

## Sec. 3.11.4. Design and Development Standards

### 3.11.4.1. Parking and Access Standards

#### A. Applicability

1. **General.** No building or land, or any part of any building or land, may be occupied or used until parking has been provided in accordance with this Section.
2. **Additions**
  - a. A building or site may be renovated or repaired without providing additional parking, provided there is no increase in gross floor area or improved site area.
  - b. When a building, use or site is increased in gross floor area or improved site area, parking is required for the additional floor or site area only.
  - c. When the gross floor area or improved site area is increased by more than 50% cumulatively, both the existing use and the additional floor or site area must conform to the parking requirements of Section 3.11.
3. **Change in Use**
  - a. A change in use must comply with the parking requirements unless the Town Manager determines the use has the same or a lesser parking demand than the previous use.
  - b. Where required parking spaces for the new use exceed the required parking spaces for the existing use, additional parking is only required for the difference between the current parking spaces required and the parking spaces required for the new use.

#### B. Vehicle Parking

1. **Required Spaces.** The minimum and maximum parking spaces are provided in the Table below and are required unless an alternative is approved by the Town Manager.
2. **Outdoor Dining.** Outdoor dining located in the build-to zone or a forecourt permitted under Sec. 3.11.2.6 are exempt from the calculation of required vehicle parking spaces.
3. **Parking Maximums.** Parking spaces provided in an underground or structured parking garage do not count toward the maximum number of spaces permitted.
4. **Appearance of Structured Parking.** Structured parking visible from the public realm shall be architecturally compatible with the principal building as deemed appropriate by the Community Design Commission. An architectural screen that utilizes durable materials and/or other features offering visual interest shall be provided.

C. Required Parking. The following vehicle and bicycle parking spaces are required for each use.

	Vehicle		Bicycles	
	Parking Spaces (min)	Parking Spaces (max)	Spaces (min)	Short- / Long-term
<b>Residential Uses</b>				
Attached living, multifamily living				
Efficiency, 1 bedroom	1 per unit	1.25 per unit	1 per 2 units	20% / 80%
2 bedrooms	1.25 per unit	1.75 per unit		
3 bedrooms	1.5 per unit	2.25 per unit		
4+ bedrooms	1.67 per unit	2.5 per unit		
All group living	1 per 4 beds	1 per 2 beds	1 per 4 beds, 4 min	10% / 90%
<b>Public Uses</b>				
Civic/Place of Worship	1 per 500 sf of floor area	1 per 350 sf of floor area	1 per 5,000 sf of floor area, 4 min	80% / 20%
Parks & open space	None	None	None	None
Minor utilities	None	None	None	None
<b>Commercial Uses</b>				
All commercial uses, except as listed below:	1 per 300 sf of floor area	1 per 200 sf of floor area	1 per 2,500 sf of floor area, 4 min	80% / 20%
Commercial parking	None	None	None	None
Overnight lodging	0.9 per lodging unit	1.25 per lodging unit	1 per 15 lodging unit, 4 min	20% / 80%
Restaurant/bar	1 per 110 sf of floor area	1 per 75 sf of floor area	1 per 1,000 sf for floor area, 4 min	80% / 20%
<b>Industrial Uses</b>				
All industrial uses	1 per 1,250 sf	1 per 900 sf	4 min	20% / 80%
<b>Open Uses</b>				
All open uses	None	None	None	None

1. **Reductions.**

- a. A reduction of up to 20% of the minimum number of required vehicular parking spaces may be permitted through the granting of an alternative ratio by the Town Manager if, based on substantial evidence, the Manager finds that compliance with the full minimum off-street vehicular parking space requirements of this Section would not be required by the applicant's proposed use. This reduction applies to bicycle parking spaces as well, provided that the ratio between Class A and Class B spaces remains the same as the requirement in this Section.
- b. A total reduction of up to 40% of the minimum number of required vehicular and bicycle parking spaces may be permitted for projects serving the elderly or handicapped, following a positive recommendation from the Planning Director and approval of the Town Manager.
- c. Motorcycle and scooter parking may substitute for required parking spaces. Existing parking may be converted to take advantage of this provision.
  - i. Motorcycle and scooter parking may substitute for up to 5 vehicle spaces or 5% of the required parking spaces, whichever is less. For every 2 motorcycle or scooter parking spaces provided, the vehicle parking space requirement is reduced by 1 space.
  - ii. Motorcycle and scooter parking spaces must be identified or designated through the use of signage or pavement markings.
- d. A reduction of up to 20% of the minimum parking requirements may be achieved by providing a transportation management plan subject to approval by the Town Manager or subject to approval by the Town Council if the proposed use requires Town Council approval. The transportation management plan shall identify efforts to promote the use of alternate modes of transportation and may include required parking and/or payment to the Town of Chapel Hill Parking Fund in accord with Chapter 11A of the Chapel Hill Code

of Ordinances for a portion of the required spaces.

- e. A reduction of the number of required spaces may be achieved through a shared parking analysis certified by a Professional Engineer and subject to approval by the Town Manager. Such an analysis may include, where appropriate, considerations of peak hour usage, mode split, internal capture, remote parking as defined in this section, transportation demand management, and other approved parking management strategies.
- f. Nothing in this section precludes an applicant from pursuing Shared Parking as outlined in Section 5.9.3.

**D. Location of Parking.** Required vehicle parking must be located on the same lot as the use they are intended to serve, except as listed below.

1. **On-Street Parking**

- a. Each on-street parking space may be used to reduce the total required parking spaces by one space, provided that the on-street space is located on a public right-of-way immediately abutting the subject property.
- b. Each on-street parking space may only be counted for one property. Where a space straddles an extension of a property line, the space may only be counted by the owner whose property abuts 50% or more of the on-street parking space.

## 2. Remote Parking

- a. All required parking spaces may be located off-site, in a commercial parking lot or as shared parking associated with another land use, if the parking area is located within 660 feet from the primary entrance of the use served.
- b. Up to 50% of the required parking spaces may be located more than 660 feet off-site, if the parking area is located within 1,200 feet from the primary entrance of the use served.
- c. Specifically designated parking spaces for employees may be located off-site up to 2,640 feet from the primary entrance of the use served.
- d. All remote parking spaces used to meet an on-site parking requirement must be located within the boundaries of the Form District.
- e. The distances referred to above are measured by the most direct route of travel on the ground and are measured in the following manner:
  - i. From the front door of the principal structure on the applicant's property;
  - ii. In a straight line to the nearest public sidewalk, street, road or highway;
  - iii. Along a public sidewalk, walkway, street, road, or highway by the nearest route; and
  - iv. To the edge of the off-site parking area to be used by the applicant to meet parking requirements.

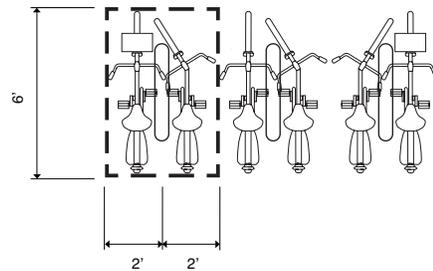
## E. Bicycle Parking

### 1. Required Spaces

- a. The minimum required bike spaces required are provided in the Table above and are required unless an equivalent or better alternative is approved by the Town Manager.
- b. In no case is a single use occupiable space or unit required to provide more than 20 bicycle parking spaces.

2. **General Requirements.** Bicycle parking may be provided through various types of facilities, provided the facility meets the following:

- a. Each required bicycle parking space is at least 2 feet by 6 feet;



- b. Bicycle racks are securely anchored, are easily usable with both u-locks and cable locks and support a bicycle at two points of contact to prevent damage to the bicycle wheels and frame;
- c. Where a bike can be locked on both sides without conflict, each side can be counted as a required space;
- d. Spacing of the racks provide clear and maneuverable access; and
- e. Facilities may be placed on private property or within the public right-of-way. Facilities in the right-of-way must be approved by the Town Manager.

3. **Short-Term Bicycle Parking.** Short-term bicycle parking is intended for clients and customers. Short-term bicycle racks must be publicly accessible and be located no more than 100 feet from the building entrance the bicycle rack is intended to serve.

4. **Long-Term Bicycle Parking.** Long-term bicycle parking is intended for residents and employees.

