



Board of Adjustment  
June 18, 2026

Appeal of Interpretation  
BACEO-4-526

Brian Chambers, Assistant Director, 910.342.2782

Code Section(s)	<b>Land Development Code:</b> Section 18-6: Interpretation Section 18-73: Dimensional standards Section 18-88: Dimensional standards Section 18-133: Commercial recreation, outdoor Section 18-147: General retail Section 18-161: Nightclub Section 18-198: Accessory use standards Section 18-210: Outdoor seating/activity areas Section 18-235: Mobile food unit Section 18-572: Appeals Section 18-615: Board of adjustment Section 18-680: Rules for interpretation
Request	Appeal of official zoning interpretation of what constitutes outdoor amplified sound
Appellant	Chill Beers, LLC dba The Rift 2144 Wrightsville Avenue Wilmington, NC 28403

**Analysis & Research**

1. The Land Development Code (Chapter 18) includes multiple references to the terms ‘amplified sound’ and ‘outdoor amplified sound.’
2. The Land Development Code (Chapter 18) does not include a definition for ‘amplified sound’ or ‘outdoor amplified sound.’
3. Land Development Code Section 18-680 specifies that undefined terms shall use their customary dictionary definition. The American Heritage College Dictionary (3<sup>rd</sup> Edition, 2000) includes the following definitions:

*Outdoor: Located in, done in, or suited to the open air.*

*Amplified: 1. To make larger or more powerful; increase. 2. To add to, as by illustrations; make complete. 3. To exaggerate. 4. To produce amplification of: amplify an electrical signal.*

*Sound: 1a. Vibrations transmitted through an elastic material, either solid, liquid, or gas, with frequencies from approx. 20 to 20,000 hertz, capable of being detected by the human ear. b. Transmitted vibrations of any frequency including those outside the range of human hearing. c. The sensation stimulated in the organs of hearing by such*

*vibrations in the air or other medium. d. Such sensations considered as a group. 2. A distinctive noise. 3. The distance over which something can be heard. 4. Ling. a. An articulation made by the vocal apparatus. b. The distinctive character of such an articulation: The words bear and bare have the same sound. 5. A mental impression; an implication: didn't like the sound of it. 6. Auditory material that is recorded, as for a movie. 7. Meaningless noise. 8. Mus. A distinctive style, as of an orchestra or singer. 9. Archaic. Rumor, report.*

4. Chapter 6, Article II, Noise Control of the Wilmington Code of Ordinances includes the following definition:

*Amplified sound. Any sound or noise, including the human voice, that is increased in volume or intensity by means of electrical power.*
5. Land Development Code sections 18-73: Commercial districts and 18-88: Industrial districts prohibit outdoor amplified sound, including public address/ loudspeaker systems, within 200 feet of single-dwelling residential zoning on lots adjacent to residential zoning.
6. Land Development Code Section 18-133: Commercial Recreation, Outdoor prohibits amplified sound and outdoor speakers within 500 feet of residential zoning.
7. Land Development Code Section 18-147: General Retail prohibits drive-through facilities, outdoor speakers, and amplified sound associated with retail uses in the Residential Office district
8. Land Development Code Section 18-161: Nightclub prohibits outdoor amplified sound within 1,000 feet of a residential district
9. Land Development Code Section 18-210: Outdoor seating/activity area prohibits outdoor amplified sound within 1,000 feet of single-dwelling residential zoning.
10. On February 6, 2026, a business owner located in the CB, Community Business District submitted a request for a formal interpretation for what constitutes outdoor amplified sound.
11. On February 27, 2026, zoning staff issued an official zoning interpretation for amplified sound associated with non-residential uses (see Attachment 2).
12. The official zoning interpretation identifies amplified sound associated with non-residential uses as the use of equipment operated by the associated business that is designed to increase any sound or noise in volume or intensity by means of electrical power.
13. The official zoning interpretation states that where outdoor amplified sound is prohibited or limited, those provisions shall apply to the use of such equipment to amplify sound in the open air, including structures that are not fully enclosed, such as pergolas and gazebos.
14. The official zoning interpretation states that amplification equipment located inside an enclosed building shall not be subject to the restrictions and separation distances that apply to outdoor amplified sound.
15. The official zoning interpretation states that the use of the term "outdoor speakers," separate and distinct from "amplified sound," is deemed redundant.
16. The official zoning interpretation states that restrictions on the use of amplified sound do not apply to temporary uses authorized by Chapter 18, Division 4, Temporary Use Standards.
17. The official zoning interpretation states that all uses remain subject to the sound level limits established for zoning areas by the Noise Control Ordinance. It further states that it is the responsibility of the business owner and property owner to ensure that noise levels remain within those limits, including noise generated within an enclosed building and by customers.

18. On March 30, 2026, the business owner filed an appeal of this zoning interpretation with the City Clerk.
19. This matter is set for hearing before the Board of Adjustment on June 18, 2026.

### **NEIGHBORHOOD CONTACT**

<b>City Notifications:</b>	<b>Board of Adjustment</b>
Adjacent Letters	6/5/26
Property Posted	6/5/26
Advertisement Dates	6/12/26

### **ATTACHMENTS**

- 1.) Appeal Application (received 3/30/26)
- 2.) Official Zoning Interpretation (issued 2/27/26)
- 3.) City Code Chapter 18, Land Development Code references:
  - a. Section 18-6: Interpretation
  - b. Section 18-73: Dimensional standards
  - c. Section 18-88: Dimensional standards
  - d. Section 18-133: Commercial recreation, outdoor
  - e. Section 18-147: General retail
  - f. Section 18-161: Nightclub
  - g. Section 18-198: Accessory use standards
  - h. Section 18-210: Outdoor seating/activity areas
  - i. Section 18-235: Mobile food unit
  - j. Section 18-572: Appeals
  - k. Section 18-615: Board of adjustment
  - l. Section 18-680: Rules for interpretation

Recd. 3/30/26  
PSB

Application No. [ ]

**APPEAL & PAYMENT**  
**RECEIVED 3/30/2026**  
*Penelope Spider-Sidbury*  
**Penelope Spider-Sidbury**  
City Clerk

**CITY OF WILMINGTON**  
**STATE OF NORTH CAROLINA**



**APPLICATION FOR APPEAL FROM DETERMINATION OF  
THE CODE ENFORCEMENT OFFICER and/or  
PETITION FOR AN INTERPRETATION OF THE LAND DEVELOPMENT CODE**

**TO THE BOARD OF ADJUSTMENT:**

I, Chill Beers, LLC d/b/a The Rift, by and through undersigned counsel, hereby appeal to the Board of Adjustment from the following adverse determination of a Code Enforcement Officer of the City of Wilmington: (State the decision)

February 27, 2026 interpretation by Linda M. Painter, Acting Zoning Administrator, regarding Chapter 18 of the City Code.

This adverse decision was made with respect to property described herein or on the attached sheet.

2144 Wrightsville Avenue, Wilmington, North Carolina 28403

Also known as Tax Parcel No. R05407-040-001-000

I, Chill Beers, LLC d/b/a The Rift, by and through undersigned counsel, hereby request an interpretation of:

- Wilmington's Official Zoning Maps as specified herein;
- the following section(s) of the text of the Land Development Code:

N/A - Appellant is appealing from the interpretation mentioned above.

insofar as the map and/or the ordinance relate to the use of the property described herein or on the attached sheet.

**STATEMENT BY THE APPELLANT**

In the space provided below or on the back of this form, write your interpretation of the Land Development Code provision in question and state your reasons for your interpretation. State the **facts** you are prepared to prove to the Board of Adjustment in support of your interpretation that the determination of the Code Enforcement Officer was erroneous. Attach a copy of correspondence from the Code Enforcement Officer, with the determination you are appealing.

The basis for this appeal, without limitation, constitute the following:  
(1) ambiguity concerning what is amplified sound and sound that originates from an electrical source;  
(2) the term "amplification equipment" as used in the interpretation is insufficiently defined;  
(3) the interpretation is not reasonably related to the promotion of the public health, safety, comfort, convenience, and general welfare. i.e., under this interpretation, a quiet telephone call would be prohibited in an outdoor area, yet a loud conversation between two individuals would be allowed;

**STATEMENT BY THE APPELLANT - continued**

(4) city staff previously worked with and advised appellant regarding the construction of appellant's outdoor screen, the location of appellant's outdoor screen, the construction of appellant's sound buffer wall, and generally approved of the way appellant was operating the business. Staff is now claiming violations incongruent with the very approvals made previously;

(5) city staff chose the location of appellant's outdoor screen to comply with all applicable ordinances, and appellant located its screen in city staff's chosen location. City staff made no mention of any sound issues when assisting appellant in choosing a location for appellant's screen; and,


(6) city staff's setback requirements are incongruent with previous discussions regarding appellant's outdoor area and screen. City staff chose the location of appellant's screen to mitigate any setback concerns.

Application No.

Within 5 business days of submitting an application, applicants shall be responsible for providing payment for adjacent property owner notification in the amount of \$0.85 per required notice. Adjacent properties are all properties abutting the site and properties immediately across the street from it. Planning staff will provide the applicant with a list of adjacent property owners and confirmation that notices were mailed.

I certify that all of the information presented by me in this Application is true and correct to the best of my knowledge, information and belief.

Date

  
  
Signature of Applicant *Attorney for Applicant*

Mailing address:

Telephone #:

Application No.



# Land Development Code (LDC) Interpretation: Outdoor Amplified Sound

Interpretation Issued February 27, 2026

## Overview

The terms “amplified sound” and “outdoor amplified sound” are used in multiple sections of the Land Development Code (Chapter 18 of the City Code), including limitations on amplified outdoor sound associated with certain uses located within 1,000 feet of residential zoning districts. However, the LDC does not currently include definitions for amplified outdoor sound.

This interpretation is provided in response to a formal request for what constitutes outdoor amplified sound from a business in the CB district in relation to the noise standards outlined in the Noise Control Ordinance.

## Analysis

### Statutory Authority (North Carolina General Statutes)

- **§ 160A-184. Noise Regulation.**  
A city may by ordinance regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens.
- **§ 160D-701. Purposes**  
Zoning regulations shall be made in accordance with a comprehensive plan and shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to promote the health, safety, morals, or general welfare of the community. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the local government's planning and development regulation jurisdiction. The regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school.
- **§ 160D-702. Grant of Power**  
(a) A local government may adopt zoning regulations. Except as provided in subsections (b) and (c) of this section, a zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land. A local government may regulate development, including floating homes, over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable development rights for dedicated rights-of-way

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pursuant to G.S. 136-66.10 or G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and utility rights-of-way be dedicated to the public, that provision be made of recreational space and facilities, and that performance guarantees be provided, all to the same extent and with the same limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

## Land Development Code Rules of Interpretation

### Section 18-6: Interpretation

- A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
- B. Those uses identified as prohibited in reasonably expressed terms provide notice that those uses shall not be allowed.
- C. An unidentified use not addressed in this chapter where an owner is not on notice that a particular use is prohibited or otherwise regulated shall be liberally construed in favor of the landowner as to a permitted use.

