show pre- and post-development drainage patterns.

(3) Calculations showing the pre- and post-development rate of stormwater runoff in cubic-feet-per second generated by the peak runoff rate from a ten-year storm

(4) Details of proposed stormwater drainage structures, infiltration areas, retention ponds or detention ponds including as appropriate pertinent elevations, sections, outlet details, area capacity curves, identifying labels, and other information as required by the City Engineer

(5) Details and logical calculations and tables showing all design assumptions, methods of analysis, the pre- and post-development runoff qualities, capacities of proposed structures, slopes, sizes, identifying labels, and other information as required by the City Engineer

d. Standards for Review

Unless the applicant has been approved to discharge stormwater runoff into an existing City stormwater facility with sufficient capacity to accommodate increased flows attributable to the proposed development as provided below, the stormwater management plan shall be designed so that the post-development rate of stormwater runoff, shall not exceed the pre-development rate of stormwater runoff. The stormwater management plan may propose retention either on-site or off-site or by means of a combination of on-site and off-site. If any or all of the stormwater from a design storm is proposed to be retained off-site, such shall be done only under express terms of a recorded easement.

e. Discharge into City Stormwater Facility

An applicant may request authorization to discharge stormwater runoff from a proposed development into an existing City stormwater facility. Upon determination that there is sufficient capacity in the City stormwater facility to accommodate the runoff associated with the proposed development, as well as existing and other anticipated runoff, the Administrator or their designee, may authorize the applicant to discharge into the City facility. All costs associated with such discharge, including installation of necessary storm sewers, shall be borne by the applicant.

f. Installation of Stormwater System

The stormwater system shall be installed in substantial conformity with the plans. If there are significant deviations from the design, a revised plan showing the deviations shall be submitted in time to permit the review and approval of the plans before any construction work affected by such deviations is begun. Upon completion of construction, a registered professional appropriate for appropriate for the type of stormwater system designed must certify in writing to the Director of Engineering that the system was inspected during construction and was constructed in substantial conformity with the approved plans, and shall submit a suitable plan clearly marked “As-Built” showing the system as constructed. No Certificate of Occupancy shall be issued until these requirements are met and the as-built plan has been approved. If a development has been approved for construction in phases, a temporary certificate of occupancy may be requested for each phase as long as all other requirements are met. The as-built plan described above will be required at the completion of all phases.

g. Maintenance of Stormwater Management Facilities

(1) The owner of a stormwater management facility shall be responsible for maintenance of that facility unless the City accepts maintenance as provided below. This responsibility shall be noted on the final plat and deeds for any affected lots.

(2) Any detention or retention facilities approved under this ordinance shall be subject to inspection by the City Engineer at least annually and the owner shall pay an annual inspection fee the amount of which shall be determined by resolution of City Council. The owner shall correct any deficiencies within thirty calendar days of written notification thereof. Failure to correct deficiencies or to pay the annual inspection fee shall constitute a violation of this ordinance.

(3) Whenever an existing or future private stormwater management facility is proposed to serve a development undergoing site plan or special use review, the following shall be provided the Zoning Administrator prior to issuance of a certificate of occupancy.

(a) A written inspection and maintenance agreement in a form acceptable to the City Attorney and executed by the applicant and the owners of the facility, which shall bind the parties thereto and all subsequent owners, successors and assigns, and provide for the following:

i. The maintenance of the facility. If a party other than the applicant assumes primary responsibility for the maintenance of the facility, the applicant shall guarantee the maintenance of the facility and assume ultimate responsibility thereof.

ii. Access to the facility at reasonable times for inspection by the City and/or its agents or representatives

iii. That if an order directing the correction, repair, replacement, or maintenance of the facility or of any portion thereof is not satisfactorily complied with within a reasonable period of time, as deemed appropriate by the Director of Engineering, the City may, after notice to the owner, enter the land and perform all necessary work to place the facility in proper working condition, and may assess the owners of the subject property with the cost of said work, which cost shall be a lien on such property and may be collected as provided in G.S. § 160A-193. Notice shall be provided five calendar days prior to entry and performance of necessary work by the City. Notice shall be in writing and shall be delivered to the owner by hand-delivery, by certified mail, return receipt requested, or by any other means allowed by Rule 4 of the North Carolina Rules of Civil Procedure. The owners of all property served by the facility shall be jointly and severally responsible to the City for the maintenance of the facility and liable for any costs incurred by the City pursuant to said agreement, and all such properties are jointly and severally subject to the imposition of liens for said costs.

iv. The Inspection and Maintenance Agreement shall be recorded in the Register of Deeds Office for Rockingham County, Wentworth, NC, at the expense of the applicant

v. Any other provision as may be reasonable required by the City Attorney to achieve the purposes of this section.

(b) When deemed necessary by the City Attorney, an easement in a form approved by the City Attorney, granting the City and its agents and representatives adequate and perpetual access to the facility and sufficient area for inspection and maintenance, if necessary, by the City, its agents and representatives. Said easements shall be filed in the Office of the Register of Deeds for Rockingham County, Wentworth, NC, at the expense of the applicant, and shall bind all subsequent owners and assigns of the facility and of the property on which the easement is located.

h. Emergency Authority

If the Director of Engineering determines that the condition of any stormwater management facility presents an immediate danger to the public health and safety because of an unsafe condition or improper maintenance, the City Engineer shall take such actions as may be necessary to protect the public and make the facility safe. Any costs incurred by the City as a result of the City Engineer's action shall be assessed against any or all of the owners of property served by said facility who shall be jointly and severally liable for all said costs and whose property shall jointly and severally be subject to a lien for said costs which may be collected as provided in G.S. § 160A-193.

2. Floodplain Development Permit

All Floodplain Development Permits are issued by the City of Eden. *See Article 10 – Environmental Protection* for specific regulations and standards.

3. Erosion and Sediment Control Permit

All Erosion and Sediment Control Permits are issued by the City of Eden. *See Article 10 – Environmental Protection* for specific regulations and standards.

4. Tree Protection Permit

a. Purpose

The purpose of this section is to establish regulations and standards for the protection, removal and long-term management of trees within the City of Eden's planning and development regulation jurisdiction. The City of Eden, under the zoning authority granted to the City, desires to regulate such activity in order to accomplish the following objectives:

(1) To preserve the natural beauty and resources of the City of Eden's planning and development regulation jurisdiction.
(2) To encourage the proper protection and maintenance of existing trees on all public and some private lands
(3) To promote the economic health of the community by creating a more attractive environment for residents, tourists, and business interests
(4) To protect private property owners' investments by allowing development of land and harvesting of timber, while preserving the value of surrounding properties and aesthetics of the community at large

b. Applicability

The City recognizes that development is essential and desirable for the economic health of the community; that trees are a renewable resource and a source of revenue; and that removal of trees is often essential to preserve the overall health and value of other trees in the vicinity. The City also recognizes that trees contribute to the natural beauty of the area, which in turn contributes to the economic health of the community. Therefore, trees may be removed and timber harvested within the City of Eden's planning and development regulation jurisdiction only in conformance with the standards, procedures, exemptions and other requirements of this ordinance. The city shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates either

(1) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under G.S. § 105-12 or

(2) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with G.S. § 89B.

c. Permits Required

Except as otherwise provided in this section, no trees shall be removed from any site without first obtaining a zoning compliance permit from the Planning and Inspections Department. Such permit applications and permits shall be governed by the same provisions of this ordinance applicable to development permits. Applicant must submit a site plan showing rivers, streams and other natural features; public rights of way and easements, including greenways, trails, and utility easement; areas to be timbered; and buffers to be left in place.

(1) Activities requiring a permit:

(a) Harvesting or removal of any type of timber from any parcel or parcels of property on any public or private land for the purpose of development. Such timbering shall be permitted only after the applicant has submitted development plans and such development plans have been reviewed and approved by the Zoning Administrator.

(b) The removal, cutting, clearing or harvesting of one or more contiguous acres of timber from any parcel or parcels of property on any public or private land for the practice of forestry, as defined by G.S. § 105-277.2-.7, including clear cutting, select cutting, thinning, or other generally accepted forestry practices. Such timbering shall be permitted only after the applicant has submitted a plan for harvesting and replanting consistent with the most current Forest Practices Guidelines published by the North Carolina Department of Natural Resources and Community Development, or its successor agency, and such plans have been reviewed and approved by the Zoning Administrator.

(c) The removal, cutting, clearing or harvesting of any trees located in a watershed area. Any such timbering in a watershed area must comply with the requirements of the *Article 10 – Environmental Protection* and the provisions of this ordinance.

(d) The removal, cutting, clearing or harvesting of any trees for a parking lot. Parking lots must comply with the landscaping requirements for parking lots, as set forth in this ordinance.

(e) The removal, cutting, clearing or harvesting of any trees on any public land, right of way, or easements owned or maintained by the City of Eden or the State of North Carolina including, but not limited to utility easements and unopened street rights of way.

(2) Activities that do not require a permit:

(a) The removal, cutting, clearing or harvesting of timber from land to allow for non-commercial open space of no greater than one acre;

(b) The removal, cutting, clearing or harvesting of timber normally associated with new construction or expansion of a single-family or two-family dwelling situated on less than one (1) acre of land;

(c) The removal, cutting or clearing of trees for accessory buildings or other activities normally associated with the occupancy of an existing single-family or two-family dwelling, the area of the clearing not to exceed two times the area of the structure to be built;

(d) The removal, cutting, clearing or harvesting of timber normally associated with the new construction or expansion of a commercial building on property of one acre or less in size;

(e) The removal, cutting or clearing of dead trees and shrubs, or trees and shrubs that have been determined to be diseased beyond treatment, the burden of proof being placed on the property owner.

d. Buffer

Where any portion of the harvested area abuts a river, creek or stream, any public right of way or easement, or any adjoining developed property, a buffer shall be installed and maintained in accordance with the following provisions:

(1) A minimum 30 foot timber buffer shall be left in place along all perennial waters as defined in the *Article 10 – Environmental Protection*

(2) A minimum 30 foot timber buffer shall be left in place along any portion of the timbered area which borders a public park, greenway, trail or utility easement owned or maintained by the City of Eden.

(3) For property that is cleared, but not developed, a minimum of six-foot-tall evergreen vegetative buffer shall be installed and maintained along the property line of any adjoining developed property. Such buffer shall consist of two rows of evergreen trees or shrubs planted at six-foot centers along the length of the property line.

(4) For property that is cleared for development, a buffer in *Article 6 – General Development Standards* shall be installed and maintained along the property line of any adjoining residential property.

e. Enforcement

(1) Any person(s) found to be in violation of these provisions shall be issued a stop work order until they are determined to be in compliance with the provisions of the ordinance.

(2) In the case of approved development plans or building permits, no final inspection shall be passed, nor any certificate of occupancy issued until the property meets all the requirements of this section.

(3) Any act constituting a violation of this ordinance resulting in the loss or destruction of trees shall subject the property owner to a civil penalty equivalent to 1.5 times the monetary value of the trees removed or destroyed, up to a maximum of twenty thousand ($20,000), the value to be determined by a registered forester, timber appraiser, or landscaper. In addition, any trees removed or destroyed shall be replaced with new trees to be approved by the City of Eden.

(4) The City may deny a building permit or refuse to approve a site or subdivision plan for either a period of up to

(a) Three years after the completion of a timber harvest, if the harvest results in the removal of all or substantially all of the trees that were protected under the city regulations governing development from the tract of land for which the permit or approval is sought

(b) Five years after the completion of a timber harvest, if the harvest results in the removal of all or substantially all of the trees that were protected under the city regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the city regulations.

3.04 SITE PLAN AND CONSTRUCTION PLAN REVIEW

A. MINOR SITE PLAN REVIEW

The minor site plan review process shall apply to most development applications in the City of Eden's planning and development regulation jurisdiction. A minor site plan is scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The minor site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights–of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

1. Pre-Application Process

No meeting is required, but applicants are encouraged to call or visit the Administrator to determine what information is required for the application.

2. Determination of Compliance

Once an application is deemed complete by the Technical Review Committee, the Administrator shall review the application and approve, deny, or approve with conditions the Site Plan based on compliance with the standards contained in this Ordinance.

3. Public Notification

Per *Section 3.01.B.3. Review Authority Table.*

4. Appeals

Per *Section 3.01.B.3. Review Authority Table.*

5. Permit Validity

Per *Section 3.11. Establishment of Administrative Vested Rights.*

6. Permit Extension

The Administrator shall grant a single extension of a period of one year upon submittal by the applicant of sufficient justification for the extension. Sufficient justification may include delays in other outside agency permits, financing institution delays, or other similar reasons beyond the control of the applicant. If an extension is denied, or a Construction Plan is not presented for approval within a granted extension period, the applicant may reapply for a Site Plan using the same process as if the application was being considered for the first time.

B. MAJOR SITE PLAN REVIEW

The Major Site Plan Review process shall apply to all multi-family dwelling developments and to all development applications which require a Transportation Impact Analysis according to *Article 8 - Subdivisions and Infrastructure Standards*. Applications not meeting this threshold shall proceed directly to the minor site plan or construction plan review process.

1. Pre-Application Process

It is required that every applicant for Major Site Plan meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plans for approval.

2. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

3. Determination of Compliance

The Technical Review Committee shall review the plan to ensure that it is complete, and may request additional information until it is possible to determine affirmative compliance with this Ordinance, upon which the Administrator shall issue approval of the site plan.

4. Appeals

Per Section *3.01.B.3. Review Authority Table.*

5. Validity and Extensions

a. Per *Section 3.11 Establishment of Administrative Vested Rights.*

b. The Administrator shall grant one extension of this time period for six months upon submittal by the applicant of sufficient justification for the extension. Sufficient justification may include delays in other outside agency permits, financing institution delays, or other similar reasons beyond the control of the applicant.

c. Substantial Changes

(1) Any substantial change to a Site Plan (as noted below) shall be reviewed and processed according to the standard entitlement process as would be required for a new application. By definition, any modifications that exceed the maximum standards for the zoning district are considered substantial.

(2) The following changes shall be considered substantial and require approval by the process outlined for the original entitlement:

(a) When there is addition or reduction of a new vehicular access point to an existing street, road or thoroughfare,

(b) Modification of special performance criteria, design standards, or other requirements specified in the original entitlement,

(c) When there is an increase in the total number of residential dwelling units originally authorized by the original entitlement or where there is a decrease of residential dwelling units by 20% or greater,

(d) For nonresidential uses, when the total floor area is increased by 10% or decreased by 20% beyond the total floor area last approved in the original entitlement,

(e) Any increase in number of parking spaces of greater than 10%,

(f) Any increase or decrease of open space greater than 20%,

(g) The net addition of any public right-of-way or utilities, provided that any change in location or reduction in amount must be reviewed and approved by TRC else it shall be determined substantial.

(3) All other modifications shall be considered "minor modifications" and shall be reviewed for consistency with other portions of this Ordinance and if those criteria are met, shall be approved by the Administrator. Cumulative modifications from the original approval may trigger a substantial change and shall require review by that process.

C. CONSTRUCTION PLAN REVIEW

1. Pre-Application Process

No meeting is required but applicants are encouraged to call or visit the Administrator to determine what information is required for the application.

2. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

3. Determination of Compliance

The Site Construction Plan shall be reviewed by the Technical Review Committee for compliance with the requirements of this Ordinance and for conformity with the approved Major Site Plan, if applicable. Provided the application is complete, applications shall be reviewed by the committee and plan approval or written review comments will be given to the applicant within 30 days of receipt of the Site Construction Plan.

4. Appeals

Appeals of decisions of the Technical Review Committee shall be heard by the Board of Adjustment. An appeal must be made in writing by the applicant within 30 days of the receipt of the committee's comments.

5. Validity and Extensions

Approval of a Site Construction Plan shall be valid for one year from the date of approval. The Administrator shall grant one extension of this time period for six months upon submittal by the applicant of sufficient justification for the extension. Sufficient justification may include delays in other outside agency permits, financing institution delays, or other similar reasons beyond the control of the applicant.

6. Substantial Changes

Any substantial change to a construction plan (as noted below) shall be reviewed and processed according to the standard entitlement process as would be required for a new application. By definition, any modifications that exceed the maximum standards for the zoning district are considered substantial. The following changes shall be considered substantial and require approval by the process outlined for the original entitlement:

a. When there is addition or reduction of a new vehicular access point to an existing street, road or thoroughfare.
b. Modification of special performance criteria, design standards, or other requirements specified in the original entitlement.
c. When there is an increase in the total number of residential dwelling units originally authorized by the original entitlement or where there is a decrease of residential dwelling units by 20% or greater.
d. For nonresidential uses, when the total floor area is increased by ten percent or decreased by 20% beyond the total floor area last approved in the original entitlement.
e. Any increase in number of parking spaces of greater than 10%.
f. Any increase or decrease of open space greater than 20%.
g. The net addition of any public right-of-way or utilities, provided that any change in location or reduction in amount must be reviewed and approved by TRC else it shall be determined substantial.

All other modifications shall be considered “minor modifications” and shall be reviewed for consistency with other portions of this Ordinance and if those criteria are met, shall be approved by the Administrator. Cumulative modifications from the original approval may trigger a substantial change and shall require review by that process.

3.05 SUBDIVISIONS

A. MINOR SUBDIVISION PLAN REVIEW

1. Applicability

a. The minor subdivision review process shall proceed according to the process for a final plat (See *Section 3.05.(D).)* However, if a major subdivision is submitted, then plan preparation, submission, content, and review shall be the same as that for a final plat of a minor subdivision.

b. A final plat must be submitted within two years following preliminary plat approval or the preliminary plat becomes null and void.

c. A minor subdivision of land is defined as those divisions of land which contain ten or fewer lots all of which front on an existing improved public street and do not:

(1) Involve any new public streets, right-of-way dedication or requiring any new street for access to interior property,

(2) Require drainage improvements or easements, other than rear and side lot line easements, to serve the applicant's property or interior properties,

(3) Involve any major utility extensions,

(4) Require any public easements.

B. MAJOR SUBDIVISION PLAN REVIEW (MAJOR PRELIMINARY PLAT)

1. Applicability

The major subdivision preliminary plat review process is required for all subdivisions except those defined as minor subdivision (see *Section 3.08.A.,* above) or as otherwise identified in G.S. § 160D-802(a) as exempt from local government subdivision regulation.

2. Pre-Application Process

It is required that every applicant for major subdivision preliminary plat meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plans for approval. At a minimum, the applicant shall provide a sketch of the proposed plan at the pre-application conference.

3. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

4. Determination of Compliance

Within 45 days from the date the Administrator determines the application is complete, the Technical Review Committee shall review the plan to ensure that it meets the standards of this Ordinance.

5. Review Process

a. Approval

If the Administrator approves the major subdivision preliminary plat, the applicant may proceed toward final plat approval.

b. Conditional Approval

If the Administrator gives conditional approval to the major subdivision, then the applicant shall revise the plan in accordance with the conditions of approval and resubmit it. The Administrator shall review the revised plan and, if the plan meets all the approved conditions and is otherwise substantially unaltered, shall signify on the plan the change from conditional approval to approval. If the plan is not revised within 60 days to meet the approval conditions, or if the applicant notifies the Administrator that he/she is unwilling to revise the plan, then the plan shall be deemed denied,

c. Denials

If the Administrator denies the major subdivision plan he/she shall state the reasons in writing to the applicant within 15 days of the date at which the said plan is reviewed. The applicant may revise and submit a new application for subdivision approval; or the developer may appeal the decision per *Section 3.01.B.3. Review Authority Table.*

d. Appeals

An appeal from the decision of the Administrator regarding a major subdivision plan may be made to the Board of Adjustment.

e. Validity and Extensions

(1) Approval of a major subdivision shall be valid for two years from the date of approval. Construction Plans shall be presented for approval prior to the end of this two-year period.

(2) If the approved major subdivision provides for multiple phases within the subdivision, Construction Plan approval for any one phase shall extend the major subdivision preliminary plat approval for all other phases for a period of two years from the date of the Construction Plan approval for that phase. If Construction Plan approval has not been obtained prior to the end of this two-year period, the major subdivision preliminary plat approval shall become void.

(3) The Administrator may grant a single extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension. Sufficient justification may include, but is not limited to, delays in other outside agency permits, financing institution delays, or other similar reasons beyond the control of the applicant.

(4) If an extension is denied, or a major subdivision is not presented for approval within a granted extension period, the applicant may reapply for a major subdivision using the same process as if the application was being considered for the first time.

f. Substantial Changes

(1) Any substantial change (as noted below) shall be reviewed and processed according to the standard entitlement process as would be required for a new application. By definition, any modifications that exceed the maximum standards for the zoning district are considered substantial. The following changes shall be considered substantial and require approval by the process outlined for the original entitlement:

(a) Modification of special performance criteria, design standards, or other requirements specified in the original entitlement,

(b) When there is an increase in the total number of residential dwelling units originally authorized by the approved original entitlement or where there is a decrease of residential dwelling units by 20% or greater,

(c) For nonresidential uses, when the total floor area is increased by 10% or decreased by 20% beyond the total floor area in the original entitlement,

(d) Any increase in number of parking spaces of greater than 10%,

(e) Any increase or decrease of open space greater than 20%,

(f) The net addition of any public right-of-way or utilities, provided that any change in location or reduction in amount must be reviewed and approved by TRC else it shall be determined substantial

(g) When there is addition or reduction of a new vehicular access point to an existing street, road, or thoroughfare

(2) All other modifications shall be considered "minor modifications" and shall be reviewed for consistency with other portions of this Ordinance and if those criteria are met, shall be approved by the Administrator. Cumulative modifications from the original approval may trigger a substantial change and shall require review by that process.

C. CONSTRUCTION PLAN

1. Pre-Application Process

No meeting is required but applicants are encouraged to call or visit the Administrator to determine what information is required for the application.

2. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

a. For construction plans, the street and utility construction plans for all street, water, sanitary sewer, storm water facilities, and other public infrastructure shall be submitted following preliminary plat review but shall not be reviewed until the street and utility network on the preliminary plat has been granted entitlement approval by the reviewing body. For each subdivision section, the street and utility construction plans shall include all improvements lying within or adjacent to that section as well as all water and sanitary sewer lines lying outside that section and being required to serve that section. No street and utility construction plans shall be approved until the preliminary plat has been approved.

3. Determination of Compliance

The Construction Plan shall be reviewed by the Technical Review Committee (TRC) for compliance with the requirements of this Ordinance and for conformity with the approved preliminary plat, if applicable. Provided the application is complete, applications shall be reviewed by the committee and written review comments will be given to the applicant within 30 days of receipt of the Construction Plan.

4. Appeals

Per *Section 3.01.B.3. Review Authority Table.*

5. Phasing

Construction Plans for phased subdivisions shall be reviewed and recorded individually in accordance with the schedule presented by the applicant during the major subdivision preliminary plat approval.

6. Validity and Extensions

a. Approval of a Construction Plan shall be valid for two years from the date of approval.
b. A Final Plat shall be recorded prior to the end of this two-year period.
c. The Administrator shall grant a single extension of this time period of one year upon submittal by the applicant of sufficient justification for the extension. Sufficient justification includes delays in other outside agency permits, financing institution delays, or other similar reasons beyond the control of the applicant.

D. FINAL PLAT

1. Applicability

The final plat review process applies to all proposed subdivisions determined to be minor subdivisions or otherwise identified in G.S. § 160D-802(a) as exempt from local government subdivision regulation.

2. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

3. Required Improvements

All required infrastructure improvements shall be either installed or financially guaranteed in accordance with *Article 8 - Subdivisions and Infrastructure Standards.*

4. As-Builts

Upon completion of a development, and before a Final Plat shall be approved (unless financially guaranteed), the applicant shall certify that the completed development is in substantial accordance with the approved plans and designs, and shall submit actual “as-built” plans for all public infrastructure after final construction is completed.

5. Determination of Compliance

The Final Plat shall be reviewed by the Administrator for compliance with the requirements of this Ordinance and, in the case of major subdivision preliminary plats, for conformity with the approved Construction Plan. Provided the application is complete, plans shall be reviewed and acted upon by the Administrator and notice given the applicant within 45 days of receipt of the Final Plat. If the Administrator has not completed review in this time period, the final plat shall be automatically denied. Further review would require the submittal of a new application.

6. Appeals

Per *Section 3.01.B.3. Review Authority Table.*

7. Effect of Approval

The approval of a Final Plat does not constitute acceptance for maintenance or other purposes of improvements in rights-of-way, such as utility lines, street paving, drainage facilities or sidewalks. Such improvements, when located within the corporate limits of the City of Eden, may be accepted only by action of the City following inspection and approval. Public land designated on a plat shall be considered to be offered for dedication, but not accepted until the City Council has by express action done so.

8. Phasing

Final plats for phased subdivisions shall be recorded in accordance with the schedule presented by the applicant during the Construction Plan approval.

9. Validity and Extensions

Final plats that have been granted approval must be recorded in the Office of the Register of Deeds within 30 days following approval or the approval becomes invalid. No lots in a subdivision shall be sold prior to approval by the City and recording of the Final Plat for the subdivision.

3.06 SPECIAL USE PERMITS (SUP)

Special Use Permits add flexibility to the Zoning Ordinance and are authorized by G.S. §160D-705(c). A Special Use Permit may be issued in the classes of cases or situations hereinafter specified in accordance with the standards, principles, conditions, safeguards and procedures hereinafter specified subject to any additional reasonable and appropriate conditions and safeguards imposed on said Special Use Permits. By use of Special Use Permits, such special use may be allowed in a zoning district where such use would not otherwise be acceptable or permitted and in a way which allows the use while minimizing negative effects on surrounding properties.

The procedures for the issuance of Special Use Permits and the uses for which Special Use Permits may be issued are established in this Section. All land and structures under authority of a Special Use Permit shall strictly comply with the conditions and safeguards imposed upon such Special Use Permits.

A. TRANSITIONAL PROVISIONS

On the effective date (01/01/2021) of this ordinance, any existing and legal Conditional Use Permit (CUP) that is valid and in effect shall be deemed a Special Use Permit subject to the same conditions of approval or operation of the existing entitlement.

B. APPLICATION PROCEDURES

1. Pre-Application Process

Every applicant for a Special Use Permit is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.

2. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

3. Required Application Information

An application for a Special Use Permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Each application for a Special Use Permit shall contain the following at a minimum:

- **a.** A boundary and vicinity map,
- **b.** The property's total acreage, its zoning classification, the general location in relations to all major streets, railroads, and/or waterways, the date, and the north arrow,
- **c.** All existing easements, reservations, and rights-of-way,
- **d.** The approximate dimension, including height, of proposed buildings, structures, or appurtenances,
- **e.** All required setbacks, buffers, screening, and landscaping required by this ordinance or proposed by the petitioner; the landscape plan may be a part of the site plan or shown as a separate drawing.
- **f.** All existing and proposed points of access on public streets,
- **g.** Delineation of areas within the floodplain as shown on the official flood boundary maps,
- **h.** Proposed phasing, if any,

i. The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development,

j. Approximate location of all existing and proposed infrastructure on the site including water, sewer, roads, pedestrian ways,

k. Generalized traffic, parking, and circulation plans.

4. Determination of Compliance

The Administrator shall review the plan to ensure that it is complete. The Administrator shall prepare a report and recommendation on the application for City Council review and decision. After review and recommendation on the application by the Administrator, the City Council shall hold a public hearing on the proposal for official action.

5. Review Process and Public Hearing

a. Public Hearing

The City Council shall hold a public hearing on the proposal. The applicant and other property owners likely to be affected by the application shall be given an opportunity to be heard.

b. Decision and Findings of Fact

The City Council shall approve, deny or approve with conditions the Special Use Permit. No Special Use Permit approval shall be granted unless it complies with the following findings of fact:

(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

(2) That the use meets all required conditions and specifications of this Ordinance and of its approval;

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

(4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Eden and its environs and other adopted plans.

(5) Adequate and reasonable mitigation has been provided of potentially adverse effects on adjacent properties through the conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping and screening on the site;

(6) The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property;

6. Additional Conditions

The City Council may place conditions on the use as part of the approval to assure that mitigation measures are associated with the use. The conditions shall become part of the Special Use Permit approval.

7. Review Period

The City Council shall take action (approve, deny, or approve with conditions) within 60 days of the public hearing. Should the City Council fail to act on the Special Use Permit within the prescribed period, the application shall be considered approved.

8. Decisions

If the City Council approves the Special Use Permit the applicant will be directed to proceed to the preparation of Construction Plans. If the City Council disapproves or approves conditionally the plan, the reasons for such action shall be stated in writing by the Administrator and entered in the records of the Board, and the applicant may make changes and submit a revised plan for consideration in accordance with the procedures set forth in this section.

9. Appeals

Per *Section 3.01.B.3. Review Authority Table.*

10. Validity and Extensions

a. Conditional Uses that have been granted approval must begin site development within two years following approval or the approval becomes invalid.

b. The City Council may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension. Sufficient justification may include, but is not limited to, delays in other outside agency permits, financing institution delays, or other similar reasons beyond the control of the applicant.

c. If an extension is denied, or a Special Use Permit is not presented for approval within a granted extension period, the applicant may reapply using the same process as if the application was being considered for the first time.

11. Substantial Changes

a. Any substantial change (as noted below) shall be reviewed and processed according to the standard entitlement process as would be required for a new application. By definition, any modifications that exceed the maximum standards for the zoning district are considered substantial.

b. The following changes shall be considered substantial and require approval by the process outlined for the original entitlement

(1) When there is addition or reduction of a new vehicular access point to an existing street, road or thoroughfare,

(2) Modification of special performance criteria, design standards, or other requirements specified in the original entitlement,

(3) When there is an increase in the total number of residential dwelling units originally authorized by the approved original entitlement or where there is a decrease of residential dwelling units by 20% or greater,

(4) For nonresidential uses, when the total floor area is increased by ten percent or decreased by twenty percent beyond the total floor area in the original entitlement

(5) Any increase in number of parking spaces of greater than 10%,

(6) Any increase or decrease of open space greater than 20%,

(7) The net addition of any public right-of-way or utilities, provided that any change in location or reduction in amount must be reviewed and approved by TRC else it shall be determined substantial.

c. All other modifications shall be considered "minor modifications" and shall be reviewed for consistency with other portions of this Ordinance and any conditions of approval of the Special Use Permit, and if those criteria are met, shall be approved by the Administrator. Cumulative modifications from the original approval may trigger a substantial change and shall require review according to that process.

3.07 APPEALS OF ADMINISTRATIVE DECISIONS

A. APPLICABILITY

Parties aggrieved by any order, requirement, decision or determination, made by an administrative officer charged with enforcing the provisions of this Ordinance may be appealed per G.S. §160D-405.

B. PROCEDURES

1. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

2. Filing Process

An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent), or by the Administrator, to the Board of Adjustment. Such an appeal shall be made within 30 days of the receipt by such aggrieved party of the written notice of decision from the Administrator with the City Clerk.

3. Proceedings

The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order or preliminary injunction granted by the Superior Court of jurisdiction.

4. Required Application Information

Such relevant information as may reasonably allow the Board of Adjustment to understand the basis for the appeal. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.

C. REVIEW PROCESS

1. Upon receiving the application, the Board of Adjustment shall conduct a public hearing on the appeal. Any party may appear in person or be represented by an agent at the hearing.
2. After conducting the public hearing, the Board of Adjustment shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question. It shall take a simple majority vote of the Board of Adjustment to reverse or modify the contested action.
3. The Board of Adjustment, in making its ruling, shall have all the powers of the Administrator from whom the appeal is taken, and may issue or direct the issuance of a permit.
4. The decision of the Board of Adjustment must be in writing and permanently filed in the minutes of that reviewing body as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board of Adjustment, which must be delivered to parties of interest by certified mail.

D. APPEALS

Per *Section 3.01.B.3. Review Authority Table.*

3.08 VARIANCES

A. APPLICABILITY

1. The variance process (G.S. §160D-705(d)) administered by the Board of Adjustment is intended to provide limited relief from the requirements of this Ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this Ordinance.
2. It is not intended that variances be granted solely to remove inconveniences or financial burdens that the requirements of this Ordinance may impose on property owners in general or to increase the profitability of a proposed development, although such factors can be taken into consideration.
3. In no event shall the Board of Adjustment grant a variance which would allow the establishment of a use which is not otherwise allowed in a land development district or which would change the land development district classification or the district boundary of the property in question.
4. In no event shall the Board of Adjustment grant a variance which would conflict with any state code unless otherwise authorized by laws and regulations.

B. PROCEDURES

1. Pre-Application

Every applicant for a variance is encouraged to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.

2. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

3. Filing Process

An application for a variance may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application.

4. Determination of Compliance

The Administrator shall review the application to ensure that it is complete and shall prepare a report on the application for the Board of Adjustment to consider.

5. Proceedings

The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order or preliminary injunction granted by the Superior Court of Rockingham County.

6. Required Application Information

Such relevant information as may reasonably allow the Board of Adjustment to understand the basis for the appeal. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.

C. REVIEW PROCESS

1. Upon receiving the application, the Board of Adjustment shall conduct a public hearing on the variance.
2. After conducting the hearing, the Board of Adjustment may: deny the application; conduct an additional public hearing on the application; approve the application; or approve the application with additional conditions. A concurring vote of 4/5 of the members of the Board of Adjustment shall be necessary to grant a variance.
3. A decision by the Board of Adjustment shall be made within 45 days of the date of the hearing.
4. Any approval or denial of the request shall be accompanied by written findings of fact supporting the conclusion that the variance meets or does not meet each of the standards set forth in *Section 3.13.C.5.a.-d.* below.
5. The Board of Adjustment shall not grant a variance unless and until it makes all of the following findings:
   - **a.** Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
   - **b.** The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
   - **c.** The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
   - **d.** The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
6. Additional Conditions

   In granting any variance, the Board of Adjustment may attach such conditions to the approval as it deems necessary and appropriate to satisfy the purposes and objectives of this Ordinance. The Board of Adjustment may also attach conditions in order to reduce or minimize any injurious effect of such variance upon other property in the neighborhood and to ensure compliance with other terms of this Ordinance. Such conditions and safeguards must be reasonably related to the condition or circumstance that gives rise to the need for a variance.

3.09 TEXT AMENDMENTS AND REZONINGS (MAP AMENDMENTS)

A. APPLICATION PROCEDURES

1. Pre-Application Process

Every applicant for a rezoning or text amendment is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of` the application.

2. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

3. Required Application Information

A petition for a text amendment or rezoning of a part of the City's official zoning map shall be filed on a form provided by the Administrator. Such petition shall contain all the information required on the form and must be determined to be complete by the Administrator prior to advancing it through the review process. Such application shall be filed with the Administrator not later than 20 days prior to the Planning Board meeting at which the application is to be considered.

4. Determination of Compliance

The Administrator shall review the application to ensure that it is complete. The Administrator shall prepare a report and recommendation on the application for Planning Board review and recommendation. After review and recommendation on the application by the Planning Board, the City Council shall hold a public hearing on the proposal for official action.

B. REVIEW PROCESS AND PUBLIC HEARING

1. Planning Board Recommendation

a. Upon determination of compliance by the Administrator, the Planning Board shall review and provide a recommendation to the City Council on the application at the next available, regularly scheduled meeting.

b. If the Planning Board is able to reach a recommendation without further deliberation, the Planning Board shall submit a recommendation on the application and refer it to the City Council for their consideration at the next available public hearing.

c. If the Planning Board determines that further deliberation on the application is required, the Planning Board shall deliver its recommendation to the City Council within 45 days of its first consideration on the matter. If no recommendation is received from the Planning Board within 45 days of consideration on the matter, the City Council shall proceed in its consideration of the matter without a recommendation from the Planning Board.

d. Effect of Planning Board Recommendation

If the Planning Board makes a favorable recommendation, the matter shall proceed to a public hearing before the City Council.

2. Public Hearing

Upon consideration by the Planning Board, the City Council shall hold a public hearing on the proposal. The applicant and other property owners likely to be affected by the application shall be given an opportunity to be heard.

3. City Council Decision

a. Following receipt of a recommendation from the Planning Board, or after 45 days from the Planning Board meeting if no recommendation is received, the City Council shall conduct a public hearing on the matter.

b. Upon reviewing all of the pertinent information, the City Council shall take action to:

(1) Adopt the proposed amendment/rezoning request.
(2) Adopt the proposed amendment/rezoning request with modifications.
(3) Reject the proposed amendment/rezoning request.
(4) Refer the proposed amendment back to the Planning Board for further consideration.

4. Land Use Plan Consistency

a. In accordance with G.S. § 160D-701, all rezonings/zoning map amendments shall be made after due consideration of all adopted plans, including the comprehensive plan or land use plan.

b. Prior to adopting or rejecting any such request, the City Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan and a brief statement explaining the reasonableness and benefit to the public interest of the proposed changes, or otherwise be in accordance with G.S. § 160D-605.

c. Prior to consideration by the City Council of the proposed request, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the comprehensive plan. The Planning Board shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that the request is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the City Council.

d. As used in this section, “comprehensive plan” includes a unified development Ordinance and any other officially adopted plan that is applicable.

5. Citizen Comments

a. If any resident or property owner in the City submits a written statement regarding a proposed amendment, modification, or repeal to this Ordinance to the City Clerk at least two business days prior to the proposed vote on such change, the City Clerk shall deliver such written statement to the City Council.

b. Any resident or property owner who submits a written statement of citizen concern may withdraw their written statement any time prior to the meeting at which the item will be considered.

6. Appeals

Per *Section 3.01.B.3. Review Authority Table.*

7. Period to Subsequent Application

a. After an application for an amendment has been approved or denied by the City Council, there shall be a six-month waiting period before an application shall be considered on the same issue or property.

b. This waiting period may be waived by the City Council (3/4 vote required) if it determines that there have been substantial changes in conditions or circumstances which may relate to the request.

8. Application for Withdrawal

a. An application for rezoning may be withdrawn by the applicant prior to submission of the public hearing notice to the newspaper.

b. After submission of such notice, an application may be withdrawn by action of the Planning Board or City Council at the public hearing.

c. No more than two withdrawals may occur on the same property within a one-year period after the date of the second withdrawal.

d. No application shall be filed on the same property within a one-year period after the date of the second withdrawal.

9. Statute of Limitations

Appeals to text amendment and rezoning changes shall be filed within two months from date of adoption of ordinance or amendment(s), but not thereafter.

3.10 CONDITIONAL ZONING DISTRICTS

Conditional Zoning Districts (CZ) are districts with conditions voluntarily added by the applicant and approved in a legislative procedure by the City Council in accordance with G.S. § 160D-703. Conditional Zoning Districts provide for orderly and flexible development under the general policies of this Ordinance without the constraints of some of the prescribed standards guiding by-right development. The purpose of the district is to provide for: Flexibility in design to take greatest advantage of natural land, water, trees and historical features; Accumulation of large areas of open space for recreation and preservation of natural amenities; Greater freedom for the developer to submit plans that embody a creative approach to land use and utilizing innovative techniques to enhance the aesthetic quality of the development; Efficient use of land which may result in smaller street and utility and maintenance costs; Simplification of the procedures for obtaining approval of proposed development through timely review of proposed land use, site plan, public needs and other relevant factors. Conditional Zoning Districts may be applied in any district but may not be used to relieve hardships or barriers that would otherwise be addressed via a variance procedure.

A. TRANSITIONAL PROVISIONS

On the effective date (01/01/2021) of this ordinance, any existing and legal Conditional Use zoning districts, Special Use zoning districts or Planned Unit Development (PUD) zoning districts that are valid and in effect shall be deemed a Conditional Zoning (CZ) District subject to the same conditions of approval or operation of the existing entitlement.

B. APPLICATION PROCEDURES

1. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

2. Applicant and Property Information

a. Conditional Zoning District classification shall only be considered upon the request of the owners and/or their representatives of all the property to be included in the specific Conditional District request.

b. A Conditional Zoning District shall consist of land under unified control which may be planned and developed as a single development or as an approved programmed series of development phases by multiple developers. Unified control means that all land to be included within a Conditional Zoning District shall be owned or otherwise under the legal control of the applicant for a Conditional Zoning District.

c. The applicant shall be legally capable of providing a commitment to the City that the Conditional Zoning District development will comply with all documents, plans, standards and conditions ultimately approved by the City.

3. Required Application Information

a. A Conditional Zoning District shall consist of the Existing Conditions Map, a Sketch Plan (may be waived by the Administrator as appropriate), and Master Plan; as well as any other plans, drawings, renderings, elevations, maps and documents specifically included as development documents for approval by the City Council.

b. In addition to those items required for Master Plans, a Conditional Zoning District Master Plan shall, at a minimum, illustrate the following:

(1) The underlying zoning districts and a full list of proposed uses consistent in character with those zoning districts. Such use classifications may be selected from any of the uses, whether permitted, by right or with supplemental standards, allowed in the general zoning district upon which the Conditional Zoning District is based. Uses not otherwise permitted within the general zoning district shall not be permitted within the Conditional Zoning District

(2) General traffic routes (external and internal) to and from the development with major access points identified

(3) Tabular data, including the range and scope of proposed land uses, proposed densities, floor area ratios and impervious surface ratios as applicable to development type; and land areas devoted to each type of general land use and phase of development

(4) A proposed development schedule if the project is to be phased

C. EXCEPTION FOR CONDITIONAL ZONING DISTRICTS WITH USE LIMITATIONS ONLY

If an applicant proposes a Conditional Zoning District which meets the following criteria, no Conditional Zoning District Master Plan shall be required in the application

1. The only proposed deviation in use from the underlying zoning is to impose additional limitations on the uses that will be allowed in the Conditional Zoning District.

2. No other deviations from the standards of the underlying zoning are proposed in the Conditional Zoning District.

D. REVIEW PROCESS AND PUBLIC HEARING

The procedure for approval of a Conditional Zoning District shall follow the procedure for review of Text Amendments and Rezonings (Map Amendments) as outlined in *Section 3.15.*

1. Effect of Approval

The applicant may proceed with development only after approval of the Conditional Zoning District Master Plan by the City Council, followed by approval of any necessary Site or Subdivision Plans/Plats, except that all subsequent approvals shall be completed by the Administrator. The development and use of all land within the Conditional Zoning District shall be in keeping with the approved Master Plan and all applicable provisions therein.

2. Substantial Changes

a. The following changes to a Conditional Zoning District Master Plan (as noted below) shall be considered substantial and require approval by the process outlined for the original entitlement:

(1) Land area being added or removed from the Conditional Zoning District,

(2) Modification of special performance criteria, design standards, or other requirements specified by the original approval,

(3) A change in land use or development type beyond that permitted by the approved Conditional Zoning District Master Plan,

(4) When there is addition or reduction of a new vehicular access point to an existing street, road or thoroughfare,

(5) When there is an increase in the total number of residential dwelling units originally authorized by the approved original entitlement or where there is a decrease of residential dwelling units by twenty percent or greater,

(6) For nonresidential uses, when the total floor area is increased by 10% or decreased by 20% beyond the total floor area in the original entitlement,

(7) Any increase in number of parking spaces of greater than 10%,

(8) Any increase or decrease of open space greater than 20%,

(9) The net addition of any public right-of-way or utilities, provided that any change in location or reduction in amount must be reviewed and approved by TRC else it shall be determined substantial.

b. All other modifications shall be considered "minor modifications" and shall be reviewed for consistency with other portions of this Ordinance and any conditions of approval of the Conditional Zoning District, and if those criteria are met, shall be approved by the Administrator. Cumulative modifications from the original approval may trigger a substantial change and shall require review according to that process.

E. RECISSION OF CONDITIONAL ZONING DISTRICTS

1. The Applicant shall secure a valid building or construction permit(s) within two years from date of approval of the Conditional Zoning District unless otherwise specified.

2. If such project is not complete or a valid building or construction permit is not in place at the end of the two-year period, the Administrator shall notify the applicant of either such finding.

3. Within 60 calendar days of notification, the Administrator shall make a recommendation concerning the rescission of the Conditional Zoning District to the City Council.

4. The City Council may then rescind the Conditional Zoning District, or extend the life of the Conditional Zoning District for a specified period of time.

5. The rescission of a Conditional Zoning District shall follow the same procedure as was needed for approval.

6. Once a Conditional Zoning district is fully executed and the Conditional Zoning District Master plan is completely constructed, the district cannot be rescinded or altered except by the standard process for a rezoning or new conditional rezoning request.

3.11 ADMINISTRATIVE ESTABLISHMENT OF VESTED RIGHTS

The vested right (G.S. § 160D-102(33)) is a right which must be requested by the applicant at the time of submittal and is established pursuant to G.S. § 160D-108 to undertake and complete the development and use of property under the terms and conditions of an approved plan.

A. APPLICATION PROCEDURES

1. Process Type

Per *Section 3.01.B.3. Review Authority Table.*

2. Determination of Compliance

The Administrator shall review the application to ensure that it is complete. The Administrator shall prepare a report and recommendation on the application for Planning Board review and recommendation. After review and recommendation on the application by the Planning Board, the City Council shall hold a public hearing on the proposal for official action.

B. REVIEW PROCESS

Per *Section 3.01.B.3. Review Authority Table.*

C. APPEALS

Per *Section 3.01.B.3. Review Authority Table.*

D. DURATION OF VESTED RIGHT

1. For the purposes of establishing vested rights, the following are recognized:

a. All standards according to G.S. §160D-108, including

(1) Building permit: expires six months after issuance unless work under the permit is commenced. Regardless, building permits expire if work is discontinued for a period of twelve months after work has commenced.

(2) Development approvals: expires one year after issuance unless work has substantially commenced. “Substantially commenced” includes but is not limited to application for a building permit.

(3) Site specific vesting plan: expires two years after approval unless explicitly extended by City Council up to a maximum of five years. Includes preliminary plats, site plans, construction plans, Conditional Zoning District Master Plan (subject to the requirements of that Section 310.109), planned unit development, and special use permit.

(4) Multi-phase developments: expires seven years after approval and subject to the requirements of G.S. §160D-108(d)(4). As phases continue to receive development approvals or site specific vesting plans, the vesting period may extend past the initial seven year period according to the standards for those approvals.

(5) Where more than one vested right may be in effect, the longer time period applies.

2. Upon issuance of a permit/plan approval, the expiration provisions for those permits/plans shall apply, except that they shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding. A zoning vested right shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid permit/plan applications have been filed.
3. The City may terminate the zoning vested rights upon payment to the affected landowner of compensation for all costs, expenses and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of all financing and all architectural, legal and other fees incurred after approval by the City.
4. The zoning vested right may be terminated upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the plan. In such a case the City Council may, by Ordinance, after notice and a hearing, modify the affected provisions upon a finding that the change in state or federal law has a fundamental effect on the plan.
5. A zoning vested right is not a personal right but shall attach to and run with the applicable property. After approval of a plan, all successors to the original landowner shall be entitled to exercise such right while applicable.
6. Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this Ordinance.

3.12 TRANSPORTATION IMPACT ANALYSIS

A. DESCRIPTION

A Transportation Impact Analysis (TIA) is a specialized study that evaluates the effects of a development's traffic on the surrounding transportation infrastructure. It is an essential part of the development review process to assist developers and government agencies in making land use decisions involving various development reviews. The TIA helps identify where the development may have a significant impact on safety, traffic and transportation operations, and provides a means for the developer and government agencies to mitigate these impacts. Ultimately, the TIA can be used to evaluate whether the scale of development is appropriate for a particular site and what improvements may be necessary, on and off the site, to provide safe and efficient access and traffic flow.

B. APPLICABILITY

The following table identified the level of analysis required, if any, for different types of development proposals:

Level of Study Required by Development Type:	Residential	Office	Hotel	Industrial	Commercial Center	Other
None	Under 100 units	Under 50,000 sf	Under 100 rooms	Under 150 employees	N/A	Under 100 peak hour trips
Standard TIA	100-500 units	50,000 – 350,000 sf	100-500 rooms	150-1,000 employees	Under 100,000 total sf	100-500 peak hour trips, or any development with over 1,000 trips per day
Enhanced TIA	Over 500 units	Over 350,000 sf	Over 500 rooms	Over 1,000 employees	Over 100,000 total sf	Over 500 peak hour trips, or any development with over 1,000 trips per day

C. STANDARD REQUIREMENTS

Notwithstanding any criteria in effect by NCDOT, a standard TIA includes the following elements:

1. Abstract or Summary: Summarize description of proposed development, location, traffic generation, existing and future conditions (level of service), and recommended improvements. The report should not exceed two pages and preferably limited to one page.
2. Description of Development: Describe acreage included in development, existing and proposed land use, existing and proposed zoning, proposed density (number of houses, square feet of development, etc.)
3. Study Area: Generally, ¼ mile to ½ mile from each proposed site access along roads accessed by the site. This area may, in a few cases, be greater if the site is on a road with no intersections within that distance.
4. Site Location: Include location map showing site in relation to major streets and at least one-mile radius from site.
5. Traffic Generation: Indicate number of trips generated by site daily, AM peak hour, PM peak hour (AM peak hour may be omitted for retail uses which are not expected to generate significant traffic volumes during this period). Indicate internal or pass-by traffic generation if appropriate. For rezoning, indicate

traffic generation under existing zoning as well as proposed zoning. Indicate source of trip generation rate, land use code, and units used to derive generation.

6. Trip Distribution: Indicate percentage distribution of trips, by direction, within study area and method used to obtain.
7. Access Location(s): Location of planned streets or driveways and access to existing streets. Indicate other streets or driveways within study area, including those across the street. Indicate coordination with NCDOT where appropriate.
8. Existing Road and Traffic Conditions: Street laneage and classification, traffic control devices, existing daily traffic volumes within study area. Show traffic volumes and level of service of signalized intersections and proposed site access points within study area during AM and PM peak hour (PM only for retail). Include work sheets or computer printouts showing counted traffic volumes and level-of-service. Illustrate in figure(s) showing peak hour volumes, lanes, and level of service. For unsignalized intersections, show level-of-service for individual movements. Discuss transit service if applicable. Discuss accident history, if appropriate.
9. Planned Improvements: Discuss and describe any planned road improvements in the study area which could affect future traffic. Note whether project is shown on any applicable transportation plan, or NCDOT TIP.
10. Future Conditions: Same as for existing conditions, plus site traffic assigned to driveways or access points, for condition with full build-out of project, at build-out year. Include growth in background traffic due to other approved developments or to general growth in area. May show more than one phase, if project is to be phased. Discuss any conflict with other driveways or streets, queuing problems, potential safety problems.
11. Pedestrian Facilities: Indicate location of existing and proposed sidewalks and crosswalks, internal pedestrian paths.
12. Recommended Improvements: Indicate improvements required for access points and signalized intersections within study area to operate at acceptable level of service (D or better). These may include site access, internal site circulation, signalization, signal modification (retiming, additional phases), lane modifications or additions, or street widening. A signal warrant study is not required but may be included as supporting documentation where a traffic signal is requested. Note: showing recommended improvements does not necessarily indicate responsibility for improvement. Report may indicate which improvements are due to development and which are due to existing problems or other growth in traffic, and may suggest responsibility of developer or of other parties for improvements. Proposed improvements should be shown schematically on figures.
13. Engineer's Seal: All TIAs are to be prepared and sealed by an engineer registered in the State of North Carolina and specializing in traffic or transportation, with experience in preparing TIAs.

D. ENHANCED TIA REQUIREMENTS

An enhanced TIA includes all of the elements of a standard TIA plus the following:

1. Study Area: Generally, from one to three miles from each proposed site access along roads accessed by the site. The extent of the study area should be discussed with City staff prior to initiating the TIA.
2. Internal Circulation: Review internal circulation patterns and note recommended changes.

3. Trip Distribution: Use of a computer model for distribution may be desirable for major projects.
4. Future Conditions: Projects in this category, other than perhaps shopping centers, are likely to be phased. It is desirable to show conditions at end of planning period (generally twenty-year or horizon used in transportation plan).
5. Recommended Improvements: For major projects, these may involve changes to the transportation plan. The project may include the construction of portions of streets within or adjacent to the site.

E. IMPROVEMENTS MAY BE REQUIRED

Based on the findings of the analysis, if a proposed development does not meet the applicable service level standards, the applicant shall be required to upgrade the facilities in accordance with the adopted level of service program. Mitigation measures may involve strategies other than roadway construction or other physical improvements such as changes to traffic signal timing or phasing, and transportation management strategies.

F. PAYMENTS-IN-LIEU OF IMPROVEMENTS

The City may, at its discretion, accept either mitigation measures to be completed by the developer or a fee paid to the City in lieu of mitigation. The fee shall be equal to the costs of the required mitigation measures, as determined by the Administrator, and may only be used for those identified mitigation measures. A combination of mitigation measures and payments-in-lieu of dedication may be permitted. Payments-in-lieu of dedication shall be approved as part an approved plan.

ARTICLE 4 – ZONING DISTRICTS

4.01 APPLICABILITY

This Article of the Eden UDO establishes base and overlay zoning districts; the official zoning map, as well as the rules for its maintenance, amendments, interpretation and replacement; the use table, which identifies the land uses and the types of approvals required for each authorized land use; and the rules for interpretation of the use table.

4.02 ESTABLISHMENT OF ZONING DISTRICTS

The following zoning districts are declared to be in effect upon all land and water areas included within the boundaries of each district as shown on the Official Zoning Map. After adoption of this UDO, amendments to the zoning map shall be made by plat, legal description or metes and bounds description, which shall be the best evidence of the boundaries, amended or created, and shall control unless a scriveners or other error in such plat or description is manifestly contrary to the intent of the amended ordinance.

A. BASE ZONING DISTRICTS

1. The following Base Zoning Districts are established:

Base Zoning District:	Description:
a. Residential-Agricultural District (R-A) *Previous District(s):R-S, M-H*	The R-A District is intended to accommodate lower-density residential and agricultural uses. Areas within this district may be restricted due to lack of available utilities, unsuitable soil types or steep slopes.
b. Residential Districts (R-20, R-12, R-6) *Previous District(s):R-20, R-12, R-12S, R-6, R-6S, R-4, M-H*	These districts are established for residential developments and related recreational, religious and educational facilities. They are intended to act as transitional zoning districts between rural development and the more urban development of the City. These regulations are further intended to discourage any use which would be detrimental to the predominately residential nature of the areas included within the district.
c. Residential Mixed Use (RMX)	The RMX District is established to accommodate a variety of housing types in a neighborhood setting and is intended to provide areas for higher density residential development near commercial areas such as the BC, NMX and BH districts. The intent is to create higher density residential areas that compliment commercial districts with physical proximity and pedestrian connectivity.
d. Neighborhood Mixed Use (NMX) *Previous District(s): O-I, B-N*	The NMX District is intended to provide pedestrian-scaled, higher density residential housing and opportunities for limited scaled commercial & office activities. Development in this district should encourage pedestrian activity through construction of mixed-use

	buildings and connections to adjacent neighborhoods. Buildings in this district are typically smaller in scale and detached.
e. Business, Central District (BC) *Previous District(s): B-C*	The primary purpose of the B-C district is to serve as the central commercial areas of the City of Eden and to provide for uses customarily located in central business districts.
f. Business, General District (BG)	The B-G Business Districts are generally located on the fringe of the central business district and along major radial highways leading out of the city. The principal use of land is for dispensing retail goods and services to the community and to provide space for wholesaling and warehousing activities. Because these commercial areas are subject to public view and are important to the economy of the area, they shall have ample parking, controlled traffic movement, and suitable landscaping.
g. Business, Highway District (BH) *Previous District(s): BH-1, BH-2, B-SC*	The BH District is designed to accommodate highway-oriented retail, commercial service uses and, in some cases, light manufacturing.
h. Light Industrial District (LI) *Previous District(s): I-1, IP-1, I-2*	The LI District is intended to accommodate externally benign industrial and office uses that pose little nuisance to adjacent residential areas.
i. Heavy Industrial District (HI) *Previous District(s): I-3, I-3 SU*	The HI District is established to accommodate those industrial, manufacturing, or large-scale utility operations that are known to pose levels of noise, vibration, odor, or truck traffic that are considered nuisances to surrounding development. This district is customarily located in proximity to railroad sidings and/or major thoroughfares.
j. Open Space District (OS)	The Open Space District is established to preserve and protect environmentally sensitive lands and properties that are restricted for open space, parks and recreational type uses.

B. OVERLAY DISTRICTS

1. For purposes of managing certain environmentally sensitive or visually important geographic areas, certain overlay districts have been established to impose design, use, or other standards in addition to the requirements of the underlying base district.
2. The following Overlay Zoning Districts are established:

Overlay Zoning District:	Description:
a. Outdoor Advertising Overlay District (OAO)	The Outdoor Advertising Overlay District is established to provide for the erection and regulation of signs classified as outdoor advertising as per *Article 14 – Definitions & Interpretations*.
b. Watershed Protection Overlay District (WPO)	Pursuant to requirements of NCGS 143-214.5, two Watershed Protection Overlay Districts have been established for lands within the Dan River and Smith River watersheds. This watershed is classified as a Water Supply IV and is divided into a WS-IV-CA (Critical Area) and WS-IV-PA (Protected Area).

3. Outdoor Advertising Overlay District (OAO)

a. Applicability

(1) The area affected by this overlay district are those parcels labeled OAO as indicated on the City's Official Zoning Map.

b. Specific Development Standards

(1) See *Article 7 - Signs*

4. Watershed Protection Overlay District (WPO)

a. Applicability

(1) To carry out the purpose of this overlay district, the City hereby designates two (2) overlay districts, the boundaries of which are shown on the City's Official Zoning Map.

(a) WPO-CA: Watershed Protection Overlay District – Critical Area; and

(b) WPO-PA: Watershed Protection Overlay District – Protected Area.

b. Specific Development Standards

(1) See *Article 10 – Environmental Protection*

4.03 CONDITIONAL ZONING DISTRICTS (CZD)

A. PURPOSE

1. Conditional Zoning Districts are districts with conditions voluntarily added only in response to a petition by the owner of all the property to be included in such district.

2. In accordance with NCGS §160D-703 specific conditions applicable to these districts may be proposed by the applicant or City but only those conditions mutually approved by the City and the applicant may be incorporated into the Conditional Zoning District.

3. Conditional Zoning Districts provide for orderly and flexible development under the general policies of this ordinance without the constraints of some of the prescribed standards guiding by-right development. Because Conditional Zoning District developments are constructed in a comprehensive manner, they may establish their own building, street, block, and lot pattern which may be unique from other surrounding blocks or neighborhoods.

4. These districts are not intended to relieve hardships that would otherwise be handled using a variance procedure.

5. In addition to modification of specific base district provisions (except use), the various provisions detailed in this Article may be varied if specifically requested by the petitioner as part of a Conditional Zoning District application.

