

# BERRY

## BERRY HILL COMMUNITY DEVELOPMENT CODE



# HILL

1'5" BUILDING SETBACK

BRANSFORD AVENUE

PREPARED FOR:



PREPARED BY:



Kimley-Horn  
and Associates, Inc.



## Introduction

### A. Purpose

The *Berry Hill Community Development Code* is designed to guide future development within the City to achieve a vibrant community with a mix of uses. The purpose of this code is to provide the regulatory framework to achieve this vision for the City of Berry Hill. The code provides the flexibility for a mix of uses consistent with the City's current development pattern while establishing a consistent set of development standards. The code is not intended to change the character of the community, but provide a planning and regulatory framework to support and enhance growth and development as it occurs.

The Community Development Code is a legal document that regulates land development by establishing standards for building form with flexible parameters for building use. This code is adopted by code and replaces the City's current zoning regulations

*Form-based Code:* This type of code is designed to achieve a specific pattern of development. The development standards focus primarily on the physical form of buildings and the streets with a secondary focus on uses. The *Berry Hill Community Development Code* is a form-based code that is intended to be prescriptive rather than restrictive.

### B. Community History and Vision

Located inside Metropolitan Nashville/Davidson County, Berry Hill is one of seven "satellite cities" of Nashville. Although small in size (one square mile) and population (approximately 700), Berry Hill is a

thriving community with a healthy mix of residents and large and small businesses, including over 40 recording studios and music publishers.

While Berry Hill is bounded by two major thoroughfares, those venturing onto our smaller tree-lined streets like Bransford Avenue or Columbine Place will find 1940's era cottages with a variety of eclectic retail shops and personal service businesses, including a large contingent of holistic health practitioners.

The City of Berry Hill community leaders desired to maintain the community's development pattern and its eclectic uses. The City officials also wanted to ensure that the future development began to provide a development pattern which positively contributed to the quality of life of the City's residents and established a greater sense of community.

To achieve this goal, a year long process of community "visioning" for the future was initiated to create a grass roots approach to understanding the direction and future vision of the community as a whole.

### C. Adoption Ordinance

Ordinance No. 2009-374 adopted the *Berry Hill Community Development Code*. This code replaced the City's previous "Zoning Regulations" with the following form-based code – *Berry Hill Community Development Code*. The Community Development Code was amended by Ordinance No. 2013-397.



## ORDINANCE 2009-374

### **AN ORDINANCE REPEALING CHAPTER 2 OF TITLE 14 OF THE BERRY HILL MUNICIPAL CODE IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 2 TO BE KNOWN AS THE BERRY HILL COMMUNITY DEVELOPMENT CODE.**

WHEREAS, T.C.A. § 13-7-201 authorizes the board of commissioners of any municipality in Tennessee to adopt a zoning ordinance and maps of districts or zones to regulate land use and development within the municipality; and

WHEREAS the City of Berry Hill's current zoning regulations were adopted October 6, 1971, by Ordinance Number 71-148; and

WHEREAS the Board of Commissioners of the City of Berry Hill has determined that the citizens and property owners of Berry Hill share a mutual goal that the City remain a vibrant community with a mixture of uses that are consistent with the current development pattern within the city; and

WHEREAS the Board of Commissioners of the City of Berry Hill has determined that the existing Zoning Ordinance is no longer adequate to meet that goal; and

WHEREAS, in addition to the public hearings required by Tennessee law, numerous community meetings have been held to discuss and allow public input on the content of a new comprehensive development code for the City of Berry Hill; and

WHEREAS a single code that combines zoning, land use regulations, and development standards in a single document is desirable as a more convenient tool encouraging and regulating development within the City of Berry Hill; and

WHEREAS the City of Berry Hill is a unique community, approximately one square mile in size, and located within the heart of Metropolitan Nashville and Davidson County; and

WHEREAS the Board of Commissioners finds that the size and location of the City of Berry Hill make it impossible to locate intense, noxious, or undesirable land uses without having a negative effect on the quiet enjoyment of residential and certain other properties, and further finds that there are ample opportunities





for all land uses within Metropolitan Nashville, and therefore it is not necessary to allow every use within Berry Hill's very limited area; and

WHEREAS the Board of Commissioners has found that it is in the best interests of the City of Berry Hill to adopt the proposed Berry Hill Community Development Code, which will serve as both a zoning ordinance and map of zoning districts as authorized by Tennessee law.

BE IT ORDAINED BY THE CITY OF BERRY HILL, TENNESSEE, AS FOLLOWS:

Section 1. Chapter 2 of Title 14 of the Berry Hill Municipal Code, consisting of Sections 14-201 through 14-222, is hereby repealed, effective 12:01 a.m., January 1, 2009.

Section 2. The Berry Hill Community Development Code (the "Code") is adopted as a new Chapter 2 of Title 14 of the Berry Hill Municipal Code. The Code shall be incorporated by reference in the Berry Hill Municipal Code and given effect as though it is repeated therein in its entirety. A copy of the Code is attached to this ordinance as Exhibit A and incorporated herein for all purposes.

Section 3. Any setbacks shown on recorded plats within the City of Berry Hill are annulled upon the adoption of this Ordinance and will neither have any effect nor be enforced by city personnel. Setbacks shown on any plat approved and/or recorded after the adoption of this code also will not be given effect or be enforced by city personnel. All setback requirements for property in the city shall be those set out in the Code.

Section 4. In case of conflict between this ordinance, or any part hereof, and the whole or part of any existing ordinance of the City, the conflicting ordinance is repealed to the extent of the conflict but no further.

Section 5. If any section, clause, provision or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this ordinance.

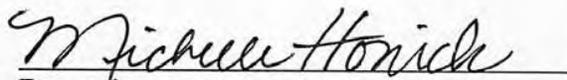
Section 6. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the Berry Hill Community Development Code adopted herein by reference, shall be effective on and after January 1, 2010 at 12:01 a.m.



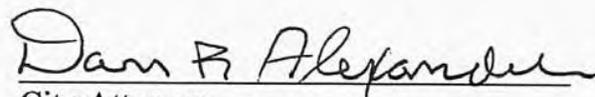
Passed First reading: November 9, 2009

Passed Second reading: December 14, 2009

  
Mayor

  
Recorder

Approved as to Legality and Form:

  
City Attorney:



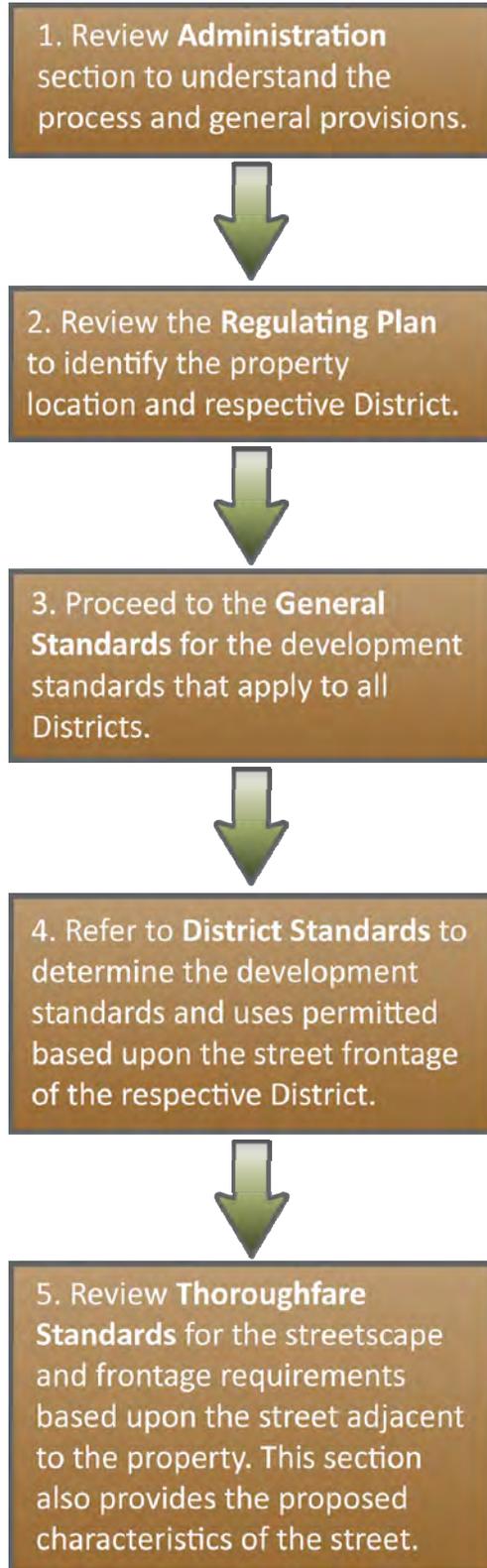
## HOW TO USE CODE

This code is designed to be user-friendly and provide a step by step process for applying the development standards to properties and proposed development within the City of Berry Hill.

In order to understand how the code applies to a respective property, follow the steps provided to the right. The five steps indicate how to proceed through the code to determine the applicable requirements and development standards.

The Community Development Code is comprised of the following sections:

- 1.0 Administration
- 2.0 Regulating Plan
- 3.0 General Standards
- 4.0 District Development Standards
- 5.0 Thoroughfare Standards
- 6.0 Definitions





## 1.0 Administration

The Berry Hill Community Development Code regulates development to achieve a particular pattern and form based upon the District and respective street in which a property is located. The intent is to ensure that all development and alterations occurring under this code are consistent with the provisions of the code as they pertain to height, building and parking placement, architecture, building form and use. All components of the code shall be applied during review.

## 1.1 General Provisions

- 1.1.1 General. The provisions of this code shall apply to the use and development of all land within the City of Berry Hill. No development shall be undertaken without prior authorization pursuant to this code.
- 1.1.2 Minimum Requirements. The requirements of this code shall be considered as the minimum requirements for the promotion of the public health, safety and general welfare. This code is not intended to interfere with or abrogate or annul any easements, covenants or other agreements between parties. Where this code imposes a greater restriction upon property than that imposed by other resolutions, rules, regulations, easements, covenants or agreements, the provisions of this code shall govern.
- 1.1.3 New Development. Upon the effective date of this code or any subsequent amendment, any new building or other structure or any tract of land shall be used, constructed or developed only in accordance with all applicable provisions contained herein.
- 1.1.4 Existing Development. Any existing use, lot, building or other structure legally established prior to the effective date of this code that does not comply with any of its provisions shall be subject to the regulations of the non-conforming provisions stipulated in *Section 1.3*.
- 1.1.5 Previously Issued Permits and Exceptions. Any variance, exception or permit authorized before the effective date of this code may be continued, changed, extended, enlarged or structurally altered only as provided in this code.
- 1.1.5.1 Any permit issued before the effective date of this code or subsequent amendment shall remain in effect provided that construction has begun within six months from the date of issuance of the permit. Construction shall mean that physical improvements such as, but not limited to, water and sewer lines, footings, and/or foundations have been developed on the site. Clearing, grading, storage of building materials or placement of temporary structures shall not constitute construction commencement.
- 1.1.5.2 Where no limitation to the duration of use was imposed at the time of authorization, the use may be continued. When the use was granted for a specific period of time, the applicable provisions of this code shall be applied upon expiration of that time.
- 1.1.5.3 In no event shall any use be changed except to a conforming use, unless modifying an existing non-conforming use as provided for in *Section 1.3*. A change in occupancy or ownership shall not by itself constitute a change in use.



- 1.1.6 Platted Setbacks. Any setbacks shown on recorded plats within the City of Berry Hill are annulled upon the adoption of this code and will neither have any effect nor be enforced by city personnel. Setbacks shown on any plat approved and/or recorded after the adoption of this code also will not be given effect or be enforced by city personnel. All setback requirements for property in the city shall be those set out in this code.
- 1.1.7 Severability. Should any article, section, clause or provision of this code be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the code as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section, clause and provision hereof being declared severable.
- 1.2 Development Review Process
- 1.2.1 Interpretation and Administration. The City Manager, or his designee, shall interpret and administer the provisions of this code.
- 1.2.2 Application Processing and Review. The City Manager, or his designee, shall process and review all applications for development to ensure compliance with the provisions of this code.
- 1.2.3 Permits and Certificates of Compliance. The City Manager, or his designee, is authorized to issue permits and to certify compliance with this code through the issuance of a certificate of compliance.
- 1.2.4 Enforcement. The City Manager, or his designee, shall enforce the provisions of this code.
- 1.2.5 Application Types. Development within the City of Berry Hill will be reviewed based upon five types of applications:
- 1.2.5.1 Concept Plan. A concept plan shall consist of (1) a request for the development of any part of a larger tract (one acre or larger) that is intended to be developed in phases; or (2) a subdivision of a tract of land not previously subdivided; or (3) a consolidation of three or more tracts without site plan submittal. Concept plans will require action by the Zoning and Planning Commission-
- 1.2.5.2 Alternative Plan. An alternative plan shall consist of a site plan that does not conform to the provisions of the standards and/or the permitted uses included in this code. An alternative plan may include a request for a variance from the development code, a request for a special exception, or a request for approval of a non-conforming site plan that does not meet the requirements for a variance. An alternative plan may permit any uses, mixture of land uses, and alternative development standards, as may be required to address the characteristics of an individual property. At a minimum, the application shall describe existing conditions, the purpose and intent of the alternative plan, the plan's consistency with the spirit and intent of the code, a list of allowable land uses, height and size of proposed building types, and site specific development standards. The Zoning and Planning Commission or Board of Zoning Appeals shall consider all requests for approval of alternative plans within the context of consistency with the spirit and intent of the code. In the case of an alternative plan requiring a variance from the development code, the Board of Zoning Appeals will determine whether the statutory requirements exist for such variance. In the case of a request for special exception, the Board of Zoning Appeals shall determine whether the exception represents the minimum modification



necessary. In the case of an alternative plan that does not meet the requirements for a variance, the Zoning and Planning Commission and Board of Commissioners will determine whether the requested exception represents the minimum modification necessary and whether that deviation from the code will allow for equal or better results result in development that is consistent with the spirit and intent of the code.

1. The Board of Commissioners, Zoning and Planning Commission, and/or Board of Zoning Appeals shall consider whether the proposed alternative plan is consistent with the spirit, intent, principles and objectives of the code. In addition, the review authority must find on competent substantial evidence that the alternative plan:
  - i. Does not create an undue burden on roadways within Berry Hill, or on municipal utilities or services; and
  - ii. Is of a size, nature and intensity that the alternative plan will not have an undue negative effect on property in the area that is developed in accordance with this code at the time of the application or in the future.
2. Alternative plans may be approved subject to additional reasonable conditions or limitations upon the establishment, location, construction, maintenance, or operation as may be necessary to protect the public interest.
3. Conditions for approval – All plans, specifications, and statements submitted with the application for alternative plan approval shall become, with any changes ordered by the review authority, a part of the conditions of any approval.

1.2.5.3 Code Change Request. A code change request is a request to amend this development code. The procedure for a Code Change is specified in Section 2.3.

1.2.5.4 Site Plan. A site plan is a plan for development with the City of Berry Hill that meets all of the provisions of this code and may be approved by the City Manager, or his designee. The City Manager has the authority to require a site plan to be presented to the Zoning and Planning Commission for approval. A site plan will be distributed by the City Manager to other departments as appropriate for review.

1.2.5.5 Plat. A plat is required for the subdivision of any tract of property within the City of Berry Hill into separate lots or the consolidation of separate lots into a combined tract. The City Manager, or his designee, may approve the partition of one tract into two lots (when such division meets the definition of a partition, contained in the City's Subdivision Regulations), or the consolidation of two lots into one tract, and may also approve plat amendments that consist of technical modifications. Plats that subdivide a property into two or more lots and which do not meet the definition of a partition, contained in the City's Subdivision Regulations, shall require approval by the Zoning and Planning Commission.

1.2.6 Application Review Process. The following is the City's application review process:

1.2.6.1 Pre-application Meeting. The applicant proposing a concept plan, alternative plan, code change, or plat shall schedule a pre-application meeting with the City Manager, or his designee, prior to submitting an application to finalize the application submittal requirements.



- 1.2.6.2 Application Submittal. The application will be submitted to the City Manager, or his designee. The application will contain the information and/or plans as requested by the City Manager, or his designee, at the pre-application meeting. Additional information and/or plans may be requested by the City Manager, or his designee, at the time of the application submittal.
- 1.2.6.3 Staff Review/Comment. The City Manager, or his designee, and City department representatives, as appropriate, shall review the application and the associated information and plans for compliance with this code. The staff shall provide comments to the City Manager, or his designee. The comments will be forwarded to applicant to clarify and/or revise the application and associated plans and/or information.
- 1.2.6.4 Application Re-submittal. The applicant shall resubmit the application information and plans with modifications as requested by the staff through the staff review/comments. The City shall accept two re-submittals within the same application fee. Additional re-submittals may require additional application fees for processing applications.



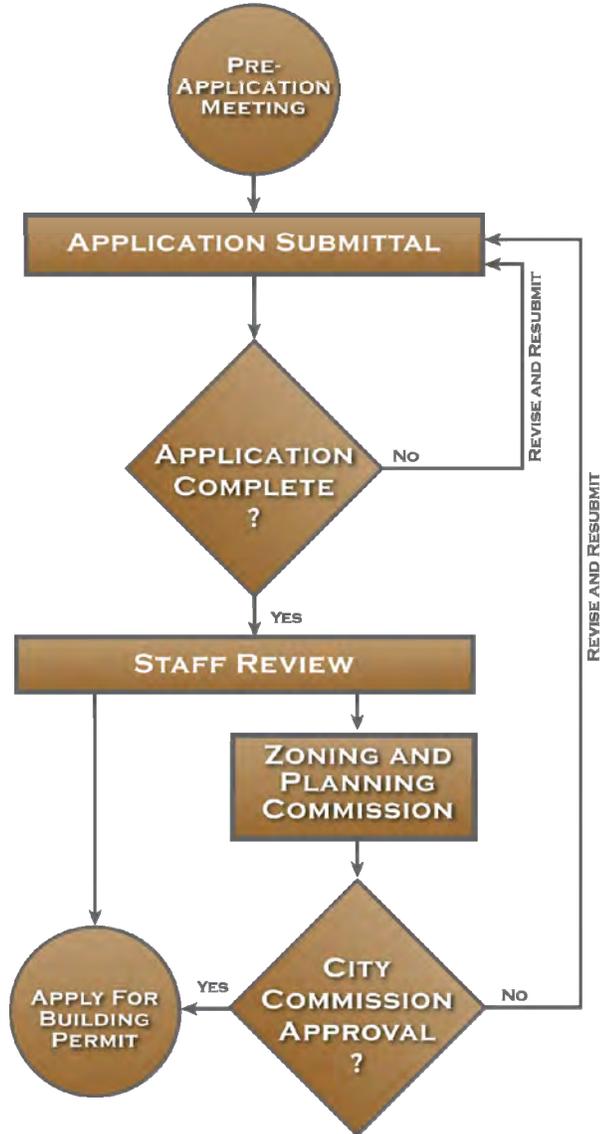
### REVIEW PROCESS

1.2.6.5 Staff Review/Comment. The City Manager, or his designee, and City department representatives, as appropriate, shall review the application and the associated information and plans for compliance with this code. The staff shall provide comments to the City Manager, or his designee. The comments will be forwarded to applicant to clarify and/or revise the application and associated plans and/or information.

1.2.6.6 Application Re-submittal. The applicant shall resubmit the application information and plans with modifications as requested by the staff through the staff review/comments. The City shall accept two re-submittals within the same application fee. Additional re-submittals may require additional application fees for processing applications.

1.2.6.7 Staff Compliance Review. The City Manager, or his designee, and the City department representatives shall review the resubmitted plans and information to determine compliance with the comments by staff in their review. The City staff will review the complete application package and plans again for compliance with the provisions of this code.

1.2.6.8 Staff Approval and/or Zoning and Planning Commission/Board of Zoning Appeals Agenda Assignment. Once the application is determined to be complete, the City Manager, or his designee, shall review the application to assess whether the application may be approved administratively or should be placed on the next appropriate Zoning and Planning Commission and/or Board of Zoning Appeals agenda(s). If the City Manager, or his designee, determines that an administrative review is warranted, the City Manager, or his designee, will distribute the application to the appropriate departments for review and consideration. If it is determined that the application must be forwarded to the Zoning and Planning Commission and/or Board of Zoning Appeals, the City Manager, or his designee, shall place the request on the appropriate agenda and distribute the application to the appropriate departments for review and comment prior to the respective hearings.





- 1.2.6.9 Board of Zoning Appeals Hearing. The Board of Zoning Appeals shall consider the alternative plan application presented by the City Manager, or his designee, on the designated hearing date. The applicant shall be responsible for the public notification as required by *Section 1.2.7*. The Board of Zoning Appeals shall approve or deny or approve with conditions an alternative plan including a variance from the development code or special exception.
- 1.2.6.10 Zoning and Planning Commission Hearing. The Zoning and Planning Commission shall consider the application presented by the City Manager, or his designee, on the designated hearing date. The applicant shall be responsible for the public notification as required by *Section 1.2.7*. The Zoning and Planning Commission shall review and consider the application and approve or deny a concept plan or provide a recommendation of disapproval, approval, or approval with conditions of a code change or alternative plan that does not qualify for a variance or special exception to the Board of Commissioners. The City Manager, or his designee, shall schedule the application for an appropriate Board of Commissioners hearing date after the Zoning and Planning Commission has rendered a recommendation.
- 1.2.6.11 Board of Commissioners Hearing. The Board of Commissioners shall review and consider a proposed code change or alternative plan that does not qualify for a variance or special exception through its ordinance procedure, except before holding the public hearing on the amendment, at least fifteen days notice of the time and place of the hearing will be published in a newspaper of general circulation. The Board of Commissioners shall consider the application and Zoning and Planning Commission recommendation. If the Zoning and Planning Commission recommends disapproval regarding a code change, the favorable vote of the majority of the entire membership of the Board of Commissioners shall be required to adopt the code change.
- 1.2.6.12 Alternative Plans Adopted by Ordinance. Copies of all Alternative Plans not qualifying for variances or special exceptions, adopted by ordinance, shall be included in an Appendix A to this development code.
- 1.2.6.13 Board of Zoning Appeals. The Berry Hill Board of Zoning Appeals (referred to as the BZA), is established in accordance with 13-7-206 through 13-7-209 of the *Tennessee Code*.
- 1.2.6.13.1 Procedure. Meetings of the BZA shall be held at the call of the chair, and at such other times as the BZA may determine. Such chair, or in his absence, the vice-chair, may administer oaths and compel the attendance of witnesses. All meetings of the BZA shall be open to the public. The BZA shall adopt rules of procedure and shall keep records of applications and action taken thereon. The records and minutes shall be filed in the office of the City Manager and shall be a public record.
- 1.2.6.13.2 Appeals to the Board. An appeal to the BZA may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by any decision of the City Manager based in whole



or in part upon the provisions of this Code. Such appeal shall be taken by filing with the BZA a notice of appeal specifying the grounds thereof. The City Manager shall transmit to the BZA all papers constituting the record upon which the action appeals were taken. The BZA shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

- 1.2.6.13.3 Powers of the BZA. In addition to the review process authority specified in this Code, the BZA shall have the following powers:
1. Administrative Review. The BZA shall hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the City Manager or other administrative official in the carrying out of enforcement of any provision of this Code.
  2. Special Exception. The BZA shall hear and decide applications for special exceptions as specified in this Code, hear requests for interpretation of the seven districts as provided in the Regulating Plan in Section 4.0 of this Code, and for decision on any special questions upon which the BZA is authorized to judge.
  3. Variances. The BZA shall hear and decide applications for variances from the provisions of this Code.
- 1.2.6.13.4 Rules and Regulations of the BZA. The BZA shall adopt rules for the conduct of its meetings. Such rules are provided in the *Bylaws of the Berry Hill Board of Zoning Appeals*.
- 1.2.6.13.5 Stay of Proceedings. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the City Manager certifies to the BZA, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the proceedings shall not be stayed, otherwise, than by a restraining order, which may be granted by the BZA or by a court of competent jurisdiction on application, on notice to the City Manager, and on due cause shown.
- 1.2.6.13.6 Liability of Board Members, Zoning Administrator and Employees. Any board member, the City Manager, or other administrator charged with the enforcement of this Code, acting for Berry Hill within the scope of the responsibilities assigned under this Code shall not thereby render them liable personally, and is hereby relieved from all personal liability and shall be held harmless by Berry Hill of any damage that may occur to persons or property as the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any board member, City Manager, or other administrator charged with the enforcement of any provision of this Code shall be defended by legal representatives furnished by Berry Hill until the final termination of such proceedings.



1.2.6.13.7 Right of Entry upon Land. Upon notice to property owners, the BZA, its members and employees in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this Code.

1.2.6.13.8 Rehearings

1. No rehearing of any decision by the BZA shall be had, except:
  - a. On motion to reconsider the vote; or
  - b. On a written request for a hearing.
2. If the motion to reconsider receives a majority affirmative vote, the BZA may vote on the motion to grant the request for a rehearing, subject to such conditions as the BZA may, by this Code, in each case, stipulate.
3. No request to grant a rehearing will be entertained unless new evidence is submitted which could not reasonably be presented at the previous hearing.
4. If the request for a rehearing is granted, the case shall be put on the calendar for a rehearing. In all cases, the request for a rehearing shall be in writing, reciting the reasons for the request and shall be duly verified and accompanied by the necessary data and diagrams. The persons requesting the rehearing shall be notified to appear before the BZA on a date to be set.
5. No rehearing for a variance shall be granted an applicant found by a court of competent jurisdiction to be in willful violation of the express provisions of a prior variance granted under the authority of this section.

1.2.6.13.9 Variances. The purpose of this procedure is to modify the strict application of the specific requirements of this Code in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this Code.

Upon receipt of an application the BZA shall hold a hearing to decide whether a variance to the Code provisions is, in fact, necessary to relieve unnecessary hardship. The BZA shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below. A fee as established by Berry Hill shall be charged to cover review and processing of each application for a variance.

The BZA shall not grant a variance except where special circumstances or conditions, fully described in the findings of the BZA, do not apply generally in the district. The burden of showing that the variance should be granted shall be upon the person applying for the variance.

1.2.6.13.10 Special Exceptions. The following procedure is established to provide procedures for review of a Special Exception by the BZA:

1. Application. An application shall be filed with the BZA for review. Said application shall show the location and intended uses of the site, the



names of the property owners, existing land uses within two hundred (200) feet, and any other material pertinent to the request which the BZA may require.

2. Criteria for Review. Prior to the issuance of a special exception, the BZA shall make written findings certifying compliance with Section 4.2.4 of this Code, and the specific rules governing individual special exceptions and that satisfactory provisions and arrangements have been made concerning all the following where applicable:
  - a. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
  - b. Off-street parking and loading areas where required, with particular attention to the items in Item 1, above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
  - c. Refuse and service areas, with particular reference to Items 1 and 2, above.
  - d. Utilities, with reference to locations, availability, and compatibility.
  - e. Screening and buffering with reference to type, dimensions and character.
  - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
  - g. Required yard and other open space
  - h. General compatibility with adjacent properties and other property in the district.

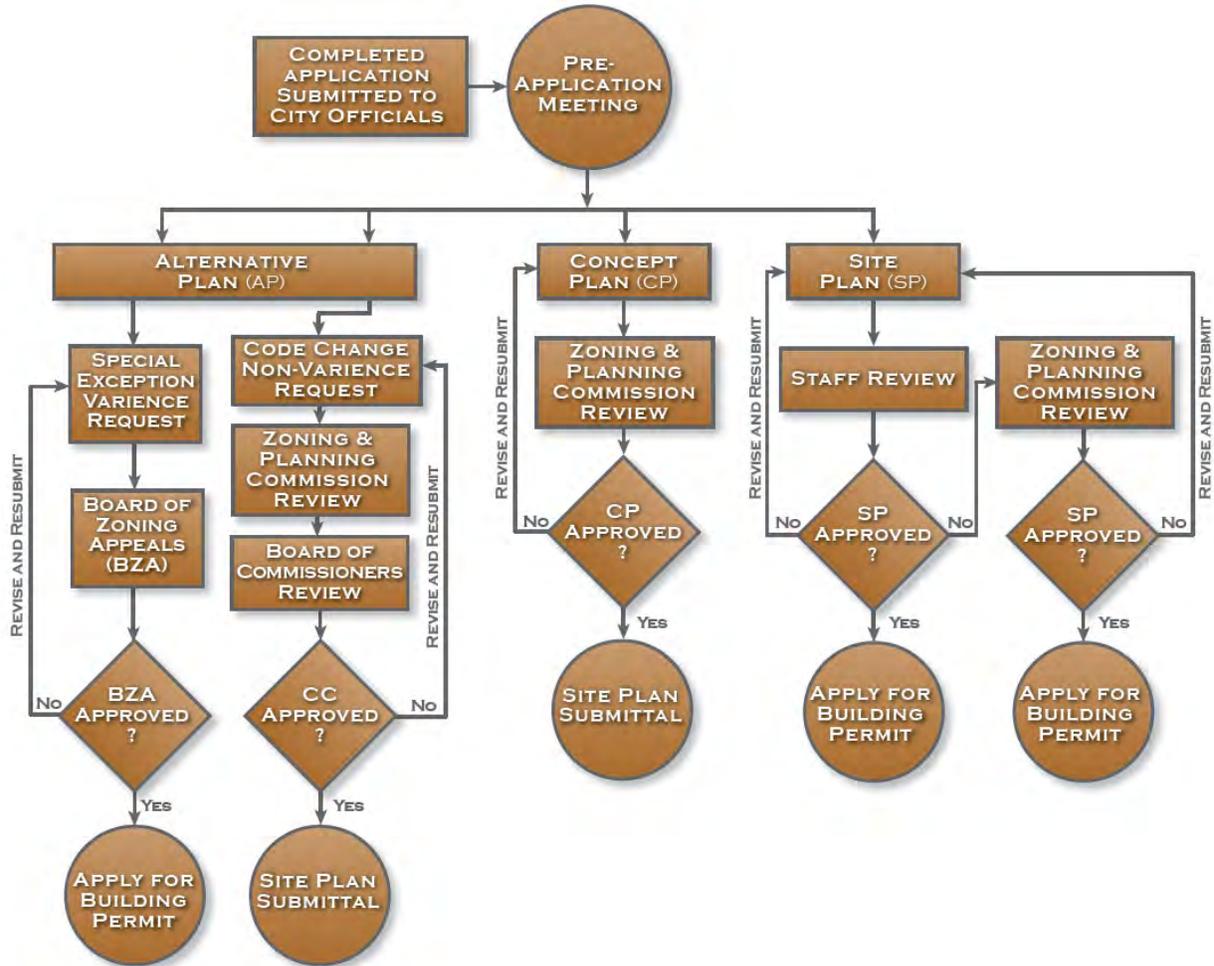
1.2.6.13.11 Restrictions. In the exercise of its approval, the BZA may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this Code.

