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Ordinance Review Committee Staff Report

Project Type: Review of Zoning in Chesterfield Valley

Meeting Date: September 23, 2021

From: Justin Wyse, Director of Planning

SUMMARY

At the last Ordinance Review Committee meeting, Staff was asked to provide example zoning districts to assist in the Committee's review and discussion about zoning in the Chesterfield Valley. Four examples are attached to this report to provide examples of differing approaches to creation of traditional zoning districts.

There has also been continued discussion on the extensive use of planned districts for commercial and industrial developments within the Chesterfield Valley. Discussion thus far has compared the recently adopted land use plan and policies for the Valley to the zoning in place to implement this vision (106 planned district ordinances to implement the Regional Commercial and Light Industrial land use designations). This creates a lack of consistency within these land use designations between parcels and a lack of predictability on what parcels can be developed for.

The continued reliance on nearly exclusive use of planned districts continues to increase the burden on the Department of Planning for creation and amendment of planned districts, as well as continued increases in time required for administration of creating new ordinances that regularly only apply to a small area. An example of this was given at the last meeting where it was discussed that a particular planned district in the Valley permits fast casual restaurants where only reusable silverware is permitted. Fast casual restaurant is not a term in the UDC. This level of detail within the ordinances reduces transparency for property owners and adjacent parcels on the future use of the site and creates a system where the Department of Planning will have to continue to grow given the complexity and growth in the number of ordinances.

Three additional items are attached to provide historic information on this topic. In 1994, the City hired a consultant to provide a review of the City's Zoning and Subdivision Ordinances. Since the reports were issued, the City has made several changes to address some of the concerns raised (e.g. differing definitions between different portions of code, structure of the code, and incorporating landscape and architectural guidelines into code requirements). Most notably, the changes that were made were included in the adoption of the Unified Development Code in 2014.

While some of the recommendations within the 1994 reports have been completed, there is substantial discussion on the use of planned districts that is still relevant today. The materials are provided with relevant sections highlighted. These are not provided to reinforce the proposed recommendations from 1994, but rather to highlight that many of the same issues that are being discussed by the Ordinance Review Committee in 2021 have been consistently discussed through the years. This critique and issues paper have many relevant points to the current discussions.

A third item, “Diagnosis and Annotated Outline: Unified Development Ordinance” has been provided. This report recommended changes to the structure of the City’s development ordinances (Zoning and Subdivision) to be consolidated into a single Unified Development Code (UDC). The City did adopt a UDC in 2014; however, this process did not fully implement the recommendations from the 2002 report. In adopting the UDC, the Public Hearing report to the Planning Commission from May 12, 2014 included the following statements:

In 2003, the Department of Public Services, at the direction of the City Council, began the process of drafting and creating a Unified Development Code for the City of Chesterfield. This Unified Development Code (UDC) would simply be a re-formatted compilation of the original zoning code and all subsequent amendments. The UDC would repeal and replace the individual Zoning Code document, the multiple individual amendments, and incorporate all of the related code documents into one compilation dealing with all development codes. The UDC includes all development standards, performance criteria, and review processes for development activities throughout the City. As this project was underway, the City continued to update many regulations and requirements related to a variety of development standards. **Staff has incorporated the new development criteria that has been previously reviewed and approved by the City Council with all other existing regulations and standards and codified all such items into a single document known as the Unified Development Code.** (Emphasis in original staff report).

It is extremely important to note, that there are no new or changed development criteria incorporated into this UDC. This UDC is simply a formatted codification of all existing and previously approved standards and criteria. No new requirements or standards are being proposed or have been written into this UDC. (Emphasis in original staff report).

This 11 year effort addressed many of the recommendations within the 2002 report (and 1994 reports); however, it was specifically called out that the changes did not include changes to development requirements or procedures. The 1994 and 2002 reports highlighted concerns with development criteria, discretionary reviews, and procedures that have not been addressed and the issues continue to be raised today.

RECOMMENDATION

The Committee began reviewing the zoning in the Chesterfield Valley at the specific direction of the Planning and Public Works Committee. Over the past two meetings, there has been considerable time and discussion about the City's current system for zoning in the Chesterfield Valley. In order to continue productive discussion, Staff recommends that the Ordinance Review Committee start with answering the following questions:

1. Is there consensus that the current use of 106 planned district ordinances, with the expectation that this number will continue to grow, should be consolidated into a set of traditional zoning districts?

While we are asking for consensus on this topic, we are notably not looking to dictate what the outcome of this should be (e.g. should there be one or seven districts in the Valley), but rather that there is agreement that we should be working toward a smaller number of consistent regulations.

2. Is there consensus that the prevalence of planned districts should be revised so that a use of traditional zoning district is the typical process, with tools available for the exceptions? In other words, should we have a system where the majority of development is done by following a defined set of requirements with developments seeking flexibility being the exception?

Again, we are not looking to define exactly what this would be, but that we have consensus on the direction we are moving in.

If there is affirmative consensus on the two items above, discussion from the Ordinance Review Committee should then focus on how we move forward with these changes. While Staff believes implementation of these changes will halt the growth of the burden (and associated costs with Staffing to implement this system), the changes that would be required would be significant revisions to the code. The Department is not staffed to take on the additional tasks that would be required to complete these tasks. As evidenced by the process of adoption of the UDC which did not include revisions to procedures or standards, efforts of this nature are significant.

Attachments: Creve Coeur, MO General Commercial Zoning District
Sun Prairie Suburban Industrial (SI) Zoning
Smart Code: Model Town Center Zoning Ordinance
Norfolk, VA Commercial Base Zoning Districts
2002 Diagnosis and Annotated Outline: Unified Development Ordinance
1994 Land Use Development Ordinance Critique
1994 Issues Paper #2

Chapter 405. Zoning Ordinance

Article III. Zoning District Regulations

Section 405.360. "GC" General Commercial District.

[R.O. 2008 §26-42; Ord. No. 1903 §1, 11-24-1997; Ord. No. 1985 §1, 2-22-1999; Ord. No. 2091 §3, 11-27-2000; Ord. No. 4043 §1, 11-13-2006; Ord. No. 5087 §3, 6-8-2009; Ord. No. 5164 §3, 12-13-2010; Ord. No. 5173 §1, 1-24-2011; Ord. No. 5185 §5, 3-28-2011; Ord. No. 5300 §13, 4-22-2013]

- A. *Purpose And Intent.* The "GC" General Commercial District is intended to accommodate by site development plan approval (see Section **405.1080**) convenience retail shopping and services and offices which are freestanding or part of small scale planned commercial developments and which are compatible in scale and intensity of use with adjacent residential uses.
- B. *Permitted Uses.* Structures or land in the "GC" General Commercial District may be used only for the purposes enumerated for that district in **Table A** of this Zoning Ordinance and are subject to the provisions and limitations of Section **405.210** and to all of the other provisions and limitations of this Chapter and other applicable regulations, ordinances and Statutes of the City of Creve Coeur, St. Louis County or the State of Missouri.
- C. *Conditional Uses.* The City Council may authorize the uses identified as conditional uses for the district in **Table A** of this Zoning Ordinance by conditional use permit as provided in Section **405.1070**, based on the criteria in Section **405.470**, after receipt of the recommendation of the Planning and Zoning Commission and subject to such other restrictions and conditions as are deemed necessary.
- D. *Site Development Plan Required.* Site development plan approval by the Planning and Zoning Commission shall be required for all proposed developments within the "GC" District as provided for in Section **405.1080**.
- E. *Dimensional Regulations.* The following area and yard regulations apply in the "GC" General Commercial District.
 1. *Minimum district size.* The minimum district size shall be five (5) acres. Such a district may consist of a single tract of land or two (2) or more contiguous tracts of land that are at least five (5) acres combined. In addition, a tract of land that is less than five (5) acres may be zoned "GC" General Commercial District when it is contiguous to an existing "GC" District.
 2. *Lot size requirements.*
 - a. *Minimum lot area.* One-half (½) acre (twenty-one thousand seven hundred eighty (21,780) square feet).
 - b. *Minimum lot width.* Seventy-five (75) feet.
 - c. *Minimum lot depth.* One hundred fifty (150) feet.
 3. *Building bulk regulations.*

- a. *Maximum structure height.* No building or structure shall exceed three (3) stories or forty-five (45) feet.
 - b. *Maximum site coverage.* Sixty-three percent (63%). The Planning and Zoning Commission may, in its discretion, allow the permitted coverage to be increased as a bonus by an additional factor (not to exceed a total of seventy percent (70%) site coverage) in consideration of special or outstanding landscape and site planning features as demonstrated by a site development plan submitted in accordance with Section **405.1080**. The features to be considered in the granting of any bonus coverage may include, but not be limited to, the provisions of:
 - (1) Special pedestrian facilities and features such as gardens, fountains, seating areas and outdoor recreation amenities;
 - (2) Objects of art or beautification; statuary or other unique visual features;
 - (3) Burial of overhead transmission lines and removal of utility poles.
 - c. *Maximum floor area ratio.* Four-tenths (0.4).
4. *Yard and setback requirements.*
- a. *Minimum front yard.* No building or structure shall be located closer than ten (10) feet from a public right-of-way. In the event that parking is to be located in front of a building or structure, said building or structure shall be set back a minimum of fifty (50) feet from the right-of-way. The provisions of Section **405.240** shall prevail where applicable on major streets and highways. In every instance, the first ten (10) feet of the front yard setback from the right-of-way shall be provided with and maintained with sidewalks, unless improved sidewalks exist in the abutting public right-of-way, and with landscaping including, but not limited to, deciduous street trees at regular intervals.
 - b. *Minimum side yard.* Twelve (12) feet.
 - c. *Minimum rear yard.* Twenty (20) feet.
 - d. *Buffer yards.* Notwithstanding the provisions of Sections **405.360(E)(4)(b)** and **405.360(E)(4)(c)** above, any tract or site abutting or adjoining a single-family residential zoning district shall provide a buffer yard of twenty (20) feet on all sides that abut the single-family district. The minimum required buffer yard shall be increased in five (5) foot increments, up to a maximum of forty (40) feet, for each acre of the subject property over two (2) acres in area. All acreage shall be rounded up to the next whole number for buffer yard calculation purposes. The buffer yard shall not contain any impervious surface and shall be landscaped and provided with other screening devices as deemed appropriate by the Planning and Zoning Commission.

F. *General Requirements.*

- 1. *Off-street parking and loading.* See Article **VII**.
- 2. *Environmental controls.* All development shall conform with the environmental performance standards provided in Section **405.550** and with all other appropriate environmental controls including those relating to landscaping, tree conservation, flood hazard control and stormwater retention and erosion control provided in this Code.
- 3. *Landscaping.* See Section **405.540**.
- 4. *Lighting.* See Section **405.680**.
- 5. *Signs.* See Article **VIII**.

G. *Additional District Regulations.*

1. (Reserved)
2. Except for existing residential uses, no structure shall be used for residential purposes except for the occupancy of the owner or operator of the business located on the premises.

SUBURBAN INDUSTRIAL (SI) ZONING

Illustrated Design Standards

City of Sun Prairie

Pursuant to Section 17.36.230
City of Sun Prairie Municipal Code

<p>A. The purpose of these standards is to guide the appearance of development (i.e., new construction, building additions and site alterations) occurring within the Suburban Industrial (SI) zoning district, so that areas zoned for Suburban Industrial use, including the Sun Prairie Business Park, have a consistently high quality and character.</p>	Purpose
<p>B. The following design standards shall be met for any of the following activities that occur on properties located within the Suburban Industrial (SI) zoning district:</p> <ol style="list-style-type: none">1. New development,2. Redevelopment,3. Expansions or alterations of buildings greater than 2,500 SF, or4. Expansion or reconfiguration of loading or parking areas <p>Compliance with these standards is required in addition to the general performance standards of Chapter 17.36 of the zoning ordinance. In the event of conflicting provisions, the more restrictive shall control.</p>	Applicability
<p>C. Applicants who cannot meet one or more of the standards due to space constraints or other conditions, or proposed to meet the intent of a standard by other means, may seek relief through the approval of a conditional use permit. A conditional use permit may be approved provided that the city determines that the following standards are met:</p> <ol style="list-style-type: none">1. The requested use is compatible with existing or planned surrounding land uses;2. Exceptions or reductions from landscape bufferyard and screening standards are kept to a minimum;3. The public benefit resulting from flexibility in design standards are justified; and4. The standards for all conditional use permits contained in Section 17.44.050 are met.	Request for Relief

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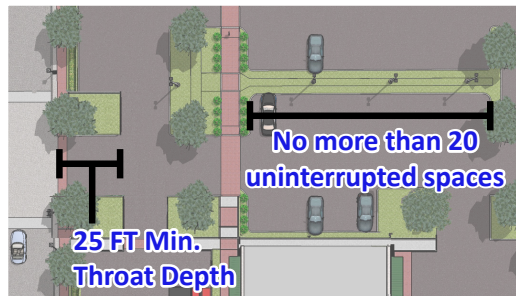
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SUBURBAN INDUSTRIAL ZONING: Site Design Standards

D. SITE DESIGN STANDARDS. It is the intent of this section to ensure safe vehicle and pedestrian circulation patterns, to encourage an aesthetically pleasing, high quality setting, and to mitigate visual and environmental impacts associated with on-site activities, such as parking and storage.

- a. Concrete curb shall be required in all parking, circulation drives, islands, between principal building and street frontage, except in cases of breaks for pedestrian walkways, bicycle paths or stormwater runoff per an approved stormwater management plan.
- b. All sites shall provide safe pedestrian or bicycle connections to the public right-of-way. Sidewalks shall be a minimum of 5 feet wide, or 10 feet for multi-use paths.
- c. The minimum throat length of access drives shall be 25-feet, unless a greater length required by [Section 17.36.040\(J\)](#).
- d. Landscape islands shall be provided within parking areas at a rate of not less than one (1) island per each linear row of twenty (20) spaces. All tree islands shall be a minimum of eight (8) feet wide, measured from inside the curb.
- e. Parking areas shall not extend into required setbacks or bufferyard areas.

Breaks in the curbing is allowed for sidewalks/pathways (left image) and/or for approved stormwater management purposes (right).



The landscape island shown above is at least eight feet from back of curb, which meets subsection (d).

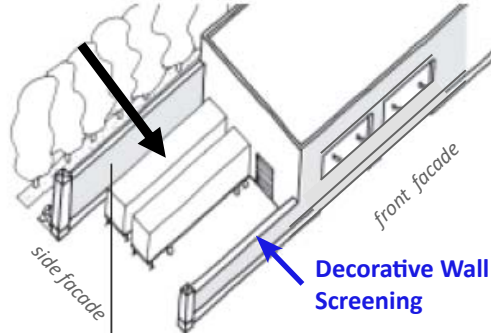
Internal Circulation & Parking
(See [Section 17.36.040](#) for additional requirements)

Loading, Storage, & Service Areas

(See Sections [17.36.050](#), [17.36.060](#) and [17.16.110](#) for additional requirements)

- a. Loading dock(s) shall not face or be highly visible from a public street or residentially-zoned property. Where this requirement is infeasible due to situations such as multiple street frontages or limited lot size, the loading dock(s) shall be sited and/or screened (per [Section 17.36.230\(F\)](#)) to mitigate undesirable views, noise and light associated with the loading dock and its use.
- b. Below-grade doors providing access to underground parking are allowed on any facade.
- c. At-grade garage doors designed for vehicular entry to the building, excluding those identified in (b) of this section, shall not face the primary street frontage.
- d. At-grade garage doors, excluding those identified in (b) of this section, along the side of a building visible from a public street shall meet at least two of the following criteria:
 - i. Overhead door panels shall be 100% clear glass.
 - ii. Pavement providing access to the garage door shall not exceed thirty (30) feet in length from the door, excluding a drive aisle.
 - iii. Views of this pavement area and the garage door(s) shall be partially obscured from the street with screening and/or landscaping at least three feet in height, consistent with the standards of [Section 17.36.230\(F\)](#).
- e. Dumpsters, trash and recycling containers, street-level mechanical equipment (e.g, gas meters, air conditioners, etc.), and any permitted outdoor storage shall be located or screened, per [Section 17.36.230\(F\)](#), so that they are substantially hidden from view from any adjacent public street, highway corridor, and/or residentially zoned property. This provision does not apply to solar panels or fixtures, which are encouraged.

Loading dock is in the sideyard and is partially screened by the decorative wall, meeting subsection (a).



At-grade overhead doors visible from a public street shall meet at least two of the three design criteria illustrated below.



This building has overhead doors with 100% clear glass panels (i.), and minimal access paving to doors outside of the drive aisle (ii.)



The screening in the front yard obscures the view of the overhead door (iii.)



The coated chain link fence and landscaping help screen the mechanical equipment.

SUBURBAN INDUSTRIAL ZONING: Site Design Standards

Utilities

3

- a. Utility appurtenances, such as transformers, telecommunications devices, equipment switching boxes and other utility cabinets, shall be located and oriented to allow visual screening from public rights of way, neighboring parcels and pedestrian walkways on the same parcel, while allowing maintenance access. This provision does not apply to solar panels or fixtures, which are encouraged.



Utility cabinet is screened on three sides by shrubs

- a. Roof signs, interchange signs, pole/pylon signs, and projecting signs are prohibited.



Pole/Pylon Sign
(prohibited)



Projecting Sign
(prohibited)



Interchange Sign*
(prohibited)



Roof Sign (prohibited)

* Per [Section 17.40.020\(27\)](#), "Interchange sign" means a freestanding sign located in an interchange sign district, whose height may exceed eight (8) feet if a pylon sign or fourteen (14) feet if a ground or covered pole sign.



Monument Sign
(allowed)



Wall Sign
(allowed)

Signs & Graphics

(See [Section 17.40](#) for additional requirements)

4

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SUBURBAN INDUSTRIAL ZONING: Site Design Standards

E. BUILDING DESIGN STANDARDS. *It is the intent of this section to promote quality design and material selections while allowing for flexibility to avoid rigid uniformity of design.*

- a. All buildings on a property, including accessory buildings, shall utilize a consistent design style, materials and color palette.
- b. Any facade greater than one hundred (100) feet in length, measured horizontally, shall incorporate at least two (2) of the following techniques.
 - i. Wall plane projections or recesses having a depth of at least one (1) foot and extending at least twenty percent (20) percent of the length of the facade.
 - ii. Height variations, with a minimum of twenty (20) percent of the facade differ in height from the rest of the facade by at least four (4) feet, measured eave to eave or parapet to parapet.
 - iii. Variation in building material and/or color.
 - iv. The establishment of repeating patterns of building articulation along the full length of the facade.
 - v. Landscaping at intervals along the facade that incorporates conifer trees of at least six feet in height at time of installation.

The examples below each employ multiple techniques to add design character to buildings more than 100 feet in length (b).



Wall projections and repeating patterns along the entire facade.



Wall projections/recesses, height variations and repeating patterns along the entire facade.



Wall recesses, height variations, material changes and repeating patterns along the entire facade.

- a. Buildings shall have clearly defined, highly visible customer entrances featuring architectural elements, such as canopies or porticos, overhangs, arcades, raised parapets, arches or roof forms.



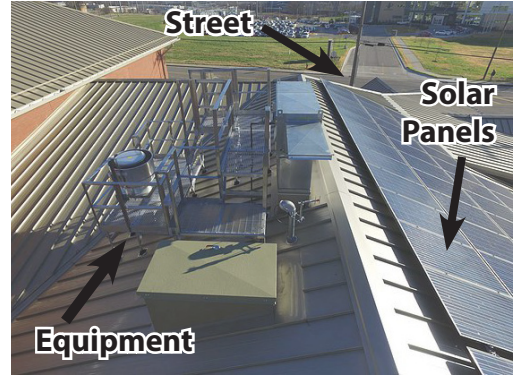
The building entry is clearly defined with an expansive glass wall, bold red accent overhang, and placement of wall sign.

1 Design Form, Massing & Articulation

2 Entrances

- a. Rooftop mechanical equipment, including powered vents, but not including solar panels or fixtures, shall be substantially hidden from view from any adjacent public street, highway corridor, and/or residentially zoned property using one of the following techniques:
 - i. On pitched roofs equipment shall be located on the least visible side of the roof.
 - ii. On flat roofs there shall be a parapet wall to hide equipment. Installation of equipment that extends higher than the parapet will be allowed if that equipment is set back from the wall a sufficient distance so as not to be visible from any adjacent public street.
 - iii. Where equipment cannot be hidden through siting and building design, the equipment shall be screened with a solid fence or panel that matches the color of the nearest wall (when on a flat roof) or the color of the roof (when on a pitched roof). Such screening should generally be several times wider than the equipment, but no taller than the equipment, to avoid the effect of creating simply a larger vertical protrusion. The screening system shall be considered as part of overall building design and review.
- b. If still partially visible from adjacent public street, rooftop mechanical equipment and venting systems (including passive vents) shall match the color of the roof or corresponding facade (whichever is visible with the equipment).

The below examples illustrate techniques to reduce visibility of rooftop equipment from public view (excluding solar panels or fixtures).



(i.) The rooftop equipment is placed on the least visible side of the pitched roof.



(ii.) The parapet wall and its location on the roof help hide the condensing unit from street.

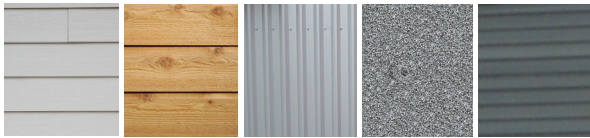


(iii.) As shown above, the screening covers multiple pieces of equipment. This is preferred over individually screening equipment, as shown below.



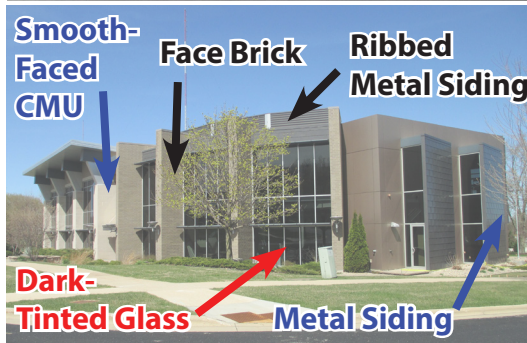
SUBURBAN INDUSTRIAL ZONING: Building Design Standards

- a. The following exterior cladding materials are permitted: face brick, precast/poured concrete panels, concrete masonry units (CMUs), cut stone, metal wall panel and siding systems, EIFS, stucco, and clear or lightly tinted glass.
- b. For any facade facing the public street, the following exterior cladding materials shall not cover more than forty (40) percent of said facade, either individually or in aggregate of: smooth-faced concrete masonry units (CMUs), and metal wall and siding panel systems.
- c. The following exterior cladding materials are prohibited: vinyl, wood, corrugated metal, gravel aggregate or horizontal seam metal siding. *(Examples, in order, shown below)*



- d. Building materials susceptible to damage by vehicles or maintenance equipment, including metal siding/panels and EIFS, are prohibited on the lower three (3) feet above grade adjacent to a paved and/or lawn area.
- e. Exterior cladding finishes and colors are subject to the following requirements:
 - i. All materials and finishes shall be low reflectance.
 - ii. Colors shall be subtle, neutral and/or earth tone on 90% of each facade.
 - iii. Brighter colors, including primary colors, may be used as an accent, covering no more than 10% of any building facade.
 - iv. High intensity, metallic or fluorescent finishes are prohibited.
 - v. The use of corporate colors on exterior cladding is permitted, within the preceding limitations.

The examples below illustrate varying exterior building materials. Those listed in **BLACK** are permitted, **BLUE** are restricted by subsection (b), and **RED** are prohibited by subsection (c).



The bright orange color is allowed as shown on the left facade, but exceeds 10% on the right facade which is **prohibited**.

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SUBURBAN INDUSTRIAL ZONING: Landscape Design Standards

F. LANDSCAPE DESIGN STANDARDS. It is the intent of this section to encourage high quality of environmental sensitivity and landscape design. The standards below are required in addition to the City's Landscaping and Bufferyard regulations ([Section 17.32](#)) and Fencing Standards ([Section 17.36.200](#)).

- a. All areas not covered by structures or impervious surface shall be planted and/or preserved with permanent vegetation to include turf, ground covers, shrubs, trees and associated mulch or decorative stone.
- b. All required parking islands shall include a canopy tree not less than two (2) inch caliper.
- c. Landscape islands and medians shall be a minimum of eight (8) with a tree or four (4) feet wide with no tree, measured from inside the curb.
- d. Use of native plantings is encouraged.



In the above image, the mulched area no longer has adequate mulch to comply with this ordinance.



These images illustrate well-maintained landscaped areas.



Landscaping
(See Sections [17.32](#) and [17.36.200](#) for additional requirements)

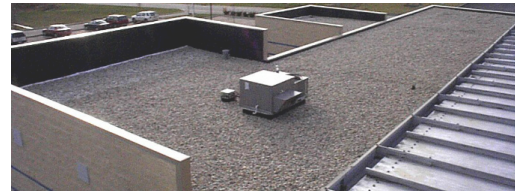
Screening & Fencing

(See Sections [17.36.200](#) for additional requirements)

2

- a. All screening, if required by [Section 17.36.230\(D\)](#), shall use one of the techniques described below. Alternative screening methods can be proposed and may be considered in lieu of the techniques listed below. On pitched roofs equipment shall be located on the least visible side of the roof.
 - i. Architectural design of the building, such as a parapet, wall reveal, or decorative wall extension.
 - ii. Decorative solid fencing, of sufficient height, including wood, vinyl, or metal.
 - iii. Coated chain link fencing in either dark green or black, in combination with evergreen landscaping
 - iv. Decorative wall (excludes smooth-faced CMU) of sufficient height
 - v. Evergreen vegetation, at least three (3) feet tall when planted with a mature height greater than six (6) feet, and planted in accordance with the spacing recommendation for the species selected, such that the specimens will grow together to form a solid screen at maturity,
 - vi. Earth berm with supplemental landscaping, minimum of three (3) feet at mature height, or
 - vii. Combination of the above techniques
- b. Fencing and decorative walls shall complement the style and color of the primary building.
- c. Fencing and decorative walls greater than one hundred (100) feet in length along a street frontage shall incorporate supplemental landscaping along the street side of the screening element.

The screening techniques shown below meet subsection (a).



(i.) Parapet Wall



Decorative

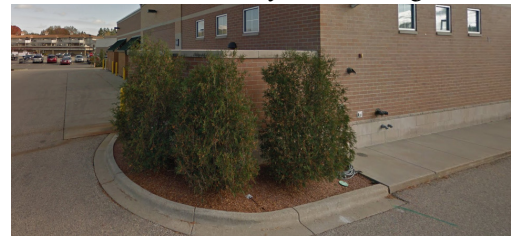


Non-Decorative

(ii.) Solid Decorative Fence (left is allowable, while the right image is prohibited)



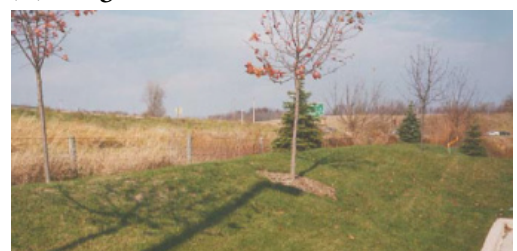
(iii.) Coated chain link fence w/ evergreens



(iv.) Decorative Wall



(v.) Evergreen Trees



(vi.) Earth berm w/ supplemental landscaping

3

Maintenance

All required landscaping and screening/fencing shall be continuously maintained and replaced as necessary over time.

SUBURBAN INDUSTRIAL ZONING: Non-Residential Standards

Development on lots designated as suburban industrial (SI) shall also comply with the standards shown below.

Rationale: The maximum permitted height restrictions established are based upon the firefighting equipment available to the fire department as of the effective date of this title, the existing and planned character of neighborhoods within each zoning district, and the compatibility of a proposed use with existing similar uses within the city. Consideration to exceed the maximum building height limit may be made and approved through a conditional use permit if the following standards can be met:

- A. The structure is equipped with internal firefighting mechanisms approved by the fire department or the fire department has firefighting equipment available to them to effectively fight a fire in the structure of the proposed height.
- B. The proposed maximum building height does not exceed the maximum structure height allowed for that area of the city regulated by the "Height Limitation Zoning Map, Dane County Regional Airport, Madison, Wisconsin."
- C. The proposed maximum building height is found to be compatible with existing and planned land uses adjacent to the subject site.

Table 17.24.040, Standards for Non-Residential Bulk

Development Option (or Maximum No. of Floors)	Min. Lot Width (feet)	Minimum Setbacks					Paved Area (feet)	Minimum Building Separation (feet)	Maximum Building Height (feet)
		Front or Street (feet)	Side From		Rear From				
			Res (feet)	Nonres (feet)	Res (feet)	Nonres (feet)			
1	150	25	30	20	30	20	5*	30	40
2	150	25	35	20	35	20	5*	35	40
3	150	25	40	20	40	20	5*	40	40
4	150	25	45	20	45	20	5*	45	40

* Refer to [Section 17.32.050](#) regarding minimum paved area setbacks to accommodate required street frontage landscaping.

Bulk Standards

Section 17.24.040

Maximum Floor Area Ratio is the maximum permitted ratio calculated by dividing the total gross floor area of all buildings on the site by the gross site area (GSA). "Gross floor area" is defined in [Section 17.08.040](#).

Minimum Building Size is the maximum total gross floor area which a building is permitted to contain. "Gross floor area" is defined in [Section 17.08.040](#).

Maximum Number of Floors is the maximum number of full floors a building is permitted to contain. "Full floors" is defined in [Section 17.08.040](#).

Minimum Landscape Surface Area Ratio is the minimum permitted percentage of the gross site area (GSA) which must be preserved as permanently protected landscaped area. LSR is calculated by dividing the total landscaped area of a site by the gross site area (GSA). GSA is calculated in [Section 17.20.030\(C\)\(1\)](#). "Landscaped area" is defined in [Section 17.08.040](#).