B. STANDARDS

1. Permitted uses

a. Permitted uses in any conditional zoning district may include or exclude any uses permitted as specified in the Table of Permitted Uses in *Article 5 – Individual Use Standards* for that particular base zoning district, excluding non-permitted uses.

2. Development Standards

a. Non-Residential/Mixed-Use Structures:

(1) Areas between structures shall be covered by easements where necessary to provide for maintenance and utility service. Primary vehicular access to office, commercial and industrial development shall not be through residential development.

(2) Commercial areas and adjacent residential, office and industrial areas shall be arranged to promote pedestrian access between and within such areas.

(3) The scale and setback of buildings and structures in the CZD within 150 feet of the perimeter of the CZD shall be in harmony with development on adjacent properties.

b. Residential Structures

(1) The minimum size and the minimum dimensional standards shall be the same as the minimum size and minimum dimensional standards required in the base zoning district; provided that this provision may be waived as part of the conditional zoning district approval.

3. Streets & Parking

a. Traffic circulation may be via public streets or private drives. A private drive is a roadway clearly marked "PRIVATE" and the CZD plan and statement of street dedication and ownership filed with the Register of Deeds. Private drives shall be included in the defined common area and maintained by the Property Owner's Association.

b. All public streets shall conform to the street requirements of the City of Eden as contained in this ordinance.

c. Parking shall conform to *Article 6 – General Development Standards* of this ordinance.

4. Common Areas

a. Land not reserved for individual development shall be commonly owned land. Such land shall be designated on the development plan as common area to be held in separate ownership for the use and benefits of the residents/occupants of the CZD.

5. Property Owners Association

a. The developer shall submit a draft of the Articles of Incorporation for the Property Owner's Association that may be part of the CZD. The Articles of Incorporation shall provide that all owners of property within the development share automatic membership rights and assessment obligations for the maintenance of these areas.

4.04 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

The Eden UDO shall be effective throughout the City of Eden's planning and development regulation jurisdiction as identified on the Official Zoning Map of the City of Eden. However, pursuant to G.S. § 160D-903, property that is located in the extraterritorial jurisdiction which is used for bona fide farm purposes is exempt from the regulations of this UDO. The planning and development regulation jurisdiction of the City may be modified from time to time in accordance with G.S. § 160D. The Official Zoning Map is on file with the City Clerk and with the Administrator of this Ordinance. The Official Zoning Map and its boundaries shall be incorporated and made a part of this Ordinance.

4.05 DIMENSIONAL STANDARDS TABLE

This table and the setback illustration below provides basic design elements for each base zoning district.

Zoning District	Max. Height	Minimum Lot Size	Minimum Lot Width	Max. Density	*Front Setback	*Side Setback	*Side Street Setback	*Rear Setback
R-A	35 ft.	40,000 sf	150 ft. [2]	N/A	50 ft.	20 ft.	30 ft.	25 ft.
R-20	35 ft.	20,000 sf [1]	100 ft. [2]	N/A	40 ft.	15 ft. [4]	25 ft.	20 ft.
R-12 [6]	35 ft.	12,000 sf [3] plus 6,000 sf for additional dwelling units	80 ft. plus an additional 20 ft. for additional dwelling units [2]	N/A	35 ft.	10 ft. [4]	25 ft.	20 ft.
R-6 [6]	35 ft.	6,000 sf. plus 3,000 sf for additional dwelling units [3]	60 ft. plus an additional 5 ft. for additional dwelling units [2]	12 units per acre	30 ft	8 ft. [4]	25 ft.	20 ft.
RMX [5] [6]	4 stories	N/A	N/A	18 units per acre	10 ft. maximum	N/A	15 ft.	8 ft.
NMX [5] [6]	4 stories	N/A	N/A	N/A	10 ft. maximum	N/A	12 ft. max.	N/A
B-C [5]	4 stories	N/A	N/A	N/A	6 ft. maximum	N/A	6 ft. max.	N/A
B-G [5]	4 stories	N/A	N/A	N/A	10 ft.	10 ft.	10 ft.	10 ft.
B-H	35 ft.	N/A	100 ft.	N/A	25 ft.	10 ft.	20 ft.	20 ft.
LI	35 ft. [7]	40,000 sf	200 ft.	N/A	50 ft.	20 ft.	25 ft.	25 ft.
HI	50 ft. [7]	5 acres	400 ft.	N/A	100 ft.	100 ft.	100 ft.	100 ft.
OS	35 ft.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

NOTES TO TABLE:

[1] *Minimum lot size without community/public water & sewer is 25,000 sf. Minimum lot size for non-residential uses is 30,000 sf.*

[2] *Minimum lot width for non-residential uses is 200 ft.*

[3] *Minimum lot size services by private septic system is 20,000 sf. Min. lot size for non-residential uses is 30,000 sf.*

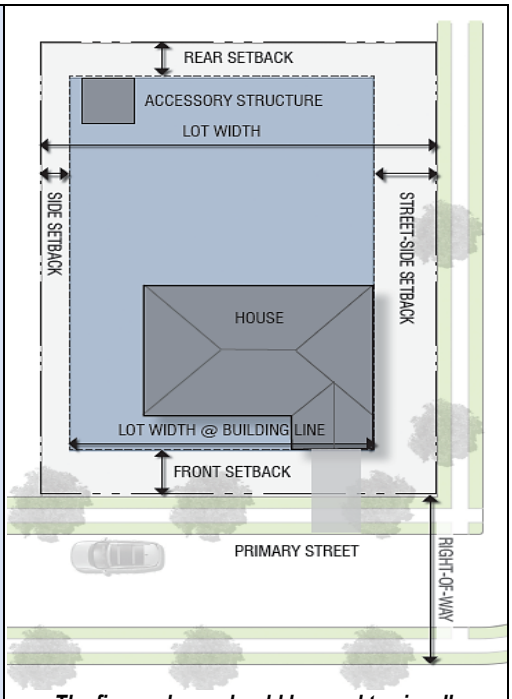
[4] *Minimum side setback for non-residential uses is 20 ft.*

[5] *See Article 6 – General Development Standards for specific building & site design standards.*

[6] *Lots in these districts that are situated between two (2) adjoining lots, each of which a principal building is located on the lot, then the front and side and rear yard requirements of the principal structure may be modified. The front, side or rear yards of the principal residential structure to be erected or remodeled shall be determined by either (i) averaging the front, side or rear yards of the adjoining lots, or (ii) making the front, side or rear setbacks the same as one of the adjoining lots. If one of the adjoining sides is vacant, then the setbacks will be averaged based upon all principal residential structures on the same side of the street of the block in which the proposed development is to take place.*

[7] See *Section 4.06 – Industrial District Building Height Standards.*

**See Article 5, Section 5.09 for accessory setback requirements.*



The figure above should be used to visually illustrate setbacks and measurements as listed in 4.05 – Dimensional Standards Table.

4.06 INDUSTRIAL DISTRICT BUILDING HEIGHT STANDARDS

In the industrial zoning districts (LI, Light Industrial District and HI, Heavy Industrial District), no building, structure, facility or any type of storage shall exceed 35 feet (LI) and 50 feet (HI) in height unless the depth of front and total width of side yards required herein shall be increased, five (5) feet for each ten (10) feet or fraction thereof of building height in excess of 35 feet.

ARTICLE 5 – INDIVIDUAL USE STANDARDS

5.01 TABLE OF AUTHORIZED USES ESTABLISHED

The following table lists the principal uses allowed by right within zoning districts as well as uses that may be authorized subject to approval of a Special Use Permit. Function codes of the Land Based Classification Standards (LBCS) of the American Planning Association (APA) correspond to the authorized uses and shall be used to define uses. All uses are subject to the standards and regulations within this UDO.

5.02 PERMITTED AND PROHIBITED USES

Uses not listed as permitted (P); permitted with supplemental use standards (PS); or requiring a special use permit (S) are presumed to be prohibited (-) from the applicable zoning district. Uses requiring a special use permit must also meet the applicable supplemental use standards listed in this Article as well as the findings of fact associated with special use permits as outlined in *Article 3 – Development Processes and Administrative Review Procedures.*

5.03 USES NOT LISTED

In the event that a particular use is not listed in the Table of Permitted Uses, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the Administrator shall determine whether a materially similar use exists in this chapter. Should the Administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Administrator's decision shall be recorded in writing.

5.04 LAND USE CATEGORIES

All uses permitted in the UDO have been divided into nine (9) categories, defined as follows:

A. RESIDENTIAL
B. LODGING/ACCOMMODATIONS
C. OFFICE AND SERVICES
D. COMMERCIAL AND ENTERTAINMENT
E. INDUSTRIAL, WHOLESALE AND STORAGE
F. EDUCATIONAL AND INSTITUTIONAL
G. AGRICULTURAL/FORESTRY
H. COMMUNICATIONS/TRANSPORTATION/INFRASTRUCTURE
I. OTHER

5.05 SIMILAR USES

The Administrator may determine that a use is materially similar if a permitted use is similarly classified by the Land Based Classification Standards (LBCS) of the American Planning Association (APA); North American Industrial Classification System (NAICS) or Institute of Transportation Engineers (ITS) Trip Generation Guide.

5.06 TABLE OF PERMITTED USES

LAND USE TYPE:	RA	R-20	R-12	R-6	RMX	NMX	B-C	B-G	B-H	LI	HI	OS
A. RESIDENTIAL												
Class A – Manufactured Home	PS	-	-	PS	-	-	-	-	-	-	-	-
Class B-1 – Manufactured Home	PS	-	-	-	-	-	-	-	-	-	-	-
Class B-2 – Manufactured Home	PS	-	-	-	-	-	-	-	-	-	-	-
Class C – Manufactured Home	-	-	-	-	-	-	-	-	-	-	-	-
Dwelling – Accessory	PS	PS	PS	PS	PS	PS	-	-	-	-	-	-
Dwelling – Multi-Family (3 or more units)	-	-	-	-	P	P	PS	PS	-	-	-	-
Dwelling – Multi-Family Conversion	-	-	S	S	PS	PS	PS	PS	-	-	-	-
Dwelling – Single Family Attached (Townhome)	-	-	-	P	P	P	PS	PS	-	-	-	-
Dwelling – Single Family Detached	P	P	P	P	P	P	-	-	-	-	-	-
Dwelling – Two Family (Duplex)	-	-	P	P	P	-	-	-	-	-	-	-
Family Care Home (6 or fewer residents)	-	PS	PS	PS	PS	-	-	-	-	-	-	-
Residential Care Facilities (more than 6 residents)	-	PS	PS	PS	PS	PS	PS	PS	PS	-	-	-
LAND USE TYPE:	**RA**	**R-20**	**R-12**	**R-6**	**RMX**	**NMX**	**B-C**	**B-G**	**B-H**	**LI**	**HI**	**OS**
B. LODGING AND ACCOMMODATIONS												
Bed and Breakfast Facilities	PS	S	S	S	PS	PS	PS	PS	PS	-	-	-
Rooming and Boarding House	-	-	S	S	S	S	-	-	-	-	-	-
Hotel/Inn	-	-	-	-	P	P	P	P	P	-	-	-
LAND USE TYPE:	**RA**	**R-20**	**R-12**	**R-6**	**RMX**	**NMX**	**B-C**	**B-G**	**B-H**	**LI**	**HI**	**OS**
C. OFFICE AND SERVICES												
Banks, Credit Unions, Financial Services	-	-	-	-	-	P	P	P	P	-	-	-
Dry Cleaning & Laundry	-	-	-	-	-	P	P	P	P	-	-	-
Funeral Homes/Crematoria	P	-	-	-	-	P	S	P	P	-	-	-
Home Occupation	PS	PS	PS	PS	PS	PS	-	-	-	-	-	-

LAND USE TYPE:	RA	R-20	R-12	R-6	RMX	NMX	B-C	B-G	B-H	LI	HI	OS
Medical Clinic	-	-	-	-	P	P	P	P	P	-	-	-
Personal Care Service	-	-	-	-	P	P	P	P	P	-	-	-
Pet Care Service	-	-	-	-	-	P	P	P	P	-	-	-
Personal Care Service, Restricted	-	-	-	-	-	-	PS	PS	PS	-	-	-
Post Office	-	-	-	-	-	P	P	P	P	-	-	-
Professional Office/Service	-	-	-	-	P	P	P	P	P	-	-	-
Veterinary Service	PS	-	-	-	-	P	P	P	P	P	P	-
LAND USE TYPE:	**RA**	**R-20**	**R-12**	**R-6**	**RMX**	**NMX**	**B-C**	**B-G**	**B-H**	**LI**	**HI**	**OS**
D. COMMERCIAL AND ENTERTAINMENT												
Adult Establishments	-	-	-	-	-	-	-	-	-	S	-	-
Alcoholic Beverage Sales or Services	-	-	-	-	-	P	P	P	P	-	-	-
Outdoor Amusement or Theme Park	-	-	-		-	-	-	P	-	P	-	-
Indoor Amusement	-	-	-	-	-	P	P	P	P	P	-	-
Auction Sales	-	-	-	-	-	-	P	P	P	-	-	-
Automobile/Vehicle Sales, Rental, Service & Minor Repair	-	-	-	-	-	-	S	PS	PS	P	P	-
Bar/Tavern/Microbrewery	-	-	-	-	-	P	P	P	P	P	-	-
Bicycle Sales & Repair	-	-	-	-	P	P	P	P	P	P	-	-
Cabinet, woodworking and upholstery shops	-	-	-	-	-	-	P	P	P	P	P	-
Camps & Camping Establishments	S	-	-	-	-	-	-	-	-	-	-	S
Drive-In Theater	-	-	-	-	-	-	-	-	S	-	-	-
Drive-Thru/Drive-In Facility (principal or accessory)	-	-	-	-	-	PS	PS	PS	PS	-	-	-
Electronic Gaming Operations	-	-	-	-	-	-	-	-	S	-	-	-
Games Arcade Establishment	-	-	-	-	-	PS	PS	PS	PS	-	-	-
Gas/Fueling Station	-	-	-	-	-	PS	PS	PS	P	P	P	-
General Commercial (50,000 sf and under)	-	-	-	-	P	P	P	P	P	-	-	-
General Commercial (greater than 50,000 sf)	-	-	-	-	-	-	-	-	S	-	-	-

LAND USE TYPE:	RA	R-20	R-12	R-6	RMX	NMX	B-C	B-G	B-H	LI	HI	OS
Golf Course	P	S	S	S	S	S	-	S	-	-	-	S
Country Clubs with golf courses	P	S	S	S	S	S	-	S	-	-	-	S
Hardware, Home Center Sales/Services	-	-	-	-	-	-	-	P	P	-	-	-
Heavy Equipment/Manufactured Homes Rental/Sales/Service	-	-	-	-	-	-	-	P	P	P	-	-
Night Club	-	-	-	-	-	S	S	P	P	-	-	-
Open Air Retail	-	-	-	-	PS	PS	PS	PS	P	-	-	-
Outside Sales	-	-	-	-	PS	PS	PS	PS	P	-	-	-
Parking Lot/Structure (Principal Use)	-	-	-	-	-	-	S	P	S	-	-	-
Pawnshops	-	-	-	-	-	-	-	PS	PS	-	-	-
Racetrack	-	-	-	-	-	-	-	-	-	P	P	-
Restaurant	S	-	-	-	P	P	P	P	P	-	-	-
Riding Stables	P	-	-	-	-	-	-	-	-	-	-	P
Shooting Range, Indoor	S	-	-	-	-	-	-	P	P	P	P	-
Shooting Range, Outdoor	S	-	-	-	-	-	-	-	-	-	S	-
Smoke & Tobacco Shop	-	-	-	-	-	-	PS	PS	PS	-	-	-
Theater, Indoor Movie or Live Performance	-	-	-	-	-	P	P	P	P	-	-	-
Theater, Outdoor	-	-	-	-	-	PS	PS	PS	PS	-	-	-
Vehicle Rental (moving trucks)	-	-	-	-	-	PS	PS	PS	-	-	-	-
Vehicle Service (major repair/body shop)	-	-	-	-	-	-	-	PS	S	P	P	-
LAND USE TYPE:	**RA**	**R-20**	**R-12**	**R-6**	**RMX**	**NMX**	**B-C**	**B-G**	**B-H**	**LI**	**HI**	**OS**
E. MANUFACTURING, INDUSTRIAL & WHOLESALE TRADE												
Asphalt Paving Production and Sales	-	-	-	-	-	-	-	-	-	-	S	-
Bulk Storage of Flammable Materials, Chemicals, Metals, Etc..	-	-	-	-	-	-	-	-	-	-	S	-
Chemical Manufacturing	-	-	-	-	-	-	-	-	-	-	S	-
Coal Ash Landfill	-	-	-	-	-	-	-	-	-	-	S	-

LAND USE TYPE:	RA	R-20	R-12	R-6	RMX	NMX	B-C	B-G	B-H	LI	HI	OS
Coal Ash Recycling (primary use)	-	-	-	-	-	-	-	-	-	-	S	-
Coal Ash as Structural Fill (primary use)	-	-	-	-	-	-	-	-	-	-	S	-
Coal Storage	-	-	-	-	-	-	-	-	-	-	S	-
Concrete Plant	-	-	-	-	-	-	-	-	-	-	S	-
Contractors' offices and storage yards	-	-	-	-	-	-	-	P	P	P	P	-
Enameling, Lacquering or the Plating of Galvanized Metals	-	-	-	-	-	-	-	-	-	-	S	-
Foods, Textiles and Related Products	-	-	-	-	-	-	-	-	-	P	P	-
Hazardous Waste Storage, Treatment, Transportation or Disposal Facilities	-	-	-	-	-	-	-	-	-	-	S	-
Hydraulic Fracturing (Fracking) or other Oil & Gas Exploration & Extraction	-	-	-	-	-	-	-	-	-	-	S	-
Heavy Industry Uses (not specifically listed)	-	-	-	-	-	-	-	-	-	-	PS	-
Light Industry Uses (not specifically listed)	-	-	-	-	-	-	-	PS	-	PS	PS	-
Materials Recovery & Waste Transfer Facilities	-	-	-	-	-	-	-	-	-	S	S	-
Mining, Extraction Operations & Quarries	-	-	-	-	-	-	-	-	-	-	S	-
Recycling Collection Stations	-	-	-	-	-	-	-	-	PS	PS	PS	-
Sanitary Landfill	-	-	-	-	-	-	-	-	-	-	S	-
Sawmills	-	-	-	-	-	-	-	-	-	-	S	-
Scrap Metal Storage or Recycling	-	-	-	-	-	-	-	-	-	-	S	-
Storage, Self-Service	-	-	-	-	-	-	PS	P	P	-	-	-
Warehouse & Storage (outdoor)	-	-	-	-	-	-	-	S	P	P	P	-
Warehouse & Storage (Indoor)	-	-	-	-	-	-	S	S	S	P	P	-
Wholesaling and Distribution Establishments	-	-	-	-	-	-	-	P	-	P	P	-
Wood, Paper and Printing Products	-	-	-	-	-	-	-	P	-	P	P	-

LAND USE TYPE:	RA	R-20	R-12	R-6	RMX	NMX	B-C	B-G	B-H	LI	HI	OS
F. EDUCATION AND INSTITUTIONS												
Business Associations, Non-profits & Civic Clubs	P	-	-	-	-	P	P	P	P	-	-	-
Cemetery	P	-	-	-	PS	PS	-		PS	-	-	PS
Child/Adult Day Care (8 or less)	PS	PS	PS	PS	P	P	-	P	P	-	-	-
Child/Adult Day Care (more than 8)	PS	PS	PS	PS	PS	PS	-	P	PS	-	-	-
College or University (limit size of 5,000 sf on first floor)	-	-	-	-	-	S	PS	PS	S	-	-	-
Community Support Facility	-	-	-	-	-	S	S	S	S	-	-	-
Conference/Convention Center	S	-	-		-	-	P	P	P	-	-	-
Correctional Institution	-	-	-	-	-	-	-	-	-	S	S	-
Special Events Center	S	-	-	-	-	P	P	P	P	-	-	-
Halfway House	-	-	-	-	-	S	-	-	-	-	-	-
Hospital	-	-	-	-	-	P	-	P	P	P	-	-
Museum/Library/Cultural Facility	-	-	-	-	-	P	P	P	P	-	-	P
Pubic Administration/Civic Meeting Facilities	P	-	-	-	P	P	P	P	P	-	-	P
Public Safety Station	P	P	-	-	S	PS	P	P	P	P	P	P
Recreation Facility (Indoor)	P	P	P	P	P	P	P	P	P	P		P
Recreation Facility (Outdoor)	P	P	P	P	P	P	P	P	P	-	-	P
Religious Institutions	P	P	P	P	P	P	-	P	P	-	-	-
School (elementary or secondary)	P	P	S	S	S	S	-	-	-	-	-	-
School (vocational/technical)	-	-	-	-	-	P	-	P	P	P	-	-
Sports Arena/Stadium	-	-	-	-	-	-	S	S	S	P	-	-
Studio (art, dance, martial arts, music)	P	-	-	-	P	P	P	P	P	-	-	-
LAND USE TYPE:	**RA**	**R-20**	**R-12**	**R-6**	**RMX**	**NMX**	**B-C**	**B-G**	**B-H**	**LI**	**HI**	**OS**
G. AGRICULTURE AND FORESTRY												
Animal Production	PS	PS						-				
Community Gardens/Crop Production	P	P	P	P	P	P	P	P	P	-	-	P
Kennels (indoor)	S	-	-	-	-	-	-	P	P	P	-	-
Kennels (outdoor)	S	-	-	-	-	-	-	PS	PS	P	P	-

LAND USE TYPE:	RA	R-20	R-12	R-6	RMX	NMX	B-C	B-G	B-H	LI	HI	OS
Livestock Production	P	-	-	-	-	-	-	-	-	-	-	-
Nurseries and Garden Centers	P	-	-	-	-	P	-	P	P	P	-	-
Produce Stands	PS	-	-	-	-	PS	PS	PS	PS	-	-	PS
LAND USE TYPE:	**RA**	**R-20**	**R-12**	**R-6**	**RMX**	**NMX**	**B-C**	**B-G**	**B-H**	**LI**	**HI**	**OS**
H. COMMUNICATIONS, TRANSPORTATION & INFRASTRUCTURE												
Airstrip	S	-	-	-	-	-	-	-	-	S	S	S
Rail Station	-	-	-	-	-	-	S	S	S	S	S	-
Solar Energy System (principal use)	S	-	-	-	-	-	-	-	-	S	S	-
Truck and Freight Transportation Services	-	-	-	-	-	-	-	-	-	P	P	-
Utilities (Class 1)	P	P	P	P	P	P	P	P	P	P	P	P
Utilities (Class 2)	P	P	P	P	P	P	P	P	P	P	P	P
Utilities (Class 3)	-	-	-	-	-	-	-	-	-	P	P	-
Wireless Telecommunications Facility (non-tower)	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Wireless Telecommunications Tower	P	P	-	-	-	-	-	PS	S	S	S	-
LAND USE TYPE:	**RA**	**R-20**	**R-12**	**R-6**	**RMX**	**NMX**	**B-C**	**B-G**	**B-H**	**LI**	**HI**	**OS**
I. OTHER												
Accessory Structures	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Seasonal Sales Establishments	PS	-	-	-	-	PS	PS	PS	PS	-	-	PS
Special Events	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Temporary Construction Offices	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
Temporary Health Care Structures	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
Temporary Shelter	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-

5.07 SUPPLEMENTAL USE STANDARDS – RESIDENTIAL

A. CLASS A - MANUFACTURED HOME

1. General Standards

a. Every manufactured home installed in this district shall bear a permanently attached label or seal to assure that construction complies with the requirements of Section 143, Article 9A of the General Statutes and the latest edition of the N. C. Manufactured Home Code. Manufactured homes manufactured prior to September 1, 1971 or transit manufactured homes must comply with Section 1200 of the N. C. Manufactured Home Code.

b. Installation of the manufactured home shall be according to Part III of the N. C. Manufactured Home Code.

c. Before a manufactured home is placed, a building/zoning certificate shall be obtained from the Administrator.

d. If the manufactured home will not have public sewer service available, a certificate of an approved sewage disposal system shall be obtained from the Rockingham County Health Department prior to issuance of a zoning certificate.

2. Specific Standards

a. Length/Width. The manufactured home has a length not exceeding 4 times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.

b. Minimum Heated Living Area. The manufactured home has a minimum of 1,000 square feet of enclosed heated living area.

c. Roof Construction. The pitch of the roof of the manufactured home has a minimum vertical rise of two and two-tenths (2.2) feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.

d. Roof Overhang. All roof structures shall provide an eave projection of no less than 6 inches, which may include a gutter.

e. Exterior Siding. The exterior siding consists of wood, hardboard, aluminum or vinyl covered or painted horizontal lap siding that in no case exceeds the reflectivity of gloss white paint comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

f. Foundation. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home.

g. Entrance Standards. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, and attached firmly to the principal structure and anchored securely to the ground.

h. Transport Equipment. The tongue, wheels, axles, transporting lights, and removable lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

i. Lot Orientation. The manufactured home must be oriented on the lot so that its long axis is parallel with the street. It is the intent of these criteria to insure that a Class A manufactured home, when

installed, shall have substantially the appearance of an on-site, conventionally built single-family dwelling.

B. CLASS B-1 - MANUFACTURED HOME

1. General Standards

a. Every manufactured home installed in this district shall bear a permanently attached label or seal to assure that construction complies with the requirements of Section 143, Article 9A of the General Statutes and the latest edition of the N. C. Manufactured Home Code. Manufactured homes manufactured prior to September 1, 1971 or transit manufactured homes must comply with Section 1200 of the N. C. Manufactured Home Code.

b. Installation of the manufactured home shall be according to Part III of the N. C. Manufactured Home Code.

c. Before a manufactured home is placed, a building/zoning certificate shall be obtained from the Administrator.

d. If the manufactured home will not have public sewer service available, a certificate of an approved sewage disposal system shall be obtained from the Rockingham County Health Department prior to issuance of a zoning certificate.

2. Specific Standards

a. Foundation. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home.

b. Entrance Standards. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, and attached firmly to the principal structure and anchored securely to the ground.

c. Transport Equipment. The tongue, wheels, axles, transporting lights, and removable lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

d. Lot Orientation. The manufactured home must be oriented on the lot so that its long axis is parallel with the street. It is the intent of these criteria to insure that a Class A manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built single-family dwelling.

C. CLASS B-2 - MANUFACTURED HOME

1. General Standards

a. Every manufactured home installed in this district shall bear a permanently attached label or seal to assure that construction complies with the requirements of Section 143, Article 9A of the General Statutes and the latest edition of the N. C. Manufactured Home Code. Manufactured homes manufactured prior to September 1, 1971 or transit manufactured homes must comply with Section 1200 of the N. C. Manufactured Home Code.

b. Installation of the manufactured home shall be according to Part III of the N. C. Manufactured Home Code.

c. Before a manufactured home is placed, a building/zoning certificate shall be obtained from the Administrator.

d. If the manufactured home will not have public sewer service available, a certificate of an approved sewage disposal system shall be obtained from the Rockingham County Health Department prior to issuance of a zoning certificate.

2. Specific Standards

a. Foundation. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home.

b. Entrance Standards. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, and attached firmly to the principal structure and anchored securely to the ground.

c. Lot Orientation. The manufactured home must be oriented on the lot so that its long axis is parallel with the street. It is the intent of these criteria to insure that a Class A manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built single-family dwelling.

D. DWELLING – ACCESSORY

1. One (1) accessory dwelling unit is permitted as an accessory to a residential use.

2. The dwelling unit may be attached or detached, located on the side or rear of the property.

3. The maximum size of Accessory Dwellings is the lesser of fifty (50) percent of the living area of the Principal Structure or one thousand (1,000) square feet.

4. Accessory Dwellings must be a minimum of 10 feet from the side or rear setback and shall not be located within the front setback.

5. If the Accessory Dwelling is attached to the primary residence, then access is limited to the side or rear of the Accessory Dwelling or to an existing door.

6. Attached or detached Accessory Dwellings must have the same architectural appearance of the primary residence such as same type and color of siding, trim and roofing appearance.

7. Manufactured housing, campers, travel trailers and recreational vehicles are not permitted for use as an accessory dwelling.

8. Must contain complete kitchen facilities including a stove or cook top and a full bath including lavatory, water closet, and tub or shower (or combination).

9. One off-street parking space shall be provided in addition to those required for the principal dwelling.

E. DWELLING - MULTI-FAMILY CONVERSIONS

1. A maximum of 4 units is permitted in a converted single-family dwelling and it shall be designed such that a maximum of two main entrances are on the fronting façade (similar to a duplex configuration). Additional building entrances may be provided on the side and rear of the building.

2. Must result from the conversion of a single building containing at least 2,000 square feet of Gross Floor Area that was in existence on the effective date of this ordinance and that was originally designed, constructed and occupied as a Single-Family residence.

F. DWELLING - MULTI-FAMILY

1. The portion of the first or main floor directly adjacent to the street must be non-residential and must provide a "shop-front" appearance (frontage) at the sidewalk level in accordance with *Article 6 – General Development Standards.*

G. FAMILY CARE HOME (6 OR FEWER RESIDENTS)

1. Family Care Homes shall be certified by the International Building Code, as amended by the NC Building Code.
2. No Family Care Home shall be closer than ½ mile to another such use.

H. RESIDENTIAL CARE FACILITIES (MORE THAN 6 RESIDENTS)

1. Residential care facilities must be buffered from adjacent residentially zoned property with a 20-foot buffer in accordance with *Article 6 – General Development Standards*.
2. Prior to the submission of an application, an owner/operator of a residential care facility shall have received a license from the State of North Carolina for such a facility.
3. Unless located and having access on an arterial or marginal access street, no residential care facility shall contain more than 16 units.
4. To the extent practicable, the community shall provide access connectivity (vehicular and pedestrian) to adjacent neighborhoods.
5. The following accessory uses are permitted: congregate dining facilities, recreational and social facilities, health care facilities, gift shops, snack shops, banks, barber/beauty shops, and similar services for residents.

5.08 SUPPLEMENTAL USE STANDARDS – LODGING AND ACCOMMODATIONS

A. BED & BREAKFAST ESTABLISHMENTS

1. No more than eight (8) guest rooms that offers bed and breakfast accommodations may be provided on each private residence for a period of less than one week;
2. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.
3. An owner/manager of a bed and breakfast facility shall reside on the property.
4. No private recreation uses shall be undertaken before 9 A.M. nor shall any outside activities be undertaken after 10 P.M. Sunday through Thursday and after 11 P.M. Friday and Saturday.
5. All parking for the use shall be on site;
6. The use shall be limited to overnight guests or private parties and gatherings. Noise levels and outside activities shall be limited according to the City Code.

B. ROOMING AND BOARDING HOUSE

1. In residential and mixed use districts, parking areas shall not be permitted in the front yard and shall be screened per the vehicular use area screening and landscaping standards found in *Article 6 – General Development Standards* of this ordinance.
2. The owner shall serve as a full-time manager or otherwise designate a fulltime manager, either of which shall permanently reside on the premises.

3. The minimum size of any sleeping room shall be 200 square feet per resident.
4. One full bath consisting of tub or shower, toilet and sink shall be provided for each 4 residents.
5. Full kitchen facilities, consisting of a stove, oven, sink, refrigerator, food preparation area, and storage areas shall be provided and accessible to all tenants.
6. Signs, other than address/tenant identification signs which meet the requirements of *Article 7 - Signs*, shall not be permitted.
7. All of the lot area which is not used for parking, sidewalks, buildings, utility structures or site access must be landscaped and maintained.

5.09 SUPPLEMENTAL USE STANDARDS – OFFICE AND RESIDENTIAL

A. BANKS, CREDIT UNIONS & FINANCIAL INSTITUTIONS

1. Teller & ATM traffic queues will not interfere with pedestrian movement along public sidewalks or create a traffic hazard.
2. Drive-through lanes or loading spaces shall not be located any closer than thirty-five (35) feet to a residential zoning district and shall be located in the side or rear yards only.

B. HOME OCCUPATIONS

1. **General Standards**
   a. The home occupation shall be clearly incidental and secondary to residential occupancy.
   b. The use shall be carried on entirely within an enclosed structure on the premises.
   c. Accessory structures may be used to support the home occupation. The area of the accessory structures used to support the home occupation shall be a maximum of 25% of the gross floor area of the accessory structure.
   d. The home occupation shall be operated by a resident of the dwelling.
   e. A maximum of 25% of the gross floor area of the dwelling unit may be used for the home occupation.
   f. A maximum of 2 full-time equivalent non-residents of the dwelling may be employed on the premises.
2. **Exterior Appearance**
   a. The use shall not change the residential character of the dwelling.
   b. Storage of goods and materials associated with the home occupation must be completely within an enclosed structure.
   c. Parking must be provided so as not to create hazards or street congestion.
   d. All parking associated with the home shall be accommodated off-street or in spaces directly in front of the residence.
   e. No display of goods, products, services or other advertising (except permitted signage as set forth in *Article 7 - Signs*) shall be visible from outside of the dwelling.
   f. No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be perceptible beyond the property line.

C. RESTRICTED PERSONAL CARE SERVICES

1. Such facilities shall be at least 1,000 feet from a religious institution, school or playground or another such facility and shall be a minimum of 500 feet road frontage spacing from residential uses in a residential zoned district.

2. The facility shall be open to the public only between the hours of 8:00 a.m. and 11:00 p.m.

5.10 SUPPLEMENTAL USE STANDARDS – COMMERCIAL AND ENTERTAINMENT

A. AUTOMOBILE SALES/VEHICLE SALES, RENTAL, SERVICE & REPAIR

1. The office and any other structures located on the property must be permanent structures situated on permanent foundations, and that said structures meet all state and local building codes.
2. Any exterior lighting associated with the business may directly illuminate only the said property
3. Any public address system associated with the business shall be operated only during normal business hours, and turned off after normal hours of operation.
4. All entrances, exits and traffic patterns associated with the business shall meet N. C. Department of Transportation and City standards, and that said entrances, exits and traffic patterns be approved by the Administrator.

B. ELECTRONIC GAMING OPERATION

1. An Electronic Gaming Operation shall not be permitted if located within one-half mile of an existing Electronic Gaming Operation.
2. An Electronic Gaming Operation shall not be permitted if located within 2,500 feet of an existing school to include their outdoor play yard, day care, public park or playground, hospital or medical facility, religious institution or place of worship.
3. The Hours of Operation of an Electronic Gaming Operation shall be limited to them operating from 8 am – 10 pm Monday through Saturday. They may not operate on Sundays.
4. Forty percent (40%) of the front of the building or any side visible from a street or right of way shall be glass so that clear unobstructed view of the interior can occur from the street.
5. No curtains, screens, blinds, partitions, signs or other obstructions shall be placed between the entrance to the room where gaming machines or computer terminals are stationed and the rear walls of the room so that a clear and unobstructed view of the interior can occur from the street.
6. Electronic Gaming Operations shall be limited to have no more than fifteen (15) computers / gaming terminals.
7. Any Electronic Gaming Operation shall be conducted completely within an enclosed structure.
8. No alcoholic beverages shall be served on the premises of any Electronic Gaming Operation.
9. No flashing signs or lighting shall be allowed on the premises of any Electronic Gaming Operation. All other signage shall meet the requirements as set forth in *Article 7 – Signs*.
10. A site plan drawn to scale shall be submitted at the time of application for a special use permit.
11. A floor plan shall also be submitted at the time of application showing the use of all floor space, detailing the number of machines and their location in the facility.
12. No machines or devices that have been deemed to be unlawful by the State of North Carolina shall be a part of any Electronic Gaming Operation.
13. All Electronic Gaming Operations shall be subject to an annual review and inspection to ensure compliance with these regulations.
14. Game and arcade establishments shall not have cash prizes.

C. GAME & ARCADE ESTABLISHMENT

1. Game and arcade establishments shall not have not have cash prizes.

D. DRIVE-IN THEATER

1. Outdoor theaters shall be buffered from adjoining residential uses with a 50-foot buffer as set forth in *Article 6 – General Development Standards*.
2. The performance and audience areas for any outdoor theater shall be located a minimum of 200 feet from any adjacent residentially zoned property.
3. Primary access to all outdoor theaters shall be to a collector or higher order street.
4. Lights shall be shielded and positioned so as not to shine onto adjacent properties.

E. DRIVE-THROUGH FACILITIES

1. Traffic queues will not interfere with pedestrian movement along public sidewalks or create a traffic hazard.
2. Use of the drive-through service will not interfere with the use, enjoyment or operations of adjacent properties.
3. Drive-through lanes or loading spaces shall not be located any closer than thirty-five (35) feet to a residential zoning district.
4. If a speaker box faces a residential zoning district, there shall be a 50-foot buffer or sound wall between the speaker box and the residential district.
5. Stacking Lane Requirements
   a. All uses and facilities providing drive-up or drive-through service shall provide at least the minimum required vehicle stacking spaces established below:

Activity	Minimum Required Stacking Spaces	Measured From
Bank Teller Lane	4	Teller Window
Restaurant, Drive-thru	6	Order Box to Beginning of Drive Through Lane
Car Wash	4	Stall Entrance

   b. Stacking spaces shall be a minimum of eight (8) feet wide by twenty (20) feet long.
   c. Stacking spaces shall not impede on-site or off-site traffic movements, including access to parking spaces.
   d. A solid faced brick, masonry or wooden wall or fence shall be provided along a property line abutting lots or parcels zoned for residential purposes to block lights from vehicles in the stacking lanes or drive through facility.

F. GAS/FUELING STATIONS

1. **Canopies/Pumps**
   a. Must be located to the side or rear of the principal building.
   b. Pump canopies must be located at least 50 feet from any interior side or rear property line that adjoins residentially developed property.
   c. Must be buffered from adjoining residential uses with a 20-foot buffer in accordance with *Article 6 – General Development Standards*.

d. The maximum number of pumps permitted at a single gas/fueling station shall be 12.

e. A conforming principal building is required and shall be a minimum of 1,600 square feet.

2. Lighting

a. All lighting must be shielded to direct light and glare only onto the lot or parcel where the gas/fueling station is located and shall be in accordance with *Article 6 – General Development Standards*.

G. OPEN AIR RETAIL

1. The use shall be conducted behind the prevailing setback line for the district.

2. Sidewalk Kiosks, Vendor Carts, Concession Stands, etc: Such uses shall be permitted to operate within the right-of-way provided that adequate pedestrian clearance on the sidewalk is maintained (minimum of 5 feet) and the automobile and bicycle travel way is clear of obstructions.

3. No permanent parking is required but the use must accommodate reasonable vehicular circulation and parking to preclude off-site impacts as determined by the Administrator.

G. OUTSIDE SALES

1. Outside sales must be clearly secondary to the primary use within the associated permanent structure and shall generally be located to the side or rear of the principal structure. Display of merchandise for sale outdoors in the front yard shall not exceed a maximum of 12 feet from the front face of the building.

2. Displays on public sidewalks: Merchandise for sale may be placed on the public sidewalk in front of the shop where the building is directly adjacent to the sidewalk provided that adequate pedestrian clearance on the sidewalk is maintained (minimum of 5 feet). Such sales may also be subject to other City ordinances.

H. PAWN SHOPS

1. Pawn shop facilities shall be at least 1,000 feet from a religious institution, day care, school or playground or another pawn shop and shall have a minimum of 500 feet road frontage spacing from residential uses in a residential zoned district.

I. SHOOTING RANGE, OUTDOOR

1. Outdoor shooting ranges shall be buffered from adjoining properties with a 50-foot buffer as set forth in *Article 6 – General Development Standards*.

2. Outdoor shooting ranges shall be located no closer than 1,000 feet to any religious institution, school or residential dwelling.

J. SMOKE & TOBACCO SHOP

1. Smoke & Tobacco Shops shall be 1,000 feet from any residential land use or zoning district, any educational/institutional land use and 1,000 from any other such businesses.

K. THEATER, OUTDOOR

1. Outdoor theaters shall be buffered from adjoining residential uses with a 50-foot buffer as set forth in *Article 6 – General Development Standards.*

2. Primary access to all outdoor theaters shall be to a collector or higher order street.

3. Lights shall be shielded and positioned so as not to shine onto adjacent properties.

L. VEHICLE RENTAL (MOVING TRUCKS)

1. Vehicles must be stored in an area that is screened from the public right-of-way and adjacent residential neighborhoods by a 50-foot buffer in accordance with *Article 6 – General Development Standards.*
2. When vehicle rental is an accessory use, the storage of vehicles shall not occupy more than the minimum number of required spaces.
3. All parking areas shall be placed in accordance within the provisions of *Article 6 – General Development Standards* and shall be accessory to an otherwise conforming building.

M. VEHICLE SERVICES – MAJOR REPAIR/BODY SHOP

1. No open storage shall be permitted within 500 feet of a church, school, residential zoning district, or property used for residential purposes.
2. No open storage shall be permitted within 200 feet of a City thoroughfare as defined and designated on the City's adopted Transportation Plan.
3. All wrecked or damaged motor vehicles awaiting repair shall be stored at the rear or side of the principal structure and shall be screened so as not to be visible from adjoining property lines and street rights-of-way.
4. Acceptable screening shall include a fence in accordance with the standards in Subsection M.3 below or existing vegetation on the property that provides a complete visual barrier to a height of at least eight-feet. The screen shall setback a minimum of ten (10) feet from all lot lines or on established setback lines as set forth above for such storage. No car bodies or other material not normally used for fencing shall be permitted. No advertising shall be permitted on the fence or screen.
5. The fence shall be located on the interior side of the required landscape materials. Acceptable fence materials include cedar, masonry, redwood, composite, plastic, treated lumber resistant to rot, or other materials specifically designed for fencing materials. A chain link fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this subsection. Fence installation shall be consistent with acceptable building practices.
6. No vehicle shall be stored on the premises for more than twenty (20) days.
7. There shall be no exterior storage of items other than vehicles.
8. All services shall be performed within a completely enclosed building.
9. No vehicles or material shall be stored closer than 10 feet from the fence or screen.
10. No oil, grease, tires or gasoline or other similar material shall be burned at any time.

5.11 SUPPLEMENTAL USE STANDARDS – MANUFACTURING, INDUSTRIAL, AND WHOLESALE TRADE

A. ASPHALT PAVING PRODUCTION AND SALES

1. A 50 foot forested buffer shall be required along streams and waterways and along any adjoining property containing a residential or non-industrial use.
2. A row of evergreen trees and shrubs creating an opaque buffer (minimum of 20' in width) shall be provided along all public rights-of-ways.

B. BULK STORAGE OF FLAMMABLE MATERIALS, CHEMICALS, METALS, ETC.

1. Storage tanks protected by either an attached extinguishing system approved by the City of Eden Fire Marshal or an approved floating roof shall not be located within 120 feet of a property boundary. Storage tanks, not equipped with extinguishing system or floating roof, shall not be located within 175 feet of a property boundary.
2. In the discretion of the Administrator, tanks or groups of tanks containing flammable liquids shall be diked or the yard shall be provided with a curb or other suitable means to prevent the spread of liquid onto other property or water bodies. A diked area shall not be less than the capacity of the largest tank within the diked area. Dikes or retaining walls shall be of earth, steel, concrete or solid masonry designed to be liquid tight and to withstand a full hydraulic head and so constructed as to provide the required protection. Earthen dikes three (3) feet or more in height shall have a flat section at the top not less than two (2) feet in width. The slope shall be consistent with the angle or repose of the material of which the dikes are constructed. Dikes shall be restricted to an average height of not more than six (6) feet above the exterior grade unless means are available for extinguishing a fire in any tank containing crude petroleum; dikes and walls enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave, provided, however, that a flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, empty or full drum or barrel, shall be permitted within the diked area.
3. Where provision is made for draining stormwater from diked areas, such drains shall be kept closed and designed not to permit flammable liquids to enter streams, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.
4. A facility shall be located outside of the City of Eden Water Supply Watershed areas as designated by the City of Eden Zoning Map.
5. The minimum lot size for bulk storage of flammables – propane, gasoline, crude oil, fuel oil and natural gas facility shall be ten (10) acres.
6. Applications for such uses must be accompanied with a request for voluntary annexation if the area is not within the municipal boundary.

C. COAL ASH LANDFILL

1. Neighborhood Revitalization Plan - If a proposed coal ash landfill adjoins or has an outer boundary within 2,000 feet of a residential neighborhood where 15% or more of the homes are vacant, boarded or in disrepair; or 15% or more of the homes are not owner occupied; or 15% or more of the residents have incomes below the federal poverty level, then the applicant shall present the City with a revitalization plan that specifies steps and timelines for how the applicant will revitalize the neighborhood to mitigate the impacts of being adjacent to a landfill. Steps may include, but are not limited to, upgrades to streets, landscaping, repairs to homes, and community amenities.
2. Economic Impact Mitigation - If an applicant for a coal ash landfill proposes using land identified in the City of Eden Land Development Plan as an "employment center," it must propose a plan for mitigating the economic impact triggered by loss of land in the City's inventory of land identified for job creation and economic development. At a minimum, the mitigation plan shall include an application for voluntary annexation.

3. The City Council may impose a condition that issuance of the Special Use Permit is contingent upon delivery routes that avoid residential neighborhoods, schools and health care facilities, and buffers that exceed the buffers imposed by State and federal law.
4. Facility boundaries adjoining residentially zoned areas shall, in addition to landscaping required, have a triple row of varying species of evergreens, staggered to achieve an opaque vegetative buffer no less than 20 feet in height at maturity.
5. The applicant shall submit plans for establishing a Community Advisory Group which enables the owner or operator to meet no less than semi-annually with representatives from the neighborhood to inform them of developments and changes in landfill operations, report on ways complaints have been addressed, and to hear of problems created by landfill operation.
6. The applicant shall propose hours of operation to be included as a condition in the Special Use Permit. The hours of operations shall be established to minimize impacts of noise and lights on neighboring properties.

D. COAL ASH AS STRUCTURAL FILL (PRIMARY USE)

1. When the primary purpose of the deposit or placement of coal ash is disposal of coal ash, then the beneficial use of coal ash as structural fill shall be considered a primary use for the purposes of these regulations, regardless of the ultimate beneficial purpose proposed.
2. Coal ash as a beneficial use or as structural fill for landscaping, construction or other purposes that is accessory or ancillary to another primary use shall strictly follow all regulations and permits related to its use.
3. Coal ash as a beneficial use or as structural fill as a primary use shall be subject to conditions specified in the Special Use Permit for transportation of coal ash from impoundment or other storage areas to the location of fill or deposit to insure truck routes avoid residential areas to the extent possible.
4. The use of coal ash as beneficial fill or as structural fill for a public project controlled or owned or to be controlled or owned by the City of Eden, shall first be approved as a project acceptable to and desirable by the City.

E. HAZARDOUS WASTE STORAGE, TREATMENT, TRANSPORTATION OR DISPOSAL FACILITIES

1. Storage of hazardous or infectious waste or toxic substances shall be above ground and in a manner consistent with applicable state and/or federal regulations covering each stored material.
2. The storage or processing area containment system shall be consistent with the system required in the permit issued by NCDENR. If NCDENR does not require a containment system, then a containment system shall be installed equal to one and one-half (1.5) times larger than the largest storage tank. If the storage vessels are drums, then the storage area containment system shall be 50% of their total storage volume.
3. All hazardous or infectious waste or toxic substance storage, treatment, transportation and/or disposal facilities shall provide a Contingency Plan consistent with 40 CFR 265.52 to the City of Eden Administrator and the City of Eden Fire Marshal.
4. In determining whether to require greater buffers, the City of Eden shall consider the following factors:
   a. The type of hazardous or infectious waste or toxic substance to be stored, treated, transported, and/or disposed of at the facility, and the degree of hazard or toxicity associated with such waste or substance.

b. The volume of hazardous or infectious waste or toxic substance to be stored, treated, transported, and/or disposed of at the facility.
c. The number of residents in proximity to the facility;
d. The number of institutional, school, and commercial structures in proximity to the facility, their distance from the facility, and the nature of the activities that take place in these structures.
e. The lateral distance and slope from the facility to surface waters or to watersheds draining directly into surface water supplies.
f. The vertical distance, and the type of soils and geologic conditions separating the facility from the water table.
g. The direction of the flow of groundwater from the sites;
h. Any other relevant factors.

5. A hazardous or infectious waste or toxic substance storage, treatment, transportation, and/or disposal facility shall comply with the security requirements of 40 CFR 265.14, as a minimum.
6. All water, sanitary sewer and storm water management systems on the site shall be protected so as to minimize to the greatest extent reasonable the probability of contamination by hazardous waste or toxic substance.
7. The facility shall be operated in accordance with all state and federal legislation and shall hold the proper valid permit(s) issued by the appropriate state and federal agencies governing the facility's operation.
8. All hazardous or infectious waste or toxic substance facilities shall be located at least 1,000 feet from a stream.
9. If not disposed of at a facility permitted to receive hazardous and toxic wastes, all materials that are landfilled shall be rendered non-hazardous and non-toxic before being placed in a landfill.
10. Liability and Bonding: All hazardous or infectious waste or toxic substance storage, treatment, transportation, and/or disposal facilities are subject to the following liability requirements:
a. All persons storing, treating, transporting or disposing of hazardous or infectious wastes or toxic substances in Rockingham County shall be held to a standard of strict liability for spills, accidents, contamination or other discharges and hazards arising from the facility. As used in this section, the term "strict liability" shall mean that persons storing, treating, transporting, or disposing of hazardous waste or toxic substance shall be liable for all emergency clean-up costs, clean-up costs in general, damages to persons and property, and other costs resulting from discharges or contamination, regardless of fault, or regardless of whether the discharge of contamination was the result of intentional or negligent conduct, accident or other cause.
b. All hazardous or infectious waste or toxic substance storage, treatment, transportation, and/or disposal facilities shall be subject to the following bond requirements:
i. If no Federal or State regulations require closure plans and bonding, The City of Eden may require the facility to submit a closure plan and to obtain bonding, with the City of Eden named as additional insured, sufficient to execute the closure plan. The closure plan should meet Federal and State regulations regarding such closures.
ii. Should the above stated bond or insurance expire or be revoked then the hazardous waste or toxic substance storage, treatment, transportation and/or disposal facility must cease operation and remove all hazardous waste and/or toxic substance from the site.

11. Applications for a Special Use Permit must be accompanied with a request for voluntary annexation if the area is not within the municipal boundary.

F. HYDRAULIC FRACTURING (FRACKING) OR OTHER OIL AND GAS EXPLORATION AND EXTRACTION

1. No hydraulic fracturing or other oil and gas exploration or extraction activity shall be located within a Water Supply Watershed.

2. No hydraulic fracturing or other oil and gas exploration activity shall be located within a flood hazard area as defined on the Flood Insurance Rate Map.

3. The applicant shall demonstrate how City of Eden maintained rights-of-way will be protected from damage that may occur from transport of equipment or other parts of the hydraulic fracturing operation.

4. The applicant shall be liable for all repairs to rights-of-way necessitated by hauling or other aspects of the hydraulic fracturing operation.

5. A copy of any lease of oil or gas rights or any other document separating rights to oil or gas from the freehold of the surface property shall be submitted as part of the application

6. The City of Eden shall be notified at least 60 days before any hydraulic fracturing or other oil and gas exploration activity shall commence on the surface property identified in the special use permit application.

7. All legally required State and Federal permits or approvals shall have been issued by the appropriate State or Federal Agencies before the commencement of any hydraulic fracturing activities. Copies of the documents shall be provided to the City of Eden at least 14 days prior to such commencement.

8. No hydraulic fracturing or other oil or gas exploration activity shall be located less than 100 feet from the front property line bordering a public right-of-way nor less than 100 feet from a side property line of the surface property in question.

9. The City of Eden shall be provided copies of any notices of violation from State or Federal agencies within 7 days of receipt.

10. The Special Use Permit may be revoked if the applicant does not comply with its terms. Unresolved notices of violation from State or Federal agencies may also result in revocation of the Special Use Permit.

G. LIGHT INDUSTRY USES (NOT SPECIFICALLY LISTED)

1. No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be perceptible beyond the property line.

2. All establishments shall be maintained so as not to create environmental hazards (such as oil or gas leaks or spills) that pose a threat to ground or surface water quality, air quality, wildlife and/or humans.

3. Vehicular access to the site shall be provided on a thoroughfare of suitable industrial capacity as determined by the Administrator and/or any required Transportation Impact Analysis.

4. In addition to the bufferyard requirements provided in *Article 6 – General Development Standards*, all outdoor storage areas must be screened with the use of:

- **a.** Solid-wood fence, or fabricated metal fence, each with shrub plantings placed around the enclosure that grow as high, or nearly as high, as the fence to provide an attractive separation, or
- **b.** Brick fence, brick/split face block, or decorative block (plantings not required).

H. HEAVY INDUSTRY USE (NOT SPECIFICALLY LISTED)

1. All such uses must be located a minimum distance of 500 feet from the Residential Zoning Districts, RMX, NMX and B-C districts and any parallel conditional zoning district to those districts.
2. All establishments shall be maintained so as not to create environmental hazards (such as oil or gas leaks or spills) that pose a threat to ground or surface water quality, air quality, wildlife and/or humans.
3. Vehicular access to the site shall be provided on a thoroughfare of suitable industrial capacity as determined by the Administrator and/or any required Transportation Impact Analysis.
4. In addition to the bufferyard requirements provided in *Article 6 – General Development Standards*, all outdoor storage areas must be screened with the use of:
   a. Solid-wood fence, or fabricated metal fence, each with shrub plantings placed around the enclosure that grow as high, or nearly as high, as the fence to provide an attractive separation, or
   b. Brick fence, brick/split face block, or decorative block (plantings not required).

I. MINING, EXTRACTION OPERATIONS AND QUARRIES

1. The facility boundary shall be enclosed by a chain link, wooden or masonry fence at least five (5) feet in height. Where the property lines have been enclosed prior to the time of adoption of this Ordinance with a fence constructed as heretofore described, this section shall be deemed to have been compiled with.
2. Operations involving blasting discernible beyond the outer boundary of a quarry shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m. (dust). Suppression shall meet all NCDENR operating permit requirements at a minimum. Operating plans shall, in addition to permit requirements, insure that dust is suppressed so that it does not stray to adjoining properties used for residential, commercial, institutional, recreational or religious activities.
3. Interior roads shall be located no closer than thirty-five (35) feet from an external property line other than a highway or railroad right-of-way line.
4. The facility's NCDENR reclamation plan shall be submitted to the Administrator within 30 days of terminating quarrying operations. The owner or operator shall also demonstrate that all reasonable steps have or will be taken to prevent trespass onto the property, including security measures for monitoring the site.
5. The minimum lot size shall be 75 acres. A 50 foot forested buffer shall be required along streams and waterways and along any adjoining property containing a residential or non-industrial use.

J. MATERIAL RECOVERY & WASTE TRANSFER FACILITIES

1. All such uses must be located a minimum distance of 500 feet from the Residential Zoning Districts, RMX, NMX and B-C districts and any parallel conditional zoning district to those districts.
2. All establishments shall be maintained so as not to create environmental hazards (such as oil or gas leaks or spills) that pose a threat to ground or surface water quality, air quality, wildlife and/or humans.
3. Vehicular access to the site shall be provided on a thoroughfare of suitable industrial capacity as determined by the Administrator and/or any required Transportation Impact Analysis.
4. A minimum 100-foot buffer area is required along all property lines and public rights-of-way. No materials recovery and waste transfer activities, including parking, access roads, buildings, or disposal shall occur in the buffer area. Roads for access to the site may cross the 100-foot area, and monitoring wells may be located within the 100-foot area. All existing trees within the buffer area shall be preserved, except to allow for construction of necessary road crossings and monitoring wells.

5. A 50-foot buffer shall be required in the buffer area along all property lines and public rights-of-way regardless of the adjacent zoning. Existing plant material may be included in the computation of the required plantings, with approval of the Administrator.
6. A Noise Mitigation Plan (NMP) shall be submitted with the application. The NMP shall also address traffic noise within the site in regard to: vehicular speed; vehicular compliance with NC Muffler Laws and Vehicle Manufacturer's Specifications; Jake brake usage; and regular vehicle use within the site. The plan does not need to address emergency warning devices and lawn care equipment used during daylight hours.

K. RECYCLING COLLECTION STATIONS

1. All outdoor storage, collection loading and processing areas must be located a minimum distance of 500 feet from the Residential Zoning Districts, RMX, NMX and B-C districts and any parallel conditional zoning district to those districts.
2. All outdoor storage, collection loading and processing areas must be located a minimum distance of 50 feet from the adjacent property line.
3. All establishments shall be maintained so as not to create environmental hazards (such as oil or gas leaks or spills) that pose a threat to ground or surface water quality, air quality, wildlife and/or humans.
4. Vehicular access to the site shall be provided on a thoroughfare of suitable industrial capacity as determined by the Administrator and/or any required Transportation Impact Analysis.

L. SANITARY LANDFILL

1. All applications shall include feasibility study
2. A landfill shall not be located:
   a. within a protected or critical area of a watershed.
   b. within a 100-year floodplain as designated on the Flood Insurance Rate Map.
3. The truck entrance shall be located within two thousand (2,000) feet of a major arterial highway.
4. There shall be a natural or planted opaque landscaping buffer at least fifty (50) feet wide between the landfill and any public roads and between the landfill and any residential structure.
5. Approach and departure traffic routes for a landfill facility shall not be permitted through streets primarily intended to provide access for a residential neighborhood.
6. A security fence at least eight (8) feet in height shall be installed around the facility boundary.
7. The landfill shall comply with all federal, state and local regulations.

M. SCRAP METAL STORAGE OR RECYCLING

1. Approach and departure traffic routes for a scrap metal storage or recycling facility shall not be permitted through streets primarily intended to provide access for a residential neighborhood.
2. The applicant shall present a sound attenuation plan that demonstrates how noise from the facility will be sufficiently mitigated for any adjoining residentially zoned or residentially used properties**.**

N. STORAGE, SELF-SERVICE

1. Such uses in the B-C district shall not be located on the first floor of a structure and the use shall not be visible from a public or private street.

