

ARTICLE 10: LANDSCAPING, BUFFERYARDS, SIGNS AND HISTORIC DISTRICT**Section 10 Bufferyards/Landscaping Requirements****Section 10.1 General**

- A. Bufferyards are a combination of land and physical barriers such as fencing, plant material, and earthen berms that separate various land uses and street right-of-ways. Their purpose is to create a better quality of living and aesthetics for the community by encouraging the preservation of existing vegetation and stabilize the environment's ecological balance, to establish proper separation between land uses, to provide flexibility in developing appropriate separation between land uses, and to help reduce the negative impact of glare, noise, odors, overcrowding, traffic, lack of privacy, and visual blight when incompatible land uses adjoin one another.
- B. To determine the bufferyard required by this Article, the following steps should be taken:
 - 1. Identify the classification of the proposed land use and any adjacent land use listed in Section 10.3, Bufferyard Use Classification List.
 - 2. Use Section 10.4, Bufferyard Chart, to determine the appropriate letter designation for each abutting yard.
 - 3. Match the letter designation obtained from Section 10.4, Bufferyard Chart, with the letter designation of Subsection B, Bufferyard Illustrations, to determine the required bufferyard.

Section 10.2 Bufferyards-Site Plan Required, Approval, Timing of Permits

- A. Prior to issuance of a zoning permit, an applicant must propose and receive approval for a bufferyard plan in accordance with this Article. The applicant must submit a site plan drawn to scale showing the bufferyard areas and the plants that will be installed. The name and number of each type of plant to be used will be listed.
- B. Zoning permits may be issued only after a site plan, including a detailed bufferyard plan, has been approved by the Zoning Administrator.
- C. In order for a final Certificate of Occupancy to be issued, all vegetation, fencing, and berms required by this Section shall be in place.

Section 10.3 Bufferyard Use Classification List

- A. Below are the classifications or groups of land uses that will be utilized in conjunction with Section 10.4.A Bufferyard Chart, to determine the required bufferyards.

2. Classification I:

- a. Residential uses, including single family detached dwellings, individual manufactured/mobile homes, and family care homes.
- b. Golf courses (regulation), nature areas, wildlife sanctuaries, and their accessory uses, agricultural production (excluding intensive livestock production).

2. Classification II:

- a. Multifamily dwellings, dormitories, manufactured/mobile home parks, fraternities and sororities, rooming/boarding houses and their accessory uses, including recreation.
- b. Limited impact recreational uses, including, but not limited to: playgrounds, jogging trails, bicycling areas, boat launch ramps, picnic areas, swimming pools, and tennis courts.

3. Classification III:

- a. Institutional uses, including, but not limited to: day or youth camps, cemeteries, churches, day care centers, group care homes, libraries, museums, nursing homes, public or private schools, retirement homes, social or fraternal organizations, and hospitals.
- b. Governmental buildings or uses, including, but not limited to: offices, fire stations, police stations, garages, public utilities, and public services uses. Specifically excluded are sanitary landfills, wastewater treatment facilities, extraction activities, and animal services.
- c. Commercial and service uses, not open between the hours of 11:00 p.m. and 6:00 a.m., including, but not limited to: retail sales operations, laundry/dry cleaners, grocery stores, restaurants (conventional, not fast food), service or business stores (catering, bakery, duplicating, photography, shoe repair, tailoring, travel agency, etc.), taxi companies, shopping centers, funeral homes, and principal use parking lots.
- d. Offices, including drive thru facilities.
- e. Utility uses, including, but not limited to: telephone facilities, cable television companies, and radio and television facilities, telecommunication towers.

- f. Medium impact commercial recreation uses, including but not limited to: fairgrounds, miniature golf, golf driving ranges not operated in conjunction with a golf course, stables, indoor recreation areas such as skating rinks, tennis, swimming, handball, and racquetball, athletic clubs, exercise and dance studios, and indoor theaters.
 - g. Plant nurseries or greenhouses that are not a part of a farm.
4. Classification IV:
- a. High impact recreational uses, including, but not limited to: auditorium, coliseum or stadium, theaters, athletic fields and sports arena.
 - b. Road service uses, including, but not limited to: gasoline sales, convenience stores, fast food restaurants, major and minor repair facilities, boat rental/sales or service, vehicle rental/sales or service and other commercial and service type businesses open 24 hours.
 - c. Veterinary offices, animal boarding for medical attention only.
 - d. Agricultural support uses including, but not limited to: farm equipment rental/sales and service and farm supply (feed, grain, and fertilizer).
 - e. Light industrial uses, including, but not limited to: sewing operations, wood products, laboratories, warehouses, wholesaling businesses and storage, publishing plants and printing plants, mini-warehouses, contractor's office with equipment storage yards, ice, wood sales, lumberyards, building materials sales and storage, trade shops (including cabinet, metal, carpentry, planning, plumbing, upholstery, and paneling).
5. Classification V.
- Intensive industrial and similar uses, including, but not limited to grain elevators, resource recovery activities, sanitary landfills, wastewater treatment facilities, extraction activities, and animal services.

Section 10.4 Land Use Classifications and Bufferyard Specifications

This section shows the bufferyard requirements based on an adjacent Land Use Classifications or groups (Subsection A), which specifies the type of bufferyard required in that situation. Then Subsection B, Bufferyard Specifications, states what the specifications of each type of bufferyard will be.

A. Bufferyard Chart.

The following chart shows what type of bufferyards are required based on which Land Use Class the proposed use is located in and the Land Use Class of the

adjacent lot or parcel. The types of bufferyards required are designated with the letters: A, B, C, D, E or F, which are further defined by their respective specifications in Subsection B below. The notes for this chart tend to further explain what the requirements are for certain Land Use Classification situations.

Section 10.4.A Bufferyard Chart								
Proposed Land Use Class	Adjacent Permitted Land Use Classification					Adjacent Vacant or Zone with Non-Conforming Use		Other
	I	II	III	IV	V	Public/private		
						Residential	Non-Residential	Streets
II	C Note 1	B Note 1	B Note 1	B Note 1	B Note 1	C Note 1	B Note 1	A Notes 1, 3, & 4
III	D Note 2	D Note 2	B Note 2	B Note 2	B Note 2	D Note 2	B Note 2	A Notes 1, 3, & 4
IV	E Note 2	E Note 2	B Note 2	B Note 2	B Note 2	E Note 2	B Note 2	A Notes 1, 3, & 4
V	F Note 2	F Note 2	B Note 2	B Note 2	B Note 2	F Note 2	B Note 2	A Notes 1, 3, & 4

NOTES:

1. Building setbacks shall be in accordance with applicable regulations for the zoning district and use.
2. Unless otherwise provided, setbacks shall be determined in the following manner:
 - a. Structures thirty-five (35) feet in height and under – in accordance with prescribed bufferyards.
 - b. Setbacks for parking, storage, dumpsters, etc. shall be in accordance with prescribed bufferyards.
3. Bufferyards for adjacent streets may only be encroached upon for driveway accesses and signage.
4. The vegetation of this Section shall not apply to public alleys and private service easements that provide secondary access; however, structures must observe the bufferyard setback.

B. Bufferyard Specifications

Bufferyard specifications in the charts below indicate the specifications of each type of bufferyard, which is determined and required based on the Land Use Classifications of adjacent land uses shown in Subsection A, Bufferyard Chart. Bufferyard requirements are stated in terms of the width in feet of the bufferyard and the number of plant units required per each one hundred (100) linear feet of bufferyard.

1. Bufferyard A

Lot Size	Bufferyard Width Required	Number of Plant Units per 100 Linear Feet of Bufferyard
Less than 25,000 sq. ft.	4	12 shrubs
25,000 sq. ft. to 175,000 sq. ft.	6	20 shrubs
Over 175,000 sq. ft.	10	25 shrubs
1. One (1) small tree may be substituted for four (4) shrubs. If yard more than eight (8) feet in width is available, then one (1) large tree may be substituted for four (4) shrubs. 2. Plant material may be reduced by fifty (50) percent when a berm at least two (2) feet in height is provided. 3. Shrubs used to satisfy the requirements of this bufferyard are not limited to those listed in Section 10.8.		

