Town of Clayton
Regular Town Council Meeting Agenda
Monday, October 16, 2023 at 6:00 PM
Council Chambers, Town Hall
111 E. Second Street

THE PUBLIC MAY VIEW THE LIVE COUNCIL MEETING ON THE TOWN'S YOUTUBE CHANNEL:
https://www.youtube.com/TownofClaytonNC

1. CALL TO ORDER

a. Call to Order

b. Pledge of Allegiance

c. Invocation

2. ADJUSTMENT OF THE AGENDA

a. **POTENTIAL ACTION:** Approve or Amend the Agenda

3. CONSENT AGENDA

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)

a. Minutes

- October 2, 2023 - Work Session
- October 2, 2023 - Regular Session
- October 2, 2023 - Closed Session

Presenter: Heidi Holland, Town Clerk
October 2, 2023 Work Session Minutes
October 2, 2023 Regular Session Minutes

b. NCEMPA – Amended and Restated Full Requirements Power Sales Agreement
Presenter: Heidi Holland, Town Clerk
Ordinance #2023-10-02
Amended and Restated FRPPA and NCEMPA
Amended and Restated Full Requirements Power Sales Agreement
Charter
Resolution BDR-10-23

c. Certificate of Sufficiency - Annexation 2023-92-ANX, 2311 NC Hwy 42
Presenter: Heidi Holland, Town Clerk
Certificate of Sufficiency 2023-92-ANX

d. Certificate of Sufficiency - Annexation 2023-93-ANX, 2364 NC Hwy 42
Presenter: Heidi Holland, Town Clerk
Certificate of Sufficiency 2023-93-ANX

e. Certificate of Sufficiency - Annexation 2023-96-ANX, ETM Jr. Property, LLC

Presenter: Heidi Holland, Town Clerk
Certificate of Sufficiency 2023-96-ANX

f. Resolution 2023-78 to Accept Public Utilities into The Town of Clayton Public Utility System for Maintenance – Spinning Mill Apartments
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director
Resolution To Accept Public Utilities into The Town of Clayton Public Utility System for Maintenance – Spinning Mill Apartments

POTENTIAL ACTION: Approve Consent Agenda as Presented

4. ADMINISTRATIVE ITEMS

a. Lead and Copper Rules Revision
Presenter: Brandon Carroll, Utilities Compliance Supervisor
Lead and Copper Rule Revision Council Updates

b. Youth Athletics
Presenter: Matt Lorion, Acting Parks and Rec. Director
Youth Athletics

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

a. National Arts and Humanities Month Proclamation
Presenter: Mayor McLeod to Present to Cultural Arts
National Arts and Humanities Month Proclamation

6. PUBLIC HEARINGS

a. 2023-92-ANX 2311 HWY 42 Non-Contiguous Annexation
Presenter: Steven Mott, Planner II
2023-92-ANX 2311 HWY 42 Non-Contiguous Annexation

POTENTIAL ACTION: Motion to Continue to November 6, 2023 Meeting

b. 2023-93-ANX 2364 NC Hwy 42 Non-Contiguous Annexation
Presenter: Steven Mott, Planner II
2023-93-ANX 2364 NC Hwy 42 Non-Contiguous Annexation

POTENTIAL ACTION: Motion to Continue to November 6, 2023 Meeting

c. 2023-96-ANX ETM JR Property LLC Non-Contiguous Annexation
Presenter: Steven Mott, Planner II
2023-96-ANX ETM JR Property LLC Non-Contiguous Annexation

POTENTIAL ACTION: Motion to Continue to November 6, 2023 Meeting

d. Ordinance 2023-10-03 to Enact the "Codify Clayton" Unified Development Ordinance
Presenter: Jonathan K. Jacobs, PE, CFM - Interim Planning Director
Ordinance 2023-10-03 to Enact the "Codify Clayton" Unified Development Ordinance - Planning - Pdf

POTENTIAL ACTION: Adoption of Ordinance #2023-10-03

7. OLD BUSINESS

a. **Amendment to Lumen (Copper District) Elevated Storage Tank Option to Purchase (PUT) Agreement and Acceptance of American Rescue Plan (ARP) Funds**
Presenter: **Joshua Baird, PE, CFM - Engineering Director**
Amendment to Lumen (Copper District) Elevated Storage Tank Option to Purchase (PUT) Agreement and Acceptance of American Rescue Plan (ARP) Funds

POTENTIAL ACTION: Approval of Agreement

POTENTIAL ACTION: Adoption of Resolution #2023-77

8. NEW BUSINESS

9. STAFF REPORTS

a. Town Manager

b. Town Attorney

c. Town Clerk

d. Other Staff

10. OTHER BUSINESS

a. Informal Discussion & Public Comment
- Individuals have three (3) minutes to address the Town Council.
- Groups will designate a spokesperson. Spokesperson will have five (5) minutes to address the Town Council.

b. Council Comments

11. CLOSED SESSION

12. ADJOURNMENT

a. Adjourn

POTENTIAL ACTION: Motion To Adjourn

Town of Clayton
Town Council Work Session Minutes
Monday, October 2, 2023 at 2:00 PM
Rotary Room, Town Hall
111 E. Second Street

Council Present:
Mayor Pro Tem Jason Thompson
Council Member Andria Archer
Council Member Avery Everett
Council Member Michael Sims
Council Member Porter Casey

Council Absent:
Mayor Jody McLeod

Staff Present:
Rich Cappola, Town Manager
Jim Cauley, Town Attorney
Dolores Gill, Deputy Town Manager
Lee Barbee, Deputy Town Manager
Heidi Holland, Town Clerk
Robert McKie, Finance Director
Greg Tart, Police Chief
Sam Johnson-Phillips, Deputy Town Clerk
Michelle Snyder, Executive Assistant to Town Manager
Shaun Mizell, Procurement Manager
Jonathan Jacobs, Interim Planning Director and Assistant Engineering Director

1 CALL TO ORDER

a) Mayor Pro Tem Thompson called the meeting to order at 2:01 p.m.

2 ADJUSTMENT OF THE AGENDA

a) Mr. Cappola adjusted the agenda as follows:

ADD EMPLOYEE RECOGNITIONS

Approve or Adjust the Agenda

RESULT:	**CARRIED**
MOVER:	Porter Casey
SECONDER:	Andria Archer
YES:	Jason Thompson, Andria Archer, Avery Everett, Michael Sims, and Porter Casey
NO:	None

3 INTRODUCTIONS AND SPECIAL PRESENTATIONS

4 ITEMS FOR DISCUSSION

a) Employee Introductions (2:00 - 2:15)

- Belinda Gill, Accounting Technician II

Presenter: Robert McKie, Finance Director

- Elizabeth Vang, HR Analyst
- Anthony Brown-Davis, HR Tech

Presenter: Kenya Walls, HR Director

- Leslye Granger, Customer Service

Presenter: Ann Game, Revenue & Utility Customer Service Director

Robert McKie introduced Belinda Gill, accounting technician. Ms. Gill comes to us with over 18 years of experience. She is currently working on her associate degree. Ann Game introduced Leslye Granger, she is the new part-time afternoon customer service specialist. She has previously worked at Duke Energy. James Blalock recognized two employees who have received their Wastewater Apprentice's certifications. Michael Ratley passed his Spray Irrigation Certification Exam and Ilona Williams passed her Collection 1 Certification Exam. Kenya Walls introduced Anthony Brown-Davis, new HR Tech.

b) Advisory Board By-Laws Update Discussion (2:15 - 2:20)
Presenter: Heidi Holland, Town Clerk

Ms. Holland stated the Clerk's office has been working on revising all advisory board by-laws for more consistency among all the boards. She shared the major changes of the by-laws and stated this would be brought back at the November retreat for more discussion.

c) MWBE Program Update (2:20 - 2:35)
Presenter: Shaun Mizell, Procurement, Contracts and MWBE Manager

Shaun Mizell presented on the MWBE outreach program. Shared was a presentation which was included in the agenda. He stated he is part of the Professional development; he oversees that committee. Shared were what should be included in this program and what has currently been done for this process. Shared was a timeline. He stated in March 2024 he plans on presenting this to the Executive Team and Council. He stated he would begin quarterly HUB reporting. Other surrounding cities that have this program: City of Raleigh, Town of Cary, Durham, Wake Forest, and Apex. We would be the first in Johnston County to implement this program.

Mayor Pro Tem Thompson clarified that this program allows us to reach out to potentially minority marginalized groups with outreach to make them aware of our projects and come to the table. When this happens, they have the obligation to be competitive with their work. They still must check all the boxes to be able to do that work. Mr. Mizell stated he would like to work with the Chamber to get this out there.

d) Comprehensive Transportation Plan Input (2:35 - 3:05)
Presenter: Jonathan Jacobs, PE, CFM - Interim Planning Director/Assistant Engineering Director

Mr. Jacobs provided an update on the transportation Plan. He stated a stakeholder committee meeting was held on September 5, 2023. Shared was what was presented

at this meeting. He stated the transportation plan is a long-range plan reaching out 25-30 years. He stated the Comprehensive Transportation Plan is not just cars, it includes bike and pedestrian elements, public transportation and rail and highway systems.

Shared was the Comprehensive Transportation Plan procedure. He stated the pedestrian plan from last year, the bike plan, and the Park and Recreation plans all of those feed into this document. Shared was a timeline. This document should be finished by this time next year. He stated this time next year will look at adoption.

Shared was study schedule. He stated “Clayton on the Move” is the title of the plan. Community engagement will hold 9-10 stakeholder meetings withing the next year. He stated they are preparing to kick off the first outreach at the Harvest Festival. One of the things staff is doing more of is pop-up events, to go where people will already be. Claytonctp.com was created to hold all this information.

Shared were the roles and responsibilities of the steering committee. A poll exercise was held, and 10 goals were created. Shared were these goals. This will be a living document and will be updated over time.

He stated the future growth in Clayton would increase 3 times within the next 30 years. This was based on demographic research. Data sources used determined 61% of means of travel is driving. 33% of the purpose of travel is social. This data was collected in the Fall of 2022 from the census. Shared were traffic pattern stats, it showed that most trips in Clayton are less than 6 miles. Trip distance, 1% drive 64 miles a day.

Shared was work travel information. 13,700 workers travel from outside of Clayton. Shared and discussed were the adopted plans and ongoing plans, Parks and Recreation plan, UDO, Downtown master plan, Gateway 42 Small Area, Johnston County CTP, CAMPO SEAS, and Rapid Bus Extension Study.

Mr. Jacobs asked Council and Executive Team to do a mapping exercise, he had everyone mark the places that are most important, and they feel need improvement and change. He had the steering committee complete this exercise, shared were these results. He stated he would take the map and compile it and incorporate this into the steering committee results. He would share the results with Council.

Another exercise with the steering committee was they were asked what area they would like to invest the most money in. Shared was an interactive demonstration including prioritizing improvements and mapping transportation needs. The Steering Committee was asked in one word to describe the town, which was downtown.

Mr. Jacobs shared information on a survey that should launch at the end of October. Council Member Sims stated he would like to see staff engaging with as many people at the Harvest Festival as possible. Mr. Jacobs stated about 30 people showed up for the first steering committee meeting. He is trying to incorporate all department heads that are involved in this plan. Mayor Pro Tem Thompson stated we need to make the public know that we hear them, and we are working on this.

e) Break (3:05 - 3:15)

f) UDO Exploration (3:15 - 5:00)
Presenter: Jonathan K. Jacobs, PE, CFM - Interim Planning Director/Assistant Engineering Director

Mr. Jacobs stated Council received topics for discussion regarding the UDO draft. The Planning Board recommended approval of this draft. He anticipates this draft to be on council agenda for October 16th. He stated the goal today is to talk about any hot topics or comments received. In the staff report, it would show a list of Planning Board recommended changes. This draft would go into effect January 2, 2024.

Council Member Archer discussed the five projects that Timmons took, she asked Mr. Jacobs if knew about these. He stated he did and the intent of that exercise is for Timmons to review those projects under the new UDO lens. There was further discussion on these projects. There was discussion on the new UDO not counting a garage space as a parking space. He stated there was a lot of concern on this from the development community, but the planning board agreed with this. Mayor Pro Tem Thompson stated at the end of the day we need to be more proactive. There was further discussion on parking and making the roads wider. There was discussion on different neighborhoods and their street widths.

Council Member Casey discussed making it where HOA can enforce that you must keep your garage clean. He asked could this be made a condition? Mr. Jacobs stated if this is made a condition, our code enforcement officer would have to enforce this.

There was discussion on allowing wastewater treatments on site for commercial property in the ETJ. Council Member Archer asked Mr. Jacobs, when talking to Chad Meadows with Code Wright, what were the major things former Planning Director Ben Howell and Mr. Meadows changed and did they represent the whole steering committee's thoughts. Mr. Jacobs stated he didn't mind reaching out to Mr. Meadows about this.

Council Member Archer asked once this code is launched and something doesn't work, what is the process? Mr. Jacobs stated in the next 12-24 months, they are expecting a text amendment every other month. This would have to go through the Planning Board and through the public hearing process. Attorney Cauley stated he thinks having a quarterly process is being proactive.

Council Member Casey shared concerns of by-right. He stated he would like staff to take a hard look at eliminating this, especially in the historic core areas. Mr. Jacobs spoke more about this. Council Member Archer shared her concerns of Clayton's historic charm and a developer being able to tear down older homes for townhomes.

There was detailed discussion on the downtown districts. Council Member Casey shared his thoughts on having balconies in multi-family homes mandatory, as an outdoor component. There was discussion on mailing and rezoning postings, and it being reduced to just adjacent properties, or to have the area extended. Mr. Jacobs stated in the new UDO, 300 ft. is the neighborhood meeting requirements. There was detailed discussion on overflow parking and parallel parking for neighborhoods.

Council Member Casey discussed mini storage units. He stated he knows they are needed in the community but would rather see a restaurant or shopping opportunity. There was further discussion on this and consensus of the Council to pull storage units from the draft. There was discussion on used car lots; it was consensus of the Council to take out car sales as well. Mr. Jacobs stated in table 4.2.5, it lists all the common principal uses. He encouraged Council to look through this table.

There was discussion on vape shops and flea markets. It was consensus of Council to remove flea markets from the draft.

Mr. Jacobs asked Council to send him any feedback or comments to him before the October 16th council meeting.

5 ADJOURNMENT

a) With nothing further, the meeting was adjourned at 5:06 p.m.

RESULT:	**CARRIED 5-0**
MOVER:	Porter Casey
SECONDER:	Avery Everett
YES:	Jason Thompson, Andria Archer, Avery Everett, Michael Sims, and Porter Casey
NO:	None

Duly adopted this the 16th day of October 2023, while in regular session.

_____
Jody L. McLeod
Mayor

ATTEST:

_____
Heidi L. Holland, CMC, NCCMC
Town Clerk

Town of Clayton
Regular Town Council Meeting Minutes
Monday, October 2, 2023 at 6:00 PM
Council Chambers, Town Hall
111 E. Second Street

Council Present:
Mayor Pro Tem Jason Thompson
Council Member Porter Casey
Council Member Avery Everett
Council Member Andria Archer
Council Member Michael Sims

Council Absent:
Mayor Jody McLeod

Staff Present:
Rich Cappola, Town Manager
Heidi Holland, Town Clerk
Jim Cauley, Town Attorney
Dolores Gill, Deputy Town Manager
Lee Barbee, Deputy Town Manager
Robert McKie, Finance Director
Greg Tart, Police Chief
Jonathan Jacobs, Interim Planning Director/Assistant Engineering Director
Joshua Baird, Engineering Director
Nathanael Shelton, Communications Officer
Sam Johnson-Phillips, Deputy Town Clerk

1. CALL TO ORDER

a. Call to Order

Mayor Pro Tem Thompson called the meeting to order at 6:00 p.m.

b. Pledge of Allegiance

Mayor Pro Tem Thompson led the Pledge of Allegiance.

c. Invocation

Mayor Pro Tem Thompson provided the Invocation.

2. ADJUSTMENT OF THE AGENDA

a. Motion was made to move item 3e. to Administrative.

Approve or Adjust the Agenda

RESULT:	**CARRIED 5-0**
MOVER:	Porter Casey
SECONDER:	Avery Everett
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

3. CONSENT AGENDA

a. Minutes
- September 18, 2023 - Regular Session
- September 18, 2023 - Closed Session

Presenter: Heidi Holland, Town Clerk

b. 2024 Holiday Schedule
Presenter: Heidi Holland, Town Clerk

c. 2024 Council Meeting Schedule
Presenter: Heidi Holland, Town Clerk

d. Johnston County Fire Contracts FY2023-2024 (Interlocal Agreements)
Presenter: Matt Sutphin, Deputy Fire Chief

e. SRO Contract for Johnston Charter Academy
Presenter: Greg Tart, Police Chief

This item was removed from consent agenda and moved to administrative.

f. ECCP Fields Collaboration
Presenter: Matt Lorion, Acting Parks & Recreation Director

g. Resolution To Accept Public Utilities into The Town of Clayton Public Utility System for Maintenance – Village at Little Creek Phase 2
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director

h. Resolution 2023-63 Directing the Clerk to Investigate the Sufficiency of a Petition for Annexation, 2023-92-ANX 2311 HWY 42, and Setting the Public Hearing for October 16, 2023
Presenter: Steven Mott, Planner II

i. Resolution 2023-64 Directing the Clerk to Investigate the Sufficiency of a Petition for Annexation, 2023-93-ANX 2364 NC Hwy 42, and Setting the Public Hearing for October 16, 2023
Presenter: Steven Mott, Planner II

Approve Consent Agenda as Presented

RESULT:	**CARRIED 5-0**
MOVER:	Andria Archer
SECONDER:	Porter Casey
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

4. ADMINISTRATIVE ITEMS

a. SRO Contract for Johnston Charter Academy
Presenter: Greg Tart, Police Chief

Mr. Cappola spoke on this item. He is asking for a motion to approve this contract to have an SRO for Johnston Charter Academy.

Motion to Approve Contract

RESULT:	**CARRIED 5-0**
MOVER:	Porter Casey
SECONDER:	Andria Archer
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

a. National Community Planning Month Proclamation
Presenter: Mayor McLeod to Present to Planning and Community Development

Mayor Pro Tem Thompson read the proclamation into the record and presented to Planning and Community Development.

b. Public Power Week Proclamation
Presenter: Mayor McLeod to Present to the Electric Department

Mayor Pro Tem Thompson read the proclamation into the record and presented to the Electric Department.

c. National Custodian Day Proclamation
Presenter: Mayor McLeod to Present to Property Maintenance (Custodial)

Mayor Pro Tem Thompson read the proclamation into the record and presented to Property Maintenance's Custodial staff.

6. PUBLIC HEARINGS

a. 2022-125-CZM: Summer Glen Conditional Zoning with Master Plan
(Continued from the September 18, 2023 Meeting)
Presenter: Bruce Venable, Planner I

Interim Planning Director/Assistant Engineering Director Jonathan Jacobs presented on this item. He stated the applicant requested to rezone property size of 53.06 acres which is located at the corner of Glen Laurel Rd and Vinson Rd, in the ETJ from RE residential estate zoning to conditional zoning residential. Proposed is up to 139 single family detached homes with an overall project density of 2.6 units per acre.

There was further discussion on the Summer Glen Master Plan regarding the proposed stub to the property line, two access points one on Glen Laurel Road and one off Vinson Road. A proposed stub to the property line adjacent which is currently undeveloped and proposed access point to the cul-de-sac on the other side of Glen Laurel Road.

Discussion continued regarding the proposed development of detached single-family homes. It was explained to the North of the property as residential estate zoning and residential use, to the South residential estate to the East residential estate and to the West residential estate. Water, Sewer, and Utilities provided by the Town of Clayton.

Proposed minimum lot size is 6,500 sq. ft. minimum lot width of 60’ with a maximum lot coverage of 70% including 70% impervious or 36% of the overall site, with a density of 2.6 units per acre. Front setback of 21’, a side setback of 6’ side street setback of 10’ and rear setback of 15’. The total generated traffic generation reported 1,370 daily trips, 101 in the morning peak hour and 135 evening peak hours.

The project will comply with the Town of Clayton’s stormwater ordinance in place, public water is available on both Glen Laurel Road and Vinson Road. Discussion continued on existing public sewer along Brookdale Drive. The developer is proposing an offside sewer extension to accommodate the parcel. Electric services are provided by the Town of Clayton. Class C perimeter buffer with opaque fencing would be required along the entire perimeter of the development as required by conditional zoning district and the interior landscaping and street trees will meet the UDC requirements. The applicant will provide at least 25%, or a total of 13.25 acres, to be preserved as a resource Conservation area as well as open space. There are no public greenways near the development, however, the developer would be installing frontage improvements which would provide sidewalks along their frontage. Architectural standards front door features: window, transom window/side-light window, limited façade materials of fiber cement siding, brick, stone, wood, vinyl, shake and shingle.

Conditional Zoning District is considered consistent with the adopted plans and policies of the town. It was mentioned that the 2045 comprehensive growth plan calls for this area to be low density residential, further explaining gross density of 1-3 units per acre, with generally less than 25% of the area being used for single-family attached units. Proposed density meets the envisioned in 2045 Growth Plan and is consistent.

Suitability of subject property current zoning permits low density residential uses and is surrounded by residential uses. Proposed conditional district permits low density single family attached and detached development. Applicant is proposing to connect to public water and extend public sewer to serve development.

This project improves balance of uses and meets specific demand of Town area is comprised of residential uses primarily with single-family detached and the proposed concerning conditional zoning district allows for additional suburban style single family detached use.

This development will be served by Powhatan Elementary, Riverwood Middle School and Clayton High. Clayton High is on the 2022-2023 Capped School List for Johnston County. The roads will be accessed by Glen Laurel Rd and Vinson Rd. Parks and Recreation Facilities will be open space. The sewer will be connected to Birkdale Dr through a utility easement from the Neuse Country Club, Development subject to Town Wastewater Allocation Policy. The water supply will be public and available on Vinson Rd. Development will follow the town stormwater ordinance. It was also stated that all Town ordinances, procedures, and approval will be followed.

It was reported that no adverse effect on adjoining property owners. Mr. Jacobs communicated that development would match density and unit type of surrounding developments. Improvements to existing public road network, connectivity and public utility extensions will mitigate impacts. It was also stated that no detrimental impact is

expected to the public. Discussion continued about the Master Plan Approval Criteria. Mr. Jacobs stated that Town Council consider the recommendation of the Planning Board and Planning Director. Town Council shall adopt a written statement of reasonableness and consistency. Town Council shall approve, approve with conditions, or deny Conditional Zoning District. The applicant must agree to any changes in conditions prior to Council decision. Conditional Zoning District, Master Plan and Narrative will be recorded with Johnston County if approved. Conditional Zoning District, Master Plan and Narrative run with the land and do not expire unless rezoned again in the future.

Staff recommended approval of 2022-125-CZM Summer Glen Subdivision Conditional Zoning District and Master Plan, subject to the 14 recommended conditions of approval.

The Planning Board unanimously recommended approval of the Conditional Zoning District subject to the 14 recommended conditions, based on the proposed application meeting the criteria for approval.

The Planning Board found the project to be consistent with the 2045 Comprehensive Growth Plan Future Land Use Map and adopted the Statement of Reasonableness found at the end of the presentation.

There was further discussion regarding the 14 recommended conditions of approval.

Mr. Jacobs stated and explained the Recommended Statement of Consistency and Reasonableness.

Mayor Pro Tem Thompson asked if one of the conditions is that they come into the city limits. Mr. Jacobs responded yes, annexation is a requirement of conditional zoning district.

Council Member Casey expressed thanks for the presentation and asked Mr. Jacobs to explain the open space subdivision for a RE-zoning designation if the conditional route wasn't taken and explain the square footage of lot size. Mr. Jacobs explained the applicant could submit a subdivision under the residential estate zoning district, it's a conventional zoning district with no action of Council and achieve a density 3.7 dwelling units per acre. Mr. Jacobs continued to explain that they will have to abide by all the setbacks and minimum lot standards required for that conditional or for that conditional zoning district.

Council Member Sims expressed thanks for the presentation and asked Mr. Jacobs about the elevations that are featured if they are the actual ones, when it was presented at the Planning Board meeting those were not the actuals. Mr. Jacobs responded he will have the applicant comment on the specifics of the elevations.

Mayor Pro Tem Thompson noted it as a public hearing, and it opened it up to the public.

Mr. Brett Hannah, Attorney with Nelson Mullins representing the applicant. Mr. Hannah stated how closely they have worked with the staff on how to proceed in this

conditional zoning and the preferred process. Mr. Hannah stated the plan closely follows the Comprehensive 2045 Plan and that the density is lower than density sought in that Comprehensive Plan. Discussion continued that they worked with staff in regard to the buffers also the off-site improvements for the roadways, and the NCDOT signal which has been approved and will be installed prior to the project going online. Regarding the open space Mr. Hannah stated that they are in discussions with Riverwood, Neuse Club, The Flower's YMCA and the Racquet Club. Mr. Hannah stated that the property will be annexed, that is one of the conditions to the conditional zoning, which will bring into the public water and sewer. Mr. Hannah stated that there are a number of experts present that can answer questions in more detail. Mr. Hannah named the experts present: Traffic Expert from Mr. Daggerhart, Rich Kirkland Certified Appraiser, Director of Development for Wakefield, President of Chesapeake Homes who would be building the homes and can answer the questions regarding the elevations. Conversation continued to call on the experts to answer the questions.

Mayor Pro Tem Thompson asked if there were any questions for the applicant. Council Member Casey questioned what is the density calculation if you were to separate those RCA areas out of the project.

Mr. Hannah introduced Mr. Andrew Stock, Civil Engineer, 801 East Washington St Nashville NC. Mr. Stock replied that he didn't have a specific answer to Council Member Casey question but by looking at what the 2045 Comprehensive Development Plan it stated the gross residential density is defined as the number of dwelling units divided by the total project area without subtracting areas devoted to open space, right of ways, parks or similar public use and infrastructure areas. He continued to report that was why he didn't have a specific answer to that in their uses or any of their calculations on their cover sheet. Council Member Casey inquired if that was something that can be figured out. Mr. Stock continued to explain that he didn't have specific areas, but it shouldn't have any effect on the approval process. Council Member Casey responded he had no further questions.

Council Member Archer asked if the proposed lot sizes in the 6,500 ft. range are consistent with neighborhoods of the surrounding area.

Mr. Hannah stated that it is consistent with the comprehensive plan and addresses the growth that Johnston County is currently experiencing. He stated it isn't the same as the current lot size, but the lot sizes are not out of place. Mr. Stock stated the property to the South on the other side of Vinson Road has a similar density and property size and he reported that a piece of that touches at the intersection of Glen Laurel and Vinson Road on the south side and the properties to the east, west and north are R-10 which would be a 10,000 sq. ft. minimum and the property to the west and east are the larger R-E current zoning. Council Member Archer expressed thanks and stated the answer was excellent.

Mr. Rich Kirkland with Kirkland Appraisals explained they did an analysis looking at the property values, part of that was addressing the question of smaller lots adjoining larger lots. He continued to state they have examples in their reports and a lot more they can provide. Summer Glen subdivision backs up to R10 land and smaller lots, adorning some of the larger lots, not seeing any negative impact from that. Discussion continued, it is very common and that a lot of mixed-use developments have mixes of

uses of larger lots and smaller lots within the same community. Mr. Kirkland stated that the examples that were looked at measuring property value impacts were not part of a mixed-use development but a subdivision next to another subdivision to look for that. Council Member Archer asked Mr. Kirkland if any examples looked at included lots as smallest 6,500 sq.ft. Mr. Kirkland stated that some of the examples that he provided he does not know the lot sizes, they are official representation. He stated they have lots that are roughly a third of the size of the ones that adjoin.

Council Member Sims asked if someone could speak to him about the elevations? He asked if these are the actual elevations? Mr. Stock stated there are options that the customer would have to choose from; there could be additional ones. It's the same builder that is developing Highgate, so they would have the same choices as that subdivision. Council Member Sims wanted to confirm what was shown are the actual elevations. Mr. Stock stated they are not the actual ones, those are some of the options, there are additional options. He stated from a previous question, that this zoning with the lot sizes and setbacks has been something they have been working on with the Town and staff on since the pre-application meeting in April 2022.

Council Member Casey asked what is the acreage for the RCA? Mr. Stock stated the design has not begun so he is not sure what the actual areas are. He stated he understands there is a steep slope ordinance, and they would follow that. He does not have existing areas in the existing slopes. Council Member Casey stated, when you are doing your due diligence, there wasn't an approximation? Mr. Stock stated they know there is a stream buffer in the middle, they had the buffer surveyed and had an environmental analysis done on the wetlands. He stated he did not know the exact areas of those, and they have done what they could to mitigate those and reduce the impacts by crossing the buffer at a 90 degree that would have the least amount of impact as possible. They have taken that into account as much as possible.

Council Member Casey asked if this was the parcel that went to the Board of Adjustment? Mr. Stock stated yes. He asked for a summary of the BOA request. Mr. Stock stated the variance brought before the BOA was for the frontage widening improvements required, the frontage widening improvements include a center turn lane through a direct lane for each direction, a bike lane for each direction, a gutter section and a sidewalk on each side of the street. He stated there were concerns about pedestrian safety crossing the roads in nearby areas and there was also concerns about the existing drainage. He stated they are introducing a section that is curb and gutter. The variance request was to push off and not perform the frontage widening; this was denied by the BOA.

With the current plan, they are proposing to provide the frontage widening along the portion of Vinson Road and then on both sides of Glen Laurel Road. Those widenings are part of the conditions. The frontage improvements would be built in correlation with phases that connect to that street. With phase 1 connection to Vinson Road, they would do the frontage improvements to Vincent Road. When moving to the phase that connects to Glen Laurel Road, they would perform the frontage improvements on that side of the road.

Mr. Hannah stated as they move forward through the process, they would work closely with staff and engineers to get all approvals, permits and processes necessary. They would comply with all UDO provisions.

To speak on elevations, the president of Chesapeake Homes, John Barnes was present. The elevations shown are most of the elevations that are at Highgate. Each plan offered has at least three different elevations; craftsman, coastal and colonial. They would offer five or six different plans. Shown tonight were elevations they thought represented the look they thought the community would like.

Council Member Sims asked to speak to the traffic engineer. Cole Daggerhart with Exalt Engineering was present. Council Member Sims asked him to speak on the 1370 trips and the impact it would have on Vinson Road. Mr. Daggerhart stated the trips result at 101 a.m. peak hour and 135 p.m. peak hour trips. The increase in delay from the build out conditions without the development, the difference between that and the build out without the development is small. The maximum increase in delay is 3.8 seconds at signalized intersection at Glen Laurel and Vinson Roads in the p.m. peak hour. Council Member Sims asked if that would be minimal? Mr. Daggerhart stated that is correct. Mr. Daggerhart stated that is actually the maximum increase in delay across all movements. Council Member Sims asked if that is based on 139 units, he stated it was. Council Member Sims asked how many units would it be that it would be a concern? Mr. Daggerhart stated they use traffic analysis software to analyze the volumes to determine the impact, they have not done that analysis. He stated the current annual average daily traffic along Vinson is 5,970 vehicles, that was in 2022; along Glen Laurel is 4,400 vehicles as of 2019. The planning level estimate for capacity for a two-lane facility is around 12,000 vehicles per day, that's along Vinson about half capacity.

Council Member Everett stated regarding public safety, when it comes to police and fire, does he feel the roads are safe enough to maneuver? Mr. Daggerhart asked if he was speaking on the internal development? Mr. Hannah stated regarding the traffic numbers, they are going beyond what has been recommended in the TIA with the frontage and the widening.

Council Member Archer stated regarding amenities and architectural features, there was a dog park and playground included in the plan, but it seems there were other amenities mentioned. Mr. Hannah stated they have an agreement with the YMCA on a recreational opportunity for the residents; they are in the process of discussion with the Neuse River Club and Riverwood for opportunities for these residents to be able to join those clubs. Those details are not set in stone. She stated regarding architectural features, there are several that have been agreed to. She asked if hardy plank was considered over vinyl and if not, would that be something they would be willing to add as a condition? Mr. Barnes stated they would consider that. He stated in Highgate there is not hardy plank; a premium siding is used and is accented with shake or board and batten and 25% brick or stone around the garage. He stated a buyer would rather put options inside the house than outside. He stated he is happy to give them an option for hardy plank.

Mayor Pro Tem Thompson stated this has been noted as a public hearing and opened it up for public comments.

Chris Hopper, Clayton resident, stated his lot shares a boundary with the proposed project. He asked the traffic engineer when the traffic study was conducted. His concern was traffic near the school. Mr. Daggerhart stated the p.m. peak period started around 3:45 p.m. to allow for the 3:55 p.m. school exit. The date of the analysis was July of 2022. He stated that was the date the traffic study was submitted, traffic counts were collected May 12, 2022.

Mr. Derek, president of the HOA in Glen Laurel was present. He stated the HOA was not notified; Glen Ridge HOA was notified. He stated for this reason this should be denied and go back to the planning stage where they would be notified. Shared were his concerns of bike paths, buffers for storm water drainage and traffic.

Michael White, Clayton resident, stated he would like to reiterate the same thing as Mr. Derek. He stated he was not contacted about this either. He spoke on this new development using Glen Laurel amenities and they have no say in that.

Deborah Anderson Farmer, Clayton resident, spoke about traffic concerns.

Susan Moore, Glen Laurel resident, asked someone to show her where Birkdale Drive is. She spoke about lots being sold and if they would be connected to this proposed subdivision. Andrew stated they would not be.

Clayton resident, John Scarpa, shared concerns of another project that is going to be on Vinson Road, traffic and the character of neighborhoods.

With no one else wishing to speak, the public hearing was closed and turned over to Council for deliberation.

Council Member Sims stated the Council does not have anything to do with schools. He discussed the comment of going through planning directors, he stated a lot of those are personnel issues. He spoke about the comments about density, on lot sizes and traffic concerns.

Council Member Casey echoed Council Member Sims' comments. He stated he believes in personal property rights. He stated this parcel is zoned R-E and there are accommodations for developers and in this situation, there are minimum lot sizes. 6,500 sq. ft. lot sizes is more equivalent to an R-8 zoning designation. He stated he cannot support this project with a minimum lot size of 6,500 sq. ft.

Council Member Archer stated she appreciates everyone speaking tonight. Regarding the notification criteria, State law only requires notifying adjacent property owners. She stated if this is a concern, they need to contact their state legislatures. She stated she understands everyone's concerns, but this property is well suited for a single-family residential development. She stated when looking at a rezoning, always included in the online materials are the zoning criteria; in this case there are seven. She stated she has concerns about criteria 2 and 3. She understands the density is in line with the Town's plan, it's the proposed lot sizes that concerns her. She stated this application in its current form does not appear to be in the direction they would like. It doesn't have

the lot sizes, features or amenities that bring balance to that area. She stated there are features of this project that she does like.

Mayor Pro Tem Thompson stated his biggest concern is traffic. He spoke on the flaws of the TIA system. He stated the positive is it being single-family.

Council Member Archer stated she is inclined to have further discussion on this project. Council Member Sims stated he is ok with tabling this but only if the applicant would take a look at the Council's concerns and come back to the table. Council Member Casey asked what the obstacles are if the applicant couldn't do this under the open space residential state zoning designation. He is fine tabling this if the applicant is willing to have this conversation. Council Member Everett stated he is ok with tabling this, he stated this is all about being consistent with the growth plan and if more conditions need to be considered, he is ok with that.

Mr. Hannah stated he would be amendable to that and provide any additional information the board needs. Mayor Pro Tem Thompson stated he is more in favor of tabling this so Council would have more time to think about this project.

Mr. Jacobs asked Council if there was a list of specific topics, they would like staff to work on with the applicant before the next meeting? Council Member Casey stated 12,000 sq. ft. lots, Mayor Pro Tem Thompson stated traffic. Council Member Archer stated she is interested in further clarification on the status of the proposed amenities, clarification on the hardy plank and any other design features they may be willing to accommodate.

Council Member Archer made a motion to continue adoption of ordinance #2023-09-02 and resolution #2023-70 for 30 days. Attorney Cauley suggested to motion to the first meeting in November which would be November 6, 2023.

Adoption of Ordinance #2023-09-02 and Consistency and Reasonableness Statement

RESULT:	**CARRIED 5-0**
MOVER:	Andria Archer
SECONDER:	Avery Everett
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Council Member Archer made a motion to continue adoption of ordinance #2023-09-02 and resolution #2023-70 for 30 days. Attorney Cauley suggested to motion to the first meeting in November which would be November 6, 2023.

Adoption of Wastewater Resolution #2023-70 ***(This motion was combined with Adoption of Ordinance #2023-09-02)***

RESULT:	**CARRIED**

Council Member Archer made a motion to continue adoption of ordinance #2023-09-02 and resolution #2023-70 for 30 days. Attorney Cauley suggested to motion to the first meeting in November which would be November 6, 2023.

7. OLD BUSINESS

8. NEW BUSINESS

a. Clayton to Raleigh Pump Station Improvements Project Bid Award
Presenter: Shannon Poole, Engineering Technician

Ms. Poole reported the project includes electrical, mechanical, and structural components to allow the pump station to increase capacity flow to Raleigh. Discussion continued stating there were three bids for this project. It was stated that the lowest bidder was not a responsible responsive bidder, therefore they went with the next responsible bidder, Vail Construction in the amount of $2,217,219.04. It was reported the project duration would be a little under a year. Staff and Procurement reviewed the bids and agreed and requested to award the contract to Vail and requested the Town Manager or designee to execute Construction Contract and any change orders required to deliver the project. Ms. Poole communicated there would be a little bit of funding available for this project and additional information would be provided in the future.

Approval of Bid Award

RESULT:	**CARRIED**
MOVER:	Porter Casey
SECONDER:	Avery Everett
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Adoption of Resolution #2023-74

RESULT:	**CARRIED**
MOVER:	Porter Casey
SECONDER:	Avery Everett
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

b. American Rescue Plan Act (ARPA) Stormwater Planning Grant for Downtown Clayton Stormwater Infrastructure Assessment Program
Presenter: Joshua Baird, PE, CFM, Engineering

Mr. Baird reported there was study money available. The Town submitted $400,000 to do a stormwater asset inventory condition assessment Capital Improvement Planning. The Town was awarded $400,000 for that. Mr. Baird communicated there were items for Council to accept one being a resolution to accept the grant and formally accept that offer and the second one is a budget amendment to set up funding so they can enter a contract. There was discussion regarding offsetting Revenue so not to affect the overall budget.

Adoption of Resolution #2023-75

RESULT:	**CARRIED**
MOVER:	Porter Casey
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Adoption of Ordinance #2023-10-01

RESULT:	**CARRIED 5-0**
MOVER:	Porter Casey
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

c. Legend Park - Pre-Regulatory Landfill Remediation
Presenter: Joshua Baird, PE, CFM, Engineering Director

Mr. Baird communicated this has been going on for approximately four years. The State has had this on the list of Preparatory Landfills and has worked with the Engineering Department to develop a Remedial Action Plan (RAP). Mr. Baird reported this is the State's program to go through and find a mitigation plan for these that are having an environmental impact, and they have a risk assessment program that they go through and score the different landfills throughout the State and the risk to the environment and several factors. Mr. Baird discussed the trash characterizations, gas composition, different drilling to discover exactly what the boundary of that is. It was communicated the State has completed the Remedial Action Plan (RAP) that has been released for public comment. It was reported it came back on September 2nd without public comments. A general graphic map was displayed depicting what is included in the Remedial Action Plan (RAP). It was explained that it is pulling the waste away from the stream. Remediation work would be done to pull that back away from it and relocate it onsite.

Discussion continued to communicate that the State has found it is cost prohibitive to completely truck and dispose of the material. Council was informed the mitigation plan is to cap with soil cover and create a wide space area where the trash and what is in the previous landfill to be covered. Mr. Baird explained there are some geotextiles around the slope that would stabilize the area. It was stated there would be a flat plateaued grass area located at the top that would not have shrubs or trees. They are in discussion with the State so that the Town can retain an area that can be used for parking as a trail head. Mr. Baird shared information about an area that has been designated that would be gravel for a trail head. There was further discussion this plan would include removal of trash that is below a future drive entrance.

Mr. Baird discussed the approval of the Villages at Parkview and the negotiation coordinated the entrance's full access entrance into Villages at Parkview that aligned with Parkview Drive on the other side. Mr. Baird showed on the map another access

point that is currently been used as full access but that is to be converted to a right-in-right out. Also shown was an entrance drive installed and it does include storm as well as water lines for redundancies into the site. It was stated that plans are currently bonded by the developer to install the roadway storm sidewalk once the State has gone in to do the remediation. Discussion continued that there would be a couple of sections of waste boundary that would not be removed due to some restraints with the adjacent property. It was conveyed those areas would be protected and covered.

It was stated to move forward the State must sign deed restrictions and perpetuity that stipulated what can be done with the site. Mr. Baird stated the responsibility for maintaining, keeping certain signage up, the yearly education for staff would be the Town's. Discussion continued there would be a plat that would discuss the waste are boundary and would provide those limitation on that waste boundary and not the entire piece of property.

It was communicated by Mr. Baird the restrictions have been reviewed by the Town's legal staff and team. Mr. Baird requested approval from Council to sign the deed restrictions and notice plats.

Council Member Casey expressed excitement about this project coming to fruition. Council Member Casey asked how the residents would be notified in that area and how we can communicate to the surrounding neighbors.

In response to the question, Mr. Baird stated he is uncertain if the State has a formal plan but emphasized everything would be done to work through the PIO office and release information to the HOA's surrounding property owners. It was also stated that it is part of their due diligence. Mr. Baird stated the State might have some additional things on their in. Council Member Casey thanked Mr. Baird.

Approval To Move Forward

RESULT:	**CARRIED**
MOVER:	Michael Sims
SECONDER:	Andria Archer
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

d. Update to System Development Fees
Presenter: Joshua Baird, PE, CFM, Engineering Director

Mr. Baird updated Council on the System Development Fees with the assistance of Mr. Robert Chambers from Black and Veach. Mr. Baird presented highlights of the Implementation Plan. The tentative adoption would be December 4,2023. Mr. Baird communicated the increase cost per base equivalency factor with each budget year, the first increase would be January 1, 2024. It was reported to recommend adopting a per gallon rate increase and capacity purchases (similar phased increase). This is based on the 5/8" residential meter for water and wastewater service. It was reported a meter equivalency factor would be applied to meters greater than a 5/8" meter up to a 2.0" meters. Meters greater than 2.0" would be negotiated by the Town.

This would be over four to five years increasing the beginning of January 2024 and then increasing by $12,000. Mr. Baird explained this would allow for developments to know what to anticipate as they are planning their portfolios and planning future needs. This would be a stated schedule of increases. These fees can be planned for without surprises. Discussion continued regarding this is one option for consideration. Staff asked Town Council to move forward with the required 45-day comment period. This would still need to be adopted after a review of any comments based on the analysis or go back to the tentative December 4th .

Council Member Sims asked what the structure was and how the phase approach came to be. Mr. Baird responded this is something we requested for consideration of an increase of $12,000 over four to five years getting to the next cycle and not jumping to the max. Mr. Baird stated it is important to work towards the max to fund the projects needed to bring the capacity to the town. Council Member Sims asked would there be Grant or State money to assist in this. Town Manager Cappola responded the cost associated with this, assuming several different funding sources to pay for all the projects on the CIP. These calculated fees do somewhat reduce the total amount that those Capital Projects would cost with the assumption there's already going to be some other funding sources incorporated. Council Member Sims inquired if these calculations are based upon other fundings. Mr. Cappola affirmed. Mr. Chambers clarified the Town's different revenues and how the money is combined are viewed to understand how best to fund the CIP at the lowest possible cost to the customers. Town Manager Cappola stated that Mr. Chambers is part of the group with Black and Veach that does the Town's rate model. Mr. Cappola continued to state the decisions made here would then be incorporated into the Fiscal Year 2025 Rate Model.

Council Member Archer thanked Mr. Chambers for the presentation and said she appreciated seeing what went into the calculations. Ms. Archer stated she views this as a win-win for the residents and the development community because the Town is granted through the State Legislature, to charge certain fees in turn help our residents capture money back to maintain and grow a system that helps accommodate new development. Ms. Archer continued to state we are staggering the increase, so the development won't get it all at once but spread it out over time, which is a nice balance.

Mayor Pro Tem Thompson agreed with Council Member Archer. Mayor Pro Tem Thompson continued to state this is the way we capture it through fees from the new development.

Approve Staff to Move Forward with Comment Period

RESULT:	**CARRIED**
MOVER:	Michael Sims
SECONDER:	Avery Everett
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

9. STAFF REPORTS

a. Town Manager

Town Manager Cappola stated October 3, 2024 at 6:00 p.m. is the Clayton High School Homecoming parade. Traffic would be affected at Fayetteville Street, Main St and 2nd Street area. Mr. Cappola also discussed the meetings on the calendar: October 10th Downtown Master Plan Input Session 4:00 p.m. to 6:00 p.m. at Town Hall, it might be postponed. He continued to state the Communication Department would notify if it postponed.

b. Town Attorney

c. Town Clerk

d. Other Staff

Presenter: Joshua Baird, PE, CFM, Engineering

Mr. Baird stated the website has been updated for System Development Fees. Comments to be sent to: SDFSTUDY@townofclaytonnc.org

LAPP Update

Presenter: Patrick Pierce, Economic Development Director

Mr. Pierce updated Council on Campo Locally Administered Projects Program (LAPP). It was communicated LAPP is competitive funding program through CAMPO (Capital Area Metropolitan Planning Organization). It is funded using the federal funding sources directly attributed to the region. It was communicated it is typically a 20% minimum local match although extra points are given for additional local match given. All local municipalities are given the opportunity to apply for the funds. Mr. Pierce provided examples of previous LAPP Projects, one of which Sam's Branch Greenway Extension. There was a discussion regarding Main Street Pedestrian Improvements. This was the second one in the pedestrian plan that was approved by Council in 2022 and NCDOT helped fund. It was explained this would be the complete project design and right- of-way and construction phases which started at Moore Street. This is the entrance at Deep River and would go to approximately Smith Street. The total cost requested is $1,950.000. CAMPO is requesting $1,365.000 of that with a 30% match from the Town. This would build out a lot of pedestrian improvements that have appeared in the Downtown Strategic Plan and would likely show up in the Master Plan. Mr. Pierce provided information on the Shotwell Rd/US HWY 70 BUS Intersection Improvements. This project was originally a NCDOT project that was permanently delayed due to funding. There will be a minimal cost to the Town. It was reported it's a $5.75 million project. A second left turn lane on: NB Shotwell to BUS 70 and EB BUS 70 to Shotwell Road and a second NB lane on Shotwell from BUS 70. The next project is the Clayton Connector Greenway Pedestrian Connection. Applying for design and right-of-way. Total cost: $1,250.00. CAMPO request: $875,000. Town required match (30%): $375,000.

Lead and Copper Rules Revision

Presenter: Brandon Carroll, Utilities Compliance Supervisor

Postponed until the next Town Council Meeting

10. OTHER BUSINESS

a. Informal Discussion & Public Comment

- Individuals have three (3) minutes to address the Town Council.

- Groups will designate a spokesperson. Spokesperson will have five (5) minutes to address the Town Council.

b. Council Comments
Presenter: Council Member Sims, Mayor Pro Tem Thompson

Council Member Sims provided a reminder of the Harvest Festival October 26th – 29th.

Mayor Pro Tem Thompson provided a reminder of Chief Raines swearing in on October 16th at Fire Station 1 beginning at 3:00 p.m.

11. CLOSED SESSION

a. To Discuss Legal Matter in Accordance with NC GS 143-318.11(a)(3); To Discuss Economic Development in accordance with NC GS 143-318.11(a)(4); and To Discuss Personnel Matter in accordance with NC GS 143-318.11(a)(6)

Motion To Go Into Closed Session

RESULT:	**CARRIED 5-0**
MOVER:	Andria Archer
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Motion To Return To Open Session

RESULT:	**CARRIED**
MOVER:	Andria Archer
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

12. ADJOURNMENT

a. Adjourn

With nothing further, the meeting was adjourned at 9:00 p.m.

Motion To Adjourn

RESULT:	**CARRIED 5-0**
MOVER:	Michael Sims
SECONDER:	Avery Everett
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Duly adopted by the Town Council this 16th day of October 2023 while in regular session.

_____
Jody L. McLeod
Mayor

ATTEST:

_____
Heidi L. Holland, CMC, NCCMC
Town Clerk

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CLAYTON, NORTH CAROLINA, DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE TOWN OF CLAYTON TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF THE AMENDED AND RESTATED FULL REQUIREMENTS POWER SALES AGREEMENT BETWEEN THE TOWN OF CLAYTON AND NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

WHEREAS, the Town of Clayton (the "Municipality") and North Carolina Eastern Municipal Power Agency ("Power Agency") entered into a Full Requirements Power Sales Agreement (the "FRPSA"), dated as of the twenty-fourth day of September, 2015, pursuant to which Power Agency sells and each Member purchases its Full Requirements Bulk Power Supply requirements (as that term is defined in the FRPSA); and

WHEREAS, the Board of Directors of Power Agency, by motion properly made and approved at its meeting on May 25, 2023, approved and authorized the execution and delivery of Tenth Amended and Restated Full Requirements Power Purchase Agreement (the "FRPPA") between the Power Agency and Duke Energy Progress, LLC (including successors and permitted assigns, "DEP"), pursuant to which Power Agency has agreed to purchase from DEP and DEP has agreed to sell to Power Agency Power Agency's full requirements capacity and energy to serve the load of the electric power customers of Power Agency's members, the electric needs of which the members have undertaken the obligation to meet, and contingent upon a recommendation by the Rate Committee and approval by the Board of Commissioners of Power Agency; and

WHEREAS, by motions properly made and approved at meetings on June 7, 2023 and June 8, 2023, the Rate Committee and the Board of Commissioners, respectively, recommended that staff execute and approve the FRPPA in the name and on behalf of the Power Agency; and

WHEREAS, on September 22, 2023, the Board of Directors of Power Agency adopted Resolution BRR-10-23, which, among other things, (i) ratified the approval and execution of the FRPPA by the Chief Executive Officer in the name and on behalf of Power Agency and (ii) authorized Power Agency to execute and deliver to each Member an Amended and Restated Full Requirements Power Sales Agreement (the "Amended and Restated FRPSA") to give effect to the transactions contemplated by the FRPPA; and

WHEREAS, Power Agency has caused to be furnished to the Municipality each of the following: (i) the FRPPA, (ii) Resolution BDR-10-23, and (iii) an executed Amended and Restated FRPSA, dated as of September 22, 2023; and

WHEREAS, the Town Council of the Municipality (the "Governing Body") has taken into consideration the benefits which might be achieved by approving, executing and delivering the Amended and Restated FRPSA.

NOW, THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Clayton:

1. After due consideration to the contents of each of the preambles set forth above and to each of the documents referred to in such preambles, the Governing Body hereby finds and determines that it is in the best interests of the Municipality to enter into the Amended and Restated FRPSA.

2. The Governing Body hereby authorizes and directs that the Amended and Restated FRPSA be executed for and on behalf of the Municipality by the Mayor and Clerk, sealed with the seal of the Municipality and delivered to the Power Agency in the form and substance of the Amended and Restated FRPSA presented at this meeting.

3. The Governing Body hereby directs the Clerk to furnish or cause to be furnished to Power Agency a certified copy of this ordinance together with the executed Amended and Restated FRPSA.

4. The Governing Body hereby directs the Clerk to file with the minutes of this meeting (i) the FRPPA, (ii) Resolution BDR-10-23, and (iii) the proposed Amended and Restated FRPSA as presented and available at this meeting.

5. This Ordinance shall become effective upon its adoption.

ADOPTED this _____ day of _____, 2023.

_____
Mayor

ATTEST:

_____
_____ Clerk

(SEAL)

Document Accession #: 20230707-5116 Filed Date: 07/07/2023

TENTH AMENDED AND RESTATED

FULL REQUIREMENTS POWER PURCHASE AGREEMENT

BETWEEN

NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

AND

DUKE ENERGY PROGRESS, LLC

Tariff Submitter: Duke Energy Progress, LLC

FERC Program Name: FERC FPA Electric Tariff

Tariff Title: Tariffs, Rate Schedules and Service Agreements

Tariff Effective Date: January 1, 2023

Tariff Record Title: Full Requirements Power Purchase Agreement with NCEMPA

Option Code: A

Record Content Description: Rate Schedule No. 200

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TENTH AMENDED AND RESTATED

FULL REQUIREMENTS POWER PURCHASE AGREEMENT

This Tenth Amended and Restated Full Requirements Power Purchase Agreement, including Exhibit I ("Capacity Rate Formula"), Exhibit II ("Energy Rate Formula"), Exhibit III ("Reserve Capacity Rate Formula"), Exhibit IV ("Base Load Reduction Compensation Payment"), Exhibit V ("Form of Notice of Member Resource, Customer Resource, and Economic Development Resource"), Exhibit VI ("Methodology for Calculation of GSU Loss Factor - DEP"), Exhibit VII ("Calculation of Coal Combustion Residual Costs"), Exhibit VIII ("Buyer Maximum Annual CCR Billing Amount"), Exhibit IX ("Rate Discounts for North Carolina Excess Deferred Taxes"), Exhibit X ("Rate Discounts Pursuant to Settlement Agreement in FERC Docket No. EL20-4-000"), and Exhibit XI ("Grandfathered Energy Injection Devices ") hereto, which are incorporated into and made a part hereof, as such exhibits may be amended from time to time (collectively, the "Agreement"), is made and entered into as of June 27, 2023 (the "Execution Date"), between North Carolina Eastern Municipal Power Agency ("Power Agency" or "Buyer"), a public body and body corporate and politic organized and existing under Chapter 159B of the General Statutes of North Carolina, known as the Joint Municipal Electric Power and Energy Act ("Joint Municipal Act"), with offices in Raleigh, North Carolina, and Duke Energy Progress, LLC ("DEP" or "Duke"), a limited liability company organized and existing under Chapter 55 of the General Statutes of North Carolina, known as the Business Corporation Act, with offices in Raleigh, North Carolina.

Power Agency and DEP are sometimes herein referred to individually as a "Party" or

collectively as the "Parties."

RECITALS

Whereas, DEP is engaged in the business of generating, transmitting and distributing electric power in portions of North Carolina and South Carolina, and operates its own electric generation facilities; and

Whereas, Power Agency is a joint agency organized by its member municipalities pursuant to the Joint Municipal Act to own and operate facilities for the generation, transmission, sale, and supply of electric power and energy; and

Whereas, the Parties entered into the Full Requirements Power Purchase Agreement as of September 5, 2014, for which FERC granted an effective date of December 10, 2014; and

Whereas, DEP as Transmission Provider under the DEP OATT accepted the Full Requirements Power Purchase Agreement as a designated network resource of Power Agency under the DEP OATT for the entire Delivery Period; and

Whereas, the Parties replaced the Full Requirements Power Purchase Agreement with the First Amended and Restated Full Requirements Power Purchase Agreement dated as of December 10, 2014, with a FERC effective date of December 10, 2014; and

Whereas, the Parties replaced the First Amended and Restated Full Requirements Power Purchase Agreement with the Second Amended and Restated Full Requirements Power Purchase Agreement dated as of July 31, 2015, with a FERC effective date of August 1, 2015; and

Whereas, the Parties replaced the Second Amended and Restated Full Requirements Power Purchase Agreement with the Third Amended and Restated Full Requirements Power Purchase Agreement dated as of June 1, 2017, with a FERC effective date of June 1, 2017; and

Whereas, the Parties replaced the Third Amended and Restated Full Requirements Power Purchase Agreement with the Fourth Amended and Restated Full Requirements Power Purchase Agreement dated as of April 28, 2017, with a FERC effective date of July 1, 2017; and

Whereas, the Parties replaced the Fourth Amended and Restated Full Requirements Power Purchase Agreement with the Fifth Amended and Restated Full Requirements Power Purchase Agreement dated as of December 19, 2018, with a FERC effective date of November 1, 2018; and

Whereas, the Parties replaced the Fifth Amended and Restated Full Requirements Power Purchase Agreement with the Sixth Amended and Restated Full Requirements Power Purchase Agreement dated as of April 24, 2020, with a FERC effective date of June 1, 2020; and

Whereas, the Parties replaced the Sixth Amended and Restated Full Requirements Power Purchase Agreement with the Seventh Amended and Restated Full Requirements Power Purchase Agreement dated as of May 27, 2021, with a FERC effective date of January 1, 2021; and

Whereas, the Parties replaced the Seventh Amended and Restated Full Requirements Power

Purchase Agreement with the Eighth Amended and Restated Full Requirements Power Purchase Agreement dated as of September 24, 2021, with a FERC effective date of October 1, 2021; and

Whereas, on December 17, 2021, pursuant to Section 205 of the Federal Power Act, DEP unilaterally proposed to replace the Eighth Amended and Restated Full Requirements Power Purchase Agreement with the Ninth Amended and Restated Full Requirements Power Purchase Agreement with a FERC effective date of March 1, 2022, which proposal NCEMPA opposed; and

Whereas, FERC permitted the proposed Ninth Amended and Restated Full Requirements Power Purchase Agreement to go into effect as of March 1, 2022, subject to refund, pending the outcome of settlement and hearing procedures ordered by the Commission;

Whereas, the Parties entered into a settlement agreement pursuant to which the Ninth Amended and Restated Full Requirements Power Purchase Agreement would be effective for the period March 1, 2022 through December 31, 2022, and would be replaced with this Tenth Amended and Restated Full Requirements Power Purchase Agreement, effective January 1, 2023; and

Whereas, the Parties hereby replace the Ninth Amended and Restated Full Requirements Power Purchase Agreement with the Tenth Amended and Restated Full Requirements Power Purchase Agreement with a FERC effective date of January 1, 2023; and

Whereas, pursuant to the terms, conditions, cost of service rates, and charges set forth in this Agreement, Power Agency agrees to purchase from DEP and DEP agrees to sell to Power Agency full requirements capacity and energy to serve Power Agency's Native Load (defined below) needs.

NOW THEREFORE, IN CONSIDERATION OF THE PROMISES AND COVENANTS SET FORTH HEREIN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION THE SUFFICIENCY OF WHICH IS ACKNOWLEDGED, AND INTENDING TO BE BOUND, THE PARTIES AGREE AS SET FORTH IN THIS AGREEMENT:

1. Definitions

Unless defined in the body of the Agreement, any capitalized term herein shall have the meaning set forth below:

1.1 "Affiliate" means, in relation to any person, any entity controlled, directly or indirectly, by such person, any entity that controls, directly or indirectly, such person, or any entity directly or indirectly under common control with such person. An affiliate includes a division of the specified entity that operates as a functional unit. For purposes of this definition only, "control" means the direct or indirect authority, whether acting alone or in conjunction with others, to direct or cause to be directed the management policies of an entity.

1.2 "Adjusted Base Block" has the meaning set forth in Section 2.9.2.

1.3 "Adjusted Supplemental Load" has the meaning set forth in Section 2.9.3.

1.4 "AFUDC" means allowance for funds used during construction.

1.5 "Allocable Share of CCR Disallowances" means (a) if a Retail Rate Order or applicable Law provides for a CCR Disallowance for any year(s), the CCR Disallowances for such year(s) times Buyer's Production Demand Allocation Factor for that year(s) for

demand-related costs and/or Buyer's allocable share for fuel-related costs; and/or (b) if a Retail Rate Order or applicable Law does not identify a year(s) for all or any portion of the CCR Disallowances provided for in a Retail Rate Order or other applicable Law, the average of Buyer's Production Demand Allocation Factors for demand-related costs and/or Buyer's allocable share for fuel-related costs for the years subject to the Retail Rate Order or applicable Law times the CCR Disallowances provided for in such Retail Rate Order or applicable Law that are not identified for any particular year(s).

1.6 "Agreement" has the meaning set forth in the first paragraph of this Agreement.

1.7 "Allocation/Billing Change" has the meaning set forth in Section 2.5.

1.8 "Alternative Base Load Capacity" has the meaning set forth in Section 2.9.2.

1.9 "Alternative Resource" means an owned or purchased generation resource that Power Agency will use to reduce Power Agency's Supplemental Load and/or Base Load purchases under this Agreement.

1.10 "Ancillary Service Credit" has the meaning set forth in Section 3.10.1.

1.11 "Annual Coincident Billing Demand" means (i) Power Agency's Annual Coincident Demand, less (ii) the SEPA capacity allocation associated with the SEPA Entitlement, adjusted to include Line Losses and GSU Losses (in kilowatts), less (iii) any Alternative Base Load Capacity metered at or (if necessary) adjusted to the DEP generator level; provided, however, that the Annual Coincident Billing Demand shall not be greater than the Supply Cap or less than zero.

1.12 "Annual Coincident Demand" means Power Agency's Hourly Demand that is coincident with the hour of DEP's Annual Peak Demand.

1.13 "Annual True-up Amount" has the meaning set forth in Section 7.1.1.

1.14 "Applicable Rate" has the meaning set forth in Section 4.4.2.1.

1.15 "Asset Purchase Agreement" means that certain Asset Purchase Agreement by and between Power Agency and DEP dated as of September 5, 2014, as the same may be amended from time to time.

1.16 "Bankrupt" means that a Party:

(i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);

(ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;

(iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors;

(iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditor's rights, or a petition is presented for its winding-up or liquidation;

(v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

(vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or substantially all of its assets;

(vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets;

(viii) causes or is subject to any event with respect to which, under the applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or

(ix) takes any action` in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

1.17 "Base Block" means 700 MWs, or such reduced amount in accordance with Section 2.9.4.

1.18 "Base Load" means the portion of Power Agency's Hourly Demand during each clock hour that is equal to the lesser of (i) the Base Block, or (ii) Power Agency's Hourly Demand.

1.19 "Beneficial Reuse" means any beneficial uses of coal combustion residuals made by non-affiliated third parties in connection with construction projects, mining reclamation projects, and any other beneficial uses that may be made by such non-affiliated third parties.

1.20 "Beneficial Reuse Costs" mean Duke's generation system level costs incurred less any revenue or credits earned by Duke arising from the transfer of title of quantities of coal combustion residuals to non-affiliated third parties for their Beneficial Reuse.

1.21 "Billing Dispute Notice" has the meaning set forth in Section 8.3.1.

1.22 "Business Day" mean any day on which Federal Reserve member banks in New York, New York are open for business, and such day shall commence at 8:00 a.m. and close at 5:00 p.m. Eastern Prevailing Time.

1.23 "Buyer Deferred CCR Costs" shall have the meaning specified in Section 5.5.2.1.

1.24 "Buyer Maximum Annual CCR Billing Amount" shall be the annual values as stipulated in Exhibit VIII.

1.25 "Buyer's CCR Costs" means Buyer's allocable share of demand and/or energy related CCR Costs for a year.

1.26 "Buyer's Production Demand Allocation Factor" has the meaning specified in Section I of Exhibit VII.

1.27 "Buyer's Share of CCR Insurance Proceeds" mean the share of CCR Insurance Proceeds that are allocable to Buyer: (a) if the CCR Insurance Proceeds specifies a year(s) and/or specific costs identifiable in a specific year(s), then Buyer's Share of CCR Insurance Proceeds shall be the CCR Insurance Proceeds times the Buyer's Production Demand Allocation Factor for demand related charges and/or the Buyer's allocable share for fuel related charges for the year(s) to which such proceeds apply, or (b) if the CCR Insurance Proceeds do not specify a year(s) nor specify costs, the Buyer's Share of the CCR

Insurance Proceeds shall equal the ratio of the Buyer's CCR Costs to total CCR Costs incurred from January 1, 2015 through December 31st of the year prior to the year in which the CCR Insurance Proceeds are received times the CCR Insurance Proceeds.

1.28 "Calculation of Coal Combustion Residual Costs" means the computation included in Exhibit VII that is to be applied each year during the term of this Agreement for purposes of calculating the Charge for Buyer CCR Costs.

1.29 "Calendar Year" means the period from January 1 through December 31 of any year.

1.30 "CAMA" means the North Carolina Coal Ash Management Act, 2014 N.C. Sess. Laws 122; 2014 N.C. Ch. 122; 2013 N.C. SB 729, as amended in June 2015 by the Mountain Energy Act, N.C. SB 716, as further amended by the Drinking Water Protection/Coal Ash Cleanup Act, House Bill 630/S.L. 2016-95, as such legislation may be amended or modified from time-to-time.

1.31 "Capacity Rate" means the unit charge for capacity, as such charge is calculated annually through application of the Capacity Rate Formula, expressed in dollars per kilowatt per month or per year, as applicable.

1.32 "Capacity Rate Formula" means the spreadsheets and related notes included in Exhibit I that are to be applied each year during the term of this Agreement for purposes of calculating the Capacity Rate.

1.33 "CCR Disallowance" means CCR Costs that the NCUC disallows for recovery in a Retail Rate Order, or those costs which Duke is prohibited from recovering from retail ratepayers in accordance with any applicable Law, including those costs disallowed as

a lump sum and/or for a particular type of expenditure. Any billing credit associated with a CCR Disallowance shall include any rate of return previously charged on such amount by Duke as well as interest computed at the Interest Rate.

1.34 "CCR Insurance Proceeds" means payments received by Duke from insurance companies that recover CCR Costs which Buyer has paid or has an obligation to pay under this Agreement.

1.35 "CCR Rule" means the Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities promulgated by the United States Environmental Protection Agency and published on April 17, 2015, 80 Fed Reg. 21302, as such regulations may be amended or modified from time to time.

1.36 "Charge for Buyer CCR Costs" shall be the charge calculated in accordance with Exhibit VII.

1.37 "Coal Combustion Residual Costs" or "CCR Costs" mean costs that have been or will be incurred in the future by Duke to satisfy the various requirements of CAMA, the CCR Rule, and consent and/or settlement agreements/orders concerning the treatment, management and remediation of coal combustion residuals. CCR Costs shall not include any of the following:

(i) Requirements or obligations imposed on Duke to treat, manage or remediate coal combustion residuals by new legislation or regulations promulgated after December 31, 2016; and

(ii) DOJ Settlement Costs.

1.38 "Combined System" means those certain generating facilities owned and/or operated by DEP and those certain firm power purchase arrangements to which DEP is a party that are collectively used to serve Firm Native Load during the Delivery Period of this Agreement.

1.39 "Combined System Capacity" has the meaning set forth in Section 4.1.4.5.

1.40 "Commercial and Industrial Customer" means any retail customer of a Member that is not a residential customer.

1.41 "Compensation Payment" means the payment, calculated in accordance with the methodology set forth in Exhibit IV, that is to be made by Power Agency to DEP in the event Power Agency reduces its Base Load purchases pursuant to Section 2.7.

1.42 "Construction Project" has the meaning set forth in Section 16.3.

1.43 "Customer Resource" means any generating unit having a nameplate capacity rating of 95 kW or more or an Energy Injection Device, including any Energy Injection Device owned by Power Agency, that is installed behind (i) a Member's retail customer meter, (ii) a Member's wholesale customer meter, or (iii) the meter of a retail customer of a wholesale customer of a Member.

1.44 "CWIP" means construction work in progress.

1.45 "Defaulting Party" has the meaning set forth in Section 13.1.

1.46 "Delivery Period" has the meaning set forth in Section 2.1.1.

1.47 "Delivery Points" means the points on the DEP Transmission System where the delivery of power to Power Agency's Members is measured in accordance with the NITSA.

1.48 "Demand Response" means those activities engaged in by Power Agency or its Members to reduce, interrupt, or otherwise manage end-use consumer load through the use of centralized control and/or by supplying load signal information, real-time pricing signals, or specific instruction. The use of one or more Energy Injection Devices or other types of Qualified Resources shall not be considered Demand Response.

1.49 "Demand-Side Management" means energy and load-shape modifying activities undertaken by Power Agency and/or a Member that are designed to encourage end-use consumers to modify patterns of electricity usage to shift the timing and level of electricity consumption. The use of one or more Energy Injection Devices or other types of Qualified Resources shall not be considered Demand-Side Management.

1.50 "DEP Cost of Capital" means the carrying cost rate (in %) computed by multiplying the Weighted Cost of Capital (Exhibit 1, page 4) by the sum of one (1) plus the Tax Revenue Requirement Factor (Exhibit 1, page 3).

1.51 "DEP Generation System" means the system of electric generating units owned by, operated by, or under the control of DEP and used by DEP to meet the requirements of its Firm Native Load customers and other system obligations.

1.52 "DEP OATT" means the Open Access Transmission Tariff on file at the FERC, as it may be amended from time to time, pursuant to which DEP as Transmission Provider offers transmission service over the DEP transmission system, or the open access transmission tariff of a successor Transmission Provider.

1.53 "DEP-Supplied Load" has the meaning set forth in Section 3.12.

1.54 "DEP Supply Ratio" has the meaning set forth in Section 3.11.

1.55 "DEP's Annual Peak Demand" means the highest of DEP's Monthly Peak Demands during each Calendar Year.

1.56 "DEP's Monthly Peak Demand" means the highest sixty (60) minute net integrated demand in megawatts recorded by DEP during each month associated with serving its Firm Native Load.

1.57 "DEP Transmission System" means the integrated transmission system over which transmission service is provided to customers in the DEP Zone pursuant to the DEP OATT.

1.58 "Department of Justice Settlement Costs" or "DOJ Settlement Costs" means the burden of, or the costs associated with, compliance with the criminal and/or civil fines, restitution related to counts of conviction, community service payments, the mitigation obligation, and funding of the environmental compliance plans as set forth in the Judgment in *United States v. Duke Energy Progress, Inc.*, Case Nos. 5:15-CR-62, 67 & 68 (E.D.N.C. May 14, 2015), Additional Probation Term 16. The term "DOJ Settlement Costs" also includes:

(i) the burden of, or costs associated with criminal and/or civil fines, penalties, restitution, community service payments or any mitigation obligation imposed on Duke from its failure to comply with the terms as set forth in the Judgment in United States v. Duke Energy Progress, Inc., Case Nos. 5:15-CR-67 & 68 (E.D.N.C. May 14, 2015), Additional Probation Term 16;

(ii) "Unallowable Costs" as described in paragraph III.C.16 of the "Interim Administrative Agreement between Duke Energy Corporation; Duke Energy Business Services, LLC; Duke Energy Carolinas, LLC; and Duke Energy Progress, Inc. and the United States Environmental Protection Agency (EPA Case Nos. 15-0411-00 thru 15-0411-03 and 15-0411-00A thru 15-0411-02A); and

(iii) the burden of and/or costs associated with CCR Costs that Duke is prohibited from collecting in rates pursuant to an agreement reached with a governmental authority; provided however, for purposes of this definition only, the phrase "an agreement reached with a governmental authority" shall neither include nor apply to any agreement, order, cost treatment, and/or finding issued, accepted and/or approved by (a) FERC pertaining to wholesale rates and/or regulation, and/or (b) the NCUC or SCPSC pertaining to retail rates and/or regulation.

1.59 "Eastern Prevailing Time" (or "EPT") means the time in effect in the Eastern Time Zone of the United States of America, whether it be Eastern Standard Time or Eastern Daylight Savings Time.

1.60 "Economic Development Resource" means any generating unit or Energy Injection Device that is installed for the purpose of retaining the load of an existing customer or attracting the load of a new customer served or to be served by a Member and that is used to serve load at the site of the generating unit or Energy Injection Device consistent with Section 4.3 of this Agreement.

1.61 "Edenton Generators" means the two (2) 1,250 kW generators owned and operated by the Town of Edenton that are located on Tower Drive, Edenton, North Carolina.

1.62 "Effective Date" means the start of service of this Rate Schedule No. 200, which was August 1, 2015.

1.63 "Elizabeth City Generators" means the four (4) 1,750 kW generators owned and operated by the City of Elizabeth City that are located at 410 Pritchard Street, Elizabeth City, North Carolina.

1.64 "Energy Efficiency Measures" means programs sponsored or specifically implemented by Power Agency and/or a Member to reduce the energy used by specific end-use devices and systems, typically without affecting the services provided. Energy Efficiency Measures reduce overall electricity consumption and achieve energy savings by substituting technically more advanced equipment to produce the same level of end-use services (e.g., lighting, heating, and motor drive) with less electricity consumed in all hours of operation, not merely the peak hours. Examples include, but are not limited to, high efficiency appliances, efficient lighting programs, high-efficiency heating, ventilating and air conditioning ("HVAC") systems or control modifications, efficient building design, advanced electric motor drives, and heat recovery systems. The use of one or more Energy Injection Devices or other types of Qualified Resources shall not be considered Energy Efficiency Measures.

1.65 "Energy Injection Device" means battery storage, or any other current or future technologies that withdraw, store, and reinject energy into the electrical system that have a maximum capable injection capacity of 95 kW or more.

1.66 "Energy Rate" means the unit charge for energy, calculated annually through application of the Energy Rate Formula, expressed in dollars per megawatt-hour.

1.67 "Energy Rate Formula" means the spreadsheets and related notes included in Exhibit II that are to be applied each year during the term of this Agreement for purposes of calculating the Energy Rate.

1.68 "Estimated Nuclear Integration Date" has the meaning set forth in Section 2.7.5.

1.69 "Event of Default" has the meaning set forth in Section 14.1.

1.70 "Excepted Provision" has the meaning set forth in Section 16.2.

1.71 "FERC" means the Federal Energy Regulatory Commission or any successor or replacement agency vested with regulatory authority over wholesale power sales in interstate commerce.

1.72 "Firm Native Load" means the demands of wholesale and retail power customers for which DEP, by statute, franchise, regulatory requirements, or contract, has undertaken the obligation to plan, construct and operate its system to provide reliable power supply services and meet the electric needs of such customers.