### Section 18-680: Rules of Interpretation

Except as specifically defined herein, all words used in this chapter shall have their customary dictionary definitions. Certain words or terms used herein are defined as follows:

- A. Words used in the present tense include the future tense and the future tense includes the present tense. Words used in the singular number include the plural number and the plural number includes a singular number.
- B. The words "shall" and "will" are mandatory and not discretionary.
- C. The words "may" and "should" are permissive.
- D. The word "lot" includes the words "plot" and "tract." The word "parcel" is not interchangeable with these terms.
- E. The word "used" or "occupied" as applied to any land or building shall be construed to imply that said land or building is in actual use or occupancy and shall be construed to include the words "intended," "arranged," or "designed" to be used or occupied.
- F. The word "map" or "zoning map" shall mean the official zoning map of the city of Wilmington, North Carolina.
- G. The word "ordinance" or "regulation" shall mean this chapter, including any amendment. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.
- H. The term "residential districts" shall include any R-20, R-15, R-10, R-7, R-5, R-3, MH, MD-10, or MD-17 zoned lots. The term "single dwelling residential districts" shall include any R-20, R-15, R-10, R-7, R-5, R-3, and MH-zoned lots. The term "mixed-use districts" shall include any MX, UMX, CBD, and RO-zoned lots.
- I. The term "historic districts" shall include any HD, HDR, and HDMU zoned lots and locally-designated landmarks, unless specified otherwise. The HDR shall also be considered a single-dwelling residential district. The term "historic overlay" shall include any lot included within a designed historic district overlay, regardless of the base zoning district.
- J. The term "right-of-way" includes the words "street," "road," "cul-e-sac," "highway," or "thoroughfare," whether designated as public or private. "Alley" is not included unless specifically indicated.
- K. The word "includes" shall not limit the term to specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- L. And; Or: Where a regulation involves two or more items, conditions, provisions, or events connected by "and" or "or," the conjunction shall be interpreted as follows:
- M. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
- N. "Or" indicates that the items, conditions, provisions, or events are alternatives, and one shall apply.

## Definitions

### The American Heritage College Dictionary, Third Edition, 2000

- **out • door** . . . *adj.* Located in, done in, or suited to the open air.
- **am • pli • fy** . . . *v.* **-fied, -fy ing, -fies** – *tr.* **1.** To make larger or more powerful; increase. **2.** To add to, as by illustrations; make complete. **3.** To exaggerate. **4.** To produce amplification of: *amplify an electrical signal.* – *intr.* To write or discourse at length, expatiate. [ME *amplifien* < *Ofr. Amplifier* < Lat. *Amplificāre*; *amplus*, large + *-ficāre, -fy.*)
- **sound**<sup>1</sup>. . . *n.* **1a.** Vibrations transmitted through an elastic material, either solid, liquid, or gas, with frequencies from approx. 20 to 20,000 hertz, capable of being detected by the human ear. **b.** Transmitted vibrations of any frequency including those outside the range of human hearing. **c.** The sensation stimulated in the organs of hearing by such vibrations in the air or other medium. **d.** Such sensations considered as a group. **2.** A distinctive noise. **3.** The distance over which something can be heard. **4. Ling.** **a.** An articulation made by the vocal apparatus. **b.** The distinctive character of such an articulation: *The words bear and bare have the same sound.* **5.** A mental impression; an implication: *didn't like the sound of it.* **6.** Auditory material that is recorded, as for a movie. **7.** Meaningless noise. **8. Mus.** A distinctive style, as of an orchestra or singer. **9. Archaic.** Rumor, report.

### City Noise Ordinance (Chapter 6, Article II, Section 6-29)

While Section 18-680 specifies that undefined words used in Chapter 18 shall have their customary dictionary definitions, the definitions established in other chapters of the City Code for those words and related terms must also apply to ensure consistent application of related provisions between different chapters of the City Code. As the requested interpretation is related to the issue of noise, the following definitions from Chapter 6, Article II (Noise Control) of the Code of Ordinances are germane to this interpretation:

- *Amplified sound.* Any sound or noise, including the human voice, that is increased in volume or intensity by means of electrical power.
- *Plainly audible.* Any sound or component of sound for which any of the content of that sound is unambiguous, verifiable, and discernible above ambient levels by a person using his or her unaided hearing faculties, including but not limited to comprehensible musical rhythms, understandable speech, or rhythmic bass.
- *Sound.* Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by persons of normal sensitivity.
- *Sound source.* Any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.

## Land Development Code References

Article 3 of the Land Development Code establishes standards for specific uses, including principal uses, accessory uses, and temporary uses.

### Article 2, Zoning Districts

- Section 18-73: Dimension standards (commercial districts)  
Prohibits outdoor amplified sound, including public address/ loudspeaker systems, within 200 feet of single-dwelling residential zoning on lots adjacent to a lot zoned for single-dwelling residential use.
- Section 18-88: Dimensional standards (industrial districts)  
Prohibits outdoor amplified sound, including public address/ loudspeaker systems, within 200 feet of single-dwelling residential zoning on lots adjacent to residential zoning.

### Article 3, Use Standards

The use-specific standards identified in Division 2, Use Specific Standards, apply to individual uses that are:

- Permitted with prescribed conditions in a specific district pursuant to Article 2
- Permitted as special use in a specific district pursuant to Article 2
- Uses that required conditional zoning pursuant to Article 2

The following use-specific standards establish limitations on amplified sound:

- Section 18-133: Commercial Recreation, Outdoor  
Prohibits amplified sound and outdoor speakers within 500 feet of residential zoning.
- Section 18-147: General Retail  
Prohibits drive-through facilities, outdoor speakers, and amplified sound associated with retail uses in the RO district
- Section 18-161: Nightclub  
Prohibits outdoor amplified sound within 1,000 feet of a residential district

### **Article 3, Division 3, Accessory Use Standards**

Outdoor seating/activity areas are considered to be an accessory use and are permitted in the following districts pursuant to Table 18-198: Accessory uses by zoning district:

- UMX, HDMU, CB, CS, RB, O&I: Permitted only if it applies with applicable standards
- CBD, LI, IND: Permitted by right

Section 18-210 establishes the specific standards for outdoor seating/activity areas:

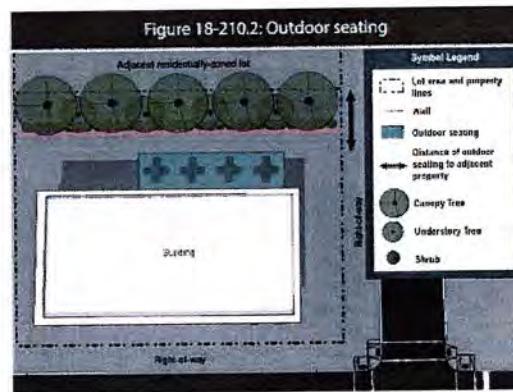
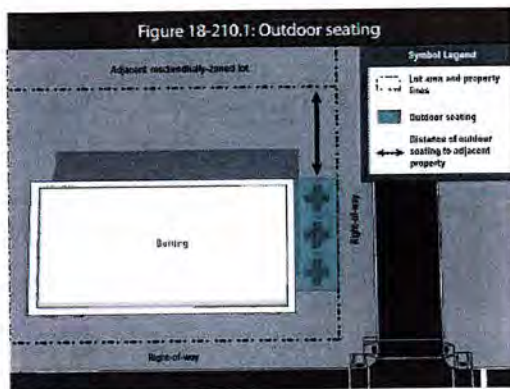
#### A. Generally

1. Outdoor seating/activity areas shall not occupy parking spaces, drive aisles, or required landscape areas.
2. Outdoor seating/activity areas shall not obstruct or impede any sidewalk or other pedestrian way. Sidewalk seating may be permitted pursuant to Section 4-109 of the city of Wilmington Code of Ordinances.
3. Outdoor seating/activity areas shall be counted as floor area for purposes of determining off-street parking and loading standards.

#### B. Dimensional standards

1. Outdoor seating/activity areas shall be subject to the location requirements of Table 18-210: Dimensional standards for accessory outdoor seating/activity areas.
2. To reduce the setback from single-dwelling residential zoning from 500 feet to 100 feet, the following shall be required:
  - a. The seating/activity area shall be located farthest from the single-dwelling residential zoning such that one of the following is between the seating/activity area and single-dwelling residential zoning:
    - i. The principal building; or
    - ii. A sound attenuating wall and vegetative buffer. The sound attenuating wall shall be at least six inches thick and shall be the maximum height allowed for fences and walls in the applicable zoning district. Plantings equivalent to a class B buffer shall be installed between the seating/ activity area and the single-dwelling residential zoning. Such facilities shall not be open between the hours of 10:00 PM and 8:00 AM.
3. There shall be no reduction in setbacks for amplified sound.
4. Distance shall be measured from the nearest edge of any outdoor seating/activity area to the nearest edge of the residential property line (see figures 18-210.1 and 18-210.2: Outdoor seating).

Table 18-210: Dimensional standards for accessory outdoor seating/activity areas	
Seating/activity area placement	
Minimum setbacks from single-dwelling residential zoning	
Outdoor seating/activity area, generally	500 feet
Outdoor seating area with limited hours of operation (8:00 AM to 8:00 PM only)	50 feet
Outdoor seating/activity area with increased buffering standards per Section 18-210 B. 2.	100 feet
Any associated amplified sound	1,000 feet



### Article 3: Division 4, Temporary Use Standards

Section 18-235, Mobile Food Unit, prohibits the use of amplified microphones or bullhorns as part of the mobile food unit operation.

### Noise Control Ordinance References

The following excerpts of the noise control ordinance are provided for reference only. The omission of any particular provision should not be construed to mean such provision does not apply.

#### Section 6-30: Specific Prohibitions

- (e) The intentional projection of sound from any drum, music, loudspeaker, or other instrument or device onto adjoining or neighboring properties for the purpose of attracting attention by creation of noise to any business, location, performance, show, event, sale, or display.

#### Section 6-32: Noise violation based on sound meters

- (d) Sound level measurements shall be made from within the boundary line of an adjoining or complaining property. Whether the sound level violates the prescribed limits in section 6-33 below will be determined by whether the readings taken within the adjoining or complaining property are in excess of the levels allowed for the zoning area of the property that is the source of the sound.

#### Section 6-33: Sound level limits by zoning area

Maximum Sound Level Readings

- Downtown
  - 7:00 a.m. to Midnight: 75 dB(A)
  - Midnight to 7 a.m.: 65 dB(A)
- Residential

- 7:00 a.m. to Midnight: 65 dB(A)
- Midnight to 7 a.m.: 55 dB(A)
- Commercial/Industrial
  - 7:00 a.m. to Midnight: 75 dB(A)
  - Midnight to 7 a.m.: 70 dB(A)

## Interpretation

Based on the above-referenced definitions and regulations, references in Chapter 18 of the City Code to amplified sound associated with non-residential uses are interpreted to refer to the use of equipment operated by the associated business that is designed to increase any sound or noise in volume or intensity by means of electrical power.

- Where outdoor amplified sound is prohibited or limited, those provisions shall apply to the use of such equipment to amplify sound in the open air, including structures that are not fully enclosed, such as pergolas, gazebos, etc.
- Amplification equipment located inside an enclosed building shall not be subject to the restrictions and separation distances that apply to outdoor amplified sound.
- The use of the term "outdoor speakers", separate and distinct from "amplified sound", is deemed redundant based on this interpretation.
- Restrictions on the use of amplified sound do not apply to temporary uses authorized by Chapter 18, Division 4, Temporary Use Standards.
- All uses remain subject to the sound level limits established for zoning areas by the Noise Control Ordinance. It is the responsibility of the business owner and property owner to ensure that noise levels remain within those limits, including noise generated within an enclosed building and by customers.