- a. Long-term bicycle parking must be covered and weather-resistant.
- b. Required spaces can be in the form of a covered bicycle rack, in a locker, within a building, or within a parking structure.
- c. Long-term bicycle racks must be located no more than 100 feet from the building entrance the bicycle rack is intended to serve.

## F. Drive-Thru Standards

1. **Location.** Drive-thru locations are subject to approval of a Special Use Permit. Drive-thru areas,

including but not limited to menu boards, stacking lanes, trash receptacles, ordering box, drive up windows, and other objects associated with the drive-thru, must be located interior to the site. Drive-thru windows and lanes may not be placed on a street-facing façade and the associated building. Drive-thru lanes are considered a vehicular access point subject to the requirements of Sec. 3.11.4.1.G.

2. **Required Stacking.** Adequate stacking space must be made available on-site for any use having a drive-thru. No more than 3 drive-thru lanes are permitted.

- a. **Restaurant.** A restaurant (including a coffee shop) with a drive-thru must provide a minimum of 6 spaces before the order board, with another 4 spaces provided between the order board and the transaction window.
- b. **Bank.** A bank with a drive-thru must provide a minimum of 3 spaces measured from the teller box.
- c. **Pharmacy.** A pharmacy with a drive-thru must provide a minimum of 3 spaces measured from the order box.
- d. **Dry Cleaner.** A dry cleaner with a drive-thru must provide a minimum of 3 spaces measured from the pick up door.
- e. **All Other Uses.** Stacking required for all other uses will be determined by the Town Manager.

3. **Dimensions**

- a. The number of required stacking spaces includes the space at the window or communication/mechanical device (e.g., order board, pick up window).
- b. If a drive-thru has multiple order boxes, teller boxes or pick up windows, the number of required stacking spaces may be split between each order box, teller box or pick up window.
- c. Vehicles may not encroach on or interfere with the public use of streets and sidewalks by vehicles, bicycles or pedestrians.
- d. Drive-thru lanes must be separated by striping or curbing from other parking areas. Individual

lanes must be striped, marked or otherwise distinctly delineated.

4. **Screening**

- a. Drive-thru windows and lanes must be screened from the public realm along Type A and Type B Frontages and adjacent ground floor residential uses for the entire length of the drive-thru lane, including but not limited to menu boards, stacking lanes, trash receptacles, ordering box, drive up windows, and other objects associated with the drive-thru must be screened.
- b. Screening must be a continuous compact evergreen hedge. At the time of installation, the screening must be at least 3 feet in height and reach a height of 4 feet within 3 years of planting.
- c. In lieu of the compact evergreen hedge, a screening wall with a minimum height of 4 feet may be installed. The wall must be compatible with the principal building in terms of texture, quality, material and color.

G. **Service Drive, Loading Dock Access and Vehicular Access**

1. **Vehicular Access.** The number of vehicular access points from a thoroughfare to any parcel shall be limited as follows:
  - a. No more than two (2) access points in any continuous 200' of lot frontage
  - b. No more than three (3) access points overall unless otherwise approved by the Community Design Commission.
  - c. Where two (2) such access points are located along the same block face, they shall be separated by a minimum of 30 feet.
  - d. Where a building fronts multiple streets or alleys, no access point may be located on the more restrictive assigned frontage or on the primary frontage, as applicable under Sec. 3.11.2.1.E.7, unless otherwise approved by the Community Design Commission.
  - e. No vehicular access may be provided between a building façade and a Type E frontage.

- f. Internal vehicular connections to adjacent parcels are encouraged, particularly where a parcel has only one street frontage and where multiple access points are desired.
- 2. **Access Width.** A parking lot, garage opening, or service access shall not exceed two lanes in width unless otherwise approved by the Town Manager. Access points on alleys are exempt from this requirement.
- 3. **Gating.** Vehicular entry gates at garage entries shall be positioned a minimum of twenty (20) feet behind the front wall of the building.
- 4. **Pedestrian Access.** Where vehicular access to any parcel crosses any pedestrian path or sidewalk, the crossing shall be clearly marked and lighted for the safety of the pedestrian, and the public sidewalk shall remain generally in a continuous alignment in plan and profile with the sidewalk on either side of the vehicular access.

### 3.11.4.2. Landscaping Standards

A. **General Applicability.** No building or land, or any part of any building or land, may be occupied or used until landscaping and screening has been provided in accordance with this Section.

B. **Multifunctional Landscaping and Stormwater Management.** Nothing in this Section is intended to prevent the applicant from using landscaped areas for stormwater purposes, including landscape, screening, sidewalk and streetscape areas. Where low impact stormwater management features are incorporated, grading and edge treatments for landscaping and screening areas must allow stormwater inflow. In such cases, no berming or curbs are necessary. The Town Manager may modify the landscaping standards of this Section or the Design Manual to achieve this end.

#### C. Surface Parking Lots

##### 1. Applicability

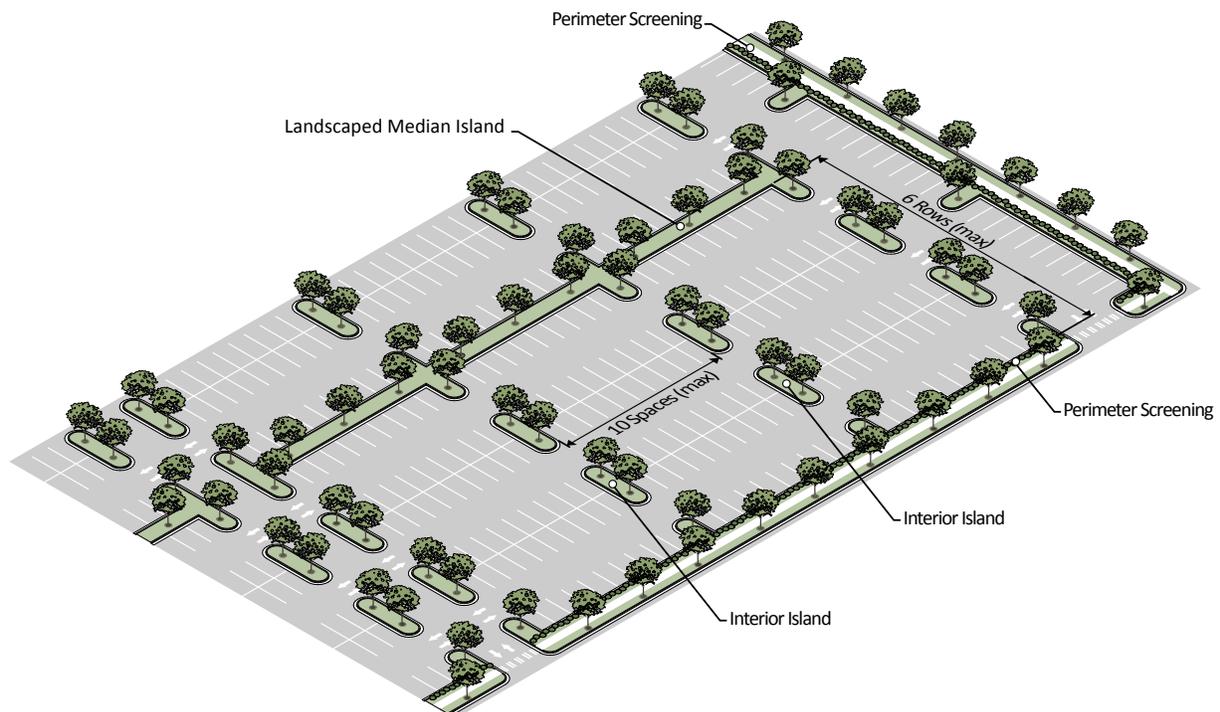
a. **New Construction.** All new surface parking lots with more than 10 spaces must provide parking lot landscaping in accordance with Section 3.11.4.2. Multiple platted lots contained on a single site plan and any separate parking areas connected with drive aisles are considered a single parking area.

##### b. Additions

- i. An existing parking lot may be renovated or repaired without providing additional landscaping, provided there is no increase in the size of the parking lot.
- ii. When an existing parking lot is increased in size, landscaping is required for the new parking area only.
- iii. When an existing parking lot is increased in size by more than 50% cumulatively, landscaping is required for both the existing parking lot and the new parking area.