5.12 SUPPLEMENTAL USE STANDARDS - EDUCATION AND INSTITUTIONS

A. CEMETERY

1. A minimum of three (3) contiguous acres shall be required to establish a cemetery, columbarium or mausoleum not located on the same tract of land as a religious institution.
2. The minimum yard required for all structures, excluding gatehouse, is 50 feet from any exterior property line. Gatehouses shall be excluded from any minimum yard requirement.
3. The minimum yard required for mausoleums and columbariums adjacent to a street shall be equal to a principal building front yard in the district.
4. The minimum yard required for any grave or burial plot is 50 feet from any exterior property line. This requirement does not apply where the adjacent property contains an existing cemetery.
5. The minimum yard required for any grave or burial plot adjacent to a street shall be equal to a principal building front yard in the district provided that, where graves or burial plots are adjacent to streets and closer than 50 feet, a low planted screen shall be provided between the street and the cemetery. Such screen shall be 8 feet wide planted with evergreen shrubbery placed a maximum of 5 feet on center. All shrubs shall achieve a height of 4 feet within 3 years.

B. CHILD/ADULT DAY CARE CENTER (MORE THAN 8 PERSONS)

1. Outdoor play space for Child Care Homes shall be provided in accordance with the regulations of North Carolina Department of Human Resources.
2. Outdoor play space shall be enclosed on all sides by building and/or walls or fences in accordance with the standards in ordinance. The minimum height for such fences shall be 4 feet.
3. Outdoor play space may not include driveways, parking areas, or land otherwise unsuitable for children's play space.
4. Outdoor play space may not be in the established front yard.
5. Adult Day Care Centers: Adult Day Care Centers shall meet the requirements of the North Carolina Department of Health and Human Service's "Adult Day Care and Day Health Services Standards for Certification."

C. COMMUNITY SUPPORT FACILITY

1. No such use may be located within 1000 feet of another such use measured as a straight line on a map unless as part of an accessory use to an existing religious institution.

D. HALFWAY HOUSE

1. No such use may be located within 2500 feet of another such use measured as a straight line on a map.

E. SCHOOLS – ELEMENTARY & SECONDARY

1. Athletic fields and parking areas must be buffered from adjacent residentially zoned property with a 20-foot buffer as set forth in *Article 6 – General Development Standards*.
2. Connectivity (vehicular and pedestrian) to surrounding residential areas is required. Where a full vehicular connection is impractical, a multi-use trail connection shall be provided.
3. Student pick-up/drop-off areas shall adhere to NCDOT standards for vehicular circulation and stacking.

5.13 SUPPLEMENTAL USE STANDARDS – AGRICULTURE AND FORESTRY

A. ANIMAL PRODUCTION

1. Animal production may only occur on a lot exceeding 2 acres in size.
2. Not more than one animal unit shall be kept, maintained or stabled per 6,000 square feet of land.
3. All animals shall be fenced so that they are no closer than 100 feet from a dwelling unit on an adjacent property. This provision shall not apply if a dwelling unit is constructed so as to encroach upon an existing animal production use. However, an existing animal production use may not expand towards a newly established residential use.

B. KENNELS (OUTDOOR)

1. Any building or pen housing animals shall be located a minimum of 150 feet from any residentially zoned or developed property.
2. Areas used for exercising or training of animals shall be securely fenced to prevent the animals from straying.
3. All animal refuse and food shall be kept in airtight containers and disposed of on a regular basis.
4. Animal wastes shall not be stored within 150 feet of any property line or surface waters unless located indoors.
5. All such outdoor kennels and similar animal shelters shall be buffered from any adjoining residentially zoned property with a 50-foot buffer in accordance with *Article 6 – General Development Standards*.

C. PRODUCE STANDS

1. Produce stands shall be permitted by the Administrator to operate on an individual parcel for a period of time not to exceed 90 consecutive days and no more than 2 events per calendar year.
2. Hours of operation shall be limited to 7:00 AM – 10:00 PM.

5.14 SUPPLEMENTAL USE STANDARDS – COMMUNICATIONS, TRANSPORTATION AND INFRASTRUCTURE

A. AIRSTRIP

1. Hangars or open storage shall be screened with a 20-foot buffer from all property lines, except those properties with LI and HI zoning.
2. No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.
3. Hours of operation shall be limited from 6 am – 10 pm.

B. SOLAR ENERGY SYSTEM

1. All equipment shall be a minimum of a one hundred feet (100') from all property lines.
2. There shall be a 50-foot buffer area along all property lines.
3. The entire site shall be fenced, a minimum of six feet (6' in height) and secured to reduce/eliminate trespassing.

4. A maximum height (not including power lines) for the solar panel arrays shall be no more than fifteen five feet (15').
5. Landscaping including vegetative buffers, security fences and gates shall be maintained for the duration of the solar farm operation, up to and including decommissioning.
6. Solar panels shall be constructed so as to minimize glare or reflection onto adjacent properties and roadways.
7. The Administrator shall be advised in writing within thirty (30) days by the solar farm operator or property owners (whichever entity/party holds the development and building permits) in the event the project is sold or otherwise transferred to another entity/party and/or the current operator/owner abandons the project.
8. At the time of applying for permits the applicant (solar farm developer or property owner) shall include a decommissioning plan with the anticipated life expectancy of the solar farm and the anticipated cost in current dollars, as well as the method (s) of insuring that funds will be available for decommissioning and restoration of the project site to its original, natural condition prior to the solar farm development.
9. If the site is damaged, the solar farm operator shall have twelve (12) months to bring the project back to its operational capacity. If for any reason the solar farm is not generating electricity after six (6) months, the operator shall have six (6) months to complete decommissioning of the solar farm.
10. In the event of bankruptcy or similar financial default of the solar farm, the property owner of the project site shall bear the decommissioning costs.
11. Each solar facility shall be required to have the facility inspected annually for three (3) years by the Administrator or his/her designee following the issuance of the permit to verify continued compliance with this ordinance.

C. WIRELESS TELECOMMUNICATIONS FACILITY (NON-TOWER)

1. Maximum height on any co-located structure shall be 40 feet.

D. WIRELESS TELECOMMUNICATIONS TOWERS

Wireless Communication Towers shall be permitted provided the use meets all of the requirements of this ordinance for the district in which such proposed tower is located.

1. **District Height Limitations**
   a. The requirements set forth in this section shall govern the location of towers, and antennas that are installed at a height in excess of, the height limitations specified for each district.
2. **Public Property**
   a. Antennas or towers located on property owned, leased or otherwise controlled by the City of Eden shall be exempt from the requirements of this ordinance, provided a license or lease authorizing such antenna or tower has been approved by the Eden City Council.
3. **Amateur Radio**
   a. This section shall not govern any tower, or the installation of any antenna, that complies with the height requirement for the district in which it is located and is owned and operated by a federally licensed amateur radio station operator.
4. **Preexisting Towers and Antennas**

a. Any tower or antenna for which a permit has been properly issued prior to the effective date of this section shall not be required to meet the requirements of this section except for all Federal Regulations relating to this subject and the North Carolina State Building Code.

5. General Guidelines

a. Principal or Accessory Use. Antennas and towers may be considered principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a tower or antenna provided that it complies with district regulations, including but not limited to set-back requirements, lot coverage requirements and other such requirements. The dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.

b. Inventory of Existing Sites. Each applicant for an administrative or special use permit shall provide to the Administrator an inventory of its existing towers that are either within the planning and development regulation jurisdiction of the City of Eden or within one-quarter (1/4) mile of the border thereof, including specific information about the location, height and design of each tower. Applicants are encouraged to submit an inventory of potential future tower sites within the planning and development regulation jurisdiction of the City of Eden. The Administrator may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the planning and development regulation jurisdiction; provided, however, that the department is not, by sharing such information in any way representing or warranting that such sites are available or suitable.

c. Aesthetics; Lighting

i. The provisions set out in this section shall govern the location of all towers, and the installation of all antennas, governed by this ordinance.

ii. Towers shall either maintain a galvanized steel finish or be subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.

iii. At a tower site, the design of the buildings and related structures shall to the extent possible use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.

iv. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

v. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the Board of Adjustment may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

6. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to

bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

7. **Building Codes; Safety Standards.** To ensure the structural integrity of towers the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If upon inspection by the City of Eden Planning and Inspections Department, it is concluded that a tower fails to comply with such codes and standards and constitutes a danger to person or property, then upon notice being provided to the owner of the tower, the City of Eden shall revoke or not issue a certificate of occupancy and either not permit power to such facility or discontinue power to the facility until such time as the deficiencies are deemed corrected.
8. **Coverage Need.** Need of coverage shall be demonstrated by the wireless provider.
9. **Land Form Preservation.** Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer. Vegetation that causes interference with antennas or inhibits access to tower facility may be trimmed or removed. Provided however, no tree may be trimmed or removed on property owned by the City of Eden without a review by the City of Eden Tree Board.
10. **Existing Vegetation.** Existing vegetation on a tower facility site may be used in lieu of required landscaping where approved by the Administrator.
11. **Replacing Existing Tower.** An existing tower can be replaced subject to *Article 11 - Nonconformities of* this ordinance.
12. **Minimum Site Disturbance.** Grading for the new Wireless Communication Facility shall be minimized and limited only to the area necessary for the new facility.
13. **Signs.** No signs or logos, for which sign permits are required by this ordinance shall be allowed on any tower, antenna or related device.
14. **Parking.** Wireless Communication Facilities shall have a minimum of two (2) parking spaces.
15. **Removal of Abandoned Wireless Communication.** Any Wireless Communication Facility that is not operated as a commercial wireless communication site or by a government agency or by an emergency service provider for a continuous period of 12 months shall be considered abandoned and the owner of such facility shall remove same within 60 days of the notice thereof. Applicants to construct any such facility shall provide a performance bond for the cost of the removal of such facility in favor of the City of Eden. The bond shall be in the amount of 125 percent of the estimated cost of removing the facility. The applicant shall submit an estimate from a qualified demolition firm for the purpose of determining the amount of the performance bond.

5.15 SUPPLEMENTAL USE STANDARDS - OTHER

A. ACCESSORY STRUCTURES

Accessory structures, including but not limited to, accessory buildings, swimming pools, satellite dishes, and communication towers, are permitted on residential and nonresidential lots provided all requirements of this subsection are met and provided all necessary permits are obtained. Accessory uses are customarily incidental and subordinate to the principal use or building and are located on the same lot with such principal use or building.

1. **Residential Accessory Structures.** All accessory structures for residential uses shall meet the following requirements.
   a. **Location.** All accessory structures shall be located behind the front building line of the principal structure except carports that meet the requirements of subsection (g) below can be located in the front yard provided the carport meets the front yard setback of the underlying zoning district.
   b. **Side and corner side yard requirements.**
      i. All accessory structures located between the front building line and the rear building line of the principal structure shall comply with the side yard and corner side yard requirements of the applicable zoning district, except as permitted for carports in subsection (g) below.
      ii. All accessory structures located behind the rear building line of the principal structure shall observe a 5 feet minimum side yard setback and a 15 feet corner side yard set-back.
   c. **Rear yard requirements.** All accessory structures shall observe a 5 feet minimum setback from the rear lot line.
   d. **Height.** The height of all accessory structures shall meet the height requirements of the applicable zoning district; except for carports permitted in subsection (g).
   e. **Maximum accessory building area**. The total gross floor area for all accessory buildings for single-family and two-family dwellings shall not exceed 50 percent of the gross floor area of the principal building or 600 square feet, whichever is greater, except in the RA District as provided for in paragraph (f) below.
   f. The maximum square footage for residential accessory structures is limited by Article 5.15(A)(1)(e) of this ordinance to one-half (1/2) the square footage of the dwelling unit or 600 square feet whichever is greater. An increased number of square feet shall be permitted in the RA district as follows:

      In the RA District, the following shall apply:
      i. Tracts of land containing from 20,000 square feet up to one (1) acre in area shall remain as per Article 5.15(A)(1)(e).
      ii. Tracts of land containing more than one (1) acres and less than three (3) acres shall be permitted the ordinance maximum per Article 5.15(A)(1)(e) plus 250 square feet of additional accessory structure gross floor area.
      iii. Tracts of land containing in excess of three (3) acres shall not be limited on accessory structure gross floor area.
   g. **Carports.** Carport accessory buildings may be permitted to be located on a property used for single-family or two-family dwelling purposes provided that all setbacks are met and all of the following regulations are met. The carport must be:
      i. 480 square feet or less in area;
      ii. a freestanding structure detached from any other principal or accessory structure;
      iii. unenclosed on all four sides;
      iv. not exceeding 12 feet in height. Where such carport exceeds 12 feet in height, the carport shall setback an additional 2 feet from the side and corner side lot lines for every 1 foot of height exceeding 12 feet.

h. All accessory structures must be designed for the purpose for which they are to be used, i.e., storage units must be designed as permanent storage buildings, carports must be designed to house automobiles, etc. No tractor trailers, mobile homes, automobiles, or other such items may be used as accessory structures or storage buildings, whether or not wheels have been removed.

2. Nonresidential Accessory Structures. All accessory structures for nonresidential uses shall meet all minimum yard and height requirements of the applicable zoning district. All accessory structures must be designed for the purpose for which they are to be used, i.e., storage units must be designed as permanent storage buildings, carports must be designed to house automobiles, etc. No tractor trailers, mobile homes, automobiles, or other such items may be used as accessory structures or storage buildings, whether or not wheels have been removed. Any storage unit which is subject to public access (i.e., sales and overflow merchandise storage) must meet commercial building code and fire codes for the particular use.

3. Solar as an accessory use. Small solar energy systems shall be permitted as an accessory use by right in all zoning districts which shall include:

a. Ground and pole mounted systems in the rear or side yard only. Ground mounted system shall not exceed 12 feet above the ground.

b. Roof mounted solar energy systems shall include integrated solar shingles, tiles or panels as the surface layer of the roof structure with no additional apparent change in relief or projection of the roof line.

c. Separate flush mounted solar energy systems installed on the roof of a building or structure shall not project vertically above the peak of the sloped roof to which it is attached; or extend beyond the perimeter of the roof line.

d. Any glare generated by the system must be mitigated or directed away from an adjoining property or adjacent road when it creates a nuisance or safety hazard.

e. Any electrical wiring used in the system shall be underground (trenched) except where wiring is brought together for inter-connection to system components and /or the local utility power grid.

f. No ground-mounted small solar energy system shall be affixed to a block wall or fence.

g. Energy - The energy generated by the small solar energy system shall be used for direct consumption on the subject property and for inter-connection to the electric utility power grid to off-set energy use on the subject property, in accordance with current state net-metering laws.

h. The construction of the small solar energy system shall be in accordance with an approved building permit application.

B. SEASONAL SALES ESTABLISHMENTS

1. Seasonal Sales establishments may be permitted as a temporary use on a lot subject to the following requirements:

a. A seasonal sales establishment may be permitted in any business zoning district but shall not be permitted in any residential (except RA) or industrial zoning district.

b. A seasonal sales establishment shall observe all minimum required yards when such yards abut a residential lot. No merchandise or business activity may be permitted in such minimum yard area. Where no minimum yard is required in the zoning district, the establishment shall observe a minimum yard of 25 feet from any adjoining residential lot.

c. No operations or display shall occur in any street right-of-way. All activities shall take place on the lot.

d. Sufficient off-street parking shall be provided in order to accommodate the sales establishment.

e. One (1) travel trailer, for temporary living and security purposes in association with the seasonal sales establishment, may be permitted provided the travel trailer satisfies all public service corporation, public utility and City requirements for proper connection to water, sewer, electrical and other utility service connections, if applicable.

f. Seasonal Sales may be permitted for a period of sixty (60) days per use per calendar year.

C. SPECIAL EVENTS, CARNIVALS, RELIGIOUS REVIVALS & SIMILAR USES

1. The Administrator may issue a Temporary Certificate of Zoning Compliance for special events, bazaars, carnivals, religious revivals and similar uses subject to the following requirements:

a. The certificate shall be issued to a specific organization for a specific period of time not to exceed 30 days and not renewable by the same organization for the same site within a 180-day period.

b. The hours of operation shall not adversely affect the uses adjacent to the temporary activity.

c. The amount of noise generated shall not disrupt the activities of the adjacent land uses.

d. The applicants shall guarantee that all litter generated by the activity shall be removed at no expense to the City.

e. Travel trailer(s) for temporary living purposes may be permitted provided the travel trailer(s) satisfy all public service corporation, public utility and City requirements for proper connection to water, sewer, electrical and other utility service connections, if applicable.

f. The Administrator shall not issue the certificate unless they find that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic.

D. TEMPORARY CONSTRUCTION OFFICE UNITS

Temporary construction office units may be permitted on a lot involving a construction project provided they meet the following requirements:

1. The construction office unit is needed for on-site, temporary office space in regard to the construction occurring on the site.

2. The construction office unit shall satisfy all public service corporation, public utility and City requirements for proper connection to water, sewer, electrical and other utility service connections, if applicable.

3. The construction office unit shall be permitted only for the duration of the construction project and shall be removed upon the completion of the construction project.

E. TEMPORARY SHELTERS

1. Temporary Shelters may be permitted provided that the following requirements are met:

a. Such shelters may only be operated by non-profit agencies.

b. The permit shall be for a maximum of 6 months of continuous operation. A new permit is required once this time period has passed. No more than one application may be approved in a 12-month period.

c. A shelter of this type must meet all land use and building code regulations of the City of Eden and the State of North Carolina.

d. All operations of the shelter must be entirely contained within a building.

e. On site supervision and security shall be provided at all times the shelter is open. A plan for security must be presented with the application for a permit.

F. TEMPORARY HEALTH CARE STRUCTURES

1. The following definitions apply in this section:

a. Activities of daily living: Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

b. Caregiver: An individual 18 years of age or older who:

i. provides care for a mentally or physically impaired person and

ii. is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.

c. First or second degree relative: A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

d. Mentally or physically impaired person: A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.

e. Temporary family health care structure: A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that:

i. is primarily assembled at a location other than its site of installation,

ii. is limited to one occupant who shall be the mentally or physically impaired person,

iii. has no more than 300 gross square feet, and

iv. complies with applicable provisions of the State Building Code and G.S. § 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

2. The City shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family zoning district on lots zoned for single-family detached dwellings.

3. The City shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

4. One temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under sections (1) and (2) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structure, except as otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

5. Any person proposing to install a temporary family health care structure shall first obtain a permit from the City. The City may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The City may require that the applicant provide evidence of compliance with this section on

an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the City of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.

6. Any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, as if the temporary family health care structure were permanent real property.

7. No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

8. Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used, or may be reinstated on the property within 60 days of its removal, as applicable.

9. The City may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. § 160D-915. The City may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. § 160D-915.

10. Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

ARTICLE 6 – GENERAL DEVELOPMENT STANDARDS

6.01 GENERALLY

The standards in this Article are intended to be minimum standards for development. Higher standards or relief from standards may be required through *Article 4 – Zoning Districts*, *Article 5 - Individual Use Standards* or *Article 8 – Subdivisions and Infrastructure*.

6.02 BASIC DEVELOPMENT STANDARDS

A. HEIGHT

1. Other than the provisions listed in this Section, buildings and structures shall not exceed the maximum heights established in *Article 4 – Zoning Districts* of this Ordinance.
2. See *Article 14 – Definitions* for the definition of "building height" and "building story."
3. Roofs with slopes greater than 75% are regarded as walls.
4. Chimneys, church spires, roof-mounted flagpoles, antennas, water tanks, elevator shafts, scenery lofts, and similar structural appendages not intended as places of occupancy are exempt from the height limitation set forth in this Section, provided that not more than one-third (1/3) of the roof area is covered by such structures and they do not extend more than fifteen (15) feet above the top of the structure.
5. Heating and air conditioning equipment, solar collectors and similar equipment, fixtures, and devices are exempt from the height limitation set forth in this Section, provided that they are set back from the edge of the roof a minimum distance of one (1) foot for every foot the feature extends above the roof surface. Screen or parapet walls shall be constructed to the height of any fixture taller than three (3) feet in height that would be visible from a street or residential property abutting the property.
6. The height requirements for wireless telecommunications towers and facilities are provided in *Article 4 – Zoning Districts* and *Article 5 – Individual Use Standards* of this Ordinance.
7. Light standard heights shall not exceed the limits established in this Ordinance.

B. SETBACKS

1. **Setbacks Required**. No portion of any building, excluding eaves, decks, patios, steps, and uncovered porches may be located on any lot closer to any lot line or to the street right-of-way line than is authorized in *Article 4 – Zoning Districts* of this Ordinance. All setbacks are expressed in feet and are minimum setbacks, unless otherwise noted. Additional setbacks may be required to meet parking, landscaping, buffering, or other standards specified in this Article and the specific use standards of *Article 5 – Individual Use Standards* of this UDO.
2. **Allowed Setback Encroachments**. A step, stoop, open porch, awning, or other appurtenance may extend up to five (5) feet into the front setback, provided such features do not impede pedestrian

circulation or extend more than 25% into the minimum setback. Attached and detached carports are permitted in the front yard, must meet the front setback requirements of the underlying zoning district, and have an improved driveway surface.

3. Setback Measurement

a. Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it. Appendages might include awnings, chimneys, HVAC units, or other similar appurtenances.

b. If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured at a right angle to such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.

c. All setbacks are subject to compliance with adopted applicable fire code provisions.

C. RELATIONSHIP OF BUILDING TO LOT

There shall be no more than one principal building on a lot, except in the case of a designed complex of professional, residential, or commercial buildings in an appropriate zoning district.

D. STREET ACCESS

No building shall be erected on a lot which does not abut a street or have access to a street, provided that in a planned development, a building may be erected adjoining a parking area or dedicated open space which has access to a street used in common with other lots.

E. INFILL DEVELOPMENT STANDARDS

1. See *Article 14 – Definitions* for the definition of "infill development."

2. Street Frontages. Windows, main entrances, and other primary building façade elements should be oriented toward the street. Orienting the back or side of buildings toward the street is prohibited except for double-fronted lots.

3. Front Setback Pattern. The Administrator shall reduce the minimum front setback for any lot where the average established front yard on developed lots located within 300 feet on each side of such lot, and fronting on the same street as such lot, is less than the minimum required yard. In such cases, the minimum front or street yard shall be the average of the existing front yards on the developed lots within 300 feet of each side, minus any additional required right-of-way dedication. In addition, for new lots created from existing larger lots, the lot width at the frontage line and the side yard setbacks shall be consistent with the average of the immediately adjacent, neighboring parcels on the same side of the street.

4. **Driveways.** On lots less than fifty (50) feet in width, only one driveway of no more than twelve (12) feet in width may be used to provide access to garages or off-street parking areas. The Administrator may modify where contextually appropriate.
5. **Parking.** Garages or off-street parking areas shall be located in the side or rear setback area only.
6. **Multi-family structures.** If the infill development is a multi-family structure on lots less than 40' in width, parking shall be in the rear and accessed via alley. If this is not achievable, then only one shared driveway shall be permitted for each structure.

F. IRREGULAR LOT SETBACKS

The location of required front, side and rear yards (or setbacks) on irregularly shaped lots shall be determined by the Administrator. The determination will be based on the intent and purpose of this Ordinance to achieve appropriate spacing and location of buildings and buildings on individual lots. Where questions of appropriateness arise, the subdivider may be required to provide additional design information.

6.03 FENCES AND WALLS

All fences and walls shall comply with the requirements of this Section unless specifically approved as part of conditional zoning or a variance.

A. Except as otherwise provided in this section, fences that are no taller than six (6) feet may be built along interior, side, and rear property lines.

B. Exterior side yard fences that are no taller than six (6) feet shall be at least five (5) from the right-of-way.

C. Fences in front yards are discouraged, but must be:

1. Located least two (2) feet from the right-of-way and no closer than two (2) feet from the edge of the sidewalk
2. Not exceed four (4) feet in height, except that wrought iron and split rail style fences may be up to five (5) feet tall.

D. No fence shall obstruct any traffic safety visibility zone.

E. Barbed wire, razor wire, or other fence materials designed to cut or puncture are prohibited in all districts, except in the RA, LI, and HI districts.

F. Deer fences may be erected around gardens provided that the fences are located at least ten (10) feet from the nearest property line.

6.04 PARKING AND LOADING

A. PURPOSE AND INTENT

This Section establishes the minimum number of spaces and parking area design in the City of Eden. This Section allows the Administrator to adjust the number of required spaces and the design of spaces to provide for adequate parking, accommodate unique site conditions, and capitalize on the benefits of parking opportunities on-street or in shared parking areas.

B. APPLICABILITY

The requirements of this Section shall apply to all new developments and changes of use that necessitate parking or additional parking.

C. PARKING SPACE REQUIREMENTS

The following table outlines the permanent off-street parking requirements. Requisite parking shall be provided at the time of erection, alteration, or enlargement of buildings or land uses which require additional off-street parking.

LAND USE TYPE	MINIMUM AUTO SPACES	MINIMUM BICYCLE SPACES
RESIDENTIAL		
Dwellings – Single and Two-family	2 per dwelling unit or 3 per dwelling unit if any parking is provided in an enclosed garage	n/a
Dwellings – Multi-family	1.3 per bedroom, applied on a "per structure" basis	2 per each structure of 4 units or less, or else 4 per each structure
Adult Care Homes (7 or more beds)	1 per 2 resident rooms	1 per 40 auto spaces
Family Care Homes (2 to 6 beds)	1 per 2 resident rooms	2
Rooming or Boarding Homes	1 per 2 rented rooms	2
Home Occupations	Minimum required residential parking and 1 per 100 sf of home occupation floor space	n/a
All Other Residential Uses	1 per dwelling unit	n/a
LODGING AND ACCOMMODATIONS		
All uses	1 per 2 rooms	1 per 50 auto spaces
MEDICAL USES		
Hospitals	1 per 2 beds	1 per 50 auto spaces
Medical Clinics	3 per employee	1 per 50 auto spaces
Nursing Homes	1 per 5 beds	1 per 50 auto spaces
BUSINESS USES (See Section 6.04 D below.)		
Professional Offices	1 per 400 sf	2 per 50 auto spaces
Banks	1 per 400 sf	2 per 50 auto spaces
COMMERCIAL AND ENTERTAINMENT (See Section 6.04 D below.)		
Restaurants	1 per 400 sf, 1 per table, or 1 per 4 seats, whichever requires the most spaces	2 per 50 auto spaces
Indoor Amusement	n/a	2 per 50 auto spaces

LAND USE TYPE	MINIMUM AUTO SPACES	MINIMUM BICYCLE SPACES
Outdoor Amusement	n/a	2 per 50 auto spaces
Theater (Indoor or Outdoor)	1 per 3 seats	2 per 50 auto spaces
All other Commercial and Entertainment Uses	1 per 500 sf	2 per 50 auto spaces
MANUFACTURING, INDUSTRIAL AND WHOLESALE TRADE		
Self-storage facilities	3 spaces at office	n/a
All other uses	1 per 1,000 sf	n/a
SCHOOLS AND INSTITUTIONS		
Child Care Facilities	1 space per classroom	1 per 50 auto spaces
Child Care Centers and Family Child Care Homes (3 to 8 children)	1 per 2 children	n/a
Religious Institutions	1 per 4 seats in main assembly hall plus accessory uses according to their use	1 per 50 auto spaces
Elementary and Junior High Schools	1 per classroom and administrative office	2 per 50 auto spaces
Senior High Schools	1 per 20 students for which the building was designed, 1 per administrative office, and 1 per classroom	1 per 20 auto spaces
All Other Education and Institution uses	1 per 500 sf	1 per 50 auto spaces
AGRICULTURAL AND FORESTRY		
All Uses	n/a	n/a
COMMUNICATIONS, TRANSPORTATION AND INFRASTRUCTURE		
All Uses	n/a	n/a

D. EXEMPTIONS AND ADJUSTMENTS

1. Exemptions. Uses in the B-C district are exempt from the minimum parking requirements of this Section.

2. Tree Preservation. The minimum number of parking spaces required shall be adjusted by the Administrator when it has been determined that the reductions are necessary to preserve a healthy tree or trees (with a 12-inch or greater diameter at breast height) from being damaged or removed, and where the site plan provides for the retention of said tree or trees. Up to 25% or five (5) spaces (whichever is greater) of the required parking may be reduced in this fashion.

E. SATELLITE & COMBINATION PARKING

If the off-street parking spaces required by this section cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 600 feet. Such measurement shall be taken from the edge of the parking area on the lot to the entryway of the remote parking area.

1. **Shared Satellite Parking**: Upon approval by the Administrator, satellite parking facilities may be shared by two or more uses which do not share normal operating hours.
2. **Parking for Permitted Uses Only**. If satellite parking is utilized to fulfill parking requirements, the owner or authorized agent for the land upon which such remote parking is located shall restrict the use of such parking area for parking only in connection with the use(s) or structure(s) for which such remote parking is provided. Such restriction shall be recorded through an easement plat properly filed with the Rockingham County Register of Deeds, which may be released only by written consent of the City. Remote parking for a particular use shall not be established in any district that does not allow that use.

F. SPACE DESIGN STANDARDS

1. Applicability

Where parking lots for more than five (5) cars are permitted or required, the following provisions shall apply:

2. Parking Area General Design Standards

a. A strip of land eight (8) feet wide adjoining any right-of-way line or any lot zoned for residential use shall be used to screen such parking with evergreen shrubs.

b. Parking areas shall be maintained to provide for vehicle access and shall be kept free of litter, debris, outdoor display and sales and material storage, including portable containers.

c. Parking for service vehicles shall be designated, located and screened to minimize the view from adjacent properties and rights-of-way, generally at the rear of buildings.

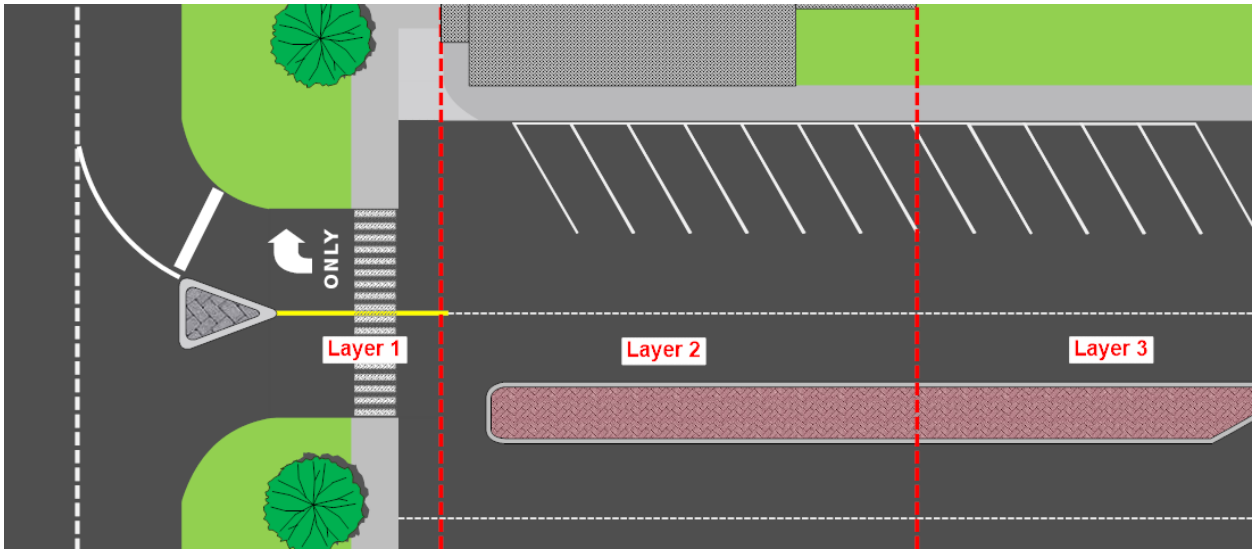
d. Parking areas shall be located and designed to avoid undue interference with the use of public rights-of-way, driveways or pedestrian ways. Parking stalls shall not be located in areas that would require backing into access driveways or streets except where allowed for residences.

e. Parking design and location shall be in accordance with this Ordinance, City Code, and the following minimum dimensions:

Parking Angle	Parking Space Width	Parking Space Depth	Minimum Aisle Width (one way)	Minimum Aisle Width (two way)
0º (parallel)	9'	22'	12'	22', if applicable
30º	9'	18'	11'	20'
45º	9'	18'	13'	22'
60º	9'	18'	18'	24'
75º	9	18'	21'	24'
90º	9'	18'	24'	24'

f. Parking stalls and vehicular areas shall be located a minimum of 5' from the property line and 10 feet from public rights-of-way and buildings to allow sufficient separation for sidewalks, landscaping, and other site features except along the backs of buildings in areas designed for loading and unloading. A continuous row of evergreen shrubs or other opaque screening (fence, wall, berm) is required to screen all parking from view from a public right-of-way. The screen shall be maintained at between 2' to 3' of height within 3 years of installation.

g. For properties zoned RMX, NMX, or B-C, parking may only be located in the second or third layer of the site as illustrated in the diagram below:



h. Parking shall not be located in landscaped, open space, or tree save areas.

i. Vehicle storage or display areas shall be identified on a site plan distinct from customer and employee parking areas and shall comply with parking access, location and design requirements, except that striping of the display or storage area shall not be required. The placement of vehicle storage or display areas shall not interfere with vehicle or pedestrian access aisles or driveways.

j. Tractor trailers, cargo trucks, busses, and other large commercial vehicles or heavy equipment parking and storage shall comply with parking access, location and design requirements except for stall size and aisle size which shall be as appropriate for the vehicles to be stored and shall be designated on a site plan.

k. Well-marked, ADA-compliant pedestrian access must be provided in all parking lots. Access perpendicular to the main entrance from the parking area should be provided, whenever possible. Where a sidewalk is added to a median, additional median width equal to the sidewalk width must be provided.

3. Bicycle Parking Standards

a. Bicycle spaces shall be provided per the parking table in Section C above.
b. Acceptable rack elements, rack location and access shall conform to the Association of Pedestrian and Bicycle Professionals Bicycle Parking Guidelines.
c. Design shall consist of loop, post, rails, “A” and inverted "U" racks.
d. Bicycle parking shall be provided on a hard-surface, all-weather pavement of asphalt or concrete with curb ramps installed as appropriate.
e. Bicycle parking shall be:

(1) Separated from automobile parking by a physical barrier or by at least 5 feet where automobile parking is prohibited and shall be located as close to public and employee entrances as possible without interfering with the flow of pedestrian and vehicular traffic.
(2) Conveniently located near building entrances.
(3) Located so as not to interfere with pedestrian access.

4. Stacking Spaces

a. Uses with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service shall provide adequate stacking spaces on-site for the uses or buildings in accordance with this section. Such uses include but are not limited to restaurants with drive-through, convenience store with fuel sales, and other uses with service bays or drive-throughs.

b. A vehicle stacking space requirement may be modified or required by the Administrator in the site plan approval process for uses that have not been listed below or where the use can demonstrate a limited need for vehicle stacking space.

Land Use	Minimum Stacking Spaces	Measured From
Bank Teller/ATM	4	Teller Window/ATM
Restaurant (drive-through)	6	Pick up window
Car Wash	3	Entrance
Fuel Sales Pump Island	2	Pump Island
Pharmacy	4	Pick up window

c. Required stacking spaces are subject to the following design and layout standards:

(1) Stacking spaces shall be a minimum of nine (9) feet wide and sixteen (16) feet long.

(2) Stacking spaces shall not impede vehicular traffic movements or movements into or out of parking spaces, whether on-site or off-site.

(3) Stacking spaces shall not impede onsite or offsite bicycle or pedestrian traffic movements, whether on-site or off-site.

(4) Stacking spaces shall be clearly delineated through such means as striping, landscaping, pavement design, or curbing.

5. Surfacing

Off-street parking areas shall be properly graded, marked, and located on improved lots or within parking structures. The material for surface parking spaces and corresponding access drives required by this section, except for single-family detached and duplex residences, shall consist of suitable material as set forth below.

a. Suitable Materials: Suitable paving materials for required parking areas include but are not limited to, asphalt, porous asphalt, porous paving blocks, and concrete. Compacted stone (road bond) and gravel may be permitted as paving materials in the rear setback area for loading and service areas zoned LI or HI.

b. Accessible Spaces: All accessible spaces and corresponding access paths shall consist of concrete or asphalt.

c. Pervious Surfaces: Porous paving blocks and pervious paving materials are permitted and encouraged as material for parking lots. The use of reinforced grass as a parking lot surface is permitted for satellite parking areas.

d. Parking Space Marking: The individual parking spaces in a lot shall be delineated in all parking lots except those utilizing road bond, gravel, grass or other vegetative surfacing.

6. Connectivity

a. Adjoining parking lots serving (or potentially serving) non-residential or multifamily uses shall be interconnected as follows:

(1) The parking lot under development has a minimum of 24 parking spaces or equivalent parking area.

(2) At least 1 connection is provided at all lot lines that are coincident for at least sixty (60) feet with another lot zoned for non-residential use.

(3) The connection is at least twenty (20) feet wide.

(4) If applicable, the connection aligns with a connection that has been previously constructed on an adjacent property.

(5) The connection has a slope of no greater than fifteen (15) percent.

(6) The connection is not placed where a building on an adjacent property is within fifty (50) feet of the lot line which would hamper traffic movements within the parking lot.

(7) The connection is placed in an area which will not require the removal of significant natural features such as wetlands or trees with a caliper of six (6) inches or more.

b. In the event these conditions cannot be met without undue hardship or if such connections would create undesirable traffic flow, the Administrator may waive the connection requirement.

c. Where a parking lot connection is required an easement for ingress and egress to adjacent lots shall be recorded by the property owner with the Rockingham County Register of Deeds in the form of an easement plat.

7. Off-Street Loading Requirements

a. Off-street loading spaces shall be required for industrial, major institutional, and business uses that can be expected to regularly receive or deliver goods, pursuant to the following schedule (areas within the LI and HI zoning districts are exempt from this requirement):

Building Square Footage	Required Number of Spaces
0 – 24,999	1
25,000 – 39,999	2
40,000 – 99,000	3
100,000 – 159,000	4
160,000 – 239,000	5
240,000 – 319,999	6
320,000 – 399,999	7
Each 90,000 above 400,000	1

b. Required loading spaces shall have the following minimum dimensions: 12-foot minimum width, 25-foot minimum length, and 14-foot minimum vertical clearance.

c. Locations

(1) Required off-street loading spaces shall not be located within a building but shall be on the site of the use served or on an adjoining site.

(2) Required off-street loading spaces shall be located to the sides and/or rear of the lot to maximize the street exposure of the primary structure.

(3) A loading area shall not be located in a required setback. In addition, street-side loading docks shall be set back at least seventy (70) feet from the street property line or 110 feet from the street center line, whichever is greater.

(4) No loading bay may intrude into any portion of a required parking aisle or access dimension.

(5) Loading areas visible from a street shall be screened on three sides by a solid, decorative fence, wall, or hedge at least six feet in height.

d. Access

(1) A required loading stall shall be accessible without parking a truck across a street property line unless the Administrator determines that provision of turnaround space is infeasible and approves alternate access.

(2) An occupied loading space shall not prevent access to a required off-street parking space.

e. Parking Alternatives

(1) The Administrator is authorized to approve an alternative parking plan for Agricultural Uses, Industrial Uses and Recreational Facilities that proposes alternatives to the standards in this Section.

6.05 LIGHTING

A. PURPOSE AND INTENT

1. The standards set forth in this section are designed to focus on the actual physical effects of lighting, as well as the effect that lighting may have on the surrounding neighborhood. It is the intent of this Section to:

a. Minimize light pollution such as glare and light trespass.

b. Conserve energy and resources.

c. Maintain night-time safety and utility.

d. Improve the night-time visual environment.

B. APPLICABILITY

All applications for site plan review, conditional use, subdivision and/or building permits shall include lighting plans showing location, type, height, and lumen output of all proposed and existing fixtures. The applicant shall provide enough information to verify that lighting conforms to the provisions of this lighting code. The Administrator shall have the authority to request additional information in order to achieve the purposes of this lighting code.

C. PROHIBITIONS AND EXEMPTIONS

1. Prohibitions. The following lighting types shall be prohibited:

a. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited,

b. The operation of searchlights for advertising purposes is prohibited,

c. Site lighting that may be confused with warning, emergency, or traffic signals is prohibited,

d. Lights that flash, move, revolve, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation are prohibited,

e. Awnings and canopies used for building accents over doors, windows, etc. shall not be internally lit, i.e., from underneath or behind, so as to visually turn a translucent material into an internally illuminated material. Lighting may be installed under canopies that light the sidewalk, or downlights onto the architectural features of a building.

2. Exemptions. The following exemptions shall be granted from the requirements of this Section:

a. Luminaires used for public-roadway illumination may be installed at a maximum height of 37 feet and may be positioned at that height up to the edge of any bordering property.

b. All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this Ordinance.

c. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this Article, except that all luminaires used must be red and must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.

d. Individual residential lighting that is not part of a site plan or subdivision plan for street or other common or public area outdoor lighting.

e. Lighting associated with holiday, festival or other temporary uses permitted in this Ordinance.

f. Lighting of public art that has been permitted or otherwise approved by the City.

g. Other municipal or state lighting installed for the benefit of public health, safety, and welfare.

h. All fixtures installed or temporarily used by public agencies, their agents, or contractors for the purpose of illuminating public streets.

i. Lighting of United States and North Carolina State Flags provided the flag standard does not exceed the maximum permitted building height for that district.

D. GENERAL DESIGN STANDARDS

1. Background spaces such as parking lots and driveways shall be illuminated as unobtrusively as possible to meet the functional needs of safe circulation and of protecting people and property.

2. Foreground spaces, such as building entrances and plaza seating areas, shall utilize lighting that defines, highlights, or enhances the space without glare.

3. The style of light standards and fixtures shall be consistent with the style and character of architecture proposed on the site.

4. Light poles and fixtures shall be of a matte or low-gloss grey, black, dark earthen, or bronze finish, unless permission is granted by the Administrator for a special color scheme or theme.

5. Light sources must be compatible with the light produced by surrounding uses and must produce an unobtrusive degree of brightness in both illumination levels and color temperature.

6. Natural areas and natural features shall be protected from light spillage from off-site sources.

7. All exterior lighting, on or off a building, shall be either amber or white in color with the exception of low-light output (800 lumens or lower) landscaping or other decorative lighting, signage lighting, or customer entrance or service area lights aiming down and installed under a canopy or similar roof structure.

E. DISTRICT LIGHTING STANDARDS IN FOOT-CANDLES

1. Maximum lighting levels shall adhere to the standards in the chart below. All numerical values in the chart below represent measurements in foot-candles.

	R-A, R-20, R-12, R-6, OS	RMX	NMX, BC	BH, LI, HI
Light Trespass Off Property	0.1	0.3	0.8	1
Display/Canopy Area	8	12	20	20
Parking Areas	4	4	6	6
All Other On-site Lighting	4	6	10	10

2. The values in the preceding chart for "All Other On-Site Lighting" and "Display/Canopy Areas" shall represent the maximum point of illuminance measured at grade in foot-candles.

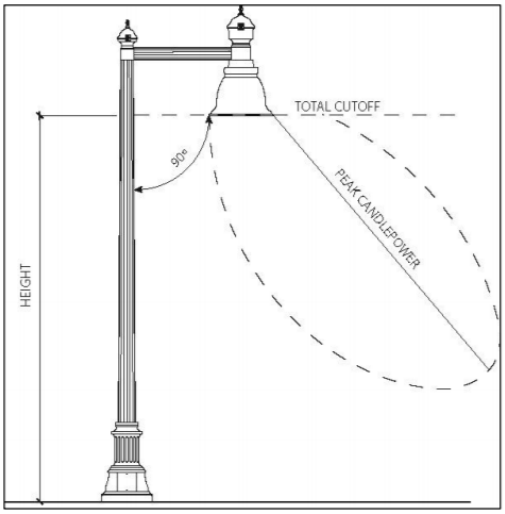
   a. **Exception:** Outdoor display lots for vehicle sales and leasing may exceed 20 foot-candles if outdoor white lighting is cut off, leaving only security lighting that is amber in color (a temperature rating equal to or less than 2,700 Kelvin), after closing or 11:00 p.m., whichever comes earlier.

3. The values of the preceding chart for the "Light Trespass Off Property" shall represent the maximum point of illuminance as measure at the property line in foot-candles.

   a. **Exception:** In the case of buildings closer than 10 feet to the property line using only wall packs, light trespass may be greater than one foot-candle as long as the wall packs are fully shielded to direct the light downward, have a light output of 1,600 lumens or lower, and the light source (lamp) is not visible from off-site.

4. The values of the preceding chart for "Parking Areas" shall represent the average point of horizontal illuminance measured in foot-candles, provided that in all districts the maximum uniformity ratio shall be 4:1 minimum to average.

F. CONTROL OF GLARE



1. Pole light fixtures shall have a flat lens oriented horizontally or have shields installed on each side of the fixture to hide the lens.
2. Any luminaire shall be a full-cutoff type fixture.
3. Any luminaire shall be mounted at a height equal to or less than thirty (30) feet above finished grade.
4. The maximum mounting height of all outdoor lighting with a ninety (90) degree or less cutoff fixture shall be 30 feet. The maximum mounting height of all outdoor lighting without a full ninety (90) degrees or less cut-off fixture shall be sixteen (16) feet. Poles may be mounted on a concrete pier of no more than three (3) feet in height.
5. Poles shall be matte or low-gloss finish to minimize glare from the light source.
6. Other than floodlights, flood lamps, and spotlights all outdoor lighting fixtures of more than 2,000 lumens shall be full-cutoff type fixtures. Any fixture that is not full-cut off shall be a directional fixture (such as flood lights) and may be used provided they shall be aimed and fully shielded to prevent light spillage.
7. **Exceptions**
   - **a.** Non-cutoff decorative post-mounted fixtures equipped with a solid top and mounted eighteen (18) feet or less above ground and other non-cutoff dusk to dawn utility type fixtures mounted 25 feet or less may be used. The maximum initial lumens generated by each fixture shall not exceed 9,500 initial lamp lumens.
   - **b.** All metal halide, mercury vapor, fluorescent, and other white-colored light source lamps used in non-cutoff fixtures (excluding flood lights) shall be coated with an internal white frosting inside the outer lamp envelope.

G. SECURITY LIGHTING

1. Unshielded flood lights and spotlights, installed for security and activated by motion sensor, are permitted. These unshielded lights must be mounted and aimed in a manner that minimizes up-lighting and light trespass.
2. All floodlights shall be installed such that the fixture shall be aimed down at least 45 degrees from vertical. All flood or spot lamps emitting 1,000 or more lumens shall be aimed at least sixty (60) degrees down from vertical or shielded such that the main beam from the light source is not visible from adjacent properties or the public street right-of-way.

3. Flood lights and display lights shall be positioned such that any such fixture located within fifty (50) feet of a public street right-of-way is mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed fifteen (15) degrees from perpendicular to the right-of-way.

H. LANDSCAPE LIGHTING

1. Landscape and decorative lighting using incandescent lighting with a light output of 800 lumens or less is permitted, provided that the light is installed and aimed to prevent lighting build up and light trespass and shielded to prevent view from the public right of way.

2. Outdoor Recreational Lighting

a. Because of their unique requirements for nighttime visibility and their limited hours of operation, ball fields, basketball courts, tennis courts, outdoor performance areas and similar recreational uses are exempt from the exterior lighting standards provided above. However, these uses shall adhere to the requirements below.

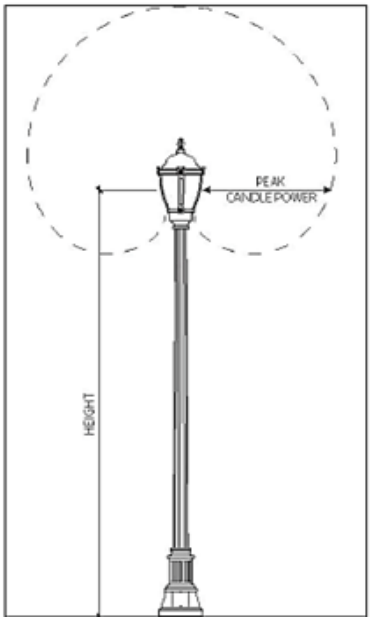
b. Outdoor recreational lighting shall not exceed a maximum permitted post height of eighty (80) feet. The Administrator may set a shorter maximum pole height if the specific recreational use does not require the taller pole.

3. Lights shall be shielded and positioned so as not to shine onto adjacent roadways or properties.

4. All fixtures shall be fully shielded or be designed or provided with Manufacturer's Glare Control Package to minimize up-light, spill-light, and glare.

5. Fixtures shall be designed and aimed so that their beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted. The maximum permitted illumination at the property or right-of-way line shall not exceed two (2) foot-candles and all lights, except for any amber color (a temperature rating equal to or less than 2,700 Kelvin) security lights, shall be cut off after use.

I. STREET LIGHTING



1. Street lighting shall be placed on all streets to allow for the safe use of streets by both cars and pedestrians. All street lighting shall be placed in accordance with the standards of City of Eden Engineering Department or the most recent standards from the Illumination Engineering Society of North America "Lighting Handbook."
2. Pedestrian scaled lighting (no taller than twelve feet) shall be required in the RMX, NMX and BC districts using decorative fixtures of a similar character to those existing in these districts (see images on right).
3. Pedestrian-scaled lighting (no taller than twelve feet) shall be prioritized over automobile lighting in all districts. Lighting shall be placed in a manner to limit the casting of shadows on sidewalks.
4. All streetlights shall utilize a cutoff fixture. Where buildings are close to the street (less than fifteen feet from the right-of-way), full cutoff fixtures are required to limit glare and light spillage on upper levels.
5. Alleys are excluded from the spacing and lighting requirements of this section.

J. ADDITIONAL LIGHTING USE REGULATIONS FOR SPECIFIC AREAS

1. Building Façade Lighting

a. Floodlights, spotlights, or any other similar lighting shall not be used to illuminate buildings or other site features unless approved as an integral architectural element on the development plan.

b. On-site lighting may be used to accent architectural elements but not used to illuminate entire building(s).

c. Where accent lighting is used, the maximum illumination on any vertical surface or angular roof surface shall not exceed 5.0 average maintained foot-candles.

d. Building facade and accent lighting will not be approved unless the light fixtures are selected, located, aimed, and shielded so that light is directed only onto the intended target and spillover light is minimized.

e. Wall packs on buildings may be used at entrances to a building to light unsafe areas, but must be fully shielded to direct the light downward, must have a light output of 1,600 lumens or lower, and the light source shall not be visible from off-site.

2. **Outdoor Display Areas.** The mounting height of outdoor display area fixtures shall not exceed thirty (30) feet above finished grade.

3. **Lighting for Vehicular Canopies.** Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or more of the following:

   a. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface of the vehicular canopy.

   b. Surface mounted fixture incorporating a flat lens that provides a cutoff or shielded light distribution.

   c. Other methods approved by the Administrator.

K. COMPLIANCE

1. Lighting plans required as part of a site construction plan shall include, at a minimum, the following information:

   a. Point-by-point foot candle arrays in a printout format indicating the location and aiming of illuminating devices. The printout shall indicate compliance with the maximum maintained foot-candles required by this ordinance.

   b. Description of the illuminating devices, fixtures, lamps, supports, reflectors, poles, raised foundations and other devices (including but not limited to manufacturers or electric utility catalog specification sheets and/or drawings, and photometric report indicating fixture classification [cutoff fixture, wall pack, flood light, etc.]).

   c. After installation of on-site lighting, a certification of compliance statement must be submitted to the Administrator prior to the issuance of a Certificate of Occupancy.

2. Subsequent phases of an entire development shall have a uniform design plan for lighting and fixtures. New phases must meet all requirements in effect at the time of obtaining a permit, but lighting plans must consider preexisting lighting in earlier phases, both in design and intensity of light.

6.06 OPEN SPACE STANDARDS

A. PURPOSE AND INTENT

It is the intent of this section to require that each new development contribute to the necessary range of parks and opens space critical to the quality of life for each resident and visitor. It is expected that all new residential development provide centrally-located, unencumbered land as neighborhood park space for human use and/or unimproved open space in addition to contributing to the construction and expansion of community facilities.

B. APPLICABILITY

All new development shall provide neighborhood parks and undisturbed open space (as applicable). The intent is to ensure that each new home has a range of parks and open spaces within a typical walking or biking distance of ¼ to ½ mile.

C. REQUIRED OPEN SPACE TABLE:

Zoning District:	Usable Open Space Required (Improved Park Space)	Natural Open Space Required (Unimproved Space)	Total Dedicated Space
OS	Exempt	Exempt	Exempt
R-A	Exempt	5%	5%
R-20, R-12, R-6	2%	5%	7%
RMX, NMX, BC	2% for projects greater than 5 acres	Exempt	2% for projects greater than 5 acres
BH	Exempt	Exempt	Exempt
LI, HI	Exempt	Exempt	Exempt

D. EXEMPTIONS TO OPEN SPACE STANDARDS

1. Neighborhood parks are not required in any residential development with an overall density of one (1) dwelling unit/acre or less.
2. Subdivided residential developments of ten (10) or fewer dwelling units are exempt from the requirements of this section unless the City agrees that it will accept an offer of dedication of such open space and in that case the offer of dedication shall be made.
3. Conditional Zoning Districts: Exemptions may be permitted on a case-by-case basis through the use of a Conditional Zoning District rezoning but shall have a minimum of fifty (50) percent of the total required open space.

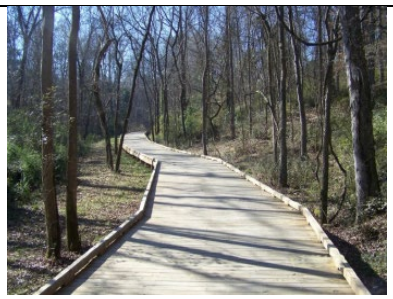
E. USABLE OPEN SPACE (IMPROVED PARK SPACE) REQUIRED

1. For purposes of this section, usable open space means an area that:
   - **a.** Is not encumbered with any substantial structure that is not recreation-oriented,
   - **b.** Is not devoted to use as a roadway, parking area, or sidewalk, provided, however that multi-use trails and any associated required cleared, graded space may be counted towards required open space,
   - **c.** Reflects the character of the land as of the date development began. Wooded areas shall be left in their natural or undisturbed state except for the cutting of trails for walking, bicycling or jogging. Areas not wooded shall be landscaped for open play fields, picnic areas or similar facilities, or be properly vegetated and landscaped with the objective of creating a wooded area or other area that is consistent with the objectives of this section,
   - **d.** Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation, with particular attention paid to grade,

e. Is part of an independent Lot shown on the plan as being reserved for open space; and

f. Is legally and practicably accessible to the residents of the development from which the required open space subdivided or to the public if the open space is dedicated to the City.

2. Usable Open Space shall include:

a. Green Corridor. A natural preserve available for unstructured recreation. Its landscape shall consist of paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be linear, following the trajectories of natural corridors (greenways). The minimum size shall be 2 acres (except multi-use trails where there is no minimum).	
b. Parks and Greens. An open space available for unstructured recreation. A Green may be spatially defined by landscaping rather than building frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. For the purposes of this section, standalone dog parks shall be considered a variation of the Green park type. The minimum size shall be 1/2 acre.	
c. Squares. An open space available for unstructured recreation and civic purposes. A Square is spatially defined by building frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at intersections. The minimum size shall be 1/4 acre and the maximum shall be 2 acres.	
d. Playgrounds. An open space designed and equipped for the recreation of children. A playground may include an open shelter. Playgrounds shall be interspersed within residential areas and may be placed within a block. Playgrounds may be included within parks and greens. There shall be no minimum or maximum size.	

3. **Credit for Proximity to Existing Park Space.** Developments that are proximate to an existing City-owned, publicly accessible park space may count all such lands in their park space dedication requirement up to 25% of the required total, subject to the provisions below.
   a. The existing park or parks must be within ½ mile of the development, as measured along a road or pedestrian path, to be considered proximate.
   b. Adequate pedestrian access from the development to the existing park space must be provided as determined by the Administrator.
4. **Credit for Neighborhood Amenities.** Developments that provide neighborhood amenity facilities will receive a credit of 25% of the required total, subject to the provisions below.
   a. The facilities are open to all residents of the neighborhood and are not subject to a private membership separate from any related POA dues.
   b. Such facilities shall, at a minimum, include a clubhouse a minimum of 800 square feet and either tennis courts (minimum of two courts) or a pool (a minimum of 2,000 square feet in water surface area).
5. The following areas shall not count toward common open space set-aside requirements:
   a. Private Lots, yards, balconies and patios dedicated for use by a specific dwelling unit
   b. Electric or gas transmission line rights-of-way
   c. Public right-of-way or private streets and drives
   d. Open parking areas and driveways for dwellings
   e. Land covered by structures except for ancillary structures associated with the use of the open space such as gazebos and picnic shelters
   f. Designated outdoor storage areas
   g. Land areas between buildings of less than forty (40) feet
   h. Land areas between buildings and parking lots or driveways of less than forty (40) feet in width
   i. Required setbacks or landscape buffers, unless they are adjacent to an open space area of fifty (50) feet or more in width
   j. Detention/retention facilities except as permitted by the Administrator
   k. Areas that have been graded during development to grades of three-to-one (33% grade) or greater
6. **Ownership and Maintenance of Recreational Areas and Required Open Space**
   a. Open space required to be provided by the applicant in accordance with these open space standards shall not be dedicated to the public but shall remain under the ownership and control of the developer (or his successor) or a property owner's association or similar organization. Open space shall be

designated as an independent lot on the plat and shall be noted as being reserved for their intended purposes.

b. The person or entity identified as having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.

c. Open space may be dedicated to a registered land trust, if approved by the City Council.

7. Dedication of Open Space

a. If any portion of any lot proposed for development lies within an area designated on the officially adopted Comprehensive Plan, the area so designated (not exceeding five percent of the total lot area) shall be included as part of the area set aside to satisfy the requirement of this section. This area shall be dedicated to public use.

b. If more than five percent of a lot proposed for development lies within an area designated as provided in paragraph (1) above, the City may attempt to acquire the additional land in the following manner:

(1) The applicant may voluntarily dedicate the additional land to the City.

(2) The applicant may be encouraged to develop an integrated subdivision, cluster subdivision or some other applicable development pattern and to dedicate the common open space created thereby.

(3) The City may purchase or condemn the land.

F. FLEXIBILITY IN ADMINISTRATION AUTHORIZED

1. The requirements set forth in this Article concerning the amount, size, location and open space to be provided in connection with residential developments are established by the City Council as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted City Plans. The City Council recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this Article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the permit issuing authority is authorized to permit minor deviations from these standards whenever it determines that:

a. The objectives underlying these standards can be met without strict adherence to them; and

b. Because of peculiarities in the applicant's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

2. Whenever the Permit Issuing Authority approves a deviation from these open space standards, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

G. OPEN SPACE LINKAGES

Where a trail, natural area or public park is dedicated to or acquired by the City, such area may be credited toward the minimum amount of common open space required.