2. Bufferyard B

Lot Size	Bufferyard Width Required	Number of Plant Units per 100 Linear Feet of Bufferyard
Less than 25,000 sq. ft.	4	3 small trees and 3 evergreen shrubs
25,000 sq. ft. to 175,000 sq. ft.	6	3 small trees and 3 evergreen shrubs
Over 175,000 sq. ft.	10	3 small trees and 3 evergreen shrubs
If yard more than eight (8) feet in width is available, then large trees may be substituted for small trees.		

3. Bufferyard C

Lot Size	Bufferyard Width Required	Number of Plant Units per 100 Linear Feet of Bufferyard
All sizes	10	3 small trees and 16 evergreen shrubs
When a fence is used, the bufferyard width may be reduced to eight (8) feet and vegetation may be reduced to two (2) large trees.		

4. Bufferyard D

Lot Size	Bufferyard Width Required	Number of Plant Units per 100 Linear Feet of Bufferyard
All sizes	20	3 large trees (minimum 70 percent evergreen), 5 small trees, 16 evergreen shrubs
<ol style="list-style-type: none"> 1. Bufferyard vegetation may be reduced by fifty (50) percent if a fence or earth berm is provided. 2. Bufferyard width may be reduced fifty (50) percent if a fence is provided. 		

5. Bufferyard E

Lot Size	Bufferyard Width Required	Number of Plant Units per 100 Linear Feet of Bufferyard
All sizes	30	5 large TREES (minimum 70 percent evergreen), 7 small TREES, 26 evergreen shrubs
<ol style="list-style-type: none"> 1. Bufferyard vegetation may be reduced by fifty (50) percent if a fence or earth berm is provided. 2. Bufferyard width may be reduced fifty (50) percent if a fence is provided. 		

6. Bufferyard F

Lot Size	Bufferyard Width Required	Number of Plant Units per 100 Linear Feet of Bufferyard
All sizes	50	6 large TREES, 9 small TREES, 45 evergreen shrubs
<ol style="list-style-type: none"> 1. Bufferyard vegetation may be reduced by fifty (50) percent if a fence or earth berm is provided. 2. Bufferyard width may be reduced fifty (50) percent if a fence is provided. 		

Section 10.5 Barrier and Vegetation Standards

A. Fences.

1. Within or abutting residential districts, no wall or fence shall exceed four (4) feet in height within a front or side yard or exceed eight (8) feet in height in the rear yard; and in all other non-residential districts, no fence shall exceed eight (8) feet in height. The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any wall or fence. Vision clearance at intersections as defined in Section 7.4.1.C shall be maintained.
2. Within or abutting residential districts, all man-made fences or walls shall have at least a finished side facing out (to adjoining property) and no fence or wall shall contain barbed (except enclosing livestock) or razor wire or any other dangerous features. Must create a complete visual screen. Acceptable materials are masonry, cedar, redwood, and pressure treated lumber resistant to rot. Fence installation should be consistent with acceptable building practices.

B. Berms.

Minimum height = 5 feet [Note: this requirement does not pertain to Bufferyard A.]

Maximum slope = 2 feet horizontal for each 1 foot vertical (2:1)

Minimum crown Width = 2 feet

C. Minimum Plant Size.

Unless otherwise indicated elsewhere in this Section, all plant material shall meet the following minimum size standards at the time of planting:

<u>Planting Material Type</u>	<u>Minimum Plating Size</u>
Large Tree	
Single-Stem	1 ½ inch caliper
Multi-Stem Clump	6 feet in height
Small Tree	4 feet in height
Evergreen Shrubs	1 foot in height

D. Spacing in Bufferyards C, D, E, and F.

Bufferyards C, D, E, and F are intended to create a complete visual screening year round. Therefore, proposed and existing vegetation should be spaced to accomplish this purpose. No more than two (2) continuous feet of horizontal plane, as measured and viewed perpendicular from the property line, may be void of vegetation at least six (6) feet in height within ten (10) years of planting.

E. Existing Material.

Any existing plant material that otherwise satisfies the requirements of this Section may be counted toward satisfying all such requirements. For Bufferyard C, D, E, and F, one (1) existing large or small tree may be substituted for two shrubs as required by this Division.

F. Seeding.

All buffeyard areas that are not landscaped shall be seeded with lawn grass unless ground cover is already established.

G. Encroachment.

Among other things, bufferyards may not be encroached upon by vehicular areas (except driveways and common access parking lots), buildings, service walkways, exterior storage, dumpsters, or mechanical equipment unless otherwise provided. Encroachment by storm water detention ponds may occur subject to the approval of the town. Any plant materials placed within storm water storage areas shall be of a variety that will survive periodic flooding. Exterior lighting may project three (3) feet into required bufferyards.

H. Recreational Use of Bufferyard.

A bufferyard may be used for passive recreation. It may contain greenway, pedestrian, bicycle, or equestrian trails, provided that no plant material is eliminated, the total width of the bufferyard is maintained, and all other regulations of the zoning ordinance are met. In no event, however, shall the following uses be permitted in bufferyards: playgrounds, ballfields, stables, swimming pools, tennis courts, or any other type of active recreational use.

I. Easement.

No vegetative screen or barriers required by this Section shall be placed on property subject to utility or drainage easements without the written consent of the Town and the easement holder.

J. Solar Access.

If the development on the adjoining use is existing, and is designed for solar access, small trees shall be substituted for large trees where large trees would destroy solar access.

K. Overlapping Bufferyards.

Whenever two (2) or more bufferyard requirements are applicable to the same use or combination of uses, then the more stringent of the bufferyard requirements shall apply.

L. Drainage Ditch.

When a drainage ditch separates property lines, all vegetation and fencing required by this Division shall be provided. However, in no case shall the required vegetation and fencing be located within five (5) feet of the outer edge of the drainage ditch. Placement of vegetation and fencing within easements shall be in accordance with subsection (I) above.

M. Future Thoroughfare.

Required landscaping materials, fencing, and berms shall not encroach within future thoroughfare right-of-way.

N. Shopping Centers, Condominium /Townhouses, and Multi-Family Development.

Bufferyards are required only along exterior property lines of the project, however, bufferyards are required along all property lines of outparcels that have direct access onto a public dedicated street.

O. Vegetation Location.

Required vegetation shall be installed within the minimum bufferyard area except as provided herein. Where a drainage ditch or other natural feature prevents the installation of required vegetation within the minimum bufferyard area, such materials shall be installed within an area of equal width to the required bufferyard area. This "area of equal width" shall be located adjacent to and extend from the drainage ditch or other natural features. Building setbacks, parking areas, driveways, and all site improvements may encroach into the "area of equal width."

Section 10.6 Maintenance of Bufferyard Areas

A. The property owner shall be responsible for maintaining all vegetation required by this Division in a healthy condition, as follows:

1. Between nine (9) and twelve (12) months after installation of any required vegetation, the property owner shall submit a letter from a landscaping company that installs such vegetation (or a landscape architect or certified arborist) to the Town indicating that all required vegetation has been inspected during the timeframe specified above and was or was not determined to be alive and in good health. For any vegetation that was found to be dead or unhealthy, the owner shall be responsible for submitting a follow-up letter to the Town from a landscaping company (within eighteen (18) months of initial installation) that all

such vegetation has been replaced with living/healthy vegetation in accordance with the provisions of this Division.

2. At all other times, any dead, unhealthy, or missing vegetation shall be replaced upon written notice by the Zoning Administrator. Upon notification, replacement of any dead, unhealthy, or missing vegetation shall be planted in accordance with the provisions of this Division. Replacement shall occur at the earliest suitable planting season.
- B. To insure that landscape materials do not constitute a driving hazard, no fence, wall, or vegetation shall obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above ground level in a triangular area formed by the intersection of the right-of-way of two (2) streets or a street and a railroad, or a street and a commercial driveway, and a diagonal line which intersects the right-of-way lines at two (2) points twenty-five (25) feet from the point at which the rights-of-way intersect.
- C. To insure that fencing will be maintained in a safe and aesthetic manner, the following maintenance requirements must be observed for all fencing required by this Division:
1. No fences shall have more than twenty (20) percent of its surface area covered with disfigured, cracked, or missing materials, or peeling paint for a period of more than thirty (30) consecutive days.
 2. No fences shall be allowed to remain with bent or broken supports, or be allowed to stand more than fifteen (15) degrees away from the perpendicular for a period of more than thirty (30) consecutive days.
 3. In the event of an act of nature, including a natural disaster, or a manmade disaster that causes damage to the principal structure on the same property as the damaged fence(s), the damaged fence shall be allowed ninety (90) days to be repaired if such extension is approved and granted by the Zoning Administrator.