1.2.6.13.12 Validity of Plans. All approved plans, conditions, restrictions, and rules made a part of the approval of the BZA shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

1.2.6.13.13 Time Limit. All applications reviewed by the BZA shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.



Submittal Review Flowchart





- 1.2.7 Public Notification. All public hearings required by this code shall be preceded by public notice as provided by this section. Time requirements are measured in calendar days.
- 1.2.7.1 Notice by Newspaper. No public hearing shall be conducted by the Board of Commissioners on a proposed code change or alternative plan that does not qualify for a variance or special exception unless notice has been published in one or more newspapers of general circulation in Davidson County no less than 15 days or more than 30 days prior to the public hearing. The notice shall specify the date, time, location and nature of the public hearing.
- 1.2.7.2 Notice by Mail. No public hearing shall be conducted unless, at least 15 days prior to the public hearing, the owner(s) of the subject property and all other property owners within 300 feet of the subject property have been given notice by first class mail and/or certified mail of the time, date and place of the public hearing. Properties owned by the applicant shall not be included in the distance measurement for public notice. For a public hearing conducted by the Board of Zoning Appeals, on an appeal of an administrative decision, the appellant shall be notified by certified mail. The provisions of this article shall not apply to the adoption or subsequent amendment of this code, or to amendments to the official regulating plan.
- 1.2.7.3 Public Notice Signs. Public notice signs shall be posted in accordance with the following provisions on any property subject to consideration by the Board of Commissioners of a proposed code change affecting specific properties (as opposed to a general code change affecting all properties in the city or all properties within a district) or of an alternative plan that does not qualify for a variance or special exception. Notwithstanding, the following provisions shall not apply to a change in code or the specific provisions therein upon the adoption or subsequent amendment of this code.
- 1.2.7.3.1 General Requirements. Public notice signs shall be installed by the applicant as approved by the City Manager, or designee. By the filing of an application requiring a public hearing notice, the property owner grants authorization for installation of public notice signs on the subject property.
- 1.2.7.3.2 Display Period. Public notice signs shall be installed on affected properties no less than 15 days prior to an established public hearing date, and shall be removed promptly by the landowner following closure of the public hearing.
- 1.2.7.3.3 Number and Placement of Public Notice Signs. Public notice signs shall be posted according to the following standards:
1. Number. One sign shall be posted along each three hundred feet of public street frontage.
  2. Location. Whenever practical, signs shall be located within ten feet of a public street right-of-way and positioned in a manner to best inform the motoring public without creating a safety hazard.
  3. Size and Content. All public notice signs shall be of adequate size and design to be clearly visible and legible to the motoring public. At a minimum,



a public notice sign shall specify the time, date and location of the scheduled public hearing, the general nature of the hearing, and a phone number for additional information.

4. Removal. Within 10 days of the final determination, the public notice signs shall be removed by the applicant.

1.2.8 Enforcement. The City Manager, or his designee, is responsible for the enforcement of all provisions of this Code and is authorized to stop work that has commenced without obtaining a required permit or is otherwise not in keeping with an approved final site plan.

1.2.8.1 Notification. If the City Manager, or his designee, has reason to believe that there is a violation, the owner or the persons or entities determined to be in violation shall be notified. If necessary, governmental agencies or independent experts may be retained to perform tests to determine the existence and extent of a violation, with all associated costs assessed to the owner or the persons or entities determined to be in violation if a violation is verified.

1.2.8.2 Violations. Any violation shall be a Class C misdemeanor offense punishable by law. Each day of a violation shall constitute a separate offense.

1.2.8.3 Penalties. Any violation shall be assessed as a civil penalty at the rate of \$500.00 per day, or the maximum penalty allowed pursuant to state law, whichever is less. In addition, the City Manager, or his designee, is authorized to impose triple fees for a permit when work has commenced or occupancy occurs without obtaining a required permit.

1.2.8.4 Remedies. The City Manager, or his designee, may, in addition to other remedies, institute injunction, mandamus or other appropriate action to correct or abate a violation. Where a violation exists, the City Manager, or his designee, may request that utility service be curtailed until the violation is corrected or abated.

1.2.9 Application Fees.

1.2.9.1 Generally. Standardized fee schedules may be established to partially defray the processing and administration costs associated with each type of application within this code. A fee schedule shall be authorized by Board of Commissioners resolution. All application fees shall be paid to the city by the applicant at the time of filing. Fees shall be waived for applications initiated by any federal or state agency, any department of the city government.

1.2.9.2 Fees Established by the City Manager. The City Manager, or his designee, may develop fee schedules appropriate to partially or totally defray costs associated with the processing and review of applications for properties not subject to approval by the Zoning and Planning Commission, and for all other permits reviewed under the jurisdiction of the City Manager, or his designee.



### 1.3 Non-Conformities

In order to protect the health, safety and general welfare of the community, land uses and/or structures that existed legally upon the effective date of this code, but which are not in conformance with all the applicable provision of this code, shall be subject to the provisions of this code to the fullest extent permitted by the Tennessee Code Annotated Section 13-7-208.

1.3.1 Non-Conforming Uses and Structures. Non-conforming uses and structures shall be subject to the following limitations and controls in order to protect and preserve the full use and enjoyment of nearby properties. While legally non-conforming uses are generally permitted to continue, further investment in such uses may be limited so as to encourage a relocation of the use to an appropriate area. It is the intent of this code to discourage increases in the existing degree of land use or structural non-conformance.

1.3.2 Provisions for Non-Conformities. The following provisions apply to legally non-conforming uses of land, non-conforming improvements to the land, pre-existing lots or parcels of substandard size, uses non-conforming with respect to operational performance standards, and non-conforming signs.

#### 1.3.3 Non-Conforming Uses.

1.3.3.1 Continuing a Legally Non-conforming Use. A non-conforming use may continue subject to the following provisions:

1.3.3.1.1 Inactivity of a Non-conforming Use. Pursuant to 13-7-208 of the *Tennessee Code*, [w]hen a non-conforming industrial, commercial or business use has been inactive for a period of thirty (30) continuous months or more, the land and its associated improvements shall thereafter be used only in accordance with the provisions of this code. The intent to resume activity shall not qualify the property for a continuation of the non-conforming use.

1.3.3.1.2 Change of Non-conforming Use. A change in the type of use shall be subject to the following provisions:

1. When a non-conforming use is changed to a conforming use, all non-conforming protections offered by this code are forfeited.
2. An existing non-conforming use may be changed upon a determination by the Board of Zoning Appeals that the new non-conforming use will conform to the regulations of this code and be more compatible with surrounding land uses than the existing non-conforming use.

1.3.3.1.3 Alteration of a Structure Containing a Non-conforming Use. Alterations other than incidental shall be permitted only through the approval of issuance of a permit by the Board of Zoning Appeals subject to:

1. The proposed replacement and/or expansion shall not involve any change in the type of use.



2. The lot coverage and height of the expanded use together with all other uses on the lot shall not exceed the maximum lot coverage and height permitted in the district.
  3. Alteration of Non-conforming Structures. If modification of structure results in an increase of 50% or less than the parking required for the previous use, only the new required parking (or net difference in parking) must conform to the provisions of this code. If the change in structure requires an increase in required parking greater than 50% of the previously required parking, all parking must be brought into compliance with the provisions of this code, including, but not limited to, location, size, materials, and access based upon the District development standards.
- 1.3.4 Non-Conforming Structures. The following provisions shall apply to all non-conforming structures not otherwise protected by *Tennessee Code Annotated Section 13-7-208*.
- 1.3.4.1 Continuation of Use. The use of a non-conforming structure may be continued except as otherwise provided in this article.
  - 1.3.4.2 Repairs and Alterations. Repairs and incidental or structural alterations may be made to a non-conforming structure provided there is no increase in the degree of nonconformity.
  - 1.3.4.3 Conversions. A non-conforming structure may be converted to another permitted use, provided there is no increase in the degree of nonconformity.
  - 1.3.4.4 Enlargements. A non-conforming structure may be enlarged by up to 50 percent of the total existing building square footage, provided there is no increase in the degree of nonconformity. In such case, only the expansion shall be required to conform to the provisions of this code. If a proposed expansion is greater than 50 percent of the total existing building square footage, the entire site must be brought into compliance with the provisions of this code.
- 1.3.5 Act of God. Any non-conforming building or structure damaged by fire, explosion, riot or act of God may be reconstructed and used as before any such calamity, provided the building has not been destroyed to an extent of more than two-thirds (2/3) of its fair value, and provided such reconstruction begins within 6 months of the calamity.
- 1.3.6 Non-Conforming Signs. The following provisions shall apply to legally permitted signs that were in compliance with all applicable regulations in effect at the time of installation, but become non-conforming by the adoption of this code.
- 1.3.6.1 An existing on-premises sign may remain exempt from full compliance with the provisions of this code provided the sign does not obstruct a "visibility area" as defined by *Section 6*, of this code, is maintained in good condition at all times, and is not abandoned.
  - 1.3.6.2 A sign shall be brought into compliance with the provisions of this code if at any time the sign is altered, repaired, restored or rebuilt to the extent that the cost exceeds 50 percent of the estimated replacement cost of the sign (in current dollar value). If the alteration or



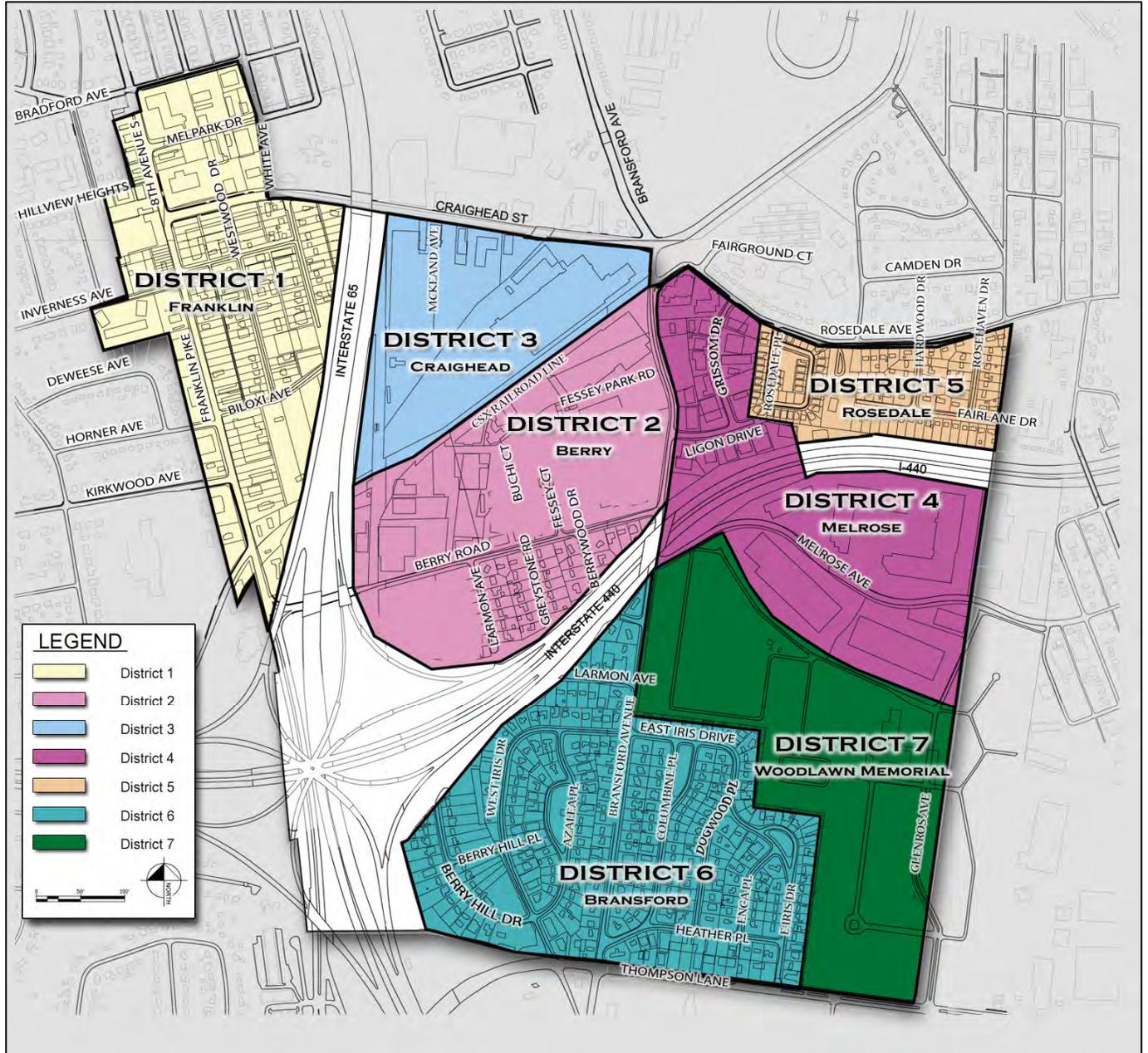
repair is caused by involuntary damage or casualty, the 50-percent standard will not apply and the sign may not be altered or repaired to any extent. All permits within any six consecutive calendar months shall be aggregated for purposes of measuring the 50 percent rule.





- 2.0 Regulating Plan
- 2.1 Regulating Plan Boundaries

The boundaries of the Regulating Plan established by code are depicted on the official Regulating Plan of the City of Berry Hill maintained by the City Clerk.





## 2.2 District Boundaries

District boundaries depicted on the official regulating plan shall be interpreted as follows:

1. Centerlines. Unless otherwise specified, district boundaries aligned along streets, alleys, controlled access highways, railroads, watercourses, or pronounced topographic features shall be interpreted to fall along the centerlines of those features.
2. Lot or Deed Property Lines. District boundaries indicated as approximately following platted lot lines or deeded property lines shall be interpreted as being coincident with those lines.
3. Uncertainties. In a case of uncertainty, the location of a district boundary shall be determined by the City Manager, subject to appeal to the City Commission.

## 2.3 Amendments to Community Development Code Text or Official Regulating Plan

The Board of Commissioners may amend the text of this development code or the official regulating plan in accordance with the following provisions.

- 2.3.1 Applications. All applications to amend the official regulating plan or development regulations shall be filed with the City Recorder . An application may be initiated by the property owner, the Zoning and Planning Commission, or a member of the Board of Commissioners.
- 2.3.2 Zoning and Planning Commission recommendation. The Zoning and Planning Commission shall review and make recommendations to the Board of Commissioners on proposed amendments. A recommendation by the Zoning and Planning Commission shall become null and void after a period of two years, unless acted upon by the Board of Commissioners.
- 2.3.3 Enactment. Upon enactment of an amendment to the official regulating plan, the plan shall be modified accordingly, noting the amendment ordinance number.



3.0 General Standards

The following provisions shall apply to all Districts of the City of Berry Hill Regulating Plan. The general standards consist of the following:

- Parking
- Access management
- Visibility
- Traffic impact analysis
- Landscape
- Stormwater
- Signs
- Architectural
- Lighting
- Fences/walls
- Dumpster/storage areas
- Sidewalks

3.1 Parking Requirements

Parking shall be provided for each permitted use within a proposed development as required by this code through permanent motor vehicle parking spaces within a parking structure or paved parking area located on the lot occupied by the use.

3.1.1 **Parking Ratio.** Parking shall be provided according to the following minimum parking requirements based on gross floor area but shall not include enclosed or covered areas used for off-street parking. Any fraction less than 1/2 shall be disregarded and any fraction of 1/2 or more shall be rounded up to the next highest full number.

Use	Parking Requirement
Residential <sup>1</sup>	2 spaces per dwelling; 1 additional space for accessory unit
Office	3 spaces per 1,000 sf
Retail and Music Studios	4 spaces per 1,000 sf
Night club, Tavern, Bar	1 space per 75 sf
Restaurant (sit-down)	10 spaces per 1,000 sf
Restaurant (fast food)	10 spaces per 1,000 sf
Restaurant (take-out)	5 spaces per 1,000 sf (minimum 5 spaces)
Industrial	1 space per 1,000 sf
Warehouse	1 space per 2,500 sf

<sup>1</sup> Multi-family structures over 12 units shall require 1 space per bedroom per residential unit up to 2 bedrooms, 1/2 space per bedroom thereafter

3.1.2 **Shared Parking.** For mixed-use developments, the following sharing factor may be applied. The parking requirement is divided by the sharing factor to calculate the modified parking requirement.



The applicant may also submit an alternative parking demand analysis based upon professional accepted methodology requesting a modified parking requirement for a mixed-use project.

USE	SHARING FACTOR
RESIDENTIAL	1.0
OFFICE	1.0
RETAIL AND MUSIC STUDIO	1.0
NIGHT CLUB, TAVERN, BAR	1.0
RESTAURANT	1.0

*Example:* Mixed-use project with 25,000 sf of office and 25 residential units would require 75 spaces for the office and 25 spaces for the residential (125 total spaces). Applying the sharing factor of 1.4 would reduce the parking requirement to 89 spaces.

*Calculation:* 125 spaces (75-office + 50-residential) / 1.4 = 89 spaces; a reduction of 36 spaces or approximately 30 percent.

- 3.1.3 ADA Accessible Parking. Accessible parking spaces shall be provided as required by the International Building Code edition then in effect in the city. Current requirements as to number of spaces required are as follows:

<u>Total Parking Spaces Provided</u>	<u>Required Minimum Number of Accessible Spaces</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 % of total
1001 and over	20 plus 1 for each 100 over 1000

The designation of handicapped parking stalls shall constitute consent by the property owner to the enforcement of the restriction of such spaces to disabled motorists by the city.

- 3.1.4 Uses Not Specifically Listed in Section 3.1.1. For uses not specifically listed in Section 3.1.1, the City Manager, or his designee, shall apply the parking requirements for a comparable listed use.



The applicant may provide supplemental parking information to justify application of a parking ratio for the proposed use based upon professional accepted planning or engineering references.

- 3.1.5 Parking Restrictions. Dedicated public rights-of-way shall not be used to meet parking or loading requirements provided in these regulations. Spaces used for storage of any motor vehicles or other items for sale shall not be used to meet parking or loading requirements provided in these regulations.
- 3.1.6 Change in Use. If a change in use requires the addition of parking spaces to meet the parking requirement provided in this code, the new parking areas must conform to the provisions of this code, including, but not limited to, location, size, materials, and access based on the District development standards. Existing non-conforming parking areas may not be expanded. For alterations of structures, see section 3.1.7.
- 3.1.7 Alteration of Structures. If a modification of a structure results in an enlargement or replacement of 50% or less of the total existing building square footage, then any additional parking spaces required to meet the parking requirement provided in this code must conform to the provisions of this code, including, but not limited to, location, size, materials, and access based on the District development standards. Existing non-conforming parking areas may not be expanded. If a modification of a structure results in an enlargement or replacement of more than 50% of the total existing building square footage, then all parking must be brought into compliance with the provisions of this code, including, but not limited to, location, size, materials, and access based upon the District development standards.
- 3.1.8 Off-site Parking. If the vehicle parking spaces required by this code cannot be reasonably provided on the same lot as the principal use, the Board of Zoning Appeals may permit a portion of the required parking to be located on a separate lot at a public hearing based upon the following provisions:
- 3.1.8.1 Maximum Distance for Residential. The nearest property line of any off-site parking area required for a residential use shall not be located more than 150 feet from the nearest property line of the residential use.
- 3.1.8.2 Maximum Distance for Non-residential. The nearest property line of any off-site parking area required for a non-residential use shall not be more than 300 feet from the nearest property line of the non-residential use.
- 3.1.8.3 Off-site Parking Ownership. Any off-site parking area shall be under the same ownership as the principal use or otherwise secured by a lease of no less than the term of any lease for the principal use or three years if the principal use is not leased. All necessary legal instruments shall be executed and recorded in the office of the register of deeds and copies of the recorded documents provided to the City Manager, or his designee, prior to the issuance of certificates of occupancy. All renewal agreements pertaining to off-site parking area leases shall be provided to the City Manager, or his designee, prior to the expiration of the lease term.
- 3.1.8.4 Parking Assignment. The required parking spaces for any number of separate uses may be combined in one lot, but the required spaces assigned to a use may not be assigned to another use, except that parking spaces may be assigned for two different uses whose



peak attendance is at alternative times or one use is closed during the peak time of the other use. The City Manager, or his designee, and/or the Board of Zoning Appeals may require off-site parking spaces to be marked as parking for the principal use with signage or pavement markings.

3.1.8.5 Notification Requirements. The applicants are required to notify all property owners situated between the property with the principal use and the property proposed for the off-site parking via certified mail. The notification shall indicate the location of the principal use and the proposed off-site parking location, provide the site plan for the off-site parking including ingress/egress points, and indicate the proposed date of the public hearing by the Board of Zoning Appeals.

3.1.8.6 Additional Restrictions. Off-site parking shall meet the following requirements:

1. Off-site parking shall not be separated from the principal use by any street with more than three travel lanes.
2. A continuous pedestrian pathway (a five-foot wide sidewalk) may be required between the off-site parking area and the entry to the principal use. The sidewalk may be located within the public right-of-way of the adjacent roadways.
3. The parking area shall be properly lighted for security.
4. Required handicapped spaces shall not be located in off-site parking areas.

3.1.8.7 Board of Zoning Appeals. The Board of Zoning Appeals shall consider all relevant factors for off-site parking requests including, but not limited to, the following:

1. The location of the principal use and the proposed off-site parking area.
2. Existing and potential parking demand created by other uses in the vicinity.
3. The characteristics of the use, including employee and customer parking demand, hours of operation, and convenience and frequency of use of the off-site parking.
4. Adequacy, convenience and safety of pedestrian access between the proposed off-site parking and the principal use.
5. Response from owners of all properties between the principal use and the proposed off-site parking area, who shall be notified in advance of the hearing on the request for approval of off-site parking.

## 3.2 Parking Design Standards

Parking shall be designed according to the following provisions:

3.2.1 Parking Space and Aisle Dimensions. The minimum required dimensions of parking spaces and aisles are provided in the following table.

**Parking Space and Aisle Dimensions**

Angle (Degrees)	Stall Width (Feet)	Stall Depth (Feet)	Aisle Width (Feet)	Parking Area Width (Feet)
90	9	18	24	60
75	9	19	19	57
70	9	19	18	56



Angle (Degrees)	Stall Width (Feet)	Stall Depth (Feet)	Aisle Width (Feet)	Parking Area Width (Feet)
65	9	19	17	55
60	9	19	16	54
55	9	19	15	53
50	9	19	14	52
45	9	18	13	49
35	9	18	12	46

- 3.2.2 Parallel Parking. Parallel parking spaces shall have a minimum length of 20 feet and a minimum width of eight feet.
- 3.2.3 Compact Spaces. Up to 15% of total required parking spaces may be compact spaces. Compact spaces shall have a minimum length of 16 feet and a minimum width of 8½ feet, and must be signed “Compact Vehicle Only”.
- 3.2.4 Residential Parking. Required parking spaces for a single-family or two-family dwelling unit shall be a minimum of eight feet wide and 20 feet long. Required parking spaces may be placed end to end. Garage doors opening toward a public street shall be a minimum of 20 feet from the property line.
- 3.2.5 Tandem Parking. The Board of Zoning Appeals may approve the use of tandem parking for certain uses such as music studios.
- 3.2.6 Use of Parking Areas. Required parking spaces and associated aisles and maneuvering areas shall be reserved for vehicle use at all times.
- 3.2.7 Parking Standards. The following standards shall apply to all off-street parking areas.
  1. No parking space shall open directly onto a public street (single-family and two-family dwellings and townhouses are exempt).
  2. Except for single-family and two-family dwellings, aisles, driveways and joint access easements shall not be used for parking vehicles.
  3. Required parking spaces for all uses except single-family and two-family dwellings shall be designed to permit entry and exit without moving any other vehicle, except as provided under section 3.2.4.
  4. No parking space shall be located so as to block designated emergency access.
  5. No portion of any required parking space shall be located within the right-of-way of a street or alley. A property with adjacent on-street parking spaces, as specified by the applicable street type, shall receive credit toward its parking requirement of 50% of the adjacent spaces.
  6. For parking areas with 10 or more spaces, a minimum queuing distance of 20 feet shall be provided along all access drives between the street travel lane and the nearest parking space.
  7. The City Manager, or his designee, or Zoning and Planning Commission, as applicable, may request an engineering review of the site plan for traffic circulation.
- 3.2.8 Paving and Marking. Permanent parking areas shall be surfaced with asphalt or concrete (including porous concrete), other hard-surfaced dustless material, or with pervious surfacing such as permeable pavers, but not with gravel or other loose surfacing that is not contained in a grid



structure. Parking areas shall be constructed to provide for adequate drainage. Each space shall be marked by a double stripe with stall width measured centerline to centerline. Single-family and two-family dwellings shall be exempt from this requirement. Parallel spaces only require a single stripe perpendicular and parallel to the curb edge to delineate the space.

3.2.9 Curbs. Curbs or other equivalent means shall be provided to prevent any vehicle using a parking area from encroaching on any public right-of-way, required landscaping area or adjacent property.

3.3 Loading Requirements

3.3.1 Minimum Loading Requirements. Each loading space shall be clearly defined and designed so as not to conflict or interfere with other traffic using the site. Loading vehicles shall not stand within public street or alley rights-of-way.

3.3.2 Off-Street Load/Unloading Requirements. A structure with a gross floor area of five thousand (5,000) square feet or more, which requires deliveries or shipments, shall provide loading/unloading berths.

1. Loading/Unloading Berth Requirements. Except for industrial uses, off-street loading/unloading berths shall be at least twelve (12) feet wide and at least twenty-five (25) feet long, exclusive of access or maneuvering space. Off-street loading/unloading berths for industrial uses shall be at least twelve (12) feet wide and at least fifty-five (55) feet long, exclusive of access or maneuvering space.

3.4 Queuing Requirements for Drive-Through Facilities

3.4.1 Minimum Drive-Through Queuing Requirements. The minimum number of queue spaces including the vehicle being serviced shall be provided according to the following table. Each queue space shall be a minimum of 20 feet in length. Unless otherwise indicated in the table, queuing shall be measured from the point of ultimate service to the end of the queuing lane. Each queue lane shall be clearly defined and designed so as not to conflict or interfere with other traffic using the site. Each land use in the table below shall have a bypass lane with a minimum width of 12 feet and shall be clearly distinguished from the queuing lane by markings. Queuing vehicles shall not stand within public street or alley rights-of-way.

Queuing Requirements for Drive-Through Facilities

Land Use	Min. Number of Queue Spaces
Bank teller lane	5
ATM	3
Restaurant (drive-thru)	5
Car wash (full service)	5
Car wash (self-service)	2
Automotive service (oil change station)	2
Retail (pharmacy)	3



3.5 Access Management

3.5.1 Protection of residential areas. In order to minimize deterioration and destabilization of residential areas, access for non-residential properties which abut residential-zoned areas shall be designed so as to minimize the intrusion of non-local traffic onto primarily residential streets.

3.5.2 Driveway Location. The following provisions apply to the location of driveways.

3.5.2.1 A driveway providing access to a single-family or two-family lot from a primarily residential street shall be located at least 15 feet from a street intersection; otherwise, a driveway accessing a street shall be at least 30 feet from an intersection.

3.5.2.2 A driveway other than for a single-family or two-family dwelling shall be located at least 30 feet from another driveway.

3.5.3 Number of Driveways. The following table sets forth the maximum number of driveways based on the amount of lot frontage. Driveways shall be a minimum of 30 feet apart. The City Manager, or his designee, may require a greater distance between driveways if it is in the best interest of public safety. When appropriate, all new driveways shall be placed directly across from driveways on the opposite side of the street to enhance traffic flow and public safety.

Maximum Number of Driveways

Lot Frontage	Maximum Number of Driveways
Up to 100 feet	1
101 to 299 feet	2
Each additional 300 feet	1 additional

3.5.4 Driveway Separation from Intersecting Streets. To protect the safety of the motoring public, the following standards shall apply:

1. Along any classification of street, no driveway ramp shall be located within 250 feet of a controlled access highway ramp.
2. A platted lot existing on the effective date of this code which does not have sufficient street frontage to satisfy the separation requirements of this section may be granted one driveway provided that it is located as far from the intersection as is reasonably feasible and does not create a hazard to the motoring public.

3.5.5 Alternative Access. Where the configuration of properties located precludes spacing of driveway access in accordance with the requirements of this section due to topography or prior site development layout, the City Manager, or his designee, shall be authorized to require joint use driveways or cross access corridors. The following provisions set forth standards for joint use driveways and cross access corridors for reduced spacing situations.