1. Natural Open Space Design Criteria

a. All required natural open space shall meet the following design criteria, as applicable:

(1) Water bodies, retention areas, detention basins and wetlands basins, may constitute up to forty (40) percent of required open space, provided that retention facilities are designed to provide safe access to water. Unless otherwise approved by the City Council, side slopes to retention facilities shall provide at least six (6) feet of horizontal run for each foot of vertical rise.

(2) At least thirty (30) percent of required open space must be dry land with a slope of less than ten (10) percent unless otherwise approved the City Council.

(3) Unless otherwise approved by the City Council, open space shall be continuous, contiguous with open space on abutting properties and accessible to the public.

H. CONNECTIVITY REQUIRED

1. To the maximum extent practicable, common open space shall be organized to create integrated systems of open space that connect with the following types of lands located within or adjacent to the development:

a. Dedicated public park or greenway lands

b. Dedicated school site

c. Other dedicated open spaces

d. Common open space located adjacent to the development

e. Portions of the regional trail and open space system

2. Payments in Lieu of Open Space Dedication

a. Any subdivider required to dedicate open space area pursuant to this Ordinance may, with the approval of the City Council, make a payment in lieu of dedication or make a combination of land dedicated and payment. Before approving a payment in lieu of dedication, the City Council shall find that no recreation and/or open space sites have been designated on the adopted Comprehensive Plans for the property in question.

b. The payment in lieu of dedication shall be equal to the appraised value of the required acreage of land within the subdivision based on an appraisal prepared by a licensed appraiser and submitted by the developer. If the City disagrees with the submitted appraisal, it may have a second appraisal prepared. If the appraisals are within fifteen (15) percent of each other, the developer's appraisal will be utilized to establish value. If the appraisals differ by more than fifteen (15) percent, the value will be based on the average of the two appraisals.

c. Where a combination of land dedication and payments in lieu are approved, the subdivider shall be given a credit equivalent to the appraised value per acre of land dedicated for recreation purposes. The credit amount shall be determined by multiplying the number of acres to be dedicated by the appraised value per acre. If the total payment in lieu as determined above is larger than the credit amount, the subdivider shall pay the difference between the two amounts. If the credit amount is larger than the total payment in lieu as determined above, no additional payment in lieu is required. However, the subdivider may not transfer the excess credit from one subdivision to another.

d. Upon approval by the City Council, payment in lieu of dedication shall be made at the time of final subdivision plat approval. All monies received by the City of Eden pursuant to these requirements shall be used only for the acquisition and development of recreation, park, and open space sites to serve the residents of the development and the residents of the immediate neighborhood within which the development is located. The City Council shall also have the authority to sell land dedicated pursuant to these provisions with the proceeds of any such sale used solely for the acquisition of other recreation, park, or open space sites within the immediate neighborhood within which the development is located.

I. OWNERSHIP & MAINTENANCE

The designated common open space and common facilities are outlined in *Article 8 – Subdivisions and Infrastructure* of this Ordinance.

6.07 LANDSCAPING AND BUFFERING

A. PURPOSE AND INTENT

The standards established in this Ordinance are intended to preserve, protect, restore and enhance the aesthetic appeal and scenic beauty of this City; provide adequate buffering between land uses; reduce noise and air pollution; reduce stormwater run-off; filter and reduce glare from artificial light sources; provide shaded areas along streets, sidewalks and in parking lots; provide a continuity of vegetation throughout the City; encourage the preservation of existing trees and vegetation; safeguard and enhance property values; and protect the public health, safety and general welfare.

B. APPLICABILITY

The landscaping and buffering standards of this section shall apply to the following:

1. All new developments (except for infill single-family detached) shall be designed in accordance with the requirements of this Article.

2. Pre-existing development

a. Non-conforming preexisting development is subject to these standards as follows:

(1) A change in type of occupancy, as set forth in the North Carolina Building Code

(2) A change in land use which requires an increase in the number of off-street parking spaces or the provision of a buffer yard

(3) Additions or expansions which singularly or collectively exceed 25% of the land area or gross building floor area existing at the effective date of this ordinance.

b. The City of Eden recognizes that designing preexisting development to meet new regulations is more difficult and expensive than applying these standards to undeveloped properties. Therefore, greater flexibility will be afforded preexisting development in meeting the requirements of this section, in that:

(1) A modification of up to 25% percent may be granted by the Administrator for planting area and dimension requirements where compliance presents hardships due to building location, lot size, or vehicular area configuration.

(2) A credit for reducing required off-street parking by one (1) space shall be given for the construction of each landscape island.

C. FRONT YARD TREES

1. Front yard trees (functioning as street trees) are an essential part of the City streetscape. As opposed to street trees, front yard trees are planted on private property, just outside of the right-of-way line. The City seeks to maintain existing trees where possible and to encourage the planting and continuance of the established street tree patterns. To accomplish this objective, the following shall apply:

a. All subdivisions and developments subject to site plan approval shall provide front yard trees along their frontage with adjacent public streets.

b. Front yard trees shall be planted on private property. They shall be located five (5) to ten (10) from back of curb or edge-of-sidewalk, whichever is greater, or as close as possible to those criteria.

c. Front yard trees shall be selected from the list of small or understory trees, or, where power lines are located, small trees included in the Appendix.

d. Where necessary, planting strips shall be a minimum of six (6) feet wide.

e. Planting location shall take into consideration planned roadway widening, public safety, standard drainage requirements, and maintenance of sight distances for traffic safety. Street trees may be planted within the right-of-way, within planting strip abutting the right-of-way or other location approved by the Administrator.

2. Front yard trees, unless subject to overhead power lines, shall be planted at the rate of one (1) two-inch caliper tree per forty (40) feet of property line abutting a public street, excluding driveways and traffic visibility zones. This rate may be varied based upon planned signage areas, existing trees, and the crowns of planted trees.

3. Trees used to meet buffer and vehicle use area requirements, may be used to meet the street requirements to the extent that the trees are located within 25 feet of a street.

D. BUFFER YARD REQUIREMENTS

1. Buffers provide compatible transitions between differing land uses, reduce the visual impacts of development and retain existing plant materials.

a. Buffers are required along the common property lines between developments in different zoning districts or between developments of different uses as established in this Section.

b. Buffer requirements shall not apply when a public street or railroad right-of-way separates applicable zoning districts or uses except where new lots created by a Major Subdivision Preliminary Plat abuts but has no access to Major or Minor Thoroughfare. When this occurs, a streetyard buffer meeting the Type A Buffer criteria standards shall be provided adjacent to the thoroughfare right-of-way. The preservation of existing healthy vegetation in the streetyard buffer is strongly encouraged.

c. The chart below establishes the minimum buffer type for proposed development.

	Adjacent Zoning District						
District of Proposed Development	**R-A, R-20, R-12, R-6**	**RMX**	**NMX**	**BC**	**BH**	**LI, HI**	**OS**
R-A, R-20, R-12, R-6	None	None	None	None	B	A	None
RMX	None	None	None	None	None	A	None
NMX	None	None	None	None	None	A	None
BC	None	None	None	None	None	None	None
BH	B	C	None	None	None	B	C
LI	A	B	B	None	None	None	C
HI	A	A	A	B	B	None	C
OS	None	None	None	None	None	None	None
A = Type A Buffer B = Type B Buffer C = Type C Buffer							

E. BUFFER YARD COMPOSITION

The required buffer yard types may be established using a combination of yard widths, evergreen trees, canopy trees, understory trees, shrubs, fences, walls, and berms. Note that up to fifty (50) percent of required evergreen trees may be pines. The following tables illustrate the required elements for each buffer yard type.

1. **Type A Buffer:** The intent of the Type A Buffer is to create a completely opaque buffer, having no horizontal openings from the ground to a height of eight (8) feet within two years of planting. Type A buffers can be achieved in three ways:

Type A Buffer Yard Options	Min. Depth	Min. Plantings per 100 feet	Required Barrier
Option 1	40’	4 Evergreen Trees 4 Canopy Trees 4 Understory Trees 48 Shrubs	Not Required
Option 2	30’	2 Evergreen Trees 1 Canopy Tree 2 Understory Trees 12 Shrubs	Berm
Option 3	20’	1 Evergreen Tree 1 Canopy Tree 3 Understory Trees 12 Shrubs	Fence or Wall

2. **Type B Buffer:** The intent of the Type B Buffer is to create a semi-opaque buffer, having only seasonal horizontal openings, not to exceed ten (10) percent of the total width, from the ground to a height of eight (8) feet within two years of planting. A Type B Buffer can be achieved in two ways as specified below.

Type B Buffer Yard Options	Min. Depth	Min. Plantings per 100 feet	Required Barrier
Option 1	20'	2 Evergreen Trees 1 Canopy Trees 2 Understory Trees 12 Shrubs	Not Required
Option 2	10'	1 Evergreen Trees 1 Canopy Tree 3 Understory Trees 24 Shrubs	Berm

3. **Type C Buffer:** The intent of the Type C Buffer is to create a semi-opaque buffer, having only seasonal horizontal openings, not to exceed 25% of the total width, from the ground to a height of six (6) feet within two years of planting. A Type C Buffer can be achieved in two ways as specified below.

Type C Buffer Yard Options	Min. Depth	Min. Plantings per 100 feet	Required Barrier
Option 1	20'	1 Canopy Tree 2 Understory Trees 8 Shrubs	Not Required
Option 2	10'	2 Canopy Trees 2 Understory Trees 12 Shrubs	Not Required

F. ADDITIONS TO BUFFERS AND SCREENING

When it is determined that the conflict of land use is so great that the public safety is not served adequately by the minimum buffer and screening requirements, or where there is a need to prevent a high degree of visual, audio, or physical disorders, then the Administrator may require the installation of fencing or earthen berms in addition to the minimum required buffers and screening, according to the standards below.

1. **Fencing or Walls**. Where required as part of a buffer yard, fencing or walls must adhere to the provisions below. Nothing in this Section shall prohibit the owner of a single-family dwelling from constructing a separate fence along the borders of such property, provided that all required buffer plantings are maintained.

   a. In all cases, the finished side of the fence must face the use with the lower intensity.

   b. Permitted fence or wall materials include masonry, stone, architectural block, stucco on masonry, wood or other similar of solid appearance.

   c. The design of fencing or walls shall be sufficient to meet the extent of physical screening required by this Ordinance.

   d. The height of the fence shall be six (6) feet.

   e. A decorative masonry post or other visual embellishment or variation shall be required every sixty (60) feet for fences longer than 130 feet.

2. **Berms.** Earthen berms may be required in combination with plant material and fencing for the purposes of screening. Berms shall be tapered appropriately to allow for practical maintenance.
   a. The slope of all berms shall not exceed a 2:1 ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of six (6) feet above the toe of the berm.
   b. All berms regardless of size, shall be stabilized with a grass or other approved vegetative ground cover. Top soils brought in for mounds are to be mixed with native soil to avoid interfacing problems.
   c. Berms shall be constructed as to provide adequate sight distances at intersections and along all roads.
   d. Berms proposed to satisfy the screening requirements of this section shall be vegetated as required by this section. All plantings shall be located either on top of the berm or between the berm and the public right-of-way.
   e. Use of berms as a substitute for existing healthy vegetation is strongly discouraged.
   f. Berms shall be designed so as not to obstruct pre-development or post-development water flow across the landscape or cause ponding. Culverts, under drains, or other features may be necessary.

G. VEHICULAR USE AREA SCREENING & LANDSCAPING

1. All off-street parking, loading areas, and service areas adjacent to and/or visible from a public right-of-way and adjacent properties shall be screened from view by use of one or more of the following:

   a. A building or buildings

   b. A change in topography

   c. A planting area a minimum of eight (8) feet wide planted with evergreen shrubbery placed a maximum of five (5) feet on center. All shrubs shall achieve a height of four (4) feet within three years

   d. Fencing, walls, or berms

2. In addition to screening requirements, canopy trees shall be installed in planting areas within parking lots to provide shade coverage for all parking spaces within vehicle service areas. Such planting areas shall meet the following requirements:

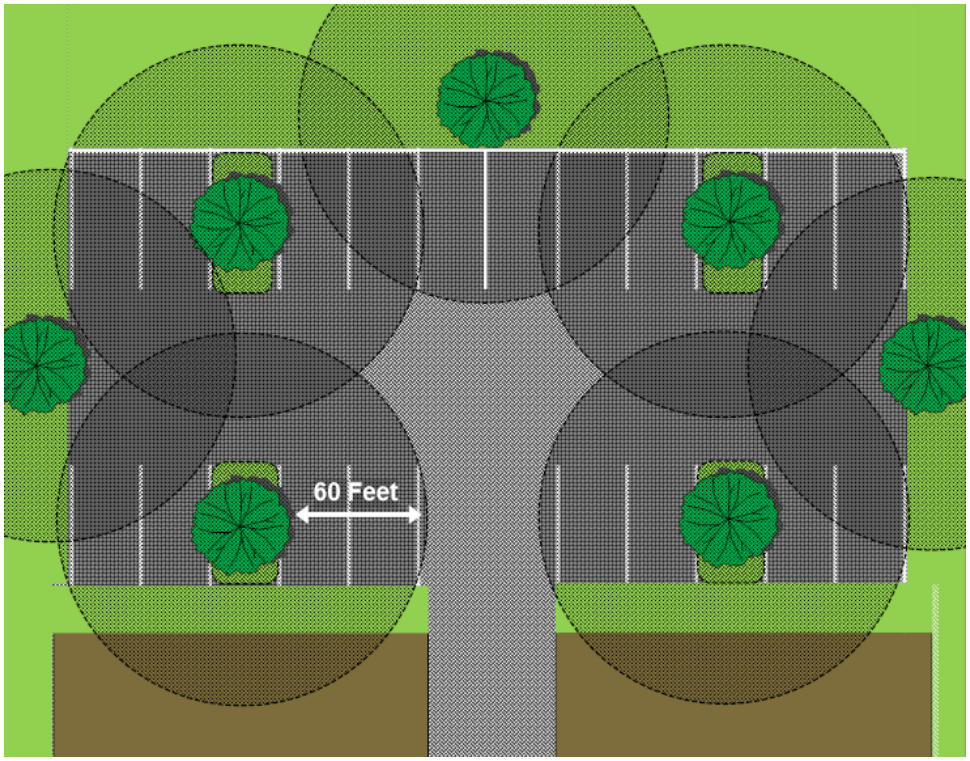
a. Planting Area Size: The minimum size of a planting area is dependent upon the number of canopy trees planted within it, as described below:

Number of Canopy Trees in Planting Area	Minimum Size of Planting Area
1	400 square feet
2	700 square feet
3 or more	300 square feet per tree

b. Planting Area Width: A minimum horizontal dimension of nine (9) feet measured from back of curb, pavement, sidewalk, or other separating structure is required for all planting areas.

c. Planting Strip Location: A continuous linear planting strip shall be provided between each two (2) parking bays.

d. Minimum Spacing: All parking spaces, or portions thereof, shall be within sixty (60) feet of a planted canopy tree trunk as illustrated in the diagram below:



e. Groundcover: Each planting area shall be landscaped with mulch, groundcover, or shrubs to protect against soil erosion.

f. Barriers or Wheel Stops: Barriers, such as wheel stops or six (6) inch standard curbs, must be provided between vehicular use areas and landscaped areas.

g. Conflict with Parking Lot Lighting: Trees shall be located and planted so as not to diminish the effectiveness of required parking lot lighting, and in no instance shall lighting be located closer than fifteen (15) feet to canopy trees and eight (8) feet to understory trees.

H. SCREENING OF OUTDOOR STORAGE

In addition to the buffer yard requirements provided by this Article, all non-residential outdoor storage yards must be screened with the use of:

1. Solid-wood fence, or fabricated metal fence, each with shrub plantings placed around the enclosure that grow as high, or nearly as high, as the fence to provide an attractive separation, or

2. Brick fence, brick/split face block, or decorative block (plantings not required).

I. SCREENING OF BMP FACILITIES

Any Stormwater BMP Facility that is required by this Ordinance and is at least eighteen (18) inches in depth, as measured from the top of bank, shall be enclosed by a fence. The required fence shall be a black or green vinyl coated chain-link fence that is at least four (4) feet in height. (It should be noted that the applicant should consider whether a greater fence height is needed to provide an appropriate level of safety.) The fence shall have one or more gates to allow an appropriate level of access for the purpose of facility maintenance. Upon written request by the applicant, the Administrator may waive or modify the fencing requirement when it finds any one of the following:

1. The required fencing is not necessary to provide for the public health and safety because of the Stormwater BMP Facility's design, location or combination thereof.

2. The modified fencing proposal provides adequate protection of the public health and safety.

3. The Stormwater BMP Facility is designed to be an amenity to the development and the provision of a fence would lessen its effectiveness to do so.

J. DUMPSTERS, LOADING AREAS AND MECHANICAL UTILITIES SCREENING

1. All dumpsters, loading docks and utility structures, which are visible from a public street or adjacent property line shall be screened unless already screened by an intervening buffer yard.

2. Screening shall consist of evergreen shrubs, fencing, walls or berms, and shall comply with all other standards of this section.

3. All screening of utilities shall comply with the requirements of the utility provider.

4. Enclosures for dumpsters shall be constructed with materials that are consistent with the design and materials of the principal building. Screening may be created through the use of:

   a. Solid-wood fence, or fabricated metal fence, each with shrub plantings placed around the enclosure that grow as high, or nearly as high, as the fence to provide an attractive separation

   b. Brick fence, brick/split face block, or decorative block (plantings not required)

K. UNAVOIDABLE DELAY IN INSTALLATION

Installation of landscaping must be completed in accordance with an approved landscape plan. Unusual environmental conditions such as drought or ice may occur or the appropriate planting season may not parallel that of the development's construction. In such cases, a temporary Zoning Compliance Certificate for a specified period may be issued based on a performance guarantee. Performance guarantees shall be accompanied by a description of the factor(s) hindering installation of landscaping and a written estimate of materials and installation from a landscaping contractor. Such guarantee may be in the form of a letter of credit, a bond, a certified check or cash and shall be in the amount of 125% of the total price reflected in the estimate. The amount shall be reviewed and approved by the Administrator. The performance guarantee will be released after landscaping is installed in accordance with the landscaping plan.

L. GENERAL INSTALLATION AND MAINTENANCE STANDARDS

It shall be the responsibility of the property owner(s) or assigned caretakers to ensure that all regulated landscaped areas, buffers, fencing, and tree save areas are installed, preserved, and maintained in good growing conditions, appearance, and usefulness. Damage and disturbances to these areas shall result in vegetation replacement and/or fines and other penalties. Preservation and maintenance shall include:

1. Any dead, unhealthy, or missing vegetation, shall be replaced with vegetation that conforms to the standards of this section and the approved site and/or subdivision plan.

2. All required buffers, street yards, vehicular use areas, tree save areas and other landscaped areas shall be free of refuse and debris, shall be treated for pest/diseases in accordance with the approved site and/or subdivision plan, and shall be maintained as to prevent mulch, straw, dirt, or other materials from washing onto streets and sidewalks.

3. The owner(s) shall take actions to protect all plant material from damage during all facility and site maintenance operations. All plant material must be maintained in a way that does not obstruct sight distances at roadways and intersections, obstruct traffic signs or devices, and interfere with the use of sidewalks or pedestrian trails. Plant material, whether located within buffers, tree save areas, or within planted areas (required by the site and/or subdivision plan) shall not be removed, damaged, cut or severely pruned so that their intended form is impaired. Shrubs within vehicular use areas, street yards, and street fronts may be pruned, but must maintain at least three (3) feet in height.

4. In the event that existing required vegetation located within any buffers, tree save areas, street yards, vehicular use or other landscape areas poses an immediate or imminent threat to improved structures on

private property or public property, necessary pruning or removal of the vegetation may be allowable provided authorization is obtained from the Administrator, and the performance standard of the landscape area is maintained consistent with this section. Replacement vegetation may be required as a condition of the permit.

5. In the event that any vegetation or physical element functioning to meet the standards of this section is severely damaged due to an unusual weather occurrence or natural catastrophe, or other natural occurrence, the owner may be required to replant if the requirements of the section are not being met. Replacement vegetation shall conform to the standards of this section and the approved site and/or subdivision plan.

M. ALTERNATE LANDSCAPING PLANS

The Administrator shall allow deviations to this section when in the opinion of a licensed landscape architect alternative plantings are necessary due to proximity to utilities or that an alternative landscape design will provide preferable results. At their discretion, the Administrator may consult with a third-party landscape architect for a second opinion, and any costs incurred shall be charged to the applicant.

N. RECOMMENDED PLANT LIST

See the Appendices for the official planting list. It contains some plant species that are native or are known to be suitable for the climate of the area. Applicants seeking landscape approval shall not be required to select materials from the following list but shall be required to select plant species that are known to be suitable for the climate of the area.

6.08 BUILDING DESIGN STANDARDS

A. PURPOSE AND INTENT

The purpose of establishing building design requirements for development is to ensure that the physical characteristics of proposed development are compatible with the context of the surrounding areas and to preserve the unique visual character and streetscapes of Eden. These requirements strike a balance between creativity and innovation on one hand while avoiding obtrusive, incongruous structures on the other. Eden strongly encourages architectural styles that build upon and promote the existing historic character of the City and supports the view that inspiring, well-maintained, and harmonious development is in the best economic development interests of all residents and businesses.

B. APPLICABILITY OF STANDARDS

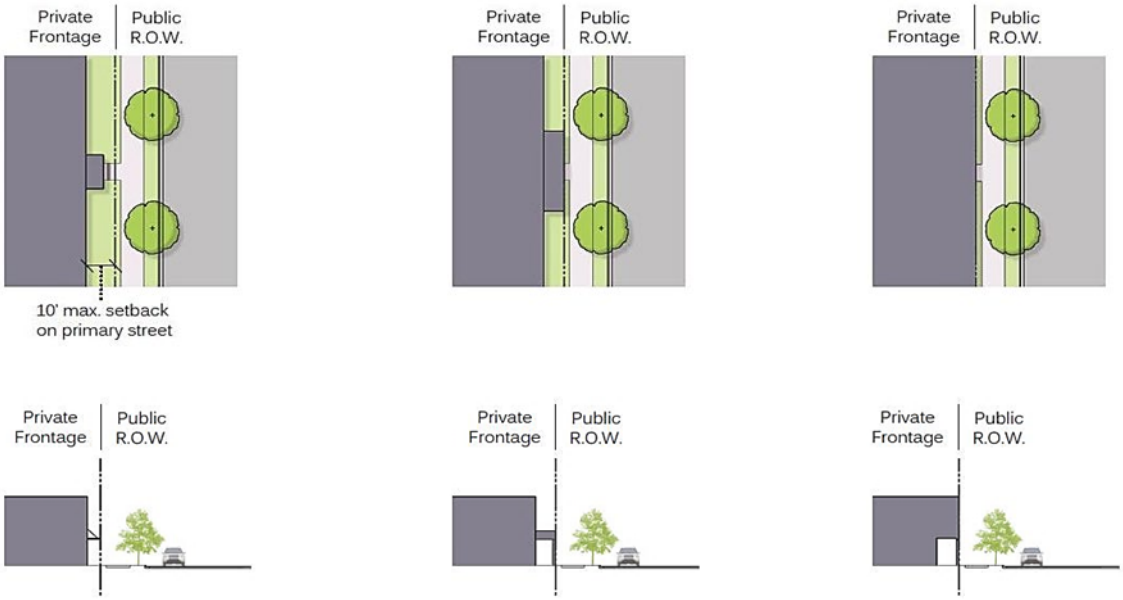
The provisions in this Section shall apply to all new multi-family and non-residential structures and expansions to existing structures in the zoning designation of B-C, RMX, and NMX. Only subsections F, I, and J shall apply to residential structures.

C. MODIFICATION OF STANDARDS/DESIGN EXEMPTIONS

The Administrator may make modifications to the standards in this section upon the written request of the applicant if the standard(s) in question conflicts with other requirements by law, as long as the proposal is in compliance with the Purpose and Intent above. If the applicant and Administrator cannot come to an agreement the proposal shall be submitted to the City Council for review at their next available meeting.

D. FRONTAGE REQUIREMENTS: There shall be a minimum of sixty (60) percent primary street lot frontage build out on properties. One of the following frontage types shall be provided along the private frontage for buildings in these areas:

1. Shop-front & Awning **2. Gallery** **3. Arcade**



1. **Shopfront & Awning**: The façade is aligned close to the property line with building entrance at sidewalk grade. Substantial glazing on sidewalk level is provided and an awning that may overlap the sidewalk to the maximum extent possible.
2. **Gallery:** The façade is aligned close to the property line with an attached cantilevered roof or lightweight colonnade overlapping the sidewalk.
3. **Arcade:** A colonnade supporting habitable space aligned close to the property line, while the façade at sidewalk level is set back to create a sheltered pedestrian area.

E. **PARKING.** Parking shall only be permitted in the second or third layer of the primary street front yard. (See *Section 5.04: Parking and Loading*.)

F. **PEDESTRIAN CONNECTIONS.** A clear and direct pedestrian connection shall be made to public sidewalks from the main entrances.

G. **BUILDING MATERIALS.** All exterior building materials visible from a public right-of-way shall be of higher quality such as brick, stone, marble, woods, fiber cement products, such as hardi-board**,** or other materials similar in appearance and durability. Metal should be used only as an accent or roofing material, not as a primary façade treatment.

H. **ARCHITECTURE.** Architectural style shall be in similar context with those of existing buildings within 300 feet of the subject site.

I. **DRIVEWAYS.** Any driveway shall be a maximum of twenty-four (24) feet in width

J. **SETBACKS & PLACEMENT.** While a maximum setback of ten (10) feet shall be required on all primary street yards, established front yard setback patterns should be continued where practical.

ARTICLE 7 – SIGN STANDARDS

7.01 GENERAL

A. PURPOSE AND INTENT

In the interest of public health, safety, and welfare, pursuant to its zoning authority granted by G.S. § 160D, the City of Eden desires to regulate private signs within its planning jurisdiction. The City of Eden intends to

1. Aid its residents and visitors in orientation and navigation.
2. Promote safety by promoting clear traffic warnings and directions and eliminating distractions and visual obstructions.
3. Preserve Eden's visual appeal, community appearance, and local character by eliminating visual blight.
4. Promote communication throughout the City.

B. APPLICABILITY

These regulations shall apply to all private or public signs erected, constructed, maintained, enlarged, moved, or replaced within the City of Eden's Planning and Development Regulation Jurisdiction and that are visible from the right-of-way.

7.02 PERMITS REQUIRED

A. Restrictions. No person shall erect, construct, enlarge, move, or replace any sign without a valid sign permit from the Administrator, unless otherwise specified in this Article or this Ordinance.

B. Additional permits. Additional permits may be required pursuant to the regulations in the State Building Code and/or this Ordinance.

7.03 MAINTENANCE AND INSPECTION

A. PERMITS NOT REQUIRED

Cleaning, electrical repair, resurfacing and other maintenance of a sign shall not require a permit. The changing of tenant name panels on multiple-tenant development signage and the change of copy on other signs specifically designed for changeable copy shall not require a permit.

B. MAINTENANCE OF SIGNS

Signs shall be kept in proper repair. The following maintenance requirements must be observed for all signs visible from any public street or highway within the City of Eden's Planning and Development Regulation Jurisdiction:

1. **Surface appearance.** No sign shall have more than 20% of its surface area covered with disfigured, cracked, ripped or peeling paint or poster paper for a period of more than 30 successive days.
2. **Broken displays or deteriorated signs**. No sign shall remain with a bent or broken display area, broken supports, loose appendages or struts or stand more than 15 degrees from the perpendicular for a period of more than 30 successive days.

3. **Illuminated signs.** No indirect or internally illuminated sign shall have only partial illumination for a period of more than 30 successive days.

C. INSPECTION AND ENFORCEMENT

All signs for which a permit is required shall be subject to inspection by the City. A City representative shall be authorized to enter the premises or property during reasonable hours to ascertain whether the provisions of the code are being obeyed. Entrance is contingent upon consent of the property or premises owner or possession of an administrative search warrant. The City representative must present credentials. The City may order the removal of any sign that is not in accordance with the provisions of the code.

D. SUBSTANDARD SIGNS

1. The owners of any sign judged substandard or deteriorated by the Administrator shall be notified in writing and the said owner shall have thirty (30) days in which to make repairs. If the said order is not complied with within thirty (30) days, the Administrator shall remove such sign at the expense of the owner or lessee thereof plus all legal and administrative fees.
2. Any sign installed or placed on public property or within a public right-of-way shall be forfeited to the public and is subject to confiscation and disposal. In addition to other remedies hereunder, the Administrator shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

7.04 COMPUTATION

A. SIGN AREA

1. **Single-faced sign area**
   The area of a sign face shall be the entire area within the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem, logo or other display on the sign that can be reasonably calculated and any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, excepting framework or structural members without informational or representational matter that is clearly incidental to the display itself.

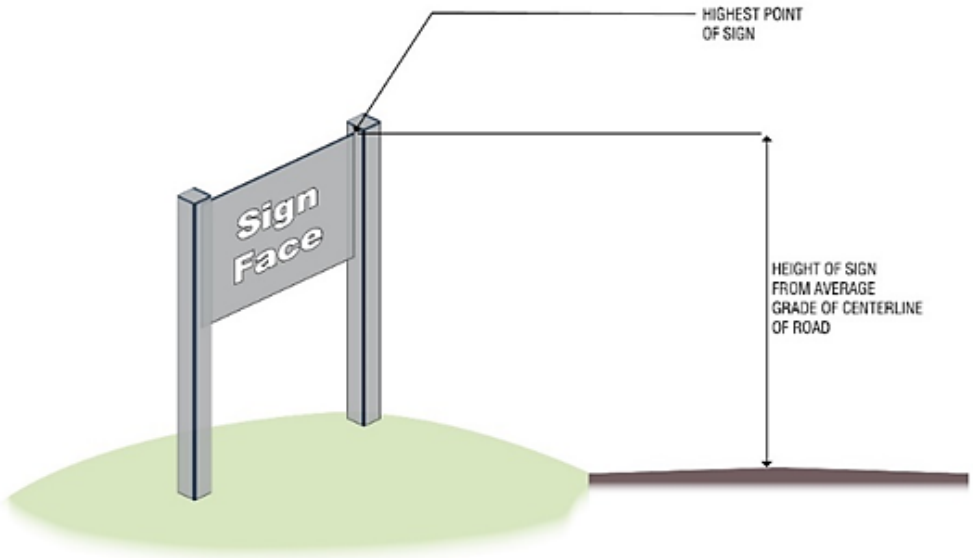
2. **Multi-faced Sign Area**
   If only one side of a multi-faced sign is visible at any given angle, the computation of sign area shall include only one side of the structure. If multiple faces of a multi-faced sign are visible at any given angle, the computation of sign area shall include the combined area of the visible faces.

B. SIGN HEIGHT

1. **Attached signs**. The sign height for attached signs shall be computed as the distance from the finished grade at the base of the building directly underneath the area to which the sign is attached to the top of the highest component of the sign.
2. **Ground (freestanding) signs.** As illustrated below, the sign height for ground signs shall be computed as the lesser of:

a. The distance from the base of the sign at the finished grade to the top of the highest component of the sign; or

b. The distance from the nearest adjacent street grade to which the sign is oriented, and on which the lot has frontage, to the top of the highest component of the sign.



SIGN HEIGHT

C. LOTS WITH MULTI-FRONTAGE

Lots fronting two (2) or more streets are allowed the permitted sign area for each street lot frontage. However, the total sign area for each street may not exceed the portion of the lot's total sign area allocation derived from that frontage.

7.05 PROHIBITED LOCATIONS

A. SIGNS PROHIBITED IN THE RIGHT-OF-WAY

1. Any sign installed or placed on public property or rights-of-way, except in compliance with this Article or under encroachment agreement with the City of Eden or the North Carolina Department of Transportation (NCDOT) shall be forfeited to the public and shall be subject to confiscation and removal by the City.

2. Permitted signs shall be located a minimum of five (5) feet from the nearest edge of street right-of-way, behind sidewalk areas, and outside of required site triangles.

3. Exceptions:

a. Emergency warning signs erected by a public service corporation, public utility or contractor doing authorized or permitted work within the public right-of-way.

b. Warning or informational signs of a public utility regarding its poles, lines, pipes, or facilities.

c. Temporary banners and signs for special events with no commercial message may be displayed within a public right-of-way only under the following conditions:

(i) Any such banner or sign must be approved by the Administrator and a temporary sign permit must be obtained prior to installation of the banner or sign.

(ii) Requests for such banners or signs must be made to the Administrator and a temporary sign permit issued before installation of the banner or sign.

(iii) Any such banner or sign shall be permitted only for a temporary period not to exceed three weeks prior to the event, and must be removed within one week after the event. Any banners or signs displayed before or after the approved dates shall be removed by the Administrator. The expense of disposing of the banner shall be charged to the organization.

(iv) No commercial messages shall be allowed on any temporary banner or sign displayed in the public right-of-way.

(v) Any such banner or sign shall be of professional quality and not "homemade".

(vi) Installation of the banner or sign shall be the responsibility of the applicant, subject to the inspection and approval of the Administrator. Any such banner or sign shall be installed securely using appropriate cables and/or posts. No signs shall be attached to any tree in the public right-of-way. Signs or banners installed in an inappropriate manner shall be removed by the Administrator.

(vii) No banners or signs shall be permitted, installed or placed in any public planting bed.

(viii) The Administrator shall determine the location of any sign permitted in the public right-of-way. Requests for specific locations shall be taken into consideration on a first come, first serve basis. A maximum of two signs may be permitted per location at any one time.

(ix) This section applies to any organization requesting a temporary sign or banner in the public right-of-way, including the City of Eden and City-sponsored events.

B. SIGNS PROHIBITED ON PUBLIC STRUCTURES

No private sign or "snipe sign" shall be attached to or painted on power poles, light poles, telephone poles, traffic signs or other objects not intended to support a sign.

7.06 MATERIALS AND STRUCTURAL REQUIREMENTS

A. All attached signs and sign support frames shall be mounted and attached to a building or the ground in a secure manner, shall not include wire or turnbuckle guy and shall be maintained in good repair for safety and appearance.

B. All permanently installed signs shall be able to resist normal loads from positive and negative wind pressure, snow and other conditions as required by the current edition of the North Carolina version of the International Building Code.

C. The Administrator reserves the right to require sign load calculations and attachment design from a state licensed structural engineer, and to require same engineer to certify the sign installation in writing.

7.07 PROHIBITED SIGNS

A. Off-premises signs. All off-premises signs unless specifically allowed elsewhere in this ordinance are prohibited.

B. Animated signs, moving signs, flashing signs, or signs of illusion. Except for otherwise approved time and temperature signs, signs displaying blinking, flashing or intermittent lights, animation, and moving parts or signs giving the illusion of movement are prohibited. Time and temperature signs that rotate or move are not permitted.

C. Signs resembling official government signs. Any sign that imitates an official governmental sign, or violates the law of the state relating to outdoor advertising, is prohibited.

D. Signs resembling traffic control devices. Any sign which by color, location, or nature may be confused with official highway signs, warning signs, traffic signals, or other regulatory devices are prohibited. Any sign that uses the word "stop", "slow", "caution", "danger", or any other word which is likely to be confused with traffic directional and regulatory signs is prohibited.

E. Traffic hazards. Any sign located in a manner which might constitute a traffic hazard or that obstructs free ingress or egress from a driveway is prohibited.

F. Signs on roadside appurtenances. Signs attached to or painted on utility poles, telephone poles, trees, parking meters, bridges and overpasses, rocks, other signs, benches, and refuse containers, and the like are prohibited unless specifically allowed elsewhere in this ordinance.

G. Abandoned or deteriorated signs or sign structures. Signs that advertise an activity or business no longer conducted on the property on which the sign is located are prohibited. Conforming signs designed for changeable copy may be covered instead of removed. Sign structures on which no sign is erected are prohibited and must be removed within 30 days of abandonment.

H. Signs on public property. Any sign installed or placed on public property or within a public right-of-way, including any sign held by or otherwise displayed upon a person. Such sign shall be forfeited to the public and is subject to confiscation and disposal. In addition to other remedies hereunder, the administrator shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

I. Feather or feather flag signs.

J. Hand-carried signs. Signs not associated with an active and permitted temporary event or social or political protest.

K. Vehicle wraps or other vehicle-mounted signs. Signs on vehicles that are parked off-premises or parked in a location where the primary purpose or function is to display the sign.

L. Roof signs.

M. Any other sign not otherwise described herein.

7.08 PROVISIONS FOR SIGNS NOT REQUIRING PERMITS

A. Governmental signs. Signs posted by local, state, and federal agencies in the performance of their duties such as regulatory signs, and traffic signs.

B. Flags and the like. Flags or insignia of any nation, organization of nations, state, county or municipality, any religious, civic, or fraternal organization, or any educational or cultural facility per lot provided the height of any pole shall not exceed the maximum building height for the district. Refer also to the United States Flag Code for usage of the United States flag. Flags, pennants, or insignia of any governmental or non-governmental organization, when not displayed in connection with a commercial promotion or as an advertising device provided that the following criteria are met:

1. Flags and flagpoles are not located within any public right-of-way, and must meet the setback requirements of the zoning district, as well as the setbacks described in this Section;
2. Flags and flagpoles do not extend more than the max. building height above the ground in the zoning district;
3. No more than 2 flags per lot in residential districts, and no more than 3 flags per lot in all other districts;
4. Maximum size per flag is 25 square feet in residential districts and 40 square feet in all other districts;
5. Illumination is permitted so long as it is not brighter than the light produced by a 100 watt incandescent bulb, is shielded, and shines directly up at the flag.
6. Only one exempt flag pole is permitted per lot; this counts toward the total number of permitted flag poles on a site.
7. If the above criteria are not met, or if the flag contains commercial messaging, then the flag shall require a sign permit as a Column Sign and shall be regulated according to this Article.

C. Temporary holiday decorations. Temporary decorations or displays when such are clearly incidental to and are customarily and commonly associated with any national, local, or religious holiday/celebration.

D. Building marker signs. A sign cut or etched into masonry, bronze, or similar material on a building which denotes only the building name, date of erection, or street number.

E. Legal and warning signs. Signs erected to warn of danger or hazardous conditions such as signs erected by public utility companies or construction companies.

1. Signs required for or specifically authorized for a public purpose by any law, statute, or ordinance.
2. Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular piece of property shall be located on the premises to which the information pertains. No advertising may be affixed to such a sign.

F. Occupant/street number signs. Signs not exceeding two (2) square feet and not illuminated, bearing property numbers, post office box numbers, names of occupants, or other identification of premises not having commercial connotations.

1. All such signs must be placed in such a manner as to be visible from the street.
2. Unit identification numbers shall be located on the front wall within eighteen (18) inches of the entrance, or if not feasible architecturally, prominently displayed on the building. Unit numbers for residential dwellings only may, in lieu of being located on the front wall, be located on the mailboxes, or similar-sized surface attached thereto.
3. Multi-family and other residential facilities which are comprised of courts or units not fronting a public street must be located on identification signs containing the name of the court, street, or way and the unit numbers on each private entrance.

G. Signs not visible from a public or private street right-of-way

H. Signs located inside buildings. Signs located inside buildings, courts, lobbies, stadiums or other structures which are not intended to be seen from the exterior of said buildings or structures.

I. Integral Decorative or Architectural features. Integral decorative or architectural features of buildings or works of art, provided such features or works do not contain a commercial message.

J. Signs affixed to windows of vehicles for sale. Signs affixed to windows of vehicles for sales displaying information on the terms of sale for said vehicles.

K. Vending machine/automatic teller and gasoline pump signs. Signs attached to and made an integral part of a vending machine, automatic teller machine or gasoline pump if advertising or giving information about the products or services dispensed or vended by that machine.

L. Directional Signs on Private Property. Directional signs must be located on the premises to which directions are indicated.

1. Such signs may not exceed three feet in height if freestanding.
2. Directional signs may not exceed four square feet per face.
3. Such signs may contain no copy (such as, company name or logo) other than directional information.
4. Illumination of such signs shall be as permitted for on-premises signs in the land development district where the sign is located.
5. No more than two signs per entrance or exit shall be permitted.

M. Gas Pump Island Signs. Portable signs associated with gasoline stations, specifically those denoting gasoline prices, gas types and other petroleum related signage. Such signs must be located at the pump island.

N. Incidental Signs. Signs containing information necessary or convenient for persons coming onto a premises shall be located on the premises to which the information pertains.

1. No advertising may be affixed to such a sign.
2. Such signs must be single-faced only and wholly attached to a building (may be located on windows or doors).

O. Real estate signs. Only one sign is allowed per street frontage.

1. Such signs may not be illuminated.
2. Such signs may be no greater than four square feet in area (all types of signs) and four feet in height (if freestanding) when located on a residential property less than two acres.
3. Such signs may be no greater than 16 square feet in area (all types of signs) and eight feet in height (if freestanding) for non-residential properties or residential properties exceeding two acres.
4. Real estate signs shall be removed within one day after the closing of the sale, rental or lease of the property.
5. Such signs shall only be located on property for sale or lease.

P. Political signs. Political signs shall not be located on any trees, utility poles, publicly-owned property or within a public street right-of-way, except within NCDOT right-of-way according to the standards of G.S. § 136-32.

1. Such signs shall not be illuminated.
2. Such signs may not exceed four square feet in area and four feet in height, if freestanding.
3. Political signs may be displayed during a period beginning with the established filing date for an election and concluding 15 days after the election. In the event of a runoff election, political signs for the candidates involved may remain on display until 15 days after the runoff election.

Q. Temporary Signs, Special Events Signs, and certain window signs.

1. Temporary and special events signs may be displayed for a period of 30 days and may be allowed on-or off-premises. Such signs shall be removed within seven days of the end of the special event.
2. Such signs shall not be illuminated.
3. Such signs are limited to 32 square feet in area per display surface and four feet in height.
4. Yard Sale Signs. Such signs may be located on-premises only and may not be located within a public right-of-way nor placed on a tree, street sign or utility pole. Such signs may not be illuminated and limited to four square feet in area and four feet in height. One yard sale sign is allowed per street frontage.
5. Temporary window sign(s) per frontage, printed on paper, up to 11"x17" in total area (e.g. – could also be two 8.5"x11" signs), and taped or temporarily affixed to the window.

R. New Businesses and Promotional Signs. Temporary or portable signs may be permitted in the nonresidential or mixed use districts including BC, BH, RMX, NMX, and CZ districts with a ground floor commercial component, for a period of not over 30 days per calendar year per business and to any person(s) or corporation that has opened a new business. New business and promotional signs include pennants, ribbons, streamers, balloons and/or spinners.

1. One "open business" sign per business.
2. May have a neon light source.
3. Permitted districts NMX, BC, and BH.
4. Not exceeding 15 watts and two square feet.

S. Easel, Sandwich Board, or A-Frame Sign.
Allowed without permit provided the following conditions are met:

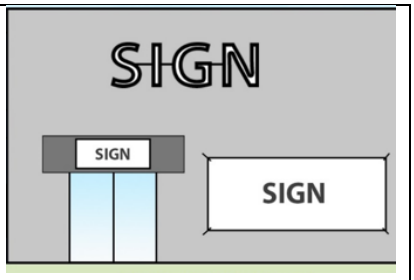
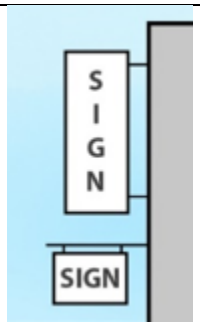
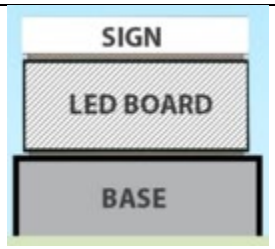
1. Max. 8 square feet, when both sides are considered.
2. One per business unit, main entrance, or tenant (whichever is lesser), with an overall maximum of 1 sign per 20 linear feet of store frontage.
3. Signs must be positioned such that:

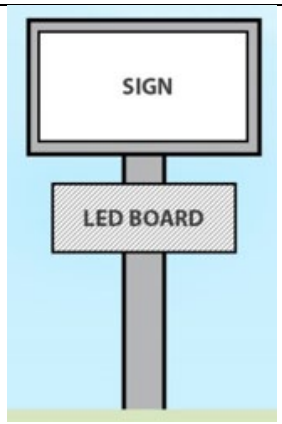
    a. No more than 20 feet from the business or building entrance.
    b. Shall not obstruct sidewalk or walkway, such that ADA accessibility requirements are not violated.
    c. Prohibited within the public right-of-way.
    d. Shall be removed during hours when the advertised business or location is closed to the public.
    e. Shall not be tied, locked, chained, or otherwise attached to any other feature.
    f. Shall be sufficiently weighted to prevent accidental movement of the sign, as from a wind gust.
    g. Shall not be illuminated.
    h. Prohibited in residential zoning districts as part of a nonresidential use.

T. Window, Door, Canopy, and Awning Signs
Allowed without permit provided the conditions of Section 7.09(A) "Attached Sign Standards" are met.

7.09 PERMANENT SIGN TYPES REQUIRING PERMITS

Signage types illustrated below are approved for usage in the City:

Wall Signs: A sign attached to a wall and not projecting away from the wall more than 6 inches.	
Awning/Canopy/Window/Door Signs: Signs integrated into traditional storefront awnings or canopies that may project over a sidewalk from the building façade, or that are affixed to the window or door, or visible through a window or door and have the effect of conveying signage to the right-of-way.	
Projecting/Suspended Signs: A sign attached to a wall and projecting away from that wall more than 12 inches, but not more than five feet.	
Monument Signs: A freestanding sign where the base of the sign is on the ground and is supported by solid structural features other than support poles. The width of the top of the sign structure can be no more than 120% of the base.	

Column Signs: A freestanding sign that is affixed, attached or erected on a column.	

A. ATTACHED SIGNAGE STANDARDS

Sign Type	Zoning District	Square Footage	Height	Total Number	Note
Wall Signs	NMX, BC, BG, BH, LI, HI	2 sq. ft. per linear ft. of building wall. Shall not exceed more than 300 square feet total.	No sign shall extend above the roofline.	4 signs per building wall.	
Awning / Canopy / Window / Door Signs	NMX, BC, BG, BH	25% of the gross glass area on any one side of the building (windows/doors), 50% of area for awnings/canopies.	No sign shall extend above the roofline.	N/A	These signs do not require a permit provided they are non-illuminated and do not exceed the square footage allowed.
Projecting / Suspended Signs	NMX, BC, BG, BH	6 square feet	Shall be at least 7 feet from the ground measured from the bottom of the sign.	One per tenant	

TABLE NOTES:
1) Wall signs shall have a max. protrusion of 12 inches, may only be placed on walls facing a public right-of-way. No illumination for awning/canopy/window/door signs or projecting/suspended signs is permitted.

B. GROUND SIGNAGE STANDARDS IN RESIDENTIAL ZONING DISTRICTS

Zoning District	Square Footage	Height	Total Number
RA, R-20, R-12, R-6, RMX	20 square feet	6 feet	1 per entrance

TABLE NOTES:
1) Signs are permitted on decorative or retaining walls at entrances to residential developments without limitations to the size of the wall.
2) 5 foot minimum setback from all property lines is required for all ground signs.

C. GROUND SIGNAGE STANDARDS IN NON-RESIDENTIAL ZONING DISTRICTS

Zoning District	Square Footage	Height	Sign Base	Total Number of Signs
BC	20 square feet	6'	Monument	1 sign per site
BG	20 square feet	6'	Monument	1 sign per site
NMX	20 square feet	6'	Monument	1 sign per site
BH, LI, HI	40 square feet	12'	Monument or column	1 sign per street frontage

TABLE NOTES:
1) Column may be single or double mounted and must have a diameter of at least 24 inches.
2) Monument signs must have a base that is at least 75% of the width of the total sign.
3) Monument signs must have a base material of brick, stone or like imitation material.
4) 5-foot min. setback from all property lines is required for all ground signs.

D. OTHER PERMANENT SIGNAGE REQUIRING PERMITS

1. Electronic Message Boards.

a. Permitted Districts: BH
b. Surface area: Electronic message boards may be incorporated into a permitted ground sign only and shall not comprise more than 50% of the primary sign area.
c. Message variation: The electronic message shall not change in increments of less than thirty (30) seconds and shall not scroll. New messages shall be timed to fade in and out slowly.
d. Images that convey the appearance of motion are prohibited.
e. Signs shall be equipped with dimming technology that automatically adjusts the display's brightness based on ambient light conditions at all times of day and night, and be set at a level no higher than .3 foot candles above ambient light conditions (measured from a distance 100 feet away) as to not cause glare, distraction, reduced visibility or safety concerns from adjacent roadways.

2. Drive-Thru Menu Boards

a. Permitted Districts: BC, BG and BH
b. Location/placement: Menu boards shall be allowed only as an accessory use to a restaurant having a drive-through window.
c. Surface area: Maximum of 35 square feet.
d. Height: Maximum of six (6) feet
e. Shall not be visible from any residential district.

E. GROUND SIGNAGE STANDARDS FOR SITES WITH MULTIPLE BUILDINGS

All ground signage for developments with multiple buildings, including large commercial centers, malls, business parks and industrial parks, are subject to these provisions:

1. Ground signs may be a maximum of 12 feet in height and 100 square feet in sign area.
2. Planned developments may have one ground sign per road frontage.
3. Outparcels for Planned Developments may have one ground sign that is a maximum of four (4) feet tall.

F. SIGNS PERMITTED IN ALLOWANCE, REMOVAL, RELOCATION, RECONSTRUCTION OF NONCONFORMING OFF-PREMISE ADVERTISING SIGNS

1. **New signs limited.** No new outdoor advertising signs shall be permitted in the City except for outdoor advertising signs that are removed, relocated, or reconstructed pursuant to the requirements of this section.
2. **Qualified signs**. A sign with an existing valid permit from the State Department of Transportation and the City. A sign may also qualify if erected prior to applicable zoning regulations.
3. **Removal/replacement/reconstruction.** Any relocated and/or reconstructed qualified sign shall comply with the following standards:

    a. The total number of relocated and/or reconstructed signs shall not exceed the number of qualified sign structures and sign faces that are registered as qualified signs.
    b. A relocated and/or reconstructed qualified sign shall be a monopole sign. Replaced signs shall not be attached to any building. A relocated and/or reconstructed sign is limited to only have one face per side.
    c. Light emitted from any reconstructed qualified sign shall be confined to the sign area and in no case shall light emitted from a billboard be allowed to shine directly onto or into a residentially zoned or used property.

7.10 OUTDOOR ADVERTISING

A. NO NEW OUTDOOR ADVERTISING SIGNS

1. No outdoor advertising sign shall be constructed or erected after the effective date of this ordinance, except as specifically stated in this section.

B. LIMITATIONS AND EXCEPTIONS

1. After the effective date of this ordinance, the maximum total number of outdoor advertising signs (an off-site sign 100 square feet or larger) allowed within the City's jurisdiction shall be twenty-four (24).
2. Once the maximum total number (including both conforming and nonconforming signs) has been achieved, then in order to erect an outdoor advertising sign, the developer must comply with provisions of paragraph (3) of this section.
3. Any person owning, controlling or having a substantial ownership interest in existing, legal, nonconforming outdoor advertising sign (an off-site sign 100 square feet or larger) may receive a permit to erect a new, conforming outdoor advertising sign in accordance with the requirements of this Article provided that such person removes one (1) nonconforming, outdoor advertising sign (including the support structure.). Any such person shall remove (1) legal nonconforming off-site outdoor advertising sign for each legal, conforming outdoor advertising sign permitted until such person no longer owns, controls, or has a substantial ownership interest in any legal, nonconforming outdoor advertising.
4. Any new outdoor advertising sign constructed pursuant to this section must conform to the standards established in section C below and be located in the Outdoor Advertising Overlay District (OAO).

C. SPECIFIC DEVELOPMENT STANDARDS

1. General

a. Any outdoor advertising sign erected after the effective date of this ordinance shall comply with the following standards and North Carolina Outdoor Advertising Control Act (G.S. § 136-126).

(1) All new outdoor advertising signs shall be located in the Outdoor Advertising Overlay District (OAO) after a sign permit has been issued in accordance with the outdoor advertising sign provisions of this ordinance.

(2) No outdoor advertising sign shall be located in such a position that it obscures the view of vehicular or pedestrian traffic in such a manner as to endanger the safe movement thereof.

(3) Each outdoor advertising sign shall be located within 660 feet of the centerline of the roadway to which the outdoor advertising sign is oriented.

(4) The support posts of an outdoor advertising sign shall be erected in conformity with the front, side and rear yard requirements of the underlying zoning district in which the outdoor advertising sign is located. In addition, no such sign portion shall project closer than 15 feet to a street right-of-way or closer than five (5) feet to any other lot line, measured horizontally.

(5) No outdoor advertising sign shall be located within 500 feet of any interchange, within 500 feet of any right-of-way of any underpass, overpass or bridge, or within 500 feet of any street intersection.

(6) No outdoor advertising sign shall be erected within 250 feet circumference of the nearest lot line of any of the following: local, state, or national historic district or landmark, school, church hospital, cemetery, governmental building, public park playground, recreation area.

(7) No outdoor advertising sign shall be permitted within 250 feet of a residential zoning district.

(8) No outdoor advertising sign shall be permitted whenever property zoned residential would be between the sign and the roadway toward which it is oriented.

(9) No part, foundation or support of any outdoor advertising sign shall be placed on, in, or over any public property, including public rights-of-way, or any utility or drainage easement, or upon telephone or utility poles, or natural features such as trees and rocks.

(10) No outdoor advertising sign shall be erected or maintained upon or above the roof of any building or structure.

(11) No outdoor advertising sign shall be constructed on a lot where it obscures or shades the windows or doorways of adjacent buildings.

2. Spacing

a. No two (2) outdoor advertising signs located upon, or oriented towards traffic traveling upon, the same side of a public street or road shall be spaced less than 500 feet apart.

b. This distance shall be measured horizontally along a straight line between the two (2) nearest points of the signs. The minimum spacing requirement shall not apply to two (2) panels viewed from different directions which share a common support structure. Nor shall any outdoor advertising sign be located within a 500 feet radius of any other outdoor advertising sign even if two (2) outdoor advertising signs are on different streets.

3. Size, Height and Dimensions

a. No outdoor advertising sign shall exceed 400 square feet in total surface display.
b. Outdoor advertising signs may be single-faced or double-faced but no outdoor advertising sign shall contain more than one (1) face on each side of the display and the surface area shall not exceed a total of 400 square feet per face.
c. No outdoor advertising sign shall be permitted which, because of its size, shape, or location, may obscure or obstruct the view of vehicular or pedestrian traffic or be confused with any authorized traffic control sign, signal, or device.
d. No outdoor advertising sign shall exceed 30 feet in height. This distance shall be measured from ground level at the base of the outdoor advertising sign's support system to the highest point of the outdoor advertising sign.

4. Lighting

a. No outdoor advertising sign shall be so illuminated that it interferes with or obscures an official traffic sign, device or signal.
b. No outdoor advertising sign shall be so illuminated that the light intensity or brightness adversely affects the safe vision of operators of vehicles moving on public or private streets, highways, or parking areas or of pedestrians.
c. Flashing outdoor advertising signs are prohibited. In addition, no outdoor advertising shall contain or be illuminated by revolving, rotating, animated or any other form of moving light or lights.
d. No outdoor advertising sign shall be illuminated by any exposed tubes or bulbs, strobe or incandescent lamp or floodlights, nor shall any outdoor advertising sign incorporate any reflective device.
e. No outdoor advertising sign shall be so illuminated that the light intensity or brightness causes direct glare into or upon any building or in any other way adversely affects surrounding or facing property.

7.11 TEMPORARY SIGNS REQUIRING PERMITS

A. CONSTRUCTION PROJECT SIGNS:

1. Permitted districts: all districts.
2. Surface area: 32 square feet maximum.
3. Time limit: these signs are intended to be temporary and must be removed after completion of construction.

B. SALES OFFICE SIGNS:

1. Permitted districts: all Residential Districts, only on model home lots used as sales offices for single-family residential subdivisions.
2. Surface area: 32 square feet maximum.
3. Time limit: these signs are intended to be temporary and must be removed after 50% of the lots in the current phase of the development are sold.

7.12 NONCONFORMING SIGNS

See *Article 11 – Nonconformities.*

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ARTICLE 8 – SUBDIVISIONS & INFRASTRUCTURE STANDARDS

8.01 PURPOSE AND INTENT

This Article is designed and enacted to provide for the orderly development of the City of Eden, North Carolina, and its environs through the regulation of the subdivision of land. The regulations contained herein are intended to promote the orderly growth of the City; to coordinate proposed development with existing development and with officially adopted plans for the future development of the City; to insure the provision of adequate facilities for transportation, water, sewerage, appropriate building sites, and other public facilities to subdivisions and new development; to insure proper legal description, monumentation, and recording of subdivided land; and to create conditions essential to public health, safety, and general welfare.

8.02 AUTHORITY AND APPLICABILITY

A. AUTHORITY

According to the provisions of G.S. §160D-801, the City of Eden has the authority to regulate the subdivision of land within its jurisdiction.

B. JURISDICTION

The regulations contained herein shall govern each and every subdivision of land within the corporate limits of the City of Eden, North Carolina, as now or hereafter established, and within the extraterritorial area as established by the City Council.

C. REGISTRATION

In accordance with G.S. §160D-803 (formerly G.S. §160A-373) the City of Eden shall file a copy of this ordinance with the Register of Deeds of Rockingham County. The Register of Deeds shall not thereafter file or record a plat of any subdivision located within the territorial jurisdiction of the City of Eden without the approval of the legislative body as required in this ordinance. The filing or recording of a plat of a subdivision without approval of the municipal legislative body shall be null and void. The Clerk of Superior Court of Rockingham County shall not order or direct the recording of a plat where such recording would be in conflict with this section.

D. SUBDIVISION DEFINED

For the purpose of this ordinance “subdivision” shall be as defined in G.S. §160D-802, and subject to the restrictions therein. Any subdivisions expressly exempted from all or a portion of the standards of this Ordinance shall still be required to meet the standards of G.S. §160D Article 8, including the filing of a Final Plat with the City.