2. **Perimeter Screening.** All surface parking lots (of any size) with frontage on any portion of a public street (not including an alley) must be screened with the following (see also Sec. 3.11.2.5):

- a. A minimum 5-foot wide, landscaped area with a continuous row of shrubs must be provided between the street and parking lot. For the Type C Frontage area along Fordham Boulevard, the Community Design Commission will review and have the discretion to increase the required planting zone up to 12' (twelve feet).



- b. Shrubs must be a minimum of 18 inches in height when planted and must reach a minimum size of 36 inches in height within 3 years of planting.
- c. A 36-inch wall may be substituted for the continuous row of shrubs.
- d. Breaks for pedestrian and vehicle access are permitted.

### 3. Interior Islands

- a. A landscaped interior island must be provided every 10 parking spaces. Interior islands must be distributed evenly throughout the parking area. Interior islands may be consolidated or intervals may be expanded in order to preserve existing trees.
- b. An interior island abutting a single row of parking spaces must be a minimum of 8 feet in width and 150 square feet in area. Each island must include 1 canopy tree.
- c. An interior island abutting a double row of parking spaces must be a minimum of 8 feet in width and 300 square feet in area. Each island must include 2 canopy trees.
- d. All required trees must be chosen from the approved the plant selection standards in the Town of Chapel Hill Design Manual.
- e. Interior islands may be installed below the level of the parking lot surface to allow for runoff capture.

### 4. Median Islands

- a. A landscaped median island must be provided between every 6 single parking rows. Intervals may be expanded in order to preserve existing trees.
- b. A landscaped median island must be a minimum of 8 feet wide.
- c. Landscaped median islands may be installed below the level of the parking lot surface to allow for runoff capture.
- d. Any trees planted in landscaped median islands must be canopy trees unless the median is designed as a bioretention basin in accordance with Sec. 3.11.4.3.

5. **Sidewalks in Medians.** Where a sidewalk is added to a median, additional median width equal to the sidewalk width must be provided.

6. **Trees.** No parking space may be farther than 75 feet from the trunk of a tree.

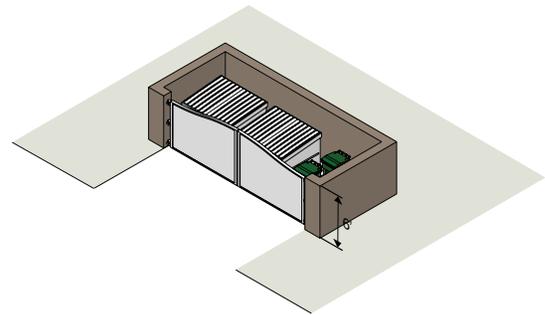
D. **Frontages.** Frontages must be planted in accordance with the Design Manual. Tree planting zones without grates must be a minimum of 8 feet in width. Tree planting zones with grates must be a minimum of 6 feet in width. Tree planting zones must be installed using structural soils, as described in the Design Manual. Tree maintenance and replacement is the responsibility of the property owner.

### E. Service Area and Mechanical Screening

1. **Applicability.** All new service areas and the installation of new mechanical equipment must provide screening in accordance with Section 3.11.4.2.

#### 2. Service Areas

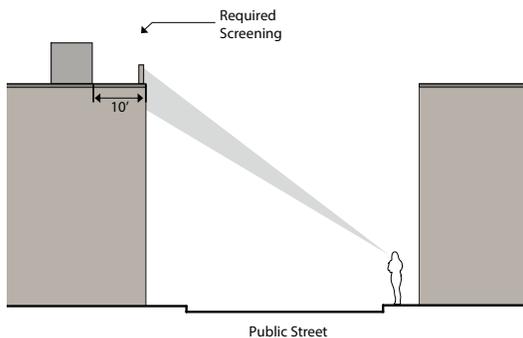
- a. Trash and recycling collection and other similar service areas must be located to the side or rear of buildings.
- b. Service areas must be screened on 3 sides by a wall a minimum 6 feet in height and on the 4th side by a solid gate at a minimum of 6 feet in height.



- c. The wall must be opaque and be constructed of high quality materials including one or a combination of the following: decorative blocks; brick; stone; cast-stone; split-faced block; stucco over standard concrete masonry blocks; glass block; or other material approved by the Town Manager.
- d. The gate and wall must be maintained in good working order and must remain closed except when trash pick-ups occur.

### 3. Roof-Mounted Equipment

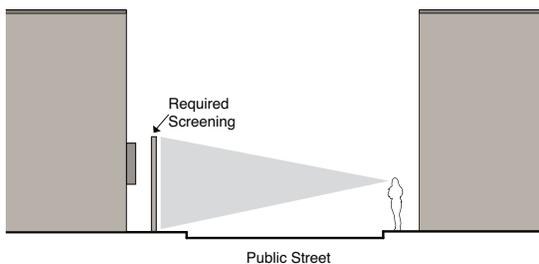
- a. Roof-mounted equipment must be set back at least 10 feet from the edge of the roof and screened from ground level view from abutting property or abutting public street (not including an alley).
- b. Buildings must provide a parapet wall or other architectural element that is compatible with the principal building in terms of texture, quality, material and color that fully screens roof-mounted equipment from ground level view.



- c. The Town Manager may modify these standards to ensure effective equipment functionality and ventilation.

### 4. Wall-Mounted Equipment. It is the intent of this section that aboveground mechanical equipment and minor structures accessory to utilities, excluding equipment and structures necessary for life safety, shall be minimally visible and minimally encroach into the pedestrian path.

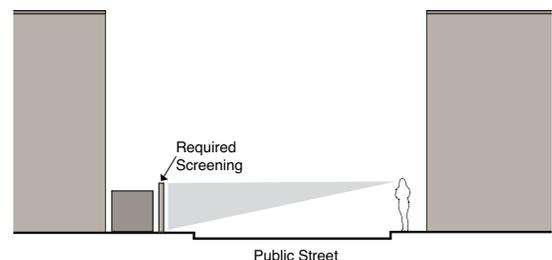
- a. Wall-mounted equipment located on any surface that is visible from a public street (not including an alley) must be fully screened by landscaping or a wall or fence that cannot be seen through, and that is compatible with the principal building in terms of texture, quality, material and color.
- b. Screening must be of a height equal to or greater than the height of the mechanical equipment being screened.



- c. The Town Manager may modify these standards to ensure effective equipment functionality and ventilation.
- d. Unless otherwise approved as a permitted setback encroachment in Section 3.11.2.7, wall-mounted mechanical equipment and minor structures accessory to utilities, excluding equipment and structures necessary for life safety, shall not be placed within 10' of a sidewalk for a Type A or Type B frontage.

### 5. Ground-Mounted Equipment. It is the intent of this section that aboveground mechanical equipment and minor structures accessory to utilities, excluding equipment and structures necessary for life safety, shall be minimally visible and minimally encroach into the pedestrian path.

- a. Ground-mounted mechanical equipment that is visible from a public street (not including an alley) must be fully screened by landscaping or a wall or fence that cannot be seen through, and that is compatible with the principal building in terms of texture, quality, material and color.
- b. Screening must be of a height equal to or greater than the height of the mechanical equipment being screened.



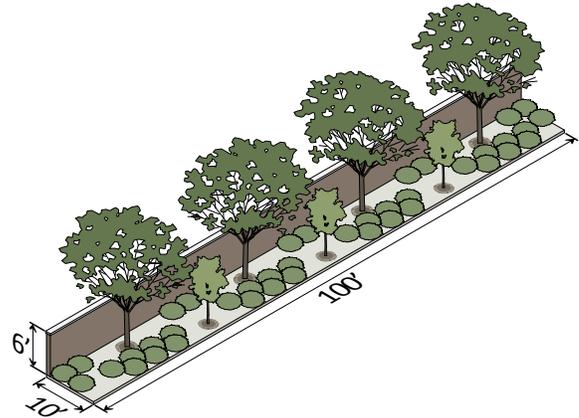
- c. The Town Manager may modify these standards to ensure effective equipment functionality and ventilation.
- d. Unless otherwise approved as a permitted setback encroachment in Section 3.11.2.7, ground-mounted mechanical equipment and minor structures accessory to utilities, excluding equipment and structures necessary for life safety, shall not be placed within 10' of a sidewalk for a Type A or Type B street frontage.