1.73 "Force Majeure" means any cause beyond the control of the party affected and which with reasonable efforts the party affected is unable to overcome, including without limitation the following: acts of God; fire, flood, landslide, lightning, earthquake,

hurricane, volcanic eruption, tornado, storm, freeze, or drought; blight, famine, epidemic or quarantine; strike, lockout or other labor difficulty; act or failure to act of the other party (and such party so acting or failing to act shall not use its act or failure to act to excuse any other obligation which it has under this Agreement); act or failure to act of any regulatory agency or other governmental authority; changes in the work or delays caused by public bidding requirements; theft; casualty; accident; equipment breakdown; failure or shortage of, or inability to obtain from usual sources, goods, labor, equipment, information or drawings, machinery, supplies, energy, fuel or materials; embargo; injunction; litigation or arbitration with suppliers or vendors; shortage of rolling stock; arrest; war; civil disturbance; explosion; acts of public enemies; sabotage; invasion; or breach of contract by any supplier, contractor, subcontractor, or laborer.

1.74 "Formal Notice" has the meaning set forth in Section 2.7.5.

1.75 "Governmental Authority" mean any federal, state, local or municipal governmental body; any governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority, or jurisdictional power; any court or governmental tribunal; any Transmission Organization, regional power pool, or NERC; any instrumentality of any of the foregoing; or any other entity performing any similar function(s) or purpose.

1.76 "GSU Losses" means the product in any hour of the GSU Loss Factor and Power Agency's load as measured or calculated at its Delivery Points.

1.77 "GSU Loss Factor" means the factor (expressed as a decimal fraction) intended to represent the ratio of (i) the amount of energy consumed or lost in transformation over the generator step-up transformers and, (ii) the total amount of energy delivered from the DEP Transmission System in any hour, as determined in accordance with Section 3.13.

1.78 "Hourly Demand" means in each hour, the aggregate load of Power Agency's Members for which there is in effect a Member Power Sales Agreement determined by summing the metered 60-minute demands of the Members (integrated metered kilowatt load, compensated where applicable, in accordance with the NOA, to reflect losses from the meter location back to the Delivery Point), adjusted to include the output of PURPA Qualifying Facilities in each clock hour in accordance with Section 4.4.2 of this Agreement, and adjusted further to include Line Losses and GSU Losses.

1.79 "Interest Rate" means for any month, the prime rate being charged by Bank of America, N.A., or its successor, on the first day of such month, less one percentage point, divided by twelve, expressed in percentage points, to the nearest hundredth.

1.80 "Interruptible Demand Charge" has the meaning set forth in Section 9.7.

1.81 "Interruptible Load" shall mean that load of a Commercial and Industrial Customer that such Commercial and Industrial Customer may elect to interrupt, curtail, or otherwise reduce, either on its own or at the request or direction of Power Agency or a Member.

1.82 "ISO" means an independent system operator that has functional or operating control over a transmission system.

1.83 "ITC" means an independent transmission company.

1.84 "Law" means any statute, regulation, rule, procedure, code, ordinance, resolution, order, writ, judgment, decree or permit enacted, adopted, issued or promulgated; and/or, any legal, regulatory, or administrative determination by any regulatory body, administrative agency, or court, including without limitation under principles of common law; and/or, or any decree or issuance of a Governmental Authority; and/or, any change in, modification of, or new or changed interpretation of any of the foregoing.

1.85 "Line Losses" means the energy consumed or lost in the transmission, transformation and/or delivery of energy over the DEP Transmission System between the Transfer Point and the Delivery Points and, in any hour is equal to the Transmission Loss Factor (expressed as a decimal fraction) multiplied by Power Agency's load as measured or calculated at its Delivery Points.

1.86 "MAC" has the meaning set forth in Section 11.2.1.

1.87 "Member" means a municipality in North Carolina which has become, or which may hereafter become, a member of the Power Agency and which is a party to a Member Power Sales Agreement.

1.88 "Member Debt Service Support Contract" means a contract between Power Agency and each of its Members pursuant to which Power Agency agrees to issue bonds to refinance its existing indebtedness and each Member agrees to pay its share of Monthly Support Costs, as such term is defined therein.

1.89 "Member Resource" means any generating unit (other than the Edenton Generators and Elizabeth City Generators) having a nameplate capacity of 95 kW or more or Energy Injection Device, including any Energy Injection Device owned by Power Agency, that is directly connected to the electric system behind the Duke-owned wholesale revenue meter of a Member.

1.90 "Member Power Sales Agreement" means an agreement between Power Agency and each of its Members pursuant to which Power Agency sells to a Member and such Member purchases from Power Agency such Member's full requirements bulk power supply.

1.91 "Monthly Billing Energy" means (i) the sum of Power Agency's Hourly Demand for each hour of a given month, less (ii) the SEPA energy allocation associated with the SEPA Entitlement, adjusted to include Line Losses and GSU Losses (in megawatt-hours), less (iii) energy served by an Alternative Resource metered at or (if necessary) adjusted to the DEP generator level; provided, however, that Monthly Billing Energy shall not be less than zero.

1.92 "Monthly Capacity Charge" has the meaning set forth in Section 5.1 of this Agreement.

1.93 "Monthly Charge for Buyer's CCR Costs" shall have the meaning specified in Section III of Exhibit VII.

1.94 "Monthly Coincident Billing Demand" means (i) Power Agency's Monthly Coincident Demand, less (ii) the SEPA capacity allocation associated with the SEPA Entitlement, adjusted to include Line Losses and GSU Losses (in kilowatts), less (iii) any Alternative

Base Load Capacity metered at or (if necessary) adjusted to the DEP generator level; provided, however, that the Monthly Coincident Billing Demand shall not be greater than the Supply Cap or less than zero.

1.95 "Monthly Coincident Demand" means Power Agency's Hourly Demand in a month that is coincident with the hour of DEP's Monthly Peak Demand in such month.

1.96 "Monthly Energy Charge" has the meaning set forth in Section 5.3.

1.97 "Monthly Reserve Capacity Charge" has the meaning set forth in Section 6.1.

1.98 "Monthly Transmission System Peak" has the meaning set forth in Section 3.12.

1.99 "NCEMPA Generation" means any generating unit owned by Power Agency having a nameplate capacity rating of 95 kW or more that is connected to the electric system behind the Duke-owned wholesale revenue meter of a Member.

1.100 "NCUC" means the North Carolina Utilities Commission.

1.101 "Neighbor Compensation Costs" means costs incurred by Duke that are not required by Law and that are incurred under a program voluntarily implemented by Duke and publicly announced by Duke in December 2016 under which Duke provides to eligible property owners located within a certain proximity to Duke coal ash basins goodwill cash payments, compensation for reduction in property values, and compensation for water bills.

1.102 "NERC" means the North American Electric Reliability Corporation.

1.103 "Network Integration Transmission Service Agreement" (or "NITSA") means the Agreement for Network Integration Transmission Service between DEP (as

Transmission Provider) and Power Agency (as Transmission Customer), effective July 1, 2013, as it may be amended from time to time, providing for the furnishing of network integration transmission service under the DEP OATT, on file with FERC and designated as DEP Service Agreement No. 268.

1.104 "Network Operating Agreement" (or "NOA") means the Network Operating Agreement entered into between DEP (as Transmission Provider) and Power Agency (as Transmission Customer) pursuant to the DEP OATT, effective July 1, 2013, on file with FERC as part of DEP Service Agreement No. 268, as it may be amended from time to time.

1.105 "New Nuclear Generation" means any nuclear-fueled generating unit other than the four (4) nuclear-fueled generating units that are part of the DEP Generating System on the Effective Date of this Agreement (*i.e.,* Shearon Harris Unit 1, Brunswick Units 1 and 2, and Robinson Unit 2), and any contract pursuant to which DEP acquires an entitlement to all or a portion of the capacity of a nuclear-fueled generating unit, in either case acquired or entered into after the Effective Date.

1.106 "Non-Defaulting Party" has the meaning set forth in Section 14.1.1.

1.107 "Notice Event Conditions" has the meaning set forth in Section 2.7.

1.108 "NRC" means the Nuclear Regulatory Commission.

1.109 "OATT" means Open Access Transmission Tariff.

1.110 "Performance Assurance" has the meaning set forth in Section 11.2.1.

1.111 "Power Agency's Native Load" means the load of the electric power customers of Power Agency's Members, the electric needs of which the Members have undertaken the obligation to meet.

1.112 "Protected Information" has the meaning set forth in Section 7.3.5.

1.113 "Prudent Utility Practices" means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Prudent Utility Practices are not intended to be limited to the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the electric utility industry.

1.114 "PURPA Qualifying Facility" means a generating facility that is a "small power production facility" or "cogeneration facility" that, in each case, meets the requirements of Sections 292.203(a) and 292.203(b) of Title 18 of the Code of Federal Regulations and that has satisfied the procedures for obtaining Qualifying Facility status under Section 292.207 of Title 18 of the Code of Federal Regulations.

1.115 "Qualified Resources" consists of Member Resources, Customer Resources, and NCEMPA Generation.

1.116 "Qualified Resource Addition" has the meaning set forth in Section 4.1.4.

1.117 "Qualified Resource Factor" has the meaning set forth in Section 4.1.4.

1.118 "Renewables Act" means the North Carolina Renewable Energy and Energy Efficiency Portfolio Standard, N.C. Gen. Stat. 62-133.8 et seq., including all related rules promulgated by the North Carolina Utilities Commission, as may be amended or modified from time-to-time, and any such successor statutes, regulations, or rules.

1.119 "Requirements Service" has the meaning set forth in Section 3.1.

1.120 "Reserve Capacity Billing kW" has the meaning set forth in Section 4.1.3.

1.121 "Reserve Capacity Rate" means the unit charge for reserve capacity, calculated annually through application of the Reserve Capacity Rate Formula, expressed in dollars per kilowatt per month.

1.122 "Reserve Capacity Rate Formula" means the spreadsheets and related notes included in Exhibit III that are to be applied each year during the term of this Agreement for purposes of calculating the Reserve Capacity Rate.

1.123 "Response Notice" has the meaning set forth in Section 8.3.2.

1.124 "Retail Rate Order" means a final, non-appealable order issued by the NCUC in (i) a retail rate proceeding; (ii) a proceeding approving Duke's recovery of CCR Costs, including Beneficial Reuse Costs through Duke's fuel adjustment clause; and/or (iii) any other proceeding in which the NCUC expressly approves Duke's recovery of CCR Costs from North Carolina retail customers.

1.125 "RPS" means any federal and/or state renewable energy portfolio program and/or mandate that requires or encourages either Party to comply with requirements to obtain

energy or related products and/or services from renewable energy facilities or sources, or similar program or mandate.

1.126 "RTO" means a regional transmission organization.

1.127 "SCPSC" means the South Carolina Public Service Commission.

1.128 "SEPA Entitlement" shall mean the aggregate sum of the capacity and energy that some or all of Power Agency's Members are entitled to receive during the Delivery Period as preference customers, through the U.S. Department of Energy - Southeastern Power Administration ("SEPA"), pursuant to contracts entered into between the United States of America (Government) and such Members pursuant to the Flood Control Act of 1944 or similar or superseding Federal law.

1.129 "SERC" means the SERC Reliability Corporation or any successor thereto.

1.130 "Supplemental Load" means that portion of Power Agency's Hourly Demand during each clock hour that exceeds the Base Block minus any Alternative Resources supplied by Power Agency in accordance with the provisions of Section 2.9.3.

1.131 "Supply Cap" has the meaning set forth in Section 2.9.6.

1.132 "Taxes" means all taxes, fees, levies, licenses or charges imposed by any Governmental Authority, together with any applicable interest and penalties thereon.

1.133 "Transfer Point" means the location(s) on the DEP Transmission System's East control area where the capacity and energy comprising the Requirements Service purchased and sold hereunder is transferred to the DEP Transmission System for delivery to Power Agency.

1.134 "Transmission Loss Factor" means the Real Power Loss factor applicable to the DEP Zone as reflected in the DEP OATT.

1.135 "Transmission Organization" has the meaning set forth in Section 10.1.

1.136 "Transmission Provider" means the entity responsible for transmitting and/or distributing electric energy utilizing the facilities that comprise the DEP Transmission System, including, without limitation, any ISO, RTO, ITC, or other provider approved by FERC to transmit or distribute energy utilizing the facilities that comprise the DEP Transmission System.

1.137 "Transmission Service Agreement" means an agreement for wholesale transmission service entered into between Power Agency and a Transmission Provider, and placed on file with and made effective by FERC, pursuant to the Transmission Provider's OATT. The Parties agree and acknowledge that a Transmission Service Agreement is a separate and independent agreement from this Agreement, and that the obligations and/or liabilities of the Parties with respect to the subject matter of a Transmission Service Agreement shall be governed solely by such agreement.

2. Term, Commencement & Termination

2.1 Term. This Rate Schedule No. 200 shall be deemed to be effective as of the Effective Date and shall remain in full force and effect (the "Term") through the end of the Delivery Period. Following satisfaction of the conditions precedent set forth in Section 2.2, the Ninth Amended and Restated Full Requirements Power Purchase Agreement, with a FERC effective date of March 1, 2022, shall be replaced by this Agreement, the

Tenth Amended and Restated Full Requirements Power Purchase Agreement, with a FERC effective date of January 1, 2023, and this Agreement shall remain in full force and effect through the end of the Delivery Period, unless modified or terminated earlier in accordance with the provisions herein that specify the terms for such modification or earlier termination.

2.1.1 The "Delivery Period" for the obligations of the Parties to sell and to purchase Requirements Service under the provisions of this Agreement shall be deemed to have begun as of the Effective Date and will continue through December 31, 2043, subject to Sections 2.3, 2.6 and 2.7 and such other terms of this Agreement as permit termination prior to the expiration of the Term.

2.2 Conditions Precedent. Except to the extent duly and validly waived by the affected Party hereto, the following shall be conditions precedent to the Parties' respective obligations under this Agreement, and at such time that a condition precedent is satisfied, the applicable Party shall promptly notify the other Party in writing that such condition precedent has been satisfied:

2.2.1 FERC shall have approved this Agreement or amendments thereto or accepted it for filing, without modification or other condition (unless such modification or other condition is accepted by the Parties as set forth below) in form and substance reasonably acceptable to DEP, in its sole discretion.

2.3 Submittal for FERC Acceptance or Approval. Following execution of this Agreement by both Parties, DEP shall file this Agreement with FERC. Thereafter, DEP shall

diligently pursue acceptance or approval of this Agreement by FERC without modification, suspension, investigation or other condition not in accordance with the terms hereof. DEP shall keep Power Agency reasonably informed of its efforts to secure FERC acceptance or approval and shall advise Power Agency of any significant developments in such regard. Upon request by DEP, Power Agency shall promptly undertake reasonable efforts to assist in DEP's efforts to obtain FERC acceptance or approval of this Agreement and, upon a reasonable request from DEP, shall make a timely submittal at FERC affirmatively supporting DEP's request for FERC acceptance or approval of this Agreement without modification, suspension, investigation or other condition not in accordance with its terms.

2.3.1 Process for Failure of Conditions in Section 2.2.1. If (i) FERC rejects this Agreement or amendments thereto or otherwise fails to act as specified above in Section 2.2.1, or (ii) FERC issues an order that materially modifies or materially conditions its acceptance of this Agreement in a manner that is unacceptable to either Party, the Parties shall promptly enter into good faith negotiations for a mutually satisfactory resolution regarding any such unsatisfied condition(s) precedent set forth in Section 2.2.1, and shall file with FERC a modified agreement addressing the unsatisfied conditions seeking FERC's approval or acceptance of the modified agreement.

2.4 Termination and Survival.

2.4.1 Except as otherwise expressly provided in this Agreement, if this Agreement is terminated for any reason, including, without limitation, by its terms, mutual agreement, early termination, and/or an Event of Default, any monies or other charges, if any, due and owing under this Agreement shall be paid, any corrections or adjustments to payments previously made shall be determined, and any refunds due shall be made, as soon as reasonably practicable but no later than sixty (60) days after such termination. It is the intent of the Parties hereby that any such obligation owed (whether the same shall be known or unknown at the termination of this Agreement or whether the circumstances, events, or bases of the same shall be known or unknown at the termination of this Agreement) will survive the termination of this Agreement. Furthermore, any obligations, limitations, exclusions and duties which, by their nature or the express terms of this Agreement, extend beyond the expiration or termination of this Agreement, including, without limitation, provisions relating to compliance requirements, accounting, billing, billing adjustments, indemnification, and dispute resolution, as well as any other provisions necessary to interpret the respective rights and obligations of the Parties hereunder, shall survive the expiration or earlier termination of this Agreement.

2.4.2 Except as set forth in Section 2.4.1, termination of this Agreement for any reason specified and provided for herein is absolute and forever extinguishes any and all obligations existing under this Agreement for (i) DEP to plan or procure resources to serve Power Agency or to provide any products or services to Power Agency and (ii) Power Agency to purchase from and pay DEP for any products or services under this Agreement. Upon termination of this Agreement in accordance with the provisions herein, each and every obligation of DEP to provide electric energy and capacity to Power Agency, and each and every right and obligation of Power Agency to purchase electric energy and capacity from DEP, shall cease, and neither Party shall claim or assert any continuing right to continued performance, whether by rollover, as an evergreen service, or in any other fashion based on this Agreement. By entering into this Agreement, DEP does not commit, and shall not be deemed to have committed, to plan the DEP Generation System to be able to provide any service to Power Agency beyond the Term. Power Agency expressly agrees that it shall not at any time oppose any filings by DEP to cancel this Agreement as a rate schedule under the Federal Power Act concurrently with, or subsequent to, the termination of this Agreement in accordance with its provisions.

2.5 DEP Options for Changes in Cost Allocation and Billing Demand Methodology. Notwithstanding any provision of this Agreement to the contrary, DEP shall have the

rights specified in Sections 2.5.1 and 2.5.2, which may be exercised in accordance with the procedures set forth in those sections, to change the capacity cost allocation method used in calculating the Capacity Rate, the associated Monthly Coincident Billing Demand, and the Calculation of Coal Combustion Residual Costs billing method from a monthly coincident peak (12-CP) demand method to an annual coincident peak (1-CP) demand method (such change hereinafter being referred to as the "Allocation/Billing Change"):

2.5.1 DEP may elect to implement the Allocation/Billing Change by providing written notice to Power Agency on or before December 31, 2026. If DEP provides such notice, the Allocation/Billing Change will be effective on and after January 1, 2036.

2.5.2 DEP also may elect to implement the Allocation/Billing Change by providing written notice to Power Agency on or before December 31, 2030. If DEP provides such notice, the Allocation/Billing Change will be effective on and after January 1, 2036.

2.5.3 If DEP is required to obtain prior FERC acceptance or approval under Section 205 of the Federal Power Act in order to implement the Allocation/Billing Change, Power Agency shall not oppose any such Section 205 application, nor shall Power Agency propose an effective date for the Allocation/Billing Change that is later than January 1, 2036.

2.5.4 For the period January 1, 2023, through and including December 31, 2027, neither Party shall make a unilateral filing with FERC pursuant to either Section 205 or 206 of the Federal Power Act to change the capacity cost allocation and monthly coincident peak billing demand methodology used in calculating the Capacity Rate, the associated Monthly Coincident Billing Demand, and the Calculation of Coal Combustion Residual Costs.

2.6 Power Agency Options for Early Termination. Notwithstanding any provision of this Agreement to the contrary, Power Agency shall have the rights specified in Sections 2.6.1, 2.6.2, and 2.6.3 to terminate all or a portion of its Supplemental Load and/or Base Load purchases by providing written notice to DEP in accordance with the requirements set forth in those sections.

2.6.1 With written notice provided to DEP on or before December 31, 2023, Power Agency may terminate all or a portion of its Supplemental Load purchases under this Agreement effective with the hour ending 2400 on December 31, 2027.

2.6.2 Power Agency may terminate (i) all or a portion of its remaining Supplemental Load purchases, or (ii) all or a portion of its Base Load purchases, or (iii) a combination of (i) and (ii); provided, however, that Power Agency must provide DEP with written notice of any such termination on or before December 31, 2027, and such termination shall occur with the hour ending 2400 on December 31, 2035.

2.6.3 Power Agency may terminate (i) all or a portion of its remaining Supplemental Load purchases, or (ii) all or a portion of its remaining Base Load purchases, or (iii) a combination of (i) and (ii); provided, however, that Power Agency must provide DEP with written notice of such termination on or before December 31, 2031, and such termination shall occur with the hour ending 2400 on December 31, 2035; provided further, however, that such terminations of Power Agency's Supplemental Load and/or Base Load purchases pursuant to this Section 2.6.3 may not, in the aggregate, reduce Power Agency's 12-month average Monthly Coincident Billing Demand, determined based on actual Monthly Coincident Billing Demands during the immediately preceding Calendar Year (i.e., in Calendar Year 2030), by an amount that exceeds 700 megawatts.

2.7 Power Agency Option Regarding New Nuclear Generation. Notwithstanding any provision of this Agreement to the contrary, if DEP plans to add New Nuclear Generation, Power Agency shall, in accordance with the provisions set forth in this Section 2.7, be entitled to terminate a portion of its Base Load purchases upon the occurrence of each of the conditions (the "Notice Event Conditions") set forth in Section 2.7.1, Section 2.7.2, Section 2.7.3, or Section 2.7.4.

2.7.1 If New Nuclear Generation consists of the construction by DEP (singly or jointly with others) of a new nuclear-fueled generating unit, DEP or another entity acting on DEP's behalf shall have (i) obtained all governmental and

regulatory approvals required for the construction of such unit, including, but not limited to, approvals of local land use authorities, the NRC, the NCUC, and/or the SCPSC; (ii) entered into an engineering, procurement and construction contract for the design and construction of the new nuclear-fueled generating unit; and (iii) satisfied any and all other conditions precedent that DEP reasonably determines are necessary for DEP's construction of the new nuclear-fueled generating unit.

2.7.2 If New Nuclear Generation consists of the acquisition by DEP of an ownership interest in a nuclear-fueled generating unit that is under construction by one or more other entities at the time of such acquisition, DEP shall have, as applicable (i) obtained all governmental and regulatory approvals required for the acquisition of an ownership interest in such unit, including, but not limited to, approval of the NRC, the NCUC, and/or the SCPSC,; (ii) entered into binding commitments to purchase an interest in the land, and the improvements thereon and the construction work in progress at the site of the unit; (iii) entered into binding commitments to acquire an interest in design, engineering, construction and other contracts associated with the construction of the unit; and (iv) satisfied any and all other conditions precedent that DEP reasonably determines are necessary for DEP's acquisition of its ownership interest in such new nuclear-fueled generating unit.

2.7.3 If New Nuclear Generation consists of the acquisition by DEP of an ownership interest in a nuclear-fueled generating unit that is in operation at the time of DEP's acquisition, DEP shall have, as applicable: (i) obtained all governmental and regulatory approvals required for the acquisition of an ownership interest in the unit, including, but not limited to, approval of the NRC, the NCUC, and/or the SCPSC; (ii) entered into binding commitments to purchase an interest in the land, the improvements thereon, equipment, inventory, materials, fuel and supplies associated with such unit; (iii) entered into binding commitments associated with the operation and maintenance of such unit; and (iv) satisfied any and all other conditions precedent that DEP reasonably determines are necessary for DEP's acquisition of its ownership interest in such nuclear-fueled generating unit.

2.7.4 If New Nuclear Generation consists of a contract pursuant to which DEP has acquired or will acquire an entitlement to all or a portion of the capacity from the owner(s) of such nuclear-fueled generating unit, DEP shall have entered into a binding contract in connection therewith and obtained any regulatory approvals that are required in connection with such binding contract.

2.7.5 As soon as reasonably practicable after DEP makes an initial determination that it will add New Nuclear Generation to the DEP Generation System, DEP shall give Power Agency written notice thereof so that Power Agency can begin evaluating its option to terminate a portion of its Base Load purchases

set forth in Section 2.7.6. DEP will provide written notice to Power Agency when a Notice Event Condition has occurred not later than thirty (30) days after the last of such Notice Event Condition specified in Sections 2.7.1, 2.7.2, 2.7.3, or 2.7.4, as applicable, has been satisfied (the "Formal Notice"). Formal Notice shall be accompanied by DEP's estimates of (i) the date that such New Nuclear Generation will be integrated into the DEP Generation System ("Estimated Nuclear Integration Date"), (ii) the amount of capacity (in MW) of the New Nuclear Generation, and (iii) the impact that the addition of such New Nuclear Generation to the DEP Generation System will have on the Capacity Rates, Energy Rates, and Reserve Capacity Rates. The estimated information included with DEP's Formal Notice shall reflect DEP's projections based on the best information available to DEP at the time of the Formal Notice and shall not constitute a guarantee of (a) any indicated date that DEP will integrate the New Nuclear Generation into the DEP Generation System, (b) the amount of capacity (in MW) of the New Nuclear Generation, or (c) the impact that the addition of such New Nuclear Generation to the DEP Generation System will have on the Capacity Rates, Energy Rates, and Reserve Capacity Rates.

2.7.6 After Power Agency receives Formal Notice from DEP in accordance with Section 2.7.5, Power Agency shall have the right, but not the obligation, to terminate a portion of its Base Load purchases pursuant to the procedures and

subject to the conditions set forth in this Section 2.7.6 and in Section 2.7.7. If Power Agency elects to terminate a portion of its Base Load purchases pursuant to this Section 2.7.6, Power Agency shall provide written notice to DEP of such election not later than twelve (12) months after receipt of Formal Notice from DEP. Power Agency's notice shall state the amount of capacity (in MW) and effective date of the termination of Base Load purchases; provided, however, (i) the effective date of Power Agency's termination of Base Load purchases shall not be any earlier than the Estimated Nuclear Integration Date, and (ii) the amount of reduction in Power Agency's Base Load purchases shall not exceed 25% of the estimated amount of capacity (in MW) as set forth in the Formal Notice. Power Agency's written notice provided in accordance with this Section 2.7.6 shall designate the Alternative Resource that will be used to serve the amount of capacity and energy associated with the amount of reduction in Power Agency's Base Load purchases, such amount to be included in the Alternative Base Load Capacity.

2.7.7 Notwithstanding any provision of this Agreement to the contrary, Power Agency's right to terminate a portion of its Base Load purchases pursuant to Section 2.7.6 is expressly subject to Power Agency's obligation to pay DEP the Compensation Payment. Power Agency shall be obligated to pay DEP the full amount of the Compensation Payment on or before the date that is sixty (60) days prior to the effective date of termination of Base Load purchases, as

noticed by Power Agency. If Power Agency's obligation to make the Compensation Payment is ruled by a Governmental Authority to be unenforceable in whole or in part in an order that has become final and non-appealable, Power Agency's right to terminate a portion of its Base Load purchases under Section 2.7 shall be deemed null and void.

2.8 Obligations of the Parties in the Event of Termination of any Portion of Service. Not later than eighteen (18) months prior to each of Power Agency's deadlines for providing written notice to DEP in connection with any of Power Agency's options to terminate various portions of its Supplemental Load and/or Base Load purchases pursuant to Sections 2.6 and 2.7, DEP and Power Agency shall be obligated to meet to discuss issues related to the potential termination of such purchases, taking into account the principles set forth in Section 2.9. At such meetings, Power Agency shall provide to DEP, in as much detail as possible, information related to the Alternative Resource(s) it contemplates utilizing in connection with the potential termination of purchases from DEP, including, but not limited to, (i) the amount of Supplemental Load and/or Base Load purchases to be terminated, (ii) the effective date of such potential termination, and (iii) the capacity of the Alternative Resource(s).

2.9 Principles Related to Early Termination of Supplemental Load and/or Base Load Purchases. The following principles will apply to any termination by Power Agency of all or any portion of its Supplemental Load and/or Base Load purchases in accordance with Sections 2.6 and 2.7 of this Agreement.

2.9.1 Any termination of all or a portion of Power Agency's Supplemental Load and/or Base Load purchases that is not a result of one or more Member's termination of its Member Power Sales Agreement(s) shall be irrevocable effective upon DEP's receipt of Power Agency's notice of such termination.

2.9.2 With respect to termination of all or a portion of Power Agency's Base Load purchases that is not a result of one or more Member's termination of its Member Power Sales Agreement(s), effective upon such termination, the portion of Base Load purchases that will be terminated will be deemed to be at the bottom portion of Power Agency's load (i.e., the base load portion). If Power Agency provides DEP notice that an Alternative Resource will be used to terminate all or a portion of Power Agency's Base Load purchases from DEP, effective upon the termination of such Base Load purchases (i) the Base Load purchases will be reduced by an amount that equals the capacity of the Alternative Resource designated by Power Agency ("Alternative Base Load Capacity"), and (ii) DEP shall be obligated to serve only that amount of Power Agency's Base Load, if any, that exceeds the Alternative Base Load Capacity ("Adjusted Base Block") until the end of the Delivery Period. For example, if Power Agency's Alternative Base Load Capacity is 300 MW and the Adjusted Base Block is 400 MW, then DEP will be obligated to provide Base Load service to Power Agency under this Agreement only during those periods when Power Agency's Hourly Demand is between 301 MW and 700 MW.

2.9.3 With respect to termination of all or a portion of Power Agency's Supplemental Load purchases that is not a result of one or more Member's termination of its Member Power Sales Agreement(s), effective upon such termination, the portion of Power Agency's Supplemental Load purchases that will be terminated will be deemed to be at the top portion of Power Agency's load (i.e., the peaking portion). If Power Agency provides DEP notice that an Alternative Resource will be used to terminate all or a portion of Power Agency's Supplemental Load purchases from DEP, Power Agency's notice(s) shall specify (i) the capacity designated by Power Agency for such Alternative Resource, and (ii) the amount of remaining Supplemental Load, for each Calendar Year remaining in the Delivery Period, that DEP will be obligated to serve, if any, under this Agreement effective upon such termination and until the end of the Delivery Period ("Adjusted Supplemental Load"). Effective upon the termination of Power Agency's Supplemental Load purchases, DEP shall be obligated to serve only the Adjusted Supplemental Load, if any. For example, if the Base Block is 700 MW, and Power Agency provides notice that the Adjusted Supplemental Load in a given Calendar Year is 300 MW, Power Agency shall be obligated to serve all Hourly Demand that is greater than 1,000 MW in such Calendar Year.

2.9.4 With respect to termination of a portion of Power Agency's Supplemental Load and/or Base Load purchases pursuant to Section 2.6.2 or Section 2.6.3

that is a result of one or more Member's termination of its Member Power Sales Agreement(s), effective upon such termination, the Base Block and the Adjusted Supplemental Load, if any, shall both be reduced by a percentage determined by the ratio of (i) the load of the terminating Member(s) in the hour of Power Agency's Annual Coincident Peak to (ii) Power Agency's Annual Coincident Peak, in each case as determined during Calendar Year, 2035.

2.9.5 Within twelve (12) months of Power Agency's notice of termination of all or a portion of its Supplemental Load and/or Base Load purchases, the Parties shall develop procedures to address issues relating to the operation of any and all applicable Alternative Resource(s).

2.9.6 If Power Agency terminates all or a portion of its Supplemental Load and/or Base Load purchases as provided for in accordance with Sections 2.6 and 2.7, the resulting Adjusted Base Block plus the resulting Adjusted Supplemental Load will represent the maximum quantity of capacity and associated energy that DEP will be required to serve in any given hour ("Supply Cap"). The Parties acknowledge and agree that any Alternative Resource(s) designated in accordance with the provisions of Sections 2.6 and 2.7 shall not be used to serve any portion of the Adjusted Base Block or the Adjusted Supplemental Load.

2.9.7 Any reductions in Supplemental Load and/or Base Load purchases that Power Agency elects to make in accordance with the provisions of Sections 2.6 and

2.7 shall be deemed a termination of the products and services associated with such reduction in Supplemental Load and/or Base Load purchases that is subject to the provisions of Section 2.4, and that for any such reductions in Supplemental Load and/or Base Load purchases (i) DEP shall have no further obligation to plan or procure resources to serve the terminated portion of service to Power Agency or to provide any products or services to Power Agency related to such terminated portion of service, and (ii) Power Agency shall have no further right or obligation to purchase from and pay DEP for any products or services related to the terminated service under this Agreement.

3. Requirements Service

3.1 Nature of Requirements Service. Requirements Service consists of firm capacity and energy in the amounts required by Power Agency to reliably serve the current and future electrical loads of its Members or such loads to the extent assumed by another entity. In accordance with the terms and subject to the conditions of this Agreement, DEP shall provide Requirements Service with the same degree of firmness and at the same level of service priority as the service DEP provides to its other Firm Native Load customers. Consistent with the nature of Requirements Service under this Agreement, Power Agency shall only have the right to engage in self-supply of capacity or energy, whether through SEPA Entitlement, other generating resources, Energy Injection Devices, or any other source, in the manner expressly provided for in this Agreement, and any manner of self-supply not specifically authorized herein is prohibited.

3.2 Obligation to Provide Service. Pursuant to the terms and conditions of this Agreement, DEP shall be obligated to provide and sell to Power Agency, and Power Agency shall be obligated to purchase and receive from DEP, Requirements Service, subject to the following limitations:

3.2.1 DEP shall not be obligated to provide Requirements Service, backstand service, or reserves for any portion of Power Agency's Supplemental Load or Base Load for which Power Agency has provided notice to DEP of the termination of such service pursuant to Section 2.6 or 2.7, and the prior notice period for such termination has elapsed; and

3.2.2 DEP shall not be obligated to provide Requirements Service for any loads that arise from an undertaking by Power Agency or any of its Members to serve: (i) a source of demand outside the geographical area served by DEP (provided, however, upon mutual written agreement between the Parties, and subject to regulatory approvals determined necessary by DEP in its sole discretion, DEP may provide Requirements Service for loads of a Member not located in the geographical area in which DEP serves, or in which DEP proposes to serve, if such loads are in an area adjacent to or in reasonable proximity to an area served by such a Member, and would be served directly by such Member); or, (ii) any load of a Member that was not such Member's load as of the Effective Date which, because of the type and size of such load, is not included, and would not be included, by DEP in planning its system and which, if DEP were

required to provide Requirements Service for such load, would, in DEP's judgment, (a) compel an enlargement of DEP's generating facilities not otherwise included by DEP in its system planning, including planning for Requirements Service; or (b) impair DEP's ability to render adequate service to its Firm Native Load customers.

3.2.3 DEP's additional charges applicable to the Interruptible Loads of a Commercial and Industrial Customer shall be governed by Section 9.7 of this Agreement.

3.3 Continuous Service.

3.3.1 In providing the Requirement Services pursuant to this Agreement, DEP does not guarantee continuous service to Power Agency, but DEP (i) shall exercise reasonable diligence consistent with Prudent Utility Practices to provide an uninterrupted supply of electricity, and (ii) shall not adversely distinguish between the provision of Requirements Service to Power Agency and the provision of service to its other Firm Native Load customers; and, having acted in accordance with clauses (i) and (ii), DEP shall not be liable to Power Agency for damages resulting from the failure, interruption or suspension of Requirements Service.

3.3.2 DEP shall exercise reasonable diligence consistent with Prudent Utility Practices to promptly restore Requirements Service that has failed or that has been interrupted or suspended. In taking actions to restore service, DEP shall

not adversely distinguish between the restoration of Requirements Service to Power Agency and the restoration of service to its other Firm Native Load customers; provided, however, that DEP has sole responsibility to design all curtailments and restorations of service, and it may order any manner of curtailment or restoration that DEP reasonably believes at the time of such curtailment or restoration is appropriate as long as the Power Agency load and DEP's Firm Native Load present in the electrical area are being restored on a non-unduly discriminatory basis. Power Agency shall cooperate with DEP in DEP's efforts to restore Requirements Service.

3.3.3 Neither Party shall be liable to the other Party for any damage or loss resulting from the interruption, prevention, suspension, or failure of service caused by: (i) Force Majeure; (ii) an emergency action due to an adverse condition or disturbance on a Party's system or on any other system directly or indirectly interconnected with a Party's system, which requires automatic or manual interruption of the supply of electricity to some customers or areas in order to limit the extent of, or damage caused by, the adverse condition or disturbance, or to prevent damage to generation, transmission or transformation facilities, or to expedite restoration of service, or to effect a reduction in service to compensate for an emergency condition on an interconnected system; and/or (iii) the making of necessary inspections of, adjustments to, changes in or repairs to a Party's lines, substations, or other facilities, and by discontinuing

service to avoid endangering persons or property. Neither Party shall be excused from its obligations under this Agreement on the grounds that its performance has become commercially impracticable.

3.4 Scheduling. In operating its system to meet the aggregate of its system obligations, DEP shall dynamically integrate the electrical loads that are served through the provision of Requirements Service with the loads of DEP's other customers. Requirements Service will follow and serve the instantaneous electrical requirements of Power Agency's Members.

3.5 Delivery to Transfer Point. DEP shall sell and deliver Requirements Service to Power Agency at the Transfer Point. DEP shall be responsible for making all arrangements necessary to deliver Requirements Service to the Transfer Point.

3.6 Transmission from Transfer Point. Power Agency shall purchase and receive Requirements Service from DEP at the Transfer Point. Power Agency shall be responsible for making all arrangements necessary to receive Requirements Service at the Transfer Point and to transmit and deliver Requirements Service from the Transfer Point to the Power Agency Delivery Points.

3.7 Passage of Title. Title to and risk of loss of Requirements Service shall pass from DEP to Power Agency at the Transfer Point.

3.8 Metering. Arrangements for metering and metering-related services shall be governed by the applicable provisions of the NITSA and NOA.

3.9 Operating Responsibility. Power Agency acknowledges and agrees that DEP shall remain solely responsible for operating its system pursuant to its regulatory and statutory obligations in order to meet DEP's obligations to serve DEP's Firm Native Load customers (including Power Agency under this Agreement), and nothing in this Agreement provides or confers upon Power Agency any rights and/or entitlements to manage, direct, control, or otherwise interfere with such responsibility of DEP.

3.10 Ancillary Services. DEP will provide Power Agency with an Ancillary Service Credit as set forth and defined in this Section 3.10.

3.10.1 Power Agency's "Ancillary Service Credit" for a month will be equal to: (a) the sum of the charges paid by Power Agency to the Transmission Provider under the Transmission Provider's OATT for Reactive Supply and Voltage Control from Generation Sources Service (OATT Schedule 2), Regulation and Frequency Response Service (OATT Schedule 3), Operating Reserve – Spinning Reserve Service (OATT Schedule 5) and Operating Reserve – Supplemental Reserve Service (OATT Schedule 6) for the Month, *multiplied by* (b) the DEP Supply Ratio (defined below) for the month.

3.10.2 In addition to the credits specified in Section 3.10.1, if and to the extent Power Agency has not terminated its Supplemental Load and/or Base Load purchases as provided for in Sections 2.6 or 2.7, Power Agency's "Ancillary Service Credit" for a month will include an additional amount equal to the charges paid by Power Agency to the Transmission Provider under the Transmission

Provider's OATT for Energy Imbalance Service (Schedule 4), if any. If Power Agency has given notice of a termination of a portion or all of its Supplemental Load and/or Base Load purchases pursuant to Sections 2.6 or 2.7, the operating procedures agreed to by the Parties in accordance with Section 2.9.5 shall address the extent to which a credit would be appropriate as a result of such termination.

3.11 DEP Supply Ratio. "DEP Supply Ratio" for the month shall be equal to the ratio (not to exceed 1.0) of: (a) the DEP-Supplied Load (defined below) for the month to (b) Power Agency's Network Load (as such term is defined and amount is determined under the OATT) for the month.

3.12 DEP-Supplied Load. "DEP-Supplied Load" for a month shall be equal to the portion of Power Agency's Network Load for the month that is served by DEP under this Agreement during the hour of the maximum firm usage over the DEP Transmission System in each calendar month (the Transmission Provider's Monthly Transmission System Peak as defined in the OATT).

3.13 GSU Loss Factor. The GSU Loss Factor shall be determined as set forth in this Section 3.13. The GSU Loss Factor shall be recalculated and adjusted on an annual basis as follows. After each calendar year, DEP shall calculate the applicable GSU Loss Factor in accordance with the Methodology for Calculation of GSU Loss Factor - DEP set forth in Exhibit VI hereto. By April 1 of the year immediately succeeding the 12-month loss factor calculation period, DEP shall give notice to Power Agency stating the revised

GSU Loss Factor (the "Revised GSU Loss Factor") along with supporting calculations and documentation in sufficient detail to enable Power Agency to verify the accuracy of the Revised GSU Loss Factor. The Revised GSU Loss Factor shall be effective June 1 following the giving of such notice. Any challenge or correction of the Revised GSU Loss Factor will be made in accordance with the provisions of Articles 7 and 16. The Revised GSU Loss Factor also shall be subject to Power Agency's audit rights as set forth in Sections 7.3 and 7.4. The calculation, notice, and audit procedure set forth in this Section 3.13 shall begin with the 12-month loss factor calculation period ending in 2016 with the first notice stating the GSU Loss Factor to be given by DEP by April 1, 2017 and with the first GSU Loss Factor to be effective June 1, 2017.

4. Qualified Resources, Edenton and Elizabeth City Generators, Economic Development Resources and PURPA Qualifying Facilities

4.1 Qualified Resources. Subject to the limitation on Qualified Resources in Section 4.1.4 and the other provisions of this Article 4, Qualified Resources may be used, and may only be used, in the following manner: (i) Customer Resources may be used to serve load at the site of such Customer Resources and the load served by such Customer Resources shall be excluded from Power Agency's Hourly Demand, and (ii) NCEMPA Generation and Member Resources may be connected to the electric system behind the Duke-owned wholesale revenue meter of a Member and the load served by such NCEMPA Generation and Member Resources shall be excluded from Power Agency's Hourly Demand. DEP shall have no obligation to schedule or dispatch Qualified

Resources; provided, however, that in the event of an emergency on the Combined System, if DEP reasonably believes that it is necessary to do so based on the facts available to DEP at the time of such emergency, DEP may request that Power Agency cause any such Qualified Resources to be dispatched as part of DEP's General Load Reduction and System Restoration Plan as an initial step in the phase providing for manual interruption of feeders. In such event, Power Agency shall request that its Members and/or its Members' customers take all reasonable and appropriate actions necessary to comply with DEP's request so long as such actions have results that treat similar customers of DEP and the Members in a consistent manner and that, in any event, are designed to achieve results on a comparable basis; provided, however, that neither Power Agency nor a Member nor a Member's customer shall be required or called upon to operate Qualified Resources in a manner deemed, in their sole discretion, to be unsafe, unreasonable or in violation of any operating permit. DEP shall have no obligation to bear any costs associated with the operation of Qualified Resources as part of DEP's General Load Reduction and System Restoration Plan.

4.1.1 Notice. Power Agency shall provide notice to DEP, in the form of notice set forth in Exhibit V, that a Qualified Resource will be installed. For an individual generating unit having a nameplate capacity rating of 2.5 megawatts or less, or an Energy Injection Device having a maximum capable injection capacity of 2.5 megawatts or less, as measured on the Alternating Current (AC) side of the inverter, such notice shall be provided to DEP at least three

(3) months prior to the date on which such Qualified Resource is scheduled to begin operation. For an individual generating unit having a nameplate capacity rating of more than 2.5 megawatts, or an Energy Injection Device having a maximum capable injection capacity of more than 2.5 megawatts, as measured on the Alternating Current (AC) side of the inverter, such notice shall be provided to DEP at least six (6) months prior to the date on which such Qualified Resource is scheduled to begin operation.

4.1.2 Operation and Safety. Qualified Resources intended to be, or capable of being, operated in parallel with the Combined System shall meet the Transmission Provider's requirements for the protection of the quality, reliability, and/or safety of the Combined System.

4.1.3 Reserve Charges. For each individual unit of Member Resources and Customer Resources having a capacity rating in excess of 2.5 megawatts, measured by nameplate capacity for generating units and by maximum capable injection capacity as measured on the Alternating Current (AC) side of the inverter for Energy Injection Devices, and for each individual generating unit of NCEMPA Generation having a nameplate capacity rating in excess of 6.0 megawatts, Power Agency shall pay to DEP a monthly charge per kW equal to the Reserve Capacity Rate, determined in accordance with Exhibit III, applied to the Reserve Capacity Billing kW, which shall be equal to .12 times the capacity rating of each such Qualified Resource. The

obligation of Power Agency to pay the charge set forth in this Section 4.1.3 shall terminate as of the month following the month in which such Qualified Resource is retired or otherwise permanently removed from service. Power Agency shall have no obligation to provide or pay for spinning reserves in connection with any Qualified Resources.

4.1.4 Limitation on Capacity of Qualified Resources. The aggregate amount of capacity (in megawatts) of Qualified Resources at any one time shall not exceed one point seven five percent (1.75%) of the Combined System Capacity ("Qualified Resource Factor") plus 25 MW ("Qualified Resource Addition").

4.1.4.1 In the event Power Agency exercises one or more of its rights to terminate all or a portion of its Supplemental Load purchases, as provided in Section 2.6, as a result of a decision by Power Agency to serve such terminated Supplemental Load from an Alternative Resource, the Qualified Resource Factor and the Qualified Resource Addition shall be reduced based on the ratio of (i) Power Agency's Annual Coincident Demand less the Base Block, determined for the Calendar Year immediately prior to the year in which the termination of Power Agency's Supplemental Load purchases takes effect, less the capacity of the Alternative Resource designated pursuant to Section 2.9.3(i), divided by (ii) Power Agency's Annual Coincident

Demand less the Base Block for the Calendar Year immediately prior to the year the reduction takes effect. For example, if the capacity of the Alternative Resource is 350 MW and Power Agency's Annual Coincident Demand for the immediately prior Calendar Year less the Base Block is 700 MW, the Qualified Resource Factor will be revised by multiplying such Qualified Resource Factor by 0.50 (700 MW-350 MW)/700 MW), resulting in a new Qualified Resource Factor of 0.875%. The revised Qualified Resource Addition amount would be 12.5 MW.

4.1.4.2 In the event Power Agency exercises one or more of its rights to terminate a portion of its Supplemental Load and/or Base Load purchases, as provided for in Section 2.6, as a result of one or more Members having terminated their service from Power Agency, the Qualified Resource Factor and the Qualified Resource Addition, as they may have been revised pursuant to Section 4.1.4.1, will be reduced based on the ratio of the terminating Members' annual coincident demand to the Power Agency's Annual Coincident Demand for the Calendar Year immediately prior to the year the termination takes effect. For example, if the terminating Member(s)' annual coincident demand is 150 MW, and Power Agency's Annual Coincident Demand is 1,500 MW, the Qualified Resource Factor will

be revised by multiplying the Qualified Resource Factor by 0.90 (1500 MW-150 MW)/1500 MW), resulting in a new Qualified Resource Factor of 1.575%). The revised Qualified Resource Addition amount would be 22.5 MW.

4.1.4.3 The Parties agree that any changes to the Qualified Resource Factor and Qualified Resource Addition made pursuant to Sections 4.1.4.1 and/or 4.1.4.2 will be incorporated in mutually agreed upon operating procedures.

4.1.4.4 For purposes of determining compliance with the limitation set forth in Section 4.1.4, the capacity of PURPA Qualifying Facilities, the capacity of the Edenton and Elizabeth City Generators, the capacity of Economic Development Resources, and the capacity of the Energy Injection Devices listed in Exhibit XI shall not be included in the calculation of Qualified Resources. In addition, the exclusion of the Energy Injection Devices listed in Exhibit XI from the calculation of Qualified Resources shall only apply to the Energy Injection Devices listed in Exhibit XI and shall not apply to either a replacement of such Energy Injection Devices or uprates to such Energy Injection Devices.

4.1.4.5 For purposes of applying the terms of Section 4.1.4: (A) "Combined System Capacity" shall mean (i) the capacity of the generation

resources, including the dependable capacity (as such term is established for purposes of DEP's Integrated Resource Planning) of Energy Injection Devices installed or purchased by DEP, that comprise the Combined System, provided, however, that any capacity of any generation resource constituting part of the Combined System but subsequently sold by DEP to any other power supplier within the DEP control area shall continue to be included in the capacity comprising the Combined System until such generation resource is retired, plus (ii) the capacity of any firm purchases being made by DEP, plus (iii) the capacity of all PURPA Qualifying Facilities purchased by DEP and all PURPA Qualifying Facilities purchased by Power Agency pursuant to Section 4.4.2 of this Agreement, less (iv) long-term (*i.e.*, one year or more) off-system sales of capacity, to the extent such sales result in a portion of the capacity described in (i), (ii), or (iii) above not being available to serve load in DEP's control area, which load for this purpose shall include the loads of the Power Agency Members served from the Dominion NC Power transmission system and load of others Members that may now or in the future be served under similar arrangements; in each case determined as of the time of DEP's Annual Peak Demand for the Calendar Year immediately preceding

the year in which a notice for Qualified Resource is given by Power Agency, and (B) for Qualified Resources, the capacity of each individual generating unit shall be the nameplate capacity rating of each such generating unit, and the capacity of each Energy Injection Device shall be the maximum capable injection capacity, as measured on the Alternating Current side of the inverter.

4.1.4.6 The determination required to be made pursuant to Section 4.1.4 shall be made as of the date of the notice for the Qualified Resources given by Power Agency pursuant to Section 4.1.1 and any such determinations shall be conclusive as of the date of such notice, and Power Agency shall not be required, thereafter, to reduce the aggregate amount of Qualified Resources due to a reduction in Combined System Capacity.

4.1.5 Limitation of Financing Activities. Power Agency acknowledges and agrees that it will not, directly or indirectly, advance funds, lend money, lend or extend its credit, or provide security for, the acquisition, installation or operation of Customer Resources; provided, however, that nothing contained herein shall prohibit or otherwise prevent a Member from directly or indirectly advancing funds, lending money, lending or extending its credit, or providing security for, or otherwise participating in, the financing of the acquisition, installation or operation of Customer Resources; provided further, however,

that nothing contained herein shall prohibit or otherwise prevent Power Agency from establishing a rate or rates for its Members that is intended to encourage the acquisition, installation and operation of Member Resources or Customer Resources.

4.1.6 NCEMPA Generation. Notwithstanding any provision of this Article 4 to the contrary, a total of thirty-eight (38) MW of NCEMPA Generation may be installed by Power Agency.

4.2 Edenton and Elizabeth City Generators. Notwithstanding any other provision of this Agreement to the contrary, during the term of this Agreement the output of the Edenton Generators and the Elizabeth City Generators may be used to serve load on the distribution systems of Edenton and Elizabeth City, respectively, and the load served is thereby excluded from the calculation of Power Agency's Hourly Demand. DEP shall have no obligation to schedule or dispatch the Edenton Generators or Elizabeth City Generators; provided, however, that in the event of an emergency on the Combined System, DEP may request that Power Agency cause the Edenton Generators and Elizabeth City Generators to be dispatched as part of DEP's General Load Reduction and System Restoration Plan as an initial step in the phase providing for manual interruption of feeders. In such event, Power Agency shall request that Edenton and Elizabeth City take all reasonable and appropriate actions necessary to comply with DEP's request so long as such actions have results that treat similar customers of DEP and the Members in a consistent manner and that, in any event, are designed to achieve

results on a comparable basis; provided, however, that neither Edenton nor Elizabeth City shall be required or called upon to operate such generators in a manner deemed, in their sole discretion, to be unsafe, unreasonable or in violation of any operating permit. DEP shall have no obligation to bear any costs associated with the operation of such generators as part of DEP's General Load Reduction and System Restoration Plan. Power Agency shall cause Edenton and Elizabeth City to operate the Edenton Generators and the Elizabeth City Generators in a manner that is compliant with the provisions of Section 4.1.2 (Operation and Safety). Notwithstanding the foregoing, if Power Agency has given notice of termination of all of its Supplemental Load purchases pursuant to Sections 2.6, the output of the Edenton Generators and the Elizabeth City Generators may not be used to reduce Power Agency's Monthly Coincident Billing Demand.

4.3 Economic Development Resources. In addition to Power Agency's and/or its Members' or its Members' customers' rights to install Qualified Resources pursuant to Section 4.1, in each Calendar Year during the term of this Agreement Power Agency and/or its Members or its Members' customers may collectively install up to an aggregate of three (3) MW of Economic Development Resources. Power Agency will provide notice to DEP of any generation or Energy Injection Device that meets the criteria for Economic Development Resources in the form of notice provided for in Exhibit V. If DEP agrees that the proposed Economic Development Resource meets the criteria, DEP will provide Power Agency with approval of the classification of the resource. The load served by

such Economic Development Resource will be excluded from the calculation of Power Agency's Hourly Demand. Notwithstanding the foregoing, however, Economic Development Resources shall not be installed to serve a customer requiring electric service that has a choice, under North Carolina law, to select DEP as its electric service provider. Notwithstanding the foregoing, if Power Agency has given notice of termination of all of its Supplemental Load purchases pursuant to Sections 2.6, the output of the Economic Development Resource may not be used to reduce Power Agency's Monthly Coincident Billing Demand.

4.4 PURPA Qualifying Facilities. In the event that Power Agency is required under PURPA to permit a PURPA Qualifying Facility to directly interconnect behind the Duke-owned wholesale revenue meter of a Member, Power Agency may purchase the output from such PURPA Qualifying Facility in accordance with the provisions of this Section 4.4.

4.4.1 Qualifying Facilities Below 500 kW. Any purchase of energy and capacity, if applicable, by Power Agency from a PURPA Qualifying Facility that has a nameplate capacity below 500 kW, or the amount of energy generated by and capacity, if applicable, of a PURPA Qualifying Facility owned by Power Agency that has a nameplate capacity below 500 kW, will be excluded from Power Agency's Monthly Coincident Billing Demand and Monthly Billing Energy for purposes of calculating Power Agency's charges for Requirements Service.

4.4.2 Qualifying Facilities 500 kW and Above. The hourly energy associated with any purchase of energy and capacity, if applicable, by Power Agency from a PURPA Qualifying Facility that has a nameplate capacity at or above 500 kW, and the hourly energy generated by a PURPA Qualifying Facility owned by Power Agency that has a nameplate capacity at or above 500 kW, will be added to Power Agency's Hourly Demand for purposes of determining the Monthly Coincident Billing Demand and Monthly Billing Energy to be used in calculating Power Agency's charges for Requirements Service.

4.4.2.1 For any such PURPA Qualifying Facility described in Section 4.4.2, DEP shall provide Power Agency a billing credit, on a monthly basis, equal to the rate that such PURPA Qualifying Facility would receive pursuant to the terms and conditions of DEP's applicable North Carolina filed rate tariff (the "Applicable Rate") applied to the energy and capacity, if applicable, from such PURPA Qualified Facility. For a PURPA Qualifying Facility subject to the provisions of Section 4.4.2, the Applicable Rate shall be either: (i) the energy-only rate under DEP's North Carolina filed rate tariff that the Qualified Facility would be eligible to receive from DEP for facilities not directly interconnected with DEP, or (ii) the energy and capacity, if applicable, rates that such facility would be eligible to receive from

DEP, based on DEP's PURPA avoided cost rates, as determined in accordance with the methodology adopted by the NCUC.

4.4.3 Operating Procedures. The provisions for administering Power Agency's purchases from a PURPA Qualifying Facility or Power Agency's use of a PURPA Qualifying Facility that it owns, and the energy and/or capacity, if any, billing credits related to such purchases or use, will be addressed in operating procedures to be developed by and agreed upon by the Parties.

4.4.4 Direct DEP Purchases. If DEP purchases the output of a PURPA Qualifying Facility that is directly interconnected to a Member's electrical system, then in such circumstances, in any month in which the PURPA Qualifying Facility was in operation and sold its output to DEP, the energy generated in each hour by the PURPA Qualifying Facility shall be added back to the Monthly Coincident Demand and Monthly Billing Energy to be used in calculating Power Agency's charges for Requirements Service.

4.4.5 Treatment of PURPA Qualifying Facilities in the Event of Early Termination of Supplemental Load and/or Base Load Purchases. Notwithstanding the provisions of this Section 4.4, if Power Agency has given notice of termination of all of its Supplemental Load purchases pursuant to Section 2.6, the output of any PURPA Qualifying Facility may not be used to reduce Power Agency's Monthly Coincident Billing Demand. In addition, notwithstanding the provision of this Section 4.4, if Power Agency has given notice of a

termination of any of its Supplemental Load and/or Base Load purchases pursuant to Sections 2.6 or 2.7, the Parties shall develop procedures to address the appropriate treatment, including the bill credits, as applicable, on and after the effective date of such termination, of PURPA Qualifying Facilities that are, or are proposed to be, directly interconnected to the electric system behind the Duke-owned wholesale revenue meter of a Member.

5. Charges for Capacity, Energy and CCR Costs

5.1 Capacity Charge. Each month during the Delivery Period, DEP shall charge Power Agency, and Power Agency shall pay DEP, a charge for capacity equal to (i) the Monthly Coincident Billing Demand multiplied by (ii) the Capacity Rate, calculated on the basis of the Monthly Coincident Billing Demand (the "Monthly Capacity Charge"). Notwithstanding the foregoing, if DEP exercises its right to implement the Allocation/Billing Change set forth in Section 2.5 of this Agreement, the Monthly Capacity Charge shall be equal to one twelfth (1/12) of (a) the Annual Coincident Billing Demand multiplied by (b) the Capacity Rate, calculated on the basis of the Annual Coincident Billing Demand. The estimated and actual Monthly Capacity Charge will be calculated as set forth in Section 5.2. The Parties agree that (i) the Monthly Capacity Charge for service provided during the period beginning January 1, 2019 through December 31, 2026 shall be reduced by the rate discounts set forth in Exhibit IX hereto, and (ii) the Monthly Capacity Charge for service provided during the period beginning January 1, 2021 through December 31, 2023 shall be reduced by the

rate discounts set forth in Exhibit X hereto, as such amounts are adjusted in accordance with the terms of Exhibit X.

5.2 Estimated Monthly Capacity Charges. Not later than the first Business Day of December of each Calendar Year during the Delivery Period, DEP will provide Power Agency with an estimate of the Capacity Rate for the next succeeding Calendar Year of service beginning on January 1st. The estimated Capacity Rate will be used in monthly billings of Monthly Capacity Charges for the service provided from January 1st through December 31st of such Calendar Year, and the Monthly Capacity Charges resulting from application of the estimated Capacity Rate during such period will be reconciled ("trued-up") each year with the Capacity Rate that results from incorporating actual values in the Capacity Rate Formula, as provided in Article 7 below. Any challenge or correction of the Capacity Rate or Monthly Capacity Charges will be made in accordance with the provisions of Articles 7 and 16.

5.3 Energy Charge. Each month during the Delivery Period, DEP shall charge Power Agency, and Power Agency shall pay DEP, a charge for the energy provided to Power Agency that is equal to (i) the Energy Rate, multiplied by (ii) Monthly Billing Energy (the "Monthly Energy Charge"). The estimated and actual Monthly Energy Charge will be calculated as set forth in Section 5.4.

5.4 Estimated Monthly Energy Charges. Not later than the first Business Day of December of each Calendar Year during the Delivery Period, DEP will provide Power Agency with an estimate of the Energy Rate for the next succeeding Calendar Year of service

beginning on January 1st. The estimated Energy Rate will be used in monthly billings of Monthly Energy Charges for the service provided from January 1st through December 31st of such Calendar Year, and the Monthly Energy Charges during such period will be reconciled ("trued-up") each year with the Energy Rate that results from incorporating actual values in the Energy Rate Formula, as provided in Article 7 below. Any challenge or correction of the Energy Rate or Monthly Energy Charges will proceed in accordance with the provisions of Articles 7 and 16.

5.5 Charges for CCR Costs. The Charge for Buyer CCR Costs for each Calendar Year shall be calculated in accordance with Section III of Exhibit VII. Notwithstanding the foregoing, if DEP exercises its right to implement the Allocation/Billing Change set forth in Section 2.5 of this Agreement, the Buyer's Production Demand Allocation Factor thereafter used to calculate the Charge for Buyer CCR Costs will be the Annual Coincident Billing Demand divided by DEP's Annual Peak Demand, as adjusted consistent with Exhibit I, page 16. The Parties agree that CCR Costs shall not include payments ordered in a final, non-appealable order, agreed upon in a final, non-appealable settlement, or sought by any third party and which Duke by a final, non-appealable settlement expressly agrees to assume or pay for third-party personal injury or property damage caused or alleged to have been caused by either: (a) Duke's activities in complying with the requirements of CAMA, the CCR Rule, and consent and/or settlement agreements/orders concerning the treatment, management and remediation of coal combustion residuals, or (b) the release or threatened release to the

environment of any of Duke's CCR under 42 U.S.C. § 9607 or 9613 (or any substantively similar state law), whether such payment liability for either (a) or (b) results from litigation or settlement. It is intended that the Capacity Rate Formula, the Energy Rate Formula, the Reserve Capacity Rate Formula and the Calculation of Coal Combustion Residual Costs shall exclude DOJ Settlement Costs and Neighbor Compensation Costs. If any of the cost items set forth in Exhibits I, II, III and/or VII contain DOJ Settlement Costs and/or Neighbor Compensation Costs, then such costs shall be excluded when calculating the Capacity Rate Formula, the Energy Rate Formula, the Reserve Capacity Rate Formula, and the Calculation of Coal Combustion Residual Costs under this Agreement.

5.5.1 Estimated Monthly CCR Charges. Not later than the first Business Day of December of each Calendar Year during the Delivery Period, DEP will provide Power Agency with an estimate of the Charge for Buyer CCR Costs for the next succeeding Calendar Year of service beginning on January 1st. The estimated Monthly Charge for Buyer's CCR Costs will be used in monthly billings for the service provided from January 1st through December 31st of such Calendar Year, and the resulting charges during such period will be reconciled ("trued-up") each year with the Charge for Buyer CCR Costs that results from incorporating actual values in the Calculation of Coal Combustion Residual Costs, as provided in Article 7 below. Any challenge or correction

of the Charge for Buyer CCR Costs will be made in accordance with the provisions of Articles 7 and 16.

5.5.1.1 The Parties also agree to, and hereby, establish a Buyer Maximum Annual CCR Billing Amount through December 31, 2027, as set forth in Exhibit VIII for CCR Costs, not including Beneficial Reuse Costs recorded in FERC Account No. 501. Beginning January 1, 2028, Buyer shall pay the Charge for Buyer CCR Costs as incurred.

5.5.1.2 For each year through December 31, 2027, Buyer shall be billed the lower of the estimated Charge for Buyer CCR Costs or the Buyer Maximum Annual CCR Billing Amount for the Calendar Year. Beginning January 1, 2028, Buyer shall be billed the estimated Charge for Buyer CCR Costs. Such annual amount shall be divided by 12 to determine the estimated Monthly Charge for Buyer's CCR Costs.

5.5.2 Annual True-up of Charge for Buyer CCR Costs. Calculations of the actual Charge for Buyer CCR Costs pursuant to Section III.A of Exhibit VII for the prior year shall be provided to Buyer in accordance with Section 7.1.

5.5.2.1 If Buyer payments under Section 5.5.1.2 for the prior year were less than the actual Charge for Buyer CCR Costs, Buyer shall:

(a) Pay the difference to Duke as a lump sum, or

(b) Pay the difference to Duke up to the Buyer Maximum Annual CCR Billing Amount, and defer the amount by which the actual Charge for Buyer CCR Costs exceeds the Buyer Maximum Annual CCR Billing Amount for the prior year for recovery in succeeding years ("Buyer Deferred CCR Costs").

5.5.2.2 If Buyer payments under Section 5.5.1.2 for the prior year were greater than the actual Charge for Buyer CCR Costs, then the difference shall:

(a) First be applied to reduce any outstanding balance of Buyer Deferred CCR Costs, and then

(b) Duke shall refund the remaining difference to the Buyer.

5.5.2.3 Payments made pursuant to the annual true-up of the Charge for Buyer CCR Costs shall include interest payable by Buyer or Duke, as applicable, on any refunds or surcharges calculated at the Interest Rate from the date on which any payment was made that included excess or deficient charges to the date on which the refund or surcharge is paid.

5.5.3 Buyer Deferred CCR Costs. Buyer Deferred CCR Costs that are permitted in accordance with Section 5.5.2.1 shall accrue interest (i) at the Interest Rate on any deferred amount less than twenty million dollars ($20,000,000), and (ii)

at the DEP Cost of Capital on any deferred amount that exceeds twenty million dollars ($20,000,000).

5.5.4 Buyer Payments. At its option, Buyer may make periodic lump-sum payments to reduce its Buyer Deferred CCR Costs balance. If a Buyer Deferred CCR Cost balance exists subsequent to the true-up for calendar year 2027 as provided pursuant to Section 7, Buyer then shall pay the then-outstanding Buyer Deferred CCR Costs within twelve (12) months of the date on which the true-up was rendered, with interest. If this Agreement expires or terminates at any time when a balance in the Buyer Deferred CCR Costs exists, Buyer shall pay the then-outstanding Buyer Deferred CCR Costs within ninety (90) days of the date on which this Agreement expired or terminated.

5.5.5 Buyer Deferred CCR Costs Example. Exhibit VIII provides examples of calculations of Buyer Deferred CCR Costs.

5.6 Beneficial Reuse Costs. Beneficial Reuse Costs shall be subject to any CCR Disallowance related to Beneficial Reuse Costs. Beneficial Reuse Costs that are recorded in FERC Account No. 501 shall be recovered as a component of the Monthly Energy Charges determined in accordance with Section 5.4, and shall not be included in CCR Costs for purposes of applying the methodology set forth in Exhibit VII. Beneficial Reuse Costs shall be subject to true-up in accordance with Section 7.1.

6. Charges for Reserve Capacity

6.1 Reserve Capacity Charge. Each month during the Delivery Period, DEP shall charge Power Agency, and Power Agency shall pay DEP, a charge for the Reserve Capacity provided to Power Agency that is equal to (i) the Reserve Capacity Rate, multiplied by (ii) Reserve Capacity Billing kW (the "Monthly Reserve Capacity Charge"). The estimated and actual Monthly Reserve Capacity Charge will be calculated as set forth in Section 6.2.

6.2 Estimated Monthly Reserve Capacity Charges. Not later than the first Business Day of December of each Calendar Year during the Delivery Period, DEP will provide Power Agency with an estimate of the Reserve Capacity Rate for the next succeeding Calendar Year of service beginning on January 1st. The estimated Reserve Capacity Rate will be used in monthly billings of Monthly Reserve Capacity Charges for the service provided from January 1st through December 31st of such Calendar Year, and the Monthly Reserve Capacity Charges during such period will be reconciled ("trued-up") each year with the Reserve Capacity Rate that results from incorporating actual values in the Reserve Capacity Rate Formula, as provided in Article 7 below. Any challenge or correction of the Reserve Capacity Rate or Monthly Reserve Capacity Charges will be made in accordance with the provisions of Articles 7 and 16.

7. True-Up Process

7.1 Capacity, Energy and Charges for CCR True-Up Process. Pursuant to Sections 5.2, 5.4, 5.5, 5.6, and 6.2, charges for service during any Calendar Year during the Delivery

Period shall be based on a calculation of the Monthly Capacity Charges, Monthly Energy Charges, Monthly Charge for Buyer's CCR Costs, and Monthly Reserve Capacity Charges, as applicable, that incorporate estimated values (to the extent actual values are not fixed or not known for such Calendar Year) in the Capacity Rate Formula, the Energy Rate Formula, the Calculation of Coal Combustion Residual Costs, and the Reserve Capacity Rate Formula, as applicable. On or about June 30th of each Calendar Year (or as soon thereafter as practicable), DEP will provide Power Agency with the following values for service rendered during the immediately preceding Calendar Year, calculated based on (a) actual values recorded and reported by DEP in its FERC Form No. 1 for such Calendar Year, (b) values that are reconcilable to the FERC Form No. 1 by the application of clearly identified and supported information, and (c) values calculated in accordance with schedules or other information set forth in the: (i) Capacity Rate and Monthly Capacity Charges, based on the inclusion of actual values in the Capacity Rate Formula; (ii) Energy Rate and Monthly Energy Charges, based on the inclusion of actual values in the Energy Rate Formula; (iii) Reserve Capacity Rate and Monthly Reserve Capacity Charges, based on the inclusion of actual values in the Reserve Capacity Rate Formula; (iv) Charge for Buyer CCR costs, based on the inclusion of actual values in the Calculation of Coal Combustion Residual Costs; and (v) Annual True-up Amount (defined below), if any.

7.1.1 Annual True-up Amount. Each Calendar Year, DEP shall reconcile the estimated Monthly Capacity Charges, Monthly Energy Charges, Monthly

Charge for Buyer's CCR Costs, and Monthly Reserve Capacity Charges that were billed to Power Agency during the immediately preceding Calendar Year with charges recalculated for such year in accordance with Section 7.1. The difference between the estimated amounts and the recalculated amounts for such charges represents the extent to which Power Agency overpaid or underpaid for those services during the immediately preceding Calendar Year. The sum of the monthly differences (the "Annual True-up Amount") will be invoiced, and paid or credited, as provided for herein.

7.1.2 Underpayment True-Up. If the Annual True-up Amount results in Power Agency owing an additional amount to DEP for services billed to Power Agency during the immediately preceding Calendar Year, Power Agency may, at its option, remit to DEP either: (i) a lump-sum payment of the Annual True-up Amount; or (ii) monthly payments over the twelve-month period following completion of the reconciliation, each such payment equaling 1/12th of the Annual True-up Amount, provided that at any time during such twelve-month payment period Power Agency may, at its option, remit to DEP any then-unpaid portion of the Annual True-up Amount. The Annual True-up Amount, whether paid through a lump-sum payment or through monthly payments, shall bear interest at the Interest Rate for the period of time between (i) the date on which Power Agency remitted payment to DEP of the invoice for each month of service in the immediately preceding Calendar Year, and (ii) the date

on which Power Agency remits to DEP payment of the portion of the Annual True-up Amount attributable to such month. Charges associated with the Annual True-up Amount shall be reflected in DEP's determination of the amount due from Power Agency in invoices prepared and submitted by DEP in accordance with Article 8.

7.1.3 Overpayment True-Up. If the Annual True-up Amount results in DEP owing an amount to Power Agency for services billed to Power Agency during the immediately preceding Calendar Year, then DEP may, at its option, provide to Power Agency either: (i) a single credit equal to the full amount of the Annual True-up Amount; or (ii) monthly credits over the twelve-month period following completion of the reconciliation, each such credit equaling 1/12th of the Annual True-up Amount, provided that at any time during such twelve-month credit period DEP may, at its option, provide to Power Agency a credit equaling the then-uncredited portion of the Annual True-up Amount. The Annual True-up Amount, whether credited through a single credit or through monthly credits, shall bear interest at the Interest Rate for the period of time between (i) the date on which Power Agency remitted payment to DEP of the invoice for each month of service in the immediately preceding Calendar Year and (ii) the date on which DEP provides to Power Agency a credit for the portion of the Annual True-up Amount attributable to such month. Credits associated with the Annual True-up Amount shall be reflected in DEP's

determination of the amount due from Power Agency in invoices prepared and submitted by DEP in accordance with Article 8.

7.1.4 CCR Disallowances that are ordered or determined under an applicable Law that are related to a year in which the annual true-up for the Monthly Energy Charge and/or the Monthly Charge for Buyer's CCR Costs has already occurred shall be reflected in charges to Buyer in accordance with Section IV.A of Exhibit VII. Adjustments for such additional CCR Disallowances shall survive termination of this Agreement as a payment obligation in accordance with Section 18.17.

7.2 Disputes of Charges. Power Agency may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice (including the Annual True-up Amount and the calculation thereof) rendered by DEP pursuant to this Agreement within thirty-six (36) months following the date on which the invoice, or adjustment to an invoice, was rendered by DEP. Notwithstanding the foregoing, the thirty-six (36) months referenced herein shall not apply to the payment of billing credits to Buyer from Duke as a result of CCR Disallowances and/or CCR Insurance Proceeds in accordance with Section IV of Exhibit VII. In the event Power Agency seeks to initiate such a dispute, it shall follow the procedures set forth in Section 8.3.

7.3 Records and Audits. DEP shall keep and maintain such records and documents, including cost information used to calculate charges, as may be necessary in verifying the accuracy and correctness of any invoice, adjustment, charge, or computation

rendered pursuant to this Agreement. DEP shall preserve such records and documents for the longer of (i) thirty-six (36) months from and after the date on which DEP rendered the invoice, adjustment, charge, or computation to which the record or document relates, or (ii) the period of time records and documents are required to be preserved pursuant to DEP's corporate records retention policy. Notwithstanding the foregoing, the thirty-six (36) months referenced herein shall not apply to the payment of billing credits to Buyer from Duke as a result of CCR Disallowances and/or CCR Insurance Proceeds in accordance with Section IV of Exhibit VII. Power Agency and any designated representative of Power Agency shall be entitled to audit the records and documents of DEP, including records and documents in the custody of third parties, to the extent records and documents are reasonably related to any invoice, charge or computation rendered pursuant to this Agreement, subject to the following provisions.

7.3.1 If Power Agency seeks to initiate an audit, it shall do so by notifying DEP in writing that Power Agency is exercising its right to examine records and documents of DEP that are subject to Power Agency's audit right. Following its receipt of such notice, DEP shall retain and preserve the records and documents subject to such audit until the audit is complete.

7.3.2 Records of DEP that are kept in electronic form shall be made available to Power Agency in that same form. In addition, to the extent reasonably practicable, DEP shall make available to Power Agency copies or electronic scan files of any records or documents kept by DEC in paper form.

7.3.3 Power Agency shall be solely responsible for the costs of any independent auditor it may retain for purposes of conducting an audit hereunder.