Table 17.20.050, Standards for Non-Residential Intensity

Maximum Number of Floors (#F)	Minimum Landscape Surface Ratio (LSR)	Maximum Floor Area Ratio (FAR)	Minimum Lot Area (sq. ft.) (MLA)	Maximum Building Size (sq. ft.) (MBS)
1	25%	0.7	1 acre*	(na)
2	30%	0.75	2 acres	(na)
3	33%	0.8	3 acres	(na)
4	35%	0.85	4 acres	(na)

* Reduction in lot area from one acre to thirty thousand (30,000) square feet is permitted as a conditional use per [Section 17.44.050](#), with site plan for end use of the property demonstrating full compliance with all of the requirements of the city code.

Intensity Standards

Section 17.20.50

Model Town Center Zoning Ordinance

The following ordinance model establishes a town center (TC) that serves as a high-density, high-intensity, mixed use employment center. Three types of subdistricts are authorized (see section 102, below).

The model ordinance describes, in section 104, a set of permitted uses, which are slightly different for each use district. While every community may not want to establish and map all three different types of districts, this table offers guidance for the types of uses that might be allowed if the community opts for the three-district alternative.

Note that drive-in facilities are not allowed uses in the TC districts because of the potential of interfering with the desired pedestrian orientation of the land-use mix. Similarly, the TC districts also require a certain level of transparency for ground-floor retail to give buildings a human scale (see section 112). In core areas such as town centers, setbacks are critical; this model allows setback averaging up to a maximum of 12 feet to reflect the context of adjoining buildings (see section 108).



**PRIMARY SMART GROWTH
PRINCIPLES ADDRESSED:**

- Mix land uses
- Create walkable neighborhoods
- Foster distinctive and attractive places



Figure 4.3.1. Town center districts promote compact, pedestrian-oriented development with a diverse mix of residential, business, commercial, entertainment, and other uses for workers, visitors, and residents.

101. Purpose

The purposes of a town center (TC) district are to:

- (a) Promote development of a compact, pedestrian-oriented town center consisting of a high-intensity employment center, vibrant and dynamic mixed use areas, and residential living environments that provide a broad range of housing types for an array of housing needs;
- (b) Promote a diverse mix of residential, business, commercial, office, institutional, educational, cultural, and entertainment activities for workers, visitors, and residents;
- (c) Encourage pedestrian-oriented development within walking distance of transit opportunities at densities and intensities that will help to support transit usage and town center businesses;
- (d) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction;
- (e) Create a place that represents a unique, attractive, and memorable destination for visitors and residents; and
- (f) Enhance the community's character through the promotion of high-quality urban design.

Comment: These "generic" purpose statements reflect the intent of typical town center-style districts. Actual purpose statements should reflect the objectives of the plans that the code is intended to implement.

102. Subdistricts

The TC district consists of three mapped subdistricts that reflect the existing and desired places within the town center area. They are:

- (a) TC-1, Town Center Core Subdistrict. The TC-1 subdistrict is primarily intended to encourage and enhance the high-intensity office and employment center function of the town center's core area. The TC-1 subdistrict regulations support the town center's role as a hub of regional importance for business, communications, office, government, retail, culture, education, visitor accommodations, and entertainment. The district regulations support a mix of large-scale office, commercial, public, recreation, and entertainment uses. The TC-1 district also accommodates mixed use and residential projects as important components of the area's vitality.
- (b) TC-2, Town Center Mixed-Use Subdistrict. This subdistrict is primarily intended to support mixed-use (residential/nonresidential) projects with active ground-floor uses within one-quarter of a mile of the TC-1 district.
- (c) TC-3, Town Center Residential Subdistrict. This subdistrict is primarily intended to accommodate moderate- to high-density residential development and small-scale ground-floor commercial uses with residential units above. The district also accommodates low-intensity office development compatible with the residential character of the TC-3 district.

Comment: This model suggests a basic framework consisting of three districts. The number of districts needed to implement town-center planning objectives will vary from community to community, reflecting the types of places and activities that exist within the area as well as the community's agreed-upon vision for its town center area. Note that, if desired, the TC-2 and TC-3 subdistricts can be combined if the distinctions between them are perceived as too fine for regulation or are simply not needed in a particular community.

103. Definitions

As used in this ordinance, the following words and terms have the meanings specified below:

Floor area ratio. The ratio of a building's gross floor area to the area of the lot on which the building is located.

Gross floor area. The sum of the gross horizontal areas of several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Gross floor area does not include basements when at least one half the floor-to-ceiling height is below grade. Gross floor area does not include accessory parking, attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps, or inner courts.

Mixed use building. A building that contains at least one floor devoted to allowed nonresidential uses and at least one devoted to allowed residential uses.

Setback. The open, unobstructed area required to be provided between the furthestmost projection of a building and the adjacent property line.

TABLE 4.3.1. "TC" ZONING DISTRICTS USE TABLE

Specific Use Type	Subdistrict		
	TC-1	TC-2	TC-3
<i>Residential</i>			
Household Living			
• Artist Live/Work Space, above ground floor	P	P	P
• Artist Live/Work Space, ground floor	N	C	P
• Dwelling Units, above ground floor	P	P	P
• Dwelling Units, ground floor	N	C	P
Group Living			
• Assisted Living	C	C	C
• Group Home	C	C	C
• Nursing Home	C	C	C
• Temporary Overnight Shelter	C	C	C
• Transitional Residences	C	C	C
• Transitional Shelters	C	C	C
<i>Public and Civic</i>			
Colleges and Universities	C	C	N
Cultural Exhibits and Libraries	P	P	C
Day Care	P	P	P
Hospital	C	C	C
Lodge or Private Club	P	P	N
Parks and Recreation	P	P	P
Postal Service	P	P	N
Public Safety Services	P	P	P
Religious Assembly	P	P	P
School	C	C	C
Utilities and Services, minor	P	P	P
Utilities and Services, major	C	C	C
<i>Commercial</i>			
Animal Services			
• Shelter/Boarding Kennel	N	N	N
• Sales and Grooming	P	P	N
• Veterinary	P	P	P
Artist Work or Sales Space	P	P	P
Eating and Drinking Establishments			
• Restaurant	P	P	P[1]
• Tavern	P	P	C[1]
Entertainment and Spectator Sports			
• Small (1–149 seats)	P	P	N
• Medium (150–999)	P	P	N
• Large (1,000+)	P	C	N
Financial Services	P	P	P[1]
Food and Beverage Retail Sales	P	P	P[1]
Gas Stations	N	N	N
Lodging			
• Small (1–16 guest rooms)	P	P	P
• Large (17+)	P	P	N
Medical Service	P	P	P[1]
Office	P	P	P[1]
Parking, Commercial (nonaccessory)	C	C	C
Personal Service (including health clubs and gyms)	P	P	P[1]
Repair Service, Consumer (including bicycles)	P	P	P[1]
Residential Storage Warehouse	N	N	N
Retail Sales, General	P	P	P[1]
Vehicle Sales, Service, and Repair	N	N	N
<i>Industrial</i>			
Manufacturing, Production and Industrial Services			
• Artisan (hand tools only; e.g., jewelry or ceramics)	C	C	N
<i>Other</i>			
Wireless Communication Facilities			
• Colocated	P	P	P
• Freestanding (towers)	C	C	C

P = permitted by right; C = conditional use; N = not allowed

[1] Allowed only in buildings containing more than 50 dwelling units and may only be located on the first or second floor. Individual business establishments are limited to a maximum of 5,000 square feet in area. Larger establishments or expansions beyond 5,000 square feet require conditional use approval.

104. Allowed Uses

Uses are allowed in “TC” zoning districts in accordance with the use table of this section.

Comment: This use table should be refined to reflect local characteristics and planning objectives.

105. Floor Area Ratio

All development in TC districts is subject to the following maximum FAR standards:

**TABLE 4.3.2. DISTRICT MAXIMUM
FLOOR AREA RATIO**

TC-1	[varies: 3.0–7.0]
TC-2	[varies: 3.0–5.0]
TC-3	[varies: 2.0–3.0]

Comment: Table 4.3.2 suggests a typical range of FAR standards that may be appropriate for buildings within the boundaries of a TC district. In establishing proposed standards, communities will want to survey existing development to ascertain typical FAR ranges within the various areas to be covered by the district. Care should be taken to ensure that allowed FAR levels are high enough to encourage moderate- to high-intensity buildings, while not setting the allowed levels so high that new buildings would be out of scale with the surrounding areas. In underdeveloped town center areas, communities may want to consider increasing the maximum allowable FAR to accommodate larger buildings.

106. Lot Area per Unit (Density)

All residential development in TC districts is subject to the following standards for lot area per dwelling unit:

**TABLE 4.3.3. DISTRICT MAXIMUM
LOT AREA PER DWELLING UNIT**

TC-1	[varies: 200–400 square feet]
TC-2	[varies: 200–400 square feet]
TC-3	[varies: 300–700+ square feet]

Comment: Within the types of urban and semiurban settings where a TC district is likely to be applied, it is fairly common to regulate residential density in terms of the amount of lot area required per dwelling unit. It should be noted that some jurisdictions—notably Seattle—have chosen to abandon residential density standards in village center and mixed use commercial areas. The thinking behind such an approach is that density is already indirectly regulated by many other controls, such as building codes, parking requirements, FARs, maximum height limits, and setback controls. If the community wants to encourage residential development, the logic goes, why not remove the sometimes-arbitrary control that density limits represent.

107. Building Height

All development in TC districts is subject to the following maximum building height standards:

**TABLE 4.3.4. DISTRICT MAXIMUM
BUILDING HEIGHT**

TC-1	[varies: 5 stories to unlimited]
TC-2	[varies: 4–7 stories]
TC-3	[varies: 3–5 stories]

Comment: Communities that want to promote building forms compatible with the physical context of the existing area will want to establish maximum building heights. Height limits can also play an important role in protecting neighborhoods on the periphery of the town center area. Building step-backs (skyplane) standards should be used to soften the height transition between town center–style districts and lower-intensity neighborhood districts.

When height limits are used, they should be calibrated to reflect FAR and building coverage limits. To calculate the number of building stories required to make full use of the allowed FAR, divide FAR by the maximum building coverage. If, for example, the maximum FAR allowed is 2.0 and the maximum building coverage allowed is 66 percent, it will require a building of three or more stories to achieve the full FAR ($2.0 \div$

0.66 = 3.03). When no building coverage limits apply, maximum building height limits (in stories) should be established at no less than 1.5 to 2.5 times the allowed FAR (e.g., three to five stories in a district that allows an FAR of 2.0). In mid- and high-rise districts, the rule of thumb is typically three to four stories for each additional 1.0 FAR.

108. Setbacks

- (1) No minimum front or streetside building setback is required.
- (2) The maximum front and streetside building setback may not exceed the average front yard depth of the nearest two lots on either side of the subject lot or 12 feet, whichever is less. (See Figure 4.3.3.)

(a) If one or more of the lots required to be included in the averaging calculation are vacant, such vacant lots will be deemed to have a yard depth of zero feet.

(b) Lots fronting a different street than the subject lot or separated from the subject lot by a street or alley may not be used in computing the average.

(c) When the subject lot is a corner lot, the average setback will be computed on the basis of the two adjacent lots that front on the same street as the subject lot.

(d) When the subject lot abuts a corner lot and the nearest two lots that front on the same street as the subject lot.

- (3) The following exceptions to the maximum front and street side building setbacks apply:

(a) A portion of the building may be set back from the maximum setback line in order to provide an articulated façade or accommodate a building entrance feature, provided that the total area of the space created must not exceed one square foot for every linear foot of building frontage.

(b) A building may be set back farther than the maximum setback in order to accommodate an outdoor eating area. In order to preserve the continuity of the streetwall, the building may be set back no more than 12 feet from the front or streetside property line, or at least 40 percent of the building façade must be located at the maximum setback line. The total area of an outdoor eating area that is located between a public sidewalk and the building façade may not exceed 12 times the building’s street frontage in linear feet. (See Figure 4.3.3.)

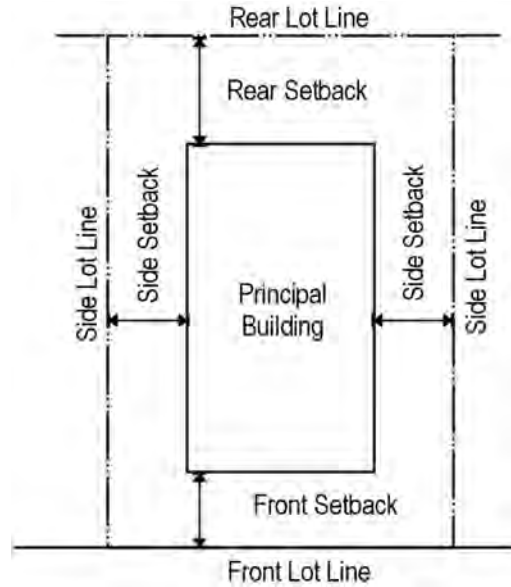


Figure 4.3.2. Location of lot lines and setbacks.

Example: (12 ft. + 8 ft. + 12 ft. + 0 ft.) / 4 = 8 ft.

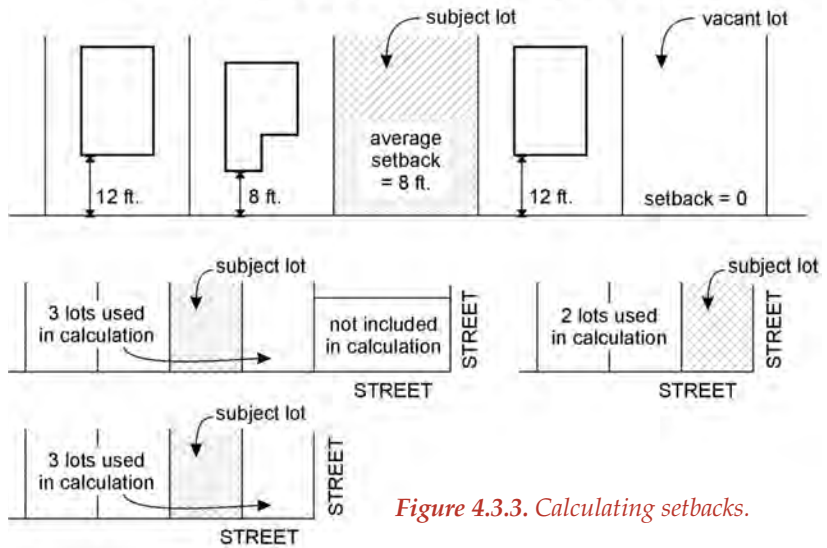
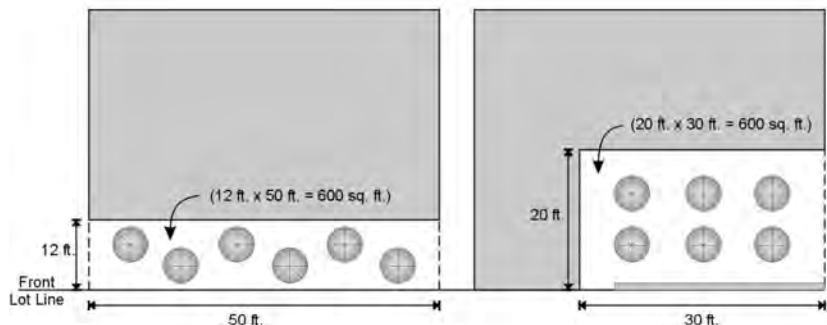


Figure 4.3.3. Calculating setbacks.

Figure 4.3.4. Exceptions to minimum front and streetside setbacks.



Comment: Rather than mandating a zero-foot “build-to” line for all properties in TC zoning districts, this model offers flexibility to accommodate contextual setbacks, reflecting the setbacks of adjacent buildings. Paragraph (2) allows buildings to be set back to reflect the building setbacks of neighboring buildings. Special provisions are also included to accommodate building recesses and setbacks for building entries and outdoor seating areas.

(4) The minimum rear setback must be [0–30] percent of the lot depth.

Comment: The appropriate minimum building setback will depend on lot and development patterns in the area. When alleys abut the rear of lots, no rear setback may be necessary, except perhaps for upper floors. On the other hand, when TC-zoned lots will abut the rear property line of low- to moderate-density residential lots, buildings in TC districts should be set back from rear property lines in order to protect the privacy and open feeling expected within residential rear yards.

(5) No interior side setbacks are required in the TC district, except when TC-zoned property abuts R-zoned property, in which case the minimum side-yard setback required in the TC district must be the same as required for a residential use on the abutting R-zoned lot.

Comment: Streets within town center areas are often lined with buildings that span the entire width of the lot. The standard proposed here will help reinforce that pattern, while also ensuring that a “typical” residential side yard will be provided in areas abutting neighborhood residential zoning districts.

109. Off-Street Parking

(1) One off-street parking space must be provided for each dwelling unit.

(2) No off-street parking is required for nonresidential uses in TC-1 district unless the gross floor area of such uses exceeds twice the area of the lot, in which case off-street parking must be provided at a minimum ratio of [one or two] spaces per each 1,000 square feet of gross floor area in excess of twice the lot area.

(3) No off-street parking is required for nonresidential uses in TC-2 district unless the gross floor area of such uses exceeds the area of the lot, in which case off-street parking must be provided at a minimum ratio of [one or two] spaces per each 1,000 square feet of gross floor area in excess of twice the lot area.

(4) No off-street parking is required for nonresidential uses in TC-3 district unless the gross floor area of such uses exceeds 5,000 square feet of gross floor area, in which case off-street parking must be provided at a minimum ratio of [one or two] spaces per each 1,000 square feet of gross floor area in excess of 5,000 square feet.

(5) All off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to not be visible from public right-of-way or residential zoning districts.

Comment: Although many ordinances require 1.5 or two parking spaces per dwelling unit, the nature of most TC-style districts warrants consideration of lower residential parking ratios, such as one space per unit (lower perhaps for affordable units, elderly housing, and areas with excellent transit accessibility). Exempting certain sizes of non-residential uses from compliance with off-street parking requirements will help promote pedestrian-oriented character and encourage use/reuse of storefront retail space.

110. Indoor/Outdoor Operations

All permitted uses in the TC districts must be conducted within buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas, alone or in connection with restaurants.

111. Floor-to-Floor Heights and Floor Area of Ground-Floor Space

(1) All nonresidential floor space provided on the ground floor of a mixed use building must have a minimum floor-to-ceiling height of 11 feet.

(2) All nonresidential floor space provided on the ground floor of a mixed use building must contain the following minimum floor area:

- (a) At least 800 square feet or 25 percent of the lot area (whichever is greater) on lots with street frontage of less than 50 feet; or
- (b) At least 20 percent of the lot area on lots with 50 feet of street frontage or more.

Comment: In areas with strong residential real estate markets, ground-floor space is sometimes viewed as an afterthought or an incidental area, particularly when developed by those with a poor understanding of mixed use development. In other words, if profit margins are

high enough on the residential units, inexperienced developers may have no incentive to make ground-floor commercial space attractive and actually usable for retail activities. These types of provisions can help ensure that ground-floor space will meet the needs of future retailers and not sit vacant for years after upper-floor residential units have been leased or sold.

112. Transparency

(1) A minimum of [60–75] percent of the street-facing building façade between two feet and eight feet in height must comprise clear windows that allow views of indoor nonresidential space or product display areas.

(2) The bottom edge of any window or product display window used to satisfy the transparency standard of paragraph (1) above may not be more than [3–4.5] feet above the adjacent sidewalk.

(3) Product display windows used to satisfy these requirements must have a minimum height of four feet and be internally lighted.

Comment: There is always a possibility that merchants will choose to block required windows with display shelves, signs, and other visual obstructions, either because they view windows as a security concern or because they desire to maximize product display area. This ordinance does not expressly prohibit this practice because of the difficulty of enforcing such prohibitions. Moreover, the most important objective is that buildings be designed to include such pedestrian-oriented features rather than later having to retrofit existing storefront designs.

113. Doors and Entrances

(1) Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.

(2) Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

Comment: Requiring ground-floor windows and sidewalk-facing entrances help make for a more pleasing pedestrian environment. People are attracted to spaces with interesting pedestrian-scale views and visually appealing elements, such as window displays. Identifiable and accessible building entrances make it easier for pedestrians to navigate the area and thus encourage them to spend time there.

114. Vehicle and Driveway Access

No curb cuts are allowed for lots that abut alleys.

Comment: Driveways that cross sidewalks disrupt pedestrian movements and pose safety threats. They should be the rare exception in neighborhood-oriented mixed use districts.

115. Drive-through Facilities

Drive-through facilities for vehicles are prohibited in all TC districts.

Comment: Some communities may elect to treat businesses with drive-through facilities as a conditional use, requiring case-by-case approval. When that approach is used, standards should be included requiring that drive-through windows be located behind the building and that pedestrian circulation routes be protected from auto traffic. Note that this prohibition does not apply to service windows, such as a service window for an ice cream parlor.



Figure 4.3.5. Transparency requirements of street-facing building facades and primary entrance doors facing public sidewalks help make for a more pleasing pedestrian environment.

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Article 3: Zoning Districts

3.3 Commercial Base Zoning Districts

3.3.1 General Purposes of Commercial Zoning Districts

3.3 COMMERCIAL BASE ZONING DISTRICTS

3.3.1. GENERAL PURPOSES OF COMMERCIAL ZONING DISTRICTS

The purpose and intent of Commercial base zoning districts are to:

- A.** Provide a broad range of retail and service uses to benefit Norfolk citizens, business, and visitors;
- B.** Encourage the efficient use of land and ensure high quality design of the built environment;
- C.** Create suitable settings for a full range of commercial and mixed-use development that is harmoniously designed and integrated;
- D.** Accommodate new infill development and redevelopment that is consistent with surrounding context and character, and compatible with adjacent land uses; and
- E.** Strengthen the city’s economic base, provide employment opportunities close to home, promote tourism, and implement the comprehensive plan.

3.3.2. ESTABLISHED COMMERCIAL BASE ZONING DISTRICTS

The commercial base zoning districts established by this Ordinance are identified in Table 3.3.2, Established Commercial Base Zoning Districts.

Table 3.3.2: Established Commercial Base Zoning Districts	
C-N:	Neighborhood Commercial
C-C:	Community Commercial
C-R:	Regional Commercial
O:	Office
BC-O:	Business and Commerce Park - Office
BC-I:	Business and Commerce Park - Industrial

3.3.3. C-N: NEIGHBORHOOD COMMERCIAL

A. PURPOSE

The purpose of the Neighborhood Commercial (C-N) district is to provide lands that accommodate small-scale, neighborhood-serving commercial development such as retail and personal service establishments, offices and small shopping centers, and historic structures. Mixed-use development is allowed at a scale and form that is consistent with district character.



B. INTENSITY AND DIMENSIONAL STANDARDS

Standard	Traditional Character District	Suburban Character District	Coastal Character District
	All Uses	All Uses	All Uses
Lot Area, min. (sf.)		5,000 [1]	
Lot Width, min. (ft.)		50 [2]	
Front Yard Setback (ft.)	0-10 [4]	10 (min.)	5-12 [4]
Side Yard Setback, min. (ft.)		0 [3]	
Corner Side Yard Setback, min. (ft.)		5 [5]	
Rear Yard Setback, min. (ft.)		0 [3]	
Building Height, max. (ft.)		35	

Notes: sf. = square feet; ft. = feet

- [1] Minimum lot area may be reduced to the average lot size of properties on the same block face, but the minimum shall not be less 4,000 sf.
- [2] Minimum lot width may be reduced to the average width of properties on the same block face, but the minimum shall not be less than 40 ft.
- [3] A 10-foot transitional buffer is required on properties adjacent to residential districts.
- [4] 75% of the front façade shall be within the setback range; the remaining 25% may exceed the maximum specified.
- [5] May be reduced to match existing setback for properties along same block face.

C. REFERENCE TO OTHER STANDARDS

Article 2	Administration	Sec. 5.7	Signs
Article 4	Performance Standards	Sec. 5.8	Exterior Lighting
Sec. 5.1	Parking, Loading, and Bicycle Standards	Sec. 5.9	Form Standards
Sec. 5.2	Landscaping Standards	Sec. 5.10	Neighborhood Protection
Sec. 5.3	Perimeter Buffers	Sec. 5.11	Accessory Structures
Sec. 5.4	Screening	Sec. 5.12	Resilience Quotient
Sec. 5.5	Open Space Set-Asides	Article 6	Nonconformities

3.3.4. C-C: COMMUNITY COMMERCIAL

A. PURPOSE

The purpose of the Community Commercial (C-C) district is to provide lands that accommodate community-serving commercial development primarily along heavily traveled arterial corridors. Community-serving mixed-use, commercial, and office development is allowed at a moderate scale, consistent with district character.



B. INTENSITY AND DIMENSIONAL STANDARDS

Standard	Downtown or Traditional Character District	Suburban Character District	Coastal Character District
	All Uses	All Uses	All Uses
Lot Area, min. (sf.)	5,000		
Lot Width, min. (ft.)	50		
Front Yard Setback (ft.)	0-10 [2]	10 (min.)	10 (min.)
Side Yard Setback, min. (ft.)	0 [1]		
Corner Side Yard Setback, min. (ft.)	5 [3]		
Rear Yard Setback, min. (ft.)	0 [1]		
Building Height, max. (ft.)	60		

Notes sf. = square feet; ft. = feet

- [1] A 10-foot transitional buffer is required on properties adjacent to residential districts.
- [2] 75% of the front façade shall be within the setback range; the remaining 25% may exceed the maximum specified.
- [3] May be reduced to match existing setback for properties along same block face.

C. REFERENCE TO OTHER STANDARDS

Article 2	Administration	Sec. 5.7	Signs
Article 4	Performance Standards	Sec. 5.8	Exterior Lighting
Sec. 5.1	Parking, Loading, and Bicycle Standards	Sec. 5.9	Form Standards
Sec. 5.2	Landscaping Standards	Sec. 5.10	Neighborhood Protection
Sec. 5.3	Perimeter Buffers	Sec. 5.11	Accessory Structures
Sec. 5.4	Screening	Sec. 5.12	Resilience Quotient
Sec. 5.5	Open Space Set-Asides	Article 6	Nonconformities

3.3.5. C-R: REGIONAL COMMERCIAL

A. PURPOSE

The purpose of the Regional Commercial (C-R) district is to provide lands that accommodate region-serving commercial development. Development allowed in this district includes retail establishments, large-scale shopping centers, offices, and high-density mixed-use development.



B. INTENSITY AND DIMENSIONAL STANDARDS

Standard	All Character Districts
	All Uses
Lot Area, min. (sf.)	30,000
Lot Width, min. (ft.)	125
Front Yard Setback, min. (ft.)	10
Side Yard Setback, min. (ft.)	10 [1]
Corner Side Yard Setback, min. (ft.)	10
Rear Yard Setback, min. (ft.)	10
Building Height, max. (ft.)	60

Notes: sf. = square feet; ft. = feet

[1] Outparcels adjacent to a C-C or C-R district shall have a minimum setback of 0 ft.

C. REFERENCE TO OTHER STANDARDS

Article 2	Administration	Sec. 5.7	Signs
Article 4	Performance Standards	Sec. 5.8	Exterior Lighting
Sec. 5.1	Parking, Loading, and Bicycle Standards	Sec. 5.9	Form Standards
Sec. 5.2	Landscaping Standards	Sec. 5.10	Neighborhood Protection
Sec. 5.3	Perimeter Buffers	Sec. 5.11	Accessory Structures
Sec. 5.4	Screening	Sec. 5.12	Resilience Quotient
Sec. 5.5	Open Space Set-Asides	Article 6	Nonconformities

3.3.6. O: OFFICE

A. PURPOSE

The purpose of the Office (O) district is to provide lands that accommodate high-quality office development and related employment uses in planned, campus-like settings.



B. INTENSITY AND DIMENSIONAL STANDARDS

Standard	All Character Districts
	All Uses
Lot Area, min. (sf.)	43,560
Lot Width, min. (ft.)	200
Front Yard Setback, min. (ft.)	25
Side Yard Setback, min. (ft.)	25
Corner Side Yard Setback, min. (ft.)	25
Rear Yard Setback, min. (ft.)	25
Building Height, max. (ft.)	65 [1]

Notes sf. = square feet; ft. = feet

[1] Maximum building height may be increased by 1 ft. for each additional 1 ft. of distance that the building is set back beyond the minimum setback in each yard.

C. DISTRICT-SPECIFIC DEVELOPMENT STANDARDS

- (1) A 100-foot landscape buffer shall be maintained adjacent to all freshwater lakes except for the following uses:
 - (a) Outside eating and gathering areas or plazas; and
 - (b) Pedestrian circulation systems and bridges.
- (2) A minimum 4-foot high visual buffer landscaped screen, berm, or a combination of the two shall be required and maintained along any side of a surface parking area that abuts a public right-of-way.
- (3) No parking, loading, or storage shall be located within any required yard.

D. REFERENCE TO OTHER STANDARDS

Article 2	Administration	Sec. 5.7	Signs
Article 4	Performance Standards	Sec. 5.8	Exterior Lighting
Sec. 5.1	Parking, Loading, and Bicycle Standards	Sec. 5.9	Form Standards
Sec. 5.2	Landscaping Standards	Sec. 5.10	Neighborhood Protection
Sec. 5.3	Perimeter Buffers	Sec. 5.11	Accessory Structures
Sec. 5.4	Screening	Sec. 5.12	Resilience Quotient
Sec. 5.5	Open Space Set-Asides	Article 6	Nonconformities

Article 3: Zoning Districts

3.3 Commercial Base Zoning Districts

3.3.7 BC-O: Business and Commerce Park - Office

3.3.7. BC-O: BUSINESS AND COMMERCE PARK - OFFICE

A. PURPOSE

The purpose of the Business and Commerce Park - Office (BC-O) district is to provide lands that accommodate multi-tenant business, research, and office development in an attractive setting, while minimizing impacts to adjacent residential lands.