## Effect of Interpretation

- This interpretation shall be effective upon issuance.
- This interpretation may be appealed to the Board of Adjustment by filing a Notice of Appeal with the City Clerk within 30 days of receiving actual or constructive notice of the decision.
- An LDC amendment to codify this interpretation shall be prepared by staff and submitted to the Planning Commission and City Council for consideration as part of the next Code maintenance amendment package.
- Should the City Council decline to adopt the LDC amendment codifying this interpretation, this interpretation shall be null and void.

*Linda M. Painter*

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Linda M. Painter, AICP, Planning & Development Director |  
Acting Zoning Administrator

2/27/2026

Date



# Land Development Code (LDC) Interpretation: Outdoor Amplified Sound

Interpretation Issued February 27, 2026

## Overview

The terms “amplified sound” and “outdoor amplified sound” are used in multiple sections of the Land Development Code (Chapter 18 of the City Code), including limitations on amplified outdoor sound associated with certain uses located within 1,000 feet of residential zoning districts. However, the LDC does not currently include definitions for amplified outdoor sound.

This interpretation is provided in response to a formal request for what constitutes outdoor amplified sound from a business in the CB district in relation to the noise standards outlined in the Noise Control Ordinance.

## Analysis

### Statutory Authority (North Carolina General Statutes)

- **§ 160A-184. Noise Regulation.**  
A city may by ordinance regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens.
- **§ 160D-701. Purposes**  
Zoning regulations shall be made in accordance with a comprehensive plan and shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to promote the health, safety, morals, or general welfare of the community. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the local government's planning and development regulation jurisdiction. The regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school.
- **§ 160D-702. Grant of Power**  
(a) A local government may adopt zoning regulations. Except as provided in subsections (b) and (c) of this section, a zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land. A local government may regulate development, including floating homes, over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable development rights for dedicated rights-of-way

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pursuant to G.S. 136-66.10 or G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and utility rights-of-way be dedicated to the public, that provision be made of recreational space and facilities, and that performance guarantees be provided, all to the same extent and with the same limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

## Land Development Code Rules of Interpretation

### Section 18-6: Interpretation

- A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
- B. Those uses identified as prohibited in reasonably expressed terms provide notice that those uses shall not be allowed.
- C. An unidentified use not addressed in this chapter where an owner is not on notice that a particular use is prohibited or otherwise regulated shall be liberally construed in favor of the landowner as to a permitted use.

### Section 18-680: Rules of Interpretation

Except as specifically defined herein, all words used in this chapter shall have their customary dictionary definitions. Certain words or terms used herein are defined as follows:

- A. Words used in the present tense include the future tense and the future tense includes the present tense. Words used in the singular number include the plural number and the plural number includes a singular number.
- B. The words "shall" and "will" are mandatory and not discretionary.
- C. The words "may" and "should" are permissive.
- D. The word "lot" includes the words "plot" and "tract." The word "parcel" is not interchangeable with these terms.
- E. The word "used" or "occupied" as applied to any land or building shall be construed to imply that said land or building is in actual use or occupancy and shall be construed to include the words "intended," "arranged," or "designed" to be used or occupied.
- F. The word "map" or "zoning map" shall mean the official zoning map of the city of Wilmington, North Carolina.
- G. The word "ordinance" or "regulation" shall mean this chapter, including any amendment. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.
- H. The term "residential districts" shall include any R-20, R-15, R-10, R-7, R-5, R-3, MH, MD-10, or MD-17 zoned lots. The term "single dwelling residential districts" shall include any R-20, R-15, R-10, R-7, R-5, R-3, and MH-zoned lots. The term "mixed-use districts" shall include any MX, UMX, CBD, and RO-zoned lots.
- I. The term "historic districts" shall include any HD, HDR, and HDMU zoned lots and locally-designated landmarks, unless specified otherwise. The HDR shall also be considered a single-dwelling residential district. The term "historic overlay" shall include any lot included within a designed historic district overlay, regardless of the base zoning district.
- J. The term "right-of-way" includes the words "street," "road," "cul-e-sac," "highway," or "thoroughfare," whether designated as public or private. "Alley" is not included unless specifically indicated.
- K. The word "includes" shall not limit the term to specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- L. And, or: Where a regulation involves two or more items, conditions, provisions, or events connected by "and" or "or," the conjunction shall be interpreted as follows:
- M. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
- N. "Or" indicates that the items, conditions, provisions, or events are alternatives, and one shall apply.

## Definitions

### The American Heritage College Dictionary, Third Edition, 2000

- **out • door** . . . *adj.* Located in, done in, or suited to the open air.
- **am • pli • fy** . . . *v.* **-fied, -fy ing, -fies** -- *tr.* **1.** To make larger or more powerful; increase. **2.** To add to, as by illustrations; make complete. **3.** To exaggerate. **4.** To produce amplification of: *amplify an electrical signal.* - *intr.* To write or discourse at length, expatiate. [ME *amplifien* < Ofr. *Amplifier* < Lat. *Amplificāre*; *amplus*, large + *-ficāre, -fy.*)
- **sound**<sup>1</sup>. . . *n.* **1a.** Vibrations transmitted through an elastic material, either solid, liquid, or gas, with frequencies from approx. 20 to 20,000 hertz, capable of being detected by the human ear. **b.** Transmitted vibrations of any frequency including those outside the range of human hearing. **c.** The sensation stimulated in the organs of hearing by such vibrations in the air or other medium. **d.** Such sensations considered as a group. **2.** A distinctive noise. **3.** The distance over which something can be heard. **4.** *Ling.* **a.** An articulation made by the vocal apparatus. **b.** The distinctive character of such an articulation: *The words bear and bare have the same sound.* **5.** A mental impression; an implication: *didn't like the sound of it.* **6.** Auditory material that is recorded, as for a movie. **7.** Meaningless noise. **8.** *Mus.* A distinctive style, as of an orchestra or singer. **9.** *Archaic.* Rumor, report.

### City Noise Ordinance (Chapter 6, Article II, Section 6-29)

While Section 18-680 specifies that undefined words used in Chapter 18 shall have their customary dictionary definitions, the definitions established in other chapters of the City Code for those words and related terms must also apply to ensure consistent application of related provisions between different chapters of the City Code. As the requested interpretation is related to the issue of noise, the following definitions from Chapter 6, Article II (Noise Control) of the Code of Ordinances are germane to this interpretation:

- *Amplified sound.* Any sound or noise, including the human voice, that is increased in volume or intensity by means of electrical power.
- *Plainly audible.* Any sound or component of sound for which any of the content of that sound is unambiguous, verifiable, and discernible above ambient levels by a person using his or her unaided hearing faculties, including but not limited to comprehensible musical rhythms, understandable speech, or rhythmic bass.
- *Sound.* Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by persons of normal sensitivity.
- *Sound source.* Any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.

## Land Development Code References

Article 3 of the Land Development Code establishes standards for specific uses, including principal uses, accessory uses, and temporary uses.

### Article 2, Zoning Districts

- Section 18-73: Dimension standards (commercial districts)  
Prohibits outdoor amplified sound, including public address/ loudspeaker systems, within 200 feet of single-dwelling residential zoning on lots adjacent to a lot zoned for single-dwelling residential use.
- Section 18-88: Dimensional standards (industrial districts)  
Prohibits outdoor amplified sound, including public address/ loudspeaker systems, within 200 feet of single-dwelling residential zoning on lots adjacent to residential zoning.

### Article 3, Use Standards

The use-specific standards identified in Division 2, Use Specific Standards, apply to individual uses that are:

- Permitted with prescribed conditions in a specific district pursuant to Article 2
- Permitted as special use in a specific district pursuant to Article 2
- Uses that required conditional zoning pursuant to Article 2

The following use-specific standards establish limitations on amplified sound:

- Section 18-133: Commercial Recreation, Outdoor  
Prohibits amplified sound and outdoor speakers within 500 feet of residential zoning.
- Section 18-147: General Retail  
Prohibits drive-through facilities, outdoor speakers, and amplified sound associated with retail uses in the RO district
- Section 18-161: Nightclub  
Prohibits outdoor amplified sound within 1,000 feet of a residential district

### **Article 3, Division 3, Accessory Use Standards**

Outdoor seating/activity areas are considered to be an accessory use and are permitted in the following districts pursuant to Table 18-198: Accessory uses by zoning district:

- UMX, HDMU, CB, CS, RB, O&I: Permitted only if it applies with applicable standards
- CBD, LI, IND: Permitted by right

Section 18-210 establishes the specific standards for outdoor seating/activity areas:

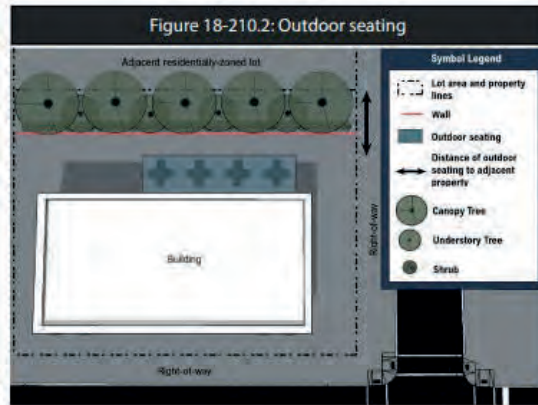
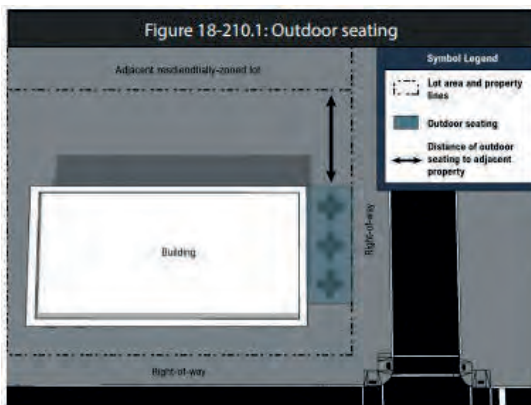
#### A. Generally

1. Outdoor seating/activity areas shall not occupy parking spaces, drive aisles, or required landscape areas.
2. Outdoor seating/activity areas shall not obstruct or impede any sidewalk or other pedestrian way. Sidewalk seating may be permitted pursuant to Section 4-109 of the city of Wilmington Code of Ordinances.
3. Outdoor seating/activity areas shall be counted as floor area for purposes of determining off-street parking and loading standards.

#### B. Dimensional standards

1. Outdoor seating/activity areas shall be subject to the location requirements of Table 18-210: Dimensional standards for accessory outdoor seating/activity areas.
2. To reduce the setback from single-dwelling residential zoning from 500 feet to 100 feet, the following shall be required:
  - a. The seating/activity area shall be located farthest from the single-dwelling residential zoning such that one of the following is between the seating/activity area and single-dwelling residential zoning:
    - i. The principal building; or
    - ii. A sound attenuating wall and vegetative buffer. The sound attenuating wall shall be at least six inches thick and shall be the maximum height allowed for fences and walls in the applicable zoning district. Plantings equivalent to a class B buffer shall be installed between the seating/ activity area and the single-dwelling residential zoning. Such facilities shall not be open between the hours of 10:00 PM and 8:00 AM.
3. There shall be no reduction in setbacks for amplified sound.
4. Distance shall be measured from the nearest edge of any outdoor seating/activity area to the nearest edge of the residential property line (see figures 18-210.1 and 18-210.2: Outdoor seating).