F. **Street Trees.** Street trees may be required in conformance with Sec. 3.11.2.5.

G. **Fence and Walls**

1. **Applicability.** All new fence and walls must be installed in accordance with Section 3.11.4.2.
2. **Standards**
  - a. Fences and walls may be placed up to the property line, and any posts or supporting rails must face inward toward the property being fenced.
  - b. A wall or fence located in a front setback, not used for a required screen, cannot be more than 6 feet height. The opacity of the wall or fence above 4 feet in height must exceed 75%.
  - c. A wall or fence located in a side interior or rear setback cannot be more 8 feet in height.
  - d. Walls must be constructed of high quality materials including one or a combination of the following: decorative blocks; brick; stone; cast-stone; split-faced block; stucco over standard concrete masonry blocks; glass block; or other material approved by the Town Manager.
  - e. Fences must be constructed of high quality materials including one or a combination of the following: wood, composite fencing; wrought iron, steel, aluminium, PVC vinyl; or other material approved by the Town Manager.
  - f. No wall or fence may be located within any required drainage or utility easement.
  - g. Barbed wire or concertina wire is not permitted.
  - h. Chain-link fences are not permitted in any front setback.

H. **Residential Protection Buffer.** The following buffer is required along any perimeter lot line that immediately abuts any residential district that is not within a Blue Hill Form District. This standard does not apply to residential land that is separated from the Blue Hill Form District by a street.



Depth (min)	10'
Wall Height (min/max)	6'/8'
Fence Height (min/max)	6'/8'
Spacing of breaks in Wall or Fence (max)	200'
Shade Trees (min per 100')	4
Understory Trees (min per 100')	3
Shrubs (min per 100')	40
Shrub Height (min)	4'

1. The Community Design Commission may approve a variation to the requirements above in order to accommodate trails and outdoor amenities in the Buffer area.
  2. Either a wall or a fence may be used in the Buffer, with intermittent breaks so as not to create an impassible barrier, as appropriate based on context.
  3. Buildings within 20' of the perimeter lot line are subject to mass variation standards as described in Sec. 3.11.2.7.T
- I. **Plant Installation and Maintenance.** All plants and trees must be maintained and installed in accordance with in the Town of Chapel Hill Design Manual.

### 3.11.4.3. Stormwater Management

- A. Authority.** This section is adopted pursuant to the authority vested in the Town of Chapel Hill by the Session Laws and the General Statutes of North Carolina and the authority referenced in Section 1.2 of the Land Use Management Ordinance.
- B. Purpose.** The purpose of this Section is to establish minimum stormwater performance criteria, management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This section seeks to meet that purpose through the following objectives:
1. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation and streambank erosion and maintain the integrity of stream channels;
  2. Minimize increases in non-point source pollution caused by stormwater runoff from development that would otherwise degrade local water quality;
  3. Minimize the total volume of surface water runoff that flows from any specific site during and following development in order to replicate the pre-development hydrology to the maximum extent practicable;
  4. Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety; and
  5. Meet the requirements of the National Pollutant Discharge Elimination System (NPDES Phase 2) regulations as established by the Clean Water Act and administered by the North Carolina Department of Natural Resources, or its successor agency.
  6. Control nonpoint and point source pollution associated with new development and redevelopment and help protect the water supply uses of Jordan Lake.

#### C. Applicability.

1. This section applies to all new development and redevelopment projects for which a form district permit is required. No development or redevelopment for which a form district permit is required pursuant to this section shall occur except in compliance with the provisions, conditions, and limitations of the permit.
2. Projects that disturb less than ½-acre of land, including cumulative disturbance are exempt from subsection 3.11.4.3.F.4.

#### D. Design Manual and Standard Details

1. The Town shall use the policy, criteria, and information, including technical specifications and standards in the Town's "Design Manual and Standard Details" and the July 2007 publication of the "Stormwater Best Management Practices Manual," as amended, published by the North Carolina Department of Environment and Natural Resources' Division of Water Quality, as the basis for stormwater review decisions and for determining the proper design, implementation and performance of engineered stormwater controls and other practices for compliance with this section.
2. If the specifications or guidelines of either design manual are more restrictive or apply a higher standard than the other, or other laws or regulations, the more restrictive specifications or guidelines apply.
3. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the design manuals, the applicant shall have the burden of demonstrating that the practices will satisfy the minimum water quality performance standards of this section. The town manager shall require the applicant to provide the documentation, calculations, and examples necessary for the town manager to determine whether such an affirmative showing is made.

#### E. Application Requirements

1. Unless otherwise exempted by this Section, every permit application for development must be accompanied by a stormwater impact statement in order for the permit application to be considered.

2. The Town Manager shall prescribe the forms and information that shall be submitted to determine compliance with this chapter, with sufficient copies for necessary referrals and records.

**F. Design and Performance Standards.** The following are required stormwater management performance criteria:

1. Stormwater treatment shall be designed to achieve average annual 85% total suspended solids (TSS) removal and must apply to the volume of post-development runoff resulting from the first one-inch of precipitation. Alternative treatment methods to achieve 85% average annual TSS removal may be acceptable. The 85% requirement applies to 85% of the additional suspended solids that are the result of the new development.
2. The stormwater runoff volume leaving the site post-development shall not exceed the stormwater runoff volume leaving the site pre-development (existing conditions) for the local 2-year frequency, 24-hour duration storm event for all development. This may be achieved by hydrologic abstraction, recycling and/or reuse, or any other accepted scientific method.
3. The stormwater runoff rate leaving the site post-development shall not exceed the stormwater runoff rate leaving the site pre-development (existing conditions) for the local 1-year, 2-year, and 25-year 24-hour storm events.
4. Notwithstanding subsection 3.11.4.3.F.1., the minimum impervious area treated for eighty-five (85) percent average annual TSS removal shall be fifty (50) percent of the post construction total impervious area.

**G. Post-Construction Requirements**

**1. Inspection, Operation and Maintenance Plan**

- a. The owner or owners of a development must sign and record an inspection, operation, and maintenance plan that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the stormwater management facility. Until the transference of all property, sites, or lots served by the engineered stormwater controls and practices, the original owner or owners, shall have primary responsibility for

carrying out the provisions of the maintenance agreement.

- b. The inspection, operation, and maintenance plan shall require the owner or owners, to maintain, repair and, if necessary, reconstruct the stormwater management facility and shall state the terms, conditions, and schedule of maintenance for the stormwater management facility. In addition, it shall grant to the Town of Chapel Hill the right of entry in the event that the town manager has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the stormwater management facility; however, in no case shall the right of entry, of itself, confer an obligation on the town to assume responsibility for the stormwater management facility.
  - c. The inspection, operation, and maintenance plan must be approved by the town manager prior to permit approval and shall be recorded with the county register of deeds prior to issuance of a certificate of occupancy.
2. Upon completion of a project and before a certificate of occupancy shall be granted, all of the documents enumerated below must be submitted to the Town Manager and a final stormwater management inspection must be scheduled. After performing the final inspection and reviewing and approving the documents, the Town Manager will issue an approval notification to the Town's Inspections Division.
    - a. A copy of the recorded stormwater facility and maintenance easement, signed and sealed by a registered North Carolina professional land surveyor and recorded by the county register of deeds, showing the "Stormwater Management Facility and Maintenance Easements", the stormwater management facilities, and the maintenance access locations. For purposes of maintenance, the maintenance access must be shown on the exhibit and extend from the "Stormwater Facility Easement" to the nearest public right-of-way. The following notes must be included on the recorded final plat or easement exhibit.
      - i. All engineered stormwater management control, treatment, and conveyance