E. CONFORMITY REQUIRED

From and after the adoption of this ordinance, no real property lying within the jurisdiction of the City of Eden shall be developed or subdivided except in conformance with all applicable provisions of this Ordinance. In addition, after the effective date of this Ordinance, no plat for subdivision of land within the jurisdiction of the City of Eden shall be certified for recording by the Administrator until it has been submitted and approved in accordance with the provisions of this Article.

F. NO SERVICES OR PERMITS UNTIL PLAT APPROVED

No street shall be accepted and maintained by the City nor shall any street lighting, water, or sewer be extended to or connected with any subdivision of land nor shall any permit be issued by an administrative agent or department of the City of Eden for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat or subdivision plat is required to be approved, unless and until the requirements set forth in this Article are met.

G. COMPLIANCE WITH OFFICIAL PLANS

When a proposed subdivision embraces any part of a thoroughfare which has been designated on the officially adopted Thoroughfare Plan of the City of Eden, as provided G.S. 136-66.2, such part of such planned thoroughfare shall be platted and dedicated by the subdivider in the location shown on the plan and at the width specified in this ordinance.

H. PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS.

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the City of Eden, thereafter subdivides his land in violation of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the office of the Rockingham County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The City of Eden shall bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this Ordinance.

8.03 IMPROVEMENTS REQUIRED

All development which does not qualify as a minor subdivision according to the criteria in *Article 3 - Development and Administrative Review Procedures* shall be required to install or construct the improvements specified in the table below. The developer shall be responsible for the installation and construction of required improvements according to the provisions of this ordinance and other applicable City, County or State specifications, except as may otherwise be specifically provided herein or by policy or agreement. The following shall be considered minimum standards of design for subdivisions within the City's jurisdiction.

Required Improvement	RA	R-20	R-12	R-6	RMX	NMX	BC	BH	LI	HI	OS
Underground Drainage*		●	●	●	●	●	●	●	●	●	
Curb & Gutter*		●	●	●	●	●	●	●	●	●	
Public Water & Hydrants		●	●	●	●	●	●	●	●	●	
Public Sewer		●	●	●	●	●	●	●	●	●	
Street Lights		●	●	●	●	●	●	●	●	●	
Paved Streets	●	●	●	●	●	●	●	●	●	●	
Street Trees		●	●	●	●	●	●	●	●	●	

Street Signs	●	●	●	●	●	●	●	●	●	●	●
Underground Wiring	●	●	●	●	●	●	●	●	●	●	
Park/Open Space	●	●	●	●	●	●	●				
Sidewalks	See Section 8.04										
**The Administrator may waive or alter requirements for underground drainage and curb and gutter according to the stormwater management exemptions granted in this ordinance. In certain situations, such waiver or alteration may be dependent upon the use of approved Low Impact Development Infrastructure.*											

A. GENERAL PROVISIONS

1. Prior to approval of a final plat for the subdivision of land within the corporate limits of the City of Eden, the subdivider shall have installed improvements specified in this Article or guaranteed their installation as provided.
2. No municipal services or utilities shall be extended or furnished to any subdivision either within or outside the City until the subdivider shall have installed the improvements specified in this Article or guaranteed their installation as provided.
3. If requesting City services for development outside of the corporate limits, a petition for annexation shall be required.

B. GUARANTEES OF IMPROVEMENT

1. **Performance Guarantee:** In lieu of prior construction of the improvements required by this Article, the City of Eden may, for the purpose of approving a final plat, accept a guarantee from the subdivider that such improvements will be carried out at his expense. Such guarantee may be in the form of a surety bond or certified check drawn in favor of the City, or cash deposited with the City, or by an irrevocable letter of credit issued by a banking institution authorized to do business in the State of North Carolina. Such guarantee shall be in an amount of 125 percent of the estimated cost of the construction of the required improvements. The amount shall be determined by the Administrator or City Engineer.
2. **Defects Guarantee:** The City shall require a bond guaranteeing utility taps, curbs, gutters, sidewalks, drainage facilities, water and sewer lines, and other improvements against defects for one (1) year. This bond shall be in the amount determined by the Administrator and shall be in cash or be made by a Surety Company authorized to do business in North Carolina.
3. **Maintenance Guarantee:** The Administrator shall secure from all subdividers a letter in which said subdivider shall agree to maintain the backfill and any improvements located thereon and therein and any ditch which has been dug in connection with the installation of such improvements. Such letter shall be binding on the subdivider for a period of one (1) year after the acceptance of such improvements by the City of Eden.

C. PERMANENT REFERENCE POINTS

1. **General:** Prior to the approval of the final plat, the following survey reference markers shall be installed.

2. **Monuments and Control Corners:** Permanent monuments shall be placed at not less than two (2) corners of the subdivision, provided that additional monuments shall be placed where necessary to insure that no point within the subdivision shall lie more than 500 feet from a monument. Two (2) or more of the monuments shall be designated as control corners. Such monuments may be of concrete or iron pipe. Where concrete monuments are employed, they shall be four (4) inches in diameter and three (3) feet long, and further, have an indented cross metal pin or plate at the top to properly identify the point. Iron pipe monuments shall be not less than three-fourths (3/4) inches in diameter, three (3) feet long, and driven so as to be within one (1) inch of finished grade. All monuments and control corners shall be shown on the final plat.
3. **Markers:** All lot corners, all points where the street lines intersect the exterior boundaries of the subdivision, all angle points and points of curve in each street shall be marked with iron pipe not less than three-fourths (3/4) inches in diameter and 30 inches long, driven so as to be within one (1) inch of finished grade.
4. **Property Corner Tie:** At least one (1) corner of the property surveyed shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U. S. Coast and Geodetic Station or N. C. Grid System coordinated monument, then this corner shall be marked with a monument so designated and shall be accurately tied to the Station or Monument by computed x and y coordinates which shall appear on the map with a statement identifying the Station or Monument and to an accuracy of 1:5000. When such Monument or Station is not available, the tie shall be made to some pertinent and readily recognizable landmark or identifiable point, physical object, or structure.
5. **Subdivision Survey Accuracy:**
    a. Angular error of closure shall not exceed 25 seconds times the square root of the number of angles turned.
    b. Linear error of closure shall not exceed one (1) foot per 10,000 feet of perimeter of the lot of land (1:10,000).

D. REQUIRED IMPROVEMENTS

The City recognizes that, under the General Statutes of North Carolina, municipalities may not require improvements to the land beyond the corporate limits as a condition of plat approval.

1. **Street Improvements:**
    a. **Grading:** The subdivider shall bear the costs of grading all streets within the subdivision to their full right-of-way width except on major thoroughfares where the subdivider shall bear the costs of grading to a width of 60 feet. Finished grade, cross-section, and profile shall be approved by the Administrator.
    b. **Base Material and Paving:** The subdivider shall bear the costs of the installation of base material and paving for all streets within the subdivision in accordance with the specifications and standards of the City of Eden. For Major Thoroughfares, the subdivider shall be responsible only for the cost of base materials and paving equal to that required to construct a Minor Thoroughfare.

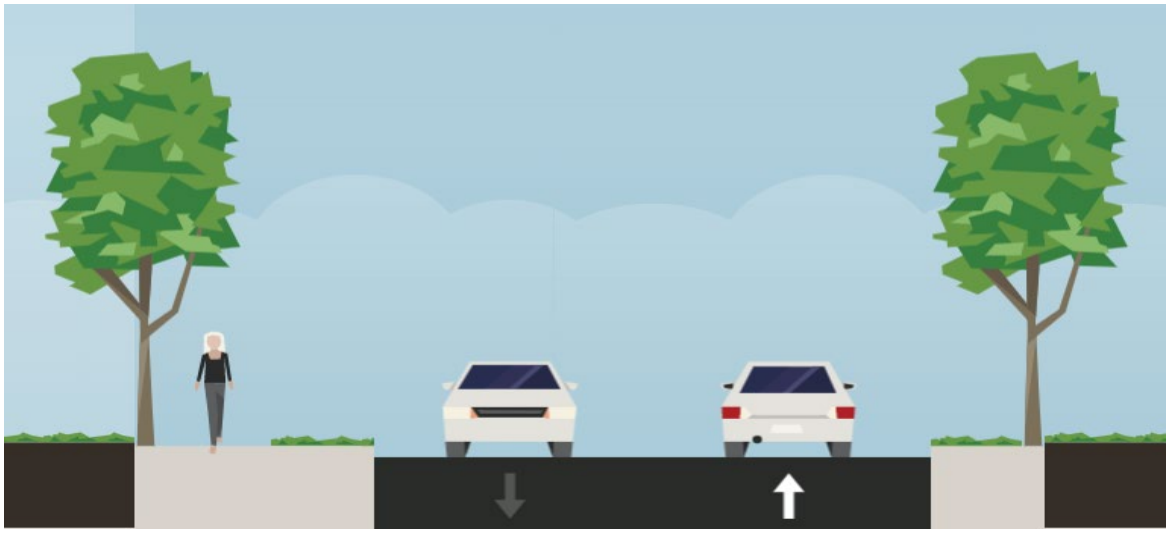
c. **Curb and Gutter:** Curb and gutter shall be a standard 24 inches or shall be curb with a sidewalk with a maximum width of 36 inches and shall be designed and placed according to standard engineering practice unless otherwise approved by the Administrator.

d. **Shoulders and Valley Ditches:** The subdivider, at his own expense, shall construct shoulders on each side of the pavement and the shoulder shall be eight (8) feet in width with three-fourths (3/4) inch per foot slope from the edge of the pavement.

(1) The subdivider, at its own expense, shall construct valley ditches adjacent to each shoulder and the valley ditch shall be 12 feet in width with 3:1 slope from the outside edge of the ditch and the edge of the shoulder to the centerline of the ditch.

(2) The subdivider shall bear the cost of seeding and mulching the shoulder and valley ditches. Seeding shall be done in such a manner so as to produce 85 percent grass coverage.

(3) In lieu of constructing shoulders and valley ditches, the subdivider may at its own expense, install curb and gutter which shall be installed according to the specifications and standards of the City of Eden.



This graphic is for general illustrative purposes only to indicate a typical residential streets with sidewalk, curb/gutter and front yard trees. All streets shall be designed to conform to the City of Eden or NCDOT standards as determined by the City.

2. Sanitary Sewer and Water:

a. **Within the Corporate Limits:** If a subdivision lies within the Eden corporate limits, and within 200 feet of the municipal water or sanitary sewer system, the subdivider shall, at his expense, connect every lot of the subdivision to the municipal water and sewer systems. Sufficient taps shall be extended to lot lines to prevent subsequent cutting of pavement. All materials, design, and installation shall be made in accordance with specifications and standards of the City of Eden.

b. **Beyond the Corporate Limits:** If a subdivision lies beyond the Eden corporate limits, the subdivider may, on the condition that all provisions of Chapter 16, Article 4, of the Eden City Code are met, at his expense, connect the subdivision lots to the municipal sewer and water system if all required

improvements and standards of subdivision design set forth by the ordinance are complied with. Where municipal sewer and water facilities are not available beyond the corporate limits at the time subdividing occurs, such facilities may later be extended on petition and at the expense of the lot owners if all required improvements and standards of subdivision design set forth by the ordinance were originally employed by the subdivider. For the purposes of this subsection, water and sewer, "required improvements" shall be deemed to include approval by the Rockingham County Health Department, in writing, of any individual or community water supplies and waste disposal systems to be used on an interim basis.

3. **Storm Drainage:** The subdivider shall provide an adequate drainage system for the proper drainage of all surface water in order to protect the proposed development from water damage. The design of such system shall be subject to the approval of the Administrator.

   a. No surface water shall be channeled or directed into a sanitary sewer.
   b. Where feasible, the subdivider shall connect to the municipal storm drainage system.
   c. Where the municipal storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to complement surface drainage systems on surrounding properties.
   d. Cross pipes under streets and driveways shall be reinforced concrete or corrugated metal. Where corrugated metal is used, the gauge shall be in accordance with the specifications of the North Carolina Department of Transportation.
   e. Surface drainage courses shall have side slopes of at least one (1) foot of horizontal distances for each one (1) foot of vertical distance.
   f. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately one (1) foot in each 300 feet of horizontal distance.

4. **Street Signs:**

   a. Appropriate name signs which meet City specifications shall be placed at all street intersections. The developer shall bear the expense.
   b. Proposed street names shall be submitted and subject to the approval of the City of Eden. New names shall not duplicate or be similar to existing street names. Existing street names, however, shall be extended where appropriate.
   c. All streets that are publicly maintained by either the City or the North Carolina Department of Transportation will be designated by the posting of a street name sign having a green blade with white letters.
   d. Those streets that are open and that are privately maintained shall be designated by the posting of a street name sign having a white blade with green letters.
   e. There shall be no exceptions in the color or combination of colors of street name signs posted by the City unless the City Council shall pass a special ordinance exempting a specific street name sign from the requirements of this section.

5. **Utilities:**

a. The Administrator may require all overhead wiring be placed along rear property lines or underground.
b. Underground gas, electrical or telephone service shall be installed prior to the installation of street paving.
c. Sufficient gas taps shall extend to lot lines to insure against subsequent cutting of pavement.

6. Front Yard Trees:

a. Purpose: The planting of trees is considered a duty of the subdivider as well as good business practice. Front yard trees are protection against excessive heat and glare and enhance the attractiveness and value of the property. Trees should be placed inside the property lines where they are less subject to injury, decrease the change of motor accidents, and enjoy more favorable conditions for growth.
b. Front yard trees shall be planted in all subdivisions at a rate of one per lot or one per 50' on-center, whichever results in more trees planted. Where lots are less than 50' wide, one tree is required per 40 linear feet of lot frontage.
c. Front yard tree species and planting location shall be preliminarily reviewed by the Technical Review Committee as part of their review of any subdivision plat. Understory and mid-sized canopy trees are recommended. Trees should be chosen by a landscape architect, landscaping professional, or planner based on their growth habits and located so that they are not reasonably expected to interfere with infrastructure.
d. A strip easement shall be recorded recognizing that these trees contribute to the public streetscape and are required.

7. Ownership: All water, sanitary sewerage, and storm drainage facilities installed under the requirements of this ordinance shall be the sole property of the City of Eden upon City acceptance. A deed to the City for such facilities, including easements pertaining to right-of-entrance for maintenance, shall be executed prior to connections to the respective municipal services.

8. Oversized Improvements and Reimbursement: Where the City Council deems it necessary, in the interest of the health, safety, and general welfare of the residents of the Eden's jurisdiction, the subdivider shall make certain improvements at sizes in excess of those which would normally be required to serve only this subdivision. Where oversized improvements are required, the City shall reimburse the subdivider for the cost of materials incurred over and above those required to serve his subdivision. Such reimbursement shall be made in 12 equal payments during a period of two (2) years. Improvements subject to reimbursement are the following:

a. The cost of materials for water mains over six (6) inches in diameter including the extra cost of lines over six (6) inches in diameter incurred to reach the particular subdivision.
b. The cost of materials for sanitary sewer over eight (8) inches in diameter including extra cost of lines over eight (8) inches in diameter incurred to reach the particular subdivision.
c. Storm drainage facilities shall be determined at the time of plan review.

8.04 APPLICABLE DESIGN STANDARDS

In addition to the standards of this section, requirements of other Articles of this Ordinance shall also be met, including but not limited to, Articles 4, 5, and 6 of this ordinance.

A. STREETS

1. General:

a. In every new subdivision, the street system shall conform to the Eden Comprehensive Transportation Plan as specified herein. In areas where the Transportation Plan does not apply, streets shall be designed and located in proper relation to existing natural features as streams and tree growth, to public safety and convenience, and to the proposed use of land to be served by such streets. All proposed streets shall provide for the appropriate projection of principal streets in surrounding areas and provide reasonable access for surrounding acreage tracts.

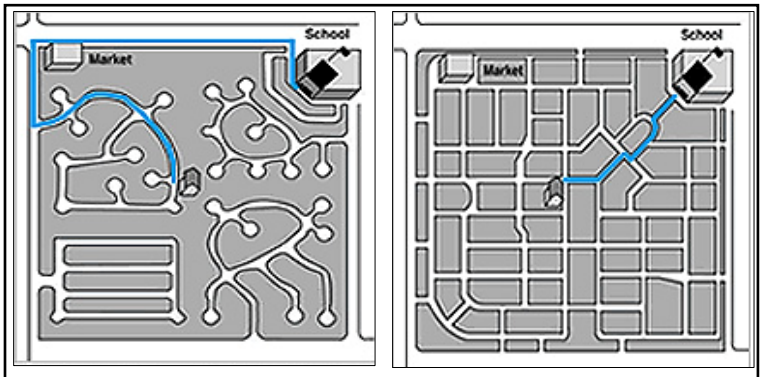
b. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets.

c. The proposed street system shall be designed to provide vehicular interconnections in order to facilitate internal and external traffic movements in the area, improve access/egress for city neighborhoods, provide faster response time for emergency vehicles, facilitate efficient service delivery (mail, garbage pickup, etc.), and improve the connections between neighborhoods.

d. Street arrangements and stub-outs shall facilitate the efficient and effective future development of adjacent properties and shall fit into the overall character of the neighborhood.

B. INTERNAL STREET NETWORK CONNECTIVITY

1. An interconnected street system is necessary in order to protect the public health, safety and welfare in order to ensure that streets will function in an interdependent manner, to provide adequate access for emergency and service vehicles, to enhance non-vehicular travel such as pedestrians and bicycles, and to provide continuous and comprehensible traffic routes.



The image on the left is an example of a poor layout with few connections and many cul-de-sacs. The image on the right shows an improved street layout with required connections and a network of streets.

(Images courtesy of the National Center for Safe Routes to School)

2. All proposed streets shall be continuous and connect to existing streets without offset with the exception of cul-de-sacs as permitted and except as provided herein. Whenever possible, existing streets, stub-outs, and utilities shall be extended or continued into adjoining areas.

3. Streets in residential subdivisions shall be designed so as to minimize the length of local streets, to provide safe access to residences with minimal need for steep driveways and to maintain connectivity between and through residential neighborhoods for autos and pedestrians.

4. Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, rights-of-way and improvements shall be extended to the boundary of the development at regular intervals consistent with maximum allowable block lengths (§8.03(D)).

5. The platting of partial width rights-of-way shall be prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated or established by other means.

C. RIGHT-OF-WAY WIDTHS:

1. Right-of-way for public streets or public transportation infrastructure shall be dedicated to the City pursuant to G.S. §136 and other applicable NC State laws. When dedication cannot be required, any future street right-of-way indicated on an adopted Comprehensive or Transportation plan shall be shown on the final plat.

2. Minimum street right of way widths shall be in accordance with the Thoroughfare Plan and shall not be less than the following:

Street type	Min. right-of-way width (feet) [1]
Major Thoroughfare	80
Minor Thoroughfare	60
Minor Street	60
Cul-de-sac	60
Cul-de-sac turnaround (diameter)	100
Marginal access street	60
Minimum street right-of-way outside the municipal limits	60

[1] Right of way width may vary in mixed-use districts or conditional zoning districts. Such variation shall be approved by the Administrator.

NOTE: Subdivisions along existing streets of inadequate right-of-way shall provide additional right-of-way to meet the minimum widths specified above. The entire right-of-way shall be provided where any part of a new subdivision is on both sides of an existing street, and one-half (1/2) the required right-of-way measured from the center line of the existing street shall be provided where a new subdivision is located only on one side of the existing street.

D. PAVEMENT REQUIREMENTS:

1. All streets which require a right-of-way of 60 feet in width shall be paved to a minimum width of 20 feet, the centerline of the pavement shall be the centerline of the street right-of-way, and the pavement shall consist of six (6) inches of ABC stone, two inches of binder and one and one-half (1.5) inches off topping. The pavement surface shall have one-fourth (1/4) inch per foot slope from the centerline of the street right-of-way.

2. All other streets shall be constructed according to the requirements of the City of Eden Thoroughfare Plan and/or according to specifications recommended by the Administrator.

E. GRADES AND CURVATURE:

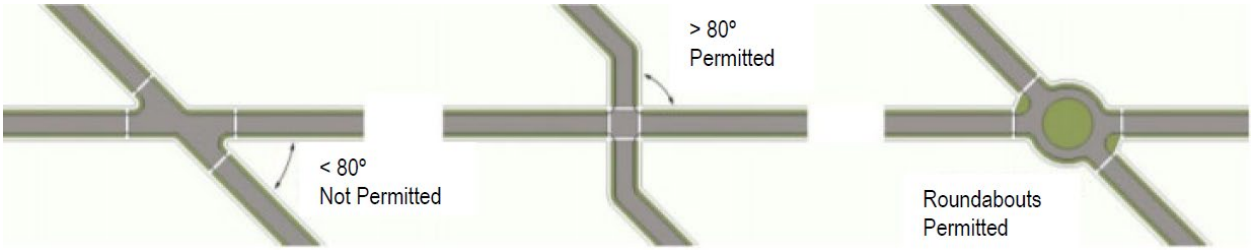
1. Unless necessitated by exceptional topography and subject to variance from the Board of Adjustment, street grades shall not be more than 10 percent nor less than one-half (1/2) of one (1) percent on any street.
   - **a.** Grades approaching intersections shall not exceed five (5) percent for a distance of not less than 100 feet from the right-of-way lines of said intersection.
   - **b.** Street grades shall be established wherever practicable in such a manner as to avoid excessive grading, the promiscuous removal of ground cover and tree growth and generally leveling of the topography.
   - **c.** All changes in street grade shall be connected by vertical curves of at least 100 feet or the equivalent of 15 times the algebraic difference in the rate of grade, whichever is greater.
   - **d.** Where a street stubs to an adjacent, undeveloped property, the stub shall occur at the existing (pre-development) grade, or else through obtaining a variance from the Board of Adjustment. If a street stubs into a stream crossing, wetland, extreme topography, or other physical barrier, the subdivider shall pay fee-in-lieu for their portion of the crossing
2. **Radii of Curvature:** Where a street centerline deflection of more than ten (10) degrees occurs, a curve shall be introduced, having a radius of curvature on said centerline of not less than the following:

Street type	Radius of curvature (feet)
Major Thoroughfare	300
Minor Thoroughfare	200
Minor Street	100

3. **Tangents:** A tangent of not less than 100 feet shall be provided between reverse curves on all streets.

F. INTERSECTIONS:

1. Street intersections shall be laid out in the following manner:
   - **a.** No more than two (2) streets shall intersect at a point.
   - **b.** Streets shall intersect as nearly as possible at right angles and no street shall intersect any other street at an angle of less than 80 degrees.



   - **c.** Intersections with major thoroughfares shall be at least 800 feet apart, measured from centerline to centerline.

d. Street jogs with centerline offsets of less than 125 feet are prohibited, including where this condition may occur with an adjacent, existing street on the exterior boundary of the subdivision.

e. Property lines at street intersections shall be rounded with a minimum radius of 20 feet. At an angle of intersection less than 75 degrees, a greater radius may be required by the Administrator.

f. No on-street parking is permitted within twenty-five feet (25') of any intersection.

g. Visibility:

i. No planting, fence or other obstruction to visibility of vehicles shall be erected, planted, maintained or allowed to exist in any district within the range of 30 inches to ten feet above the centerline grades of the intersecting streets in the triangular area bounded by the street right-of-way lines of such corner lots and a line joining points along these street lines 2 feet from the point of intersection.

ii. The provisions of subsection i. (above) shall not apply to:

I. Permanent buildings.

II. Existing grades which by reason of natural topography exceed 30 inches above the level of the center of the adjacent intersection, provided that no obstruction to cross visibility not specifically excepted by this division shall be installed, set out or maintained on any existing grade which is more than 30 inches but less than 72 inches above the level of the center of the adjacent intersection.

III. Trees having limbs and foliage trimmed in such manner that no limbs or foliage extend into the area between 30 inches and ten feet above the level of the center of the adjacent intersection.

IV. Fire hydrants, public utility poles, street markers and traffic-control devices.

G. CUL-DE-SAC:

1. Permanent dead-end streets or cul-de-sac shall be no longer than 500 feet. In general, streets with one end permanently closed shall be avoided unless the design of the subdivision and the existing or proposed street system in the surrounding area clearly indicate that a through street is not essential in the location of the cul-de-sac. Stub-out streets to adjacent, undeveloped properties are an exception.

2. Where a cul-de-sac is proposed to terminate within 350 feet of another roadway, pedestrian facility, or pedestrian destination (church, school, shopping area, etc.), a 30-foot wide pedestrian access dedicated to the public shall be installed, centered on a minimum 6' wide sidewalk. Fences, hedges, or visual barriers along such pedestrian access ways shall not exceed 4 feet in height.

H. ALLEYS:

1. Alleys are intended to be privately maintained and to provide indirect, limited access to the rear of properties but not to accommodate through traffic. Utilities, either above ground or underground, may be located in alleyways to provide service connections to rear elevations.

The Administrator may permit the subdivider to construct alleys when they conform to the following specifications:

Street type	Specification (feet)
Right-of-way or easement width	20
Property line radius at alley intersections	15
Minimum radius to centerline when deflection angle of more than 10 degrees occurs	35

I. MINIMUM NUMBER OF ACCESS POINTS TO EXTERNAL STREET NETWORK

1. The minimum number of points of external street access shall be based on the number of dwelling units in the proposed development as set forth below. In instances where more than one criteria below applies, the one that provides the greater number of access external points shall apply. Nothing in this subsection shall preclude the extension of stub-out rights-of-way based on maximum block length requirements.

a. Single-Family residential developments with thirty (30) or more lots or dwelling units shall have at least two (2) separate, constructed and usable points of public road access.

b. An additional external access shall be required at 70 dwelling units, 120 dwelling units, and for every 50 dwelling units thereafter.

c. Multi-Family or mixed use developments with a residential component: Those developments containing 70 or more dwelling units shall be required to provide a second approved access, with an additional access required for every 50 dwelling units thereafter for developments 5 stories or lesser, and for every 70 dwelling units for developments greater than 5 stories. When all proposed buildings and dwelling units are to have fire suppression sprinkler systems, then a second approved access is not required unless the development contains more than 100 dwelling units.

J. STREET STUBS

1. New developments shall connect to any existing street stubs from adjacent properties.

2. At all locations where streets terminate with no street connection, but a future connection is planned or accommodated, a sign shall be installed at the location with the words "FUTURE ROAD CONNECTION" as indicated on the illustration to the right to inform property owners.

3. All stub streets shall include a turnaround facility in accordance Appendix D of the North Carolina State Building Code – Fire Prevention Code.

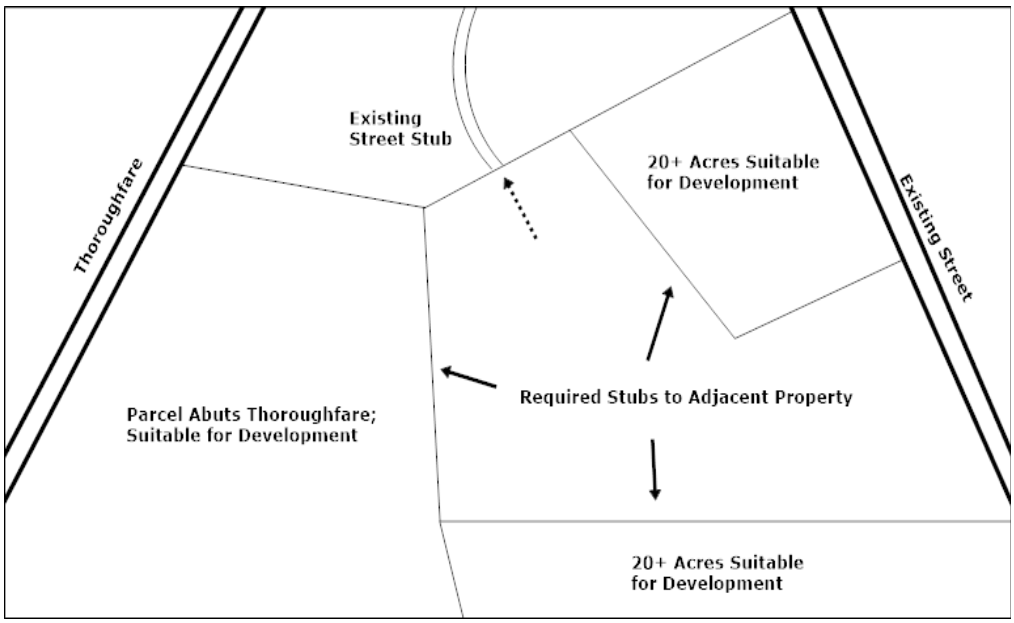
4. New development shall stub to all adjacent properties at the rate determined by road network of the subdivision created using maximum block lengths (per this section) and extending streets outward from that network. In no instance shall a stub-out be omitted based on the need to preserve lot count of the new subdivision. Where a neighboring parcel is a residential subdivision of 4 dwellings per acre or greater or a nonresidential development with 40% or greater impervious surface coverage, such properties shall be considered "developed", and a connection shall not be required.

5. The location of new required street stubs shall be prioritized as follows (see illustration below as well):

a. Adjacent parcels 20 acres or greater.

b. Adjacent parcels that abut or are traversed by existing or proposed arterials or thoroughfare streets.

c. Where any adopted transportation or land use plan recommends a street connection.



d. Where a required street stub necessitates the crossing of a stream or designated drainageway at the property line to make the required connection to an adjacent parcel, the owner or applicant shall provide a payment in lieu of building the stream crossing equal to half the total cost of the construction based on an engineer certified estimate. Such payment shall be set aside to offset the cost of constructing the stream crossing for future development.

K. RESERVE STRIPS

1. Reserve strips, or "spite strips", adjoining street rights-of-way for the purpose of preventing access to adjacent property shall not be permitted under any condition.

L. DRIVEWAYS

1. No portion of any residential or mixed-use driveway intersection with a City public street shall be closer than twenty (20) feet to the corner of any intersection, measured along the right-of-way line.

2. In commercial and industrial zones, this distance shall be thirty (30) feet.

3. Where the right-of-way line is rounded at an intersection, the measurement shall be from the point of tangency.

4. The width of any driveway intersection with the public street shall not exceed thirty (30) feet at its intersection with curb and street line. Driveway connections to NCDOT controlled streets must be requested from and approved by DOT. Driveways that have double lane ingress and egress (4-lanes) shall be a minimum 60 feet width at Construction of curb cuts for purposes of ingress and egress to property abutting a City public

right-of-way shall be approved by the Administrator. Provision for all access work done on state highway right-of-way is subject to approval by the DOT.

M. BLOCKS

1. **Proposed Use:** Blocks shall be laid out with special consideration given to the type of land use proposed within the block.
2. **Maximum Block Length:**
   - **a.** In semi-urban or urban areas, for these purposes defined as areas with residential densities of 5 or more dwelling units per acre or any street block with lot widths less than 65 feet, blocks shall not exceed 800 feet or two lots (whichever is greater).
   - **b.** In all other areas, blocks shall not exceed 1200 feet in length, except that large-scale industrial or Industrial Park developments may necessitate a variance.
   - **c.** No block shall be less than 400 feet.
3. **Width:** Blocks shall have sufficient width to provide two (2) tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.
4. **Mid-block Crosswalks:** A pedestrian crosswalk not less than 10 feet in width, may be required near the center and entirely across any block 900 feet or more in length where deemed essential, by the Administrator, to provide the adequate access to schools, shopping centers, churches, or transportation facilities.

MIDBLOCK CROSSING
Shared Use Path with Sidewalks and Medians

N. LOTS AND SETBACKS

1. **Size:** See Dimensional Standards Table in *Article 4 – Zoning Districts*.
2. **Setbacks:** See Dimensional Standards Table in *Article 4 – Zoning Districts*.
3. **Access:** Every lot shall abut a public street which has a minimum right-of-way of at least 50 feet.
   - **a.** Flag lots are discouraged, but if proposed they shall meet the following requirements:
     - **i.** A flag lot shall contain only one (1) single family dwelling and its uninhabited accessory structures.
     - **ii.** The maximum lot depth (length) of the flagpole portion shall be three hundred (300) feet.
     - **iii.** The minimum width of the flagpole portion shall be twenty-five (25) feet.
     - **iv.** The flagpole portion of the lot shall not be used to calculate area, width, depth, coverage, and setbacks of the lot.
     - **v.** Where public water is available, any building on the flag lot must be within five hundred (500) feet of a fire hydrant. The distance shall be measured along the street, then a straight line to the building location.
     - **vi.** Where public sewer is available, occupied buildings on the flag lot shall have a gravity service line or the sewer pump requirement shall be noted on the plat.

vii. The use of a single driveway to serve adjoining lots or to serve a flag lot and an adjoining conventional lot is permitted and encouraged.

viii. The plats recorded for flag lots shall contain a notation that the City of Eden will provide sanitation services only on the dedicated right-of-way. City service vehicles except in emergencies will not travel on the flagpole portion of the lot. Driveways shall be maintained in a manner that will accommodate an emergency service vehicle.

4. Double Frontage lots shall be avoided wherever possible. Where double frontage lots cannot be avoided, they shall provide a 25' wide landscaped buffer strip along the secondary frontage.

5. Orientation:

a. Side lot lines shall be perpendicular or radial to street right-of-way lines except where a variation will provide a better street and lot layout.

b. Lot boundaries shall coincide with natural and pre-existing manmade drainageways to the extent practicable to avoid lots that can be built upon only by altering such drainageways.

c. Major subdivisions shall not be approved that permit individual residential lots to directly access on to arterial or major thoroughfare streets. Such lots shall have vehicular access from a minor thoroughfare, minor street, local street, or local collector street only.

d. Corner Lots for residential use shall have additional width sufficient to provide equal setbacks from front and side streets – i.e. each street frontage is considered a front yard with an associated minimum lot width and front setback.

O. STREET LIGHTING

1. See *Article 6 – General Development Standards.*

P. FIRE PROTECTION EQUIPMENT

1. Fire protection equipment shall be installed at locations determined by the Technical Review Committee or other fire service agency which will have primary response responsibility within the proposed development.

2. Must meet requirements of the City's Fire Department and NC Fire Code.

Q. ENVIRONMENTAL BUFFERS AND FEATURES

1. Environmental buffer areas (such as stream buffers, drainageways, special flood hazard areas, wetlands, etc.) may be included within residential lots only when all of the following conditions are met:

a. The subdivision is limited in size and has no property owners' association; and

b. There is no reason for the formation of a property owner's association other than to retain ownership and maintenance responsibilities for the buffer area; and

c. The buffer is placed within a permanent conservation easement that is recorded with the plat.

2. Any required environmental buffer yard, including those required as a zoning condition, for a residential development shall not be credited toward meeting the minimum lot size requirements.

R. EASEMENTS

1. All easements as depicted on a final plat shall be so delineated on the final plat as to the type of easement and shall contain a metes and bounds description.

2. **Utility Easements:** The subdivider shall convey easements to the City or appropriate utility company for both underground and overhead utility installation where needed. Easements shall be at least 15 feet wide, and normally centered along rear or side lot lines. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the minimum 15 foot wide easement.

3. **Drainage Easements:** Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water courses, and of such further width or construction, or both, as will be adequate for purpose. Lakes, ponds, water courses, and the land immediately adjacent thereto shall be considered for maintenance by the City only if sufficient land is dedicated as a public recreation area or park or if such area constitutes a necessary part of the drainage control system. The City reserves the right to reject any intended dedication.

4. **Access, Maintenance, and/or Construction Easements.**

   a. The City of Eden, in the interest of its public health, safety, and welfare may, as a condition of approving a subdivision, require an access, maintenance, and/or temporary construction easement on and over the property, which is the subject matter of the subdivision. The obtaining of these easements, as may be required, shall be at no cost to the City of Eden.

5. **Easements, Appurtenances/Utility Boxes and/or Related Structures.**

   a. Where utility boxes or easement appurtenances and/or related structures are deemed necessary, they shall not be located directly in front of the dwelling, and shall be screened by plantings, blocking their view from both dwelling and street. Said planting and/or screening is the obligation of the developer and/or purchaser of the property, and shall be installed prior to the Certificate of Occupancy being issued.

6. **Widths**

   a. If easement width is not specified elsewhere in this section, then utility easements shall be provided at a minimum width of thirty (30) feet for electric, telecommunication, television/internet, gas service conduits, greenways, and water and sewer lines. The location of such easements shall be reviewed and approved by the Technical Review Committee, with advice from utility providers, before final plat approval. The Administrator or utility provider may require wider easements and shall be determined on a case-by-case basis.

7. **Restrictions on Improvements**

   a. Utility easements shall be kept free and clear of any buildings or other improvements, including landscaping, that would interfere with the proper maintenance or replacement of utilities. Fences are permitted provided that portion over the easement has access gates wide enough for the City to

properly maintain the easement and associated infrastructure. The City shall not be liable for damages to any improvement located within the utility easement area caused by maintenance or replacement of utilities located therein.

S. SIDEWALKS:

1. Where required, sidewalks shall be located within street rights-of-way and constructed in accordance with the specifications and standards of the City of Eden.

2. Construction Standards.

a. All sidewalks, whether required by this ordinance or installed voluntarily, shall be constructed to City and/or NCDOT standard specifications for sidewalks and have a minimum thickness of six (6) inches of concrete.

b. Minimum sidewalk width is 6', unless otherwise specified in this ordinance.

3. Sidewalks are not required:

a. Along alleys.

b. Along service roads used exclusively for materials loading and unloading.

c. Along roads without curb and gutter as approved by the Administrator.

4. Sidewalks are required:

a. On one side of every City street.
b. On both sides of any street where any lot is less than 60' wide.
c. On both sides where the gross dwelling unit density is greater than 4 dwellings per acre.
d. On both sides of every block with a multi-family development, including duplexes.
e. On both sides of any arterial or major or minor thoroughfare.
f. In all commercial, office, and mixed use districts, including but not limited to: BC, BH, NMX, RMX, and CZ with any residential or commercial component.
g. Within ½ mile of any pedestrian destination, including but not limited to schools, libraries, public facilities, shopping centers or commercial areas, parks, greenways, and recreational fields.
h. From the public right-of-way to business or building entrances.
i. Between adjacent businesses with main entrances within 150' of each other, preferably as cross-access, including between adjacent parcels.

5. Sidewalks shall be at least 2' inside the right-of-way and at least 2' from back of curb and/or any active vehicular area. The following modifications or conditions may also apply:

a. Where head-in (90-degree) or angled parking areas do not have wheel stops and abut sidewalks, an additional 2' of sidewalk width shall be provided to accommodate vehicle overhang and to provide an ADA accessible sidewalk width.

b. Where on-street parking abuts sidewalk, there shall be an additional 2' sidewalk width provided to accommodate the "shy area" and to accommodate opening doors, etc.

c. Where parking areas are flush with walking surfaces, wheel stops or other physical separation are required.

6. Payments-in-lieu

a. A payment-in-lieu (or "fee-in-lieu") may be paid for sidewalks where the Administrator or City Council determines that the public good is better served by coordinating sidewalk installation at a later date that would coincide with other major infrastructure repair or investment along a particular right-of-way. If the payment-in-lieu is requested by the subdivider, the amount of payment-in-lieu shall be for 125% of the City Engineer's estimate of the cost. If the payment-in-lieu request is made by the City, the amount is 100% of the City Engineer's estimate of the project cost. Any payment-in-lieu is reserved exclusively for the dedicated infrastructure, administration, and installation.

T. PUBLIC FACILITIES

1. In the event that a proposed park, school, or other public facility site shown on any part of the officially adopted comprehensive plan for City of Eden is located in whole or in part within a proposed subdivision, the City Council shall require that the subdivider grant an option to purchase such land for such public use. Purchase options so granted shall be executed for a period of two (2) years from the date of final plat approval. Options so granted must be fully exercised and consummated within two (2) years of the date of final plat approval, otherwise they shall become null and void.

2. Cluster Mailbox Units

a. Where required, cluster mailbox units, or CBUs, shall be provided in accordance with the United States Postal Service regulations. Units may not encroach into the public right-of-way and if placed on private property, must be accompanied by an easement for maintenance.

b. Design standards for these areas are outlined in *Article 6 – General Design Standards*.

3. Waste Management

a. The developer shall provide for adequate waste collection and disposal facilities.

b. Any multi-family, mixed use, or attached housing with greater than 8 dwelling units per building or site shall provide a consolidated dumpster court area.

c. Garbage storage or collection areas shall be screened by an opaque visual barrier (fencing, wall, or evergreen shrubs).

8.05 PROPERTY OWNERS' ASSOCIATION

A. CREATION

An Owners' Association shall be established to fulfill requirements of the NC Condominium Act, NC Planned Community Act, or to accept conveyance and maintenance of all common elements (common areas) within a development. The Owners' Association shall be in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.

B. CONVEYANCE

Where developments have common elements serving more than one residence, these areas shall be conveyed to the Owners' Association, in which all owners of lots in the development shall be members. All areas other than public street rights-of-way, other areas dedicated to the City, and lots shall be designated as common elements. In a condominium development the common elements shall be platted in accordance with the NC Condominium Act. In other developments, the fee-simple title shall be conveyed by the subdivider or developer to the Owners' Association prior to the sale of the first lot.

C. SUBDIVISION OR CONVEYANCE OF COMMON ELEMENTS

Common elements shall not subsequently be subdivided or conveyed by the Property Owners' Association unless a revised Final Plat showing such subdivision or conveyance have been submitted and approved.

D. MINIMIZE NUMBER OF ASSOCIATIONS

Developments, whether including different land uses, different types of housing, or simply different sections, shall hold the number of Owners' Associations to a minimum. An association may establish different categories of membership, different budgets for the categories, and different rates of assessment when different kinds of services are provided to different categories. Smaller associations under an umbrella (master) association are permitted.

E. EXEMPTION FROM OWNERS' ASSOCIATION REQUIREMENT

A development involving only two units attached by a party wall (or two separate walls back-to-back) shall not be required to have common elements or an Owners' Association. Such developments without an Owners' Association shall establish a binding agreement between owners to govern any party walls and to ensure reciprocal easement rights needed for maintenance.

8.06 OWNERSHIP & MAINTENANCE OF COMMON AREAS

All developments containing land, amenities or other facilities under private common ownership shall provide for the ownership & maintenance of such areas. Multi-family developments that are subject to fee-simple lot/unit ownership shall convey all such common areas to a non-profit corporate property owner's association with a membership of 100% of the lots/units in the development. The developer shall file with the Rockingham County Register of Deeds a "dedication of covenants" and must meet the following criteria:

1. The property owners' association must be established before the units are sold;
2. The property owners' association is established as the responsible entity for the liability insurance, pertinent local taxes, and maintenance of all recreation and other facilities;
3. Sums levied by the property owners' association that remain unpaid shall become a lien on the delinquent property;
4. For condominium development, documents must meet the requirements of NCGS 47A Unit Ownership;
5. All easements over common areas for access, ingress, egress and parking shall be shown and recorded on a final plat with the Rockingham County Register of Deeds.

6. See *Article 6 – General Development Standards* for ownership & maintenance requirements specific to open space.

8.07 NULLIFICATION OF PLAT OR PORTION OF A SUBDIVISION

A. Any plat or any part of any subdivision may be nullified by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

B. Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.

C. Such an instrument shall be executed, acknowledged or approved, and recorded and filed in the same manner as a final plat; and being duly recorded or filed, shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

8.08 RESUBDIVISION PROCEDURES

For any replotting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision. Per G.S. §160D-403 and *Section 3.05.B.5.e. (substantial changes [in a subdivision preliminary plat])* however, lot sizes may be varied on an approved plan after recording, provided that:

1. No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan or according to other requirements of this Ordinance, as appropriate;
2. Drainage, easements or rights-of-way shall not be changed;
3. Street alignment and block sizes shall not be changed;
4. The property line between the back of the lots shall not be changed;
5. The rear portion of lots shall not be subdivided from the front part;
6. The character of the area shall be maintained;
7. No increase in density or new lots formed.

8.09 CERTIFICATIONS FOR FINAL PLATS

The following certifications shall appear on all subdivision final plats:

A. CERTIFICATE OF OWNERSHIP & DEDICATION

I hereby certify that I am the owner of the property shown and described hereon and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I dedicate all sewer and water lines to the City of Eden.

_____ _____

Owner Date

B. CERTIFICATION OF WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS

I hereby certify that the water supply and sewage disposal systems installed, or proposed for installation in Subdivision fully meets the requirements of the N. C. Board of Health and are hereby shown:

Date _____, 20___

_____

City of Eden Administrator, County Health Officer or Other Authorized Representative

C. CERTIFICATE OF SURVEY & ACCURACY

"I, _____, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____; that this plat was prepared in accordance with NCGS 47-30 as amended. Witness my original signature, registration number and seal this ____ day of _____, A.D. 20___." (within thirty days or it becomes void)

_____

Surveyor

"I, _____, Professional Land Surveyor, certify to one or more of the following as indicated:

___1. That the survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;

___2. That the survey is located in such portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;

___3. That the survey is of an existing parcel or parcels of land;

___4. That the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, and other exception to the definition of a subdivision;

___5. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of his or her professional ability as to provisions contained in 1-4 above.

{Seal or Stamp} _____

Registration Number:_____

The certificate of the Notary shall read as follows:

"North Carolina, _____ County

I, a Notary Public of the County and State aforesaid, certify that _____, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this ___ day of _____, 20___.

_____

Notary Public

{Seal or Stamp}

My Commission expires _____."

D. CERTIFICATE OF APPROVAL FOR RECORDING

I, _____, hereby certify that the subdivision plat shown hereon has been found to comply with the Unified Development Ordinance for Eden, North Carolina, with the exception of such variances, if any as are noted and that this plat has been approved by the Eden City Council for recording in the office of the Register of Deeds of Rockingham County.

_____ _____

Administrator/Review Officer Date

E. CERTIFICATE OF APPROVAL OF THE DESIGN & INSTALLATION OF STREETS, UTILITIES, AND OTHER REQUIRED IMPROVEMENTS *(WHERE APPLICABLE)*

I, _____, hereby certify that all streets, utilities, and other required improvements have been installed in accordance with NC Department of Transportation & City of Eden specifications and standards, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the City of Eden has been received, and that the filing fee for this plat as set forth in the City's fee schedule, has been paid.

_____ _____

Administrator Date

F. CERTIFICATE OF APPROVAL AND ACCEPTANCE OF DEDICATION

I, _____, hereby certify that the City Council of Eden, North Carolina, approved this plat and accepted the dedication of the streets, easements, rights-of-way, and public parks shown thereon, but assumes no responsibility to open or maintain the same until in the opinion of the Eden City Council it is in the public interest to do so.

_____ _____

Administrator Date

G. CERTIFICATE OF DISCLOSURE; FLOODPLAIN MANAGEMENT REGULATIONS *(WHERE APPLICABLE)*

I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign a statement which fully and accurately discloses that the subject real estate, or a portion of the subject real estate, is located within a flood hazard area and that the buyer must satisfy the requirements of the City of Eden floodplain management regulations prior to the issuance of building permits.

_____ _____

Owner's Signature Date

H. ACKNOWLEDGEMENT OF COMPLIANCE *(PRIVATE DEVELOPMENTS – WHERE APPLICABLE)*

I, _____, (name of developer and/or seller) hereby certify that the streets, parks, open space, or other areas delineated hereon and dedicated to private use, and all traffic markings and control devices shall not be the responsibility of the public or the municipality, acting on behalf of the public, to maintain. Furthermore, prior to entering any agreement or any conveyance with any prospective buyer, I shall prepare and sign, and the buyer of the subject real estate shall receive and sign, an acknowledgment of receipt of a disclosure statement. The disclosure statement shall fully and completely disclose the private areas and include an examination of the consequences and responsibility as to the maintenance of the private areas, and shall fully and accurately disclose the party or parties upon whom the responsibility for construction and maintenance of such private areas shall rest.

_____ _____

Date Signature of Developer and/or Seller

I. STREET MAINTENANCE DISCLOSURE *(WHERE APPLICABLE)*

Maintenance of the public street(s) shown on this plat is (are) intended to be the responsibility of the NCDOT or City of Eden, provided that all requirements for acceptance are met. Until such time as the NCDOT or City of Eden accepts the street(s), I (we) will provide for necessary maintenance. (NOTE: This statement shall not serve as a substitute for any other statutory disclosure requirements.)

_____ _____

Date Owner(s) Signature

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ARTICLE 9 – BUILDING MAINTENANCE STANDARDS

9.01 GENERAL

A. PURPOSE

1. The provisions of this Article are to provide the necessary inspections and enforcement of the following:
   - **a.** North Carolina State Building Code, inclusive of all volumes and to comply with the provisions of G.S. Chapter 160D, Article 4;
   - **b.** The construction of buildings and other structures;
   - **c.** The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air conditioning systems;
   - **d.** The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;
   - **e.** Other regulatory codes.

B. ADOPTION OF NORTH CAROLINA STATE BUILDING CODE

1. The North Carolina State Building Code, as adopted by the North Carolina Building Code Council including such amendments hereafter adopted by the Building Code Council incorporating regulations for building, residential building, electricity, gas, heating and air conditioning, plumbing, fire prevention and other subjects are hereby adopted by reference and declared to be the building code of the City, except as such codes may be amended.

C. RECORDS AND REPORTS

1. The Administrator shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and re-inspections made, defects found, certificates of compliance granted, and all other work and activities of the Planning and Inspections Department.
2. These records shall be kept in the manner and for the periods prescribed by the State Department of Cultural Resources. Periodic reports shall be submitted to the City Council and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require.

D. STANDARDS FOR VACATING AND CLOSING STRUCTURES

1. Whenever a structure is ordered vacated and closed under this Article, the following standards shall be met before the structure is considered vacated and closed:
   - **a.** The owner, occupant and/or tenant shall be required to move out of the structure and the structure shall not again be occupied until it fully complies with all applicable local and state codes.
   - **b.** The structure shall not be used for storage. Storage of materials of any kind shall constitute a use and the structure shall not be considered vacated and closed.
   - **c.** The owner shall clear the structure and property of all trash, debris and other items which could cause or threaten to cause infestation of insects, rodents or other pests or cause or threaten to cause a fire hazard.
   - **d.** Maintenance of the grounds is required to the extent that at no time shall the property be deemed in violation of the City nuisance or junk car provisions.

e. The window(s) and door(s) of structure(s) on the property shall be intact and operable and maintained in a way that does not provide evidence of vacancy. The owner shall insure that all windows, doors and crawl spaces shall be maintained and or improved so that there are no broken windows or non-functioning doors. All such windows and doors shall be protected with paint where applicable.

f. The owner shall ensure that the exterior foundation, walls and roofs shall be improved and maintained in a sound condition/good repair providing safe conditions. Also, the exterior shall be protected with paint or other protective covering to prevent penetration of moisture or weather.

2. These standards must be maintained at all times while the structure is considered vacated and closed. Failure to maintain the structure as such will constitute a violation of the applicable provisions of this Article.

E. VACANT COMMERCIAL PROPERTY REGISTRATION

1. It is the purpose and intent of the City of Eden, through the adoption of this ordinance, to establish a vacant property registration ordinance as a mechanism to preserve the historic integrity of Eden's Historic Downtown areas and to protect these areas from becoming blighted through the lack of adequate maintenance and security of abandoned and vacant properties.

2. Additionally, the City desires to deter crime and theft of materials, to minimize loss of property value to vacant properties and surrounding occupied properties, to reduce the risk of damage from fire, flooding or other hazards, and to promote the comfort, happiness and emotional stability of area residents.

3. The City finds that the presence of properties exhibiting evidence of vacancy pose special risks to the health, safety, and welfare of the community and therefore require heightened regulatory attention. The provisions of this Article shall apply to all properties in the traditional downtown areas of The Boulevard, Leaksville, Draper and the Cook Block.

4. These areas are more fully identified by the maps illustrated in *Appendix D – Vacant Commercial Properties Area Maps.*

F. REGISTRATION REQUIRED

1. Any vacant commercial property located within the City's traditional downtown districts as per maps illustrated in *Appendix D – Vacant Commercial Properties Area Maps,* must be registered by the Owner with the Administrator, either:

a. Of the Owner of a Vacant Property's own accord before receiving a Notice of Registration Requirement, or

b. Within thirty (30) days of receiving a Notice of Registration Requirement from the City.

2. The City will send a Notice of Registration Requirement to the Owner of Record of Properties that exhibit Evidence of Vacancy. The Owner shall register Property within the time period set forth in this section unless Owner can provide clear and convincing evidence to the Administrator within such time period, that the property is not vacant.

3. The Registration shall contain:

a. the name of the Owner (corporation or individual),

b. the direct street/office mailing address of the Owner and P.O. Box if applicable,

c. a direct contact name and contact information,

d. the name, address and telephone number of any local property management company hired by the Owner to meet the Maintenance requirements of this Article if owner's principal residence is not local.

4. Any changes in the information in 3.a – 3.d. of this section shall be reported to the City within thirty (30) days of such changes.

5. Registration must be renewed annually.

6. Vacant properties shall remain subject to the annual registration, maintenance, and security requirements of this Article as long as they remain vacant.

7. Once the property is no longer vacant or is sold and a code compliance and fire inspection has been completed, the owner must provide written proof of occupancy or sale (lease or deed) to the Administrator.

G. MAINTENANCE REQUIREMENTS

1. Properties subject to this Chapter shall be kept in compliance with the following maintenance requirements:

a. The exteriors of building(s)/structure(s) on the Property shall be painted and maintained in a way that does not exhibit any Evidence of Vacancy.

b. The yard(s) of the Property shall be maintained in a way that does not provide Evidence of Vacancy.

c. The deck(s) and porch(s) located on the Property shall be maintained in a way that does not provide Evidence of Vacancy.

d. The window(s) and door(s) of building(s)/structure(s) of the property shall be intact and operable and shall be maintained in a way that does not provide Evidence of Vacancy.

e. Instances of rotting of building(s)/structure(s) located on the Property or portion thereof shall be corrected in order to eliminate Evidence of Vacancy so that no visible rotting, with the exterior painted and kept in good aesthetic condition.

f. The Property shall be maintained so as to exhibit no Evidence of Vacancy.

g. The storefronts and facades of buildings shall be maintained in a way that does not provide Evidence of Vacancy.

h. The interiors, when visible to passersby through storefront windows, shall be maintained in a way that does not exhibit Evidence of Vacancy.

H. SECURITY REQUIREMENTS

1. Vacant properties subject to this Chapter shall comply with the following security requirements.

a. The Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (including but not limited to walk-through, sliding, and garage), gates, pet doors, and any other such opening of such size that it may allow a child to access the interior of the Property or structure(s).

b. Broken windows shall be replaced and/or re-glazed; windows at street level shall not be boarded up.

I. REQUIREMENT TO HIRE LOCAL PROPERTY MANAGEMENT COMPANY FOR OUT-OF-AREA OWNERS

1. If the property owner's principal residence is not local, then a local property management company shall be contracted to fulfill the maintenance and security requirements of this section.

2. The property shall be posted with the name and 24-hour contact phone number of the local property management company.
3. The posting shall be 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet and shall contain along with the name and 24- hour contact number the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL ###-###-####." The posting shall be placed in the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the Property so it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the Property but not readily accessible to vandals. The exterior posting must be constructed of and printed with weather resistant materials.
4. The requirement set forth in this section may be waived by the City Council for owners who:
   a. reliably demonstrate an ability to maintain the property, and
   b. have not received any citations for maintenance violations in the previous quarter.
5. Owner may appeal this requirement to the City Council which may excuse owner from compliance if owner can present the ability to meet the requirements of this Article without hiring a local property management company.

J. INSPECTIONS

1. The City shall have the authority and the duty to inspect properties subject to this Article for compliance and to issue citations for any violations. The City shall have the discretion to determine when and how such inspections are to be made, provided that their policies are reasonably calculated to ensure that this Article is enforced.

K. ENFORCEMENT, VIOLATIONS AND PENALTIES

1. It shall be unlawful for any owner to be in violation of any of the provisions of this Article.
2. Any person who violates a provision of this Article or fails to comply with any order made thereunder and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by appeal, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in this Article.
3. The imposition of one penalty for any violation shall not excuse the violation, or authorize its continuance.
4. All such persons shall be required to submit an acceptable plan of action to the Administrator within ten (10) business days of notification. This plan of action must include, but is not limited to, a description of the work to be done, by whom and a specific schedule.
5. Plans shall be reviewed by the Administrator and work is to commence within fifteen (15) days of the Administrator's approval. When not otherwise specified, failure to meet any stated condition within ten (10) days of required action shall constitute a separate offense.
6. Penalties for failure to comply:
   a. **Initial Registration.** Failure to initially register with the City within the time frame required is punishable by a civil penalty of $50.
   b. **Changes to Registration.** Failure to report changes to registration information within the time frame required is punishable by a civil penalty of $50.
   c. **Annual Registration.** Failure to register annually is punishable by a civil penalty of $50.

d. Maintenance and Security Requirements. Failure to meet the maintenance and security requirements is punishable by a civil penalty of $500.

e. Failure to submit plan. Failure to submit a plan of corrective action is a violation punishable by a civil penalty of $50.

f. Failure to implement plan. Failure to implement plan within fifteen (15) days of approval or complete it in a timely manner is a violation punishable by a civil penalty of $500.

L. APPEALS

1. See *Article 3 – Development and Administrative Review Procedures* for Appeals of Administrator Decision.

9.02 HUMAN HABITATION STANDARDS

A. APPLICABILITY

1. The provisions of this Article shall apply to all existing housing and to all housing constructed within the ordinance making jurisdiction of the City.

2. Portable, mobile or demountable structures, including trailers, manufactured homes and mobile homes when used or intended for use for housing within the ordinance making jurisdiction of the City, shall be subject to the applicable provisions of this Article.

3. This Article establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this Article.

B. CONFLICT WITH OTHER PROVISIONS

1. In any case where a provision, standard or requirement of this Article is found to be in conflict with a provision of this ordinance, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the people shall prevail. The North Carolina State Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this Article.

C. DWELLING UNFIT FOR HUMAN HABITATION

1. Conditions Rendering Dwellings Unfit for Human Habitation

a. The Administrator shall determine that a dwelling is unfit for human habitation if the Administrator finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents on the jurisdiction, including, but not limited to, any one of the following:

(1) Interior walls or vertical studs which seriously list, lean or buckle to an extent as to render the building unsafe.

(2) Supporting member or members which show 33% or more damage or deterioration, or nonsupporting, enclosing or outside walls or covering which shows 50% or more of damage or deterioration; provided that such deterioration affects the structural integrity of the building.

(3) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purposes used.

(4) Such damage by fire, wind, or other causes as to render the building unsafe.

(5) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety, or welfare of the occupants or other people of the jurisdiction.

(6) Inadequate facilities for egress in case of fire or panic.