Table 18-210: Dimensional standards for accessory outdoor seating/ activity areas	
Seating/activity area placement	
Minimum setbacks from single-dwelling residential zoning	
Outdoor seating/activity area, generally	500 feet
Outdoor seating area with limited hours of operation (8:00 AM to 8:00 PM only)	50 feet
Outdoor seating/activity area with increased buffering standards per Section 18-210 B. 2.	100 feet
Any associated amplified sound	1,000 feet



### Article 3: Division 4, Temporary Use Standards

Section 18-235, Mobile Food Unit, prohibits the use of amplified microphones or bullhorns as part of the mobile food unit operation.

### Noise Control Ordinance References

The following excerpts of the noise control ordinance are provided for reference only. The omission of any particular provision should not be construed to mean such provision does not apply.

#### Section 6-30: Specific Prohibitions

(e) The intentional projection of sound from any drum, music, loudspeaker, or other instrument or device onto adjoining or neighboring properties for the purpose of attracting attention by creation of noise to any business, location, performance, show, event, sale, or display.

#### Section 6-32: Noise violation based on sound meters

(d) Sound level measurements shall be made from within the boundary line of an adjoining or complaining property. Whether the sound level violates the prescribed limits in section 6-33 below will be determined by whether the readings taken within the adjoining or complaining property are in excess of the levels allowed for the zoning area of the property that is the source of the sound.

#### Section 6-33: Sound level limits by zoning area

Maximum Sound Level Readings

- Downtown
  - 7:00 a.m. to Midnight: 75 dB(A)
  - Midnight to 7 a.m.: 65 dB(A)
- Residential

- 7:00 a.m. to Midnight: 65 dB(A)
- Midnight to 7 a.m.: 55 dB(A)
- Commercial/Industrial
  - 7:00 a.m. to Midnight: 75 dB(A)
  - Midnight to 7 a.m.: 70 dB(A)

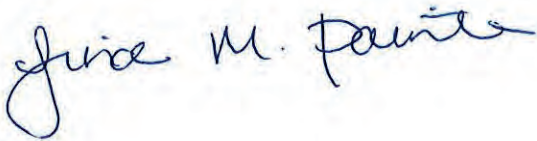
## Interpretation

Based on the above-referenced definitions and regulations, references in Chapter 18 of the City Code to amplified sound associated with non-residential uses are interpreted to refer to the use of equipment operated by the associated business that is designed to increase any sound or noise in volume or intensity by means of electrical power.

- Where outdoor amplified sound is prohibited or limited, those provisions shall apply to the use of such equipment to amplify sound in the open air, including structures that are not fully enclosed, such as pergolas, gazebos, etc.
- Amplification equipment located inside an enclosed building shall not be subject to the restrictions and separation distances that apply to outdoor amplified sound.
- The use of the term “outdoor speakers”, separate and distinct from “amplified sound”, is deemed redundant based on this interpretation.
- Restrictions on the use of amplified sound do not apply to temporary uses authorized by Chapter 18, Division 4, Temporary Use Standards.
- All uses remain subject to the sound level limits established for zoning areas by the Noise Control Ordinance. It is the responsibility of the business owner and property owner to ensure that noise levels remain within those limits, including noise generated within an enclosed building and by customers.

## Effect of Interpretation

- This interpretation shall be effective upon issuance.
- This interpretation may be appealed to the Board of Adjustment by filing a Notice of Appeal with the City Clerk within 30 days of receiving actual or constructive notice of the decision.
- An LDC amendment to codify this interpretation shall be prepared by staff and submitted to the Planning Commission and City Council for consideration as part of the next Code maintenance amendment package.
- Should the City Council decline to adopt the LDC amendment codifying this interpretation, this interpretation shall be null and void.




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Linda M. Painter, AICP, Planning & Development Director |  
Acting Zoning Administrator

2/27/2026

Date

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### Section 18-4: Purpose

- A. This chapter is intended to consolidate the city's major land development and land use regulations.
- B. The regulations in this chapter are designed to promote efficient traffic circulation; to minimize the risk of fire, panic, and other damages; to protect public health, safety, and general welfare; to provide adequate light and air; to protect residential neighborhoods, shopping districts, parks and recreational facilities, and natural resources from adverse impacts of inappropriate uses or site development features and to facilitate the adequate provision of transportation, potable water, sanitary sewerage, schools, parks, and other public facilities. These regulations represent a reasonable consideration of the character of the city's various neighborhoods and the suitability for particular uses of land. They have been made with a view to preserve the existing environment and maintain or enhance quality of life while assuring the greatest possible use and enjoyment of land on individual properties, balanced against the necessary protection and enjoyment of land uses on adjacent properties. All of this with the objective of promoting and protecting public welfare through the regulation of land use and land development activities.

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### Section 18-5: Relationship to long-range plans

It is the intention of the Wilmington City Council that this chapter implement the general planning policies expressed in the Wilmington-New Hanover County Coastal Area Management Act (CAMA) Land Use Plan Update, the city's comprehensive plan, corridor plans, special area plans, and other planning documents as adopted by the city council and as subsequently amended. While the city council intends that this chapter and any amendment to it shall be in conformity with adopted planning policies, the council hereby expresses its intent that neither this chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

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### Section 18-6: Interpretation

- A. A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
- B. Those uses identified as prohibited in reasonably expressed terms provide notice that those uses shall not be allowed.
- C. An unidentified use not addressed in this chapter where an owner is not on notice that a particular use is prohibited or otherwise regulated shall be liberally construed in favor of the landowner as to a permitted use.

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### Section 18-7: Severability

Should any section or provision of this chapter or any boundary of any district of the official zoning map herein or hereafter adopted be decided by the courts to be unconstitutional or illegal, such decision shall not affect the validity of these regulations and the official zoning map as a whole or any part thereof other than the part so decided to be unconstitutional or illegal.

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### Section 18-8: Effective date

The provisions of this chapter were adopted on August 17, 2021 and became effective on December 1, 2021.

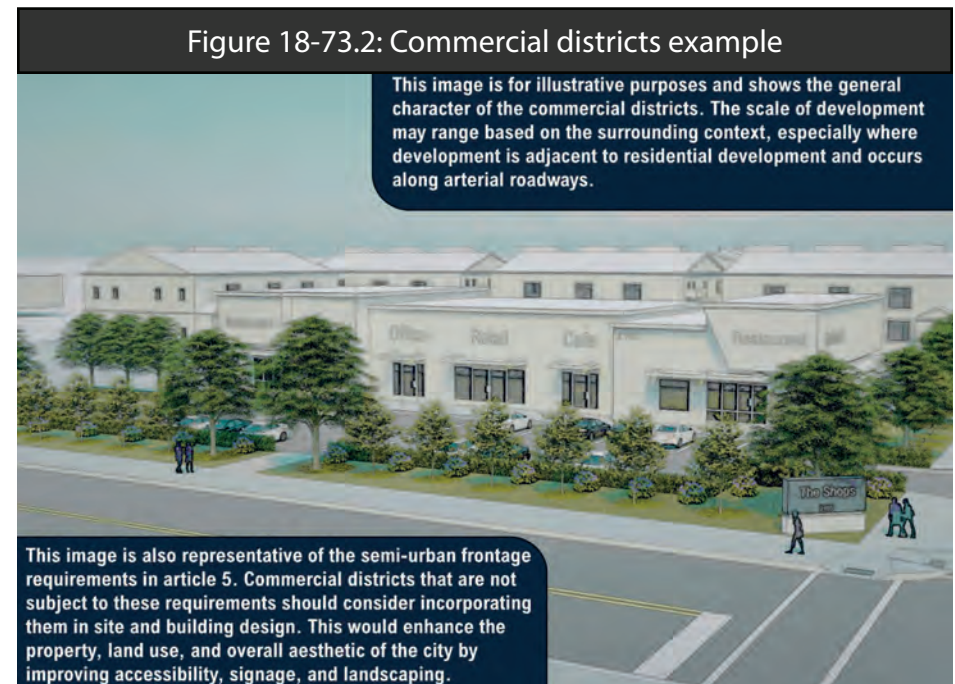
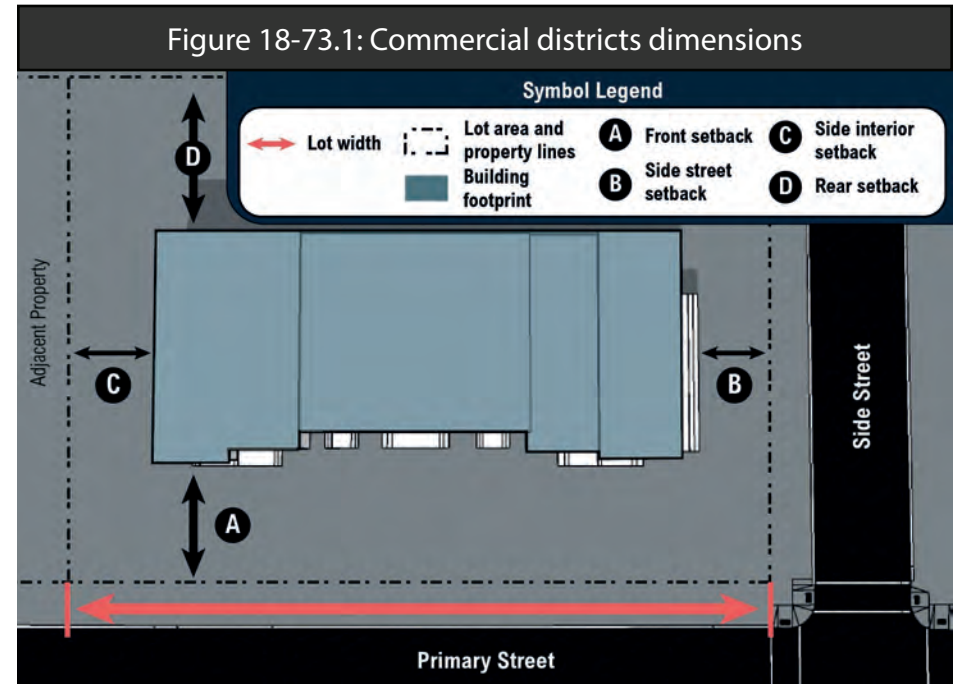
Sections 18-9 - 18-15. Reserved.

## Section 18-73: Dimensional standards

### A. Dimensional standards

Development and new lots in the commercial districts shall conform to the standards prescribed in Table 18-73: Relevant district-specific standards shall also apply (see figures 18-73.1: Commercial districts dimensions and 18-73.2: Commercial districts example). For lots subject to frontage standards per article 5, division 6 of this chapter, the frontage standards shall apply.

Table 18-73: Commercial districts dimensional standards				
	CB	RB	CS	O&I
<b>Lot requirements</b>				
Minimum lot area (square feet)	None	22,000	15,000	15,000
Minimum lot width (feet)	50	80	80	80
<b>Minimum setbacks (feet)</b>				
Front	10	20	20	20
Side street	10	20	20	20
Side interior	0	0	0	0
Side interior, residential adjacent (zoning only)	25	50	50	25
Rear	5	15	15	20
Rear, residential adjacent (zoning only)	25	25	25	25
<b>Building size</b>				
By-right height (feet)	45	45	35	45
Optional height increase (feet)		96		96
Maximum building footprint (percent of total lot area)	30	40		40
Residential requirements	See Section 18-131: Commercial districts - mixed use			



## B. Optional building height increase

In the RB and O&I districts, building height may be increased above the by-right height. New buildings or developments that increase the by-right height shall provide a development transition using graduated building height and mass in the form of building step-backs.