7.3.4 If any audit or examination reveals an error or inaccuracy in any invoice rendered by DEP and if such error or inaccuracy resulted in an overpayment or underpayment by Power Agency, DEP shall promptly render to Power Agency a revised invoice reflecting such adjustments as are necessary to correct the error or inaccuracy, and shall either reimburse or charge Power Agency for any charges paid to DEP that are attributable to the error or inaccuracy. Unless otherwise requested by Power Agency, DEP shall provide any reimbursement as a credit on the next following monthly invoice. Any reimbursement or charge required under this Section 7.3.4 shall include interest on the adjustment at the Interest Rate from the date on which Power Agency remitted payment of the invoice that reflected the error or inaccuracy until the date on which the invoice that includes the reimbursement credit is provided by DEP to Power Agency or charged by DEP to Power Agency.

7.3.5 To the extent any non-public information disclosed to Power Agency in connection with an audit of DEP's records and documents constitutes Protected Information, as defined in Article 12 of this Agreement, Power Agency shall maintain the confidentiality of that information in accordance with Article 12.

7.4 Additional Rights to Obtain Information. In addition to its audit rights set forth in Section 7.3, Power Agency at any time may submit requests for information relating to DEP's calculation of the Monthly Capacity Rate, the Monthly Energy Rate, the Monthly Reserve Capacity Rate, and the Monthly Charge for Buyer's CCR Costs, and the basis for the values DEP incorporated in such calculations. DEP shall make good faith efforts to respond to any such information requests within thirty (30) Business Days of its receipt of a request. Any unresolved disagreement between DEP and Power Agency pertaining to such requests for information or responses thereto shall be subject to the informal dispute resolution process set forth in Section 17.1.

7.5 Projections of the Capacity Rate, the Energy Rate, the Reserve Capacity Rate, and the Charge for Buyer CCR Costs. Not later than September 1 of each Calendar Year during the Delivery Period, DEP shall provide its best projection of the Capacity Rate, the Energy Rate, the Reserve Capacity Rate, and the Charge for Buyer CCR Costs expected to be applied in calculating charges to Power Agency for a period of not less than five (5) years starting with the next-following Calendar Year. DEP shall provide an update to such five-year projections by December 1 of each Calendar Year. DEP shall provide such supporting documentation and calculations for its projection of rates and charges as may be agreed to by the Parties.

8. Billing & Payment

8.1 Invoicing and Payment. As promptly as practicable after the close of each month during the Delivery Period, DEP shall prepare and deliver to Power Agency an invoice

covering all amounts due from Power Agency to DEP pursuant to this Agreement for services provided during the preceding month, and all amounts that may be due from DEP to Power Agency. DEP may deliver each such invoice by mail, express mail, courier or electronic mail, and all such invoices shall be due and payable within fifteen (15) days of (i) the postmark date of the invoice (if delivered via U.S. mail or express mail), (ii) the date the invoice was received (if delivered by courier), or (iii) the date the invoice was sent (if delivered via electronic mail). Each invoice rendered by DEP shall be accompanied by an electronic data file containing metered hourly load data for each Member's Delivery Points for the month to which the invoice relates. Invoices not paid when due shall be deemed delinquent, and, in such circumstances, interest shall accrue at the Interest Rate on any amount that is due but unpaid. The Party from whom payment is due shall deliver said payment to the payee, or to the account of the payee at a bank designated by the payee, by electronic funds transfer or such other means as provides the payee immediately available funds.

8.2 Setoff and Netting of Amounts Due. The Parties agree to the automatic setoff and netting of all amounts due to or from each other arising out of the payment obligations under this Agreement. If, in a given month during the Delivery Period, DEP owes credits or payments to Power Agency under this Agreement, DEP may net the amounts of such credits or payments against the amounts that Power Agency otherwise owes DEP for such month, such that DEP will only invoice Power Agency for the amount that Power Agency owes DEP in excess of any amounts that DEP owes to Power

Agency, or it will credit Power Agency for the amount DEP owes in excess of any amounts Power Agency owes DEP, except for the invoice for the last month of the Delivery Period of this Agreement, for which each Party shall pay the other Party directly rather than set-off of net amounts due and owing. All outstanding obligations to make payment under this Agreement may be netted, offset, set off, or recouped therefrom, and payments and credits shall be made as set forth above.

8.3 Disputes Regarding Invoiced Charges.

8.3.1 If Power Agency disputes all or any portion of an invoice or adjustment, it shall provide written notice to DEP (the "Billing Dispute Notice") that (i) states the good faith basis for the dispute, and (ii) provides Power Agency's best estimate of the amount in dispute and the basis for that amount. Power Agency shall, at its option, (a) make payment to DEP of the full amount shown on the invoice, including any portion of the invoiced amount that is disputed by Power Agency, or (b) withhold one half (1/2) of the amount in dispute and make payment to DEP of the other one half (1/2) of the amount in dispute. Payment to DEP of one half (1/2) of the amount in dispute shall not relieve Power Agency of the obligation to pay interest on any amount withheld by Power Agency that is later determined to have been chargeable to Power Agency pursuant to the terms of this Agreement. Likewise, DEP shall not be relieved of the obligation to pay interest on any amount paid by Power Agency

that it is later determined was not chargeable to Power Agency pursuant to the terms of this Agreement.

8.3.2 DEP shall review Power Agency's Billing Dispute Notice and the disputed invoice or adjustment, and thereafter shall notify Power Agency in writing whether and to what extent it agrees with Power Agency's position as set forth in the Billing Dispute Notice (the "Response Notice"). DEP shall provide the Response Notice to Power Agency no later than forty-five (45) days after DEP's receipt of the Billing Dispute Notice.

8.3.3 If DEP agrees in whole or in part with Power Agency's position as set forth in the Billing Dispute Notice, DEP shall specify in the Response Notice the amount of any reimbursement that it believes in good faith is due Power Agency. Any such reimbursement shall be reflected as a credit on the next monthly invoice rendered by DEP, and shall include interest, calculated at the Interest Rate, from the date on which Power Agency paid the disputed invoice to the date on which Power Agency's payment of the invoice reflecting the reimbursement credit is due. If Power Agency disagrees with the amount of the reimbursement credit provided by DEP, Power Agency may pursue resolution of the matter in accordance with Article 17. Power Agency's acceptance of a reimbursement credit that is less than the amount it contends it is due shall not constitute a waiver of Power Agency's right to pursue additional reimbursement or other compensation, provided that Power Agency

provides DEP with notice of Power Agency's disagreement with the reimbursement credit within ninety (90) days of Power Agency's receipt of the Response Notice.

8.3.4 If DEP does not agree with Power Agency's position as set forth in the Billing Dispute Notice, either Party may submit the dispute for resolution in accordance with Article 17. Any reimbursement determined to be due Power Agency shall be furnished through the inclusion of a credit on the next monthly invoice rendered by DEP after completion of the applicable dispute resolution process, including interest. Except as provided in Section 8.3.1(ii)(b), no challenge, disagreement or dispute relating to the reasonableness or correctness of any such charge or fee shall permit Power Agency to delay or withhold any payment due hereunder. All adjustments made to invoices as a result of a challenge or initiation of a correction shall include interest calculated from the date of the payment of the invoice that was the subject of the challenge or the correction to the date of the invoice on which the charge or credit is reflected. If resolution of the dispute is obtained through the informal dispute resolution process or through arbitration, such interest shall be calculated at the Interest Rate from the date on which Power Agency paid the disputed invoice to the date on which Power Agency's payment of the invoice reflecting the reimbursement credit is due. If resolution of the dispute is obtained through submittal of the dispute to FERC, interest shall be

determined in accordance with FERC's regulations governing the payment of interest on refunds.

8.4 Taxes. DEP shall be liable for and shall pay, or cause to be paid, or reimburse Power Agency if Power Agency has paid, all Taxes imposed by a Governmental Authority on or with respect to the production, sale or transmission of energy provided hereunder arising prior to the Transfer Point. DEP shall indemnify, defend, and hold harmless Power Agency from any liability for such Taxes, including expenses related to audit and litigation of issues related to the Taxes described in the immediately preceding sentence. Power Agency shall be liable for and shall pay, or cause to be paid, or reimburse DEP if DEP has paid, all Taxes imposed by a Governmental Authority on or with respect to the transactions and services provided hereunder arising at and after the Transfer Point. Power Agency shall indemnify, defend, and hold harmless DEP from any liability for such Taxes, including expenses related to audit and litigation of issues related to the Taxes described in the immediately preceding sentence. The Parties agree that none of the Taxes described in this Section 8.4 are included in the charges under this Agreement and such Taxes shall be paid in addition to the charges under this Agreement.

9. Renewable Portfolio Standards, Demand & Efficiency Programs

9.1 Renewable Standard. The Parties agree that as of the Effective Date, DEP and Power Agency's Members have certain responsibilities under the Renewables Act. The Parties further acknowledge that additional legislation and/or regulations (state, federal and/or local) including, without limitation, a RPS, may be enacted after the Effective Date of

this Agreement and may apply to DEP and Power Agency's Members. The Parties agree that DEP shall be solely responsible, at its own cost, for satisfying the requirements of the Renewables Act, any RPS, or any other such legislation or regulation applicable to DEP, whether or not such requirements alter the Renewables Act or implement a RPS or other new or additional standards, and, that Power Agency and/or its Members shall be solely responsible, at their own cost, for satisfying the requirements of the Renewables Act, any RPS, or any other such legislation or regulation applicable to Power Agency and/or its Members, whether or not such requirements alter the Renewables Act or implement a RPS or other new or additional standards.

9.2 Renewable Resource Costs Incurred by DEP.

9.2.1 In calculating charges to Power Agency pursuant to the Capacity Rate Formula, the Energy Rate Formula and the Reserve Capacity Rate Formula, DEP may include a portion of the costs, as specified below, of renewable resources that are (i) generated or purchased by DEP to comply with the requirements of the Renewables Act or any RPS that may be applicable to DEP, and (ii) used to serve DEP's Firm Native Load.

9.2.1.1 The portion of the costs of renewable resources that DEP may include in charges to Power Agency shall be limited to the capacity and energy costs that DEP avoids through the generation of energy

from owned or purchased renewable resources that satisfy the criteria in Section 9.2.1.

9.2.1.2 Other than as provided for in Section 9.2.1.1, DEP shall not charge Power Agency for any costs that DEP incurs to comply with the requirements of the Renewables Act or any RPS that may be applicable to DEP, and Power Agency shall have no obligation to pay DEP for such compliance costs.

9.2.2 Notwithstanding any other provision of this Agreement, if DEP acquires power from a renewable resource (through purchase or ownership) that is not included in DEP's most recent compliance report filed with the NCUC pursuant to the NCUC's Rule R8-67(c)(1) as a source of renewable energy used to comply with requirements of the Renewables Act, then the cost of such purchase or resource may be included by DEP in calculating charges to Power Agency under the Capacity Rate Formula, the Energy Rate Formula and the Reserve Capacity Rate Formula.

9.2.3 Nothing in this Section 9.2 shall limit DEP's right to charge Power Agency for the cost of any purchase that DEP is required to make in accordance with PURPA or state or federal regulations or policies implementing PURPA.

9.3 Energy Efficiency Measures; Demand-Side Management; Demand Response. Nothing in this Agreement is intended to preclude Power Agency and/or its Members from implementing Energy Efficiency Measures, Demand-Side Management, or Demand

Response programs as defined in this Agreement. DEP shall have no responsibility and/or obligation relating to any Energy Efficiency Measures, Demand-Side Management, or Demand Response programs of Power Agency and/or its Members.

9.4 [Reserved].

9.5 [Reserved].

9.6 Energy Injection Devices. The use of Energy Injection Devices shall not qualify as Energy Efficiency, Demand-Side Management and/or Demand Response for purposes of this Agreement. Except as provided in Section 4.1.4.4 and Attachment XI, all Energy Injection Devices owned or operated by Power Agency, its Members, or by a retail or wholesale customer of a Member, or a retail customer of a wholesale customer of a Member shall be considered Qualified Resources. If Power Agency or its Members take any actions to aggregate, incent, or otherwise encourage the dispatch of batteries or other storage devices with a maximum capable injection capacity of less than 95 kW behind the Duke-owned wholesale revenue meter of a Member at the time of the Monthly Coincident Demand, DEP reserves the right to treat such devices as Energy Injection Devices and thus subject them to the cap on Qualified Resources in Section 4.1.4 of this Agreement, notwithstanding anything to the contrary in this Agreement.

9.7 Commercial and Industrial Customer Interruptible Service. Notwithstanding anything to the contrary in this Agreement, Power Agency shall be subject to additional charges for Interruptible Load of Commercial and Industrial Customers ("Interruptible Demand Charge") as provided in this Section 9.7. Effective January 1, 2023, Power Agency

shall notify DEP in writing at least 60 days before a Power Agency Member(s) commences service to: (a) any new Commercial and Industrial Customer with Interruptible Load in excess of one megawatt (1 MW) or, (b) any existing Commercial and Industrial Customer if that such Commercial and Industrial Customer has a new Interruptible Load in excess of one megawatt (1 MW). If the reported Interruptible Load is twenty-five megawatts (25 MW) or less, upon commencement of service to such Commercial and Industrial Customer for its Interruptible Load, DEP shall charge Power Agency, in addition to any other charges under this Agreement, an Interruptible Demand Charge equal to fifty percent (50%) of the Capacity Rate ("C&I Small Interruptible Rate") times the amount of Interruptible Load of such Commercial and Industrial Customer. For any Interruptible Load of a Commercial and Industrial Customer that exceeds twenty-five megawatts (25 MW), upon commencement of service to such Commercial and Industrial Customer for its Interruptible Load, DEP shall charge Power Agency, in addition to any other charges under this Agreement, an Interruptible Demand Charge equal to seventy percent (70%) of the Capacity Rate ("C&I Large Interruptible Rate") times the amount of Interruptible Load of such Commercial and Industrial Customer. For purposes of the Interruptible Demand Charge, the amount of Interruptible Load in any given Month shall be equal to (i) the maximum 60-minute integrated demand of such Commercial and Industrial Customer, less (ii) the 60-minute integrated demand of such Commercial and Industrial Customer as measured during the hour coincident with the hour of DEP's Monthly Peak Demand,

the resulting value adjusted to include an allowance for distribution system losses of five percent (5%) and Line Losses and GSU Losses. Interruptible Load shall not be less than zero in any Month. Power Agency shall be responsible for metering such Commercial and Industrial Customer, and the Parties shall develop procedures to address the timely exchange of metering data.

9.8 Future Compliance. Upon written notice from Power Agency to DEP, the Parties agree to engage in good faith discussions concerning Power Agency's desire to have DEP assume responsibility, and DEP's willingness to assume responsibility, on Power Agency's behalf, for satisfying the Members' obligations under the Renewables Act, any RPS, or any other such legislation or regulation. Neither Party, however, shall be under any obligation to agree to enter into any agreement to give effect to the provisions of this Section 9.6; provided however, that if the Parties do enter into such an agreement, DEP shall be under no obligation to assume such responsibilities sooner than three (3) years after the Parties enter into the definitive agreement setting forth each Party's respective obligations.

10. Transmission Organizations

10.1 Implementation of Transmission Organization. If, at any time after the Effective Date, an ISO, RTO, ITC or other organization, agency or authority is approved by FERC to serve as Transmission Provider for the DEP Transmission System or as operator for any centralized wholesale electricity market in which DEP intends to participate (hereinafter referred to as a "Transmission Organization"), DEP and Power Agency, within thirty

(30) days after FERC issues an order approving such Transmission Organization, will meet to discuss the implementation of this Agreement with respect to the rules and procedures adopted by the Transmission Organization. The Parties expressly acknowledge and agree that neither the implementation of a Transmission Organization nor the failure of the Parties to enter into any additional arrangements with respect to such Transmission Organization shall relieve either Party of any obligations under this Agreement. To the extent that the Parties determine that the implementation of a Transmission Organization will result in other requirements and/or costs associated with DEP's provision of Requirements Service in accordance with this Agreement, the Parties will meet to discuss the appropriate way to allocate such costs in a manner that reflects the economic bargain originally contemplated by the Parties when entering into this Agreement. If the Parties are unable to reach such an agreement, either Party may submit the matter to FERC for resolution after completing the informal dispute resolution process set forth in Section 17.1.

11. Assurances and Related Provisions

11.1 Creditworthiness. Either Party may review the creditworthiness of the other Party on an ongoing basis during the Term of this Agreement to ensure continued compliance with the other Party's credit requirements. For the duration of this Agreement, each Party will provide the other Party with complete audited financial statements within 180 days of the close of their fiscal year, except that, if such statements are available from

the Security and Exchange Commission's web site or other publicly available web site, this requirement will be deemed to be satisfied.

11.2 Material Adverse Change and Credit Protections.

11.2.1 If at any time both Parties are rated by Standard & Poor's Ratings Services or its successor ("S&P"), Fitch Ratings, Inc. or its successor ("Fitch") or Moody's Investors Service or its successor ("Moody's"), a Party shall be deemed to have experienced a material adverse change ("MAC") if it fails to maintain an issuer credit rating of either BBB- or better by S&P or Fitch or Baa3 or better by Moody's. In the event that a Party experiences a MAC (the "Providing Party"), then it shall provide to the other Party (the "Requesting Party") collateral in the amount of fifty million dollars ($50,000,000.00) and in the form set forth below in Section 11.4 (such collateral the "Performance Assurance") within five (5) Business Days after the date on which the MAC occurs.

11.3 Performance Assurance. If at any time either of the Parties is not rated by either S&P, Fitch or Moody's, if the Requesting Party has reasonable grounds to believe that the Providing Party is unable to perform its obligations hereunder, the Requesting Party may make a written request of the Providing Party, stating the grounds for its belief, to provide Performance Assurance. If the Providing Party disputes the grounds for the request for Performance Assurance, appropriate representatives of the Parties will meet within five (5) Business Days of such request to discuss the request to provide

Performance Assurance. Within two (2) Business Days after such meeting, the Requesting Party shall give notice to the Providing Party that it either confirms or retracts its request for Performance Assurance. Unless the Requesting Party retracts its request, the Providing Party shall provide the Performance Assurance within ten (10) Business Days from the date of the Requesting Party's initial request to provide the Performance Assurance. If the Providing Party disagrees with the Requesting Party's position after providing Performance Assurance, the Parties shall submit the dispute for resolution in accordance with Article 17.

11.4 Posting of Performance Assurance. Performance Assurance shall be in the form of cash or a letter of credit from a financial institution reasonably acceptable to the Requesting Party. Any such letter of credit shall be in a form satisfactory to the Requesting Party in its reasonable discretion. A financial institution providing a letter of credit entered into for purposes of this Section 11.4 shall be deemed reasonably acceptable by the Requesting Party if such financial institution has and maintains a minimum long-term credit rating of A- or better from S&P or Fitch or A3 or better from Moody's.

11.5 Interest on Cash Used as Performance Assurance. If cash collateral is posted as Performance Assurance, the Requesting Party shall pay interest to the Providing Party at the Interest Rate, calculated as of the first day of the applicable month. Each month during which a Party has posted cash as Performance Assurance, such Party shall invoice the Party holding the cash collateral as the Performance Assurance for interest

accrued during the previous month and the Party holding the cash Performance Assurance shall pay such amount within ten (10) Days of receipt of such invoice.

11.6 Continuing Nature of Performance Assurance Requirement. The Providing Party must continue to post the Performance Assurance as long as the MAC or the Requesting Party's grounds for insecurity continue in effect. The Requesting Party shall have the right to draw upon, use, and dispose of all Performance Assurance that is posted under this Article 11, if the Providing Party fails to fulfill any of its payment or performance obligations under this Agreement and such failure constitutes an Event of Default. In the event any Performance Assurance is drawn upon by the Requesting Party in accordance with the provisions of this Section 11.6, the Party experiencing the MAC shall within three (3) Business Days fully replenish the Performance Assurance to the full amount of the required Performance Assurance.

11.7 Return of Performance Assurance. In the event the MAC is no longer in effect, or in the event the Requesting Party's stated grounds for believing that the Providing Party is unable to perform its obligations hereunder no longer exist, the Providing Party shall provide written notice thereof to the Requesting Party, together with documentation from S&P, Fitch or Moody's that verifies that the MAC is no longer in effect, or documentation establishing, to the reasonable satisfaction of Requesting Party, that the stated grounds for believing that the Providing Party is unable to perform its obligations hereunder no longer exist, as applicable, the Requesting Party shall return the

Performance Assurance to the Providing Party within three (3) Business Days after receipt of such written notice from the Providing Party.

11.8 Grant of Security Interest. The Providing Party hereby grants to the Requesting Party a present and continuing security interest in, and lien on (and right of netting and set-off against), and assignment of, all Performance Assurance, including, without limitation, cash Performance Assurance and cash equivalent Performance Assurance and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, the Requesting Party; and, furthermore the Providing Party agrees to take such action as the Requesting Party reasonably requires to perfect the Requesting Party's first-priority security interest in, and lien on (and right of netting and set-off against), such Performance Assurance and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Requesting Party (if it is the Non-Defaulting Party) may do any one or more of the following with respect to the Providing Party (if it is the Defaulting Party): (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of netting and set-off against any and all property of the Providing Party in the possession of the Requesting Party or its agent; (iii) draw on any outstanding applicable forms of Performance Assurance issued for the benefit of the Requesting Party; and, (iv) liquidate all Performance Assurance then held by or for

the benefit of the Requesting Party free from any claim or right of any nature whatsoever of the Providing Party, including any equity or right of purchase or redemption by the Providing Party. The Requesting Party (if it is the Non-Defaulting Party) shall apply the proceeds of the Performance Assurance realized upon the exercise of any such rights or remedies to reduce the Providing Party's (if it is the Defaulting Party) obligations under the Agreement, with the Providing Party remaining liable for any amounts owing to the Requesting Party after such application, subject to the Requesting Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

12. Confidentiality

12.1 Protected Information. Subject to the provisions of this Section 12 and except as otherwise set forth in this Agreement, Power Agency, to the extent permitted by Law, shall not publish, disclose, or otherwise divulge any term or condition of this Agreement and, without limitation, any information relating to any transaction or documents exchanged between the Parties in connection with this Agreement (collectively, the "Protected Information") to a third person (other than the Party's employees, Affiliates, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential), at any time during the Term of this Agreement or for two (2) years after the expiration or early termination of this Agreement, without DEP's prior written consent; provided, however, Protected Information shall (i) constitute a trade secret (as defined below), and (ii) be designated

by DEP as "confidential" or "trade secret" at the time it is delivered to Power Agency or included in this Agreement. For purposes of this Article 12, "trade secret" means business or technical information, including, but not limited to, a formula, pattern, program, device, compilation of information, method, technique, or process that (a) derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use, and (b) is subject to efforts by DEP that are reasonable under the circumstances to maintain its secrecy. DEP shall be entitled to all remedies available at Law or in equity (including, but not limited to, specific performance and/or injunctive relief) to enforce, or seek relief in connection with, this confidentiality obligation.

12.2 Non-Confidential Information. The following shall not be considered Protected Information, and Power Agency shall not be limited in its use or disclosure thereof: (a) information which is or becomes part of the public domain through no act or omission of Power Agency; (b) information which demonstrably was known or was in the possession of Power Agency without obligation to maintain confidentiality prior to the Effective Date of this Agreement; (c) information which is received by Power Agency from a third party who is not bound to maintain such information as confidential; and/or (d) information independently developed by Power Agency without reference to the Protected Information received under this Agreement.

12.3 Return of Confidential Information. Upon request of Disclosing Party, Receiving Party shall either (i) return the Protected Information, including all copies, or (ii) destroy the Protected Information, including all copies, and present written assurances of the destruction to Disclosing Party. Notwithstanding the foregoing, both Parties acknowledge that Protected Information transferred and maintained electronically (including e-mails) may be automatically archived and stored by Receiving Party on electronic devices, magnetic tape, or other media ("Back-Up Tapes"). Notwithstanding the terms of this Agreement, in no event shall Receiving Party be required to destroy Protected Information stored on Back-Up Tapes; provided, however, any Protected Information not returned or destroyed pursuant to this Article 12 shall be kept confidential during the Term of this Agreement and for two (2) years after the expiration or early termination of this Agreement. Furthermore, the Parties agree that receiving party may retain one (1) copy of such Protected Information in Receiving Party's files for audit and compliance purposes for the duration of its existence; provided, however, such Protected Information shall be kept confidential during the Term of this Agreement and for two (2) years after the expiration or early termination of this Agreement.

12.4 Required Disclosures. Notwithstanding the confidentiality requirements set forth herein, Power Agency may, subject to the limitations set forth herein, disclose Protected Information to satisfy compliance and/or regulatory obligations to which it is subject, any other applicable requirement of Law, any requirement imposed by NERC or SERC, any control area or independent system operator rule, in response to a court order, in

connection with any court or regulatory proceeding, or as otherwise required by any requirement of Law. Such disclosure shall not terminate the obligation of confidentiality unless the Protected Information thereafter falls within one of the exclusions provided herein. To the extent the disclosure of Protected Information is requested or compelled as set forth above, Power Agency agrees to give DEP reasonable notice of any discovery request or order, subpoena, or other legal process requiring disclosure of any Protected Information. Such notice by Power Agency shall give DEP an opportunity, at DEP's sole discretion and cost, to seek a protective order or similar relief. If such protective order or other appropriate remedy is not sought and obtained by DEP within at least thirty (30) days of Power Agency's notice, Power Agency shall disclose only that portion of the Protected Information that is required or necessary in the opinion of Power Agency's legal counsel; provided, however, Power Agency shall use reasonable efforts to obtain assurances that confidential treatment will be accorded to any Protected Information so disclosed.

13. Representations & Warranties

13.1 Power Agency's Representations, Warranties and Covenants. Power Agency hereby represents warrants and covenants to DEP as follows:

13.1.1 Each Member Power Sales Agreement is and shall be designed to provide Power Agency with funds sufficient to meet its obligations under this Agreement. In the event Power Agency shall enter into a Member Power Sales Agreement with a municipal system other than a Member of Power Agency as

of the Effective Date, Power Agency shall, forthwith upon execution of said agreement by both parties, notify DEP thereof and furnish DEP with a copy of such agreement. Power Agency covenants and agrees that it shall fix, charge and take all steps necessary to collect rents, rates, fees and charges for the sale of electric power and energy and other facilities and commodities sold, furnished or supplied to its Members pursuant to the Member Power Sales Agreements at a level sufficient to provide Power Agency with revenues adequate to meet its obligations under this Agreement and to pay any and all other amounts payable from or constituting a charge or lien upon such revenues.

13.1.2 Each Member Power Sales Agreement provides and shall provide as follows: (a) that the signatory Member shall fix, charge and collect rents, rates, fees and charges for the sale of electric power and energy and other services, facilities and commodities sold, furnished or supplied through its electric system at a level sufficient to provide revenues adequate to meet its obligations under such Member Power Sales Agreement and to pay any and all other amounts payable from or constituting a charge or lien upon such revenues; (b) that the signatory Member shall take no action the effect of which would be to prevent, hinder or delay Power Agency from the timely fulfillment of its obligations under this Agreement; (c) that Power Agency shall have the right to terminate such agreement as to the defaulting Member in accordance with the Member Power

Sales Agreement; and, (d) that upon failure of the Member to make any payment in full when due under the Member Power Sales Agreement or to perform any other obligation in such agreement, Power Agency shall make demand upon the Member for payment or performance and, if said failure is not cured in accordance with the terms and conditions of the Member Power Sales Agreement, it shall constitute a default by the Member. Each Member Power Sales Agreement shall further provide that it shall not be amended or rescinded with respect to the provisions specified in (a) through (d) of the preceding sentence without the prior written consent of DEP.

13.1.3 Power Agency shall continue each of such Member Power Sales Agreements in full force and effect and shall enforce all such Member Power Sales Agreements in accordance with their terms, as amended from time to time in accordance with their terms. Each Member Power Sales Agreement shall provide that the amounts payable by the Member for service by Power Agency under the Member Power Sales Agreement shall be set forth on a monthly bill and that the revenues received by Power Agency in any month as payment of a monthly bill, and of any monthly bill provided under a Member's Debt Service Support Contract (whether in full or partial payment of either hereof), shall be applied pro rata to each monthly bill in the ratio that each bears to the total of the monthly bills rendered by Power Agency to each Member.

13.1.4 Power Agency shall take no action the effect of which would be to pledge, assign, or otherwise create a right superior to DEP in any third party to any of the revenues it receives from any Member under the Member Power Sales Agreement or its obligations to make payments to DEP hereunder.

13.1.5 Power Agency shall promptly furnish DEP a copy of any notification to a Member of an event of default by such Member under the provisions of a Member Power Sales Agreement.

13.1.6 Power Agency's obligations to make payments hereunder are unsubordinated obligations and such payments are operating and maintenance costs (or similar designation); Power Agency's obligations to make payments hereunder do not constitute any kind of indebtedness or create any kind of lien on, or security interest in, any property or revenues of DEP.

13.1.7 With respect to its contractual obligations under this Agreement and performance of obligations under this Agreement, Power Agency will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from suit, jurisdiction of court (including a court located outside the jurisdiction of its organization), relief by way of injunction, order of specific performance or recovery of property, attachment of assets, or execution or enforcement of any judgment, or otherwise take, encourage, and/or support any efforts to cause the foregoing to cause to occur.

13.2 Mutual Representations, Warranties and Covenants. Each Party represents and warrants to the other that: (i) it is duly organized and validly existing under the laws of the jurisdiction of its organization; (ii) it has the power and authority to execute, enter into, and perform its obligations under this Agreement, and such action has been duly authorized; (iii) this Agreement constitutes a legal, valid, and binding obligation enforceable against it in accordance with the terms hereof; (iv) the person who executes this Agreement on behalf of such Party has the authority to do so, and that such Party will be bound by such execution; (v) it is a "forward contract merchant" and this Agreement constitutes a "forward contract" as such terms are defined in the United States Bankruptcy Code; and, (vi) that such Party is acting on its own behalf, has made its own independent decision to enter into this Agreement, has performed its own independent due diligence, is not relying upon the recommendations of the other Party, and understands and agrees to the provisions of this Agreement.

13.3 General Covenant by the Parties. Each Party hereto covenants and agrees that if any event shall occur or condition exists which constitutes, or which after notice, lapse of time, or both, would constitute an Event of Default on its part pursuant this Agreement, it shall immediately notify the other party thereof, specifying the nature thereof and any action taken or proposed to be taken with respect thereto.

13.4 Limitations. EXCEPT AS PROVIDED HEREIN, THE PARTIES MAKE NO OTHER REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, RELATING TO THEIR

PERFORMANCE OR OBLIGATIONS UNDER THIS AGREEMENT AND EACH PARTY DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

14. Events of Defaults

14.1 Event of Default. For purposes of this Agreement, an Event of Default shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any one or more of the following:

14.1.1 The failure to make, when due, any payment, credit, or reimbursement required by this Agreement or to post or maintain collateral required by this Agreement, if such failure is not remedied within three (3) Business Days after written notice of such failure is given to the Defaulting Party by the other Party ("Non-Defaulting Party");

14.1.2 Failure by DEP to provide or deliver Requirements Service in accordance with the requirements of Sections 3.1 and 3.3.1, or failure by DEP to restore service in accordance with the requirements of Section 3.3.2;

14.1.3 The failure to perform any material covenant or material obligation set forth in this Agreement (except to the extent constituting a separate Event of Default under this Section 14.1), if such failure is not remedied within three (3) Business Days after the provision of written notice thereof to the Defaulting Party;

14.1.4 A Party becomes Bankrupt;

14.1.5 The loss of any authorization from a governmental authority that is necessary for a Party to perform its obligations hereunder in accordance with the terms of this Agreement;

14.1.6 Any representation or warranty made by a Party is false or misleading in any material respect when made or when deemed made or repeated; and/or,

14.1.7 A Party transfers or assigns or otherwise conveys any of its rights or obligations under this Agreement to another person/entity in violation of the requirements of this Agreement.

14.2 Effect of Event of Default. If at any time an Event of Default with respect to a Defaulting Party has occurred and is continuing, the other Party (the "Non-Defaulting Party") may do one or more of the following:

14.2.1 If an Event of Default (other than an Event of Default under Section 14.1.1, Section 14.1.2, or Section 14.1.4) persists for sixty (60) days or longer, terminate this Agreement by providing written notice to the Defaulting Party specifying the effective date of termination; provided, however, that if the Defaulting Party is diligently pursuing cure but such Event of Default is not capable of being cured within sixty (60) days, then the period for the Defaulting Party to cure such Event of Default shall be extended from sixty (60) days to one hundred eighty (180) days before the Non-Defaulting Party

may exercise its right to terminate this Agreement pursuant to this Section 14.2.1.

14.2.2 If an Event of Default under Section 14.1.1, Section 14.1.2, or Section 14.1.4 occurs, terminate this Agreement by providing written notice to the Defaulting Party specifying the effective date of termination.

14.3 DEP's Additional Rights Upon Default of Power Agency. In addition to any other right provided for under and in accordance with this Agreement, whenever any Event of Default by Power Agency shall have occurred and shall not have been fully cured, DEP shall have the right to demand that Power Agency enforce any Member Power Sales Agreement to which Power Agency is a party and, if DEP seeks a temporary or permanent injunction specifically to enforce this obligation of Power Agency, Power Agency agrees that DEP need not prove the inadequacy of legal remedies. The enforcement of any such Member Power Sales Agreement, whether upon demand by DEP or pursuant to a court directive, shall not affect any rights of DEP against Power Agency whether arising under and in accordance with this Agreement, at law, in equity, provided by statute, or otherwise.

14.4 Disputes Concerning Default. If either Party shall dispute an asserted default by it, the following provisions shall apply:

14.4.1 If the asserted default involves a Party's failure to perform a disputed obligation, then such Party shall perform the disputed obligation but may do so under protest. The protest shall be in writing, shall precede or accompany

performance of the disputed obligation, and shall specify the reasons upon which the protest is based. In the event it is determined that the protesting Party is entitled to reimbursement of the cost of performing a disputed obligation theretofore made or performed, then the protesting Party shall be reimbursed such amount promptly with simple interest calculated at the Interest Rate from the date the protesting Party incurred the costs of performance to the date on which such payment or credit is made.

14.4.2 If the asserted default involves Power Agency's failure to pay all or a portion of a disputed invoice, Power Agency shall comply with the requirements and procedures set forth in Section 8.3 regarding resolution of billing disputes.

14.5 Additional Obligations Upon Default. With respect to any Party that has committed an Event of Default, such Defaulting Party shall make all reasonable efforts to take any and all such further actions and shall execute, and file where appropriate, any and all such further legal documents and papers as may be reasonable under the circumstances in order to facilitate the carrying out of this Agreement or otherwise effectuate its purposes including, but not limited to, action to seek any required governmental or regulatory approval and to obtain any other required consent, release, amendment or other similar documents. The Parties hereto agree not to take any action, or otherwise consent to any agreement or amendments to any agreement, which would prohibit, or the purpose of which is to make illegal or to prevent, hinder or delay, the taking of any action contemplated by this Agreement in the event of a Default.

14.6 No Remedy Exclusive. No remedy conferred upon or reserved to the Parties hereunder is intended to be exclusive of any other remedy or remedies available hereunder or now or hereafter existing at law, in equity, or by statute or otherwise, but each and every such remedy shall be cumulative and shall be in addition to every other such remedy. The pursuit by either Party of any specific remedy shall not be deemed to be an election of that remedy to the exclusion of any other or others, whether provided hereunder or by law, equity, statute or otherwise. The pursuit by either Party of an action for recovery of damages in the event of any breach of this Agreement shall be subject to the limitation of liability set forth in Section 14.8.

14.7 Waivers. No waiver of any default or Event of Default hereunder shall extend to or affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon. No delay or omission to exercise any remedy available hereunder, including, without limitation, upon the occurrence of any Event of Default, shall impair either Party's right to exercise any right or remedy or shall be construed to be a waiver thereof, but any such right or remedy may be exercised from time to time and as often as may be deemed expedient. Any waiver of a default, Event of Default, or remedy hereunder shall be in writing signed by the waiving Party. In order to entitle a Party to exercise any remedy conferred upon or reserved to it hereunder, it shall not be necessary for such Party to give any notice, other than such notice as may be expressly required by this Agreement.

14.8 Limitation of Liability. IN THE EVENT OF ANY BREACH OF THIS AGREEMENT, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. NEITHER PARTY NOR ITS AFFILIATES, SUBSIDIARIES, OR PARENT SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, EVEN IF SUCH DAMAGES ARE ALLOWED OR PROVIDED BY STATUTE, IN TORT OR CONTRACT, OR OTHERWISE.

14.9 Duty to Mitigate. Each Party agrees that is has a duty to mitigate damages, and each covenants that it shall use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or nonperformance of this Agreement.

15. Notices

15.1 Process. All notices, requests, or communications permitted or required to be given hereunder shall be in writing and shall be sent to the address of the applicable Party as specified below. A Party may change its information related to receiving notices by sending written notice to the other Party. Notices shall be delivered by hand, sent by certified mail, postage prepaid, return receipt requested, or sent by overnight mail or courier. Hand delivered notices shall be deemed delivered by the close of the Business Day on which it was hand delivered. Notices provided by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier, shall be deemed to

have been received on the date noted as delivered on the receipt or tracking registry, as applicable. Notwithstanding the foregoing, if the day on which any notice is delivered or received is not a Business Day or is after 5:00 p.m. Eastern Prevailing Time on a Business Day, then it shall be deemed to have been received on the next following Business Day.

If to DEP:

Duke Energy Progress, LLC
411 Fayetteville Street
Raleigh, N.C. 27601
Mail Code: 12
Attn: VP – Wholesale Power Sales
Phone: (919) 546-6228
Email: Harold.James@duke-energy.com

With a copy to:

Duke Energy Progress, LLC
550 South Tryon Street
Charlotte, N.C. 28202
Attn: General Counsel

If to Power Agency:

North Carolina Eastern Municipal Power Agency
1427 Meadow Wood Blvd
Raleigh, North Carolina 27604
Attn: Kathy Moyer – Chief Operating Officer
Email: kmoyer@electricities.org

With a copy to:

North Carolina Eastern Municipal Power Agency
1427 Meadow Wood Blvd
Raleigh, North Carolina 27604
Attn: Jay Morrison – Chief Legal and Ethics Officer
Email: jmorriso@electricities.org

16. Proposed Changes in Rates, Terms and Conditions

16.1 Unilateral Filing Rights Preserved. Except as otherwise provided in this Article 16 and in Section 2.4.5, each Party expressly retains its right to make unilateral filings with FERC at any time, pursuant to Section 205 or 206 of the Federal Power Act (as applicable) for a change in the rates, terms and conditions of this Agreement (including, without limitation, a change in any formula, or a change in the components of any formula, used to calculate rates and charges hereunder). Each Party also reserves its rights with respect to any rate change submitted unilaterally by the other Party, including the right to oppose, or to seek rejection, modification, suspension or refunds, with respect to any such unilateral filing. Except as provided in Section 16.2, the standard of review for changes to any of the rates, terms and conditions of this Agreement, whether proposed by a Party, a non-Party or FERC acting *sua sponte*, shall be the "just and reasonable" standard of review.

16.2 Other Modifications. The Parties specifically intend and acknowledge and agree that this Section 16.2 and the items set out in Section 16.2.1 ("Excepted Provisions") shall not be subject to amendment or other modification, absent the written agreement of both Parties and that neither Party shall be permitted to make a filing with FERC under any provision of the Federal Power Act or the regulations promulgated thereunder that seeks to amend or otherwise modify, or requests FERC to amend or otherwise modify, the Exception Provisions at any time during the Term, except to implement an amendment or other modification to an Excepted Provision that has been reduced to writing and

signed by both Parties. In addition, to the extent a Party, any third party, or FERC acting *sua sponte* seeks to amend or otherwise modify, or requests FERC to amend or otherwise modify an Excepted Provision, the standard of review for any such proposed amendment or other modification shall be the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp*., 350 U.S. 332 (1956), and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and as further defined in *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County*, 554 U.S. 527 (2008), and *NRG Power Marketing, LLC v. Maine Public Utilities Commission*, 558 U.S. 165 (2010).

16.2.1 Excepted Provisions.

16.2.1.1 Agreement. The Excepted Provisions in the Agreement are as follows: (a) Section 2.7.7 addressing the Compensation Payment; and (b) Section 16.2, including all subsections thereof, addressing Excepted Provisions.

16.2.1.2 Capacity Formula Rate. The Excepted Provisions of the Capacity Formula Rate are as follows: (a) the inclusion in rate base of the unamortized balance of the acquisition adjustment that DEP paid to Power Agency under the Asset Purchase Agreement for Power Agency's undivided ownership interests in the nuclear-fueled generation facilities known as the Shearon Harris Nuclear Plant, located in Wake County, North Carolina, and Brunswick Unit 1 and

Brunswick Unit 2, each located in Brunswick County, North Carolina, and the coal-fueled generation facilities known as the Mayo Plant and Roxboro Unit 4, each of which is located in Person County, North Carolina, (b) the amortization of such acquisition adjustment commencing at the start of the Delivery Period, and (c) the inclusion of the annual amortization of such acquisition adjustment as an expense.

16.3 Construction Work in Progress. Construction Work in Progress ("CWIP") associated with a specific production plant construction project ("Construction Project") may be included in calculating the Capacity Rate and the Reserve Capacity Rate if and only to the extent (i) DEP and Power Agency have agreed in writing that CWIP associated with such Construction Project may be included in applying the Capacity Rate Formula and the Reserve Capacity Rate Formula, and (ii) FERC has issued an order approving the inclusion of CWIP associated with such Construction Project in applying the Capacity Rate Formula and the Reserve Capacity Rate Formula. In accordance with FERC's Regulations, DEP will cease the accrual of AFUDC on expenditures related to any Construction Project permitted to be included as CWIP in applying the Capacity Rate Formula and the Reserve Capacity Rate Formula. The CWIP balance for any Construction Project that is used as an input to the Capacity Rate Formula or the Reserve Capacity Rate Formula may not be changed by DEP except through a filing pursuant to

Section 205 of the Federal Power Act or by Power Agency except pursuant to an order of FERC issued under Section 206 of the Federal Power Act.

16.4 Modification Process. A Party which seeks a modification under this Agreement in accordance with the provisions of this Article 16 will first provide the other Party with a written proposal that sets forth the proposed modification and the bases therefor. Thereafter, the Parties shall negotiate in an attempt to agree upon an amendment to the Agreement to implement such proposed modification and, if the Parties reach agreement on such amendment, shall execute and deliver such amendment contingent on acceptance by FERC, and DEP shall file such amendment with FERC under Section 205 of the Federal Power Act. If the Parties fail to reach agreement within sixty (60) days of the date that the written proposal is provided, then the Parties will first attempt to resolve the disagreement pursuant to Section 17.1. Except as provided in Section 16.2, in the event the Parties are unable to reach agreement pursuant to Section 17.1, then either Party may proceed to file an application with FERC under Section 205 or 206 of the Federal Power Act, as applicable, for the limited purpose of obtaining FERC acceptance or approval of the amendment proposed by such Party. In the event a Party files an application under Section 205 or 206, the other Party shall have all rights afforded by the Federal Power Act to intervene, comment, protest and oppose such filing.

17. Dispute Resolution

17.1 Informal Dispute Resolution Process. In the event of (i) a dispute arising from an inability by the Parties to reach agreement with respect to any issue arising in connection with the terms and conditions of this Agreement, including, but not limited to, an inability to reach agreement on operating procedures contemplated by the provisions of this Agreement, or (ii) any dispute under this Agreement, including, but not limited to, a challenge or correction to an invoice, the Parties shall make a good faith attempt to informally resolve the dispute. To aid in this resolution process, each Party shall provide, in a timely manner, all information and data reasonably requested by the other Party regarding the dispute raised, subject to confidentiality and the settlement privilege. The Parties shall use all commercially reasonable efforts to attempt to resolve the matter within sixty (60) days.

17.2 Formal Dispute Resolution Process. If the Parties are unable to reach agreement on the resolution of any dispute through the informal dispute resolution process set forth in Section 17.1, the following procedures shall apply:

17.2.1 No later than six (6) months after the end of the 60-day period set forth in Section 17.1, either Party may initiate the formal dispute resolution process by informing the other Party in writing that a formal dispute exists. If neither Party provides such notice that a formal dispute exists within such six (6) month period, then the dispute shall be waived and conclusively terminated

without any further effect or liability to either Party. If a formal dispute exists, either Party shall have the right to submit the dispute to FERC or the Parties may agree in writing to submit the dispute for arbitration pursuant to Section 17.3. If the Parties agree in writing that the dispute will be submitted for arbitration, then the procedures set forth in Sections 17.3 through 17.9 shall govern.

17.3 Arbitration. Except for the matters described in Sections 16.1 and 16.2 and except for the process described in Sections 16.4, if the Parties mutually agree in writing, any dispute arising out of or relating to this Agreement or the breach thereof (collectively "Disputes") that the Parties are unable to resolve pursuant to Section 17.1, shall be settled by arbitration between the Parties in accordance with the provisions of this Section 17.3; provided, however, if the Parties do not mutually agree in writing to pursue arbitration in accordance with this Section 17.3, either Party may seek to resolve the dispute by commencing an action before FERC. It is expressly acknowledged and agreed that neither Party will be required to agree to pursue binding arbitration of any dispute.

17.3.1 Arbitration Process. If the Parties agree to pursue arbitration as provided in Section 17.3, after the expiration of the time periods for informal dispute resolution provided for in Section 17.1, a Party may serve a demand for arbitration on the other Party by giving the other Party written notice of a Dispute that has not been resolved, which written notice shall include: (i) a

demand for arbitration, (ii) a statement of that Party's position, and (iii) a summary of that Party's arguments supporting such position. Within ten (10) Business Days after delivery of the notice demanding arbitration, the receiving Party shall give to the other Party (a) a statement of the receiving Party's position, and (b) a summary of the receiving Party's arguments supporting such position. Within fifteen (15) days after a Party serves a demand for arbitration on the other Party, each Party shall provide the other party with the names of the proposed arbitrator(s), each of whom shall have a favorable reputation, either nationally or in the Southeast region of the United States, for special skill, knowledge and experience in the electric utility industry (who shall not be a current or former officer, director, employee or agent of a Party or any of its Affiliates). Upon receipt of the lists of proposed arbitrators, each Party, within fifteen (15) days of receipt thereof, shall rank the arbitrators provided by the other Party in order of preference, with number 1 representing the most preferred and number 3 representing the least preferred. If the Parties' rankings identify one or more arbitrators with a ranking that is common to both Parties, the Parties shall select the arbitrator having the most preferred, common ranking. If the Parties' rankings do not identify an arbitrator with a ranking common to both, each Party shall select one arbitrator from the other Party's list of proposed arbitrators and the two arbitrators so selected shall select a third arbitrator. Upon selection of the arbitrator(s), as

the case may be, the Parties jointly shall submit the issue to the arbitrator(s), together with a copy of this Agreement and the joint request that the arbitrator(s) provide a ruling on the issue submitted as expeditiously as possible. The Parties may submit additional written documentation to the arbitrator(s) and/or present oral arguments and/or live testimony before the arbitrator(s), in each case only upon a request from the arbitrator(s). The ruling of the arbitrator(s) shall be binding on the Parties, unless otherwise mutually agreed upon by the Parties.

17.3.2 The arbitration shall be conducted in accordance with the AAA Commercial Arbitration Rules ("AAA CA Rules") then in effect. To the extent the AAA CA Rules conflict with any provision of Section 17.3 of this Agreement, the terms of this Agreement shall govern and control. All arbitration proceedings shall take place in Raleigh, North Carolina.

17.3.3 A single arbitrator selected by the Parties will arbitrate all Disputes where the amount in controversy is less than $500,000. A panel of three (3) arbitrators, selected as provided in Section 17.3.1, above, will conduct the proceeding when the amount in controversy is equal to or more than $500,000. In the event the Parties are unable to agree on a single arbitrator, either Party may apply to the Superior Court Division, General Court of Justice, Wake County, North Carolina, for the appointment of an arbitrator in accordance with the provisions of Section 1-569.11 of the General Statutes of North Carolina.

17.3.4 In rendering the decision, the arbitrator(s) shall interpret and apply the terms and conditions of this Agreement, and consider any relevant evidence and testimony, but the arbitrator(s) shall not have the power to add to or modify any provision of this Agreement or recommend any additions or modifications to this Agreement, including, without limitation, any rates or charges provided for and determined in accordance with this Agreement.

17.3.5 No demand for arbitration shall be made or permitted after the date when the institution of a civil action based on the Dispute would be barred by the applicable statute of limitations or repose.

17.3.6 If any arbitrator resigns, becomes incapacitated or otherwise refuses or fails to serve or to continue to serve as an arbitrator, the Party entitled to designate such arbitrator or the two arbitrators who selected such arbitrator, as the case may be, shall designate a successor arbitrator.

17.4 Discovery. Either Party may apply to the arbitrators for the privilege of conducting discovery. The right to conduct discovery shall be granted by the arbitrators in their sole discretion with a view to avoiding surprise and providing reasonable access to necessary information or to information likely to be presented during the course of the arbitration, provided that such discovery period shall not exceed sixty (60) Business Days.

17.5 Binding Nature. The arbitrator(s)' decision shall be by majority vote (or by the single arbitrator if a single arbitrator is used) and shall be issued in a writing that sets forth in

separately numbered paragraphs all of the findings of fact and conclusions of law necessary for the decision. Findings of fact and conclusions of law shall be separately designated as such. The arbitrator(s) shall not be entitled to deviate from the construct, procedures or requirements of this Agreement. The award rendered by the arbitrator(s) in any arbitration shall be final and binding upon the Parties, unless otherwise mutually agreed by the Parties in writing, and judgment may be entered on the award in accordance with applicable law in any court having jurisdiction over the Parties.

17.6 Consolidation. No arbitration arising under the Agreement shall include, by consolidation, joinder, or any other manner, any person not a party to the Agreement.

17.7 Mediation. At any time prior or subsequent to a Party initiating arbitration, the Parties may mutually agree to (but are not obligated to) attempt to resolve their Dispute by non-binding mediation, using a mediator selected by mutual agreement. Any such mediation shall be completed within thirty (30) Business Days from the date on which the Parties agree to mediate. Unless mutually agreed by the Parties, any mediation agreed to by the Parties shall not delay arbitration. The Parties shall pay their own costs associated with mediation and shall share any mediator's fee equally. The mediation shall be held in Raleigh, North Carolina, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction over the Parties.

17.8 Preservation of Remedies. Either Party may file a judicial claim or action on issues of statute of limitations or repose, subject to and in accordance with the provisions of

Section 18.12 (Venue/Consent to Jurisdiction). Preservation of these remedies does not limit each Party's obligation to be bound by the dispute resolution procedures set forth in this Article 17, and notwithstanding the initiation of such aforementioned judicial claim or action, but subject to such judicial claim or action, the Parties will continue to participate in and be bound by the applicable dispute resolution procedures set forth in this Article 17.

17.9 Settlement Discussions. The Parties at any time may engage in discussions aimed at reaching a consensual resolution of any matter arising under this Agreement that is in dispute. Any such negotiations and discussions between the Parties shall be confidential and will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and procedure. No statement of position or offer of settlement made in the course of such settlement discussions will be admissible into evidence for any purpose (except to enforce the terms of a settlement agreement resulting from such discussions), nor will any such statements of positions or offers of settlement be used in any manner against either Party. Further, no statement of position or offer of settlement will constitute an admission or a waiver of rights by either Party.

17.10 Survival. This Article 17 will survive any expiration or termination of this Agreement to the extent applicable to any dispute that arose, or the basis for which occurred, while this Agreement was in effect.

18. Other Provisions

18.1 Combined System Load Signal. During the Delivery Period, and for so long as Power Agency's billing demands for Supplemental Load are determined at the time of DEP's Monthly Peak Demand or DEP's Annual Peak Demand and a load signal for the Combined System exists, DEP will furnish to Power Agency the Combined System load signal, and waives its right to terminate the Combined System load signal during the Term of this Agreement. Power Agency may share the Combined System load signal with its Members. Power Agency and its Members shall not share or disclose the Combined System load signal with other parties including, but not limited to, power marketers, investor owned utilities, independent power producers, consultants or other entities engaged in the business of generating, marketing and trading energy and energy related products. DEP does not guarantee the accuracy of the Combined System load signal or any associated data or information.

18.2 New Industrial Customers. To the extent a Member of Power Agency attracts a new industrial load customer requiring electric service that (i) does not have a choice, under North Carolina law, to select DEP as its electric provider, and (ii) such Member has the authority to legally offer and provide retail service to such customer, then, at the written request of Power Agency, such Member, Power Agency, and DEP will engage in good faith discussions to explore whether DEP could provide an economic development rate or other incentive under this Agreement in connection with Power Agency's Member

providing service to such potential industrial load customer; provided, however, DEP will have no obligation to provide any economic development rate or incentive.

18.3 Reasonableness. Each Party agrees that it shall use commercially reasonable efforts or exercise reasonable diligence consistent with Prudent Utility Practices, as applicable, to implement and administer the provisions of this Agreement, including without limitation for the purpose of minimizing any applicable damages and Taxes associated with the transactions contemplated by this Agreement. Neither Party guarantees the correctness of any estimated or projected information that is made available pursuant to this Agreement, and each Party expressly acknowledges and agrees that the Party providing such estimated or projected information shall have no liability to the other Party should any of the estimated or projected information turn out to be different from the actual information once such actual information is known.

18.4 Permitted Assignment. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties hereto. Neither Party shall assign its interest in this Agreement, in whole or in part, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, DEP may assign this Agreement without the prior written consent of Power Agency to its parent, or to any direct or indirect wholly-owned subsidiary of such parent, if such parent or subsidiary shall have (i) sources of generation capacity that will enable it to perform hereunder with at least the same degree of firmness as DEP, and (ii) a creditworthiness that provides reasonable assurance of its ability to fulfill DEP's

responsibilities under this Agreement. Any assignment made without fulfilling the requirements of this Agreement shall be null and void.

18.5 Safe Harbor. The Parties acknowledge, agree, and intend that, as applicable: (a) all transactions under this Agreement constitute "forward contracts" as defined in 11 U.S.C. §101(25); (b) the electric energy supplied under this Agreement is a "commodity" as that term is used in 11 U.S.C. §101(25)(A); (c) all payments made or to be made by Power Agency to DEP under this Agreement with respect to the supply of electric energy constitute "settlement payments" as used in 11 U.S.C. §546(e); (d) Power Agency is a "forward contract merchant" as defined in 11 U.S.C. §101(26); (e) all transfers of credit assurances, if any, by one Party to the other Party under this Agreement constitute "margin payments" as used in 11 U.S.C. §546(e); and, (f) without limitation, each Party's rights under this Agreement constitute contractual rights "to liquidate, terminate, or accelerate." Further, each Party agrees that it will not assert, and hereby waives any right to assert, that the other Party in performing hereunder is not doing so as a "utility" as such term is used in 11 U.S.C. § 366. Further each Party hereby waives and agrees not to assert that 11 U.S.C. § 366 applies to this Agreement or any transaction hereunder in any bankruptcy proceeding. In any such proceeding, each Party further waives the right to assert and agrees that it will not assert that the other Party is a provider of last resort with respect to this Agreement or any transaction hereunder or otherwise limit contractual rights to liquidate, terminate, or accelerate. Without limiting the binding nature of any other provision of this Agreement on permitted successors and

assigns, this provision is intended to be binding upon all successors and assigns of the Parties, including judgment lien creditors, receivers, estates in possession, and trustees thereof.

18.6 Amendments. No amendment or change to this Agreement shall be valid, binding or enforceable unless agreed upon in writing executed by both Parties, and to the extent applicable, approved or accepted by FERC.

18.7 Drafting. Each Party agrees that it has completely read, fully understands, and agrees to every provision hereof. Each Party agrees that this Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties, and no Party shall have any provision hereof construed against such Party by reason of such Party drafting, negotiating, or proposing any provision hereof, or execution of this Agreement. Each Party irrevocably waives the benefit of any rule of contract construction that disfavors the drafter of a contract or the drafter of specific language in a contract. All section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

18.8 Waiver. No waiver by any Party of any of its rights with respect to the other Party or with respect to any matter or default arising in connection with this Agreement shall be construed as a waiver of any subsequent right, matter or default whether of a like kind or different nature. Any waiver as between the Parties shall be in writing signed by the waiving Party.

18.9 Severability of Provisions. Except as provided for in Section 2.2.1, if FERC or any other Governmental Authority or court having jurisdiction over the Parties or arbitrator holds that any provision of this Agreement is invalid, and if no Party withdraws from this Agreement as provided for hereunder, then the remainder of this Agreement shall not be affected thereby and shall continue in full force and effect.

18.10 Partnership. Nothing contained in this Agreement shall be construed or constitute any Party as the employee, agent, partner, or contractor of any other Party, or as being in a joint venture with the other Party.

18.11 Third Parties. This Agreement is made and entered into for the sole protection and legal benefit of the Parties hereto, and each Party's permitted successors and assigns, and no other person or entity shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with or under this Agreement. This Agreement shall not be construed to create any third-party beneficiary rights of any sort.

18.12 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW THAT WOULD REQUIRE THE APPLICATION OF ANY OTHER LAW EXCEPT AS EXPRESSLY PROVIDED HEREIN, AND, TO THE EXTENT APPLICABLE, BY THE FEDERAL LAW OF THE UNITED STATES OF AMERICA.

18.13 Venue/Consent to Jurisdiction. To the extent that FERC does not have exclusive jurisdiction or does not assert its concurrent jurisdiction with respect to the subject

matter of any action arising out of, resulting from, or in any way relating to, this Agreement, any judicial action, suit, or proceedings pertaining to such subject matter or to any alleged breach or default under this Agreement or the representations and warranties contained herein, shall be brought only in a state or federal court having jurisdiction over the Parties located in Wake County, North Carolina. The Parties hereby irrevocably consent to the jurisdiction of any federal or state court within Wake County, North Carolina and hereby submit to venue in such courts. Without limiting the generality of the foregoing, the Parties waive and agree not to assert by way of motion, defense, or otherwise in such suit, action, or proceeding, any claim that (i) such Party is not subject to the jurisdiction of the state or federal Courts within Wake County, North Carolina; or (ii) such suit, action, or proceeding is brought in an inconvenient forum; or (iii) the venue of such suit, action, or proceeding is improper. The Parties further agree that the exclusive forum for the resolution of any dispute arising under this Agreement that is not subject to FERC's jurisdiction or Arbitration shall occur in federal or state court within Wake County.

18.14 Costs. Each Party shall be responsible for its own costs and fees associated with negotiating or disputing or taking any other action with respect to this Agreement.

18.15 Computation of Time. In computing any period of time under this Agreement, the day of the act, event, or default from which the designated period of time begins to run shall be included. If the last day of the period so computed is a Saturday, a Sunday or a legal

holiday in North Carolina, then the period will run until the end of the next day which is not a Saturday, a Sunday or a legal holiday in North Carolina.

18.16 Further Documentation. From time to time after the execution of this Agreement, the Parties hereto shall within their legal authority execute any other documents as may be necessary, helpful or appropriate to carry out the terms of this Agreement.

18.17 Survivorship of Obligations. The termination of this Agreement shall not discharge any Party from any obligation it owes to the other Party under this Agreement by reason of any transaction, loss, cost, damage, expense or liability which shall occur or arise (or the circumstances, events or bases which shall occur or arise) prior to such termination. It is the intent of the Parties hereby that any such obligation owed (whether the same shall be known or unknown at the termination of this Agreement or whether the circumstances, events or bases of the same shall be known or unknown at the termination of this Agreement) will survive the termination of this Agreement. Notwithstanding the foregoing, Duke shall remain obligated to pay Buyer an amount equal to Buyer's Allocable Share of CCR Disallowances and/or CCR Insurance Proceeds, if any, that arise after the expiration or termination of this Agreement; provided, however that Duke's obligation to pay such CCR Disallowance shall be strictly limited to CCR Costs that were incurred by Duke during years in which Duke provided service to Buyer under this Agreement.

18.18 Entire Agreement. This Agreement shall constitute the entire understanding between the Parties hereto, superseding any and all previous understandings, oral or written,

pertaining to the subject matter contained herein. The Parties hereto have entered into this Agreement in reliance upon the representations and mutual undertakings contained herein and not in reliance upon any oral or written representation or information provided to one Party by any representative of the other Party.

18.19 Force Majeure. Unless otherwise provided in this Agreement, to the extent that the Party claiming a Force Majeure event ("Claiming Party") is prevented by Force Majeure from carrying out, in whole or in part, its obligations under this Agreement and the Claiming Party gives notice and details of the Force Majeure to the other Party ("Non-Claiming Party") as soon as reasonably practicable under the circumstances, then the Claiming Party shall be excused from the performance of its obligations other than the obligation to make payments then due or becoming due in respect to performance prior to the Force Majeure. The Claiming Party shall make reasonable efforts to remove such inability within a reasonable time.

18.20 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all of which constitute one and the same instrument.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, DEP and Power Agency have caused this Agreement to be executed by their respective duly authorized officers as of the Execution Date.

DUKE ENERGY PROGRESS, LLC

BY: _____

NAME: Harold L. James, Jr.

TITLE: Vice President – Utility and Large Commercial & Industrial Sales

DATE: June 8, 2023

NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

BY: _____

NAME: Roy L. Jones

TITLE: Chief Executive Officer

DATE: _____

IN WITNESS WHEREOF, DEP and Power Agency have caused this Agreement to be executed by their respective duly authorized officers as of the Execution Date.

DUKE ENERGY PROGRESS, LLC

BY: _____

NAME: Harold James, Jr.

TITLE: Vice President – Utility and Large Commercial & Industrial Sales

DATE: _____

NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

BY: _____

NAME: Roy Jones

TITLE: Chief Executive Officer

DATE: June 27, 2023

Exhibit I

Capacity Rate Formula

(Exhibit Follows)

NCEMPA

Exhibit I
Page 1 of 21
Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Summary of Rates

Line		Reference	Total (with adjustments)	Allocation Factor	Production Capacity Allocation
1	**Gross Revenue Requirement**	*Page 3*			
	Less: Revenue Credits				
	Sales for Resale (G.L. 447)				
2	Demand Charges- Non-RQ	*311.*.NonRQ.h*			
3	Energy Charges- Non-RQ	*311.*.NonRQ.i*			
4	Other Charges - Non-RQ	*311.*.NonRQ.j*			
5	Less: Energy Cost of Sales	*EC 1.6*			
6	Sales for Resale- Net				
7	NCEMPA Backstand	*Note A*			
8	Rental Revenues (GL 454)- Allocated	*Page 6*			
9	Other Electric Revenues (GL 456)- Allocated	*Page 7*			
9A	Gain (Loss) from Disposition of Allowances (G.L. 411.8, 411.9)	*114.22+23 (c)*			
9B	[1] Gain (Loss) on Disposition of Property (G.L. 421.1, 421.2)	*Note A, Page 10*			
10	Other Revenue Credits				
11	**Total Revenue Credits**			D/A	
12	**Net Revenue Requirements** (Line 1 - Line 11)				
13	**Sum of Monthly kW System Peaks**	*Page 16*			
14	**Monthly Capacity Rate: $/kW-month**	*Line 12 / 13*			
15	**Annual Capacity Rate: $/kW-year**	*Line 14 * 12*			

Notes:

It is the intent of this Production Capacity Rate Formula ("Formula Rate"), including the supporting explanations and allocations described herein, that each input to the Formula Rate either will be (i) taken directly from the FERC Form No. 1 or (ii) reconcilable to the FERC Form No. 1 by the application of clearly identified and supported information. State and federal tax rates are inputs to the Formula Rate that are not covered by these two conditions, as the Formula Rate template has separate lines for state and federal tax rates inputs and then a calculation of the overall tax rate. Adjustments to FERC Form 1 inputs will be set forth in the "Adjustment" columns of this Formula Rate template and will be those amounts necessary to (i) maintain all applicable DEP hold harmless commitments to FERC, (ii) remove the effect of certain retail ratemaking orders on DEP's FERC Form 1 inputs so that the Formula Rate calculates DEP's production cost of service on a wholesale basis, and (iii) comply with the provisions of the formula rate (e.g., Note K). This note is applicable to all pages of the Formula Rate template included herein.

[1] Account reviewed to identify production related items.

Inputs to the Production Capacity Rate formula have been adjusted as appropriate to exclude merger related costs and other retail specific impacts. These adjustments are detailed across pages 10(a), 10(b), 9(a) and 9(b).

LINE REFERENCES MAY CHANGE BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Rate Base

Line		Reference	Beginning Balance (with adjustments)	Ending Balance (with adjustments)	Average	Allocation Factor	Production Capacity Allocation
	Gross Plant in Service:						
1	Production Plant in Service- Total	*205.46.g*					
2	CWIP	*Page 15*					
2A	Acquisition Adjustments (114)	*Note K*					
	Adjustments:						
3	Asset Retirement Costs- Steam	*205.15.g*					
4	Asset Retirement Costs- Nuclear	*205.24.g*					
4A	Asset Retirement Costs- Hydro	*205.34.g*					
5	Clean Smokestack Compliance	*Note I*					
6	Less: Premium on Renewable Energy	*Note J*					
7	Production Plant - Adjusted					PP	
8	Transmission Plant	*207.58.g*				Other	
9	Distribution Plant	*207.75.g*				Other	
10	General Plant - Net of Asset Retirement	*207.99-98.g*				LABOR	
11	Intangible Plant	*205.5.g*				LABOR	
12	**Total Gross Plant**					**GP =**	
	Accumulated Depreciation:						
13	Production Depreciation Reserve	*219.20-24.c*					
14	Adjustment: Harris Accelerated Depreciation	*Note A*	[1]				
15	Adjustment: Decommissioning (ARO)	*Note B, Page 10*					
16	Clean Smokestack Compliance	*Note I*					
16A	Amort of Plant Acquisition Adj (115)	*Note K*					
17	Production Reserve- Adjusted					PP	
18	Transmission Depreciation Reserve	*219.25.c*				Other	
19	Distribution Depreciation Reserve	*219.26.c*				Other	
20	General Depreciation Reserve	*219.28.c*				LABOR	
21	Intangible Amortization Reserve	*200.21.c*				LABOR	
22	**Total Accumulated Depreciation**						
	Net Plant in Service						
23	Net Production Plant	*Line 7 - Line 17*					
24	Net Transmission Plant	*Line 8 - Line 18*					
25	Net Distribution Plant	*Line 9 - Line 19*					
26	Net General Plant	*Line 10 - Line 20*					
27	Net Intangible Plant	*Line 11 - Line 21*					
28	**Total Net Plant**					**NP =**	
	Adjustments to Rate Base - Deferred Taxes						
29	ADIT - 190	*234.8.c*				Page 11	
30	ADIT - 282 (Negative)	*275.2.k*				Page 12	
31	ADIT - 283 (Negative)	*277.9.k*				Page 13	
32							
33	Adjustment: Harris AD ADIT	Note A	[1]			PP	
34	**Total Deferred Tax Adjustments**						
35	**Plant Held for Future Use - Prod. Rel.**	214.7+10.d				Note G	
36	**Prelim. Survey and Investigation Charges**	111.73.c				Note A	
	Fuel Inventories						
37	Nuclear Fuel Stock	*203.14.f*					
38	Fuel Stock	*227.1.c*					
39	Allowances (158.1, 158.2)	*229.29.m*					
40	Adjustment: Nuclear Fuel in Process	*203.6.f*					
41	**Total Fuel Inventories**					D/A	
	Other Rate Base Adjustments						
42	Labor Related Net Deferred Credits	*Page 14*					
43	Other Regulatory Assets	*232.18.f*				NP	
43A	Unrecovered Plant & Regulatory Study Costs	*Page 10*				D/A	
44	Other Regulatory Liabilities (254)	*Note A*				NP	
45	Decommissioning Internal Reserve	*Note B*				D/A	
46	Net Deficient/ Excess ADIT Rate Base	*Page 10*				*Page 10*	
47	**Other Rate Base Adjustments**						
	Working Capital:						
~~48~~	Capacity Related O&M	*Page 3*					
~~49~~	Energy Related Production O&M	*EC 1.7*					
~~50~~	Cash Working Capital (1/8 O&M)					1/8	
51	M&S - Production	*227.5(assigned)&7.c*				PP	
52	M&S - Stores Expense	*227.16.c*				LABOR	
53	Prepayments	*111.57.c*				GP	
54	**Total Working Capital**						
55	**Total Rate Base (Sum of Lines 28, 34, 35, 36, 41, 47 and 54)**						$ -

Notes:
Inputs to the Production Capacity Rate formula have been adjusted as appropriate to exclude merger related costs and other retail specific impacts.
These adjustments are detailed across pages 10(a), 10(b), 9(a) and 9(b).

[1] The adjustments for Harris Accelerated Depreciation consist of the unamortized balance of $491,774,665 of accelerated depreciation charges and associated unamortized balance of accumulated deferred income tax in accordance with Attachment 4 of the Settlement Agreement filed in Docket No. ER13-1313 on 10/24/14.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERNECES OR EQUIVALENT REFERENCES.

NCEMPA

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Development of Revenue Requirements

Line	Expenses	Reference		Total (with adjustments)	Allocation Factor	Production Capacity Allocation
	O&M Expense (Capacity Related)					
1	TOTAL Production Expenses	321.80.b				
2	Less Total Fuel Burned	EC 1.4				
3	Less Energy Related Production O&M	EC 1.7				
4	Less Other Power Supply Expense (555 + 557)	321.76 + 78.b				
5	Net Production O&M (Capacity Related)				D/A	
6	OM Adjustment (Re-classified Transmission)	Page 4				
7	Net Production O&M After Adjustment (Capacity Related)					
8	Total Admin & General Expenses	323.197.b				
9	Less Property Insurance (924)	323.185.b				
10	Less Regulatory Commission Expenses (928)	323.189.b				
11	Less General Advertising Expenses (930.1)	323.191.b				
12	Less Industry Dues,R&D and Nuc Assoc Exp	335.1-3.b				
13	Net Labor Related A&G				LABOR	
14	Property Insurance (924)	323.185.b			GP	
15	Production Related Regulatory Expense	350.5-6.h			D/A	
16	Transmission of Electricity by others (565)	332.Total.h			D/A	
17	**Total Capacity O&M (Sum of Lines 7, 13, and 14 thru 16)**					
	Depreciation (Net of Decommissioning)					
18	Production Depreciation Expense	336.2-6.b	Note L		PP	
19	Adjustment: Harris Accelerated Depreciation	Note A	[1]		PP	
20	Adjustment:ARO Impacts in Depreciation Expense	336 Footnote and Note A Footnote to line 2 on FF1			D/A	
21	Adjustment: Clean Smokestack Compliance	p. 336			PP	
22	General Depreciation Expense	336.10.b	Note L		LABOR	
22A	Amortization of Unrecovered Plant & Reg. Costs	Page 10			D/A	
23	Intangible Amortization	336.1.f	Note L		LABOR	
23A	Amort of Utility Plant Acq. Adj. (406)	Note K			PP	
24	**Total Depreciation**					
25	**Decommissioning**	Note H			D/A	
26	**Purchased Power Capacity Expense**	327.*.Total.j			D/A	
	Taxes Other Than Income	Note C				
27	Labor Related	263.i			LABOR	
28	Property Related	263.i			GP	
29	**Total Other Taxes**					
	Return:					
30	Rate Base (Page 2, Line 54) * Rate of Return (Page 4, Line 43)					
	Income Taxes:					
31	NC/SC Composite	Note D				
32	Federal	Note D				
33	Composite T = State + Federal * (1 - State)					
34	Tax Rev.Req't Factor = T / (1 -T) * (1 - Wtd.Debt.Cost/R)					
35	Tax Gross Up Factor = 1 / (1 -T)					
36	Amortized ITC (Negative)	266.8.f				
37	ITC Adjustment (Line 35 * Line 36)				NP	
37a	Net Excess/Deficient Deferred Tax Expense	Page 10				
37b	Deferred Tax Adjustment (Line 35 * Line 37a)					
38	Income Taxes Calculated (Line 30 * Line 34)					
39	**Total Income Taxes (Sum of Lines 37, 37b, and 38)**					
40	**TOTAL REVENUE REQUIREMENT (Sum of Lines 17, 24, 25, 26, 29, 30, and 39)**					

Notes:

Inputs to the Production Capacity Rate formula have been adjusted as appropriate to exclude merger related costs and other retail specific impacts. These adjustments are detailed across pages 10(a), 10(b), 9(a) and 9(b).