(7) Defects significantly increasing the hazards of fire, accident or other calamities.

(8) Lack of adequate ventilation, light, heating, or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the jurisdiction.

(9) Lack of proper electrical, heating or plumbing facilities required by this Article which constitute a health or a definite safety hazard.

(10) Lack of proper connection to a potable water supply and/or to the public sewer or other approved sewage disposal system, the lack of either one of which renders a dwelling unfit for human habitation.

b. In addition to the conditions stated in *subsection C.1.a. - Conditions Rendering Dwelling Unfit for Human Habitation*, a dwelling shall be found by the Administrator as unfit for human habitation if such dwelling fails to fully comply with any seven or more of the minimum standards as stated in subsections *C.2.a,, D, E, F, G and H* of this Article; provided that the Administrator shall not count more than once the same type failure to comply with minimum standards in making a finding that seven (7) or more such failures exist.

c. Full compliance with a standard shall mean that if any part of a stated minimum standard is not complied with by a particular dwelling then that dwelling has failed to fully comply with the entire minimum standard as stated herein.

2. Dwelling Not in Compliance but not unfit for Human Habitation

a. In any case where the Administrator finds that a dwelling fails to comply with one or more but less than seven of the minimum standards for dwelling fitness as stated herein and finds that none of the conditions stated in *C.1.a. - Conditions Rendering Dwelling Unfit* exist, such dwelling shall not be found unfit for human habitation and shall not be subject to the procedures and remedies as provided in this Article for dwellings unfit for human habitation.

D. MINIMUM STANDARDS FOR DWELLING FITNESS

1. Minimum Standards for Structural Condition

a. Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged so as to be unsafe to use and incapable of supporting a load that normal use may cause to be placed thereon.

b. Floors or roofs shall have adequate supporting members and strength to be safe to use and capable of supporting a load that normal use may cause to be place thereon.

c. Foundations, foundation walls, piers or other foundation supports shall be kept in sound condition and good repair so as to be capable of supporting a load that normal use may cause to be placed thereon.

d. Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in sound condition and good repair so that they shall be safe to use and capable of supporting a load that normal use may cause to be placed thereon.

e. Adequate facilities, as required by the North Carolina State Building Code, for egress in case of fire or panic shall be provided.

f. Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting a load that normal use may cause to be placed thereon.

g. The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather tight and watertight.

h. There shall be no chimneys or parts thereof which are defective and deteriorated so as to be unsafe and in danger of falling, or in such condition or location as to constitute a fire hazard.

i. There shall be no use of the ground for floors, or wood floors on the ground.

E. MINIMUM STANDARDS FOR BASIC EQUIPMENT AND HEALTH FACILITIES

1. Plumbing System

a. All water to each dwelling unit shall be supplied through an approved pipe distribution system connected to a potable water supply.

b. Each dwelling unit shall be supplied with a kitchen sink, lavatory, tub or shower and a water closet, all in good working condition.

c. Each dwelling unit shall have connected to the kitchen sink, lavatory, tub or shower an adequate supply of both cold water and hot water.

d. All plumbing fixtures, and water and waste pipe shall be maintained in good sanitary working condition, free from defects, leaks, and obstructions.

e. All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

f. All new plumbing shall be installed in accordance with the state plumbing code. Any repair or replacement of existing plumbing shall be done in accordance with the plumbing code when, in the opinion of the Administrator, it is reasonably practicable or otherwise vital in the interest of health and sanitation.

2. Heating System

a. Every dwelling and dwelling unit shall be supplied with facilities providing heat in accordance with the following:

(1) All heating systems, appliances and facilities shall be installed in accordance with the state building code and shall be maintained in a safe and good working condition.

3. Electrical System

a. Every dwelling unit shall be wired for electric lights and convenience receptacles.

b. Every habitable room shall contain at least two (2) floor or wall-type electric convenience receptacles, connected in such manner as determined by the state electrical code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling, or wall-type electric light fixture.

c. Every public hall and stairway in every multi-family dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

d. All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed and connected in accordance with the state electrical code.

e. The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the load required in accordance with the state electrical code.

4. **Fire Protection System**
   a. Every dwelling unit shall comply with all applicable provisions of the state fire prevention code.
   b. Every dwelling unit shall have supplied and installed a minimum of one approved listed smoke detector installed outside the sleeping area on each floor level of the dwelling unit.
5. **Kitchen Facilities**
   a. Each dwelling unit shall have a kitchen supplied with a minimum of the following facilities:
      (1) Food preparation surfaces impervious to water and free of defects which could trap food or liquid.
      (2) Shelves, cabinets or drawers maintained in good repair for the storage of food and cooking and eating utensils.
      (3) A freestanding or permanently installed cook stove. Portable electric cooking equipment shall not fulfill this requirement. Portable cooking equipment employing flame shall be prohibited.
      (4) Mechanical refrigeration equipment for the storage of perishable foodstuffs.
6. **Alternative Agreements**
   a. Nothing herein shall preclude a written agreement between an owner and occupant that the occupant will furnish a cook stove and/or mechanical refrigeration equipment as required in this subsection. It shall be an affirmative defense available to an owner charged with a violation of this subsection if such a written agreement exists.

F. MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE

1. **Exterior foundation, walls, roofs.** Every foundation wall, exterior wall, and exterior roof shall be substantially weather tight, watertight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting a load that normal use may cause to be placed thereon. Every exterior wall, except masonry and brick construction, shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
2. **Interior floor, walls, and ceilings.** Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and such walls and ceilings shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
3. **Windows and doors.** Every window made or manufactured to open and close, exterior door, basement or cellar door, and hatchway shall be substantially weather tight, watertight, and rodent proof; and shall be kept in sound working condition and good repair. There shall be no broken glass.
4. **Stairs, porches, and appurtenances.** Every inside and outside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.
5. **Kitchen and bathroom floors.** Every kitchen and bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition.
6. **Supplied facilities.** Every supplied facility, piece of equipment or utility, which is required under this Article shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

7. **Egress.** Every dwelling unit shall be provided with adequate means of egress as required by the state building code and there shall be no obstruction in any manner of any means of ingress and egress from any portion of the dwelling.

G. MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS AND INFESTATIONS

1. **Screens - door openings.** In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space used or intended to be used for ventilation shall have supplied and installed screens and a self-closing device; except, that sliding doors, doors with self-closing devices, and doors that open into rooms of living spaces that are mechanically ventilated or air conditioned are exempt from this provision.
2. **Screens - window openings.** In every dwelling unit, for protection against mosquitoes, flies, and other insects, every window or other device with openings to outdoor space used or intended to be used for ventilation shall have supplied and installed screens; except, that this requirement shall not apply to dwellings containing an operable central heating system and adequate cooling equipment for mechanically ventilating the dwelling year around.
3. **Screens - installed and maintained.** Screens on all windows and doors shall be installed in a frame or casing fitted into the window, door frame or opening. In no instance shall a screen be stapled, taped, or directly affixed to the inside or outside of a window, door frame or opening. Screens shall be maintained without open rips or tears.
4. **Rodent control.** Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other device as will effectively prevent their entrance.
5. **Infestation.** There shall not be an infestation of any insects, rodents, or other pests therein or on the premises in such number as to constitute a menace to the occupants of the dwelling or the public.
6. **Rubbish storage and disposal.** Every dwelling and every dwelling unit shall have approved container(s) and cover(s) for the storage of rubbish as required by City ordinance and such rubbish shall be removed or disposed in accordance with City ordinance.
7. **Garbage storage and disposal.** Every dwelling and every dwelling unit shall have an approved garbage disposal facility.
8. **Care of premises.** No furniture, vehicle parts, junk, equipment, or other material which harbors insects, rodents, or other pests shall be placed in storage in a dwelling or dwelling unit.

H. MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES

1. All of the provisions of this Article, and all of the minimum standards and requirements of this Article, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets, to another for occupancy any rooming unit in any rooming house, except as provided in this section:
   a. **Water closet, hand lavatory, and bath facilities.** At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from

any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

b. Minimum floor area for sleeping purposes. Every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

c. Sanitary conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within the rooming house is contained, leased or occupied by the operator.

d. Sanitary facilities. Every water closet, flush urinal, lavatory basin, and bathtub or shower required by subsection (a) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

I. RESPONSIBILITIES OF OWNERS AND OCCUPANTS

1. **Public areas.** Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a sanitary condition the shared or public areas of the dwelling and its premises.
2. **Cleanliness.** Every occupant of a dwelling or dwelling unit shall keep in a sanitary condition that part of the dwelling, dwelling unit and premises which he occupies and controls.
3. **Rubbish and garbage.** Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for furnishing rubbish and garbage storage facilities.
4. **Supplied plumbing fixtures.** Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a sanitary condition and shall be responsible for the exercise of reasonable care in their use and operation.
5. **Care of facilities, equipment and structure.** No occupant shall destroy, deface, or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit.

J. PRELIMINARY INVESTIGATION; NOTICE; HEARING

1. Whenever a petition is filed with the Administrator by a public authority or by at least five (5) residents of the jurisdiction charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Administrator, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, the Administrator shall, if his/her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Administrator (or his/her designated agent) at a place therein fixed. The hearing shall be not less than ten (10) nor more than thirty (30) days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Administrator.

2. Upon the issuance of a complaint and notice of hearing pursuant to this section, the Administrator may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing attached thereto, in the Office of the Clerk of Superior Court of Rockingham County, to be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. The Administrator shall cause a copy of the notice of lis pendens to be served upon the owners and parties in interest in the dwelling at the time of filing in accordance with G.S. § 160D-305, as applicable. Upon compliance with the requirements of any order issued based upon such complaint and hearing the Administrator shall direct the Clerk of Superior Court to cancel the notice of lis pendens.

K. PROCEDURE AFTER HEARING

1. If, after such notice and hearing, the Administrator determines that the dwelling under consideration is unfit for human habitation in accordance with the standards herein set forth, the Administrator shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:
   a. **Unfit for human habitation, but subject to correction at a reasonable cost.** If the Administrator determines that said dwelling is unfit for human habitation, the order shall require the owner, within a time specified, to repair, alter, and improve such dwelling so as to render it fit for human habitation. Such order may also direct and require the owner to vacate and close the dwelling until such repairs, alterations, and improvements have been made and/or the unsafe and dangerous character of such dwelling has been corrected.
   b. **Dilapidated dwellings.** If the Administrator determines that said dwelling is dilapidated, the order shall require the owner, within a specified period of time, to either vacate and repair, alter or improve such dwelling so as to bring it into compliance with the standards described herein, or to vacate and close the dwelling, and to remove or demolish the dwelling. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the City and the Historic Preservation Commission determines, after public hearing as provided by this ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. § 160D-949.
2. Whenever a determination is made pursuant to subsection (1) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice and order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices.
3. A minimum period of forty-five (45) days from the mailing of such notice shall be given before the removal or demolition by action of the Administrator, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Administrator or City Clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Administrator to wait forty-five (45) days before causing removal or demolition.

L. FAILURE TO COMPLY WITH ORDER; OWNER

1. If the owner fails to comply with an order to repair, alter or improve the dwelling, the Administrator may:

a. Cause such dwelling to be repaired, altered or improved, and pending such repairs, alterations or improvements, may order such dwelling vacated and closed.

b. Cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor.

2. If the owner fails to comply with an order to remove or demolish the dwelling, the Administrator may:

a. Cause such dwelling to be vacated and closed, removed or demolished.

b. Cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor.

3. The duties of the Administrator set forth in subsections (1) and (2) shall not be exercised until the City Council, by ordinance, shall have ordered the Administrator to proceed to effectuate the purpose of this Article with respect to the particular property or properties which the Administrator shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with this Article. Such ordinances shall be recorded in the office of the Register of Deeds of Rockingham County and shall be indexed in the name of the property owner in the grantor index.

4. If the Administrator shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in this section, and if the dwelling has been vacated and closed for a period of one year pursuant to the order; then if the City Council shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the City Council may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting for the following:

a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days; or

b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.

5. This ordinance shall be recorded in the Office of the Register of Deeds of Rockingham County and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the Administrator shall effectuate the purpose of the ordinance.

6. The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Administrator shall be a lien against the real property upon which the cost was incurred,

which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided by G.S. Chapter 160D, Article 10. If the dwelling is removed or demolished by the Administrator, he shall sell the materials of such dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court of Rockingham County by the Administrator, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

M. FAILURE TO COMPLY WITH ORDER; OCCUPANT

1. If any occupant fails to comply with an order to vacate a dwelling, the Administrator may file a civil action in the name of the City to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling.

a. The Clerk of Superior Court of Rockingham County shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Administrator produces a certified copy of an ordinance adopted by the City Council pursuant to subsection (L) of this Article, authorizing the Administrator to proceed to vacate the occupied building, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30.

2. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be taken in the nature of a summary ejectment proceeding pursuant to this section unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the City Council has ordered the Administrator to proceed to exercise his duties under *Section L – Failure to Comply with Order, Owner*, subsections (1) and (2) of this Article, to vacate and close, or to remove and demolish the dwelling.

N. SERVICE OF COMPLAINTS AND ORDER

1. Complaints or orders issued by the Administrator pursuant to this Article shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

2. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Administrator in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the City at least once no later than the time at which personal service would

be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

O. CERTIFICATE OF OCCUPANCY

1. It shall be unlawful for any owner or the agent of any owner to rent or offer for rent a dwelling or part thereof upon which an order to repair, alter or improve, or to vacate and close, has been issued without said owner or agent first filing application for and receiving a certificate of occupancy from the Administrator.
2. The Administrator shall issue a certificate of occupancy when, after examination and inspection, it is found that the repairs, alterations and improvements have been made and that the dwelling conforms with the provisions of this Article.
3. The owner or his representative shall be charged a reinspection fee where the work is not in compliance at the time of the requested inspection and a subsequent reinspection is required.

P. VIOLATIONS

1. In addition to the conditions, acts or failures to act that constitute violations specified in this Article:
   a. It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the Administrator duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.
   b. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order had been issued pursuant to this Article, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
   c. It shall be unlawful for any person, without written consent of the Administrator, to remove or permit the removal of any complaint, notice or order posted in accordance with the provision of this Article.

Q. PENALTIES FOR VIOLATIONS

1. Each violation of any provision of this Article shall constitute a Class 3 misdemeanor, punishable by a fine of not more than $50, as provided by G.S. § 14-4, as amended. Each calendar day during which a violation continues shall constitute a separate and distinct offense.
2. The provisions of this Article may also be enforced through any equitable or other remedy deemed appropriate by the City and permitted by law.

R. ALTERNATIVE REMEDIES

1. Nothing in this Article shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, nor shall enforcement of one remedy provided herein prevent the enforcement of the other remedies provided herein.

S. APPEALS

1. See *Article 3 – Development and Administrative Review Procedures* for Appeals of Administrator Decision.

9.03 DEFECTIVE AND UNSAFE BUILDINGS

A. OWNERS AND OCCUPANTS OF DEFECTIVE BUILDINGS ARE REQUIRED TO CORRECT DEFECTS

1. If the Administrator shall find that because of a defect in a building or that because a building has not been constructed in accordance with applicable federal, state or local laws or that because of its dangerous structural condition or that because fire hazardous conditions exist in or around the building, the building is in violation of G.S. § 160D-1118, the Administrator shall give the owner and the occupant written notice of such defects, fire hazardous conditions or failure to construct the building in accordance with federal, state or local laws.
2. The written notice shall direct each owner and occupant to immediately remedy such defects, fire hazardous conditions or violation of laws applicable to the construction of such building and it shall be mailed to each owner and occupant by certified mail, return receipt requested, addressed to each owner and occupant or be personally served upon each owner and occupant.
3. The written notice shall inform the owner and occupant that it is a violation of G.S. 160D-1118 and this Article for such owner or occupant to fail to immediately remedy the aforesaid defects, fire hazardous conditions or violations of law.
4. It shall be unlawful for the owner or occupant of a building to fail to immediately remedy a defect, fire hazardous condition or a violation of an applicable law regulating the construction of such building upon receipt of a notice issued by the Administrator pursuant to the provisions of this section.
5. In addition to or in lieu of other remedies, the City may enforce this Article by an appropriate equitable remedy, as authorized by G.S. § 160A-175(d), or it may enforce this Article by injunction and order of abatement as authorized by G.S. § 160A-175(e).

B. UNLAWFUL TO OWN UNSAFE BUILDINGS AND STRUCTURES

1. It shall be unlawful for any firm, person or corporation to own a building or a structure situated within the ordinance making jurisdiction of the City which is in such a defective or hazardous condition that it is especially dangerous to life. The City Council has determined that especially dangerous buildings and structures are detrimental to the health, safety and welfare of the citizens, that such especially dangerous buildings and structures shall be condemned, and that the owners of such especially dangerous buildings and structures shall immediately remedy the unsafe, dangerous, hazardous or unlawful conditions or demolish such building or structure.
2. A building or structure may be found to be especially dangerous to life and held unsafe by the Administrator when it appears that:
   a. A building or structure has been so damaged by fire or other casualty that any part of its structural system, its roof, floors, walls or porches are in danger of falling or collapsing; or
   b. A building or structure contains fire hazardous conditions such as unsafe electrical, heating or air conditioning systems, which render it more than ordinarily susceptible to fire or likely to be damaged by fire; or
   c. A building or structure appears to be especially dangerous to life because of the bad condition of walls, overloaded floors, defective construction, decay, dilapidated state of repair; or
   d. A building or structure does not have safe and adequate means of egress; or

e. The doors, windows or other parts of the building or structure are so damaged or in such a state of disrepair that the premises cannot be made secure so as to prevent unauthorized entry by children or other persons.

C. UNSAFE BUILDINGS SHALL BE CONDEMNED

1. If a building or structure shall appear to the Administrator to be especially dangerous to life and unsafe under subsection (B), the Administrator shall make a written finding that the building or structure is unsafe and condemned; and affix a condemned notice of the dangerous character or conditions of the building or structure to a conspicuous place on the exterior wall of such building or structure; and mail to each owner a copy of the condemned notice stating the dangerous character or conditions of the building or structure. The condemned notice shall be mailed by certified mail, return receipt requested, addressed to each of the owners.

D. REMOVAL OF CONDEMNATION NOTICE UNLAWFUL

1. It shall be unlawful for any person to remove a condemned notice from a building or structure after such condemned notice has been affixed to it by the Administrator pursuant to the provisions of subsection (C).

E. NOTICE OF CONDEMNATION AND HEARING IF OWNER FAILS TO TAKE PROMPT CORRECTIVE ACTION

1. If the owner of a building or structure that has been condemned by the Administrator as unsafe pursuant to subsection (C) shall fail to take prompt corrective action, the Administrator shall serve the owner with a written notice of condemnation and hearing which notice shall state that:
   a. The building or structure is in a condition that appears to constitute a fire or safety hazard or appears to be dangerous to life, health or other property and that it is held to be unsafe; and
   b. A hearing will be held before the Administrator at a designated place and time, which time shall be not later than ten (10) days after the date of such notice, and that at such hearing the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
   c. Following the hearing, the Administrator may issue such order to repair, close, vacate or demolish the building or structure as the Administrator deems to be appropriate under the existing conditions.

2. The written notice required by this section shall be served upon each owner: by mailing the same by certified mail, return receipt requested, addressed to each owner to be served and by delivering to the addressee; or by personal service of the notice upon each owner as provided by Rule 4 of the N.C. Rules of Civil Procedure.

3. If the name or whereabouts of an owner are unknown and cannot after due diligence be discovered, the notice shall be considered properly and adequately served upon such owner if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing published in a newspaper having general circulation in the City at least once not later than one week prior to the hearing.

F. ORDER TO TAKE CORRECTIVE ACTION – CONTENTS, ISSUANCE

1. If, upon a hearing held pursuant to the notice prescribed subsection (E), the Administrator shall find that the building or structure is in an unsafe condition which constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, the Administrator shall issue an order in writing, directed to the owner of such building or structure, directing the owner to remedy the defective conditions by repairing, closing, vacating or demolishing the building or structure or taking other necessary steps within such period as the Administrator may prescribe, which period may not be less than sixty (60) days from the issuance of the order; provided that, where the Administrator finds that there is imminent danger to life, health, or other property, the order may require that corrective action be taken in such lesser period as may be feasible.

G. SERVICE OF ORDER

1. The order of the Administrator issued pursuant to subsection (F) shall be served upon the owner or owners either personally or by certified mail; or

2. If the name or whereabouts of an owner are unknown and cannot, after due diligence, be discovered, the order may be served upon any such owner in accordance with the rules and statutes for the service of process by publication as set out in G.S. § 1-75.10 (2). When service of the order is made by publication, a copy of the notice of the service of the order by publication shall also be affixed to a conspicuous place on the exterior wall of the building or structure.

H. APPEAL; FINALITY IF NOT APPEALED

1. Any owner who has received an order under subsection (F) may appeal from the order to the City Council by giving notice of appeal in writing to the Administrator and to the City Clerk within ten (10) days following issuance of the order. In the absence of an appeal to City Council within the prescribed time, the order of the Administrator shall be final. The City Council shall hear appeals within a reasonable time after receipt of the notice of appeal and it may modify and affirm or revoke the order.

I. FAILURE TO COMPLY

1. It shall be unlawful for the owner of a building or structure to fail to comply with an order issued pursuant to subsection (F) from which no appeal has been taken or fail to comply with an order of the City Council following an appeal, unless the owner shall, within ten (10) days following issuance of the order by the City Council, appeal from that order as by law provided.

J. REMEDIES; LIEN FOR COSTS OF DEMOLITION AND REMOVAL

1. The City may initiate any appropriate legal or equitable action or proceedings to prevent, restrain, correct or abate a violation of this Article or prevent the occupancy of the building or structure involved.

2. If the owner or owners fail to correct a violation of this Article and the City is empowered by court order to demolish the building or structure and remove the debris from the premises, the reasonable costs of the demolition and removal shall be a lien against the real property upon which the building or structure is situated, which lien shall be filed, have the same priority, and be collected as the lien for a special assessment as provided in G.S. Chapter 160D, Article 10. The amounts incurred by the City in connection with the removal or demolition shall also be a lien against any other real property owned by the owner of the building or structure and located within the City of Eden's Planning and Development Regulation

Jurisdiction, except for the owner's primary residence. The provisions of this subsection apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

9.04 NON-RESIDENTIAL BUILDING MAINTENANCE STANDARDS

A. GENERAL PROVISIONS

1. Purpose

a. In order to protect the health, safety and welfare of the City and its citizens, as authorized by the North Carolina General Statutes, it is the purpose of this Article to establish minimum standards of maintenance, sanitation, and safety relating to non-residential buildings or structures, as expressly authorized by North Carolina General Statute §160D, Article 11.

b. This Article provides for the repair, closing or demolition of non-residential buildings or structures as a result of a public necessity caused by conditions that are dangerous to the public health, safety and welfare.

2. Conflict with other Provisions

a. In any case where a provision, standard or requirement of this Article is found to be in conflict with another provision of this ordinance, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the people shall prevail.

b. The International Building Code, Current Edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of construction, remodeling or repairs made or required pursuant to this Article.

B. APPLICABILITY AND COMPLIANCE

1. The provisions of this Article shall apply to all non-residential buildings or structures which are now in existence or which may be built within the corporate limits of the City.

2. Every non-residential building or structure and the premises on which it is situated shall comply with the provisions of this Article, whether or not such building or structure shall have been constructed, altered, or repaired before or after the enactment of this Article, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities. This Article establishes minimum standards for all non-residential buildings and structures and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building or structure, equipment or facilities contained therein.

C. MAINTENANCE STANDARDS FOR NON-RESIDENTIAL BUILDINGS AND STRUCTURES

1. All non-residential buildings and structures shall be free of all conditions that are dangerous and injurious to the public health, safety, and welfare of occupants or members of the general public. Without limitation of the foregoing requirement, the existence of any of the following conditions shall be deemed to be dangerous to the public health, safety and welfare for which a public necessity exists for the repair, closing, or demolition of such building or structure and must be corrected in accordance with the provisions of this Article:

a. Interior walls, vertical studs, partitions, supporting members, sills, joists, rafters, or other basic structural members that list, lean, or buckle to such an extent as to render the building unsafe, that are rotted, deteriorated or damaged or that has holes or cracks which might admit rodents.

b. Exterior walls that are not structurally sound, free from defects and damages, and capable of bearing imposed loads safely. Where a wall of a building has become exposed as a result of demolition of adjacent buildings, such wall must have all doors, windows, vents, or other similar openings closed with material of the type comprising the wall. The exposed wall shall be painted, stuccoed, or bricked and sufficiently weatherproofed to prevent deterioration of the wall.

c. Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used. Roofs shall be kept structurally sound and shall be maintained in such a manner so as to prevent rain or other objects from penetrating into the interior of the building.

d. Such damage by fire, wind, or other causes as to render the building unsafe.

e. Dilapidation, decay, unsanitary conditions, or disrepair, which is dangerous to the health and safety of the occupants or members of the general public.

f. Lack of adequate ventilation, light, heating, or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or members of the general public.

g. Buildings and structures including their environs that have accumulations of garbage, trash, or rubbish, which create health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary manner.

h. Flammable, combustible, explosive or other dangerous or hazardous materials shall be stored in a manner approved for such materials and consistent with the International Fire Code.

i. Buildings and structures that have loose and insufficiently anchored overhanging objects, which constitute a danger of falling on persons or property.

j. Buildings and structures including their environs that have insufficiently protected holes, excavations, breaks, projections, obstructions, and other such dangerous impediments on and around walks, driveways, parking lots, alleyways, and other areas which are accessible to and generally used by persons on or around the premises.

k. Buildings and structures that have cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic, or other dangerous objects or similar hazardous conditions. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration and repaired or replaced with like or similar material according to its original use.

l. Buildings and structures that have objects and elements protruding from building walls or roofs, which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects.

m. Chimneys, flues, and vent attachments thereto which are not structurally sound. Chimneys, flues, gas vents, or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight, and capable of withstanding the action of flue gases.

n. Exterior porches, landings, balconies, stairs, or fire escapes which are not structurally sound. All exterior porches, landings, balconies, stairs, and fire escapes shall be provided with banisters or

railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept sound, in good repair, and free of defects.

o. Cornices which are not structurally sound. Rotten or weakened portions shall be repaired and/or replaced. All exposed wood shall be treated or painted.

p. Improperly attached gutters or down-spouts that are located so as to cause a hazard to pedestrians, vehicular traffic, or adjacent property.

q. Advertising sign structures, attached or freestanding awnings, marquees and their supporting members, and other similar attachments and structures that cause a safety hazard to the occupants or members of the general public.

r. All exterior surfaces that may cause unsafe conditions due to a lack of maintenance. Exterior surfaces shall be painted or sealed in order to protect the underlying surface from deterioration. All exterior surfaces that have been painted shall be maintained generally free of peeling and flaking. Where fifty percent (50%) or more of the aggregate of any painted surface shall have peeling or flaking or previous paint worn away, the entire surface shall be repainted in order to prevent further deterioration.

s. Windows containing broken or cracked glass that could be in danger of falling or shattering. All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints, or broken or loose mullions.

t. All openings originally designed as windows, doors, loading docks, or other means of egress or ingress which have been temporarily closed by boarding or other manner in a non-secure manner so as to allow unauthorized admittance. If an opening is temporarily closed by boarding to secure the building or structure, the boarding shall be trim fit, sealed to prevent water intrusion, and painted or stained to properly conform with the other exterior portions of the building and the building or structure shall be maintained in a state that secures the building or structure from any unauthorized admittance from humans, animals, or birds.

u. Any combination of conditions which in the judgment of the Administrator renders any building or structure dangerous or injurious to the health, safety, or general welfare of occupants or members of the general public.

v. It shall be the duty and responsibility of the owner/occupant to ensure that:

(1) All parts of the premises under the control of the occupant shall be kept in a safe, clean and sanitary condition consistent with the non-residential use and the occupant shall refrain from performing any acts which would render any parts of the building or premises unsafe or unsanitary or which would obstruct any adjacent owner/occupant from performing any duty required, or from maintaining his building or premises in a safe and sanitary condition.

(2) Every owner/occupant shall be responsible for the elimination of infestation in and on the premises, subject to his control.

(3) Every owner/occupant shall maintain all supplied plumbing fixtures in a safe and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(4) No garbage or solid waste shall be stored or allowed by the owner/occupant to accumulate on the premises unless contained in a trash receptacle(s) which is in accordance with this ordinance.

(5) Where the owner would not otherwise know of any defect of any facility, utility or equipment required to be furnished hereunder and the same is found to be defective or inoperable, the occupant affected thereby shall, upon learning of such defect, provide notice to the owner.

w. The provisions of this Article that apply to the exterior or interior components of a structure or building or to the premises shall be complied with whether the structure or building or premises is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured by their owners to prevent the entry of unauthorized persons or the formation of nuisance conditions such as infestation.

D. PROCEDURE FOR ENFORCEMENT

1. **Preliminary investigation.** If it comes to the attention of the Administrator that any non-residential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this Article, the Administrator shall undertake a preliminary investigation.
2. **Complaint and Hearing.** If the preliminary investigation discloses evidence of a violation of the minimum standards established by this Article, the Administrator shall issue and cause to be served upon the owner of and parties in interest in the non-residential building or structure a complaint. The complaint shall state the charges and contain a notice that a hearing will be held before the Administrator or officer at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Administrator.
3. **Procedure after Hearing.**
   - **a.** If, after notice and hearing, the Administrator determines that the non-residential building or structure has been maintained in that the property meets the minimum standards established by this Article, the Administrator shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of said determination.
   - **b.** If, after notice and hearing, the Administrator determines that the non-residential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this Article, the Administrator shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order in accordance with the provisions of this section.
   - **c.** If the Administrator determines that the cost of repair, alteration, or improvement of the building or structure would not exceed fifty percent (50%) of its then current value, then the Administrator shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, to either (i) repair, alter, or improve the non-residential building or structure in order to bring it into compliance with the minimum standards established by this Article or (ii) vacate and close the non-residential building or structure for any use.
   - **d.** If the Administrator determines that the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value, then the Administrator shall state in writing the findings of fact in support of such determination and issue an order that requires the

owner, within a reasonable time specified in the order, to either (i) remove or demolish the non-residential building or structure or (ii) repair, alter or improve the non-residential building or structure to bring it into compliance with the minimum standards established by this Article.

4. **Failure to Comply with Order and Ordinances.**
   - **a.** If the owner fails to comply with an order to either (i) repair, alter, or improve the non-residential building or structure or (ii) vacate and close the non-residential building or structure, the Administrator shall submit to the City council an ordinance ordering the Administrator to cause such non-residential building or structure to be repaired, altered, or improved in order to bring it into compliance with the minimum standards established by this Article or to be vacated and closed for any use. The property shall be described in the ordinance. If City council adopts the ordinance, the Administrator shall cause the building or structure to be vacated and closed for any use.
   - **b.** If the owner fails to comply with an order to either (i) remove or demolish the non-residential building or structure or (ii) repair, alter, or improve the non-residential building or structure, the Administrator shall submit to the City council an ordinance ordering the Administrator to cause such non-residential building or structure to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a non-residential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the City council. The property shall be described in the ordinance. If City council adopts the ordinance, the Administrator shall cause the building or structure to be removed or demolished.

E. LIMITATIONS ON ORDERS AND ORDINANCES – HISTORIC LANDMARK OR HISTORIC DISTRICT

1. Notwithstanding any other provision of this Article, if the non-residential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the City council determines, after a public hearing, that the non-residential building or structure is of individual significance or contributes to maintaining the character of the district, and the non-residential building or structure has not been condemned as unsafe, an order issued by the Administrator and an ordinance approved by City Council may only require that the non-residential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this Article.

F. LIMITATIONS ON ORDERS AND ORDINANCES – VACANT MANUFACTURING FACILITY OR VACANT INDUSTRIAL WAREHOUSE

1. Notwithstanding any other provision of this Article, an order issued by the Administrator and an ordinance approved by City Council may not require repairs, alterations, or improvements to be made to a vacant manufacturing facility or a vacant industrial warehouse to preserve the original use.
2. The order and ordinance may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

G. VACATED AND CLOSED NON-RESIDENTIAL BUILDINGS OR STRUCTURES

1. If the City Council has adopted an ordinance or the Administrator has issued an order requiring the building or structure to be repaired, altered, or improved or vacated and closed and the building or structure has been vacated and closed for a period of two (2) years pursuant to the ordinance or order,

then if the City council finds that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the City in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area, then City council may, after the expiration of the two (2) year period, adopt an ordinance and serve such ordinance on the owner, setting forth the following:

a. The ordinance shall require that the owner either (i) demolish and remove the non-residential building or structure within ninety (90) days or (ii) repair, alter, or improve the non-residential building or structure to bring it into compliance with the minimum standards established by this Article within ninety (90) days.

b. The ordinance shall require that if the owner does not either (i) demolish and remove the non-residential building or structure within ninety (90) days or (ii) repair, alter, or improve the non-residential building or structure to bring it into compliance with the minimum standards established by this Article within ninety (90) days, then the Administrator shall demolish and remove the non-residential building or structure.

c. In the case of a vacant manufacturing facility or a vacant industrial warehouse, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five (5) years before City council may take action under this section.

d. If the owner fails to comply with the requirements of the ordinance within ninety (90) days, the Administrator shall demolish and remove the non-residential building or structure.

H. METHODS OF SERVICE OF COMPLAINTS AND ORDERS

1. Complaints or orders issued by the Administrator under this Article shall be served upon persons either personally or by certified mail and, in conjunction therewith, may be served by regular mail. When the manner of service is by regular mail in conjunction with certified mail, and the certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after mailing, service shall be deemed sufficient. The person mailing the complaint or order by regular mail shall certify that fact and the date thereof, and such certificate shall be conclusive in the absence of fraud. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

2. If the identities of any owner or the whereabouts of persons are unknown and cannot be ascertained by the Administrator in the exercise of reasonable diligence, and the Administrator makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the City at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

I. ACTION BY THE ADMINISTRATOR

1. After failure of an owner of a non-residential building or structure to comply with an order of the Administrator issued pursuant to the provisions of this Article and upon adoption by the City Council of an ordinance authorizing and directing the owner to do so, as provided by G. S. 160D-119 and this Article,

the Administrator shall proceed to cause such non-residential building or structure to be repaired, altered, or improved to comply with the minimum standards established by this Article, or to be vacated and closed or to be removed or demolished, as directed by the ordinance of the City Council.

2. The Administrator may cause to be posted on the main entrance of any non-residential building or structure which is to be vacated and closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

J. COST, LIEN ON PREMISES

1. As provided by G. S.160D-119, the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Administrator pursuant to this subsection shall be a lien against the real property upon which such costs were incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160A of the North Carolina General Statutes. The amount of the costs shall also be a lien on any other real property of the owner located within the City limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
2. If the non-residential building or structure is removed or demolished by the Administrator, he/she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Administrator, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

K. EJECTMENT

1. If any occupant fails to comply with an order to vacate a non-residential building or structure, the Administrator may file a civil action in the name of the City to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the non-residential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29.
2. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the Administrator produces a certified copy of an ordinance adopted by the City Council to vacate the occupied non-residential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the non-residential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment

may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a non-residential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least thirty (30) days before the filing of the summary ejectment proceeding, that the City Council has ordered the administrator to proceed to exercise his duties to vacate and close or remove and demolish the non-residential building or structure.

L. APPEALS

See *Article 3 – Development and Administrative Review* Procedures for Appeals of Administrator Decision.

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ARTICLE 10 – ENVIRONMENTAL PROTECTION

10.01 WATERSHED PROTECTION

A. AUTHORITY AND ENFORCEMENT

The North Carolina General Assembly has by G.S. § 143.211 Declaration of Public Policy stated that it is declared to be the public policy of this State to provide for the conservation of its water and air resources and has by G.S. § 143-214.5 Water Supply Watershed Protection delegated the responsibility for water supply watershed management and protection to be administered by local governments and has by G.S. § 143-214.5 directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The City Council of the City of Eden pursuant to the provisions herein referenced as well as G.S. § 143-211 and G.S. § 143-214.5, G.S. §160D-702 and G.S. § 143-801, G.S. § 160A-174-185, and G.S. § 143-193, does hereby ordain and enact into law the following Sections as the Watershed Protection Section of the City of Eden.

B. JURISDICTION

The provisions of this Section shall apply within the areas designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission (a division of NCDEQ) and shall be defined and established on the map entitled, "Watershed Protection Map of the City of Eden, North Carolina" ("the Watershed Map"), which is adopted simultaneously herewith as part of the City's official zoning map. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Section. This Section shall be permanently kept on file in the office of the City Clerk.

1. Exceptions to Applicability.

a. Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, nor shall any provision of this Section amend, modify, or restrict any provisions of the Code of Ordinances of the City of Eden.

b. It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

c. Existing development, as defined in *Section 14 - Definitions*, is not subject to the requirements of this Section. Expansions to structures classified as existing development must meet the requirements of this Section, however, the built-upon area of the existing development is not required to be included in the density calculations.

d. A pre-existing lot owned by an individual prior to the effective date of this Section, regardless of whether or not a vested right has been established, may be developed for single family residential purposes without being subject to the restrictions of this Section. However, this exemption is not applicable to multiple contiguous lots under single ownership.

C. REMEDIES

1. If any development and/or land use is found to be in violation of this Section, the City Council may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of $500.00, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may access civil penalties in accordance with G. S. § 143-215.6(a). Each day that the violation continues shall constitute a separate offense.

2. If the Administrator finds that any of the provisions of this Section are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take action authorized by this Section to ensure compliance with or to prevent violation of its provisions. If a ruling of the Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

D. SEVERABILITY

Should any section or provision of this Section be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Section as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

E. EFFECTIVE DATE

This Section shall take effect and be in force on July 1, 1993.

F. SUBDIVISION REGULATIONS

1. See *Article 8 – Subdivision and Infrastructure Standards.*

2. Certificate of Approval for Recording. If the Administrator approves a subdivision plat, the following certificate shall be provided on all recorded plats:

Certificate of Approval for Recording

I certify that the plat shown hereon complies with the Watershed Protection Standards of the Eden Unified Development Ordinance and is approved by the Administrator for recording in the Rockingham County Register of Deeds office.

_____ _____

Administrator Date

NOTICE: This property is located within a Public Water Supply Watershed. Development restrictions may apply.

3. Subdivision standards and requirement improvements.

- **a.** All lots shall provide adequate building space in accordance with the development standards contained in *Article 4 – Zoning Districts*.
- **b.** Lots which are smaller than the minimum required for residential lots shall be identified on the final plat as “NOT FOR RESIDENTIAL PURPOSES."
- **c.** For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.
- **d.** Storm Water Drainage Facilities. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporate Best Management Practices to minimize water quality impacts.
- **e.** Erosion and Sedimentation Control. The application shall, where required, be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the N.C. Division of Land Quality.
- **f.** Roads constructed in critical areas and watershed buffer areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

4. Construction Procedures.

- **a.** No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved by the Administrator.
- **b.** No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this Section until all requirements of this Section have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Administrator to provide for adequate inspection.

5. Penalties for Transferring Lots in Unapproved Subdivisions.

a. See *Article 8 – Subdivision and Infrastructure Standards.*

G. DEVELOPMENT REGULATIONS

1. Establishment of Watershed Areas.

a. The purpose of this Section is to list and describe the watershed areas herein adopted.

b. For purposes of this Section, the City of Eden is hereby divided into the following areas, as appropriate:

(1) WS-IV-CA (Critical Area)

(2) WS-IV-PA (Protected Area)

c. **WS-IV Watershed Areas - Critical Area (WS-IV-CA).** Only new development activities that require an erosion/sedimentation control plan under State law or approved local program are required to meet the provisions of this Section when located in the WS-IV watershed. In order to address a moderate to high land use intensity pattern, single-family residential uses are allowed at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed twenty-four percent (24%) built-upon area.

(1) Prohibited Uses:

(a) Flammable and combustible liquid and gas storage and distribution facilities; residential and commercial sales and distribution; and bulk and wholesale storage and distribution.

(b) Junkyards and motor vehicle wrecking yards.

(c) Land application of sludge residuals or petroleum contaminated soils.

(d) Landfills, demolition and sanitary.

(e) Manufacture of: chemicals and allied products; food, beverages and kindred products; primary metal products; rubber products; plastic products; and, concrete products.

(f) Mining and quarrying activities.

(g) Motor freight transportation (truck) terminals.

(h) Motor vehicle related operations: gasoline and fuel sales operation; and, repair, service and maintenance operations.

(i) Storage and/or manufacture of hazardous materials, toxic substances and the storage and/or treatment of waste from hazardous materials and toxic substances.

(2) Allowed Uses:

(a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1994 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic map or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential uses.

(d) Non-residential development, excluding: 1) the storage of toxic and hazardous materials unless a spill containment plan is implemented, 2) landfills and 3) sites for land application of sludge/residuals or petroleum contaminated soils.

(3) Density and Built-upon Limits:

(a) Single-Family Residential--development shall not exceed two (2) dwelling units per acre on a project by project basis. No residential lot shall be less than one-half (1/2) acre, except within an approved cluster development.

(b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating the built-upon area; total project area shall include total acreage in the tract on which the project is to be developed.

d. WS-IV Watershed Areas - Protected Area (WS-IV-PA). Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this Section when located in a WS-IV watershed. In order to address a moderate to high land use intensity pattern, single-family residential uses shall develop at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. A maximum of three (3) dwelling units per acre or thirty-six percent (36%) built-upon area is allowed for projects without a curb and gutter street system.

(1) Prohibited Uses:

(a) Sanitary landfills (demolition landfills are allowed subject to approval of North Carolina Division of Solid Waste Management).

(b) Mining and quarrying activities.

(c) Manufacture of hazardous materials, toxic substances and the storage and/or treatment of waste from hazardous materials and toxic substances.

(2) Uses Allowed:

(a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food Agricultural, Conservation and Trade Act of 1990.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1r.61O1-.0209).

(c) Residential development.

(d) Non-residential development, excluding the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(3) Density and Built-upon Limits:

(a) Single-Family Residential--development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than one-half (1/2) acre, or one-third (1/3) acre for projects without a curb and gutter system, except within an approved cluster development.

(b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

(c) In addition to the development allowed under paragraphs (a) and (b) above, new development and expansions may occupy up to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project by project basis subject to the provisions below. To the maximum extent practicable, projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. This shall hereafter be referred to as the 10/70 provision.

(d) Only non-residential projects within the protected area (PA) of either the Smith or Dan River watersheds under the jurisdiction of the City of Eden may qualify. There shall be no transfer between the Smith and Dan River Watersheds.

(e) Developments using this option shall provide an engineer's certification of runoff control for control of the first one inch (1") of runoff from all built upon area.

(f) No project that does not have access to public sewer shall qualify for the 10/70 provision. Approval may be granted subject to connection to public sewer provided such connection is made within one (1) year from the date the approval is granted. When a building permit for the site is issued or the subdivision plat for a development is recorded, an allocation shall be assigned. Expiration of a building permit shall terminate the allocation. If, in the case of a subdivision plat, a building permit is not issued within one (1) year from the date of recording, the allocation shall be terminated. In all cases unless construction has been initiated and is proceeding the allocation shall be terminated after one (1) year.

(g) Allocation shall be made by the City Council upon recommendation from the Watershed Administrator and the Planning Board. Each project shall be considered on its own merit based upon its impact to the local economy, its impact to the City's water reclamation program, the potential level of hazard to the water supply, soil conditions, drainage ways, slope, undisturbed areas, proximity to waterways, and whether it is an expansion of an existing development or a new development. New development shall receive a higher priority than expansions of existing development. The City Council may consider any other factors that it deems relevant in its decision making.

(h) No existing use that is prohibited by this Section or is non-conforming to any other City of Eden land use regulation shall be allowed to expand using the 10/70 provision.

e. Cluster Development.

(1) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments in this Section. Built-upon area or stormwater control requirements of the project shall not exceed that allowed for the critical area or balance of watershed, whichever applies.

(2) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.

(3) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

f. Buffer Area Required.

(1) A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise, a minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

(2) No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

g. Rules Governing the Interpretation of Watershed Area Boundaries.

(1) Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

(a) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.

(b) Where area boundaries are indicated as approximately following lot line, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the City of Eden as evidence that one or more properties along these boundaries do not lie within the watershed area.

(c) Where the watershed area boundaries lie at scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the Watershed Map.

(d) Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

(e) Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Board of Adjustment.

h. Application of Regulations.

(1) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.

(2) No area required for the purpose of complying with the provisions of this Section shall be included in the area required for another building.

(3) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 6.

(4) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

i. Existing Development.

(1) Any existing development as defined in *Article 14 - Definitions* may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this Section; however, the built-upon area of the existing development is not required to be included in the density calculations.

j. Vacant Lots.

This category consists of vacant lots for which plats or deeds have been recorded in the office of the Rockingham County Register of Deeds at Rockingham County. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following:

(1) Where the lot area is below the minimum specified in this Section the watershed Administrator is authorized to issue a watershed protection permit.

(2) Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this Section and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this Section, or if this is impossible, reduce to the extent possible the nonconformity of the lots.

k. Occupied Lots.

This category consists of lots, occupied for residential purposes at the time of the adoption of this Section. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this Section, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

l. Uses of Land.

This category consists of uses existing at the time of adoption of this Section where such use of land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

(1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
(2) Such use of land shall be changed only to an allowed use.
(3) When such use ceases for a period of at least one year, it shall not be reestablished.

m. Reconstruction of Buildings or Built-upon Areas.

Any existing building or built-upon area not in conformance with the restrictions of this Section that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family residential development, provided:

(1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
(2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

H. WATERSHED PROTECTION PERMIT

1. Except where a single-family dwelling is constructed on a lot deeded prior to the effective date of this Section, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this Section.
2. Watershed Protection Permit applications shall be filed with the Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Administrator.
3. Prior to issuance of a Watershed Protection Permit, the Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this Section.
4. A Watershed Protection Permit shall expire if a Building Permit or Watershed Protection Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

I. BUILDING PERMIT REQUIRED

1. Except for a single family residence constructed on a lot deeded prior to July 1, 1993, no permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

J. WATERSHED PROTECTION OCCUPANCY PERMIT

1. The Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this Section have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.
2. A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alterations of the building.
3. When only a change in use of land or existing building occurs, the Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this Section have been met coincident with the Watershed Protection Permit.
4. If the Watershed Protection Occupancy Permit is denied, the Administrator shall notify the applicant in writing stating the reasons for denial.
5. No building or structure which has been erected, moved, or structurally altered may be occupied until the Administrator has approved and issued a Watershed Protection Occupancy Permit.

K. PUBLIC HEALTH REGULATIONS

1. Public Health.

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

2. Abatement.

a. The Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
b. The Administrator shall report all findings to the Board of Adjustment. The Administrator may consult with any public agency or official and request recommendations.

c. Where the Board of Adjustment finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

L. ADMINISTRATION, ENFORCEMENT AND APPEALS

1. Watershed Administrator and Duties.

The City of Eden shall appoint a Watershed Administrator (also see – Administrator in *Section 2 - Administration*), who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this Section as follows:

a. The Watershed Administrator or his duly authorized representative shall issue Watershed Protection Permits and Watershed Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

b. The Watershed Administrator shall serve as Administrative Assistant to the Board of Adjustment.

c. The Watershed Administrator shall be responsible for keeping records of all amendments to the local Water Supply Watershed Protection Section and shall provide copies of all amendments upon adoption to the Water Quality Section of the Division of Water Quality.

d. The Watershed Administrator shall keep records of the jurisdiction's use of the provision that a maximum of ten percent (10%) of the non-critical area of WS-II and WS-III watersheds and, for local governments that do not choose to incorporate the high density option, ten percent (10%) of the protected area of WS-IV watersheds may be developed with new development at a maximum of seventy percent (70%) built-upon surface area. Records for each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan (if applicable).

e. The Watershed Administrator is granted the authority to administer and enforce the provisions of this Section, exercising in the fulfillment of his responsibility to full police power of the City of Eden. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Section.

f. The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Section. This record shall be submitted to Water Quality Section of the Division of Environmental Management on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

2. Appeal from the Watershed Administrator.

a. Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Board of Adjustment.

b. Any appeal from a decision of the Watershed Administrator must be submitted to the Board of Adjustment within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

c. An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

d. The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

3. Changes and Amendments to the Watershed Protection Section.

a. See *Article 3 – Development & Administrative Review Procedures*

4. Establishment, Powers, Duties, and Appeals of the Watershed Review Board.

The Watershed Review Board provides oversight and appeals of decisions of this Section. See *Article 2 – Administration, Section 2.11.*

10.02 FLOOD DAMAGE PREVENTION

Commentary: The section numbering and formatting hierarchy of this section is intentionally different from the remainder of this Article/Ordinance and has been kept consistent with the model ordinance from the state in order to ensure easy reference for users and compatibility with the formatting style and referencing used statewide in the model ordinance.

Article 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

Section A. STATUTORY AUTHORIZATION.

Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Chapter 160D; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Eden, North Carolina, does ordain as follows:

Section B. FINDINGS OF FACT.

(1) The flood prone areas within the planning jurisdiction of the City of Eden are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

Section C. STATEMENT OF PURPOSE.

It is the purpose of this Section to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(1) restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(2) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(5) prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section D. OBJECTIVES.

The objectives of this Section are:

(1) to protect human life and health;
(2) to minimize expenditure of public money for costly flood control projects;
(3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
(4) to minimize prolonged business losses and interruptions;
(5) to minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
(6) to help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
(7) to ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

Article 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

"Accessory Structure (Appurtenant Structure)" means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure.

"Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this Section.

"Area of Shallow Flooding" means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)"

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

"Building" see "Structure"

"Chemical Storage Facility" means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Disposal" means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Elevated Building" means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Encroachment" means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

"Existing Manufactured Home Park or Manufactured Home Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) the overflow of inland or tidal waters; and/or

(2) the unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

"Flood Insurance" means the insurance coverage provided under the National Flood Insurance Program.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

"Flood Insurance Study (FIS)" means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMS) and Flood Boundary and Floodway Maps (FBFMS), if published.

"Flood Prone Area" see "Floodplain"

"Floodplain" means any land area susceptible to being inundated by water from any source.

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain Development Permit" means any type of permit that is required in conformance with the provisions of this Section, prior to the commencement of any development activity.

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain Management Regulations" means this Section and other zoning Sections, subdivision regulations, building codes, health regulations, special purpose Sections, and other applications of police

power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Flood Zone" means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

"Freeboard" means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

"Functionally Dependent Facility" means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Hazardous Waste Facility" means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

"Highest Adjacent Grade (HAG)" means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

"Historic Structure" means any structure that is:

(a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
(b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
(c) individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or

(d) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program"

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

"Lowest Adjacent Grade (LAG)" means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

"Lowest Floor" means lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Section.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market Value" means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

"Mean Sea Level" means, for purposes of this Section, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage Prevention Section and includes any subsequent improvements to such structures.

"Non-Encroachment Area" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

"Public Safety" and/or "Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake or river, bay, stream, canal, or basin.

"Recreational Vehicle (RV)" means a vehicle, which is:

(a) built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) designed to be self-propelled or permanently towable by a light duty truck; and
(d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Reference Level" is the bottom of the lowest horizontal structural member of the lowest floor, excluding the foundation system, for structures within all Special Flood Hazard Areas.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade. *(Two (2) feet is a State-recommended minimum, greater than two (2) feet is OPTIONAL)*

"Remedy a Violation" means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Section or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means, as defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste.

"Solid Waste Disposal Site" means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Article 3, Section B of this Section.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement". *Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. (The last sentence is* ***OPTIONAL*** *but required for eligibility for Increased Cost of Compliance (ICC) benefits for repetitive losses.)*

"Substantial Improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

(b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

"Variance" is a grant of relief from the requirements of this Section.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 4 and 5 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Article 3. GENERAL PROVISIONS.

Section A. LANDS TO WHICH THIS SECTION APPLIES.

This Section shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable of the City of Eden and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

Section B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM) for Rockingham County dated July 3, 2007 which are adopted by reference and declared to be a part of this Section

In addition, upon annexation into the City of Eden or inclusion in the Extra-Territorial Jurisdiction (ETJ), the Special Flood Hazard Areas identified by the Federal Emergency Management Agency (FEMA) and/or produced under the Cooperating Technical State agreement between the State of North Carolina and FEMA as stated above, for the Unincorporated Areas of Rockingham County, with accompanying maps and other supporting data are adopted by reference and declared to be a part of this Section.

Section C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this Section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Article 3, Section B of this Section.

Section D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Section and other applicable regulations.

Section E. ABROGATION AND GREATER RESTRICTIONS.

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section F. INTERPRETATION.

In the interpretation and application of this Section, all provisions shall be:

(a) considered as minimum requirements;
(b) liberally construed in favor of the governing body; and
(c) deemed neither to limit nor repeal any other powers granted under State statutes.

Section G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of the City of Eden or by any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder.

Section H. PENALTIES FOR VIOLATION.

Violation of the provisions of this Section or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered as a separate offense. Nothing herein

contained shall prevent the City of Eden from taking such other lawful action as is necessary to prevent or remedy any violation as per the City of Eden UDO and the Eden City Code.

Article 4. ADMINISTRATION.

Section A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Planning and Inspections Director of the City of Eden, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this Section.

Section B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT, AND CERTIFICATION REQUIREMENTS.

(1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

i. the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

ii. the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;

iii. flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;

iv. the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;

v. the Base Flood Elevation (BFE) where provided as set forth in Section 3, Subsection B; Section 4, Subsection C(11 & 12); or Section 5, Subsection D;

vi. the old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

i. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

ii. Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and

iii. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

(c) If floodproofing, a Floodproofing Certificate *(FEMA Form 81-65)* with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

(d) A Foundation Plan, drawn to scale,, which shall include details of the proposed foundation system to ensure all provisions of this Section are met. These details include but are not limited to:

i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

ii. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 5, Subsection B(4)(d), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;

(e) Usage details of any enclosed areas below the regulatory flood protection elevation.

(f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(g) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)

(h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 5, Subsections B(6 & 7) of this Section are met.

(i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

(a) A description of the development to be permitted under the floodplain development permit.

(b) The Special Flood Hazard Area determination for the proposed development per available data specified in Section 3, Subsection B.

(c) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(d) The regulatory flood protection elevation required for the protection of all public utilities.

(e) All certification submittal requirements with timelines.

(f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(g) The flood openings requirements, if in Zones A, AO, AE or A1-30.

(3) Certification Requirements.

(a) Elevation Certificates

i. An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

ii. An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

iii. A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data and plan. Deficiencies

detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 5, Subsection B(3).

(d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

i. Recreational Vehicles meeting requirements of Section 5, Subsection B(6)(a);
ii. Temporary Structures meeting requirements of Section 5, Subsection B(7); and
iii. Accessory Structures less than 150 square feet meeting requirements of Section 5, Subsection B(8).

Section C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Section have been satisfied.

(2) Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

(3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 5, Subsection E are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 4, Subsection B(3).

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Section 4, Subsection B(3).

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Section 4, Subsection B(3).

(9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 4, Subsection B(3) and Section 5, Subsection B(2).

(10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.

(11) When Base Flood Elevation (BFE) data has not been provided in accordance with Section 3, Subsection B, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 5, Subsection D(2)(b), in order to administer the provisions of this Section.

(12) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section 3, Subsection B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Section.

(13) When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

(14) Permanently maintain all records that pertain to the administration of this Section and make these records available for public inspection.

(15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local Section and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Section, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the

stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(18) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(19) Follow through with corrective procedures of Section 4, Subsection D.

(20) Review, provide input, and make recommendations for variance requests.

(21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 3, Subsection B of this Section, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

Section D. CORRECTIVE PROCEDURES.

(1) Violations to be Corrected: When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- **(a)** that the building or property is in violation of the Flood Damage Prevention Section;
- **(b)** that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
- **(c)** that following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Section, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred-eighty (180) calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

(4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

Section E. VARIANCE PROCEDURES.

(1) The Board of Adjustment *as* established by the City of Eden, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this Section.

(2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for:

- **(a)** the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- **(b)** functionally dependent facilities if determined to meet the definition as stated in Section 2 of this Section, provided provisions of Section 4, Subsection E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages.
- **(c)** any other type of development, provided it meets the requirements stated in this section.

(4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Section, and:

- **(a)** the danger that materials may be swept onto other lands to the injury of others;
- **(b)** the danger to life and property due to flooding or erosion damage;
- **(c)** the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) the importance of the services provided by the proposed facility to the community;
(e) the necessity to the facility of a waterfront location as defined under Section 2 of this Section as a functionally dependent facility, where applicable;
(f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
(g) the compatibility of the proposed use with existing and anticipated development;
(h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
(i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
(j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
(k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) A written report addressing each of the above factors shall be submitted with the application for a variance.
(6) Upon consideration of the factors listed above and the purposes of this Section, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.
(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
(8) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
(9) Conditions for Variances:

(a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or Sections.
(b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
(d) Variances shall only be issued prior to development permit approval.
(e) Variances shall only be issued upon:

i. a showing of good and sufficient cause;
ii. a determination that failure to grant the variance would result in exceptional hardship; and
iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Sections.

(10) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

(a) The use serves a critical need in the community.
(b) No feasible location exists for the use outside the Special Flood Hazard Area.
(c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
(d) The use complies with all other applicable Federal, State and local laws.
(e) The City of Eden has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

Article 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

Section A. GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Section, shall meet the requirements of "new construction" as contained in this Section.

(9) Nothing in this Section shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Section and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section.

(10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 4, Subsection E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Section 4, Subsection B(3) of this Section.

(11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Section B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 3, Subsection B, or Section 4, Subsection C(11 & 12), the following provisions, in addition to Section 5, Subsection A, are required:

(1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 2 of this Section.

(2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 2 of this Section. Structures located in A, AE and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 5, Subsection H(3). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 4, Subsection B(3), along with the operational and maintenance plans.

(3) Manufactured Homes.

(a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 2 of this Section.

(b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 5, Subsection B(4)(a), (b), and (c).

(d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area

(stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b) shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(c) shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;

- **i.** A minimum of two flood openings on different sides of each enclosed area subject to flooding;
- **ii.** The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
- **iii.** If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- **iv.** The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- **v.** Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
- **vi.** Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/Improvements.

(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- **i.** not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
- **ii.** a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- **i.** not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(d) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

(b) meet all the requirements for new construction.