- structures located on or below the ground shall be wholly contained within an easement entitled: "Reserved Stormwater Facility Easement Hereby Dedicated" and shall be reserved from any development which would obstruct or constrict the effective management, control, and conveyance of stormwater from or across the property, other than the approved design and operation functions.
- ii. The reserved stormwater facility and maintenance easements and the facilities they protect are considered to be private, with the sole responsibility of the owner to provide for all required maintenance and operations as approved by the Town Manager except as noted in Sec. I. below.
  - iii. The reserved stormwater facility and maintenance easements and the inspections, operations, and maintenance plan are binding on the owner, heirs, successors, and assigns.
- b. A copy of the recorded inspection, operation, and maintenance plan signed by the owner and recorded by the county register of deeds, for the stormwater management facilities. The inspection, operations, and maintenance plan must include a description and details of the device or structure, an inspections checklist, and operating and maintenance procedures. The plan should identify contact information, who will perform the inspections, frequency of inspections, inspections and maintenance logs, any specific equipment needs or certifications (e.g., confined space certification), action levels or thresholds (e.g., remove sediment after depth exceeds 1 foot), and disposal methods. The person responsible for the maintenance of stormwater management facilities shall submit an annual inspection report to the Town.
  - c. Certified as-built plans signed and sealed by qualified registered North Carolina professional engineer, showing final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed.
  - d. Certified final survey signed and sealed by a registered North Carolina professional land surveyor, showing building footprints, driveways, all other impervious surfaces, stormwater drainage/conveyance piping, and stormwater management structures. The survey should be in DXF binary format using state plane coordinates and NAVD 88.
  - e. Certification, signed and sealed by a qualified registered North Carolina professional engineer, that the stormwater management facilities were constructed in accordance with the approved plans and specifications.
3. **Annual inspection.** An original inspection report shall be provided to the town beginning 1 year from the date of the recorded inspection, operation, and maintenance plan and each year thereafter on or before that date of recordation.
- H. The Ephesus/Church Fordham Municipal Service District (MSD) through the Town's departments, agencies, officers, employees, consultants, contractors or agents may assist with meeting the inspection and maintenance requirements as provided in the service district plan and provided for in right of entry agreements with the property owners and responsible parties. The MSD may also provide the financial assurance required for issuance of certificate of occupancy upon approval of the Town Manager.
  - I. **Failure to maintain practices.** If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the Town, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, or is otherwise not functioning as designed, the Town shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 30 days to effect maintenance and repair of the facility in an approved manner. After proper notice, the town may assess the owners of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the

beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the County.

#### 3.11.4.4. Reserved

- J. **Variations.** Persons who wish to undertake uses and activities prohibited by this section may pursue a variance. The procedures for requesting a variance from the requirements of this section shall be as follows:
1. The procedures for requesting a variance from the requirements in this subsection are contained in Section 4.12 of the Land Use Management Ordinance.

### 3.11.4.5. Site Lighting

#### A. Applicability

1. **General.** No building or land, or any part of any building or land, may be occupied or used until site lighting has been provided in accordance with this Section.
  - a. The installation of site lighting, replacement of site lighting, and changes to existing light fixture wattage, type of fixture, mounting, or fixture location must be made in compliance with Section 3.11.4.5. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens and other required components, is permitted for all existing fixtures.
  - b. The following site lighting requirements do not apply to lighting installed in the public right-of-way.
2. **Additions**
  - a. When a building or site is renovated, any new or replaced outdoor light or lighting fixture must conform to the requirements of Section 3.11.4.5.
  - b. When the gross floor area or improved site area is increased, the additional floor or site area must conform to the lighting requirements of Section 3.11.4.5.
  - c. When the gross floor area or improved site area is increased by more than 50% cumulatively, both the existing use and the additional floor or site area must conform to the lighting requirements of Section 3.11.4.5.

3. **Change in Use.** A change in use does not trigger application of this Section.

#### B. Light Level Measuring

1. Light levels are specified, calculated and measured in footcandles. All footcandles values are maintained footcandles.
2. Measurements are to be made at ground level, with the light-registering portion of the meter held parallel to the ground pointing up.

- C. **Prohibited Sources.** The following light fixtures and sources cannot be used:

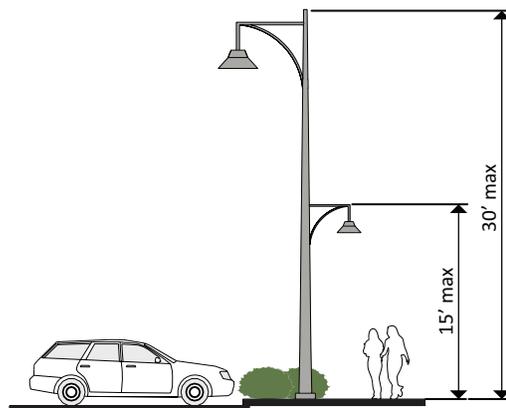
1. Cobra-head-type fixtures having dished or drop lenses or refractors, which contain sources that are not incandescent;
2. Temporary searchlights and other high-intensity narrow-beam fixtures; and
3. Light sources that lack color correction or do not allow for uniform site lighting.

#### D. Design and Installation Requirements

1. The maximum light level of any light fixture cannot exceed 5.0 footcandles measured at the back of curb in relation to a street.
2. Where the Blue Hill Form District adjoins a residential district, the maximum light level of any light fixture cannot exceed 2.0 footcandles measured at that property line.
3. Lighting must not be oriented onto adjacent properties, streets or sidewalks.
4. Service connections for all freestanding lighting fixtures must be installed underground.

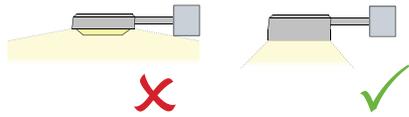
#### E. Parking and Pedestrian Areas

1. Light fixtures within parking and vehicular display areas may be no higher than 30 feet.
2. Light fixtures within pedestrian areas may be no higher than 15 feet.

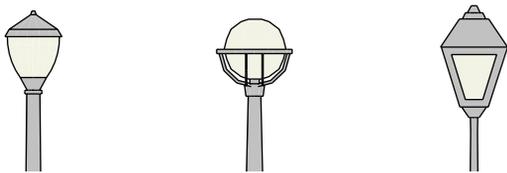


3. Light fixtures located within 50 feet of the property line of a residential district may be no higher than 15 feet.
4. Light fixtures within 25 feet of a street right-of-way (not including an alley) must be forward throw fixtures.

- All light fixtures must be full cutoff, except as listed in paragraph 6. below.

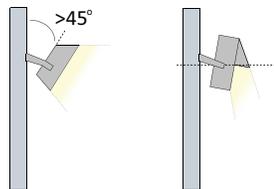


- Non-cutoff (unshielded) fixtures can be used when the maximum initial lumens generated by each fixture is less than 9500 initial lamp lumens. These fixtures generally feature globes or vertical glass planes and must be coated with an internal white frosting to diffuse light.

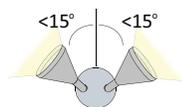


#### F. Flood Lights and Flood Lamps

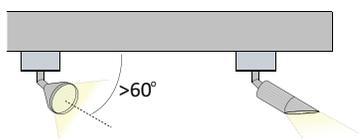
- Flood light fixtures must either be aimed down at least 45 degrees from vertical, or the front of the fixture shielded so that no portion of the light bulb extends below the bottom edge of the shield.



- Any flood light fixture located within 50 feet of a street right-of-way must be mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed 15 degrees.

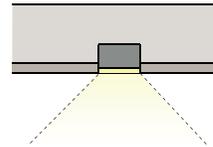


- All flood lamps emitting 1,000 or more lumens must be aimed at least 60 degrees down from horizontal, or shielded so that the main beam is not visible from adjacent properties or the street right-of-way.

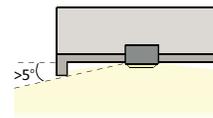


- Vehicular Canopies.** Lighting under vehicular canopies must be less than 24 maintained footcandles, and be designed to prevent glare off-site. Acceptable lighting designs include the following:

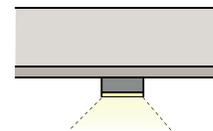
1. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface of the canopy;



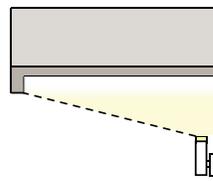
2. Light fixture incorporating shields, or is shielded by the edge of the canopy itself, so that light is restrained to 5 degrees or more below the horizontal plane;



3. Surface mounted fixture incorporating a flat glass that provides a cutoff design or shielded light distribution; or



4. Indirect lighting where light is beamed upward and then reflected down from the underside of the canopy, provided the fixture is shielded so that direct illumination is focused exclusively on the underside of the canopy.



## H. Building Lighting

1. Lighting fixtures must be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building façade, plantings, and other intended site features and away from adjoining properties and the street right-of-way.
2. All wall pack fixtures must be full cutoff fixtures.



3. Only lighting used to accent architectural features, landscaping or art may be directed upward, provided that the fixture is located, aimed or shielded to minimize light spill into the night sky.