3.5.6 Joint Use Driveways. Wherever feasible, the City Manager, or his designee, may require the establishment of a joint use driveway serving two or more abutting properties. If a proposed development abuts an existing development that contains an existing joint access driveway, the vehicular circulation of the proposed development shall be designed to connect to the abutting access and circulation areas. If a proposed development abuts an existing undeveloped property,



the vehicular circulation of the proposed development will contain a joint access driveway designed to connect to the abutting property at a later date.

- 3.5.7 Cross Access Corridors. The City Manager, or his designee, shall be authorized to require cross access corridors to minimize driveway openings. The developments shall be designed so as to provide for mutually coordinated parking, access and circulation systems. Such designation shall be referenced on a plat of subdivision. Additionally, if a development with the cross access abuts an existing developed property; it shall be designed to tie into the abutting access and circulation system.
- 3.5.8 Recording Easements. Wherever joint use or cross access corridors driveways are provided in accordance with this section, the site plan shall not be approved unless the plan grants an easement to and from the abutting properties. Such easements shall be recorded by the applicant in the public records and shall constitute a covenant running with the land.
- 3.5.9 Closing of Interim Driveways. Wherever a permanent joint use driveway or cross access easement is constructed in accordance with this section, all preceding interim driveways shall be closed and eliminated. In the case of a joint use driveway, the property owner shall enter into a written agreement with the city, recorded in the public records and running with the land, that existing driveways shall be closed and eliminated after the construction of both sides of a joint use driveway.
- 3.5.10 Where Unified Access and Circulation is Not Practical. The City Manager, or his designee, shall be authorized to waive the requirements of this subsection when abutting properties have been developed in such a manner that it is clearly impractical to create a unified access and circulation system with all or part of the affected areas.

### 3.6 Visibility

In order to safely accommodate vehicular movements to and from public streets, the following sight distance and visibility provisions shall be required.

- 3.6.1 Street Intersections. At street intersections nothing shall be erected that will obstruct vision at any point above the center line grades of the intersecting streets within the triangular area formed by the right-of-way lines and a straight line joining the right-of-way lines at points which are 35 feet distant from the intersection of the right-of-way lines and measured along such right-of-way lines.
- 3.6.2 Other Accessways. In all zoning districts, no fence, wall, hedge, or other planting or structure shall be allowed on private property that will obstruct vision at any point where private driveways intersect a public street in such a manner as to interfere with traffic visibility of any driver using an authorized driveway, alley or roadway.
- 3.6.3 Measurement of distances. For the purposes of this article, distances shall be measured in the following manner.
- 3.6.3.1 Distance between Driveways. Distances between driveways shall be measured along the right-of-way line from the nearest points of intersection of the driveways with the right-of-way line. In the event that the curb return of a driveway begins outside of the right-of-way,



the point of intersection of the extension of the driveway curb or edge shall be used for measurement purposes.

- 3.6.3.2 Distance from Intersection. The distance from street intersections shall be measured from the nearest intersection of the existing right-of-way lines or extensions thereof. For streets designated to be widened at a future time by an adopted plan, measurement shall be made from the ultimate right-of-way.

### 3.7 Traffic Impact Analysis

A traffic impact analysis is required for all new developments. If the development is shown to generate less than 100 peak hour trips, the City Manager, or his designee, may waive this requirement. For projects generating 100 peak hour trips or more, applicants must adhere to the following process:

- 3.7.1 Pre-application Conference. At the pre-application conference with the City Manager, or his designee, the applicant will discuss the traffic impact analysis requirements. The City Manager, or his designee, will determine at the conference the study's scope of work, including the size of the study area and any additional traffic impact analysis requirements that will be necessary.
- 3.7.2 Traffic Impact Analysis. The traffic impact analysis requirements may be modified by the City Manager, or his designee. At a minimum, the traffic impact analysis will include a project address or project location description, a property control or folio identification number, the project acreage, a list of specific uses, densities, and intensities, any proposed phasing, the owner and agent contact information, and the traffic impact analysis as required below.
- 3.7.2.1 The traffic impact analysis shall be certified by a registered professional engineer and shall include the following minimum analysis as well as any additional analysis identified at the pre-application conference:
1. Trip generation: AM/PM peak hour analysis, internal capture, and pass-by capture rates;
  2. Trip assignment: may be determined utilizing accepted professional traffic engineering trip assignment, as approved by the City Manager or designee;
  3. Level of Service (LOS) and capacity analysis of the study intersections for the AM/PM peak periods for the following scenarios:
    - i. Existing Traffic
    - ii. Background Traffic – Traffic growth from approved future developments and population growth for the development's build-out year, minus the project traffic
    - iii. Future Traffic – Background traffic plus the project traffic volumes as determined by the trip generation and trip assignment analyses
  4. Access analysis including driveways, turn lanes, and signalized intersections within the study area;
  5. Other analysis techniques proposed must be substantiated by the applicant and found by the City Manager, or designee, to be acceptable.
  6. Peak trip generation and pass-by assumptions may be adjusted if the assumptions are submitted by the applicant and found by the City Manager, or designee, to be acceptable. The applicant may demonstrate that effective measures will be employed that will cause the peak traffic generation and pass-



by characteristics of the proposed development to be significantly different than the normal project of the same type on which the peak trip generation and pass-by factors are based.

7. Recommendations: Determine what, if any, mitigation measures are needed to accommodate project traffic. Mitigation measures may include, but are not limited to, site access improvements, on- or off-site intersection improvements, traffic control improvements, alteration of proposed development, and roadway improvements.

3.7.3 Methods for Evaluating Development Impacts. The following methods are required for evaluating the development's impacts

3.7.3.1 A development's impact on the roadway system shall be determined by using the trip generation rates set forth in the most recent edition of Trip Generation published by the Institute of Transportation Engineers (ITE), Washington, D.C., or other professionally accepted trip generation rates. It shall include evaluation for its direct effect on an arterial or collector roadway adjacent to the point(s) of project access.

3.7.3.2 Any applicable transportation facility improvements, committed or programmed, will be included to reflect the additional roadway capacity that will become available within three years of the date of an approved development order. The peak traffic assignment of the proposed development shall be the existing traffic, plus any committed traffic.

3.7.3.3 The peak traffic assignment of the proposed development shall be added to the existing traffic, plus background traffic and any committed traffic to calculate the total traffic.

3.7.3.4 For roadways where an applicable traffic count does not exist or a recent count has not been conducted within one year, the applicant must provide a count certified by a registered professional engineer at the applicant's expense.

3.7.4 Submittal of Traffic Impact Analysis. The traffic impact analysis shall be sealed by a registered Professional Engineer who is currently in good standing with the State of Tennessee and shall be submitted to the City of Berry Hill Traffic and Parking Commission for approval.

3.8 Landscape

The following is required landscaping for projects within the city: The landscape material quantities are based upon the site area minus the lot coverage percentage. For example, a lot which is permitted a maximum of 75 percent lot coverage, the remaining 25 percent (Pervious Area) shall be landscaped based upon the requirements provided in the table below.

Landscape Material	Pervious Area Landscape Requirement
Trees	Minimum of one tree per 300 square feet (Minimum average caliper of 3" for new trees)
Shrubs	Minimum of 15% coverage
Groundcover	Minimum of 20% coverage
Turf/Grass	Minimum of 20% coverage



- 3.8.1 Street Trees. Where a project includes construction of sidewalks or sidewalks already exist, and the applicable street type includes a planting strip or bulb-outs within the street right-of-way, street trees shall be utilized as approved by the City Manager, and shall count toward the tree requirement for the project.
- 3.8.2 Sustainable Landscape Practices. Sustainable landscape and xeriscape practices are essential to the Berry Hill community. These principles emphasize planning and design, proper materials and plant selection, irrigation and maintenance practices. Sustainable landscaping seeks to establish and maintain a healthy landscape for a prolonged period of time with extremely low water usage and maintenance requirements. The goal is to achieve a landscape that is realistic for the community and enhances the overall quality of life, while implementing environmentally sound practices.
- 3.8.3 Xeriscape. Whenever possible, native and xeriscape plant materials shall be used within the plant palette. Xeriscape principles, when properly implemented aid in water conservation. These principles include sound planning and design, use of mulches, and appropriate maintenance.
- 3.8.4 Native Plants. To establish a more sustainable landscape, the use of native species is encouraged for Berry Hill. Native plant usage coincides with xeriscape principles. Many native species are drought tolerant, require little maintenance, promote a diverse landscape, and provide wildlife habitat. Prohibited plants are classified as such because they are detrimental to native plants, wildlife, ecosystems, or human health, safety and welfare.
- 3.8.5 Irrigation. Irrigation systems shall incorporate water saving measures. Automatic irrigation systems should include rain sensors, low angle spray heads, and drip bubblers.
- 3.8.6 Swales. Drainage swales are a necessary component of building a structure, whether it is a building or a parking area.
- 3.8.7 Hardscape. The intent of this provision is to allow individual properties the freedom to express their design through elements such as hardscape. All hardscape shall be constructed of ADA compliant, walkable materials. Hardscape materials, patterns, and colors shall serve to compliment buildings and adjacent spaces such as plazas and courtyards adjacent to property.

All pavers at ground level shall be sand set. Public sidewalk hardscape designs shall focus on consistency of materials and simplicity in design. Colors of both private public and property materials shall relate to each other and the building colors. Preferred hardscape colors include earth tones and other non-flashy colors.



### 3.9 Stormwater Best Management Practices (BMPs)

Temporary BMPs are intended to address construction activities while permanent BMPs address long-term stormwater management objectives/requirements. Both temporary and permanent BMPs should be included in the grading plan and stormwater pollution prevention plan (SWPPP).

Each new development site is unique. An understanding of the natural features within the project boundaries and the pollution risks related to the construction activity is essential for selecting and implementing BMPs. Identifying these features and appropriate applications requires review of the characteristics of the site and the nature of the construction.

Refer to current Stormwater Management Ordinance for alternative BMPs and appropriate applications.

### 3.10 Signs

The sign regulations are established to promote and protect public health, welfare and safety by regulating and restricting the location, construction, repair, removal, alteration and maintenance of signs and other advertising devices in the City of Berry Hill. The regulations are also intended to create a more attractive economic climate without impairing the residential environment of the area, to protect property values, to enhance the scenic and natural beauty of the city, and to maintain relative freedom from distracting nuisances.

3.10.1 General Sign Regulations. All signs shall be required to obtain a permit from the city building department prior to installation, except those signs specifically identified in *Section 3.10.2*. All exterior signs and signs visible from the public right-of-way must comply with the following regulations:

1. All signs shall be securely attached to a building or a structurally sound support and the display surfaces shall be kept neatly painted and in good repair at all times.
2. Signs are not permitted on fences, utility poles, trees, or roofs, except temporary fence signage may be approved as a Special Exception by the Board of Zoning Appeals for projects under construction. In such instances the permitted signage shall be subject to the size restrictions applicable for wall signage based on the building frontage of the building under construction.
3. Motor vehicles, mobile homes, or trailers with painted signs shall not be parked or stationed in a manner intended to display the sign.
4. All signs shall advertise the business or use conducted on the premises on which the sign is located. Only approved billboards may be used as off-premise signs.
5. Signs shall not be installed in such a manner as to obstruct the view of any traffic sign or signal and the signs shall not be confused with these devices.
6. Signs shall not obstruct or reduce the visibility of motorists, bicyclists, or pedestrians traveling within the right-of-way of a public street or alley in the city or entering a street or alley from an adjacent property.
7. Signs shall not be permitted within public right-of-ways of any street or alley. Freestanding signs must also be no less than 10 feet away from the edge of pavement of any public street and no less than 5 feet from any side or rear property line.
8. Except for signs indicating time, date and temperature, no sign may have any copy, graphics, or digital displays that change messages by electronic or mechanical means,



where the copy, graphics, or digital display does not remain fixed, static, motionless, and nonflashing.

9. Directional signs shall not exceed two square feet in area and are limited to "office," "entrance," "exit," "parking," and "no parking". These signs are excluded from the sign totals and area calculations.

3.10.2 Signs Permitted without Permits. The following signs are permitted throughout the city without a permit:

1. Signs bearing the name of the principal occupant(s) and/or the street address of a private dwelling that does not exceed one square foot in area.
2. Professional nameplates that do not exceed one square foot in area.
3. Non-commercial flags or emblems, including those of political, philanthropic, educational and religious organizations.
4. Non-commercial speech signs that do not exceed 12 square feet in area and four feet in height.
5. Temporary signs advertising any educational, charitable, civic, religious, or a campaign event displayed for a period not exceeding 30 days total in any calendar year. Political signs may be displayed for a period of up to 60 days prior to the referenced election. Temporary signs shall not exceed 32 square feet and shall be at least eight feet from any other sign. Temporary signs must adhere to the general provisions in Section 3.9.1. If a temporary sign not removed within the prescribed time period, the code enforcement officer is authorized to remove the signs and the cost of such removal shall be the joint responsibility of the property owner and the organization responsible for placing the sign.

3.10.3 Sign Illumination. Signs located in all districts excluding district 5 may be illuminated in the following ways:

1. Internal lighting, meaning a source of illumination entirely within the sign which makes the contents of the sign visible at night by means of light being transmitted through a translucent material but wherein the source of the illumination is not visible.
2. Internal-direct lighting, meaning a source of illumination entirely within the sign (generally a freestanding letter) which makes the sign visible at night by means of lighting the background upon which the freestanding character is mounted. The character itself shall be opaque, and thus will be silhouetted against the background. The source of illumination shall not be visible.
3. Indirect lighting, meaning a source of illumination located a distance away from the sign, which lights the sign, but which is itself not visible to persons viewing the sign from any normal position of view.
4. Neon light (electrical discharge tubing), meaning a source of external illumination located on a noncombustible surface approved by the applicable electrical code. Exposed neon lighting can only be used as lettering or straight-line perimeter trim. The straight-line perimeter trim is limited to no more than two (2) lights.
5. A flashing or animated sign or sign with intermittent or varying intensity of illumination or color is prohibited, whether deliberate or as a result of a defect in the sign or the illumination source, except for a sign indicating the time, date and temperature.
6. The light from any illumination source intended to illuminate a sign shall be so shaded, shielded or directed so that the light intensity or brightness shall not adversely affect



surroundings or facing premises, nor adversely affect safe vision of pedestrians or operators of vehicles moving on public or private streets, driveways or parking areas.

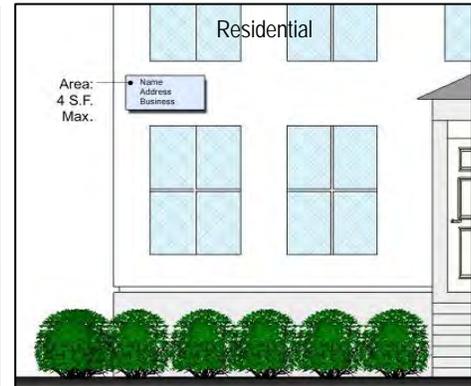
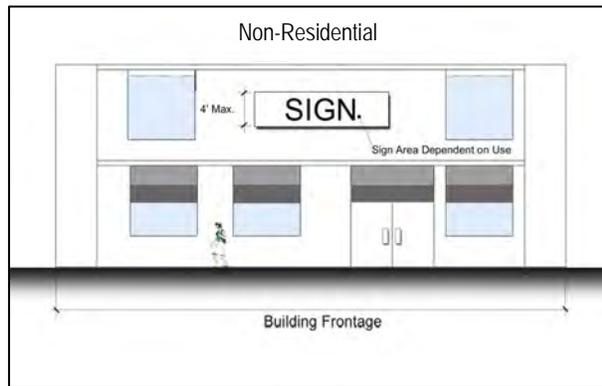
7. In district 5, only indirect lighting of signage shall be allowed.

3.10.4 Sign Area Computation. The area of a sign shall include all lettering, wording and accompanying designs and symbols together with the background, whether open or enclosed, on which they are displayed. If a sign consists of individual letters or symbols attached to a building wall, window or awning the area shall be considered to be that of the smallest rectangle or regular geometric shape which encompasses all of the letters and symbols. For double-face signs, only one sign face shall be considered provided that both faces are identical. If the interior angle formed by the faces of the double-face sign exceeds 45 degrees, then both sides of the sign shall be considered in calculating the sign area. For non-residential uses, all signs shall be used in the sign area calculation.



3.10.5 Sign Types. The following details the sign types permitted within Berry Hill:

3.10.5.1 Wall sign. A wall sign (or façade sign) is mounted and secured or painted directly to a building wall. For a wall sign with individual mounted lettering, only the area of the lettering shall be used to calculate the wall sign area. For a painted wall sign, the entire area of the painted sign shall be used to calculate the area of the sign. Residential – Single family or Duplex wall signs in a residential district shall not exceed two square feet in area and shall only indicate the name and/or address of the residents. For multifamily residential and non-residential uses, the wall sign shall not exceed 50 square feet in area and six feet in height.

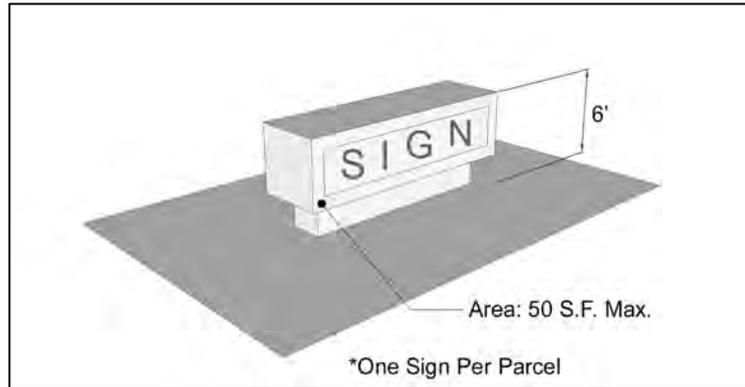


Wall Sign Examples





3.10.5.2 Monument sign. A monument sign (or freestanding sign other than as described in *Section 3.10.5.6*) in which the entire bottom of the sign is in contact with the ground or is close to the ground. For multifamily residential and non-residential uses, monument signs shall not exceed nine feet in height or 50 square feet in area.



Monument Sign Examples





3.10.5.3 Window sign. A window sign is lettering and/or symbols painted or applied to a window or glazed door of a building. A window sign shall not exceed six feet in height. Window signs shall be excluded from the calculations of allowable signage, provided such signs do not exceed thirty percent (30%) of the total surface area of the windows and glazed doors on the façade of the building to which said signs are attached.

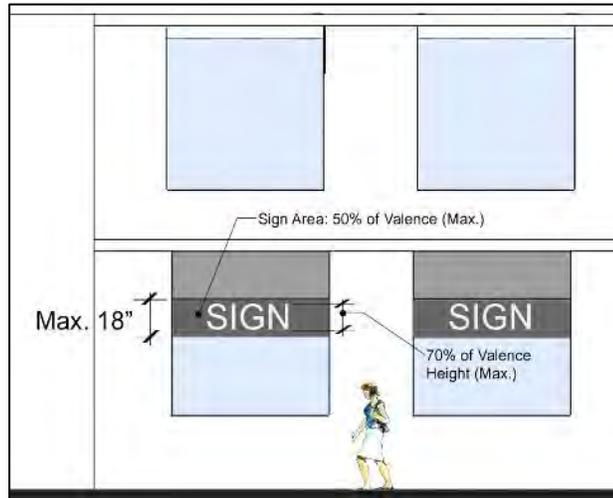


Window Sign Example





3.10.5.4 Awning sign. An awning sign is lettering placed on the valence of the awning of a window or door. At the sidewalk level the awning shall project a minimum of four feet from the building face. The bottom support of the awning shall be no less than seven feet, six inches from the ground and the bottom of the valence shall be no less than six feet, eight inches. The lettering shall not be taller than 70% of the valence height and shall be a maximum of 18 inches. The lettering shall not cover more than 50% of the valence. One sign is permitted on each separate awning valence.

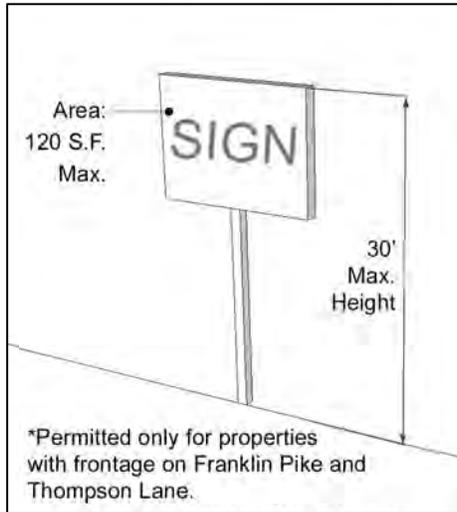


Awning Sign Examples





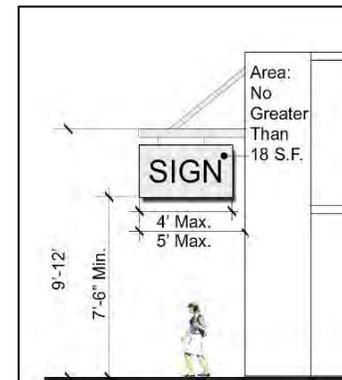
3.10.5.5 Freestanding sign. A freestanding sign (or pole sign) is mounted on a freestanding pole or other support so that the bottom edge of the sign face is one foot or more above grade. Freestanding signs shall not be more than nine feet in height and 50 square feet in area, except for freestanding signs on properties with primary frontage along Franklin Pike, Thompson Lane, or Craighead Street shall not be more than 30 feet tall or 120 square feet in area, and shall be oriented towards the primary access street.



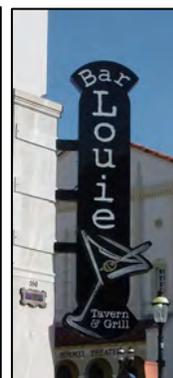
Freestanding Sign Examples



3.10.5.6 Projecting sign. A projecting sign (or blade sign) that is wholly or partly dependent upon the building for support and that project more than 12 inches from the building. Projecting signs are only permitted for properties with primary frontage along Franklin Pike and Thompson Lane. A projecting sign shall project no more than six feet from the building face and shall not be more than five feet wide. The sign height shall not exceed one-half the height of the building face to which it is attached. The top of the sign must be at least nine feet above grade but shall not extend above the eave line or front façade. The bottom of the sign must be at least seven feet, six inches above grade.



Projecting Sign





3.10.5.7 **Marquee sign.** A marquee sign is any canopy, awning, or permanent construction that projects from a wall of a building, usually above an entrance. Marquee signs may be permitted through a special condition by the City Commission for buildings located along Franklin Pike or Thompson Lane. The design of these signs must complement the buildings architecture. The City Commission will regulate the dimensions and appearance of these types of signs on a case by case basis. The City Commission may permit these signs through the site plan approval process.

Marquee Sign Example



3.10.6 **Sign Standards.** Each sign shall comply with the following requirements:

Use	Allowed Sign Type	Maximum Sign Height <sup>3</sup>	Maximum Number of Signs per Parcel <sup>4</sup>	Maximum Sign Area by Sign Type	Maximum Sign Area by Parcel <sup>5</sup>
Residential District – Single Family or Duplex	Wall; not directly illuminated	N/A	1 indicating name and/or address of residents	2 sf	2 sf
Residential – Multifamily <sup>1</sup> , Non-residential <sup>2</sup>	Awning	Entirely on awning valence; lettering max 70% of valence height; valence max height 18 inches	1 sign per each separate awning valence	50% of the area of the valence	2 sf for each linear foot of building frontage of the principal structure measured along the street or off-street



Use	Allowed Sign Type	Maximum Sign Height <sup>3</sup>	Maximum Number of Signs per Parcel <sup>4</sup>	Maximum Sign Area by Sign Type	Maximum Sign Area by Parcel <sup>5</sup>
	Monument <sup>4</sup>	9 feet	1	50 sf	parking area that provides the principal access for the use
	Wall	6 feet	1; principal access frontage	50 sf	
	Window	6 feet	N/A	If >30% of façade's total window area; counted toward sign allowance	
	Freestanding <sup>4</sup>	9 feet <sup>3</sup>	1	50 sf	
	Freestanding <sup>4</sup> (Franklin Pike and Thompson Lane)	30 feet <sup>3</sup>	1	120 sf	
	Projecting <sup>6</sup>	½ height of building face; bottom of sign must be a minimum 7 feet, 6 inches above grade; top of sign between 9 feet above grade and top of building	1	½ height of building face by 5 feet maximum width	

<sup>1</sup> A sign advertising the sale of lots within an approved subdivision may be permitted. The sign shall not exceed 24 square feet in area and six feet in height. The sign shall be located at the entranceway to the subdivision and may be placed on the property for a period of three years from the time of subdivision plan approval. No more than two signs advertising the sale, lease or rental of a property may be placed on the site that is available. Such advertising signs shall not exceed six square feet in area and four feet in height. These signs shall be removed from the premises within seven days after the property is transferred or leased.

<sup>2</sup> No more than two signs advertising the sale, lease or rental of a property shall be placed on the property. The advertising shall not exceed 24 square feet in area and six feet in height. The signs shall be removed within seven days after the property is transferred or leased.

<sup>3</sup> Sign height measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure.

<sup>4</sup> Only one freestanding and/or monument sign per property unless a corner lot, in which case one freestanding sign may be erected to address each street on which the property fronts. Freestanding signs over 9 feet in height are only permitted on properties with primary frontage along Franklin Pike and Thompson Lane.

<sup>5</sup> Separate freestanding signs advertising individual businesses within a shopping center or multiple use building shall be prohibited. Flush-mounted signs identifying individual businesses or uses may be installed for each separate principal activity. Flush-mounted signage for each individual business or use shall not exceed two square feet of area for each linear foot of that store's frontage that provides its principal access or 20% of the surface area of the building face on which the sign is to be attached, whichever is less. In a multiple commercial center with separate principal buildings have separate principal entrances from the public right-of-way, such as an office park or industrial park, at each point of entrance for vehicular traffic, a freestanding directory sign of no more than 24 square feet may be installed.

<sup>6</sup> Projecting signs are only permitted on properties with primary frontage along Franklin Pike and Thompson Lane.



- 3.10.6.1 Color. Sign colors should be complementary with one another and relate to the primary colors of the buildings. Colors may contrast provided the overall effect is still compatible with the building colors.
- 3.10.6.2 Design and Construction. All signs shall be constructed of permanent materials and securely attached to the ground, a building, or other structure by direct attachment to a rigid wall, frame, or structure. The size of structural members shall be proportional to the sign panel they are supporting.
- 3.10.6.3 Materials. The sign materials shall match those used on the buildings on the site and any other signs on the site. Materials shall be durable and capable of withstanding weathering over the life of the sign with reasonable maintenance. No reflective material may be used.
- 3.10.7 Billboard Signs. A billboard sign is an off-premise sign displaying advertising copy which pertains to a business, organization, event, person, place, service or product. An "attached billboard" is a billboard fastened to the face of a building; a "back-to-back billboard" is a structure with two parallel billboard sign faces oriented in opposite directions; and a "ground billboard" is a billboard supported by one or more uprights upon the ground with or without braces and not attached to a building or other structure. Billboard signs shall be permitted as follows:
- 3.10.7.1 Location. A billboard sign shall only be permitted within 100 feet of an interstate or U.S. Highway and at least 1,000 feet away from any other billboard sign, measured laterally in all directions. A ground billboard shall be set back to the required distance for buildings located in the district in which it will be erected, or a distance not less than the setback requirement of the most restrictive adjoining property, or 15 feet, whichever is greatest. No billboard shall be constructed in such a manner that it obstructs or impedes vehicular or pedestrian traffic safety, including ingress and egress from private drives.
- 3.10.7.2 Size and Height. A back-to-back billboard shall have a maximum allowable gross surface area of 750 square feet per sign face, with a maximum of two opposite sign faces. Any other billboard, including a structure with two sign faces placed in a V-shaped configuration shall have a maximum allowable gross surface area of all sign faces combined of 750 square feet. A billboard face shall not exceed 20 feet in total height or 60 feet in total length. A billboard structure shall not extend more than 50 feet above the surface of the adjacent roadway from which it is to be viewed.
- 3.10.7.3 Construction Methods. Billboard signs shall be constructed in accordance with the applicable building code in effect in Berry Hill and electrical code in effect in Metro Nashville at the time the permit therefore is issued.
1. A ground billboard shall have a maximum of one vertical support, being a minimum of 48 inches in diameter, with a one-half inch minimum wall.
  2. A billboard sign face shall be independently supported and have vertical supports of metal, which are galvanized or treated to prevent rust and corrosion. One vertical support shall be capable of enabling the entire sign face to be able to withstand a minimum 70 mile-per-hour wind load.
  3. The entire base of the billboard structure shall be landscaped with suitable shrubbery and/or bushes with a minimum height of three feet placed in such a



- manner as to screen the foundation of the structure. The sign owner shall maintain said landscaping in an attractive and healthy manner.
4. An attached billboard shall be constructed and maintained flat or parallel with the building wall to which it is attached and shall not extend more than 12 inches from such exterior building wall.
  5. In addition to complying with illumination restrictions contained in 3.10.1.8, 3.10.3.5, and 3.10.3.6, a billboard with display lighting shall be constructed so that it does not glare upon adjoining property and shall not exceed a maximum foot-candle of 1.5 upon the adjoining property. No billboard structure, sign face, or display lighting shall move, flash or emit noise. No display lighting shall cause distraction, confusion, nuisance or hazard to traffic, aircraft or other properties. No colored lighting is permitted.

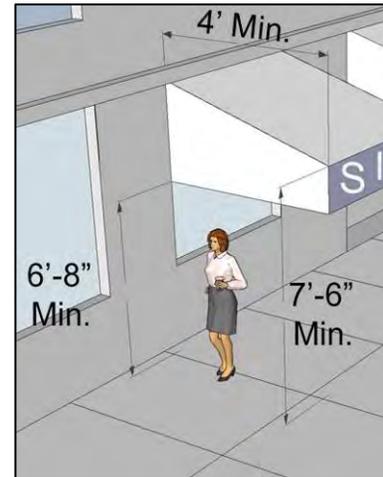
### 3.11 Architecture

The following sections provide both recommended and required architectural standards for buildings within the City of Berry Hill. The application of the standards will depend upon the building context, size, height, and proposed use. The City Manager, or his designee, and/or the Zoning and Planning Commission may require some of the recommended standards to be required.