B. INTENSITY AND DIMENSIONAL STANDARDS

Standard	All Character Districts
	All Uses
Lot Area, min. (sf.)	30,000
Lot Width, min. (ft.)	150
Front Yard Setback, min. (ft.)	25 [1] [2]
Side Yard Setback, min. (ft.)	15 [3]
Corner Side Yard Setback, min. (ft.)	25 [1] [2]
Rear Yard Setback, min. (ft.)	15 [3]
Building Height, max. (ft.)	65 [4]

Notes: sf. = square feet; ft. = feet

[1] 50 ft. when abutting an arterial roadway.

[2] No loading is allowed within the first 25 feet of the front and corner side yard setback and no parking is allowed within the first 10 feet of the front or corner side yard setback, as measured from the property line.

[3] No parking, loading, or access easement is allowed within a side or rear yard setback abutting a single-family residential district.

[4] Maximum building height may be increased by 1 ft. for each additional 1 ft. of distance that the building is set back beyond the minimum setback in each yard.

C. DISTRICT-SPECIFIC DEVELOPMENT STANDARDS

- (1) A 100-foot landscape buffer shall be maintained adjacent to all freshwater lakes except for the following uses:
 - (a) Outside eating and gathering areas or plazas; and
 - (b) Pedestrian circulation systems and bridges.
- (2) A minimum 4-foot high visual buffer landscaped screen, berm, or a combination of the two shall be required and maintained along any side of a surface parking area that abuts a public right-of-way.
- (3) No parking, loading, or storage shall be located within any required yard.

D. REFERENCE TO OTHER STANDARDS

Article 2	Administration	Sec. 5.7	Signs
Article 4	Performance Standards	Sec. 5.8	Exterior Lighting
Sec. 5.1	Parking, Loading, and Bicycle Standards	Sec. 5.9	Form Standards
Sec. 5.2	Landscaping Standards	Sec. 5.10	Neighborhood Protection
Sec. 5.3	Perimeter Buffers	Sec. 5.11	Accessory Structures
Sec. 5.4	Screening	Sec. 5.12	Resilience Quotient
Sec. 5.5	Open Space Set-Asides	Article 6	Nonconformities

Article 3: Zoning Districts

3.3 Commercial Base Zoning Districts

3.3.8 BC-I: Business and Commerce Park - Industrial

3.3.8. BC-I: BUSINESS AND COMMERCE PARK - INDUSTRIAL

A. PURPOSE

The purpose of the Business and Commerce Park - Industrial district (BC-I) is to provide land that accommodates business, research, light industrial, and manufacturing development in an attractive setting, while minimizing impacts to adjacent residential lands.



B. INTENSITY AND DIMENSIONAL STANDARDS

Standard	All Character Districts
	All Uses
Lot Area, min. (sf.)	30,000
Lot Width, min. (ft.)	150
Front Yard Setback, min. (ft.)	25 [1] [2]
Side Yard Setback, min. (ft.)	15 [3]
Corner Side Yard Setback, min. (ft.)	25 [1] [2]
Rear Yard Setback, min. (ft.)	15 [3]
Building Height, max. (ft.)	65 [4]

Notes: sf. = square feet; ft. = feet

- [1] No loading is allowed within the first 25 feet of the front or corner side yard setback and no parking is allowed within the first 10 feet of the front or corner side yard setback as measured from the property line.
- [2] 50 ft. when abutting Princess Anne Road or East Virginia Beach Boulevard.
- [3] No parking, loading, or access easement is allowed within a side or rear yard abutting a single-family residential district.
- [4] Maximum building height may be increased by 1 ft. for each additional 1 ft. of distance that the building is set back beyond the minimum setback in each yard.

C. DISTRICT-SPECIFIC DEVELOPMENT STANDARDS

- (1) A 100-foot landscape buffer shall be maintained adjacent to all freshwater lakes except for the following uses:
 - (a) Outside eating and gathering areas or plazas; and
 - (b) Pedestrian circulation systems and bridges.
- (2) A minimum 4-foot high visual buffer landscaped screen, berm, or a combination of the two shall be required and maintained along any side of a surface parking area that abuts a public right-of-way.
- (3) No parking, loading, or storage shall be located within any required yard.

D. REFERENCE TO OTHER STANDARDS

Article 2	Administration	Sec. 5.7	Signs
Article 4	Performance Standards	Sec. 5.8	Exterior Lighting
Sec. 5.1	Parking, Loading, and Bicycle Standards	Sec. 5.9	Form Standards
Sec. 5.2	Landscaping Standards	Sec. 5.10	Neighborhood Protection
Sec. 5.3	Perimeter Buffers	Sec. 5.11	Accessory Structures
Sec. 5.4	Screening	Sec. 5.12	Resilience Quotient
Sec. 5.5	Open Space Set-Asides	Article 6	Nonconformities

3.3.9. USES FOR THE COMMERCIAL BASE ZONING DISTRICTS

A. PURPOSE

The purpose of this section is to authorize the establishment and continuation of land uses that are allowed on a parcel in a Commercial base zoning district. This section identifies the Commercial zoning districts in which such uses are allowed, identifies what type of permit or review is required to establish them, and provides reference to any special performance standards applicable to particular uses.

B. USE TABLE FOR USES IN COMMERCIAL BASE DISTRICTS

Table 3.3.9, Principal, Accessory, and Temporary Use Table for Commercial Base Zoning Districts, lists allowable uses and shows whether each use is permitted or prohibited within the various Commercial zoning districts, as well as the type of permit or development approval by which the use may be allowed. It further references any performance standards applicable to specific uses regardless of the zoning district in which they are allowed or the review procedure by which they are approved, unless expressly stated to the contrary.

Article 3: Zoning Districts

3.3 Commercial Base Zoning Districts

3.3.9 Uses for the Commercial Base Zoning Districts

TABLE 3.3.9: PRINCIPAL, ACCESSORY, AND TEMPORARY USE TABLE FOR COMMERCIAL BASE ZONING DISTRICTS									
P = PERMITTED BY RIGHT C = ALLOWED ONLY WITH APPROVAL OF A CONDITIONAL USE PERMIT BLANK CELL = PROHIBITED									
USE CATEGORY	USE TYPE	C-N	C-C	C-R	O	BC-O	BC-I	PERFORMANCE STANDARDS	
CONSERVATION AND OPEN SPACE USES									
Conservation and Open Space Uses	Boat ramp	P	P	P	P	P	P	4.2.3.C(1)	4.2.3.C(2)(b)
	Park	P	P	P	P	P	P		4.2.3.C(2)(f)
	Resource conservation use	P	P	P	P	P	P		4.2.3.C(2)(g)
	All other uses, not permitted								
RESIDENTIAL USES									
Household Living Uses	Dwelling, live-work	P/C	P/C					4.2.3.D(1)	4.2.3.D(2)(a)
	Dwelling, multi-family	P/C	P/C	P/C					4.2.3.D(2)(c)
	All other uses, not permitted								
Group Living Uses	Continuing care retirement community			P				4.2.3.D(3)	4.2.3.D(4)(b)
	Nursing home		P						4.2.3.D(4)(e)
	Residential re-entry facility		C						4.2.3.D(4)(f)
	All other uses, not permitted								
PUBLIC, CIVIC, AND INSTITUTIONAL USES									
Community Service Uses	Broadcasting studio		P	P	P	P	P	4.2.3.E(1)	4.2.3.E(2)(a)
	College or university		P	P	P	P	P		4.2.3.E(2)(b)
	Communication tower, commercial	C	C	C	C	C	C		4.2.3.E(2)(c)
	Community recreation center								4.2.3.E(2)(d)
	Correctional facility								4.2.3.E(2)(e)
	Cultural facility, museum, or library	P	P	P					4.2.3.E(2)(f)
	Day care center, adult	P	P	P	P	P	P		4.2.3.E(2)(g)
	Day care center, child	P	P	P	P	P	P		4.2.3.E(2)(h)

Article 3: Zoning Districts

3.3 Commercial Base Zoning Districts

3.3.9 Uses for the Commercial Base Zoning Districts

TABLE 3.3.9: PRINCIPAL, ACCESSORY, AND TEMPORARY USE TABLE FOR COMMERCIAL BASE ZONING DISTRICTS

**P = PERMITTED BY RIGHT C = ALLOWED ONLY WITH APPROVAL OF A CONDITIONAL USE PERMIT
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USE CATEGORY	USE TYPE	C-N	C-C	C-R	O	BC-O	BC-I	PERFORMANCE STANDARDS
	Government maintenance, storage, and distribution facility							4.2.3.E(2)(i)
	Government office	P	P	P	P	P	P	4.2.3.E(2)(j)
	Hiring hall		P					4.2.3.E(2)(k)
	Hospital							4.2.3.E(2)(l)
	Hospice	P						4.2.3.E(2)(m)
	Membership organization	P	P	P		P		4.2.3.E(2)(n)
	Military installation						P	4.2.3.E(2)(o)
	Religious institution	P	P	P				4.2.3.E(2)(p)
	School, boarding							4.2.3.E(2)(q)
	School, elementary							4.2.3.E(2)(r)
	School, secondary							4.2.3.E(2)(s)
	School, vocational or trade	P	P	P	P	P	P	4.2.3.E(2)(t)
Transportation and Utility Uses	Airport							4.2.3.E(4)(a)
	Heliport				P	P	P	4.2.3.E(4)(b)
	Park and ride facility		P	P	P	P	P	4.2.3.E(4)(c)
	Parking facility	P/C	P/C	P/C				4.2.3.E(4)(d)
	Passenger terminal, surface transportation		P	P			P	4.2.3.E(4)(e)
	Solar energy collection facility (large-scale)						P	4.2.3.E(4)(f)
	Terminal, cruise ship							4.2.3.E(4)(g)
	Utility facility, major							4.2.3.E(4)(h)
	Utility facility, minor	P	P	P	P	P	P	4.2.3.E(4)(i)
	Wind energy conversion system (large-scale)						P	4.2.3.E(4)(j)

TABLE 3.3.9: PRINCIPAL, ACCESSORY, AND TEMPORARY USE TABLE FOR COMMERCIAL BASE ZONING DISTRICTS

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USE CATEGORY	USE TYPE	C-N	C-C	C-R	O	BC-O	BC-I	PERFORMANCE STANDARDS
COMMERCIAL USES								
Eating and Drinking Uses	After-hours membership establishment		C	C				4.2.3.F(1) 4.2.3.F(2)(a) 4.2.3.F(2)(b) 4.2.3.F(2)(c) 4.2.3.F(2)(d) 4.2.3.F(2)(e) 4.2.3.F(2)(f)
	Banquet hall		C	C	C	C		
	Catering establishment/commercial kitchen	P	P	P	P	P	P	
	Nightclub		C	C				
	Production of craft beverages	C	C	C		C	C	
	Restaurant	P/C	P/C	P/C	P/C	P/C	P/C	
Recreation Uses	Amusement park							4.2.3.F(3) 4.2.3.F(4)(a) 4.2.3.F(4)(b) 4.2.3.F(4)(c) 4.2.3.F(4)(d) 4.2.3.F(4)(e) 4.2.3.F(4)(f) 4.2.3.F(4)(g) 4.2.3.F(4)(h) 4.2.3.F(4)(i) 4.2.3.F(4)(j) 4.2.3.F(4)(k)
	Arena, stadium, or amphitheater			C				
	Casino							
	Cinema or theater	C	P	P				
	Commercial recreation center	C	C	C				
	Conference or training center			P/C	P/C	P/C		
	Country club		P					
	Health and fitness facility	P	P	P	P	P	P	
	Marina	P	P					
	Recreation facility, indoor	C	P	P		P	P	
	Recreation facility, outdoor		C	C				
Retail Sales and Service Uses	Animal shelter						P	4.2.3.F(5) 4.2.3.F(6)(a) 4.2.3.F(6)(b) 4.2.3.F(6)(c) 4.2.3.F(6)(d) 4.2.3.F(6)(e) 4.2.3.F(6)(f) 4.2.3.F(6)(g) 4.2.3.F(6)(h)
	Artist studio/school/gallery	P	P	P		P	P	
	Auction house		P	P			P	
	Auto supply sales and rental		P/C	P/C				
	Bank or other financial institution	P	P	P	P	P	P	
	Check cashing, auto title, or payday loan businesses		C					
	Consignment shop	P	P	P				
	Convenience store	C	C	C				

Article 3: Zoning Districts

3.3 Commercial Base Zoning Districts

3.3.9 Uses for the Commercial Base Zoning Districts

TABLE 3.3.9: PRINCIPAL, ACCESSORY, AND TEMPORARY USE TABLE FOR COMMERCIAL BASE ZONING DISTRICTS

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USE CATEGORY	USE TYPE	C-N	C-C	C-R	O	BC-O	BC-I	PERFORMANCE STANDARDS
	Establishment for the sale of distilled spirits for off-premises consumption		C	C				4.2.3.F(6)(i)
	Farmer’s market	P	P	P				4.2.3.F(6)(j)
	Flea market, indoor		C	C				4.2.3.F(6)(k)
	Flea market, outdoor		C	C				4.2.3.F(6)(l)
	Funeral home or mortuary		P					4.2.3.F(6)(m)
	Grocery store	C	P/C	P/C				4.2.3.F(6)(n)
	Kennel		C	C			C	4.2.3.F(6)(o)
	Music, dance, or martial arts studio/school	P	P	P	P	P	P	4.2.3.F(6)(p)
	Novelty store or theater, adult		C					4.2.3.F(6)(q)
	Office	P	P	P	P	P	P	4.2.3.F(6)(r)
	Office, contractor	P	P	P		P	P	4.2.3.F(6)(s)
	Office, medical or dental	P	P	P	P	P	P	4.2.3.F(6)(t)
	Pawnshop		C					4.2.3.F(6)(u)
	Personal service business	P/C	P/C	P/C	P/C	P/C		4.2.3.F(6)(v)
	Retail goods establishment	P/C	P/C	P/C				4.2.3.F(6)(w)
	Self-service storage units		P	P		P	P	4.2.3.F(6)(x)
	Smoke or vape shop	C	C	C				4.2.3.F(6)(y)
	Tattoo parlor		C	C				4.2.3.F(6)(z)
	Therapeutic massage facility		P	P				4.2.3.F(6)(aa)
	Used books/media	P	P	P				4.2.3.F(6)(bb)
	Used merchandise sales	C	C	C				4.2.3.F(6)(cc)
	Vendor park	P	P	P	P	P	P	4.2.3.F(6)(dd)
	Veterinary hospital or clinic		P	P			P	4.2.3.F(6)(ee)
Vehicle Sales and Service Uses	Automobile repair and maintenance, major		C	C			P	4.2.3.F(8)(a)
	Automobile repair and maintenance, minor		C	C			P	4.2.3.F(8)(b)
	Automobile rental		P/C	P/C			P	4.2.3.F(8)(c)

TABLE 3.3.9: PRINCIPAL, ACCESSORY, AND TEMPORARY USE TABLE FOR COMMERCIAL BASE ZONING DISTRICTS

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USE CATEGORY	USE TYPE	C-N	C-C	C-R	O	BC-O	BC-I	PERFORMANCE STANDARDS	
	Automobile sales		C	C				4.2.3.F(8)	(d)
	Automobile salvage yard, indoor or outdoor								(e)
	Automobile storage						C		(f)
	Automobile tow lot						C		(g)
	Autonomous vehicle storage and charging facility	C	C	C	P	P	P		(h)
	Boat building and repair								(i)
	Boat dry storage facility								(j)
	Boat sales, rental, service, or repair		P/C	P/C					(k)
	Car wash		C	C					(l)
	Commercial fueling depot			C					(m)
	Commercial vehicle repair and maintenance						P		(n)
	Commercial vehicle sales and rental						P		(o)
	Electric vehicle charging station		C	C			P		(p)
	Gas station		C	C					(q)
	Recreational vehicle sale, rental, and maintenance		C	C					(r)
	Taxi or limousine service facilities		C	C			P		(s)
Tire sales and repair		C	C			P	(t)		
Visitor Accommodation Uses	Bed and breakfast	C						4.2.3.F(9)	4.2.3.F(10)(a)
	Campground								4.2.3.F(10)(b)
	Hotel or motel	P	P	P	P	P	P		4.2.3.F(10)(c)
	Short-term rental unit (vacation rental)	C	C	C					4.2.3.F(10)(d)
INDUSTRIAL USES									
Industrial Uses	Brewery, cidery, distillery, or winery					P	P	4.2.3.G(1)	4.2.3.G(2)(a)
	Distribution center					P	P		4.2.3.G(2)(e)
	Food processing						P		4.2.3.G(2)(f)

Article 3: Zoning Districts

3.3 Commercial Base Zoning Districts

3.3.9 Uses for the Commercial Base Zoning Districts

TABLE 3.3.9: PRINCIPAL, ACCESSORY, AND TEMPORARY USE TABLE FOR COMMERCIAL BASE ZONING DISTRICTS

**P = PERMITTED BY RIGHT C = ALLOWED ONLY WITH APPROVAL OF A CONDITIONAL USE PERMIT
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USE CATEGORY	USE TYPE	C-N	C-C	C-R	O	BC-O	BC-I	PERFORMANCE STANDARDS
	Fuel oil or bottled gas distribution						C	4.2.3.G(2)(g)
	Hazardous materials manufacturing or storage						C	4.2.3.G(2)(h)
	Industrial services, light					P	P	4.2.3.G(2)(j)
	Landscaping contractor’s business					P	P	
	Manufacturing, assembly or fabrication, light					P	P	4.2.3.G(2)(p)
	Moving and storage						P	
	Recycling collection station	P	P	P			P	4.2.3.G(2)(r)
	Small engine repair shop		P				P	4.2.3.G(2)(y)
	Trucking Terminal						P	4.2.3.G(2)(bb)
	Warehouse					P/C	P/C	4.2.3.G(2)(cc)
	Wholesale establishment					P/C	P/C	4.2.3.G(2)(dd)
All other uses, not permitted								
ACCESSORY USES								
Accessory Uses	Accessory dwelling unit							4.3.3.E(1)(a)
	Amusement device	P/C	P/C	P/C				4.3.3.E(1)(b)
	Automated teller machine	P	P	P	P	P	P	4.3.3.E(1)(c)
	Automatic car wash		P	P				4.3.3.E(1)(d)
	Day care center, child (as an accessory use)	P	P	P	P	P	P	4.3.3.E(1)(e)
	Day care home							4.3.3.E(1)(f)
	Drive-through facility, large-scale		C	C	C	C	C	4.3.3.E(1)(g)
	Drive-through facility, small-scale	P	P	P	P	P	P	4.3.3.E(1)(h)
	Gasoline sales (as an accessory use)		C	C				4.3.3.E(1)(i)
	Home occupation	P/C	P/C	P/C				4.3.3.E(1)(j)
	Live entertainment	C	C	C	C	C	C	4.3.3.E(1)(k)
	Outdoor display of merchandise	P	P	P	P	P	P	4.3.3.E(1)(l)

TABLE 3.3.9: PRINCIPAL, ACCESSORY, AND TEMPORARY USE TABLE FOR COMMERCIAL BASE ZONING DISTRICTS

**P = PERMITTED BY RIGHT C = ALLOWED ONLY WITH APPROVAL OF A CONDITIONAL USE PERMIT
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USE CATEGORY	USE TYPE	C-N	C-C	C-R	O	BC-O	BC-I	PERFORMANCE STANDARDS
	Outdoor seating (as accessory to an eating and drinking use)	P	P	P	P	P	P	4.3.3.E(1)(m)
	Outdoor storage		P	P		P	P	4.3.3.E(1)(n)
	Retail sales (as accessory to an industrial use)					P	P	4.3.3.E(1)(o)
	Sale of alcoholic beverages, off-premises	C	C	C	C	C	C	4.3.3.E(1)(p)
	Sale of alcoholic beverages, on-premises	C	C	C	C	C	C	4.3.3.E(1)(q)
	Sale of smoking or vaping products	C	C	C				4.3.3.E(1)(r)
	Short-term rental unit (homestay)	P/C	P/C	P/C				4.3.3.E(1)(s)
TEMPORARY USES AND STRUCTURES								
Temporary Uses and Structures	Carnival and circus	P	P	P				4.4.3.B(2)(a)
	Festival, bazaar, and outdoor sale event	P	P	P				4.4.3.B(2)(b)
	Construction-related office/yard	P	P	P	P	P	P	4.4.3.B(2)(c)
	Farmer’s market (as a temporary use)	P	P	P	P	P	P	4.4.3.B(2)(d)
	Flea market (as a temporary use)	P	P	P	P	P	P	4.4.3.B(2)(e)
	Garage or yard sale							4.4.3.B(2)(f)
	Manufactured home as temporary housing	P	P	P	P	P	P	4.4.3.B(2)(g)
	Outdoor display and storage	P	P	P	P	P	P	4.4.3.B(2)(h)
	Public event on private property	P	P	P	P	P	P	4.4.3.B(2)(i)
	Seasonal decorations display and sales	P	P	P	P	P	P	4.4.3.B(2)(j)
	Temporary health care structure							4.4.3.B(2)(k)
	Temporary use of an accessory structure as a principal dwelling after a disaster							4.4.3.B(2)(l)
	Tent	P	P	P	P	P	P	4.4.3.B(2)(m)
Vendor or produce stand	P	P	P	P	P	P	4.4.3.B(2)(n)	

Article 3: Zoning Districts

3.3 Commercial Base Zoning Districts

3.3.9 Uses for the Commercial Base Zoning Districts

TABLE 3.3.9: PRINCIPAL, ACCESSORY, AND TEMPORARY USE TABLE FOR COMMERCIAL BASE ZONING DISTRICTS

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USE CATEGORY	USE TYPE	C-N	C-C	C-R	O	BC-O	BC-I	PERFORMANCE STANDARDS
Temporary Uses Permitted Only During the Coronavirus Pandemic Emergency	Artisanal production	P	P	P	P	P	P	4.4.3.B(3)
	Home occupation with on-site consultation							
	Off-premise alcohol sales from restaurants	P	P	P	P	P	P	
	Outdoor seating in off-street parking areas	P	P	P	P	P	P	
								4.4.3.B(3)(a)
								4.4.3.B(3)(b)
								4.4.3.B(3)(c)
								4.4.3.B(3)(d)



V.

City of Chesterfield



Zoning Ordinance Revision Diagnosis and Annotated Outline Unified Development Ordinance November 2002

CLARION ASSOCIATES

1700 Broadway, Ste. 400
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(303) 830-2890

In association with
Curtis, Oetting, Heinz, Garrett & O'Keefe

Chesterfield, Missouri UNIFIED DEVELOPMENT ORDINANCE DIAGNOSIS AND ANNOTATED OUTLINE

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Section One: Introduction

I. Scope and Process for the Chesterfield Zoning Ordinance Revision

In late 2001, the City of Chesterfield issued a Request for Proposal to revise the city's zoning ordinance, calling for the ordinance to be "reorganized, clarified, edited, and indexed." In addition, the RFP called for legal review of the current code. No significant substantive changes were envisioned as part of this effort. The city selected the team of Clarion Associates and Curtis, Oetting, Heinz, Garrett, and O'Keefe in 2002 to undertake project.



Revisions to the current ordinance are being drafted through a four-step process. These steps include:

- Task 1: Project initiation (completed)
- Task 2: Preparation of code diagnosis and annotated outline (this document)
- Task 3: Initial code draft
- Task 4: Final code draft and adoption process

As noted above, the first of these tasks was completed earlier this year. The consulting team reviewed current city development plans, policies, and ordinances, and conducted a series of interviews with staff and ordinance users. Interviewees included the Home Builder's Association, developers, attorneys, and engineering firms, a number of whose representatives are citizens of Chesterfield. We also toured the city to understand how issues played out "on the ground."

This code diagnosis/annotated outline will be discussed with city staff, the Planning and Zoning Committee of the City Council, the Planning Commission, and other ordinance users at meetings in Chesterfield in December 2002. After that, the next step will be to analyze comments from those meetings and discussions and begin preparation of the new draft ordinance. The project is scheduled to be completed by February 2003.

II. Code Diagnosis/Annotated Outline Purpose

This document is intended to summarize the strengths and weakness of the current Chesterfield Zoning Ordinance (what we call the code diagnosis), and to set forth a recommended model for restructuring and reformatting the ordinance (the annotated outline). Based upon input gleaned from the initial interviews mentioned above, and also upon the consulting team's national experience in reviewing and writing land development regulations, this document has been prepared for public discussion.

The preparation of this diagnosis and annotated outline has been guided by several key objectives for the project as related by city elected officials, staff, citizens, and various interested parties. These include:

- Making the ordinance more user-friendly for the public, developers, and city officials and staff.
- Using graphics to illustrate zoning terms and review processes in a clear manner.
- Incorporating several freestanding ordinances into a unified development ordinance to provide a one-stop information source for users.

During the course of conducting the interviews, several additional issues arose that we would like to bring to the city's attention. These issues go beyond the agreed-upon scope of this project, and are offered with the intent of alerting the city to areas where future study and revisions to the unified development ordinance would appear to be warranted. These issues are summarized in Section Seven.

III. Seven Habits of Highly Effective Development Codes



In drafting this diagnosis and annotated outline, the consulting team drew on past practice in drafting and revising other codes throughout the United States. In our experience, successful land development codes have a number of common traits. These are benchmarks that local governments and citizens can use to test their current code and suggested revisions. These "seven habits of highly effective development codes" are summarized below:

1. They are well organized and formatted in a customer-friendly fashion.
2. Procedures are efficient and easily understood.
3. Substantive review standards are clear, consistent, and illustrated where appropriate.
4. Input from citizens and code users is secured in a timely, effective fashion — before changes are set in stone.
5. Enforcement and administrative provisions are realistic, based on available city resources and staff.
6. Procedures and standards are coordinated with other ordinances, policies, and plans of the city.
7. Suggested revisions are based on a good comprehensive plan, comments from users (including staff, developers, and citizens), and a methodical analysis of strengths and weaknesses.

IV. Organization of this Report

This diagnosis and annotated outline is organized into seven main sections. Section One summarizes the project and purposes of this document. Section Two presents an overview of major themes for improving the ordinance that emerged during Task 1. These are recurring issues that came up throughout the ordinance review process during the initial interviews with ordinance users and discussions with city officials.

Section Three presents a detailed chapter-by-chapter analysis of the ordinance, identifying numerous specific changes and revisions that need to be made to achieve the project goals set forth above. Because the city is considering creating a unified



development ordinance, we analyze the Subdivision Ordinance in Section Four and the Tree Ordinance in Section Five. Section Six contains an annotated outline of our proposed restructuring of the Chesterfield Zoning Ordinance into a unified development code. We have grouped several important issues that emerged during the interview process beyond the scope of this current project in Section Seven, "Additional Issues for Consideration by the City."

Several appendices contain illustrations of new page formatting techniques and summary tables discussed in the document.

Section Two: Major Themes for Improvement

When the city initiated this project, it identified several major issues to address in revamping the ordinance. These issues were confirmed and added to during the interview process and meetings with staff. They guided our more detailed chapter-by-chapter analysis, which is summarized below in Section Three. This Section Two provides a summary overview of major overarching themes that emerged during the code diagnosis process. These themes provide an organizing framework for discussion of code revisions.

I. Improve the Overall Organization and Format to Ensure User-Friendliness

The primary criticism of the current ordinance is that the information is not organized logically and there are no tools to find topics quickly. The city adopted the St. Louis County Zoning Ordinance in 1988 and has amended it several times since then, with major amendments in 1997. The amendments were generally incorporated in a chronological fashion with many recent ones inserted into the appendix, the result being related items are scattered throughout the ordinance. Interviewees gave many examples of how the ordinance's current structure frustrates users and city officials alike. Although some local users were familiar with the St. Louis County code and could therefore find their way through the older portions of Chesterfield's ordinance, newcomers require professional assistance from an attorney or extensive help from planning staff to navigate the current ordinance. Even those familiar with the code need to rely on staff to find or interpret some sections of the code.



We recommend several common-sense changes that will dramatically improve the ordinance's usability. They include:

A. Structure

A quick glance at the Chesterfield Zoning Ordinance reveals the need for this proposed revision. This need was corroborated by feedback from frustrated interviewees. The many sections are not organized in a logical way, and it is challenging for any reader, including seasoned users and staff, to find a topic quickly. Once the reader finds the desired topic in one location, there are few or no cross-references to the other relevant code sections or the new amendments at the back of the code. Although some related sections are grouped together, many are not. Section 1003.167, Miscellaneous Regulations, is a "grab bag" of provisions that are not related to each other. Several of the amendments at the back also contain multiple, sometimes unrelated, items.

Reorganize Chapters

To remedy these problems, we first suggest reorganizing the code's chapters and sections into a more logical sequence that highlights the types of information in the document that are most frequently used. For example, we suggest re-locating the definitions to the back of the document, since they serve as a supplementary reference tool rather than as a source of key regulatory information.

Most importantly, we suggest consolidating key information in thematic chapters of general applicability, so that regulations do not have to be repeated more than once. For example, we recommend consolidating those standards such as those for local public utility facilities that commonly apply to the same uses into a new "use-specific regulations" chapter. Also, rather than repeating various development standards such as parking standards or community character development standards numerous times throughout the recitation of the zoning districts, we recommend creating a new chapter devoted solely to development standards, in which such provisions may be printed once and have general applicability. Similarly, all of the information related to review processes should be grouped together in one location, rather than split into dozens of sections (including some of the zoning districts) as is currently done.