### 3.11.4.6. Outdoor Display & Storage

A. **Applicability.** The following requirements apply to any site where merchandise, material or equipment is stored outside of a completely enclosed building.

#### B. Outdoor Display

##### 1. Defined

- a. Outdoor display is the outdoor display of products actively available for sale that are placed inside a fully-enclosed building at the end of each business day.
- b. Outdoor display includes the outdoor placement of propane gas storage racks, ice storage bins, soft drink or similar vending machines is considered outdoor display

2. **Standards.** Outdoor display is permitted in association with any permitted nonresidential principal ground floor use in accordance with the following provisions:

- a. Outdoor display visible from a street must be removed and placed inside a fully-enclosed building at the end of each business day, except propane gas storage racks, ice storage bins, soft drink or similar vending machines may remain outside overnight.
- b. Outdoor display is permitted adjacent to the primary façade with the principal customer entrance, but cannot extend more than 8 feet from the façade and occupy no more than 30% of the horizontal width of the façade.
- c. Outdoor display cannot impair the ability of pedestrians to use the sidewalk or parking areas and must comply with ADA clearance and accessibility.

#### C. Limited Outdoor Storage

1. **Defined.** Limited outdoor storage includes, but is not limited to:

- a. Outdoor sale areas for sheds, building supplies, garden supplies, plants, lawn movers, barbecues and other similar items; and
- b. The outdoor storage of merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers.

2. **Standards.** Limited outdoor storage may not be more than 12 feet in height and must be fully screened from view from the public right-of-way and abutting properties.

#### D. General Outdoor Storage

1. **Defined.** General outdoor storage includes, but is not limited to:

- a. The outdoor storage of contractors equipment;
- b. The outdoor storage of fleet vehicles; and
- c. The outdoor storage of soil, mulch, stone, lumber, pipe, steel, salvage, junk or recycled materials, and other similar merchandise, material or equipment.

2. **Standards.** General outdoor storage is not permitted in a Form District.

### 3.11.4.7. Administration of Form Districts

- A. **Zoning Compliance Permit.** Where required by this Sec. 3.11, a zoning compliance permit consistent with Land Use Management Ordinance, Sec. 4.9, is required.
- B. **Special Use Permit.** Where required by this Sec. 3.11, a special use permit consistent with Land Use Management Ordinance, Sec. 4.5, is required.
- C. **Form District Permit**
  - 1. **Review Required**
    - a. It is unlawful to begin any excavation, removal of soil, clearing of a site, or placing of any fill on lands contemplated for development, or to begin any construction, moving or alteration of any building or other structure, including accessory structures and signs, until the Town Manager has issued a Form District Permit for such action, certifying that the development complies with the applicable provisions of this Section. Form District permits are not required for minor modifications such as ordinary repairs, interior upfits or other renovations which do not increase or decrease floor area by more than 5% of the permitted amount or 2,500 square feet, whichever is greater. A Zoning Compliance Permit or other permits may be required for such changes.
    - b. It is unlawful to change the type of use or type of occupancy of any land or structure, or to extend any use on any lot on which exists a nonconforming use, until the Town Manager has issued a Form District Permit for such action, certifying that the intended use complies with the applicable provisions of this Section.
  - 2. **Site Specific Development Plan.** For the purposes of the Land Use Management Ordinance, a Form District Permit constitutes a site specific development permit.
  - 3. **Application Submittal Requirements.** Applications for a Form District Permit are submitted to the Town Manager. The Town Manager will prescribe the forms on which applications are made. The Town Manager will prescribe any material that may reasonably be required to determine compliance with this Section and the Land Use Management Ordinance, with sufficient copies for necessary

referrals and records. No application may be accepted by the Town Manager unless it complies with such submittal requirements. Applications that are not complete will be returned to the applicant, with a notation of the deficiencies in the application.

- a. An urban design assessment is required as part of a complete application, providing a preliminary determination of whether elements of the proposed development meet the urban design intent of the Blue Hill District. Urban design assessments will be prepared by consultants under contract with the town and the costs of the analyses will be included in the development application fees.
- b. Traffic impacts of proposed new development and redevelopment shall be considered in the review of applications. A traffic impact analysis as provided for in Sec. 5.8.1.G is required to identify and quantify the traffic impacts of proposed developments, and to identify facility improvements necessary to maintain acceptable levels of service. A traffic impact analysis is required for Form District Permit review, unless affirmatively exempted by the town manager.

#### 4. Action on the Application

- a. The applicant must meet with the Town prior to filing of the Form District Permit application to determine whether new right-of-way or public easement will be required for the development, in accordance with the Regulating Plan, Sec. 3.11.2.2. If new rights-of-way or public easements are required, the proposed dedication shall be shown on the Form District Permit application, and the final dedication shall be recorded prior to the issuance of a Building Permit. Prior to issuance of a Form District Permit, a phasing schedule shall be approved by the Town Manager that addresses necessary public improvements by the applicant and right-of-way and public easement improvements to be constructed by the Town.
- b. The Town Manager will take final action on the application. Final action on an application will be based solely on findings as to compliance

with all applicable provisions of this Section 3.11 and the Land Use Management Ordinance, including all applicable conditions of an approved major or minor subdivision, and must be one of the following:

- i. Approval of application; or
  - ii. Approval of application subject to reasonable conditions to ensure compliance with applicable regulations and conditions; or
  - iii. Denial of application.
- c. Final action must be taken within 75 working days of the acceptance of an application or 15 working days from approval of a Certificate of Appropriateness (whichever is later), or within such further time consented to by written notice from the applicant or by Town Council resolution. The Town Manager must reach a decision on a complete or otherwise actionable application within the prescribed time limit, or any extension.

#### 5. Actions Subsequent to Decision

- a. In the case of approval or approval with conditions, the Town Manager will issue the Form District Permit. In the case of denial of an application, the Town Manager must notify the applicant of the reasons for such denial.
  - b. Where engineering construction permits are required by the Town Code of Ordinances, such permit may not be issued prior to issuance of the Form District Permit.
  - c. Where a building permit is required by Chapter 5 of the Land Use Management Ordinance, or a sign permit is required, such permits may not be issued prior to issuance of the Form District Permit and engineering construction permit required for the development.
6. **Appeal of Decision.** A decision by the Town Manager in granting or denying a Form District Permit may be appealed to the Board of Adjustment in accord with the provisions of the Land Use Management Ordinance, Section 4.11.
7. **Modification of Form District Permits.** The Town Manager may approve a minor modification of a Form District Permit administratively. A change

from what is included in an approved Form District Permit will be considered a major modification if it would render a building approved under a Form District Permit out of substantial conformance as defined in subsection 3.11.4.8.B. Any other changes may be approved by the Town Manager or the Town Manager's designee and shall not constitute a major modification. The application fee for a modification to a Form District Permit is established by the Council as part of the budget process.

#### 8. Performance and Maintenance Guarantees

- a. Conditions attached to an approval of a Form District Permit may include the following:
  - i. A condition requiring the applicant to provide performance guarantees and/or maintenance guarantees deemed necessary to ensure compliance with the requirements of this Section and the conditions of permit approval.
  - ii. A condition permitting the applicant to provide performance guarantees in lieu of actual completion of required improvements prior to use or occupancy of the development authorized by the Form District Permit, provided the delayed completion of such improvements is determined to be compatible with the public health, safety and welfare.
- b. Such performance guarantees and maintenance guarantees must be satisfactory as to their form and manner of execution, and as to the sufficiency of their amount in securing the satisfactory construction, installation, or maintenance of the required improvements.
- c. The condition requiring or permitting a performance guarantee must specify a reasonable time period within which required improvements must be completed. Such time period must be incorporated in the performance guarantee. The length of such time period may not exceed 2 years from the date the Form District Permit is issued.
- d. No performance guarantee will be released until certification of the satisfactory completion of all required improvements covered by such

performance guarantee has been submitted to and approved by the Town Manager.

- e. If the required improvements covered by a performance guarantee are not completed in accordance with the terms of the performance guarantee, the obligor will be liable to the Town for the reasonable cost of the improvements not completed and the Town may, either prior to or after the receipt of the proceeds, complete such improvements.