- 3.11.1 Modification of Structure. If a modification of structure includes a modification of 50% or less of the façade area, the City may require some of the recommended standards listed below to be included. If a modification of structure requires a modification of 50% or more of the façade area, the City shall require compliance with the provisions of this code, including, but not limited to, location, size, materials, and access based upon the District development standards.
  - 3.11.1.1 Materials. The building materials for exterior finishes shall be brick, exterior insulation and finishing systems (EIFS), split-face concrete block, pre-cast concrete, stone, clapboard siding, and hardiplank type siding. Other materials may be used as accent materials. Vinyl siding is a permissible exterior finish for detached single and two family residential units, but is discouraged. Walls shall combine no more than two primary materials and should change material along a horizontal line with the visually heavier material below the lighter material.
- 3.11.2 Windows. All windows shall be operable, except at grade storefronts. Windows shall be vertical or square in proportion and recessed a minimum of two inches from the exterior face of the façade. Multiple windows in the same rough opening shall be separated by a four inch wide post and set on one continuous sill. Openings in upper stories shall be centered above openings in the first story. Openings on the gable ends must be centered. Openings shall be a minimum of two feet from building corners. Window systems should not exceed 25 feet in width without being interrupted by another building material a minimum of four inches wide.
- 3.11.3 Transparency/Glazing. Building façades shall have clear glazed areas and openings between 25 and 45 percent of the primary façade area.
- 3.11.4 Doors. All exterior doors shall be hinged, except garage doors. Garage doors located in the principal building are not permitted on the front façade. Doors fronting public streets should be fully glazed.



- 3.11.5 Storefronts. On retail frontages, 70 percent of the frontage at the sidewalk level shall provide storefront openings between two feet and eight feet in height.
- 3.11.6 Shutters. If shutters are used, they shall be sized to match the opening and provided for all windows on a given wall.
- 3.11.7 Awnings. All awnings shall be consistent with the architecture of the building and shall be rectangular in shape with straight edges. Awnings at the sidewalk level shall not have a bottom soffit or side panels and shall project a minimum of four feet from the building façade. Awnings on stories above the sidewalk level shall project a minimum of three feet from the building façade.
- 3.11.8 Arcades/Colonnades. Arcades or colonnades may be placed along the front façade provided they are more than 80 percent of the building façade length.
- 3.11.9 Roofs. Sloped roofs shall have symmetrical pitches of not less than 5:12, except that porch and stoop roofs may be 2:12. Steep pitched gabled and hipped roofs for residential structures are encouraged.
- 3.11.10 Balconies. Balconies shall use materials and provide visual supports for balcony extensions consistent with the architecture and materials of the structure.
- 3.11.11 Security. If security bars are used, they shall be located on the interior of the structure and designed in such a manner so that they appear as muntins in a divided light window. Mesh and chain link are not permitted to cover openings.
- 3.11.12 Mechanical Equipment. Mechanical systems, backflow preventers, television antennae, satellite dishes, and communication devices should be screened from view by landscaping or built elements as an integral part of the building architecture.



3.12 Lighting

Lighting is an important element for consideration within the City. Adequate light levels shall be maintained to provide the proper character and ambience throughout the City. All right-of-way lighting fixtures shall use metal halide bulbs to provide a clear, white light along the public corridors and open spaces. Landscape accent lighting and building accent lighting are also encouraged to be metal halide or LED. Along the public right-of-ways a minimum consistent foot candle of one lumen shall be maintained with maximum to minimum ratios no greater than 1:10. Decorative light poles and fixtures within right-of-ways shall be approved by the City Manager, or his designee, and/or the City Commission. Parking lot lighting shall not exceed 0.5 foot candles at the property line of the parking area. The City Manager, or his designee, may require a photometric lighting plan.

3.13 Fences/Street Walls



Fences shall be made of painted, stained, or pressure treated wood pickets, plastic coated chain link, or wrought iron. Street walls must be constructed of masonry or other material in a manner that matches the primary building material. Fences/street walls shall not exceed six feet in height for the side and rear property lines. Fences/street walls shall not exceed four feet in height for the front property line, unless permitted by special exception by the City Commission.

### 3.14 Dumpsters/Storage Areas

Dumpsters and storage areas shall be located at the rear of the property and shall be enclosed in the building or a structure consistent with the architecture and materials of the building. Dumpsters for food service businesses shall be fully enclosed. The screen fence must be constructed of masonry or other material in a manner that matches the primary building material. Details must be provided with the required plans for construction.

### 3.15 Sidewalk Standards for Multifamily

Sidewalks are the primary pedestrian facilities within the community. As the mixed-use and urban character of the city grows, sidewalks will increasingly play an important role as places for walking, gathering, eating, and other day to day activities, and shall be designed to accommodate a wide range of activities. Sidewalk dimensions will vary based on street type (refer to street cross sections) and where possible, shade elements, such as trees, awnings, and overhangs of buildings shall be utilized to protect the pedestrian from the sun. Obstructions within the visibility triangles and potential hiding spots shall not be permitted. Sidewalks shall have a minimum five foot clear access width from any obstructions at all times. Multifamily developments shall provide a sidewalk network internal to the project which connects to the public right-of-way and the sidewalk along the property lines. If a sidewalk is not present in the right-of-way, the development will be required to provide a five foot wide sidewalk along the entire frontage of all adjacent public rights-of-way with a public access easement. It is recommended that street trees and pedestrian lighting be provided adjacent to the sidewalk.

### 3.16 Accessory Buildings

An accessory building shall be placed within the rear yard of the principle structure and shall not exceed two stories in height nor occupy more than 25% of rear yard area. In the case of a corner lot, the accessory building shall be no closer to the side street than the principle structure. No more than (2) two accessory buildings shall be permitted on any lot except those in District 3. A building permit shall be required for each accessory building. Accessory buildings shall be soundly constructed and shall be constructed in a manner that does not create a nuisance or adversely impact on health, safety or welfare of the public. An accessory building shall not be used as a dwelling.

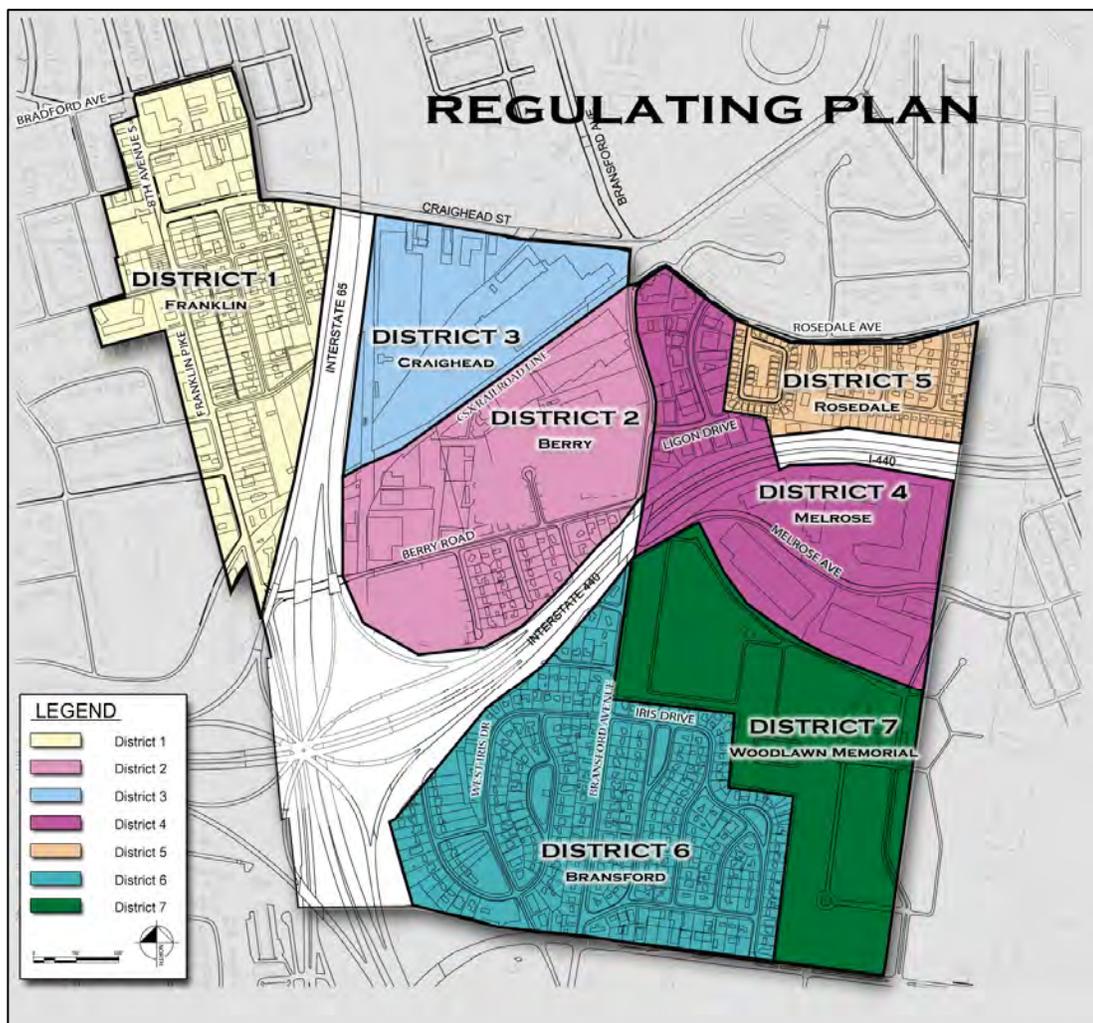
Accessory buildings designed to be mobile such as trailers and shipping containers may be allowed in all districts, except District 5, and must be installed on a concrete or asphalt pad and be maintained in appearance in the same manner and to the same extent as the permanent structure. There shall be a (1) one year time limit for mobile containers to remain on the property from the date the building permit is issued.



#### 4.0 District Development Standards

The Community Development Code and the respective Regulating Plan establishes seven districts for the City of Berry Hill. *Section 3.0 District Standards* establishes the general development standards for properties within the City including parking, landscaping, architecture, and other general standards. This section provides the specific development standards for each district. The seven districts consist of:

- District 1 – Franklin
- District 2 – Berry
- District 3 – Craighead
- District 4 – Melrose
- District 5 – Rosedale
- District 6 – Bransford
- District 7 – Woodlawn Memorial



The following sections provide a matrix of the district development standards and a matrix of the permitted uses within each district by street. The third section provides the specific development standards for each district. The general requirements for are provided in *Section 3.0 General Standards*.



4.1 District Development Standards Matrix

Development Standards		District 1 – Franklin		District 2 – Berry
		A (Franklin Pike)	B	
Residential Density (units/acre)		20 (min)	10 (min)	15 (min)
Floors (Height) <sup>1</sup>		5 floors max (75' max) First floor: 14' min	2 floors max (35' max) Multi-family/Mixed use may be 3 floors (45' max)	4 floors max; (60' max)
Lot	Depth	120' min	120' min	120' min 300' max
	Width	50' min	50' min	25' min 30' max
Building Placement <sup>5</sup>	Front	6' min 15' max	15' min	5' min 15' max or stay 30' with current setback
	Side/Rear	0'/0'	0'/0'	0'/10' separation if existing windows or openings
	Lot Coverage	90% max	75% max 8,000 sf max footprint <sup>4</sup>	90% max
Building Frontage	% Requirement <sup>2</sup>	75% min	n/a	75% min 50% max street wall
	Encroachment	Balconies, arcade, shop front, awning	Balconies, arcade, shop front, awning	Balconies, arcade, colonnades 6' setback from back of curb
	Frontage Type	Balconies, arcade, stoops, colonnades	Balconies, arcade, stoops, colonnades	Balconies, arcades, colonnades
	Building Entrance <sup>3</sup>	Visible from street	Visible from street	Along street walkway
Parking	Parking Ratio	See table; 50% allowable offsite	See table; 50% allowable offsite	See table; 50% allowable offsite
	Access	1 curb cut (max) – 30' wide; lots > 100' frontage – 2 curb cuts	2 curb cuts (max) – 30' wide	1 curb cut (max) – 30' wide; alley preferred
	Loading	1 space – 12' wide by 25' long	1 space – 12' wide by 25' long	1 space – 12' wide by 25' long
	Parking Placement	Side/rear; must be behind front façade	n/a	Side/rear
	Structures	Permitted	Permitted	Permitted

<sup>1</sup> One story buildings shall be required to be designed to provide the appearance of a 20 feet high minimum facade through architectural treatments.

<sup>2</sup> The building frontage minimum requirement may be achieved completely by building façade or a combination of building façade and street wall. Street walls must be designed with the same building materials and architectural appearance as the primary structure. Street walls must be no less than four feet high and no more than six feet high.

<sup>3</sup> Building entrances shall be no greater than 100 feet apart.

<sup>4</sup> Not applicable to multifamily development.

<sup>5</sup> Buildings on corner lots must adhere to the visibility triangle requirements in Section 3.6.1 of the General Standards. Outside of the visibility triangle, buildings on corner lots must adhere to the front and side setback requirements.



Development Standards		District 3 – Craighead	District 4 – Melrose	District 5 – Rosedale
Residential Density (units/acre)		20 (min)	20 (min)	10 (max)
Floors (Height) <sup>1</sup>		4 floors max (60' max)	4 floors max (60' max) ; Multi-family/Mixed use may be 3 floors (45' max)	2.5 floors max (40' max)
Lot	Depth	120' min	120' min	100' min; unless existing platted lot
	Width	50' min	50' min	50' min
Building Placement <sup>5</sup>	Front	6' min	15' min	Single family -35' min Multifamily 10' min, 20' max or 20% of lot depth (whichever is less)
	Side/Rear	0/0	0/0	Single & Multifamily 5' side/ 5' rear
	Lot Coverage	90% max	90% max	Single & Multifamily max 65%
Building Frontage	% Requirement <sup>2</sup>	75% min	75% min	Min 75% of lot width for row house/townhouse; min 60% of lot width for courtyard apt, apt, condo
	Encroachment	Balconies, arcade, shop front, awning	Balconies, arcade, shop front, awning	Balconies, arcade, shop front, awning
	Frontage Type	Balconies, arcade, stoops, colonnades	Balconies, arcade, stoops, colonnades, shop fronts, awnings	Balconies, porches, stoops
	Building Entrance <sup>3</sup>	On street, walkway or park	On street, walkway or park	Primary pedestrian entrance along street, walkway, or park on the front property line
Parking	Parking Ratio	See table; 50% allowable offsite	See table; 50% maximum offsite	See table
	Access <sup>4</sup>	2 curb cuts (max) – 30' wide	2 curb cuts (max) – 30' wide	1 curb cut per lot; Single family – 12' wide Multifamily – 30' wide
	Loading	1 space – 12' wide by 25' long	1 space – 12' wide by 25' long	n/a
	Parking Placement	n/a	n/a	Attached units; side/rear entry for garages when provided; must be behind front façade
	Structures	Permitted 40' behind front façade	Permitted	Not permitted

<sup>1</sup> One story buildings shall be required to be designed to provide the appearance of a 20 feet high minimum facade through architectural treatments.

<sup>2</sup> The building frontage minimum requirement may be achieved completely by building façade or a combination of building façade and street wall. Street walls must be designed with the same building materials and architectural appearance as the primary structure. Street walls must be no less than four feet high and no more than six feet high.

<sup>3</sup> Building entrances shall be no greater than 100 feet apart.

<sup>4</sup> Alternate access plan may be two-12 feet wide maximum curb cuts at side property line for future joint access with abutting property.

<sup>5</sup> Buildings on corner lots must adhere to the visibility triangle requirements in Section 3.6.1 of the General Standards. Outside of the visibility triangle, buildings on corner lots must adhere to the front and side setback requirements.



Development Standards		District 6 – Bransford		
		Bransford	E/W of Bransford	Thompson Lane
Residential Density (units/acre)		20 (max); Live/work – no more than 20% of street façade	20 (max)	20 (min)
Floors (Height) <sup>1</sup>		2.5 floors max (40' max)	3 floors max (45' max)	5 floors max (75' max); First floor: 14' min
Lot	Depth	120' min	120' min	120' min
	Width	50' min	50' min	50' min
Building Placement <sup>4</sup>	Front	15' min (includes 6' public sidewalk easement)	20' or greater or 5' min and 10' max build to line	6' min 15' max
	Side/Rear	20' side total, 5' min/ 5' rear	20' side total, 5' min/ 5' rear	0/0
	Lot Coverage	90% max	90% max	90% max
Building Frontage	% Requirement <sup>2</sup>	75% min	75% min	75% min
	Encroachment	n/a	n/a	Balconies, arcade, shop front, awning
	Frontage Type	Balconies, stoops, shop fronts, awnings	Balconies, stoops, shop fronts, awnings, colonnades, arcades	Balconies, arcades, stoops, colonnades
	Building Entrance <sup>3</sup>	Located primarily along street; 50' max	Located primarily along street; 50' max	On street, walkway or park
Parking	Parking Ratio	See table; up to 50% allowable offsite	See table; up to 50% allowable offsite	See table; up to 50% allowable offsite
	Access	1 curb cut per lot; 24' wide	1 curb cut per lot; 24' wide	1 curb cut (max) – 30' wide; lots > 100' frontage – 2 curb cuts
	Loading	n/a	n/a	1 space – 12' wide by 25' long
	Parking Placement	Side/rear; must be behind front façade	Side/rear; must be behind front façade	Side/rear; must be behind front façade
	Structures	Permitted 40' behind front façade	Permitted 40' behind front façade	Permitted

<sup>1</sup> One story buildings shall be required to be designed to provide the appearance of a 20 feet high minimum facade through architectural treatments. Not required for Bransford District if residential character is maintained consistent with adjacent properties.

<sup>2</sup> The building frontage minimum requirement may be achieved completely by building façade or a combination of building façade and street wall. Street walls must be designed with the same building materials and architectural appearance as the primary structure. Street walls must be no less than four feet high and no more than six feet high.

<sup>3</sup> Building entrances shall be no greater than 100 feet apart.

<sup>4</sup> Buildings on corner lots must adhere to the visibility triangle requirements in Section 3.6.1 of the General Standards. Outside of the visibility triangle, buildings on corner lots must adhere to the front and side setback requirements.







#### 4.2.1 Uses Permitted Conditionally

The uses listed above as “PC” (Permitted Conditionally) are determined to be uses permitted by right which are subject to extra requirements. Each of these uses shall be required to conform to the following:

4.2.1.1 Additional application requirements. These requirements are in addition to those required by other articles and sections of this chapter. All applications to establish each use shall submit all additional information to address the additional standards and conditions.

4.2.1.2 Additional standards or conditions. These additional standards are required for each use permitted conditionally; unless the Zoning and Planning Commission reduce the standards upon a finding, based upon a preponderance of the evidence of record, that the proposed special use meets the following:

1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
2. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted within the neighborhood.
3. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. The exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.
5. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
6. Adequate measures have been or will be taken to provide ingress and egress which minimizes traffic congestion in the public streets.
7. All signs permitted for conditional uses shall conform to Section 3 of the Community Development Code.
8. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by City Commission pursuant to the recommendations of the Zoning and Planning Commission.

4.2.2 Application for waiver. In the event of an application for a waiver of an additional standard affecting a use permitted conditionally, such waiver shall require approval by the Board of Zoning Appeals.

4.2.3 Additional Requirements for Uses Permitted Conditionally. The following are those uses listed in the permitted use matrix and the respective additional conditions which are required for approval:

4.2.3.1 Religious Institutions. These uses include churches, synagogues, and other houses of worship.



1. Minimum site dimensions:
  - a. Minimum site area: 20,000 feet.
  - b. Minimum lot width: 100 square feet.
2. Minimum distances:
  - a. All principal and accessory structures: 30 feet from any residential property line.
  - b. All parking, loading and vehicular circulation areas: 30 feet from any residential property line.

4.2.3.2 Music Studios. Also referred to as sound recording studios.

1. The maximum permitted exterior sound level shall not exceed 50 dBA (A-weighting scale of sound measurement as expressed in decibels and not to be exceeded more than 30 minutes out of 24 hours) as measured at the property line.
2. Signage shall be regulated by Section 3 of the Community Development Code.

4.2.3.3 ATM – Drive-through. The drive-through ATM is accessory to commercial banks, savings institutions, and credit unions.

1. Drive-through ATM stacking lanes, and circulation are prohibited in the established front setback of the principal building.
2. Drive-through ATM, stacking lanes, and circulation are treated as components of on-site parking for the purposes of screening.
3. The length of on-site stacking lane(s), taken together, shall be a minimum of 100 feet if window access is provided directly from a major or minor thoroughfare; a minimum of 50 feet if window access is provided directly from a street of lesser capacity.
4. The drive-through lane(s) must be distinctly marked by special striping, pavement markings, or traffic islands. A separate circulation drive must be provided for passage around and escape from the outermost drive-through service lane.
5. Trash receptacles and appropriate lighting shall be provided at the ATM.
6. ATMs may operate 24 hours a day, seven days a week.
7. Signage for the ATM is regulated by Section 3 of the Community Development Code.

4.2.3.4 ATM – Walk-up. These facilities are typically accessory to commercial banks, savings institutions, and credit unions.

1. Walk-up ATMs shall be placed in a highly visible location, preferably along the primary street frontage of the property. A minimum six-foot wide paved area shall running in front of the ATM.
2. Trash receptacles and appropriate lighting shall be provided at the ATM.
3. ATMs may operate 24 hours a day, seven days a week.
4. Signage for the ATM is regulated by Section 3 of the Community Development Code.

Automobile Sales, New. Pre-owned vehicle sales will require approval by the City Commission. The new vehicles may include automobiles, motorcycles, scooters, or boats.

1. Minimum site area: 20,000 square feet.
2. Minimum distances:



- a. All principal and accessory structures: 100 feet from any residential property line.
  - b. Parking, loading, vehicular circulation and sales areas: 50 feet from any residential property line.
3. All service facilities and activities shall be located within an enclosed structure.
  4. Exterior lighting may be used only to illuminate a building and its grounds for safety purposes and should not extend beyond the property line. Lighting is not to be used as a form of advertising.

4.2.3.5 Home Improvement Sales. This use consists of sales of home improvement supplies or hardware.

1. All sales material shall be within an enclosed building.
2. Outdoor storage may be approved by the Board of Zoning Appeals and shall be screened by a six-foot high, solid fence or wall along with additional conditions required by the Board of Zoning Appeals.
3. Loading areas shall be at least 100 feet from a residential use.
4. No semi-tractor or trailer parking permitted.

4.2.3.6 Restaurant Drive-through Window. The drive-through window is accessory to the primary use of restaurant.

1. Drive-through service windows, stacking lanes, and circulation are prohibited in the established front setback of the principal building.
2. Drive-through service windows, stacking lanes, and circulation are treated as components of on-site parking for the purposes of screening.
3. The length of on-site stacking lane(s), taken together, shall be a minimum of 100 feet if window access is provided directly from a major or minor thoroughfare; a minimum of 50 feet if window access is provided directly from a street of lesser capacity.
4. The drive-through lane(s) must be distinctly marked by special striping, pavement markings, or traffic islands. A separate circulation drive must be provided for passage around and escape from the outermost drive-through service lane.

4.2.3.7 Animal Daycare Facility (small animals only). These facilities provide daily care for companion animals, but do not provide boarding. The services may include daycare, training, and ancillary retail sales.

1. Overnight animal boarding shall not be permitted.
2. Building shall be constructed and operated in a manner so that animal noise will not be detected at adjoining property lines. Buildings shall be completely air conditioned, and windows shall be opened only when air conditioning systems are not in working order.
3. Outdoor exercise yards shall be completely fenced and used only between seven a.m. and seven p.m. Where such outdoor activities abut a residential activity, a landscape buffer yard shall apply along common property lines. A six-foot opaque vertical fence may substitute for landscaping; however, the required width of landscape buffer yard shall still apply along common property lines.
4. All on-site waste shall be housed either within the building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products shall be discharged into a



permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams, or rivers.

4.2.3.8 Veterinarian (small animals only). This is where animals are given medical care and the boarding of animals is limited to short-term care incidental to the veterinary hospital use with limited boarding for companion animals.

1. Overnight animal boarding shall occur within completely enclosed structures.
2. Outdoor exercise yards shall be completely fenced and used only between seven a.m. and seven p.m. Where such outdoor activities about a residential activity, a landscape buffer yard shall apply along common property lines. A six-foot opaque vertical fence may substitute for landscaping; however the required width of landscape buffer yard shall still apply along common property lines.
3. Building shall be constructed and operated in a manner so that animal noise will not be detected at adjoining property lines. Buildings shall be completely air conditioned, and windows shall be opened only when air conditioning systems are not in working order.
4. Kennels for the boarding of companion animals not undergoing medical treatment are permitted as an ancillary use subject to the following conditions:
  - a. No more than 30 percent of the gross floor area of the veterinary clinic may be used as a boarding kennel.
  - b. No outdoor kennels or runs are permitted.
5. No part of any building or structure in which animals are housed shall be closer than 50 feet from any existing residential use located on an adjacent parcel.
6. All on-site waste shall be housed either within the kennel building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products from the kennel shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams, or rivers.

4.2.3.9 Reservoir (water tank). This use is provided as a public or private utility for the provision of potable water.

1. All outdoor activity, service and related areas: 100 feet from any residential property line.
2. The ground surrounding the equipment shall be landscaped as required by the Zoning and Planning Commission.

4.2.3.10 Commercial Amusement (outside). This type of use may consist of, but not be limited to, miniature golf courses, batting cages, driving ranges, and skate parks.

1. A noise impact study shall be prepared and presented to the City Manager which provides quantitative information regarding the potential noise generated from the outdoor activities. Noise barriers may be required by the Zoning and Planning Commission based upon the study information provided. The applicant may request a waiver from the City Manager for this requirement based upon the type of activity, hours of operation, and location.
2. All principal and accessory outdoor activity areas and parking and circulation shall be located 100 feet from any residential property line.
3. Access shall be provided only from a major or minor arterial, or from a collector road.



4. On-site lighting shall not extend beyond the property boundaries.
5. Adequate traffic facilities, such as intersection improvements, turn lanes, acceleration lanes, signalization, etc., shall be provided to minimize the impact of the facility on adjacent public thoroughfares.
6. Access and egress routes leading to and from a site shall be approved by the Zoning and Planning Commission.

#### 4.2.3.11 Conditional Use – Time Limits.

1. Conditional use permits become effective seven days after approval by the Zoning and Planning Commission, but in the event an appeal is filed, said permit shall not become effective until a decision upholding granting of the permit is arrived at by the Zoning and Planning Commission.
2. The construction of any improvements allowed by a conditional use permit shall commence within 12 months or as otherwise stipulated by the Zoning and Planning Commission and must be completed within 18 months or as otherwise stipulated by the Zoning and Planning Commission in accordance with the development plan, unless extended by the City Manager, otherwise the conditional use permit shall become null and void.
3. The Zoning and Planning Commission may establish a time limitation for specific conditional use permits and prior to the termination of this time limit, the Zoning and Planning Commission may reconsider said use permit to determine if the permit should be reissued for an additional time period or be terminated.
4. A conditional use permit shall not be effective until the conditions of the permit are fulfilled unless specific clarifications on the conditional use permit as to timing of compliance are present.
5. If a time limit is not established by the Zoning and Planning Commission and the conditional use is discontinued for more than 12 months, a new conditional use permit shall be required.
5. No person shall reapply for the same or substantially the same use permit on the same or substantially the same plot, lot, or parcel of land within a period of one year from the date of denial or revocation of said use permit.

4.2.3.12 Revocation and Enforcement. Use permits granted in accordance with the provisions of this Section may be revoked if any of the conditions or terms of the permit are violated or if any law or division is violated in connection therewith. The City Manager shall notify the permit holder of a violation of a conditional use permit. If the violation is not remedied or the remedy is not substantially begun in the opinion of the City Manager, the permit holder shall be served with a notice that the Zoning and Planning Commission will consider revocation of the conditional use permit at a Commission meeting specified in the notice. This Commission meeting shall not be held less than 10 days after the notice is mailed by certified mail or by personal delivery. If the Zoning and Planning Commission decides to revoke the permit, the property owner shall cease the use for which the conditional use permit was issued.

4.2.4 Uses Permitted by Special Exception (SE). Uses normally not allowed within a district due to special characteristics of the use. However, these uses may be allowed under circumstances particular to the proposed location and subject to standards and conditions which provide protection to adjacent uses and properties. All special exceptions are governed by the following standards:



4.2.4.1 Prior to approving each special use, the review authority will find on competent substantial evidence that the proposed special use shall be consistent with all of the following requirements:

1. Traffic. The proposed use will not generate traffic that will reduce the level of service on any road to a lower level than would result from a use permitted by right; the proposed use will not require extension or enlargement or any other alteration of the street system in a manner resulting in higher net public cost or earlier expenditure of public cost than would result from a use permitted by right; the property or structure for the proposed use will be located, designed, and constructed so that the access and egress standards are satisfied.
2. Utility systems. The proposed use will be so located in relation to water lines, sanitary sewers, storm sewers, surface drainage systems, and other utility systems that neither extension nor enlargement nor any other alternation of such systems in a manner resulting in higher net public cost than would result from a use permitted by right will be required.
3. Public safety. The proposed use will not place a demand on municipal police or fire protection services beyond the capacity of those services, a demand which does not exceed that likely to result from a use permitted by right.