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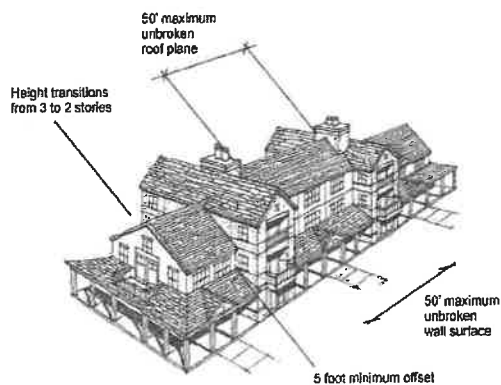
The table of contents will reflect the new organization and will use plain English and key terms to describe each section so that users can discern the general contents. A revised master table of contents at the front of the document should include chapter and section numbers with page references, and separate tables of contents also should be included for each chapter.

The general goal of these structural revisions will be to make it easy for an ordinance user to get the information they need as quickly as possible. Section Six of this document contains an annotated outline of our proposed structural reorganization, assuming that all of the changes discussed in Sections Three, Four, and Five are implemented.

B. Graphics, Tables, and Page Format

Graphics

Illustrations, graphics, and tables should be used more frequently throughout the ordinance to explain complex standards and to summarize detailed information. The current ordinance contains only a few



Example of graphic used to clarify development standards

Summary Table – Dimensional Standards

Similarly, dimensional standards (setbacks, height, and others) for the various zoning districts currently are presented in narrative format in the same sections mentioned previously. We recommend that the revised ordinance contain a separate chapter devoted solely to dimensional standards, where a master summary table(s) can list such information for all districts, and rules of measurement may be presented alongside the summary tables. An example of a summary table of dimensional standards is included in Appendix C. Again, the planned districts may need to be treated differently. In addition, several code users felt that separate tables for the “obsolete” districts may be useful, since many parcels will retain these district designations possibly indefinitely. Separate reference tables would help users determine if they will need to rezone if they want to make major changes to their parcels.

Flowcharts

In addition to utilizing a new format and summarizing key information in tables, we recommend inserting flowcharts to illustrate all administrative procedures, as well as inter-relationships between procedures. This was a recurrent theme among users of the ordinance. The review processes, review bodies, and timelines were not clear and flowcharts would help immensely. An example of such a flowchart is included in Appendix D.

C. *Eliminate Repetition/ Improve Ordinance Language*

Throughout the drafting process, we will eliminate repetition wherever possible. There is much potential for streamlining in the Chesterfield Zoning Ordinance because many provisions are repeated numerous times, and also because key information is not presented in a succinct format. In addition to the various techniques described above (e.g., use of summary tables, consolidation of related information), we will identify and remove all redundant provisions to the extent possible under Missouri law. For example, street and parking lot lighting standards are repeated verbatim in each urban residential district. Also, there are still some sections that reference the St. Louis County Zoning Code and Map – language left over from when Chesterfield adopted its code from St. Louis County. These references have been identified by staff and will be corrected. Other corrections have been noted by staff and will be incorporated, such as updated district nomenclature throughout the code (e.g., “commercial” instead of “C district”).



Additionally, we will review all text in the ordinance and look for opportunities to provide greater clarity and reduce confusion. We will identify and wring out “legalese” and “plannerese” and replace with plain English sentences. As the staff and many users

noted, several sections (like signs and the E districts) are easily misinterpreted. We will work to ensure that everyone can understand the ordinance's language, from the individual landowner looking to expand his house to the large-scale developer interested in planning a new subdivision.

D. Other Techniques to Improve Structure and Format

In addition to revamping the ordinance's structure and formatting and including more graphics and illustrations, several other techniques will be necessary to improve the overall user-friendliness of the document. For instance, we will include a simple index that will provide quick access to key terms.

Several users also suggested moving the "obsolete" zoning districts out of the body of the new ordinance, such as to an appendix, for easy reference, to avoid confusion. Those districts are now intermingled with the current districts, which misleads code users.

The general goal of all these various techniques will be to ensure that information is presented in the simplest, most efficient, and most effective manner possible.

II. Incorporate New Material and Create Unified Development Ordinance

While the scope of the zoning ordinance update project does not include, at the city's direction, any substantive changes to land-development policy or regulation, there are some necessary text additions to be made to the Zoning Ordinance. In all cases, these additions reflect either the codification of current city policy or practice, or the incorporation of already-adopted ordinances into the revised code.

First, all ordinances adopted since 1997, which are currently attached to the back of the Chesterfield Zoning Ordinance, will be incorporated into the revised zoning ordinance. In addition, the Subdivision Ordinance will be folded in to make the Chesterfield Zoning Ordinance a unified development ordinance. Although we considered folding in the Tree Ordinance as requested by many interviewees, we currently recommend leaving it as a stand-alone ordinance, for reasons discussed in Section Five (Section-by-Section Review of the Tree Ordinance). We also recommend pulling some sections of the City Code into the ordinance, including some descriptions of review bodies and processes that are currently in Chapter 23 (Planning).

Other additions to be made to the code include several staff interpretations of code provisions and city land use policies that exist in written form but have yet to be codified, and portions of the Landscape Guidelines to be determined by staff.



III. Revise Use Classification System

The core of any zoning ordinance includes the zoning districts and the uses permitted within those districts. Based on our interviews and staff comments, there do not appear to be any serious problems with the overall current lineup of zoning districts, except for having the "obsolete" districts mixed in with the current ones, and some frustration with the negotiated process for the planned districts.

Chesterfield's use classification system, however, needs extensive revision. As noted above, currently the code lists all zoning districts and assorted uses (Sections 1003.101 through 1003.157) in a cumbersome and lengthy narrative format instead of summary tables. In addition, the current system contains uses that are not well defined, such as attention-getting devices, commercial retail, and fast food restaurants.

To make matters more difficult, some districts (notably the PC district) combine uses that may have different impacts into the same category (e.g., lodges are lumped together with theaters). As a result, if a developer wants to include only one of the uses in the category, the entire category of uses must be added and the unwanted uses are then crossed out.

Create General Use Categories

A better approach is to group similar uses in broad categories (e.g., residential, commercial, etc.) for ease of reference. Thus, we recommend creating a set of general "use categories," that will contain the existing, specific "use types." For example, the various business use types (e.g., barber shops, film drop-off stations, and bookstores) should be grouped into a general "Commercial Uses" category, which could be further subdivided in the future. Such a system will facilitate the drafting of regulatory provisions that apply to broad classes of uses and make the addition of new uses easier and more logical.



Eliminate Redundancy

Second, an effective step would be to eliminate redundancy wherever possible and improve organization. We recommend creating a summary use table (as described above), removing the various use lists from the individual district descriptions, and placing the consolidated table at the end of the chapter containing all districts. This enables users to locate quickly a particular use and also facilitates comparisons between districts. Most use-related standards would be consolidated into a new chapter, to be called "Use Regulations." The central feature of this chapter would be lists of all use-specific regulations that consistently apply to the same use. So, for example, all the conditions applying to local public utilities would be listed one time, in this section, and would have general applicability.

Accessory and Temporary Use Provisions

Finally, we suggest including all accessory use and temporary use provisions in the proposed new chapter containing use regulations, rather than having them be mixed throughout the ordinance, as is the case now. Currently, temporary structures and some temporary uses are mentioned in Section 1003.167, Miscellaneous Regulations, and permitted accessory uses are repeated in each zoning district. Only general use regulations will be pulled together into the new chapter; if a use regulation is specific to the zoning district, it will be left in the district regulations.



IV. Clarify the Development Review Process

According to feedback from the interviews, development review processes are not clear, in general and also specifically for the PC district. Many users would like to see flowcharts. Information regarding various review procedures is scattered throughout the code and some review bodies are not even mentioned in the text. We will organize all review process information in a more logical manner, which will facilitate further evaluation by staff and the preparation of user guides as needed by staff. We will also include descriptions of review bodies.

Section Three: Section-by-Section Review of Current Zoning Ordinance

This section identifies specific changes recommended in each section of the current zoning ordinance.

Below is a narrative describing which new chapter of the reformatted Unified Development Ordinance will contain each current section of the Chesterfield Zoning Ordinance. Table 3-1 follows this narrative and summarizes where each section of the current Zoning Ordinance will fit in the new structure. Table 3-2 is at the end of this Section Three and addresses the amendments set forth at the back of the existing code. It shows where each item will be located in the reformatted code.

Section 1003.010 Short Title

Section 1003.011 Purpose

These sections will go into a new *Chapter 1: General Provisions*.

Section 1003.020 Definitions

All definitions, including those from Sections 1003.020, and 1003.168A (Sign Definitions), plus those from the Subdivision Ordinance and any from recent ordinances, will be relocated to one chapter at the back of the new ordinance. Because definitions should be descriptive rather than regulatory, we will review all the definitions and remove any regulatory provisions, if any, to appropriate places within the main body of the ordinance. Graphics will be added for clarification as directed by staff, for example, to clarify sign definitions.



Section 1003.030 Establishment of Districts – Zoning Map

This section provides general background on the city's zoning districts and map and will be incorporated into the introduction of the new *Chapter IV: Zoning Districts*.

Section 1003.040 Interpretation and Extension of District Boundaries

Section 1003.050 District Regulations

These both will go into the new General Provisions chapter.

- Section 1003.105 “NU” – Non-Urban District Regulations**
- Section 1003.111 “R-1” – Residence District Regulations**
- Section 1003.112 “R-1A” – Residence District Regulations**
- Section 1003.133 “C-2” – Shopping District Regulations**
- Section 1003.135 “C-3” – Shopping District Regulations**
- Section 1003.137 “C-4” – Highway Service Commercial District Regulations**
- Section 1003.135 “C-7” – General Extensive Commercial District Regulations**
- Section 1003.135 “C-8” – Planned Commercial District Regulations**
- Section 1003.151 “M-1” – Industrial District Regulations**
- Section 1003.153 “M-2” – Industrial District Regulations**
- Section 1003.155 “M-3” – Industrial District Regulations**

These zoning districts have been identified as “obsolete” districts – no land can be rezoned to these zone districts. Staff has recommended using a term other than “obsolete” to describe these districts since parcels may remain zoned to any of these districts indefinitely. Based on feedback from interviews with ordinance users, we recommend placing these districts in an appendix at the back of the new ordinance. This will make them available for reference. They are currently mixed in with current districts, which is misleading to ordinance users. Also, separate summary use and dimension tables may be helpful for these “obsolete” districts, enabling landowners to determine quickly if what they want to do with their parcel will require a rezoning to a new district or a variance.

Section 1003.101 “FP” – Flood Plain District Regulations

This is an overlay district and will be carried forward into the new *Chapter IV: Zoning Districts*, in the overlay district section.

Section 1003.103 “PS” – Park and Scenic District Regulations

Section 1003.104 “AG” – Agricultural District

These districts can be considered “resource” districts, and will be relocated to the new *Chapter IV: Zoning Districts*, in the resource district section.



Clarion will significantly streamline all zoning districts by reformatting the lists of permitted and conditional uses into a summary table, as discussed previously. Also, we will simplify and streamline the use classification system, through such techniques as grouping all specific use types into general use categories, and making all use types consistent across districts. We also will summarize all dimensional requirements (e.g., lot size and setbacks) in easy-to-read summary tables that will appear in the new chapter regarding dimensional standards and measurements. We will include graphics requested by staff to clarify typical lot dimensions and terminology used (setback, easements, yards).

Section 1003.110 Urban Residence Districts Regulations

Part of this paragraph will be used as the "Intent and Purpose" section for each of the urban residence districts in the "Residential Districts" portion of the new zoning districts chapter.

- Section 1003.106 "LLR" – Large Lot Residential**
- Section 1003.107 "E-1" – Estate Residence District**
- Section 1003.108 "E-2" – Estate Residence District**
- Section 1003.109 "E-3" – Estate Residence District**
- Section 1003.113 "R-2" – Residence District Regulations**
- Section 1003.115 "R-3" – Residence District Regulations**
- Section 1003.117 "R-4" – Residence District Regulations**
- Section 1003.119 "R-5" – Residence District Regulations**
- Section 1003.120 "R-6A" – Residence District Regulations**
- Section 1003.120A "R-6AA" – Residence District Regulations**
- Section 1003.121 "R-6" – Residence District Regulations**
- Section 1003.123 "R-7" – Residence District Regulations**
- Section 1003.125 "R-8" – Residence District Regulations**

These districts will form the group of "Residential Districts" in the revised ordinance. Structural revisions will be the same as mentioned above for all zoning districts (e.g., reformatting of lists of permitted uses into a summary table). The Estate Districts need better illustrations to help clarify the lot dimensions and setbacks. Also, there are three process options available for each of the Estate districts, which would be referenced and moved to the new *Chapter III: Development Review Process and Appeals*. Chesterfield may combine the "E-1," "E-2," and "E-3" Districts into one section. If this change is adopted during the course of this project, it will be included in the reformatted document.

Section 1003.140 "PC" – Planned Commercial District

This planned district replaces all of the former commercial districts and any request for rezoning to a commercial district will be for the "PC" Planned Commercial District. This section will be placed in *Chapter IV: Zoning Districts*. As mentioned before, we will include the uses for this district (and the PI district below) in a summary use table, but we plan to utilize special symbols to indicate that the use may be allowed, but not automatically permitted, in these planned districts. Dimensional standards will be placed in a summary dimension table. Performance standards that are specific to this district (e.g., as amended by Ordinance 1747 which added several standards including open space and setback minimums) will be retained in this district. General standards that pertain to all districts will be moved to the new *Chapter VII: Development Standards*. Any procedures for creating or amending this district will be placed in the new *Chapter III: Development Review Process and Appeals*.



We received a large number of comments from developers about this district and the planned district process that address subjects and raise issues that are beyond the scope of this project. The comments are summarized in the last section of this document, Section Seven, "Additional Issues for Consideration by the City."

Section 1003.150 "PI" – Planned Industrial District

This planned district replaces all of the former industrial districts and any request for rezoning to an industrial district will be for the "PI" Planned Industrial District. This section will be placed in *Chapter IV: Zoning Districts*. Other revisions will be similar to those mentioned above for the PC District.

Section 1003.157 "MXD" – Mixed Use Development District Regulations

This district will be moved into *Chapter IV: Zoning Districts*. Again, structural revisions will be similar to those noted for the residential districts and the planned districts. A large part of this current MXD District is procedural and will be moved to the new *Chapter III: Development Review Process and Appeals*.



Section 1003.160 General Regulations

All generally applicable regulations will be placed in new sections entitled "Development Standards" or "Use Regulations." This Section 1003.160 is an applicability paragraph that will be included in these new chapters.

Section 1003.161 Air Navigation Space Regulations

Section 1003.163 Zoning Performance Standard Regulations

Section 1003.165 Off-Street Parking and Loading Regulations – General

Section 1003.165A Off-Street Parking and Loading Regulations – Commercial

Section 1003.165B Off-Street Parking and Loading Regulations – Cultural, Entertainment, and Recreational

Section 1003.165C Off-Street Parking and Loading Regulations – Industrial

Section 1003.165D Off-Street Parking and Loading Regulations – Institutional

Section 1003.165E Off-Street Parking and Loading Regulations – Open Space and Agriculture

Section 1003.165F Off-Street Parking and Loading Regulations – Residential

Section 1003.165G Off-Street Parking and Loading Regulations – Transportation, Communication, and Utilities

Section 1003.165H Minimum Loading Regulations

All of the above sections are development standards and will be moved into the new *Chapter VII: Development Standards*. The Air Navigation Space Regulations will have its own section, and will require more or better graphics, based on interviewee comments. Section 1003.163, Zoning Performance Standard Regulations (regarding noise, odor, etc.) will comprise another subsection of the new chapter. The sections regarding off-street parking and loading will go into one subsection of the new Development Standards chapter.

Section 1003.167 Miscellaneous Regulations

This chapter includes various unrelated provisions such as grading permits, corner lot setback requirements, and home occupations. The reorganized ordinance will eliminate the need for such a chapter by moving all material into new chapters that are thematically related (e.g., review procedures, zoning districts, use regulations). Each of the sections in this Section 1003.167 will be much easier to locate in the new structure, and its relationship to related provisions will be much clearer.

As part of this general reorganization, each item in this Section 1003.167 will be placed into the appropriate new chapter. For example, Item 2 deals with standards for all single-family dwellings and would be relocated into *Chapter V: Use Regulations* that will contain use-specific standards. Item 14 ("Plats to be consistent with plan") will move to the new *Chapter III: Development Review Process and Appeals*.

Section 1003.167A Area Regulations for Group Homes for the Developmentally Disabled

This section will be relocated to *Chapter V: Use Regulations* in the revised ordinance. The new chapter will contain all regulations that are use-specific. Staff has requested that a definition for this use be added to the definitions chapter.

Section 1003.168 Sign Regulations – General

Section 1003.168B Sign Regulations – Area and Height Computations

Section 1003.168C Sign Regulations – Permanent Signs

Section 1003.168D Sign Regulations – Temporary Signs and Attention Getting Devices

Section 1003.168E Sign Regulations – Exempt and Prohibited Signs

Section 1003.168F Sign Regulations – Nonconforming Signs



It is generally preferable to put sign regulations located with other development standards in order to have all standards in one place for ease of reference. However, because sign regulations are often lengthy and complicated with unique approval processes, they are sometimes pulled out and put in a separate chapter by themselves. Our current recommendation is to fold Chesterfield's sign regulations into the new *Chapter VII: Development Standards*. Ordinance users have noted that

clarification is needed for some of these regulations, and therefore Clarion will discuss with staff adding more graphics or editing text as required.

Section 1003.168A Sign Regulations – Definitions

This section regarding sign definitions was officially folded into the general definitions section by Chesterfield Ordinance 1524. We will implement that direction and consolidate all definitions in the new chapter designated for definitions.

Section 1003.170 Non-Conforming Uses, Lands, and Structures

These provisions will be rolled over into a chapter entitled *Nonconformities*. Staff has identified a minor substantive revision in this section that can be made easily. Paragraph 1, "Scope of provisions," has a confusing phrase in the last sentence that requires compliance with newly adopted standards, with the exception of "minimum lot area, yard, and setback requirements." This exception phrase could be interpreted to allow nonconforming uses to continue under prior regulations, which is very unusual and undercuts the philosophy of phasing out non-conforming uses. Our understanding is that staff currently disregards this exception phrase, and interprets nonconformities in the usual way, which would include these three items. We can remove this exception phrase to reflect current practice when we reformat the ordinance.



Section 1003.173 Trust Indentures and Warranty Deeds

This section would be relocated to *Chapter VII: Development Standards*.

Section 1003.177 Architectural Review Committee

This section establishes the Architectural Review Committee and will be placed in the new *Chapter II: Administration and Decision-Making Bodies*.

Section 1003.166 Review and Approval of Development Near City or County Parks

Section 1003.178 Development in Planned Commercial and Planned Industrial Districts

Section 1003.179 Site Plan Review Procedures

Section 1003.180 Special Procedures

Section 1003.181 Conditional Use Permit Procedure (CUP)

Section 1003.187 Planned Environment Unit Procedure (PEU)

Section 1003.189 Commercial-Industrial Designed Development Procedure (CIDD)

Section 1003.193 Appeal and Protest Procedure for Special Procedures

Section 1003.300 Procedure for Amending the Zoning Ordinance

The above sections all deal with various procedures and will be organized in a new chapter devoted to procedures – *Chapter III: Development Review Process and Appeals*.

Section 1003.182 Commercial Service Procedure (CSP)

Section 1003.191 Landmark and Preservation Area Procedure (LPA)

City staff members agree that these two sections act as overlay districts. These sections will be carried forward in the revised ordinance in the new *Chapter IV: Zoning Districts*, and structural revisions will be the same as those mentioned previously for

other zoning districts (e.g., procedures would be go into the chapter regarding procedures).

Section 1003.200 Administration, Enforcement, and Permits

Section 1003.410 Warnings, Summons and Penalty for Violations of Zoning Ordinance

The two sections above will be relocated to a new *Chapter X: Enforcement and Penalties*.

Section 1003.210 Fees

This section will be placed in *Chapter IX: Fees*.

Section 1003.420 Repeal of Conflicting Ordinances

Section 1003.425 Exclusions

We will move these two sections to *Chapter I: General Provisions*.

Table 3.1 below summarizes where each current section will be located in the reformatted code.

Table 3-1: Relocation of Chesterfield Zoning Ordinance Current Sections		
Section number and name		Location in reformatted ordinance
Section 1003.010	Short Title	Chapt. I: General Provisions
Section 1003.011	Purpose	
Section 1003.020	Definitions	Chapt. XI: Definitions
Section 1003.030	Establishment of Districts – Zoning Map	Chapt. IV: Zoning Districts
Section 1003.040	Interpretation and Extension of District Boundaries	Chapt. I: General Provisions
Section 1003.050	District Regulations	
Section 1003.101	“FP” – Flood Plain District Regulations	Chapt. IV: Zoning Districts
Section 1003.103	“PS” – Park and Scenic District Regulations	
Section 1003.104	“AG” – Agricultural District	

Table 3-1: Relocation of Chesterfield Zoning Ordinance Current Sections		
Section number and name		Location in reformatted ordinance
Section 1003.105	"NU" – Non-Urban District Regulations	Appendix: "Obsolete" Districts
Section 1003.111	"R-1" – Residence District Regulations	
Section 1003.112	"R-1A" – Residence District Regulations	
Section 1003.133	"C-2" – Shopping District Regulations	
Section 1003.135	"C-3" – Shopping District Regulations	
Section 1003.137	"C-4" – Highway Service Commercial District Regulations	
Section 1003.135	"C-7" – General Extensive Commercial District Regulations	
Section 1003.135	"C-8" – Planned Commercial District Regulations	
Section 1003.151	"M-1" – Industrial District Regulations	
Section 1003.153	"M-2" – Industrial District Regulations	
Section 1003.155	"M-3" – Industrial District Regulations	
Section 1003.110	Urban Residence Districts Regulations	Chapt. IV: Zoning Districts
Section 1003.106	"LLR" – Large Lot Residential	Chapt. IV: Zoning Districts
Section 1003.107	"E-1" – Estate Residence District	
Section 1003.108	"E-2" – Estate Residence District	
Section 1003.109	"E-3" – Estate Residence District	
Section 1003.113	"R-2" – Residence District Regulations	
Section 1003.115	"R-3" – Residence District Regulations	
Section 1003.117	"R-4" – Residence District Regulations	
Section 1003.119	"R-5" – Residence District Regulations	
Section 1003.120	"R-6A" – Residence District Regulations	
Section 1003.120A	"R-6AA" – Residence District Regulations	
Section 1003.121	"R-6" – Residence District Regulations	
Section 1003.123	"R-7" – Residence District Regulations	
Section 1003.125	"R-8" – Residence District Regulations	
Section 1003.140	"PC" – Planned Commercial District	Chapt. IV: Zoning Districts
Section 1003.150	"PI" – Planned Industrial District	
Section 1003.157	"MXD" – Mixed Use Development District Regulations	
Section 1003.160	General Regulations	Either Chapt. V: Use Regulations or Chapt. VII: Development Standards

Table 3-1: Relocation of Chesterfield Zoning Ordinance Current Sections

Section number and name	Location in reformatted ordinance
Section 1003.161 Air Navigation Space Regulations Section 1003.163 Zoning Performance Standard Regulations Section 1003.165 Off-Street Parking and Loading Regulations - General Section 1003.165A Off-Street Parking and Loading Regulations - Commercial Section 1003.165B Off-Street Parking and Loading Regulations - Cultural, Entertainment, and Recreational Section 1003.165C Off-Street Parking and Loading Regulations - Industrial Section 1003.165D Off-Street Parking and Loading Regulations - Institutional Section 1003.165E Off-Street Parking and Loading Regulations - Open Space and Agriculture Section 1003.165F Off-Street Parking and Loading Regulations - Residential Section 1003.165G Off-Street Parking and Loading Regulations - Transportation, Communication, and Utilities Section 1003.165H Minimum Loading Regulations	Chapt. VII: Development Standards
Section 1003.167 Miscellaneous Regulations	Various chapters
Section 1003.167A Area Regulations for Group Homes for the Developmentally Disabled	Chapt. V: Use Regulations
Section 1003.168 Sign Regulations - General Section 1003.168B Sign Regulations - Area and Height Computations Section 1003.168C Sign Regulations - Permanent Signs Section 1003.168D Sign Regulations - Temporary Signs and Attention Getting Devices Section 1003.168E Sign Regulations - Exempt and Prohibited Signs Section 1003.168F Sign Regulations - Nonconforming Signs	Chapt. VII, Development Standards - Signs
Section 1003.168A Sign Regulations - Definitions	Chapt. XI: Definitions
Section 1003.170 Non-Conforming Uses, Lands, and Structures	Chapt. VIII: Nonconformities
Section 1003.173 Trust Indentures and Warranty Deeds	Chapt. VII: Development Standards
Section 1003.177 Architectural Review Committee	Chapt. II: Administration and Decision-Making Bodies

Table 3-1: Relocation of Chesterfield Zoning Ordinance Current Sections		
Section number and name		Location in reformatted ordinance
Section 1003.166	Review and Approval of Development Near City or County Parks	Chapt. III: Development Review Process and Appeals
Section 1003.178	Development in Planned Commercial and Planned Industrial Districts	
Section 1003.179	Site Plan Review Procedures	
Section 1003.180	Special Procedures	
Section 1003.181	Conditional Use Permit Procedure (CUP)	
Section 1003.187	Planned Environment Unit Procedure (PEU)	
Section 1003.189	Commercial-Industrial Designed Development Procedure (CIDD)	
Section 1003.193	Appeal and Protest Procedure for Special Procedures	
Section 1003.300	Procedure for Amending the Zoning Ordinance	
Section 1003.182	Commercial Service Procedure (CSP)	Chapt. IV: Zoning Districts
Section 1003.191	Landmark and Preservation Area Procedure (LPA)	
Section 1003.200	Administration, Enforcement, and Permits	Chapt. X: Enforcement and Penalties
Section 1003.410	Warnings, Summons and Penalty for Violations of Zoning Ordinance	
Section 1003.210	Fees	Chapt. IX: Fees
Section 1003.420	Repeal of Conflicting Ordinances	Chapt. I: General Provisions
Section 1003.425	Exclusions	

Amendments

The table on the following pages lists the amendments set forth at the back of the current Chesterfield Zoning Ordinance. The table shows the ordinance number (or other identifying information if it is not an ordinance), a short description, and where the item will be incorporated into the new reorganized ordinance.

Table 3-2: Relocation of Chesterfield Zoning Ordinance Amendments		
Appendix item or ordinance no.	Description of item	Location in reformatted ordinance
Appendix A	Development Options Diagrams for Estate Districts	Chapt. IV: Zoning Districts
Appendix B	Sky Exposure Plane	Chapt. VI: Dimensional Standards
Resolution 230	Recognizing Policy Recommendations Made During the Moratorium	Chapt. I: General Provisions
1300	Outdoor advertising structures	Chapt. V: Use Regulations
1402	Amends Section 1003.140, PC district: include cemeteries	Chapt. IV: Zoning Districts
1503	Disclose information relative to local noise impact	Chapt. VII: Development Standards – Airport noise
1524	Consists of several housekeeping changes and some substantive items. Some items are listed below:	See each item below.
	Multiple changes to definitions; moves sign definitions to the general definitions section	Chapt. XI: Definitions
	Corrects some references to St. Louis County	Throughout ordinance
	Several changes to “obsolete” districts	Appendix
	Replaces old accessible parking space requirements with reference to 1996 BOCA Natl Bldg Code book	Chapt. VII: Development Standards – Off-Street Parking
	Adds item 20 Home Occupations to the Misc Regulations section	Chapt. V: Use Regulations
	Several revisions to sign sections	Chapt. VII: Development Standards – Signs
	Edits Section 1003.178 to include Senior Residence District with PC & PI in procedures described	Chapt. III: Development Review Process and Appeals
1551	Revises sign regulations	Chapt. VII: Development Standards
1555	Amends Section 1003.150 PI district – include dry cleaning drop-off and pick-up stations	Chapt. IV: Zoning Districts; also need to add definition to definitions chapter

Table 3-2: Relocation of Chesterfield Zoning Ordinance Amendments		
Appendix item or ordinance no.	Description of item	Location in reformatted ordinance
1636	Amends Section 1003.167 Misc Adds traffic studies	Chapt. III: Development Review Process and Appeals
1678	Amends Section 1003.140 Section 6 – PC District – adds office development standards	Chapt. IV: Zoning Districts (PC District)
1684	Amends Section 1003.167 Misc – adds Power of Review	Chapt. III: Development Review Process and Appeals
1725	Amends Section 1003.300 Procedure for Amending Ordinance and adds telecomm sleeves to 1003.167 Misc	Chapt. III: Development Review Process and Appeals and Chapt. VII: Development Standards
1737	Amends several districts – changes uses for PC & PI, changes E districts procedures	Chapt. V: Use Regulations and Chapt. III: Development Review Process and Appeals
1747	Amends Section 1003.140 PC district – adds retail development performance standards	Chapt. IV: Zoning Districts (PC District)
1819	Amends Section 1003.187 PEU procedure	Chapt. III: Development Review Process and Appeals
1828	Amends Section 1003.020 Definitions to incl FAR, greenspace and tree stand	Chapt. XI: Definitions
1829	Amends various procedures to require FAR, greenspace & tree stand info on prelim & site plans	Chapt. III: Development Review Process and Appeals
1848	Amends Section 1003.167 Misc – amends grading permits in item 10	Chapt. V: Use Regulations with cross-reference in relevant districts and special procedures
1849	Amends Section 1003.167 Misc – amends item 16 permits for amusement devices and activities	Chapt. V: Use Regulations – Temporary Uses section
1850	Adds Section 1003.190 Landmarks Preservation Commission reference	Chapt. II: Administration and Decision-Making Bodies

Section Four: Section-by-Section Review of Subdivision Ordinance

The subdivision ordinance will be integrated with zoning into a unified development ordinance for ease of reference. The same principles discussed regarding the reorganization of the zoning ordinance will apply.