[1] The adjustment for Harris Accelerated Depreciation expense consists of the annual amortization of the $491,774,665 of accumulated Harris Accelerated depreciation. All items related to Harris Accelerated Depreciation will be included in the formula rate in accordance with Attachment 4 of the Settlement Agreement filed in Docket No. ER13-1313 on 10/24/14.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Supporting Allocation Factor and Return Calculations

Line			Reference			Total (with adjustments)
	Production Plant Adjustment:					
1	Production Plant - Adjusted		Page 2, Line 7 Average			
	Allocation Adjustments:					
2	Generation Step-up Transformers in 353		Note A			
3	Interconnection Facilities (Order 2003)		Page 8			
4	Production Plant- with Allocation Adjustments					
5	**PP Allocation Factor (Line 4 / Line 1)**	Note E	**PP** =			
	Production OM Adjustment					
6	Transmission Plant		Page 2, Line 8 Average			
7	*Allocation Adjustments:*					
8	Generation Step-up Transformers in 353		Note A			
9	Interconnection Facilities (Order 2003)		Page 8			
9A	Mitigation Projects prior to 7/2/17		Note A			
10	Transmission Plant- with Allocation Adjustments					
11	**Transmission OM Allocation Factor (1 - Line 10 / Line 6)**					
12	Transmission OM		321.112.b			
13	Less Account 561-561.4		321.84-88.b			
14	Less Account 565		332.Total.h			
15	Net Transmission OM					
16	**Transmission OM Adjustment**		Line 15 x Line 11			
	Labor Allocation Factor					
17	Total Direct Payroll - O&M Labor		354.28.b			
18	Less: A&G Labor		354.27.b			
18A	Adj. - Production related RCO Marketing Labor in A&G Labor		Note A			
19	Adjusted Labor w/o A&G (Line 17 - Line 18 + Line 18A)					
20	Production O&M Labor plus RCO Marketing labor in A&G		354.20.b	+ Line18A		
21	**Production Labor Factor (Line 20 / Line 19)**					
22	**Adjusted Production Labor Factor (Line 5 * Line 21)**		**LABOR** =			
	Return and Capitalization					
	Net Interest on Long Term Debt					
23	Long Term Interest Expense		257.33.i			
24	Other Long Term Interest Expense		117.63-67.c			
25	Less: Short-term Interest on Debt to Assoc. Companies (430)		117.67.c			
26	Less Interest on Securitization Bonds		Note F			
27	**Net Long Term Interest Expense**		Line 23+24-25-26			
28	**Preferred Dividends (positive)**		118.29.c			
				Beginning Balance (with adjustments)	**Ending Balance (with adjustments)**	**Average / Total**
29	**Long Term Debt**		112.24.c			
30	Less Loss on Reacquired Debt		111.81.c			
31	Plus Gain on Reacquired Debt		113.61.c			
32	Less Securitization Bonds		Note F			
33	**Net Long Term Debt**		Line 29-30+31-32			
34	**Preferred Stock**		112.3.c			
	Common Stock					
35	Proprietary Capital		112.16.c			
36	Less Preferred Stock		112.3.c			
37	Less Account 216.1		112.12.c			
38	**Total Common Stock**					
39	**Total Capitalization (Sum Lines 33, 34, 38)**					
	Cost of Capital					
		Weight	**Cost**			**Weighted Cost**
40	Long term Debt					
41	Preferred Stock					
42	Common Equity		**9.85%** [1]			
43	**Weighted Cost of Capital:**		R_0 =			

Notes:
Inputs to the Production Capacity Rate formula have been adjusted as appropriate to exclude merger related costs and other retail specific impacts. These adjustments are detailed across pages 10(a), 10(b), 9(a) and 9(b).

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

Additional Allocation Factors
"Other" indicates a non-production related item, such as transmission or distribution. Allocation within the formula rate computation for "Other" will equal 0.
"GP" is the Gross Plant allocation factor and it is determined on Page 2 by taking the "Production Capacity Allocation" column divided by the "Average" column.
"NP" is the Net Plant allocation factor and it is determined on Page 2 by taking the "Production Capacity Allocation" column divided by the "Average" column.
"D/A" is Direct Assignment. See associated Reference for additional information.

[1] - The Cost of Common Equity is fixed at 9.85% per the provisions of the contract.

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Year Ending 12/31/

DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Notes

Note A: Analysis of Company books.

Note B: Annual Reconciliation of FERC Form 1 to Cost of Service Study (NCUC Docket E-2, Sub 826) and analysis of Company books.

Note C: Excludes all income and gross receipts taxes. Labor related other taxes include FICA and unemployment taxes. Property related taxes include county and local property taxes, highway use, and intangible taxes.

Note D: Determined by annual apportionment factors provided by Tax Department.

Note E: The "PP" factor is the percent of gross production plant after inclusion of interconnections and generator step-up transformer investment. Factor used to adjust production-related labor expenses and other amounts.

Note F: To the extent DEP is authorized by state utility commission(s) and issues bonds to securitize retail recovery of extraordinary property losses, associated principal and interest expense are excluded in capitalization and return basis.

Note G: Include FERC Form 1 Schedule 214 Production related amounts of Plant Held for Future Use.

Note H: In accordance with the decommissioning study on file as FERC Rate Schedule No. 381.

Note I: Analysis of Company books. The adjustments are limited to the amount direct assigned to NC Retail.

Note J: The purpose of this item is to adjust out any premium included in formula for DEP owned renewable generation. Customer will only be required to pay the avoided cost for these resources, so any premium needs to be adjusted from the formula. The balance for this item is from Page 15 of the formula rate.

Note K: These acquisition adjustments are limited to the acquisition of NCEMPA generating assets pursuant to the Asset Purchase Agreement by and between DEP and NCEMPA dated September 5, 2014.

Note L: Depreciation and amortization expense on page 3, on the lines for which Note L is inserted, shall be determined using the depreciation and amortization rates set forth in FERC Rate Schedule No. 199 and such rates will only be subject to change for ratemaking purposes pursuant to a filing under sections 205 or 206 of the Federal Power Act.

Note M: This line includes amounts recorded in Account Nos. 182.2 and 407 for the Early-Retired Plants, as defined by Note N, in accordance with the Settlement Agreement filed in Docket No. ER13-1313 on 10/24/14, and additional amounts recorded in Account Nos. 182.2 and 407 if accepted or approved by FERC in a Section 205 proceeding. With respect to the Early-Retired Plants, the amounts included in Account No. 182.2 shall be amortized to Account No. 407 in accordance with the amortization schedule set forth in Attachment 6 to the Settlement Agreement filed in Docket No. ER13-1313 on 10/24/14. Unless otherwise agreed by DEP and the Customer, DEP may seek to include in this line item amounts recorded to Account Nos. 182.2 and 407 that are in addition to the amounts recorded for the Early-Retired Plants (or otherwise currently included in the Formula Rate PPAs), only by submitting a Section 205 filing to FERC in which the sole issue that can be addressed is whether DEP 's inclusion of such costs in rates is just and reasonable ; provided that such single issue filing will not limit any party 's right to challenge the request for regulatory treatment, including, but not limited to the amount included in the request, the amortization period of the assets included in the request, and the proposed fixed carrying charges applicable to the assets included in the request (including the cost of debt and the ROE applicable to the assets in the request). The proceeding commenced in response to such a single issue Section 205 filing shall not include or allow for consideration or examination of any other aspects of the Formula Rate or other issues associated with the Formula Rate. The standard of review in such proceeding shall be the just and reasonable standard as opposed to the "public interest " standard .

Note N: The "Early-Retired Plants ", as used in this Formula Rate , are DEP 's Cape Fear Fossil (Units #1-6), Cape Fear Internal Combustion (Unit #4), Lee Fossil (Units #1-3), Lee Internal Combustion (Units #1-4), Robinson Fossil (Unit #1),Weatherspoon Fossil (Units #1-3), Morehead City Combustion Turbine (Unit #1), and Sutton Fossil (Units #1-3 and Fossil Common) as approved in Docket No. ER13-1313. "Early-Retired Plants" shall also include Asheville Fossil (Units #1-2), as accepted in Docket No. ER20-931,and Roxboro Wastewater Treatment System, as accepted in Docket No. ER22-2255.

NCEMPA

Exhibit I
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Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Account 454 Reconciliation - Rents

		Total (before adjustments)	Adjustments	Note	Total (with adjustments)	Allocation Factor	Production Capacity Allocation
1	**NORTH CAROLINA**						
2	FACILITY CHARGES						
3	RESIDENCES - COMPANY EMPLOYEES						
4	POLE RENTAL						
5	BUILDING & LAND RENTAL					LABOR	
6	OTHER						
7	PT HOLDINGS IRU/REVENUE SHARING						
8	4543001 - NCEMC LEASED FACILITIES						
9	454300A - LEASED FACILITIES - PA3						
10	4543100 - TELEMETRY CHARGES - PA3					PROD	
11	4549000 - CO-GENERATION - TRANSMISSION						
12	4549000 - CO-GENERATION - DISTRIBUTION						
13	**TOTAL NORTH CAROLINA**						
14	**SOUTH CAROLINA**						
15	FACILITY CHARGES						
16	POLE RENTAL						
17	4549000 - CO-GENERATION - TRANSMISSION						
18	4549000 - CO-GENERATION - DISTRIBUTION						
19	**TOTAL SOUTH CAROLINA**						
20	**TOTAL**						

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Other Electric Revenues (G.L. 456)

	Reference		Total (before adjustments)	Adjustments	Note	Total (with adjustments)	Allocation Factor	Production Capacity Allocation
1	**Other Electric Revenues**	300.21.b						
2	BUILDING & LAND LEASE						LABOR	
3	POLE RENT						OTHER	
4	GYPSUM FEES						PROD	
5	SALE OF TIMBER						PROD	
6	PIEDMOND/HAYWOOD SCHEDULING FEE						PROD	
7	REPS - PENALTY REVENUE						OTHER	
8	DEMAND PROFILE PLOT						OTHER	
9	SOUTH CAROLINA SALES TAX REFUND						OTHER	
10	MAGNETIC PULSE DATA						OTHER	
11	CO-GENERATION						PROD	
12	RENEWABLE ENERGY INTERCONNECTION FEE						OTHER	
13	NCEMPA INVENTORY CARRY						PROD	
14	NCEMPA ADMINISTRATIVE CHARGE						PROD	
15	NCEMPA - RETURN ON GENERAL PLANT						LABOR	
16	NCEMPA DISPATCH FEE						PROD	
17	NCEMPA SITE REP						PROD	
18	OTHER ELEC REVENUE-BY-PRODUCTS (GYPSUM)						ENERGY	
19	NCEMC ADMINISTRATIVE CHARGES						PROD	
20	EPRI Royalties						OTHER	
21	1101 (Billed Rev other)						OTHER	
22	INTERCOMPANY COAL BLENDING SAVINGS - DEC						ENERGY	
23	OTHER						OTHER	
24	Buy for Resale Transmission						TP	
25	**Other Electric Revenues (GL 456)**							

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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Exhibit I
Page 8 of 21
Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Interconnection Facilities for Generation In-Service After March 15, 2000 per FERC Order 2003

	Project	Balance Beginning	Ending	B/E Average
1	Wayne County 1 - 4			
2	Asheville Unit 4			
3	Richmond - Phase 1			
4	Richmond - Phase 2			
5	Brunswick #1 Uprate			
6	Brunswick #2 Uprate			
7	Wayne County / Lee CC			
8	Richmond County			
9	Sutton CC			
10	**Total Interconnection Facilities**			

Note: Excludes Step-up Transformers accounted for on Exhibit A, page 4, line 2.

NOTE: PROJECTS AND AMOUNTS LISTED ABOVE ARE SUBJECT TO CHANGE BASED ON ADDITIONS YOY

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Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data
FERC Form-1 Inputs

Page	Row	Column	Description	Reference	Previous Year/ Year End (before adjustments)	Current Year/ Year End (before adjustments)
111	57	c	Prepayments	111.57.c		
111	73	c	Prelim. Survey and Investigation Charges	111.73.c		
111	81	c	Loss on Reacquired Debt	111.81.c		
112	3	c	Preferred Stock Issued	112.3.c		
112	12	c	Account 216.1	112.12.c		
112	16	c	Proprietary Capital	112.16.c		
112	24	c	Long Term Debt	112.24.c		
112	27	c	Accum. Prov. for Property Insurance (GL 228.1)	112.27.c		
112	28	c	Accum. Prov. for Injuries & Damages (GL 228.2)	112.28.c		
112	29	c	Accum. Prov. for Pensions & Benefits (GL 228.3)	112.29.c		
113	61	c	Gain on Reacquired Debt	113.61.c		
114	9	c	Amort of Utility Plant Acq. Adj. (406)	114.9.c and Note K		
117	63-67	c	Other Long Term Interest Expense	117.63-67.c		
118	29	c	Preferred Dividends (positive)	118.29.c		
200	12	c	Acquisition Adjustments (114)	200.12.c and Note K		
200	21	c	Intangible Amortization Reserve	200.21.c		
200	32	c	Amort of Plant Acquisition Adj (115)	200.32.c and Note K		
203	14	f	Nuclear Fuel Stock	203.14.f		
203	6	f	Nuclear Fuel in Process	203.6.f		
205	5	g	Intangible Plant	205.5.g		
205	46	g	Production Plant	205.46.g		
205	15	g	Asset Retirement Costs- Steam	205.15.g		
205	24	g	Asset Retirement Costs- Nuclear	205.24.g		
205	34	g	Asset Retirement Costs- Hydro	205.34.g		
207	58	g	Transmission Plant	207.58.g		
207	75	g	Distribution Plant	207.75.g		
207	99-98	g	General Plant - Net of Asset Retirement	207.99-98.g		
214	7+10	d	Plant Held for Future Use- Production	214.7+10.d		
219	20-24	c	Production Depreciation Reserve	219.20-24.c		
219	25	c	Transmission Depreciation Reserve	219.25.c		
219	26	c	Distribution Depreciation Reserve	219.26.c		
219	28	c	General Depreciation Reserve	219.28.c		
227	1	c	Fuel Stock	227.1.c		
227	4	c	Plant Materials and Operating Supplies (154) net of M&S - Production	227.4.c		
227	5(assigned)&7	c	M&S - Production	227.5(assigned)&7.c		
227	16	c	M&S - Stores Expense	227.16.c		
229	29	m	Allowances (158.1, 158.2)	229.29.m		
232	18	f	Other Regulatory Assets	232.18.f		
232	3	f	SFAS 158 Regulatory Assets	232.3.f		
234	8	c	ADIT - 190	234.8.c		
257	33	i	Long Term Interest Expense	257.33.i		
263	3	i	Other Taxes - FICA / Unemployment	263.3.i		
263	4	i	Other Taxes - Highway Use	263.4.i		
263	11&22	i	Other Taxes - Real & Personal Property	263.11&22.i		
263	13&24	i	Other Taxes - State Unemployment	263.13&24.i		
266	8	f	Amortized ITC (Negative)	266.8.f		
273	8	k	ADIT - 281 (Negative)	273.8.k		
275	2	k	ADIT - 282 (Negative)	275.2.k		
277	9	k	ADIT - 283 (Negative)	277.9.k		
278		f	Other Regulatory Liabilities (254)	Page 278 and Note A		
311.*	NonRQ	h	Demand Charges- Non-RQ	311.*.NonRQ.h		
311.*	NonRQ	i	Energy Charges- Non-RQ	311.*.NonRQ.i		
311.*	NonRQ	j	Other Charges-Non-RQ	311.*.NonRQ.j		
321	76 + 78	b	Other Power Supply Expense (555 + 557)	321.76 + 78.b		
321	80	b	TOTAL Production Expenses	321.80.b		
321	84-88	b	Account 561-561.4	321.84-88.b		
321	112	b	TOTAL Transmission OM	321.112.b		
323	185	b	Property Insurance (924)	323.185.b		
323	189	b	Regulatory Commission Expenses (928)	323.189.b		
323	191	b	General Advertising Expenses (930.1)	323.191.b		
323	197	b	Total Admin & General Expenses	323.197.b		
327.*	Total	j	Purchased Power Demand Charges	327.*.Total.j		
332	Total	h	Transmission of Electricity by Others (565)	332.Total.h		
335	1-3	b	Industry Dues, R&D, C-V Nuc Pwr Assoc	335.1-3.b		
336	1	f	Intangible Amortization	336.1.f		
336	2-6	b	Production Depreciation Expense	336.2-6.b		
336	10	b	General Depreciation Expense	336.10.b		
336	3	Footnote and Note A	ARO impacts in depreciation expense	336 Footnote and Note A		
350	5-6	h	Production Related Regulatory Commiss. Exp.	350.5-6.h		
354	20	b	Production O&M Labor	354.20.b		
354	27	b	A&G Labor	354.27.b		
354	28	b	Total Direct Payroll - O&M Labor	354.28.b		

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

FERC Form-1 Inputs

Page	Row	Column	Description	Reference	Previous Year/ Year End (before adjustments)	Adjustments	Note	Previous Year/ Year End (with adjustments)
111	57	c	Prepayments	111.57.c				
111	73	c	Prelim. Survey and Investigation Charges	111.73.c				
111	81	c	Loss on Reacquired Debt	111.81.c				
112	3	c	Preferred Stock Issued	112.3.c				
112	12	c	Account 216.1	112.12.c				
112	16	c	Proprietary Capital	112.16.c				
112	24	c	Long Term Debt	112.24.c				
112	27	c	Accum. Prov. for Property Insurance (GL 228.1)	112.27.c				
112	28	c	Accum. Prov. for Injuries & Damages (GL 228.2)	112.28.c				
112	29	c	Accum. Prov. for Pensions & Benefits (GL 228.3)	112.29.c				
113	61	c	Gain on Reacquired Debt	113.61.c				
114	9	c	Amort of Utility Plant Acq. Adj. (406)	114.9.c and Note K				
117	63-67	c	Other Long Term Interest Expense	117.63-67.c				
118	29	c	Preferred Dividends (positive)	118.29.c				
200	12	c	Acquisition Adjustments (114)	200.12.c and Note K				
200	21	c	Intangible Amortization Reserve	200.21.c				
200	32	c	Amort of Plant Acquisition Adj (115)	200.32.c and Note K				
203	14	f	Nuclear Fuel Stock	203.14.f				
203	6	f	Nuclear Fuel in Process	203.6.f				
205	5	g	Intangible Plant	205.5.g				
205	46	g	Production Plant	205.46.g				
205	15	g	Asset Retirement Costs- Steam	205.15.g				
205	24	g	Asset Retirement Costs- Nuclear	205.24.g				
205	34	g	Asset Retirement Costs- Hydro	205.34.g				
207	58	g	Transmission Plant	207.58.g				
207	75	g	Distribution Plant	207.75.g				
207	99-98	g	General Plant - Net of Asset Retirement	207.99-98.g				
214	7+10	d	Plant Held for Future Use- Production	214.7+10.d				
219	20-24	c	Production Depreciation Reserve	219.20-24.c				
219	25	c	Transmission Depreciation Reserve	219.25.c				
219	26	c	Distribution Depreciation Reserve	219.26.c				
219	28	c	General Depreciation Reserve	219.28.c				
227	1	c	Fuel Stock	227.1.c				
227	4	c	Plant Materials and Operating Supplies (154) net of M&S - Production	227.4.c				
227	5(assigned)&7	c	M&S - Production	227.5(assigned)&7.c				
227	16	c	M&S - Stores Expense	227.16.c				
229	29	m	Allowances (158.1, 158.2)	229.29.m				
232	18	f	Other Regulatory Assets	232.18.f				
232	3	f	SFAS 158 Regulatory Assets	232.3.f				
234	8	c	ADIT - 190	234.8.c				
257	33	i	Long Term Interest Expense	257.33.i				
263	3	i	Other Taxes - FICA / Unemployment	263.3.i				
263	4	i	Other Taxes - Highway Use	263.4.i				
263	11&21	i	Other Taxes - Real & Personal Property	263.11&21.i				
263	13&23	i	Other Taxes - State Unemployment	263.13&23.i				
266	8	f	Amortized ITC (Negative)	266.8.f				
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275	2	k	ADIT - 282 (Negative)	275.2.k				
277	9	k	ADIT - 283 (Negative)	277.9.k				
278		f	Other Regulatory Liabilities (254)	Page 278 and Note A				
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321	84-88	b	Account 561-561.4	321.84-88.b				
321	112	b	TOTAL Transmission OM	321.112.b				
323	185	b	Property Insurance (924)	323.185.b				
323	189	b	Regulatory Commission Expenses (928)	323.189.b				
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327.*	Total	j	Purchased Power Demand Charges	327.*.Total.j				
332	Total	h	Transmission of Electricity by Others (565)	332.Total.h				
335	1-3	b	Industry Dues, R&D, C-V Nuc Pwr Assoc	335.1-3.b				
336	1	f	Intangible Amortization	336.1.f				
336	2-6	b	Production Depreciation Expense	336.2-6.b				
336	10	b	General Depreciation Expense	336.10.b				
336	3	Footnote and Note A	Nuclear Decommissioning Amortization	336 Footnote and Note A				
350	5-6	h	Production Related Regulatory Commiss. Exp.	350.5-6.h				
354	20	b	Production O&M Labor	354.20.b				
354	27	b	A&G Labor	354.27.b				
354	28	b	Total Direct Payroll - O&M Labor	354.28.b				

Notes for adjustments:

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

FERC Form-1 Inputs

Page	Row	Column	Description	Reference	Current Year/ Year End (before adjustments)	Adjustments	Note	Current Year/ Year End (with adjustments)
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112	12	c	Account 216.1	112.12.c				
112	16	c	Proprietary Capital	112.16.c				
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112	29	c	Accum. Prov. for Pensions & Benefits (GL 228.3)	112.29.c				
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114	9	c	Amort of Utility Plant Acq. Adj. (406)	114.9.c and Note K				
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205	34	g	Asset Retirement Costs- Hydro	205.34.g				
207	58	g	Transmission Plant	207.58.g				
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214	7+10	d	Plant Held for Future Use- Production	214.7+10.d				
219	20-24	c	Production Depreciation Reserve	219.20-24.c				
219	25	c	Transmission Depreciation Reserve	219.25.c				
219	26	c	Distribution Depreciation Reserve	219.26.c				
219	28	c	General Depreciation Reserve	219.28.c				
227	1	c	Fuel Stock	227.1.c				
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227	5(assigned)&7	c	M&S - Production	227.5(assigned)&7.c				
227	16	c	M&S - Stores Expense	227.16.c				
229	29	m	Allowances (158.1, 158.2)	229.29.m				
232	18	f	Other Regulatory Assets	232.18.f				
232	3	f	SFAS 158 Regulatory Assets	232.3.f				
234	8	c	ADIT - 190	234.8.c				
257	33	i	Long Term Interest Expense	257.33.i				
263	3	i	Other Taxes - FICA / Unemployment	263.3.i				
263	4	i	Other Taxes - Highway Use	263.4.i				
263	11&22	i	Other Taxes - Real & Personal Property	263.11&22.i				
263	13&24	i	Other Taxes - State Unemployment	263.13&24.i				
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323	191	b	General Advertising Expenses (930.1)	323.191.b				
323	197	b	Total Admin & General Expenses	323.197.b				
327.*	Total	j	Purchased Power Demand Charges	327.*.Total.j				
332	Total	h	Transmission of Electricity by Others (565)	332.Total.h				
335	1-3	b	Industry Dues, R&D, C-V Nuc Pwr Assoc	335.1-3.b				
336	1	f	Intangible Amortization	336.1.f				
336	2-6	b	Production Depreciation Expense	336.2-6.b				
336	10	b	General Depreciation Expense	336.10.b				
336	3	Footnote and Note A	ARO impacts in depreciation expense	336 Footnote and Note A				
350	5-6	h	Production Related Regulatory Commiss. Exp.	350.5-6.h				
354	20	b	Production O&M Labor	354.20.b				
354	27	b	A&G Labor	354.27.b				
354	28	b	Total Direct Payroll - O&M Labor	354.28.b				

Notes for adjustments:

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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Sheet 1 of 2

DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Other Inputs

Source	Row	Column	Description	Reference	Previous Year/ Year End (with adjustments)	Current Year/ Year End (with adjustments)
EC 1	4		Total Fuel Burned	EC 1.4		
EC 1	6		Energy Cost of Sales to Other Utilities	EC 1.6		
EC 1	7		Energy Related Production O&M	EC 1.7		
Note A			NCEMPA Backstand			
Note A			Allowance for Decommissioning Expense			
Note B			Internal Decommissioning			
Note B			Less: ADIT asset on Internal Decommissioning Reserve			
			Internal Decommissioning net of ADIT adjustment			
Note B			External Decommissioning (ARO)			
Note B			External Decommissioning (ARO)	GL 108.0150		
Note B			External Decommissioning (ARO)	GL 108.155		
Note B			External Decommissioning (ARO)	GL 108.40TB		
Note A			Clean Smokestack Compliance			
Note A			Accum. Dep. Adjst.: Harris Accel. Dep.			
Note A			Adjustment: Harris AD ADIT			
Note A			Generation Step Up Transformers			
Note A			Securitization Bonds			
			Deferred Credits (GL 228.4):			
Note A			Coal Mines			
Note A			Est. PA Scrubber Charge			
Note A			Deferred Compensation			
Note A			Environmental			
FERC Form 1			Unrecovered Plant & Regulatory Study Costs			
			Rate Base Adjustment			
230 (b)	21	(f)	Mayo 2 Abandonment Loss (wholesale specific)			
			Wholesale load allocation factor			
			Grossed up to System equivalent cost			
230 (b)	24	(f)	Robinson Nuclear Plant			
230 (b)	26	(f)	Brunswick Nuclear Plant			
[1]			Costs the Commission has authorized DEP to record in Account 182.2	Note M		
			Total Unrecovered Plant & Regulatory Study Costs			
			Associated Amortization Adjustment			
230 (b)	21	(e)	Mayo 2 Abandonment Loss (wholesale specific)			
			Wholesale load allocation factor			
			Grossed up to System equivalent cost			
230 (b)	24	(e)	Robinson Nuclear Plant			
230 (b)	26	(e)	Brunswick Nuclear Plant			
[1]			Amortization to Account 407 of costs recorded in Account 182.2	Note M		
			Total Unrecovered Plant & Regulatory Study Costs			
			Sum of Monthly Peaks net of SEPA & PA Entitlement			
Note A			Wholesale Load net of SEPA			
Page 16			System			
			Wholesale Load Allocation Factor			
Note A			Wholesale marketing labor included in A&G labor			

Source	Row	Column	Description	Reference	Previous Year/ Year End (with adjustments)	Current Year/ Year End (with adjustments)	Average	Alloc Factor	Allocated Total
			Excess and Deficient Accumulated Deferred Income Taxes						
(2), (3)			Regulatory Asset for Deficient ADIT - Protected					Note (3)	See Note (3)
(2), (3)			Regulatory Asset for Deficient ADIT - Unprotected Property, Plant & Equipment (PPE)					Note (3)	See Note (3)
(2), (3)			Regulatory Asset for Deficient ADIT - Unprotected Non-PPE					Note (3)	See Note (3)
(2), (3)			Regulatory Liability for Excess ADIT - Protected					Note (3)	See Note (3)
(2), (3)			Regulatory Liability for Excess ADIT - Unprotected PPE					Note (3)	See Note (3)
(2), (3)			Regulatory Liability for Excess ADIT - Unprotected Non-PPE					Note (3)	See Note (3)
			Net Deficient/Excess ADIT Rate Base						
(2), (3)			Collection of Deficient Deferred Tax Expenses - Protected					Note (3)	See Note (3)
(2), (3)			Collection of Deficient Deferred Tax Expenses - Unprotected PPE					Note (3)	See Note (3)
(2), (3)			Collection of Deficient Deferred Tax Expenses - Unprotected Non-PPE					Note (3)	See Note (3)
(2), (3)			Amortization of Excess Deferred Tax Expenses - Protected					Note (3)	See Note (3)
(2), (3)			Amortization of Excess Deferred Tax Expenses - Unprotected PPE					Note (3)	See Note (3)
(2), (3)			Amortization of Excess Deferred Tax Expenses - Unprotected Non-PPE					Note (3)	See Note (3)
			Net Excess/Deficient Deferred Tax Expense						

Footnotes:

(1) Costs recorded in Account 182.2 shall be approved for recovery by FERC pursuant to a Section 205 filing, and each set of such costs shall be reflected as a separate line item identified by the FERC docket number in which recovery of those costs was authorized. For each line, the amount of the costs entered will be calculated consistent with the methodology approved by FERC in the docket in which authorization to recover such costs was requested and obtained.

(2) Excess/Deficient Deferred Tax Expense shall equal the return or collection of excess or deficient deferred taxes as shown in Pages 17 - 19 of this Exhibit, and the return or collection of excess or deficient deferred taxes that result from any future federal or state income tax rate change, as shown in the format of Pages 20 - 21, which DEP will populate and provide subsequent to such tax change.

(3) The allocation factor to be applied to TCJA balances is 0.73226 and is based on historic 2016 system-wide deferred income tax balances that were allocated to Production. Excess/ Deficient Deferred Income Tax balances due to future tax rate changes will be allocated using an allocation factor determined at the time of the tax rate change.

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Source	Row	Column	Description	Reference	Previous Year/ Year End (with adjustments)	Current Year/ Year End (with adjustments)
Note A			Applicable adjustments for Merger related costs			
			FERC Mitigation Sales Included in Off System Sales to Other Utilities			Dr (Cr)
Note A			Demand Revenue (a/c 447)			
Note A			Energy Revenue + loss sharing adjustment with DEC (a/c 447)			
			Net Adjusted Revenues			
Note A			Incremental Fuel Costs to Serve (a/c 5473000)			
Note A			Incremental Purchase Power Costs (a/c 555)			
Note A			Non- Fuel Energy O&M on Sales to Other Utilities			
			Energy Cost of Sales			
			Off- System Sales Loss			
			Other Merger Related Costs			
Note A			Prepayments to Dominion in a/c 165			
Note A			Payroll Tax expense in a/c 408			
Note A			Deferred Debt Amortization exp. in a/c 428			
Note A			Mitigation sale loss sharing adjustment with DEC (502 a/c)			
Note A			A&G (920 - 930 a/cs)			
Note A			Transmission O&M (566 - 571 a/cs)			
Note A			Other applicable adjustments			
			Adjustments to Remove RECs/ DSM / DSDR / EE Costs			
Note A			Unexpensed REC premium in M&S a/c 1549132			
Note A			REC prepayments in a/c 165			
Note A			RECS Expense in a/c 5090004			
Note A			Gross Intangible Plant (101 a/c)			
Note A			Gross General Plant (101 a/c)			
Note A			Accumulated Amortization on Intangible Plant (108 a/c)			
Note A			Accumulated Depreciation on General Plant (108 a/c)			
Note A			Amortization Expense on Intangible Plant			
Note A			Depreciation Expense on General Plant			
Note A			Property Tax Expense (408 a/c)			
Note A			Insurance Expense			
Note A			A&G Expense			
Note A			Payroll Tax expense in a/c 408			
			Adjustments to remove impacts of NC Retail specific treatment of DOE refunds			
Note A			Labor related taxes			
Note A			Production O&M, demand related			
Note A			A&G			
FERC Form 1						
114	22+23	(c)	Gain (Loss) from Disposition of Allowances (G.L. 411.8, 411.9)			
Note A			Gain (Loss) on Disposition of Property (G.L. 421.1, 421.2): Production Related			
			Gains on Disposition of Property (G.L. 421.1)			
			Loss on Disposition of Property (G.L. 421.2)			

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Other Inputs

Source	Row	Column	Description	Reference	Previous Year End (before adjustments)	Adjustments	Note	Previous Year End (with adjustments)
EC 1	4		Total Fuel Burned	EC 1.4				
EC 1	6		Energy Cost of Sales to Other Utilities	EC 1.6				
EC 1	7		Energy Related Production O&M	EC 1.7				
Note A			NCEMPA Backstand					
Note A			Allowance for Decommissioning Expense					
Note B			Internal Decommissioning					
Note B			Less: ADIT asset on Internal Decommissioning Reserve					
			Internal Decommissioning net of ADIT adjustment					
Note B			External Decommissioning (ARO)					
Note B			External Decommissioning (ARO)	GL 108.0150				
Note B			External Decommissioning (ARO)	GL 108.155				
Note B			External Decommissioning (ARO)	GL 108.40TB				
Note A			Clean Smokestack Compliance					
Note A			Accum. Dep. Adjst.: Harris Accel. Dep.					
Note A			Adjustment: Harris AD ADIT					
Note A			Generation Step Up Transformers					
Note A			Securitization Bonds					
			Deferred Credits (GL 228.4):					
Note A			Coal Mines					
Note A			Est. PA Scrubber Charge					
Note A			Deferred Compensation					
Note A			Environmental					
			Unrecovered Plant & Regulatory Study Costs					
FERC Form 1			Rate Base Adjustment					
230 (b)	21	(f)	Mayo 2 Abandonment Loss (wholesale specific)					
230 (b)	24	(f)	Robinson Nuclear Plant					
230 (b)	26	(f)	Brunswick Nuclear Plant					
[1]			Costs the Commission has authorized DEP to record in Account 182.2	Note M				
			Annual Amortization					
230 (b)	21	(e)	Mayo 2 Abandonment Loss (wholesale specific)					
230 (b)	24	(e)	Robinson Nuclear Plant					
230 (b)	26	(e)	Brunswick Nuclear Plant					
[1]			Amortization to Account 407 of costs recorded in Account 182.2	Note M				
Note A			Adjustments for Merger Related Costs					
			A&G Costs					
Note A			Other applicable adjustments					
			Adjustments to Remove RECs/ DSM / DSDR / EE Costs assigned to Retail					
Note A			Unexpensed REC premium in M&S a/c 1549132					
Note A			REC prepayments in a/c 165					
Note A			RECS Expense in a/c 5090004					
Note A			Gross Intangible Plant					
Note A			Gross General Plant					
Note A			Accumulated Amortization on Intangible Plant					
Note A			Accumulated Depreciation on General Plant					
			Excess and Deficient Accumulated Deferred Income Taxes					
[2]			Regulatory Asset for Deficient ADIT - Protected		See Note [2]			
[2]			Regulatory Asset for Deficient ADIT - Unprotected Property, Plant & Equipment (PPE)		See Note [2]			
[2]			Regulatory Asset for Deficient ADIT - Unprotected Non-PPE		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Protected		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Unprotected PPE		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Unprotected Non-PPE		See Note [2]			
			Net Deficient/Excess ADIT Rate Base					
[2]			Collection of Deficient Deferred Tax Expenses - Protected		See Note [2]			
[2]			Collection of Deficient Deferred Tax Expenses - Unprotected PPE		See Note [2]			
[2]			Collection of Deficient Deferred Tax Expenses - Unprotected Non-PPE		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Protected		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Unprotected PPE		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Unprotected Non-PPE		See Note [2]			
			Net Excess/Deficient Deferred Tax Expense					

Notes for adjustments:

[1] Costs recorded in Account 182.2 shall be approved for recovery by FERC pursuant to a Section 205 filing, and each set of such costs shall be reflected as a separate line item identified by the FERC docket number in which recovery of those costs was authorized. For each line, the amount of the costs entered will be calculated consistent with the methodology approved by FERC in the docket in which authorization to recover such costs was requested and obtained.

[2] Excess/Deficient Deferred Tax Expense shall equal the return or collection of excess or deficient deferred taxes as shown in Pages 17 - 19 of this Exhibit, and the return or collection of excess or deficient deferred taxes that result from any future federal or state income tax rate change, as shown in the format of Pages 20 - 21, which DEP will populate and provide subsequent to such tax change.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Other Inputs

Source	Row	Column	Description	Reference	Current Year/ Year End (before adjustments)	Adjustments	Note	Current Year/ Year End (with adjustments)
EC 1	4		Total Fuel Burned	EC 1.4				
EC 1	6		Energy Cost of Sales to Other Utilities	EC 1.6				
EC 1	7		Energy Related Production O&M	EC 1.7				
Note A			NCEMPA Backstand					
Note A			Allowance for Decommissioning Expense					
Note B			Internal Decommissioning					
Note B			Less: ADIT asset on Internal Decommissioning Reserve					
			Internal Decommissioning net of ADIT adjustment					
Note B			External Decommissioning (ARO)					
Note B			External Decommissioning (ARO)	GL 108.0150				
Note B			External Decommissioning (ARO)	GL 108.155				
Note B			External Decommissioning (ARO)	GL 108.40TB				
Note A			Clean Smokestack Compliance					
Note A			Accum. Dep. Adjst.: Harris Accel. Dep.					
Note A			Adjustment: Harris AD ADIT					
Note A			Generation Step Up Transformers					
Note A			Securitization Bonds					
			Deferred Credits (GL 228.4):					
Note A			Coal Mines					
Note A			Est. PA Scrubber Charge					
Note A			Deferred Compensation					
Note A			Environmental					
			Unrecovered Plant & Regulatory Study Costs					
FERC Form 1			Rate Base Adjustment					
230 (b)	21	(f)	Mayo 2 Abandonment Loss (wholesale specific)					
230 (b)	24	(f)	Robinson Nuclear Plant					
230 (b)	26	(f)	Brunswick Nuclear Plant					
[1]			Costs the Commission has authorized DEP to record in Account 182.2	Note M				
			Annual Amortization					
230 (b)	21	(e)	Mayo 2 Abandonment Loss (wholesale specific)					
230 (b)	24	(e)	Robinson Nuclear Plant					
230 (b)	26	(e)	Brunswick Nuclear Plant					
[1]			Amortization to Account 407 of costs recorded in Account 182.2	Note M				
			Sum of Monthly Peaks net of SEPA & Entitlement					
Note A			Wholesale Load net of SEPA					
Note A			Wholesale marketing labor included in A&G labor					
Note A			Applicable adjustments for Merger related costs					
			FERC Mitigation Sales Included in Off System Sales to Other Utilities		Dr (Cr)			Dr (Cr)
Note A			Demand Revenue (a/c 447)					
Note A			Energy Revenue + loss sharing adjustment with DEC (a/c 447)					
			Net Adjusted Revenues					
Note A			Incremental Fuel Costs to Serve (a/c 5473000)					
Note A			Incremental Purchase Power Costs (a/c 555)					
Note A			Non- Fuel Energy O&M on Sales to Other Utilities					
			Energy Cost of Sales					
			Off- System Sales Loss					
			Other Merger Related Costs					
Note A			Prepayments to Dominion in a/c 165					
Note A			Payroll Tax expense in a/c 408					
Note A			Deferred Debt Amortization exp. in a/c 428					
Note A			Mitigation sale loss sharing adjustment with DEC (502 a/c)					
Note A			A&G (920 - 930 a/cs)					
Note A			Transmission O&M (566 - 571 a/cs)					
			Excess and Deficient Accumulated Deferred Income Taxes					
[2]			Regulatory Asset for Deficient ADIT - Protected		See Note [2]			
[2]			Regulatory Asset for Deficient ADIT - Unprotected Property, Plant & Equipment (PPE)		See Note [2]			
[2]			Regulatory Asset for Deficient ADIT - Unprotected Non-PPE		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Protected		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Unprotected PPE		See Note [2]			
[2]			Regulatory Liability for Excess ADIT - Unprotected Non-PPE		See Note [2]			
			Net Deficient/Excess ADIT Rate Base					
[2]			Collection of Deficient Deferred Tax Expenses - Protected		See Note [2]			
[2]			Collection of Deficient Deferred Tax Expenses - Unprotected PPE		See Note [2]			
[2]			Collection of Deficient Deferred Tax Expenses - Unprotected Non-PPE		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Protected		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Unprotected PPE		See Note [2]			
[2]			Amortization of Excess Deferred Tax Expenses - Unprotected Non-PPE		See Note [2]			
			Net Excess/Deficient Deferred Tax Expense					

Footnotes:

[1] Costs recorded in Account 182.2 shall be approved for recovery by FERC pursuant to a Section 205 filing, and each set of such costs shall be reflected as a separate line item identified by the FERC docket number in which recovery of those costs was authorized. For each line, the amount of the costs entered will be calculated consistent with the methodology approved by FERC in the docket in which authorization to recover such costs was requested and obtained.

[2] Excess/Deficient Deferred Tax Expense shall equal the return or collection of excess or deficient deferred taxes as shown in Pages 17 - 19 of this Exhibit, and the return or collection of excess or deficient deferred taxes that result from any future federal or state income tax rate change, as shown in the format of Pages 20 - 21, which DEP will populate and provide subsequent to such tax change.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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Source	Row	Column	Description	Reference	Current Year/ Year End (before adjustments)	Adjustments	Note	Current Year/ Year End (with adjustments)
Note A			Other applicable adjustments					
			Adjustments to Remove RECs/ DSM / DSDR / EE Costs					
Note A			Unexpensed REC premium in M&S a/c 1549132					
Note A			REC prepayments in a/c 165					
Note A			RECS Expense in a/c 5090004					
Note A			Gross Intangible Plant (101 a/c)					
Note A			Gross General Plant (101 a/c)					
Note A			Accumulated Amortization on Intangible Plant (108 a/c)					
Note A			Accumulated Depreciation on General Plant (108 a/c)					
Note A			Amortization Expense on Intangible Plant					
Note A			Depreciation Expense on General Plant					
Note A			Property Tax Expense (408 a/c)					
Note A			Insurance Expense					
Note A			A&G Expense					
Note A			Payroll Tax expense in a/c 408					
			Adjustments to remove impacts of NC Retail specific treatment of DOE refunds			Less: Impacts in SAE		Demand Related
Note A			Labor related taxes					
Note A			Production O&M, demand related					
Note A			A&G					
			Total					
FERC Form 1								
114	22+23	(c)	Gain (Loss) from Disposition of Allowances (G.L. 411.8, 411.9)					
Note A			Gain (Loss) on Disposition of Property (G.L. 421.1, 421.2): Production Related			Non- Production Related loss		
			Gain on Disposition of Property (G.L. 421.1)					
			Loss on Disposition of Property (G.L. 421.2)					

Notes for adjustments:

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Deferred Income Tax Balances (GL 190)

		Previous Year End (with adjustments)	Current Year End (with adjustments)	Average	Allocation Factor	Production Allocation Amount
1	Accrued Litigation				Other	
2	ARO - 190				Other	
3	Audit Reserve/FIN48				Other	
4	Bond Premium Discount				NP	
5	Broad River Adjustment				PP	
6	Charitable Contribution Carryforward				Other	
7	Charitable Contributions Addback				Other	
8	CIAC Gross Up Refund Reserve				Other	
9	Compensation Plan				LABOR	
10	Comprehensive Income				NP	
11	Corporate Life Insurance Reserve				Other	
12	Deferred Compensation				LABOR	
13	DOE Settlement - PEC NC retail refund				Other	
14	Earnings on Employee Benefit Trust				LABOR	
15	Emission Allowances-Basis Diff				PROD	
16	Environmental Accrual				Other	
17	FAS 109-Excess				Other	
18	FAS 109-ITC				Other	
19	FAS 112				LABOR	
20	Federal NOL - NonOperating				Other	
21	Federal NOL - Operating				Other	
22	Imputed Interest Income				NP	
23	Insurance Reserve				NP	
24	Interest Rate Hedging				Other	
25	Inventory Reserve				NP	
26	IRS Audit Interest Accrual				Other	
27	Leslie/McInnes Coal Reserves				PROD	
28	Low Income Housing Credits				Other	
29	Mark to Market Accrual				Other	
30	NC NOL - Operating				Other	
31	NC NOL - NonOperating				Other	
32	Nuclear Decommissioning				Other	
33	OPEB Expense				LABOR	
34	Operating Reserve (workers comp)				LABOR	
35	Pension Expense				LABOR	
36	Pension Restoration Exp.				LABOR	
37	Reg Liability ARO Asbestos				Other	
38	Reg. Liability NDT Unrealized G/L				Other	
39	Reg Liability - Renewable Energy Deferral NC				Other	
40	Renewable Energy Certifications				Other	
41	Research & Alt Motor Credits				Other	
42	Severance Pay				LABOR	
43	TMAS - Production				PP	
44	Unbilled Rev.				Other	
45	Uncollectible Accounts				Other	
46	Vacation Accrual				LABOR	
47	Wages: Year End Accrual				LABOR	
48	Misc Prov/Round Adjustment				Other	
49	**GL 190 - Electric**					

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Deferred Income Tax Balances (GL 190)

		Previous Year End (before adjustments)	Adjustments	Note	Previous Year End (with adjustments)
1	Accrued Litigation				
2	ARO - 190				
3	Audit Reserve/FIN48				
4	Bond Premium Discount				
5	Broad River Adjustment				
6	Charitable Contribution Carryforward				
7	Charitable Contributions Addback				
8	CIAC Gross Up Refund Reserve				
9	Compensation Plan				
10	Comprehensive Income				
11	Corporate Life Insurance Reserve				
12	Deferred Compensation				
13	DOE Settlement - PEC NC retail refund				
14	Earnings on Employee Benefit Trust				
15	Emission Allowances-Basis Dfif				
16	Environmental Accrual				
17	FAS 109-Excess				
18	FAS 109-ITC				
19	FAS 112				
20	Federal NOL - NonOperating				
21	Federal NOL - Operating				
22	Imputed Interest Income				
23	Insurance Reserve				
24	Interest Rate Hedging				
25	Inventory Reserve				
26	IRS Audit Interest Accrual				
27	Leslie/McInnes Coal Reserves				
28	Low Income Housing Credits				
29	Mark to Market Accrual				
30	NC NOL - Operating				
31	NC NOL - NonOperating				
32	Nuclear Decommissioning				
33	OPEB Expense				
34	Operating Reserve (workers comp)				
35	Pension Expense				
36	Pension Restoration Exp.				
37	Reg Liability ARO Asbestos				
38	Reg. Liability NDT Unrealized G/L				
39	Reg Liability - Renewable Energy Deferral NC				
40	Renewable Energy Certifications				
41	Research & Alt Motor Credits				
42	Severance Pay				
43	TMAS - Production				
44	Unbilled Rev.				
45	Uncollectible Accounts				
46	Vacation Accrual				
47	Wages: Year End Accrual				
48	Misc Prov/Round Adjustment				
49	**GL 190 - Electric**				

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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Exhibit I
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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Deferred Income Tax Balances (GL 190)

		Current Year End (before adjustments)	Adjustments	Note	Current Year End (with adjustments)
1	Accrued Litigation				
2	ARO - 190				
3	Audit Reserve/FIN48				
4	Bond Premium Discount				
5	Broad River Adjustment				
6	Charitable Contribution Carryforward				
7	Charitable Contributions Addback				
8	CIAC Gross Up Refund Reserve				
9	Compensation Plan				
10	Comprehensive Income				
11	Corporate Life Insurance Reserve				
12	Deferred Compensation				
13	DOE Settlement - PEC NC retail refund				
14	Earnings on Employee Benefit Trust				
15	Emission Allowances-Basis Diff				
16	Environmental Accrual				
17	FAS 109-Excess				
18	FAS 109-ITC				
19	FAS 112				
20	Federal NOL - NonOperating				
21	Federal NOL - Operating				
22	Imputed Interest Income				
23	Insurance Reserve				
24	Interest Rate Hedging				
25	Inventory Reserve				
26	IRS Audit Interest Accrual				
27	Leslie/McInnes Coal Reserves				
28	Low Income Housing Credits				
29	Mark to Market Accrual				
30	NC NOL - Operating				
31	NC NOL - NonOperating				
32	Nuclear Decommissioning				
33	OPEB Expense				
34	Operating Reserve (workers comp)				
35	Pension Expense				
36	Pension Restoration Exp.				
37	Reg Liability ARO Asbestos				
38	Reg. Liability NDT Unrealized G/L				
39	Reg Liability - Renewable Energy Deferral NC				
40	Renewable Energy Certifications				
41	Research & Alt Motor Credits				
42	Severance Pay				
43	TMAS - Production				
44	Unbilled Rev.				
45	Uncollectible Accounts				
46	Vacation Accrual				
47	Wages: Year End Accrual				
48	Misc Prov/Round Adjustment				
49	**GL 190 - Electric**				

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Deferred Income Tax Balances (GL 282)

		Previous Year End (with adjustments)	Current Year End (with adjustments)	Average	Allocation Factor	Production Allocation Amount
1	AFUDC Equity - FAS 109				Other	
2	ARO - Net Property				Other	
3	Clean Smokestacks				Other	
4	NC Direct Disallowance				Other	
5	NC Indirect Disallowance				Other	
6	Non Utility Property Dep.				Other	
7	PA Depr Diff Exc Harris				PP	
8	PA Depr Diff Harris				PP	
9	PA Direct Disallowanc Contra				Other	
10	SC Indirect Disallowance				Other	
11	SC Rate Difference				Other	
12	Tax Depr - Distribution Plant				Other	
13	Tax Depr - General Plant				LABOR	
14	Tax Depr - Intangible Plant				LABOR	
15	Tax Dep - Nuclear Fuel				PROD	
16	Tax Depr - Production Plant				PP	
17	Tax Depr - Transmission Plant				TP	
18	Tax Depr - Unfunctionalized Plant				NP	
19	WH Direct Disallowance				PROD	
20	WH Indirect Disallowance				PROD	
21	Wholesale Dep Diff - Distribution				Other	
22	Wholesale Dep Diff - General				LABOR	
23	Wholesale Dep Diff - Production				PP	
24	Wholesale Dep Diff - Transmission				TP	
25	Misc Prov/Round Adjustment				Other	
26	**Total GL 282**					

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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Exhibit I
Page 12(a) of 21
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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Deferred Income Tax Balances (GL 282)

		Previous Year End (before adjustments)	Adjustments	Note	Previous Year End (with adjustments)
1	AFUDC Equity - FAS 109				
2	ARO - Net Property				
3	Clean Smokestacks				
4	NC Direct Disallowance				
5	NC Indirect Disallowance				
6	Non Utility Property Dep.				
7	PA Depr Diff Exc Harris				
8	PA Depr Diff Harris				
9	PA Direct Disallowanc Contra				
10	SC Indirect Disallowance				
11	SC Rate Difference				
12	Tax Depr - Distribution Plant				
13	Tax Depr - General Plant				
14	Tax Depr - Intangible Plant				
15	Tax Dep - Nuclear Fuel				
16	Tax Depr - Production Plant				
17	Tax Depr - Transmission Plant				
18	Tax Depr - Unfunctionalized Plant				
19	WH Direct Disallowance				
20	WH Indirect Disallowance				
21	Wholesale Dep Diff - Distribution				
22	Wholesale Dep Diff - General				
23	Wholesale Dep Diff - Production				
24	Wholesale Dep Diff - Transmission				
25	Misc Prov/Round Adjustment				
26	**Total GL 282**				

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Deferred Income Tax Balances (GL 282)

		Current Year End (before adjustments)	Adjustments	Note	Current Year End (with adjustments)
1	AFUDC Equity - FAS 109				
2	ARO - Net Property				
3	Clean Smokestacks				
4	NC Direct Disallowance				
5	NC Indirect Disallowance				
6	Non Utility Property Dep.				
7	PA Depr Diff Exc Harris				
8	PA Depr Diff Harris				
9	PA Direct Disallowanc Contra				
10	SC Indirect Disallowance				
11	SC Rate Difference				
12	Tax Depr - Distribution Plant				
13	Tax Depr - General Plant				
14	Tax Depr - Intangible Plant				
15	Tax Dep - Nuclear Fuel				
16	Tax Depr - Production Plant				
17	Tax Depr - Transmission Plant				
18	Tax Depr - Unfunctionalized Plant				
19	WH Direct Disallowance				
20	WH Indirect Disallowance				
21	Wholesale Dep Diff - Distribution				
22	Wholesale Dep Diff - General				
23	Wholesale Dep Diff - Production				
24	Wholesale Dep Diff - Transmission				
25	Misc Prov/Round Adjustment				
26	**Total GL 282**				

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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Year Ending 12/31/XX

DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Deferred Income Tax Balances (GL 283)

		Previous Year End (with adjustments)	Current Year End (with adjustments)	Average	Allocation Factor	Production Allocation Amount
1	Comprehensive Income				NP	
2	EMC OPEB				LABOR	
3	FASB 109 AFUDC Equity Reg Asset				Other	
4	FAS158 OPEB - Reg Asset				LABOR	
5	FAS158 Pension - Reg Asset				LABOR	
6	FAS158 Pension Restoration Reg Asset				LABOR	
7	FAS158 SERP - Reg Asset				LABOR	
8	Fay/Muni OPEB				LABOR	
9	Grid South-NC				Other	
10	Grid South-SC				Other	
11	Grid South-WH				Other	
12	IRS Audit Reserve				Other	
13	Market to Market				Other	
14	Market to Market - Reg Asset				Other	
15	Miscellaneous Investments				Other	
16	NC Deferred Fuel				Other	
17	Nuc Decom Unrealized Gains				Other	
18	Reg Asset-Accrued Vacation				Other	
19	Reg Asset-ARO Asbestos				Other	
20	Reg Asset-ARO Landfill				Other	
21	Reg Asset - DSM Costs NC				Other	
22	Reg Asset - DSM Costs SC				Other	
23	Reg Asset-Design Basis Brunswick				PROD	
24	Reg Asset-Design Basis Robinson				PROD	
25	Reg Asset-Nuc Decom				Other	
26	Reg Asset-PCF Deferral SC				Other	
27	Renewable Energy Deferral - NC				Other	
28	SC Deferred Fuel				Other	
29	Stock Overhead Adjustment-Prod				PROD	
30	Stock Overhead Adjustment-Unfunct				NP	
31	Storm Damage Deferral NC				Other	
32	Storm Damage Deferral SC				Other	
33	Wholesale Deferred Fuel				Other	
34	Deferred Rate Case Expense				Other	
35	Round Adjustment				Other	
36	**Total GL 283**					

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Deferred Income Tax Balances (GL 283)

		Previous Year End (before adjustments)	Adjustments	Note	Previous Year End (with adjustments)
1	Comprehensive Income				
2	EMC OPEB				
3	FASB 109 AFUDC Equity Reg Asset				
4	FAS158 OPEB - Reg Asset				
5	FAS158 Pension - Reg Asset				
6	FAS158 Pension Restoration Reg Asset				
7	FAS158 SERP - Reg Asset				
8	Fay/Muni OPEB				
9	Grid South-NC				
10	Grid South-SC				
11	Grid South-WH				
12	IRS Audit Reserve				
13	Market to Market				
14	Market to Market - Reg Asset				
15	Miscellaneous Investments				
16	NC Deferred Fuel				
17	Nuc Decom Unrealized Gains				
18	Reg Asset-Accrued Vacation				
19	Reg Asset-ARO Asbestos				
20	Reg Asset-ARO Landfill				
21	Reg Asset - DSM Costs NC				
22	Reg Asset - DSM Costs SC				
23	Reg Asset-Design Basis Brunswick				
24	Reg Asset-Design Basis Robinson				
25	Reg Asset-Nuc Decom				
26	Reg Asset-PCF Deferral SC				
27	Renewable Energy Deferral - NC				
28	SC Deferred Fuel				
29	Stock Overhead Adjustment-Prod				
30	Stock Overhead Adjustment-Unfunct				
31	Storm Damage Deferral NC				
32	Storm Damage Deferral SC				
33	Wholesale Deferred Fuel				
34	Deferred Rate Case Expense				
35	Round Adjustment				
36	**Total GL 283**				

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Deferred Income Tax Balances (GL 283)

		Current Year End (before adjustments)	Adjustments	Note	Current Year End (with adjustments)
1	Comprehensive Income				
2	EMC OPEB				
3	FASB 109 AFUDC Equity Reg Asset				
4	FAS158 OPEB - Reg Asset				
5	FAS158 Pension - Reg Asset				
6	FAS158 Pension Restoration Reg Asset				
7	FAS158 SERP - Reg Asset				
8	Fay/Muni OPEB				
9	Grid South-NC				
10	Grid South-SC				
11	Grid South-WH				
12	IRS Audit Reserve				
13	Market to Market				
14	Market to Market - Reg Asset				
15	Miscellaneous Investments				
16	NC Deferred Fuel				
17	Nuc Decom Unrealized Gains				
18	Reg Asset-Accrued Vacation				
19	Reg Asset-ARO Asbestos				
20	Reg Asset-ARO Landfill				
21	Reg Asset - DSM Costs NC				
22	Reg Asset - DSM Costs SC				
23	Reg Asset-Design Basis Brunswick				
24	Reg Asset-Design Basis Robinson				
25	Reg Asset-Nuc Decom				
26	Reg Asset-PCF Deferral SC				
27	Renewable Energy Deferral - NC				
28	SC Deferred Fuel				
29	Stock Overhead Adjustment-Prod				
30	Stock Overhead Adjustment-Unfunct				
31	Storm Damage Deferral NC				
32	Storm Damage Deferral SC				
33	Wholesale Deferred Fuel				
34	Deferred Rate Case Expense				
35	Round Adjustment				
36	**Total GL 283**				

Notes for adjustments:

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Labor Related Deferred Credits- Net

	Description	Reference	Previous Year End (with adjustments)	Current Year End (with adjustments)	Average	Allocation Factor	Production Allocation Amount
1	Accumulated Provision Prop. Ins. (GL 228.1)	p 112, Line 28c					
2	Accumulated Provision for I&D (GL 228.2)	p 112, Line 28c				LABOR	
3	Accumulated Provision for P&B (GL 228.3) [2]	p 112, Line 29c				LABOR	
4	Accumulated Misc. Op. Provisions (GL 228.4)						
5	Coal Mines					PROD	
6	Est. Excess PA Scrubber Charge					PROD	
7	Deferred Compensation					LABOR	
8	Environmental					Other	
9	Total GL 228.4	p 112, Line 30c					
10	SFAS 158 Regulatory Assets [1]	p 232, Line 3f				LABOR	
11	**Total - Labor-related Deferred Credits**						

Notes:
[1] Offset for amount in GL 228.3 not expensed.

[2] If all or portions of the "Accumulated Provision for P&B" become a prepaid position and are moved to an asset account for proper balance sheet classification, the applicable balance moved to the associated asset account will be included within this line item.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Labor Related Deferred Credits- Net

	Description	Reference	Previous Year End (before adjustments)	Adjustment	Note	Previous Year End (with adjustments)
1	Accumulated Provision Prop. Ins. (GL 228.1)	*112.27.c*				
2	Accumulated Provision for I&D (GL 228.2)	*112.28.c*				
3	Accumulated Provision for P&B (GL 228.3) [2]	*112.29.c*				
4	Accumulated Misc. Op. Provisions (GL 228.4)					
5	Coal Mines					
6	Est. Excess PA Scrubber Charge					
7	Deferred Compensation					
8	Environmental					
9	Total GL 228.4	p 112, Line 30c				
10	SFAS 158 Regulatory Assets [1]	232.3.f				
11	**Total - Labor-related Deferred Credits**					

Notes:
[1] Offset for amount in GL 228.3 not expensed.

[2] If all or portions of the "Accumulated Provision for P&B" become a prepaid position and are moved to an asset account for proper balance sheet classification, the applicable balance moved to the associated asset account will be included within this line item.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Labor Related Deferred Credits- Net

	Description	Reference	Current Year End (before adjustments)	Adjustment	Note	Current Year End (with adjustments)
1	Accumulated Provision Prop. Ins. (GL 228.1)	*112.27.c*				
2	Accumulated Provision for I&D (GL 228.2)	*112.28.c*				
3	Accumulated Provision for P&B (GL 228.3) [2]	*112.29.c*				
4	Accumulated Misc. Op. Provisions (GL 228.4)					
5	Coal Mines					
6	Est. Excess PA Scrubber Charge					
7	Deferred Compensation					
8	Environmental					
9	Total GL 228.4	p 112, Line 30c				
10	SFAS 158 Regulatory Assets [1]	232.3.f				
11	**Total - Labor-related Deferred Credits**					

Notes:
[1] Offset for amount in GL 228.3 not expensed.

[2] If all or portions of the "Accumulated Provision for P&B" become a prepaid position and are moved to an asset account for proper balance sheet classification, the applicable balance moved to the associated asset account will be included within this line item.

LINE REFERENCES MAY BE CHANGED BY SUCCESSOR REFERENCES OR EQUIVALENT REFERENCES.

NOTE: LINE ITEMS ABOVE ARE INDICATIVE OF AMOUNTS IN REFERENCED ACCOUNT BUT ARE SUBJECT TO ADDITIONS OR DELETIONS YOY.

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Production Plant Adjustments for Construction Work in Progress (CWIP) and Renewable Energy Investments

	Description	Beginning	Ending	Average/Total	Allocation Factor	Production Allocation Amount
1	Construction Work in Progress (CWIP)					
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16	Total CWIP					
17	Renewable Energy/Other Governmental Requirements					
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
32	Total REPS/EE					

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DUKE ENERGY PROGRESS, LLC
Production Capacity Rate Formula Template Using Form-1 Data

Monthly System Peak Demands (kW)

Line		Total kW *(before adjustments)*	Adjustment	Note	Total kW *(with adjustments)*	
1	January				-	
2	February				-	
3	March				-	401b, d. &
4	April				-	Analysis of
5	May				-	Company
6	June				-	Books
7	July				-	
8	August				-	
9	September				-	
10	October				-	
11	November				-	
12	December				-	
13	**Average Monthly Peak Demand**				-	
14	**Joint Ownership Entitlement**					
15	**SEPA**					
16	**SEPA Losses**				-	
17	**SEPA Grossed up for Losses**				-	
18	**Net System Average Monthly Peak**				-	
19	**Sum of Twelve Monthly Peaks**				-	

Note:

The Monthly System Peak Demands listed above agree with the Monthly Peak Demand as listed on the DEP FERC Form 1 page 401b, subject to adjustments for joint ownership in DEP's generation units.

Notes for adjustments:

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Illustrative Example to be Updated Annually

Year Ending 12/31/

DUKE ENERGY PROGRESS, LLC
Return of Excess Deferred Taxes - Protected portion (1)

Account 190	$	30,538,455
Account 282	$	(1,076,768,929)
Account 283	$	-
Adjusted System-level balance (2)	$	(1,046,230,474)

Year (3)	(A) Est. ARAM Rate Used (4)	(B) Beginning year balance	(A) x (Adj. System-level balance) (C) Current year amortization (5)	(B)-(C) (D) Remaining Balance
2018	3.57%	(1,046,230,474)	$ (37,350,427.92)	(1,008,880,046)
2019	3.57%	(1,008,880,046)	$ (37,350,427.92)	(971,529,618)
2020	3.57%	(971,529,618)	$ (37,350,427.92)	(934,179,190)

(1) The return of the protected portion of excess Federal ADIT generated by the 2017 Tax Cuts and Jobs Act will begin effective January 1, 2018 and continue through the term of the contract using the agreed upon methodology until the balance in the Remaining Balance Column is $0.

(2) Balance adjusted to add back EDIT related to fixed rate wholesale PPAs.

(3) The total number of years necessary for the return of the Protected portion of excess federal ADIT to customers will be determined by the ARAM rate, which will change over time.

(4) Represents the estimated amortization rate using the Average Rate Assumption Method, ("ARAM rate") per DEP's PowerTax system. Revised ARAM rates are calculated during the 4th quarter of each year. DEP will use the best available ARAM rate when setting estimated billing rates on December 1st of each year, and will incorporate the then current best available ARAM rate into each year's true-up. For example, 3.57%, which was calculated in 4th quarter 2019, will be used in the estimated rate for 2020. The true-up for 2020, which will be completed in June/July 2021, will incorporate the ARAM rate calculated in the 4th quarter of 2020, and an updated schedule reflecting the revised ARAM rate will be provided to customers each year as part of the true-up.

(5) The goal is to return the wholesale load ratio share of the total protected portion of the excess deferred taxes, initially determined to be ($1,046,230,474) over the appropriate period using ARAM. This amount will be determined annually by multiplying ($1,046,230,474) by the ARAM rate from column (A). This amount will not be impacted by the gross-up factor nor the net plant allocator used to determine the actual amount returned to customers annually.

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Exhibit I
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Year Ending 12/31/

DUKE ENERGY PROGRESS, LLC
Return of Excess Deferred Taxes - Unprotected PPE portion (1)

Account 190	$	-
Account 282	$	(400,321,666)
Account 283	$	-
Adjusted System-level balance (2)	$	(400,321,666)

Year	(A) Amortization Rate (20 years)	(B) Beginning year balance	(A) x (Adj. System-level balance) (C) Current year amortization	(B-C) (D) Remaining Balance
2018	5.00%	(400,321,666)	$ (20,016,083.30)	(380,305,583)
2019	5.00%	(380,305,583)	$ (20,016,083.30)	(360,289,499)
2020	5.00%	(360,289,499)	$ (20,016,083.30)	(340,273,416)
2021	5.00%	(340,273,416)	$ (20,016,083.30)	(320,257,333)
2022	5.00%	(320,257,333)	$ (20,016,083.30)	(300,241,250)
2023	5.00%	(300,241,250)	$ (20,016,083.30)	(280,225,166)
2024	5.00%	(280,225,166)	$ (20,016,083.30)	(260,209,083)
2025	5.00%	(260,209,083)	$ (20,016,083.30)	(240,193,000)
2026	5.00%	(240,193,000)	$ (20,016,083.30)	(220,176,916)
2027	5.00%	(220,176,916)	$ (20,016,083.30)	(200,160,833)
2028	5.00%	(200,160,833)	$ (20,016,083.30)	(180,144,750)
2029	5.00%	(180,144,750)	$ (20,016,083.30)	(160,128,666)
2030	5.00%	(160,128,666)	$ (20,016,083.30)	(140,112,583)
2031	5.00%	(140,112,583)	$ (20,016,083.30)	(120,096,500)
2032	5.00%	(120,096,500)	$ (20,016,083.30)	(100,080,417)
2033	5.00%	(100,080,417)	$ (20,016,083.30)	(80,064,333)
2034	5.00%	(80,064,333)	$ (20,016,083.30)	(60,048,250)
2035	5.00%	(60,048,250)	$ (20,016,083.30)	(40,032,167)
2036	5.00%	(40,032,167)	$ (20,016,083.30)	(20,016,083)
2037	5.00%	(20,016,083)	$ (20,016,083.30)	0

(1) The unprotected PPE portion of excess federal ADIT generated by the 2017 Tax Cuts and Jobs Act will be returned to customers over a 20 year period, effective January 1, 2018.

(2) Balance adjusted to add back EDIT related to fixed rate wholesale PPAs.

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Exhibit I
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Year Ending 12/31/

DUKE ENERGY PROGRESS, LLC
Collection of Deficient Deferred Taxes - Unprotected non-PPE portion (1)

Account 190	$	645,896,216
Account 282	$	-
Account 283	$	(639,986,722)
Adjusted System-level balance (2)	$	5,909,494

Year	(A) Amortization Rate (5 years)	(B) Beginning year balance	(A) x (Adj. System-level balance) (C) Current year amortization	(B-C) (D) Remaining Balance
2018	20.00%	5,909,494	$ 1,181,898.80	4,727,595
2019	20.00%	4,727,595	$ 1,181,898.80	3,545,696
2020	20.00%	3,545,696	$ 1,181,898.80	2,363,798
2021	20.00%	2,363,798	$ 1,181,898.80	1,181,899
2022	20.00%	1,181,899	$ 1,181,898.80	0

(1) The unprotected non-PPE portion of deficient federal ADIT generated by the 2017 Tax Cuts and Jobs Act will be collected from customers over a 5 year period, effective January 1, 2018.

(2) Balance adjusted to add back EDIT related to fixed rate wholesale PPAs.

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Exhibit I
Page 20 of 21
Year Ending 12/31/

Formula Rate Template - *Generic* Page 20 - *[Return/Collection of Future Excess/Deficient]* Deferred Taxes - *[Protected/Unprotected PPE/Unprotected Non-PPE]* Portion

DUKE ENERGY PROGRESS, LLC
Illustrative Worksheet to be Updated Annually

	Amount
Account *xxx* (1)	
System-level balance (2)	*XX*

Year	(A) Amortization Rate *([Est. ARAM Rate Used (3)] or [X years])*	(B) Beginning year balance	(A) x (System-level balance) (C) Current year amortization	(B-C) (D) Remaining Balance
20XX		XX		
20XX+1				

(1) Account will be populated with the ADIT account remeasured as a result of the federal or state tax law change and the amount will be the excess or deficient ADIT contained therein.

(2) The *[Protected/Unprotected PPE/Unprotected Non-PPE]* portion of *[excess/deficient]* ADIT generated by *[Insert Name of Federal or State Tax Law]* will be returned to or recovered from customers over a [X] year period, effective [Insert Date].

(3) The total number of years necessary for the *[return of the Protected portion of excess ADIT]* or *[recovery of the Protected portion of deficient ADIT]* to customers will be determined by the ARAM rate, which will change over time. Represents the estimated ARAM rate per DEP's PowerTax system.

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Exhibit I
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Year Ending 12/31/

Page 21 - Generic Reconciliation of Re-measurements related to Future Federal or State Tax Rate Changes

DUKE ENERGY PROGRESS, LLC
Tax Rate Change Re-measurement Reconciliation

(Dr)Cr ADIT Offset Account Category	Description	Dr(Cr) 190	Dr(Cr) 282	Dr(Cr) 283	Dr(Cr) Other	Dr(Cr) Total
Excess/Deficient ADIT						
Balance Sheet Items - Other Than Excess/Deficient ADIT						
Income Statement						
Grand Total						

Note: Supplemental informational schedule to be provided to customers with each future federal or state tax rate change.

Exhibit II

Energy Rate Formula

(Exhibit Follows)

Exhibit II
Page 1 of 6
Month Ending XX/XX/XXXX

DUKE ENERGY PROGRESS
System Average Energy Rate Template
For the month ending XX/XX/XXXX

Line	Description		Source	Reference	Total (before adjustments)	Adjustment	Note	Amount (with adjustments)
	Burned Fuel							
1	Fossil	Acct 5013	[2]				[4]	$ -
2	Nuclear	Acct 5183, 5188, 51882	[2]					$ -
3	Other Power	Acct 5473	[2]					$ -
4	Total Burned Fuel			Add L.1 thru L.3	$ -	$ -		$ -
5	Purchased Power		[3]	Page 1			[5]	$ -
6	Sales to Other Utilities			Page 2, L.12				$ -
7	Energy-related Production O&M			Page 3, Col. 5, L.64	$ -			$ -
8	Total Energy-related Production Costs			L.4 + L.5 - L.6 + L.7	$ -	$ -		$ -
9	Total Generated and Purchased MWh			Page 6, L.7		-		MWh
10	Annual System Average Energy Rate ($/MWh)			L.8 / L.9				/MWh

Note: [1] The expenses presented on this exhibit represent energy-related expenses currently recorded in existing production operation and maintenance FERC accounts on DEP's books. If new production FERC accounts are established subsequent to the execution of this Agreement, this exhibit will be amended to include the energy related expenses recorded in such accounts, subject to FERC approval in accordance with Section 15.1 of the Agreement. The Monthly Energy Rate in this exhibit is to be calculated as provided in Section 5.2 of the Agreement. Adjustments shall be made consistent with Section 5.2 and 5.3, as amended and clarified. No costs or adjustments shall be incorporated in the Monthly Energy Rate that differentiate NCEMPA from CP&L's native load service (including NCEMPA's load served under the Agreement) unless approved by FERC.

[2] Analysis of Company Books

[3] Schedule 3, NCUC

[4] Merger saving adjustment for coal blending credits recorded in Acct 456.

[5] InterCompany Purchased Power Expenses - Other represent intercompany transfers between Progress Energy and Duke Energy for margins on off-system sales. Formula provides credits for fuel and variable O&M components of off-system sales. Off-system sales margins are not credited.

It is the intent of this System Average Energy Rate Template Formula ("Formula"), including the supporting explanations and allocations described herein, that each input to the Formula either will be (i) taken directly from the FERC Form No. 1 or (ii) reconcilable to the FERC Form No. 1 or other appropriate documentation by the application of clearly identified and supported information. Adjustments to the inputs will be set forth in the "Adjustment" columns of this Formula template and will be those amounts necessary to (i) maintain all applicable DEP hold harmless commitments to FERC and (ii) remove the effect of retail ratemaking orders on DEP's inputs so that the Formula calculates DEP's system average energy cost on a purely wholesale basis. This note is applicable to all pages of the Formula template included herein.