(7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification**.** The following information shall be submitted in writing to the floodplain administrator for review and written approval;

(a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

(b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;

(c) the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with Section 5, Subsection A(1);

(f) All service facilities such as electrical shall be installed in accordance with Section 5, Subsection A(4); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Section 5, Subsection B(4)(c).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 4, Subsection B(3).

Section C. RESERVED.

Section D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 3, Subsection B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 5, Subsections A and B, shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:

(a) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Section and shall be elevated or floodproofed in accordance with standards in Section 4, Subsection C(11 & 12).

(b) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 3, Subsection B to be utilized in implementing this Section.

(c) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in Section 2.

Section E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(1) Standards outlined in Section 5, Subsections A and B; and

(2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 3, Subsection B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 5, Subsections A and B, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:

- **(a)** the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or
- **(b)** a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(2) If Section 5, Subsection F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Section.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

- **(a)** the anchoring and the elevation standards of Section 5, Subsection B(3); and
- **(b)** the no encroachment standard of Section 5, Subsection F(1).

Section G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Section 3, Subsection B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 5, Subsection A, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of two (2) feet if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 5, Subsection H(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Section 4, Subsection B(3) and Section 5, Subsection B(2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION 6. LEGAL STATUS PROVISIONS.

Section A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION SECTION.

This Section in part comes forward by re-enactment of some of the provisions of the flood damage prevention Section enacted November 15, 1977 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Section shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention Section enacted on November 15, 1977, as amended, which are not reenacted herein are repealed.

Section B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this Section; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Section.

Section C. EFFECTIVE DATE.

This Section shall become effective upon adoption.

Section D. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Section as adopted by the City Council of the City of Eden, North Carolina, on the 17th day of July, 2007.

10.03 STORMWATER MANAGEMENT

A. PURPOSE AND APPLICABILITY

Development activities tend to increase the volume of stormwater runoff due to the elimination of pervious surfaces through paving and the construction of buildings and other structures. Stormwater runoff impacts the public health, safety, and welfare by flooding private and public property, by discharging pollutants, such as oils and greases, into receiving water bodies, and by making public streets and roads unsafe. Therefore, applicants for development authorization in which the total impervious surface will exceed 20,000 square feet, shall not be entitled to a zoning compliance permit until such time as the applicant has submitted a stormwater management plan demonstrating compliance with this section.

B. PLAN PROTECTION

The stormwater management plan shall be prepared, signed, and sealed by a registered or licensed North Carolina professional with qualifications appropriate for the type of system required and to the degree they are permitted to do so under the law.

C. CONCEPTUAL STORMWATER MANAGEMENT PLAN

1. Purpose

The purpose of a conceptual stormwater management plan is to demonstrate the likelihood that a development undergoing site plan review or special use review will meet the standards for stormwater management contained in this section.

2. Contents of a conceptual stormwater management plan

When a conceptual stormwater management plan is required, the following requirements shall apply:

a. The plan shall show the location of proposed improvements, shall only include stormwater related features, and shall not be shown on any other plan such as a site plan, an erosion control plan, or a landscape plan.
b. Calculations, including all assumptions of the pre- and post-development stormwater runoff rate in cubic feet per second generated by the peak runoff from a ten-year storm.
c. Identification of drainage areas.
d. A general layout of stormwater drainage features within the development.
e. If applicable, a statement describing the feature or features proposed to limit the post development stormwater runoff rate to the pre-development stormwater runoff rate, and the proposed location and size of feature(s).

f. Location of the point(s) of discharge of the stormwater system.

g. Location of connection(s) to the City stormwater system, if applicable.

If, in the opinion of the City Engineer, the conceptual stormwater management plan does not adequately address the requirements of the stormwater resolution, additional information may be required.

D. CONTENTS OF FINAL STORMWATER MANAGEMENT PLAN

Final stormwater management plans shall contain the following elements:

1. A plan showing all pre- and post-development features with (1) a table listing and describing each feature and whether or not it is impervious, (2) each feature's area in square feet or acres and the percent each feature represents of the total area, and (3) identification and delineation of all drainage areas and point(s) of discharge of the stormwater system. This plan shall be drawn in a suitable easy to read scale and shall be a separate document and not part of any other plan.
2. Topographic contours or spot elevations for all pre- and post-development areas. Topographic contours or spot elevations shall clearly show pre- and post-development drainage patterns.
3. Calculations showing the pre- and post-development rate of stormwater runoff in cubic-feet-per second generated by the peak runoff rate from a ten-year storm.
4. Details of proposed stormwater drainage structures, infiltration areas, retention ponds or detention ponds including as appropriate pertinent elevations, sections, outlet details, area capacity curves, identifying labels, and other information as required by the City Engineer.
5. Details and logical calculations and tables showing all design assumptions, methods of analysis, the pre- and post-development runoff qualities, capacities of proposed structures, slopes, sizes, identifying labels, and other information as required by the City Engineer.

E. STANDARDS FOR REVIEW

Unless the applicant has been approved to discharge stormwater runoff into an existing City stormwater facility with sufficient capacity to accommodate increased flows attributable to the proposed development as provided below, the stormwater management plan shall be designed so that the post-development rate of stormwater runoff, shall not exceed the pre-development rate of stormwater runoff. The stormwater management plan may propose retention either on-site or off-site or by means of a combination of on-site and off-site. If any or all of the stormwater from a design storm is proposed to be retained off-site, such shall be done only under express terms of a recorded easement.

F. DISCHARGE INTO CITY STORMWATER FACILITY

An applicant may request authorization to discharge stormwater runoff from a proposed development into an existing City stormwater facility. Upon determination that there is sufficient capacity in the City stormwater facility to accommodate the runoff associated with the proposed development, as well as existing and other anticipated runoff, the Administrator, or his designee, may authorize the applicant to discharge into the City facility. All costs associated with such discharge, including installation of necessary storm sewers, shall be borne by the applicant.

G. INSTALLATION OF STORMWATER SYSTEM

The stormwater system shall be installed in substantial conformity with the plans. If there are significant deviations from the design, a revised plan showing the deviations shall be submitted in time to permit the review and approval of the plans before any construction work affected by such deviations is begun. Upon completion of construction, a registered professional appropriate for the type of stormwater system designed must certify in writing to the City Engineer that the system was inspected during construction and was constructed in substantial conformity with the approved plans, and shall submit a suitable plan clearly marked “As-Built” showing the system as constructed. No Certificate of Occupancy shall be issued until these requirements are met and the as-built plan has been approved. If a development has been approved for construction in phases, a temporary certificate of occupancy may be requested for each phase as long as all other requirements are met. The as-built plan described above will be required at the completion of all phases.

H. MAINTENANCE OF STORMWATER MANAGEMENT FACILITIES

1. The owner of a stormwater management facility shall be responsible for maintenance of that facility unless the City accepts maintenance as provided below. This responsibility shall be noted on the final plat and deeds for any affected lots.
2. Any detention or retention facilities approved under this Section shall be subject to inspection by the City Engineer at least annually and the owner shall pay an annual inspection fee the amount of which shall be determined by resolution of City Council. The owner shall correct any deficiencies within 30 calendar days of written notification thereof. Failure to correct deficiencies or to pay the annual inspection fee shall constitute a violation of this Section.
3. Whenever an existing or future private stormwater management facility is proposed to serve a development undergoing site plan or special use review, the following shall be provided the Administrator prior to issuance of a certificate of occupancy.
4. A written inspection and maintenance agreement in a form acceptable to the City Attorney and executed by the applicant and the owners of the facility, which shall bind the parties thereto and all subsequent owners, successors and assigns, and provide for the following:

a. The maintenance of the facility. If a party other than the applicant assumes primary responsibility for the maintenance of the facility, the applicant shall guarantee the maintenance of the facility and assume ultimate responsibility thereof.

b. Access to the facility at reasonable times for inspection by the City and/or its agents or representatives.

c. That if an order directing the correction, repair, replacement, or maintenance of the facility or of any portion thereof is not satisfactorily complied with within a reasonable period of time, as deemed appropriate by the City Engineer, the City may, after notice to the owner, enter the land and perform all necessary work to place the facility in proper working condition, and may assess the owners of the subject property with the cost of said work, which cost shall be a lien on such property and may be collected as provided in G.S. § 160A-193. Notice shall be provided five (5) calendar days prior to entry and performance of necessary work by the City. Notice shall be in writing and shall be delivered to the owner by hand-delivery, by certified mail, return receipt requested, or by any other means allowed by Rule 4 of the North Carolina Rules of Civil Procedure. The owners of all property served by the facility shall be jointly and severally responsible to the City for the maintenance of the facility and liable for any costs incurred by the City pursuant to said agreement, and all such properties are jointly and severally subject to the imposition of liens for said costs.

d. The Inspection and Maintenance Agreement shall be recorded in the Register of Deeds Office for Rockingham County at the expense of the applicant.

e. Any other provision as may be reasonable required by the City Attorney to achieve the purposes of this section.

5. When deemed necessary by the City Attorney, an easement in a form approved by the City Attorney, granting the City and its agents and representatives adequate and perpetual access to the facility and sufficient area for inspection and maintenance, if necessary, by the City, its agents and representatives. Said easements shall be filed in the Office of the Register of Deeds for Rockingham County at the expense of the applicant, and shall bind all subsequent owners and assigns of the facility and of the property on which the easement is located.

I. EMERGENCY AUTHORITY

If the City Engineer determines that the condition of any stormwater management facility presents an immediate danger to the public health and safety because of an unsafe condition or improper maintenance, the City Engineer shall take such actions as may be necessary to protect the public and make the facility safe. Any costs incurred by the City as a result of the City Engineer's action shall be assessed against any or all of the owners of property served by said facility who shall be jointly and severally liable for all said costs and whose property shall jointly and severally be subject to a lien for said costs which may be collected as provided in G.S. § 160A-193.

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10.02 FLOOD DAMAGE PREVENTION

Commentary: The section numbering and formatting hierarchy of this section is intentionally different from the remainder of this Article/Ordinance and has been kept consistent with the model ordinance from the state in order to ensure easy reference for users and compatibility with the formatting style and referencing used statewide in the model ordinance.

Article 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

Section A. STATUTORY AUTHORIZATION.

Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Chapter 160D; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Eden, North Carolina, does ordain as follows:

Section B. FINDINGS OF FACT.

(1) The flood prone areas within the planning jurisdiction of the City of Eden are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

Section C. STATEMENT OF PURPOSE.

It is the purpose of this Section to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(1) restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(2) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(5) prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section D. OBJECTIVES.

The objectives of this Section are:

(1) to protect human life and health;

(2) to minimize expenditure of public money for costly flood control projects;
(3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
(4) to minimize prolonged business losses and interruptions;
(5) to minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
(6) to help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
(7) to ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

Article 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

"Accessory Structure (Appurtenant Structure)" means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure.

"Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this Section.

"Area of Shallow Flooding" means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)"

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

"Building" see "Structure"

"Chemical Storage Facility" means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Disposal" means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Elevated Building" means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Encroachment" means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

"Existing Manufactured Home Park or Manufactured Home Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) the overflow of inland or tidal waters; and/or
(2) the unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

"Flood Insurance" means the insurance coverage provided under the National Flood Insurance Program.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

"Flood Insurance Study (FIS)" means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMS) and Flood Boundary and Floodway Maps (FBFMS), if published.

"Flood Prone Area" see "Floodplain"

"Floodplain" means any land area susceptible to being inundated by water from any source.

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain Development Permit" means any type of permit that is required in conformance with the provisions of this Section, prior to the commencement of any development activity.

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain Management Regulations" means this Section and other zoning Sections, subdivision regulations, building codes, health regulations, special purpose Sections, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Flood Zone" means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

"Freeboard" means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

"Functionally Dependent Facility" means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Hazardous Waste Facility" means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

"Highest Adjacent Grade (HAG)" means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

"Historic Structure" means any structure that is:

(a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or

(d) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program"

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

"Lowest Adjacent Grade (LAG)" means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

"Lowest Floor" means lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Section.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market Value" means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

"Mean Sea Level" means, for purposes of this Section, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage Prevention Section and includes any subsequent improvements to such structures.

"Non-Encroachment Area" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

"Public Safety" and/or "Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake or river, bay, stream, canal, or basin.

"Recreational Vehicle (RV)" means a vehicle, which is:

(a) built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) designed to be self-propelled or permanently towable by a light duty truck; and
(d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Reference Level" is the bottom of the lowest horizontal structural member of the lowest floor, excluding the foundation system, for structures within all Special Flood Hazard Areas.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade. *(Two (2) feet is a State-recommended minimum, greater than two (2) feet is OPTIONAL)*

"Remedy a Violation" means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Section or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means, as defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste.

"Solid Waste Disposal Site" means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Article 3, Section B of this Section.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement". *Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. (The last sentence is* ***OPTIONAL*** *but required for eligibility for Increased Cost of Compliance (ICC) benefits for repetitive losses.)*

"Substantial Improvement" means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

(b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

"Variance" is a grant of relief from the requirements of this Section.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 4 and 5 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Article 3. GENERAL PROVISIONS.

Section A. LANDS TO WHICH THIS SECTION APPLIES.

This Section shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable of the City of Eden and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

Section B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM) for Rockingham County dated July 3, 2007 which are adopted by reference and declared to be a part of this Section

In addition, upon annexation into the City of Eden or inclusion in the Extra-Territorial Jurisdiction (ETJ), the Special Flood Hazard Areas identified by the Federal Emergency Management Agency (FEMA) and/or produced under the Cooperating Technical State agreement between the State of North Carolina and FEMA as stated above, for the Unincorporated Areas of Rockingham County, with accompanying maps and other supporting data are adopted by reference and declared to be a part of this Section.

Section C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this Section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Article 3, Section B of this Section.

Section D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Section and other applicable regulations.

Section E. ABROGATION AND GREATER RESTRICTIONS.

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section F. INTERPRETATION.

In the interpretation and application of this Section, all provisions shall be:

(a) considered as minimum requirements;
(b) liberally construed in favor of the governing body; and
(c) deemed neither to limit nor repeal any other powers granted under State statutes.

Section G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of the City of Eden or by any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder.

Section H. PENALTIES FOR VIOLATION.

Violation of the provisions of this Section or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered as a separate offense. Nothing herein contained shall prevent the City of Eden from taking such other lawful action as is necessary to prevent or remedy any violation as per the City of Eden UDO and the Eden City Code.

Article 4. ADMINISTRATION.

Section A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Planning and Inspections Director of the City of Eden, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this Section.

Section B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT, AND CERTIFICATION REQUIREMENTS.

(1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

- **i.** the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
- **ii.** the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
- **iii.** flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
- **iv.** the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
- **v.** the Base Flood Elevation (BFE) where provided as set forth in Section 3, Subsection B; Section 4, Subsection C(11 & 12); or Section 5, Subsection D;
- **vi.** the old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

- **i.** Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
- **ii.** Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
- **iii.** Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

(c) If floodproofing, a Floodproofing Certificate *(FEMA Form 81-65)* with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

(d) A Foundation Plan, drawn to scale,, which shall include details of the proposed foundation system to ensure all provisions of this Section are met. These details include but are not limited to:

- **i.** The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
- **ii.** Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 5, Subsection B(4)(d), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;

(e) Usage details of any enclosed areas below the regulatory flood protection elevation.

(f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(g) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)

(h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 5, Subsections B(6 & 7) of this Section are met.

(i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

(a) A description of the development to be permitted under the floodplain development permit.

(b) The Special Flood Hazard Area determination for the proposed development per available data specified in Section 3, Subsection B.

(c) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(d) The regulatory flood protection elevation required for the protection of all public utilities.

(e) All certification submittal requirements with timelines.

(f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(g) The flood openings requirements, if in Zones A, AO, AE or A1-30.

(3) Certification Requirements.

(a) Elevation Certificates

i. An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

ii. An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

iii. A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit

to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 5, Subsection B(3).

(d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

i. Recreational Vehicles meeting requirements of Section 5, Subsection B(6)(a);
ii. Temporary Structures meeting requirements of Section 5, Subsection B(7); and
iii. Accessory Structures less than 150 square feet meeting requirements of Section 5, Subsection B(8).

Section C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Section have been satisfied.

(2) Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

(3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 5, Subsection E are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 4, Subsection B(3).

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Section 4, Subsection B(3).

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Section 4, Subsection B(3).

(9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 4, Subsection B(3) and Section 5, Subsection B(2).

(10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.

(11) When Base Flood Elevation (BFE) data has not been provided in accordance with Section 3, Subsection B, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 5, Subsection D(2)(b), in order to administer the provisions of this Section.

(12) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section 3, Subsection B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Section.

(13) When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

(14) Permanently maintain all records that pertain to the administration of this Section and make these records available for public inspection.

(15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local Section and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Section, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(18) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(19) Follow through with corrective procedures of Section 4, Subsection D.

(20) Review, provide input, and make recommendations for variance requests.

(21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 3, Subsection B of this Section, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

Section D. CORRECTIVE PROCEDURES.

(1) Violations to be Corrected: When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- **(a)** that the building or property is in violation of the Flood Damage Prevention Section;
- **(b)** that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
- **(c)** that following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Section, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred-eighty (180) calendar days. Where the

floodplain administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

(4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

Section E. VARIANCE PROCEDURES.

(1) The Board of Adjustment *as* established by the City of Eden, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this Section.

(2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for:

- **(a)** the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- **(b)** functionally dependent facilities if determined to meet the definition as stated in Section 2 of this Section, provided provisions of Section 4, Subsection E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages.
- **(c)** any other type of development, provided it meets the requirements stated in this section.

(4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Section, and:

- **(a)** the danger that materials may be swept onto other lands to the injury of others;
- **(b)** the danger to life and property due to flooding or erosion damage;
- **(c)** the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- **(d)** the importance of the services provided by the proposed facility to the community;
- **(e)** the necessity to the facility of a waterfront location as defined under Section 2 of this Section as a functionally dependent facility, where applicable;
- **(f)** the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- **(g)** the compatibility of the proposed use with existing and anticipated development;
- **(h)** the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- **(i)** the safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) A written report addressing each of the above factors shall be submitted with the application for a variance.

(6) Upon consideration of the factors listed above and the purposes of this Section, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(8) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(9) Conditions for Variances:

(a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or Sections.

(b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued prior to development permit approval.

(e) Variances shall only be issued upon:

i. a showing of good and sufficient cause;

ii. a determination that failure to grant the variance would result in exceptional hardship; and

iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Sections.

(10) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

(a) The use serves a critical need in the community.

(b) No feasible location exists for the use outside the Special Flood Hazard Area.

(c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.

(d) The use complies with all other applicable Federal, State and local laws.

(e) The City of Eden has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

Article 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

Section A. GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Section, shall meet the requirements of "new construction" as contained in this Section.

(9) Nothing in this Section shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Section and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section.

(10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 4, Subsection E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Section 4, Subsection B(3) of this Section.

(11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Section B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 3, Subsection B, or Section 4, Subsection C(11 & 12), the following provisions, in addition to Section 5, Subsection A, are required:

(1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 2 of this Section.

(2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 2 of this Section. Structures located in A, AE and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 5, Subsection H(3). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 4, Subsection B(3), along with the operational and maintenance plans.

(3) Manufactured Homes.

(a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 2 of this Section.

(b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 5, Subsection B(4)(a), (b), and (c).

(d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan

shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b) shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(c) shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;

i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;

ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

iv. The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;

v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/Improvements.

(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

i. not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

i. not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(d) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

(b) meet all the requirements for new construction.

(7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification**.** The following information shall be submitted in writing to the floodplain administrator for review and written approval;

(a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

(b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;

(c) the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with Section 5, Subsection A(1);

(f) All service facilities such as electrical shall be installed in accordance with Section 5, Subsection A(4); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Section 5, Subsection B(4)(c).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 4, Subsection B(3).

Section C. RESERVED.

Section D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 3, Subsection B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 5, Subsections A and B, shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:

(a) If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Section and shall be elevated or floodproofed in accordance with standards in Section 4, Subsection C(11 & 12).

(b) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 3, Subsection B to be utilized in implementing this Section.

(c) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in Section 2.

Section E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(1) Standards outlined in Section 5, Subsections A and B; and

(2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 3, Subsection B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 5, Subsections A and B, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:

- **(a)** the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or
- **(b)** a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(2) If Section 5, Subsection F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Section.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

- **(a)** the anchoring and the elevation standards of Section 5, Subsection B(3); and
- **(b)** the no encroachment standard of Section 5, Subsection F(1).

Section G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Section 3, Subsection B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 5, Subsection A, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of two (2) feet if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 5, Subsection H(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Section 4, Subsection B(3) and Section 5, Subsection B(2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION 6. LEGAL STATUS PROVISIONS.

Section A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION SECTION.

This Section in part comes forward by re-enactment of some of the provisions of the flood damage prevention Section enacted November 15, 1977 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Section shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention Section enacted on November 15, 1977, as amended, which are not reenacted herein are repealed.

Section B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this Section; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Section.

Section C. EFFECTIVE DATE.

This Section shall become effective upon adoption.

Section D. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Section as adopted by the City Council of the City of Eden, North Carolina, on the 17th day of July, 2007.

10.03 STORMWATER MANAGEMENT

A. PURPOSE AND APPLICABILITY

Development activities tend to increase the volume of stormwater runoff due to the elimination of pervious surfaces through paving and the construction of buildings and other structures. Stormwater runoff impacts the public health, safety, and welfare by flooding private and public property, by discharging pollutants, such as oils and greases, into receiving water bodies, and by making public streets and roads unsafe. Therefore, applicants for development authorization in which the total impervious surface will exceed 20,000 square feet, shall not be entitled to a zoning compliance permit until such time as the applicant has submitted a stormwater management plan demonstrating compliance with this section.

B. PLAN PROTECTION

The stormwater management plan shall be prepared, signed, and sealed by a registered or licensed North Carolina professional with qualifications appropriate for the type of system required and to the degree they are permitted to do so under the law.

C. CONCEPTUAL STORMWATER MANAGEMENT PLAN

1. Purpose

The purpose of a conceptual stormwater management plan is to demonstrate the likelihood that a development undergoing site plan review or special use review will meet the standards for stormwater management contained in this section.

2. Contents of a conceptual stormwater management plan

When a conceptual stormwater management plan is required, the following requirements shall apply:

a. The plan shall show the location of proposed improvements, shall only include stormwater related features, and shall not be shown on any other plan such as a site plan, an erosion control plan, or a landscape plan.
b. Calculations, including all assumptions of the pre- and post-development stormwater runoff rate in cubic feet per second generated by the peak runoff from a ten-year storm.
c. Identification of drainage areas.
d. A general layout of stormwater drainage features within the development.
e. If applicable, a statement describing the feature or features proposed to limit the post development stormwater runoff rate to the pre-development stormwater runoff rate, and the proposed location and size of feature(s).
f. Location of the point(s) of discharge of the stormwater system.
g. Location of connection(s) to the City stormwater system, if applicable.

If, in the opinion of the City Engineer, the conceptual stormwater management plan does not adequately address the requirements of the stormwater resolution, additional information may be required.

D. CONTENTS OF FINAL STORMWATER MANAGEMENT PLAN

Final stormwater management plans shall contain the following elements:

1. A plan showing all pre- and post-development features with (1) a table listing and describing each feature and whether or not it is impervious, (2) each feature's area in square feet or acres and the percent each feature represents of the total area, and (3) identification and delineation of all drainage areas and point(s) of discharge of the stormwater system. This plan shall be drawn in a suitable easy to read scale and shall be a separate document and not part of any other plan.
2. Topographic contours or spot elevations for all pre- and post-development areas. Topographic contours or spot elevations shall clearly show pre- and post-development drainage patterns.
3. Calculations showing the pre- and post-development rate of stormwater runoff in cubic-feet-per second generated by the peak runoff rate from a ten-year storm.
4. Details of proposed stormwater drainage structures, infiltration areas, retention ponds or detention ponds including as appropriate pertinent elevations, sections, outlet details, area capacity curves, identifying labels, and other information as required by the City Engineer.
5. Details and logical calculations and tables showing all design assumptions, methods of analysis, the pre- and post-development runoff qualities, capacities of proposed structures, slopes, sizes, identifying labels, and other information as required by the City Engineer.

E. STANDARDS FOR REVIEW

Unless the applicant has been approved to discharge stormwater runoff into an existing City stormwater facility with sufficient capacity to accommodate increased flows attributable to the proposed development as provided below, the stormwater management plan shall be designed so that the post-development rate of stormwater runoff, shall not exceed the pre-development rate of stormwater runoff. The stormwater management plan may propose retention either on-site or off-site or by means of a combination of on-site and off-site. If any or all of the stormwater from a design storm is proposed to be retained off-site, such shall be done only under express terms of a recorded easement.

F. DISCHARGE INTO CITY STORMWATER FACILITY

An applicant may request authorization to discharge stormwater runoff from a proposed development into an existing City stormwater facility. Upon determination that there is sufficient capacity in the City stormwater facility to accommodate the runoff associated with the proposed development, as well as existing and other anticipated runoff, the Administrator, or his designee, may authorize the applicant to discharge into the City facility. All costs associated with such discharge, including installation of necessary storm sewers, shall be borne by the applicant.

G. INSTALLATION OF STORMWATER SYSTEM

The stormwater system shall be installed in substantial conformity with the plans. If there are significant deviations from the design, a revised plan showing the deviations shall be submitted in time to permit the review and approval of the plans before any construction work affected by such deviations is begun. Upon

completion of construction, a registered professional appropriate for the type of stormwater system designed must certify in writing to the City Engineer that the system was inspected during construction and was constructed in substantial conformity with the approved plans, and shall submit a suitable plan clearly marked "As-Built" showing the system as constructed. No Certificate of Occupancy shall be issued until these requirements are met and the as-built plan has been approved. If a development has been approved for construction in phases, a temporary certificate of occupancy may be requested for each phase as long as all other requirements are met. The as-built plan described above will be required at the completion of all phases.

H. MAINTENANCE OF STORMWATER MANAGEMENT FACILITIES

1. The owner of a stormwater management facility shall be responsible for maintenance of that facility unless the City accepts maintenance as provided below. This responsibility shall be noted on the final plat and deeds for any affected lots.
2. Any detention or retention facilities approved under this Section shall be subject to inspection by the City Engineer at least annually and the owner shall pay an annual inspection fee the amount of which shall be determined by resolution of City Council. The owner shall correct any deficiencies within 30 calendar days of written notification thereof. Failure to correct deficiencies or to pay the annual inspection fee shall constitute a violation of this Section.
3. Whenever an existing or future private stormwater management facility is proposed to serve a development undergoing site plan or special use review, the following shall be provided the Administrator prior to issuance of a certificate of occupancy.
4. A written inspection and maintenance agreement in a form acceptable to the City Attorney and executed by the applicant and the owners of the facility, which shall bind the parties thereto and all subsequent owners, successors and assigns, and provide for the following:

    a. The maintenance of the facility. If a party other than the applicant assumes primary responsibility for the maintenance of the facility, the applicant shall guarantee the maintenance of the facility and assume ultimate responsibility thereof.
    b. Access to the facility at reasonable times for inspection by the City and/or its agents or representatives.
    c. That if an order directing the correction, repair, replacement, or maintenance of the facility or of any portion thereof is not satisfactorily complied with within a reasonable period of time, as deemed appropriate by the City Engineer, the City may, after notice to the owner, enter the land and perform all necessary work to place the facility in proper working condition, and may assess the owners of the subject property with the cost of said work, which cost shall be a lien on such property and may be collected as provided in G.S. § 160A-193. Notice shall be provided five (5) calendar days prior to entry and performance of necessary work by the City. Notice shall be in writing and shall be delivered to the owner by hand-delivery, by certified mail, return receipt requested, or by any other means allowed by Rule 4 of the North Carolina Rules of Civil Procedure. The owners of all property served by the facility shall be jointly and severally responsible to the City for the maintenance of the facility and liable for any costs incurred by the City pursuant to said agreement, and all such properties are jointly and severally subject to the imposition of liens for said costs.

d. The Inspection and Maintenance Agreement shall be recorded in the Register of Deeds Office for Rockingham County at the expense of the applicant.

e. Any other provision as may be reasonable required by the City Attorney to achieve the purposes of this section.

5. When deemed necessary by the City Attorney, an easement in a form approved by the City Attorney, granting the City and its agents and representatives adequate and perpetual access to the facility and sufficient area for inspection and maintenance, if necessary, by the City, its agents and representatives. Said easements shall be filed in the Office of the Register of Deeds for Rockingham County at the expense of the applicant, and shall bind all subsequent owners and assigns of the facility and of the property on which the easement is located.

I. EMERGENCY AUTHORITY

If the City Engineer determines that the condition of any stormwater management facility presents an immediate danger to the public health and safety because of an unsafe condition or improper maintenance, the City Engineer shall take such actions as may be necessary to protect the public and make the facility safe. Any costs incurred by the City as a result of the City Engineer's action shall be assessed against any or all of the owners of property served by said facility who shall be jointly and severally liable for all said costs and whose property shall jointly and severally be subject to a lien for said costs which may be collected as provided in G.S. § 160A-193.

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ARTICLE 11 – NONCONFORMITIES

11.01 PURPOSE & APPLICABILITY

After the effective date of this Ordinance, pre-existing land or structures, or uses of land or structures which would be prohibited under the regulations for the district in which it is located, shall be considered as nonconforming. It is the intent of this UDO to transition these nonconformities into conformity with the provisions of this UDO, to discourage the continued existence of uses and structures that are incompatible with the current UDO, and to define the circumstances under which existing nonconformities may continue.

11.02 NONCONFORMING USES AND STRUCTURES

A. MAINTENANCE AND REPAIR.

Normal maintenance or repair of nonconforming structures, or structures where nonconforming uses are located, may be performed to an extent not exceeding 50% of the current assessed value of the structure per year. Such maintenance and repair shall not be allowed to increase the usable space of the nonconforming structure or use, except pursuant to this section.

B. ABANDONMENT AND DISCONTINUANCE.

1. A nonconforming use or structure shall be presumed to be discontinued and abandoned, shall lose its nonconforming status, and shall not be reestablished or resumed and thereafter be used only for conforming purposes under any of the following circumstances:
   a. The owner has indicated intent to abandon the use or structure, delivered in writing to the Administrator.
   b. A nonconforming use is discontinued for a consecutive one-hundred & twenty (120) day period or for a total of one-hundred & twenty (120) calendar days in a twelve (12) month period.
2. A nonconforming structure is abandoned for a consecutive one-hundred & twenty (120) day period or for a total of one-hundred & twenty (120) calendar days in a twelve (12) month period.
3. When a use of land or structure made nonconforming by the adoption of this UDO is vacant or discontinued at the effective date of this UDO, the defined time periods begin at that date.
4. All of the buildings and activities on the lot shall be considered as a whole in determining whether a right to continue a nonconforming situation is lost pursuant to this section.

C. NONCONFORMING USES.

1. A nonconforming use may be changed, modified, or expanded to any permitted uses in the subject district. The affected property may not then revert to a nonconforming use.
2. A nonconforming use may be extended through any portion of a completed building that, when the use was made nonconforming, was designed or arranged to accommodate such use. A nonconforming use may not be extended to additional buildings or land.

D. NONCONFORMING STRUCTURES.

1. A nonconforming structure damaged by fire, flood, or other extraordinary circumstance may be repaired, reconstructed, and used as before if the damage does not exceed sixty percent (60%) of its replacement value. Repairs and reconstruction should be done within twelve months from date of damage.
2. If the value of damage of a nonresidential structure exceeds fifty percent of the replacement value, the building or structure may only be reconstructed in a conforming manner.
3. If the value of damage of a residential structure exceeds fifty percent of the replacement value, the building or structure may be repaired, reconstructed, and used as before, providing construction is completed within twelve months of date of damage.

11.03 NONCONFORMING LOTS AND SITES

This section applies to undeveloped nonconforming lots of record, which are defined as lots that have no substantial structures on it.

A. GOVERNMENT ACQUISITION OF LAND.

Government acquisition of land, such as right-of-way or other government use, shall not render a lot nonconforming.

B. USES.

When a nonconforming lot can be used in conformity with all regulations applicable to a conforming use, except that the lot is smaller than the minimum specified for that use, then the lot may be used as if it were conforming.

C. CONTIGUOUS NONCONFORMING LOTS.

If, on the effective date of this UDO, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then the provisions of this section cannot be taken advantage of and the undeveloped lots shall be considered as one lot and be recombined. This shall not apply if a majority of the developed lots on either side of the street and within five-hundred (500) feet of the undeveloped lot are also nonconforming. The Administrator shall undertake a yearly review of nonconforming lots to determine candidates for combination under this section.

D. SETBACKS.

When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements located in *Article 6 – General Development Standards* cannot reasonably be complied with, then a permit issued for the proposed to allow deviations from the setback requirements if it finds that:

1. The property cannot reasonably be developed for the use proposed without such deviations;
2. These deviations are necessitated by the size or shape of the nonconforming lot; and
3. The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

E. SETBACK HARDSHIP.

Compliance with applicable building setback requirements is not reasonably possible if a building serving the minimal needs of the proposed use cannot practicably be constructed and located on the lot in conformity with setback requirements. Financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

11.04 NONCONFORMING SITE ELEMENTS

A. SITE ELEMENTS APPLICABILITY TABLE.

The following table summarizes the requirements that shall be met when there are changes to existing development and/or to nonconforming structures or uses. A "✓" indicates that compliance with all applicable standards is required.

	Dimensional Standards	Building Design Standards	Buffers, Screening, & Landscaping	Parking Lot Landscaping	Outdoor Lighting	Signage (d)	Sidewalks
Existing Development:							
Change of Use (from residential to nonresidential or mixed use)		✓	✓	✓	✓	✓	✓
Parking Area Expansion:							
Less than 12 Spaces or <40% of Paved Area				✓(a)	✓(a)		
Expansion of ≥ 40% of Paved Area or 12 Spaces or more			✓	✓	✓	✓	✓
Structure or Building Expansion/Reconstruction:							
< 50% of Existing Floor Area	✓(a,b)	✓(a)			✓(a)	✓	
≥ 50% of Existing Floor Area	✓(a,b,c)	✓(c)	✓	✓	✓	✓	✓

(a) – For expanded/reconstruction portion only.
(b) – Exception: Maximum front setbacks should be met to the extent practical as determined by the Administrator.
(c) – For expansions, reconstruction areas, and all other walls facing public streets.
(d) – See also Section 11.05, Signs, below.

11.05 NONCONFORMING SIGNS

It is the intent of this section to provide a reasonable time for the elimination of nonconforming signs and sign structures. The provisions of this section shall apply to nonconforming signs. Nonconforming signs may remain in use, subject to the regulations of this section and all other applicable requirements.

A. NORMAL MAINTENANCE AND REPAIR.

1. Nonconforming signs may be repaired or renovated as long as the cost of such work does not exceed, within a twelve-month period, fifty (50) percent of the value of such sign. A zoning permit or building permit for such renovation or repair may also be required. Proof of value is required at the time of permit.
2. The message or face of a nonconforming sign may be changed, so long as a change in use has not occurred. If a change in use occurs, the sign must be brought into full conformity with this UDO.

B. ENLARGEMENT OR ALTERATION.

1. No nonconforming sign shall be enlarged or altered in any manner that results in a greater degree of nonconformity.
2. No modification of the structure of any nonconforming sign shall be permitted, except to bring the sign into conformity.

C. DISCONTINUATION.

1. If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction or other enterprise or activity no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 90 days after such abandonment by the sign owner, property owner or other person having control of the property.

11.06 NONCONFORMING PLANS OR DEVELOPMENT APPROVALS

A. SITE-SPECIFIC PLANS.

Any site-specific plan for the development of property and/or construction of a building which has received final approval by the City of Eden for development and/or construction, but does not conform to this Ordinance, may be developed and/or constructed in accordance with the Ordinance, rules, and regulations in effect at the time that it was approved, including any conditions imposed upon approval.

B. AMENDMENTS AND MODIFICATIONS.

Any amendment or modification to an approved site specific plan, which would have required approval pursuant to the Ordinance, rule or regulation by which the plan was originally approved, shall be reviewed and considered in accordance with the terms and provisions of this Ordinance as if it were an amendment or modification to a plan originally approved under this Ordinance.

ARTICLE 12 – NUISANCE AND JUNK VEHICLES

12.01 PURPOSE AND APPLICABILITY

The following provisions are enacted to define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or of the residents within the City of Eden's planning jurisdiction in accordance with G.S. § 160A-174, 160A-193, 160A-303.

12.02 WEEDS, WILD GROWTH, RUBBISH

A. CONDITIONS CONSTITUTING PUBLIC NUISANCES.

It is hereby found that there are within City's Planning Jurisdiction of the City the following enumerated and described conditions and the same are hereby found, deemed and declared to constitute public nuisances wherever the conditions may exist and the creation, maintenance, or failure to abate such public nuisances is hereby declared unlawful:

1. The uncontrolled growth of noxious weeds, noxious weeds and grass or noxious weeds and other vegetation to a height in excess of twelve (12) inches on the entire parcel of any property or right-of-way area along the frontage of a parcel that is or has been developed except any portion of the property that has been proven to be in use for any current, permitted agricultural operation.
2. The accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitance therein of rats, mice, snakes or vermin of any kind.
3. The collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind in an open space.
4. The accumulation of rubbish, trash, junk or combustible items, causing or threatening to cause the accumulation of stagnant water or causing or threatening to cause the inhabitance therein of mosquitos, harmful insects, rats, mice, snakes or vermin of any kind.
5. The open storage of any ice box, refrigerator, stove, water heater, freezer, other similar large appliances, glass, scrap building materials, building rubbish, debris or similar items.
6. The obstruction of public streets, highways or alleys.
7. The accumulation of dead trees, fallen sections of tree trunks, tree limbs or tree stumps not removed within thirty (30) days after it has acquired a situs on the property. This shall not apply to accumulations of less than two cubic yards or to natural accumulations on never developed parcels of land when such parcels are larger than two (2) acres and such natural accumulation is not within fifty (50) feet of adjoining developed property.
8. Conditions which block, hinder, or obstruct in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains. Conditions that cause obstructions in stream channels or the floodways of streams that may impede the passage of water during rain events whether such obstructions are natural or man-made. The actions of the city to abate these obstructions shall not create nor increase the responsibility of the city for the cleaning or maintenance of the stream, or for flooding of the stream. In addition, actions by the city to clear obstructions from a stream shall not create in the city any ownership in the stream, obligation to control the stream, or affect any otherwise existing private property right, or entitlement regarding the stream.

9. Swimming pools that cause or threaten to cause the accumulation of stagnant water or cause or threaten to cause the inhabitancy therein of mosquitoes, harmful insects, rates, mice, snakes or vermin.
10. Conditions that injure or cause discomfort to the community at large, endanger life, generate disease, have a detrimental effect on the public health, safety and welfare.

B. NOTICE OF FINDINGS AND ORDER OF ABATEMENT

1. If the Administrator finds that conditions constituting a public nuisance exist on a parcel of real property, the Administrator shall issue a written notice of findings and an order of abatement to the owner of the property and any other party in interest which shall:
   a. Set out what conditions the Administrator has found existing on such property that constitute a public nuisance; and
   b. Which shall order the abatement of such conditions within fifteen (15) days of the date of the notice of findings and order of abatement. When the term "owner" is used in this division, "owner" shall include the owner and any party having a legal or equitable interest in such property.
2. The owner of the subject property shall be notified by personal delivery of the notice or by certified mail. If such owner cannot be personally served or refuses to accept the notice by mail of the violation, then the notice shall be posted on the property in a place visible from the public street, highway or alley. If the name of the owner cannot be ascertained then the notice shall be served on any person in possession of the subject property, or if there is no person in possession of the property, by posting the notice on the subject property. If any such property is owned by a corporation, the notice shall be served upon the registered agent or, in the absence thereof, notice shall be served upon the corporation.
3. Any notice required to be posted may be posted by the Administrator or his/her designee.
4. If the owner, having been ordered to abate such a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days from the date of said order, the Administrator shall cause said condition to be removed or otherwise remedied by having employees of the City or private contractor to go upon said premises and remove or otherwise abate such nuisance. Any person who has been ordered to abate a public nuisance may within the time allowed by this section request the City in writing to remove such condition, the cost of which shall be paid by the person making such request.

C. ANNUAL NOTICE TO CHRONIC VIOLATORS OF PUBLIC NUISANCE OR OVERGROWN VEGETATION

1. The City may notify a chronic violator of this article that, if the violator's property is found to be in violation of this Article, the City shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes.
2. The notice shall be sent by certified mail. When service is attempted by certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected.

3. For purposes of this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance.

D. APPEALS

See *Article 3 – Development and Administrative Review Procedures* for Appeals of Administrator's Decision.

12.03 DISABLED MOTOR VEHICLES

A. DEFINITIONS

See *Article 14 – Definitions.*

B. PERMITTED

1. The parking, storage or use of vehicles may be allowed as accessory to any use allowed by this Ordinance, subject to the following standards:

a. Residential Uses

(1) One disabled vehicle is allowed on a lot with a single-family dwelling or duplex dwelling, provided the disabled vehicle is parked or stored behind the front building line of the principal structure.
(2) Additional disabled vehicles on a single-family or duplex lot and any disabled vehicle parked or stored on a lot with any other residential use shall be located within a fully enclosed principal or accessory structure.

b. Non-residential Uses

(1) Unless otherwise specifically allowed as a permitted use in a particular zoning district, one (1) disabled motor vehicle is allowed to be kept or stored on a lot as an accessory to a principal use, provided the disabled vehicle is parked or stored behind the front building line of the principal structure and is fully screened and not visible from the street or from any residential use or district.
(2) Acceptable screening may include a solid fence, a tarp or similar type of covering, and or a fully enclosed structure.

c. All Other Uses

(1) A disabled motor vehicle may be parked or stored on a lot containing an agricultural, institutional, commercial, or industrial use, provided it is totally screened from view from any street or residential zoning district or use.
(2) The disabled vehicle shall be stored within a fully enclosed building or fully screened by a building, opaque fence, wall, or other approved method, to a height of six (6) feet above grade level.
(3) No disabled motor vehicle shall be permitted to be kept or stored on any vacant lot without a principal use structure.

12.04 NUISANCE VEHICLES

A. DEFINITIONS

See *Article 14 – Definitions.*

B. ENFORCEMENT

1. The Administrator shall notify the owner of the premises upon which a nuisance vehicle is found that the owner of said premises is in violation of this division.
2. The owner shall be notified by certified mail or by personal services as by law provided, which notification shall be in writing and shall contain:
   a. A brief statement of why the vehicle is a nuisance, citing the appropriate subsection or subsections of this division.
   b. A statement that the keeping of such vehicle on the owner's premises is unlawful.
   c. A request that the owner of the premises voluntarily remove, abate or remedy the nuisance within 30 days of the mailing or service of the notice.
   d. A statement advising the owner that if the nuisance vehicle is not removed, abated or remedied, the city will take appropriate legal action to remove, abate or remedy the nuisance and that the expense of such action shall be paid by the owner of the premises, and if not paid, the expense shall be a lien upon the premises.
3. If the owner of the premises fails to voluntarily remove, abate or remedy the nuisance within the 30-day period provided for in Subsection 1, the Administrator shall conduct a hearing to determine if the owner of the premises should be ordered to remove, abate or remedy the nuisance and shall give the owner of the premises written notice of hearing by certified mail or personal service as by law provided, which notice of hearing shall be in writing and shall contain:
   a. A brief statement describing the vehicle and stating why it is a nuisance vehicle including a citation of the appropriate subsection or subsections of this division together with a brief description of the premises upon which it is located.
   b. A statement that a hearing will be held before the Administrator at a designated place, date and time which date shall be not less than 15 days or more than 30 days from the date of the mailing or service of the notice of hearing.
   c. A statement that the owner has a right to appear at the hearing, be represented by counsel and offer evidence in the enforcement proceeding.
4. Within five (5) days of the conclusion of the hearing, the Administrator shall enter a written order in the enforcement proceeding which order shall either:
   a. Contain a finding that the vehicle is not a nuisance vehicle; or
   b. Order the owner to remove, abate or remedy the nuisance within 30 days following the date of the service of the order upon the owner by certified mail or personal service as by law provided.
5. In the event the owner fails to remove, abate or remedy the nuisance as ordered, the Administrator shall notify the City Council of the owner's failure or refusal to comply with the order to remove, abate or remedy said nuisance.

6. Upon receipt of the Administrator's notice that an owner has failed to remove, abate or remedy a nuisance vehicle, the City Council may direct that any appropriate legal action or proceeding be initiated to remove, abate or remedy the nuisance.

C. CREATION OF LIEN

In the event the city takes action to remove, abate or remedy the nuisance, the expense of the action shall be paid by the person in default in failing to remove, abate or remedy the nuisance, and, if not paid, the said expenses shall be a lien upon the land or premises where the nuisance occurred and shall be collected as unpaid taxes.

12.05 ABANDONED AND JUNKED VEHICLES

A. ADMINISTRATION.

1. The Police Department shall be responsible for the administration and enforcement of the removal and disposition of abandoned and junked motor vehicles located on public streets property.
2. The Planning and Inspections Department shall be responsible for the administration and enforcement of the removal and disposition of abandoned and junked motor vehicles located on private property.

B. DEFINITIONS.

See *Article 14 – Definitions.*

C. VEHICLES EXEMPT FROM SECTION.

1. Any vehicle in an enclosed building;
2. Any vehicle on the premises of a business enterprise being operated in a lawful place and manner when the vehicle is necessary to the operation of such business enterprise; or
3. Any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

D. ABANDONMENT OF VEHICLE PROHIBITED

It shall be unlawful for a person to abandon a motor vehicle on the public streets or on public or private property within the ordinance making jurisdiction of the city. Any junked or abandoned vehicle found to be in violation of this section may be removed to a storage garage or area.

E. KEEPING ON PRIVATE PROPERTY PROHIBITED WITHOUT CONSENT OF THE OWNER, LESSEE OR OCCUPANT OF THE PREMISES.

It shall be unlawful for any person to keep a junked or abandoned vehicle on private property within the City without the consent of the owner, lessee or occupant of the premises.

F. REMOVAL FROM PRIVATE PROPERTY AT REQUEST OF OWNER, OCCUPANT OR LESSEE.

1. Any junked or abandoned motor vehicle found to be in violation of Section E may be removed to a storage garage or area, but no such vehicle shall be removed from private property without the written request of

the owner, lessee, or occupant of the premises unless the Administrator has declared such vehicle to be a health or safety hazard.

2. Any person requesting the removal of a junked or abandoned motor vehicle from private property shall indemnify the city against any loss, expense, or liability incurred because of the removal, storage, or sale thereof.

G. REMOVAL OF ABANDONED OR JUNKED MOTOR VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

1. Except as set forth in Section G.2 below, an abandoned or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the city on a specified date (no sooner than seven days after the notice is affixed). The notice shall state that the vehicle will be removed by the city on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

2. With respect to abandoned vehicles on private property and junked motor vehicles to which prior notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is an abandoned or junked motor vehicle, such appeal shall be made to the City Council in writing, heard at the next regularly scheduled meeting of the City Council, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided. The determination of the City Council may be appealed. The appeal shall be made within ten days of the determination by the City Council and shall be to the District Court of Rockingham County.

H. EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

The requirement that notice be given prior to the removal of an abandoned or junked motor vehicle may, as determined by the Administrator, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

1. Vehicles abandoned on the streets. For vehicles left on the public streets and highways, the City Council hereby determines that immediate removal of such vehicles may be warranted when they are:

- **a.** Obstructing traffic,
- **b.** Parked in violation of an ordinance prohibiting or restricting parking,
- **c.** Parked in a no-stopping or standing zone,
- **d.** Parked in loading zones,
- **e.** Parked in bus zones, or

f. Parked in violation of temporary parking restrictions imposed under code sections.

2. Other abandoned vehicles. With respect to abandoned vehicles left on City-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress and egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

I. REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

1. Any abandoned or junked motor vehicle which has been ordered removed may, as directed by the City, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the city. Whenever such a vehicle is removed, the authorizing city official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

a. The description of the removed vehicle;

b. The location where the vehicle is stored;

c. The violation with which the owner is charged, if any;

d. The procedure the owner must follow to request a probable cause hearing on the removal.

2. The City shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in Sections I.1.a through I.1.d above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

3. If the vehicle is registered in North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of this vehicle.

4. Whenever an abandoned or junked vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing city official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in Sections I.1.a through I.1.d above.

J. RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

After the removal of an abandoned vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief of district court judge to receive such hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11, as amended. Any aggrieved party may appeal the magistrate's decision to district court.

K. REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges with the City. Upon regaining possession of a vehicle,

the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this division.

L. SCHEDULE OF TOWING FEES.

The fees for towing shall be as set out in the schedule of towing fees, a copy of which shall be maintained by the Planning and Inspections Department.

M. SCHEDULE OF STORAGE FEES.

The fees for storage shall be as set out in the schedule of storage fees, a copy of which shall be maintained by the Planning and Inspections Department.

N. COLLECTION OF FEES.

The City shall be responsible for collecting towing and storage fees for a vehicle found to be in violation of this division.

O. CREATION OF LIENS; ENFORCEMENT.

1. The towing and storage charges provided for in Section L & M shall be a lien upon the vehicle.
2. The charges for which the lien is claimed under this section may be enforced by a sale of the vehicle if the owner fails to claim the vehicle and pay the charges within thirty (30) days following the expiration of the time within which an appeal could have been taken or within thirty (30) days following a final determination of the matter on appeal whichever date occurs first. If the lien is enforced by a sale of the vehicle, the procedure shall be as provided by G.S. §§ 44A-4, 44A-5 and 44A-6 where the property upon which the lien is claimed is a motor vehicle, provided that if no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the vehicle may be destroyed.

P. ADDITIONAL REMEDIES AVAILABLE.

In addition to the enforcement procedures provided for in this division, the city may initiate any appropriate action or proceedings to prevent, restrain, correct or abate the violation of this division.

12.06 REMOVAL AND DISPOSITION OF JUNKED MOTOR VEHICLES

A. ADMINISTRATION

The Planning and Inspections Department shall be responsible for the administration and enforcement of this section. The city may contract with private tow truck operators or towing businesses to remove to a designated storage garage or area junked motor vehicles in compliance with this section and applicable state laws. Nothing in this section shall be construed to limit the legal authority or powers of the Planning and Inspections Department, officers of the Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

B. DEFINITIONS

See *Article 14 – Definitions*.

C. JUNKED MOTOR VEHICLES REGULATED; REMOVAL AUTHORIZED.

1. It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.
2. It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.
3. It shall be unlawful for any owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the locational requirements or the concealment requirements of this section.
4. Subject to the provisions of subsection C.5, upon investigation, the Administrator may order the removal of a junked motor vehicle as defined in this section after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the owner or person entitled to possession against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:
   a. Protection of property values;
   b. Promotion of tourism and other economic development opportunities;
   c. Indirect protection of public health and safety;
   d. Preservation of the character and integrity of the community; and
   e. Promotion of the comfort, happiness and emotional stability of area residents.
5. Permitted concealment of enclosure of junked motor vehicle:
   a. One junked motor vehicle, in its entirety, can be located in the rear yard as defined by this ordinance if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.
   b. The Administrator has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering or enclosure must be compatible with the objectives stated in this Article.

D. REMOVAL OF JUNKED MOTOR VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

1. A junked vehicle which is to be removed pursuant to Section C above shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. If the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the city on a specified date (no sooner than seven days after the notice is affixed. The notice shall state that the vehicle will be removed by the city on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

2. If the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is a junked motor vehicle, such appeal shall be made to the City Council in writing, heard at the next regularly scheduled meeting of the City Council, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided. The determination of the City Council may be appealed. The appeal shall be made within ten days of the determination by the City Council and shall be to the District Court of Rockingham County.

E. REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

1. Any junked motor vehicle which has been ordered removed may, as directed by the City, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the city. Whenever such a vehicle is removed, the authorizing city official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:
   a. The description of the removed vehicle;
   b. The location where the vehicle is stored;
   c. The violation with which the owner is charged, if any;
   d. The procedure the owner must follow to request a probable cause hearing on the removal.

2. The city shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in Section E.1.a through E.1.d above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

3. If the vehicle is registered in North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of this vehicle.

4. Whenever an abandoned or junked vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing city official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in Section E.1.a through E.1.d above.

F. RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

After the removal of an abandoned vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate to receive such hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11, as amended. Any aggrieved party may appeal the magistrate's decision to district court.

G. REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges with the City. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this division.

H. SCHEDULE OF TOWING FEES.

The fees for towing shall be set out in the schedule of towing fees, a copy of which shall be maintained by the Planning and Inspections Department.

I. SCHEDULE OF STORAGE FEES.

The fees for storage shall be as set out in the schedule of storage fees, a copy of which shall be maintained by the Planning and Inspections Department.

J. COLLECTION OF FEES.

The City shall be responsible for collecting towing and storage fees for a vehicle found to be in violation of this division.

K. CREATION OF LIENS; ENFORCEMENT.

1. The towing and storage charges provided for in Sections H & I shall be a lien upon the vehicle.
2. The charges for which the lien is claimed under this section may be enforced by a sale of the vehicle if the owner fails to claim the vehicle and pay the charges within 30 days following the expiration of the time within which an appeal could have been taken or within 30 days following a final determination of the matter on appeal whichever date occurs first. If the lien is enforced by a sale of the vehicle, the procedure shall be as provided by G.S. §§ 44A-4, 44A-5 and 44A-6 where the property upon which the lien is claimed is a motor vehicle, provided that if no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the vehicle may be destroyed.

L. VEHICLES EXEMPT FROM SECTIONS.

No motor vehicle that is used on a regular basis for business or personal use shall be removed or disposed of pursuant to Sections A through L above.

M. ADDITIONAL REMEDIES AVAILABLE.

In addition to the enforcement procedures provided for in this division, the city may initiate any appropriate action or proceedings to prevent, restrain, correct or abate the violation of this division.

12.07 REPEAT VIOLATIONS

If a property owner repeats the same violation, on the same parcel, within the same calendar year from the date of the initial violation, it shall be considered a continuation of the initial violation and shall be subject to additional penalties and remedies set forth in this Ordinance per G.S. § 160A-200.1.

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ARTICLE 13 – ENFORCEMENT

13.01 COMPLAINTS REGARDING VIOLATIONS

A. PROCESS.

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file complaint with the Planning and Inspections Department. Such complaint shall include a detailed description of the cause and basis for the alleged violation and shall be documented with the Administrator who shall establish a record of such complaint, investigate each complaint in a timely manner, and take appropriate action as provided by this Ordinance.

13.02 ENFORCEMENT AUTHORITY

A. ROLE OF ADMINISTRATOR.

1. Unless specifically set forth otherwise in this Ordinance, or prohibited by law, the Administrator is hereby authorized to enforce the provisions of this Ordinance.
2. Pursuant to G.S. § 160D-403(e), The Administrator may enter any building, structure or premises as provided by law, to perform any duty imposed upon them by this Ordinance.

B. RELATIONSHIP TO STATE STATUES

1. This Ordinance shall be enforceable in accordance with the provisions of G.S. § 160D-404 and G.S. § 160A-175.

13.03 PERSONS LIABLE

Pursuant to G.S. § 160A-175, any person who erects, constructs, reconstructs, alters, repairs, converts, or maintains any building, structure, sign or sign structure or develops, grades or otherwise alters property in violation of this Ordinance, and any person who uses any building, structure, sign or sign structure or land in violation of this Ordinance shall be subject to civil penalties. For the purposes of this Article, responsible persons(s) shall include but not be limited to:

A. PERSON(S) MAINTAINING CONDITION RESULTING IN OR CONSTITUTING VIOLATION.

An architect, engineer, builder, contractor, developer, agency or any other person who participates in, assists, directs, creates, causes or maintains a condition that constitutes a violation of this Ordinance, or fails to take appropriate action, so that a violation of this Ordinance results or persists.

B. PERSON(S) RESPONSIBLE FOR LAND OR USE OF LAND.

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

13.04 CIVIL REMEDIES

The City shall issue civil citation and penalties for any violation of this Ordinance which shall require the payment of a civil penalty according to the following procedures:

A. NOTICE OF VIOLATION AND OPPORTUNITY TO CURE.

1. Whenever the Administrator has reasonable cause to believe that a person is violating any of the provisions of this Ordinance or any plan, order, or condition issued pursuant to this Article, that official shall immediately notify that person of the violation.
2. Such notice of violation shall be in writing and shall be served in any manner permitted by G.S. § 160D-404(a). This notification shall also include possible penalties and/or legal actions, deadlines for correction or appeal, and method of appeal.
3. If the violation has not been corrected, or substantial action taken to this purpose, and no appeal has been made to the Board of Adjustment within ten (10) days of the date of the notification, the Administrator shall issue a citation in the amount of $50.00 per day per violation to begin on the eleventh (11th) day after the original notification date and to continue accumulating until the violation is corrected.
4. If the penalty is not paid in a timely manner a lien may be placed upon the property in that amount and/or the City may sue for payment, including legal expenses, through the civil courts.

B. NOTICE OF STOP WORK/OPERATION/ACTIVITY.

1. If, in the opinion of the Administrator, work or activity is in progress in violation of this Ordinance and can be reasonably halted until a notice of violation may be delivered in accordance with this Article, a notice may be posted on-site or hand delivered to the apparent responsible party on-site. Such notice shall stay all further work or activity on the site in violation of this Ordinance.
2. If a building or structure is erected, constructed, reconstructed, or altered, repaired, converted, or maintained, or any building, structure, or land is occupied or used in violation of the General Statutes of North Carolina, this Ordinance, or other regulation made under authority conferred thereby, the City of Eden may apply to any court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
3. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed, and demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. 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 may be cited for contempt, and the City may execute the order of abatement. The City shall have a lien on the property for the cost of executing an order of abatement.

13.05 EQUITABLE RELIEF

In addition to the civil penalties set out above, any provision of this ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The Administrator may apply to

a judicial court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. It is not a defense to the Administrator's application for equitable relief that there are other remedies provided under general law or this Ordinance.

13.06 COMBINATION OF REMEDIES

The City may choose to enforce this Article by one, all, or combination of the above procedures.

A. PERMIT REVOCATION.

1. The Administrator may revoke any permit 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.
2. Before a permit is revoked, the Administrator shall give the permit recipient ten (10) days' notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his or her right to obtain an informal hearing on the allegations. If the permit is revoked, the Administrator shall provide to the permittee a written statement of the decision and the reasons therefore.
3. No person may continue to make use of land or buildings in the manner authorized by any permit after such permit has been revoked in accordance with this Article.