Section 1005.010 Short Title

Section 1005.020 Purpose

Section 1005.405 Parcels of Land Created by Court Order

Section 1005.410 Preliminary Plat Approval of a Subdivision Prior to Adoption of Ordinance

The new *Chapter I: General Provisions* will have the above subdivision information placed in sections corresponding to the same topics.

Section 1005.030 Approval of Subdivision Plats

Section 1005.035 Parcels of Land Recorded Without Required Approvals

Section 1005.050 Sketch Plans

Section 1005.060 Preliminary Plans

Section 1005.070 Improvement Plans

Section 1005.080 Improvements Installed or Guaranteed

Section 1005.085 Acceptance of Final Approval

Section 1005.090 Record Plat

Section 1005.140 Vacation of Subdivision

The above sections will be relocated to a "subdivision" section of the new *Chapter III: Development Review Process and Appeals*.

Section 1005.040 Definitions

These definitions will be incorporated into the main definitions chapter.

Section 1005.095 Trust Indentures

This item will go into the subdivision portion of the development standards chapter.

Section 1005.130 Minor Subdivision

Part of this section is a definition of "minor subdivision" and will be added to the definitions chapter. The majority of this section discusses procedures and will be placed in *Chapter III: Development Review Process and Appeals*.



Section 1005.135 Large Lot Subdivision

Most of this section is related to development standards and will go into the subdivision section of *Chapter VII: Development Standards*.

- Section 1005.145 Subdivision Design Standards**
- Section 1005.150 Single Family Residential Lot Design Standards**
- Section 1005.155 Multiple Family Subdivision Design Standards**
- Section 1005.160 Non-Residential Subdivision Design Standards**
- Section 1005.170 Pedestrian Ways and Common Land Access for Maintenance**
- Section 1005.180 Street Standards**
- Section 1005.185 Stormwater Standards**
- Section 1005.190 Street Names**
- Section 1005.210 Easements**
- Section 1005.220 Test Boring**
- Section 1005.230 Grading**
- Section 1005.240 Improvements**
- Section 1005.265 Disclosure of Responsibility for Street Maintenance**
- Section 1005.250 Survey Monuments**
- Section 1005.260 Street Improvements**
- Section 1005.270 Sidewalks**
- Section 1005.280 Water Mains**
- Section 1005.290 Storm Sewers**
- Section 1005.300 Sanitary Sewers**
- Section 1005.310 Street Signs**
- Section 1005.320 Street Lighting**
- Section 1005.330 Underground Wiring for Subdivisions**
- Section 1005.340 Landscaping**

All of the sections above (1005.145 through 1005.340) are development standards and will be included in the subdivision section of *Chapter VII: Development Standards*.

- Section 1005.350 Dwelling Unit Display Plat Procedure**
- Section 1005.360 Boundary Adjustments – Exceptions**
- Section 1005.380 Variances**
- Section 1005.385 Appeal Procedures**
- Section 1005.390 Administration**

These sections are procedural in nature, and will be moved to the subdivision section of the new *Chapter III: Development Review Process and Appeals*.



Section 1005.370 Subdivision Review Fees

We will transfer this section into *Chapter IX: Fees* in the new unified development ordinance.

Section 1005.400 Violations and Penalties

This section will be carried over into the new *Chapter X: Enforcement and Penalties* in a section for subdivisions.

Section Five: Section-by-Section Review of Tree Ordinance

The tree ordinance was added by Ordinance 1777 to the Chesterfield City Code as Chapter 27.5, "Trees." We would usually bring the tree regulations into the development standards chapter of a reorganized ordinance, since many communities require the same permit for tree removal as for any other kind of development. In those situations, combining the tree ordinance with other development ordinances is straightforward. However, Chesterfield currently requires a completely separate type of permit for tree removal and it is not clear how well this tree ordinance can be integrated into the rest of the zoning ordinance. Our current recommendation is to leave the tree ordinance as a separate document with very clear cross-references to it in the subdivision and zoning district and development standards as well as in the procedure chapter, so that it is very obvious when a tree permit is required. Several people commented on this lack of cross-referencing in our interviews.



If staff feels strongly that the tree ordinance should still be incorporated into the unified development ordinance, we have included below a rough diagnosis of the ordinance. Further review and discussion with staff is required to determine the feasibility of combining the current tree regulations with the other development regulations. Chesterfield also has a Tree Manual that is distributed to the public, which contains "Standards and Specifications for Tree Preservation." These guidelines would not be codified at this time, but would be referred to in the regulations.

In the discussion of the tree ordinance below, we have included two different section numbers, because the Tree Manual (which is distributed to the public) contains Ordinance 1777 instead of Chapter 27.5 as the ordinance reference at the back of the manual. Hence, we list section numbers for both versions of the ordinance. The first section number listed below is the section number in Chapter 27.5 (Trees) of the city code and the second number in parentheses is the section number used in Ordinance 1777, which is in the Tree Manual.

Section 27.5.1 (1777.2) Definitions

If the tree ordinance were combined with the zoning ordinance (See discussion above.), these definitions would be moved to the general definitions chapter.

-
- Section 27.5.2 (1777.3) Applicability**
 - Section 27.5.3 (1777.4) Public Trees**
 - Section 27.5.7 (1777.8) Preservation Requirements on Construction Site**
 - Section 27.5.8 (1777.9) Exemptions**
 - Section 27.5.11 (1777.12) Mitigation Plan**

These sections would be part of the new tree subsection of the development standards chapter.

- Section 27.5.4 (1777.5) Permit Requirements for Tree Removal**
- Section 27.5.5 (1777.6) Application Contents**
- Section 27.5.6 (1777.7) Application Procedure**
- Section 27.5.9 (1777.10) Special Conditions**
- Section 27.5.10 (1777.11) Application for Special Conditions**
- Section 27.5.13 (1777.14) Appeal**
- Section 27.5.12 (1777.13) Tree Preservation Account**

These provisions would be grouped, if possible (see discussion above in the introduction to this Section Five), with other procedures in the chapter on Approval and Review Procedures.



Section 27.5.14 (1777.15) Administration and Enforcement

Section 27.5.15 (1777.16) Penalty for Violation

These sections would be added to the general enforcement chapter under the topic of tree regulations.

Section Six: Annotated Outline of Revised Unified Development Ordinance

This annotated outline provides an overview of the proposed structure of the new unified development ordinance if modifications agreed to during review of Sections Two, Three, Four, and Five are implemented in code form. The purpose of this annotated outline is to allow the reader to examine the overall structure of the proposed revised unified development ordinance, without getting bogged down in the actual wording of each provision and to give the consultants clear direction prior to drafting. The specifics will be presented in the draft unified development ordinance to be developed after review and discussion of this diagnosis and outline.

This annotated outline divides the unified development ordinance into a few major chapters, as opposed to the many sections in the current code. Most importantly, it attempts to organize the materials into more logical chapters by grouping provisions that will be used together or that relate to one another. The chapters proposed for Chesterfield's revised unified development ordinance include:

- Table of Contents
- I. General Provisions
- II. Administration and Decision-Making Bodies
- III. Development Review Process and Appeals
- IV. Zoning Districts
- V. Use Regulations
- VI. Dimensional Standards and Measurements
- VII. Development Standards
- VIII. Nonconformities
- IX. Fees
- X. Enforcement and Penalties
- XI. Definitions
- Index

The revised unified development ordinance will have a detailed table of contents, index, and appropriate appendices.

The following pages discuss this general outline in detail. General commentary is included, where appropriate, to explain the purpose or rationale behind certain sections.

I. General Provisions

This chapter will contain important general provisions that are relevant or apply to the development ordinance as a whole, such as title, authority, and purpose and intent. Some of these provisions currently are located in Sections 1003.010 and 1003.011 in the zoning ordinance and in Sections 1005.010 and 1005.020 in the subdivision

ordinance. We will note any items that are not represented that we feel should be considered in future substantive revisions by the city.

II. Administration and Decision-Making Bodies

- A. City Council
- B. Planning and Zoning Committee
- C. Planning Commission¹
- D. Architectural Review Committee
- E. Department of Planning
- F. Architectural Review Board
- G. Board of Adjustment²
- H. St. Louis County Department of Public Works (for building permits)
- I. Chief of Police
- J. Department of Public Works
- K. Landmarks Preservation Commission

This chapter will clarify the different roles of the review and decision-making bodies in the zoning and land development review and approval process. Provisions such as these help establish clear lines of authority in the city's decision-making procedures.

These provisions currently are located in several sections, including Section 1003.177, "Architectural Review Committee," and Section 1003.190 which refers to the Landmarks Preservation Commission and was added by Ordinance 1850, but has not been incorporated yet. Several items from the Chesterfield City Code should be placed in this chapter, such as the description of the Board of Adjustment in Chapter 2 (Article VII, Division 2) and the Planning and Zoning Commission information in Chapter 23 (Article II). We will include cross-references as necessary to those sections of the city code that would remain separate from the development ordinance, but should be noted. For example, Article III in Chapter 23 explains the role of the Landmarks Preservation Commission.

III. Development Review Process and Appeals

- A. General Provisions
- B. Amendments to the Zoning Ordinance
- C. Rezoning
- D. Use Permits
- E. Development Review

¹ The Chesterfield City Code refers to this body as the "Planning and Zoning Commission." However, current practice in the city is to call this review body the "Planning Commission," since the city council review committee is the "Planning and Zoning Committee."

² The current Chesterfield Zoning Ordinance refers to this body as the "Board of Zoning Adjustment" in Sections 1003.040, 1003.200, and other locations. This will be corrected in the revised unified development ordinance.

-
1. Development in Planned Commercial and Planned Industrial Districts
 2. Site Plan Review Procedures
 3. Development near City and County Parks
 4. Planned Environment Unit Procedure (PEU)
 5. Commercial-Industrial Designed Development Procedure (CIDD)
- F. Building Permits
 - G. Conditional Use Permits
 - H. Certificate of Occupancy
 - I. Sign Permits
 - J. Appeals
 - K. Variances
 - L. Subdivision

This chapter will contain all of the revised unified development ordinance's review and appeals procedures. These procedures currently are located mostly in Sections 1003.166, 178-180, 187, 189, 193 and 300. The subdivision procedures are located in the Subdivision Ordinance and the sign permit procedures are located in Section 1003.168-168F.

The first section, General Provisions, will contain requirements generally applicable to all procedures. To the extent that we can locate such provisions in the current zoning and subdivision ordinances, they will be put into this new section.

The development review section will contain the variety of procedures currently used in Chesterfield including but not limited to development near city or county parks, planned district procedures, and the Planned Environment Unit Procedure.

IV. Zoning Districts

- A. Table of Permitted Uses
- B. Resource Districts
 1. Park and Scenic District (PS)
 2. Agricultural District (AG)
- C. Residential Districts
 1. Large Lot Residential (LLR)
 2. Estate Residential (E-1, E-2, E-3)
 3. Urban Residential Districts (R-2, R-3, R-4, R-5, R-6A, R-6AA, R-6, R-7, R-8)
- D. Commercial District (PC)
- E. Industrial District (PI)
- F. Mixed Use Development District (MXD)
- G. Overlay Districts
 1. Floodplain District (FP)
 2. Commercial Service Procedure (CSP)
 3. Landmark and Preservation Area Procedure (LPA)

This chapter will set forth several categories of zone districts: residential, commercial, and other. Purpose statements for each district will be located here as well as any district-specific standards.

Under our proposed organizational scheme, this chapter will begin with a master use table that shows which uses are allowed in which zoning districts. The table will depict whether a use is: (1) permitted as a matter of right, (2) permitted as a matter of right, subject to specific standards, (3) allowed only if reviewed and approved as a conditional use, or (4) not allowed. As mentioned previously, the planned districts (currently PC and PI) may require a special symbol to indicate that the use is allowed, but not guaranteed in each planned district. See an example of this type of use table in Appendix B.

V. Use Regulations

- A. Use-Specific Regulations
- B. Accessory Uses and Structures
- C. Temporary Uses and Structures

This section will contain all of the special standards and requirements that apply to individual (principal) use types listed in the use table. The standards could apply to uses regardless of whether they are permitted as a matter of right or permitted conditionally. Some use-specific requirements are currently scattered throughout the zone district lists of uses and will be consolidated into this chapter. The communications facilities and systems provision, which Ordinance 1214 adds to the city's zoning ordinance, is an example of a use-specific regulation that will be housed in this chapter.

The second and third sections will contain all of the code's accessory and temporary use provisions to be relocated from various places in the current code. For example, Section 1003.167 contains a provision regarding several temporary uses (amusement devices/activities, Christmas tree lots, and temporary sales yards).

VI. Dimensional Standards and Measurements

- A. Table of Dimensional Standards
- B. Measurements and Exceptions

Under our proposed approach, applicable zoning district dimensional standards such as height and setbacks will be presented in a table or series of tables near the beginning of this chapter. We will likely present the standards in two separate tables, one table for residential and one table for non-residential standards. See an example of this type of table in Appendix C.

The second section will contain descriptions of all measurements used in the summary table, such as minimum lot areas and setbacks. The section also will spell out any exceptions to compliance with the dimensional standards. We will incorporate official interpretations made by city staff as needed.

VII. Development Standards

A. Zoning Standards

1. Landscaping and Buffering
2. Off-Street Parking and Loading
3. Signs
4. Lighting
5. Operational Performance Standards (e.g., noise)
6. Air Navigation Space Regulations

B. Subdivision Standards

1. Subdivision Design Standards
2. Single Family Residential Lot Design Standards
3. Multiple Family Subdivision Design Standards
4. Non-Residential Subdivision Design Standards
5. Pedestrian Ways and Common Land Access for Maintenance
6. Street Standards
7. Stormwater Standards
8. Street Names
9. Easements
10. Test Boring
11. Grading
12. Improvements
13. Disclosure of Responsibility for Street Maintenance
14. Survey Monuments
15. Street Improvements
16. Sidewalks
17. Water Mains
18. Storm Sewers
19. Sanitary Sewers
20. Street Signs
21. Street Lighting
22. Underground Wiring for Subdivisions
23. Landscaping
24. Trust Indentures

The chapter will include zoning-related regulations and development standards and subdivision design standards that are not unique to zoning districts or individual uses. The list above is tentative; additional topics may be identified as we edit other chapters of the code in detail.

VIII. Nonconformities

- A. Nonconforming Uses
- B. Nonconforming Structures
- C. Nonconforming Parcels/Lands
- D. Nonconforming Signs

The provisions of Section 1003.170 will be relocated to this new chapter in addition to other nonconformity provision from other areas, such as signs.

IX. Fees

- A. Zoning
- B. Subdivision

The fee information in Section 1003.210 of the zoning ordinance and Section 1005.370 of the subdivision ordinance will be transferred into this chapter.

X. Enforcement and Penalties

- A. Zoning
 - 1. General
 - 2. Violations
 - 3. Penalties
- B. Subdivision
 - 1. General
 - 2. Violations
 - 3. Penalties

The provisions of Section 1003.200 and Section 1003.410 will be relocated to this new chapter and information from the subdivision ordinance will be included.

XI. Definitions

This chapter will contain the definitions located in Section 1003.020 of the current zoning ordinance. It will also include the sign regulations definitions from Section 1003.168B. The city had already begun the process of moving the sign definitions into the general definitions with Ordinance 1524 – we will complete that process now. Subdivision definitions will also be brought into this chapter as well as any definitions contained in the recent ordinances that are currently attached at the back of the zoning ordinance. We will include and define any standard terms as needed. Some uses may need to be defined (e.g., group homes for developmentally disabled and dry cleaning

drop-off/pick-up stations). Graphics will be incorporated to clarify definitions identified by staff.

Other definitions that may be added include definitions for major and minor amendments. These are mentioned in several procedures and the determination of "major" and "minor" is currently made by the planning director. Clarion has not yet found definitions of these terms. Staff input is needed regarding whether these terms are already defined elsewhere and can be codified or if definitions do not exist yet, in which case this would be a substantive issue for future consideration if desired.

Index

The new unified development ordinance will include a brief index of key terms.

Section Seven: Additional Issues for Consideration by the City

During the course of conducting the interviews, several additional substantive issues arose that we would like to bring to the city's attention. These issues go beyond the agreed-upon scope of this project, and are offered with the intent of alerting the city to areas where future study and revisions to the unified development ordinance would appear to be warranted. The current issues are as follows, in no particular priority:

1. Planned districts

We received many comments from developers regarding the planned commercial district. Although there were mixed feelings (some people acknowledged that they might get more flexibility with the current process), the majority of developers we interviewed were very frustrated with the highly negotiated process currently used and would prefer more clear development standards. Another concern was that the negotiated process lengthens the review time.



The strength of the negotiated planned district process is that it allows the city to secure a high level of development quality, although quality can vary from site-to-site. We have found in other jurisdictions that development standards can help make the review process smoother and reduce the amount of negotiation required. One example of Chesterfield adopting clear development standards is the performance standards for retail development for open space and other items added to the Planned Commercial District via Ordinance 1747 (currently attached at the back of the code and not yet folded into the main code body). These standards also have a provision that provides flexibility. We recommend that this approach be taken more frequently in the future.

2. Development Standards

One of the most significant issues surrounding the zoning ordinance is that of substantive development standards (e.g., landscape standards, design guidelines). Some of the most significant development requirements appear in the landscaping guidelines and in the design guidelines. We are informed that the landscaping guidelines are routinely applied in a regulatory fashion. If so, the city should seriously consider codifying them. With respect to the current design guidelines, if they are to be codified, the language would need to be clarified and made more certain. There are also other areas of substantive development standards such as stream setbacks that appear in many modern ordinances that the city should consider incorporating.

3. Categorization of new uses

The process for categorizing new uses that are not listed in the zone districts is unclear. The planning director reportedly informally categorizes new uses based on similarities

to existing listed uses. In many jurisdictions, this authority is codified with guidelines to assist the planning director in this task.

4. Parking

Several developers commented that shared parking regulations are restrictive and somewhat difficult to interpret (Section 1003.165.5(8)). Many jurisdictions have liberalized shared parking arrangements to help reduce size of parking lots and impervious cover. Chesterfield may wish to consider these options.

5. Devolving authority to staff

Some interviewees commented that the staff should be given more authority to make development decisions (e.g., site plan details). This would allow the Planning and Zoning Committee and Planning Commission to focus on policy versus development details. There is a clear trend nationally to delegate more decision-making authority to staff.

Miscellaneous minor issues:

a. Role of fire marshal

The role of the fire marshal in approval of plans is not clear. The fire marshal is currently not mentioned in the zoning ordinance.

b. Information access for users

Several items were mentioned in the interviews regarding information access:

- Notify users of code updates in a timely manner.
- Publicize availability of the city's award-winning project database on the city's website. This is very new, and several users were not aware of this option.
- Allow viewing of application status for departments other than the planning department. Staff has already discussed this option with the Public Works Department, and Public Works is favorably inclined and will explore.

c. Municipal Code Online version

The version of the Chesterfield Zoning Ordinance currently online through the Municipal Code Online company has some discrepancies noted by staff when compared to the hard copy version distributed to the public.

d. Senior Residence District

References to the Senior Residence District (SR District) have been added to Section 1003.178 (Development in Planned Commercial, Planned Industrial, and Senior Residence Districts) via Ordinance 1524, attached at the back of the current code. However, a description of the SR District, including purpose and permitted uses, has not been added to the code yet.

Appendix A: Examples of Page Formatting Techniques

Henderson, Nevada, Zoning Ordinance

9. Off-Street Parking Area Screening

Off-street parking areas shall be screened in accordance with the standards of Sec. 19.9.2.

O. Loading Area Design

Required off-street loading spaces (See Sec. 19.9.1-B and 19.9.1-D) shall not be located within a building, but shall be on the site of the use served or on an adjoining site. On a site adjoining an alley, a required loading space shall be accessible from the alley unless alternative access is approved by the Traffic Engineer. A required loading space shall be accessible without backing a truck across a street property line unless the Traffic Engineer determines that provision of turn-around space is infeasible and approves alternative access. An occupied loading space shall not prevent access to a required off-street parking space. A loading area shall not be located in a required setback. In addition, street side loading docks shall be set back at least 70 feet from the street property line or 110 feet from the street center line, whichever is greater. No loading bay may intrude into any portion of a required aisle or access dimension. Loading areas visible from a street shall be screened on 3 sides by a solid, decorative fence, wall, or hedge at least 6 feet in height.

Sec. 19.9.2/ Landscaping and Screening

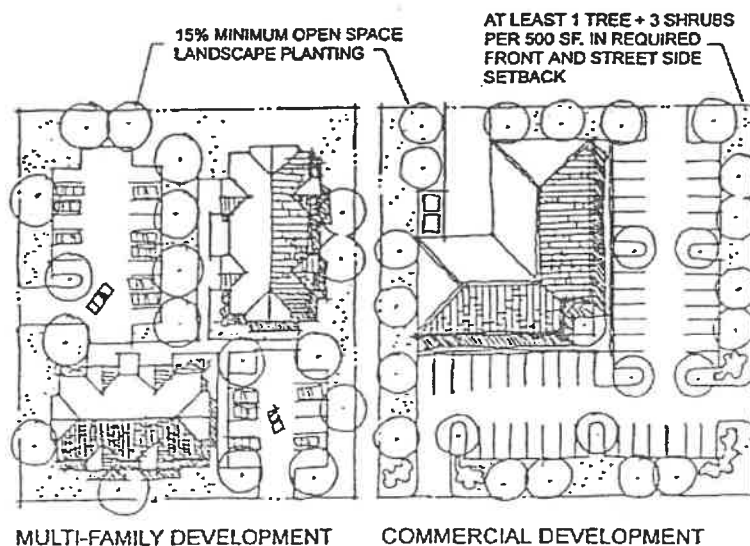
This section sets out the minimum landscaping, buffering and screening requirements for development within the City of Henderson.

A. Open Space Landscaping

1. Landscape Planting Area

Open Space Landscape planting area shall be provided in accordance with the following schedule of requirements:

Minimum Open Space Landscaping Requirement by Zoning District (Percent of Lot)										
CN	CO	CC	CH	CT	CA	IL	IG	IP	SP	Multi-Family and Nonresidential Uses in R Districts
15	15	15	15	20	15	15	15	15	15	15



Open Space Landscaping Requirements

Appendix B: Example of Summary Use Table

Cary, North Carolina, Draft Unified Development Code
Longmont, Colorado, Land Development Code

5.1.2 Table of Permitted Uses – General Use Districts (Except TC)

TABLE 5.1-1: TABLE OF PERMITTED USES – GENERAL USE DISTRICTS (EXCEPT TC)																
P = Permitted Use; S = Special Use (in accordance with Section 3.8)																
USE CATEGORY	USE TYPE	RESIDENTIAL							NONRESIDENTIAL						Use-Specific Stds	
		R-80	R-40	R-20	R-12	R-8	T-R	R-M-F	R-R	O-I	G-C	C-T	O-R-D	I		
RESIDENTIAL USES																
Group Living	Dormitory										P	P		P	5.2.1(C)	
	Group home	P	P	P	P	P	P	P							5.2.1(D)	
	Life care community						S	S			P			S	5.2.1(E)	
	Nursing home						S	S			P	S		S	5.2.1(G)	
Household Living	Boarding house		S/P	S/P	S/P	S/P	S/P						S/P		5.2.1(A)	
	Caretaker's residence													P	P	5.2.1(B)
	Detached dwelling	P	P	P	P	P	P						P			
	Duplex dwelling						P	P								
	Manufactured home	P	P	S												
	Manufactured home park															
	Mobile home															
	Multi-family dwelling							P								5.2.1(F)
	Patio dwelling						P	P								5.2.1(H)
	Residential use in commercial building										S		P	S		5.2.1(I)
	Semi-detached/attached dwelling						P	P								
	Townhouse						P	P								5.2.1(K)

TABLE 5.1-1: TABLE OF PERMITTED USES – GENERAL USE DISTRICTS (EXCEPT TC)
 P = Permitted Use; S = Special Use (in accordance with Section 3.8)

USE CATEGORY	USE TYPE	RESIDENTIAL							NONRESIDENTIAL						Use-Specific Stds
		R-80	R-40	R-20	R-12	R-8	T R	R M F	R R	O I	G C	C T	O R D	I	
PUBLIC/INSTITUTIONAL USES															
Aviation	Airport/landing strip														S
	Heliport									S					S
Cemetery		S	S	S	S	S	S	S		S	S		S	S	
Day Care	Child day care center	S	S	S	S	S	S	S		P	S	P	S	5.2.2(B)	
	Day care home, large	S	S	S	S	S	S	S				P		5.2.2(B)	
	Day care home, small	P	P	P	P	P	P	P				P		5.2.2(B)	
Government Services	Governmental offices	S	S	S	S	S	S	S	P	P	P	P	P	P	
	Public safety station	P	P	P	P	P	P	P	P	P	P	S	P	P	
	Public utility facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	
Hospital	All									P	P		P		
Library	All		S	S	S	S	S	S		P	P		P		
Museum	All		S	S	S	S	S	S		P	P		P		
Park and Open Space	Athletic field, public	P	P	P	P	P	P	P	P	P	P	P	P	P	5.2.2(A)
	Community garden	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Outdoor amphitheater, public		S	S	S	S	S	S	S	S	S		S	S	
	Park, public	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Neighborhood recreation center, public	P	P	P	P	P	P	P	P	P	P	S	P	P	5.2.2(D)

J. Table 15.04-A: Table of Permitted Principal Uses by Zoning District

TABLE 15.04-A: TABLE OF PERMITTED PRINCIPAL USES																
P = Permitted By-Right		C = Conditional Use				L = Limited Review				Blank Cell = Prohibited						
USE CLASSIFICATION & SPECIFIC PRINCIPAL USES	ZONING DISTRICT														Additional Regulations (Apply in All Districts Unless Otherwise Stated)	
	EB1	EB2	R1	R2	R3	MF	RLE	RMD	MD.O	G	GR	CBD	BLI	MI		G1
A. Residences & Other Living Accommodations <i>Includes places where people live—what people would identify as their place of residence. Does not include commercial, transient types of living accommodation such as hotels or motels.</i>																
Affordable housing	P	P	P	P	P	P	P	P	P	L		P	L			3; C & BLI: 2, 29
Boarding, rooming houses				L	P				L	P		P				
Family-care homes	P	P	P	P	P	P	P	P	P			P				13
Group-care homes	C	C	C	P	P		C	C	P	P		P				13; RLE & RMD: 28
Group-care institutions				L	P				L	P		P				13
Halfway houses										C		C				13, 24
Mobile home parks						P										19
Mobile home subdivisions						P										19
Multifamily dwellings (5 or more dwelling units)				P	P		C			C		P				RLE: 28; C: 2; 29
One-family dwelling	P	P	P	L	L		P	P				L				19; R2, R3, CBD: 2, 29
Residential rehabilitation facility									C	C		C				13, 24
Townhome dwelling				P	P		C	C				P				RLE & RMD: 28
Two-, three- and four-family dwellings				P	P		C	C				P				RLE & RMD: 28
Urban dwelling units:																
1. 25 du/acre or less										L		P	L	L		29, 31
2. More than 25/du acre										C		C	C	C		29, 31
B. Consumer Goods and Services <i>Businesses that offer items for sale to the general public or services to the general consumer. These are the retail and service outlets used by residents to keep their households operating. **Operation of all principal uses shall be conducted primarily inside an enclosed structure unless otherwise specified in this Use Table 15.04-A**</i>																
Automobile service station										L	L	C	C	L	L	16, 24; BLI: 2; 30; §15.05.080.N
Bed and breakfast establishments				C	L		C	C		P		P				4; R2 & R3: 2
Car wash										L		C		L	P	16, 24, 30; §15.05.080.N
Commercial Shopping Center											C					7, 8, 24

CHAPTER 15.04: Use Regulations
 Section 15.04.010: Principal Permitted Uses by Zoning District

TABLE 15.04-A: TABLE OF PERMITTED PRINCIPAL USES																	
P = Permitted By-Right C = Conditional Use L = Limited Review Blank Cell = Prohibited																	
USE CLASSIFICATION & SPECIFIC PRINCIPAL USES	ZONING DISTRICT															Additional Regulations (Apply in All Districts Unless Otherwise Stated)	
	E1	E2	R1	R2	R3	MH	RLE	RMD	MD-O	C	CR	CBD	BLI	MI	GI		P
Copy shops and printing services, including typesetting										P		P	L	P			Excluding publishing, binding, and engraving
Day-care centers				L	P		C	C	L	P	L	P	L	L	C		RLE & RMD: 28; BLI, MI & GI: 9, 29; CR: 8
Day-care home	P	P	P	P	P	P	P	P		P		P					C & CBD: in residential use only
Financial Institutions										P	L	P	L	P	L		11; BLI: 9; GI: 9, 29
1. Financial Institutions--Off-site, drive-up facility not located on same lot as principal use										C		C	C	L	L		11, 24; BLI: 2, 9; GI: 9, 29
2. Financial Institutions--Automatic teller machines (ATMs)										P	L	P	P	P	P		Off-site, drive-up ATM facility not located on same lot as principal use requires limited use review & compliance with 11 and 24; CR: 8, 11
Funeral homes				C	C					P		L		L			R2 & R3: 14
Gasoline sales in conjunction with other uses										L		C	C	L	L		15, 16, 24; BLI: 2, 30; §15.05.080.N
Hardware, building materials, retail nursery or garden stores										P/C	C	P/C		L/C			Conditional use approval required if use is 25,000 or more sq. ft. (gross floor area); 8, 18, 24; CR: 7, 8
1. With outdoor storage or display														C	P		22, 23, 24
Hotels, motels									C	P	C	P	C	L			17, 24; BLI: 30; CR: 8; MI: 29
Kennels															C		

Appendix C: Example of Summary Table of Dimensional Standards

Cary, North Carolina, Draft Unified Development Code
Greenville, South Carolina, Draft Unified Development Code

CHAPTER 6: DIMENSIONAL STANDARDS AND MEASUREMENTS

6.1 TABLES OF DENSITY AND DIMENSIONAL STANDARDS

All primary and accessory structures shall be subject to the density and dimensional standards set forth in the following tables. These standards may be further limited or modified by other applicable sections of this Ordinance. Rules of measurements and exceptions are set forth in Sections 6.2 through 6.5.