4.2.4.2 Prior to approving any nonresidential special use in a predominantly residential area and prior to approving any more intensive residential special use in a less intensive residential area, the Board of Zoning Appeals will find based on competent substantial evidence that the proposed special use shall be consistent with all the following requirements:

1. Location. The location of the special use will not be hazardous to or inconvenient to the predominantly residential character of the area in which it is to be located or to the long-range development of the district for the residential purposes intended.
2. Size and intensity. The size of the special use and the nature and intensity of the operations involved will not be hazardous or inconvenient to the residential character of the area in which it is to be located. The long-range development and maintenance of the district for residential purposes shall not be affected adversely.
3. Contiguous residential uses. The location of the special use (exception) will not result in the isolation of a small existing or planned residential area from other residential developments by its being completely or largely surrounded by arterial streets or nonresidential land uses.
4. Residential character. Building for special use shall be designed and constructed in a manner similar to other neighborhood residential structures. Design factors shall include building mass, height, materials, window arrangement, yards, and similar considerations.

4.2.4.3 Conditions and safeguards for special use approval. Special uses may be approved subject to additional reasonable conditions or limitations upon the establishment, location, construction, maintenance, or operation as may be necessary to protect the public interest.

1. Compliance. Conditions and requirements stated as part of the approval of a special use shall be a continuing obligation of holders of approval. The City Manager shall make periodic inspections of special uses to determine continuing compliance with all required conditions.



2. Termination of special uses. Special use approval may be withheld upon a determination by the City Manager of the following:
  - a. Failure to comply with conditions or requirements of the special use approval.
  - b. Failure to correct violations of conditions or requirements of special use approval within 30 days following issuance of a citation or notice of violation.
3. Conditions for approval. All plans, specifications, and statements submitted with the applicant for a special use approval shall become, with any changes ordered by the special use review authority, a part of the conditions of any approval.
4. Site plan review. All applications for special use approval will include a site plan prepared pursuant to Section 1 of the Community Development Code.

4.2.5 Accessory Uses (A). An accessory use is generally a use which is incidental and subordinate to the principal use of the building and located within the same building as the principal use. The City Manager shall determine if potential impacts of the proposed accessory uses for a respective site are in fact significantly less than the principal use thereby making them accessory. If the City Manager determines that the proposed accessory uses do not meet the definition of accessory, the City Manager may require the proposed use to be reviewed as a principal use and meet all of the required standards.

4.2.5.1 Home Occupation. A home occupation shall be considered an accessory use to a residence in a residential zone, subject to the following:

1. The home occupation shall be conducted in a dwelling unit or accessory building by one or more occupants of the dwelling unit. No clients or patrons may be served on the property. No more than one part-time or full-time employee not living within the dwelling may work at the home occupation location.
2. The home occupation shall not occupy more than twenty percent of the total floor area of the principal structure and in no event more than five hundred square feet of floor area.
3. The home occupation shall not be advertised by signs, exterior displays or interior displays of goods visible from the outside, or any exhibit whatsoever that would indicate that the dwelling unit or accessory building is being utilized for any purpose other than a residence.
4. The use of mechanical or electrical equipment shall be permitted in connection with a home occupation provided such equipment:
  - a. Would be used for purely domestic or household purposes;
  - b. Is located entirely within the dwelling unit or accessory building and cannot be seen, heard or smelled from outside the dwelling unit or accessory building and has an aggregate weight of less than five hundred pounds; and
  - c. Does not interfere with radio and television reception on neighboring properties.
5. The storage of materials or goods shall be permitted in connection with a home occupation provided such storage complies with the following standards.
  - a. All materials or goods shall be stored completely within the space designated for home occupation activities.
  - b. Only those materials or goods that are utilized or produced in connection with the home occupation may be stored within the dwelling unit or accessory building.



- c. All materials or goods shall be stored completely within the dwelling unit or accessory building.
  - d. All flammable or combustible compounds, products or materials shall be maintained and utilized in compliance with Fire Code NFPA-30.
6. External structural alterations not customary in residential buildings shall not be permitted.
7. Offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, or other objectionable effects shall not be permitted.
8. The manufacture or repair of transportation equipment shall not be permitted as a home occupation.
9. Vehicles associated with the home occupation shall be limited to one vehicle with a maximum axle load capacity of one and one-half tons.



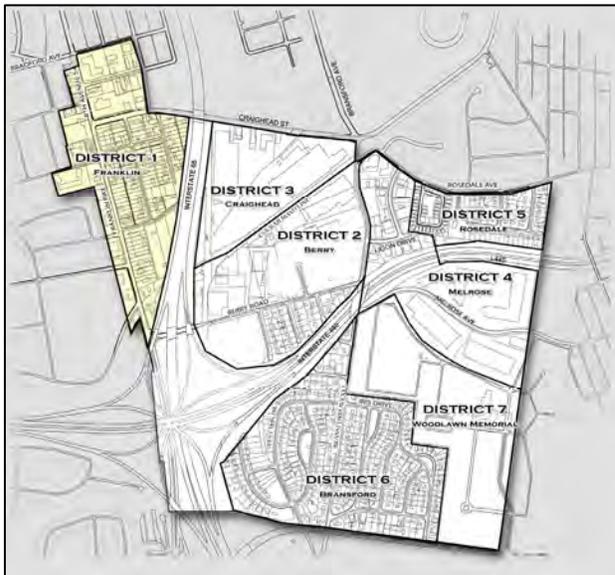
### 4.3 District 1 – Franklin

*District 1 – Franklin* is designed to create a retail/entertainment district along Franklin Pike / 8th Avenue (Franklin – A). The mixture of uses is intended to promote evening activities in a centralized area. The District also includes a mixture of small businesses that reflect the commercial element of the long term goals of this area (Franklin – B). Residential is encouraged within this District. Residential densities must meet minimum standards to ensure an appropriate density/intensity within this area. In addition, buildings are required to be built to have the appearance of a minimum of two stories.

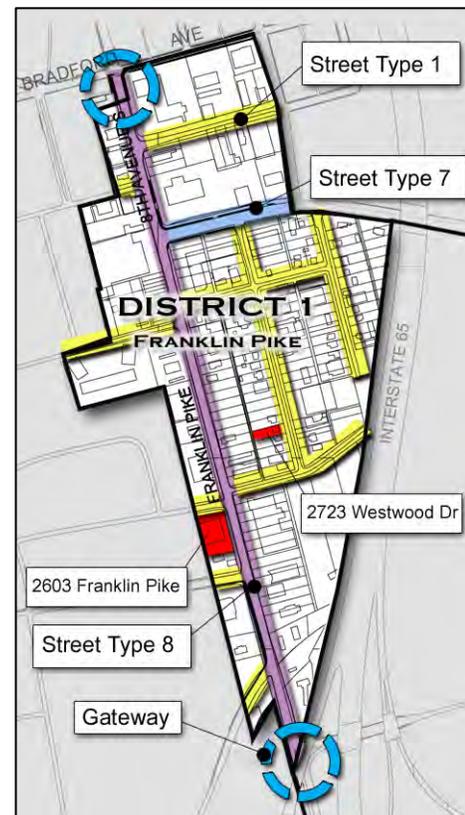
On-street parking is recommended along the north bound (in-bound) side of Franklin Pike with landscaped bulb-outs to reduce travel distance for pedestrians crossing street. Ten-foot wide sidewalks, street trees, pedestrian light posts with banners to supplement existing street lights will be planned. The City will work to relocate power lines underground or at least combined on west side of street. The City will also seek to reduce the number of curb cuts for properties along Franklin Pike to one per lot with a maximum 30-foot driveway opening. Joint access easements will be sought to further reduce curb cuts to promote on-street parking.

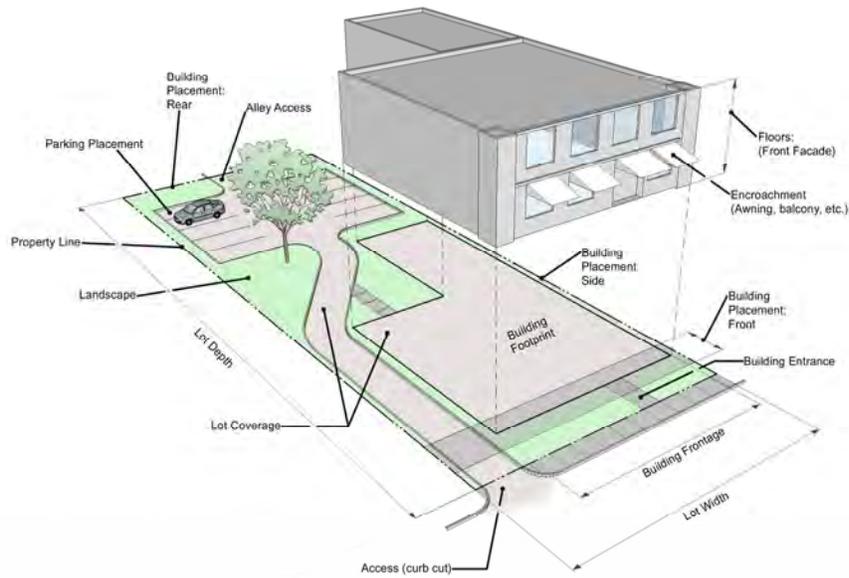
Buildings, or more appropriately, certain floors within buildings, are encouraged to be designed and built to be easily converted between residential and commercial uses. The flexibility provides opportunity for building owners to adjust the uses within the buildings based upon market and needs of the community without the necessity of replacing buildings or creating unnecessary vacancies because of the inability to maintain occupancy.

Location Map



Street Types





Development Standards		District 1 – Franklin	
		A	B
Residential Density (units per acre)		20 (min)	10 (min)
Floors (Height) <sup>1</sup>		5 floors max(75' max) First floor: 14' min	2 floors max (35' max); Multifamily/ Mixed-use may be 3 floors (45' max)
Lot	Depth	120' min	120' min
	Width	50' min	50' min
Building Placement <sup>5</sup>	Front	6' min 15' max	15' min
	Side/Rear	0'/0'	0'/0'
	Lot Coverage	90% max	75% max; 8,000 sf max footprint <sup>4</sup>
Building Frontage	% Requirement <sup>2</sup>	75% min	n/a
	Encroachment	Balconies, arcade, shop front, awning	Balconies, arcade, shop front, awning
	Frontage Type	Balconies, arcade, stoops, colonnades	Balconies, arcade, stoops, colonnades
	Building Entrance <sup>3</sup>	Visible from street	Visible from street
Parking	Location		
	Parking Ratio	See Table; 50% allowable offsite	See Table; 50% allowable offsite
	Access	1 curb cut (max) – 30' wide; lots > 100' frontage – 2 curb cuts	2 curb cuts (max) – 30' wide
	Loading	1 space – 12' wide by 25' long	1 space – 12' wide by 25' long
	Parking Placement	Side/rear; must be behind front façade	n/a
	Structures	Permitted	Permitted

<sup>1</sup> One story buildings shall be required to be designed to provide the appearance of a 20 feet high minimum façade through architectural treatments.

<sup>2</sup> The building frontage minimum requirement may be achieved completely by building façade or a combination of building façade and street wall. Street walls must be designed with the same building materials and architectural appearance as the primary structure. Street walls must be no less than four feet high and no more than six feet high.

<sup>3</sup> Building entrances shall be no greater than 100 feet apart.

<sup>4</sup> Not applicable to multifamily development

<sup>5</sup> Buildings on corner lots must adhere to the visibility triangle requirements in Section 3.6.1 of the General Standards. Outside of the visibility triangle, buildings on corner lots must adhere to the front and side setback.



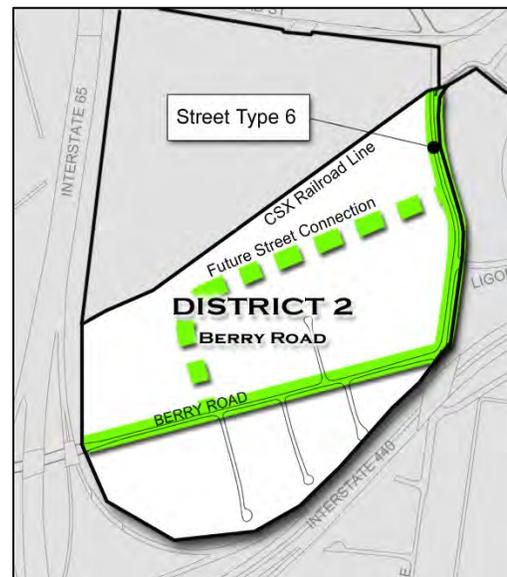
#### 4.4 District 2 – Berry

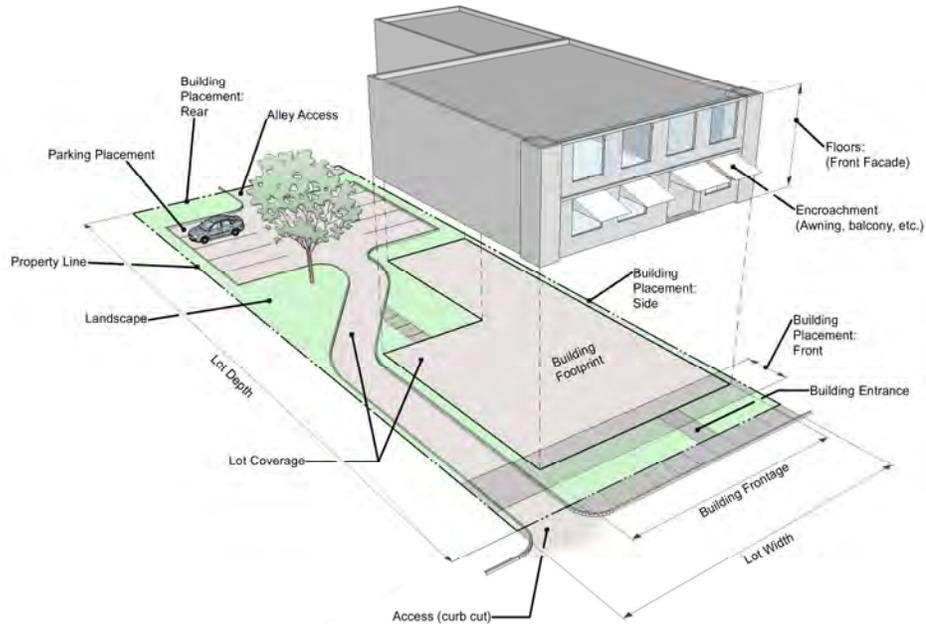
District 2 – Berry is characterized by a mixture of commercial/industrial uses and residential ranging from single family to multifamily. The district also is home to several county offices and an electrical transfer facility. The district has a rail line along the western border and another rail spur that runs along the northern edge of the district. The intent of the development standards is to maintain the character of the district, but provide standards for the incremental change as development occurs to become more of a mixed-use district consistent with the overall character of the city.

Location Map



Street Types





Development Standards		District 2 – Berry
Residential Density (units/acre)		15 (min)
Floors ( Height ) <sup>1</sup>		4 floors max (60' max)
Lot	Depth	120' min 300' max
	Width	25' min 30' max
Building Placement <sup>4</sup>	Front	5' min 15' max or stay 30' with current setback
	Side/Rear	0'/10' separation if existing windows or openings
	Lot Coverage	90% max
Building Frontage	% Requirement <sup>2</sup>	75% min; 50% max street wall
	Encroachment	Balconies, arcade, colonnades 6' setback from back of curb
	Frontage Type	Balconies, arcades, colonnades
	Building Entrance <sup>3</sup>	Along street walkway
Parking	Parking Ratio	See Table; 50% allowable offsite
	Access	alley (preferred)
	Loading	1 space – 12' wide by 25' long
	Parking Placement <sup>5</sup>	Side/rear
	Structures	Permitted

<sup>1</sup> One story buildings shall be required to be designed to provide the appearance of a 20 foot minimum facade through architectural treatments.

<sup>2</sup> The building frontage minimum requirement may be achieved completely by building façade or a combination of building façade and street wall. Street walls must be designed with the same building materials and architectural appearance as the primary structure. Street walls must be no less than four feet high and no more than six feet high.

<sup>3</sup> Building entrances shall be no greater than 100 feet apart.

<sup>4</sup> Buildings on corner lots must adhere to the visibility triangle requirements in Section 3.6.1 of the General Standards. Outside of the visibility triangle, buildings on corner lots must adhere to the front and side setback requirements

<sup>5</sup> Where there is inadequate area or access for side/rear parking due to conditions that pre-existed adoption of the development code, the Board of Zoning Appeals may approve parking in front of front façade as a Special Exception, conditioned on such parking being pervious and not requiring removal of trees.



4.5 District 3 – Craighead

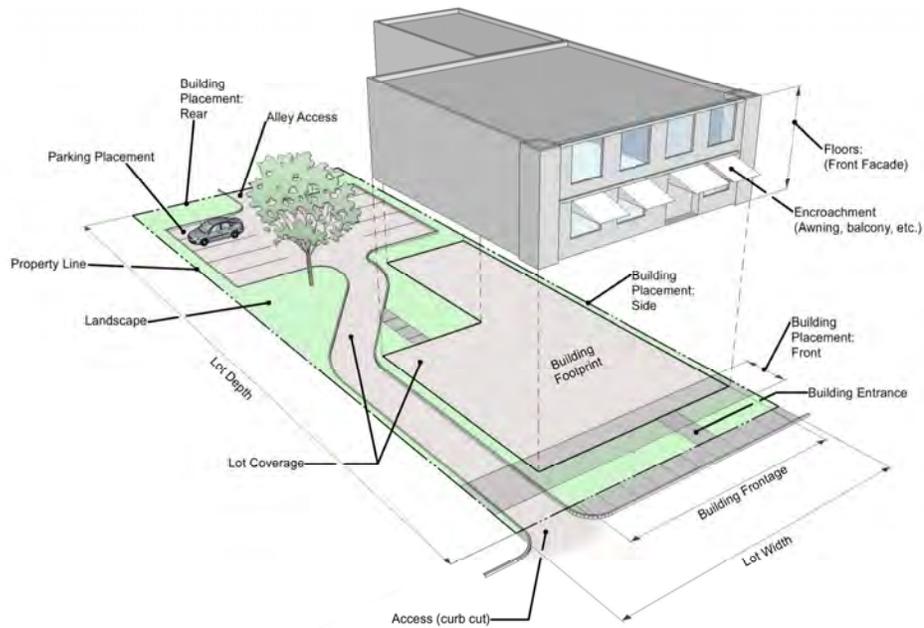
*District 3 – Craighead* is located south of Craighead Street, west of Bransford Avenue, and east of Interstate 65. The southern limits of the district are the railroad tracks. The district is characterized by two large commercial/industrial buildings with several smaller buildings along Craighead Street. Similar to the other districts, the development standards are designed to maintain the existing development, but provide standards for future development to be consistent with the overall intent of the city's preferred development pattern.

Location Map



Street Types





Development Standards		District 3 – Craighead
Residential Density (units/acre)		20 (min)
Floors (Height) <sup>1</sup>		4 floors max (60' max )
Lot	Depth	120' min
	Width	50' min
Building Placement <sup>5</sup>	Front	6' min
	Side/Rear	0/0
	Lot Coverage	90% max
Building Frontage	% Requirement <sup>2</sup>	75% min
	Encroachment	Balconies, arcade, shop front, awning
	Frontage Type	Balconies, arcade, stoops, colonnades
	Building Entrance <sup>3</sup>	On street, walkway or park
Parking	Parking Ratio	See Table; 50% allowable offsite
	Access <sup>4</sup>	2 curb cuts (max) – 30' wide
	Loading	1 space – 12' wide by 25' wide
	Parking Placement	n/a
	Structures	Permitted 40' behind front facade

<sup>1</sup> One story buildings shall be required to be designed to provide the appearance of a minimum 20 feet high facade through architectural treatments.

<sup>2</sup> The building frontage minimum requirement may be achieved completely by building façade or a combination of building façade and street wall. Street walls must be designed with the same building materials and architectural appearance as the primary structure. Street walls must be no less than four feet high and no more than six feet high.

<sup>3</sup> Building entrances shall be no greater than 100 feet apart.

<sup>4</sup> Alternate access plan may be two-12 feet wide max curb cuts at side property line for future joint access with abutting property.

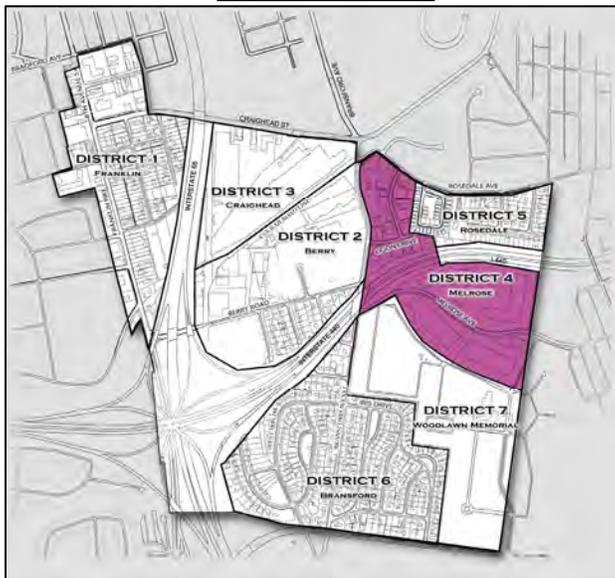
<sup>5</sup> Buildings on corner lots must adhere to the visibility triangle requirements in Section 3.6.1 of the General Standards. Outside of the visibility triangle, buildings on corner lots must adhere to the front and side setback requirements.



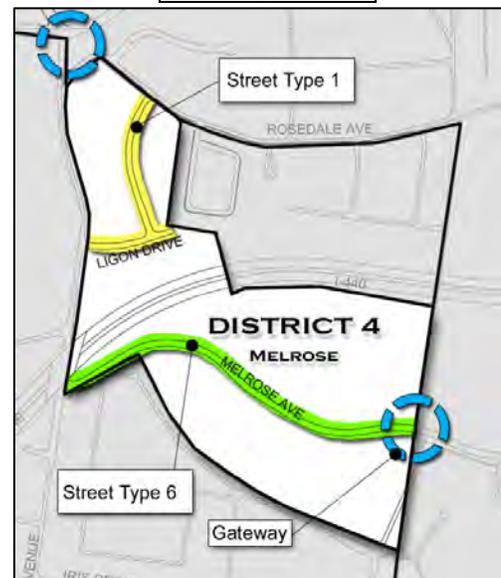
4.6 District 4 – Melrose

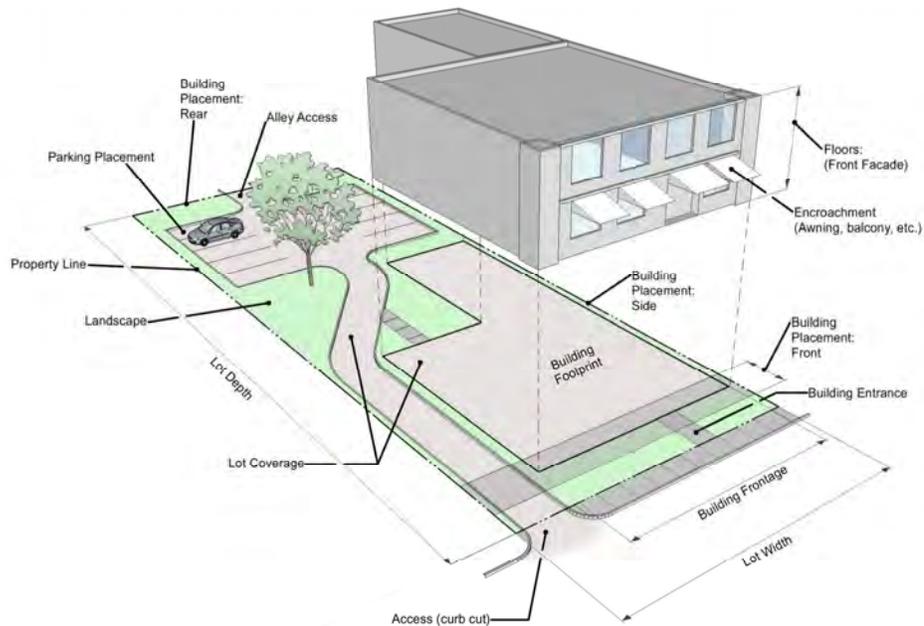
*District 4 – Melrose* is located in the northeast quadrant of the city. It is bisected by Interstate 440. The northern portion of the district is characterized by small to medium sized parcels with commercial and industrial buildings. The portion of the district on the south side of Interstate 440 is characterized by large parcels of commercial, industrial and warehouse buildings. The intent of the development standards is to support these existing development characteristics while providing standards for future development that are more consistent with the overall mixed-use character encouraged throughout the city.

Location Map



Street Types





Development Standards		District 4 – Melrose
Residential Density (units/acre)		20 (min)
Floors (Height) <sup>1</sup>		4 floors max (60' max) Multifamily/Mixed-use may be 3 floors (45' max.)
Lot	Depth	120' min
	Width	50' min
Building Placement <sup>5</sup>	Front	15' min
	Side/Rear	0'/0'
	Lot Coverage	90% max
Building Frontage	% Requirement <sup>2</sup>	75% min
	Encroachment	Balconies, arcade, shop front, awning
	Frontage Type	Balconies, arcade, stoops, colonnades, shop fronts, awnings
	Building Entrance <sup>3</sup>	On street, walkway or park
Parking	Parking Ratio	See Table: 50% maximum offsite
	Access <sup>4</sup>	2 curb cuts (max) – 30' wide
	Loading	1 space – 12' wide by 25' long
	Parking Placement	n/a
	Structures	Permitted

<sup>1</sup> One story buildings shall be required to be designed to provide the appearance of a 20 feet high minimum facade through architectural treatments.

<sup>2</sup> The building frontage minimum requirement may be achieved completely by building façade or a combination of building façade and street wall. Street walls must be designed with the same building materials and architectural appearance as the primary structure. Street walls must be no less than four feet high and no more than six feet high.

<sup>3</sup> Building entrances shall be no greater than 100 feet apart.

<sup>4</sup> Alternate access plan may be two-12 feet wide max curb cuts at side property line for future joint access with abutting property.

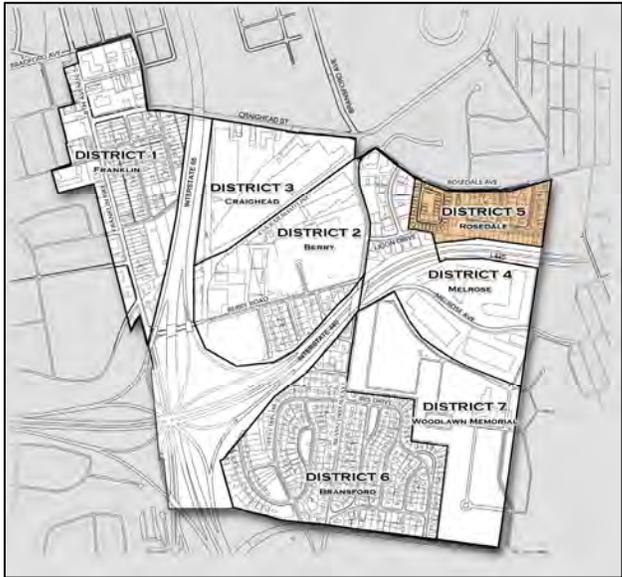
<sup>5</sup> Buildings on corner lots must adhere to the visibility triangle requirements in Section 3.6.1 of the General Standards. Outside of the visibility triangle, buildings on corner lots must adhere to the front and side setback requirements



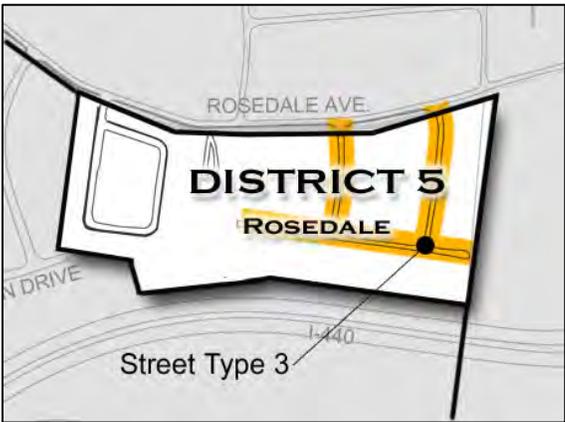
4.7 District 5 – Rosedale

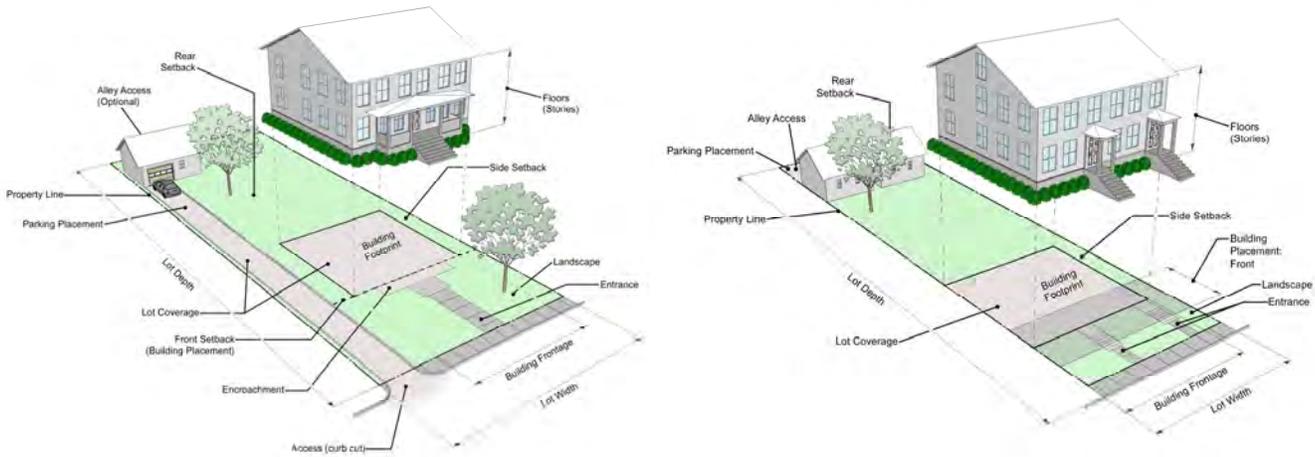
*District 5 – Rosedale* is located south of Rosedale Avenue between Winsford Avenue and Rosedale Drive north of Interstate 440. The area is predominantly residential, but is book-ended by industrial/commercial uses to the east and west. The development standards are designed to maintain the residential character of the district. The development standards anticipate that the district is not likely to change significantly in terms of density and intensity, but is designed to protect the neighborhood and anticipate potential development within the district.