Exhibit II
Page 2 of 6
Month Ending XX/XX/XXXX

DUKE ENERGY PROGRESS
System Average Energy Rate Template
For the month ending XX/XX/XXXX
Energy-related Costs of Sales to Other Utilities

Line	Description	Source	Reference	Total (before adjustments)	Adjustment	Note	Amount (with adjustments)	
1	Sales to Other Utilities MWh	[1]					-	MWh
2	Sales to Other Utilities Fuel Cost	[1]					$ -	
	Energy-related O&M Calculation							
3	Energy-related Fossil O&M		Page 3, Col.5, L.19	$ -			$ -	
4	Total Other Power O&M		Page 3, Col. 1, L. 63	$ -			$ -	
5	80% of Other Power O&M		Line 4 x 80%	$ -			$ -	
6	Total Energy-related O&M		L.3 + L.5	$ -			$ -	
7	Fossil Steam Net Generation MWh	FF1	Page 401A, L.3				-	MWh
8	Other Power Net Generation MWh	FF1	Page 401A, L.7				-	MWh
9	Total Fossil Net Generation MWh		L.7 + L.8	-			-	MWh
10	Energy-related O&M Rate		L.6 / L.9					/MWh
11	Energy-related O&M		L.1 x L.10				$ -	
12	Total Energy-related Cost of Sales to Other Utilities		L.2 + L.11				$ -	

Note: [1] Schedule 3, NCUC

DUKE ENERGY PROGRESS
System Average Energy Rate Template
For the month ending XX/XX/XXXX
Energy-related Production O&M Expenses

Line	Account Description	FERC Account	Col. 1 Total Production O & M Expenses *(with adjustments)*	Col. 2 Labor Component *(with adjustments)*	Col. 3 Labor % To Total	Col. 4 Allocated S & E O & M	Col. 5 Total Energy O & M	Col. 6 Total Demand O & M
	STEAM POWER GENERATION							
1	Operating Supervision & Engr.	500	$ -	N/A	N/A	N/A	$ -	$ -
2	Fuel - Labor & Misc. Expense	5012	0.00			0.00	0.00	0.00
3	Steam Expense (excl Ammonia/Limestone, Gypsum)	502	0.00	-		0.00	0.00	0.00
4	Steam Expense - Ammonia	502	0.00	-		0.00	0.00	0.00
5	Steam Expense - Limestone	502	0.00	-		0.00	0.00	0.00
6	Steam Expense - Gypsum Disposal/Sales	502/456	0.00	-		0.00	0.00	0.00
7	Steam Expense - Magnesium Hydroxide	502	0.00	-		0.00	0.00	0.00
8	Electric Expense	505	0.00	-		0.00	0.00	0.00
9	Misc. Steam Power Expense	506	0.00	-		0.00	0.00	0.00
10	Rents	507	0.00	-		0.00	0.00	0.00
11	Allowances	509	0.00	-		0.00	0.00	0.00
12	Total Operation	L. 1 thru 11	$ -	$ -	0.0000%	$ -	$ -	$ -
13	Maintenance Supervision & Engr.	510	$ -	N/A	N/A	N/A	$ -	$ -
14	Maint. of Structures	511	0.00	-		0.00	0.00	0.00
15	Maint. of Boiler Plant	512	0.00	-		0.00	0.00	0.00
16	Maint. of Electric Plant	513	0.00	-		0.00	0.00	0.00
17	Maint. of Misc. Steam Plant	514	0.00	-		0.00	0.00	0.00
18	Total Maintenance	L. 13 thru 17	$ -	$ -	0.0000%	$ -	$ -	$ -
19	Total Steam Power Generation	L. 12 + L. 18	$ -				$ -	$ -
	NUCLEAR POWER GENERATION							
20	Operating Supervision & Engr.	517	$ -	N/A	N/A	N/A	$ -	$ -
21	Fuel Handling	51823	0.00	-		0.00	0.00	0.00
22	Coolants & Waters	519	0.00	-		0.00	0.00	0.00
23	Steam Expenses	520	0.00	-		0.00	0.00	0.00
24	Steam from Other Sources	521	0.00	-		0.00	0.00	0.00
25	Steam Transferred - Cr	522	0.00	-		0.00	0.00	0.00
26	Electric Expenses	523	0.00	-		0.00	0.00	0.00
27	Misc. Nuclear Power Expenses	524	0.00	-		0.00	0.00	0.00
28	Rents	525	0.00	-		0.00	0.00	0.00
29	Total Operation	L. 20 thru 28	$ -	$ -	0.0000%	$ -	$ -	$ -
30	Maintenance Supervision & Engr.	528	$ -	N/A	N/A	N/A	$ -	$ -
31	Maint. of Structures	529	0.00	-		0.00	0.00	0.00
32	Maint. of Reactor Plant Equip.	530	0.00	-		0.00	0.00	0.00
33	Maint. of Electric Plant	531	0.00	-		0.00	0.00	0.00
34	Maint. of Misc. Nuclear Plant	532	0.00	-		0.00	0.00	0.00
35	Total Maintenance	L. 30 thru 34	$ -	$ -	0.0000%	$ -	$ -	$ -
36	Total Nuclear Power Generation	L. 29 + L. 35	$ -				$ -	$ -
	HYDRAULIC POWER GENERATION							
37	Operating Supervision & Engr.	535	$ -	N/A	N/A	N/A	$ -	$ -
38	Water for Power	536	0.00	-		-	0.00	0.00
39	Hydraulic Expenses	537	0.00	-		-	0.00	0.00
40	Electric Expenses	538	0.00	-		-	0.00	0.00
41	Misc. Hydro Power Gen. Expenses	539	0.00	-		-	0.00	0.00
42	Rents	540	0.00	-		-	0.00	0.00
43	Total Operation	L. 37 thru 42	$ -	$ -	0.0000%	$ -	$ -	$ -
44	Maintenance Supervision & Engr.	541	$ -	N/A	N/A	N/A	$ -	$ -
45	Maint. of Structures	542	0.00	-		-	0.00	0.00
46	Maint. of Reservoirs, Dams & Waterways	543	0.00	-		-	0.00	0.00
47	Maint. of Electric Plant	544	0.00	-		-	0.00	0.00
48	Maint. of Misc. Hydraulic Plant	545	0.00	-		-	0.00	0.00
49	Total Maintenance	L. 44 thru 48	$ -	$ -	0.0000%	$ -	$ -	$ -
50	Total Hydraulic Power Generation	L. 43 + L. 49	$ -				$ -	$ -
	OTHER POWER GENERATION							
51	Operating Supervision & Engr.	546	$ -	N/A	N/A	N/A	$ -	$ -
52	Fuel - Labor & Misc. Expense	5472	0.00	-		-	0.00	0.00
53	Generation Expense(Excluding Ammonia)	548	0.00	-		-	0.00	0.00
54	Generation Expense-Ammonia	548	0.00	-		-	0.00	0.00
55	Misc. Other Power	549	0.00	-		-	0.00	0.00
56	Rents	550	0.00	-		-	0.00	0.00
57	Total Operation	L. 51 thru 56	$ -	$ -	0.0000%	$ -	$ -	$ -
58	Maintenance Supervision & Engr.	551	$ -	N/A	N/A	N/A	$ -	$ -
59	Maint. of Structures	552	0.00	-		-	0.00	0.00
60	Maint. of Gen. & Electric Plant	553	0.00	-		-	0.00	0.00
61	Maint. of Misc. Other Power	554	0.00	-		-	0.00	0.00
62	Total Maintenance	L. 58 thru 62	$ -	$ -	0.0000%	$ -	$ -	$ -
63	Total Other Power Generation	L. 57 + L. 62	$ -				$ -	$ -
64	Total Production O&M Expenses	.18+L.36+L.50+L.63	$ -				$ -	$ -

DUKE ENERGY PROGRESS
System Average Energy Rate Template
For the month ending XX/XX/XXXX
Energy-related Production O&M Expenses

Line	Account Description	FERC Account	Source	Reference	Col. 1 Total Production O & M Expenses (before adjustments)	Col. 2 Adjustments	Col. 3 Note	Col. 4 Total (after adjustments)
	STEAM POWER GENERATION							
1	Operating Supervision & Engr.	500	FF1	P. 320, L.4, Col. (b)				$ -
2	Fuel - Labor & Misc. Expense	5012	[1]					0.00
3	Steam Expense (excl Ammonia/Limestone, Gypsum)	502	[1]					0.00
4	Steam Expense - Ammonia	502	[1]					0.00
5	Steam Expense - Limestone	502	[1]					0.00
6	Steam Expense - Gypsum Disposal/Sales	502/456	[1]					0.00
7	Steam Expense - Magnesium Hydroxide	502	[1]					0.00
8	Electric Expense	505	FF1	P. 320, L.9, Col. (b)				0.00
9	Misc. Steam Power Expense	506	FF1	P. 320, L.10, Col. (b)				0.00
10	Rents	507	FF1	P. 320, L.11, Col. (b)				0.00
11	Allowances	509	FF1	P. 320, L.12, Col. (b)			[2]	0.00
12	Total Operation	L. 1 thru 11			$ -	$ -		$ -
13	Maintenance Supervision & Engr.	510	FF1	P. 320, L.15, Col. (b)				$ -
14	Maint. of Structures	511	FF1	P. 320, L.16, Col. (b)				0.00
15	Maint. of Boiler Plant	512	FF1	P. 320, L.17, Col. (b)				0.00
16	Maint. of Electric Plant	513	FF1	P. 320, L.18, Col. (b)				0.00
17	Maint. of Misc. Steam Plant	514	FF1	P. 320, L.19, Col. (b)				0.00
18	Total Maintenance	L. 13 thru 17			$ -	$ -		$ -
19	Total Steam Power Generation	L. 12 + L. 18			$ -	$ -		$ -
	NUCLEAR POWER GENERATION							
20	Operating Supervision & Engr.	517	FF1	P. 320, L.24, Col. (b)				$ -
21	Fuel Handling	51823	[1]				[3]	0.00
22	Coolants & Waters	519	FF1	P. 320, L.26, Col. (b)			[3]	0.00
23	Steam Expenses	520	FF1	P. 320, L.27, Col. (b)			[3]	0.00
24	Steam from Other Sources	521	FF1	P. 320, L.28, Col. (b)				0.00
25	Steam Transferred - Cr	522	FF1	P. 320, L.29, Col. (b)				0.00
26	Electric Expenses	523	FF1	P. 320, L.30, Col. (b)				0.00
27	Misc. Nuclear Power Expenses	524	FF1	P. 320, L.31, Col. (b)			[3]	0.00
28	Rents	525	FF1	P. 320, L.32, Col. (b)				0.00
29	Total Operation	L. 20 thru 28			$ -	$ -		$ -
30	Maintenance Supervision & Engr.	528	FF1	P. 320, L.35, Col. (b)			[3]	$ -
31	Maint. of Structures	529	FF1	P. 320, L.36, Col. (b)			[3]	0.00
32	Maint. of Reactor Plant Equip.	530	FF1	P. 320, L.37, Col. (b)			[3]	0.00
33	Maint. of Electric Plant	531	FF1	P. 320, L.38, Col. (b)			[3]	0.00
34	Maint. of Misc. Nuclear Plant	532	FF1	P. 320, L.39, Col. (b)			[3]	0.00
35	Total Maintenance	L. 30 thru 34			$ -	$ -		$ -
36	Total Nuclear Power Generation	L. 29 + L. 35			$ -	$ -		$ -
	HYDRAULIC POWER GENERATION							
37	Operating Supervision & Engr.	535	FF1	P. 320, L.44, Col. (b)				0.00
38	Water for Power	536	FF1	P. 320, L.45, Col. (b)				0.00
39	Hydraulic Expenses	537	FF1	P. 320, L.46, Col. (b)				0.00
40	Electric Expenses	538	FF1	P. 320, L.47, Col. (b)				0.00
41	Misc. Hydro Power Gen. Expenses	539	FF1	P. 320, L.48, Col. (b)				0.00
42	Rents	540	FF1	P. 320, L.49, Col. (b)				0.00
43	Total Operation	L. 37 thru 42			$ -	$ -		$ -
44	Maintenance Supervision & Engr.	541	FF1	P. 320, L.53, Col. (b)				0.00
45	Maint. of Structures	542	FF1	P. 320, L.54, Col. (b)				0.00
46	Maint. of Reservoirs, Dams & Waterways	543	FF1	P. 320, L.55, Col. (b)				0.00
47	Maint. of Electric Plant	544	FF1	P. 320, L.56, Col. (b)				0.00
48	Maint. of Misc. Hydraulic Plant	545	FF1	P. 320, L.57, Col. (b)				0.00
49	Total Maintenance	L. 44 thru 48			$ -	$ -		$ -
50	Total Hydraulic Power Generation	L. 43 + L. 49			$ -	$ -		$ -
	OTHER POWER GENERATION							
51	Operating Supervision & Engr.	546	FF1	P. 321, L.62, Col. (b)				0.00
52	Fuel - Labor & Misc. Expense	5472	[1]					0.00
53	Generation Expense(Excluding Ammonia)	548	[1]					0.00
54	Generation Expense-Ammonia	548	[1]					0.00
55	Misc. Other Power	549	FF1	P. 321, L.65, Col. (b)				0.00
56	Rents	550	FF1	P. 321, L.66, Col. (b)				0.00
57	Total Operation	L. 51 thru 56			$ -	$ -		$ -
58	Maintenance Supervision & Engr.	551	FF1	P. 321, L.69, Col. (b)				0.00
59	Maint. of Structures	552	FF1	P. 321, L.70, Col. (b)				0.00
60	Maint. of Gen. & Electric Plant	553	FF1	P. 321, L.71, Col. (b)				0.00
61	Maint. of Misc. Other Power	554	FF1	P. 321, L.72, Col. (b)				0.00
62	Total Maintenance	L. 58 thru 62			$ -	$ -		$ -
63	Total Other Power Generation	L. 57 + L. 62			$ -	$ -		$ -
64	Total Production O&M Expenses	L.18+L.36+L.50+L.63			$ -	$ -		$ -

Note: [1] Analysis of Company Books.
[2] Adjustment to exclude REPS allowances for retail jurisdictions.
[3] Adjustment to exclude reversal of a 2011 DOE refund that is being deferred and amortized through 8/31/2018 for retail jurisdictions only.

DUKE ENERGY PROGRESS
System Average Energy Rate Template
For the month ending XX/XX/XXXX
Energy-related Production O&M Expenses

Line	Account Description	FERC Account	Source	Reference	Col. 1 Labor Component (before adjustments)	Col. 2 Adjustments	Col. 3 Note	Col. 4 Total (after adjustments)
	STEAM POWER GENERATION							
1	Operating Supervision & Engr.	500	[1]		N/A	N/A		N/A
2	Fuel - Labor & Misc. Expense	5012	[1]					$ -
3	Steam Expense (excl Ammonia/Limestone, Gypsum)	502	[1]					0.00
4	Steam Expense - Ammonia	502	[1]					0.00
5	Steam Expense - Limestone	502	[1]					0.00
6	Steam Expense - Gypsum Disposal/Sales	502/456	[1]					0.00
7	Steam Expense - Magnesium Hydroxide	502	[1]					0.00
8	Electric Expense	505	[1]					0.00
9	Misc. Steam Power Expense	506	[1]					0.00
10	Rents	507	[1]					0.00
11	Allowances	509	[1]					0.00
12	Total Operation	L. 1 thru 11			$ -	$ -		$ -
13	Maintenance Supervision & Engr.	510	[1]		N/A	N/A		N/A
14	Maint. of Structures	511	[1]					$ -
15	Maint. of Boiler Plant	512	[1]					0.00
16	Maint. of Electric Plant	513	[1]					0.00
17	Maint. of Misc. Steam Plant	514	[1]					0.00
18	Total Maintenance	L. 13 thru 17			$ -	$ -		$ -
19	Total Steam Power Generation	L. 12 + L. 18			$ -	$ -		$ -
	NUCLEAR POWER GENERATION							
20	Operating Supervision & Engr.	517	[1]		N/A	N/A		N/A
21	Fuel Handling	51823	[1]					$ -
22	Coolants & Waters	519	[1]					0.00
23	Steam Expenses	520	[1]					0.00
24	Steam from Other Sources	521	[1]					0.00
25	Steam Transferred - Cr	522	[1]					0.00
26	Electric Expenses	523	[1]					0.00
27	Misc. Nuclear Power Expenses	524	[1]					0.00
28	Rents	525	[1]					0.00
29	Total Operation	L. 20 thru 28			$ -	$ -		$ -
30	Maintenance Supervision & Engr.	528	[1]		N/A	N/A		N/A
31	Maint. of Structures	529	[1]					$ -
32	Maint. of Reactor Plant Equip.	530	[1]					0.00
33	Maint. of Electric Plant	531	[1]					0.00
34	Maint. of Misc. Nuclear Plant	532	[1]					0.00
35	Total Maintenance	L. 30 thru 34			$ -	$ -		$ -
36	Total Nuclear Power Generation	L. 29 + L. 35			$ -	$ -		$ -
	HYDRAULIC POWER GENERATION							
37	Operating Supervision & Engr.	535	[1]		N/A	N/A		N/A
38	Water for Power	536	[1]					$ -
39	Hydraulic Expenses	537	[1]					0.00
40	Electric Expenses	538	[1]					0.00
41	Misc. Hydro Power Gen. Expenses	539	[1]					0.00
42	Rents	540	[1]					0.00
43	Total Operation	L. 37 thru 42			$ -	$ -		$ -
44	Maintenance Supervision & Engr.	541	[1]		N/A	N/A		N/A
45	Maint. of Structures	542	[1]					$ -
46	Maint. of Reservoirs, Dams & Waterways	543	[1]					0.00
47	Maint. of Electric Plant	544	[1]					0.00
48	Maint. of Misc. Hydraulic Plant	545	[1]					0.00
49	Total Maintenance	L. 44 thru 48			$ -	$ -		$ -
50	Total Hydraulic Power Generation	L. 43 + L. 49			$ -	$ -		$ -
	OTHER POWER GENERATION							
51	Operating Supervision & Engr.	546	[1]		N/A	N/A		N/A
52	Fuel - Labor & Misc. Expense	5472	[1]					$ -
53	Generation Expense(Excluding Ammonia)	548	[1]					0.00
54	Generation Expense-Ammonia	548	[1]					0.00
55	Misc. Other Power	549	[1]					0.00
56	Rents	550	[1]					0.00
57	Total Operation	L. 51 thru 56			$ -	$ -		$ -
58	Maintenance Supervision & Engr.	551	[1]		N/A	N/A		N/A
59	Maint. of Structures	552	[1]					$ -
60	Maint. of Gen. & Electric Plant	553	[1]					0.00
61	Maint. of Misc. Other Power	554	[1]					0.00
62	Total Maintenance	L. 58 thru 62			$ -	$ -		$ -
63	Total Other Power Generation	L. 57 + L. 62			$ -	$ -		$ -
64	Total Production O&M Expenses	L.18+L.36+L.50+L.63			$ -	$ -		$ -

Note: [1] Analysis of Company Books.

DUKE ENERGY PROGRESS
System Average Energy Rate Template
For the month ending XX/XX/XXXX
Net Generated and Purchased MWh and Company Use

Line	Description	Source	Reference	MWh (before adjustments)	Adjustment	Note	MWh (with adjustments)
	Net Generated and Purchased MWh						
1	Total Energy	FF1	P.401a, L.28				-
2	Sales to Other Utilities	[1]					-
3	SEPA Received	FF1	P.329				-
4	SEPA Delivered	FF1	P.329				-
5	Net System Input Adjusted for SEPA		L.1 - L.2 - L.3 - L.4	-			-
6	Company Use		L.12				
7	Net Generated and Purchased MWh		L.5 - L.6				
	CP&L Company Use						
8	Metered Company Uses	FF1	P.401a, L.26				-
9	Total Energy Unaccounted For	FF1	P.401a, L.27				-
10	Net System Input	FF1	P.401a, L.28				-
11	Energy Loss %		L.9 / L.10				
12	Company Use Including Losses		L.8 x (L.11 + 1)				

Note: [1] Schedule 3, NCUC

Exhibit III

Reserve Capacity Rate Formula

(Exhibit Follows)

Exhibit III - Reserve Capacity Rate Formula
Duke Energy Progress, LLC

1	Net Revenue Requirements			_____	p 1. of the Capacity Rate Formula, Exhibit I
2	DEP's System Production Capability[1]			_____	kW
3	**Total Reserve Capacity Rate**	$/kW-year	Line 1 / 2	_____	
4		$/kW-mo	Line 3 /12	_____	

[1] - DEP's System Production Capability for a year shall be the average of (i) the total DEP system capability (excluding DEP's purchases from SEPA) as of December 31 of the year prior to the year in which service was provided, and (ii) the total DEP system capability (excluding DEP's purchases from SEPA) as of December 31 in the year in which service was provided

Exhibit IV

Base Load Reduction Compensation Payment

(Exhibit Follows)

Exhibit IV

Compensation Payment Calculation and Methodology
(Example Assuming 1/1/16 Closing and 1/1/28 Termination of 200 MW)

Year	Purchase Price ($000)	20-Year Amortization ($000)	Unamortized Purchase Price @ Y/E ($000)	Net System Avg. Monthly Peak Demands (MW)
A	B	C	D	E
2016	1,200,000	60,000	1,140,000	11,273
2017		60,000	1,080,000	11,439
2018		60,000	1,020,000	11,601
2019		60,000	960,000	11,765
2020		60,000	900,000	11,929
2021		60,000	840,000	12,092
2022		60,000	780,000	12,260
2023		60,000	720,000	12,439
2024		60,000	660,000	12,623
2025		60,000	600,000	12,799
2026		60,000	540,000	12,978
2027		60,000	480,000	13,159
2028		60,000	420,000	13,352
2029		60,000	360,000	13,546
2030		60,000	300,000	13,718
2031		60,000	240,000	13,900
2032		60,000	180,000	14,080
2033		60,000	120,000	14,266
2034		60,000	60,000	14,266
2035		60,000	-	14,266

Assumed Base Load Capacity Reduction	200
Avg. of Previous 5-Years Net System Avg. Monthly Peak Demands	12,800
Load Ratio Share of Base Load Capacity Reduction	1.5625%
Base Load Reduction Compensation Payment ($000)	7,500

NOTE - APPLICATION OF METHODOLOGY

The Compensation Payment provided for in Section 2.7.7 of the Agreement shall be based on the amount of capacity of Base Load purchases that Power Agency terminates in accordance with Section 2.7.6 divided by the same DEP net Monthly Peak Demands as used in the Capacity Rate Formula (Exhibit I, Page 16 - shown on Line 18, Column Total kW with adjustments), applied to the unamortized balance of the purchase price set forth in the Asset Purchase Agreement (shown in Column D) and based on a 20-year amortization. The actual closing date, and final purchase price under Asset Purchase Agreement and the effective date for the Base Load purchase termination or reduction in accordance with Section 2.7.6 will be used for purposes of determining the Compensation Payment (e.g., if the actual closing date on the Power Agency's assets were to be February 1, 2016 and the effective date of the Base Load purchase termination were to be August 1, 2028, the "Unamortized Purchase Price" balance (shown in Column D) would reflect 150 months of amortization from the closing date and 90 months of remaining amortization). However, the load ratio calculation discussed above would remain based on the most recent 5 years of complete Calendar Year load data.

Exhibit V

Form of Notice for Qualified Resources and Economic Development Resources

1. Type of Resource (Member Resource; Customer Resource; or Economic Development Resource): _____
2. Member/Customer:

   _____
3. Delivery Point: _____
4. Scheduled (or Actual) Date of First Operation: _____
5. Maximum Capable Injection Capacity kW (if Energy Injection Device): _____
6. Nameplate kW (if Generation): _____
7. Notice Date: _____
8. If Economic Development Resource, provide a description of the project qualifications and attach relevant documentation: _____

   _____
9. Resource Location & Address: _____

   _____

   _____

   _____
10. List of Protective Relays (Best information on electrical protection functional diagram, device types and makes shall be provided with original notice and updated as more definitive information is obtained): _____

    _____

    _____

Exhibit VI

METHODOLOGY FOR CALCULATION OF GSU LOSS FACTOR - DEP

I. INTRODUCTION

The GSU Loss Factor is used to compensate DEP for replacing losses incurred in "stepping-up" voltage from the generators to match transmission line voltage ("GSU Losses").

II. ANNUAL LOSS FACTOR CALCULATION PERIOD

The GSU Loss Factor shall be based on a contiguous 12-month period beginning December 1 at 00:00 of the year prior to the test year and ending on November 30 at 23:59 of the test year ("Calculation Period"). The Calculation Period shall be divided into four seasons as follows:

Calculation Period											
Dec	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sept	Oct	Nov
Winter			Spring			Summer			Fall		

- Winter – December 1 at 00:00 of the year prior to the test year through the last day of February at 23:59 of the test year,
- Spring – March 1 at 00:00 of the test year through May 31 at 23:59 of the test year,
- Summer – June 1 at 00:00 of the test year through August 31 at 23:59 of the test year, and
- Fall – September 1 at 00:00 of the test year through November 30 at 23:59 of the test year.

III. OVERVIEW OF GSU LOSSES CALCULATION METHODOLOGY

This section describes the overall methodology governing the calculation of the GSU Loss Factor.

GSU Losses for the Calculation Period shall be estimated for each hour in each season through a linear estimation of GSU Losses as a function of hourly load. The equations for the linear estimation shall be derived from five data points using the methodology in Section III.b. The GSU Loss Factor shall be calculated for the combined DEP Balancing Authority Areas (i.e., CPLE and CPLW) and shall be the sum of the GSU Losses for each hour of the Calculation Period divided by the sum of the hourly demands at each Point of Delivery ("POD") for each hour of the Calculation Period expressed as a percentage, rounded to two decimal places.

a. SEASONAL LOAD DATA

Following the test year, DEP shall supply to its wholesale power customers the following data in Excel format for each season of the Calculation Period:

i. Hourly load ranked from seasonal peak to seasonal minimum

ii. Date and time of each hourly load observation

iii. Transformer no-load loss spreadsheet

b. LOAD DATA POINT SELECTION FOR LOSS EQUATION CALCULATION

i. Five data points shall be selected for each season of the Calculation Period. Data points shall represent percentiles between the seasonal peak value and seasonal minimum load value for DEP. The MW load points shall be determined as follows:

Seasonal Load Difference = Seasonal peak load less seasonal minimum load
First Data Point = (0.99 * Seasonal Load Difference) plus seasonal minimum load
Second Data Point = (0.85 * Seasonal Load Difference) plus seasonal minimum load
Third Data Point = (0.50 * Seasonal Load Difference) plus seasonal minimum load
Fourth Data Point = (0.15 * Seasonal Load Difference) plus seasonal minimum load
Fifth Data Point = (0.01 * Seasonal Load Difference) plus seasonal minimum load

Collectively, these shall be referred to as the "Data Points."

DEP shall select the actual seasonal load that most closely approximates the MW value of the respective Data Points. Hours excluded by the application of section III.b.ii.(a)-(c) shall be replaced with hours that most closely approximate the MW value of the respective Data Points.

ii. DEP will exclude the following as representations of the Data Points:

(a) If applicable, any hour excluded pursuant to the mutual agreement provision in Attachment W, Section III.b.ii(a) of the Joint Open Access Transmission Tariff;

(b) Any hour during which the DEP system experienced an event that resulted in the filing by DEP of a report using the U.S. Department of Energy Electric Emergency Incident and Disturbance Report (Form OE-417)[1] or its successor; and ([1] Form OE-417 is a mandatory emergency form filed by specific electric power industry actors when at least one of the qualifying criteria is met–pursuant to Section 13(b) of the Federal Energy Administration Act of 1974 (Public Law 93-275). https://www.oe.netl.doe.gov/docs/OE417_Form_Instructions_05312021.pdf.)

(c) Any hour that occurs on a NERC holiday.

iii. DEP shall supply its wholesale power customers with the month, day, hour and MW values selected to best represent the five Data Points for each season, for a total of twenty Data Points to represent the Calculation Period. DEP shall determine GSU Losses based upon the methodology described in Section IV.

c. LINEAR INTERPOLATION OF DATA POINTS

Losses for each hourly load shall be calculated from a linear interpolation of the Data Points described above.

For loads from the maximum seasonal load to the 85th percentile, the loss equation is:

$$LossMW = [(LOSS_{99} - LOSS_{85}) / (LOAD_{99} - LOAD_{85})]*(LoadMW-LOAD_{85}) + LOSS_{85}$$

Where $LOSS_{99}$ and $LOSS_{85}$ are the losses at the load levels for the 99th and 85th percentiles and $LOAD_{99}$ and $LOAD_{85}$ are the load levels at the 99th and 85th percentiles.

For loads from the 85th percentile to the 50th percentile, the loss equation is:

$$LossMW = [(LOSS_{85} - LOSS_{50}) / (LOAD_{85} - LOAD_{50})]*(LoadMW-LOAD_{50}) + LOSS_{50}$$

Where $LOSS_{85}$ and $LOSS_{50}$ are the losses at the load levels for the 85th and 50th percentiles and $LOAD_{85}$ and $LOAD_{50}$ are the load levels at the 85th and 50th percentiles.

For loads from the 50th percentile to the 15th percentile, the loss equation is:

$$LossMW = [(LOSS_{50} - LOSS_{15}) / (LOAD_{50} - LOAD_{15})]*(LoadMW-LOAD_{15}) + LOSS_{15}$$

Where $LOSS_{50}$ and $LOSS_{15}$ are the losses at the load levels for the 50th and 15th percentiles and $LOAD_{50}$ and $LOAD_{15}$ are the load levels at the 50th and 15th percentiles.

For loads from the 15th percentile to the minimum seasonal load, the loss equation is:

$$LossMW = [(LOSS_{15} - LOSS_{1}) / (LOAD_{15} - LOAD_{1})]*(LoadMW-LOAD_{1}) + LOSS_{1}$$

Where $LOSS_{15}$ and $LOSS_{1}$ are the losses at the load levels for the 15th and 1st percentiles and $LOAD_{15}$ and $LOAD_{1}$ are the load levels at the 15th and 1st percentiles.

d. LOSS PERCENTAGE CALCULATION

Total GSU Losses by season shall be the sum of the hourly losses estimated by the equations above for every hour of the Calculation Period. Total annual GSU Losses are the sum of the seasonal losses. The annual loss percentage is calculated as:

$$\text{Loss Factor} = (LOSS_{Winter} + LOSS_{Spring} + LOSS_{Summer} + LOSS_{Fall}) / \text{Total Load},$$

Where $LOSS_{Winter}$ = sum of hourly loss calculations for each load level of the Winter Season of the Calculation Period, and

Where $LOSS_{Spring}$ = sum of hourly loss calculations for each load level of the Spring Season of the Calculation Period, and

Where $LOSS_{Summer}$ = sum of hourly loss calculations for each load level of the Summer Season of the Calculation Period, and

Where $LOSS_{Fall}$ = sum of hourly loss calculations for each load level of the Fall Season of the Calculation Period, and

Where Total Load = sum of hourly POD demand for each hour of the Calculation Period.

IV. METHODOLOGY

a. DATA SOURCES

The DEP methodology uses power flow models created for hourly Available Transfer Capability ("ATC") calculations, including day-ahead forecasts for load, generation, and transmission topology, and including known outages. Power flow cases are not saved at the time of the ATC calculations due to the size and quantity of the files, but all input parameters are saved. Once the twenty load points are chosen per Section III.b, the saved input parameters are used to recreate those specific ATC base cases. Because actual loads at the selected hours will be more accurate than the day-ahead forecast loads for those hours, the day-ahead forecast loads are replaced with the actual loads at the start of the case creation process for this losses analysis. Other known system conditions at the time of ATC analysis are retained in the model.

b. CALCULATION OF REAL POWER LOSS FACTOR AND GSU LOSS FACTOR

i. Load

DEP Area load is extracted from the power flow cases using the PSS/E Area Report for the two DEP Balancing Authority Areas (CPLE and CPLW). The total load reported by PSS/E is equivalent to the total load measured at the Transmission Customer PODs.

ii. GSU Losses

For many planning and operations analyses, it is important to model details of DEP-owned and non-DEP-owned equipment behind the generation meters and load meters. However, for this GSU Losses analysis, only equipment on the transmission side of the meters is considered. To achieve this, equipment on the generation side of the generation meters and equipment on the load side of the load meters are deleted from the PSS/E cases before extracting loss data. The following generation plants have high-side metering, so their GSUs are deleted from the models before extracting loss data:

- NCEMC Hamlet Plant
- NCEMC Anson Plant

- Fayetteville PWC Butler Warner Plant
- Eden Solar
- Elm City Solar
- Fayetteville Solar
- Roslin Solar
- Warsaw Solar

In addition, DEP distribution equipment is not appropriate for this losses analysis. The following DEP equipment is removed before extracting losses:

- Marshall Hydro transformers

Once these are removed, the PSS/E Area Report is used to provide the total losses in the two DEP Balancing Authority Areas (CPLE and CPLW). The total losses value from this report represents the sum of transmission losses and applicable GSU Losses, and it is recorded for each of the twenty power flow models.

The next step is to delete all remaining GSUs from the power flow cases and create another PSS/E Area Report. In the resulting report, the losses value represents only transmission system losses, and it is also recorded for each of the twenty power flow models.

The difference between the losses from the first PSS/E Area Report (transmission and GSU Losses) and losses from the second PSS/E Area Report (only transmission losses) is the total GSU load losses for DEP, except it does not include GSU transformer no-load losses.

DEP does not include transformer no-load losses in its PSS/E planning models, similar to the way it is handled by a majority of utilities in North America. Instead, DEP keeps an Excel workbook list of the no-load losses of its GSU transformers. These no-load losses are added to the losses from the PSS/E models to calculate the total GSU Losses for DEP. As long as DEP maintains transformer no-load losses in a list separate from the models discussed in Section V.a., the no-load losses list will be reviewed and updated annually as a part of this process. At the beginning of each annual GSU Loss Factor update, DEP will review the lists of generators and GSU transformers in its models to confirm the treatment of GSU Losses. In particular, for new generators added to the models since the previous year, whether Duke-owned or third party-owned, the meter location and any meter compensation will be confirmed to determine GSU transformer loss treatment. The appropriate modeling of retired and replacement generators and their GSU transformers will also be confirmed.

The DEP loss calculation then proceeds as described in Section III above.

Exhibit VII

Calculation of Coal Combustion Residuals Costs

I. Definitions:

Buyer's Production Demand Allocation Factor means the sum of the 12 Monthly Coincident Billing Demands for a Calendar Year divided by DEP's Sum of Twelve Monthly Peaks, as calculated on Page 16 of Exhibit I, except for 2015 only as set forth below in Section III.B.

II. Purpose of this Exhibit VII:

The purpose of this Exhibit VII is to entitle Duke to recover through rates the CCR Costs incurred by Duke starting on and after August 1, 2015. This Exhibit VII provides for the annual calculation of all components of the CCR Costs that are allocated and recoverable as production demand related costs. Any CCR Costs collected under this Exhibit VII will be excluded from the costs that otherwise would have been collected in accordance with Exhibits I, II and III.

Beneficial Reuse Costs that are recorded in FERC Account No. 501 shall be recovered as a component of the Monthly Energy Charge determined in accordance with Section 5.3, and shall not be included in CCR Costs for purposes of applying the methodology set forth below in Section III of this Exhibit VII.

III. Methodology:

It is the intent of this Exhibit VII to reflect the Buyer's full allocable share of Duke's system level of CCR Costs, minus any CCR Disallowances, as such are incurred (except for Beneficial Reuse Costs that are recorded in FERC Account No. 501 and that are recovered as a component of the Monthly Energy Charge as set forth in Section II); and, one-twelfth of the annual Calendar Year projection of such costs will be billed monthly using the Buyer's Production Demand Allocation Factor ("Monthly Charge for Buyer's CCR Costs"). Such

allocation factor will be based on recently available actual values, adjusted as appropriate for known changes in system and/or Buyer loads during the forecast period, and subject to annual true-up once actual costs and allocation factors are known.

A. Calculation:

In any Calendar Year, the Charge for Buyer CCR Costs = ((CCR Costs – CCR Disallowance - Beneficial Reuse Costs included in FERC Account No. 501) * Buyer's Production Demand Allocation Factor).

CCR Costs will be based on the actual CCR Costs incurred by Duke during the Calendar Year. All such Duke CCR Costs will be recorded as debits to FERC Account No. 230 (Asset Retirement Obligations), and booked to Duke sub-account 230315. CCR Costs will be reduced by all cost of removal amounts collected for coal ash remediation.

B. CCR Costs Owed for Compliance From August 1, 2015 – December 31, 2017:

Actual Buyer's CCR Costs, including deferred Beneficial Reuse Costs, for the period from August 1, 2015 through and including December 31, 2016, and estimated Charge for Buyer's CCR Costs from January 1, 2017 through and including December 31, 2017 shall be recovered over twenty-four (24) months billed in equal monthly installments starting January 1, 2018 and continuing through December 31, 2019, without any interest payable by Buyer. Buyer's CCR Costs for 2015 only shall be equal to the sum of Buyer's Monthly Coincident Billing Demands for the last five months of the Calendar Year divided by DEP's Sum of Twelve Monthly Peaks for the Calendar Year (as calculated on Page 16 of Exhibit I) times Duke's demand-related CCR Costs for 2015.

Actual Beneficial Reuse Costs that are recorded in FERC Account No. 501 for the period from January 1, 2017 through and including June 30, 2017 will be

recovered over six (6) equal installments as part of the Monthly Energy Charge under Section 5.3 starting July 1, 2017 and continuing through December 31, 2017. For the period July 1, 2017 through December 31, 2017, estimated Beneficial Reuse Costs that are recorded in FERC Account No. 501, will be recovered as part of the Monthly Energy Charge under Section 5.3.

The 2017 estimated Buyer's CCR Costs and Beneficial Reuse Costs will be subject to true-up on or about June 30, 2018, in accordance with the true-up provisions in Section 7, including interest calculated at the Interest Rate.

IV. General Provisions:

A. For any Buyer's CCR Costs collected prior to issuance of an order or law creating a CCR Disallowance, Duke will adjust Buyer's CCR Costs by applying billing credits equal to Buyer's Allocable Share of CCR Disallowances, as part of the annual true up performed in accordance with Section 7.1 of the Agreement.

B. Except as provided in Section 5.5.2.3 with respect to Buyer Deferred CCR Costs, and except with respect to interest payable for any true-up of costs billed under this Agreement, Duke shall not charge DEP Cost of Capital on CCR Costs.

C. Buyer shall receive the Buyer's Share of CCR Insurance Proceeds (i) if demand related and a Buyer Deferred CCR Costs balance exists, as a reduction to such balance and/or (ii) if demand related and no Buyer Deferred CCR Costs balance exists or if fuel related, then as a billing credit or a refund, in either case to be provided to Buyer within ninety (90) days subsequent to Duke's receipt of CCR Insurance Proceeds. The obligation to make or pay such reductions, billing credits and/or refunds shall survive termination of this Agreement in accordance with Section 18.17.

D. Except as otherwise expressly provided in this Exhibit VII, the terms used in this Exhibit VII shall have the meanings provided for elsewhere in the Agreement and its Exhibits.

Exhibit VIII

Buyer Maximum Annual CCR Billing Amounts

Buyer Maximum Annual CCR Billing Amount Example for NCEMPA

Buyer Maximum Annual CCR Billing Amounts per this Attachment are fixed; however, the remaining portion of this Attachment is for illustrative purposes only.

See Contract for Definitions

Line No.		2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
1	Buyer Maximum Annual CCR Billing Amount:	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000
2	Charge for Buyer CCR Costs (Assumed actual costs for a year):	35,000,000	35,000,000	30,000,000	32,000,000	28,000,000	20,000,000	7,500,000	5,000,000	5,000,000	5,000,000	3,000,000
3	Charge for Buyer CCR Costs vs. Buyer Maximum Annual CCR Billing Amount (Line 2 - Line 1):	7,000,000	7,000,000	2,000,000	4,000,000	0	(8,000,000)	0	(2,500,000)	(2,500,000)	(2,500,000)	(4,500,000)
4	Charge for Buyer CCR Costs plus Buyer Deferred CCR Costs (Line 2 + prior year Line 7):	35,000,000	42,070,000	44,210,700	48,372,807	48,618,476	40,894,239	20,523,182	18,153,413	15,759,947	13,342,547	8,900,972
5	Charge for Buyer CCR Costs up to Buyer Maximum Annual CCR Billing Amount (lesser of Line 1 and Line 4)	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000
6	Buyer Deferred CCR Costs Rolling Balance (Line 4 - Line 5)	7,000,000	14,070,000	16,210,700	20,372,807	20,618,476	12,894,239	13,023,182	10,653,413	8,259,947	5,842,547	1,400,972
7	Buyer Deferred CCR Costs Rolling Balance plus FERC Interest on Line 6 amount less than or equal to $20M plus DEP Cost of Capital on Line 6 greater than $20M. (Example assumes FERC Interest Rate is 1.0% and DEP Cost of Capital is 12.25%)	7,070,000	14,210,700	16,372,807	20,618,476	20,894,239	13,023,182	13,153,413	10,759,947	8,342,547	5,900,972	1,414,982
8	Total Buyer Annual Bill Amount	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	28,000,000	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000

Note: In accordance with Section 5.5.4, upon Agreement expiration or termination, Buyer shall pay the then-outstanding Buyer Deferred CCR Costs within ninety (90) days of such termination or expiration.

Exhibit IX

Rate Discount for North Carolina Excess Deferred Taxes ("Excess NC-ADIT")

Year	Discount ($/kW-Month)
2019	.20
2020	.20
2021	.19
2022	.18
2023	.18
2024	.17
2025	.16
2026	.15

1. The above rate discounts address past and future disposition of Duke's excess accumulated deferred income tax liability arising from the recognition of reductions in North Carolina state corporate income tax rates from 6.9% to 2.5% during the years 2013 through 2017 pursuant to the legislation adopted in North Carolina in 2013 (North Carolina House Bill 998) and in 2017 (North Carolina Senate Bill 257) (hereinafter, "Excess NC-ADIT"). These rate discounts provide full compensation for the value of: (a) the applicable rate base offsets related to Excess NC-ADIT deferred for the period of 2013-2018, to the extent these rate base offsets have not already been provided by Duke to Buyer; (b) the benefit of amortization of the Excess NC-ADIT balances over an eight-year period beginning January 1, 2019; (c) the applicable rate base offsets related to the unamortized Excess NC-ADIT balances from 2019-2026; and, (d) an interest component on the value of the 2013-2018 rate base offsets over the 2019-2026 amortization period.

Exhibit X

Rate Discounts Pursuant to Settlement Agreement in FERC Docket No. EL20-4-000 [1]

Line	Year (a)	Discount ($/kW-Month) (b)
1	2021	0.25
2	2022	0.24 [2]
3	2023	0.24 [2]

[1] The rate discounts set forth in this exhibit are being provided in accordance with the Settlement Agreement filed in FERC Docket No. EL20-4-000 and will be applied pursuant to Section 5.1 of the Agreement.

[2] The values shown in column (b) at lines 2 and 3 are estimated values that reflect forecasted Monthly Coincident Billing Demands at the time of the Settlement Agreement (12,859 MW-months in 2022, and 12,873 MW-months in 2023). The rate discount that will be applied to charges for service rendered during calendar year 2022 will be based upon NCEMPA's updated forecast of Monthly Coincident Billing Demands for 2022 as prepared by NCEMPA and provided to DEP in 2021. The rate discount that will be applied to charges for service rendered during calendar year 2023 will be based upon NCEMPA's updated forecast of Monthly Coincident Billing Demands for 2023 as prepared by NCEMPA and provided to DEP in 2022.

Exhibit XI

Grandfathered Energy Injection Devices

1. Member: City of Wilson
   a. Location & Address: 4523 Merck Road, Wilson, NC 27893
   b. Delivery Point: 10
   c. Date of First Operation: May 2019
   d. Nameplate kW: NA
   e. Maximum Capable Injection Capacity kW: 1,000 kW AC

2. Member: Greenville Utilities Commission
   a. Location & Address: Evans Street, 190 East Howell Street, Greenville, NC 27834
   b. Delivery Point: #1,2,3
   c. Date of First Operation: November 2020
   d. Nameplate kW: NA
   e. Maximum Capable Injection Capacity kW: 1,000 kW AC

3. Member: Town of La Grange
   a. Location & Address: 503 W. Railroad Street, La Grange, NC 28551
   b. Delivery Point: 1
   c. Date of First Operation: September 2022
   d. Nameplate kW: NA
   e. Maximum Capable Injection Capacity kW: 3,000 kW AC

Town of Clayton
Execution Copy

NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

Amended and Restated
Full Requirements Power Sales Agreement

Dated as of September 22, 2023

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Exhibit A -	Network Integration Transmission Service Agreement and Network Operating Agreement between Duke Energy Progress, Inc. and North Carolina Eastern Municipal Agency	A-1

NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

AMENDED AND RESTATED
FULL REQUIREMENTS POWER SALES AGREEMENT

THIS AGREEMENT, dated as of the 22nd day of September, 2023, is by and between North Carolina Eastern Municipal Power Agency, a joint agency of the State of North Carolina (including successors and permitted assigns, "Power Agency"), and the municipality of the State of North Carolina (including successors and permitted assigns, the "Member") which has executed this Agreement (as supplemented and amended pursuant to the terms of this Agreement, the "Agreement").

WHEREAS, the parties hereto are parties to a Full Requirements Power Sales Agreement, dated as of April 24, 2015, (the "FRPSA"), pursuant to which Power Agency sells and the Member purchases the Full Requirements Bulk Power Supply requirements of the Member; and

WHEREAS, Power Agency entered into a Full Requirements Power Purchase Agreement with Duke Energy Progress, LLC (including successors and permitted assigns, "DEP"), dated as of September 5, 2014, as amended and restated effective as of December 10, 2014, August 1, 2015, June 1, 2017, July 1, 2017, November 1, 2018, June 1, 2020, January 1, 2021, October 1, 2021, and March 1, 2022 (as amended and restated, the "Original FRPPA"), pursuant to which Power Agency agreed to purchase from DEP and DEP agreed to sell to Power Agency firm capacity and energy in amounts required by Power Agency to reliably serve the then current and future electrical loads of Power Agency's Members; and

WHEREAS, Power Agency and DEP agreed to replace the Original FRPPA with the Tenth Amended and Restated Full Requirements Power Purchase Agreement, executed as of June 27, 2023 to be effective as of January 1, 2023 (the "FRPPA"), pursuant to which Power Agency has agreed to purchase from DEP and DEP has agreed to sell to Power Agency full requirements capacity and energy to serve Power Agency's Native Load (as defined therein); and

WHEREAS, certain defined terms in the Original FRPPA have been amended by the FRPPA and, as a result thereof, Power Agency and the Member desire to amend and restate the FRPSA to give effect to the amended defined terms set forth in the FRPPA; and

WHEREAS, on September 22, 2023, the Board of Directors of Power Agency adopted a resolution pursuant to which it approved this Amended and Restated Full Requirements Power Sales Agreement and directed that it be submitted to the Members for approval; and

WHEREAS, the governing board of the Member has authorized the execution and delivery of this Amended and Restated Full Requirements Power Sales Agreement; and

WHEREAS, Power Agency is a party to the Network Integration Transmission Service Agreement (the "NITSA") and the Network Operating Agreement (the "NOA") between Duke Energy Progress, Inc. and North Carolina Eastern Municipal Power Agency, as amended by DEP from time to time, on file with the Federal Energy Regulatory Commission as OATT Service

Agreement No. 268 of Duke Energy Progress, Inc., a copy of which is attached to this Agreement as **Exhibit A**; and

WHEREAS, Power Agency is a party to an Agreement for Transmission Use and Other Electric Service (the "Dominion NCP Transmission Agreement") with Dominion North Carolina Power (formerly Virginia Electric and Power Company) ("Dominion NCP"), dated as of July 30, 1981, with respect to (i) arrangements for the transmission of electric energy from points of interconnection of the DEP and Dominion NCP electric systems; and (ii) other related matters; and

NOW, THEREFORE, the parties hereto mutually agree as follows:

SECTION 1. Definitions.

The singular of any term defined in this Agreement shall encompass the plural, and the plural the singular, unless the context clearly indicates otherwise or may otherwise require.

(a) "Affiliate" of any Person means any other Person directly or indirectly Controlling, directly or indirectly Controlled by or under direct or indirect common Control with such Person.

(b) "Bond Resolution" means the resolution adopted by Power Agency, as the same may be amended or supplemented from time to time pursuant to the terms thereof, pursuant to which the Bonds are issued. Subsequent amendments to the Bond Resolution may be made without the approval of the Member if made pursuant to the terms of the Bond Resolution.

(c) "Bonds" means Bonds (as such term is defined in the Bond Resolution) issued from time to time pursuant to and under the authority of the Bond Resolution (i) to pay Balance of Defeasance Costs (as such term is defined in the Debt Service Support Contract), and (ii) to refund Bonds, Notes (as such term is defined in the Debt Service Support Contract) or Subordinated Debt (as such term is defined in the Debt Service Support Contract) theretofore issued and outstanding as authorized by Section 8 of the Debt Service Support Contract.

(d) "Contract Year" means the 12-month period commencing January 1 of each year during the term of this Agreement and ending midnight local time on the December 31 next following (or such other 12-month period as Power Agency shall determine); provided, however, that the first Contract Year shall commence, with respect to Full Requirements Bulk Power Supply, on the day immediately following the Effective Date; and provided further, however, that the last Contract Year shall end at midnight local time on the date of termination of this Agreement as provided in Section 2 herein.

(e) "Control" of any Person means the possession, directly or indirectly, of the power either to (a) vote more than fifty percent (50%) of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of such Person or (b) direct or cause the direction of management or policies of such Person, whether through the ownership of voting securities or interests, by contract or otherwise.

(f) "Customer Resource" means any generating unit having a nameplate capacity rating of 95 kW or more or an Energy Injection Device, including any Energy Injection Device owned by

Power Agency, that is installed behind (i) a member's retail customer meter, (ii) a Member's wholesale customer meter, or (iii) the meter of a retail customer of a wholesale customer of a Member.

(g) "Debt Service Support Contract" means the Debt Service Support Contract, dated as of the date hereof, entered into between Power Agency and the Members, as the same may be supplemented and amended from time to time.

(h) "Delivery Point" means the point on the DEP Transmission System where the delivery of power to the Member is measured in accordance with the NITSA and NOA, at which point the delivery of electric power to the Member is measured for billing purposes under this Agreement.

(i) "Dominion NCP Transmission Agreement" has the meaning assigned in the preambles to this Agreement.

(j) "Economic Development Resource" means any generating unit or Energy Injection Device that is installed for the purpose of retaining the load of an existing customer or attracting the load of a new customer served or to be served by a Member and that is used to serve load at the site of the generating unit or Energy Injection Device consistent with Section 4.3 of the FRPPA.

(k) "Edenton Generators" means the two (2) 1,250 kW generators owned and operated by the Town of Edenton that are located on Tower Drive, Edenton, North Carolina.

(l) "Effective Date" means January 1, 2023.

(m) "Electric System" means all properties and assets, real and personal and tangible and intangible, of the Member now or hereafter existing, used for or pertaining to the generation, transmission, transformation, distribution and sale of electric power and energy or general plant associated therewith, including all renewals, replacements, additions, extensions, expansions, improvements and betterments thereto.

(n) "Elizabeth City Generators" means the four (4) 1,750 kW generators owned and operated by the City of Elizabeth City that are located at 410 Pritchard Street, Elizabeth City, North Carolina.

(o) "Energy Injection Device" means battery storage, or any other current or future technologies that withdraw, store, and reinject energy into the electrical system that have a maximum capable injection capacity of 95 kW or more.

(p) "Full Requirements Bulk Power Supply" means, with respect to the Member, all electric power and energy required by the Member at its Delivery Point(s)[1], exclusive of any purchases of power and energy by the Member from the Southeastern Power Administration ("SEPA"), if any, and, as applicable, exclusive of the output of Customer Resources, Member Resources, Economic Development Resources, the Edenton Generators and the Elizabeth City Generators. Full Requirements Bulk Power Supply shall include all transmission service to deliver Full Requirements Bulk Power Supply to the Member's Delivery Point(s), power and energy purchases

[1] Including any load met by NCEMPA Generation that is interconnected with the Member's Electric System.

made by Power Agency pursuant to the Full Requirements Power Purchase Agreement, power and energy supplied by NCEMPA Generation, and power and energy derived by Power Agency from any resource used to replace power and energy purchases under the Full Requirements Power Purchase Agreement (i) following the exercise by Power Agency of an early termination option set forth in the Full Requirements Power Purchase Agreement, or (ii) in connection with a PURPA Qualifying Facility owned by Power Agency.

(q) "Full Requirements Power Costs" for any period means all costs associated with or incidental to Full Requirements Bulk Power Supply for such period. In addition to the costs associated with or incidental to Full Requirements Bulk Power Supply, Full Requirements Power Costs also shall include, without limitation (i) Power Agency's general and administrative overhead costs allocated to Power Agency's activities related to its provisions of Full Requirements Bulk Power Supply, (ii) working capital deemed necessary by Power Agency, (iii) costs and expenses relating to the acquisition, construction, maintenance and operation of an administrative building or office, including land therefor, together with any administrative equipment and facilities, which may be owned alone or together with any other joint agency or agencies, joint municipal assistance agencies, municipalities, corporations, associations or Persons under such terms and provisions for sharing costs and otherwise as may be determined by Power Agency, (iv) costs associated with Power Agency management and other services provided to Members, including, but not limited to, costs associated with compliance with renewable energy requirements or mandatory electric reliability standards, (v) amounts necessary for the payment of the principal of and premium, if any, and interest on any bonds, notes (including notes issued in anticipation of the issuance of bonds), certificates, warrants or other evidences of indebtedness, including commercial paper, issued for Full Requirements Power Costs (collectively, "Full Requirements Power Debt"), which Full Requirements Power Debt shall be payable from all or any amounts received under the Full Requirements Power Sales Agreements, as determined by Power Agency, after giving effect to the provisions of Section 6(d) thereof, as payments from the Members of Full Requirements Power Costs, and (vi) all costs and expenses relating to the issuance, security and payment of Full Requirements Power Debt, including without limitation costs and expenses associated with insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase Full Requirements Power Debt, depositaries for safekeeping and agents for delivery and payment.

(r) "Full Requirements Power Purchase Agreement" has the meaning assigned in the preambles to this Agreement.

(s) "Full Requirements Power Sales Agreement" means this Agreement and all other Agreements substantially identical to this Agreement entered into by Power Agency and the Members with respect to the purchase and sale of Full Requirements Bulk Power Supply, as the same may be supplemented or amended from time to time.

(t) "Guidelines Concerning Distributed Resources" means the Guidelines Concerning Distributed Resources, originally approved and adopted as Guidelines Concerning Load-Side Generation by the North Carolina Eastern Municipal Power Agency Board of Commissioners on June 23, 1993 and revised by the Board of Directors of Power Agency on November 16, 2012, January 27, 2017 and January 26, 2018, as supplemented and amended, including, but not limited to, as supplemented and amended on July 28, 2023.

(u) "Hourly Demand" means, in each hour, the aggregate load of Power Agency's Members for which there is in effect a Full Requirements Power Sales Agreement, determined by summing the metered 60-minute demands of the Members (integrated metered kilowatt load, compensated where applicable, in accordance with the NITSA and NOA and Dominion NCP Transmission Agreement, to reflect losses from the meter location back to the Delivery Point), adjusted to include the output of PURPA Qualifying Facilities in each clock hour in accordance with Section 4.4.2 of the Full Requirements Power Purchase Agreement, and adjusted further to include line losses over the DEP transmission system.

(v) "Interruptible Load", as used in the Guidelines Concerning Distributed Resources, means the load of any retail customer of a Member that is not a residential customer that such customer may elect to interrupt, curtail, or otherwise reduce, either on its own or at the request or direction of Power Agency or a Member.

(w) "Late Payment Interest Rate" means, for any month, the prime rate being charged by Bank of America, N.A., or its successor, or by any other major bank selected by Power Agency in its sole discretion, on the first day of such month, plus one percentage point, divided by twelve, expressed in percentage points, to the nearest hundredth, but not in excess of the rate permitted by applicable North Carolina law.

(x) "Members" means those entities which enter into Full Requirements Power Sales Agreements with Power Agency substantially identical to this Agreement.

(y) "Member Resource" means any generating unit (other than the Edenton Generators and Elizabeth City Generators) having a nameplate capacity of 95 kW or more or Energy Injection Device, including any Energy Injection Device owned by Power Agency, that is directly connected to the electric system behind the Duke-owned wholesale revenue meter of a Member.

(z) "Member's Share" has the meaning assigned in the Debt Service Support Contract.

(aa) "Monthly Bill" means the written statement prepared monthly by Power Agency and provided to the Member pursuant to Section 5 herein.

(bb) "Monthly Support Costs" has the meaning assigned in the Debt Service Support Contract.

(cc) "NCEMPA Generation" means any generating unit owned by Power Agency having a nameplate capacity rating of 95 kW or more that is connected to the electric system behind the Duke-owned wholesale meter of a Member.

(dd) "NITSA" has the meaning assigned in the preambles to this Agreement.

(ee) "NOA" has the meaning assigned in the preambles to this Agreement.

(ff) "Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, limited liability company, unincorporated organization, governmental authority or any other form of legal entity.

(gg) "Policy Guidelines for Leased Facilities Charges" means the Policy Guidelines For Leased Facilities Charges approved and adopted by the Board of Directors of Power Agency, as revised, supplemented and amended, including, but not limited to, as supplemented and amended on April 23, 2004.

(hh) "Prudent Utility Practice" means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Prudent Utility Practices are not intended to be limited to the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the electric utility industry. In evaluating whether any matter conforms to Prudent Utility Practice as used in this Agreement, the parties hereto shall take into account (i) the fact that Power Agency and each Member is a public body and a body corporate and politic organized under the laws of the State of North Carolina, with the statutory duties and responsibilities thereof, and (ii) the objectives to integrate Full Requirements Bulk Power Supply with the other resources of the Members, including, but not limited to, Qualified Resources owned by Power Agency, its Members and its Members' customers, SEPA Purchases and other PURPA Qualifying Facilities to achieve optimum utilization of the resources and achieve efficient and economical operation of each system.

(ii) "PURPA Qualifying Facility" means a generating facility that is a "small power production facility" or "cogeneration facility" that, in each case, meets the requirements of Sections 292.203(a) and 292.203(b) of Title 18 of the Code of Federal Regulations and that has satisfied the procedures for obtaining Qualifying Facility status under Section 292.207 of Title 18 of the Code of Federal Regulations.

(jj) "Qualified Resources", as used in the Guidelines Concerning Distributed Resources consists of Member Resources, Customer Resources, and NCEMPA Generation.

(kk) "Renewable Energy Development and Service Agreement" means the Renewable Energy Development and Service Agreement between Power Agency and each of its members dated as of May 26, 2009, as the same may be supplemented and amended.

(ll) "Revenues" means all income, rents, rates, fees, charges, receipts, profits and other moneys or monetary benefits derived by the Member directly or indirectly from the ownership or operation of its Electric System and the sale, furnishing or supplying of capacity or output and power and energy therefrom, including, without limiting the generality of the foregoing, (i) all income, rents, rates, fees, charges receipts, profits or other moneys derived from the sale, furnishing or supplying of the electric power and energy and other services' facilities and commodities sold, furnished or supplied the facilities of the Electric System, (ii) the earnings on and income derived from the investment of such income, rents, rates, fees, charges, receipts, profits or other moneys to the extent that the use of such earnings and income is limited by or pursuant to law to the Electric System and (iii) the proceeds derived by the Member directly or indirectly from the sale, lease or other disposition of a part of the Electric System, but the term "Revenues" shall not include retail customers' deposits or any other deposits subject to refund until such deposits have become the

property of the Member and shall not include any refunds associated with electric service by a Member prior to the Effective Date.

(mm) "SEPA Purchases" means the aggregate sum of capacity and energy that some or all of Power Agency's Members receive as preference customers, through the U.S. Department of Energy - Southeastern Power Administration ("SEPA"), pursuant to contracts entered into between the United States of America and such Members pursuant to the Flood Control Act of 1944 or similar or superseding Federal law.

(nn) "Telemetry and Metering System Services Agreement" means the Telemetry and Metering System Services Agreement between DEP (formerly Carolina Power & Light Company) and Power Agency dated as of August 7, 1998, and January 1, 2020, and as supplemented from time to time.

(oo) "Total Annual Budget" means the budget adopted by Power Agency pursuant to Section 5 of this Agreement.

SECTION 2. Term of Agreement.

This Agreement shall be effective as of the Effective Date. Power Agency shall notify the Member of the Effective Date as soon as practical thereafter.

The term of this Agreement shall expire at midnight local time on December 31, 2043; provided, however, that this Agreement may be terminated by the Member effective at midnight local time on December 31, 2035, upon written notice to Power Agency (i) not later than July 31, 2027, or (ii) not later than March 31, 2031; provided, however, if the number of Members giving notice to terminate pursuant to clause (ii) of Section 2 of such Members' Full Requirements Power Sales Agreements would cause Power Agency's 12-month average Monthly Coincident Billing Demands (as such term is defined in the Full Requirements Power Purchase Agreement) to be reduced by more than 700 megawatts, as determined by Power Agency based on Power Agency's actual Monthly Coincident Billing Demands during Calendar Year 2030, Power Agency shall give written notice, not later than July 31, 2031, of such fact to all Members from whom Power Agency has received such notice to terminate, together with Power Agency's best estimate of the costs Power Agency expects to incur under the Full Requirements Power Purchase Agreement as a result of a reduction in its 12-month average Monthly Coincident Billing Demands exceeding 700 megawatts, and any such Member who has given such notice to terminate thereafter may rescind such notice to terminate by written notice to Power Agency not later than September 30, 2031. In the event Power Agency determines that the number of Members giving notice to terminate pursuant to clause (ii) of Section 2 of such Members' Full Requirements Power Sales Agreements would cause Power Agency's 12-month average Monthly Coincident Billing Demands to be reduced by more than 700 megawatts, Power Agency shall use its reasonable best efforts to engage in negotiations (in which the Member may participate) with DEP to permit all Members who have given such notice to terminate to terminate their Full Requirements Power Sales Agreements without any financial costs to Power Agency. Notwithstanding the foregoing, any costs incurred by Power Agency pursuant to the Full Requirements Power Purchase Agreement if the final number of Members giving notice to terminate pursuant to clause (ii) of this Section 2 causes Power Agency's 12-month average

Monthly Coincident Billing Demands to be reduced by more than 700 megawatts shall be borne by such terminating Members on a pro rata basis, as determined by Power Agency using Power Agency's actual Monthly Coincident Billing Demands during Calendar Year 2030. This Agreement may be terminated by Power Agency as provided in Section 7(b) of this Agreement.

(a) Notwithstanding the foregoing, the expiration or termination of this Agreement shall not affect any accrued liability or obligation hereunder. This Agreement shall not be subject to termination by either party under any circumstances, whether based upon the default of any other party under this Agreement or any other instrument or otherwise, except as specifically provided in this Agreement.

SECTION 3. Sale and Purchase of Full Requirements Bulk Power Supply.

(a) Commencing with the first day of the first Contract Year, Power Agency shall provide or cause to be provided and sell, and the Member shall purchase from Power Agency, the Full Requirements Bulk Power Supply requirements of the Member. Power Agency will be responsible in accordance with the provisions of this Agreement for planning, negotiating, designing, financing, acquiring or constructing, contracting for, administering, operating, and maintaining all generation and transmission arrangements and facilities and power purchases necessary to effect the delivery and sale of Full Requirements Bulk Power Supply to the Member during the term of this Agreement. In furtherance of Power Agency's obligations to sell and the Member's obligations to purchase hereunder, Full Requirements Bulk Power Supply shall initially be sold and purchased pursuant to the provisions of this Agreement (i.e., on a take and pay basis to the extent delivered or provided).

(b) Full Requirements Bulk Power Supply shall be obtained or furnished and delivered or caused to be delivered by Power Agency in the manner it determines to be most economical, dependable, and otherwise feasible. Initially, Full Requirements Bulk Power Supply shall be obtained and furnished to all Members in accordance with the Full Requirements Power Purchase Agreement and the NITSA and NOA. If Power Agency exercises one or more of its early termination options set forth in the Full Requirements Power Purchase Agreement, Power Agency may provide for Full Requirements Bulk Power Supply by any additional or alternative means it determines to be most economical, dependable, and otherwise feasible, including, but not limited to, one or more of the following methods: (1) purchase by Power Agency of power generated by one or more other power suppliers and transmission thereof over the facilities of one or more other power suppliers, either solely or in combination with transmission facilities owned by Power Agency or as to which Power Agency has the right of use, if any; (2) acquisition or construction by Power Agency of generation or transmission facilities or any project supplying a portion of Full Requirements Bulk Power Supply; (3) acquisition or construction by Power Agency of such additional generation facilities and transmission of the power and energy generated thereby over the facilities of one or more other power suppliers, either solely or in combination with transmission facilities owned by Power Agency or as to which Power Agency has the right of use, if any; or (4) generation, transmission and delivery by one or more other power suppliers, pursuant to a contract arrangement therefor obtained or approved by, or assigned to, Power Agency for and on behalf of Member or the Members as its agent for that purpose. In the event that any such method or any combination of such methods is such that the Member makes payment for any part of such power supply service directly to one or more other power suppliers, such payments shall

nevertheless be accounted for as though the same were paid by Power Agency, and the Member shall be granted a credit with respect to Power Agency's rates and charges to the Member with respect to the same billing period, accordingly.

(c) From and after the Effective Date, neither Power Agency nor the Member shall enter into any new contract or permit any then or thereafter existing contract to be renewed or extended (regardless of the manner in which such renewal or extension may be effectuated, including failure of a party thereto timely to cancel and terminate the same upon any anniversary date when such is possible) or enter into any amendment to or modification to such a contract, with any other bulk power supplier which shall preclude or impair the ability of Power Agency or the Member to exercise and perform its rights and obligations under this Agreement.

(d) Power Agency, for the purpose of carrying out its rights and obligations under this Agreement, shall be, and the Member hereby designates and appoints Power Agency as, the Member's sole agent to the fullest legal extent that such agency may be established for such purposes.

(e) From and after the effective date of any termination of this Agreement pursuant to Section 7(b) of this Agreement, the Member shall be solely responsible for providing its Full Requirements Bulk Power Supply to the Member's Delivery Point(s); provided, however, that such Member shall be obligated to Power Agency under this Agreement for any costs incurred by Power Agency pursuant to any agreements with a bulk power supplier associated with the delivery to the Member's Delivery Point(s) of Full Requirements Bulk Power Supply or any delivery facilities, and any other cost not included in the costs payable by the Member under any other agreement with Power Agency, including, but not limited to: wheeling charges, leased facilities charges; costs of administration, operation, maintenance, renewals, replacements, or capital additions required for the Member's Delivery Point(s); costs associated with delivery facilities, protection stations, metering, transmission extensions, capacitors, reactive charges, changes in DEP-owned equipment, or loss due to early retirement of delivery facilities and all such similar costs incurred by Power Agency with respect to the Member or otherwise. Following such a termination, the Member shall be entitled to purchase the balance of its Full Requirements Bulk Power Supply requirements from Power Agency only if Power Agency and the Member shall enter into a new power sales agreement, containing such additional or different terms and conditions, if any, as Power Agency may reasonably require.

SECTION 4. Rates and Charges; Surplus Moneys.

Power Agency shall establish appropriate rates and charges for Full Requirements Bulk Power Supply for the Members sufficient at all times to pay all costs and expenses incurred by Power Agency and reserves deemed necessary therefor by Power Agency, including reserves for the payment of such costs and expenses in future periods (including future Contract Years) and taking into account withdrawals of such reserves established in previous periods, all with respect to Full Requirements Bulk Power Supply, and shall establish appropriate rates and charges for special obligations as set forth in the Monthly Bill as provided in Section 5 of this Agreement. Such rates and charges shall be sufficient at all times to permit the payment of all Monthly Support Costs and of all Full Requirements Power Costs of Power Agency and shall at all times be consistent with the provisions of the NITSA and NOA, the Dominion NCP Transmission

Agreement, the Renewable Energy Development and Service Agreement and the policies and guidelines established from time to time by Power Agency, including, but not limited to, Policy Guidelines for Leased Facilities Charges, Guidelines Concerning Distributed Resources, and policies regarding any compliance responsibilities associated with mandatory electric reliability standards applicable to the Members.

Power Agency shall furnish to the Members the basis for changes in rates and charges for Full Requirements Bulk Power Supply made pursuant to the provisions of Section 6(a) of this Agreement.

SECTION 5. Total Annual Budget and Monthly Bills; Payments by the Member.

(a) Not less than thirty (30) days prior to each Contract Year, Power Agency shall provide to the Member a proposed annual budget for the ensuing Contract Year with respect to amounts to be paid under this Agreement, and thereafter shall hold a public hearing on such proposed annual budget and shall provide to the Member a Total Annual Budget for the Contract Year. During each Contract Year, Power Agency shall review at least quarterly, and at such other times as Power Agency deems desirable, the Total Annual Budget for the Contract Year. In the event such review indicates that the Total Annual Budget does not or will not substantially correspond with actual receipts and expenditures, or if at any time during such Contract Year there are or are expected to be extraordinary receipts, credits, or costs substantially affecting the Monthly Support Costs or Full Requirements Power Costs, Power Agency shall adopt and provide to the Member an amended Total Annual Budget, which shall supersede, for the remainder of such Contract Year, the Total Annual Budget or amended Total Annual Budget theretofore provided as the basis for the determination of Monthly Support Costs and Full Requirements Power Costs. The Total Annual Budget under this Agreement shall include, as a component thereof, any budget required to be provided the Member under the Member's Debt Service Support Contract.

(b) On or before the fifth (5th) day of each month of each Contract Year (beginning with the first full month of the Contract Year), or such other date not later than the tenth (10^{th}) day of such month as Power Agency shall establish from time to time, Power Agency shall prepare, date, and on such date provide to the Member a Monthly Bill separately showing (i) the amount of power and energy of Full Requirements Bulk Power Supply delivered to the Member in the preceding calendar month at the Delivery Point(s) and the total amount payable by the Member therefor at Power Agency's applicable Full Requirements Bulk Power Supply rates and charges; (ii) the amount payable by the Member under the Monthly Bill pursuant to the Debt Service Support Contract for the next succeeding month for its Member's Share of Monthly Support Costs; (iii) the amount payable by the Member for special obligations, which shall be for leased facilities charges, delivery facilities costs, any back end costs or liabilities or any charges payable by the Member for services or facilities other than for the provisions of Full Requirements Bulk Power Supply for the preceding month, and (iv) any costs or charges payable by the Member associated with the Agreement for Transmission Use and Other Electric Service.

(c) The amounts shown in the Monthly Bill to be paid to Power Agency by the Member shall be due and payable ten (10) days after the date of the Monthly Bill, and any amounts due and not paid by the Member within fifteen (15) days after the date of the Monthly Bill shall accrue a late payment charge computed at the Late Payment Interest Rate. Remittances received by mail will

be accepted without assessment of a late payment charge, provided that the postmark of the United States Postal Service clearly indicates that the payment was mailed on or before such fifteenth (15th) day. Remittances due in a month transmitted by wire transfer will be accepted without assessment of a late payment charge if received on or before the twenty-fifth (25^{th}) day of such month.

(d) All monies received by Power Agency as payment from the Member of any Monthly Bill (whether in full or partial payment thereof) shall be applied by Power Agency pro rata to the separate monthly charges shown on the Monthly Bill in the ratio that each separate charge as set forth in Sections 5(b)(i) through 5(b)(iv) of this Agreement bears to the total Monthly Bill rendered, and the resulting amounts shall be credited to the appropriate accounts on the books of Power Agency. ***The Member understands and agrees that a failure by the Member to pay in full its obligations under this Agreement and under its Debt Service Support Contract may result in an event of default under this Agreement and under its Debt Service Support Contract.***

(e) In each Contract Year, the Member shall pay to Power Agency the Member's Share of Monthly Support Costs for such Contract Year. The Member shall be obligated to make such payments unconditionally and without offset, counterclaim or other reduction, whether or not all or any portion of Full Requirements Bulk Power Supply is delivered to the Member pursuant to Section 3 of this Agreement or this Agreement expires or is terminated in whole or in part. Such payments shall be made and shall not be conditioned upon the performance or non-performance by Power Agency or any other Member under this or any other agreement or instrument. The remedies for any such non-performance by Power Agency shall be limited to those provided by Sections 7(d) and 7(e) of this Agreement.

(f) In the event of any dispute as to any portion of any Monthly Bill, the Member shall nevertheless pay the full amount of the disputed charges when due and shall give written notice of the dispute to Power Agency within sixty (60) days following the date on which such payment is due. Such notice shall identify the disputed bill, state the amount in dispute, and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. Power Agency shall give consideration to such dispute and shall advise the Member with regard to its position relative thereto within thirty (30) days following receipt of such written notice. Upon final determination (whether by agreement, arbitration, adjudication, or otherwise) of the correct amount, an appropriate adjustment shall be made on the Monthly Bill next submitted to the Member after such determination, together with interest computed at the Late Payment Interest Rate.

SECTION 6. Rate Review and Payment Sources.

(a) Power Agency, at such intervals as it shall deem appropriate, but in any event not less frequently than once each Contract Year, shall review its rates and charges and, if necessary, shall revise such rates and charges so that the revenues collected hereunder shall be at least sufficient to comply with the provisions of Section 4 of this Agreement. In making revisions to rates and charges, Power Agency shall comply with the provisions of Chapter 159B, including, but not limited to, the provisions of §159B-10(b), if applicable, and §159B-16.1(b). Power Agency shall cause a notice in writing to be given to the Member and the other Members which shall set out all the proposed revisions of the rates and the date upon which such revised rates shall become

effective. The effective date shall not be less than forty (40) days after the date of the notice except when required to assure compliance with the provisions of Section 4 of this Agreement, and shall set forth the basis upon which the rates are proposed to be adjusted and established. Monthly changes in amounts billed pursuant to automatic adjustment clauses included in the rates and charges shall not require, notice, but changes in such clauses shall be subject to the foregoing notice provisions.

(b) The obligations of the Member to make payments under Section 5 of this Agreement for its Full Requirements Bulk Power Supply shall be an operating expense of its Electric System.

(c) The Member shall not be required to make any payments to Power Agency under this Agreement except from the Revenues of its Electric System. The Member covenants and agrees that it will fix, charge, and collect rents, rates, fees, and charges for electric power and energy and other services, facilities, and commodities sold, furnished, or supplied through the facilities of its Electric System at least sufficient to provide Revenues adequate to meet its obligations under this Agreement, any additional contract relating to supplying Full Requirements Bulk Power Supply by and between Power Agency and the Member and its Debt Service Support Contract, and to pay any and all other amounts payable from or constituting a charge and lien upon such Revenues, including, but not limited to, amounts sufficient to pay the principal of and interest on all general obligation bonds (if also payable from Revenues) and revenue bonds heretofore or hereafter issued by the Member to finance its Electric System. Notwithstanding the foregoing, nothing set forth in this Agreement shall be construed to limit, constrain or affect in any way the legal rights and authority of the Member to design, set and implement rates, fees and charges for electric power and energy and other services to its retail and wholesale customers through the operation of the Member's duly authorized rate setting process so long as the Member's rates, fees and charges for electric power and energy and other services fully meet and comply with the Member's obligations set forth in this Section 6(c).

(d) The Member shall take no action the effect of which would be to prevent, hinder, or delay Power Agency from the timely fulfillment of its obligations under this Agreement, the Full Requirements Power Purchase Agreement, the NITSA and NOA, the Agreement for Transmission Use and Other Electric Service, the Bond Resolution, and the Bonds or other securities or evidences of indebtedness issued to provide the amounts due and payable between Power Agency and the Member relating to delivery facilities, or any other agreement entered into between Power Agency and any Member.

SECTION 7. Obligations in the Event of Default.