6.1.1 Residential Districts (not including TC District)

(A) Table of Density and Dimensional Standards

Density and dimensional standards for the residential districts are set forth in the following table. These standards may be further limited or modified by other applicable sections of this Ordinance (e.g., streetscape buffer requirements), or by actual site conditions (e.g., presence of roads on side or rear lot lines). Additional regulations, referenced in italicized brackets, are set forth immediately following the table.

TABLE 6.1-1: TABLE OF DENSITY AND DIMENSIONAL STANDARDS - RESIDENTIAL DISTRICTS							
Use	Minimum Lot Dimensions		Minimum Building Setbacks (Ft) <i>(NOTE: These setbacks are minimums; streetscape and buffer width standards may require greater setbacks.)</i>			Height (Ft)	Max Gross Density (du/acre)
	Area (Sq Ft)	Width (Ft)	Roadway	Side	Rear		
R-80: Residential District							
With septic tank/well	80,000	175 (185 for corner lot)	From thoroughfare: 50 From collector street: 30 From all other streets: 20	20	30	35	---
With public sewer		150 (160 for corner lot)		15			
R-40: Residential District							
With septic tank/well	40,000	150 (160 for corner lot)	From thoroughfare: 50 From collector street: 30 From all other streets: 20	20	30	35	---
With public sewer		125 (135 for corner lot)		15			
R-20: Residential District							
All uses and structures	20,000 ³⁵	90 (100 for corner lot)	From thoroughfare: 50 From collector street: 30 From all other streets: 20	10	25	35	---
R-12: Residential District							
All uses and structures	12,000	80 (90 for corner lot)	From thoroughfare: 50 From collector street: 30 From all other streets: 20	10	25	35	---

³⁵ R-20 lots that were platted before September 29, 1994, may have a minimum lot size of 15,000 square feet.

Chapter 6: Dimensional Standards and Measurements
Sec.6.1 Tables of Density and Dimensional Standards

TABLE 6.1-1: TABLE OF DENSITY AND DIMENSIONAL STANDARDS - RESIDENTIAL DISTRICTS							
Use	Minimum Lot Dimensions		Minimum Building Setbacks (Ft) <i>(NOTE: These setbacks are minimums; streetscape and buffer width standards may require greater setbacks.)</i>			Height (Ft)	Max Gross Density (du/acre)
	Area (Sq Ft)	Width (Ft)	Roadway	Side	Rear		
R-8: Residential District							
All uses and structures	8,000	60 (70 for corner lot)	From thoroughfare: 50 From collector street: 30 From all other streets: 20	10	20	35	---
TR: Transitional Residential District							
Detached single-family dwellings	6,000	60 per dwelling unit	From thoroughfare: 50 From collector street: 30 From all other streets: [1]	16 total; only one required	From thoroughfare or collector street: 10 [2]	35	---
Patio dwellings	---	20 per dwelling unit	From thoroughfare: 50 From collector street: 30 From all other streets: [1]	16 total; only one required	From thoroughfare or collector street: 10 [2]		6
Duplexes	---	50	From thoroughfare: 50 From collector street: 30 From all other streets: [1]	Between building groupings: 16 total Interior side setbacks between buildings: 0 [need illustration]	From thoroughfare or collector street: 10 [2]		6
Subdivided attached, semi-attached, & townhouse developments	---	20 per dwelling unit	From thoroughfare: 50 From collector street: 30 From all other streets: [1]	---	From thoroughfare or collector street: 10 [2]		6
All other uses	---	70 (80 for corner lot)	From thoroughfare: 50 From collector street: 30 From all other streets: [1]	10	20	35	---
RMF: Multi-Family Residential District							
Subdivided attached, semi-attached, patio dwelling, and townhouse developments	---	20	From thoroughfare: 50 From collector street: 30 From all other streets: [1]	Between building groupings: 16 total Interior side setback between buildings: 0	40, split any way between roadway and rear setbacks	35	12
All other residential uses		60 (70 for corner lot)					
Non-residential uses	10000	60 (70 for corner lot)	From thoroughfare: 50 From collector street: 30 From all other streets: 20	10, plus an additional four feet for each full story	20	35	12

CHAPTER 5: DIMENSIONAL STANDARDS AND MEASUREMENTS

5.1 TABLE OF DIMENSIONAL STANDARDS

All primary and accessory structures shall be subject to the intensity and dimensional standards set forth in the following table. These standards may be further limited or modified by other applicable sections of this Ordinance. Additional regulations, referenced in italicized brackets, are set forth immediately following the table. Rules of measurements and permitted exceptions are set forth in Section 5.2.

	Minimum Lot Area (Sq. Feet)	Minimum Lot Width (Feet)	Minimum Yard Requirements (feet)			Maximum Lot Coverage (percent)	Maximum Height Of Structure s (feet)
			Front	Side	Rear		
RESIDENTIAL DISTRICTS							
RS Districts							
Residential uses	9000 (RS-9) 6000 (RS-6)	60 (RS-9) 40(RS-6)	20 feet (or average of front setbacks of existing houses on block, if less than 20 feet)	10 percent of the average width of the lot (but not less than 5 feet or more than 10 feet),	20	40	40
Accessory dwelling (detached)			N/A	Same as principal structure	10		
Accessory structures			N/A	5	3		
Nonresidential uses			20	15	20		
RM Districts							
All structures	6000 sq ft <i>Maximum Density for Multi-Family Developments (no minimum lot area is required):</i> 14 units/acre (RM-14) 24 units/acre (RM-24)	<i>Single- family detached dwellings:</i> 40 <i>Other buildings:</i> 20	20	10	20	40	40
NONRESIDENTIAL DISTRICTS							
OI District							
All structures	<i>High rise apartments:</i> 1 acre <i>All other residential uses: for the first dwelling unit 6,000 square feet and, for each additional unit, 2,000 square feet</i> <i>All other structures and uses: 6000 sq ft</i>	<i>High rise apartments:</i> 150 feet <i>All other uses and structures:</i> No minimum	15 on all street fronts	5	20	50	?
CN	No minimum required, except as needed to meet other requirements		12 on all street fronts	5	20	25	35
CL	No minimum required, except as needed to meet other requirements		12 on all street fronts	5	20	50	40
CC	No minimum required, except as needed to meet other requirements		12 on all street fronts	5	20	50	?

TABLE 5.1-1: TABLE OF DIMENSIONAL STANDARDS

	Minimum Lot Area (Sq. Feet)	Minimum Lot Width (Feet)	Minimum Yard Requirements (feet)			Maximum Lot Coverage (percent)	Maximum Height Of Structure s (feet)
			Front	Side	Rear		
UC	No minimum required, except as needed to meet other requirements					100	?
S	No minimum required, except as needed to meet other requirements		25 on all street fronts	15	25	50	40
I	No minimum required, except as needed to meet other requirements		25 on all street fronts	15	25	50	40
PLANNED DEVELOPMENT DISTRICT							
All structures	With the exception of fulfilling the requirements of Section 3.4, dimensions are not regulated within PD districts, but the Planning Commission and City Council shall ascertain that the characteristics of building siting shall be appropriate as related to structures within the planned development and otherwise fulfill the intent of this district.						
OVERLAY DISTRICTS							
OS-C District							
All structures	The Planning Commission must approve a land development plan for the property. See Section 3.6.2.						
Corridor Overlay District							
All structures	No minimum required, except as needed to meet other requirements		Minimum of 10 feet, comply with 50-191	Zero or 3 feet except as necessary to comply with minimum buffers and landscaping and unless contiguous to residentially zoned property, which would then be 25 feet	Same as side, except residentially contiguous property would be 10 feet. In no case shall a building be permitted closer than 10 feet of a street right-of-way.		

5.2 LOTS

5.2.1 Definitions/Measurement

(A) **Lot Area**

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site. Public rights-of-way shall not be included in calculating lot size, except where specifically allowed by this Ordinance.

(B) **Lot Width**

Lot width refers to the horizontal distance between side lot lines. Lot width shall be measured as the distance between the side lot lines as measured at

Appendix D: Example of Flow Chart for Review Processes

Henderson, Nevada, Zoning Ordinance

B. Public Hearing Notice

Notice of public hearings on Development Code text Amendments shall be published and posted in accordance with the requirements of Sec. 19.2.1-E.

C. Community Development Director Review and Report

The Community Development Director shall review each proposed Development Code text amendment in light of the Approval Criteria of Sec. 19.2.3-F and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development Director shall provide a report to the Planning Commission.

D. Planning Commission Review and Recommendation

The Planning Commission shall hold at least one public hearing on the proposed Development Code text amendment and at the close of the public hearing make a recommendation to the City Council, based on the Approval Criteria of Sec. 19.2.3-F.

E. City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall act to approve, approve with conditions, or deny the proposed Development Code amendment, based on the Approval Criteria of Sec. 19.2.3-F.

F. Approval Criteria

Recommendations and decisions on Development Code Text Amendments shall be based on consideration of all of the following criteria:

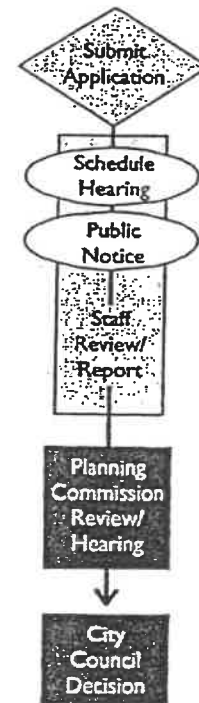
1. whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend or fact;
2. whether the proposed amendment is consistent with the *Comprehensive Plan* and the stated purposes of Sec. 19.1.4;
3. whether the proposed amendment will protect the health, safety, morals or general welfare of the public; and
4. whether the proposed amendment will result in significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife and vegetation.

G. Appeals

Appeals of the City Council's decision on Development Code Text Amendments shall be made to the courts, as provided by law.

H. Successive Application

Following denial of a Development Code text amendment request, no new application for the same or substantially the same amendment shall be accepted within 1 year of the date of denial, unless denial is made without prejudice.



Development Code Text Amendments

LAND USE DEVELOPMENT ORDINANCE CRITIQUE

INTRODUCTION

This report reviews the City of Chesterfield's Zoning Ordinance and Subdivision Ordinance. In addition, applicable sections of the Design Criteria for the Preparation of Improvement Plans book were reviewed. The purpose of this critique is to identify problems within these documents prior to a comprehensive rewrite of the regulations.

Two sources provided the information for this report. First, our firm completed a thorough reading of all the documents. Questions and/or concerns with the regulations were documented at the time of discovery to ensure they would not be overlooked or forgotten. Second, our reconnaissance visit to Chesterfield supplied information from citizens, developers, officials, and other groups. People, especially officials and the development community, that deal with the codes on a regular basis, offer insight one may not be able to perceive simply through reading the documents.

The report is broken down into four sections. First, we identify major problems. These problems are of sufficient severity to warrant separate analysis; these analyses will follow in subsequent Issue Papers. Second, we discuss the ordinance's organization. This section also contains a discussion on how computers may enhance the ordinances. Third, we report on the regulation's technical shortcomings in terms of standards and administration. Finally, we analyze the codes from the user's perspective. This final exercise's intent is to insure the ordinance is "user friendly".

MAJOR PROBLEMS IN CHESTERFIELD

Two major problems with the regulations were discussed during our reconnaissance visits: community character and discretionary decision-making. Again, complete analyses of these issues will follow in subsequent Issue Papers. However, their importance and pertinence to this report warrants a brief mention.

Community Character

Nearly everyone with whom we met agreed on one element -- Chesterfield's character is a central goal. Granted, everyone did not always agree on *what* the future character should be. The term community character encompasses life style, land use implications, public facilities, and design considerations. While some concerns were over community or neighborhood character, others focused on narrow elements of character such as signs or land use transitions. This finding did not come as a surprise; nearly every zoning dispute we have witnessed across the nation shares at least one common element -- fear that the proposed land use will alter, for the worse, the community character.

Our review revealed that the current Chesterfield code offers little protection of community character. In the non-urban classification (NU), pursuant to a conditional use, building a

development decidedly urban in character is quite possible. Despite seven commercial classifications (districts), little difference in the final character would result from using one district over another. In some cases, no standards are available to influence character. In other cases, the standards simply do not affect character.

The notion of community character does not imply uniformity across the community. During the reconnaissance, at least four different character types were found within Chesterfield's boundaries. Several more types may exist which were not observed. Community character is based on the notion that most land uses can be designed in such a manner that a variety of character can be achieved. Because a use's character may be controlled by design standards, zoning districts that permit a range of uses can still provide uniform character. Such organization permits a sharper focus on transitions between character types that occur at zoning boundaries.

The Issues Paper will seek to educate people on different types of character and the elements that make up that character, articulate citizens' concerns, and evaluate implementation methods.

Discretionary Decision-Making

In looking at the ordinances and discussions with citizens and staff, it became clear that the vast majority of Chesterfield's development was the result of either approval of a planned district or a conditional use. Such approvals are discretionary. While some very broad policy guidelines may exist, the City's decision-makers have great latitude to attach conditions as well as approve or deny. Chesterfield's discretionary zoning approach contrasts many communities in which the development occurs as a permitted use (by right zoning) in a district. In a by right district, the review is limited to review against fixed measurable standards.

The current administration of the ordinance, with a very heavy reliance on discretionary reviews, results in adversarial hearings on nearly every project. The current process has caused significant distrust of staff and decision-makers by both developers and citizens – an unenviable situation for the City. Because discretionary procedures are a form of negotiation, applicants, citizens, and officials all take conflicting positions. They do so not because they are acting in bad faith, but because the first rule of negotiation is to bargain from a position from which it is possible to settle on an acceptable outcome. The negotiation itself breeds further distrust. As a result, on each application each party seems to "draw a line in the sand." Losers, developer or citizens, seek to lay the blame on someone else.

From a planning perspective, discretionary decision-making leads to inconsistent results. Each public hearing sparks different levels of citizens' interest and varying presentation quality. This form of application process is the most costly, not only for staff, but for citizens and developers; it encourages micro-managing developments and ever-increasingly detailed reviews. In addition, the process is time consuming and uncertain for all parties. Under such conditions a developer's planners cannot draw the plans and assure the client that they will be approved, such uncertainty is undesirable.

The alternative system relies upon performance standards. Each element against which a plan should be reviewed has established standards. A developer knows what is expected and

citizens, staff, and officials can review the plan to determine if the standards are met. Reviews are streamlined because levels of performance are determined with precision and not subject to discretion.

A recent series of U.S. Supreme Court cases¹, while affecting all communities, has direct consequences for those communities that rely heavily on discretionary approvals. In *First English*, the Court indicated that regulatory takings, including temporary takings, could occur and that local governments would have to pay compensation. *Nollan* and *Dolan* dealt with exactions demanded during discretionary approvals. The rules established in these cases have profound implications for discretionary approval processes. While some hold to this narrow scope of judicial interpretation, arguably *Lucas* indicates that the Court may well extend their rulings to all forms of regulation. In any event, cities, such as Chesterfield, that rely on discretionary approvals for the majority of development approvals are most vulnerable. Further, there are signs that Chesterfield may have, on occasion, over-reached in attaching conditions to approvals. Examples cited include trying to require a brick facade on a gas station as a condition of a minor plat change or requiring tree surveys to protect trees – actions not backed by the Ordinance. The main thing that saves the City from litigation is that developers must continue to do business in Chesterfield and fear punitive action on subsequent applications.

ORDINANCE ORGANIZATION

Current Organization

The current zoning ordinance was organized around stand-alone discussions of each zoning district. Each district section attempts to include all information pertaining to that district: scope of provisions; permitted land use and developments; conditional land use and development permits issued by the Commission; accessory land uses and developments; performance standards; height limitations for structures; minimum lot area requirements; development limitations; minimum yard requirements; off-street parking and loading requirements; and sign regulations. As a result of this attempt at thoroughness, much information is unnecessarily repeated. Confusion often results rather than a clearer sense of what is required. Users cannot easily determine the difference (if any) between the requirements from one district to another and, as a result, the purpose of the various districts.

Originally, when there were fewer regulations, this district organization was probably quite successful; it allowed a "one-stop shop" of information. Interested parties did not have to be concerned that regulations, "hidden" in another section, were being overlooked. Everything one needed was contained within one or two pages. Today, however, with numerous additions and amendments (new definitions, land uses, standards, etc.), this structure has created a maze of requirements. The one or two pages have grown in length to three, four, or even five pages per district amid a mix of repeated lists, standards, and referrals to other sections where standards common to many districts are contained (see **Excessive and Unnecessary Repetition**).

¹ *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304 (1987); *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); *Lucas v. South Carolina Coastal Council*, 505 U.S. (1992); and *Dolan v. City of Tigard*, (1994).

Topical Organization

An alternative to district organization is a structure in which an interested party searches not by district, but by major topical area. These topical areas serve as organizational elements with a comprehensive presentation of that subject for each district. For example, a single section presents all the information concerning uses: permitted, conditional, or prohibited for each district. Typical sections are titled district purpose, land use, standards, etc. The present ordinance has some sections organized in this fashion – parking and environmental standards. One advantage of topical organization is the ease of use; standards may be compiled in to easy-to-read summary tables, such as uses, setback and dimensional standards, parking requirements, and sign standards. This compilation eliminates repetitive wording saving time and money. Given Chesterfield's 25 districts, at least 30 pages of text could be replaced with permitted, conditional, and accessory use tables alone.

A typical arrangement by performance standard is as follows:

1. Purpose. This section describes the ordinance's purpose.
2. Zoning Districts. This section defines each district's purpose. Each district must have a distinct purpose. Without a clear and definitive purpose, one may question the necessity of the particular designation (see **TECHNICAL CONCERNS, Excessive Amount of Zoning Districts**).
3. Use Regulations. This section explains the particular land uses allowed in each district according to permitted, conditional, or accessory use.
4. District Intensity and Bulk Standards. This section provides the lot standards for each district.
5. Landscaping Requirements. Within this section, tables and/or text communicates the requirements for bufferyards, general landscaping, parking lots, streets, etc.
6. Parking, Loading, Signs, Lighting. Within this section, interested parties find the remaining requirements for each particular district. Specific information includes parking dimensions, parking surfaces, sign and light standards, etc.
7. Organization and Enforcement. This section contains various commissions, authorities, and rules of interpretation.
8. Nonconformities. This section describes the purpose, definition, and particular types of uses that do not conform to the current ordinance yet existed prior to the ordinance's adoption date.
9. Definitions. This section defines words in order to clarify regulations and/or avoid misinterpretations.

10. Legal Section. This section contains such information as the ordinance effective date, judicial review, and potential penalties.

One may contend that, with the district organization, an interested party would not overlook requirements, however the are sufficient standards or material contained in other chapters so that considerable searching is needed. The topical organization, uses summary tables, so that it can be seen at a glance whether the regulation applies.

Excessive and Unnecessary Repetition

The first problem with the current structure is the continued repetition of identical or near identical regulations. The use discussions are often nearly identical; many pages are repeated nearly verbatim. A single table would be easier to use and take less space.

The list of permitted uses also contains standards that are repeated. For example, any time a local public utility facility is a permitted use ("NU" district, every "R" districts, and every "C" district except C-7 and C-8) the following text appears:

- (X) Local public utility facilities, provided that any installation other than poles and equipment attached to the poles, shall be:
 - (a) Adequately screened with landscaping, fencing, or walls, or any combination thereof; or
 - (b) Placed underground; or
 - (c) Enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted to the Department of Planning for review. No building permit or installation permit shall be issued until these plans have been approved by the Department of Planning.

Parts a, b, and, c could be presented in a section having standards for particular uses. The paragraph following these standards is better placed in a procedure section.

Because the current ordinance has several sections topically organized, for example off-street parking requirements and sign regulations (numbers 8 and 9 of each respective subsection), these sections become regularly repeated references. In addition, one must turn to another section for the information:

- 8. *Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 1003.165, "Off-Street Parking and Loading Requirements."
- 9. *Sign Regulations.* Sign regulations are set forth in Section 1003.168, "Sign Regulations." (Ord. No. 520 Section 1, 11-19-90; Ord. No. 538, Section 1, 12-17-90).

A better system has a section devoted to only parking, loading, signs, and/or lighting. Within this section, summary tables describe the specific requirements for each district. Each table is often contained in only one page. The result is a clearer and more comprehensible development code (see **Topical Organization**).

The subsections titled "Maximum density, maximum height, and minimum yard requirements for nursing homes," and "Maximum density, maximum height, and minimum yard area for residential substance abuse treatment facilities" found in the "NU" Non-Urban District regulations and every residential district regulations are another example of unnecessary replication. However, combining these specific types of land uses (and any other closely related) into an institutional land use category would greatly simplify the issue. In addition, because each of these descriptions takes at least one-half page, almost five pages of dense text may be condensed into one easy-to-read table (see **Topical Organization**).

Finally, unnecessary replication is found in the permitted, conditional, and accessory use lists that accompany each district. Sometimes a page and a half in length, these lists vary from one to the next often only by one or two additions. Granted, the uses (however allowed) in the commercial districts differ significantly from those in the residential; yet, within commercial districts, often little variation exists. For example, the list of permitted uses in "C-3" differs from that in "C-2" only by the following additions: car washes for automobiles; filling stations for automobiles; restaurants (no type limit). Even then, these uses are allowed with a conditional use permit in the "C-2" district. This example also argues for a reduced number of zoning districts (see **TECHNICAL CONCERNS, Excessive Amount of Zoning Districts**).

Definitions

When preparing a unified development code the definition sections of the ordinances should be combined. However, there are problems. Particular words may appear in two or even three codes with different definitions (see **Appendix 1**). The task is determining which is better for the City. Consider the definitions for "street":

Zoning Ordinance: A paved public or private vehicular right-of-way which provides access to abutting properties from the front.

Subdivision Ordinance: A general term denoting a public or private way which affords the principal means of vehicular access of abutting property. the term includes all facilities which normally occur within the right-of-way; it shall also include such other designations as highway, thoroughfare, parkway, throughway, road, pike, avenue, boulevard, land, place, court, but shall not include an alley or a pedestrian way.

Design Criteria: A public or private thoroughfare which affords the principal means of access to abutting property, including all facilities which normally occur within the right-of-way. The term shall also include such other designations as highway, thoroughfare, parkway, throughway, road, pike, avenue, boulevard, land, place, court, but shall not include an alley or a pedestrian way. The pavement

requirements for private streets shall be the same as public streets except that special roadway sections may be used for drainage and perpendicular parking.

The "street" definition also raises a concern found in several definitions -- a hierarchy of definitions. In the Subdivision Ordinance, for instance, the definition of street is followed by eight sub-definitions including collector, cul-de-sac, frontage or service, loop, major (arterial), minor, multiple-family access, and private. Design Criteria includes access, arterial, collector, cul-de-sac, dead end (no outlet), frontage or service, local access, loop, minor, multi-family access, private, and public. On the other hand, the Zoning Ordinance only includes a definition for street. Other instances in which definitions are made more specific (with three or more subclasses) are found in Table 1.

Table 1. Definitions Further Divided to Provide More Specification (three or more divisions only)			
definition	Zoning Ordinance	Subdivision Ordinance	Design Criteria
accessory	3 subclasses	none	none
dwelling	7 subclasses	none	none
easement	none	6 subclasses	14 subclasses
entrance	none	none	2 subclasses
lot	3 subclasses	6 subclasses	5 subclasses
plan	none	none	5 subclasses
street	defined	9 subclasses	12 subclasses
subdivision	none	6 subclasses	6 subclasses
yard	4 subclasses	none	none

Some definitions do not make sense with the regulations. Section 1003.101.9, number 1.a states that a golf course must have a minimum of 5 acres. However, the definition of golf course states, "An area or course for playing golf, consisting of at least nine (9) holes . . ." A safe assumption is seven acres *per hole*. Therefore, either the definition requires modification or the particular standard.

BOCA Building Code definitions conflict with the three ordinances as well. Consider the BOCA definition for "structure": That which is built or constructed or a portion thereof. However, the Zoning Ordinance has the following definition: Any assembly of material forming a construction for occupancy or use, excepting, however, utility poles and appurtenances thereto, underground distribution or collection pipes or cables, and underground or ground level appurtenances thereto. The Design Criteria definition is similar to that found in the Zoning Ordinance while the Subdivision Ordinance has no definition for the word.

Staff has suggested, and we also recommend, considering Standard Industrial Classification (SIC) codes for definitions. Many jurisdictions are switching to such a classification/definition scheme because of the precision and uniformity such codes offer. As a federal classification system there is clear support for its use. Most employers are required to report their code making enforcement easier.

Interwoven Standards and Definitions

We found numerous instances in which definitions were interwoven among standards sections. Such practice creates confusion among users. For instance, Section 1005.155 "Multiple-family subdivision design standards," number 1.a states, "A multiple-family residential subdivision may consist of only one parcel of land or may include separate lots for one or more multi-family buildings or may include separate lots for each dwelling unit." Such a description belongs in the definition section, not with standards.

Another case is in Section 1005.265.1, ". . . For the purpose of this section, 'prospective purchaser or tenant' includes any person making inquiry of any responsible party with respect to purchase, rental, or lease of a dwelling unit or non-residential facility." Such verbiage, even though applicable "for the purpose of this section" belongs in a definition section and, ideally, would not be unique to a single section.

Finally, some sections contain a definition upon certain conditions. Section 1005.110.2 states, "Whenever there is a tract or previously subdivided parcel under single ownership which is to be resubdivided into two (2) lots, and which exists as a legal lot of record, such a division . . . shall be designated as a 'lot split' if the following conditions are met: . . ." Section 1005.130.1 states, "A subdivision shall be considered a minor subdivision if the division or redivision of land does not establish more than four (4) lots wherein all the following criteria are met: . . ." In this last case, the language is part definition, part approval criteria.

Cases, although not many, were also noted in which standards were found among definitions. For example, Section 1003.020.74 "Parking space." states, "A durably, dust-proofed, properly graded for drainage, usable space, enclosed in a main building or in an accessory building, or unenclosed, reserved for the temporary storage of one vehicle, and connected to a street, alley, or other designated roadway . . ." Such parking requirements belong in their own section. Another example, in Section 10.10 (Design Criteria), the definition for streets (118) states, ". . . The pavement requirements for private streets shall be the same as public streets except that special roadway sections may be used for drainage and perpendicular parking."

Procedures

Procedures for submitting the proper plans, or filing an application for a conditional use or variance are (as mentioned above) better in a separate section. In this manner, an interested party can turn to the procedure section and find all the necessary information on how to, for example, submit a preliminary plan. Currently, while the codes do have such a section, many procedures are strewn throughout the standards. Section 1005.180 "Street Standards" is a case-in-point. Letter (l), number (1) describes the conditions upon which a variance may be granted.

The Computerized Zoning Ordinance (CZO)

CZO organizes codified ordinances beyond those techniques described above or to be discussed below. The software is a text and graphic retrieval system designed to maximize user efficiency. By simply typing in the desired key words, or selecting from pre-established topics, zoning districts, land uses, or any combination of the three, CZO automatically selects all sections of the code that meets the query. Therefore, by selecting the search mode, the user may organize data by zoning district, land use, or general topic – a truly flexible organization. Note that CZO does not automatically create a "user-friendly" organization, especially in the code's printed form. If a code makes little sense (organizationally) in its current state, the same code will make little sense when entered into the computer. One should review the needs of different users, professionals, and citizens.

When amending ordinances, regardless of organization type, human error is possible – especially by oversight. With CZO, however, users will never overlook another regulation or requirement. CZO provides all related references *instantly*. No more hours lost thumbing through hundreds of pages of documents searching for that last reference or related standard.

Consider the citizen or business that may want very specific information. Today, the citizen purchases a copy of the ordinance. Often times, the ordinance makes no immediate sense to someone who has no training or familiarity with zoning. Therefore, the citizen seeks assistance from a staff planner. With CZO, receptionists can find all the data to answer a query on, for example, fences or satellite dishes and print it out.

Yet CZO is not just for planner's sake. A copy of the ordinance (up to 400 pages and over 20 full-color graphics) can be distributed on a single standard 3 1/4" computer diskette. Now a planning agency no longer must become a printing press any time someone requests a copy of the ordinance. By simply copying the distribution version, attorneys, developers, real estate agents, or any other interested party can have a working copy of CZO. CZO also allows users to print or fax certain sections of the code. Users may even access CZO via a modem. In fact, CZO may be installed at the public library or other information center.

Finally, CZO can perform numerous functions above a typical text/graphic retrieval system. Precise full-color illustrations can be incorporated into the text increasing comprehension of more difficult concepts.

TECHNICAL CONCERNS

Numerous technical concerns were discovered during our research and reconnaissance. First, we questioned the number of zoning districts. Second, particular regulations lack substantive standards. Third, Chesterfield has two development options available, planned development and density development, when only one is needed. And finally, we have several concerns from an administrative standpoint.

Excessive Amount of Zoning Districts

We believe Chesterfield would benefit greatly from a reduced number of zoning districts. The rationale behind any particular district is its purpose. Without a distinct purpose, little justification for the district exists. Consider the "C-2" Shopping Districts regulations, Section 1003.133.1. "Scope of Services":

... The "C-2" Shopping District encompasses areas wherein may be located such stores and service facilities as will provide a wide range of goods and services usually used, consumed, or needed in the home or by individuals. *It is the purpose of these regulations to facilitate the establishment of conditions suitable for the operation of small businesses catering to the general public* (emphasis added).