Section 10.7 Nonconforming Bufferyards

- A. Existing development that does not comply with the bufferyard requirements contained in this Division shall meet the provisions of this Section.
- B. When an applicant files the necessary forms for a zoning permit, or business privilege license, one (1) of the following two (2) situations shall apply:
1. Bufferyard regulations are not applicable. This provision applies when:
 - a. There is a change of land use where the new land use is of the same or lower classification, as found in Section 10. 3, as the previous land use; or

- b. Expansions are proposed that singularly or collectively are five (5) percent or less of the existing floor area, existing improved parking areas, or other impervious areas of the existing use at the time the ordinance becomes applicable.
2. A portion of the prescribed bufferyard will be required in accordance with subsection (b) below when:
 - a. There is a change of land use where the land use is of higher classification as found in Section 10.3, as the previous land use; or
 - b. Proposed expansions are singularly or collectively more than five (5) percent of the existing floor area, existing improved parking areas, or other existing impervious area.

The provisions of this Section shall in no way be deemed to require the removal of existing structures, buildings, improved parking areas, mechanical equipment, or lighting, provided however, all other encroachments, including but not limited to concrete islands and the like, shall be removed. Such areas shall be planted in accordance with the applicable provision of the bufferyard regulations.

- C. When a portion of the prescribed bufferyard is required based on subsection B, 2 above, the following shall suffice for compliance with this Section.
 1. For purpose of this subsection when there is less than eight (8) feet of bufferyard width available, small trees may be substituted for large trees.
 2. Where seventy-five (75) percent or more of the required bufferyard width is available, all physical barriers and plant materials shall be installed.
 3. Where less than seventy-five (75) percent of the required bufferyard width is available, all physical barriers and a percentage of plant material equal to that of the land areas available shall be installed.
 4. Where less than one (1) foot of bufferyard width is available, ground cover may be substituted for the required vegetation.

Section 10.8 List of Acceptable Vegetation

1. For detailed planting information or individual species, refer to: Landscape Plants of the Southeast by R. Gordon Halfacre and Anne R. Shawcroft, 5th Edition as a reference.
2. The following lists indicate planting materials which will meet the screening and shading requirements of this Article. The lists are by no means comprehensive and are intended merely to suggest the types of flora which would be appropriate for screening and shading purposes. Plants were selected for inclusion on these lists according to four (4) principal criteria: general suitability for the coastal plain section of North Carolina, ease of maintenance, tolerance of city conditions, and

availability from area nurseries. When selecting new plantings for a particular site, a developer should first consider the types of plants which are thriving on or near that site. Accordingly, native North Carolina species should often be favored. If a non-native introduced species has proven highly effective for screening or shading in this area, it too may be a proper selection. However, the exception to the above shall be those plants prohibited from being introduced or planted in this area by NC Department of Environmental and Natural Resources.

a. Small trees for partial screening:

- (1) River Birch (*Betula nigra*)
- (2) American Hornbeam (*Carpinus carolinia*)
- (3) Eastern Redbud (*Cercis Canadensis*)
- (4) Flowering Dogwood (*Cornus florida*)
- (5) Russian Olive (*Elaegnus angustifolia*)
- (6) Mountain Silverbell (*Halesia monticola*)
- (7) American Holly (*Ilex opaca*)
- (8) Crape Myrtle (*Lagerstroemia indica*)
- (9) Sourwood (*Oxyndrum arboreum*)
- (10) Carolina Cherry-Laurel (*Prunus caroliniana*)
- (11) Callery Pear (*Pryrus calleryana*)
- (12) Foster Holly (*Ilex attenuata*)
- (13) Nellie R. Stevens Holly (*Ilex "Nellie R. Stevens"*)
- (14) Devilwood (*Osmanthus americanus*)

b. Large trees for evergreen screening:

- (1) Deodar Cedar (*Cedrus deodara*)
- (2) Southern Magnolia (*Magnolia grandiflora*)
- (3) Canadian Hemlock (*Tsuga Canadensis*)
- (4) Leyland Cypress (*Cupressocyparis leylandii*)
- (5) White Pine (*Pinus strobus*)

c. Large trees for shading:

- (1) Sugar Maple (*Acer saccharum*)
- (2) Red Maple (*Acer rubrum*)
- (4) Honeylocust (Thornless) (*Gleditsia triacanthos*)
- (5) Sweet Gum (Seedless) (*Liquidamber styraciflua*)
- (6) London Plane-Tree (*Platanus acerifolia*)
- (7) Eastern Red Oak (*Quercus rubra*)
- (8) Willow Oak (*Quercus phellos*)
- (9) Scarlet Oak (*Quercus coccinea*)
- (10) Laurel Oak (*Quercus laurifolia*)
- (11) Littleleaf Linden (*Tilia cordata*)
- (12) Bald Cypress (*Taxodium distichum*)
- (13) Japanese Zelkova (*Zelkova serrata*)

d. Small shrubs for evergreen screening:

- (1) Glossy Abelia (*Abelia grandiflora*)
- (2) Warty Barberry (*Barberis verruculosa*)
- (3) Wintergreen Barberry (*Berberis julianae*)
- (4) Dwarf Horned Holly (*Ilex cornuta* 'rotunda')
- (5) Littleleaf Japanese Holly (*Ilex crenata* 'microphylla')
- (6) Convexa Japanese Holly (*Ilex crenata* 'convexa')
- (7) India Hawthorn (*Raphiolepis indica*)
- (8) Azaleas and Rhododendrons (Full-Shade) (*Rhododendron* species)
- (9) Dwarf Burford Holly (*Ilex cornuta* 'Burfordii Nana')
- (10) Helleri Holly (*Ilex crenata* 'Helleri')
- (11) Dwarf Nandina (*Nandina domestica*)
- (12) Narrow-leaved English Laurel (*Prunus laurocerasus anquastifolia*)
- (13) Schipka Laurel (*Prunus laurocerasus* 'Schipkaensis')
- (14) Zabel Laurel (*Prunus laurocerasus* 'Zabeliana')
- (15) Dwarf Yaupon Holly (*Ilex vomitoria* 'Nana')

e. Large shrubs for evergreen screening:

- (1) Thorny Elaeagnus (*Elaeagnus pungens*)
- (2) Burford Holly (*Ilex cornuta* 'Burfordii')
- (3) Yaupon Holly (*Ilex vomitoria*)
- (4) Laurel or Sweet Bay Magnolia (*Laurel nobilis*)
- (5) Japanese Privet (*Ligustrum japonicum*)
- (6) Fortune Tea Olive (*Osmanthus fortunei*)
- (7) Red Photinia (*Photinia glabra*)
- (8) Laurestinus Viburnum (*Viburnum tinus*)
- (9) Hedge Bamboo (*Bambusa glaucescens*)
- (10) Wax Myrtle (*Myrica cerifera*)
- (11) Cleyera (*Cleyera japonica*)
- (12) Longstalk Holly (*Ilex pendunculosa*)
- (13) Variegated Chinese Privet (*Ligustrum sinense* 'Variegatum')

f. Assorted shrubs for broken screens:

- (1) Japanese Barberry (*Berberis thunbergii*)
- (2) Fringetree (*Chionanthus virginicus*)
- (3) Border Forsythia (*Forsythia intermedia*)
- (4) Vernal Witch-Hazel (*Hamamelis vernalis*)
- (5) Common Witch-Hazel (*Hamamelis virginiana*)
- (6) Pfitzer Juniper (*Juniperus chinensis*)
- (7) Drooping Leucothoe (*Leucothoe fontanesiana*)
- (8) Winter Honeysuckle (*Lanigera, fragrantissima*)
- (9) Star Magnolia (*Magnolia stellata*)
- (10) Northern Bayberry (*Myrica pennsylvanica*)

- (11) Judd Viburnum (*Viburnum juddii*)
- (12) Doublefile Viburnum (*Viburnum plicatum*)

Section 10.2 Signs

Section 10.2.1 Purposes and Applicability

- A. The purposes of this Division shall be to allow certain signs of a commercial and noncommercial nature in areas designated for such uses in a manner which will best provide and insure:
 - 1. The health, safety, and general welfare of the public,
 - 2. The reduction of the possible adverse effects of signs on nearby public and private property,
 - 3. Adequate and proportionate advertisement displays which promote and protect the economic vitality of the community,
 - 4. That signage displayed adjacent to and visible from a public right-of-way will not distract or confuse the motoring public, thereby causing traffic and/or pedestrian hazards, and,
 - 5. That the aesthetic quality of the Town is maintained for the benefit of all the citizens.
- B. A sign may be erected, placed, established, painted, moved, enlarged, illuminated, substantially altered or maintained in the Town and its extraterritorial jurisdiction only in conformance with the standards, procedures, exemptions, and other requirements of this Ordinance.