1. That portion of the building above the by-right height, shall be stepped back from front and side lot lines at a ratio of one foot for every foot of building height. For example, for a 60-foot-tall building, the portion of the building from 45.1 feet to 60 feet in height shall have a 60-foot step back from lot lines (see Figure 18-73.3 Building step backs).
2. When adjacent to single-dwelling residential zoning, step backs shall also be applied to any shared lot lines.

## C. Residential compatibility standards

When nonresidential uses are proposed on lots adjacent to a lot zoned for single-dwelling residential use, the following standards shall apply:

1. The following uses or features shall be prohibited within 200 feet of single-dwelling residential zoning:

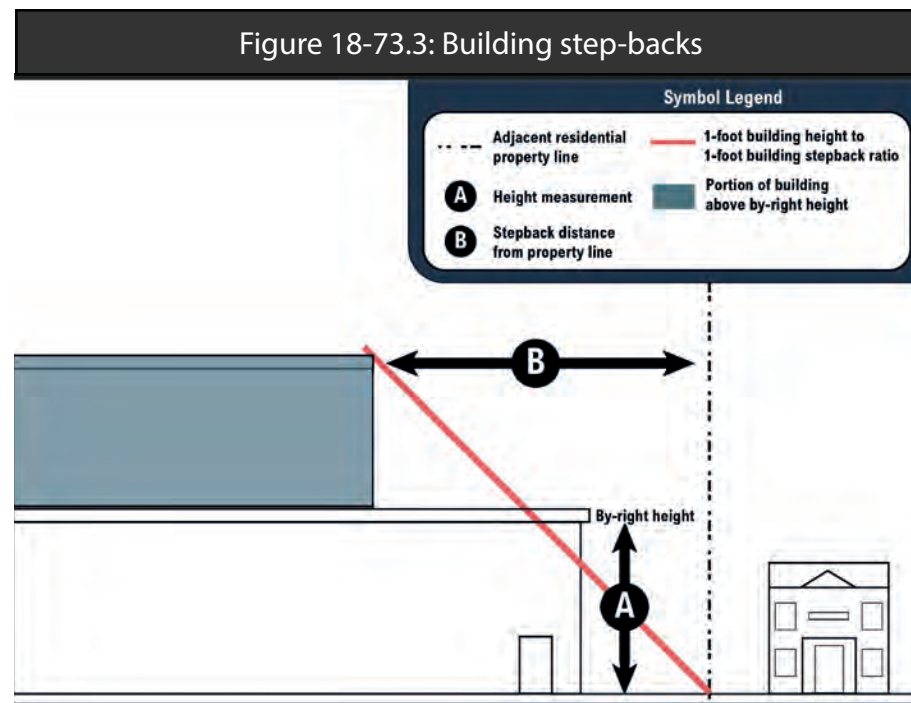
a. Outdoor amplified sound, including public address/loudspeaker systems; and

b. Outdoor storage.

2. Parking

Off-street parking shall be limited to one or more of the following locations. The locations are listed in priority order and shall be applied in the highest location from this list. For lots subject to frontage standards per article 5, the frontage standards shall apply.

Figure 18-73.3: Building step-backs



- a. Adjacent to off-street parking lots serving nonresidential uses on abutting lots.
- b. Adjacent to lot lines shared with nonresidential zoning and development.
- c. Adjacent to lot lines shared with mixed-use development.
- d. Behind the building.
- e. In front of the building.
- f. Adjacent to lot lines shared with residential uses.
- g. Any parking designated for trucks, recreational vehicles, and other large vehicles shall not be located within 75 feet of a lot line shared with a single-dwelling zoned lot, nor within 25 feet of any street.

## 3. Relationship to surrounding uses

- a. Multi-building developments shall be configured to place the tallest and largest buildings within the core of the site and provide a gradual decrease in building height and mass towards adjacent residential uses.
- b. Pedestrian and bicycle connections to adjacent single dwelling residential uses shall be provided to facilitate non-motorized transportation between residential and nonresidential uses.
- c. Nonresidential buildings exceeding 35 feet in height shall be broken up into modules or wings with the smaller or shorter portions of the building located adjacent to uses and the taller or larger portions away from single dwelling zoning.

## 4. Facade configuration

Service functions (e.g., refuse collection, incidental storage, etc.) shall be integrated into the architecture of the building unless an alternative location places these functions farther from adjacent single-dwelling zoning.

## 5. Operation

- a. Nonresidential uses with outdoor components (e.g., outdoor dining, performance areas) shall not be located within 200 feet of a residential zoning district, as measured from the component to the residentially-zoned lot line.
- b. Loading or unloading facilities shall not be located within 200 feet of any residential zoning district.

(Ord. No. O-2021-75, §2, 11-3-2021; Ord. No. O-2022-41, §7, 6-7-2022)

## Section 18-74: District-specific standards

In the office and institutional district, the following standards shall apply:

- A. Exterior building materials for new construction shall be limited to the following materials, which may be used in any combination:
  1. Wood;
  2. Stucco, including synthetic stucco material;
  3. Brick;
  4. Shingles;
  5. Vinyl or fiber cement board designed to resemble wooden lap siding or shingles;
  6. Glass and glass framing materials;
  7. Architectural concrete and concrete products;
  8. Metal, not to exceed 49% of the area of the front facade;
  9. Natural or manufactured stone products; and
  10. Ceramic products.
- B. Roofing materials for new construction shall be limited to the following:
  1. Tile;
  2. Shingle;
  3. Metal; or
  4. A combination of the above-listed materials.
  5. In the case of a flat roof, a membrane material may be used.

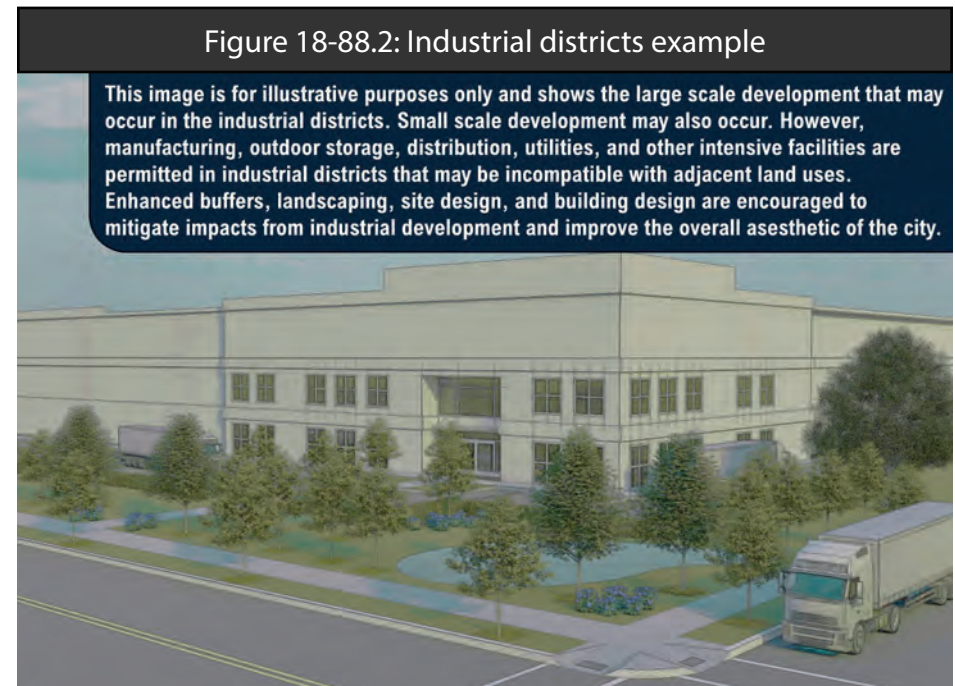
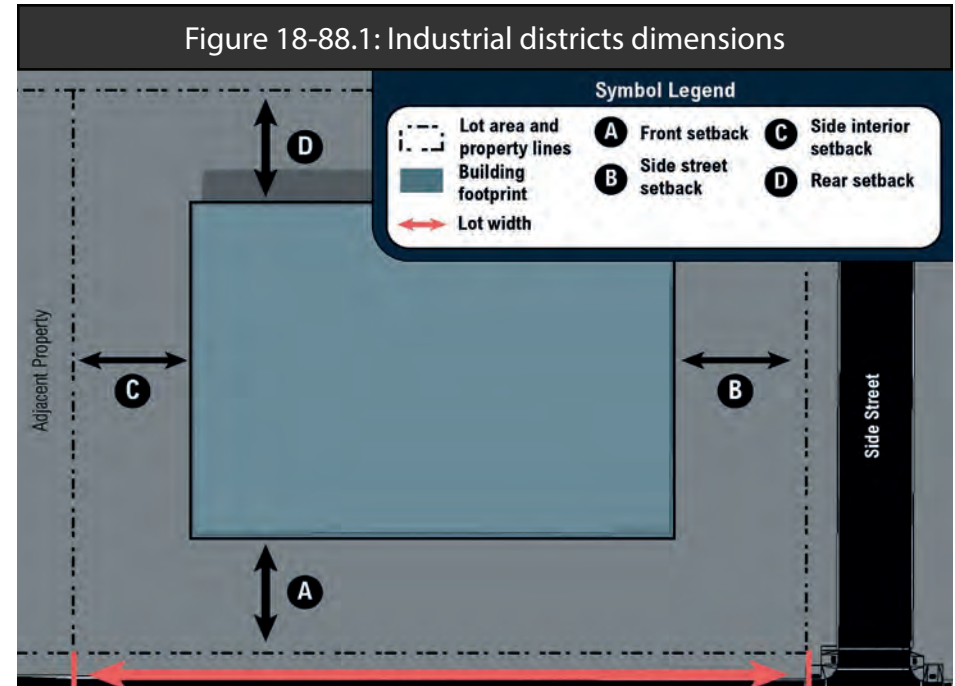
(Ord. No. O-2022-41, §8, 6-7-2022)

Sections 18-75 - 18-85: Reserved.

### Section 18-88: Dimensional standards

Development and new lots in the industrial districts shall conform to the standards prescribed in Table 18-58: Industrial districts dimensional standards. Relevant district-specific standards shall also apply (see figures 18-88.1 Industrial districts dimensions and 18-88.2 Industrial districts example).