The ironic part about this passage and preceding text is that it is exactly the same for the "C-3" Shopping District regulations, Section 1003.134.1. When considering permitted land uses, "C-3" allows car washes for automobiles, fillings stations for automobiles, and relaxes the limits on the types of restaurants and standards for advertising signs.

The individual residential districts have *no* purpose statement. An overall purpose, encompassing "Urban Residence Districts," was provided:

... It is the purpose of these regulations to encourage the creation and maintenance of stable and enduring residential communities by establishing limitations on the size and character of development of land so as to take advantage of, or to avoid conflicts with natural topography, existing developments, arrangements and location of existing or planned community facilities, and social needs of the community.

Such a purpose offers an excellent starting point. However, individual districts should serve a more specific purpose. If the only difference is to allow differing densities, providing a range of densities within fewer districts will accomplish similar objectives. In addition, fewer districts creates easier administration. Given the current structure, the slightest change in the desired density requires a rezoning. Blurring the distinctions between character types occurs because the differences between the zoning districts are too small. Rather than change districts to adapt to the topography, a better approach provides districts with flexible standards that allows a developer to work with the land.

In addition to being unique, the purpose of a district must be clear. Consider the "NU" Non-Urban District regulations, Section 1003.107.1:

... The "NU" Non-Urban District of the City of Chesterfield encompasses areas within which rough natural topography, geological conditions, or location in relation to urbanized areas creates practical difficulties in providing and maintaining public roads, and public or private utility services and facilities. The "NU" Non-Urban District also encompasses areas where specific potential development patterns have not been identified or where significant non-urban uses have been established.

Given this wording, one may question the intent of the "NU" district. On one hand, the district may be a holding zone for future development, a residential area, or an area to protect natural resources. As a holding zone the area would remain non-urban until such time that the

demands of development required additional land. On the other hand, the district may truly desire to maintain a non-urban character via three acre residential.

While we believe Chesterfield has too many zoning districts, concerns were voiced for a district between the "NU" density and "R-1" (three acre and one acre lots, respectively). This concern was largely a need to find a compromise between those who sought to preserve the current character and those who believed "NU" was simply a holding zone. Some also expressed that institutional uses have a zone of their own rather than always being conditional uses.

Lack of Substantive Standards

The lack of substantive standards are a problem in Chesterfield. Citizens and developers, as well as some officials, expressed concern that decisions are not consistent. Any time standards are lacking, distrust is a likely outcome. In Chesterfield, situations have arisen in which the lack of standards has allowed a wide range of possible decisions, inviting doubt and suspicion. Adversarial hearings result. In some cases, officials seem inclined to the "I can't tell you what the standard is but I'll know it when I see it" approach; the recent controversy about vegetative signs and awning signs is an example. This form of evaluation is not conducive to good planning.

The U.S. Supreme Court's recent rulings² has made Chesterfield, as well as other communities relying on discretionary reviews, susceptible to litigation. The courts require both a rational nexus³ between the standard and a public purpose, and a rough proportionality⁴ between the imposition on the landowner and the benefit to the public. In a process in which conditions are imposed on an ad hoc basis, each and every ruling will have to be evaluated in this light. Substantive standards permit an initial determination that a rational nexus exists between the standard and purpose. Further, these standards permit the balancing inherent in the rough proportionality test. While some decry these cases, adhering to these principles in designing standards will result in regulations that provide certainty for both the land owner and neighbors.

Several instances were recorded in which staff was without standards to guide a decision on approval. First, in Section 1005.150.7, letter (a) states, "Flag lots will be allowed for lots that contain a minimum of ten thousand (10,000) square feet. *Flag lots of lesser area may be approved by the Director of Planning* (emphasis added)." The question is how does the director decide?

In Section 1005.155.4, letter (a) states, "In the event the developer submits an alternate landscape plan under Section 1005.340-2 (c), trees need not be located between the edge of the pavement and the building *providing that the Director finds that the proposed alternate landscape plan enhances the value and attractiveness of the subdivision* (emphasis added)." Similarly in Section 1005.160.6, letter (b) states, "In lieu of planting street trees as required in Section 1005.340 of this appendix,

² *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and *Dolan v. City of Tigard*, (1994).

³ *Nollan*.

⁴ *Dolan*.

the developer may submit to the Department, for review and approval, an overall tree and shrub landscaping design plan for the subdivision . . ." No standards for the alternative landscape plan precede or follow. Finally, Section 1005.320.6 states, ". . . Where sidewalks are required, street lights standards shall be located between the sidewalk and street pavement. *Variation to this section may be approved by the Director* (emphasis added)."

In other cases, discretion is not so much a decision but an interpretation. Section 1005.180.2, letter (i.4) states, "A dead-end alley shall have an *adequate* turnaround facility at its termination (emphasis added)." Again, in Section 1005.180.3, letter (a.5) states, "All curbs shall be six-inch minimum vertical curb with *appropriate* wheelchair ramps where sidewalks are required (emphasis added)."

Two Development Options

Currently, Chesterfield's Zoning Ordinance allows developers to apply for either a density development or a planned environment unit (PEU) development. Only one designation permitting clustering and mixed use developments is required. Part of rewriting the comprehensive development code will consist of evaluating the standards and regulations of each and determining which is most appropriate and/or accomplishes Chesterfield's objectives. A density development has specific standards while a planned unit environment development does not. The greater specifications would eliminate uncertainty. Finally, the density development provision has little flexibility.

Administration

We have indicated that there is too much dependence on discretionary reviews. In addition, we see micro-managing as a major problem. Micro-managing describes a situation in which the City goes beyond its standards in doing reviews, or establishes a review process that is unnecessarily burdensome. Micro-managing is clearly related to discretionary reviews. Since these reviews are essentially adversarial hearings, officials go to increasingly greater length to craft a settlement that represents a compromise between opponents and proponents. Unfortunately, micro-managing becomes enjoyable. Staff, plan commission, and City Council all get to exercise power in micro-management situations. One member described the planning commission's role as to react "defensively" to development proposals. The concern people had with heating and air-conditioning is an example of a situation in which government goes beyond the original regulations and begins to create new regulations in the process of granting approvals. However, the rules are never formalized.

Another complaint is that the ordinance requires too much information at early stages of planning. Some even felt that some aspects of development should not be regulated at all. Earth moving permits requiring the developer to complete a site plan of the property is indeed an example in which the regulations are completely at odds with the need for the information. A site zoned commercial may need to be leveled to prepare it for development. In fact, such improvements may be essential to make the property salable. Reviewing a theoretical site plan, building, and indoor use necessary to prepare a site is a waste of staff and commission time. A better situation would provide standards that controlled the amount of grading, excavating, filling, or vegetation destruction that could be reviewed without an end use plan. While

flexibility in landscaping is desirable, a developer should not have total freedom to place landscape material without an approved plan. Material placement may have a strong relationship to the site plan and adjoining land uses making review essential. The plan may go from concept to final stages with the initial concepts required to show that the ordinance standards shall be met.

Coordinating with other agencies that must sign the plat or grant approval is also a problem. A number of agencies have to grant approval for the roads, water, or sewer. Because they are separate jurisdictions, the City can only try to set up a review process that makes coordination more easily achieved. One way in which the City could improve the situation is to take over the building permit area. This action would eliminate a separate step and jurisdiction.

While it was not mentioned as a problem in Chesterfield, the number of separate boards is a matter with which to be concerned. Many of these boards may play a role in the development process. In communities with many separate boards, time and work required to gain project approval substantially increases. Boards often have different philosophies and clashes of policy may erupt catching the developer in the middle. In other cases, boards create changes that require the developer to go return to a board from which he/she had already gained approval.

Signs

Sign regulations cause intense controversy; this has already proven true in Chesterfield. As is always the case, several different views of the issue exist. The underlying concern with signs is the desire for Chesterfield to be a high-quality community. Therefore, the first step was to review the Planning Commission Draft of the Sign Ordinance -- a review conducted based on the quality goal. Overall, the draft sign regulations permit far too many types of signs. Particularly objectionable are what the draft code refers to as "attention-getting devises". These signs are generally problematic and typically proliferate in lower quality areas. Balloon signs, banners, sandwich boards, portable signs, and off-site signs, for example, are often found in communities with a low overall quality. While not all may be possible at the same time, the ordinance permits a total of 12 permanent or temporary attention-getting devises and signs of various types.

Each set of sign types seems to have its own regulations. Therefore, the total signage is cumulative. A better approach, if Chesterfield wishes to provide flexibility, would be to set an overall square footage of signage and permit the landowner to distribute it as they desire. This would force the developer or landowner to choose between, for example, wall signs, freestanding signs, entrance or center signs, and window signage.

The off-site signs present a significant concern; they have three definitions. Too many specific definitions risks creating regulations that are clearly content specific for specific uses. Such a situation leaves the community open to a law suit. For example, the language on subdivision directional signs and subdivision promotional signs appear to be content related. Permitting a home builder an off-site advertising sign and prohibiting a video rental store advertising sign is difficult.

There have been recent disputes regarding sign interpretation – an area where micro management is dangerous. Regulations should be followed. Looking at a development's overall aesthetics rather than whether it meets the standard is not good practice. Keep in mind that sign regulations must be content neutral. If, for example, the ordinance prohibits signage on awnings, displaying initials of the corporate name, logo, or even a message is not permitted. Considering the visual impact of the signage is an invitation to trouble unless very specific standards for making this determination exist. If concerns exist that the regulations are too short, then they should be modified, not interpreted.

Sign regulations should be based on a very clear and unambiguous rationale. We have read the regulations and the critique. The statement should be clear in its intent; the proposed language meets this criterion. The regulations seem to be based on permitting a wide variety of signs; such a decision is ultimately a policy issue. At this time, matching the purpose to the regulations is difficult.

Eliminating some types of signs is recommended. However, this decision is clearly a community character issue on which the board will need to provide policy guidance. It is better to have very clear regulations and allow a developer flexibility to select the type of signs than to try to develop standards for all types of signs. This approach would not permit awning signs or logos but count them as part of the total permitted sign area. With off-site signs, the signs may cross the "content neutral" line and pose a legal problem. This area should be completely revisited.

Section Specific Concerns

Animals: Currently, the Zoning Ordinance only addresses animals in terms of kennels and commercial stables. Farm and exotic animals are not addressed. Horses and potbellied pigs were two of the examples cited.

Annexation: Some seem confused concerning what happens upon annexation. The standard procedure is for annexations to be automatically zoned into the lowest density category. This procedure may present a hardship or problem when the area being annexed has a significant number of existing residents in developments constructed under County regulations. Another approach is premapping. Premapping can be done by carrying over the existing County designation. Accepting County zoning of vacant or non-conforming land would still present problems. This approach will be even more difficult should the City get different zoning classifications. Another mapping approach is to map unincorporated areas on the zoning map with desired land use categories should they annex. This policy would address all the concerns and allow the City to make land use decisions.

Bed and Breakfast: Currently, no provisions for this use exist.

Daycare: State definitions must be coordinated with the zoning.

Environmental Protection: While this is an objective of the Planned Environmental Unit (PEU) there are no standards for protection. This means the level of protection must be argued on each and every project.

Family: We believe the current definition (three unrelated people) could be challenged given federal statutes. Group homes for those with various disabilities are where the problem is most likely to occur.

Home Occupations: Some input indicated that the current regulations were too broad. This policy decision is ultimately very local.

Impact Fees: Interest in this area has been expressed. State legislation and court cases raise serious issues. This issue would require special study if we are to address it in the revisions.

Interpretations: There is too much interpretation within the existing regulations. Such a situation is an indication that an ordinance is obsolete. The community is trying to deal with issues or uses not envisioned when the St. Louis County regulations were adopted in the 1960's. Several other related explanations demonstrate the great need for interpretation. First, the City is stretching the envelope to gain better control. When micro-managing, interpretations are needed to stretch the controls to accomplish objectives. Excessive details almost always require ordinance interpretation to stretch existing language to cover the new area. Second, a negative reaction is associated with regulations that would prohibit something perceived as neutral or perhaps good. The vegetative sign and initials on the awnings of the Ethan Allen store are examples in which interpretation has gone further than an interpretation. Both of these should more properly have been treated as a variance or a text amendment to permit them. Interpretation should only be used to clear up areas in which the ordinance is silent. If the ordinance does not cover a regulatory concern, or if it prohibits something the community wants, then the correct action is to amend the code to fix the problem. Ultimately, the City risks rendering the ordinance less defensible by precedent-setting interpretation.

Parking: In general, convert standards to spaces per 1,000 square feet where ever possible is better. The problem with employee or seats as measures is that they are difficult to enforce. Restaurants for example have a high turn-over and replacement rate. Therefore, tracking either employees or seats without an inordinate amount of staff time is improbable. Some standards are too high in our opinion – barber shops, food stores, department stores, and beverage stores, for example. The City has found that offices with low level employees often need more than the minimum parking. Finally, screening of parking (or lack thereof) was mentioned as a problem.

Rear Yard Setbacks: The rear setbacks are small, 15 feet for all single family lots. This is generally undesirable, rear yards should vary with lot size. It appears the setback was designed to control the location of sheds. It does not make sense for an R-1A, 15,000 square foot lot and R-6, 6,000 square foot lot have identical setbacks. Ideally the larger lot might have a 40 foot rear yard.

Retaining Walls: The topography in Chesterfield requires retaining walls. However, since such walls are likely to be a structure, they conflict with yard or setback requirements.

Road Slopes: Roads slopes can be steeper in some conditions. Performance standards can delimit when such flexibility is warranted.

Right-of-Way: The current regulations are overly restrictive in areas where there are environmental limitations. Narrower roads and rights-of-way under a variety of conditions can be permitted with no loss to the public health, safety, and welfare.

Satellite Dishes: Technology is changing. This language needs to be reviewed to accommodate new technology and ensure that older, unsightly equipment is properly managed.

Setbacks, Heights, and Lot Widths: These standards are all intimately related standards and should be found at a glance. Currently, each is in different sections while lot widths is in the Subdivision Ordinance.

Trees: There seems to be no mechanism for protecting large specimen trees, nor any penalty for destroying them even when the issue becomes a condition on the approval. In many communities there is a tree replacement standard which serves to encourage protection. To actually achieve protection, there is a need to require fencing other barriers to insure the protected trees are not damaged during the development process.

Chesterfield's Fee System

The fees are contained in the zoning ordinance requiring a public hearing and notice for revisions. We recommend the fees be adopted separately. In addition, the fees are totally inadequate to cover staff time. Since virtually the entire staff is devoted to current planning issues, this allocation represents a tremendous subsidy to developers. Further, it means little time is available to address the City's long range planning issues. The City should consider revised fees to cover most of the actual costs.

EASE OF USE

An important part of any ordinance is that it be "user-friendly." While the most assured means of accomplishing this objective is to install CZO, other means will make printed versions more readable.

Length of Sections

The current ordinance has some 69 sections over nearly 200 pages. While the average length of section (approximately 2.8 pages) is long, the average does not present an accurate picture of the users problems with length. Some sections are as short as three lines on a double columned page. In other cases, the sections reach eleven or more pages. As mentioned previously, the section length has grown over the years as officials and planners attempted to keep the regulations within each district all-inclusive. However, rather than aiding, this process is confusing. First, little separation exists between district regulations. As a result, a user flipping through the ordinance is hard pressed to find the divisions. Second, the long sections employ complex outlines. The outlines go through as many as four separate levels of outline, with as many as 19 major subheadings. With many pages and a complex outline, even professional who have seen many similar ordinances easily become disoriented within the text. Ideally, sections should be no more than a page long. The shorter sections imply more sections, and probably

a revised numbering system. This provides more titles in the table of contents, which makes it easier for users to focus in on the exact section that is needed.

Section Numbering

Chesterfield's ordinances use a codification numbering system. Each reference contains a section and subsection identification. However, there are sections with a total of four levels within the outline format. One example is Section 1003.157.9(1)(d)(ii). Such a system makes tracking backwards to keep a thought in mind very difficult and confusing. Citing the ordinance, so somebody can focus in on the language, is also cumbersome.

Another problem with the codified numbering system is that it is oriented to the very few people who want the entire city code in one document. Land development code users are rarely interested in the sections of the code that deal with police functions or city finance. They want major headings to help find their way in the sections that apply only to development related problems. Such requests require some work on the numbering system.

Because the new ordinance will be a unified development code, Chesterfield should consider dropping the first four digit prefix (1003 or 1005) for a single chapter number. The unified code could simply use section numbers. In addition, switching to a topical organization (in which every aspect of a particular district is not explained in one section) may also alleviate some concern.

A last problem with the numbering system is that, over the decades, the code ran out of numbers as sections were amended. Zoning sections have a three digit section code 010 to 425. However, Sections 168A - D seem to have been added into the regulations. More flexible numbering systems should be evaluated.

Consistent Format

Several formatting changes will also increase ease of use. Granted, most will not apply should the ordinance be computerized. In addition, the points are somewhat trivial. However, because the improvements would decrease the chance for user confusion, the concerns are worth noting.

1. Lead-ins. Some smaller sections begin with a topical lead in while others do not. For example "street lights" is a topical lead:

Section 1005.160.5

- (a) Street lights. Street lights shall be required in a . . .

Section 1005.160.4

- (a) A permanent survey marker, as defined in . . .

2. Using italic lead-ins. On some occasions, the first section lead-in (if one is present) may or may not be in italics. For example:

Section 1005.180

1. *General Standards.* These apply to residential . . .

Section 1005.340

2. Required street trees. For all single-family residential . . .
3. Cross-references. Many times a section will reference another. However, the format of such references is not the same. Some conclude with "see Section XXXX.XXX." while others conclude with "see Section XXXX.XXX 'Section Name.'"

Legal Writing Style

Legal writing style refers to endless amounts of "heretofore," "therein," "wherewithin," etc. combined into one confusing run-on sentence. This style, often called "legal style" for its attempt to cover every situation, is difficult to read. Therefore, such writing should be avoided as much as possible. The documents we reviewed, for the most part, were written without incessant rambling. Some exceptions were noted, however, and would benefit from clarification and/or diagrams. One example was taken from the Subdivision Ordinance:

1. Section 1005.040.49 Street, minor. Minor streets are exclusively land service facilities for access to abutting properties. These serve the local neighborhood and may be in the form of a cul-de-sac or loop street; provided, however, that any combination of loop and cul-de-sac streets may be utilized without the streets being designated as collector streets provided that such an arrangement serves the same function and also that the maximum fronting lots do not exceed the total which would be allowed within the provisions of the street specifications matrix.

CONCLUSION

The district structure of the ordinance should be replaced. The ordinance should use as many tables as possible. When developing a new organizational structure, the most critical information to a resident wanting to know what can or cannot be done on his/her property (or an adjoining property) should be near the front. Procedures, legals, definitions, and detailed regulations most likely to be used by professionals should be towards the rear. A new numbering system should be used to break the text into manageable units. Most sections should be one or, at most, three pages in length.

The number of zoning districts should be reduced. Standards should be used to a far greater degree. Where possible, flexibility should be provided and few uses should be required to be approved via a discretionary permit process. See the Community Character and Standards versus Discretion issues papers for additional recommendations.

APPENDIX 1

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA¹
A.A.S.H.T.O.			x	
Accessory building	x			
Accessory use	x			
Accessory structure	x			
Agreement guaranteeing road improvements			x	
Airport	x			
Alley		x	x	
Apartment	x			
Applicant			x	
Architect			x	
Arterial road system			x	
Atrium	x			
Automobile	x			
Awning or canopy	x			
Awning/canopy signs	x			
Backfill			x	
Balloon	x			
Bank	x			
Base flood	x		x	
Basement	x		x	x
Bedding			x	
Benchmark		x	x	
Block		o	o	
Bridge			x	
Building	x			x

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA ¹
Building line (setback)		o	o	x
Cemetery	x			
Channel			x	
Child care center	x			
Classified road			x	
Club	x			
Commission		x*	x*	
Committee (PCL)			x	
Common land		x	x	
Community center	x			
Condominium		x		
Construction cost index			x	
Convenience store	x			
County			x	
County road system			x	
Cross access			x	
Crossroad culvert			x	
Day care home	x			
Department		x*	x*	
Design speed			x	
Detention		o	o	
Developer		x	x	
Development	o		o	
Differential runoff			x	
Director		x*	x*	
District	x			
Dormitory	x			x

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA ¹
Drainage facility			x	
Drive, multi-family access			x	
Driveway			x	
Driveway, common (party)			x	
Dwelling	x			
Dwelling unit	x			x
Dwelling, single family	x			x
Dwelling, single family attached	x			
Dwelling, single family attached, earth sheltered	x			
Dwelling, two family	x			x
Dwelling, multiple family	x			x
Easement			x	
Easement, common ground			x	
Easement, cross access			x	
Easement, multiple family access			x	
Easement, permanent drainage			x	
Easement, permanent footing			x	
Easement, permanent roadway improvement, maintenance, utility, sewer and sidewalk			x	
Easement, permanent sidewalk, sewer, and utility			x	
Easement, permanent sight distance			x	
Easement, permanent stormwater control			x	
Easement, permanent stormwater control access			x	

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA ¹
Easement, permanent traffic signal			x	
Easement, permanent utility			x	
Easement, private roadway		x	x	
Easement, road improvement, maintenance, and utility		x		
Easement, road maintenance and improvement		x		
Easement, stormwater control		x		
Easement, stormwater control access		x		
Easement, utility		x		
Engineer		o	o	
Entrance, commercial			x	
Entrance, residential			x	
Escrow			x	
Escrow agent		x*	x*	
Escrow agent, special			x	
Escrow, special			x	
Family	x			
Farm	x			
Fast food restaurant	x			
F.E.M.A.		o	o	
Fence, sight-proof	x			
Filling station (service station)	x			
Finish elevation			x	
Finished grade			x	
Flag	x			

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA ¹
Floodplain	x	x	x	
Floodway	x*		x*	
Floodway fringe			x	
Floor area, gross	x			
Foster home for handicapped children	x			
Frontage	o	o	o	
General plan		x		
Geological map			x	
Geotechnical report			x	
Golf course		x		
Golf, miniature		x		
Grade			x	
Group home for the elderly	x			
Group housing (group house arrangements)	x			
Group living facility (dormitory)	x			
Gymnasium	x			
Heliport	x			
Highway		o	o	
Highway system plan			x	
Home improvement center	x			
Home occupation	x			
Hospice	x			
Hospital	x			
Hotel	x			x
Hotel, motor (motel)	x			x
House-trailer (mobile home)	x			

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA ¹
House-trailer park	x			
Hydraulic grade line			x	
Improvements		o	o	
Intermittent lighting	x			
Irrevocable letter of credit			x	
Junk yard	x			
Kennel	x			
Landing strip	x			
Land surveyor		o	o	
Large lot roadway	x			
Loading space	x		x	
License, temporary slope construction			x	
Lot	x	x	x	x
Lot area		o	o	
Lot, corner	x	x	x	x
Lot, double frontage		o	o	
Lot, flag		x		
Lot (parcel) of record	o		o	
Lot, split		x		
Mall	x			x
Material improvement	x			
Medical or dental office (clinic)	x			
M.H.T.D.		o	o	
Modular unit	x			
Monument		x	x	
Monuments and signs, ornamental entrance			x	

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA ¹
M.S.D.		x		
Multiple-family access easement	x			
Municipality			x	
M.U.T.C.D.			x	
Natural area	x			
Nonconforming land use or structure	x			
Nursery, day	x			
Nursery school	x			
Nursing home	x			
Office	x			
On-street parking space			x	
Open storage	x			
Parcel (tract) of land	o		o	
Park	x			
Parking area	x			
Parking bay		x	x	
Parking space	o		o	
Parkway	o		o	
Pave (pavement)	o		o	
Pedestrian way		o	o	
Permit			x	x
Permit application center (PAC)			x	
Person			x	
Plan, concept			x	
Plan, general			x	
Plan, site			x	

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA ¹
Plans, construction			x	
Plans, improvement			x	
Plat	o		o	
Plant nursery	x			
Property line	o		o	
Public utility facility, local	o		o	
Record subdivision plat			x	
Residence	x			
Retreat	x			
Riding stable	x			
Right-of-way		o	o	
Road		o	o	
Roadway	x	o	o	
Roadway right-of-way line	o		o	
Row house	x			
Salvage yard	x			
Sanitary landfill	x			
Self-care unit	x			
Semi-finished arterial	x			
Setback (building line)	o	x	o	
Sight distance triangle	x		x	
Sign	x			x
Sign, advertising	x			
Sign, business	x			
Sign, directional	x			
Sign, flat	x			
Sign, guide			x	

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA ¹
Sign, information	x			
Sign, portable	x			x
Sign, temporary	x			x
Siltation control		o	o	
Single lot development			x	
Slope			x	
Soils map			x	
Soils report			x	
Specialized private schools	x			
Stable, private	x			
Steep grade			x	
Story	x			x
Street	x	x	x	x
Street, access			x	
Street, arterial			x	
Street, collector		x	x	
Street, cul-de-sac		o	o	
Street, dead end (no outlet)			x	
Street, frontage or service		x	x	
Street, local access			x	
Street, loop		o	o	
Street, major (arterial)		x		
Street, minor		x	x	
Street, multi-family access		o	o	
Street, private		x	x	
Street, public			x	
Structure	o		o	x

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA ¹
Subdivision		o	o	
Subdivision, minor		x	x	
Subdivision, multiple-family		x		
Subdivision, multiple family, residential			x	
Subdivision, nonresidential			x	
Subdivision ordinance			x	
Subdivision, single family, large lot			x	
Subdivision, large lot		x		
Subdivision, residential (single family)		x		
Subdivision, single family residential			x	
Substantial construction, development or work	o		o	
Surety company		x		
System development charge			x	
Tax increment financing			x	
Terminal	x			
Title company		o	o	
Title page			x	
Tract		x*	x*	
Traffic generator assessment			x	
Trust fund areas and contributions			x	
Trust indenture		x		
Towed vehicle storage yard	x			
Unclassified road			x	

Definitions	Z. O.	Sub. Ord.	Design Criteria	BOCA ¹
Use	x			
Vehicle repair facility	x			
Vehicle service center	x			
Veterinary clinic (animal hospital)	x			
Warehouse	x			
Yard	x			x
Yard, front	x			
Yard, rear	x			
Yard, side	x			
Zoning ordinance/Zoning		x	x	x

"x" indicates different definitions.

"o" indicates compatible definitions.

"*" indicates definitions that differed only by region and/or scale

¹ The only BOCA definitions compared were those found also in the Zoning Ordinance, Subdivision Ordinance, and/or Design Criteria.

ISSUES PAPER 2 DISCRETIONARY APPROVALS VS. STANDARDS

INTRODUCTION

Zoning may be approached in three basic manners. The first zoning ordinances were Euclidian ordinances named after the *Euclid v. Ambler Realty* Supreme Court case that upheld zoning. In these ordinances, uses were either permitted or prohibited in a district. Lot size, yards, setbacks, and land use were the standards. Thus, a use was either permitted "by-right" or prohibited. Of course, other appropriate standards figured into the equation. Following World War II, this approach proved to be very inflexible.

Flexibility was introduced via conditional or special uses. These uses were held to be sufficiently unique that they required individual review, and attaching conditions to protect the neighborhood was appropriate. Thus, discretionary reviews entered the zoning vocabulary. In the 1960's, many felt planned developments¹ were a better means of designing large scale developments free of the restrictions of Euclidian lot standards and permitted a mix of uses. The process was intended to provide flexibility to the landowner and greater control in protecting the public interest by binding developments to a specific plan. Within Euclidian zoning, discretionary reviews became another type of use category between permitted and prohibited uses. Or, in the case of planned developments, a discretionary review may cast off the shackles of rigid Euclidian standards.

Discretionary zoning resulted in a host of problems. Meanwhile, many were still dissatisfied with zoning. The first sign of a new zoning approach was the industrial performance standards introduced in 1951². In the early 1970's, a whole new form of zoning was developed. Called performance zoning³, the approach was later published in a book of the same name. In performance zoning, performance oriented standards and multiple options replace the Euclidian standards. Uses are again permitted as a matter of right. The system is flexible and can be very protective; standards are designed to achieve specific objectives.

In looking at the ordinances and through discussions with citizens and staff, it became clear that the vast majority of Chesterfield's development was a result of discretionary approvals – either a planned district or a conditional use. While Chesterfield's general quality of development remains high, our research indicated most people were considerably dissatisfied with the current process. Citizens, developers, staff, and officials exhibited varying degrees of frustration with the system.

¹ Douglas Porter et al; *Flexible Zoning How It Works*, Urban Land Institute, 1988, p11.

² Dennis O'Harrow, "Performance Standards in Industrial Zoning" in *Planning*, 1951 p42-55.

³ *Performance Zoning*, Bucks County Planning Commission, 1973.

The current administration of the ordinance, with a very heavy reliance on discretionary reviews, results in adversarial hearings on nearly every project. The current process has caused significant distrust of staff and decision-makers by both developers and citizens -- an unenviable situation for the City. Because discretionary procedures are a form of negotiation, applicants, citizens, and officials all take conflicting positions. They do so not because they are acting in bad faith, but because the first rule of negotiation is to bargain from a position from which it is possible to settle on an acceptable outcome. The negotiation itself breeds further distrust. As a result, on each application each party seems to "draw a line in the sand." Losers, developer or citizens, seek to lay the blame on someone else.

From a planning perspective, discretionary decision-making leads to inconsistent results. Each public hearing sparks different levels of citizens' interest and varying presentation quality. This form of application process is the most costly, not only for staff, but for citizens and developers; it encourages micro-managing developments and ever-increasingly detailed reviews. In addition, the process is time consuming and uncertain for all parties. Under such conditions a developer's planners cannot draw the plans and assure the client that they will be approved. Such uncertainty is undesirable.