Section 10.2.2 Permit Required

- A. Except as otherwise provided in this Ordinance, no sign may be erected, placed, established, moved, enlarged, illuminated or substantially altered unless and until a sign permit or zoning permit for a sign has been obtained from the Town. Prior to the issuance of each sign permit (initial or renewal), a fee shall be paid in an amount as established by the Town Council. Violations of this provision shall be handled in accordance with Article 14 Enforcement and Penalties.
- B. Basic maintenance such as repainting or rearranging/replacing the letters/characters on a changeable copy sign shall not, in and of itself, be considered a substantial alteration, unless a change of use or occupancy occurs. If a change of use or occupancy occurs, or if a sign is replaced, then a sign permit shall be required, except as otherwise provided in this Ordinance.

- C. No sign permit or zoning permit for a sign of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of the ordinance in every respect. [A sign may also require a building permit from Wilson County.]

Section 10.2.3 Design and Maintenance Standards

A. Design and Construction

In addition to meeting all requirements of the North Carolina State Building Code, every sign and sign structure shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the other supportive structure may be moved by the wind or other forces of nature and cause injuries to persons or property. (For purposes of this Article, a tree and/or other vegetation are not considered to be a substantial supportive structure.) In the event of a conflict between the provisions of the building code and any provision of the Town Code, the more restrictive requirement shall apply.

B. Maintenance:

1. Signs and sign structures shall be maintained at all times in a state of proper repair, with all braces, bolts, clips, guys, anchors, supporting frames, and fastening free from deterioration, insect infestation, rot, rust, or loosening. All signs shall be kept neatly finished, with lettering intact, and if of a type which requires painting, free from visible peeling or chipping.
2. Should any sign be in danger of falling or otherwise deemed unsafe in the opinion of the Zoning Administrator; the owner thereof, or the person or firm maintaining said sign, shall immediately in the case of imminent danger and in any case within ten (10) days upon written notice from the Zoning Administrator, secure said sign in a manner to be approved by the Building Inspector in conformity with the "design and construction standards" listed above or remove such sign. If such sign is not removed by the owner, the Zoning Administrator or his/her designated agent may initiate legal procedures to obtain the necessary court orders to remove such signs at the expense of the owner or lessee thereof.

Section 10.2.4 Sign Illumination

- A. Unless otherwise prohibited by this Article, signs may be illuminated if such illumination is in accordance with this section.
- B. No sign within one hundred fifty (150) feet of a residential zone may be illuminated between the hours of 11:00 P.M. and sunrise.
- C. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.

- D. Subject to subsection (F) below, illuminated tubing that outlines property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited.
- E. Subject to subsection (F) below, no sign may contain any light or illumination which flashes, moves, rotates, blinks, flickers, varies in intensity or color, or uses intermittent electrical pulsations (such as a strobe light, ziplight, flashing light or rotating beacon). An exception to this requirement is that a sign or portion of a sign that automatically changes its face (by electronic or mechanical means) once every 60 seconds or at a slower rate is permitted.
- F. Subsection (D) and (E) above do not apply to noncommercial temporary signs erected in connection with the observance of holidays (see Section on Permit Exemptions for additional requirements).

Section 10.2.5 Additional Restrictions and Prohibitions

Unless specifically authorized or exempted by this ordinance, the following signs are prohibited:

- A. Any sign-erected so that by its location, color, size, shape, nature, or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by units of government. (For example, a sign or portion of a sign that is shaped like an official “stop sign” (eight sided) with the word “stop”, by itself or prominently displayed, would not be allowed.)
- B. Any sign that revolves or is animated or that utilizes movement or apparent movement to attract the attention of the public is prohibited. Without limiting the preceding, banners, streamers, animated display boards, pennants, and propellers are prohibited, but signs that move only occasionally because of wind are allowed if their movement is not a primary design feature of the sign and is not intended to attract attention to the sign. The restrictions of this subsection shall not apply to traditional barber poles or temporary/portable signs in compliance with the requirements of this Article.
- C. Any sign placed on or over any public street right-of-way or public easement greater than five feet in width (including but not limited to drainage, utility, access, and pedestrian) except as specifically authorized by this Article.
- D. Any sign located so that it interferes with the view necessary for motorists to proceed safely thorough an intersection or to enter onto or exit from a public street or private road or driveway. Any sign within a public sight distance easement shall comply with all NCDOT and/or Town requirements.
- E. Any sign which obstructs an opening required to be left uncovered or unobstructed by the State Building Code, a housing code, or other law relating to buildings.

- F. Any Off-Premises Sign (these may also be known as billboards, off-site or outdoor advertising signs) except as otherwise provided by this Ordinance.
- G. Any sign that contains statements, words or pictures which describe or display “Specified Anatomical Areas” or “Specified Sexual Activities,” or which contain any word which is classified as “vulgar” or “obscene” according to the “Merriam-Webster Online Dictionary”.

Section 10.2.6 Noncommercial Copy

Any sign authorized in this ordinance is allowed to display noncommercial copy in lieu of other copy. Noncommercial copy is copy which is not commercial advertising, business, or identification copy and which carries a substantive message, statement, or expression protected by the First Amendment to the U.S. Constitution.

Section 10.2.7 Signs Excluded From Regulation

The following signs are exempt from regulation under this Article.

- A. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.
- B. Official signs of a noncommercial nature erected by public utilities.

Section 10.2.8 Permit Exemptions

- A. The following signs do not require that a sign permit be obtained from the Town. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this Article.
 - 1. Signs not legible from an abutting property or public street right-of-way.
 - 2. Signs located on the interior of structures

Such signs inside buildings, courts, lobbies, stadiums, or other structures that are oriented so as to primarily be visible from the interior of such structures and whose purpose is to serve an audience inside the structure.

- 3. Construction site/opening soon identification signs

Such signs may identify the project, the owner or developer, architect, engineer, land planner, contractor and subcontractors, funding source, and related information. Such signs shall not be illuminated or reflectorized. The total area of all such signs on a site shall be as follows:

- a. in residential zones, eight (8) square feet for single and two family development, and forty (40) square feet for other permitted uses (such as multifamily development and churches).
- b. in all other zones, sixty-four (64) square feet.

All such signs shall be removed within ten (10) days after the completion of construction or the issuance of the final certificate of occupancy, whichever is sooner.

4. Flags

Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with commercial promotion or as an advertising device, so long as the area of any single such device is no more than forty (40) square feet and the total combined area of all such devices on a lot is no more than one hundred (100) square feet.

5. Holiday displays - including lighting – that do not contain any commercial message

Such signs, erected in connection with the observance of holidays, may be displayed for a maximum of 60 days and shall be removed within a reasonable amount of time following the holidays.

6. Home occupation signs

One such sign is allowed per dwelling unit, not to exceed two (2) square feet if freestanding or four (4) square feet if a wall sign (flush mounted against the front of the dwelling unit).

7. Identification signs

Such signs may not exceed four (4) square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as signs giving property identification names or numbers or names of occupants, signs on mailboxes or paper tubes, and signs posted on private property relating to private parking or warning the public against trespassing, danger from animals, or other dangers.

8. Memorial and historical plaques or markers

Such signs so long as each sign is no larger than four (4) square feet in area.

9. Menu board signs

All restaurant style menu/ reader boards shall be set back not less than twenty (20) feet from every property line (unless a minimum five foot wide solid

vegetative buffer is provided to screen them from the view of abutting properties), and shall contain no commercial advertisement that can be easily read from any adjacent street right-of-way or property line.

10. Motor vehicle signs

Signs painted on or otherwise permanently attached to currently licensed motor vehicles and trailers that are not parked and used as signs.