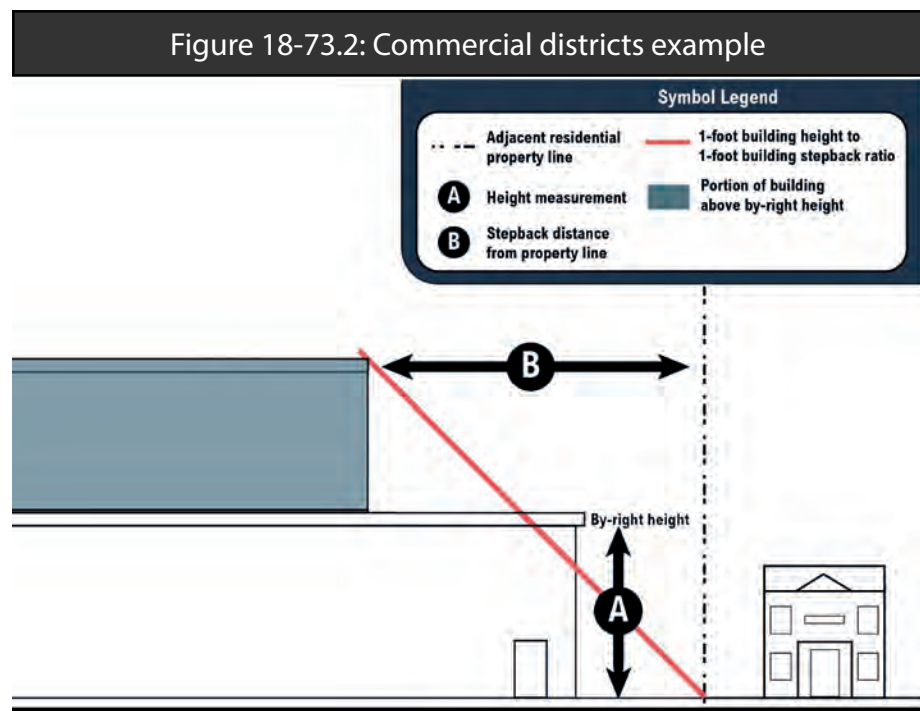
Table 18-58: Industrial districts dimensional standards		
	LI	IND
<b>Lot requirements</b>		
Minimum lot area	20,000 sq. ft.	1 acre
Minimum lot width (feet)	80	100
<b>Minimum setbacks (feet)</b>		
Front	35	35
Side street	35	35
Side interior	10	10
Side interior, residential adjacent	35	50
Rear	20	20
Rear, residential adjacent	35	50
<b>Building size</b>		
By-right height (feet)	45	45
Optional maximum height increase (feet)	96	96



### A. Optional building height increase

In the LI and IND districts, building height may be increased above the by-right height. New buildings or developments that increase the by-right height shall provide a development transition using graduated building height and mass in the form of building step-backs.

1. That portion of the building above the by-right height, shall be stepped back from front and side lot lines at a ratio of one foot for every foot of building height. For example, for a 60-foot-tall building, the portion of the building from 45.1 feet to 60 feet in height shall have a 60-foot step back from lot lines (see Figure 18-88.3 Building step backs).
2. When adjacent to single-dwelling residential zoning, stepbacks shall also be applied to any shared lot lines.



### B. Residential compatibility standards

When LI and IND uses are proposed on lots adjacent residential zoning, the following standards shall apply:

1. Use limitations
  - a. The following uses or features shall be prohibited within 200 feet of single-dwelling residential zoning:
    - i. Outdoor amplified sound, including public address/loudspeaker systems;
    - ii. Outdoor storage; and
    - iii. Facilities for the delivery of inventory or merchandise via tractor trailers.
  - b. Off-street parking shall not be located within 50 feet of a lot line shared with residential zoning.
2. Relationship to surrounding uses
  - a. Multi-building developments shall be configured to place the tallest and largest buildings within the core of the site and provide a gradual decrease in building height and mass towards adjacent residential uses.
  - b. Horizontally-integrated mixed-use developments shall locate nonresidential uses away from lots zoned for single-dwelling.
  - c. Pedestrian and bicycle connections to adjacent residential uses shall be provided in order to facilitate non-motorized transportation between residential and nonresidential uses.
  - d. Nonresidential buildings exceeding 35 feet in height shall be broken up into modules or wings with the smaller or shorter portions of the building located adjacent to single-dwelling uses and the taller or larger portions away from single dwelling zoning.

3. Facade configuration

Service functions (e.g., refuse collection, incidental storage, etc.) shall be integrated into the architecture of the building unless an alternative location places these functions farther from adjacent residential zoning.

(Ord. No. O-2021-75, §3, 11-3-2021; Ord. No. O-2022-41, §9, 6-7-2022)

Secs. 18-89-18-99: Reserved.

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## Section 18-133: Commercial recreation, outdoor

### A. Generally

1. A vegetative transitional buffer at least 50 feet in width shall be required along any lot lines shared with residentially-zoned lots.
2. The following shall be prohibited within 500 feet of residential zoning:

- a. Amplified sound; and
- b. Outdoor speakers.

### B. Zoos

1. Site standards
  - a. The minimum lot size shall be 10 acres.
  - b. An opaque vegetative buffer, at least 50 feet in width, shall be provided adjacent to any single-dwelling uses.
2. Animal husbandry
  - a. All animals shall be maintained within pens, fenced areas, or other enclosures.
  - b. Any outdoor enclosures for non-hoofed animals shall maintain at least 1,500 square feet per animal kept on-site.
  - c. Any outdoor enclosures for hoofed animals shall maintain at least 9,000 square feet per animal kept on-site.
  - d. All barns, pens, and outdoor enclosures shall be at least 100 feet from any lot lines.

### 3. Animal waste

- a. Any outdoor areas used for animal containment or exercise shall be maintained by removing animal waste daily for proper disposal as solid waste.
- b. Any runoff, wash-down water, or waste from any animal pen, enclosure, containment, or exercise area shall be collected and disposed of in the sanitary sewer after straining of solids and hair.
- c. Strained solids and hair shall be properly disposed of as solid waste.
- d. Animal waste shall not be allowed to enter the stormwater drainage or surface waters.

### 4. Protective buffer

- a. Within SA watershed and watershed resource protection land classification areas, outdoor animal facilities shall be separated by a vegetative buffer of not less than 100 feet from any stream, wetland, or other surface water features including wet detention ponds.
- b. In all other areas, outdoor animal facilities shall be separated by a vegetative buffer of not less than 50 feet from any stream, wetland, or natural surface water feature.

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## Section 18-144: Family care home

This use requires compliance with the following prescribed conditions and applicable North Carolina General Statutes.

### A. Design and location standards

1. A family care home shall be separated no less than one-half-mile from an existing permitted family care home within any single dwelling residential, MH, HDR, HD, and HDMU district whether contiguous or not.
2. The separation distance shall be reduced by the width of: the right-of-way of a major thoroughfare exceeding 100 feet in width, major watercourses at least 100 feet in width, and nonresidential uses for which the lot is more than 100 feet in width.

### B. Variances

The board of adjustment may grant a variance from the separation requirement if shown to be a reasonable accommodation under the Fair Housing Act.

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## Section 18-145: Farmers' market

### A. Location

Stalls, sales tables, and any other outdoor facilities related to the market shall be located at least 25 feet from any abutting street.

### B. Operating rules

With the zoning permit application a set of operating rules addressing the governance structure of the market, hours of operation, maintenance, waste management, and security requirements and responsibilities shall be submitted.

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## Section 18-146: General business service

- A. All fleet vehicles shall be parked or stored behind the principal building.
- B. Any loading docks shall be restricted to the rear of the building and shall be screened from view of the right-of-way with vegetation.

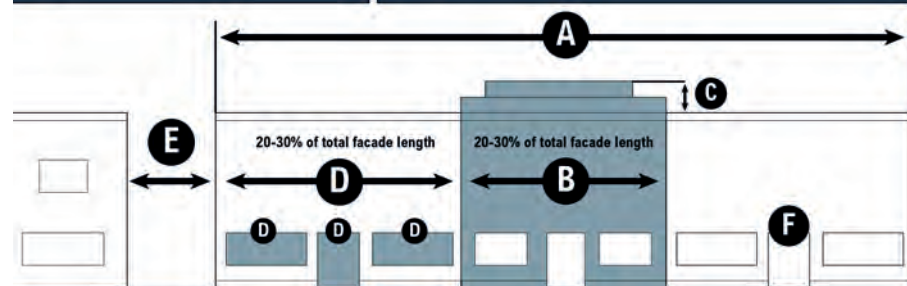
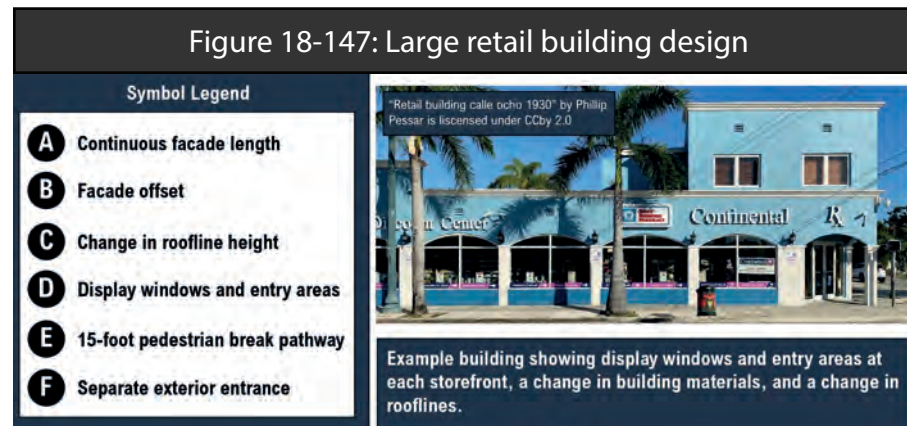
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## Section 18-147: General Retail

### A. Large (gross floor area 40,001 square feet or larger)

1. The minimum lot area shall be two acres.
2. The site shall have vehicular access to a major thoroughfare.
3. In addition to the accessory use standards for outdoor sales, the following shall apply. In the event of a conflict, the more stringent regulations shall be applicable.
  - a. Any outdoor storage shall be prohibited.
  - b. Any permanent outdoor display areas shall be behind the plane of the front facade of the building and shall be fully enclosed behind an opaque fence or wall.
  - c. Any seasonal or short-term outdoor sales shall be within five feet of a primary entrance and shall not exceed an overall area of 50 square feet.
4. Building placement
  - a. All buildings shall front a right-of-way and shall be setback no more than 100 feet from any abutting right-of-way.

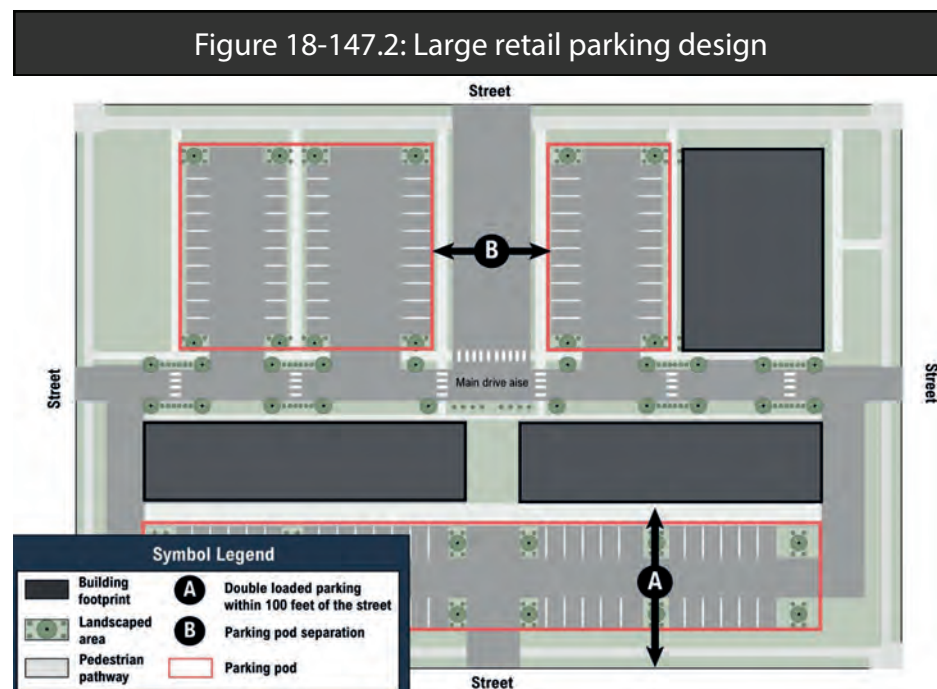
- b. Canopies for drive-throughs or fuel pumps shall be internal to the site and shall be screened from thoroughfare of collector streets. Such uses shall be subject to the accessory use standards.
5. Building design (see Figure 18-147.1: Large retail building design)
- All sides of a building facing a right-of-way shall have at least one entrance facing the right-of-way.
  - All buildings shall have at least 51 percent glazing on the area of the ground floor, as measured from the average adjacent grade to a height of 13 feet.
  - Loading docks and bays, trash enclosures, and other like facilities shall be located so that they are screened from public view and shall not be with 100 feet of residential zoning.
  - Any building or combination of buildings with a continuous facade length of 400 feet or longer shall provide a relief in design. Such relief shall include at least two of the following:
    - Facade offsets (variation in setbacks), with each offset between 20 percent and 30 percent of the total length of the facade;
    - Change in both building materials and rooflines, changing at the same point of the roofline and the facade; and
    - Display windows or entry areas, with each distinct set of windows or entry areas having a width ranging from 20% to 30% of the total length of the facade.
  - For every 600 feet of building frontage, a pedestrian break, at least 15 feet in width, shall be provided in the form of a



pedestrian way, which may provide pedestrian access to parking, stores, adjacent development, or other uses.