#### 9. Expiration and Revocation of Form District Permit Approvals

- a. **Starting Time Limit.** If the use, construction, or activity authorized by approval of an application for a Form District Permit or modification of Form District Permit is not started within 12 months of the date of approval, or within such further time stipulated in the approval, the approval will expire and any Town permit issued pursuant to the approval will be void. The Town Manager may grant a single extension of the starting time limit for up to 12 months, unless he/she determines that paramount considerations of health, the general welfare, or public safety require re-approval. The Town Manager will determine whether the use, construction, or activity has started.
- b. **Completion Time Limit.** If all construction and actions authorized or required by a Form District Permit or modification of Form District Permit are not completed by the completion date stipulated in the permit or modification, the permit holder may request an extension of the completion time limit from the Town Manager. The Town Manager may grant extensions of the time limit for periods of up to 12 months if he/she determines that:
  - i. The permit holder submitted the request within 60 days of the completion date;
  - ii. The permit has proceeded with due diligence and good faith; and
  - iii. Conditions have not changed so substantially as to warrant reconsideration of the approved development.

- c. The Town Manager will determine whether or not all construction and actions authorized or required have been completed.

#### 10. Revocation of Form District Permit

- a. If any conditions of a Form District Permit or modification of Form District Permit, including completion time limits, or requirements of this Section applicable to the permit or modification are violated, the Town Manager may revoke the permit or modification.
- b. The Town Manager may reinstate a revoked Form District Permit or modification of Form District Permit if he/she determines that:
  - i. The holder of the revoked permit or modification submitted a request for reinstatement within 90 days of the revocation;
  - ii. The violations that were the cause of the revocation have been corrected; and
  - iii. The development fully complies with all conditions of the permit or modification and all applicable requirements of this Section and the Land Use Management Ordinance.
- c. **Certificate of Occupancy.** No building or structure for which a Form District Permit has been issued may be used or occupied until, after final inspection, a certificate of occupancy has been issued indicating compliance with the provisions of this Section, the Land Use Management Ordinance, and all other state and local laws, including conditions of the Form District Permit and all other required permits.

## D. Certificate of Appropriateness

### 1. Review Required

- a. No exterior portion of any building or related structure (including structured parking visible from the public realm, masonry walls, fences, light fixtures, steps and pavement), or any above-ground utility structure or stormwater control measure at grade may be erected, altered, restored or moved within the Form District until an application for a certificate of appropriateness as to the aesthetic quality of exterior architectural features and accessory utility features has been approved, based upon the criteria and standards established in this Sec. 3.11. The above requirements do not apply to the demolition of any buildings or structures or routine maintenance of structures.
- b. For purposes of this Section 3.11, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the following: kind and texture of the building material, type and style of all windows and doors, orientation and treatment of building entrances, building elements as described in Sec. 3.11.2.6, type and style of light fixtures, quality of associated streetscape environment, quality of building pass-throughs, quality and activation of associated outdoor amenity spaces, screening of associated vehicular and services areas, cohesive design aesthetic for all buildings and structures on the site, and appropriate transitions to surrounding development.

Accessory utility features further includes the screening of transformers and cabinet structures, as well as the appearance of visible stormwater control measures at grade. Review should give consideration toward the hierarchy of street-facing façades as they relate to the different frontage types. For development along streets with Type C Frontage requirements, the Community Design Commission shall review and approve

certificates of appropriateness consistent with 3.11.4.2.C.2.a.

- c. A certificate of appropriateness shall be issued prior to the issuance of a Form District Permit, zoning compliance permit or any other permit granted for purposes of constructing or altering buildings or structures.
- d. The Town and all public utility companies shall be required to obtain a certificate of appropriateness prior to initiating any changes in the character of structures and buildings on property owned or franchised by the Town of Chapel Hill or public utility companies, excluding street paving, sidewalks, utility installations, lighting, walls, fences, regulatory signs, other traffic control measures and devices, and utility distribution systems located in public right-of-way.
- e. A certificate of appropriateness application may be reviewed and approved by the Town Manager according to specific review criteria contained in state law and guidelines approved by the Community Design Commission when the application is determined to involve minor work. Minor works are defined as those exterior changes that do not involve any substantial alterations. Such minor works shall be limited to those listed in the Community Design Commission's Rules of Procedure, or a successor document. No application involving minor work may be denied without the formal action of the Commission. Ordinance requirements for notification of affected property owners must be met for all applications.

### 2. Certain Changes Not Prohibited

- a. Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Form District that does not involve a change in design, material, or outer appearance, or to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any feature that the Building Inspector or similar official certifies is required by the public safety because of unsafe or dangerous condition.

- b. On the basis of preliminary sketches or drawings and other supporting data, the Town Manager may exempt from requirements for a certificate of appropriateness projects involving the ordinary maintenance or repair of any exterior architectural feature that does not involve a change in design, material, or outer appearance. The Town Manager must notify the Community Design Commission of all such exemptions.

### 3. Application Submittal Requirements

- a. Applications for a Certificate of Appropriateness are submitted to the Town Manager. The Town Manager will prescribe the forms on which applications are made. The Town Manager will prescribe any material that may reasonably be required to determine compliance with this Section and the Land Use Management Ordinance, with sufficient copies for necessary referrals and records. No application may be accepted by the Town Manager unless it complies with such submittal requirements. Applications that are not complete will be returned to the applicant, with a notation of the deficiencies in the application.
- b. Prior to approval or denial of an application for a certificate of appropriateness by the Community Design Commission, the Commission must take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application, and will give the applicant and such owners an opportunity to be heard.
- c. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

### 4. Action on the Application

- a. Within 100 working days of the acceptance of an application, or within such further time consented to by written notice from the applicant, the Town Manager or the Community Design Commission shall issue a Certificate of Appropriateness, issue a Certificate of Appropriateness with conditions, or deny the application.

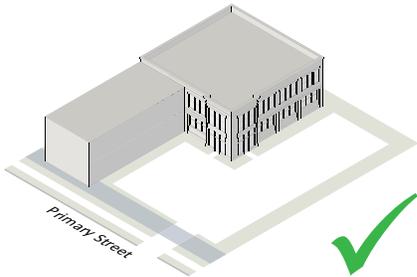
- b. Such action must be based upon the criteria and standards established in this Sec. 3.11. The Design Guidelines shall serve as a reference for the Community Design Commission's review.
- c. Failure to take final action on an application within the prescribed time limit, or extensions, will result in the issuance of a Certificate of Appropriateness for the application submitted.
- d. The Town Manager or the Community Design Commission may impose such reasonable conditions with the issuance of a Certificate of Appropriateness as will ensure that the spirit and intent of Section 3.11 are achieved.

- 5. **Actions Subsequent to Decision.** The Town Manager will notify the applicant of a decision in writing, and file a copy of it with the Town's Planning Department. If the application is denied, the notice must include the reasons for such action.
- 6. **Appeal of Decision.** A decision by the Community Design Commission on an application for a certificate of appropriateness may be appealed to the Board of Adjustment in accordance with the provisions of Land Use Management Ordinance Section 4.10.
- 7. **Submittal of New Application.** If the Community Design Commission denies an application for a certificate of appropriateness, a new application affecting the same property may be submitted only if substantive change is made in plans for the proposed construction, reconstruction or alteration.
- 8. **Modification of Certificate of Appropriateness.** The Community Design Commission may review and approve a modification of a Certificate of Appropriateness. A modification of this kind is defined as any change that exceeds "minor work" as it is defined in subsection 3.11.4.7.D.1.e. The application fee for a modification to a Certificate of Appropriateness is established by the Council as part of the budget process.

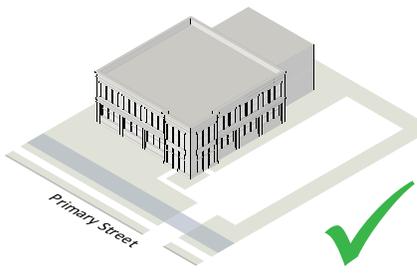
E. **Nonconforming Build-to Requirement.** The nonconforming provisions of the Land Use Management Ordinance apply to this Section. The following standards clarify the application of the Land Use Management Ordinance nonconforming provisions to the build-to zone requirements of this Section. Expansion of an existing building is required to meet the build-to zone requirements, except as permitted in the following situations.