11. Political signs

Such signs may **not** be illuminated. The total area of such signs shall be a maximum of 20 square feet per a residential lot or 32 square feet per non-residential lot. Political signs associated with an election may be installed 60 days prior to a primary election and prior to a general election, provided no more than 3 such signs are erected on a lot or place of business. These signs must be removed within 10 days after the election, except that such signs may remain between the primary and general election. Temporary political signs that comply with the requirements of this subsection and do not exceed four (4) square feet may be located within a public right-of-way, so long as they do not create in any obstruction to pedestrian or vehicular traffic, or create visual obstructions to the same. (In addition, these provisions do not in any way limit NCDOT's right to remove such signs from any right-of-way that it maintains.) Failure to remove any political sign within the time period established in this subsection will result in enforcement procedures as set forth in Section 14.2.19 in Article 14.

12. Real estate signs

Such signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent may not exceed four (4) square feet in area and shall be removed within 10 days after sale, lease, or rental. For lots of less than five (5) acres, a single sign on each street frontage may be erected. For lots of five (5) acres or more in area and having a street frontage of more than four hundred (400) feet, a single sign not exceeding thirty-two (32) square feet in area or two or more signs not exceeding four (4) square feet for every two hundred (200) feet of road frontage may be erected on each street frontage. Temporary real estate directional signs that comply with the requirements of this subsection and do not exceed four (4) square feet may be located within a public right-of-way for up to 240 days per year, so long as they do not create in any obstruction to pedestrian or vehicular traffic, or create visual obstructions to the same. (In addition, these provisions do not in any way limit NCDOT's right to remove such signs from any right-of-way that it maintains.)

13. Subdivision entrance signs

At any entrance to a subdivision development, there may not be more than one (1) double-sided sign or two (2) single-sided signs identifying such subdivision or development. If one sign is used, a single side of any such sign may not exceed forty (40) square feet; if two signs are used, the maximum area of each sign shall be twenty (20) square feet (for a total of forty (40) square feet). In cases where such signs are mounted on decorative functional or nonfunctional walls, the wall area that does not convey any information shall not be utilized to calculate total sign surface area.

14. Traffic directional signs

Signs directing and guiding traffic, such as entrance and exit signs, on private property that do not exceed four (4) square feet each. (The total number of such signs on a lot shall not exceed the number of driveways accessing the lot.)

15. Vending machine type signs

Signs attached flush to a vending machine or similar device that dispenses a product or service, which are only related to the device itself (for example indicating the contents of the machine, the price, and/or operating instructions). The dimensions of such signs may not be greater than those of the device itself and such signs may not extend beyond the edges of the device.

16. Window signs

Signs attached to a building window or glass door.

17. Other miscellaneous signs

Signs for estate and court sales and auctions are permitted to be placed 60 days prior to the event and must be removed within 10 days after the event. The total area of such signs may not exceed 20 square feet on a residential lot or 32 square feet on a non-residential lot.

Section 10.2.9 Temporary and Portable Signs

Temporary and portable signs are only allowed subject to the following criteria, unless otherwise authorized in this section.

1. A representative or owner of the building or lot on which such sign(s) are to be located is required to obtain a sign permit from the zoning administrator. The length of the permit will be no more than thirty calendar days. After the end of the thirty days, the permit may be renewed once for up to an additional thirty days. All such signs shall be removed within the length of the permit or ten days after their reason for being has ceased to exist, whichever is shorter.

2. No more than one permit for each building or lot, whichever is less, shall be issued at a time. Initial permit requests shall be considered prior to renewal permits.
3. The maximum length of time that any location will be allowed to have such signs posted shall be sixty (60) days during a calendar year.
4. Temporary and/or portable signs may be located subject to the following:
5. Such signs shall not exceed a total area of thirty-two (32) square feet.
6. If any temporary and/or portable sign remains in a location beyond the times specified, or is located or used in violation of any provision of the zoning ordinance sign regulations, the Town may remove such sign. The Town may dispose of such sign or hold the sign until the owner of the sign has paid to the Town of Elm City a service fee as established by the Town Council. The remedies set forth in this paragraph shall not be exclusive, but shall be in addition to any other remedies provided (by this ordinance or law) in cases of violation of the Zoning Ordinance of the Town of Elm City.

Section 10.2.10 Determining the Number of Signs

- A. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.
- B. Without limiting the generality of subsection "A" above, a multi-sided sign shall be regarded as one (1) sign.

Section 10.2.11 Computation of Sign Area

- A. For the purpose of this ordinance, the area, in square feet, of any sign shall be computed by the smallest square, triangle, rectangle, circle or combination there of which will encompass the entire sign. In computing the sign area in square feet, standard mathematical formulas for known or common shapes will be used. In the case of irregular shapes, straight lines drawn closest to the extremities of the shape will be used.
- B. Where a sign has two (2) faces, only one face shall be used to compute the sign area, so long as both faces point in opposite directions (are back-to-back) and are not visible at the same time. The area of the sign shall be taken as the area of the larger face if the two (2) faces are of unequal area; if the areas of the two faces are equal, then the area of one of the faces shall be taken as the area of the sign. Where both of the faces of a two sided sign can be viewed at the same time, or

where a sign has more than two (2) faces, the area of all faces shall be included in determining the area of the sign.

Section 10.2.12 Total Allowable Sign Surface Area

- A. Unless otherwise provided in this Article, the total surface area devoted to all signs on any lot shall not exceed the limitations set forth in this section, and all signs that require a sign permit except temporary signs shall be included in this calculation.
- B. Unless otherwise provided in this Article, the maximum total sign surface area permitted on any residential lot in any residential district is six (6) square feet.
- C. Subject to the other provisions of this Article, the maximum total sign surface area permitted for a conforming nonresidential use that is located in a residential zoning district shall not exceed one hundred and fifty (150) square feet.
- C. Subject to the other provisions of this ordinance, the maximum total sign surface area permitted on any lot in a business or industrial district shall not exceed four hundred (400) square feet.

Section 10.2.13 Freestanding Sign Surface Area

- A. For purposes of this section, a side of a freestanding sign is any plane or flat surface included in the calculation of the total sign surface area as provided in the Section titled "Computation of Sign Area". For example, wall signs typically have one (1) side. Freestanding signs typically have two (2) sides (back-to-back), although four-sided and other multi-sided signs are used occasionally.
- B. Subject to subsection (C) below a single side of a freestanding sign may not exceed an area of six (6) square feet for residential uses, forty (40) square feet for conforming nonresidential uses located in a residential district, and forty (40) square feet for nonresidential uses in a commercial district or industrial district. (Any nonconforming nonresidential uses that are located in a residential district may have a freestanding sign of no more than six (6) square feet.)
- C. With respect to freestanding signs that have no discernible "sides" such as spheres or other shapes not composed of flat planes, no such freestanding sign may exceed the maximum surface area allowed under subsection (B) above for a single side of a freestanding sign.

Section 10.2.14 Wall Sign Surface Area

- A. The surface area of all signs located on a wall of a structure may not exceed twenty-five (25) percent of the total surface area of the wall on which the sign(s) is located. In computing the area of a wall sign, areas that do not convey any information and are not internally illuminated, may be excluded from the sign area calculation, so long as they are not within or between areas of the sign that do convey information.

(In other words, the space between the letters or words of a sign may not be excluded when calculating sign area.)

- B. Wall surface area is calculated by multiplying the vertical distance of the building wall (measured at the average finished grade) times the horizontal distance of the building wall. In computing the surface area of a wall, windows and glass doors shall not be included.
- C. The surface area of a permanent canopy sign -- that does not hang below or otherwise extend beyond the edges of the canopy itself -- shall be calculated and added to the area of any other sign(s) attached to the same wall. The combined area of all these signs shall comply with the surface area requirement of subsection (A) above. (Any canopy sign -- that extends beyond the edges of the canopy -- shall be considered a temporary sign and shall comply with the requirements for temporary signs.)

Section 10.2.15 Number of Freestanding-Signs Allowed Per Lot

Except as authorized by this section, no lot may have more than one (1) freestanding sign.

Section 10.2.16 Location and Height Requirements

- A. No portion of any sign shall extend closer than two (2) feet to a street right-of-way line or property line.
- B. No sign that is attached to or extends over a building or roof of any structure may extend vertically above the parapet or the highest portion of the roof. In addition, no part of any such sign shall be separated from the surface of the roof by more than twelve (12) inches. (This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays.)
- C. No wall sign attached flat to a building may project more than twelve (12) inches from the building wall. Projecting signs may, however, exceed the twelve (12) inch requirement, as long as there is only one (1) projecting sign per separate business establishment, the sign is no closer than two feet from every surface that is designed to be used by vehicles (measured from a vertical line extending upward from the edge of the vehicular area) (including but not limited to a street or parking area), is no more than five (5) feet from the building wall, does not exceed six (6) square feet in area, and the bottom edge of the sign is located at least eight (8) feet above the adjacent ground surface/sidewalk.
- D. No sign or supporting structure may be located on or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of an existing nonconforming building and an encroachment permit has been obtained from the Town or NCDOT whichever is applicable, or unless specifically authorized by this Article.