Location Map



Street Types





Development Standards		District 5 – Rosedale
Residential Density (units/acre)		10 (max)
Floors (Height) <sup>1</sup>		2.5 floors max (40' max)
Lot	Depth	100' min; unless existing platted lot
	Width	50' min
Building Placement <sup>5</sup>	Front	Single family -35' min Multifamily 10' min, 20' max or 20% of lot depth (whichever is less)
	Side/Rear	Single & Multifamily 5' side, 5' rear
	Lot Coverage	Single & Multifamily max 65%
Building Frontage	% Requirement <sup>2</sup>	Min 75% of lot width for row house/townhouse; Min 60% of lot width for courtyard apt, apt, condo
	Encroachment	Balconies, arcade, shop front, awning
	Frontage Type	Balconies, porches, stoops
	Building Entrance <sup>3</sup>	Primary pedestrian entrance along street, walkway, or park on the front property line
Parking	Parking Ratio	See table
	Access <sup>4</sup>	1 curb cut per lot; Single family – 12' wide; Multifamily – 30' wide
	Loading	n/a
	Parking Placement	Attached units; side/rear entry for garages when provided; must be behind front façade
	Structures	Not permitted

<sup>1</sup> One story buildings shall be required to be designed to provide the appearance of a 20 feet high minimum facade through architectural treatments.

<sup>2</sup> The building frontage minimum requirement may be achieved completely by building façade or a combination of building façade and street wall. Street walls must be designed with the same building materials and architectural appearance as the primary structure. Street walls must be no less than four feet high and no more than six feet high.

<sup>3</sup> Building entrances shall be no greater than 100 feet apart.

<sup>4</sup> Alternate access plan may be two-12 feet wide max curb cuts at side property line for future joint access with abutting property.

<sup>5</sup> Buildings on corner lots must adhere to the visibility triangle requirements in Section 3.6.1 of the General Standards. Outside of the visibility triangle, buildings on corner lots must adhere to the front and side setback requirements

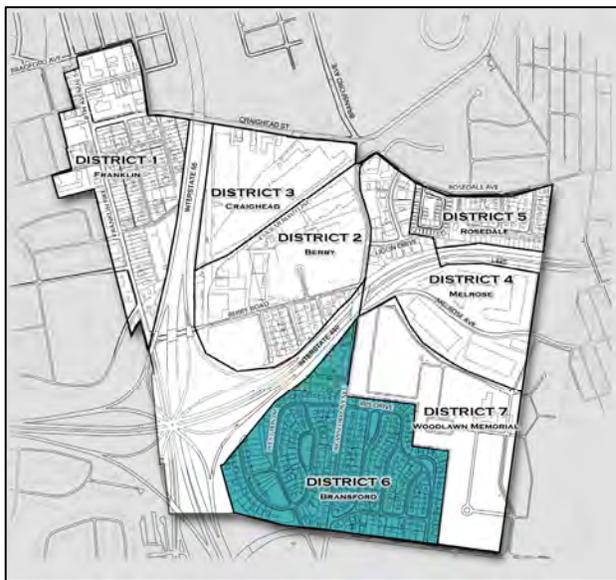


4.8 District 6 – Bransford

*District 6 – Bransford* is located at the southern end of the City. The district is bordered by Woodlawn Memorial Cemetery to the east and Interstates 440 and 65 to the west. The district is characterized by residential to the east and west of Bransford Avenue and a mix of commercial and residential uses along Bransford Avenue. The district is intended to enhance both the function of Bransford Avenue as a “main street” with retail shopping and restaurants with the flair of an arts district. Residential is also a key component to the corridor to create a traditional main street experience and provide the energy for evening activities. The residential areas east and west of Bransford Avenue are also intended to develop a greater mix of residential and non-residential to support the businesses along Bransford Avenue.

The characteristics of Bransford Avenue are divided into two forms as the street changes its cross-section from north to south. The following are two options for the street layout along Bransford Avenue to provide guidance for development along the corridor as well as future modifications to the roadway.

Location Map



Street Types





### *"Main Street" Form*

This area is designed to create a "main street/arts district" along Bransford Avenue to intensify retail, shopping, dining and artisan opportunities and become a regional destination. Additional retail opportunities should be encouraged along Thompson Lane that creates a transition zone to Bransford Avenue.

Townhomes, row houses, stacked flats and condominiums are the preferred form of future residential opportunities in the area. Offices, neighborhood commercial and music studios will provide services for the emerging neighborhood as well as live/work opportunities within the district.

The street design should take on two forms dependent upon its location North or South of Iris Drive. South of Iris Drive will see the creation of multiple mid-block, off street supplemental public parking areas to promote park-once opportunities. Six foot sidewalks and crosswalks adjacent to parking areas reinforces pedestrian mobility within the district. On-street parallel parking with 5 foot bike lanes are desired in each direction. The street design North of Iris allows for 5 foot sidewalks, 4 foot bike lanes and vehicular travel in both directions.

The development standards provide a building placement area to require new construction to move closer to the street to enhance the main street feel and the pedestrian environment. The City will also encourage outdoor patio, café space along the street. The City will also encourage properties to relocate all parking to the rear to further enhance the main street feel. Buildings are to be designed to be easily converted between residential and commercial uses to provide market response flexibility.





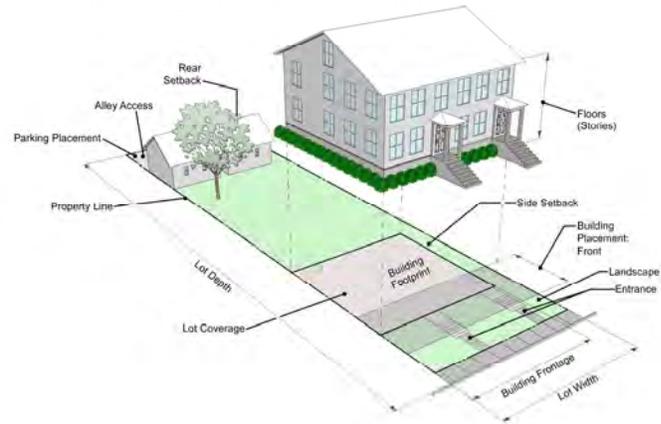
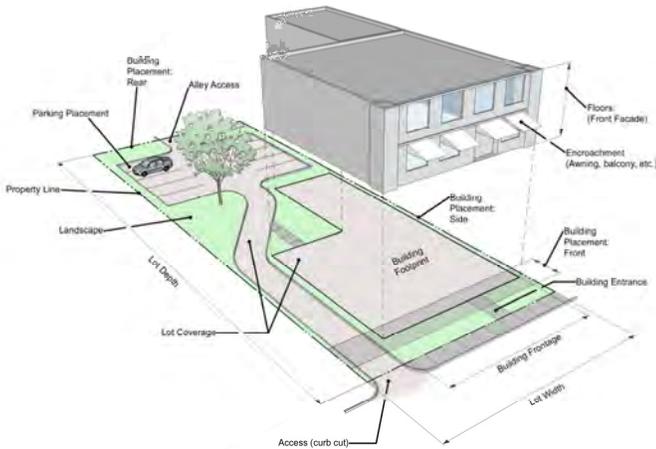
### *East / West of Bransford Neighborhood*

Townhomes, row houses, stacked flats and condominiums are the preferred form of future residential opportunities in the area. Offices, neighborhood commercial and music studios will provide the support services for the emerging neighborhood and provide live/work opportunities within the district.

The conversion of several streets, such as Dogwood and Erica Place, to one-way will accommodate more on-street parking within this area. Nine-foot wide landscape strips adjacent to pavement for street drainage swales with six-foot wide sidewalks to provide pedestrian corridors will be encouraged.

Building placement will take one of two forms. Additions to existing structures will be directed to the front with facades extending closer to the front property line while new structures will be required to be placed within the front area.

All parking to be located in rear of lots with common access drives highly encouraged. Combination of lots will be encouraged to promote linear facades and combination of parking lots and reduction of curb cuts to provide a more pedestrian friendly streetscape.



Development Standards		District 6 – Bransford		
		Bransford	E/W of Bransford	Thompson Lane
Residential Density (units/acre)		20 (max) Live/work – no more than 20% of street façade	20 (max)	20 (min)
Floors (Height) <sup>1</sup>		2.5 floors max (40' max)	3 floors max (45' max)	5 floors max (75' max) First floor: 14' min
Lot	Depth	120' min	120' min	120' min
	Width	50' min	50' min	50' min
Building Placement <sup>5</sup>	Front	15' min (includes 6' public sidewalk easement)	20' or greater or 5' min and 10' max build to line	6' min 15' max
	Side/Rear	20' side total, 5' min/ 5' rear	20' side total, 5' min/ 5' rear	0/0
	Lot Coverage	90% max	90% max	90% max
Building Frontage	% Requirement <sup>2</sup>	75% min	75% min	75% min
	Encroachment	n/a	n/a	Balconies, arcade, shop front, awning
	Frontage Type	Balconies, stoops, shop fronts, awnings	Balconies, stoops, shop fronts, awnings, colonnades, arcades	Balconies, arcades, stoops, colonnades
	Building Entrance <sup>3</sup>	Located primarily along street; 50' max	Located primarily along street; 50' max	On street, walkway or park
Parking	Parking Ratio	See table; up to 50% allowable offsite	See table; up to 50% allowable offsite	See table; up to 50% allowable offsite
	Access	1 curb cut per lot; 24' wide <sup>4</sup>	1 curb cut per lot; 24' wide <sup>4</sup>	1 curb cut (max) – 30' wide; lots > 100' frontage – 2 curb cuts
	Loading	n/a	n/a	1 space – 12' wide by 25' long
	Parking Placement	Side/rear; must be behind front façade <sup>6</sup>	Side/rear; must be behind front façade <sup>6</sup>	Side/rear; must be behind front façade
	Structures	Permitted 40' behind front façade	Permitted 40' behind front façade	Permitted

<sup>1</sup> One story buildings shall be required to be designed to provide the appearance of a 20 feet high minimum facade through architectural treatments. Not required for Bransford District if residential character is maintained consistent with adjacent properties.

<sup>2</sup> The building frontage minimum requirement may be achieved completely by building façade or a combination of building façade and street wall. Street walls must be designed with the same building materials and architectural appearance as the primary structure. Street walls must be no less than four feet high and no more than six feet high.

<sup>3</sup> Building entrances shall be no greater than 100 feet apart.

<sup>4</sup> Alternate access plan may be two-12 feet wide max curb cuts at side property line for future joint access with abutting property.

<sup>5</sup> Buildings on corner lots must adhere to the visibility triangle requirements in Section 3.6.1 of the General Standards. Outside of the visibility triangle, buildings on corner lots must adhere to the front and side setback requirements.

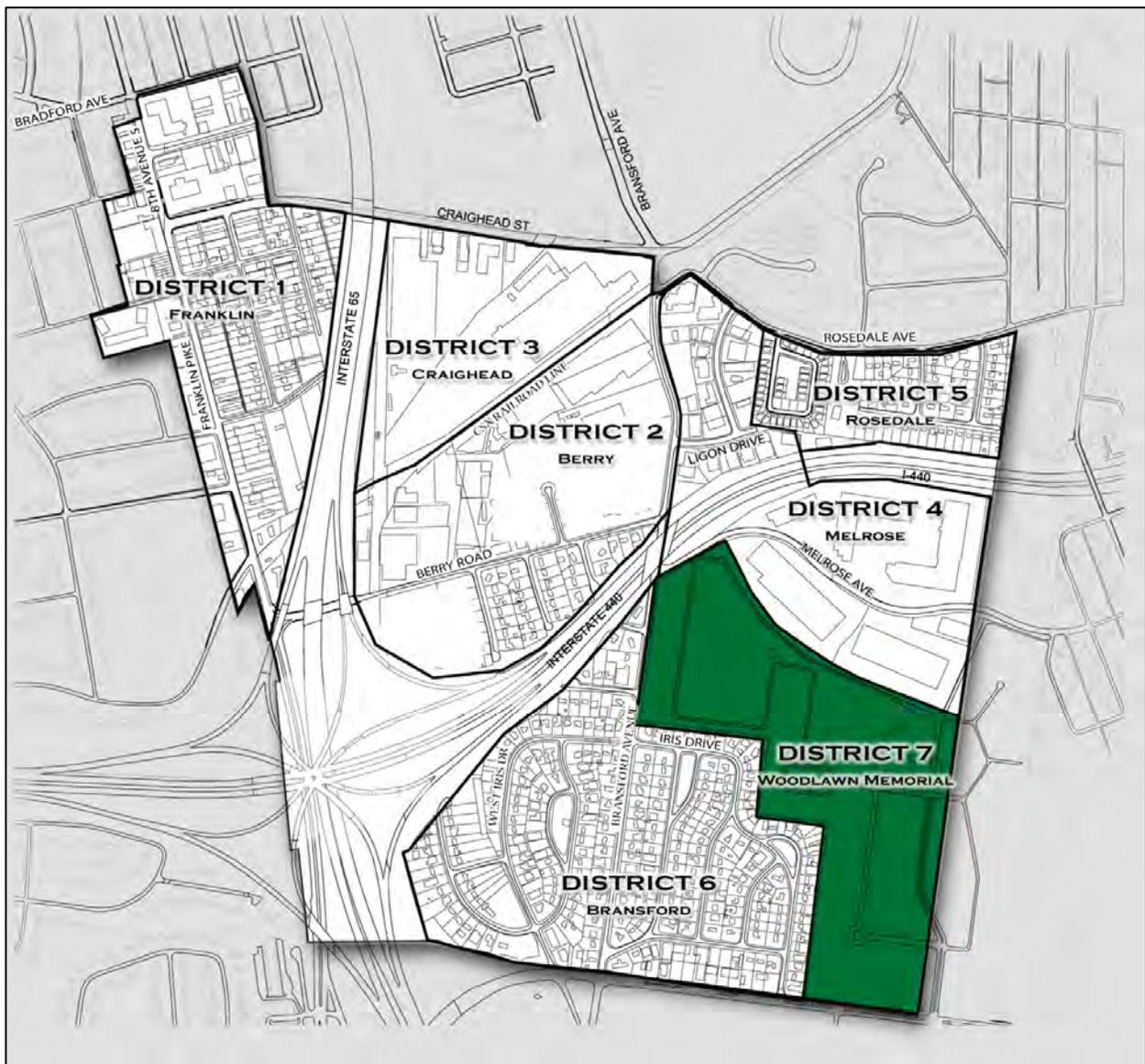
<sup>6</sup> Where there is inadequate area or access for side/rear parking due to conditions that pre-existed adoption of the development code, the Board of Zoning Appeals may approve parking in front of front façade as a Special Exception, conditioned on such parking being pervious and not requiring removal of trees.



4.9 District 7 – Woodlawn Memorial

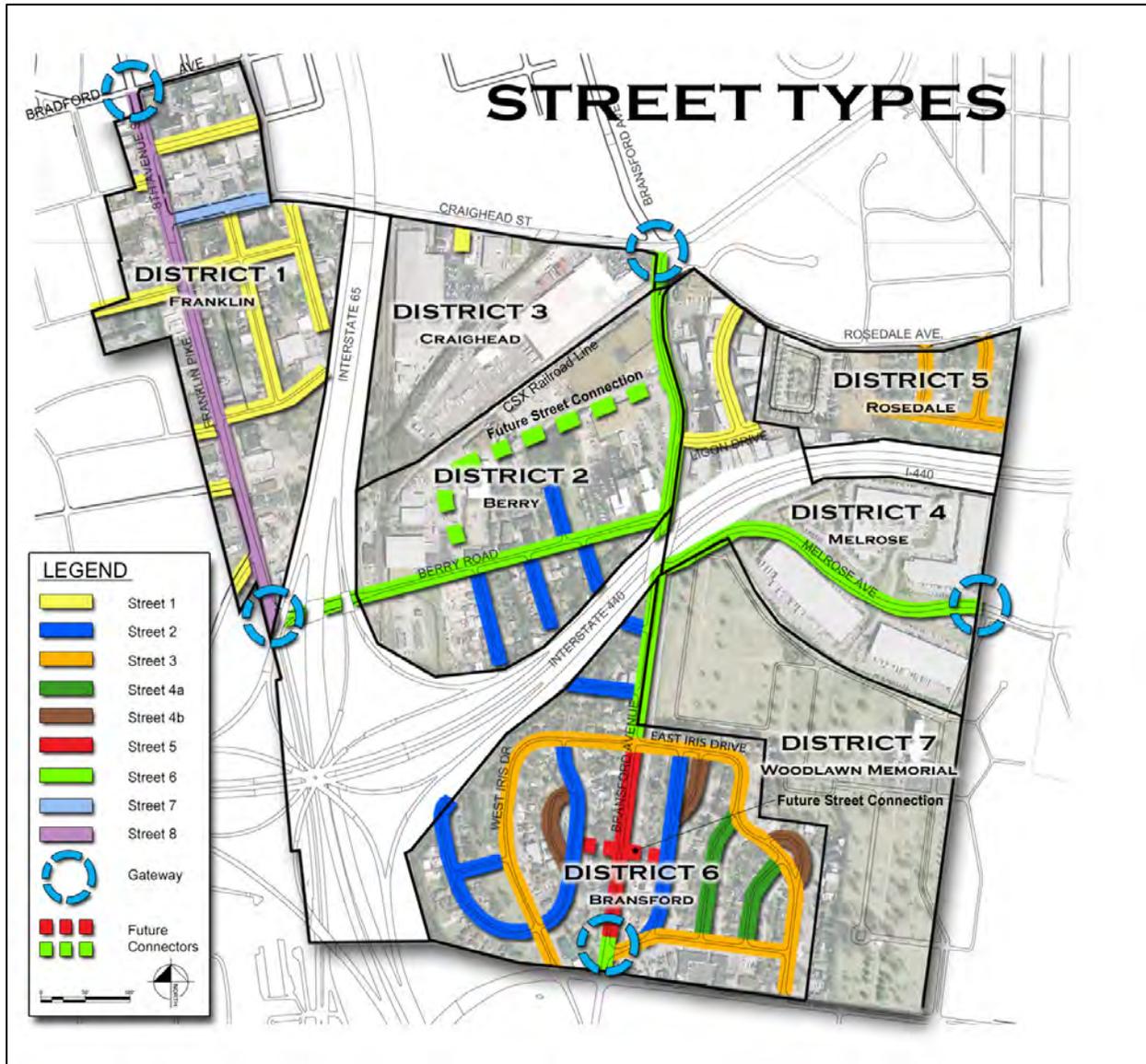
*District 7 – Woodlawn Memorial* is the Woodlawn Memorial Cemetery. The development standards for this district are not specifically defined in this code. The City Manager shall review all applications for development within this district to ensure consistency with the intent of the development code. In addition, the uses permitted within this district shall be accessory to the primary use as a cemetery. Future development within this area will require special consideration by the City Commission. Future streets within this area should utilize the appropriate street types identified within this code.

Location Map





5.0 Street Type Standards



5.1 Street Types. Seven street types with associated cross sections have been developed for the City's streets. The street types are labeled Street Type 1 to Street Type 8. The number used for the street type identifies the relative hierarchy of the street type. For example, Street Type 4 is a more "permissive" street in terms of permitted uses than Street Type 2. This hierarchy is used in *Section 5.2* to define the use and development requirements for corner lots.

5.2 Corner Lots. As referenced in *Section 5.1*, the higher numbered street type defines the permitted uses for a corner lot. For example, a corner lot at the intersection of Bransford Avenue (Street Type 6) and Ligon



Drive (Street Type 1) in District 4 would be regulated by the permitted uses for Bransford Avenue (Street Type 6). For Thompson Lane and non-designated portions of Craighead Street, permitted uses of corner lots will follow standards of those streets.

- 5.3 Future Connections. The Street Type plan identified two future street connections. One is in District 2 – Berry Road and the second is in District 6 – Bransford. The future street connection in District 2 is proposed to provide an additional connection between Bransford Avenue and Berry Road to provide additional access as well as an alternative route to reduce the traffic at the main intersection of Bransford Avenue and Berry Road. The second proposed street connection is in District 6. This connection is proposed to provide another connection on Bransford Avenue between Azalea Place and Columbine Place. At this time these proposed future connections are for planning purposes only. The City of Berry Hill has not acquired any right-of-way and has not programmed funding for future right-of-way or street construction.
- 5.4 Gateways. The Street Type plan also identifies several gateways for the City of Berry Hill. These are entry points into the city where opportunities to provide an identification for Berry Hill are most appropriate. These entry points, through the gateway elements, also provide an additional opportunity to establish a theme for the city or other “branding” elements that establish a community identity.
- 5.5 Street Type Design Matrix. The following table summarizes the street data for the seven street types within the city. The following sections provide a location map for each street type, the street data, and a typical cross section. The proposed street types will be used for future planning and design modifications to the respective streets and will be considered during the review process for proposed developments.

	Type 1	Type 2	Type 3	Type 4a	Type 4b	Type 5	Type 6a	Type 6b	Type 7	Type 8
<b>ROW</b>	50 feet	50 feet	50 feet	50 feet	40 feet	60 feet	50 feet	60 feet	80 feet	60 feet
<b>Pavement width</b>	30 feet	22 feet	22 feet	22 feet	32 feet	48 feet	30 feet	30 feet	42 feet	52 feet
<b>Curb</b>	Yes	No	No	No	No	Yes	Yes	Yes	Yes	Yes
<b>Travel lanes</b>	11 feet	11 feet	11 feet	14 feet	14 feet	12 feet	11 feet	11 feet	10.5 feet	10.5 feet
<b>Direction</b>	Two-way	Two-way	Two-way	One-way	One-way	Two-way	Two-way	Two-way	Two-way	Two-way
<b>On-street parking</b>	Informal	n/a	n/a	8 feet	18 feet	8 feet	n/a	n/a	n/a	8 feet
<b>Bike lanes</b>	4 feet	n/a	n/a	n/a	n/a	4 feet	4 feet	4 feet	4 feet	n/a
<b>Sidewalk</b>	7 feet	n/a	5 feet	n/a	n/a	5 feet	5 feet	5 feet	5 feet	5 feet
<b>Landscape /Swale</b>	n/a	14 feet	9 feet	14 feet	4 feet	Bulb-outs	5 feet	10 feet	n/a	Bulb-outs

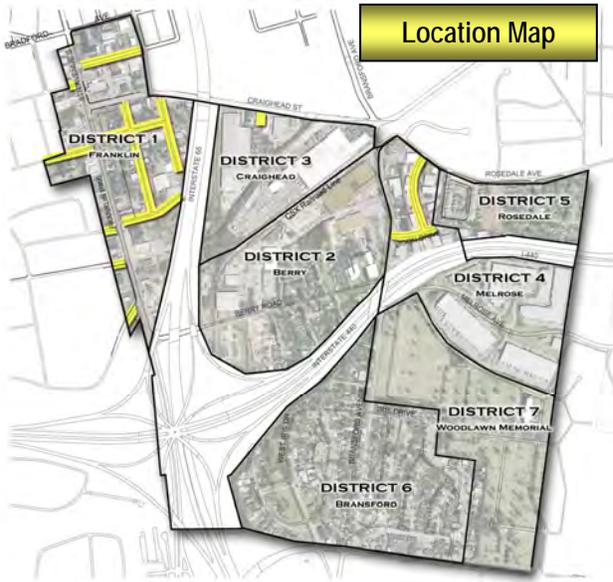


- 5.6 Complete Streets. The design of streets within the City of Berry Hill shall accommodate the space needs of all users including pedestrians, bicyclists, transit, and motorists. The designs will focus on balancing access with mobility to establish a livable and walkable community. The design process for all street improvements will consider the context of the street, incorporate the community values, and integrate flexible design standards to achieve the objective of accommodating all users.





# Street Type – 1

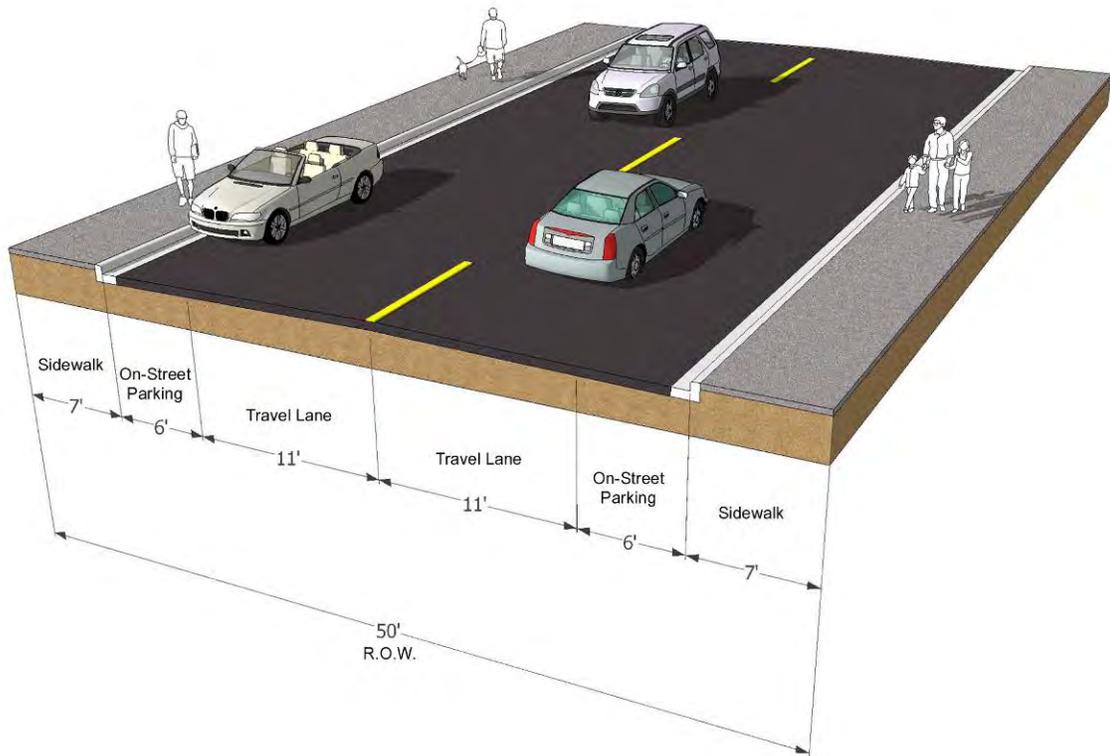


Location Map

Street Data

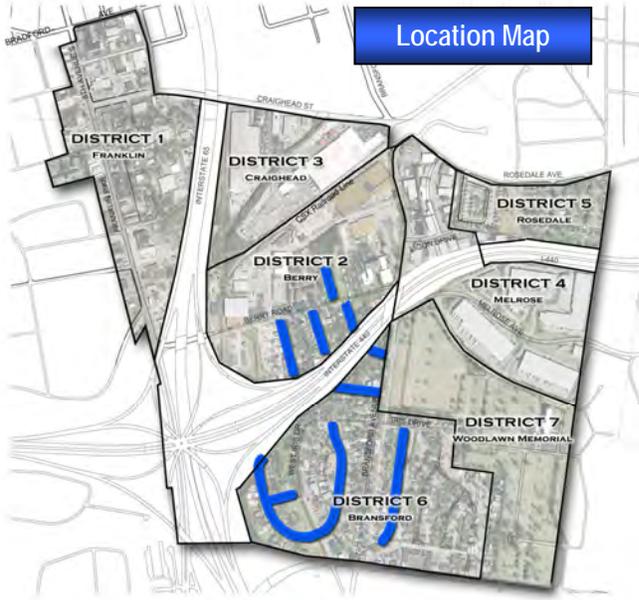
ROW	50 feet
Pavement width	30 feet
Curb	Yes
Travel lanes	11 feet
Direction	Two-way
On-street parking	Informal
Bike lanes	4 feet
Sidewalk	7 feet
Landscape/Swale	n/a