6. Parking
- No more than one double loaded bay of parking shall be located between a building and the primary street. At least 30 percent of provided parking shall be to the side and rear of the building(s) (see Figure 18-147.2: Large retail parking design).
  - Drive aisles located within 20 feet of a building entrance shall not be a continuance of a public right-of-way access.
  - No individual pod or grouping of parking spaces shall exceed 200 parking spaces.
  - Each pod of parking shall be separated either by streets or drive aisles, with five-foot wide sidewalks on both sides, or pedestrian ways at least six feet in width.

- e. Each parking pod shall meet the landscaping requirements of article 5, division 1 of this chapter.
  - f. Any parking lot exceeding a total of 500 parking spaces shall include a main drive aisle through the parking lot with a minimum seven-foot-wide landscaped area and five-foot wide sidewalks along the length of each side of the drive aisle. These landscaped areas shall contain trees, shrubs, and ground cover.
7. Pedestrian connectivity (see Figure 18-147.2: Large retail parking design)
- a. A continuous sidewalk at least five feet wide shall be provided to and aligned with all buildings, including any outlots, from all parking areas and to the public sidewalk network, including any greenways or multiuse paths.
  - b. Any pedestrian way that crosses drive aisles shall be raised.
  - c. Direct pedestrian access shall be provided to connect parking lots located on opposite sides of a building.
8. Landscaping
- a. A minimum of 100 square feet of landscaped area shall be required at a minimum of 50-foot intervals, with the exception of entry areas, along all building facades facing a right-of-way. Each landscape area shall contain, at minimum, shrubs and at least one tree of at least two inches in caliper.
  - b. A minimum of 100 square feet of landscaped area shall be installed around the base of any freestanding sign.
  - c. Each such development shall provide a community area



consisting of, at minimum, 50 square feet of landscaping and seating.

- B. Retail in the Residential office (RO) district
1. Drive-through facilities, outdoor speakers, and amplified sound shall be prohibited.
  2. Outdoor speakers and amplified sound shall be prohibited.
  3. Retail uses shall not exceed 3,200 square feet.

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### Section 18-160: Moving company

- A. All vehicles and equipment shall be parked or stored behind the principal building and shall be screened from view of any right-of-way by an opaque fence or wall at least six feet in height.
- B. At the base of the fence or wall, vegetation shall be installed. Such vegetation shall reach a minimum height of six feet within three years of planting.

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### Section 18-161: Nightclub

- A. The gross floor area of the use shall not exceed 2,000 square feet.
- B. Outdoor amplified sound shall be prohibited within 1,000 feet of a residential district.
- C. Outdoor seating shall be subject to the accessory use standards.

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### Section 18-162: Nursery and greenhouse

- A. Use shall be limited to indoor operation, processing, and storage only.
- B. The maximum cumulative structure footprint size shall be 10,000 square feet.
- C. No wholesale or bulk storage shall be permitted on the lot.

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### Section 18-163: Outdoor storage

- A. Materials
  - 1. Storage shall be limited to goods and materials customarily stored outside and resistant to damage and deterioration from exposure to the elements.
  - 2. Outdoor storage shall not be located between a building and a right-of-way.
  - 3. Materials stored shall not obstruct or eliminate any parking or loading space, access drive, or fire lane, nor shall they occupy any right-of-way.
- B. Screening
  - 1. All outdoor storage shall be screened by a permanently maintained opaque fence or wall at least six feet in height along:
    - a. Any side facing a front or exterior side property line;
    - b. Any side facing a rear or interior side property line adjacent to a district that does not allow outdoor storage as a permitted use; and
    - c. Any other side generally open to public view.
  - 2. Fencing for this purpose shall be designed of wood or masonry. Chain link with slat inserts may be used if all openings are blocked by slats having a width no less than one-quarter-inch smaller than the width of the opening.
  - 3. Outdoor storage materials shall be behind the plane of any street-facing facade of the principal building, if applicable (see Figure 18-163: Location of outdoor storage with a principal building).
  - 4. The required fence or wall shall serve as an extension of the building and shall not be forward of any building facade. The fence shall be a minimum of six feet back from any right-of-way.

Table 18-198: Accessory uses by zoning district

Key: P = Permitted, C = Permitted with conditions, CZ = Permitted with conditional zoning required,  
S = Special use permit required, Blank = Prohibited

Accessory use	Additional standards	R-15, R-10, R-7, R-5, R-3	MD-10, MD-17	MH	UMX	RO	CBD
Accessory buildings and structures	Section 18-199	C		C		C	
Accessory dwelling unit	Section 18-200	C	C		C	C	
Amateur radio antennas	Section 18-201	C	C	C		C	C
Caretaker dwelling unit	Section 18-202			C	C	C	P
Community boating facility	Section 18-203	C	C	C			
Dish antenna	Section 18-204	C	C	C	C	C	C
Drive-through facility	Section 18-205				S		C
Fuel pumps	Section 18-206						C
Home occupation	Section 18-207	C	C	C	C	C	P
Internal services facilities	Section 18-208				C		P
Outdoor sales and display	Section 18-209				C		
Outdoor seating/activity area	Section 18-210				C		P
Outdoor storage	Section 18-211				C		
Petroleum storage							
Shipping containers for storage	Section 18-212						
Solar energy systems	Section 18-213	C	C	C	C	C	P
Swimming pool, private	Section 18-214	C	C	C	C	C	
Vending machines	Section 18-215						
Wind energy conversion systems	Section 18-216	C	C	C	C	C	

Table 18-198: Accessory uses by zoning district

Key: P = Permitted, C = Permitted with conditions, CZ = Permitted with conditional zoning required,  
S = Special use permit required, Blank = Prohibited

Accessory use	Additional standards	HDR	HDMU	HD	CB	CS	RB	O&I	LI	IND	CEM
Accessory buildings and structures	Section 18-199	C	C	C							
Accessory dwelling unit	Section 18-200	C	C	C							
Amateur radio antennas	Section 18-201	C	C	C	C	C	C	C	C	C	
Caretaker dwelling unit	Section 18-202		C	C	C	C	C	C	C	C	C
Community boating facility	Section 18-203										
Dish antenna	Section 18-204	C	C	C	C	C	C	C	C	C	
Drive-through facility	Section 18-205				C	C	C	C			
Fuel pumps	Section 18-206				C	C	C		P		
Home occupation	Section 18-207	C	C	C	C		C	C			
Internal services facilities	Section 18-208		C		C	C	C	C	C	C	
Outdoor sales and display	Section 18-209				C		C		C	C	
Outdoor seating/activity area	Section 18-210		C		C	C	C	C	P	P	
Outdoor storage	Section 18-211				C	C	C		P	P	
Petroleum storage										P	
Shipping containers for storage	Section 18-212				C	C	C		C	C	
Solar energy systems	Section 18-213	C	C	C	C	C	C	C	C	C	C
Swimming pool, private	Section 18-214	C	C	C							
Vending machines	Section 18-215				C	C	C		P		
Wind energy conversion systems	Section 18-216	C	C	C	C	C	C	C	C	C	C

(Ord. No. O-2022-41, §§13, 14, 6-7-2022; Ord. No. O-2023-41, §8, 6-6-2023; Ord. No. O-204-51, §A.2(Att. A), 10-1-2024; Ord. No. O-2025-55, §12, 8-5-2025)

5. The area of the private kennel site shall be limited to 10 percent of the total area of the lot if the animals are housed outdoors and 10 percent of the principal building if the animals are housed indoors.

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## Section 18-208: Internal services facilities

### A. Signage

1. No external signage for the internal service facilities shall be permitted.
2. No off-premises advertising of any kind shall be allowed in connection with internal service facilities, except that the internal services may be listed by name on websites and print information for the principal use.

- B. Parking shall be based on the principal use and no additional parking shall be provided for any internal service facilities.

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## Section 18-209: Outdoor sales and display

- A. Outdoor sales and display of merchandise shall be limited to an area within 10 feet of any primary entrance, but shall not block any doors, emergency exits, or fire lanes.
- B. Display and sales area are not allowed in parking spaces, drive aisles, fire lanes, sidewalks or pedestrian ways, or required landscaped areas.
- C. A minimum five-foot clear pedestrian way shall be maintained at all times.
- D. Display areas shall not exceed 10 percent of the total gross square footage of the principal building.
- E. In no case shall the linear length of outdoor storage exceed half of the total length of the building, nor shall the height of any merchandise exceed the height of the first floor of the building.

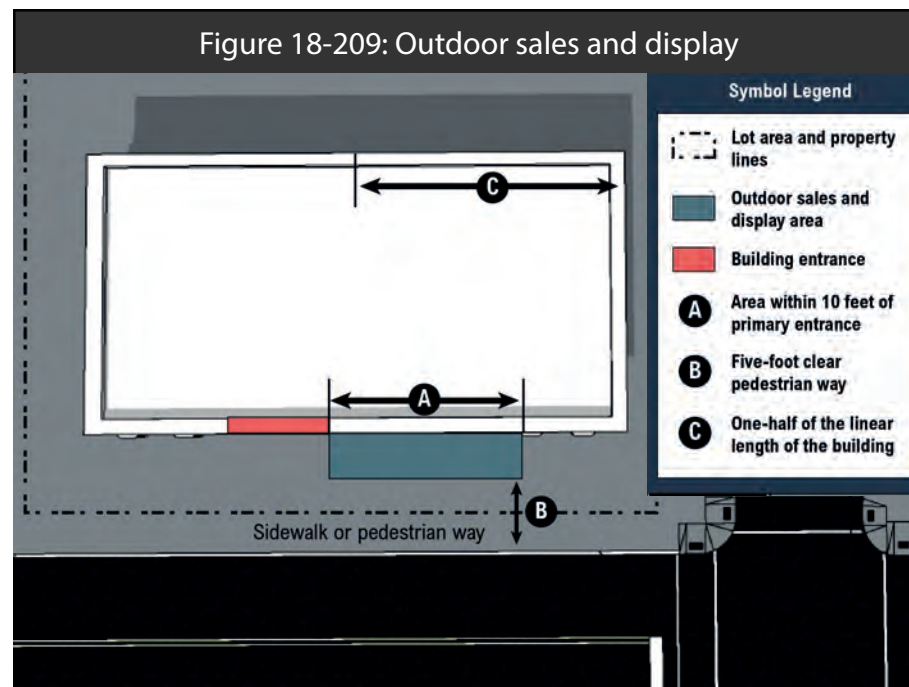
- F. No merchandise shall be attached to a building wall surface.
- G. All outdoor display and sales areas shall be maintained to avoid pedestrian hazards and ensure personal safety (see Figure 18-209: Outdoor sales and display).