- E. No part of a freestanding sign, as measured from ground level, may exceed a height as set out in the following table:

<u>Location/Use</u>	<u>Height</u>
Other Nonresidential Uses on a Major Street	15'
Residential Uses/ Other Nonresidential on a Local Street	8'
US 301 Businesses in business districts	40'

Section 10.2.17 Special Provisions for Certain Developments and Signs

A. Shopping Center Signs

1. Shopping center developments, regardless of the zoning district in which located, shall conform to the sign regulations contained in this section. The intent of these provisions is to allow each separate business establishment to have a reasonable means of identification.
2. Wall signs for individual businesses in shopping center developments shall be determined as follows:

The surface area of any sign located on a wall of a structure may not exceed twenty-five (25) percent of the total surface area of the wall on which the sign is located.

3. One freestanding sign oriented toward each major street shall be permitted for each shopping center in accordance with the Section entitled "Freestanding Sign Surface Area".

B. Off-premise Signs

1. Off Premise Advertising Signs

Off-premises advertising signs (billboards) are allowed only within the LI district, subject to the following standards:

- a. Double-faced (back-to-back) and V-type signs shall be considered as a single sign provided the two (2) sides are separated no more than twenty (20) feet at any point.
- b. Signs must be freestanding and meet the principal building setback requirements for the district in which they are located.
- c. Signs must be at least three hundred (300) feet from any residential district (as defined in Section 4.1).
- d. Signs must [be] at least ten (10) feet from any overhead electric wiring and public utility guy wire.
- e. Signs must [be] at least one thousand (1,000) feet from any other off-premises advertising sign, measured from center point to center point.
- f. Maximum height of the entire structure is fifty (50) feet.

- g. Maximum height of the display surface is twelve (12) feet; maximum width of the display surface is forty (40) feet.
 - h. Maximum area of the sign is four hundred (400) square feet (per side). In addition, "copy extensions" (portions of copy extending beyond the outer edge of the sign frame) are allowed provided they extend no more than six (6) feet beyond the outer edge of the sign frame, they do not exceed one hundred (100) square feet in area (per side), and they comply with all other requirements.
 - i. Signs shall be permanent structures built to withstand a wind load of thirty-six (36) pounds per square foot.
 - j. A site plan shall be prepared by a registered engineer or architect for each sign and submitted to the Zoning Administrator for review by the Technical Review Committee.
 - k. The area around the base of the sign within the area leased by the sign owner shall be properly maintained so as not to create overgrown weeds, bushes or other unsightly vegetation. The sign owner shall maintain this area as long as the sign occupies the premises and shall keep this area free from debris and junk.
 - l. Color lighting is prohibited on these signs.
 - m. Signs shall not be allowed in floodway.
 - n. When the property upon which such sign is erected is changed to a zone other than LI, the sign shall be removed within ninety (90) days of such zoning change.
2. All off-premises advertising signs existing on April 7, 1994, that conform to all the provisions of the Outdoor Advertising Manual, N. C. Department of Transportation, Division of Highways, Raleigh, North Carolina dated January 1977, as amended, and are located adjacent to a highway on the National System of Interstate and Defense Highways or a highway on the Federal Aid Primary Highway System and for which there is a valid permit issued by the Department of Transportation, as requested under the provisions of G.S. 136-131.1, shall be allowed to remain provided that no such signs shall be altered, expanded, enlarged or replaced except in conformance with this section.

Section 10.2.18 Nonconforming Signs

(Refer to Article 13, "Nonconforming Situations")

Section 10.2.19 Sign Removal and Discontinued Signs

- A. The Zoning Administrator shall order the removal of any sign maintained in violation of the provisions of this Article for which removal procedures are herein prescribed, accordingly: the Zoning Administrator shall give ninety (90) days written notice to the owner or lessee to remove the sign or to bring it into compliance with this Article. If the owner or lessee fails to remove the sign within ninety (90) days after the ninety (90) day written notice has been given, the Zoning Administrator may institute

removal proceedings according to the procedures specified in NC General Statutes 160A-175.

- B. Any temporary/portable sign erected in violation of or not removed within the period prescribed by any of the provisions of the section entitled "Temporary and Portable Signs" may be removed immediately, at the direction of the Zoning Administrator. Any sign so removed shall be retained at a designated municipal facility until recovered by the sign owner following payment to the Town of Elm City a \$5.00 fee per sign. Any sign not recovered by the sign owner within ten (10) working days of notification by the Town may be disposed of.

Section 10.2.20 Sign Definitions

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Division.

Banner is a suspended sign made of a flexible material such as canvas, sailcloth plastic or waterproof paper.

Building Façade Is the face or faces of a building oriented in the same direction, or within a forty-five (45) degree angle of the same direction, including roof and wall.

Business Identification Sign is any sign which advertises an establishment, service, commodity, or activity conducted upon the premises where such sign is located.

Canopy sign Is any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover.

Changeable Copy Sign Is a sign, or portion thereof, in which the informational content or display can be changed or altered by manual, electronic, or electromechanical means.

Flag is a device generally made of flexible materials such as cloth, paper or plastic, and displayed on a flagpole.

Freestanding Sign is a sign supported by structures or supports (such as a pole, mast, or frame) that is placed on , or anchored in, the ground and that is independent from and not attached to a building or other structure whose principal function is something other than the support of a sign. For purposes of these sign regulations, a ground sign is considered a freestanding sign. A sign that stands without supporting elements, such as a "sandwich sign", is considered a freestanding sign, but is also considered a portable sign, as defined below.

Ground Sign Is any sign that is not attached to a building or other structure and is placed on, or anchored in, the ground. For purposes of these sign regulations, a ground sign is considered a freestanding sign.

Internally Illuminated Sign is a sign where the source of the illumination is inside the sign and light emanates through the message of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that are filled with neon or some other gas that glows when electric current passes through it and are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally illuminated signs.

Nonconforming Sign (See “Article VIII: Nonconforming Situations” for the definition and regulations.)

Off-Premises Sign Is a sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located (commonly referred to as a billboard, off-site or outdoor advertising sign).

Parapet is a low wall along the edge of a roof or balcony.

Portable Sign is a sign that is designed to be moved from place to place and which is not permanently installed or permanently anchored to either the ground or a wall.

Projecting Sign Is a sign which is attached to and projects more than twelve (12) inches from a building façade or wall.

Roof Sign is any sign erected or constructed wholly on and over the roof of a building, supported by the roof structure.

Sign is any device that is sufficiently visible to persons not located on the lot where such device is located to accomplish the objective of directing attention to a business, commodity, service, entertainment or other activity sold or offered exclusively on the premises where the sign is located, or of communicating information to them.

Sign Area is the size of a sign as determined by this ordinance.

Sign Permit is a permit issued by the Zoning Administrator that authorizes the location of a sign.

Street, Local is a street designed primarily to provide vehicular access to abutting land and discourage through traffic, typically having slower speeds than major streets. (A cul-de-sac is an example of a local street.)

Street, Major is a paved street typically designed to carry higher traffic volumes than a local street and to provide a connection between adjacent towns or other major streets. Major streets may or may not provide vehicular access to abutting land. (US 301 Bypass & Alternate, and Old Franklin Road are examples of major streets.)

Temporary Sign is a sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

Wall Sign is any sign attached to, painted on, or erected against any wall of a building or structure so that the exposed face of the sign is on a plane parallel to the plane of said wall and which does not extend more than twelve (12) inches from the wall. Wall signs also include any sign erected against, installed on or painted on a parapet above the roof of a building as long as the wall of the parapet is on a plane parallel to the wall of the building. Wall signs also include a sign attached to, painted on, or erected against a false wall or false roof that does not vary more than thirty (30) degrees from the plane of the adjoining wall elevation.

Window Sign is a window sign is a sign attached directly onto a window, glass section of a door, or other transparent surface of a building.