Typical Section





# Street Type – 2

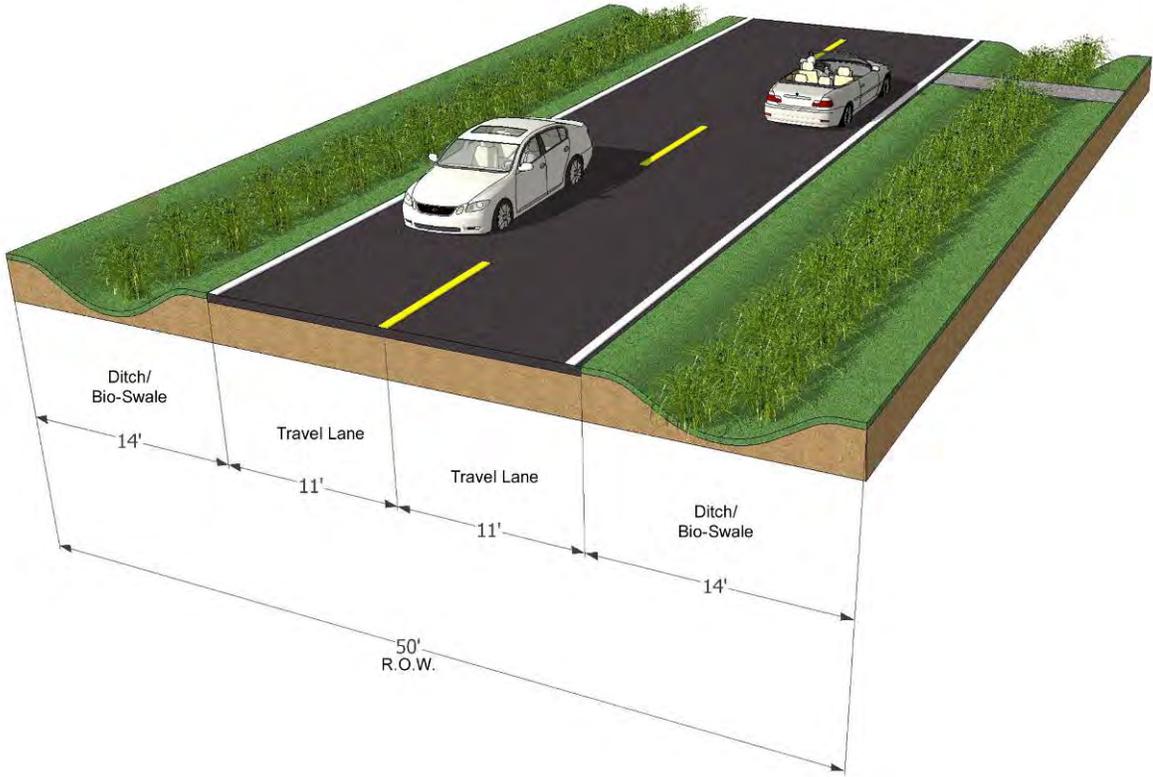


Location Map

Street Data

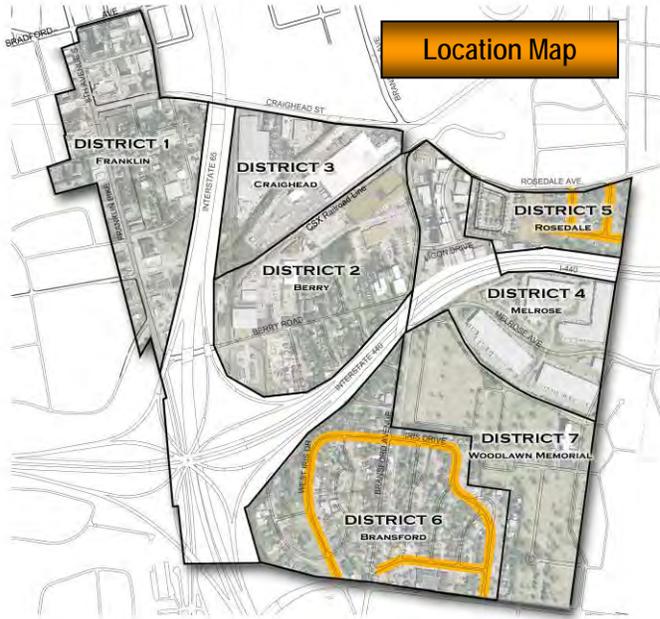
ROW	50 feet
Pavement width	22 feet
Curb	No
Travel lanes	11 feet
Direction	Two-way
On-street parking	n/a
Bike lanes	n/a
Sidewalk	n/a
Landscape/Swale	14 feet

Typical Section





# Street Type - 3



Location Map

Street Data

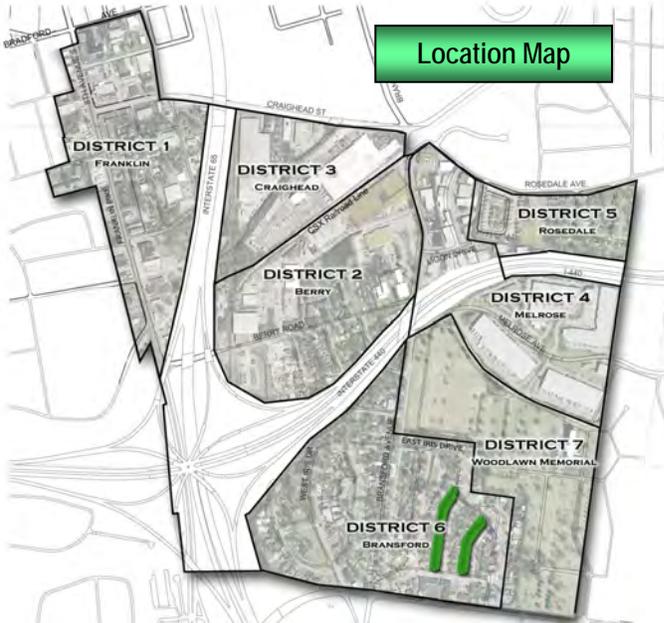
ROW	50 feet
Pavement width	22 feet
Curb	No
Travel lanes	11 feet
Direction	Two-way
On-street parking	n/a
Bike lanes	n/a
Sidewalk	5 feet
Landscape/Swale	9 feet

Typical Section





# Street Type – 4A

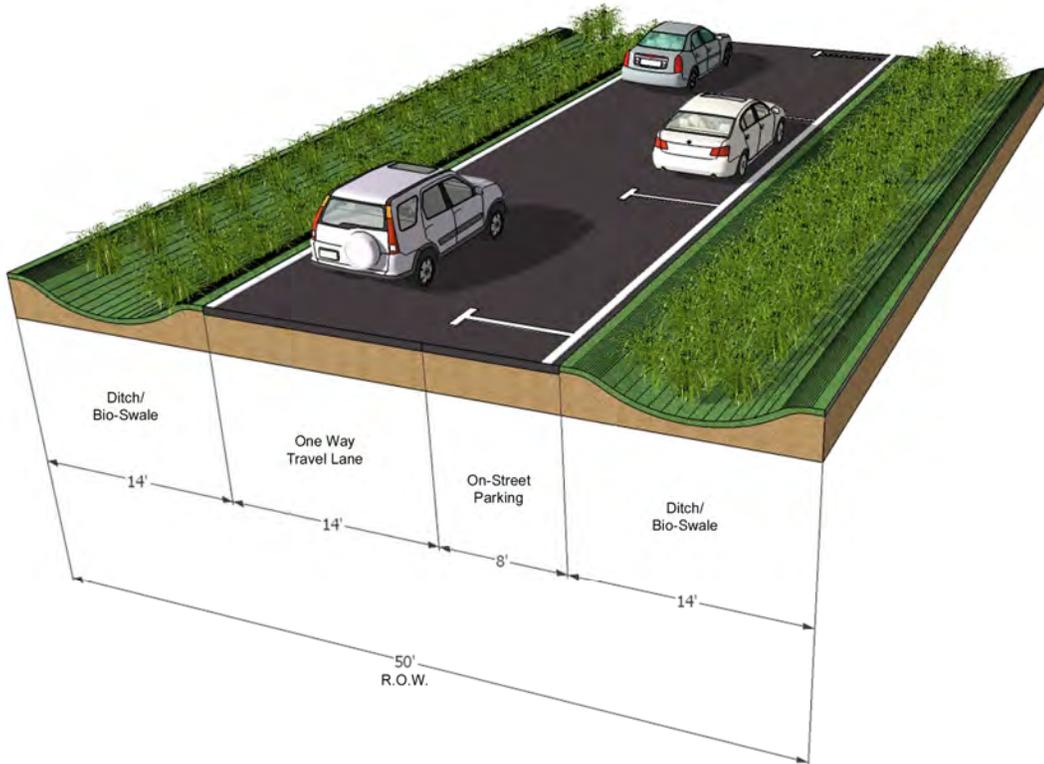


Location Map

Street Data

ROW	50 feet
Pavement width	22 feet
Curb	No
Travel lane	14 feet
Direction	One-way
On-street parking	8 feet
Bike lanes	n/a
Sidewalk	n/a
Landscape/Swale	14 feet

Typical Section





# Street Type – 4B

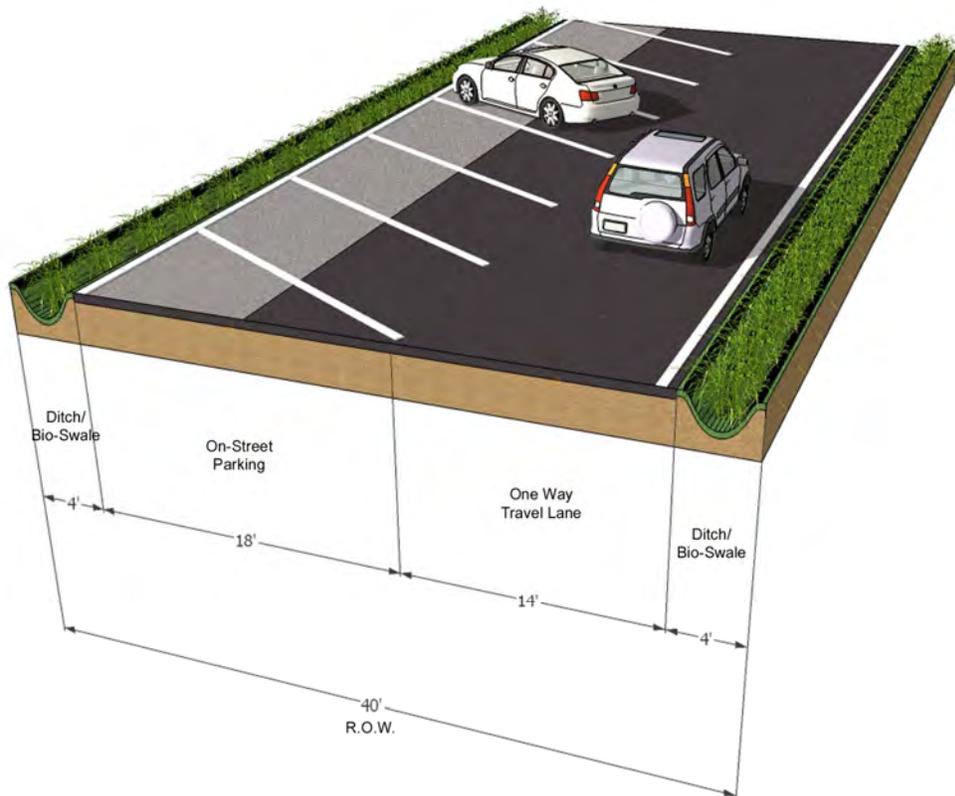


Location Map

Street Data

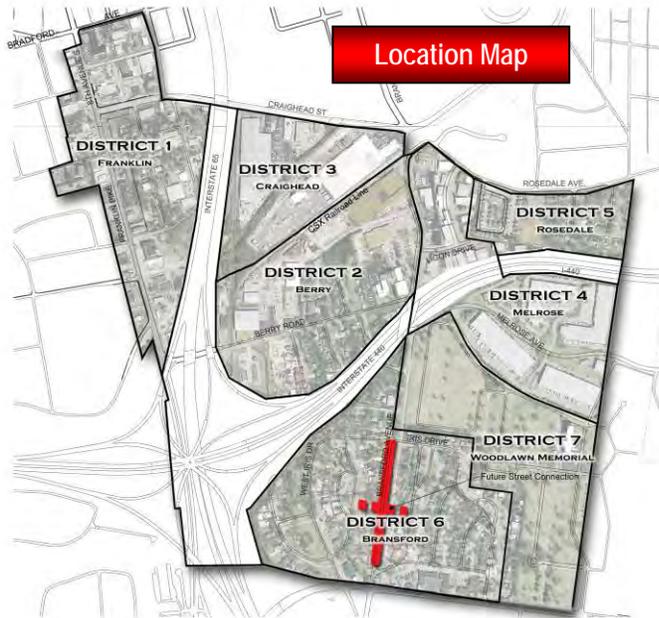
ROW	40 feet
Pavement width	32 feet
Curb	No
Travel lane	14 feet
Direction	One-way
On-street parking	18 feet
Bike lanes	n/a
Sidewalk	n/a
Landscape/Swale	4 feet

Typical Section





# Street Type – 5

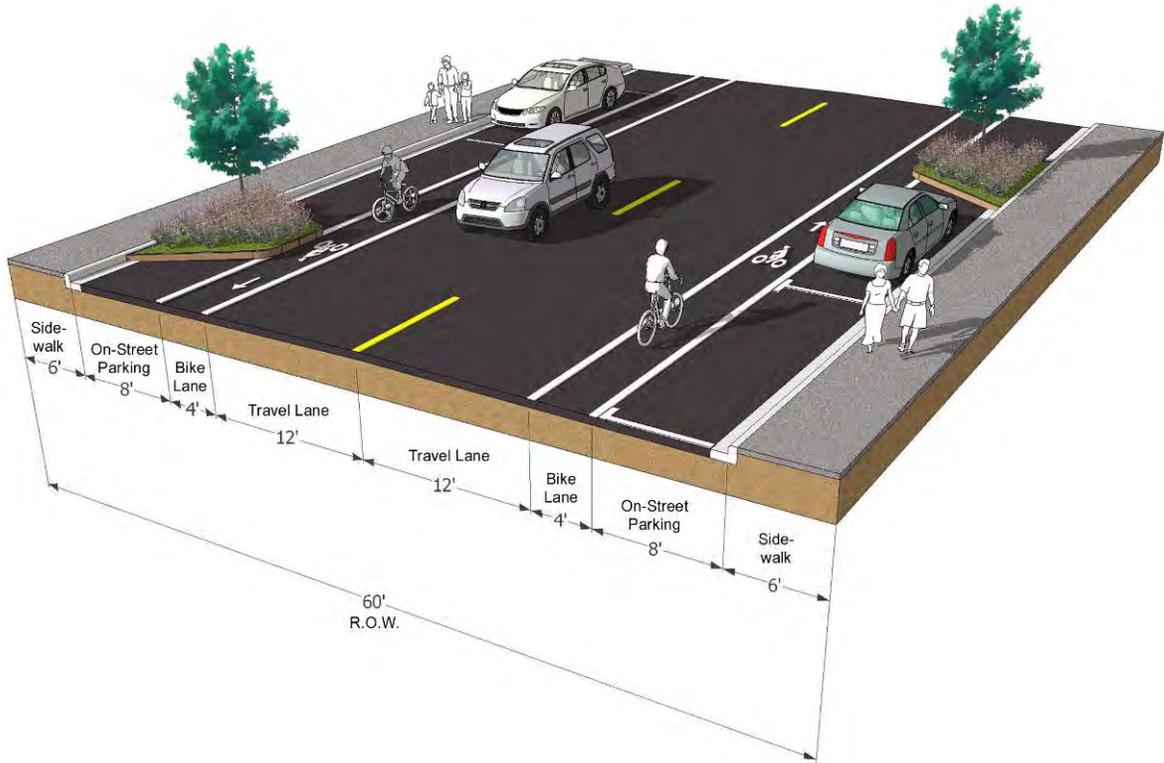


Location Map

Street Data

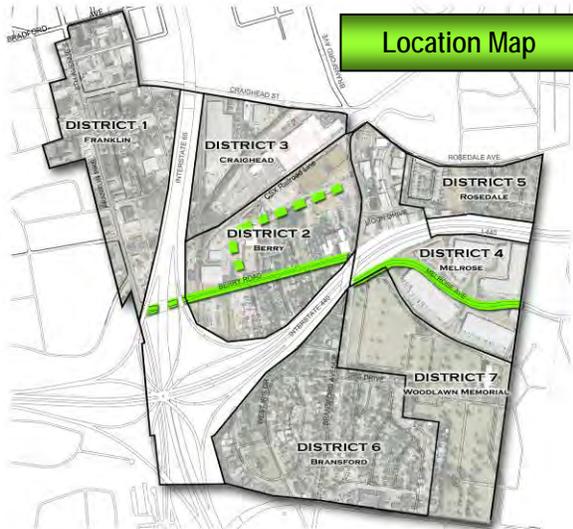
ROW	60 feet
Pavement width	48 feet
Curb	Yes
Travel lanes	12 feet
Direction	Two-way
On-street parking	8 feet
Bike lanes	4 feet
Sidewalk	6 feet
Landscape/Swale	Bulb-outs

Typical Section





# Street Type – 6A/6B

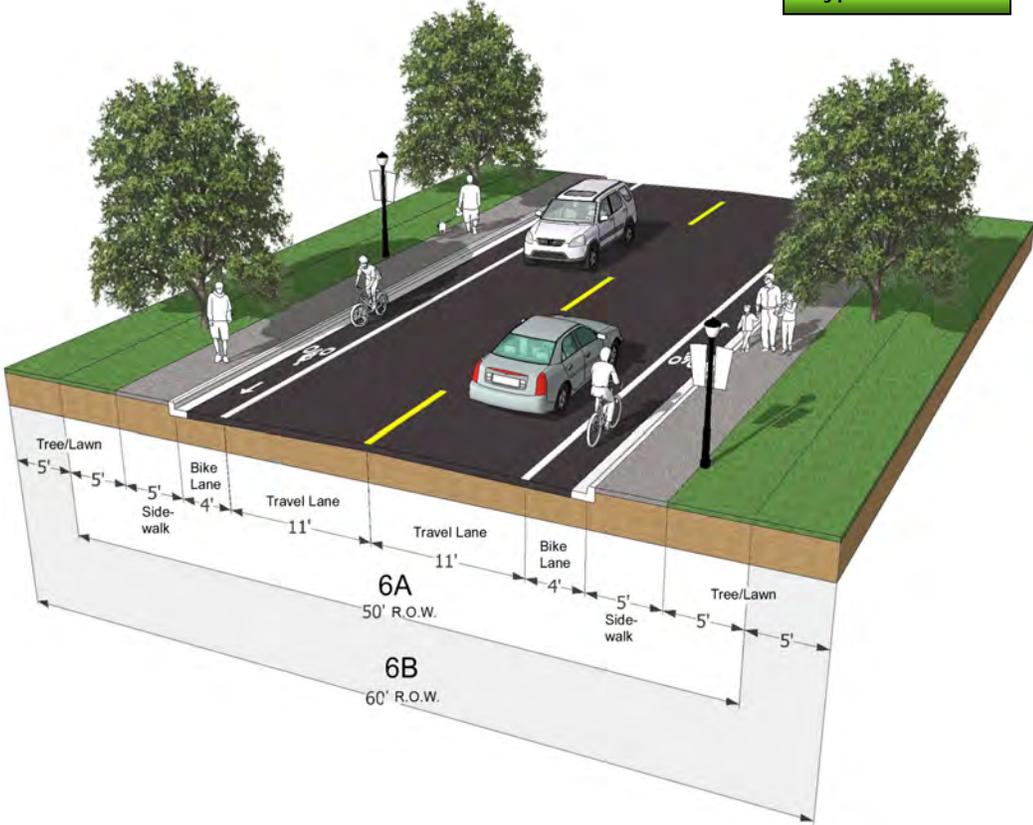


Location Map

Street Data

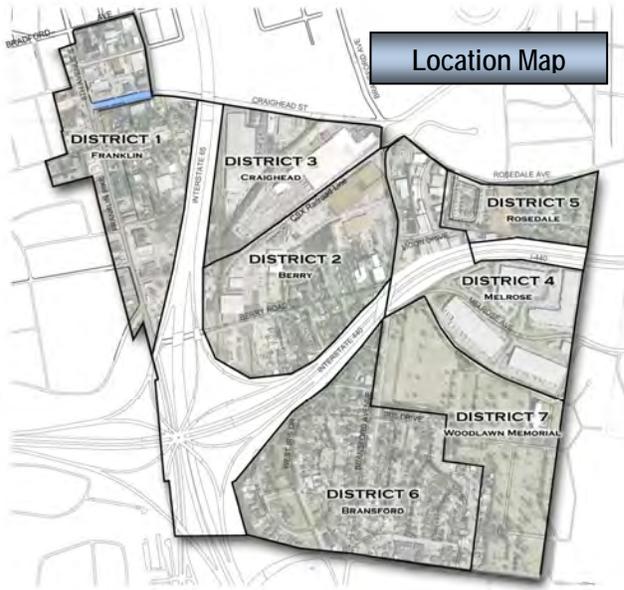
	6A	6B
ROW	50 feet	60 feet
Pavement width	30 feet	30 feet
Curb	Yes	Yes
Travel lanes	11 feet	11 feet
Direction	Two-way	Two-way
On-street parking	n/a	n/a
Bike lanes	4 feet	4 feet
Sidewalk	5 feet	5 feet
Landscape/Swale	5 feet	10 feet

Typical Section





# Street Type – 7

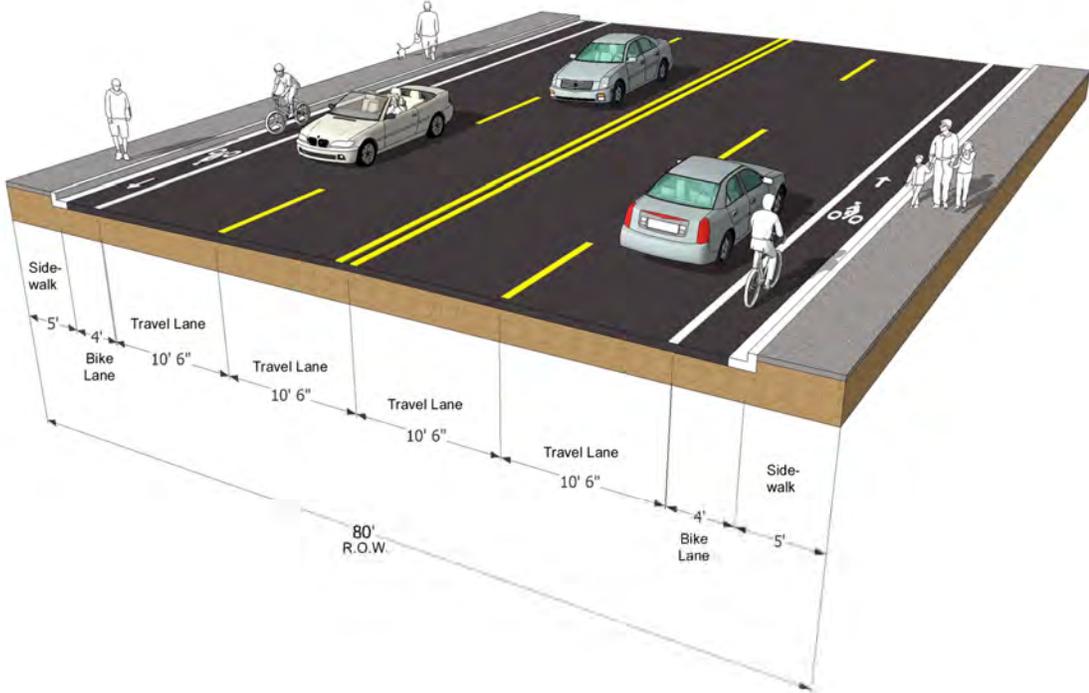


Location Map

Street Data

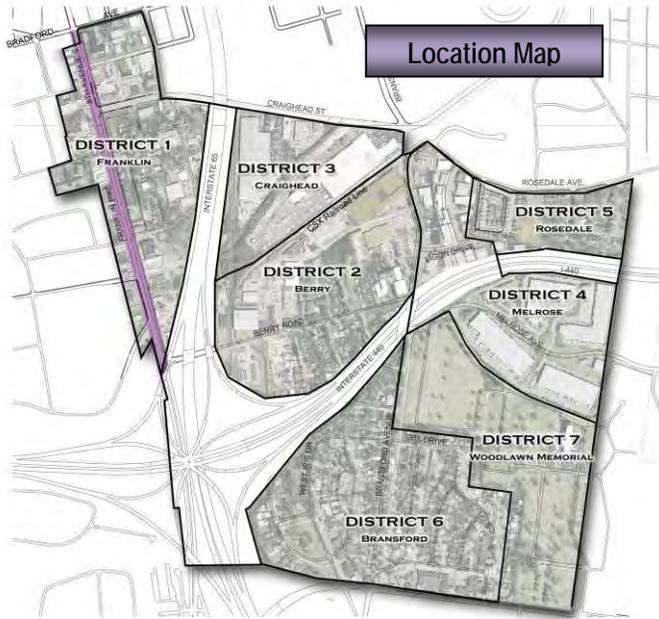
ROW	80 feet
Pavement width	42 feet
Curb	Yes
Travel lanes	10.5 feet
Direction	Two-way
On-street parking	n/a
Bike lanes	4 feet
Sidewalk	5 feet
Landscape/Swale	n/a

Typical Section





# Street Type – 8

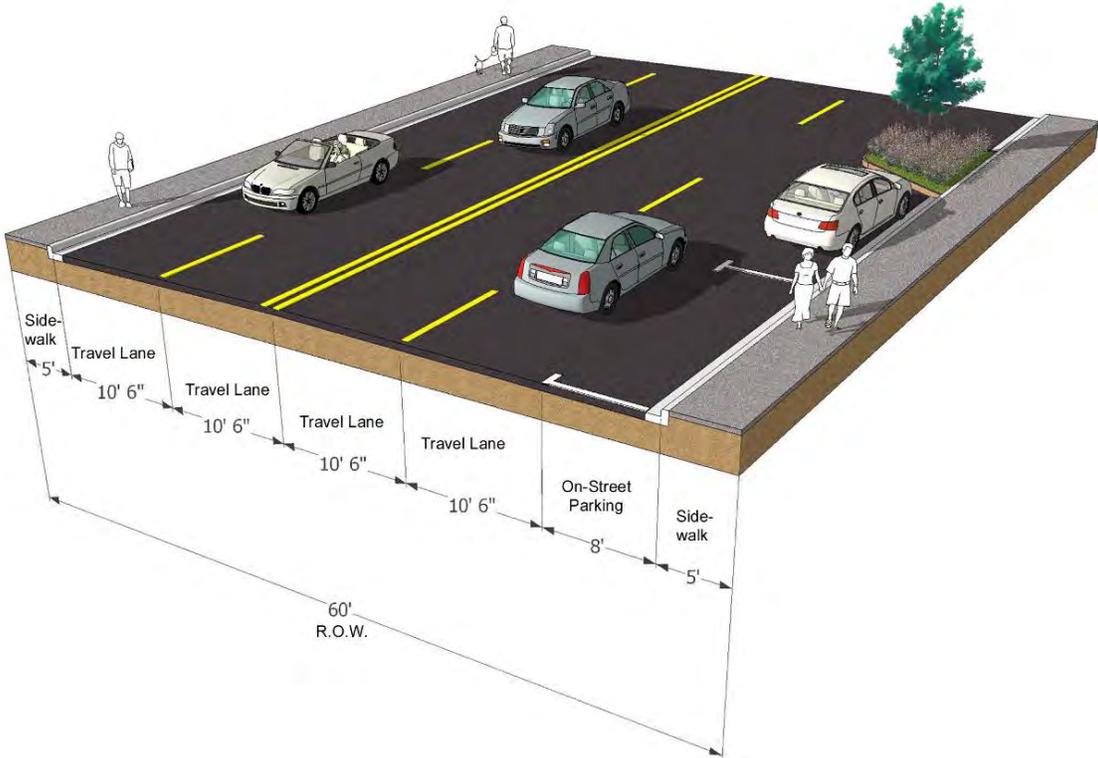


**Location Map**

**Street Data**

ROW	60 feet
Pavement width	52 feet
Curb	Yes
Travel lanes	10.5 feet
Direction	Two-way
On-street parking	8 feet
Bike lanes	n/a
Sidewalk	5 feet
Landscape/Swale	Bulb-outs

**Typical Section**





## 6.0 Definitions

### 6.1 Applicability

Words in the text or tables of this section shall be interpreted in accordance with the provisions set forth in this section. Where words have not been defined, the definition found in the most current edition of Webster's Unabridged Dictionary shall be used. The City Manager shall have the right to interpret the definition of the word.

### 6.2 General Terms

**"Above ground"** means visible from the surface of the earth.

**"Abutting"** means touching or sharing a common point or line. This term shall not be deemed to include parcels that are across a public way from each other.

**"Accessory building"** means a building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

**"Accessory use"** means use customarily incidental and accessory to the principal use of a lot or building or other structure located upon the same lot as the accessory use.

**"Adjacent"** means nearby property touching the property lines of a parcel being considered and including property across streets.

**"Alley"** means a public or private right-of-way primarily designed to serve as secondary service access to the side or rear of properties.

**"Board of Commissioners"** means the local legislative body for Berry Hill, Tennessee.

**"Board of Zoning Appeals"** means the Berry Hill, Tennessee Board of Zoning Appeals.

**"Block"** means a unit of land bounded by streets or by a combination of streets and public land, railroads rights-of-ways, waterways or any other barrier to the continuity of development.

**"Block face"** means a single boundary of a block described in the definition of a Block. A block face is opposing when it is across a public street.

**"Building permit"** means a permit required by the adopted Building Code for the construction, alteration, expansion or renovation of a structure.

**"Building type"** means a classification of buildings by function, disposition and configuration that provides the norm against which variations are assessed and classified. Buildings shall be classified as residential, commercial, industrial, civic, or support.

**"Building (principal)"** means the primary structure on a parcel having a roof supported by columns or walls.



**"Building height"** means the vertical distance measured from the average elevation of the finished grade along the front of the building to the highest point of the roof; and to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

**"Bulk regulations"** means standards and controls that establish the maximum size of buildings and structures on a lot and the buildable areas within which the building can be located, including coverage, setbacks, height, impervious surface ratio, floor area ratio and yard requirements.

**"Cemetery"** means property used for the interment of the dead.

**"Code"** refers to the Berry Hill Community Development Code adopted by Ordinance No. \_\_\_\_\_.

**"Common open space"** means land and/or an area of water within the site designed and intended for the use or enjoyment of the occupants, which may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the occupants of the development.

**"Curb level"** means the elevation obtained by averaging the points located where the side lot lines of a lot extended will intersect the nearest edge of the travelway of that street.