1. **Additions.** Expansion of an existing building which is unable to meet the build-to requirement of this Section must comply with the following nonconforming provisions:

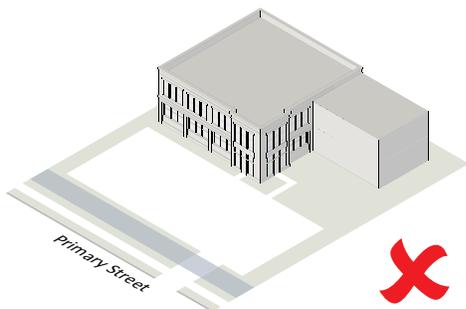
a. **Front: Addition.** Any addition to the front must be placed in the build-to zone. The addition does not have to meet the build-to zone percentage for the lot.



b. **Rear: Addition.** Rear additions are permitted. The intent is to ensure a building addition does not increase the degree on the nonconformity in relation to the build-to zone.

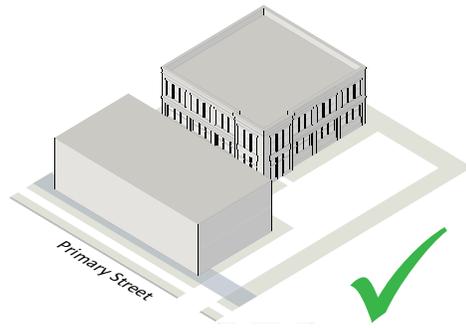


c. **Side: Addition.** Side additions are not permitted

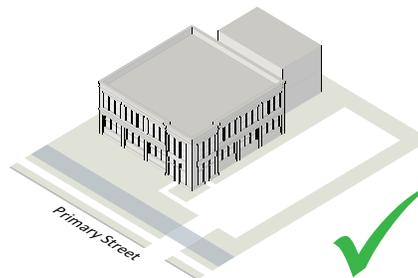


2. **New Buildings.** Where a new building is being constructed on a lot or site with an existing building on it that doesn't meet the build-to requirement, the following nonconforming provisions apply.

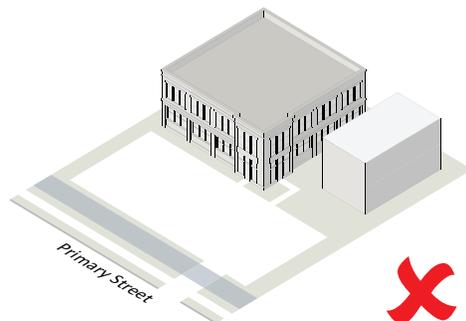
a. **Front: New Building.** All new buildings must be placed in the build-to zone until the build-to zone percentage for the lot has been met.



b. **Rear: New Building.** New buildings located outside of the build-to zone are not permitted until the build-to zone percentage for the lot has been met.



c. **Side: New Building.** New buildings located outside of the build-to zone are not permitted until the build-to zone percentage for the lot has been met.



## F. Phased Redevelopment.

1. **Build-Out Plan.** Where appropriate for demonstrating the phased redevelopment of a site, the applicant may submit a build-out plan conveying the overall general intent and system of development as part of the application for a Form District Permit and Certificate of Appropriateness. A build-out plan shall be required when a proposed improvement would not meet the standards of Section 3.11 except in the context of construction of a future improvement. The build-out plan shall include the following information:
  - a. The boundary of the site subject to phased redevelopment.
  - b. The type and location of improvements within the site, with sufficient detail to demonstrate overall compliance with Section 3.11.
  - c. A phasing plan.
  - d. Proposed interim treatments at the boundaries of phases, as necessary to provide buffering and screening between initial and subsequent phases.
  - e. Proposed alternative improvements to be made if a subsequent phase is delayed.
2. **Design Alternative.** The Community Design Commission may approve buildings and related structures not meeting the standards of Section 3.11 as a design alternative, where a build-out plan identifies a sequence of improvements that will bring all phases into conformance with Section 3.11 and provides adequate buffering and screening between phases. Such approval may include buildings and building additions located outside the build-to zone; however, no structure shall be approved in a location that would significantly restrict the ability of future buildings to meet build-to zone requirements.

### 3.11.4.8. Defined Terms

#### A. General Provisions

##### 1. General Meaning of Words and Terms

- a. All words and terms used have their commonly accepted and ordinary meaning unless they are specifically defined in Section 3.11.4.9 or the context in which they are used clearly indicates to the contrary.
- b. When vagueness or ambiguity is found to exist as to the meaning of any word or term used, any appropriate canon, maxim, principle or other technical rule of interpretations or construction used by the courts of this state may be employed to resolve vagueness and ambiguity in language.

##### 2. Graphics, Illustrations and Photographs. The graphics, illustrations and photographs used to visually explain certain provisions of Section 3.11.4.9 are for illustrative purposes only.

#### B. Defined Terms. The following terms are defined for the purpose of this Section. Terms not defined may be defined in Appendix A. If there is a conflict between a definition in Appendix A and this Section, the definition in this Section will be used.

**Addition** (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is "new construction."

**Attic** means habitable or uninhabitable space within a building situated within the structure of a pitched roof and above the uppermost regular story.

**Block length** means the distance between two intersections or an intersection and the terminus of a road.

**Buildable** means land area that is suitable and available for development unconstrained by physical layout, topography, regulatory factors, existing or planned public facilities, utilities and the like.

**Building Façade** means the face of a building that delineates the edge of conditioned floor space.

**Building pass-through** means a publically accessible passage between or through buildings that allows, at a minimum, pedestrians and bicyclists to move from one side of building to another through a privately owned or publically dedicated area. A building pass-through includes but is not limited to a through-street, an alley, a bicycle and pedestrian pass-through, trail, greenway or other similar passage; vehicles may be allowed as desired by the applicant.

**Day** means one calendar day. Working Day means a day that the Town of Chapel Hill is open during normal business hours. This excludes weekends and observed holidays.

**Gross Floor Area** means the sum in square feet of the horizontal area of all floors of the building measured from the exterior walls or from the centerline when 2 buildings or units abut. Gross floor area includes basement floor area when more than 50% of the basement height is above the established curb level or above the finished lot grade level where the curb level has not been established. Elevator shafts, stairwells, floor space used for mechanical equipment, attics, balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses is included in the calculation of gross floor area. However, the following is not included: any space devoted exclusively to on-site parking; or outdoor loading, display, storage, utility service areas; and uninhabited enclosed space on tops of roofs; or attic space having head room of less than 7'-6".

**Ground Floor** means the floor of a building that is at or nearest to the level of the ground around the building. Does not include the floor of a basement.

**Improved Site Area** means the sum of the horizontal area of the outside portion of the site and includes any space devoted to on-site parking; outdoor loading, display, storage, utility service, decorative areas and landscaped areas that are part of the original site plan approval.

**Public Realm** means the streetscape or any other non-vehicular, publically accessible area located along the designated frontage of a street, alley shared between sites, or non-vehicular thoroughfare.

**Raceway** means an enclosed channel of metal or

nonmetallic materials designed expressly for holding wires or cables associated with illuminating a sign.

**Right-of-way** means a fee simple dedication of private property or an easement, whereby public access and utility easements are granted.

**Sidewalk clear zone** means an area of the sidewalk equivalent to the minimum required width for which pedestrians have a safe and adequate place to walk free of any obstructions. Any entryways, doors, door swings, outdoor dining, sandwich boards, benches, lighting or other streetscape features shall be placed outside of the clear zone.

**Street-facing façade** means a building façade which directly abuts an arterial, collector, local or district street.

**Thoroughfare** means a route provided for the purposes of creating connectivity and/or establishing blocks, to include all types of streets, alleys, and non-vehicular paths and greenways with a defined right-of-way.

**Substantial conformance** means conformance which leaves a reasonable margin for minor modification provided that: such modification is consistent with and does not materially alter the character of the approved development including the uses, layout and relationship to adjacent properties depicted on the approved Form District Permit or Certificate of Appropriateness; such modification does not increase or decrease floor area by more than 5% of the permitted amount or 2,500 square feet (whichever is greater); such modification is consistent with any proffered or imposed conditions that govern development of the site; and, such modification is in accordance with the requirements of the Town of Chapel Hill Land Use Management Ordinance.

**This Section** means Section 3.11 of the Land Use Management Ordinance.

**Upper Story** means any story above the ground story or floor.