Section 10.3 Town of Elm City Municipal Historic District

Section 10.3.1 Establishment of a Historic Preservation District and Commission of the Town of Elm City

- A. The historic heritage of the State of North Carolina is one of our most valued and important assets; and
- B. The North Carolina General Statutes authorize cities to safeguard the heritage of the city by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory and to promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city and the State as a whole; and
- C. The conservation of historic districts and landmarks will stabilize and increase property values in their areas and strengthen the overall economy of the State; and
- D. The Town of Elm City desires to safeguard the heritage of the city by preserving and regulating historic landmarks and historic districts; to enhance the environmental quality of neighborhoods; to establish and improve property values; and to foster economic development; and
- E. The Board of Commissioners of the Town of Elm City does therefore desire to establish a commission to be known as the Historic Preservation Commission of the Town of Elm City to perform the duties of regulating historic landmarks and historic districts pursuant to N.C.G.S. Chapter 160A, Article 19, Part 3C and the provisions of this ordinance.

- F. The Board of Commissioners of the Town of Elm City does hereby adopt rules for the establishment of and standards for a Historic Preservation Commission in order for them to carry out the powers and responsibilities of this Section. In order for the Town of Elm City to insure that all required processes, procedures and related information are in place to carry out the provisions of this section, the actual implementation date for this particular section (Section 10.3) will be one hundred and eighty (180) days following the date of the adoption of the UDO.
- G. The Elm City Municipal Historic Zoning District is hereby established and shall consist of the area nominated for and approved by the National Register of Historic Places as a historic district. The boundaries of the Elm City Historic Zoning District are shown on the inventory report to the US Department of the Interior for approval of a National Register of Historic Places.

Section 10.3.2 Historic Preservation Commission

- A. The Elm City Planning Board, here after referred to as the Planning Board, is hereby established as the Town of Elm City Historic Preservation Commission under the authority of Chapter 160A-400.7 of the North Carolina General Statutes.
- B. The Planning Board shall perform all the duties of the Historic Preservation Commission as set forth in this Section and General Statutes 160A-400.1-14. At least three members of the Planning Board shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. The Planning Board may appoint advisory bodies and committees as appropriate.
- C. Members of the Planning Board shall serve terms as established by and consistent with the Planning Board procedures and ordinance standards
- D. The Board of Commissioners may appoint up to three additional Planning Board members to meet the requirements that at least three members have demonstrated special interest in Historic Preservation, if needed to fulfill the NC statutory requirements. The additional members would only serve and vote on the Planning Board when a historic preservation item is on the agenda or the powers described in Section 10.3.2.D. below are being exercised. The extra members would not take part in or vote on any other Planning Board proceedings, except for those that involve this Section. The extra members appointed by the Board of Commissioners shall serve staggered terms of four years and members may be appointed for a second term. After two terms a member can not be reappointed until one calendar year has passed since the second term.
- E. The powers of the Planning Board as the Historic Preservation Commission are as follows:
1. To undertake an inventory of properties of historical, pre-historical, architectural and/or cultural significance.

2. Recommend to the Board of Commissioners areas to be designated by ordinance as "historic districts" and individual structures, buildings, sites, areas or objects to be designated by ordinance as "Landmarks".
 3. Recommend to the Board of Commissioners that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area or object as a landmark, be revoked or removed for cause.
 4. Review and act upon proposals for alterations, demolition or new construction within historic districts, or for the alteration or demolition of designated landmarks.
 5. Conduct an educational program with respect to historic districts and landmarks within its jurisdiction.
 6. Cooperate with the state, federal and local government 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 Board of Commissioners, or the Historic Preservation Commission when authorized by the City Council, may contract with the State or the United States, or any agency of either or with any other organization provided the terms are not inconsistent with state or federal law.
 7. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without express consent of the owner or occupant thereof.
 8. Prepare and recommend the official adoption of a preservation element as part of the Town of Elm City comprehensive plan.
- F. Prior to any official action the Planning Board shall adopt rules of procedure governing its meetings and the conduct of official business regarding application of this section. In addition the Planning Board shall have or develop bylaws governing the appointment of members, terms of office, the election of officers and related matters.
- G. A public record shall be kept of the Planning Board resolutions, proceedings and actions. The Planning Board shall also prepare and adopt principles and guidelines for altering, restoring, moving, or demolishing properties designated as landmarks or within historic districts.
- H. The Board of commissioners may exercise the following powers in relationship to historic preservation:
1. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such

properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.

2. Restore, preserve and operate historic properties.
3. Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

Section 10.3.3 Historic Zoning District Designation

- A. The area contained within the nominated and approved Elm City Municipal Historic District by the United States Department for inclusion on the National Register of Historic Places is hereby established as the Elm City Municipal Historic District, here after referred to as the MHD. The MHD is hereby established as an overlay zoning district that overlaps other regular zoning districts.
- B. The area contained with the National Register Elm City Municipal Historic District shall be designated as the Municipal Historic District (MHD) and identified on the Zoning Map as "MHD" with boundaries shown that correspond with the approved National Register Elm City Municipal Historic District.
- C. All uses permitted in any such districts that underlie the MHD overlay historic district, whether by right, Zoning Permit, Conditional Use Permit, or by a Special Use Permit, shall be permitted in the zoning historic district.
- D. Historic districts, as provided for in this section, may from time to time be designated, amended or repealed, provided however that no district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, pre-historical, architectural or cultural importance.. Such a district must also possess integrity of design, setting, workmanship, materials, feeling and/or association. No district shall be designated, amended, or repealed until the following procedure has been carried out:
 1. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and
 2. 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 Board of Commissioners within 30 calendar days after a written request for such analysis has been received by the Department of

Cultural Resources shall relieve the Board of Commissioners of any responsibility for awaiting such analysis, and the Board of Commissioners at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

- E. The Board of Commissioners may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendations prior to taking action to amend the zoning ordinance.
- F. 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 Section 10.3.3.D shall be prepared by the Planning Board acting in its capacity as a Preservation Commission and shall be referred to the Planning Board (without its extra members) for review and comment according to the procedures set forth in the zoning ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the Department of Cultural -Resources in accordance with the provisions of Section 10.3.3.D.
- G. Upon receipt of these reports and recommendations the Board of Commissioners may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning ordinance provisions.

Section 10.3.4 Historic Landmarks

- A. Upon complying with the required landmark designation procedures set forth herein, the Board of Commissioners 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 Commission to be of special significance in terms of its historical, pre-historical, architectural or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.
- B. 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 pre-historical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this ordinance be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent; otherwise the sign may be placed on a nearby public right-of-way.
- C. No property shall be designated as a landmark until the following steps have been taken:

1. As a guide for the identification and evaluation of landmarks, the Planning Board Commission shall, at the earliest possible time and consistent with the resources available to it, undertake an inventory of properties of historical, architectural, pre-historical and cultural significance within Town of Elm City.
2. The Planning Board shall make or cause to be made an investigation and report on the historic, architectural, pre-historical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
3. The Department of Cultural Resources, acting through the State Historic Preservation Officer, or his or her designee, shall either upon request of the Department or at the initiative of the Historic Preservation Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments will be provided in writing. If the Department does not submit its comments to the Planning Board within 30 days following receipt by the Department of the report, the Planning Board and the Board of Commissioners shall be relieved of any responsibility to consider such comments.
4. The Planning Board and the Board of Commissioners shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given.
5. Following the public hearing(s) the Board of Commissioners may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
6. Upon adoption of the ordinance the owners and occupants of each 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 Planning Board in the office of the Register of Deeds of Wilson County. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the Register of Deeds office and the Planning Board shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Town of Elm City Clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the building inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by Wilson county for such period as the designation remains in effect.
7. Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Planning Board to give notice thereof to the tax supervisor of Wilson County. The designation and any recorded restrictions upon the property

limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

Section 10.3.5 Certificate of Appropriateness Required

- A. From and after the designation of a landmark or a 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 the historic district until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Planning Board acting in its capacity of a Preservation Commission. Such a certificate is required to be issued by the commission 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 this ordinance. A Certificate of Appropriateness shall be required whether or not a building or other permit is required.
- B. For purposes of this ordinance, "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. "Exterior features" may also include historic signs, color and significant landscape, archaeological and natural features of the area. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs.
- C. The State of North Carolina (including its agencies, political subdivisions and instrumentalities), the City of Town of Elm City, and all public utilities shall be required to obtain a Certificate of Appropriateness for construction, alteration, moving or demolition within the historic district or of designated landmarks.