(a) Upon failure of the Member to make any payment in full when due under this Agreement or to perform any obligation herein, Power Agency shall make demand upon the Member for payment or performance, and if said failure is not cured within fifteen (15) days from the date of such demand, it shall constitute a default under this Agreement at the expiration of such period, and notice of such default shall forthwith be given to the Member. Notice of such demand, and the default if it occurs, shall be provided to the other Members by Power Agency.

(b) If the Member shall fail to pay any amounts due to Power Agency under this Agreement, or to perform any other obligation hereunder which failure constitutes a default under this

Agreement, Power Agency may terminate this Agreement. In either such event, Power Agency shall forthwith notify such Member of such termination. Notice of such termination shall be given to the other Members of Power Agency. Except for such termination, the obligations of the Member under this Agreement shall continue in full force and effect. For purposes of applying the other provisions of this section, such termination shall be considered to be a default under this Agreement.

(c) Any waiver at any time by either party to this Agreement of its rights with respect to any default of the other party hereto, or with respect to any other matter arising in connection with such Agreement, shall not be considered a waiver with respect to any subsequent default, right, or matter.

(d) In the event of any default by Power Agency under any covenant, agreement, or obligation of this Agreement, the Member may, upon fifteen (15) days' prior written notice, bring any suit, action, or proceeding in law or in equity, including mandamus and injunction, as may be necessary or appropriate to enforce any covenant, agreement, or obligation of this Agreement against Power Agency.

(e) No remedy conferred upon or reserved to the parties hereto is intended to be exclusive of any other remedy or remedies available hereunder or now or hereafter existing at law, in equity, or by statute or otherwise, but each and every such remedy shall be cumulative and shall be in addition to every other such remedy. The pursuit by either party of any specific remedy shall not be deemed to be an election of that remedy to the exclusion of any other or others, whether provided hereunder or by law, equity, or statute. Any delay by either party in the exercise of any remedy with respect to any matter arising in connection with this Agreement shall not constitute a waiver by such party of any right to later exercise such remedy with respect to the same or any other matter arising in connection with this Agreement.

SECTION 8. Deliveries; Delivery Facility Costs; Load Forecasts; System Reliability.

(a) Full Requirements Bulk Power Supply shall be delivered to the high voltage side of the Member's Delivery Point(s).

(b) In addition to the rates and charges for Full Requirements Bulk Power Supply, the Member, to the extent applicable, shall be responsible to Power Agency for all costs of delivery facilities, Power Agency's payments to DEP for Protection Station costs, leased facilities charges, net loss in salvage (as defined in the NITSA and NOA) of delivery facilities, capacitor costs and charges for reactive power, all pursuant to the NITSA and NOA, all such similar costs incurred by Power Agency pursuant to the Dominion NCP Transmission Agreement , if applicable, and all other charges incurred by Power Agency at the request or on behalf of the Member in accordance with Power Agency's established policies and guidelines. The Member shall fulfill such cost responsibility by: (i) payment to Power Agency of any costs to Power Agency relating to delivery of Full Requirements Bulk Power Supply to the Member's Delivery Point(s) and not included in the rates and charges of Power Agency for delivery of Full Requirements Bulk Power Supply, including, but not limited to, leased facilities charges; (ii) payment of any and all costs of ownership, operation, maintenance, renewals, replacements, and additions to delivery facilities owned by Power Agency but required to deliver Full Requirements Bulk Power Supply to the

Member pursuant to a Delivery Facility Use Agreement between Power Agency and the Member; (iii) payment of any and all costs of operation and maintenance, exclusive of renewals, replacements, and additions of delivery facilities owned by the Member and operated by Power Agency pursuant to a Delivery Facility Operating and Maintenance Agreement; and (iv) payment by any combination of the foregoing. Leased facilities charges for Members connected to the DEP and Dominion NCP transmission systems will be calculated in accordance with Power Agency's Policy Guidelines for Leased Facilities Charges, as established and amended from time to time by Power Agency.

(c) Delivery Point data sheets shall be completed for each Delivery Point. No revisions or modifications (other than necessary maintenance) of the delivery facilities for Members shall be undertaken for the purpose of modifying the characteristics of delivery from transmission facilities of DEP or Dominion NCP, as applicable, and/or of Power Agency set out on the Delivery Point data sheets unless prior agreement is obtained from Power Agency and DEP or Dominion NCP, as applicable, and revised Delivery Point Data Sheet(s) are first executed. Power Agency and each Member shall agree on the amount of firm capacity required at each such Delivery Point, taking into account the firm load expected to be served at such Delivery Point(s). A reasonable allowance will be included if growth is anticipated. A Member shall not place loads on Delivery Point(s) in excess of the firm capacity amount(s) so agreed to and recorded on the Delivery Point Data Sheet(s) without Power Agency and the Member first negotiating a new Delivery Point Data Sheet. Pursuant to the NITSA and NOA, DEP has agreed with Power Agency that it shall not unreasonably withhold its agreement for an increase in the firm capacity amount. The Agreement for Transmission Use and Other Electric Service also includes provisions for modifications to existing Delivery Points. Delivery Points will be established and/or modified in accordance with the terms and conditions of the NITSA and NOA or the Dominion NCP Transmission Agreement and the Procedure for Establishing New Delivery Points adopted by Power Agency in accordance with the requirements of NERC Reliability Standard FAC-002-0, as each may be amended from time to time.

(d) Should a Member request more capacity at a Delivery Point than is reasonably necessary to serve the continuous load at that point for the purpose of switching load between Delivery Points, such capability will be provided by DEP pursuant to the NITSA and NOA. If additional transmission or other facilities are required, and payment by Power Agency of a leased facilities charge to cover the investment in any required additional transmission or other facilities is required, the Member shall agree to reimburse Power Agency for payment of such charge. In the alternative, Power Agency or a Member may provide such capability through its own facilities if Power Agency gives written notice to DEP sufficient to enable DEP to accommodate such an arrangement. Parallel operation, transfer of loads, emergency switching and other operations at or in connection with Delivery Points will be undertaken in accordance with Section 5.0 of the NOA.

(e) Prior to March 31 of each Contract Year, each Member shall assist Power Agency with development of projected capacity requirements at each Delivery Point for the next ten (10) calendar years in order for Power Agency to fulfill in a timely manner its responsibilities to DEP and to Dominion NCP, and its responsibilities to the Member hereunder. The projected capacity requirement shall be for the load reasonably expected to exist in the area served by each such Delivery Point. The proposed location, delivery voltage, and estimated capacity requirements of

any new delivery point desired by the Member or Power Agency for the next ten (10) calendar years shall also be delineated.

The terms and conditions of the NITSA and NOA shall govern the size of loads connected to Delivery Points on, or extensions from, the 115kV or 230kV transmission system of DEP and the conditions upon which a Delivery Point may be connected to a DEP transmission line.

(f) Subject to the terms and conditions of the NITSA and NOA, transmission line extensions shall be made to new Delivery Points for Members whose conductors connect with those of DEP (either directly or through Power Agency's facilities) from a transmission line which has adequate capacity to serve the additional load involved.

(g) In accordance with Section 3.5 of the Dominion NCP Transmission Agreement, Future Delivery Points on the Dominion NCP transmission system will be established pursuant to Prudent Utility Practices as defined therein. Future Delivery Points shall be established at 230kV or 115kV at the option of Dominion NCP, exercised consistent with Prudent Utility Practices, except in the case of small loads where Dominion NCP may agree to provide service at lower voltage levels.

(h) The Member shall operate and maintain Delivery Points in a manner consistent with the terms and conditions of the NOA. The Member shall avoid and refrain from any acts or transactions, or the use of any equipment, appliance, or device, which would (i) have a significant adverse effect upon the reliability or operating characteristics of the DEP or Dominion NCP systems, or the interconnected facilities of Power Agency or of its other Members, including, but not limited to, such adverse effects caused by the interconnection of, or the transfer of loads between, Delivery Points not made in accordance with the terms and conditions of the NOA, or (ii) interconnect the DEP or Dominion NCP systems through the systems of Power Agency or the Member with other power suppliers without agreement between Power Agency and DEP or Dominion NCP on reasonable measures or conditions, if any, for parallel operation. Each Member shall maintain a reasonable electrical balance between the phases at each Delivery Point.

(i) It is expressly understood and agreed that Power Agency does not hereby contract to furnish Member electric power for pumping water for extinguishing fires.

(j) The Member shall install, maintain, and operate such protective equipment and switching, voltage control, load shedding, and other facilities as shall be required in order to meet the requirements of DEP and Dominion NCP, as applicable, to assure continuity and adequacy of service and the stability of the interconnected facilities of DEP or Dominion NCP and Power Agency and the other Members and to provide adequate protection for DEP's or Dominion NCP's facilities, and its services to other customers, against trouble originating on the electric system of Power Agency or the Member. In addition, the Member recognizes and agrees to comply and to cooperate with Power Agency in complying, as applicable, (i) with the terms and conditions of the NITSA and NOA and the applicable NERC Reliability Standards, including, but not limited to, those related to system protection, load reduction, load shedding and load management and (ii) with any similar provisions applicable to Dominion NCP.

(k) The Member shall provide promptly to Power Agency any and all information requested by Power Agency to permit Power Agency to provide to DEP the information which DEP may

request pursuant to the terms and conditions of the NITSA and NOA to carry out DEP's scheduling and dispatch function, including the telemetering of Delivery Point data and other network planning and operation activities.

SECTION 9. Member Planning and Operations.

(a) Power Supply Planning. The Member will keep Power Agency advised on matters relating to the Member's power supply planning, including, but not limited to, load forecasts, proposed transmission additions, and new Delivery Points.

(b) Diligence. The Member will exercise diligence in the operation of its Electric System with the view of securing efficiency in keeping with Prudent Utility Practice, will construct its facilities in accordance with specifications at least equal to those prescribed by the National Electric Safety Code of the United States Bureau of Standards, and will maintain its lines at all times in a safe operating condition. Each Member will operate said lines in conformity with Section 8(h) of this Agreement. The Member will use electric service equally from the three phases as nearly as possible.

(c) Capacitors. Members whose conductors connect with those of DEP (either directly or through Power Agency's facilities) shall install capacitors and operate switched capacitors in accordance with the terms and conditions of the NITSA and NOA. In the alternative, Power Agency may install such capacitors, or cause such capacitors to be installed, to maintain the required power factor, and such Member will reimburse Power Agency for the costs and expenses it incurs in connection therewith. Power Agency may (i) require each Member whose conductors connect with those of Dominion NCP (either directly or through Power Agency's facilities) to install on its distribution system sufficient capacitors or other facilities to maintain at the time of Dominion NCP's monthly peak a power factor of 92% or higher, or any future power factor established by Dominion NCP, at each of that Member's Delivery Points, or (ii) in the alternative, install facilities to maintain such power factor, and such Member will reimburse Power Agency for the costs and expenses it incurs in connection therewith. Any such costs or expenses incurred by Power Agency pursuant to arrangements with Dominion NCP shall be reimbursed by the Member which caused such costs or expenses to be incurred.

(d) Access. Power Agency and the Member each will give the other the right to enter the premises of the other, and the Member will give DEP or Dominion NCP the right to enter the Member's premises, at all reasonable times for the purpose of repairing or removing facilities, reading meters, or performing work incidental to delivery and receipt of Full Requirements Bulk Power Supply.

(e) Compliance. The Member will be subject to and will comply with all applicable terms and conditions set forth in those tariffs, rate schedules, guidelines, including, but not to, the Guidelines Concerning Distributed Resources, and contracts which affect Power Agency and the Member.

SECTION 10. Disposition of Electric Systems.

The Member covenants and agrees that it shall not sell, mortgage, lease or otherwise dispose of or encumber its Electric System or any part thereof except as permitted by any of the following provisions of this Section 10:

(a) The Member may, in the ordinary course of the business of operating and maintaining its Electric System, scrap, trade-in, sell or otherwise dispose of any property or equipment if the Member determines that (i) such property or equipment is surplus, obsolete or otherwise not required for the operation and maintenance of its Electric System, and (ii) the original cost of all property and equipment disposed of pursuant to this subparagraph (a) in any fiscal year of the Member is less than the greater of $25,000 or two percent (2%) of the gross plant investment of the Electric System as reported on the books for the Electric System as of the end of the most recent fiscal year of the Member for which such figure is available.

(b) The Member may sell, lease, mortgage or otherwise dispose of or encumber any property and equipment (i) if and to the extent permitted by N.C.G.S. Section 160A-20, as the same may be amended from time to time, or (ii) if the Member determines, with the written concurrence of Power Agency (which concurrence shall not be unreasonably withheld), that, taking into account past and current operating results of its Electric System and any replacements or intended replacements for such property and equipment to be disposed of, the proposed action will not have a material adverse effect on the Revenues or the operation of its Electric System, or materially increase the operating and maintenance expenses of its Electric System.

(c) The Member may sell or otherwise dispose of its Electric System to one or more other Members, or merge or consolidate its Electric System with the Electric System or Systems of one or more other Members, provided that the purchasing or surviving Member(s), as the case may be, shall have assumed all of the transferor Member's duties and obligations hereunder and under the transferor Member's Debt Service Support Contract.

(d) The Member may merge or consolidate with, or be merged or consolidated into, one or more units of local government which shall have assumed all of the Member's duties and obligations hereunder, in which event such Member shall be relieved from all such duties and obligations, but only if (i) this Agreement shall have been assigned to such unit(s) of local government, which shall have assumed all of the transferor Member's duties and obligations hereunder, and (ii) the Local Government Commission of North Carolina shall have determined that after such merger or consolidation the survivor unit(s) of local government will have the ability to meet the obligations of such Member hereunder.

(e) The Member may sell or otherwise dispose of its Electric System to any other Person but only if the Member (i) has assigned and transferred this Agreement and all interests herein to the transferee Person who has assumed all of the transferor Member's duties and obligations hereunder, and (ii) has terminated its Debt Service Support Contract pursuant to the provisions of Section 13 of the Debt Service Support Contract; provided, however, that prior to any sale or other disposition pursuant to this subsection (e), Power Agency shall have determined that such sale or other disposition will not increase the cost of power and energy under the Full Requirements Power Sales Agreement of any other Member; and provided further, however, that if the transferee Person

is DEP, or a subsidiary or Affiliate of DEP, this Agreement shall be terminated and not assigned and transferred and DEP shall have agreed to (a) exclude the transferor Member's load from the calculation of Power Agency's Hourly Demand under the Full Requirements Power Purchase Agreement, and (b) delete the transferor Member's Delivery Points from the NITSA and NOA.

(f) In the event of a sale or other disposition permitted by subsection (c) of this Section 10, or a merger or consolidation permitted by subsection (c) and (d) of this Section 10, the Member shall provide to Power Agency a counsel's opinion, satisfactory in form and substance to counsel to Power Agency, that (i) in the event of a sale or other disposition, the transferee has assumed and become liable for the duties and obligations of the transferor Member under this Agreement and the transferor Member's Debt Service Support Contract, or (ii) in the event of a merger or consolidation, that following such merger or consolidation the Electric System or unit of local government, as the case may be, surviving such merger or consolidation shall remain or shall have become subject to this Agreement and the transferor Member's Debt Service Support Contract and liable for the duties and obligations of the Member hereunder and thereunder to the same extent that such Electric System or Member had been so subject prior to such merger or consolidation. In the event of a sale or other disposition permitted by subsection (e) of this Section 10 (other than a sale or disposition to DEP or a subsidiary or Affiliate of DEP), the Member shall provide to Power Agency a counsel's opinion, satisfactory in form and substance to counsel to Power Agency, that the transferee has assumed and become liable for the duties and obligations of the transferor Member under this Agreement.

(g) Nothing contained in the foregoing subsections (a) through (f) of this Section 10 shall be deemed to authorize a Member to mortgage or encumber all or substantially all of the properties of its Electric System.

SECTION 11. Miscellaneous General Provisions.

(a) Character and Continuity of Service. Power Agency shall use its reasonable best efforts to enforce the terms and conditions of the Full Requirements Power Purchase Agreement, the NITSA and NOA and the Dominion NCP Transmission Agreement, and the terms and conditions of any other similar agreement(s) with other parties for Full Requirements Bulk Power Supply.

Power Agency may temporarily interrupt or reduce deliveries of electric energy to the Member if Power Agency determines that such interruption or reduction is necessary in case of emergencies, to meet any regulatory compliance or reliability directives or in order to install equipment in or make repairs to or replacements, investigations, and inspections of or to perform other maintenance work on its generation or transmission facilities and related apparatuses. After informing the Member regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, Power Agency will, to the best of its ability and if sufficient time is available, schedule such interruption or reduction at a time which will cause the least interference with the operations of the Members.

Power Agency shall not be required to provide, and shall not be liable for failure to provide, service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by Force Majeure or, with respect to the services to be provided for Full

Requirements Bulk Power Supply, is caused by the inability of Power Agency to obtain any required governmental approvals to enable Power Agency to acquire or construct any facilities.

(b) Metering. Electric capacity and energy delivered by Power Agency to Members' Delivery Points connected to the DEP transmission system will be measured by meters installed at such Members' Delivery Points. The installation, operation, maintenance, repair and replacement of all metering equipment located at Delivery Points connected to the DEP transmission system will be performed by DEP pursuant to the NITSA and NOA. Electric capacity and energy delivered by Power Agency to Members' Delivery Points connected to the Dominion NCP transmission system will be measured by meters installed at such Members' Delivery Points, and such measurements will be transmitted to the point of interconnection between the DEP transmission system and the Dominion NCP transmission system pursuant to the Telemetry and Metering System Services Agreement. The installation, operation, maintenance, repair and replacement of all metering equipment located at Delivery Points connected to the Dominion NCP transmission system will be performed pursuant to the Dominion NCP Transmission Agreement.

(c) Power Deliveries. Power and energy furnished to the Member under this Agreement shall be in the form of three phase current, alternating at a frequency of approximately 60 Hertz.

(d) Effect of PURPA. Power Agency shall endeavor to provide the Member with capacity and energy, or transmission services, as required by the provisions of Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 USC 824a-3) and its implementing regulations ("PURPA Requirements") in connection with the service of loads by the Members pursuant to the PURPA Requirements. In the event a PURPA Qualifying Facility interconnects within the Member's system, the Member may purchase the output from such PURPA Qualifying Facility. Any such purchases will be treated for billing and crediting purposes under this FRPSA in the same manner as such purchases are treated under Section 4.4 of the FRPPA.

(e) Liability of Parties. Neither Power Agency nor the Member shall be responsible for the transmission, control, use or application of electric power provided under this Agreement on the other side of the Point of Connection (hereinafter defined) therefor and shall not, in any event, be liable for damage or injury to any Person or property whatsoever arising, accruing, or resulting from, in any manner, the receiving, transmission, control, use, application, or distribution by Power Agency or the Member of said electric power.

Where Power Agency or the Member has facilities and equipment located on the premises of the other party, the party owning the premises shall permit no one but the other party's authorized representatives to have access to or handle those facilities and equipment. Each party shall indemnify, hold and save harmless the other party for any loss or damage to that other party's premises caused by or arising out of the negligence of the party owning the facilities and equipment, or its representatives, while on the premises of the other party. Each party shall indemnify, hold and save harmless the other party from and against any and all legal and other expenses, claims, costs, losses, suits or judgments for damages, injuries to or death of Persons, or damage to or destruction of property, arising in any manner directly or indirectly by reason of acts of negligence of either party's authorized representative while on the premises of the other party under the right of access provided in this Section 11(e).

Power Agency and the Member shall indemnify, hold and save each other harmless from any and all loss or damage sustained, and from any and all liability to any Person or property incurred by the other (the indemnified party), by reason of any act or performance, or failure to act or perform, on the part of the other (the indemnifying party) or its officers, agents, or employees, in constructing, maintaining or operating the indemnifying party's apparatus, appliances or other property, or in the transmission, control, or application, redistribution, delivery, or sale of said power and energy on the indemnifying party's side of said Point of Connection. Whenever any claim is made against either party, whether the indemnified party or the indemnifying party, the party against whom the claim is made shall give notice to the other party within a reasonable time after the party against whom the claim is made becomes aware of any facts which could reasonably cause it to conclude that the claim is covered by this indemnification. Except as otherwise specifically provided in this Section 11(e), such indemnification shall hold harmless the indemnified party, its officer, agents or employees, from and against any and all liability and any and all losses, damages, injuries, costs and expenses, including expenses incurred by the indemnified party, its agents, servants or employees, in connection with defending any claim or action, and including reasonable attorneys' fees incurred or suffered by the indemnified party, its officer, agents or employees, by reason of the assertion of any such claim against the one indemnified, its officer, agents or employees. The indemnification provided for in this Section 11(e) shall not cover the following expenses: (1) the expense of investigating any claim prior to the time that notice is given to the other party that said claim is covered by this indemnification; (2) compensation for time of employees of the indemnified party spent in defending any action; and (3) attorneys' fees incurred by an indemnified party after an indemnifying party has assumed the defense of an action as provided in this Section 11(e). At any time, the indemnifying party may, at its option, assume on behalf of the indemnified party, its officer, agents and employees, after written notification by the indemnified party of the existence of such a claim, the defense of any action at law or in equity which may be brought against the indemnified party, its officers, agents or employees. The indemnifying party, regardless of whether it assumes the defense of any such action, will pay on behalf of the indemnified party, its officer, agents or employees, the amount of any judgment that may be entered against the indemnified party, its officer, agents or employees, in any such action.

If, pursuant to the provisions of the Full Requirements Power Purchase Agreement, Power Agency is liable to DEP for any loss or damage sustained or any liability to any Person or property incurred by DEP by reason of any act or performance, or failure to act or perform, by the Member, its officers, agents or employees, then the Member shall reimburse Power Agency for any costs or expenses incurred in connection therewith.

In the event that a Member sustains any loss or damage or incurs any liability to any Person or property by reason of any act or performance, or failure to act or perform, by DEP, its officers, agents or employees, then Power Agency shall indemnify and hold harmless such Member from and against such loss, damage or liability; provided, however, that Power Agency shall not be required to indemnify and hold harmless such Member from and against such loss, damage or liability unless Power Agency shall be entitled to recover from DEP the amount of any indemnification sought by the Member pursuant to this paragraph.

The term "Point of Connection" as used in this Section 11(e) shall mean any point at which the conductors owned by a Member connect with the conductors owned by any other entity,

including Power Agency, for the purpose of delivering electric power to the Member in accordance with the provisions of this Agreement.

(f) No Adverse Distinction. Power Agency agrees that there shall be no pattern of adverse distinction and no pattern of undue discrimination in carrying out its obligations under this Agreement relating to the Member as compared to the other Members.

(g) Other Terms and Conditions. Service hereunder shall be in accordance with such other terms and conditions as are established as part of Power Agency's service rules and regulations, which shall not be inconsistent with the provisions of this Agreement.

(h) Notices and Computation of Time. Any notice or demand given by the Member to Power Agency under this Agreement shall be deemed properly given if mailed postage prepaid and addressed, or electronically mailed, to the chief executive officer of Power Agency at its principal office or electronic mail address designated in writing filed with the Members by Power Agency. Any notice, demand, budget, or statement given or rendered by Power Agency to the Members under this Agreement shall be deemed properly given or rendered if mailed postage prepaid and addressed, or electronically mailed, to the Person and at the address designated in writing filed with Power Agency by the Member. The designations of the name and address to which any such notice or demand is directed may be changed at any time and from time to time by either party giving notice as above provided.

In computing any period of time prescribed or allowed under this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, or a legal holiday in North Carolina, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday in North Carolina.

SECTION 12. Future Members.

It is expressly understood that nothing herein shall preclude other future Members from contracting with Power Agency for planning, procuring, and providing such other future Members' bulk power supply.

SECTION 13. Records; Accounts; Reports; Audits.

Power Agency shall keep accurate records and accounts for any projects owned or controlled by Power Agency and for Full Requirements Bulk Power Supply, separate and distinct from its other records and accounts. Such records and accounts shall contain information supporting the allocation of Power Agency's indirect costs associated with any projects owned or controlled by Power Agency and with Full Requirements Bulk Power Supply. Such records and accounts shall be audited annually by a firm of independent certified public accountants, experienced in electric utility accounting and of national reputation, to be employed by Power Agency. Such records and accounts and such annual audit, including all written comments and recommendations of such accountants, shall be made available for inspection at any reasonable time by the Member at the principal office of Power Agency.

The Member shall keep accurate records and accounts for its Electric System, separate and distinct from its other records and accounts. Such records and accounts shall be audited annually by a firm of certified public accountants or by an accountant approved by the Local Government Commission of North Carolina as qualified to audit Local Government accounts who has no personal interest, direct or indirect, in the fiscal affairs of the municipal government or any of its officers, which audit may be part of the annual audit of the accounts of the Member. Such records and accounts shall be made available for inspection by Power Agency at any reasonable time, and a copy of such annual audit, including all written comments and recommendations of such accountants, shall be furnished to Power Agency not later than one hundred eighty (180) days after the close of the Member's fiscal year.

Power Agency shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Members, to the North Carolina Utilities Commission, and to the Local Government Commission of North Carolina. Each such report shall set forth a complete operating and financial statement covering the operations of Power Agency.

SECTION 14. Modification and Uniformity of Contracts.

This Agreement shall not be subject to termination by either party hereto under any circumstances whether based upon the default of the other party under this Agreement, or any other agreement, or otherwise, except as specifically provided in this Agreement. If any other Full Requirements Power Sales Agreement is amended or replaced, so that it contains terms and conditions different from those contained in this Agreement, Power Agency shall notify the Member and, at the option of the Member and upon timely request, Power Agency shall amend this Agreement to include similar terms and conditions.

SECTION 15. Assignment of Agreement.

Except as provided in Section 10 of this Agreement, this Agreement shall not be transferred or assigned.

SECTION 16. Severability.

If any section, paragraph, clause, or provision of this Agreement shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall be unaffected by such adjudication and all of the remaining provisions of this Agreement shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein. In the event of any such invalidity, the parties hereto shall promptly negotiate in good faith valid new provisions to restore the Agreement to its original intent and effect.

Notwithstanding the invalidity or unenforceability of any or all other provisions of this Agreement, the provisions of this Agreement in respect of the Member's obligation to pay its Member's Share of Monthly Support Costs shall remain in full force and effect.

SECTION 17. Applicable Law; Construction.

This Agreement is made under and shall be governed by the law of the State of North Carolina without regard to principles of conflicts of laws. Headings herein are for convenience only and shall not influence the construction of this Agreement.

SECTION 18. Survivorship of Obligations.

The termination of this Agreement shall not discharge any party hereto from any obligation it owes to the other party under this Agreement by reason of any transaction, loss, cost, damage, expense, or liability which shall occur or arise (or the circumstances, events, or basis of which shall occur or arise) prior to such termination. It is the intent of the parties hereby that any such obligation owed (whether the same shall be known or unknown at the termination of this Agreement or whether the circumstances, events, or basis of the same shall be known or unknown at the termination of this Agreement) shall survive the termination of this Agreement.

SECTION 19. No Delay.

No disagreement or dispute of any kind between the parties to this Agreement or between any party and any other entity, concerning any matter, including, without limitation, the amount of any payment due from said party or the correctness of any billing made to the party, shall permit the said party or either of them, to delay or withhold any payment or the performance by any party of any other obligation pursuant to this Agreement. Each party shall promptly and diligently undertake to resolve such disagreement and dispute without undue delay.

SECTION 20. Further Documentation.

From time to time after the execution of this Agreement, the parties hereto shall within their legal authority execute other documents as may be necessary, helpful, or appropriate to carry out the terms of this Agreement.

SECTION 21. Incorporation of Exhibits.

All Exhibits attached to this Agreement shall be incorporated into and be a part of this Agreement.

SECTION 22. Continuance and Enforcement of Agreement.

(a) Except as provided in Section 7(b) of this Agreement, Power Agency shall continue this Agreement in full force and effect and shall enforce this Agreement in accordance with its terms to the extent permitted by law.

(b) The failure of a party to enforce at any time any of the provisions of this Agreement or to require at any time performance by the other party of any of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this Agreement or any part thereof, or the right of such party thereafter to enforce each and every such provision.

SECTION 23. Relationship to Other Instruments.

It is recognized by the parties hereto that Power Agency must comply with the requirements of the Bond Resolution, and it is therefore agreed that this Agreement is made subject to the terms and provisions of the Bond Resolution.

SECTION 24. Counterparts; Electronic Signatures.

This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which counterparts, taken together, shall constitute but one and the same Full Requirements Power Sales Agreement. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement and, when printed from electronic files, if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. For purposes of this Agreement, "electronic signature" means a manually-signed original signature that is then transmitted by electronic means, and "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e-mail message.

SECTION 25. Entire Agreement.

This Agreement shall constitute the entire understanding among the parties hereto, superseding any and all previous understandings, oral or written, pertaining to the subject matter contained herein. No party hereto has relied, or will rely, upon any oral or written representation or oral or written information made or given to such party by any representative of the other party or anyone on its behalf.

SECTION 26. Preaudit.

Execution of this Agreement by the finance officer of the Member shall constitute a certification of such finance officer that, to the extent this Agreement requires the Member to satisfy a financial obligation during the Member's fiscal year in which the Effective Date occurs, this Agreement has been preaudited in the manner required by the N.C. Local Government Budget and Fiscal Control Act.

[Balance of Page Intentionally Left Blank; Signature Page Follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement all by authority of their respective governing bodies duly given.

Executed this ____ day of _____, 2023.

TOWN OF CLAYTON

By:_____
Mayor

Attest:

_____
Town Clerk

For purposes of Section 26 only:

_____
Finance Officer

(SEAL)

Executed this ____ day of _____, 2023.

NORTH CAROLINA EASTERN
MUNICIPAL POWER AGENCY

By:_____
Chief Executive Officer

Attest:

_____
Assistant Secretary

(SEAL)

[Signature Page of Full Requirements Power Sales Agreement]

Exhibit A

Network Integration Transmission Service Agreement

and

Network Operating Agreement

between

Duke Energy Progress, Inc.

and

North Carolina Eastern Municipal Power Agency

NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT

AND

NETWORK OPERATING AGREEMENT

BETWEEN

DUKE ENERGY PROGRESS, LLC

AND

NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

SERVICE AGREEMENT FOR
NETWORK INTEGRATION TRANSMISSION SERVICE

1.0 This Service Agreement, dated as of January 1, 2020, is entered into, by and between Duke Energy Progress, LLC, with its principal offices located at 410 S. Wilmington Street, Raleigh, North Carolina 27601, ("Transmission Provider" or "DEP"), and North Carolina Eastern Municipal Power Agency, with its principal offices located at 1427 Meadow Wood Blvd, Raleigh, NC 27604 ("Transmission Customer" or "NCEMPA").

2.0 The Transmission Customer has been determined by the Transmission Provider to have submitted a Completed Application for Network Integration Transmission Service under the Open Access Transmission Tariff of Duke Energy Progress, LLC (the "Tariff").

3.0 The Transmission Customer has met the creditworthiness standards of Section 11.2 of the Tariff. In the event that Transmission Customer does not take service for any reason, the Transmission Provider will provide Transmission Customer with a statement identifying the costs incurred.

4.0 Service under this Service Agreement shall commence on the later of (1) January 1, 2020, or (2) the date on which construction of any Direct Assignment Facilities and/or Network Upgrades are completed, or (3) such other date as it is permitted to become effective by the Commission.

5.0 The Transmission Provider agrees to provide and the Transmission Customer agrees to take and pay for Network Integration Transmission Service in accordance with the provisions of Part III of the Tariff and this Service Agreement.

5.1 The Transmission Customer is responsible for replacing Real Power Losses associated with all transmission service in accordance with Section 28.5 of the Tariff.

NCEMPA has initially arranged, through its contracts with Duke Energy Progress, LLC ("DEP"), for the supply of Real Power Losses associated with its transmission service in accordance with Section 28.5 of the Tariff.

6.0 Any notice or request made to or by either Party regarding this Service Agreement shall be made to the representative of the other Party as indicated below.

Transmission Provider:

Paul Graves
Duke Energy Progress, LLC
Manager, Tariff Administration
299 1st Avenue N
St. Petersburg, FL 33701
Mailcode: FL-906B
Phone: (727) 820-5524
Paul.Graves@duke-energy.com

Transmission Customer:

Kathy Moyer
ElectriCities of North Carolinas, Inc.
Vice President, Operations
1427 Meadow Wood Blvd.
Raleigh, NC 27604
Phone: (919) 760-6225
kmoyer@electricities.org

7.0 The Tariff, Specifications for Network Integration Transmission Service and the Network Operating Agreement, all of which may be amended from time to time, are incorporated herein and made a part hereof.

8.0 Service under this Service Agreement will be subject to some combination of the agreed-upon charges detailed below:

8.1 Transmission Charge:

In each month, Transmission Customer's charge for transmission service shall be determined in accordance with Attachment H of the Tariff. For purposes of applying the provisions of Attachment H, the Transmission Customer's "Network Load" shall be determined as follows:

Network Load = [(TCCP - SEPA) / (1.0 - TLF)] + 50 MW

where:

"TCCP" for any month is the aggregate of the 60-minute integrated metered demands recorded at (or, if the metering location is remote from the Delivery Point, compensated to) the Transmission Customer's Delivery Points during the hour of the month in which the greatest load was imposed on the Transmission Provider's Transmission System.

"SEPA" is the sum of the preference customer Southeastern Power Administration ("SEPA") capacity allocations of Transmission Customer's municipal participants.

"TLF" is the approved Transmission Loss Factor (expressed as a decimal amount) for the Transmission Provider's Transmission System.

8.2 Ancillary Services Charges:

1 Scheduling, System Control and Dispatch Service

The charges for Scheduling, System Control and Dispatch Service shall be per Schedule 1 of the Tariff.

The Transmission Customer's load for purposes of computation of the Scheduling, System Control and Dispatch Service, shall include the Customer's coincident peak load reduced by the Customer's allocation of capacity from the Southeastern Power Administration ("SEPA"), plus the associated DEP transmission system losses.

2 Reactive Supply and Voltage Control from Generation Sources Service

The charges for Reactive Supply and Voltage Control from Generation Sources Service shall be per Schedule 2 of the Tariff.

The Transmission Customer's load used for the purposes of calculating the charges for Reactive Supply and Voltage Control from Generation Sources Service shall include the Customer's coincident peak load reduced by the Customer's allocation of capacity from the Southeastern Power Administration ("SEPA"), plus the associated DEP transmission system losses minus the Transmission Customer's Retained Capacity (as identified in Section 3.0 (1) of the Specifications for Network Integration Transmission Service).

3 Regulation and Frequency Response Service

The charges for Regulation and Frequency Response Service shall be per Schedule 3 of the Tariff. The Transmission Customer has initially made alternative comparable arrangements to satisfy its Regulation and Frequency Response Service obligation through its (i) 1981 Power Coordination Agreement with DEP (the "1981 PCA"), and (ii) Supplemental Load Agreements with DEP dated December 23, 2002 and February 25, 2005.

4 Energy Imbalance Service

The charges for Energy Imbalance Service shall be per Schedule 4 of the Tariff. The Transmission Customer has initially made alternative comparable arrangements to satisfy its Energy Imbalance Service obligation through its (i) 1981 Power Coordination Agreement with DEP (the "1981 PCA"), and (ii) Supplemental Load Agreements with DEP dated December 23, 2002 and February 25, 2005.

5 Operating Reserve - Spinning Reserve Service

The charges for Operating Reserve - Spinning Reserve Service shall be per Schedule 5 of the Tariff. The Transmission Customer has initially made alternative comparable arrangements to satisfy its Operating Reserve - Spinning Reserve Service obligation through its (i) 1981 Power Coordination Agreement with DEP (the "1981 PCA"), and (ii) Supplemental

Load Agreements with DEP dated December 23, 2002 and February 25, 2005.

6 Operating Reserve -Supplemental Reserve Service

The charges for Operating Reserve -Supplemental Reserve Service shall be per Schedule 6 of the Tariff. The Transmission Customer has initially made alternative comparable arrangements to satisfy its Operating Reserve -Supplemental Reserve Service obligation through its (i) 1981 Power Coordination Agreement with DEP (the "1981 PCA"), and (ii) Supplemental Load Agreements with DEP dated December 23, 2002 and February 25, 2005.

9.0 Nothing contained herein shall be construed as affecting in any way the Transmission Provider's right to unilaterally make application to the Federal Energy Regulatory Commission, or other regulatory agency having jurisdiction, for any change in the Tariff or this Service Agreement under Section 205 of the Federal Power Act, or other applicable statute, and any rules and regulations promulgated thereunder; or the Transmission Customer's rights under the Federal Power Act and rules and regulations promulgated thereunder.

10.0 The Transmission Customer will be responsible for Delivery Facilities Charges, Distribution Substation Service charges, Redispatch cost, Network Upgrade, and/or Direct Assignment Facilities cost under this agreement as follows:

Delivery Facilities Charges calculated as set forth in Attachment B-1 to the Specifications for Network Integration Transmission Service.

IN WITNESS WHEREOF, the Parties have caused this Service Agreement to be executed by their respective authorized officials.

Transmission Provider:

By: _____ _____

Name: J. Samuel Holeman, III Date

Title: Vice President, Transmission System Planning & Operations
Duke Energy Progress, LLC

Transmission Customer:

By: _____ 10/31/19

Name: Matthew E. Schull Date

Title: Chief Operating Officer, NCEMPA
ElectriCities of North Carolina, Inc.

IN WITNESS WHEREOF, the Parties have caused this Service Agreement to be executed by their respective authorized officials.

Transmission Provider:

By: _____ 10/29/2014

Name: J. Samuel Holeman, III Date

Title: Vice President, Transmission System Planning & Operations
Duke Energy Progress, LLC

Transmission Customer:

By: _____ _____

Name: Matthew E. Schull Date

Title: Chief Operating Officer, NCEMPA
ElectriCities of North Carolina, Inc.

SPECIFICATIONS FOR
NETWORK INTEGRATION TRANSMISSION SERVICE

1.0 Term of Transaction:

Start Date: January 1, 2020

Termination Date: January 1, 2025

If the Service Agreement is not terminated by the Transmission Provider or the Transmission Customer, the Service Agreement will automatically renew for successive five-year terms. The Service Agreement may be terminated at the end of each successive five-year term by the Transmission Provider or the Transmission Customer by giving notice of such termination in writing at least one year prior to the end of the renewal period.

2.0 Description of capacity and energy to be transmitted by Transmission Provider including the electric Control Area in which the transaction originates.

The Transmission Customer has capacity and energy pursuant to 1) agreements with Duke Energy Progress, LLC with capacity and energy made available in the DEP Eastern control area, 2) an agreement with Southeastern Power Administration (SEPA) with capacity and energy originating from SEPA's Kerr hydroelectric project in the Dominion Virginia Power control area and SEPA's Philpott hydroelectric project in the American Electric Power control area.

3.0 Network Resources

(1) Transmission Customer Generation Owned or Leased:

None

(2) Transmission Customer Generation Purchased:

(a) The purchase of approximately 29 MW of capacity and associated energy from the Kerr hydroelectric project located in the Dominion Virginia Power control area and the Philpott hydroelectric project located in the American Electric Power control area, operated by the U.S. Army Corps of Engineers, and marketed by the Southeastern Power Administration ("SEPA"). Although considered a Network Resource for purposes of this Service Agreement, SEPA reimburses the Transmission Provider for transmission service under a separate Service Agreement. Consequently, SEPA allocations will be subtracted from the Transmission Customer's Network Load for purposes of determining charges pursuant to paragraph 8.0 of this Service Agreement.

(b) Effective October 1, 2018, the purchase of capacity and energy from DEP pursuant to the Full Requirements Power Purchase Agreement which obligates DEP to provide capacity and energy to meet NCEMPA's full requirements load, net of load met by SEPA. Full Requirements Capacity and Energy under this Agreement is supplied by DEP's system of generating and purchased resources and is delivered to the DEP-East Control Area. The Full Requirements Power Purchase Agreement obligates DEP to supply such capacity and energy through December 31, 2043.

Total Network Resources = (1) + (2) = Transmission Customer's Total Network Load

4.0 Network Load

(1) Transmission Customer Network Load:

See Attachment A-1 for a list of the Transmission Customer's Delivery Points and the 10-year forecast for each. Detailed information about each of the Transmission Customer's Delivery Points shall be set forth in Delivery Point Data Sheets, executed by the Parties, substantially in the form set forth in Attachment A-2. Initiation of a new Delivery Point, or changes to the configuration of or investment in existing Delivery Points, shall require execution of an appropriately modified Delivery Point Data Sheet.

The Transmission Provider shall include the Transmission Customer's need for sufficient Delivery Point capability in its Transmission System planning and shall, consistent with Good Utility Practice, endeavor to construct and place into service Delivery Point capability sufficient to meet the Transmission Customer's current and forecasted Network Load at each such Delivery Point on a basis comparable to the Transmission Provider's delivery of service to its Native Load Customers. Retirement or modification of any Delivery Point (including a Delivery Point located at any jointly used delivery station) that the Transmission Provider may deem necessary in the course of satisfying the foregoing commitment shall be on a non-discriminatory basis and shall be comparable to the Transmission Provider's termination or modification of delivery stations in serving its Native Load Customers.

(2) Total Network Load at time of most recent annual peak load:

Season (Date - Hour Ending)	Total Network Load [kW]
Summer 2018 (06/19/2018-HE 20:00)	1,501,158
Winter 2018 (01/08/2018-HE 8:00)	1,577,804

5.0 Power Factor Requirements

The power factor requirements applicable to Transmission Customer's Delivery Points shall be as set forth in the Transmission Provider's Tariff.

6.0 Designation of party(ies) subject to reciprocal service obligation:

None.

7.0 Name(s) of any Intervening Systems providing transmission service:

None.

8.0 Party Responsible for Providing Real Power Losses:

Transmission Customer has initially arranged, through its contracts with Duke Energy Progress, LLC ("DEP"), for the supply of Real Power Losses associated with its transmission service in accordance with Section 28.5 of the Tariff.

ATTACHMENT A-1

TO THE SPECIFICATIONS FOR SERVICE UNDER THE
NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT (NITSA)
BETWEEN
NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY
AND DUKE ENERGY PROGRESS, LLC

NCEMPA DELIVERY POINTS AND
FORECASTED DELIVERY POINT DEMANDS

North Carolina Eastern Municipal Power Agency
2019 Forecast Annual DP NCP Demand Kilowatts at Power Agency Delivery Level
Including SEPA Allocation

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Apex 1	0	0	0	0	0	0	0	0	0	0
Apex 2	21,469	21,816	22,229	22,759	23,289	23,792	24,319	24,856	25,422	26,036
Apex 3	20,018	20,340	20,724	21,219	21,694	22,178	22,673	23,174	23,702	24,276
Apex 4	39,348	39,998	40,771	41,751	42,681	43,614	44,565	45,533	46,574	47,703
Apex 5	17,736	18,024	18,364	18,802	19,223	19,655	20,091	20,535	21,002	21,511
Ayden 1	21,145	20,525	20,772	20,703	20,618	20,529	20,435	20,344	20,289	20,224
Benson 1	7,913	7,538	7,768	7,779	7,765	7,751	7,740	7,730	7,729	7,742
Clayton 1	9,518	6,893	6,928	7,039	7,145	7,254	7,364	7,477	7,598	7,734
Clayton 2	17,678	20,558	20,783	21,118	21,434	21,761	22,092	22,431	22,795	23,203
Farmville 1	0	0	0	0	0	0	0	0	0	0
Farmville 2	12,108	12,026	11,983	12,004	12,013	12,028	12,044	12,064	12,097	12,162
Fremont 1	3,388	3,331	3,304	3,292	3,278	3,262	3,246	3,231	3,218	3,209
Greenville 1	277,207	302,596	303,713	306,608	309,005	311,668	314,374	317,188	320,349	324,109
Greenville 4	110,387	54,968	55,182	55,689	56,143	56,627	57,119	57,633	58,204	58,887
Greenville 5	0	30,392	30,511	30,791	31,042	31,310	31,582	31,884	32,192	32,559
Hookerton 1	1,515	1,506	1,501	1,522	1,502	1,501	1,501	1,500	1,501	1,504
Kinston 1	92,297	71,569	71,399	71,658	71,678	71,633	71,998	72,186	72,448	72,844
Kinston 2	0	20,172	20,119	20,172	20,206	20,260	20,299	20,349	20,423	20,534
La Grange 1	6,231	6,174	6,191	6,116	6,095	6,079	6,051	6,030	6,012	6,004
Lawrinburg 1	28,713	0	0	0	0	0	0	0	0	0
Lawrinburg 2	0	28,505	28,388	28,422	28,429	28,448	28,472	28,504	28,567	28,680
Louisburg 1	11,526	11,394	11,269	11,264	11,217	11,176	11,136	11,100	11,075	11,069
Lumberton 1	0	0	0	0	0	0	0	0	0	0
Lumberton 2	28,744	28,488	28,295	28,226	28,144	28,047	27,952	27,856	27,785	27,754
Lumberton 3	16,627	16,478	16,367	16,329	16,279	16,223	16,169	16,114	16,072	16,054
Lumberton 4	14,582	14,462	14,364	14,321	14,277	14,228	14,180	14,132	14,095	14,079
New Bern 1	34,226	34,011	33,806	33,981	34,023	34,082	34,149	34,220	34,330	34,502
New Bern 2	33,441	33,233	33,130	33,203	33,245	33,302	33,364	33,436	33,544	33,712
New Bern 3	2,060	2,037	2,031	2,035	2,038	2,041	2,045	2,049	2,056	2,068
New Bern 4	28,661	26,623	26,740	26,799	26,832	26,879	26,929	26,987	27,074	27,210
New Bern 6	16,319	16,217	16,167	16,203	16,223	16,251	16,281	16,317	16,369	16,461
Pikeville 1	1,968	1,954	1,946	1,945	1,944	1,941	1,939	1,937	1,936	1,938
Red Springs 1	7,144	7,090	7,058	7,064	7,062	7,065	7,068	7,073	7,088	7,112
Rocky Mount	78,350	77,661	77,201	77,165	77,048	76,971	76,903	76,856	76,884	77,066
Rocky Mount 2	76,169	77,472	77,023	76,985	76,870	76,793	76,728	76,680	76,716	76,888
Selma 2	3,603	3,567	3,538	3,526	3,511	3,494	3,478	3,462	3,449	3,440
Selma 3	11,271	11,157	11,068	11,029	10,982	10,930	10,882	10,829	10,787	10,761
Smithfield 1	29,486	29,302	29,211	29,276	29,312	29,363	29,418	29,461	29,577	29,726
Smithfield 2	6,722	6,680	6,656	6,674	6,682	6,694	6,706	6,721	6,742	6,778
Southport 1	14,526	14,527	14,573	14,697	14,807	14,924	15,044	15,169	15,310	15,480
Wake Forest 2	13,304	13,408	13,554	13,771	13,975	14,186	14,402	14,622	14,858	15,123
Wake Forest 3	27,729	27,947	28,256	28,703	29,129	29,571	30,018	30,476	30,969	31,520
Washington 1	60,429	65,884	65,486	65,381	65,231	65,084	64,894	64,715	64,582	64,569

North Carolina Eastern Municipal Power Agency
2019 Forecast Annual DP NCP Demand Kilowatts at Power Agency Delivery Level
Including SEPA Allocation

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Wilson 1	0	0	0	0	0	0	0	0	0	0
Wilson 2	12,676	12,629	12,622	12,682	12,730	12,784	12,840	12,900	12,974	13,071
Wilson 3	45,403	45,235	45,209	45,425	45,698	45,790	45,991	46,205	46,471	46,820
Wilson 4	11,363	11,351	11,345	11,399	11,442	11,490	11,541	11,595	11,661	11,749
Wilson 5	19,134	19,063	19,052	19,143	19,215	19,297	19,381	19,472	19,583	19,731
Wilson 6	25,764	25,669	25,654	26,778	25,873	25,964	26,067	26,219	26,370	26,568
Wilson 7	18,266	18,198	18,187	18,274	18,343	18,421	18,501	18,598	18,696	18,835
Wilson 8	0	0	0	0	0	0	0	0	0	0
Wilson 9	0	0	0	0	0	0	0	0	0	0
Wilson 10	0	0	0	0	0	0	0	0	0	0
Wilson 11	73,109	72,838	72,767	73,144	73,419	73,732	74,085	74,491	74,828	75,380
Wilson 12	58,001	57,788	57,763	58,028	58,247	58,495	58,751	59,028	59,304	59,611
DEP Total	1,472,534	1,469,013	1,469,936	1,478,539	1,485,763	1,493,589	1,501,629	1,510,092	1,520,154	1,532,951
Bethaven	4,085	3,993	3,984	3,958	3,944	3,935	3,925	3,917	3,912	3,915
Edenton	22,723	22,610	22,546	22,594	22,608	22,618	22,634	22,649	22,661	22,749
Elizabeth City 1	35,661	35,441	35,269	36,315	35,307	35,285	35,268	35,248	35,256	35,318
Elizabeth City 2	36,152	35,929	35,765	35,782	35,774	35,751	35,732	35,713	35,721	35,765
Hamilton	785	775	768	765	761	757	754	751	748	747
Hertford	5,813	5,779	5,702	5,703	5,298	5,297	5,297	5,296	5,305	5,321
Hobgood	768	776	771	767	763	759	755	751	747	745
Robersonville*	5,368	5,296	6,250	5,282	5,209	5,184	5,185	5,149	5,139	5,132
Scotland Neck	9,009	8,948	8,902	5,862	5,857	5,831	5,805	5,779	5,757	5,744
Tarboro 1	13,267	13,148	13,077	13,085	13,042	13,028	13,016	13,007	13,012	13,040
Tarboro 2	2,185	2,148	2,138	2,134	2,131	2,129	2,127	2,125	2,126	2,131
Tarboro 3	12,762	12,667	12,593	12,556	12,536	12,523	12,510	12,502	12,507	12,534
Tarboro 4	10,792	10,669	10,636	10,630	10,613	10,602	10,591	10,584	10,588	10,611
Tarboro 5	9,126	9,044	8,991	8,986	8,971	8,962	8,953	8,947	8,950	8,970
VEPCO Total	164,971	163,795	162,962	162,954	162,815	162,664	162,533	162,419	162,447	162,740
Agency Total	1,637,505	1,632,798	1,632,898	1,641,493	1,648,579	1,656,254	1,664,161	1,672,511	1,682,601	1,695,691

*Robersonville has one delivery point with 3 metering points: (2) 4kV metering points and (1) 12kV metering point, all at one delivery for load forecasting purposes. Since the load forecast is completed by city level and delivery level, and not metering point level, Robersonville is shown as one delivery point. The NCEMPA forecast files do not contain a Robersonville 2 and 3, only Robersonville 1.

ATTACHMENT A-2

**TO THE SPECIFICATIONS FOR SERVICE UNDER THE
NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT (NITSA)
BETWEEN
NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY
AND DUKE ENERGY PROGRESS, LLC**

FORM OF DELIVERY POINT DATA SHEETS

DELIVERY POINT DATA SHEET

1. NCEMPA Participant _____
2. Location _____
3. Effective Date _____
4. Delivery Point Name and Location _____
5. Delivery Point Voltage _____
6. Point of Connection
   - A. Name _____
   - B. Number _____
   - C. Physical Location _____
   - D. Firm Capacity of: _____
   - E. Voltage _____
   - F. Metered Voltage _____
   - G. Location of Meter _____
7. Special Facilities or Conditions _____

ACCEPTED BY NCEMPA
Name: _____
Title: _____
Date: _____

ACCEPTED BY DEP
Name: _____
Title: _____
Date: _____

ATTACHMENT B-1

**TO THE SPECIFICATIONS FOR SERVICE UNDER THE
NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT (NITSA)
BETWEEN
NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY
AND DUKE ENERGY PROGRESS, LLC**

DELIVERY FACILITIES CHARGES

DELIVERY FACILITIES CHARGES

Transmission Customer will compensate Transmission Provider for Transmission Customer's share of the cost of Delivery Facilities (facilities beyond the Delivery Points that are used to deliver capacity and energy from the Transmission System to the systems of Transmission Customer's municipal participants at each Delivery Point). The charges for Delivery Facilities in each month shall be calculated in accordance with the formulas set forth below, based upon the operating voltage (transmission voltage or distribution voltage) of specific Delivery Facilities at a Delivery Point.

Delivery Facilities Charge for Transmission Voltage Delivery Facilities = ($CACR_{EF}$ + $CACR_{AF}$) X $MFCR_{TV}$

Delivery Facilities Charge for Distribution Voltage Delivery Facilities = ($CACR_{EF}$ + $CACR_{AF}$) X $MFCR_{DV}$

$CACR_{EF}$ = OC_{EF} X RF

$CACR_{AF}$ = OC_{AF} X RF

Terms used in the foregoing formulas shall have the following meanings:

$CACR_{EF}$ ("Customer-Assigned Cost Responsibility - Existing Facilities"): the portion (in $) of the Original Cost of Delivery Facilities in service as of July 1, 2008 and located at Transmission Customer's Delivery Points for which Transmission Customer shall bear cost responsibility for purposes of calculating Delivery Facilities Charges.

$CACR_{AF}$ ("Customer-Assigned Cost Responsibility - Additional Facilities"): the portion (in $) of the Original Cost of Delivery Facilities placed in service on and after July 1, 2008 and located at Transmission Customer's Delivery Points for which Transmission Customer shall bear cost responsibility for purposes of calculating Delivery Facilities Charges. In any year, $CACR_{AF}$ shall be determined as the product of the Original Cost of Additional Facilities (Delivery Facilities placed in service on and after July 1, 2008) times the RF for that year.

OC_{EF} ("Original Cost of Existing Facilities"): for any Delivery Point, the asset costs of Delivery Facilities placed in service before July 1, 2008, as set forth in the Delivery Facilities Investment Data Sheet for such Delivery Point that is in effect as of July 1, 2008. These values, shall not change during the term of the NITSA

except (as set forth below) as necessary to reflect the Transmission Provider's remaining book investment in existing Delivery Facilities that later may be retired from service.

OC_{AF} ("Original Cost of Additional Facilities"): for any Delivery Point, the asset costs of new Delivery Facilities or modifications to existing Delivery Facilities that are placed in service on and after July 1, 2008, as properly recorded by Transmission Provider in FERC Accounts 360 through 369 (or their successor accounts) and reflected on a new or modified Delivery Facilities Investment Data Sheet for that Delivery Point.

OC_{EF} and OC_{AF} shall be reduced from time to time by an appropriate share of the Transmission Provider's remaining book investment in existing or new Delivery Facilities that were reflected in the determination of OC_{EF} or OC_{AF} (as applicable) but that later are retired from service.

RF ("Responsibility Factor"): For Delivery Points where the Transmission Customer is the sole user of the Delivery Facilities, RF shall equal 1.0. For Delivery Points where the Transmission Customer is not the sole user of the Delivery Facilities, RF shall be calculated as follows:

RF =

(Transmission Customer metered demand at hour of peak annual demand on Delivery Facility)

divided by

(Total demand on Delivery Facility at hour of peak annual demand on Delivery Facility)

The Transmission Provider shall update the values used for RF each calendar year based on the most recent available load data.

$MFCR_{TV}$ ("Monthly Fixed Charge Rate - Transmission Voltage"): A rate, expressed as a decimal value, representing one-twelfth of the annual cost of ownership of Delivery Facilities operated at transmission voltage (115 kV and higher). The current $MFCR_{TV}$ value is 0.89%.

$MFCR_{DV}$ ("Monthly Fixed Charge Rate - Distribution Voltage"): A rate, expressed as a decimal value, representing one-twelfth of the annual cost of ownership of Delivery Facilities operated at distribution voltage (below 115 kV). The current $MFCR_{DV}$ value is 1.05%.

The values used for $MFCR_{TV}$ and $MFCR_{DV}$ may be changed by the Transmission Provider only pursuant to a filing made under Section 205 of the Federal Power Act, and by the Transmission Customer only pursuant to a filing made under Section 206 of the Federal Power Act.

Effective January 1, 2020, Transmission Customer shall pay the following monthly Delivery Facilities charges:

Delivery Facilities Charge for Transmission Voltage Delivery Facilities = $10,973.09 /month

Delivery Facilities Charge for Distribution Voltage Delivery Facilities = $84,767.76 /month

A Delivery Point may be terminated by either Transmission Provider or Transmission Customer upon reasonable notice.[1] In the event that the termination of the Delivery Point results in the Early Retirement (as defined in Section 3.a below) of any of the Transmission Provider's facilities covered by these distribution rates or any of the Transmission Customer's facilities interconnected with such Transmission Provider's facilities, the Transmission Provider or the Transmission Customer, as applicable, shall be responsible for paying to the other party a Loss Due to Early Retirement ("LDER") calculated as follows:

1. If Transmission Provider is the initiator of the termination of the Delivery Point, Transmission Provider shall be responsible for paying to Transmission Customer any LDER incurred by Transmission Customer involving Transmission Customer's facilities interconnected with Transmission Provider's facilities at the Delivery Point. In such event, Transmission Customer's LDER shall consist of the sum of (a) the net book value of the Transmission Customer's facilities interconnected with Transmission Provider's facilities at the Delivery Point, plus actual cost of removal, less any actual salvage value, all as calculated using Transmission Customer's standard accounting practices, and (b) Transmission Customer's Reintegration Costs.

Reintegration Costs shall include the direct labor costs (plus a reasonable percentage for regular employee fringe benefits and a reasonable percentage for engineering and supervision, cost of use of equipment, cost of materials, and miscellaneous expenses) that Transmission Customer incurs in connecting, by the most practical and direct route, (a) the Transmission Customer's lines that were previously connected with the terminated Delivery Point with (b) the Delivery Point that replaces the terminated Delivery Point. Reintegration Costs will be calculated consistent with the standard methodology being used by the Transmission Customer at that time for calculations of this kind.

[1] For purposes of this Attachment B-1, "termination" of a Delivery Point means the Transmission Customer's permanent removal of all load from the point of electrical connection or at the voltage specified in the Delivery Point Data Sheet in effect for that Delivery Point immediately prior to the load removal.

2. If Transmission Customer is the initiator of the termination of the Delivery Point, Transmission Customer shall be responsible for paying to Transmission Provider any LDER incurred by Transmission Provider involving the Transmission Provider facilities covered by these distribution rates. In such event, Transmission Provider's LDER shall consist of the net book value of the Transmission Provider's facilities covered by these distribution rates, plus actual cost of removal, less any actual salvage value, all as calculated using Transmission Provider's standard accounting practices.

3. Definitions

a. A retirement shall be deemed to result in an "Early Retirement" for LDER purposes if the LDER, calculated as set forth in sections 1 and 2 herein, exceeds 20% of the sum of (a) the original cost of the asset(s) (including any additions or retirements) for which the LDER is calculated (b) actual removal costs, and (c), in the case of a termination initiated by the Transmission Provider, Reintegration Costs.

b. For LDER calculation purposes, "net book value" of an asset represents the original cost of the asset (including any additions or retirements) less actual accumulated depreciation for the asset as reflected in the fixed assets system of the impacted entity.

4. Billing Provisions. After the Delivery Point is terminated, the Transmission Provider or Transmission Customer, as applicable, shall render a bill to the other party for the Transmission Provider's or Transmission Customer's LDER (excluding the actual cost of removal and actual salvage value), and, if applicable, the Transmission Customer's Reintegration Costs. After the facilities at the Delivery Point have been removed, the Transmission Provider or Transmission Customer, as applicable, shall render a bill to the other party for the Transmission Provider's or Transmission Customer's actual cost of removal and actual salvage value. Bills rendered hereunder shall be subject to the Billing and Payment provisions of Section 7 of the Tariff.

ATTACHMENT B-2

**TO THE SPECIFICATIONS FOR SERVICE UNDER THE
NETWORK INTEGRATION TRANSMISSION SERVICE AGREEMENT (NITSA)
BETWEEN
NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY
AND DUKE ENERGY PROGRESS, LLC**

ORIGINAL COST OF EXISTING DELIVERY FACILITIES AND INITIAL CUSTOMER-ASSIGNED COST RESPONSIBILITY FOR EXISTING DELIVERY FACILITIES

Cost Responsibility for Existing Power Agency Municipal Participant Distribution Delivery Facilities

(a)	(b)	(c)	(d)	(e)	(f)
Delivery Point	**OC_{EF}**	**OC_{AF}**	**$CACR_{EF}$**	**$CACR_{AF}$**	**$CACR_{TOTAL}$**
Apex	$1,531,103		$1,531,103		$1,531,103
Apex # 4		$12,389		$12,389	$12,389
Apex # 5		$28,560		$28,560	$28,560
Benson	$1,396,179		$531,665		$531,665
Clayton	$4,044,335		$1,194,730		$1,194,730
Farmville		$14,586		$14,586	$14,586
Fremont	$562,283		$226,840		$226,840
Hookerton	$889,473		$219,716		$219,716
Kinston	$52,117		$52,117		$52,117
LaGrange	$625,884		$315,970		$315,970
Laurinburg	$770,049		$536,768		$536,768
Louisburg	$1,004,227		$517,651		$517,651
Lumberton #2	$39,671		$39,671		$39,671
Lumberton #3	$22,560		$22,560		$22,560
Lumberton #4		$10,740		$10,740	$10,740
New Bern #1	$11,869		$11,869		$11,869
New Bern #2	$52,988		$52,988		$52,988
New Bern #3	$1,002,374		$130,900		$130,900
New Bern #4	$2,641		$2,641		$2,641
New Bern Lewis Farm Rd.		$12,803		$12,803	$12,803
Pikeville	$577,071		$172,103		$172,103
Red Springs	$494,457		$404,487		$404,487
Selma # 2	$671,869		$464,694		$464,694
Selma # 3		$15,664		$15,664	$15,664
Smithfield	$553,433		$553,433		$553,433
Smithfield # 2		$23,948		$23,948	$23,948
Southport	$1,086,355		$526,946		$526,946
Wake Forest		$14,289		$14,289	$14,289
Wake Forest # 3		$26,530		$26,530	$26,530
Wilson #1 - #11	$399,986		$399,986		$399,986
Investment in metering, telemetering, and related equipment (combined system load signal)	$3,821		$3,821		$3,821
Total Distribution	**$15,796,745**	**$159,509**	**$7,912,659**	**$159,509**	**$8,072,168**

Cost Responsibility for Existing Power Agency Municipal Participant
Transmission Delivery Facilities

(a)	(b)	(c)	(d)	(e)	(f)
	Transmission Voltage Delivery Facilities				
	OC_{EF}	**OC_{AF}**	**$CACR_{EF}$**	**$CACR_{AF}$**	**$CACR_{TOTAL}$**
Ayden	$79,383		$79,383		**$79,383**
Greenville #1, #2 and #3	$347,501		$347,501		**$347,501**
Rocky Mount	$240,339	$37,100	$240,339	$37,100	**$277,439**
Rocky Mount #4	$73,932		$73,932		**$73,932**
Washington	$157,956		$157,956		**$157,956**
Wilson 230 kV POD	$296,721		$296,721		**$296,721**
Total Transmission	**$1,407,886**	**$37,100**	**$1,407,886**	**$37,100**	**$1,232,932**

Network Operating Agreement

Between

Duke Energy Progress, LLC

And

North Carolina Eastern Municipal Power Agency

Duke Energy Progress, LLC, formerly known as Carolina Power & Light Company (d/b/a Progress Energy Carolinas, Inc.) (Transmission Provider), and North Carolina Eastern Municipal Power Agency (Transmission Customer) agree that the provisions of this Network Operating Agreement (NOA) and the Service Agreement govern the Transmission Provider's provision of Network Integration Service to the Transmission Customer in accordance with DEP's Open-Access Transmission Tariff (Tariff), as it may be amended from time to time. Unless specified herein, capitalized terms shall refer to terms defined in the Tariff.

The Network Operating Committee consisting of a representative and an alternate from each Network Customer and the Transmission Provider shall: (i) coordinate operating criteria and other technical considerations required for implementation of Network Integration Transmission Service; (ii) ensure that current operating practices and procedures are consistent with the Network Operating Agreement; (iii) plan, schedule, and implement operational changes to maintain consistency with the Network Operating Agreement; and (iv) recommend, schedule, and implement Network Operating Agreement changes. Each party's authorized official will inform the other party's authorized official in writing of the representative and alternate to the Network Operating Committee as soon as practical, so that the agreement can be implemented.

1.0 Control Area Requirements

The Transmission Customer shall: (i) operate as a Control Area under applicable guidelines of the North American Electric Reliability Corporation ("NERC") and the SERC Reliability Corporation ("SERC"); or (ii) satisfy its Control Area requirements, including all Ancillary Services, by contracting with the Transmission Provider; or (iii) satisfy its Control Area requirements, including all Ancillary Services, by contracting with another entity that can satisfy those requirements in a manner that is consistent with the Tariff and Good Utility Practice and satisfies NERC and SERC standards. The Transmission Customer shall plan, construct, operate and maintain its facilities and system in accordance with Good Utility Practice, which shall include, but not be limited to, all applicable guidelines of NERC and SERC, as they may be modified from time to time, and any generally accepted practices in the region that are consistently adhered to by the Transmission Provider.

2.0 Redispatch Procedures

(a) If the Transmission Provider determines that redispatching resources (including reductions in off-system purchases and sales) to relieve an existing or potential transmission constraint is the most effective way to ensure the reliable operation of the Transmission System, the Transmission Provider will redispatch the Transmission Provider's resources, and request the Transmission Customer to redispatch its resources, on a least-cost basis, without regard to the ownership of such resources. The Transmission Provider will maintain a redispatch protocol and will apprise the Transmission Customer of its redispatch practices and procedures, as they may be modified from time to time.

(b) The Transmission Customer will submit verifiable cost data for its resources, which estimate the cost to the Transmission Customer of changing the generation output of its Network Resources, to the Transmission Provider. This cost data will be used, along with similar data for the Transmission Provider's resources, as the basis for least-cost dispatch. The Transmission Provider's bulk power operations personnel will keep this data confidential, and will not disclose it to the Transmission Provider's marketing personnel. If the Transmission Customer experiences changes to its costs, the Transmission Customer will submit those changes to the Transmission Provider's Energy Control Center. The Transmission Provider will implement least-cost redispatch consistent with its existing contractual obligations and its current practices and procedures for its own resources per Sections 33.2 and 42.2 of the Tariff. The Transmission Customer shall respond within ten minutes to requests for redispatch from the Transmission Provider's Energy Control Center.

(c) The Transmission Customer may audit, at its own expense, particular redispatch events (such as the cause or necessity of the redispatch) during normal business hours following reasonable notice to the Transmission Provider. Either the Transmission Customer or the Transmission Provider may request an audit of the other Party's cost data. Any audit of cost data will be performed by an independent agent at the requesting Party's cost. Such independent agent will be a nationally recognized accounting firm and will be required to keep all cost data confidential.

(d) Once redispatch has been implemented, the Transmission Provider will book in a separate account the redispatch costs incurred by the Transmission Provider and the Transmission Customer based on the submitted cost data. The Transmission Provider and the Transmission Customer will each bear a proportional share of the total redispatch costs pursuant to Sections 33 and 42 and Attachment J of the Tariff. The redispatch charge or credit, as appropriate, will be reflected on the Transmission Customer's monthly bill.

3.0 Metering

(a) Unless otherwise agreed and except as provided in Section 3(b), the Transmission Provider will be responsible for the installation, operation, maintenance, repair and replacement of all metering equipment necessary to provide Network Integration Service or Network Contract Demand Service.

All metering equipment shall conform to Good Utility Practice and, if it is electrically located in the Transmission Provider's Control Area, the standards and practices of the Transmission Provider's Control Area. Prior to installation of any metering equipment by the Transmission Customer or its agents, the Transmission Provider and the Transmission Customer shall review the metering equipment to ensure conformance with such standards or practices.

Metering equipment necessary to provide Network Integration Transmission Service that is in place at each Delivery Point as of the date of this Agreement is included within the Delivery Facilities provided by Transmission Provider pursuant to Section 10 and Attachments B-1 and B-2 of the NITSA.

(b) Unless otherwise agreed, electric capacity and energy received by the Transmission Provider from the Transmission Customer will be measured by meters installed and maintained by the Transmission Customer at the Transmission Customer's Network Resources if such Network Resources are electrically located within the Transmission Provider's Control Area. When measurement is made at any location other than a Point of Receipt, suitable adjustment for losses between the point of measurement and the Point of Receipt will be agreed upon in writing between the Parties hereto and will be applied to all measurements so made. Metered receipts used in billing and accounting hereunder will in all cases include adjustment for such losses.

(c) Electric capacity and energy delivered to the Transmission Customer's points of delivery by the Transmission Provider will be measured by meters installed at the points of delivery. When measurement is made at any location other than a Point of Delivery, suitable adjustment for losses between the point of measurement and the Point of Delivery will be agreed upon in writing between the Parties hereto and will be applied to all measurements so made. Metered receipts used in billings and accounting hereunder will in all cases include adjustments for such losses.

(d) Meters at the Transmission Customer's Network Resources and Network Loads will be tested at least biennially. In addition, the Transmission Customer will, upon request of the Transmission Provider, test any of its meters at its Network Resources or Network Loads used for determining the receipt or delivery of capacity and energy by the Transmission Provider. Representatives of the Transmission Provider will be afforded an opportunity to witness such tests. In the event the test shows the meter to be inaccurate, the Transmission Customer will make any necessary adjustments, repairs or replacements thereon.

(e) In the event any meter used to measure capacity and energy fails to register or is found to be inaccurate, appropriate billing adjustments, based on the best information available, will be agreed upon by the Parties hereto. Any meter tested and found to be not more than two percent above or below normal will be considered to be correct and accurate insofar as correction of billing is concerned. If, as a result of any test, a meter is found to register in excess of two percent either above or below normal, then the reading of such meter previously taken will be corrected according to the percentage of inaccuracy so found, but no correction will extend beyond ninety days prior to the day on which inaccuracy is discovered by such test.

(f) The Transmission Provider will have the right to install suitable metering equipment at any Point(s) of Receipt or Delivery, as herein provided for the purpose of checking the meters installed by the Transmission Customer.

(g) The Transmission Customer will read the meters owned by it, except as may be mutually agreed, and will furnish to the Transmission Provider all meter readings and other information required for operations and for billing purposes. Such information will remain available to the Transmission Provider for 3 years.

(h) The Transmission Customer has entered into a Metering Services Agreement with the Transmission Provider for NCEMPA members participating in Virginia Electric and Power Company ("VEPCO Participants"). See Attachment A-1 for a list of the Transmission Customer's VEPCO Participant Delivery Points.

4.0 Control Area and Data Equipment

(a) Unless otherwise agreed, the Transmission Provider will be responsible for the installation, modification, operation, maintenance, repair and replacement of all data acquisition equipment, protection equipment, and any other associated equipment and software, which may be required by either Party for the Transmission Customer to operate in accordance with its choice under Section 1.0 of this NOA.

Such equipment shall conform to Good Utility Practice and, if the Transmission Customer is electrically located within the Transmission Provider's Control Area, the standards and practices of the Transmission Provider's Control Area. Prior to installation of any such equipment by Transmission Customer or its agents, the Transmission Provider and the Transmission Customer shall review the equipment and software required by this Section to ensure conformance with such standards or practices.

(b) The selection of real time telemetry and data to be received by the Transmission Provider's Energy Control Center and the Transmission Customer shall be at the reasonable discretion of the Transmission Provider's Control Area, as deemed necessary for reliability, security, economics, and/or monitoring of system operations. This telemetry includes, but is not limited to, loads, line flows, voltages, generator output, and breaker status at any of the Transmission Customer's transmission facilities. To the extent telemetry is required that is not available, the Transmission Customer shall, at its own expense, install any metering equipment data acquisition equipment, or other equipment and software necessary for the telemetry to be received by the Transmission Provider's Energy Control Center.

The Transmission Customer has load located outside the Transmission Provider's Control Area. The Transmission Customer currently provides and shall continue to provide real time telemetry and data for this load to the Transmission Provider's Energy Control Center that is necessary for the provision of Network Integration Transmission Service.

(c) Each Party shall be responsible for implementing any computer modifications or changes required to its own computer system(s) as necessary to implement this Section.

5.0 Operating Requirements

(a) The Transmission Customer shall operate its generating resources inside the Transmission Provider's Control Area in a manner consistent with that of the Transmission Provider, including following voltage schedules, free governor response, meeting power factor requirements at the point of interconnection with the Transmission Provider's system, and other such criteria required by NERC and SERC, and consistently adhered to by the Transmission Provider.

(b) When load is being served by the Transmission Customer within the DEP control area, the Transmission Customer shall maintain a power factor of 100% to 90% lagging at each point of delivery determined on the basis of the 60-minute metered or computed reactive demand (kVar) for each hour of the month and the corresponding 60-minute metered or computed kilowatt demand for that hour.

In addition, the Transmission Customer shall maintain a power factor of 100% to 95% lagging at each point of delivery, determined on the basis of the 60-minute metered or computed kilowatt demand at the time of DEP's monthly transmission system peak and the corresponding 60-minute reactive demand (kVar) for that hour.

To the extent the Transmission Customer owns or operates reactive devices which would cause reactive power to flow onto the DEP system, DEP and the Customer will develop procedures governing the Customer's delivery of reactive power to the DEP system.

In the event that the Transmission Customer does not satisfy the power factor requirements outlined above, or the Parties cannot agree on the procedures governing the customer's delivery of reactive power, or the Parties cannot agree on the efforts to be undertaken by the Transmission Customer to satisfy the power factor requirements within an agreed upon period of time, DEP reserves the right to make a unilateral filing with FERC under Section 205 of the Federal Power Act seeking authorization to either (i) assess appropriate charges to the Transmission Customer for reactive power supplied to the Transmission Customer by DEP up to the level of minimum power factor requirement, or (ii) install power factor correction equipment sufficient to bring the Transmission Customer's power factor into compliance with the power factor requirements, and to assess the Transmission Customer the reasonable cost of such equipment.