**"Density"** means the number of residential units per acre.

**"District"** means one or more sections of the city defined by the adopted regulating plan for which the development standards govern the height, density/intensity, building placement, and other listed provisions.

**"Domestic animals/wildlife"** means native and exotic animals and common domestic farm animals, defined as Class II and Class III wildlife (70-4-403 of the Tennessee Code) which are kept outdoors for any purpose other than agricultural business.

**"Dwelling unit"** means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

**"Eave line"** means the extension of a roof line beyond the vertical wall of a building.

**"Electrical service lines"** means an electrical line serving limited geographic areas of residential neighborhoods by providing electrical power directly to a residence, or group of residences, and not designed to extend service more than one half-mile.

**"Electrical distribution lines"** means an electrical line designed to distribute electric power to, and through, agricultural, residential, commercial, and industrial areas.

**"Electrical transmission lines"** means electrical power lines, feeder circuits, or networks designed to transmit electrical power for regional use.

**"Family"** means one of the following:

1. An individual, or two or more persons related by blood, marriage or law, or, unless otherwise required by federal or state law, a group of not more than three unrelated persons living together in a dwelling unit. Servants and temporary nonpaying guests having common housekeeping facilities with a family are a part of the family for this code;



2. A group of not more than eight unrelated mentally retarded, mentally handicapped (excluding the mentally ill) or physically handicapped persons, including two additional persons acting as houseparents or guardian, living together as a single housekeeping unit in accordance with 13-24-102 of the Tennessee Code.

**"Final Site Plan"** means a detailed set of construction means plans that fully demonstrate compliance with all applicable provisions of this code and accurately represent the final form of proposed construction, serving as the basis for the issuance of zoning permits and certificates of compliance.

**"Flood, 100 Year."** "100-year flood" means a standard adopted by the Federal Emergency Management Agency (FEMA) to identify areas where there exists a one percent annual chance of a flood occurring.

**"Floodplain"** means land area, including the floodway of any river, stream or watercourse, susceptible to being inundated by water as identified by the 100-year flood.

**"Floodway"** means the channel of a stream that has current, direction and velocity to it during a flood, and in which debris may be carried.

**"Floor area"** means the total of the gross horizontal areas of all floors, including usable basements and cellars, below the roof and within the outer surfaces of the main walls of principal or accessory buildings (or the center lines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls.

**"Floor area ratio (FAR)"** means the total floor area of all structures on a lot, divided by the total horizontal area of the lot.

**"Front façade"** means the front vertical face of a building that is substantially in one plane, has associated with it a primary entrance, and is composed from the following architectural components: exterior walls; columns or other vertical structural elements; windows; doors; roof edges; permanently roofed recesses; and arcades, balconies, or porches with permanent roofs supported by vertical structural supports.

**"General plan"** means an official public document adopted by the Berry Hill Municipal Zoning and Planning Commission in accordance with Sections 13-3-301, 13-3-302, and 13-4-102, of the Tennessee Code to provide the overall basis for zoning development decisions. Individual subarea plans that provide detailed guidance for specific areas are adopted by the Commission and become a part of the general plan.

**"Greenway"** means a linear park, alternative transportation route, or open space conservation area that provides passive recreational opportunities, pedestrian and/or bicycle paths, and/or the conservation of open spaces or natural areas, as indicated in an adopted greenway plan.

**"Hazardous operation"** means a use that may present serious hazards to human life and health such as, but not limited to arsenals, atomic reactors, explosives and fireworks manufacture.



**"Height control plane"** means an imaginary inclined plane that slopes over a lot to establish the maximum height of structures on that lot.

**"Impervious Surface Ratio (ISR)"** means a ratio derived by dividing the amount of the site that is covered by any material that substantially reduces or prevents the infiltration of stormwater by the total horizontal area of the lot. Impervious surfaces include, but are not limited to, roofs, streets, sidewalks and parking lots paved with asphalt, concrete, compacted sand, compacted gravel or clay.

**"Incidental alteration"** means modifications to a building or structure that are of a cosmetic nature, replacement of utilities, re-arrangement of internal partitions. The replacement of load-bearing walls is not permitted.

**"Inventory stock"** means the incidental storage of goods, chattels or products within the structure where sold at retail or wholesale.

**"Landscape buffer yard"** means a required yard located at the perimeter of the lot containing landscaping, berms, walls or fences that shield uses on adjacent properties from those uses occurring on the subject property.

**"Landowner"** means the legal or beneficial owner or owners of the land. The holder of an option or contract to purchase, a lessee having a remaining term of not less than fifty years in duration, or other person having an enforceable proprietary interest may be considered a "landowner" for the purposes of this title.

**"Leading edge"** means that edge of a building's front façade which projects farthest forward on the front portion of a lot. The leading edge may be measured at the forward-most edge of an arcade or of a porch with permanent roof supported by vertical structural supports, but may not be measured at the front-most edge of a projecting awning or stoop.

**"Live/work"** means a structure which permits both residential and non-residential uses within the same unit.

**"Lot"** means a parcel of land occupied or to be occupied by a principal building and its accessory buildings, together with such open spaces as are required under this ordinance.

**"Lot, corner"** means a lot situated at the junction of two or more streets or places.

**"Lot coverage"** means the portion of the lot that is covered by impervious surfaces.

**"Lot line"** means a boundary of a lot. Lot line terms used are:

1. **"Front lot line"** means the lot line along which a front setback or build too line is designated or required.
2. **Lot frontage"** means the length of a front lot line along a street or access easement.
3. **"Lot width"** means the horizontal distance between side lot lines measured at the minimum required front yard setback line.



4. "**Rear lot line**" means the lot line along which a rear setback is designated or required.
5. "**Side lot line**" means the lot line along which a side setback is designated or required. "**Lot, through**" means an "interior lot" having frontage on two parallel or approximately parallel streets.

"**Manufacturing / sales**" means shop for making goods to be sold at retail on and off the premises.

"**Major street plan**" means a transportation plan required by the general plan and adopted by the Zoning and Planning Commission pursuant to Section 13-4-302 of the Tennessee Code, showing, among other things, the general location, character and extent of arterial streets.

"**Master development plan**" means a conceptual plan of development representing the intended integration of differing land uses and/or multiple structures within the framework of a unified design plan served by adequate streets and utilities. Often developed in phases, a master development plan forms the basis for subsequent approvals of detailed final site plans.

"**Minor improvements**" means improvements, including buildings and all other structures, that have a total assessed valuation of ten percent or less of the assessed valuation of the lot upon which they are located.

"**Nonconforming structure**" means a structure that was originally legally constructed but which now does not meet one or more of the standards or requirements (other than use) of the zoning district in which it is located.

"**Permitted conditionally (use)**" means a use that is permitted in a particular zoning district when it is shown that the use will comply with conditions and standards required by the City Commission.

"**Permitted by right (use)**" means a use allowed in a district subject to the provisions of the code.

"**Principal building**" means a building that contains the principal use located on a lot.

"**Principal use**" means a use that fulfills a primary function of an establishment, institution, household, or other entity.

"**Non-conforming use**" means a building or the use of a building or land that does not conform to the regulations of the use district in which it is situated.

"**Regulating plan**" means the Regulating Plan for the City of Berry defines the seven districts that are regulated by the development standards in the City of Berry Hill Community Development Code.

"**Service area**" means an area located at grade that is for the purpose of loading and unloading vehicles.

"**Setback**" means that part of a lot extending open and unobstructed from the lowest level to the sky, except for permitted obstructions, along the length of a lot line for a depth or width set forth in the bulk regulations for the district in which the lot is located. Required setbacks are also referred to as yards. The following setback types are referenced:



1. "Interior side setback" means a side setback that does not abut a street.
2. "Rear setback" means a setback extending for the full length of a lot line not abutting a street, on the opposite end of a lot from a front setback.
3. "Side setback" means a setback extending along a lot line from the front setback to the rear setback, or, in the case of a through lot or through corner lot, to another front setback.
4. "Street setback" means a setback extending along the full length of the lot line abutting a street.

"**Shrub**" means a woody plant with a multiple stem capable of growing to a height of no more than fifteen feet.

"**Sign**" means any writing (including letter, work, or numeral), pictorial representation (including illustration or decoration); emblem (including device, symbol, or trademark); flag (including banner or pennant); inflatable structure; or any other figure of similar character, which is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or other structure; and is used to announce, direct attention to, or advise.

Specific types of signs and their requirements are specified and defined in Chapter 3, Section 3.10 of this Code.

"**Single family**" means one residential dwelling unit per structure.

"**Single ownership**" means the proprietary interest of a single landowner or person.

"**Special exception (SE)**" means uses that require authorization by the board of zoning appeals prior to the issuance of a zoning permit.

"**Story**" refers to that portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling above it.

"**Street**" means a publicly maintained right-of-way, other than an alley, that affords the principal means of vehicular access to abutting property. Street specifications are provided in Chapter 5 of this Code.

"**Street line**" means a lot line abutting and coincident with a street right-of-way.

"**Structure**" means anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground and shall include fences, tents, lunch wagons, dining cars, camp-cars, or other structures on wheels or other supports and used for business or living purposes.

"**Structural alterations**" means any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial change in the roof and exterior walls.



**"Subdivision"** means any subdivision of land as provided in Section 13-3-401 et seq. and Section 13-4-301 et seq., of the Tennessee Code.

**"Travelway"** means that portion of a public right-of-way that is improved for use by self-propelled vehicles or bicycles, including paved or gravel areas and any other area intended for vehicle movement.

**"Two-family"** means two attached dwelling units forming a single structure connected by not less than eight feet of continuous floor, roof and walls.

**"Underground"** means not visible from the surface of the earth.

**"Unified plat of subdivision"** means a property plat(s) approved by the Zoning and Planning Commission and recorded by the register of deeds which either creates new lots or re-records existing lots for the purpose of achieving a coordinated and inter-related form of development and/or manner of operation, utilizing the plat to identify and establish by appropriate notes and legal cross-references those development or operational opportunities and/or limitations as authorized by this code and assigned to the subject lots by the owner(s) of the property.

**"Use"** means a function or operation that constitutes an activity occurring on the land.

**"Variance"** means where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this code would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property, authorize, upon and appeal relating to the property, a variance from such strict application so as the relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this code.

**"Visibility area"** means the triangular area at the intersection of two streets formed by the right-of-way lines and a straight line joining the right-of-way lines at points which are 35 feet distant from the intersection of the right-of-way lines and measured along such right-of-way lines.

**"Yard"** means the open space on the same lot with a building unoccupied and unobstructed from the ground upward except as otherwise permitted.

**"Yard, front"** means the required open space between the street line and the nearest part of any building on the lot, excluding cornices, eaves, or gutters projecting not more than thirty inches, steps, one-story open porches, bay windows not extending through more than one-story and not projecting more than five feet, chimneys, open balconies, and terraces.

**"Yard, rear"** means a yard extending across the full width of the lot and measured between the rear line of the lot (not a street line) and the extreme rear line of the main building, including an enclosed or covered porch.



*“Yard, side”* means a yard between the building and the side line of the lot and extending from the street line to the rear yard.

*“Zoning and Planning Commission”* means the Berry Hill Municipal Zoning and Planning Commission.

*“Zoning permit”* means written approval by the zoning administrator that is required before commencing any construction, reconstruction, alteration of any building or other structure or before establishing, extending or changing any use on any lot.

**Zoning Map, Official.** *“Official zoning map”* means a map, or series of maps and special overlays showing districts and special districts that are established under the provisions of and have been made a part of this title.

### 6.3 Specific Terms

*“Accessory Apartment”* means a secondary dwelling unit, attached to a single-family residence or commercial business, the principal structure on a lot. An accessory apartment dwelling shall be subordinate in size, height, and purpose to a principal residential dwelling.

*“Animal hospital”* means an enterprise for the care and treatment of the diseases and injuries of animals, and where animals may be boarded during their treatment and convalescence.

*“Assisted care living”* means a licensed “assisted-care living facility” by the state of Tennessee Board of Health that provides domiciliary care, room, board and nonmedical living assistance service to primarily aged, ambulatory persons (sixty-two years of age or older) who live in a rooming unit. Where there is a common kitchen and communal area for all residents within the facility, three rooming units in the facility shall be counted as one dwelling unit for determining the facility’s density.

*“Automated teller machine (ATM)”* means a facility to provide banking and other electronic services that are operated by the customer, including but not limited to drive-through and walk up facilities.

*“Automobile convenience”* means a facility where flammable and combustible liquids, such as gasoline and other motor fuels, are stored and subsequently dispensed, by use of fixed approved dispensing equipment by customers of the facility on a self-service basis and/or by employees on a full-service basis and which may include an automatic car wash for washing one automobile at a time, within an enclosed building; in addition, a facility which also provides sandwiches, snacks, staple groceries and other similar retail products or services, which are not recognized or defined by the zoning code as separate uses or as necessary components of separate uses, for sale on premises for consumption off premises by the customer.

*“Automobile parking”* means the use of property for the commercial parking or storage of operable automobiles on a temporary basis. This does not include the providing of off-street parking required for a use by Chapter 4. Such parking shall be for the use of licensed vehicles only and is not intended to include merchandise or vehicles for sale.



**"Automobile Sales, New"** *"New automobile sales"* means an activity which new automobiles, trailers, and other related vehicles are displayed in the open for sale or trade and not more than 20% of said vehicles may be used.

**"Automobile Sales, Used"** *"Used automobile sales"* means an activity which automobiles, trailers, and other related vehicles are displayed in the open for sale or trade and more than 20% of said vehicles are used.

**"Automobile service"** means and includes the sale, from the premises, of goods and the provision of services that are generally required in the operation and maintenance of automotive vehicles and the fulfilling of motorist needs. This includes the sale of petroleum products together with sale and servicing of tires, batteries, automotive accessories, and replacement items, lubricating services and performance of minor repairs. This use does not include heavy automotive maintenance activities such as engine overhauls, automotive painting, and body work. (See Automotive Repair)

**"Automotive repair"** means a facility used for painting, body and fender work, engine overhauling or other major repair of motor vehicles.

**"Bar/ Tavern/ Nightclub"** means a use primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

**"Basement"** A space partly underground and having at least one-half (1/2) or more of its floor-to-ceiling height below the average level of the adjoining ground and with a ceiling height of no less than six and one-half feet (6.5) feet. A basement shall be counted as a story for the purpose of height measurement if the ceiling height is more than five (5) feet above the average level of the adjoining ground on the front of the building facing the street.

**"Bed and breakfast inn"** means four through ten furnished guest rooms for pay. Meals may be provided overnight guests. The maximum stay for any guest shall be fourteen consecutive days.

**"Building contractors supply"** means the construction and incidental storage activities performed by construction contractors on zone lots other than construction sites, as well as the retail or wholesale sale of materials used by the construction trades.

**"Business school"** means an enterprise offering instruction and training, including four-year degrees and/or postgraduate degrees, in a service or the arts such as secretarial, cosmetology, commercial artist, computer software, legal, and similar training, provided that such enterprise does not offer student housing or athletic facilities at the site.

**"Business service"** means any commercial activity that is engaged in rendering services to other business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; personnel and employment services; management and consulting services; equipment rental and leasing; photo finishing, copying, and printing; travel; office supply and similar services.



**"Car wash"** means a building or portion thereof containing facilities for washing more than two automobiles, using production-line methods with a chain conveyor, blower, steam-cleaning device or other mechanical devices within an enclosed structure or a self-service facility with one or more wash bay(s) that is free or coin-operated. Car wash also includes operations that are done by hand such as auto detailing.

**"Childcare Center"** means the provision of care for individuals, who are not related to the primary caregiver, for less than twenty-four hours per day. These classes are referenced:

1. Accessory to a child care single-family dwelling: up to four individuals;
2. Childcare home: five through twelve individuals;
3. Childcare Center: thirteen through seventy-five individuals;
4. Childcare Center: more than seventy-five individuals;

**"Club"** means a facility that offers social, educational, cultural or other similar activities that are only available to members and their guests.

**"College or university"** means an institution of higher education offering undergraduate or graduate degrees.

**"Commercial Amusement, Inside"**. **"Inside commercial amusement"** means the provision of entertainment or games of skill to the general public for a fee and that is wholly enclosed in a building, including but not limited to a bowling alley or billiard parlor. This use does not include an arena.

**"Commercial Amusement, Outside"**. **"Outside commercial amusement"** means the provision of entertainment or games of skill to the general public for a fee where any portion of the activity takes place outside of a building, including but not limited to a golf driving range, archery range or miniature golf course. This use does not include a stadium.

**"Commercial Use"** means an occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee; a land use classification that permits facilities for the buying and selling of commodities and services; the purchase, sale, or transaction involving the disposition of any article, substance, commodity or service. (see also definitions for Retail and Business Service.)

**"Community education"** means instructions on an elementary, middle and high school level, approved under the regulations of the state.

**"Cultural center"** means services to the public, such as, but not limited to museums, art galleries and libraries by a public or private, non-profit facility.

**"Custom assembly"** means the on-site production of goods by hand manufacturing that generally involves only the use of hand tools. Incidental direct sale to consumers of the goods produced on-site is permitted.



***"Distributive business/wholesale"*** means the sale or distribution of goods from the premises that may consist of the flexible use of the floor area for warehouse, assembly, showroom and office space within tenant areas, with the showroom and office area not exceeding fifty percent of the total floor area permitted on the parcel.

***" Dwelling"*** means a building or part thereof used as a habitation under one of the following categories:

1. Single-family detached dwelling means a residential structure and accessories thereto principally used, designed, or adapted for use by a single family.
2. Single-family attached dwelling means a residential structure containing three (3) or more single non-detached dwelling units separated by a common vertical wall.
3. Duplex dwelling means a building and accessories thereto principally used, designed, or adapted for use by two (2) families, the living quarters of each of which are completely separate.
4. Apartment dwellings means a building and accessories thereto principally used, designed, or adapted for use as occupancy by three (3) or more families each of which has separate living quarters. This includes triplexes and quadruplexes.
5. Condominium means an apartment building or townhouse containing three (3) or more dwelling units being under or intended for separate ownership for each family living accommodation.
6. Multi-family means a townhouse, condominium or apartment dwelling.
7. Manufactured home means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditions, and electrical systems contained, therein.

Manufactured residential dwellings shall have the same general appearance as required for a site built home. (Tennessee Code, 13-24-202)

Moreover, such single-detached dwelling must be tagged by the Tennessee Department of Commerce and Insurance, as a **modular home** (such dwelling having a **green tag** attached thereto). Any single-detached dwelling being tagged by the Tennessee Department of Commerce and Insurance, as a **mobile home** (such dwelling having a **red tag** attached, thereto) shall be regulated by this Code as a mobile home, and not as a prefabricated dwelling.

8. Zero lot line dwelling means a building or structure containing two (2) units (duplex), each unit being located on its own zoned lot in separate ownership.

***"Fuel storage"*** means the storage of motor vehicle fuels for use by vehicles of an institution or business entity located on the same property.

***"Funeral Home/Mortuary"*** means an establishment providing services such as preparing the human dead for burial and arranging and managing funerals, and may include limited caretaker facilities. This classification excludes cemeteries, crematories, and columbariums.



**"Garage sale"** means sale of personal property by an owner or occupant of real property.

**"Hazardous operation"** means any activity that involves any substance that, because of the quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The term includes, but is not limited to, hazardous wastes and hazardous substances.

**"Heavy equipment sales and service"** means the retail or wholesale sale or rental of heavy motorized vehicles or equipment, along with incidental service or maintenance such as, but not limited to construction equipment rental yards, boats, buses, recreational vehicles, farm equipment and moving trailer rental.

**"Home improvement sales"** means the retail sale of a diverse range of hardware and related materials generally used in the maintenance, repair or construction of buildings or other structures, including lawn and garden supplies.

**"Home occupation"** means an occupation, service, profession or enterprise carried on by a resident member of a family within a dwelling unit.

**"Hospice"** means an establishment that provides for the physical and emotional needs of terminally ill individuals.

**"Industrial Use"** (see definitions for Manufacturing.)

**"Kennel/stable"** means any lot, building, structure or premises used for the boarding, breeding, training, and/or raising of domestic animal/wildlife (excluding livestock), whether by owners of such animals or by persons providing facilities and care, whether or not for compensation, but shall not apply to the keeping of animals in a municipal animal pound, pet store, a bona fide laboratory for scientific or experimental purposes (e.g. dental, veterinary, pharmaceutical or biological) or in a veterinary establishment for the purpose of observation and/or recovery necessary to veterinary treatment.

**"Landfill, construction/demolition"**. **"Construction/demolition landfill"** means the disposal of nonbiodegradable waste resulting from road building, construction, remodeling, repair or demolition of structures.

**"Landfill, Sanitary"**. **"Sanitary landfill"** means the burial of nonhazardous and non-medical farm, residential, institutional, commercial or industrial waste.

**"Liquor sales"** means the retail sale of alcoholic spirituous beverages as defined in Section 57-3-101 Of the Tennessee Code to patrons or customers, in sealed packages, and not for consumption on the premises.

**Manufacturing, Light**. **"Light manufacturing"** means the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing. Typical light manufacturing uses include but are not



limited to: electronic goods; food and bakery products; non-alcoholic beverages; paper imprinting; household appliances; leather products; jewelry; food and bakery products; and, clothing apparel.

**Manufacturing, Medium.** "*Medium manufacturing*" means the processing and manufacturing of materials or products predominately from extracted or raw materials. These activities may include outdoor assembly and storage of products. Outdoor manufacturing of raw materials into compost, primarily for commercial resale, is a medium manufacturing activity. These activities do not necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. Typical medium manufacturing uses include but are not limited to: alcoholic beverages; glue; carpet; porcelain products for bathroom and kitchen fixtures; bleaching products; vegetable gelatin; dye stuffs; welding; furniture; and sporting goods;

"*Medical or scientific lab*" means a facility for research, testing or investigation of a medical or scientific nature, but not for the production of a product.

"*Medical Appliance Store*" means businesses and facilities such as, but not limited to: warehousing and storage of medical-related equipment and supplies and businesses in the sale and rental of medical-related appliances.

"*Medical waste collection/transfer*" means a facility used to receive and repackage medical waste for transportation to a processing facility.

"*Mini-Storage Building*" means a building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property, with no commercial transactions other than the rental of the storage units.

"*Mobile storage unit*" means the purchase, lease, or rental of any storage unit, trailer, or container that is either set on the ground or on wheels, and which is typically used for, but is not limited to the storage of equipment, excess inventory, layaway items, back-to-school merchandise, seasonal merchandise, records or clearance sale items. A mobile storage unit excludes containers belonging to a railroad or barge operation located in a railroad yard, on a railroad track, and on or near a navigable river.

"*Motor freight*" means facilities engaged in the shipment of goods from shippers to receivers for a charge including the services of other transportation establishments to effectuate delivery.

"*Multimedia studio/productions*" means a facility or studio for the staging and recording of video or audio productions such as, but not limited to music album and music commercials, programs and motion pictures.

"*Nanobrewery*" means the production of beer, regardless of the percentage of alcohol by volume, in quantities not to exceed one thousand two hundred fifty (1,250) barrels per month, with a barrel containing thirty-one U.S. liquid gallons. A nanobrewery in a non-industrial district shall be an accessory use to a principal commercial use, such as a restaurant, tavern, or retail business, and the space dedicated to the nanobrewery production and storage shall not exceed 33% of the space utilized by the business.



**"Nonresidential drug treatment facility"** means nonresidential drug treatment facilities are characterized by the dispensing of substitute narcotics for the treatment of drug addictions with little or no professional counseling on an outpatient basis.

**"Nursing home"** means a state licensed facility providing full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity are unable to care for themselves and require skilled nursing and related medical services.

**Office, General.** **"General office"** means the provision of executive, management, administrative or professional services, but not involving medical services.

**Office, Leasing/Sales.** **"Leasing/sales office"** means the use of a unit or dwelling as a leasing and or sales office for other units within that development.

**"Outpatient clinic"** means a facility for examining and treating patients with medical problems on an outpatient basis, including ambulatory care or similar medical services that generally require a stay of less than twenty-four hours.

**"Park"** means any facility that is:

1. Open to the public for recreational uses, including, but not limited to, hiking, swimming, boating, camping;
2. Predominately kept in a natural state; or
3. Property of the local, state or federal government, or any department or agency thereof, specifically designated as a park, natural area or recreation area.

**"Park and ride lot"** means the temporary storage of automobiles on a daily basis for persons traveling together to and from work either through carpools, vanpools, buspools or mass transit.

**"Personal care services"** means services such as fitness centers, spas, tanning salons, beauty and barber care, and dry cleaning and laundry services not to include a laundry plant.

**"Personal instruction"** means services for training individuals or groups in the arts, personal defense, crafts or other subjects of a similar nature.

**"Power/gas substation"** means a facility that regulates electric current or natural gas pressure for distribution to individual neighborhoods.

**"Public Uses"** means public parks, schools, and administrative, cultural, and services buildings, not including public land or buildings devoted solely to storage and maintenance of equipment and materials; a use conducted by, or a facility or structure owned or managed by the local government or any government entity that provides a governmental function, activity, or service for public benefit.

**"Recycling collection center"** means a drop-off facility for the temporary assemblage of small recyclable consumer items such as food and beverage containers, fabrics and paper.



**"Rehabilitation services"** means the provision of treatment for addictive, mental or physical disabilities on either twenty-four hours a day or outpatient basis.

**"Religious institution"** means any structure or site used primarily for religious practices and assembly with related facilities such as but not limited to in any combination: rectory, monastery or convent, private school, meeting hall, administrative offices, licensed child or adult care, playground, cemeteries, and any other such structures accessory to the primary religious practices.

**"Residential Use"** means a use designated for the sole purpose of providing for residential occupancy (see also definition of DWELLING).

**"Residence for handicapped, more than eight individuals"** means a group of more than eight unrelated mentally retarded, mentally handicapped (excluding the mentally ill) or physically handicapped persons, including two additional persons acting as houseparents or guardians, living together as a single housekeeping unit.

**"Restaurant, fast-food"** means any building, room, space, or portion thereof where food is sold for consumption on-site or off-site within a short period of time, orders are made at either a walk-up or counter, payment for food is made prior to consumption, and the packaging of food is done in disposable containers.

**"Restaurant, full-service"** means any building, room, space or portion thereof where food is sold for consumption on-site, customers are provided an individual menu, a restaurant employee serves the customers at the same table or counter at which items are consumed, or where seating turns over at a rate of thirty minutes or more. A restaurant shall not be considered a restaurant, fast-food or restaurant, take-out solely on the basis of incidental or occasional take-out sales.

**"Restaurant, take-out"** means any building, room, space or portion thereof where a limited variety of food or beverages are sold principally for off-site consumption, but which may include incidental seating for on-site consumption containing no more than twenty seats. Typical uses include bakeries, candy, nut, and confectionery stores, coffee houses, ice cream and frozen dessert stores, small delicatessens and similar establishments.

**"Retail"** means the sale of goods and/or services at retail. For purposes of calculating required parking, retail includes "retail, general" and "retail, convenience" and "retail, shopping center."

**Retail, convenience.** **"Convenience retail"** means an establishment engaged in the retail sale or rental of frequently or recurrently needed items for household use to a limited market area.

**Retail, general.** **"General retail"** means an establishment providing general retail sales, services or rental from the premises, of goods and/or services not specifically classified in another commercial activity type.

**Retail, shopping center.** **"Shopping center retail"** means a single building containing at least twenty-five thousand square feet and containing two or more different individual stores engaged in general retail sales or convenience retail sales.

**"Roof line"** means a horizontal line intersecting the highest point or points of a roof.



**"Rooming unit"** means a residential unit that contains a bed and may contain a bathroom, microwave, television, or dorm-sized refrigerator, but where there is a common kitchen and communal area for all residents within the facility. For purposes of determining density, three rooming units in a facility shall be counted as one dwelling unit.

**"Safety service"** means the conduct of publicly owned safety and emergency services such as, but not limited to fire stations, police stations and emergency medical and ambulance service.

**"Satellite dish"** means a specialized antenna for the reception and/or transmission of broadcast signals to and from orbiting satellites.

**"Scrap operation"** means the storage, processing and/or sale, from the premises, of used or waste material.

**"Security residence"** means living quarters for one family for the purpose of providing security as an accessory to a principal use.

**"Semi-Public Uses"** means a use conducted by, or a facility or structure owned or operated by a non-profit, religious, governmental, academic, or charitable institution that provides educational, cultural, recreational, religious, or other similar types of services.

**Stadium, Arena** means a large building with tiers of seats for spectators at sporting, concerts, or other recreational-like events. Amphitheatres are also included.

**"Switch gear"** means a high-voltage electrical device used to switch main feeder circuits and to provide fuse protection for distribution of currents to customers.

**"Telephone service"** means a facility providing telephone and telegraph services to the public, including central office exchanges, switching buildings, and microwave and cellular towers.

**"Temporary festival"** means the provision of rides, games, food and amusements outside of permanent structures. The use shall have a duration of no more than ten days in a month.

**Use, Principal "Principal Use"** means the main use to which a premises is devoted and the primary purpose for which the premises exist.

**Use, Temporary "Temporary Use"** means a use established for a fixed period of time with the intent that such use will terminate automatically upon expiration of the fixed time period unless permission to conduct the use is renewed.

**"Utility companies"** means any person, governmental body, organization, or entity of any type, and their agents, representatives, and employees, supplying electricity, natural gas, water, communications, or similar or associated services to the residential areas of the City.

**"Utility equipment"** means poles, towers, supports, wires, conductors, conduits, guys, stubs, cross arms, braces, transformers, insulators, cut-outs, switches, communication circuits, used or useful in supplying



electricity, natural gas, water, communication or similar or associated services to the residential areas of the City.

*"Vocational school"* means the offering of regularly scheduled instruction in technical, commercial or trade skills.