Section 10.3.6 Application for Certificate of Appropriateness

- A. Applications for a Certificate of Appropriateness shall be obtained from and when completed, filed with the administrator. The application shall be filed two weeks prior to the next regularly scheduled meeting of the Planning Board. Each application shall be accompanied by sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction. The names and mailing addresses of property owners filing and/or subject to the application and the addresses of property within one hundred (100) feet on all sides of the property which is the subject of the application must also be filed. No application which does not include the aforementioned information will be accepted.

- B. It shall be the policy of the Planning Board, in regard to applications involving new construction or extensive alterations and/or additions to existing structures, that a sub-committee of the Planning Board shall be available to meet with persons involved in planned or pending applications in order to advise them informally at an early stage in the development process concerning the Planning Board's guidelines, the nature of the area where the proposed project will take place, and other relevant factors. The members of the sub-committee, collectively and individually, shall refrain from any indication of approval or disapproval. Advice or opinions given by any member of the sub-committee at such an informal meeting shall not be considered official or binding upon the Planning Board.

Section 10.3.7 Action on /Supplication for Certificate of Appropriateness

The secretary of the Planning Board shall notify, by mail, not less than (one week) prior to the meeting at which the matter is to be heard, the owners of property within one hundred (100) feet on all sides of the subject property. Applications for Certificates of Appropriateness shall be acted upon within 90 days after filing, otherwise the application shall be deemed to be approved and a certificate shall be issued. An extension of time may be granted by mutual consent of the Planning Board and the applicant. As part of the review procedures the Planning Board may view the premises and seek the advice of the Department of Cultural Resources or other such expert advice as it may deem necessary under the circumstances. The Planning Board may hold a public hearing on any application when deemed necessary. The action on an application shall be approval, approval with conditions or denial and the decision of the Planning Board must be supported by specific findings of fact indicating the extent to which the application is or is not congruous with the special character of the historic district or landmark.

Section 10.3.8 Hearings for Certificate of Appropriateness

- A. Prior to the issuance or denial of a certificate of appropriateness the applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. All meetings of the Planning Board shall be open to the public in accordance with the North Carolina Open Meetings Law, G.S. 143, Article 33C.
- B. The Planning Board shall have no jurisdiction over interior arrangement, except as provided below, and shall take no action under this ordinance except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features which would be incongruous with the special character of the historic district or landmark.
- C. The jurisdiction of the Planning Board over interior spaces shall be limited to specific interior features of architectural, artistic, or historical significance in publicly owned landmarks; and of privately owned landmarks for which consent for interior review has been given by the owners. Said consent of an owner for interior review shall

bind future owners and/or successors in title, provided such consent has been filed in the Register of Deeds office and indexed according to the name of the owner of the property in the grantor and grantee indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the Planning Board's jurisdiction over the interior.

- D. In any action granting or denying a certificate of appropriateness, an appeal by an aggrieved party may be taken to the Board of Adjustment.
- E. Written notice of the intent to appeal must be sent to the Planning Board, postmarked within 30 days following the decision. Appeals shall be in the nature of certiorari. Appeals of decisions of the Board of Adjustment shall be heard by the Superior Court of Wilson County.
- F. The State of North Carolina shall have a right of appeal to the North Carolina Historical Commission, which shall render its decision within thirty 30 days from the date that a notice of appeal by the state is received by the Historical Commission. The decision of the Historical Commission shall be final and binding upon both the state and the Commission.

Section 10.3.9 Administrative Approval of Minor Works

- A. Notwithstanding the subsection above (Action on Certificates of Appropriateness) , upon receipt of a completed application the Zoning Administrator may issue a certificate of appropriateness for minor works.
- B. Minor works are defined as those exterior changes which do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or district .as a whole. Such minor works shall be limited to those listed in the Planning Board's "Bylaws and Rules of Procedure" or other guidelines adopted by the Planning Board acting in its capacity as a Preservation Commission. No application may be denied without the formal action of the Planning Board. All minor works applications approved by the Zoning Administrator shall be forwarded to the Planning Board in time for its next scheduled meeting.

Section 10.3.10 Review Criteria

- A. No Certificate of Appropriateness shall be granted unless the Planning Board acting in its capacity as a Preservation Commission finds that the application complies with the principles and guidelines adopted by Planning Board acting in its capacity as a Preservation Commission in its review of changes to a property. The guidelines provide preservation standards, by which the Planning Board acting in its capacity as a Preservation Commission can review, evaluate and decide upon Certificate of Appropriateness applications.
- B. It is the intent of these regulations to insure insofar as possible that construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures,

appurtenant fixtures, outdoor advertising signs, or other significant features in the district or of landmarks shall be congruous., with the special character of the district or landmark.

- C. In addition to the principles and guidelines, the following features or elements of design shall be considered in reviewing applications for Certificates of Appropriateness:
1. Lot coverage, defined as the percentage of the lot area covered by primary
 2. Structures
 3. Setback, defined as the distance from the lot lines to the building
 4. Building height
 5. Spacing of buildings, defined as the distance between adjacent buildings
 6. Proportion, shape, positioning, location, pattern, sizes, and style of all elements of fenestration and entry doors
 7. Surface materials and textures
 8. Roof shapes, forms and materials
 9. Use of regional or local architectural traditions
 10. General form and proportion of buildings and structures, and the relationship of additions to the main structure
 11. Expression of architectural detailing
 12. Orientation of the building to the street
 13. Scale, determined by the size of the units of construction and architectural details in relation to the human scale and also by the relationship of the building mass to adjoining open space and nearby buildings and structures; maintenance of pedestrian scale
 14. Proportion of width to height of the total building facade
 15. Archaeological sites and resources associated with standing structures
 16. Effect of trees and other landscape elements
 17. Major landscaping which would impact known archaeological sites

18. Style, material, size and location of all outdoor advertising signs
 19. Appurtenant features and fixtures, such as lighting
 20. Structural condition and soundness
 21. Walls - physical ingredients, such as brick, stone or wood: walls, wrought iron fences, evergreen landscape masses, or combinations of these
 22. Color
 23. Ground cover or paving
 24. Significant landscape, archaeological, and natural features
- C. 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 of North Carolina for Certificates of Appropriateness.

Section 10.3.11 Certain Changes Not Prohibited

Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a historic district or of a landmark which does not involve a change in design, materials, or outer appearance thereof; the ordinary maintenance or repair of streets, sidewalks, pavement markings, street signs, or traffic signs; the construction, reconstruction, alteration, restoration or demolition of any such feature which the Building Inspector shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent (a) the maintenance, or (b) in the event of an emergency, the immediate restoration, of any existing above-ground utility structure without approval by the Planning Board.

Section 10.3.12 Enforcement and Remedies

- A. Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Zoning Administrator. Failure to comply with the certificate shall be a violation of the zoning ordinance and is punishable according to established procedures and penalties for such violations.
- B. In case any building, structure, site, area or object designated as a landmark or within a historic district is about to be demolished, whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed except in compliance with this ordinance, the Board of Commissioners, the Planning Board, 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 or structure.

Section 10.3.13 Delay in Demolition of Landmarks and Buildings Within Historic Districts

- A. An application for a Certificate of Appropriateness authorizing the demolition, removal, or destruction of a designated landmark or a building, structure or site within a historic district may not be denied except as provided in subsection (c) below. However, the effective date of such a certificate may be delayed for up to 365 days from the date of approval. The period of delay shall be reduced by the Planning Board acting in its capacity as a Preservation Commission if 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 the delay period the Planning Board shall negotiate with the owner in an effort to find a means of preserving the building, structure or site. If the Planning Board acting in its capacity as a Preservation Commission finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.
- B. If the Planning Board acting in its capacity as a Preservation Commission has voted to recommend the designation of a landmark or the designation of an area as a historic district, and final designation has not been made by the Board of Commissioners, the demolition or destruction of any building, structure or site in the proposed district or on the property of the designated landmark may be delayed by the Planning Board acting in its capacity as a Preservation Commission for up to 180 days or until the Board of Commissioners takes final action on the designation, whichever occurs first.
- C. The Board of Commissioners may enact an ordinance to prevent the demolition by neglect of any designated landmark or any structure or building within the established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue hardship.
- D. An application for a Certificate of Appropriateness authorizing the demolition of a building, structure or site 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 Planning Board acting in its capacity as a Preservation Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.