(c) Insofar as practicable, the Transmission Provider and the Transmission Customer shall protect, operate, and maintain their respective systems so as to avoid or minimize the likelihood of disturbances which might cause impairment of service on the system(s) of the other. The Parties shall implement load shedding programs to maintain the reliability and integrity of the Transmission System, consistent with the standards of NERC and SERC, as provided in Sections 33.6 and 42.6 of the Tariff. Load shedding shall include: (1) automatic load shedding by under frequency relay or (2) manual load shedding. The Transmission Provider will implement load shedding to maintain the relative sizes of load served, unless otherwise required by circumstances beyond the control of the Transmission Provider or the Transmission Customer. Automatic load shedding devices will operate without notice. When manual load shedding is necessary, the Transmission Provider shall notify the Transmission Customer's dispatchers or

schedulers of the required action and the Transmission Customer shall comply within ten minutes.

(d) The Transmission Customer shall, at its own expense, provide, operate, and maintain in service high-speed, digital under frequency load shedding equipment. For load served in or from the DEP Zone, the Transmission Customer will install under frequency relays to disconnect automatically its Network Load in a manner consistent with that followed by the Transmission Provider.

The installation of under frequency relays to accomplish any load shedding in addition to that already installed shall be completed on a schedule agreed to by the Network Operating Committee. The Network Operating Committee may review the amount of load that would be disconnected automatically, and make such adjustments and changes as necessary.

(e) In the event the Transmission Provider modifies the load shedding system, the Transmission Customer shall, at its expense, make changes to its equipment and the settings of such equipment, as required. The Transmission Customer shall test and inspect the load shedding equipment within ninety (90) days of taking Network Integration Transmission Service or Network Contract Demand Transmission Service under the Tariff and thereafter in accordance with Good Utility Practice, and provide a written report to the Transmission Provider. The Transmission Provider may request a test of the load shedding equipment with reasonable notice.

(f) The Transmission Customer shall ensure that all Network Resources meet the Transmission Provider's requirements for parallel operation of non-utility generation.

The Transmission Customer shall not permit any generating unit greater than 5 MW to be operated in parallel either continuously or momentarily with the Transmission Provider's system without the written approval of the Transmission Provider's Network Operating Committee representative.

For the Transmission Customer owned generation greater than 5 MW operated in parallel with the Transmission Provider's system without prior written approval, the Transmission Provider may take any and all appropriate action necessary to prevent the parallel operation of such generation. These actions may include, but are not limited to, ensuring reliability and safety of the Transmission Provider's system by whatever means necessary.

(g) Parallel Operation or Transfers of Load Between Points of Connection

(1) Planning

The Transmission Customer shall not permit any Point of Delivery to be operated in parallel with another Point of Delivery, or transfer load between Points of Delivery, unless the Transmission Provider has first approved the arrangement. The Transmission Provider shall grant such approval unless the reliability of its system and its ability to measure energy at any Point of Delivery would be adversely affected by such operation in parallel or load transfer. Any and all switching shall be done with the prior consent of the Transmission Provider Energy Control Center System Operator.

(2) Operations

The Transmission Customer will be permitted to parallel Points of Delivery or to transfer loads for purposes of emergencies, maintenance, construction, or restoration of service with the prior consent of the Transmission Provider Energy Control Center System Operator.

6.0 Operational Information

The Transmission Customer shall provide data needed for the safe and reliable operation of the Transmission Customer's and the Transmission Provider's Control Area and to implement the provisions of the Tariff. The Transmission Provider will treat this information as confidential and will not divulge it to its marketing personnel.

(a) The Transmission Customer served from the DEP Zone shall provide by September 1st of each year the Customer's Network Resource availability forecast (e.g., all planned resource outages, including off-line and on-line dates) for the following year. Such forecast shall be made in accordance with Good Utility Practice. The Transmission Customer shall inform the Transmission Provider, in a timely manner, of any changes to the Transmission Customer's Network Resource availability forecast. In the event that the Transmission Provider determines that such forecast cannot be accommodated due to a transmission constraint on its Transmission System, and such constraint may jeopardize the security of its Transmission System or adversely affect the economic operation of either the Transmission Provider or the Transmission Customer, the provisions of Sections 33.2 and 42.2 of the Tariff will be implemented.

(b) The Transmission Customer served from the DEP Zone shall provide at least 14 calendar days advance notice of the Transmission Customer's best forecast of any planned transmission or Network Resource outage(s) and other operating information that the Transmission Provider deems appropriate. In the event that such planned outages cannot be accommodated due to a transmission constraint on the Transmission Provider's Transmission System, the provisions of Sections 33.2 and 42.2 of the Tariff will be implemented.

(c) The Transmission Provider and the Transmission Customer shall notify and coordinate with as much advance notice as reasonably possible with the other Party prior to the beginning of any work by the other Party (or contractors or agents performing on their behalf), which may directly or indirectly have adverse effects on the reliability and security of the other Party's system.

(d) The Transmission Customer is responsible for replacing Real Power Losses associated with all transmission service in accordance with Sections 28.5 and 36.11 of the Tariff. The Transmission Customer must identify the party responsible for supplying Real Power Losses before the transaction takes place.

7.0 Network Planning

In order for the Transmission Provider to plan, on an ongoing basis, to meet the Transmission Customer's requirements for Network Integration Service, the Transmission Customer served from the DEP Zone shall provide, by January 1st of each year, updated

information (current year and 15-year projections) for Network Loads and Network Resources, as well as any other information reasonably necessary to plan for Network Integration Service. This type of information is consistent with the Transmission Provider's information requirements for planning to serve its Native Load Customers. The data will be provided in a format consistent with that used by the Transmission Provider.

8.0 Character of Service

Power and energy delivered under the Service Agreement and this NOA shall be delivered as three-phase alternating current at a nominal frequency of sixty (60) Hertz, and at the nominal voltages at the delivery and receipt points.

9.0 Transfer of Power and Energy Through Other Systems

Since the Transmission Provider's Transmission System is, and will be, directly and indirectly connected with other electric systems, it is recognized that, because of the physical and electrical characteristics of the facilities involved, power delivered under the Service Agreement and this NOA may flow through such other systems. The Parties agree to advise other electric systems as deemed appropriate of such scheduled transfers and to attempt to maintain good relationships with affected third parties. If the Transmission Provider is charged by another electrical system for loop flow charges, then the Transmission Provider may seek recovery of these charges from the Transmission Customer based on his cost responsibility pursuant to § 205 of the Federal Power Act.

10.0 Notice

If any Notice or request made to or by either Party regarding this NOA shall be made to the representative of the other Party as indicated in the Network Service Agreement.

11.0 Incorporation

The Tariff and the Service Agreement, as may be amended from time to time, are incorporated herein and made a part hereof.

12.0 Term

The term of this NOA shall be concurrent with the term of the Service Agreement between the Parties.

IN WITNESS WHEREOF, the Parties have caused this NOA to be executed by their respective authorized officials.

Transmission Provider:

By: _____ _____

Name: J. Samuel Holeman, III Date

Title: Vice President, Transmission System Planning & Operations
Duke Energy Progress, LLC

Transmission Customer:

By: Matthew Schull 10/31/19

Name: Matthew E. Schull Date

Title: Chief Operating Officer, NCEMPA
ElectriCities of North Carolina, Inc.

IN WITNESS WHEREOF, the Parties have caused this NOA to be executed by their respective authorized officials.

Transmission Provider:

By: _____ 10/29/2019

Name: J. Samuel Holeman, III Date

Title: Vice President, Transmission System Planning & Operations
Duke Energy Progress, LLC

Transmission Customer:

By: _____ _____

Name: Matthew E. Schull Date

Title: Chief Operating Officer, NCEMPA
ElectriCities of North Carolina, Inc.

CHARTER

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Conclusion

Purpose and interpretation of Charter

Current Charter of the Town of Clayton on American Legal Publishing

ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES

Sec. 1.1 INCORPORATION.

The Town of Clayton, North Carolina, in Johnston County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the "Town of Clayton", hereinafter at times referred to as the "Town".

(Ratified by Gen. Ass., 6-27-88)

Sec. 1.2 POWERS.

The Town shall have and may exercise all of the powers, duties, rights, privileges and immunities conferred upon the Town of Clayton specifically by this Charter or upon municipal corporations by general law. The term "general law" is employed herein as defined in G.S. 160A-1.

(Ratified by Gen. Ass., 6-27-88)

Sec. 1.3 CORPORATE LIMITS.

The corporate limits are those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town showing the current boundaries shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Johnston County Register of Deeds and the appropriate board of elections.

(Ratified by Gen. Ass., 6-27-88)

ARTICLE II. GOVERNING BODY

Sec. 2.I MAYOR AND COUNCIL.

The Mayor and Town Council, hereinafter referred to as the "Council", shall be the governing body of the Town.

(Ratified by Gen. Ass., 6-27-88)

Sec. 2.2 COUNCIL; COMPOSITION; TERMS OF OFFICE.

The Council shall be composed of five members elected by all the qualified voters of the Town for staggered terms of four years.

(Ratified by Gen. Ass., 6-27-88)

Sec. 2.3 MAYOR; TERM OF OFFICE; DUTIES.

The Mayor is elected by all the qualified voters of the Town; is the official head of the Town government and presides at meetings of the Council; shall have the right to vote only when there is an equal division on any question or matter before Council; and shall exercise the powers and duties conferred by law or as directed by the Council. For the election year 2001 the term of office shall be two years. Beginning with election year 2003 and for each election cycle thereafter the term shall be four years.

(Ratified by Gen. Ass., 6-27-88; Am. Ord. passed 10-16-00)

Sec. 2.4 MAYOR PRO TEMPORE.

The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the other members of the Council.

(Ratified by Gen. Ass., 6-27-88)

Sec. 2.5 MEETINGS.

In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. (Ratified by Gen. Ass., 6-27-88)

Sec. 2.6 VOTING REQUIREMENTS; QUORUM.

Official actions of the Council and all votes shall be taken in accordance with applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

(Ratified by Gen. Ass., 6-27-88)

Sec. 2.7 COMPENSATION; QUALIFICATIONS FOR OFFICE; VACANCIES.

The compensation and qualifications of the Mayor and Councilmembers shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by appointment as provided in G.S. 160A-63.

(Ratified by Gen. Ass., 6-27-88)

ARTICLE III. ELECTIONS

Sec. 3.I REGULAR MUNICIPAL ELECTIONS.

Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections are conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

(Ratified by Gen. Ass., 6-27-88)

Sec. 3.2 ELECTION OF COUNCILMEMBERS.

The Councilmembers serving on the date of ratification of this Charter shall serve until the expiration of their term or until their successors are elected and qualified.

In the regular municipal election in 1989, and every four years thereafter, there shall be elected three Councilmembers to serve as provided in Article II of this Charter. In the regular municipal election in 1991, and every four years thereafter, there shall be elected two Councilmembers to serve as provided in Article II. (Ratified by Gen. Ass., 6-27-88)

Sec. 3.3 ELECTION OF MAYOR.

A Mayor shall be elected in 2001 to a two-year term and shall be elected every four years thereafter.

(Ratified by Gen. Ass., 6-27-88; Am. Ord. passed 10-16-00)

Sec. 3.4 SPECIAL ELECTIONS AND REFERENDUMS.

Special elections and referendums may be held only as provided by general law or applicable local acts of the General Assembly.

(Ratified by Gen. Ass., 6-27-88)

ARTICLE IV. ORGANIZATION AND ADMINISTRATION

Sec. 4.I FORM OF GOVERNMENT.

The Town shall operate under the Council- Manager form of government, in accordance with G.S. Chapter 160A, Article 7, Part 2.

(Ratified by Gen. Ass., 6-27-88)

Sec. 4.2 TOWN MANAGER.

The Council shall appoint a Town Manager who is responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter.

(Ratified by Gen. Ass., 6-27-88)

Sec. 4.3 TOWN CLERK.

The Council shall appoint a Town Clerk to keep a journal of the proceedings of the Council; to maintain official records and documents; to give notice of meetings; and to perform such other duties required by law or as the Council may direct.

(Ratified by Gen. Ass., 6-27-88)

Sec. 4.4 TAX COLLECTOR.

The Council shall appoint a Tax Collector, who may be the Johnston County Tax Collector, to collect all taxes owed to the Town, subject to general law, this Charter and Town ordinances.

(Ratified by Gen. Ass., 6-27-88)

Sec. 4.5 TOWN FINANCE OFFICER.

The Town Manager shall appoint a Finance Officer to perform the duties required by law or as the Council may direct, or the Council may at its election confer the duties of Finance Officer on the Town Manager as Budget Officer. The Finance Officer may be entitled "Accountant," "Treasurer," "Finance Director," "Finance Officer" or any other reasonably descriptive title.

(Ratified by Gen. Ass., 6-27-88)

Sec. 4.6 TOWN ATTORNEY.

The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials and perform other duties required by law or as the Council may direct.

(Ratified by Gen. Ass., 6-27-88)

Sec. 4.7 OTHER ADMINISTRATIVE OFFICERS AND EMPLOYEES.

The Council may authorize additional offices and positions, to be filled by appointment of the Town Manager. The Council may organize the Town government as deemed appropriate, including combining any of the offices provided for in this Article, subject to the requirements of general law.

(Ratified by Gen. Ass., 6-27-88)

ARTICLE V. SPECIAL ASSESSMENT PROVISIONS

Sec. 5.I ASSESSMENT FOR STREET IMPROVEMENTS; PETITION UNNECESSARY.

(a) In addition to any authority granted by general law, the Council is hereby authorized to order street improvements and to assess the costs thereof against abutting property in accordance with the provisions of this Article.

(b) The Council may order street improvements and assess the total costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of G.S. Chapter 160A without the necessity of a petition, upon the following findings of fact:

(1) That the street improvement project does not exceed 1,200 linear feet; and

(2) That such street or part thereof is unsafe for vehicular traffic or creates a safety or health hazard and it is in the public interest to make such improvements; or

(3) That it is in the public interest to connect two streets or portions of a street already improved; or

(4) That it is in the public interest to widen a street, or part thereof, which is already improved; provided that assessments for widening any street or portion of a street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the Town's thoroughfare or major street plan, as applied to the particular street or part thereof.

(c) For the purposes of this Article, the term "street improvement" includes grading, regrading, surfacing, resurfacing, widening, paving, repaving, acquisition of rights-of-way and construction or reconstruction of curbs, gutters and street drainage facilities.

(Ratified by Gen. Ass., 6-27-88)

Sec. 5.2 ASSESSMENTS FOR SIDEWALK IMPROVEMENT; PETITION UNNECESSARY.

In addition to any authority granted by general law, the Council is hereby authorized, without the necessity of petition, to order sidewalk improvements or repairs according to standards and specifications of the Town, and to assess the total costs thereof against abutting property, according to one or more of the assessment bases set forth in Article 10 of G.S. Chapter 160A; provided that regardless of the assessment basis or bases employed, the Council may order the costs of sidewalk improvements made only on one side of a street to be assessed against property abutting both sides of such street.

(Ratified by Gen. Ass., 6-27-88)

Sec. 5.3 PROCEDURE; EFFECT OF ASSESSMENTS.

In ordering street and sidewalk improvements without a petition and assessing the costs thereof under authority of this Article, the Council shall comply with the procedures required by Article 10 of G.S. Chapter 160A, except those provisions relating to petitions of property owners and sufficiency thereof. The effect of the act of levying assessments under authority of this Article shall be the same as if assessments were levied under authority of Article 10 of G.S. Chapter 160A.

(Ratified by Gen. Ass., 6-27-88)

CONCLUSION

PURPOSE AND INTERPRETATION OF CHARTER.

(a) The purpose of this act is to revise the Charter of the Town of Clayton and to consolidate certain acts concerning the property, affairs and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

(b) This act does not repeal or affect any acts concerning the property, affairs or government of public schools, or acts validating official actions, proceedings, contracts or obligations of any kind.

(c) All local acts in conflict with this act are repealed. The following acts having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 262, Private Laws of 1899

Chapter 159, Private Laws of 1911

Chapter 19, Private Laws Extra Session of

Chapter 37, Private Laws of 1915

Chapter 69, Private Laws of 1919

Chapter 378, Public-local Laws of 1937

Chapter 391, Public-local Laws of 1941

Chapter 872, Session Laws of 1949

Chapter 873, Session Laws of 1949

Chapter 653, Session Laws of 1951

Chapter 676, Session Laws of 1955

Chapter 428, Session Laws of 1955

Chapter 397, Session Laws of 1955

Chapter 376, Session Laws of 1963

Chapter 257, Session Laws of 1969, as to Clayton only

Chapter 516, Session Laws of 1973.

(d) The Mayor and Councilmembers serving on the date of ratification of this act shall serve until the expiration of their term. Thereafter, those offices shall be filled as provided in Articles II and III of this Charter.

(e) This act does not affect any rights or interests which arose under any provisions repealed by this act.

(f) All existing ordinances, resolutions and other provisions of the Town of Clayton not incon- sistent with the provisions of this act shall continue in effect until repealed or amended.

(g) No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

(h) If any provision or application of this act is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

(i) Whenever a reference is made in this act to the particular provision of the General Statutes, and such provision is later amended, superseded or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

(Ratified by Gen. Ass., 6-27-88)

NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

BOARD OF DIRECTORS

RESOLUTION BDR-10-23

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF THE AMENDED AND RESTATED FULL REQUIREMENTS POWER SALES AGREEMENT AND RELATING TO OTHER MATTERS IN CONNECTION WITH THE FOREGOING

WHEREAS, by motion properly made and approved at its meeting on May 25, 2023, the Board of Directors of North Carolina Eastern Municipal Power Agency ("Power Agency") approved and authorized the execution of the Tenth Amended and Restated Full Requirements Power Purchase Agreement (the "FRPPA") between Power Agency and Duke Energy Progress, LLC ("DEP"), contingent, however, upon a recommendation by the Rate Committee and approval by the Board of Commissioners of Power Agency; and

WHEREAS, by motion properly made and approved at its meeting on June 7, 2023, the Rate Committee recommended that staff execute the FRPPA in the name and on behalf of the Power Agency; and

WHEREAS, by motion properly made and approved at its meeting on June 8, 2023, the Board of Commissioners of Power Agency approved and authorized staff to execute the FRPPA in the name and on behalf of the Power Agency; and

WHEREAS, Power Agency and DEP executed the FRPPA as of June 27, 2023, with an effective date of January 1, 2023; and

WHEREAS, Power Agency and each of its Members has executed a Full Requirements Power Sales Agreement, dated as of April 24, 2015 (the "FRPSA"), pursuant to which Power Agency sells and each Member purchases its Full Requirements Bulk Power Supply requirements (as that term is defined in the FRPSA); and

WHEREAS, the FRPPA has amended the definition of certain of the defined terms set forth therein, many of which terms are also defined and/or used in the FRPSA; and

WHEREAS, as a result of the foregoing, it is necessary and desirable to amend certain definitions in the FRPSA so that their meanings and use conform to the meanings and use set forth in the FRPPA, as well as to make certain other necessary and desirable amendments thereto.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF POWER AGENCY:

1. It is hereby found and determined that it is in the best interests of Power Agency to ratify the approval and execution of the FRPPA between the Power Agency and DEP. The Board

therefore ratifies the approval and execution of the FRPPA by the Chief Executive Officer in the name and on behalf of Power Agency and thereupon directs the Assistant Secretary to cause such executed FRPPA to be delivered to Power Agency's Members.

2. It is hereby found and determined that it is in the best interests of Power Agency to enter into the Amended and Restated Full Requirements Power Sales Agreement (the "Amended and Restated FRPSA"), substantially in the form presented to this meeting and designated as "Draft, September 15, 2023" (the "Draft"). The Board therefore authorizes and directs the Chief Executive Officer and an Assistant Secretary to execute for and on behalf of Power Agency the Amended and Restated FRPSA substantially in the form and substance of the Draft, with such additions, changes, deletions, or modifications thereto as, after consultation with counsel and upon approval of the Chairman and Chief Executive Officer, may be necessary, advisable or convenient, in the name and on behalf of Power Agency and thereupon to cause such executed Amended and Restated FRPSA to be delivered to Power Agency's Members with the recommendation of this Board of Directors that it be approved and executed by the Members.

3. The execution of the Amended and Restated FRPSA by the Chief Executive Officer and an Assistant Secretary shall constitute conclusive evidence of such consultation with counsel and final approval by both the Chairman and Chief Executive Officer of any and all changes or revisions therein from the Draft.

4. This Board hereby authorizes and directs its proper officers, counsel, employees and agents to execute such other documents and take such action as upon the advice of counsel shall be necessary, advisable or convenient to (i) obtain the unanimous consent of Power Agency's Members to, and approval of (a) the Amended and Restated FRPSA, and (b) such other documents or agreements as may be necessary to effect or implement (a), and (ii) carry out the other transactions contemplated by this Resolution.

5. In connection with the directive set forth in Section 4(i) of this Resolution, this Board hereby directs the Chief Executive Officer to cause to be furnished to each member of Power Agency a copy of each of the following: (i) this Resolution, (ii) the FRPPA, and (iii) execution and work copies of the Amended and Restated FRPSA.

6. This Board hereby directs its Secretary to file with the minutes of this meeting each of the documents referenced in paragraph 5 hereof as presented and available at this meeting.

7. This Resolution shall take effect upon its adoption.

ADOPTED this 22nd day of September, 2023.

Randy E. McCaslin
Chairman

ATTEST:

Constantine (Costi) Kutteh
Constantine (Costi) Kutteh (Sep 25, 2023 10:48 EDT)
Secretary

ANNEXATION PETITION 2023-92-ANX
2311 NC Hwy 42
DESCRIPTION/ADDRESS: 164800-63-5397
Contiguous; 0.804 acres

CERTIFICATE OF SUFFICIENCY

To the Town Council of the Town of Clayton, North Carolina:

I, Heidi L. Holland, Town Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31.(c).

In witness whereof, I have hereunto set my hand and affixed the seal of the Town of Clayton, this the 4th day of October 2023.

TOWN OF CLAYTON
INCORPORATED
APRIL 1869
CLAYTON, N.C.

Heidi L. Holland

Heidi L. Holland CMC, NCCMC
Town Clerk

ANNEXATION PETITION 2023-93-ANX
2364 NC Hwy 42
DESCRIPTION/ADDRESS: 164800-63-6554
Contiguous; 1.340 acres

CERTIFICATE OF SUFFICIENCY

To the Town Council of the Town of Clayton, North Carolina:

I, Heidi L. Holland, Town Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31.(c).

In witness whereof, I have hereunto set my hand and affixed the seal of the Town of Clayton, this the 4th day of October 2023.

TOWN OF CLAYTON
INCORPORATED
APRIL 1869
CLAYTON, N.C.

Heidi L. Holland

Heidi L. Holland CMC, NCCMC
Town Clerk

ANNEXATION PETITION 2023-96-ANX
ETM Jr. Property, LLC
DESCRIPTION/ADDRESS: 167700-35-1710 & 167700-36-1001
Non-Contiguous; 7.02 & 2.79 acres, respectively

CERTIFICATE OF SUFFICIENCY

To the Town Council of the Town of Clayton, North Carolina:

I, Heidi L. Holland, Town Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31.(c).

In witness whereof, I have hereunto set my hand and affixed the seal of the Town of Clayton, this the 4th day of October 2023.

TOWN OF CLAYTON
INCORPORATED
APRIL 1869
CLAYTON, N.C.

Heidi L. Holland

Heidi L. Holland CMC, NCCMC
Town Clerk

Regular Town Council Meeting
Agenda Cover Sheet

Meeting Date	Agenda Location
October 16, 2023	CONSENT AGENDA

Item Title

Resolution 2023-78 to Accept Public Utilities into The Town of Clayton Public Utility System for Maintenance – Spinning Mill Apartments

Presenter(s)

Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director

Suggested Action

Place on Consent Agenda

Strategic Priorities Alignment

☐ Think Clayton (Administrative)	☐ Think Arts & Culture	☐ Think Downtown	☐ Think Economic Development	☐ Think Land Use & Housing	☐ Think Mobility	☐ Think Parks, Recreation & Natural Resources	☒ Think Public Services & Infrastructure

Public Hearing: No

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

- ☐ Public Hearing (Required by GS)
- ☐ Newspaper Notice (Required by GS)
- ☐ Public Forum/Input Session
- ☐ E-News Distribution
- ☐ Social Media
- ☐ Public Hearing (Not Required by GS)
- ☐ Newspaper Notice (Not Required by GS)
- ☐ Press Release
- ☐ Website
- ☐ Survey

☐ Special Mailing ☐ None Required

Summary

Public Utilities (water and sewer), their easements, and applicable apparatuses are required to be designed and built according to the Town of Clayton Manual of Standards, Specifications, and Design. The subject public utilities have been verified through testing and inspections to be installed per the Town's Manual of Standards, Specifications, and Design and have been certified and approved by the appropriate regulatory agencies. Engineering staff recommends acceptance of the subject public utility infrastructure and pump station and entering the one-year warranty period.

Funding Source

N/A

Corresponding Documentation

Spinning Mill Apartment Partial UtilityAcceptanceResolution Final

---

Submitted By: Michael Worner, Engineering

Reviewed By:

Jonathan Jacobs, Assistant Engineering Director	Approved - Oct 11 2023
Heidi Holland, Town Clerk	Approved - Oct 11 2023

RESOLUTION TO ACCEPT PUBLIC UTILITIES INTO THE TOWN OF CLAYTON PUBLIC UTILITY SYSTEM FOR MAINTENANCE – SPINNING MILL APARTMENTS

WHEREAS, public utilities (water and sewer), their easements, and applicable apparatuses are required to be designed and built according to the Town of Clayton Manual of Standards, Specifications and Design; and

WHEREAS, Town of Clayton Engineering staff has inspected the public utility segments listed below, and recommends acceptance by Town Council for maintenance by the Town; and

WHEREAS, the public utility segments listed below have been certified and approved by the appropriate regulatory agencies; and

WHEREAS, the public utility segments listed below will be placed under a warranty period for one-year to monitor for construction deficiencies; and

WHEREAS, prior to expiration of the one-year warranty period, Town of Clayton Engineering staff will perform a final inspection and notify the developer to correct all deficient items (if any); and

WHEREAS, upon correction of all deficient items (if any), the Town of Clayton Engineering staff will issue a final acceptance notice to the developer; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Clayton, North Carolina accept this list of public utilities and their apparatuses into the Town of Clayton Public Utility System.

SUBDIVISION	LOCATION DESCRIPTION	UTILITY TYPE AND SIZE	LENGTH
Spinning Mill Apartment	226 Spinning Ave. to Mill St	8” Waterline	360.00 LF
Spinning Mill Apartment	Mill St.	8” Waterline	429.00 LF
Spinning Mill Apartment	Creekside Dr.	8” Waterline	390.00 LF
Spinning Mill Apartment	Ridge Circle	8” Waterline	227.00 LF
Spinning Mill Apartment	Spinning Ave.	8” Sewer line	977.36 LF
Spinning Mill Apartment	Sewer Easement	8” Sewer Line	253.29 LF
		Total:	2636.65LF

Duly adopted this on the 16th day of October 2023.

ATTEST:

_____ _____

Heidi L. Holland, CMC, NCCMC
Town Clerk

Jody L. McLeod
Mayor

Lead and Copper Rule Revision

Service Line Inventory Identification

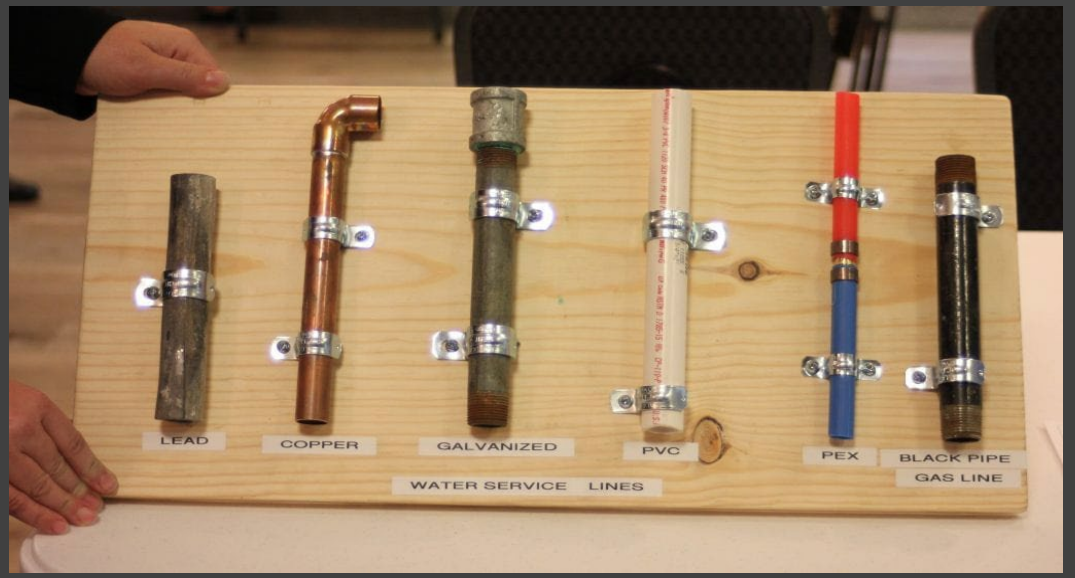
LCRR

September 2023 – October 2024



What is the Lead and Copper Rule Revision

Lead and or Galvanized Requiring Replacement







Federal Lead and Copper Rule Revisions (LCRR) Timeline



Now
- Materials Inventory
- Public Education and Outreach
- LSLR Program Plan

October 2024
- Notify UNKs and LSLs

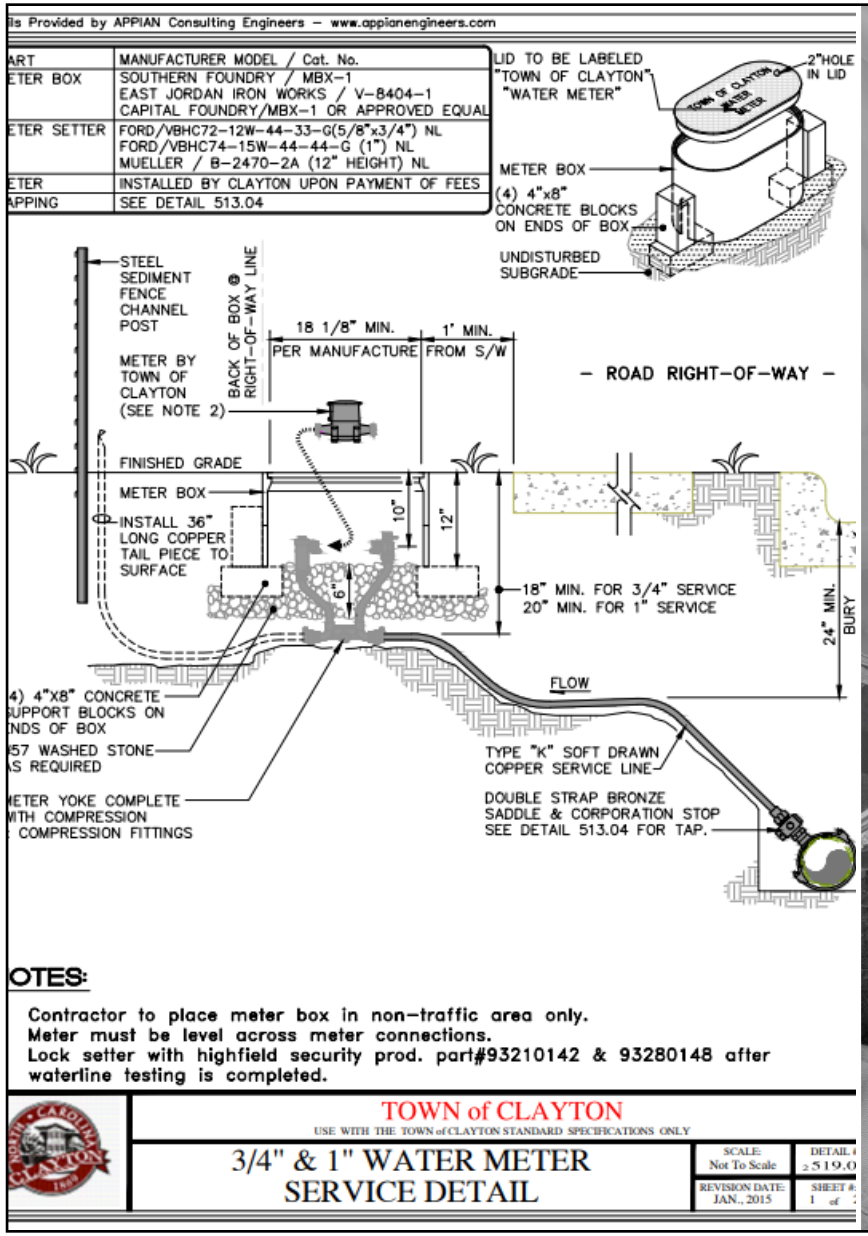
January 2025
- Compliance Sampling
- School Sampling

July 2025
- LSL Replacements

- Locates will be called in and managed by Project Manager
- Each address will have its own locate ticket
- Each address will be white lined







Repair Work

While on site if the meter box is not to current standards or needs repair, we will have a practice in place to repair or replace box and or necessary parts.

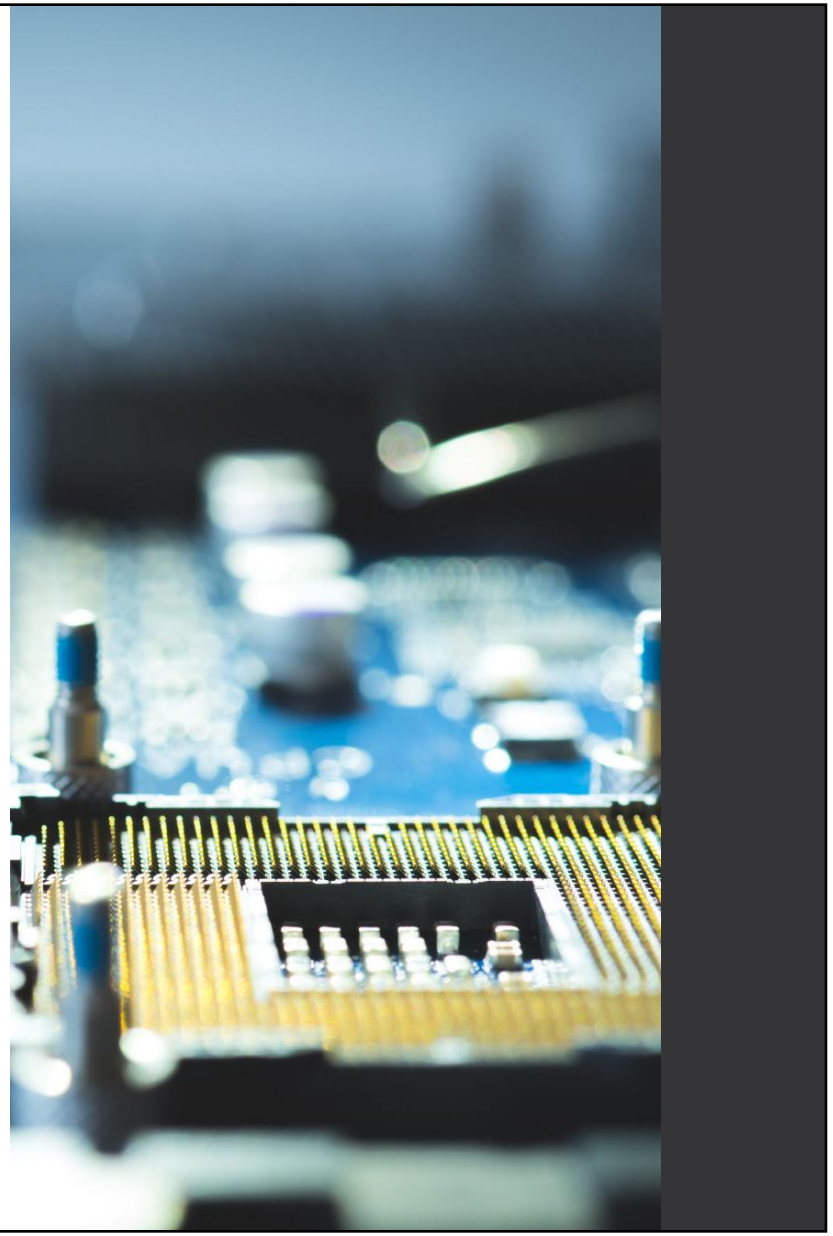
On call Plumber

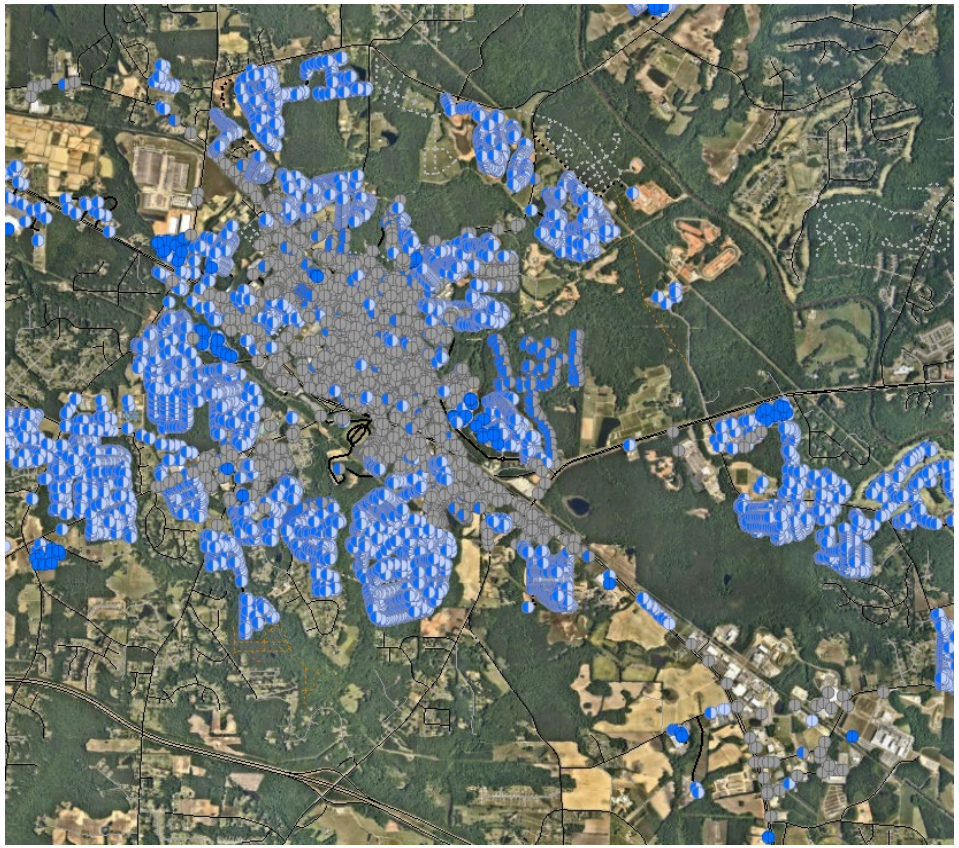
- We are working with Engineering to set up an RFP for plumbing contractors.
- If a customer side service is damaged in this process, we hope to have a licensed plumber make the repair and reconnect.
- Damage to the Town side will be repaired by WR staff.



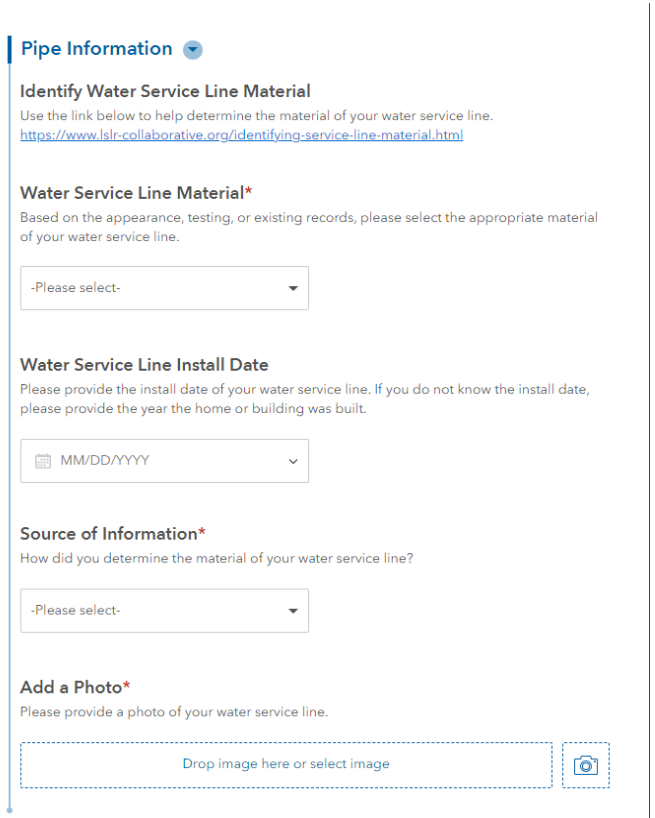
Cityworks

- A Project will be created in Cityworks.
- All Workorders will be created in the Project with the asset type Service Line Points.
  - Each point has data that will BE REQUIRED to be entered for Town side and Customer Side.
- All repairs will be a child Workorder from the Service Line Points Workorder.



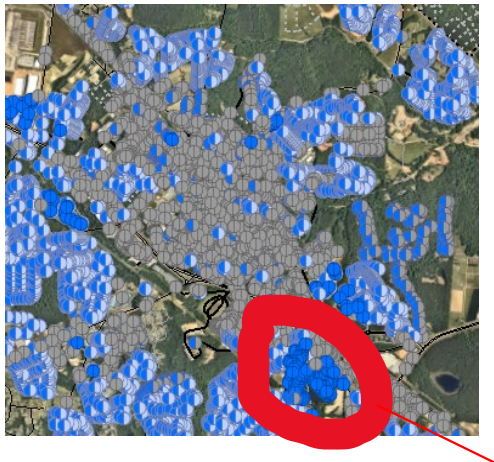


Cityworks



- Grey points are unknowns that we must locate and identify. 1800ish
- We do have a customer self survey that we are sending to hopefully help shrink this number.

Start date
9/21/13



As of 10/9/23



- Kickoff 9/11/23
- First Locate 9/12/23
- First Excavation 9/21/23
- Number of Locates 190
- Number of Excavations Complete 105
- Average 10.5 per day

LCRR Site on Town Website

- https://www.townofclaytonnc.org/838/EPAs-Lead-and-Copper-Rule





- Backflow - Cross Connection
- Fats, Oils & Grease
- Irrigation
- Sewer Maintenance
- Drinking Water
- Water Quality and Wastewater Reports
- Lead and Copper Rule

Home › Departments › Water Resources › Lead and Copper Rule

Lead and Copper Rule



A Brief Overview

The EPA's Lead and Copper Rule is a federal regulation designed to eliminate lead service lines. While lead and copper are naturally occurring elements and can find their way into water sources, they can be harmful if consumed in excess.

The primary goal of the Lead and Copper Rule is to ensure that drinking water in communities across the United States remains safe and free from contaminants. The rule stipulates that water utilities must work to eliminate lead water lines in their distribution systems.

Goals

Build Leadership Experience for the Project Manager and Team

Identify all Unknowns by October 2024

Replace all galvanized or lead service lines found

Bring meter boxes to current standard or replace any issues

Better update our GIS data layer for meter and service line info.

To reach our goals we will need to positively identify at minimum 12 locations a day.

Questions?



Regular Town Council Meeting
Agenda Cover Sheet

Meeting Date	Agenda Location
October 16, 2023	ADMINISTRATIVE ITEMS

Item Title

Youth Athletics

Presenter(s)

Matt Lorion, Acting Parks and Rec. Director

Suggested Action

Information Only

Strategic Priorities Alignment

☐ Think Clayton (Administrative)	☐ Think Arts & Culture	☐ Think Downtown	☐ Think Economic Development	☐ Think Land Use & Housing	☐ Think Mobility	☐ Think Parks, Recreation & Natural Resources	☐ Think Public Services & Infrastructure

Public Hearing: No

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

- ☐ Public Hearing (Required by GS)
- ☐ Newspaper Notice (Required by GS)
- ☐ Public Forum/Input Session
- ☐ E-News Distribution
- ☐ Social Media
- ☐ Special Mailing
- ☐ Public Hearing (Not Required by GS)
- ☐ Newspaper Notice (Not Required by GS)
- ☐ Press Release
- ☐ Website
- ☐ Survey
- ☐ None Required

Summary

The youth athletics staff will give updates on county-wide initiatives which include the following:
1. Streamlining rules
2. Code of Conduct
3. Registration dates

Funding Source

N/A

Submitted By: Heidi Holland, Parks + Recreation

Reviewed By:
Heidi Holland, Town Clerk Approved - Oct 06 2023

TOWN OF CLAYTON
NATIONAL ARTS AND HUMANITIES MONTH
PROCLAMATION

WHEREAS, the month of October has been recognized as National Arts and Humanities Month by thousands of arts and cultural organizations, communities, and states across the country; and

WHEREAS, the cultural arts, such as music, art, drama, and dance, are tools that help develop the mind and body, refine feelings, and thoughts and reflect and represent our customs and values as a society; and

WHEREAS, the cultural arts embody much of the accumulated wisdom, intellect, and imagination of humankind; and

WHEREAS, the cultural arts play a unique role in the lives of our families, our communities, and our country; and

WHEREAS, the cultural arts are integral components of human civilization, shaping societies and individuals in profound ways. From creative expression to cultural identity, these aspects play crucial roles in fostering diversity, preserving heritage, and promoting social reflection; and

WHEREAS, National Arts & Humanities Month is an opportunity for everyone to help change public perception and promote the crucial role of cultural arts in promoting connecting cultures, highlighting inequities, and making our communities healthier and stronger; and

NOW, THEREFORE, on behalf of the Clayton Town Council, I, Mayor McLeod, hereby proclaim the month of October as National Arts and Humanities Month and call upon our citizens to celebrate, promote, and participate in the cultural arts in our Town.

Proclaimed this the 16th day of October 2023.

_____

Jody L. McLeod
Mayor

Regular Town Council Meeting
Agenda Cover Sheet

Meeting Date	Agenda Location
October 16, 2023	PUBLIC HEARINGS

Item Title

2023-92-ANX 2311 HWY 42 Non-Contiguous Annexation

Presenter(s)

Steven Mott, Planner II

Suggested Action

Adoption of Ordinance

Strategic Priorities Alignment

☐ Think Clayton (Administrative)	☐ Think Arts & Culture	☐ Think Downtown	☐ Think Economic Development	☒ Think Land Use & Housing	☐ Think Mobility	☐ Think Parks, Recreation & Natural Resources	☐ Think Public Services & Infrastructure

Public Hearing: No

If Approved, Will Document Require Recordation? Yes

Does This Item Require a Communication Plan?

- ☒ Public Hearing (Required by GS)
- ☒ Newspaper Notice (Required by GS)
- ☐ Public Forum/Input Session
- ☐ E-News Distribution
- ☐ Social Media
- ☐ Special Mailing
- ☐ Public Hearing (Not Required by GS)
- ☐ Newspaper Notice (Not Required by GS)
- ☐ Press Release
- ☐ Website
- ☐ Survey
- ☐ None Required

Other/Special Instructions: Public Notice Signs Posted.

Summary

Applicant is petitioning the Town for annexation of non-contiguous real land, a 0.804 acre parcel inside of the Town of Clayton ETJ, into the Town limits.

Recommendation

Recommend Approval

Funding Source

N/A

Corresponding Documentation

1 2023-92-ANX Staff Report 2311 NC HWY 42

2 Petition 2023-92-ANX 2311 NC Hwy 42 Annexation

3 Legal Description 2023-93-ANX 2311 NC Hwy 42 Annexation

4 Plat 2023-92-ANX 2311 NC Hwy 42

5 Ordinance 2023-92-ANX NC HWY 42 W 2311 Non-Contiguous

Submitted By: Steven Mott, Planning

Reviewed By:

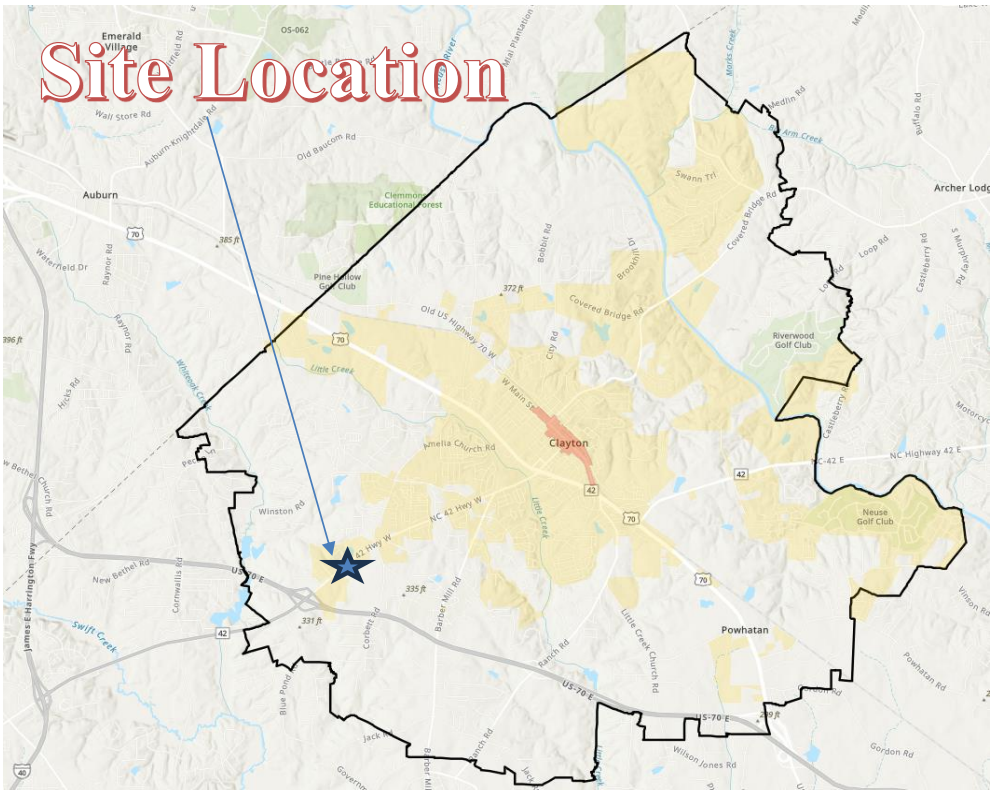
Jonathan Jacobs, Assistant Engineering Director	Approved - Sep 27 2023
Rich Cappola, Town Manager	Approved - Sep 27 2023
Heidi Holland, Town Clerk	Approved - Sep 27 2023

PLANNING DEPARTMENT

TOWN COUNCIL STAFF REPORT
OCTOBER 16, 2023

2311 NC HWY 42 ANNEXATION

Project #:	2023-92-ANX	**Location:**	Parcel is located along NC HWY 42 W and Johnson Estate Road
Applicant:	Spring Branch Square, LLC	**Project Type:**	ANNEXATION
Property Owner:	C4 Clayton Residual, LLC	**Proposed Use:**	Commercial
Staff Planner:	Bruce Venable, Planner I	**TAG #(s):**	05F02035A



PROJECT SUMMARY

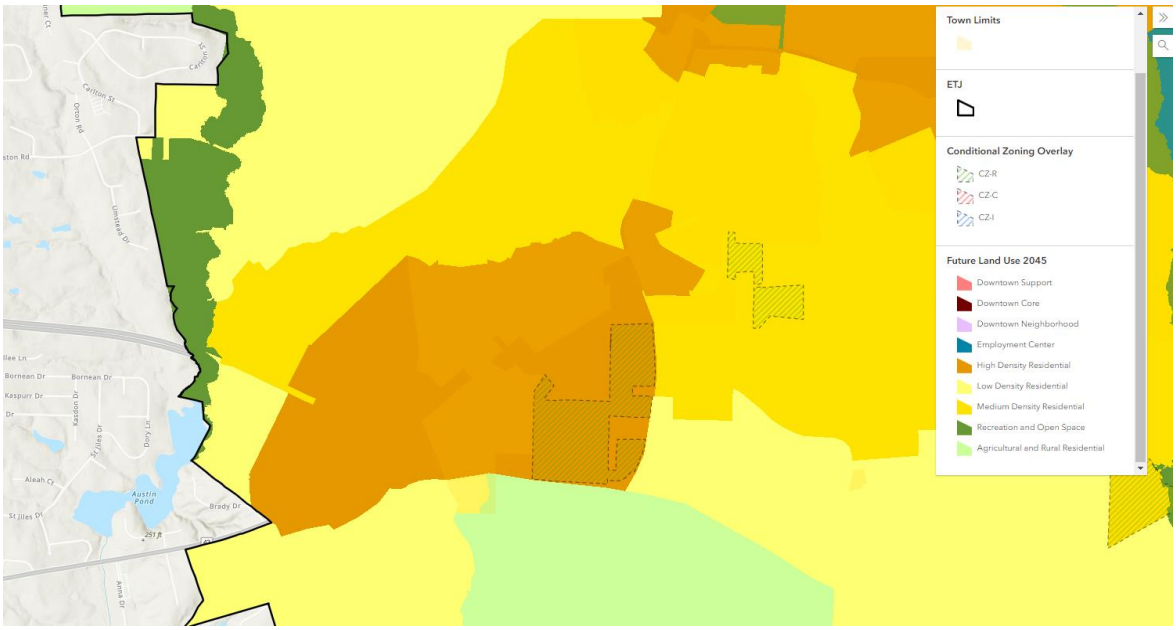
The site is located off NC HWY 42 W near the Johston Health Center within Clayton's ETJ. The applicant has petitioned the Town to be annexed into the corporate limits of the Town of Clayton.

SITE DATA:

Acreage: +/- .1.340 acres

Existing Use: Vacant

FUTURE LAND USE MAP





ATTACHMENTS:

1) Staff Report
2) Petition for Annexation
3) Legal Description of Metes and Bounds
4) Annexation Plat
5) Annexation Ordinance

Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

Site Address: 2311 NC Hwy 42

PETITION FOR VOLUNTARY ANNEXATION

VOLUNTARY ANNEXATION: Upon receipt of a valid petition signed by all the owners of real property in the area described therein, the Town may annex an area either contiguous or not contiguous to its primary corporate limits when the area meets the standards set out under North Carolina General Statutes 160A-31 and 160A-58.1.

Applications are accepted on a rolling basis and can be submitted to the Town of Clayton Planning Department.

Review Fee:
Application Review Fee: $200
Advertisement Fee: $200
Please note that fees are subject to change annually

PROCESS:

Review by Staff: The Planning, Engineering and Public Works Departments review the annexation submission. Comments will be sent to the applicant.

Annexation Plat Submission: After the map and legal description are deemed sufficient by the Town, the applicant is required to submit two (2) Mylar annexation plats to the Planning Department.

Town Council Meeting: The Town Council will pass a resolution directing the Town Clerk to investigate the annexation petition. The Town Clerk will present to the Town Council a Certificate of Sufficiency indicating that the annexation petition is complete. A resolution setting the date of the public hearing is then approved.

Legal Advertisement: A legal advertisement will be published no more than 25 days and no less than 10 days prior to the date of the public hearing.

Public Hearing/Town Council Meeting: The Town Council will either adopt or deny an ordinance to extend the corporate limits of the Town of Clayton.

Recordation: If the annexation is approved by the Town Council, the Annexation Plats shall be recorded at the appropriate county Register of Deeds.

Petition for Voluntary Annexation Application

1. **Application Type:** ☐ Individual ☐ Corporation ■ LLC ☐ Partnership

2. **The proposed annexation will be:** ■ Contiguous Annexation ☐ Non-Contiguous Annexation

3. **Does the proposed annexed parcel(s) need to be rezoned?** ☐ Yes ■ No

If 3 acres or more please submit a rezoning application to be run concurrently.

Property Information

To the Town Council of the Town of Clayton, North Carolina:

1. I/We the undersigned owner(s)* of real property respectfully request that the area described in Paragraph 2 below be annexed to the Town of Clayton, North Carolina.

   *If the owner of real property is a corporation or religious entity, attach a copy of the articles of incorporation describing who is/are authorized to sign with the petition.

2. The area to be annexed is [X] contiguous, [ ] non-contiguous to the Town of Clayton, North Carolina and the boundaries of such territory are as provided in the boundary plat attached hereto.

3. If contiguous, this annexation will include all intervening rights-of-way for streets, railroads, and other areas as stated in G.S. 160A-31(f), unless otherwise stated in the annexation amendment.

4. Attached is a statement of the schedule for full development of the property to be annexed, which includes the type, number, and estimated value of planned improvements, if applicable.

   Total Acreage to be annexed: 0.804 AC Existing Housing Units: 1

   Population of acreage to be annexed: 0 Fire District: Claytex

   Existing Zoning District*: B-3 Proposed Town Zoning District*: B-3

   County Recorded Plat Book and Page #: _____

   Reason for petitioner to annex: X Receive Town Services ____Other (please specify): _____

5. **I/We** acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. I/We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate on the following page, and attach proof.)

FOR OFFICE USE ONLY
Date Received:_____ Amount Paid:_____ Petition Number: _____

This page must be notarized prior to submitting to the Town for review

Complete ONLY if applying for an individual annexation and if property is owned by individual (s):

_____ Please Print

_____ Signature

_____ Please Print

_____ Signature

Complete ONLY if applying for a Corporation Annexation:

In witness whereof, said corporation has caused this instrument to be executed by its President and attested by its Secretary by order of its Board of Directors, this ____ day of _____, 20____.

Corporate Name: _____

SEAL

By: _____ (Signature)

Attest: _____ Secretary (Signature)

Complete ONLY if applying for a Limited Liability Company Annexation:

In witness whereof, Spring Branch Plaza, LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this 12 day of June, 20 23.

Name of Limited Liability Company: Spring Branch Plaza, LLC

By: _____ Signature of Member/Manager

Complete ONLY if applying for a Partnership Annexation:

In witness whereof, _____ a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this ____ day of _____, 20____.

Name of Partnership: _____

By: _____ Signature of General Partner

By: _____

By: _____ Signature of General Partner

By: _____

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

Sworn and subscribed before me, Josalynn J. Petko, a Notary Public for the above State and County, this 12 day of, June, 20 23.

SEAL

JOSALYNN J. PETKO
Notary Public
North Carolina
Union County

_____ Notary Public

My Commission Expires: 3.11.2027

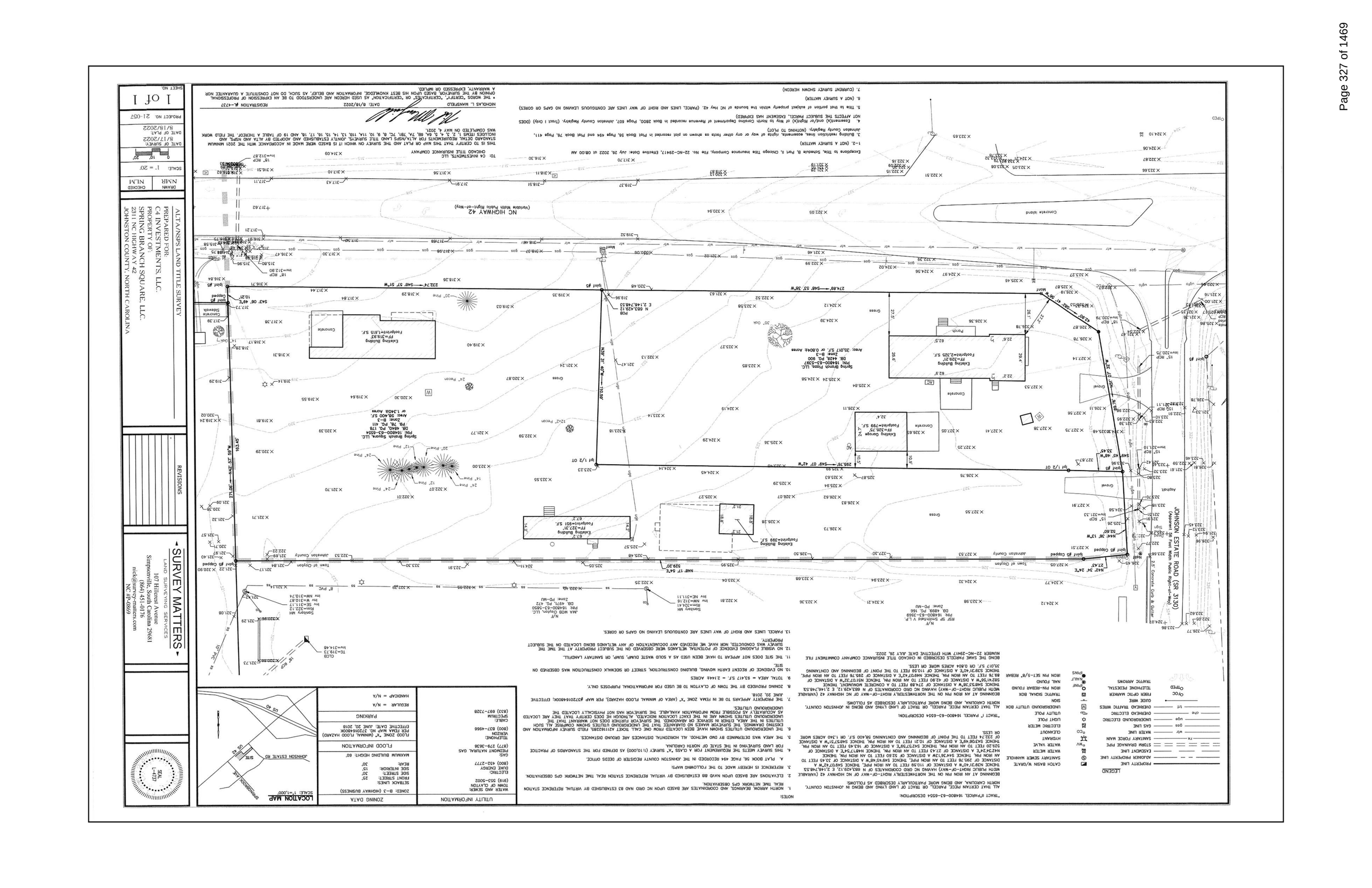
Voluntary Annexation Plat Checklist

#	Required Plat Items
1.	Fully dimensioned by metes and bounds, and the location of intersecting boundary lines of the existing town limits, labeled and distinctly marked. Include full right-of-way if the area on both sides is or will be in the corporate limits.
2.	Any utility easements with metes and bounds.
3.	Accurate locations and descriptions of all monuments, markers and control points.
4.	Ultimate right-of-way widths on all streets.
5.	Entitle "ANNEXATION MAP FOR THE TOWN OF CLAYTON" OR "SATELLITE ANNEXATION MAP FOR THE TOWN OF CLAYTON," as appropriate.
6.	Name of property owner(s).
7.	Name, seal, and registration of Professionally Licensed Surveyor (PLS).
8.	Date of the survey and map preparation; a north arrow indicating whether the index is true magnetic North Carolina grid (NAD 83 of NAD 27) or deed; graphic scale; and declination.
9.	Names of the township, county, and state.
10.	A detailed vicinity map.
11.	Include address of property if assigned.
12.	Show all contiguous or non-contiguous town limits.
13.	Leave 2-inch by 2-inch space for the county Register of Deeds stamp on the plat. All final plats must be stamped and signed before they can be accepted by the Town.

"TRACT I" PARCEL 164800-63-6554 DESCRIPTION:

ALL THAT CERTAIN PIECE, PARCEL, OR TRACT OF LAND LYING AND BEING IN JOHNSTON COUNTY, NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN ON THE NORTHWESTERLY RIGHT-OF-WAY OF NC HIGHWAY 42 (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) HAVING NC GRID COORDINATES OF N 683,429.12, E 2,146,748.53; THENCE S48°53'38"W A DISTANCE OF 274.89 FEET TO A CONCRETE MONUMENT, THENCE S82°41'56"W A DISTANCE OF 42.90 FEET TO AN IRON PIN, THENCE N51°07'32"W A DISTANCE OF 89.76 FEET TO AN IRON PIN, THENCE N49°07'42"E A DISTANCE OF 295.76 FEET TO AN IRON PIPE, THENCE S39°31'40"E A DISTANCE OF 110.59 FEET TO THE POINT OF BEGINNING AND CONTAINING 35,017 S.F. OR 0.804 ACRES MORE OR LESS.


ALTA/NSPS LAND TITLE SURVEY
PREPARED FOR:
C4 INVESTMENTS, LLC.
PROPERTY OF:
SPRING BRANCH SQUARE, LLC.
2311 NC HIGHWAY 42
JOHNSTON COUNTY, NORTH CAROLINA
DRAWN NMR
CHECKED NLM
SCALE: 1" = 20'
0 10' 20'
DATE OF SURVEY: 8/17/2022
DATE OF PLAT: 8/18/2022
PROJECT NO.: 21-057
SHEET NO. 1 OF 1
REVISIONS
SURVEY MATTERS
LAND SURVEYING SERVICES
107 Hillcrest Avenue
Simpsonville, South Carolina 29681
(864) 451-0176
nick@survey-matters.com
NC #P-0869
LEGEND
PROPERTY LINE
ADJOINER PROPERTY LINE
CATCH BASIN W/GRATE
SANITARY SEWER MANHOLE
WATER METER
WATER VALVE
HYDRANT
CLEANOUT
ELECTRIC METER
LIGHT POLE
UTILITY POLE
UNDERGROUND UTILITY BOX
TRAFFIC SIGNAL BOX
NAIL FOUND
IRON PIN-REBAR FOUND
IRON PIN SET-5/8" REBAR
SIGN
OVERHEAD TRAFFIC WIRES
OVERHEAD ELECTRIC
UNDERGROUND ELECTRIC
LIGHT POLE
ELECTRIC METER
GAS LINE
WATER LINE
SANITARY FORCE MAIN
STORM DRAINAGE PIPE
CATCHMENT LINE
TELEPHONE PEDESTAL
FIBER OPTIC MARKER
TRAFFIC ARMORS
NOTES:
1. NORTH ARROW, BEARINGS, AND COORDINATES ARE BASED UPON NC GRID NAD 83 ESTABLISHED BY VIRTUAL REFERENCE STATION REAL TIME NETWORK GPS OBSERVATION.
2. ELEVATIONS ARE BASED UPON NAVD 88 ESTABLISHED BY VIRTUAL REFERENCE STATION REAL TIME NETWORK GPS OBSERVATION.
3. REFERENCE IS HEREBY MADE TO THE FOLLOWING MAPS:
A. PLAT BOOK 56, PAGE 494 RECORDED IN THE JOHNSTON COUNTY REGISTER OF DEEDS OFFICE.
4. THIS SURVEY MEETS THE REQUIREMENT FOR A CLASS "A" SURVEY (1:10,000) AS DEFINED FOR THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN THE STATE OF NORTH CAROLINA.
5. THE AREA WAS DETERMINED BY GNG METHOD. ALL HORIZONTAL DISTANCES ARE GROUND DISTANCES.
6. EXISTING DRAINAGE THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.
7. THE PROPERTY APPEARS TO BE IN FEMA ZONE "X" (AREA OF MINIMAL FLOOD HAZARD). PER MAP #3720164600K EFFECTIVE JUNE 20, 2018.
8. ZONING PROVIDED BY THE TOWN OF CLAYTON TO BE USED FOR INFORMATIONAL PURPOSES ONLY.
9. TOTAL AREA = 93,417 S.F. ± 2.144 ACRES
10. NO EVIDENCE OF RECENT EARTH MOVING, BUILDING CONSTRUCTION, STREET OR SIDEWALK CONSTRUCTION WAS OBSERVED ON SITE.
11. THE SITE DOES NOT APPEAR TO HAVE BEEN USED AS A SOLID WASTE DUMP, SUMP, OR SANITARY LANDFILL.
12. NO VISIBLE FLAGGING EVIDENCE OF POTENTIAL WETLANDS WERE OBSERVED ON THE SUBJECT PROPERTY AT THE TIME THE SURVEY WAS CONDUCTED. NOR HAVE WE RECEIVED ANY DOCUMENTATION OF ANY WETLANDS BEING LOCATED ON THE SUBJECT PROPERTY.
13. PARCEL LIES AND RIGHT OF WAY LINES ARE CONTIGUOUS LEAVING NO GAPS OR GORES.
"TRACT II PARCEL 164800-63-4554 DESCRIPTION:
ALL THAT CERTAIN PIECE, PARCEL, OR TRACT OF LAND LYING AND BEING IN JOHNSTON COUNTY, NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT AN IRON PIN FOUND ON THE NORTHWESTERLY RIGHT-OF-WAY OF NC HIGHWAY 42 (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) HAVING NC GRID COORDINATES OF N 683,429.212, E 2,146,748.33, SAID IRON PIN BEING LOCATED N42°24'42"E A DISTANCE OF 25.78 FEET TO AN IRON PIPE, THENCE N27°23'19"E A DISTANCE OF 23.43 FEET TO AN IRON PIN, THENCE N44°30'13"W A DISTANCE OF 2.60 FEET TO AN IRON PIN, THENCE S46°57'47"W A DISTANCE OF 23.33 FEET TO AN IRON PIN, THENCE N43°03'13"W A DISTANCE OF 163.45 FEET TO AN IRON PIN, THENCE S43°06'47"W A DISTANCE OF 230.78 FEET TO AN IRON PIN, THENCE S46°53'13"E A DISTANCE OF 320.26 FEET TO AN IRON PIN, THENCE N42°24'42"E A DISTANCE OF 274.68 FEET TO A CONCRETE MONUMENT, THENCE S52°41'59"W A DISTANCE OF 2.90 FEET TO AN IRON PIN, THENCE N70°23'37"W A DISTANCE OF 89.76 FEET TO AN IRON PIN, THENCE N46°07'47"E A DISTANCE OF 295.76 FEET TO AN IRON PIPE, THENCE S43°52'13"E A DISTANCE OF 10.59 FEET TO THE POINT OF BEGINNING AND CONTAINING 35,017 S.F. OR 0.804 ACRES MORE OR LESS.
BEING THE SAME PARCELS DESCRIBED IN CHICAGO TITLE INSURANCE COMPANY COMMITMENT FILE NUMBER 22-NC-28417 WITH EFFECTIVE DATE JULY 26, 2022.
REF SP Schonfeld V L.P
PIN: 164800-83-3569
DB. 4899 PG. 166
Zone: PD-MU
N/F
JAA NC8 Clayton, LLC
PIN: 164600-63-3450
DB. 4971, PG. 472
Zone: PD-MU
Spring Branch Square, LLC.
PIN: 164600-83-5397
DB. 4428, PG. 900
Zone: B-3
Area= 35,017 S.F. or 0.8044 Acres
Spring Branch Square, LLC.
PIN: 164600-83-6554
DB. 8642, PG. 178
PB. 78, PG. 411
Zone: B-3
Area= 38,400 S.F.
or 1.3424 Acres
Existing Building
FF=318.97
Footprint=1,813 S.F.
Existing Building
FF=329.37
Footprint=2,325 S.F.
Existing Garage
FF=326.70
Footprint=799 S.F.
Existing Building
FF=327.37
Footprint=801 S.F.
Existing Building
Footprint=399 S.F.
NC HIGHWAY 42
(Variable Width Public Right-of-Way)
JOHNSON ESTATE ROAD (SR 3130)
(Easement 25' Feet Width Public Right-of-Way)
2.5' Concrete Curb & Gutter
Concrete Island
Asphalt
Gravel
Concrete
Grass
Porch
Deck
Town of Clayton
Johnston County
Sanitary MH
Rim=322.12
Inv SE=311.17
Inv W=310.87
Sanitary MH
Rim=322.49
Inv NE=311.11
Sanitary MH
Rim=312.16
Inv NE=311.16
CLCB
Inv=316.46
10' PVC
8" PVC
18" RCP
12" RCP
15" RCP
20" RCP
24" RCP
Power Pole
Guy Wire
Overhead Power
Underground Power
Underground Telephone
Fiber Optic
Gas Line
Water Line
Sanitary Force Main
Storm Drainage Pipe
Catchment Line
Adjoiner Property Line
Property Line
Set 1/2 OT
Found #5
Found #5 Capped
Found Concrete Monument
Found Nail
Found Iron Pin-Rebar
Set Iron Pin-5/8" Rebar
Found Iron Pipe
Found Iron Pin
Found Iron Pin-Rebar
Found Iron Pin-Pipe
Found Iron Pin-Rebar
Found Iron Pin-Pipe
Found Iron Pin-Rebar
Found Iron Pin-Pipe

Ordinance # #2023-10-07

Annexation Petition 2023-92-ANX
C4 Clayton Residual, LLC
Location: 05F02035A
Non-Contiguous; 1.340 acres

TOWN OF CLAYTON
ORDINANCE TO EXTEND THE CORPORATE LIMITS

1. WHEREAS, the Clayton Town Council has been petitioned under NC GS 160A-31.

to annex the area described below; and

WHEREAS, the Clayton Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Clayton Town Hall, 111 E Second Street at 6 p.m. on October 16, 2023, after due notice by publication in the Johnstonian on October 4th, 2023; and

WHEREAS, the Clayton Town Council finds that the petition meets the requirements of NC GS 160A-31;

NOW THEREFORE, BE IT ORDAINED by the Clayton Town Council of the Town of Clayton, North Carolina that:

1. **SECTION 1** By virtue of the authority granted by NC GS 160A-31., the following described territory is hereby annexed and made part of the Town of Clayton as of October 16, 2023:

BEGINNING AT AN IRON PIN ON THE NORTHWESTERLY RIGHT-OF-WAY OF NC HIGHWAY 42 (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) HAVING NC GRID COORDINATES OF N 683,429.12, E 2,146,748.53; THENCE N39°31'40"W A DISTANCE OF 110.59 FEET TO AN IRON PIPE, THENCE S49°07'42"W A DISTANCE OF 295.76 FEET TO AN IRON PIPE, THENCE S49°45'48"W A DISTANCE OF 33.45 FEET TO AN IRON PIN, THENCE S44°36'13W A DISTANCE OF 52.60 FEET TO AN IRON PIN, THENCE N42°34'24"E A DISTANCE OF 27.43 FEET TO AN IRON PIN, THENCE N48°17'54"E A DISTANCE OF 529.20 FEET TO AN IRON PIN, THENCE S42°57'59"E A DISTANCE OF 163.45 FEET TO AN IRON PIN, THENCE S43°06'49"E A DISTANCE OF 10.21 FEET TO AN IRON PIN, THENCE S48°57'51"W A DISTANCE OF 232.74 FEET TO THE POINT OF BEGINNING AND CONTAINING 58,400 S.F. OR 1.340 ACRES MORE OR LESS.