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## Section 18-210: Outdoor seating/activity areas

### A. Generally

1. Outdoor seating/activity areas shall not occupy parking spaces, drive aisles, or required landscape areas.
2. Outdoor seating/activity areas shall not obstruct or impede any sidewalk or other pedestrian way. Sidewalk seating may be permitted pursuant to Section 4-109 of the city of Wilmington Code of Ordinances.



3. Outdoor seating/activity areas shall be counted as floor area for purposes of determining off-street parking and loading standards.

B. Dimensional standards

1. Outdoor seating/activity areas shall be subject to the location requirements of Table 18-210: Dimensional standards for accessory outdoor seating/activity areas.
2. To reduce the setback from single-dwelling residential zoning from 500 feet to 100 feet, the following shall be required:
  - a. The seating/activity area shall be located farthest from the single-dwelling residential zoning such that one of the following is between the seating/activity area and single-dwelling residential zoning:
    - i. The principal building; or
    - ii. A sound attenuating wall and vegetative buffer. The sound attenuating wall shall be at least six inches thick and shall be the maximum height allowed for fences and walls in the applicable zoning district. Plantings equivalent to a class B buffer shall be installed between the seating/activity area and the single-dwelling residential zoning. Such facilities shall not be open between the hours of 10:00 PM and 8:00 AM.
3. There shall be no reduction in setbacks for amplified sound.
4. Distance shall be measured from the nearest edge of any outdoor seating/activity area to the nearest edge of the residential property line (see figures 18-210.1 and 18-210.2: Outdoor seating).

**Table 18-210: Dimensional standards for accessory outdoor seating/activity areas**

**Seating/activity area placement**

**Minimum setbacks from single-dwelling residential zoning**

Outdoor seating/activity area, generally	500 feet
Outdoor seating area with limited hours of operation (8:00 AM to 8:00 PM only)	50 feet
Outdoor seating/activity area with increased buffering standards per Section 18-210 B. 2.	100 feet
Any associated amplified sound	1,000 feet

than 60 days from the date on which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.

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### Section 18-234: Helicopter tours

- A. No more than six temporary helicopter tour permits shall be issued in any calendar year for any single lot.
- B. No more than 12 total temporary helicopter tour permits shall be issued citywide in any calendar year, regardless of location.
- C. There shall be a minimum of 30 days between such uses in a single location or for an individual business/operator.
- D. A specific time schedule for each use shall be established for each individual proposed location at the time of application and subject to review and approval by appropriate city officials.
- E. With the zoning permit application, the applicant shall submit a plan demonstrating methods for mitigating noise and public safety concerns and a flight plan for each tour.

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### Section 18-235: Mobile food unit

- A. All mobile food unit operators shall obtain an annual zoning permit. Permits shall be issued for the period beginning July 1 and ending June 30 of each year. This permit shall be posted in a visible location on the mobile food unit.
- B. Mobile food unit operators shall have the signed approval of the property owner for each location at which the mobile food unit operates. This approval must be made available for inspection upon request.
- C. Within the central business district mobile food units shall not operate on more than two individual sites per day.

- D. Mobile food units shall not be located within 75 feet of the main entrance of the nearest restaurant during the restaurant's posted hours of operation. This distance may be reduced to 25 feet for food carts less than five feet in length.
- E. Mobile food units shall be located at least five feet from any fire hydrant, sidewalk, utility boxes, handicap ramps, and building entrances. The required sidewalk setback does not apply to food carts less than five feet in length.
- F. Mobile food unit operators are responsible for the proper disposal of waste and trash associated with the operation. City trash receptacles shall not be used for this purpose. Operators shall remove all waste and trash prior to leaving each location or as needed to maintain the health and safety of the public.
- G. All associated equipment, including trash receptacles and signage, must be within three feet of the mobile food unit.
- H. No fire lanes, vehicular access ways, or pedestrian walkways may be obstructed or encroached upon by the mobile food unit.
- I. No amplified microphones or bullhorns shall be permitted as part of the mobile food unit operation.
- J. Except in residential districts, mobile food units shall not operate from any public right-of-way, including from any on street parking space.
- K. Operators of mobile food units shall be responsible for compliance with the applicable standards of article 4 of the city of Wilmington Code of Ordinances.

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### Section 18-236: Nonpermanent housing and facilities in redevelopment and disaster areas

- A. Temporary housing, manufactured housing, and nonpermanent facilities, including recreational vehicles and travel trailers, for the displaced because of a natural or man-made disaster or a publicly sponsored redevelopment or rehabilitation project shall be allowed

2. The request shall be in writing, either by mail or email, and the request must be received by the city prior to date of publication of the notice of hearing.
3. If the request is received by after the date of publication of the notice of public hearing, the applicant must request of the decision-making body that the application be continued to a future scheduled hearing date.

#### D. Application termination

1. If the city manager determines an applicant is not taking affirmative steps to advance a postponed application for a final determination, the application may be declared terminated.
2. Any re-submittal of a terminated application shall be treated as a new application for purposes of review, scheduling, and payment of application fees.

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## Section 18-572: Appeals

### A. Procedures

Appeal procedures depend on the type of application and the appropriate review and decision-making authority. This section refers only to appeals to be heard by a city decision-making authority. Nothing in this section prohibits applicants to appeal pursuant to state law. Appeals of quasi-judicial decisions shall also be subject to the standards of Section 18-602: Appeals of quasi-judicial decisions.

#### 1. Board of adjustment

Appeals of administrative determinations and the historic preservation commission shall be made to the board of adjustment.

#### 2. City council

Unfavorable recommendations by the planning commission on zoning map amendments and land development code amendments may be appealed by the applicant to the city council

by filing a written notice of appeal with the city clerk within 10 days after the rendering of the final recommendation by the planning commission. Upon filing of a written notice of appeal, the matter shall be placed on the agenda of the next regularly scheduled meeting of the city council, no later than 30 days after the notice of appeal has been filed. The city council, at its discretion, may hear the appeal at its regular meeting or set a special hearing date.

#### 3. Court

A decision by the city council, board of adjustment, and the design adjustment committee may be appealed to a North Carolina court of record as permitted by North Carolina General Statutes.

### B. Effect

1. The appeal of any decision or administrative action stays all proceedings in furtherance of the decision or administrative action.
2. Where a stay of proceedings would cause imminent peril to life or property, the official from whom the appeal is taken or the city manager may certify in writing to the decision maker(s) hearing the appeal that the stay would cause such harm. The stay shall be lifted pending hearing on the appeal. In such case, the action may be stayed only by a restraining order granted by a decision-making body or court of record if due cause is shown, following notice to the official or city manager.

(Ord. No. O-2022-88, §12(Att. A), 11-1-2022)

## ARTICLE 7. DIVISION 3.

## BOARDS, COMMISSIONS, AND COMMITTEES

## Section 18-615: Board of adjustment

## A. Establishment

The board of adjustment is established to fulfill the duties and powers prescribed by the city of Wilmington Code of Ordinances and by NCGS 160D-302.

## B. Appointment and tenure

1. The board shall consist of five members and four alternate members, who shall be citizens and residents of the city, holding no other public office under the city government, and shall be appointed by the city council.
2. All members shall be appointed for staggered terms of three years, to serve in accordance with the city council policy on boards and commissions then in effect.
3. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.
4. All appointments to fill vacancies shall be for the unexpired period of the term.

## C. Compensation

Members of the board shall serve without compensation and may be removed by the city council at any time.

## D. Organization

1. The board shall hold meetings in accordance with its rules of procedure for the purpose of transacting its duties assigned in this chapter and shall maintain a public record of its actions.

2. Rules of procedure shall be adopted by the board for the conduct of its business and for the election of its officers. The city council shall approve the rules of procedure and any amendments prior to implementation.
3. All meetings held by the board shall be held in accordance with the North Carolina open meetings law.
4. The board shall keep minutes of its proceedings suitable for review in court showing:
  - a. The factual evidence presented to the board by all parties concerned;
  - b. The findings of fact and the reasons for the determinations by the board; and
  - c. The vote of each member, or if absent or failing to vote indicating such fact, all of which shall be public record and be filed with the secretary to the board.

## E. Duties

1. The board shall hear and decide all matters upon which it is required to pass under any statute or development regulation.
2. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. Vacant positions on the board and members who are disqualified from voting on the quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(Ord. No. O-2024-50, 9-17-2024)

## ARTICLE 8. DIVISION 2.

## INTERPRETATION

## Section 18-680: Rules of interpretation

Except as specifically defined herein, all words used in this chapter shall have their customary dictionary definitions. Certain words or terms used herein are defined as follows:

- A. Words used in the present tense include the future tense and the future tense includes the present tense. Words used in the singular number include the plural number and the plural number includes a singular number.
- B. The words “shall” and “will” are mandatory and not discretionary.
- C. The words “may” and “should” are permissive.
- D. The word “lot” includes the words “plot” and “tract.” The word “parcel” is not interchangeable with these terms.
- E. The word “used” or “occupied” as applied to any land or building shall be construed to imply that said land or building is in actual use or occupancy and shall be construed to include the words “intended,” “arranged,” or “designed” to be used or occupied.
- F. The word “map” or “zoning map” shall mean the official zoning map of the city of Wilmington, North Carolina.
- G. The word “ordinance” or “regulation” shall mean this chapter, including any amendment. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.
- H. The term “residential districts” shall include any R-20, R-15, R-10, R-7, R-5, R-3, MH, MD-10, or MD-17 zoned lots. The term “single-dwelling residential districts” shall include any R-20, R-15, R-10, R-7, R-5, R-3, and MH-zoned lots. The term “mixed-use districts” shall include any MX, UMX, CBD, and RO-zoned lots.
- I. The term “historic districts” shall include any HD, HDR, and HDMU-zoned lots and locally-designated landmarks, unless specified otherwise. The HDR shall also be considered a single-dwelling residential district. The term “historic overlay” shall include any lot included within a designed historic district overlay, regardless of the base zoning district.
- J. The term “right-of-way” includes the words “street,” “road,” “cul-de-sac,” “highway,” or “thoroughfare,” whether designated as public or private. “Alley” is not included unless specifically indicated.
- K. The word “includes” shall not limit the term to specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- L. And, or: Where a regulation involves two or more items, conditions, provisions, or events connected by “and” or “or,” the conjunction shall be interpreted as follows:
  - M. “And” indicates that all the connected items, conditions, provisions, or events shall apply.
  - N. “Or” indicates that the items, conditions, provisions, or events are alternatives, and one shall apply.

Sections 18-681 - 18-686: Reserved.