13.07 SPECIFIC TYPES OF VIOLATIONS

A. EROSION AND SEDIMENT CONTROL VIOLATION.

1. Any person engaged in land-disturbing activity, who fails to file a plan in accordance with the erosion and sedimentation control regulations of the City of Eden, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan will be deemed in violation of the erosion and sedimentation control regulations of the City of Eden.
2. See the City of Eden for specific violation procedures and penalties.

B. FLOOD DAMAGE PREVENTION.

1. Violation of the City of Eden flood damage provisions in this Ordinance or failure to comply with any of the requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates the flood damage provisions of this Ordinance or fails to comply with any of its requirements shall be fined not more than $50.00. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Eden from taking such other lawful action as is necessary to prevent or remedy any violation.
2. See *Article 10 – Environmental Protection* for specific procedures.

C. SIGNS.

1. Pursuant to G.S. § 160A-193, the Administrator shall have the authority to summarily remove, abate, or remedy a sign or sign structure which has been determined to be dangerous or prejudicial to the public health or safety.
2. The expense of the action shall be paid by the sign owner or if the sign owner cannot be ascertained, by the property owner, and if not paid, there shall be a lien placed upon the land or premises where the violation arose, and it shall be collected as a money judgment.
3. The Administrator shall have the authority to remove summarily any signs or sign structures prohibited under *Article 7 – Signs*.

CI. BUILDING MAINTENANCE.

1. See *Article 9 – Building Maintenance Standards* of this ordinance.

CII. NUISANCE AND JUNK VEHICLES

1. See *Article 12 – Nuisance and Junk* Vehicles of this ordinance.

CIII. STORMWATER MANAGEMENT.

1. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by *Article 10 – Environmental Protection* of this Ordinance shall constitute a violation.
2. Each day that a violation continues shall constitute a separate and distinct violation or offense.
3. The remedies and penalties provided for violations of this Ordinance shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

    a. Withholding of Zoning Compliance Certificate or Certificate of Occupancy. The Administrator may refuse to issue a Zoning Compliance Certificate for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the person liable has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations.

    b. Disapproval of Subsequent Permits and Development Approvals. As long as a violation of this Ordinance continues and remains uncorrected, the Administrator or other authorized agent may withhold and/or disapprove any request for permit or development approval or authorization provided for by this Ordinance.

    c. Injunction, Abatements, etc. The Administrator, with the written authorization of the City of Eden City Council, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this Ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the North Carolina General Statutes or at common law.

    d. Correction as Public Health Nuisance, Costs as Lien, etc. If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by G.S. § 160A-193, the Administrator, with the written authorization of the City of Eden City Council, may cause the violation to be corrected and the costs to be assessed as a lien against the land or premises where the violation occurred or such other property allowed under G.S. § 160A-193(b).

e. Stop Work Order. The Administrator may issue a stop work order to the person(s) violating this Ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

f. Emergency Enforcement. If delay in correcting a stormwater management violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

13.08 REPEAT VIOLATIONS

See Article 12 – Nuisance and Junk Vehicles.

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ARTICLE 14 – DEFINITIONS

14.01 INTERPRETATIONS & CONFLICTS

See *Article 1 – General Provisions, Section 1.11.*

14.02 ABBREVIATIONS

ADA - Americans with Disabilities Act
ADU - Accessory Dwelling Unit
BUA - Built-upon Area
DBH - Diameter at breast height, which is the diameter of a tree measured four feet above grade
FAA - Federal Aviation Administration.
FCC - Federal Communications Commission.
FTA - Federal Telecommunications Act of 1996.
G.S. - North Carolina General Statutes
IESNA - Illuminating Engineering Society of North America
NCDEQ - North Carolina Department of Environmental Quality
NCDOT - North Carolina Department of Transportation
TIA - Traffic Impact Analysis
TRC - Technical Review Committee
UDO - Unified Development Ordinance

14.03 DEFINITIONS

As used in the UDO, the following terms shall have the meanings assigned to them in this section. When one or more defined terms are used together, their meanings shall also be combined as the context shall require or permit. All terms not specifically defined shall carry their usual and customary meanings. Undefined terms indigenous to a trade, industry or profession shall be defined when used in such context in accordance with their usual and customary understanding in the trade, industry or profession to which they apply.

Abutting - Having property or district lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street or alley.

Access - A way of approaching or entering a property. Access also includes ingress, the right to enter and egress, the right to leave.

Accessory Structure - A subordinate structure detached from but located on the same lot as the principal structure which houses an accessory use.

Accessory Use - A use customarily incidental and subordinate to the principal use and located on the same lot with such principal use.

Active Construction - Activities that contribute directly to the building of facilities including land-disturbing activities for roads, parking lots, footings, etc.

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

Administrator - The person designated to carry out the responsibilities established in this UDO or their designee.

Adult Establishment - An adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult live entertainment business, or a massage business as defined by G.S. § 14-202.10.

Airstrip - A surface used for take-off and landing of aircraft.

Alley - A public vehicular way providing service access along rear or side property lines of lots which are also serviced by a street.

Apartment - See Dwelling, Multi-Family.

Applicant - A person, including any governmental entity, seeking development approval.

Automobile - A device or contrivance normally used for carrying or conveying passengers, goods, or equipment by land and utilizing wheels, it is the intent of this definition to include devices or contrivances which meet the above requirement and which are normally permitted to travel upon public roads and highways either self-propelled or towed.

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 is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery and other beverage tasting facilities.

Bed and Breakfast Facility - A private home that offers bed and breakfast accommodations, and that: 1) No more than eight (8) guest rooms that offers bed and breakfast accommodations may be provided on each private residence for a period of less than one week; 2) Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home; 3) An owner/manager of a bed and breakfast facility shall reside on the property; and 4) Includes the price of breakfast in the room rate. The price of additional meals served shall be listed as a separate charge on the overnight guest's bill rate at the conclusion of the overnight guest's stay.

Bona Fide Farm Purposes - Agricultural activities as set forth in G.S. 160D-9-3.

Buffer - A system or method for dividing land, buildings, and/or structures or a combination of land, buildings, and/or structures and installed, placed, or planted for the purpose of controlling sight, sound, and trash.

Building - Any structure used or intended for supporting or sheltering any use or occupancy; from Section 202 of the 2018 NC State Building Code.

Building, Accessory - A subordinate building, the use of which is incidental to that of a principal building on the same plat.

Building, Principal - A building in which is conducted the principal use of the plot on which it is situated.

Building Setback - The minimum allowable distance between the nearest portion of any building excluding steps, gutters, and similar fixtures and the property line when measured perpendicularly thereto.

Building Height - The vertical distance measured from the mean elevation of the proposed finished grade at the front of the building to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge or a gable, hip or gambrel roof.

Built-Upon Area - Built-upon areas shall include that portion of a development project that is 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.)

Cemetery - A property used for interment of the dead and intended for non-commercial use.

Cluster Development - The grouping of buildings to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

Coal Ash Landfill - A facility designed primarily for the disposal of combustion products and residuals, including fly ash, bottom ash, boiler slag, mill rejects, and flue gas desulfurization residue produced by a coal-fired generating unit when that facility is located on land or lands not previously used by a coal-fired generating unit.

Coal Ash Recycling - The procedure by which coal combustion products are directly used or reused (1) as an ingredient in an industrial process to make a product, unless distinct components of the coal combustion products are recovered as separate end products or (2) in a function or application as an effective substitute for a commercial product or natural resource.

College/University - Junior colleges, colleges, universities, and professional schools with physical structures (excluding online and remote programs). These establishments furnish academic or technical courses and grant degrees, certificates, or diplomas at the associate, baccalaureate, or graduate levels in a campus setting in more than one building.

Community Support Facility - A permanent, stand-alone support 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. This definition does not include emergency/hazard shelters or clothing/food collection centers as accessory uses**.**

Composting Facility - A facility in which only stumps, limbs, leaves, grass, and untreated wood collected from land clearing or landscaping operations is deposited.

Conditional Zoning - A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Condominium - See Dwelling, Two-family Dwelling, Multi-Family and Group Housing Development.

Conference/Convention Center - See Special Events Center.

Conservation Easement - The grant of a property right or interest from the property owner to a unit of government or nonprofit conservation organization stipulating that the described land shall either remain in its natural, scenic, open or wooded state; or be used for agricultural purposes authorized specifically authorized by the easement.

Crosswalk – A public right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

Determination – A written, final and binding order, requirement or determination regarding administrative decisions.

Development – Per G.S. § 160D-102, development shall include:

1. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;
2. excavation, grading, filling, clearing, or other alteration of land;
3. the subdivision of land as defined in G.S. 160D-802; or
4. the initiation or substantial change in the use of land or the intensity of use of land.

Development Approval - An administrative or quasi-judicial approval made pursuant to G.S. § 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal.

Development Regulation - A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to G.S. § 160D, or a local act or charter that regulates land use or development.

Disabled Motor Vehicle - A Disabled Motor Vehicle shall be defined as any motor vehicle that meets one or more of the following criteria:

1. Does not display a current license plate; or
2. Is partially dismantled or wrecked; or
3. Cannot be self-propelled or moved in the manner in which it was originally intended; or
4. Is more than five (5) years old and is worth less than $500.

District - Any section of the City of Eden in which zoning regulations are uniform.

Drive-thru/Drive-in Facility - A primary or accessory facility where goods or services may be obtained by motorists without leaving their vehicles. These facilities include drive-through bank teller windows, dry cleaners, fast-food restaurants, drive-through coffee, photo stores, pharmacies, etc. Does not include: Automated Teller Machines (ATMs), gas stations or other vehicle services, which are separately defined.

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

Dwelling - Any building, structure, or manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that for purposes of G.S. § 160D Article 12 it does not include any manufactured home, mobile home, or recreational vehicle if used solely for a seasonal vacation purpose.

Dwelling Unit - A unit designed and intended to house a person or family that includes bathroom, cooking and sleeping facilities.

Dwelling, Accessory - A dwelling unit either detached or attached, such as a garage apartment or cottage, located on a lot with an existing single-family dwelling.

Dwelling, Single-Family Attached (Townhome) - A building containing two or more dwelling units that are attached horizontally through common walls. Each dwelling unit occupies space from the ground to the roof of the building and is located on a separate lot.

Dwelling, Single-Family Detached - A free standing building 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.

Dwelling, Two-Family (Duplex) - A two-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate ground floor entrance.

Dwelling, Multi-Family - A building including three (3) or more dwelling Units.

Dwelling, Multi-Family Conversion - A multi-family dwelling containing not more than four dwelling units and results from the conversion of a single building containing at least 2,000 square feet of Gross Floor Area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

Easement - A grant of one or more of the property rights by the property owner for limited use of private land for a public or quasi-public purpose and within which the owner of the property shall not erect any permanent structures except when authorized by the town.

Electronic Gaming Operation - Any business activity, whether as a principal use or an accessory use, in which patrons use electronic or mechanical machines, including, but not limited to, computers and gaming terminals to conduct or simulate games of chance, including the use of the machines to reveal the pre-determined value of an entry, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether the value is determined by the machines or by pre-determined odds. Electronic Gaming Operations do not include any Lottery approved by the State of North Carolina or any non-profit activity otherwise lawful under North Carolina State Law.

Emergency/Hazard Shelters. A shelter intended to protect occupants from temporary emergencies and hazards.

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

Existing Development - Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance.

Evidentiary Hearing - A hearing to gather competent, material, and substantial evidence to make findings for a quasi-judicial decision required by a development regulation adopted under G.S. § 160D.

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 handicapped persons and is certified by the State of North Carolina. (NCGS 168-21)

Funeral Homes/Crematoriums - Establishments for preparing the dead for burial or internment and conducting funerals (i.e. providing facilities for wakes, arranging transportation for the dead, and selling caskets and related merchandise).

Gas/Fueling Station - Any building or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, lubricants, or tires, except that indoor car washing, minor motor adjustment, and flat tire repair are only performed incidental to the conduct of the service station.

General Commercial - A place of business providing the sale and display of goods or sale of services directly to the consumer, with goods available for immediate purchase and removal from the premises by the purchaser.

Halfway House - A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in NCGS 122C-3. (14), or anti-social or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

Home Occupation - Any occupation or profession carried on entirely within a dwelling or an approved accessory structure by one or more occupants thereof, provided that such use is clearly incidental and secondary to the primary dwelling purposes.

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

Hotel/Motel/Inn - Establishments providing lodging and short-term accommodations for travelers. They may offer a wide range of services including, overnight sleeping space, food services, convention hosting services, and/or laundry services. Entertainment and recreation activities may also be included. Extended-stay hotels are included in this category.

Hydraulic Fracturing - The process by which sub-surface rock is fractured by a hydraulically pressurized liquid for the purpose of extracting any form of gas, including natural gas.

Industrial, Heavy - A non-residential use that requires a National Pollutant Discharge Elimination System (NPDES) permit for an industrial or stormwater discharge; or that involves the use or storage of any hazardous materials or substances; or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity; or that involves the mining or extraction of any minerals, ore, fossil

fuels, or other materials from beneath the surface of the earth. Typically, the largest facilities in a community, these structures house complex operations, some of which might be continuous (operated 24 hours a day, 7 days a week).

Industrial, Light - A non-residential use that involves the manufacturing, assembling, finishing, cleaning or developing any product or commodity. 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, odor, dust, and glare of each operation are completely confined within an enclosed building, insofar as practical. This includes medical and testing laboratories. This definition also includes facilities for scientific research, and the design, development, and testing of electrical, electronic, magnetic, optical, computer and telecommunications components in advance of product manufacturing, and the assembly of related products from parts produced off-site, where the manufacturing activity is secondary to the research and development activities. Also included are laundry/dry cleaning plants as principal uses engaged primarily in high volume laundry and garment services, including: carpet and upholstery cleaners; diaper services; dry-cleaning and garment pressing; and commercial laundries.

Infill Development - The term defining new development on land that has been previously developed or vacant land where development has occurred around the vacant land.

Junked Motor Vehicle - A vehicle that does not display a current license plate lawfully upon that vehicle and that is partially dismantled or wrecked and/or cannot be self-propelled or moved in the same way it was intended to move and/or is more than five years old and appears to be worth less than $500.

Junkyard - Any area or lot, or portion thereof, used for the storage, keeping, accumulation or abandonment of scrap or waste materials, including but not limited to, scrap metals, wastepaper, rags, buildings, used appliances, machinery or other scrap materials. A recycling processing center or recycling plant is not considered a junkyard.

Kennels, Outdoors - 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.

Legislative Decision - The adoption, amendment, or repeal of a regulation under G.S. § 160D or an applicable local act. It also includes the decision to approve, amend, or rescind a development agreement consistent with G.S. § 160D Article 10.

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

Lot – A parcel of land having frontage on a public street or other officially approved means of access.

Lot, Corner - A lot which abuts the right-of-way of two streets at their intersection.

Lot Corner - A portion of a lot at the junction and abutting upon two or more streets.

Lot, Depth - The horizontal distance between the front and rear lot lines.

Lot, Lines - The lines bounding a lot as defined herein.

Lot, Width - The mean horizontal distance between side lot lines.

Manufactured Home - See G.S. § 143-145(7).

Manufactured Home Court - Any plot of ground upon which two or more manufactured homes, occupied for dwelling or sleeping purposes, are located, regardless of whether a charge is made for such location.

Manufactured Home Space - Any parcel or ground within a manufactured home court, designed for the exclusive use of one manufactured home.

Manufactured Home Subdivision - Any subdivision designed and/or intended for lots for occupancy by manufactured homes.

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

Mechanical Utility - Any piece of machinery or equipment with moving parts, generates noise, or causes any kind of environmental disturbance or creates emission of any kind, including air movement. Said machinery or equipment is generally functional or utilitarian in nature.

Medical Clinic - Medical service facilities that provide outpatient ambulatory or outpatient health care such as emergency medical clinics; ambulatory surgical centers; dialysis centers; outpatient family planning services; community health centers and clinics; blood and organ banks; and medical services such as physician's and dentist's offices**.**

Microbrewery - An establishment where beer and malt beverages are made on the premises and then sold or distributed. Microbreweries sell to the public by one or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and directly to the consumer.

Mining, Extraction Operations, and Quarrying - The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location; or the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

Mini-Storage (Self-Storage Facility) - A facility which leases individual storage units with controlled access, such as rooms, lockers, or other similar compartments, to tenants, usually on a short-term, often month-to-month basis, for storage of personal items. Typically, such facilities have units which are accessed individually from the exterior but may also include units which are accessed from an area inside the facility. Use of a vacant building for storage is not considered a self-storage facility and may only be allowed in districts where "storage" or "storage buildings" are listed as a permitted use.

Motor Vehicle - All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Motor Vehicle, Disabled - Any motor vehicle that meets one or more of the following criteria: does not display a current license plate, is partially dismantled or wrecked and/or cannot be self-propelled or moved in the manner in which it was originally intended, or is more than five years old and is worth less than $500. Nothing in this definition shall be construed to apply to any vehicle in an enclosed building or vehicle on the premises of a business enterprise being operated in a lawful place and manner and the vehicle being necessary to the operation of the business enterprise, or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City.

Motor Vehicle Salvage Yard - Any area or lot, or portion thereof, used for the storage, keeping, accumulation, dismantling, demolition, or abandonment of junked motor vehicles, their parts, and other inoperable motor vehicles including manufactured (mobile) homes, boats and trailers. The presence of two (2) or more junked motor vehicles or other inoperable motor vehicles on any lot of land for period exceeding 30 days shall constitute prima-facie evidence of a motor vehicle salvage yard.

Nursery and Garden Center - Any establishment that provides activities related to growing crops mainly for commercial food and fiber. Establishments, such as farms, orchards, groves, greenhouses, and nurseries, which are primarily engaged in the commercial production of crops, plants, vines, or trees and their seeds should be included in this category.

Official Governmental Flag - For the purposes of this section, an 'official governmental flag' shall mean any of the following:

The flag of the United States of America.
The flag of nations recognized by the United States of America.
The flag of the State of North Carolina.
The flag of any state or territory of the United States.
The flag of a political subdivision of any state or territory of the United States.

Oil and Gas Exploration - (hydrocarbon exploration) is the search for hydrocarbon deposits beneath the Earth's surface, such as oil and natural gas.

Parking Lot/Structure, 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 Space - The storage space for one automobile plus the necessary access space.

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)

Personal Care Services - Cosmetic services such as hair and nail salons, barber shops, clothing alterations, shoe repair, weight loss centers and non-permanent makeup services**.**

Personal Care 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.

Planning and Development Jurisdiction – The geographic area defined in G.S. 160D within which a City may undertake planning and apply the development regulations authorized in this ordinance.

Plat - A map or plan of a parcel of land which is to be, or which has been, subdivided.

Produce Stand - A temporary open air stand or place for the seasonal selling of agricultural produce by an individual.

Professional Services - Services provided that make available the knowledge and skills of their employees to sell expertise and perform professional, scientific, and technical services to others such as legal services; accounting, tax, bookkeeping, and payroll services; architectural, engineering, and related services; graphic, industrial, and interior design services; consulting services; research and development services; advertising, media, and photography services; real estate services; investment banking, securities, brokerages; and insurance-related services.

Property - All real property subject to land-use regulation by a local government and includes any improvements or structures customarily regarded as part of real property.

Public Administration/Civic Meeting Facility - Not-for-profit membership organizations such as alumni associations, booster clubs, scouting organizations, ethnic associations, social clubs, fraternal lodge and veterans' membership organizations primarily engaged in promoting the civic and social interests of their members. The uses often include meeting and storage facilities.

Public Safety Station - Facilities for federal, state and local law enforcement and fire protection agencies, and their accessory uses including office space, temporary holding cells, equipment and evidence storage facilities, and vehicle garages. This definition is not intended to be inclusive of vehicle impoundment lots or state prison facilities.

Public Utilities - Water and sewer production plants and distribution systems owned by a governmental agency.

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

Racetrack - An outdoor course prepared for horse, dog, automobile, or other vehicle racing.

Recreation Facilities, Indoor - Uses or structures for active recreation including gymnasiums, natatoriums, fitness center, athletic equipment, indoor running tracks, climbing facilities, court facilities and their customary accessory uses. This definition is inclusive of both non-profit and for-profit operations.

Recreation Facilities, Outdoor - Parks and other open space used for active or passive recreation such as ball fields, batting cages, skateboard parks, playgrounds, greenway trails, driving ranges, and tennis courts and their customary accessory uses including, but not limited to, maintenance sheds, clubhouses (with or without food service), pools, restrooms, and picnic shelters.

Recycling Collection Station - An incidental use that serves as a drop-off point for temporary storage of recoverable resources. No processing of such items is conducted.

Recycling Plant - A facility that is not a junkyard and in which recoverable resources, such as newspapers, magazines, books, cardboard and other paper products, metal cans, plastics, and other products are recycled, reprocessed, and treated to return such products to a condition in which they may be used again for production.

Religious Institution - Any facility such as a church, temple, monastery, synagogues, or mosque used for worship by a non-profit organization and their customary related uses for education (pre-schools, religious education, etc.), recreation (gymnasiums, activity rooms, ball fields, etc.), housing (rectory, parsonage, elderly or disabled housing, etc.) and accessory uses such as cemeteries, mausoleums, offices, soup kitchens, and bookstores.

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 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 family care homes and halfway houses.

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 (snack and/or nonalcoholic bars). To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be not less than 30% of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages.

Rooming and Boarding House - A residential use consisting of at least one dwelling unit together with more than two rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming house or boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer-term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

Sanitary Landfill - A facility for disposal of any form of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under G.S. § 130A.

Shelter, Temporary - A facility providing, without charge, temporary sleeping accommodations, with or without meals, for individuals and/or families displaced from their residence as a result of sudden natural or man-made catastrophe including, but not limited to earthquake, fire, flood, tornado, hurricane, or the release of hazardous or toxic substances(s) into the environment. Such a natural or man-made catastrophe must be designated by the responsible local, state or federal official or an emergency agency such as the American Red Cross or the Emergency Management Assistance. Such temporary shelter may also be permitted for the housing of those made homeless due to other circumstances and under the auspices of a non-profit agency.

Shooting Range, Outdoor - A permanently located and improved area that is designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar sport shooting in an outdoor environment. Shooting range exclude any area for the exclusive use of archery or air guns or enclosed indoor facility that is designed to offer a totally controlled shooting environment and that includes impenetrable

walls, floor and ceiling, adequate ventilation, lighting systems and acoustical treatment for sound attenuation suitable for the range's approved use.

Sign - Any object, device, fixture, placard or structure, or part thereof, that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Abandoned Sign- Any sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity and/or for which no legal owner can be found.

Animated Sign - Any sign which flashes, revolves, rotates, or swings by mechanical means or which uses a change of lighting to depict action or create a special effect or scene. See definition of Changeable Copy Sign.

Banner Sign – Any sign of lightweight fabric or similar material that is rigidly mounted to a pole or building by a rigid frame at two or more edges. National flags, state, or municipal flags, or the official flag of any institution or business shall not be considered banners.

Beacon – Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

Billboard – See Outdoor Advertising Sign.

Building Marker – Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Canopy or Awning Sign - Any sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Changeable Copy Sign - Any sign or portion thereof with characters, letters, or illustrations, that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time and temperature shall be considered a “time and temperature” portion of a sign and not a changeable copy nor animated sign for purposes of this ordinance.

Channel Letter Sign - A sign consisting of fabricated or formed three-dimensional letters, individually applied to a wall or joined by a raceway. Channel letter signs are often internally illuminated. These signs may also include “bullets” or “taglines”, which are smaller than and subordinate to the main sign letters, and function as small, irregularly shaped cabinets.

Commercial Message - Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business product, service or other commercial activity.

Construction Sign - Any sign which identifies the architects, engineers, contractors, and other individuals or firms involved with the construction on the property, the name of building or development, the intended purpose of the building or development, and/or expected completion date.

Deteriorated Sign - Any sign which, together with its supports, braces, anchors, and other structural elements, is not maintained in accordance with the provisions of the North Carolina State Building Code, or where elements of the display area or panel are visibly cracked, broken, or discolored, or where the support structures or frame members are visibly corroded, bent, broken, torn, or dented, or where the message can no longer be read under normal viewing conditions.

Directional Sign – Any sign with no commercial message that indicates the direction to churches, hospitals, colleges, or similar institutional uses.

Door Sign - See Window Sign.

Feather Sign - A piece of cloth or similar material, typically elongated, oblong, and/or with a curved top or bottom edge, which is attached by two edges or one long, curving edge to a pole, and resembles a feather in shape. Generally, the sign is self-supporting (not attached to a building) and/or stuck into the ground in a temporary fashion, the flag is attached by a sleeve (and not by grommets or rope), and the entire sign is temporary in nature. This is distinct from a Flag.

Flashing Sign - A type of animated sign which contains an intermittent, blinking, scintillating, or flashing light source, or which includes the illusion of mounted intermittent light source. A changeable copy sign nor the "time and temperature" portion of a sign is not considered a flashing sign for purposes of this ordinance.

Flag - Any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government political subdivision, or other entity.

Freestanding Sign - Any sign which is supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure, as contrasted to a building sign.

Government Sign - Any sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.

Historical or Memorial Sign - Any sign which commemorates a historical person, structure, place, or event; or which denotes, honors, celebrates, or acknowledges a historical person, structure, place, or event.

Identification Sign - Any sign used to display: the name, address, logo, or other identifying symbol of the individual, family, home occupation, business, institution, service, or organization occupying the premises; the name of the building on which the sign is attached; or the directory information in multi-family developments or buildings with multiple tenants.

Information Board - Any sign which displays messages in which the copy may be arranged or rearranged by hand.

Instructional Sign - Any sign that has a purpose secondary to the use of the zone lot on which it is located that provides assistance, with respect to the premises on which it is maintained, for the direction, safety, or convenience of the public such as “entrance”, “exit”, “one-way”, “telephone”, “parking”, “no parking”, “loading only” and other similar directives. No sign with a commercial message legible from a public or private street right-of-way shall be considered an instructional sign.

Integral Roof Sign - See Roof Sign, Integral.

Marquee - Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Marquee Sign - Any sign attached to, in any manner, or made a part of a marquee.

Nonconforming Sign - A sign that legally existed at the effective date of this ordinance.

Off-Site Sign - Any sign that is used to attract attention to an object, person, product, institution, organization, business, service, event, or location that is not located on the premises upon which the sign is located.

Outdoor Advertising Sign (Billboard) - All off-site signs or off-site advertising that are larger than 100 square feet.

Pennant - Any lightweight plastic, fabric, or other material, whether containing a message of any kind, suspended from a rope, wire or string, usually in a series, designed to move in the wind.

Portable Sign - Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; easel, menu, and sandwich boards; balloons or inflatable, wind or air-filled devices used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Projecting Sign - Any sign affixed to a building or wall in such a manner that its leading edge extends more than six (6) inches beyond the surface of such building or wall.

Real Estate Sign - Any sign displayed for the purpose of offering for sale, lease, or rent the property on which such sign is erected, affixed, or otherwise established.

Roof Sign - Any sign erected and constructed wholly on and over the roof of a building supported by the roof structure and extending vertically above the highest portion of the roof.

Roof Sign, Integral - Any sign erected and constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Snipe Sign - A sign made of any material when such sign is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, trash cans, streetlights, or other objects, or placed on any public property or in the public right of way or on any private property without the permission of the property owner. The advertising material appearing thereon is often not applicable to the present use of the premises upon which the sign is located. May also be known as a "bandit sign".

Suspended Sign - A sign that is suspended from the underside of a horizontal plane surface and is supported by such service.

Tenant Identification Sign - An exterior sign that conforms to all criteria of a wall sign, and that identifies tenants of a single building, such as a multi-family residential building or a multi-tenant, non-residential commercial building, where access to each tenant is provided internally, via a shared external entrance. The sign may contain the name of the development, names of the tenants, suite number or address of each tenant, or a combination of these components. Tenant identification signs are designed to the pedestrian-oriented, located on or to the side of the shared external entrance, and are generally readable at less than ten to fifteen feet. Else, it is a wall sign

Temporary Sign - Any sign that is displayed for a limited period and is not permanently mounted.

Wall Sign - Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Warning Sign - Any sign with no commercial message that displays information pertinent to the safety or legal responsibilities of the public such as signs warning of high voltage, "no trespassing", and similar directives.

Window (or Door) Sign - Any sign which is painted on, affixed to, or placed inside a window and is visible from the exterior of the window, excluding displays of merchandise. This may also include televisions or other electronic devices used to advertise or convey signage through a window and visible from the public right-of-way.

Site Plan - A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structure on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and site plan review.

Smoke & Tobacco Shop - Any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, usage or marketing of tobacco, tobacco products, or tobacco paraphernalia.

Special Events Center - A venue to allow for various gatherings such as weddings, receptions, arts and crafts shows, corporate meetings, etc. on a smaller scale and which can be indoor or outdoor or a combination thereof.

Special Use Permit - A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgement and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as "conditional use permits" or "special exceptions."

Story - That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it.

Street - A thoroughfare, road, or vehicular travel way which affords the principal means of access to abutting property.

Alley – A public vehicular way providing service access along rear or side property lines of lots which are also serviced by another street type.

Cul-de-Sac – A short, minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

Street, Marginal Access – A minor street parallel and adjacent to a major thoroughfare or railroad, which provides access to abutting properties, protection from through traffic, and control of access to the major thoroughfares.

Street, Minor A street whose principal function is to provide access to adjacent properties.

Street, Private - A street maintained by the adjacent property owners or some other organization.

Street, Public - A street accepted for maintenance by the City of Eden or the North Carolina Department of Transportation.

Thoroughfare, Major – A street which is used for moving heavy volumes of traffic or high-speed traffic, or both, or which has been designated as a major thoroughfare on the Thoroughfare Plan.

Thoroughfare, Minor – A street which carries traffic for minor streets to the system of major thoroughfares or which has been designated as a minor thoroughfare on the Thoroughfare Plan.

Structural Fill - Engineered fill with a projected beneficial end use, constructed using coal combustion products that are properly placed and compacted. Structural fill includes fill used to reclaim open pit mines and for embankments, greenscapes, foundations, construction foundations, and for bases or sub-bases under a structure or a footprint of a paved road, parking lot, sidewalk, walkway or similar structure. When the storage or disposal of coal combustion products is the primary purpose of placement of engineered fill and the ultimate use or purpose is incidental or accessory, then placement of structural fill shall be considered a primary use. When the use of structural fill is incidental to the ultimate use or purpose, then the ultimate use or purpose shall be considered the primary use.

Structure - Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having more or less permanent location on the ground.

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

Subdivision – The division of land for the purpose of sale or development. See G.S. § 160D-802.

Theater, Indoor Movie or Live Performance - A specialized theater for showing movies or motion pictures on a projection screen or a stage for live performances. This category also includes cineplexes 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.

Utilities - See Public Utilities.

Vehicle Rental/Leasing/Sales - Establishments which may have showrooms or open lots for selling, renting or leasing automobiles, light trucks, motorcycles, and ATVs.

Vehicle Services - An establishment that provides for the repair, removal and temporary storage of vehicles, but does not include disposal, permanent disassembly, salvage or accessory storage of junk, wrecked, or inoperable motor vehicles. Such vehicles stored inside a completely enclosed building shall not be counted toward the maximum number of vehicles permitted to be stored. Temporary storage shall be defined as less than one year.

Vehicle Services – Major Repair/Body Work - The repair, servicing, alteration, restoration, towing, painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats, large appliances, commercial and industrial equipment and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This includes major repair and body work which encompasses towing, collision repair, other body work and painting services, and tire recapping.

Vehicle Services – Minor Maintenance/Repair - The repair, servicing, alteration, restoration, towing, painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. Minor facilities providing limited repair and maintenance services. Examples include: car washes, attended and self-service; car stereo and alarm system installers; detailing services; muffler and radiator shops; quick-lube services; tire and battery sales and installation (not including recapping).

Vested Right - The right to undertake and complete the development and use of property under the terms and conditions of an approval secured under G.S. § 160D-108 or under common law.

Veterinary Services - Establishments that include services by licensed practitioners of veterinary medicine, dentistry, or surgery for animals; boarding services for pets; and grooming.

Warehouse - A building where wares, or goods, are stored before distribution to retailers, or are kept in reserve, in bond, etc.

Wireless Telecommunication Facility - Any facility for the transmission and/or reception of wireless communication services usually consisting of antenna array, connection cables, and equipment facility and a support structure to achieve the necessary elevation.

Alternative Tower Structure - Man-made tress, clock towers, bell towers, steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna Array - Any exterior apparatus designed for telephonic, radio or television communication through the sending and/or receiving of electromagnetic waves. The antenna array is one or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the support structure.

Wireless Telecommunications Tower - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television towers, microwave tower structures and the like.

Fall zone - The radius around the base of the tower equal to the height of the tower.

Preexisting towers and antennas - Any tower or antenna for which a permit has been properly issued prior to the effective date of this section.

Height - When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

Yard - The area between a building and the property line.

Yard, Front - An open space on the same lot with a principal building between the front line of the building (exclusive of steps) and the front property or street right-of-way line and extending across the full width of the lot. The depth of the front yard shall be measured between the front line of the building and the front line of the lot. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

Yard, Rear - An open space between the rear line of the principal building (exclusive of steps) and the rear line of the lot and extending the full width of the lot. This area may be used for accessory buildings within the limitations of this Ordinance. The depth of the rear yard shall be measured between the rear line of the lot or the center line of the alley, if there be an alley, and the rear line of the main building.

Yard, Side - An open unoccupied space on the same lot with a building between the sideline of the building (exclusive of steps) and the sideline of the lot and extending from the front yard line to the rear line. If there be no front yard, the front boundary of the side yard shall be the front line of the lot and if there be no rear yard the rear boundary of the side yard shall be the rear line of the lot.

Appendix A – Extraterritorial Jurisdiction

A.01 AUTHORITY

Per G.S. § 160D-202, the City of Eden chooses to exercise extraterritorial jurisdiction and assert its planning authority outside the City's corporate limits.

A.02 METES AND BOUNDS DESCRIPTION

The boundary of the areas over which the City of Eden shall exercise extraterritorial jurisdiction is described as follows:

BEGINNING at a point where the N.C.-V.A. state line intersects Fisher Hill Road (SR1700); thence in a southerly direction along Fisher Hill Road to a point in Martin Creek;

thence in a southwesterly direction along Martin Creek to a point in the south line of a tract of land owned by Dorothy Thompson and Anna Lou Lemons;

thence along the south and west property line of Dorothy Thompson and Anna Lou Lemons to a point 200 feet north of the right-of-way line of N. C. #700;

thence in a southwesterly direction parallel to and 200 feet north of N. C. #700 to a point near the west property line of Henry L. Carter;

thence in a southerly direction along the west property line of Henry L. Carter to a point in N. C. #700;

thence in an easterly direction along N. C. #700 to a point 200 feet east of SR1702;

thence in a southerly direction parallel to and 200 feet east of the east right-of-way line of SR1702 to a point 200 feet east of N. C. #87;

thence in a southerly direction parallel to and 200 feet east of N. C. #87 to a point in line with the northeast property line of a tract of land owned by Charlene Nance;

thence a line crossing N.C. #87 to the northeast corner of Charlene Nance property;

thence along the north property line of Charlene Nance to a point, continuing along the west property line of Charlene Nance to a point in the northeast corner of the property of Leslie E. Hatcher Heirs;

thence along the north line of the property of Leslie E. Hatcher Heirs to a point in the northeast corner of the property of Bobby Clyde Brown;

thence along the north property line of Bobby Clyde Brown to the northeast corner of a tract of land owned by Henry Ray and Marion Kelly;

thence along the north property line of Henry Ray and Marion Kelly to a point in a branch, continuing along the west property line of said property to a point in the northwest corner of a tract of land owned by W. G. Fields, Jr. and Marion;

thence along the west property line of W. G. Fields, Jr. and Marion extending across Westerly Park Road (SR1557) to a point at the northeast corner of a tract of land owned by M. L. Tucker;

thence along the east property line of M. L. Tucker extending across SR1553 to a point in SR1553;

thence in an easterly direction along SR1553 to a point along the northeast corner of a tract of land owned by Roy E. Brown;

thence in a southerly direction along the east property line of Roy E. Brown to a point in Matrimony Creek;

thence in a westerly direction along Matrimony Creek to a point being the northwest corner of a tract of land owned by Willie Lee Wray;

thence in a southerly direction along the west property line of Willie Lee Wray extending across Price Road (SR1535) to a point in the northwest corner of the property of William Monroe and Mildred R. Hopper;

thence along the west property line of William Monroe and Mildred R. Hopper to a point in the north property line of Opal R. Lawson;

thence in a westerly direction along the north property line of Opal R. Lawson to a point, continuing in a southerly direction along the west property line of Opal R. Lawson extending to the northeast corner of the property of Jerry W. and Hilda Trent;

thence along the north property line of Jerry W. and Hilda Trent extending in a westerly direction

along Clearview Drive to a point in Shady Grove Road (SR1533);

thence in a southerly direction along Shady Grove Road (SR1533) to a point in the northeast corner of the property of Ronald Dale Knight;

thence in a westerly direction along the north property line of Ronald Dale Knight to a point, continuing in a southerly direction along the west right-of-way line of Ronald Dale Knight to a point in an unnamed road continuing in a southerly direction parallel to and 200 feet west of the west right-of-way line of Shady Grove Road (SR1533) to a point in the south property line of Stewart A. Hamilton;

thence along the south property line of Stewart A. Hamilton extending to a point in the east branch of Buffalo Creek;

thence along the east branch of Buffalo Creek and along Buffalo Creek to a point in Dan River;

thence along Dan River in an easterly direction to a point 500 feet east of the Loop Road Bridge;

thence in a southerly and easterly direction parallel and 500 feet east and north of Loop Road to a point in N. C. #87 at the intersection of N. C. #87 and SR1971;

thence easterly along SR1971 to a point 200 feet east of SR1970;

thence parallel to and 200 feet east of SR1970 to a point in the south property line of Roy Elmer Currie;

thence in an easterly direction along the south property line of Roy Elmer Currie to a point; continuing along the east property line of Roy Elmer Currie in a northerly direction to a point in the south property line of Joe Haynes;

thence in an easterly direction along the south property line of Joe Haynes to a point, continuing in a northerly direction along the east property line of Joe Haynes to a point in the south property line of Otis Leon and Camilla Hutcherson;

thence in an easterly direction along the south property line of Otis Leon and Camilla Hutcherson to a point continuing the same direction along the south property line of Webster Brick Company to a point in SR2039;

thence along SR2039 to a point in Fishing Creek;

thence along Fishing Creek to Dan River;

thence in an easterly direction along the south bank of Dan River;

thence in an easterly direction along the south bank of Dan River passing Duke Power Steam Station continuing to a point approximately 4,500 feet west of N. C. #700 bridge crossing Dan River, point being the northwest corner of a tract of land owned by Robert C. Hyler;

thence in a southerly direction along the west property line of Robert C. Hyler to a point 200 feet north of Quesinberry Road (SR1951);

thence in a westerly direction parallel to and 200 feet north of Quesinberry Road (SR1951) approximately 1,100 feet to a point in a branch;

thence in a southerly direction along the branch to a point in Quesinberry Road (SR1951);

thence in a northeasterly direction along Quesinberry Road (SR1951) to a point in the corner of the property of Mrs. Floyd Dabbs;

thence along the south property line of Mrs. Floyd Dabbs to a point at the southwest corner of a tract of land owned by Zuma W. Johnson;

thence along the south property line of Zuma W. Johnson to the northwest corner of the property of Ralph E. Estes;

thence along the north property line of Ralph E. Estes to a point in N. C. #700;

thence in an easterly direction along the south property line of a tract of land owned by Frank Johnson to a point, continuing in a northerly direction along the same tract of land, continuing along the same tract of land in a northeasterly and northerly direction to a point in Chumney Road (SR1752), continuing in a northerly direction along the same tract of land to a point in Dan River;

thence in an easterly direction along Dan River to a point at the southeast corner of Gervis Norman Cochran property;

thence along the east property line of Gervis Norman Cochran to a point in the south property line of John Sherman Holt;

thence in an easterly direction along the south property line of John Sherman Holt to the southwest property line of T. M. Johnson;

thence along the south property line of T. M. Johnson to a point, continuing in a northerly direction along the east line of the same tract to a point at the southwest corner of the property of Ted Mack Johnson;

thence along the south property line of Ted Mack Johnson to a point in an unnamed road, continuing in a straight line to a point 200 feet east of said road;

thence in a northerly direction parallel and 200 feet east of the unnamed road to a point in the south property line of a tract of land owned by James Milton Jones;

thence in a northerly direction along the property line of James Milton Jones to a point at the southeast corner of a tract of land owned by Spray Water Power and Land Company;

thence in a northerly direction along the east property line of Spray Water Power and Land Company to a point; continuing in a westerly direction along the line of said property, continuing in a northerly direction along a line of said property to a point in N. C. #770, continuing across N. C. #770 in a straight line to a point 200 feet north of N. C. #770;

thence in a northwesterly direction parallel and 200 feet north of N. C. #770 to a point in the Carolina and Northwestern Railroad;

thence in a northerly direction parallel to and 400 feet east of SR1743 to a point in the east property line of Tri-City Industrial Corporation where such property line intersects an arc formed by measuring one mile by scale from the extreme of the present city limit line;

thence in a westerly direction along a line formed by arcs measuring a distance of one mile by scale from the extremes of the present city limit line to a point, point being the southeast corner of a tract of land owned by Tri-City Micro Midget Hobby Club;

thence in a westerly direction along the south property line of Tri-City Micro Midget Hobby Club to a point in Cascade Road (SR1741);

thence in a westerly and northerly direction along a line formed by arcs measuring a distance of one mile by scale from the extremes of the present city limits to a point where such line intersects the N. C.-Va. state line;

thence in a westerly direction along the N. C.-Va. state line to POINT OF BEGINNING.

AMENDED JUNE 17, 2008 TO ADD THE FOLLOWING AS OF AUGUST 31, 2008.

SECTION 1:

BEGINNING at a point in the existing ETJ line and marking the northeast corner of Margaret Rhodes Brown (PIN 706000446390) on the south side of Rhodes Road; thence in a westerly direction with Rhodes Road to the northwest corner of John M. Campbell (PIN 706000245435); thence in a southerly direction with the west property line of Campbell to a point in the north property line of Virginia Butler Pratt (PIN 706000330515); thence in a westerly, southerly and easterly direction with the property line of Virginia Butler Pratt to the northwest corner for Robert Wayne Gillie (PIN 706000220619);

thence in a southerly direction with the west property line of Robert Wayne Gillie, Kelly K. Stultz (PIN 706000129124, Jerry L. Kasten (PIN 706000210812) and the Emma Hopper Estate (PIN 706000116344) to the Price Road; thence in a southerly direction crossing the Price Road and along Roberts Road to NC 770;

thence in an easterly direction with NC 770 to a point in the south line of Alexander Robertson (PIN 796903348708) in the existing ETJ line.

SECTION 2:

BEGINNING at a point in the existing ETJ line at Harrington Highway; thence in a southerly direction with Harrington Highway and the west property lines of Duke Power Company (PIN 796802883239), James D. Dixon (PIN 796802884081), Leroy Hand (PIN 796802877622), Leroy Hand (PIN 796802970212) and Richard J. Woods (PIN 796802869886); thence in an easterly direction with the south property lines of Richard J. Woods (PIN 796802869886), Martha H. Boulding (PIN 796802963797), Joyce Marie Lawson (PIN 797801064757), crossing Piney Fork Church Road, Karen S. Ward (PIN 797801162789), William Marvin Haynes (PIN 797801169871), crossing Yount Road, Sara Haynes Mathis (PIN 797801264836), NC

Department of Transportation (PIN 797801267813), Evelyn R. Banks (PIN 797801279161), and Barry Dean Joyce (PIN 797801475230) to NC 87; thence north with NC 87 approximately 700 feet;

Thence in an easterly and northerly direction with the property line of Herbert H. Fulcher, Jr. Trustee (PIN 797800678873) to the south property line of William David Goldston, Jr. (PIN 797800997288).; thence in an easterly direction with the south line of Goldston to Rob Tom Road; thence in a southerly direction with Rob Tom Road and the west property lines of Christopher S. Vernon (PIN 797800972647) and Frank Bowers (PIN 797800966474); thence with the south property lines of Frank Bowers (PIN 797800966474), Nancy T. Jackson (PIN 798809064652), Mrs. Edward R. Anderson, Sr. (PIN 798809260560), and Diana A. Wieczorek (PIN 798810464543) to Bethlehem Church Road;

Thence in an easterly direction with Bethlehem Church Road crossing NC Highway 14 to Moir Mill Road;

Thence in a northeasterly direction with Moir Mill Road and with the south property line of Kenneth T. Tucker (PIN 799801085927); thence in a northerly direction with the east line of Tucker (PIN 799801085927), Kenneth Thomas Tucker (PIN 799801094619), Lots 12, 14, 15, 16, 17, 20, 21, 27 and 25, Glenn Farm Estates, Phase 2, Section 2, Map Book 53, page 43, to a point in Town Creek Road;

Thence with Town Creek Road as it travels in a northeasterly, southeasterly and northeasterly direction to Quesinberry Road;

Thence in a northeasterly direction with Quesinberry Road to the southeast corner for Earl Wayne DeHart (PIN 79990577443) and the southwest corner for Robert Lee Hyler (PIN 799900770613) a point in the existing ETJ line.

SECTION 3:

BEGINNING at a point in the existing ETJ line in the Dan River marking the southwest corner for William A. Frank (PIN 800000534436); thence in a northeasterly direction with the Dan River to the northeast corner for William A. Frank; thence in a westerly direction with the north line of Frank and Cecil Wayne Corum (PIN 800010460692) to a point in the existing ETJ line.

SECTION 4:

BEGINNING at a point in the existing ETJ line at the northeast corner of Eden Metropolitan Sewer District, Inc. (PIN 800100426688), said point also being in the right of way of NC 770; thence in a northerly direction crossing NC 770 and with the east line of Cascade Creek Properties, LLC (800100439389) and Cemex Construction (PIN 800100553340) to the northeast corner for Cemex; thence in a northwesterly with Cemex to the North Carolina-Virginia state line; thence in a westerly direction with the North Carolina-Virginia state line to a point in the north line of Joseph Scales, III (PIN 708100960228) at the existing ETJ line.

Appendix B – Planting List

B.01 APPROVED PLANTING LIST

The following species are approved for use as street trees, buffering, screening and shade pursuant to this Ordinance. Alternative species may be substituted to satisfy the requirements of this Ordinance, subject to the approval of the Administrator.

A. COMMON TREES

Common Name	Botanical Name	Height/Width
Sugar Maple	Acer saccharum	75’ / 45’ broad
Scarlet Maple	Acer rubrum	75’ / 45’ broad
Maidenhair Tree	Ginkgo biloba	75’ / 35’ (male only)
Pin Oak	Quercus palustris	75’ / 40’ conical
Willow Oak	Quercus phellos	75’ / 40’ broad
Baldcypress	Taxodium distichum	75’ / 35’ conical
Littleleaf Linden	Tilla cordata	75’ / 45’ ovate
Shumard Oak	Quercus shumardii	75’ / 40’ conical
Glodspire	Acer saccharum	50’ / 15’ columnar
Armstrong	Acer rubrum	60’ / 25’ columnar
Autumn Flame		55’ / 45’ ovate
October Glory		60’ / 45’ ovate
Yellowwood	Cladastrus lutea	45’ / 35’ broad
Sweetgum (seedless)	Lyquidambar styracifula	65’ / 45’ ovate
Chinese Elm	Ulmus parviflora	65’ / 45’ broad
Japanese Zelkova	Zelkova serrata	65’ / 40’ vase-shaped
Trident Maple	Acer buergeranu	30’ / 30’ broad
Hedge Maple	Acer campestre	35’ / 35’ broad
European Hornbeam	Carpinus betulus	35’ / 20’ ovate
Milky Way	Coruns kousa	30’ / 30’ vase-shaped
Galaxy	C. Kousa and Florida	30’ / 35’
Crape Myrtle (Natchez and others)	Lagerstoremia indica	20’ / 30’
Crabapple	Malus floribunda	30’ / 20’ broad
Adam		35’ / 20’
Adirondac		35’ / 20’
Sugartime		35’ / 20’
Sargent		35’ / 20’
Hophornbeam	Ostrya varginiana	35’ / 25’ conical
Japanese Apricot	Prunus mume	35’ / 35’
Japanese Cherry	Prunus okame	30’ / 35’
Japanese Styrax	Styrax japonica	20’ / 10’

B. SHADE TREES

Common Name	Botanical Name	Height/Width
Heritage, Dura Heat	Betula nigra	40’ / 30’ ovate
Hawthorn	Crataegus spp.	Thornless varieties only
Thornless Honey Locust	Gleditsia traicanthos inermis	65’ / 50’ broad
Golden Raintree	Koelreuteria paniculata	35’ / 30’ broad
Japanese Cherry	Prunus serrulate	30’ / 25’ vase-shaped
Autumn Blaze	Pyrus calleryana	40’ / 25’ narrow ovate
Redspire	Pyrus calleryana	40’ / 25’ ovate

C. SHRUBS

Abelia
Arboruitae
Azalea
Barberry
Chamaecy Paris
Cleyera
Cotoneaster
Crape Myrtle
Cryptomeria
Cuppressocay Paris
Elegnus
Forsythis
Hibiscus
Hydrangea
Ilex
Juniper
Ligustrum
Pica
Vibernum

D. TREES SUITABLE FOR PLANTING UNDER POWER LINES

Common Name	Botanical Name
Autumn Brilliance	Amelanchier x grandiflora
Crabapple	Coruns kousa
Magnolia (deciduous) (Saucer, Galaxy, Star)	Malus
Trident Maple	Acer buergeranum
Holly (Nellie R. Stevens)	Ilex
Eastern Redbud	Cercis

Appendix C – Ordinance Amendment History

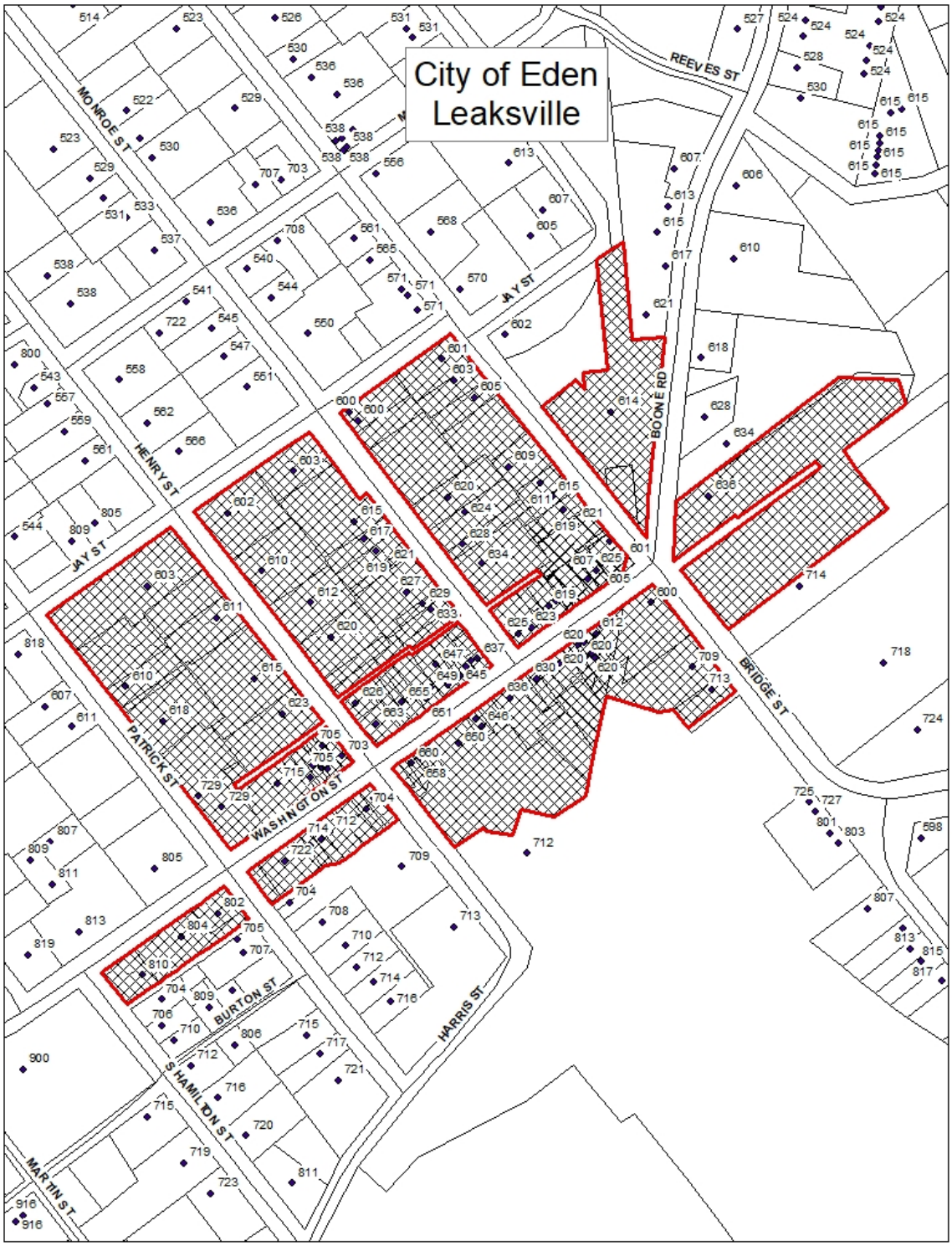
C.01 ORDINANCE AMENDMENT HISTORY

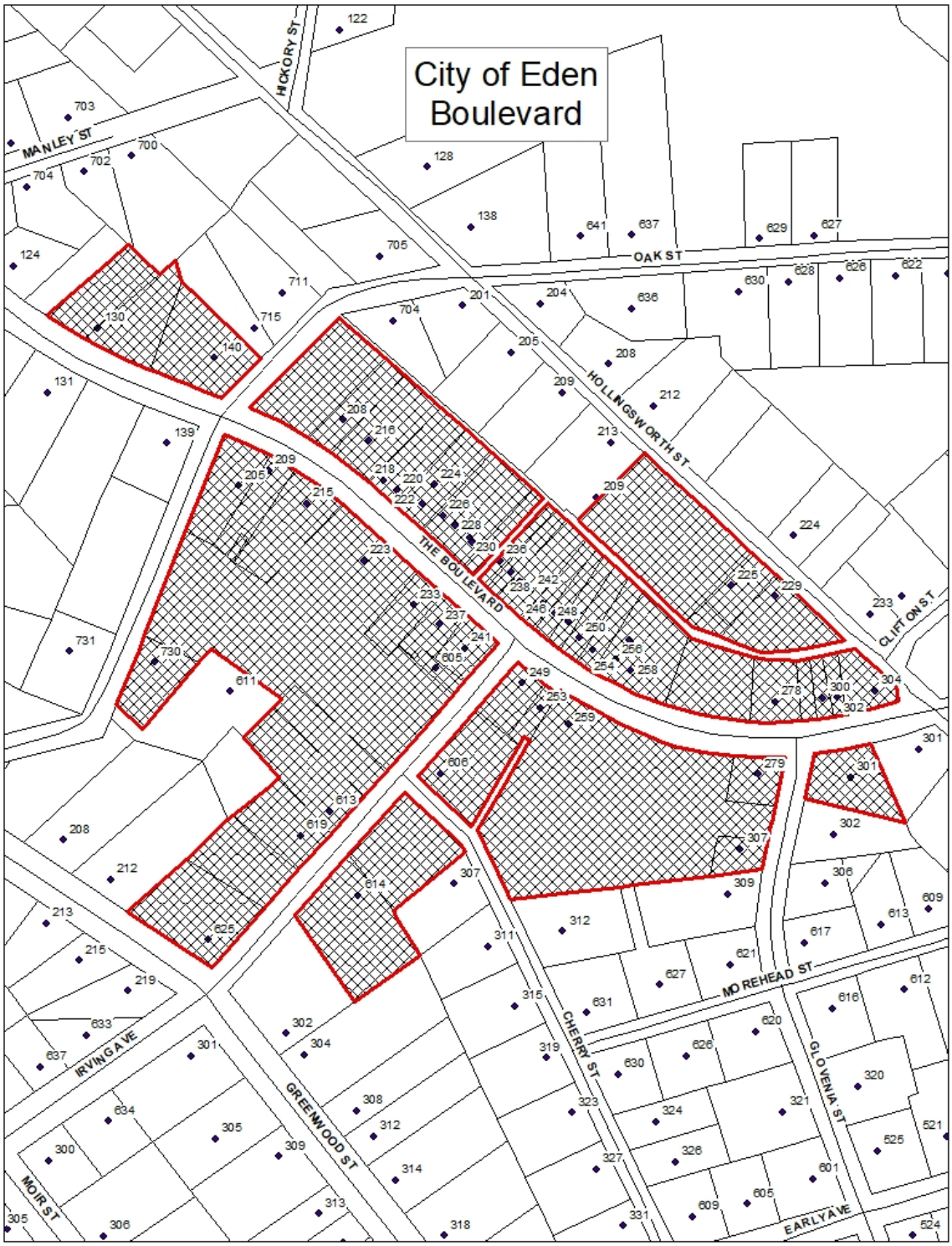
Case Number	Date	Article and Section	Description

Case Number	Date	Article and Section	Description

Appendix D – Vacant Commercial Properties Area Maps


City of Eden
Draper
MAIN ST
FIELDCREST RD
MILL AVE
MAIN ST
RIDGE AVE
N HIGH ST
N FIELDCREST RD
E STADIUM DR
S FIELDCREST RD


City of Eden
Leaksville
REEVES ST
MONROE ST
JAY ST
HENRY ST
BOONE RD
BRIDGE ST
PATRICK ST
WASHINGTON ST
BURTON ST
HARRIS ST
S HAMILTON ST
MARTIN ST


City of Eden
Boulevard
HICKORY ST
MANLEY ST
OAK ST
HOLLINGSWORTH ST
THE BOULEVARD
CLIFTON ST
MD REHEAD ST
CHERRY ST
GLOVENIA ST
EARLY AVE
IRVING AVE
GREENWOOD ST
MOIR ST

Appendix E – Typical Development Process Chart

The chart below illustrates the typical development review process that most projects in the City of Eden will follow. It is not intended to be inclusive of all the application/approval processes that may be required in every instance. For specific information regarding what application/approval processes are required, contact the City of Eden Planning and Inspections Department.