A recent series of U.S. Supreme Court cases⁴, while affecting all communities, has direct consequences for those communities that rely heavily on discretionary approvals. In *First English*, the Court indicated that regulatory takings, including temporary takings, could occur and that local governments would have to pay compensation. *Nollan* and *Dolan* dealt with exactions demanded during discretionary approvals. The rules established in these cases have profound implications for discretionary approval processes. While some hold to this narrow scope of judicial interpretation, arguably *Lucas* indicates that the Court may well extend their rulings to all forms of regulation. In any event, cities, such as Chesterfield, that rely on discretionary approvals for the majority of development approvals are most vulnerable. Further, signs indicate that Chesterfield has, on occasion, over-reached in attaching conditions to approvals. The main thing that saves communities from litigation is the cost in terms of time and money. In addition, developers must often continue to do business in a community and fear punitive action on subsequent applications should they litigate.

Given these concerns, reviewing the problems in greater detail and investigating the alternatives is appropriate. The standards, consistency and predictability, flexibility, and legal implications of each technique will be considered. The manner in which each of the types will be compared is specific problems, community character, transitions, environmental protection, and nuisance factors.

⁴ *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304 (1987); *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); *Lucas v. South Carolina Coastal Council*, 505 U.S. (1992); and *Dolan v. City of Tigard*, (1994).

DISCRETIONARY DECISIONS

Standards

The Chesterfield zoning dates back to the 1965 St. Louis County Zoning Ordinance. Planned developments, Planned Environment Units (PEU) or planned commercial or industrial districts, were new. In the 30 years since the St. Louis ordinance was adopted, planning has changed dramatically. Unfortunately, the entire Chesterfield Zoning Ordinance is from another set of conditions that does not reflect the concerns of the City or its residents. The same problem exists with the planned districts and conditional uses.

The basic Euclidian districts which Chesterfield adopted do not contain the variety of standards that one normally finds in zoning ordinances around the nation. Few standards or limitations exist for most of the commercial or industrial districts. For example, most modern ordinance have floor area ratios to control density (see Issues Paper 1). The absence of intensity regulations in the Euclidian zones means that the underlying euclidian zoning does not exert any moderating influence on the discretionary approval process.

The PEUs, planned districts, and conditional uses also lack sufficient, specific standards. One frequently heard complaint was that no standards for the PEUs related back to the underlying residential zoning. Therefore, no specific guidance is available to determine whether the plan is appropriate. This situation is in contrast to the Density Development procedures that permit clustering with a lot that is basically that of the next lower zoning district. The difference creates a certain amount of open space.

Standards serve to eliminate inconsistency. The standards need to be carefully considered and must address major concerns such as community character. Once standards are adopted that equally address local concerns for both neighbors and developers, zoning battles are eliminated.

Community Character

Currently, no standards in the Chesterfield ordinance directly or effectively address community character. As a result, with each case, the neighborhood residents must bring forward their concerns regarding character. The lack of standards for conditional uses is an excellent example. In the residential districts, a wide range of institutional uses are conditional uses. Without standards, the only means of protection is to fight the proposal to ensure community character is respected. The extreme is reached in the Non Urban (NU) district. Whether the district is considered a rural holding zone (rural character) or low density residential district (estate character), the fact remains – it is possible that a building as high as 200 feet could be approved, buildings that have an Urban character. The decision is ad hoc; citizens end up bearing the responsibility to present the case for preserving the area's character while the ordinance is totally silent on the community character issue. Inserting standards that limit the range of intensities to that of the underlying zoning will begin to correct the problem. That approach may not offer any solace if the adjoining land is zoned differently.

Transitions

Permitting transitional uses, such as a funeral home, in residential areas adjoining commercial areas (or vice versa) is sound planning strategy. A discussion of transition areas appears in Issues Paper 1. A landowner will surely indicate that a property on a major arterial adjoining commercial uses is unsuited for residential development. The neighbors would like to see residential development; the land is zoned such. Now, two conflicting views exist. The Ordinance offers no guidance; in fact, its only true value in this situation is to serve as a reference for vague language supporting the City's decision to deny, approve, or approve with conditions. Again, the generalized nature of approval criteria leaves total discretion. Setback and lot area standards do not address character, transitional buffers, or other standards that would deal with residents' concerns. The citizen must present his/her case and the City must make a judgement as to how to modify a plan.

Natural Resources

When a site has natural resources, the base zoning forces a significant reduction in density. A developer may seek approval of a PEU to protect the environmental system and retain density. Floodplains are the only environmental system with a standard for the level of protection. For other resources, the level of protection is arrived at independently for each site. No real mechanism ensures protection. Losing trees that may give character to a site has been cited as an issue. Since the land is likely to be zoned NU, the developer may also seek a zoning change along with the PEU. Confusion between the two applications further complicates the issue.

Nuisances

Other than signs, specific problems are not well defined. Uses that may have special concerns are made conditional uses. This approach is an oblique method of eliminating the problem. The specific concerns with a use are not generally identified. Ruling out the NIMBY response is impossible. Citizens typically throw every conceivable concern into the testimony on a discretionary approval. The City must then sift through and try to determine if the problem is real or a NIMBY response. If there is a real problem, its extent and the solution must be determined in an adversarial hearing in which both parties take the opposite side on every issue.

Consistency and Predictability

Developers and citizens alike clearly want consistency. Developers often complained that they had no real understanding of what would be demanded in the approval process. Another way of looking at inconsistency is to put it in terms of predictability. Ideally, a developer would be able to read the regulations and expect a planner to prepare a plan certain to be approved. This scenario is difficult in any conditional use process. In many cities, the tendency to micro-manage also increases the potential for inconsistency. An appropriate simile is "trying to get approval is like attempting to kick a field goal while the other team is running around the end zone with

the goal post."⁵ When citizens complained about consistency, they noted inconsistent *protection* as the problem. They too want predictability regarding future development in their neighborhood.

Why is it hard to get consistency? One part of the explanation is that the cast of characters is constantly changing. The quality of the proposal's presentation, citizen interest or apathy, personalities, and even the decision-makers moods have the ability to distort the outcome. In addition, the Chesterfield council members' two year terms cannot be beneficial toward fostering consistency.

Discretionary process's adversarial nature remains the principle reason that consistency is impossible. The developer and neighbors are negotiating and positioning themselves to be the "winners" in the project's decision. Staff is staking out its own position with regard to "good planning." The officials, elected and appointed, will have a wide range of pressures -- all of which must be resolved when making a decision on a discretionary application. The process requires that opposing forces begin from basically unreasonable positions in order to protect their interests in the compromises that will be part of the approval process. Such a process cannot produce consistent results. The level of consistency could be approved by introducing hard standards. More hard standards means less decisions requiring discretion.

Flexibility

Discretionary approvals were supposed to introduce flexibility -- a release from the rigid and inflexible standards of the Euclidian zoning ordinance.

"To permit flexibility in building types, encourage economic and energy efficient subdivision design, and encourage the provision of supporting community facilities in the development of diverse, sound, urban developments."⁶

This statement implies that straight zoning districts do not permit these "good" things. Flexibility and diversity are indicated as goals. One must ask, "If the process produces better plans, why does it require a discretionary approval? Should not the less desirable Euclidian form of zoning be discretionary and the better for be permitted by-right?" The goals of flexibility and diversity remain good goals; the revisions to the Chesterfield zoning should continue to promote their achievement. Unfortunately, the adversarial nature of the discretionary approval process labels any development that varies from the standards as bad, and the rigid Euclidian zoning as good. This ideology is directly contrary to the planning concepts that led to conditional uses or planned developments.

⁵ This comment is from another jurisdiction describing a similar conditional use process.

⁶ Section 1003.187.2 Chesterfield Zoning Ordinance.

Legal Implications

In light of the recent U.S. Supreme Court decisions, a cloud hovers over discretionary approvals. In planning theory, the discretionary approval process carried with it the right to impose standards. The concept was that the uses presented special problems and the imposition of conditions was necessary to ensure the protection of the public health, safety, and welfare⁷. As the use of conditional approvals became the rule rather than the exception, the rational became weaker. Arguably, if most uses must have conditions attached, the underlying zoning is inadequate. The community may also be stretching the limits and going beyond justifiable regulations. The courts have shifted some of the burden back to local government. Local governments must demonstrate an "essential nexus" between conditions imposed and the purpose served. If that test is passed, the local government must demonstrate a "rough proportionality" between the public benefit resulting from the condition and the impact of the condition and the landowner. Since two of the most critical cases involved discretionary approvals, one may question whether conditional approvals have inherent risks. The answer is that the burden has shifted; local government are more vulnerable.

EUCLIDIAN ZONING

Standards

The Euclidian zoning ordinance was a by-right ordinance in which uses were either permitted or prohibited. A developer had to meet lot size, building coverage, and/or some other standards to get approval to build. Some standards included yard and setback requirements, height requirements, parking requirements, etc. In Chesterfield's regulations, the problem, particularly for non-residential uses, is the *lack of standards*. The ordinance is over 30 years old and lacks many of the controls found in more recent basic Euclidian zoning regulations. For residential development, a major problem with Euclidian zoning is the rigidity of the lot area and lot width standards; they force cookie-cutter planning. There is no flexibility to work with a site to preserve resources or to protect neighbors.

A second standards problem is too many districts. Because of the rigidity of Euclidian standards, when a community has too many districts (12 residential districts⁸), the small increment between most districts encourages developers to seek a rezoning to increase density. For many cases, too many districts trivializes the rezoning; the difference does not often trigger major changes in the community. Once a developer is encouraged to rezone, most will try in order to increase the land's value. Encouraging rezoning with too many districts tends to throw the system back into the discretionary mode.

⁷ Note that conditional processes were also used to provide flexibility as in planned developments. However, over time, conditional processes have become a vehicle for making demands from developers that are largely unsupported by the ordinance's standards.

⁸ 13 if one counts the planned environmental unit as a district.

Many new standards could provide greater control than is exhibited by Chesterfield's current regulation. Because of the heavy reliance on discretionary approvals, St. Louis County did little to modernize and upgrade the ordinance standards. Chesterfield, upon formation, had little option but to adopt the majority of the St. Louis County code as its own. If nothing else, the standards need to be upgraded. The real question is whether to go beyond the normal Euclidian approach.

Community Character

The many residential districts obscure community character issues because, in many cases, shifting to the next zoning category does not produce a noticeable change in character. With community character, a continuum of slightly different districts is not desirable. Ideally, no districts would have similar character to each other but be on opposite sides of a transition point. If multiple districts of a character type are desired, they should be closer to each other than to a district with a different character (Figure 1). The current Chesterfield residential zoning does not deal with this issue well -- a correctable situation. The standards for non-residential districts currently are unresponsive to the community character issue.

Transitions

While this issue is clearly important, the current ordinance makes few provisions for transitions; the fairly recent buffers along roads and the required distance between residential and nonresidential subdivisions (in the Subdivision Ordinance) are the only examples. Some Euclidian zoning ordinances have standards mandating buffers at district boundary lines. In addition, some ordinances attach standards for edge situations to the standards for particular uses. Concerning transitions, the current Chesterfield regulations are limited. The solution has been to rely on the discretionary use process to take care of most of the difficulties.

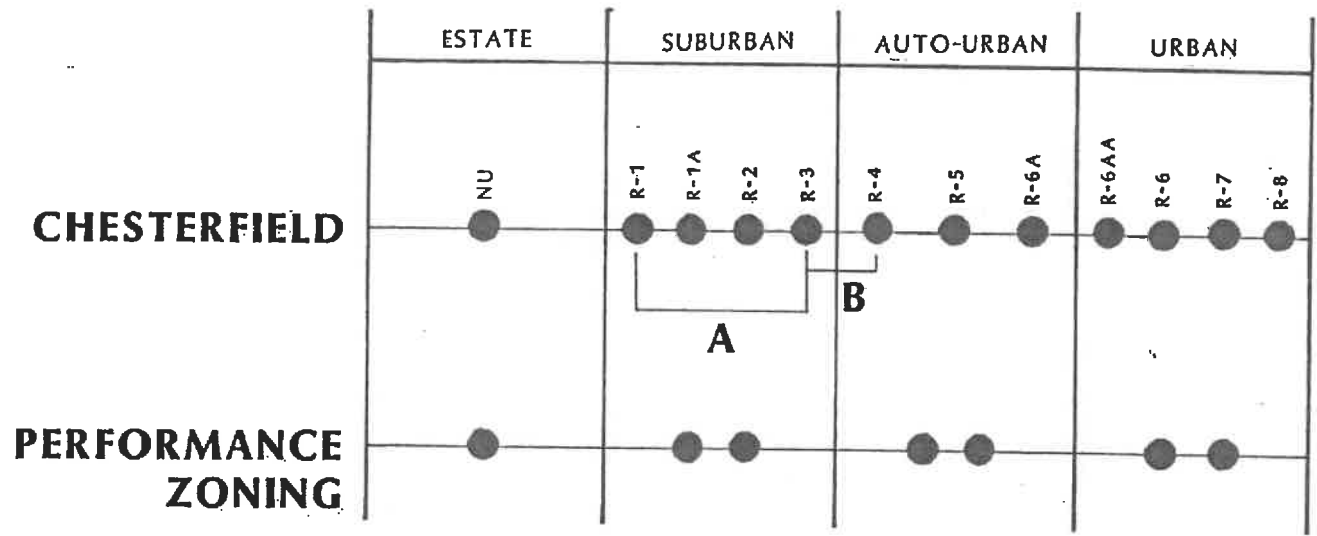
Natural Resources

Resource protection is very difficult to achieve with Euclidian zoning. Planned developments were supposed to address this problem; developers would be given a means to work around natural resources. Using large lots (like the non-urban three acre lots) is the common response of basic Euclidian zoning. Its success is certainly open to challenge. From a wildlife perspective, the approach is not a good solution. Better solutions, such as clustering, protects most all types of resources. Thus, large lots are not the best option to pass the "rough proportionality" test.

Nuisances

Euclidian zoning's entire concept is based on a hierarchy of uses. According to highest and best, to lowest and worst, the uses are placed in such a manner that prevents two districts far apart on the hierarchy from abutting one another. While this approach works well in theory, it has rarely worked when applied to large diverse communities. Smaller communities with a limited range of conflict between uses may have less trouble than large rapidly growing communities with a range of uses like Chesterfield. The bufferyard concept was first used in Euclidian ordinances as an attempt to overcome this deficiency.

Figure 1



Certainty and Predictability

The great advantage of Euclidian zoning appears to be its certainty. This assumption is true, so long as the probability of rezoning is low. Unfortunately, the current code and map, with large areas zoned NU, pressures developers to seek a rezoning. Fewer districts would increase certainty; seeing that a zoning change would alter an area's character would be significantly easier. Incrementalism or too narrow limits of land uses does not fit with the real estate market. Contrary to notions about how markets work, developers cannot necessarily acquire the best site. Land is artificially scarce because most developmental land is not even on the market. Therefore, developers seek out the best *available* land, not the best land. When too many zoning districts with limited permitted uses exist, the likelihood is that the landowner will need a rezoning to build the desired building. While landowners might think that large numbers of narrowly defined districts gives them maximum predictability, the truth is the narrow definition may destabilize the potential to retain current mapping and destroy predictability.

This paradox has plagued zoning since its creation some 80 years ago. Clearly, land use and rigid lot sizes are not the only elements that define character, and certainly are only surrogates for land use elements that create problems for neighboring property owners. In order to secure certainty, more attention must be paid to the design regulations to focus on protecting or achieving goals.

Flexibility

Flexibility is one of the great failures of Euclidian zoning; it is rigid and inflexible. In 1964, a critic wrote an article entitled "A Requiem for Zoning."⁹ Many of the criticisms leveled at Euclidian zoning at that time remain valid today. Chesterfield's topography forces the limitations of Euclidian zoning. A flat cornfield has few development constraints. However, Chesterfield's rugged ravines and bluffs impose a great many constraints; developing a property to the potential of the zoning district is practically impossible. High levels of inefficiency are developed. Rigid lot size and frontage requirements mean that developers in areas with rugged topography either lose lots or push lots into sensitive areas.

One of cluster zoning's primary rationales was to free the developer from the rigid lot size and permit using smaller lots to encourage environmental protection. A developer's inability to design around problems causes the developer to petition a rezoning to be able to retain the zoning's original gross density.

Legal Implications

In general, Euclidian zoning is well tested. The standards, even those as obsolete as those in the Chesterfield, will not be vulnerable. Euclidian zoning has some caveats; it is vulnerable in cases in which larger single family lots bear no relation to a valid public purpose. This situation most likely becomes a problem when a rezoning request is denied. Therefore, attempting to protect

⁹ John Reys, Planning 1964.

natural resource areas by maintaining large lots will likely be problematic. Litigation is a risk with any zoning denial and while the recent Supreme Court cases may increase the City's burden of proof, this risk is not much different than it was in the past if the City has been reasonable.

PERFORMANCE ZONING

Standards

Performance zoning is a by-right ordinance in which uses are, for the most part, permitted or prohibited. Many performance zoning ordinances have a limited use category in which the use is permitted provided certain locational and other criteria are met. These standards would prohibit the use in many parts of the zone that did not meet certain criteria. The decision is an administrative one. Performance zoning is likely to have a whole range of performance criteria. Examples include intensity controls, landscaping, bufferyards, and environmental protection.

The City is already involved in regulating landscaping; specific standards addressing development quality and scale impacts are recommended. The City has experienced problems of transition between uses; bufferyards of one sort or another are recommended to address this concern. The normal performance ordinance has these standards as well as resource protection standards -- a source of contention. The inability to adequately protect natural resources is a problem that was identified during the reconnaissance visit. Performance zoning standards would set limits and work well because the variety of development options provide the flexibility needed to work around resources without simply losing density. The advantage of performance standards is that they apply citywide. For example, putting standards solely in the PEU still leaves standard districts unprotected. It also invites developers to seek to modify the standards -- a problem that exists in many communities. The performance standards approach would provide certainty in an issue now hotly disputed.

Community Character

When the first performance zoning ordinances were developed, the theory of community character was not included. Interestingly enough, the districts proposed were very similar to the community character system previously described. Over the past decade, the vast majority of performance zoning ordinances have been heavily grounded on community character. One of the major precepts of performance zoning is to provide districts with a constant community character and controls to mitigate the impact at zoning district boundaries. The system provides several options for achieving the desired results.

Transitions

The bufferyard was one of the most accepted elements of performance zoning and has found its way into numerous conventional ordinances. Performance zoning provides many diverse methods of achieving transitions. Clearly, wherever possible, the mapping strategy on which Euclidian zoning was based should be applied. Houston, Texas created a draft ordinance in

which edge standards were a major feature. Bufferyards, residential edge standards, and various forms of feathering intensities have all been applied or developed for performance oriented standards.

Natural Resources

Protecting natural resources was one of several primary planning goals for which performance standards were developed. This technique is now backed by over 20 years experience. It is workable and has generally satisfied property owners that preserving resources does not devalue property. In fact, the regulations have faced minimal challenges despite the extensive resource protection that has often occurred.

Nuisances

Performance zoning's basic concept is problem solving. Therefore, addressing nuisances associated with a land use is common practice. Figure 2 shows the type of analysis applied to addressing this problem for a gas station. Once the problem is identified, one can determine whether the problem is addressed by the general performance standards (signs, lighting, landscaping, etc.). If the problem is not addressed, specific standards are developed. The result is shown in Figure 3.

Certainty and Predictability

The one great advantage of performance zoning is certainty. While the approach involves more uncertainty about the exact use, more assurance is provided that adequate transitions will be met. Adequate transitions ensure that the use cannot degrade the adjoining property. The development's character will also be certain -- a major advance. Under the current regulations, non-residential uses will have an auto-urban character. With performance zoning, requiring suburban character in appropriate areas is possible. Further, the districts' broad character and a smaller number of districts discourages incremental zoning to enhance value.

Performance zoning would eliminate the incentive to seek rezoning by eliminating the multitude of districts that encourage developers to seek a slightly higher density. The developer is given far more certainty that he can develop regardless of the market conditions. If a rezoning is sought, the community character issue may be raised by the citizens. The community character resulting from a rezoning can be precisely determined. One can even determine the impact of the precedent on the area's character.

Some may argue that this approach provides less certainty due to the greater number of permitted uses; that argument is simply not true. The emphasis is shifted from identifying land uses as undesirable to pin-pointing what aspects about the use are troubling. Standards for lighting, buffering, landscaping, signs, type of access permitted, etc. ensure that the interests of adjoining landowners or the community as a whole are protected. This specific protection is far stronger than that provided by prohibiting uses. Under the discretionary approach, the protection of community values is unpredictable; the determination is an ad hoc discretionary decision under the current Chesterfield regulations.

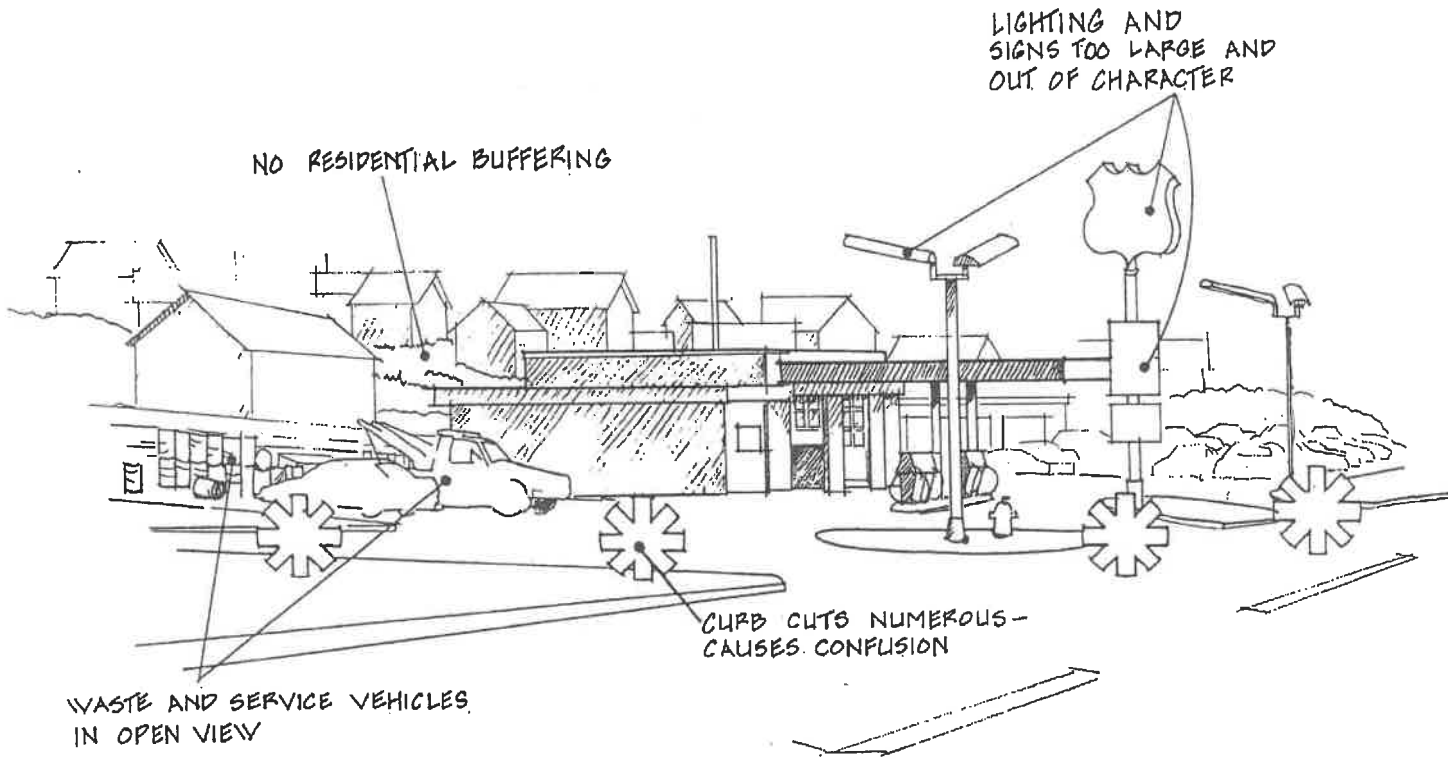


Figure 2

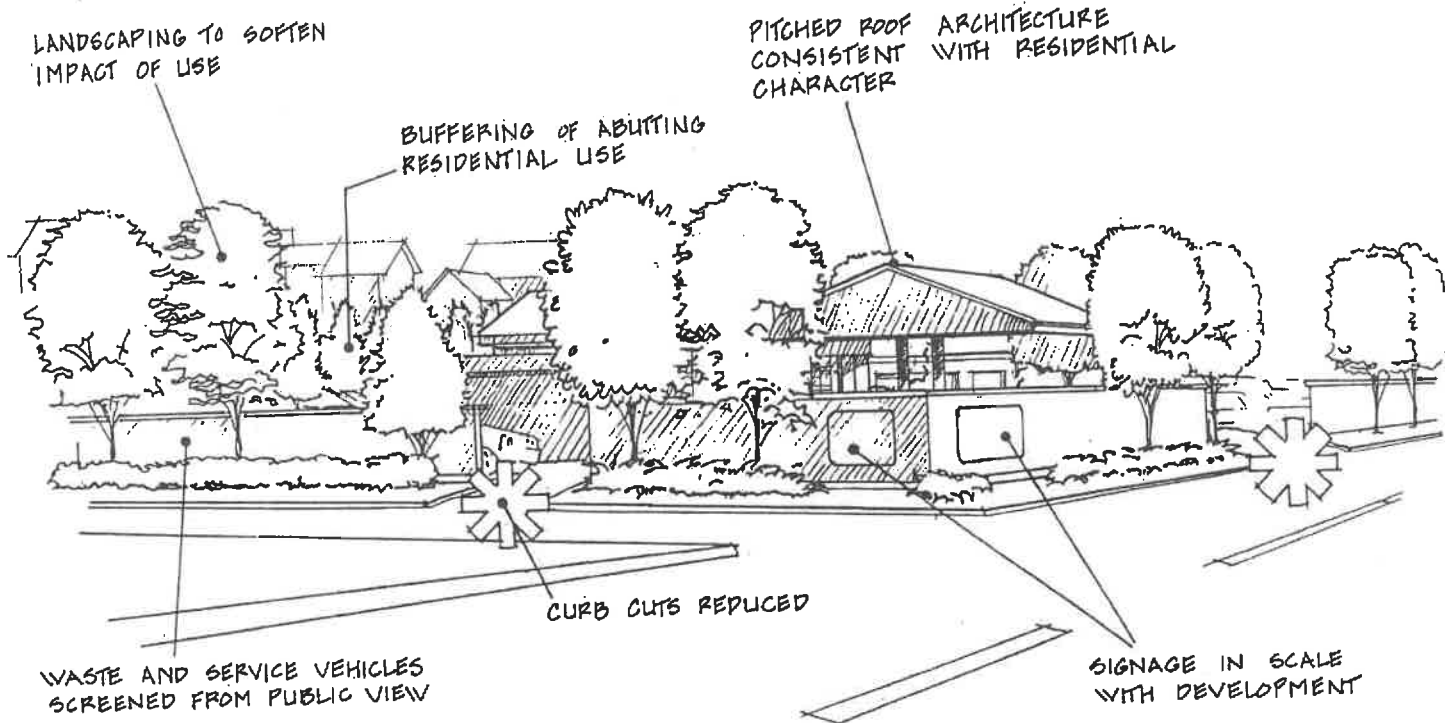


Figure 3

A major dose of certainty is introduced. Landowners and developers will know that if a plan is submitted meeting all the performance standards, it will be approved. Citizens and developers can read the ordinance and understand the level of protection afforded. No debate between the developer and citizens is necessary because the standards are quantifiable; only a simple yes or no answer to the question of whether the standards are met. Adversarial hearings with a wide range of possible outcomes are eliminated.

Flexibility

Performance zoning provides flexibility in a variety of ways. For the residential developer, flexibility is allowed by permitting several forms of clustering by right. This clustering is similar to the density development provision of the current code. Each residential district has least three residential options. In non-residential districts, flexibility is allowed by permitting a wider range of uses. The performance standards themselves are designed to be as flexible as possible. Wherever applicable, several alternatives are established to achieve a specific result. In earlier performance zoning ordinances, three to five options were provided. Today, with the Computerized Zoning Ordinance, the level of flexibility is increased even further by establishing formulas in the ordinance. These formulas, given the fixed standards, offer an infinite range of altering variables.

Cluster zoning freed the developer from the rigid lot size and encouraged using smaller lots to provide environmental protection. Performance zoning has the same approach. The flexibility permits far better protection of community values because it ensures developers are not forced to drastically reduce the density to protect the environment.

Legal Implications

Performance zoning ordinances are far better equipped to meet the Supreme Court's essential nexus test because the regulations are designed to achieve specific objectives. Concern over lights and glare from certain commercial uses could result in a denial during a discretionary review and a prohibition given Euclidian zoning. In performance zoning, a standard controls lighting to eliminate glare or brightness – a clear relationship to the purpose. The latest test, "rough proportionality," is also easier to meet. The multiple uses and options demonstrate that the community has attempted to go beyond the norm by providing many options to gainfully use the land. This situation is a far cry from the rigid approach in *Dolan* where the least desirable option from the developer's point of view was mandated¹⁰. Performance zoning is in fact designed to recognize both landowner and community views and, therefore, avoid lawsuits by creating a set of regulations with which all parties can live.

¹⁰ The City of Tigard mandated a land donation for floodplain and a bicycle trail. Normal flood regulations would have achieved the first purpose while mandating a bicycle trail for a hardware/plumbing store makes little sense.