SECTION 2 Upon and after October 16, 2023, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the Town of Clayton and shall be entitled to the same privileges and benefits as other parts of the Town of Clayton. Said territory shall be subject to municipal taxes in according to NC GS 160A-58.10.

SECTION 3 The Mayor of the Town of Clayton shall cause to be recorded in the office of the Register of Deeds of (COUNTY), and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in SECTION 1 above, together with

a duly certified copy of the ordinance. Such a map shall also be delivered to the County Board of Elections, as required by NC GS 163-288.1.

ADOPTED this 16 day of October 2023.

_____
Jody L. McLeod
Mayor

ATTEST:

_____
Heidi Holland, CMC, NCCMC
Town Clerk

APPROVED AS TO FORM:

_____
Jim Cauley
Town Attorney

NORTH CAROLINA
JOHNSTON COUNTY

This the _____ day of _____, 2022, personally appeared before me Heidi Holland, Clerk of the Town of Clayton, who, being duly sworn by me, says that she knows the common seal of the Town of Clayton and is acquainted with Jody L. McLeod, who is the Mayor and presiding member of said municipal corporation; and that she saw the said Mayor sign the foregoing instrument and saw the said common seal of said municipal corporation affixed to said instrument by said Mayor, and that she, the said Heidi Holland, signed her name in attestation of said instrument in the presence of said Mayor.

Witness my hand and notarial seal, this the day and year first above written.

_____
Notary Public - Signature

_____
Notary Public – Printed Name

Commission Expires: _____

County of Commission: _____

Regular Town Council Meeting
Agenda Cover Sheet

Meeting Date	Agenda Location
October 16, 2023	PUBLIC HEARINGS

Item Title

2023-93-ANX 2364 NC Hwy 42 Non-Contiguous Annexation

Presenter(s)

Steven Mott, Planner II

Suggested Action

Adoption of Ordinance

Strategic Priorities Alignment

☐ Think Clayton (Administrative)	☐ Think Arts & Culture	☐ Think Downtown	☐ Think Economic Development	☒ Think Land Use & Housing	☐ Think Mobility	☐ Think Parks, Recreation & Natural Resources	☐ Think Public Services & Infrastructure

Public Hearing: No

If Approved, Will Document Require Recordation? Yes

Does This Item Require a Communication Plan?

- ☒ Public Hearing (Required by GS)
- ☒ Newspaper Notice (Required by GS)
- ☐ Public Forum/Input Session
- ☐ E-News Distribution
- ☐ Social Media
- ☐ Special Mailing
- ☐ Public Hearing (Not Required by GS)
- ☐ Newspaper Notice (Not Required by GS)
- ☐ Press Release
- ☐ Website
- ☐ Survey
- ☐ None Required

Summary

Applicant is petitioning the Town for annexation of non-contiguous real land, a 1.340 acre parcel inside of the Town of Clayton ETJ, into the Town limits.

Recommendation

Recommend Approval

Funding Source

N/A

Corresponding Documentation

1 2023-93-ANX Staff Report 2364 NC HWY 42

2 Petition 2023-93-ANX 2364 NC Hwy 42 Annexation

3 Legal Description 2023-93-ANX 2364 NC Hwy 42 Annexation

4 Plat 2023-93-ANX 2364 NC Hwy 42

5 Ordinance 2023-93-ANX NC HWY 42 W 2364 Non-Contiguous

Submitted By: Steven Mott, Planning

Reviewed By:

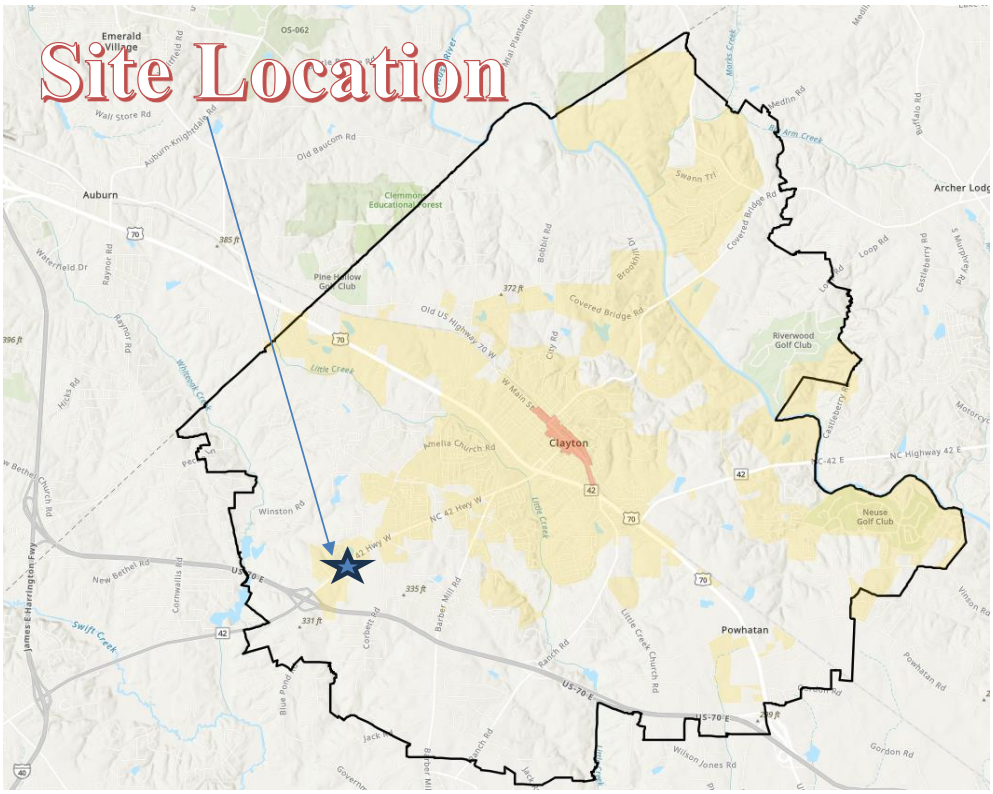
Jonathan Jacobs, Assistant Engineering Director	Approved - Sep 27 2023
Rich Cappola, Town Manager	Approved - Sep 27 2023
Heidi Holland, Town Clerk	Approved - Sep 27 2023

PLANNING DEPARTMENT

TOWN COUNCIL STAFF REPORT
OCTOBER 16, 2023

2364 NC HWY 42 ANNEXATION

Project #:	2023-93-ANX	**Location:**	Parcel is located along NC HWY 42 W and Johnson Estate Road
Applicant:	Spring Branch Square, LLC	**Project Type:**	ANNEXATION
Property Owner:	C4 Clayton Residual, LLC	**Proposed Use:**	Commercial
Staff Planner:	Bruce Venable, Planner I	**TAG #(s):**	05F02036



PROJECT SUMMARY

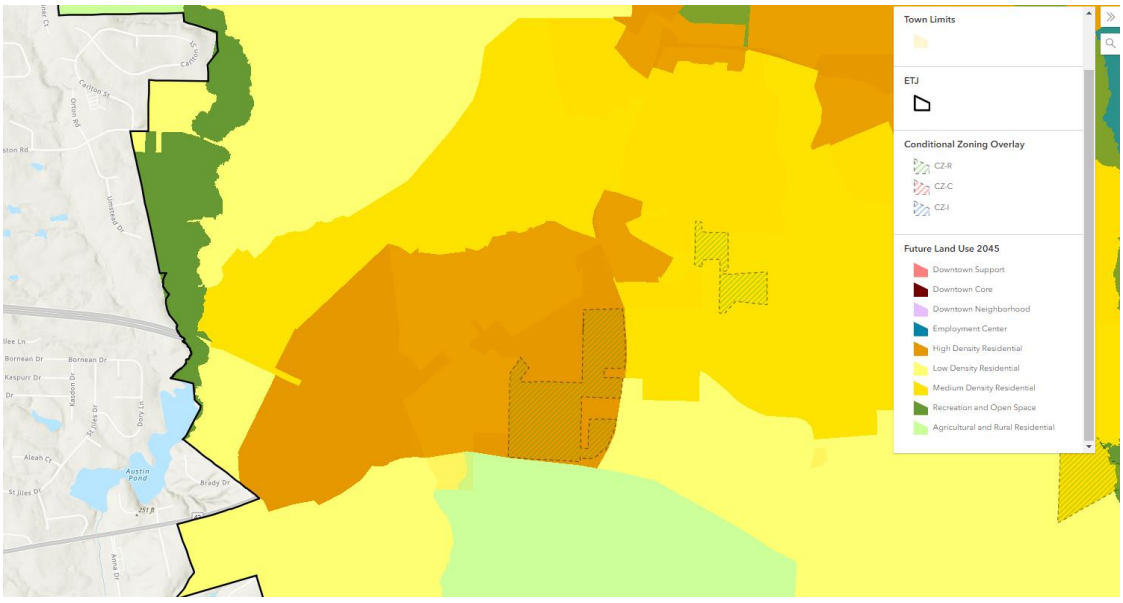
The site is located off NC HWY 42 W near the Johston Health Center within Clayton's ETJ. The applicant has petitioned the Town to be annexed into the corporate limits of the Town of Clayton.

SITE DATA:

Acreage: +/- .804 acres

Existing Use: Vacant

FUTURE LAND USE MAP





AERIAL MAP

ATTACHMENTS:

1) Staff Report
2) Petition for Annexation
3) Legal Description of Metes and Bounds
4) Annexation Plat
5) Annexation Ordinance

Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

Address: 2364 NC Hwy 42

PETITION FOR VOLUNTARY ANNEXATION

VOLUNTARY ANNEXATION: Upon receipt of a valid petition signed by all the owners of real property in the area described therein, the Town may annex an area either contiguous or not contiguous to its primary corporate limits when the area meets the standards set out under North Carolina General Statutes 160A-31 and 160A-58.1.

Applications are accepted on a rolling basis and can be submitted to the Town of Clayton Planning Department.

Review Fee:
Application Review Fee: $200
Advertisement Fee: $200
Please note that fees are subject to change annually

PROCESS:

Review by Staff: The Planning, Engineering and Public Works Departments review the annexation submission. Comments will be sent to the applicant.

Annexation Plat Submission: After the map and legal description are deemed sufficient by the Town, the applicant is required to submit two (2) Mylar annexation plats to the Planning Department.

Town Council Meeting: The Town Council will pass a resolution directing the Town Clerk to investigate the annexation petition. The Town Clerk will present to the Town Council a Certificate of Sufficiency indicating that the annexation petition is complete. A resolution setting the date of the public hearing is then approved.

Legal Advertisement: A legal advertisement will be published no more than 25 days and no less than 10 days prior to the date of the public hearing.

Public Hearing/Town Council Meeting: The Town Council will either adopt or deny an ordinance to extend the corporate limits of the Town of Clayton.

Recordation: If the annexation is approved by the Town Council, the Annexation Plats shall be recorded at the appropriate county Register of Deeds.

Petition for Voluntary Annexation Application

1. **Application Type:** ☐ Individual ☐ Corporation ■ LLC ☐ Partnership

2. **The proposed annexation will be:** ■ Contiguous Annexation ☐ Non-Contiguous Annexation

3. **Does the proposed annexed parcel(s) need to be rezoned?** ☐ Yes ■ No

If 3 acres or more please submit a rezoning application to be run concurrently.

Property Information

To the Town Council of the Town of Clayton, North Carolina:

1. I/We the undersigned owner(s)* of real property respectfully request that the area described in Paragraph 2 below be annexed to the Town of Clayton, North Carolina.

   *If the owner of real property is a corporation or religious entity, attach a copy of the articles of incorporation describing who is/are authorized to sign with the petition.

2. The area to be annexed is [X] contiguous, [ ] non-contiguous to the Town of Clayton, North Carolina and the boundaries of such territory are as provided in the boundary plat attached hereto.

3. If contiguous, this annexation will include all intervening rights-of-way for streets, railroads, and other areas as stated in G.S. 160A-31(f), unless otherwise stated in the annexation amendment.

4. Attached is a statement of the schedule for full development of the property to be annexed, which includes the type, number, and estimated value of planned improvements, if applicable.

   Total Acreage to be annexed: 1.340 AC Existing Housing Units: 1

   Population of acreage to be annexed: 0 Fire District: Claytex

   Existing Zoning District*: B-3 Proposed Town Zoning District*: B-3

   County Recorded Plat Book and Page #: _____

   Reason for petitioner to annex: X Receive Town Services ____Other (please specify): _____

5. **I/We** acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. I/We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate on the following page, and attach proof.)

FOR OFFICE USE ONLY

Date Received:_____ Amount Paid:_____ Petition Number: _____

This page must be notarized prior to submitting to the Town for review

Complete ONLY if applying for an individual annexation and if property is owned by individual (s):

_____ Please Print

_____ Signature

_____ Please Print

_____ Signature

Complete ONLY if applying for a Corporation Annexation:

In witness whereof, said corporation has caused this instrument to be executed by its President and attested by its Secretary by order of its Board of Directors, this ____ day of _____, 20____.

SEAL

Corporate Name: _____

By: _____ (Signature)

Attest: _____ Secretary (Signature)

Complete ONLY if applying for a Limited Liability Company Annexation:

In witness whereof, Spring Branch Square, LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this 12 day of June ,2023.

Name of Limited Liability Company: Spring Branch Square, LLC

By: _____ Signature of Member/Manager

Complete ONLY if applying for a Partnership Annexation:

In witness whereof, _____ a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this ____ day of _____, 20____.

Name of Partnership: _____

By: _____ Signature of General Partner

By: _____

By: _____ Signature of General Partner

By: _____

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

Sworn and subscribed before me, Josalynn J. Petko, a Notary Public for the above State and County, this 12 day of, June, 2023.

_____ Notary Public

SEAL

JOSALYNN J. PETKO
Notary Public
North Carolina
Union County

My Commission Expires: 3.11.2027

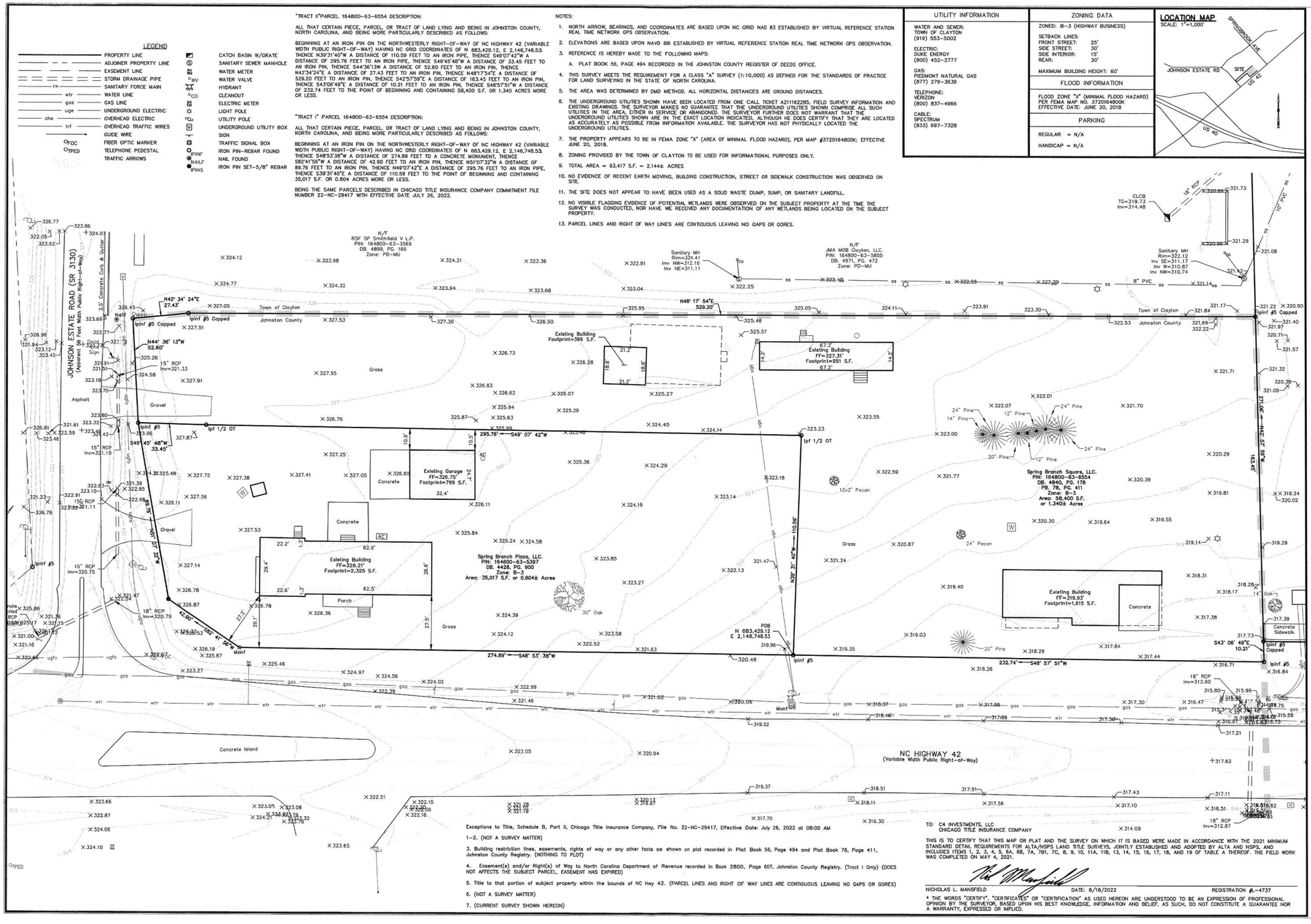
Voluntary Annexation Plat Checklist

#	Required Plat Items
1.	Fully dimensioned by metes and bounds, and the location of intersecting boundary lines of the existing town limits, labeled and distinctly marked. Include full right-of-way if the area on both sides is or will be in the corporate limits.
2.	Any utility easements with metes and bounds.
3.	Accurate locations and descriptions of all monuments, markers and control points.
4.	Ultimate right-of-way widths on all streets.
5.	Entitle "ANNEXATION MAP FOR THE TOWN OF CLAYTON" OR "SATELLITE ANNEXATION MAP FOR THE TOWN OF CLAYTON," as appropriate.
6.	Name of property owner(s).
7.	Name, seal, and registration of Professionally Licensed Surveyor (PLS).
8.	Date of the survey and map preparation; a north arrow indicating whether the index is true magnetic North Carolina grid (NAD 83 of NAD 27) or deed; graphic scale; and declination.
9.	Names of the township, county, and state.
10.	A detailed vicinity map.
11.	Include address of property if assigned.
12.	Show all contiguous or non-contiguous town limits.
13.	Leave 2-inch by 2-inch space for the county Register of Deeds stamp on the plat. All final plats must be stamped and signed before they can be accepted by the Town.

"TRACT II"PARCEL 164800-63-6554 DESCRIPTION:

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LEGEND
PROPERTY LINE
ADJOINER PROPERTY LINE
EASEMENT LINE
STORM DRAINAGE PIPE
SANITARY FORCE MAIN
WATER LINE
GAS LINE
UNDERGROUND ELECTRIC
OVERHEAD ELECTRIC
OVERHEAD TRAFFIC WIRES
GUIDE WIRE
FIBER OPTIC MARKER
TELEPHONE PEDESTAL
TRAFFIC ARROWS
CATCH BASIN W/GRATE
SANITARY SEWER MANHOLE
WATER METER
WATER VALVE
HYDRANT
CLEANOUT
ELECTRIC METER
LIGHT POLE
UTILITY POLE
UNDERGROUND UTILITY BOX
SIGN
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IRON PIN-REBAR FOUND
NAIL FOUND
IRON PIN SET-5/8" REBAR
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ALL THAT CERTAIN PIECE, PARCEL, OR TRACT OF LAND LYING AND BEING IN JOHNSTON COUNTY, NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT AN IRON PIN ON THE NORTHWESTERLY RIGHT-OF-WAY OF NC HIGHWAY 42 (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) HAVING NC GRID COORDINATES OF N 683,429.12, E 2,146,748.53; THENCE S48°53'38"W A DISTANCE OF 274.89 FEET TO A CONCRETE MONUMENT, THENCE S82°41'58"W A DISTANCE OF 42.90 FEET TO AN IRON PIN, THENCE N51°07'32"W A DISTANCE OF 89.76 FEET TO AN IRON PIN, THENCE N49°07'42"E A DISTANCE OF 295.76 FEET TO AN IRON PIPE, THENCE S39°31'40"E A DISTANCE OF 110.59 FEET TO THE POINT OF BEGINNING AND CONTAINING 35,017 S.F. OR 0.804 ACRES MORE OR LESS.
BEING THE SAME PARCELS DESCRIBED IN CHICAGO TITLE INSURANCE COMPANY COMMITMENT FILE NUMBER 22-NC-29417 WITH EFFECTIVE DATE JULY 26, 2022.
NOTES:
1. NORTH ARROW, BEARINGS, AND COORDINATES ARE BASED UPON NC GRID NAD 83 ESTABLISHED BY VIRTUAL REFERENCE STATION REAL TIME NETWORK GPS OBSERVATION.
2. ELEVATIONS ARE BASED UPON NAVD 88 ESTABLISHED BY VIRTUAL REFERENCE STATION REAL TIME NETWORK GPS OBSERVATION.
3. REFERENCE IS HEREBY MADE TO THE FOLLOWING MAPS:
A. PLAT BOOK 56, PAGE 494 RECORDED IN THE JOHNSTON COUNTY REGISTER OF DEEDS OFFICE.
4. THIS SURVEY MEETS THE REQUIREMENT FOR A CLASS "A" SURVEY (1:10,000) AS DEFINED FOR THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN THE STATE OF NORTH CAROLINA.
5. THE AREA WAS DETERMINED BY DMD METHOD. ALL HORIZONTAL DISTANCES ARE GROUND DISTANCES.
6. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM ONE CALL TICKET A211162285, FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.
7. THE PROPERTY APPEARS TO BE IN FEMA ZONE "X" (AREA OF MINIMAL FLOOD HAZARD), PER MAP #3720164800K; EFFECTIVE JUNE 20, 2018.
8. ZONING PROVIDED BY THE TOWN OF CLAYTON TO BE USED FOR INFORMATIONAL PURPOSES ONLY.
9. TOTAL AREA = 93,417 S.F. ± 2.144± ACRES
10. NO EVIDENCE OF RECENT EARTH MOVING, BUILDING CONSTRUCTION, STREET OR SIDEWALK CONSTRUCTION WAS OBSERVED ON SITE.
11. THE SITE DOES NOT APPEAR TO HAVE BEEN USED AS A SOLID WASTE DUMP, SUMP, OR SANITARY LANDFILL.
12. NO VISIBLE FLAGGING EVIDENCE OF POTENTIAL WETLANDS WERE OBSERVED ON THE SUBJECT PROPERTY AT THE TIME THE SURVEY WAS CONDUCTED, NOR HAVE WE RECEIVED ANY DOCUMENTATION OF ANY WETLANDS BEING LOCATED ON THE SUBJECT PROPERTY.
13. PARCEL LINES AND RIGHT OF WAY LINES ARE CONTIGUOUS LEAVING NO GAPS OR GORES.
UTILITY INFORMATION
WATER AND SEWER:
TOWN OF CLAYTON
(919) 553-5002
ELECTRIC:
DUKE ENERGY
(800) 452-2777
GAS:
PIEDMONT NATURAL GAS
(877) 279-3636
TELEPHONE:
VERIZON
(800) 837-4966
CABLE:
SPECTRUM
(833) 897-7328
ZONING DATA
ZONED: B-3 (HIGHWAY BUSINESS)
SETBACK LINES:
FRONT STREET: 25'
SIDE STREET: 30'
SIDE INTERIOR: 15'
REAR: 30'
MAXIMUM BUILDING HEIGHT: 60'
FLOOD INFORMATION
FLOOD ZONE "X" (MINIMAL FLOOD HAZARD)
PER FEMA MAP NO. 3720164800K
EFFECTIVE DATE: JUNE 20, 2018
PARKING
REGULAR = N/A
HANDICAP = N/A
LOCATION MAP
SCALE: 1"=1,000'
SPRINGDOOL AVE
JOHNSON ESTATE RD
SITE
US 70
US 70
JOHNSTON COUNTY, NORTH CAROLINA
JOHNSTON ESTATE ROAD (SR 3130)
(Approach Road with Public Right-of-Way)
2.5' Concrete Curb & Gutter
N/F
RSF SP Smithfield V L.P.
PIN: 164800-63-3569
DB. 4899, PG. 166
Zone: PD-MU
N/F
JMA MOB Clayton, LLC.
PIN: 164800-63-5850
DB. 4971, PG. 472
Zone: PD-MU
Sanitary MH
Rim=324.41
Inv NW=312.16
Inv NE=311.11
Sanitary MH
Rim=322.12
Inv SE=311.17
Inv W=310.87
Inv NW=310.74
CLCB
TG=319.73
Inv=314.48
N42° 34' 24"E
27.43'
N44° 36' 13"W
52.60'
S49° 45' 48"W
33.45'
N48° 17' 54"E
529.20'
S42° 57' 59"E
163.45'
S43° 06' 49"E
10.21'
S48° 57' 51"W
232.74'
S48° 53' 38"W
274.89'
S82° 41' 58"W
42.90'
N51° 07' 32"W
89.76'
N39° 31' 40"W
110.59'
N49° 07' 42"E
295.76'
Ipinf #5 Capped
Ipf 1/2 OT
Ipinf #5
Monf
POB
N 683,429.12
E 2,146,748.53
Town of Clayton
Johnson County
Existing Building
Footprint=399 S.F.
Existing Building
FF=327.31'
Footprint=951 S.F.
Existing Garage
FF=326.75'
Footprint=799 S.F.
Existing Building
FF=329.21'
Footprint=2,325 S.F.
Existing Building
FF=319.93'
Footprint=1,815 S.F.
Spring Branch Plaza, LLC.
PIN: 164800-63-5397
DB. 4428, PG. 900
Zone: B-3
Area: 35,017 S.F. or 0.804± Acres
Spring Branch Square, LLC.
PIN: 164800-63-6554
DB. 4840, PG. 178
PB. 76, PG. 411
Zone: B-3
Area: 58,400 S.F.
or 1.340± Acres
Grass
Gravel
Asphalt
Concrete
Concrete Island
Porch
Concrete Sidewalk
Existing Utility Pole
Existing Power Pole
Existing Guy Anchor
Existing Sign
15" RCP
Inv=321.10
15" RCP
Inv=320.75
18" RCP
Inv=320.79
18" RCP
Inv=312.90
10" RCP
10" PVC
8" PVC
24" Pine
20" Pine
14" Pine
12" Pine
30" Oak
14" Oak
24" Pecan
12x2" Pecan
Exceptions to Title, Schedule B, Part II, Chicago Title Insurance Company, File No. 22-NC-29417, Effective Date: July 26, 2022 at 08:00 AM
1-2. (NOT A SURVEY MATTER)
3. Building restriction lines, easements, rights of way or any other facts as shown on plat recorded in Plat Book 56, Page 494 and Plat Book 76, Page 411, Johnston County Registry. (NOTHING TO PLOT)
4. Easement(s) and/or Right(s) of Way to North Carolina Department of Revenue recorded in Book 2800, Page 607, Johnston County Registry. (Tract I Only) (DOES NOT AFFECTS THE SUBJECT PARCEL, EASEMENT HAS EXPIRED)
5. Title to that portion of subject property within the bounds of NC Hwy 42. (PARCEL LINES AND RIGHT OF WAY LINES ARE CONTIGUOUS LEAVING NO GAPS OR GORES)
6. (NOT A SURVEY MATTER)
7. (CURRENT SURVEY SHOWN HEREON)
TO: C4 INVESTMENTS, LLC
CHICAGO TITLE INSURANCE COMPANY
THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6A, 6B, 7A, 7B1, 7C, 8, 9, 10, 11A, 11B, 13, 14, 15, 16, 17, 18, AND 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON MAY 4, 2021.
NICHOLAS L. MANSFIELD
DATE: 8/18/2022
REGISTRATION #L-4737
• THE WORDS "CERTIFY", "CERTIFICATES" OR "CERTIFICATION" AS USED HEREON ARE UNDERSTOOD TO BE AN EXPRESSION OF PROFESSIONAL OPINION BY THE SURVEYOR, BASED UPON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, AS SHOWN, DO NOT CONSTITUTE A GUARANTEE NOR A WARRANTY, EXPRESSED OR IMPLIED.
SEAL L-4737
SURVEY MATTERS
LAND SURVEYING SERVICES
107 Hillcrest Avenue
Simpsonville, South Carolina 29681
(864) 451-0176
nick@survey-matters.com
NC #P-0869
REVISIONS
ALTA/NSPS LAND TITLE SURVEY
PREPARED FOR:
C4 INVESTMENTS, LLC.
PROPERTY OF:
SPRING BRANCH SQUARE, LLC.
2311 NC HIGHWAY 42
JOHNSTON COUNTY, NORTH CAROLINA
DRAWN NMR
CHECKED NLM
SCALE: 1" = 20
0 10' 20'
DATE OF SURVEY: 8/17/2022
DATE OF PLAT: 8/18/2022
PROJECT NO. 21-057
1 of 1
SHEET NO.

Ordinance #2023-10-06

Annexation Petition 2023-93-ANX
C4 Clayton Residual, LLC
Location: 05F020336
Contiguous; .804 acres

TOWN OF CLAYTON
ORDINANCE TO EXTEND THE CORPORATE LIMITS

1. WHEREAS, the Clayton Town Council has been petitioned under NC GS 160A-31.

to annex the area described below; and

WHEREAS, the Clayton Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Clayton Town Hall, 111 E Second Street at 6 p.m. on October 16, 2023, after due notice by publication in the Johnstonian on October 4th, 2023; and

WHEREAS, the Clayton Town Council finds that the petition meets the requirements of NC GS 160A-31;

NOW THEREFORE, BE IT ORDAINED by the Clayton Town Council of the Town of Clayton, North Carolina that:

1. **SECTION 1** By virtue of the authority granted by NC GS 160A-31., the following described territory is hereby annexed and made part of the Town of Clayton as of October 16, 2023:

BEGINNING AT AN IRON PIN ON THE NORTHWESTERLY RIGHT-OF-WAY OF NC HIGHWAY 42 (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) HAVING NC GRID COORDINATES OF N 683,429.12, E 2,146,748.53; THENCE N39°31'40"W A DISTANCE OF 110.59 FEET TO AN IRON PIPE, THENCE S49°07'42"W A DISTANCE OF 295.76 FEET TO AN IRON PIPE, THENCE S49°45'48"W A DISTANCE OF 33.45 FEET TO AN IRON PIN, THENCE S44°36'13W A DISTANCE OF 52.60 FEET TO AN IRON PIN, THENCE N42°34'24"E A DISTANCE OF 27.43 FEET TO AN IRON PIN, THENCE N48°17'54"E A DISTANCE OF 529.20 FEET TO AN IRON PIN, THENCE S42°57'59"E A DISTANCE OF 163.45 FEET TO AN IRON PIN, THENCE S43°06'49"E A DISTANCE OF 10.21 FEET TO AN IRON PIN, THENCE S48°57'51"W A DISTANCE OF 232.74 FEET TO THE POINT OF BEGINNING AND CONTAINING 58,400 S.F. OR 1.340 ACRES MORE OR LESS.

SECTION 2 Upon and after October 16, 2023, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the Town of Clayton and shall be entitled to the same privileges and benefits as other parts of the Town of Clayton. Said territory shall be subject to municipal taxes in according to NC GS 160A-58.10.

SECTION 3 The Mayor of the Town of Clayton shall cause to be recorded in the office of the Register of Deeds of (COUNTY), and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in SECTION 1 above, together with

a duly certified copy of the ordinance. Such a map shall also be delivered to the County Board of Elections, as required by NC GS 163-288.1.

ADOPTED this 16 day of October 2023.

_____
Jody L. McLeod
Mayor

ATTEST:

_____
Heidi Holland, CMC, NCCMC
Town Clerk

APPROVED AS TO FORM:

_____
Jim Cauley
Town Attorney

NORTH CAROLINA
JOHNSTON COUNTY

This the _____ day of _____, 2022, personally appeared before me Heidi Holland, Clerk of the Town of Clayton, who, being duly sworn by me, says that she knows the common seal of the Town of Clayton and is acquainted with Jody L. McLeod, who is the Mayor and presiding member of said municipal corporation; and that she saw the said Mayor sign the foregoing instrument and saw the said common seal of said municipal corporation affixed to said instrument by said Mayor, and that she, the said Heidi Holland, signed her name in attestation of said instrument in the presence of said Mayor.

Witness my hand and notarial seal, this the day and year first above written.

_____
Notary Public - Signature

_____
Notary Public – Printed Name

Commission Expires: _____

County of Commission: _____

Regular Town Council Meeting
Agenda Cover Sheet

Meeting Date	Agenda Location
October 16, 2023	PUBLIC HEARINGS

Item Title

2023-96-ANX ETM JR Property LLC Non-Contiguous Annexation

Presenter(s)

Steven Mott, Planner II

Suggested Action

Adoption of Ordinance

Strategic Priorities Alignment

☐ Think Clayton (Administrative)	☐ Think Arts & Culture	☐ Think Downtown	☐ Think Economic Development	☒ Think Land Use & Housing	☐ Think Mobility	☐ Think Parks, Recreation & Natural Resources	☐ Think Public Services & Infrastructure

Public Hearing: No

If Approved, Will Document Require Recordation? Yes

Does This Item Require a Communication Plan?

- ☒ Public Hearing (Required by GS)
- ☒ Newspaper Notice (Required by GS)
- ☐ Public Forum/Input Session
- ☐ E-News Distribution
- ☐ Social Media
- ☐ Special Mailing
- ☐ Public Hearing (Not Required by GS)
- ☐ Newspaper Notice (Not Required by GS)
- ☐ Press Release
- ☐ Website
- ☐ Survey
- ☐ None Required

Other/Special Instructions: Public Notice Signs Posted.

Summary

Applicant is petitioning the Town for annexation of non-contiguous real land into the Town limits. The petition contains two parcels, 7.02 & 2.79 acres, totaling 9.81 acres inside of the Town of Clayton ETJ.

Recommendation

Recommend Approval

Funding Source

N/A

Corresponding Documentation

1 2023-96-ANX Staff Report ETM JR LLC

2 Petition 2023-96-ANX ETM JR Property LLC Annexation

3 Legal Description 2023-96-ANX ETM JR Property LLC

4 Plat 2023-96-ANX ETM JR Property LLC Annexation

5 Ordinance 2023-96-ANX ETM JR LLC Non-Contiguous

Submitted By: Steven Mott, Planning

Reviewed By:

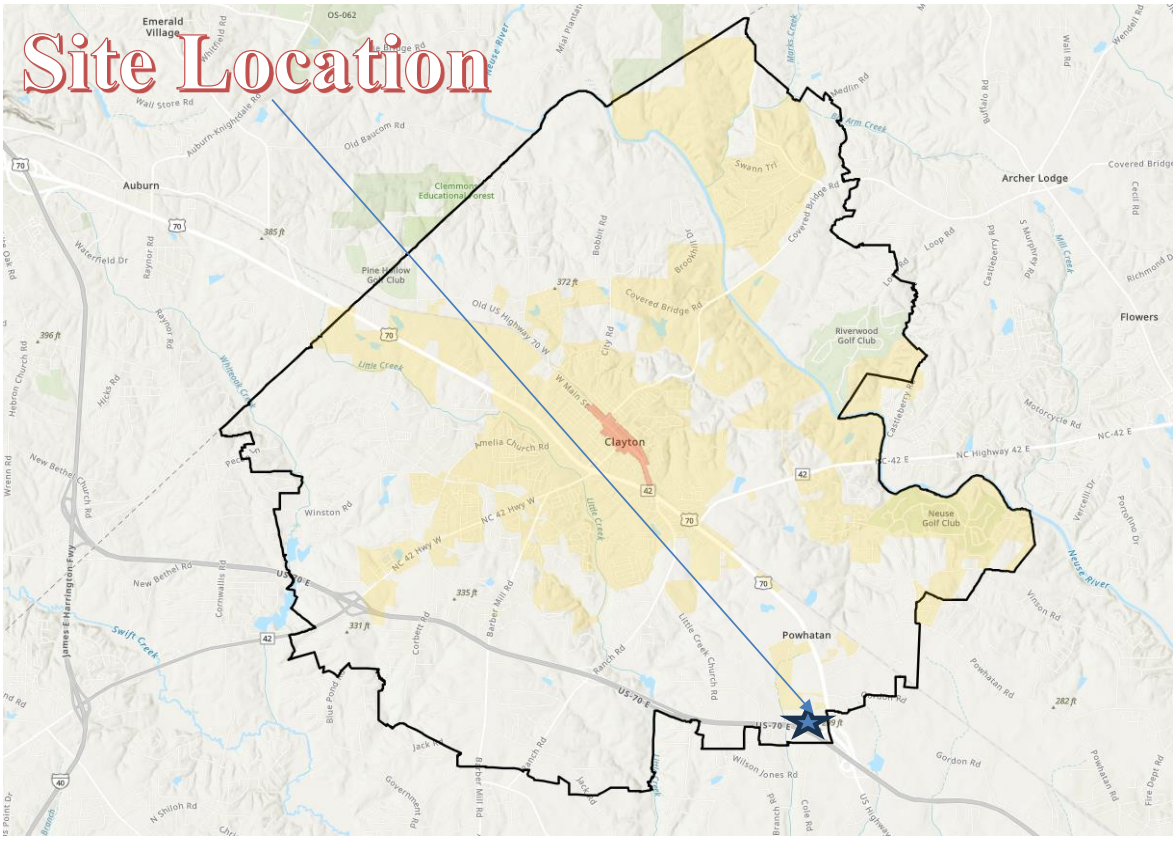
Jonathan Jacobs, Assistant Engineering Director	Approved - Oct 11 2023
Rich Cappola, Town Manager	Approved - Oct 11 2023
Heidi Holland, Town Clerk	Approved - Oct 11 2023

PLANNING DEPARTMENT

TOWN COUNCIL STAFF REPORT
OCTOBER 16, 2023

ETM JR LLC ANNEXATION

Project #:	2023-96-ANX	**Location:**	ETJ US HWY 70 Bus and 70 Bypass. (see attached plat and map below).
Applicant:	ETM JR, LLC	**Project Type:**	ANNEXATION
Property Owner:	ETM JR, LLC	**Proposed Use:**	Industrial
Staff Planner:	Bruce Venable, Planner I	**TAG #(s):**	05I05034 & 05I05034A



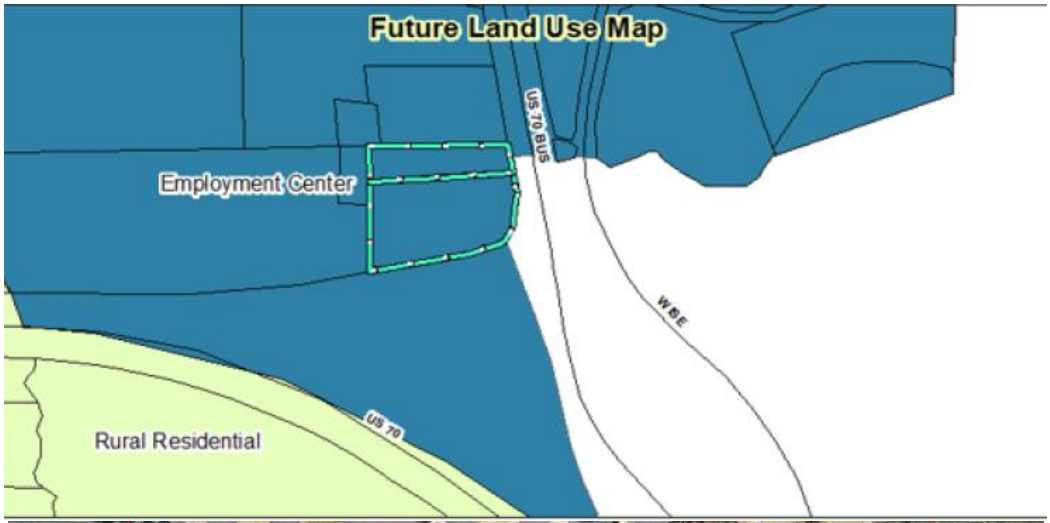
PROJECT SUMMARY

The site is located off US HWY 70 BUS within Clayton's ETJ. The applicant has petitioned the Town to be annexed into the corporate limits of the Town of Clayton.

SITE DATA:

Acreage: +/- 9.80 acres

Existing Use: Vacant





ATTACHMENTS:

1) Staff Report
2) Petition for Annexation
3) Legal Description of Metes and Bounds
4) Annexation Plat
5) Annexation Ordinance

Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

PETITION FOR VOLUNTARY ANNEXATION

VOLUNTARY ANNEXATION: Upon receipt of a valid petition signed by all the owners of real property in the area described therein, the Town may annex an area either contiguous or not contiguous to its primary corporate limits when the area meets the standards set out under North Carolina General Statutes 160A-31 and 160A-58.1.

Applications are accepted on a rolling basis and can be submitted to the Town of Clayton Planning Department.

Review Fee:
Application Review Fee: $200
Advertisement Fee: $200
Please note that fees are subject to change annually

PROCESS:

Review by Staff: The Planning, Engineering and Public Works Departments review the annexation submission. Comments will be sent to the applicant.

Annexation Plat Submission: After the map and legal description are deemed sufficient by the Town, the applicant is required to submit two (2) Mylar annexation plats to the Planning Department.

Town Council Meeting: The Town Council will pass a resolution directing the Town Clerk to investigate the annexation petition. The Town Clerk will present to the Town Council a Certificate of Sufficiency indicating that the annexation petition is complete. A resolution setting the date of the public hearing is then approved.

Legal Advertisement: A legal advertisement will be published no more than 25 days and no less than 10 days prior to the date of the public hearing.

Public Hearing/Town Council Meeting: The Town Council will either adopt or deny an ordinance to extend the corporate limits of the Town of Clayton.

Recordation: If the annexation is approved by the Town Council, the Annexation Plats shall be recorded at the appropriate county Register of Deeds.

RECEIVED
JUN 2 1 2023
TOWN OF CLAYTON
PLANNING DEPARTMENT

Petition for Voluntary Annexation Application

1. **Application Type:** ☐ Individual ☐ Corporation ☒ LLC ☐ Partnership

2. **The proposed annexation will be:** ☒ Contiguous Annexation ☐ Non-Contiguous Annexation

3. **Does the proposed annexed parcel(s) need to be rezoned?** ☒ Yes ☐ No

If 3 acres or more please submit a rezoning application to be run concurrently.

Property Information

To the Town Council of the Town of Clayton, North Carolina:

1. I/We the undersigned owner(s)* of real property respectfully request that the area described in Paragraph 2 below be annexed to the Town of Clayton, North Carolina.

   *If the owner of real property is a corporation or religious entity, attach a copy of the articles of incorporation describing who is/are authorized to sign with the petition.

2. The area to be annexed is ☒ contiguous, ☐ non-contiguous to the Town of Clayton, North Carolina and the boundaries of such territory are as provided in the boundary plat attached hereto.

3. If contiguous, this annexation will include all intervening rights-of-way for streets, railroads, and other areas as stated in G.S. 160A-31(f), unless otherwise stated in the annexation amendment.

4. Attached is a statement of the schedule for full development of the property to be annexed, which includes the type, number, and estimated value of planned improvements, if applicable.

   Total Acreage to be annexed: 9.80 Existing Housing Units: 0

   Population of acreage to be annexed: 0 Fire District: _____

   Existing Zoning District*: B3 and RE Proposed Town Zoning District*: I-1

   County Recorded Plat Book and Page #: Plat Book 96, Page 165

   Reason for petitioner to annex: X Receive Town Services ____Other (please specify): _____

5. **I/We** acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. I/We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate on the following page, and attach proof.)

RECEIVED
JUN 21 2023
TOWN OF CLAYTON
PLANNING DEPARTMENT

FOR OFFICE USE ONLY

Date Received: _____ Amount Paid: _____ Petition Number: _____

This page must be notarized prior to submitting to the Town for review

Complete ONLY if applying for an individual annexation and if property is owned by individual (s):

_____ Please Print

_____ Signature

_____ Please Print

_____ Signature

Complete ONLY if applying for a Corporation Annexation:

In witness whereof, said corporation has caused this instrument to be executed by its President and attested by its Secretary by order of its Board of Directors, this ____ day of _____, 20____.

Corporate Name: _____

SEAL

By: _____ (Signature)

Attest: _____ Secretary (Signature)

PAULINE G BLANKS Notary Public Brunswick County NORTH CAROLINA

Pauline G. Blanks

Complete ONLY if applying for a Limited Liability Company Annexation:

In witness whereof, ETM JR PROPERTY LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this ____ day of June ,20 23

Name of Limited Liability Company: ETM JR PROPERTY LLC

By: _____ Signature of Member/Manager

Complete ONLY if applying for a Partnership Annexation:

In witness whereof, _____ a partnership, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this ____ day of _____, 20____.

Name of Partnership: _____

By: _____ Signature of General Partner

By: _____

By: _____ Signature of General Partner

By: _____

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

Sworn and subscribed before me,_____, a Notary Public for the above State and County, this_____day of,_____, 20_____.

_____ Notary Public

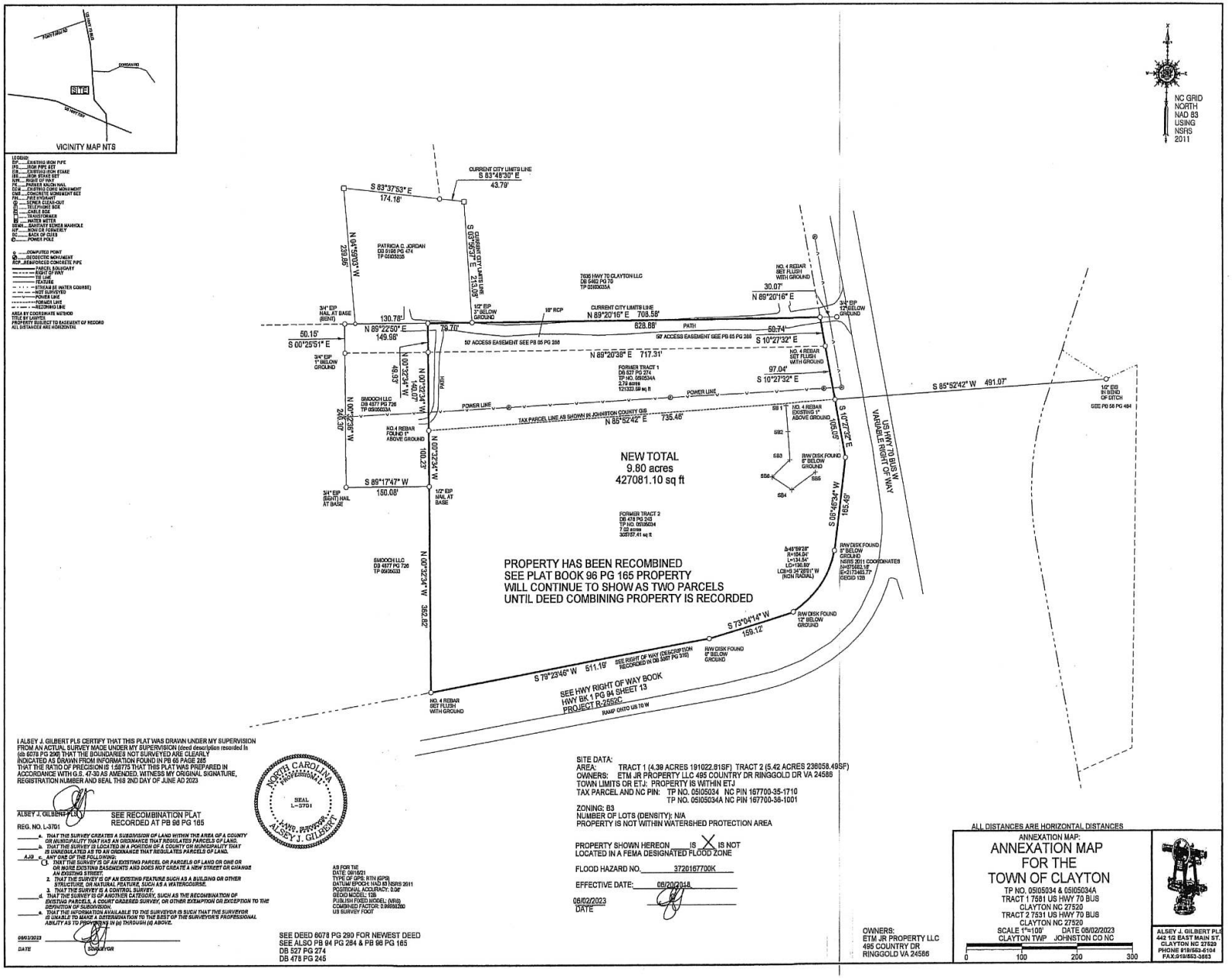
SEAL

My Commission Expires: _____

METES AND BOUNDS LEGAL DESCRIPTION

OF EMT JR PROPERTY, LLC, 7581/7531 U S Highway 70 BUSINESS

Beginning at a 3/4" eip, said point being in the western right of way line of US HWY 70 BUS W, said point being the southeastern corner of 7635 HWY 70 CLAYTON LLC said point being the POINT OF BEGINNING; thence along the western right of way of US HWY 70 BUS W the following calls S10 Deg 27 Min 32 SecE, a distance of 50.74' to a no. 4 rebar flush with ground in the southern line of an access easement; thence S10 Deg 27 Min 32 SecE, a distance of 97.04' to an existing no. 4 rebar 1" above ground; thence S10 Deg 27 Min 32 SecE, a distance of 105.05' to an existing right of way monument 6" below ground; thence S06 Deg 46 Min 34 SecW, a distance of 165.49' to a right of way disk said disk having NSRS 2011 coordinates of Northing=675682.16' and Easting=2173465.77' said point being the point of curvature of a non-tangent curve, concave to the northwest, having a radius of 164.04' a central angle of 46 Deg 59 Min 28 Sec, and a chord of 130.80' bearing S34 Deg 28 Min 01 SecW; thence South along said curve, a distance of 134.54' to a right of way disk found 12" below ground; thence along the acceleration ramp of US HWY 70 W (recorded at db 3067 pg 316) S73 Deg 04 Min 14 SecW, a distance of 159.12' to a right of way disk found 6" below ground ; thence continuing along said acceleration ramp S79 Deg 23 Min 46 SecW, a distance of 511.19' to a no. 4 rebar flush with ground; thence along the eastern line of Smooch LLC as recorded in db 4877 pg 726 N00 Deg 32 Min 34 SecW, a distance of 362.82' to a ½" eip bent with nail at base to a lot owned by Smooch LLC as recorded in db 4877 pg 726; thence along the eastern line of said lot N00 Deg 32 Min 34 SecW, a distance of 100.23' to a no. 4 rebar 1" above ground; thence continuing along eastern line of said lot N00 Deg 32 Min 34 SecW, a distance of 140.07' to a point in the southern line of a 50' access easement; thence N00 Deg 32 Min 34 SecW, a distance of 49.93' to a mag nail set; thence along the southern line of Patrica C. Jordan and 7635 Hwy 70 Clayton LLC N89 Deg 20 Min 16 SecE, a distance of 708.58' to the POINT OF BEGINNING; said described tract containing 9.80 Acres.


VICINITY MAP NTS
SITE
POINT RD
DOWDAVID
US HWY 70
NC GRID
NORTH
NAD 83
USING
NSRS
2011
CURRENT CITY LIMITS LINE
S 83°48'30" E
43.79'
S 83°37'53" E
174.18'
PATRICIA C. JORDAN
DB 5198 PG 474
TP 05035035
N 06°45'07" W
259.56'
S 06°45'07" E
213.06'
7635 HWY 70 CLAYTON LLC
DB 5462 PG 70
TP 05035035A
NO. 4 REBAR
SET FLUSH
WITH GROUND
30.07'
N 89°20'16" E
3/4" EIP
HAIL AT BASE
(BSNV)
130.78'
N 89°22'50" E
149.98'
1/2" EIP
3" BELOW
GROUND
18" RCP
CURRENT CITY LIMITS LINE
N 89°20'16" E 706.58'
828.88'
PATH
50.74'
3/4" EIP
12" BELOW
GROUND
50.15'
S 00°25'51" E
50' ACCESS EASEMENT SEE PB 85 PG 208
50' ACCESS EASEMENT SEE PB 85 PG 208
S 10°27'32" E
3/4" EIP
1" BELOW
GROUND
N 89°20'38" E 717.31'
NO. 4 REBAR
SET FLUSH
WITH GROUND
97.04'
S 10°27'32" E
FORMER TRACT 1
DB 527 PG 274
TP NO. 05105034A
2.79 acres
121323.59 sq ft
N 00°32'34" W
49.97'
N 00°32'34" W
140.07'
PARK
SMOOCH LLC
DB 4977 PG 726
TP 05105033A
POWER LINE
POWER LINE
S 85°52'42" W 491.07'
1/2" EIP
9" BEHIND
OF DITCH
SEE PB 58 PG 484
N 00°32'34" W
248.30'
TAX PARCEL LINE AS SHOWN IN JOHNSTON COUNTY GIS
N 85°52'42" E
735.46'
NO. 4 REBAR
EXISTING 1"
ABOVE GROUND
S 10°27'32" E
105.05'
NO. 4 REBAR
FOUND 1"
ABOVE GROUND
N 00°32'34" W
100.23'
NEW TOTAL
9.80 acres
427081.10 sq ft
SB1
SB2
SB3
SB4
SB5
SB6
RW DISK FOUND
8" BELOW
GROUND
S 89°17'47" W
150.08'
3/4" EIP
(BENT) NAIL
AT BASE
1/2" EIP
HAIL AT
BASE
FORMER TRACT 2
DB 478 PG 245
TP NO. 05105034
7.02 acres
305757.41 sq ft
S 05°45'34" W
165.49'
SMOOCH LLC
DB 4977 PG 726
TP 05105033
N 00°32'34" W
382.82'
PROPERTY HAS BEEN RECOMBINED
SEE PLAT BOOK 96 PG 165 PROPERTY
WILL CONTINUE TO SHOW AS TWO PARCELS
UNTIL DEED COMBINING PROPERTY IS RECORDED
Δ=6°59'28"
R=1804.24'
L=131.54'
LCD=130.80'
LCB=S 34°28'01" W
(NON RADIAL)
RW DISK FOUND
8" BELOW
GROUND
NSRS 2011 COORDINATES
N=2756813.9'
E=2173463.77'
GEOID 12B
S 73°04'14" W
159.12'
RW DISK FOUND
12" BELOW
GROUND
S 79°23'46" W
511.19'
SEE RIGHT OF WAY (DESCRIPTION
RECORDED IN DB 5987 PG 316)
RW DISK FOUND
8" BELOW
GROUND
SEE HWY RIGHT OF WAY BOOK
HWY BK 1 PG 84 SHEET 13
PROJECT R-2552C
NO. 4 REBAR
SET FLUSH
WITH GROUND
RAMP OHTO US 70 W
US HWY 70 BUS W
VARIABLE RIGHT OF WAY
LEGEND
EIP.....EXISTING IRON PIPE
PIPE.....IRON PIPE SET
CIS.....CURVED IRON STAKE
IRS.....IRON STAKE SET
R/W.....RIGHT OF WAY
PK.....PARKER KALON NAIL
CM.....CONCRETE MONUMENT
CMS.....CONCRETE MONUMENT SET
FH.....FIRE HYDRANT
SCO.....SEWER CLEAN-OUT
TB.....TELEPHONE BOX
CB.....CABLE BOX
TF.....TRANSFORMER
SMH.....SEWER MANHOLE
SMH-.....SANITARY SEWER MANHOLE
RF.....IRON OR FORMERLY
BC.....BACK OF CURB
PP.....POWER POLE
C.....COMPUTED POINT
G.....GEODETIC MONUMENT
RCP...REINFORCED CONCRETE PIPE
PROPERTY BOUNDARY
RIGHT OF WAY
TIE LINE
FEATURE
STREAM (IE WATER COURSE)
NOT SURVEYED
POWER LINE
FORMER LINE
ELECTRONIC LINE
AREA BY COORDINATE METHOD
TITLE BY (UNITED)
PROPERTY SUBJECT TO EASEMENT OF RECORD
ALL DISTANCES ARE HORIZONTAL
I ALSEY J. GILBERT PLS CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (deed description recorded in db 6078 PG 290) THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN PB 65 PAGE 285 THAT THE RATIO OF PRECISION IS 1:58775 THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 2ND DAY OF JUNE AD 2023
ALSEY J. GILBERT PLS
SEE RECOMBINATION PLAT
RECORDED AT PB 96 PG 165
REG. NO. L-3701
NORTH CAROLINA
PROFESSIONAL
SEAL
L-3701
ALSEY J. GILBERT
a. THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
b. THAT THE SURVEY IS LOCATED IN A PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND.
AJG c. ANY ONE OF THE FOLLOWING
1. THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET
2. THAT THE SURVEY IS OF AN EXISTING FEATURE SUCH AS A BUILDING OR OTHER STRUCTURE, OR NATURAL FEATURE, SUCH AS A WATERCOURSE.
3. THAT THE SURVEY IS A CONTROL SURVEY.
d. THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.
e. THAT THE INFORMATION AVAILABLE TO THE SURVEYOR IS SUCH THAT THE SURVEYOR IS UNABLE TO MAKE A DETERMINATION TO THE BEST OF THE SURVEYOR'S PROFESSIONAL ABILITY AS TO PROVISIONS IN (a) THROUGH (d) ABOVE.
06/02/2023
DATE
SURVEYOR
AS FOR TIE
DATE 09/18/21
TYPE OF GPS: RTK (GPS)
DATUM EPOCH: NAD 83 NSRS 2011
POSITIONAL ACCURACY: 0.06'
GEOID MODEL: 12B
PUBLISH FIXED MODEL: (MSL)
COMBINED FACTOR: 0.99993380
US SURVEY FOOT
SEE DEED 6078 PG 290 FOR NEWEST DEED
SEE ALSO PB 94 PG 284 & PB 96 PG 165
DB 527 PG 274
DB 478 PG 245
SITE DATA:
AREA: TRACT 1 (4.39 ACRES 191022.81SF) TRACT 2 (5.42 ACRES 236058.49SF)
OWNERS: ETM JR PROPERTY LLC 495 COUNTRY DR RINGGOLD VA 24586
TOWN LIMITS OR ETJ: PROPERTY IS WITHIN ETJ
TAX PARCEL AND NC PIN: TP NO. 05105034 NC PIN 167700-35-1710
TP NO. 05105034A NC PIN 167700-36-1001
ZONING: B3
NUMBER OF LOTS (DENSITY): N/A
PROPERTY IS NOT WITHIN WATERSHED PROTECTION AREA
PROPERTY SHOWN HEREON ____ IS X IS NOT
LOCATED IN A FEMA DESIGNATED FLOOD ZONE
FLOOD HAZARD NO. 3720167700K
EFFECTIVE DATE: 06/20/2018
06/02/2023
DATE
OWNERS:
ETM JR PROPERTY LLC
495 COUNTRY DR
RINGGOLD VA 24586
ALL DISTANCES ARE HORIZONTAL DISTANCES
ANNEXATION MAP:
ANNEXATION MAP
FOR THE
TOWN OF CLAYTON
TP NO. 05105034 & 05105034A
TRACT 1 7581 US HWY 70 BUS
CLAYTON NC 27520
TRACT 2 7531 US HWY 70 BUS
CLAYTON NC 27520
SCALE 1"=100' DATE 06/02/2023
CLAYTON TWP JOHNSTON CO NC
0 100 200 300
ALSEY J. GILBERT PLS
442 1/2 EAST MAIN ST.
CLAYTON NC 27520
PHONE 919/553-6104
FAX:919/553-3563

Ordinance #2023-10-05

Annexation Petition 2023-96-ANX
ETM JR, LLC .
Location: 05I05034 & 05I05034A
Non-Contiguous; 9.80 acres

TOWN OF CLAYTON
ORDINANCE TO EXTEND THE CORPORATE LIMITS

1. WHEREAS, the Clayton Town Council has been petitioned under NC GS 160A-58.1.

to annex the area described below; and

WHEREAS, the Clayton Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Clayton Town Hall, 111 E Second Street at 6 p.m. on October 16, 2023, after due notice by publication in the Johnstonian on October 4th, 2023; and

WHEREAS, the Clayton Town Council finds that the petition meets the requirements of NC GS 160A-31;

NOW THEREFORE, BE IT ORDAINED by the Clayton Town Council of the Town of Clayton, North Carolina that:

1. **SECTION 1** By virtue of the authority granted by NC GS 160A-58.1., the following described territory is hereby annexed and made part of the Town of Clayton as of October 16, 2023:

   Beginning at a 3/4" eip, said point being in the western right of way line of US HWY 70 BUS W, said point being the southeastern corner of 7635 HWY 70 CLAYTON LLC said point being the POINT OF BEGINNING; thence along the western right of way of US HWY 70 BUS W the following calls S10 Deg 27 Min 32 SecE, a distance of 50.74' to a no. 4 rebar flush with ground in the southern line of an access easement; thence S10 Deg 27 Min 32 SecE, a distance of 97.04' to an existing no. 4 rebar 1” above ground; thence

S10 Deg 27 Min 32 SecE, a distance of 105.05' to an existing right of way monument 6" below ground; thence S06 Deg 46 Min 34 SecW, a distance of 165.49' to a right of way disk said disk having NSRS 2011 coordinates of Northing=675682.16' and Easting=2173465.77' said point being the point of curvature of a non-tangent curve, concave to the northwest, having a radius of 164.04' a central angle of 46 Deg 59 Min 28 Sec, and a chord of 130.80' bearing S34 Deg 28 Min 01 SecW; thence South along said curve, a distance of 134.54' to a right of way disk found 12" below ground; thence along the acceleration ramp of US HWY 70 W (recorded at db 3067 pg 316) S73 Deg 04 Min 14 SecW, a distance of 159.12' to a right of way disk found 6" below ground ; thence continuing along said acceleration ramp S79 Deg 23 Min 46 SecW, a distance of 511.19' to a no. 4 rebar flush with ground; thence along the eastern line of Smooch LLC as recorded in db 4877 pg 726 N00 Deg 32 Min 34 SecW, a distance of 362.82' to a ½" eip bent with nail at base to a lot owned by Smooch LLC as recorded in db 4877 pg 726; thence along the eastern line of said lot N00 Deg 32 Min 34 SecW, a distance of 100.23' to a no. 4 rebar 1" above ground; thence continuing along eastern line of said lot N00 Deg 32 Min 34 SecW, a distance of 140.07' to a point in the southern line of a 50' access easement; thence N00 Deg 32 Min 34 SecW, a distance of 49.93' to a mag nail set; thence along the southern line of Patrica C. Jordan and 7635 Hwy 70 Clayton LLC N89 Deg 20 Min 16 SecE, a distance of 708.58' to the POINT OF BEGINNING; said described tract containing 9.80 Acres.

SECTION 2 Upon and after October 16, 2023, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the Town of Clayton and shall be entitled to the same privileges and benefits as other parts of the Town of Clayton. Said territory shall be subject to municipal taxes in according to NC GS 160A-58.10.

SECTION 3 The Mayor of the Town of Clayton shall cause to be recorded in the office of the Register of Deeds of (COUNTY), and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in SECTION 1 above, together with a duly certified copy of the ordinance. Such a map shall also be delivered to the County Board of Elections, as required by NC GS 163-288.1.

ADOPTED this 16 day of October 2023.

_____
Jody L. McLeod
Mayor

ATTEST:

_____
Heidi Holland, CMC, NCCMC
Town Clerk

APPROVED AS TO FORM:

_____
Jim Cauley
Town Attorney

NORTH CAROLINA
JOHNSTON COUNTY

This the _____ day of _____, 2023, personally appeared before me Heidi Holland, Clerk of the Town of Clayton, who, being duly sworn by me, says that she knows the common seal of the Town of Clayton and is acquainted with Jody L. McLeod, who is the Mayor and presiding member of said municipal corporation; and that she saw the said Mayor sign the foregoing instrument and saw the said common seal of said municipal corporation affixed to said instrument by said Mayor, and that she, the said Heidi Holland, signed her name in attestation of said instrument in the presence of said Mayor.

Witness my hand and notarial seal, this the day and year first above written.

_____
Notary Public - Signature

_____
Notary Public – Printed Name

Commission Expires: _____

County of Commission: _____

Regular Town Council Meeting
Agenda Cover Sheet

Meeting Date	Agenda Location
October 16, 2023	PUBLIC HEARINGS

Item Title

Ordinance 2023-10-03 to Enact the "Codify Clayton" Unified Development Ordinance

Presenter(s)

Jonathan K. Jacobs, PE, CFM - Interim Planning Director

Suggested Action

Adoption of Ordinance

Strategic Priorities Alignment

☒ Think Clayton (Administrative)	☒ Think Arts & Culture	☒ Think Downtown	☒ Think Economic Development	☒ Think Land Use & Housing	☒ Think Mobility	☒ Think Parks, Recreation & Natural Resources	☒ Think Public Services & Infrastructure

Public Hearing: Yes - Legislative

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

- ☒ Public Hearing (Required by GS)
- ☒ Newspaper Notice (Required by GS)
- ☐ Public Forum/Input Session
- ☐ E-News Distribution
- ☐ Social Media
- ☐ Special Mailing
- ☐ Public Hearing (Not Required by GS)
- ☐ Newspaper Notice (Not Required by GS)
- ☐ Press Release
- ☐ Website
- ☐ Survey
- ☐ None Required

Summary

Following the adoption of the 2045 Comprehensive Growth Plan on November 15, 2021, Town staff was given the authority to move forward with the creation of a new Unified Development Ordinance (UDO) that aligns with the goals of the new Growth Plan and with the strategic goals and vision of the Town Council. The new UDO will be the first comprehensive update since the current Unified Development Code was adopted by the Town Council on November 2, 2005. Following the recommendation of the Planning Board and Town staff, staff is recommending approval the public draft UDO, dated September 11, 2023, with the proposed recommended changed as listed in the attachment.

Funding Source

N/A

Corresponding Documentation

00 UDO Staff Report

01 UDO Ordinance

02 Codify Clayton Adoption Version UDO 9-6-23 tracked changes

03 ERRATA Memo of Changes

04 Existing Code of Ordinances

05 Chapter 51.03C Redline

Submitted By: Jonathan Jacobs, Planning

Reviewed By:

Rich Cappola, Town Manager	Approved - Oct 12 2023
Heidi Holland, Town Clerk	Approved - Oct 12 2023

Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
Phone: 919-553-5002

Planning Board, September 25, 2023
Town Council Public Hearing, October 16, 2023

STAFF REPORT

Project Name: New Unified Development Ordinance – Codify Clayton

APPLICANT: Town of Clayton
PUBLIC NOTICING: A newspaper ad was published providing notice for the Planning Board Public Meeting on October 4th and 11th, 2023 as is required by NC GS 160D-601(a).

REQUEST: Approval of Ordinance 2023-10-03 to enact the "Codify Clayton" Unified Development Ordinance.

STAFF ANALYSIS AND COMMENTARY:

Overview
Following the adoption of the 2045 Comprehensive Growth Plan on November 15, 2021, Town staff was given the authority to move forward with the creation of a new Unified Development Ordinance (UDO) that aligns with the goals of the new Growth Plan and with the strategic goals and vision of the Town Council. The new UDO will be the first comprehensive update since the current Unified Development Code was adopted by the Town Council on November 2, 2005.

In early 2022, the Town of Clayton Planning Department issued a request for qualifications to solicit professional services to draft a new UDO. Through a rigorous evaluation and selection process, consisting of several key internal stakeholders, the Town chose CodeWright Planners, LLC to undertake the creation and drafting of the new UDO. The project was scoped to be created over the next 18 months and through collaboration with staff was formally branded as Codify Clayton.

On September 11, 2023, the Codify Clayton formal public draft was issued for review. This draft was the result of thirteen (13) UDO steering committee meetings, multiple development community stakeholder interviews, three (3) public forums, and extensive staff review and collaboration. The stakeholder steering committee consisted of members of the Planning Board and Board of Adjustment. Additionally, the staff has held several Town Council collaborations and presentations. Throughout the Codify Clayton creation, the project team has kept a dedicated project webpage with content and updates readily available.

Codify Clayton will repeal and replace the existing Unified Development Code, Chapter 155 of the Code of Ordinances in full and is consistent with the 2045 Comprehensive Growth Plan in addressing numerous plan recommendations and goals. Additionally, Codify Clayton will also incorporate and replace the Flood Damage

Prevention Code, Soil Erosion and Sedimentation Control, and Stormwater Management; Chapter 151, 156, and 158, respectively.

Such goals from the 2045 Comprehensive Growth Plan are:

- Drafting and adoption of an update of the Unified Development Code
- Providing alternatives for Special Use Permits
- Encouraging a greater mix of housing types and lot sizes
- Providing the base for future corridor plans to enhance and improve aesthetics along major corridors

Over time, the adoption of these recommendations will help maintain Clayton's small-town appeal and attractive appearance while continuing to encourage managed growth. These implementations will foster a more diverse tax base and a range of employment to ensure the Town's fiscal solvency and avoid undue burdens on residential property owners. Also, it will help ensure responsible development and redevelopment that is sustainable and provides environmental protection that benefits both resident and visitor health alike. The adoption of Codify Clayton will encourage economic equality, support mixed-use development within downtown, and along key commercial corridors, and in designated activity centers as laid out in the 2045 Comprehensive Growth Plan Future Land Use Map. The adoption of Codify Clayton would help preserve and maintain the Town's historic structure and areas with historic character, while ensuring Town residents have a wide range of housing options that allow for varying income levels, diverse housing preferences and motivate growth that pays for itself in support of sustainable fiscal management of municipal services.

Additionally, Codify Clayton promotes the preservation of valuable open space throughout Town, advances development of walking trails and bicycle paths, facilitates well-planned infrastructure, protection of Clayton's tree canopy, prevents the overcrowding of land and undue concentration of populations.

The Planning Board has reviewed the new Unified Development Ordinance and recommended approval to the Town Council on September 25, 2023. The Town Council will hold a Public Hearing on Codify Clayton on October 16th.

CONSIDERATIONS:

The Town Council shall consider the recommendation of the Planning Board and Planning Director. The Town Council may approve the ordinance, approve the ordinance with changes, or deny the ordinance as presented.

CONSISTENCY STATEMENT:

Consistency with the 2045 Comprehensive Growth Plan:

- Goal LU 1: Preserve Clayton's character while allowing for growth and development in appropriate areas; and
- Strategy LU 1.1.3: Review and update the Unified Development code within 1-2 years to ensure consistency with the Goals, Policies, and Strategies of the Comprehensive Growth Plan.
- Policy LU 1.2: Encourage developments which incorporate high-quality design and enhance the quality of life for existing and future residents of the Town.

The requested ordinance is consistent with the above referenced goal, strategy and policy from the 2045 Comprehensive Growth Plan.

STAFF RECOMMENDATION:
Staff is recommending **APPROVAL** of the Codify Clayton Unified Development Ordinance with the recommend changed 1-12 with the consistency statement above.

ATTACHMENTS:

1. Ordinance
2. September 11, 2023, Codify Clayton Public Draft with Tracked Changes
3. ERRATA Memo outlining changes since September 11, 2023 and requested changes by Development Community during diagnostic testing.
4. Current Unified Development Code, Flood Damage Prevention Code, Soil Erosion and Sedimentation Control, and Stormwater Management (Code of Ordinances Chapter 155, 151, 156, and 158)
5. Redlined version of Code of Ordinances Chapter 51.03(C)

Ordinance #2023-10-03

AN ORDINANCE TO ENACT THE "CODIFY CLAYTON" UNIFIED DEVELOPMENT ORDINANCE

WHEREAS, the Town of Clayton 2045 Comprehensive Growth Plan ("Growth Plan") and the Future Land Use Map ("Land Use Map") will guide the growth, development and investment made in the Town of Clayton over the next twenty (20) years; and,

WHEREAS, the Town has not completed a major revision to the Unified Development Code (UDC) since the current code was adopted by Town Council on November 21, 2005; and,

WHEREAS, the Growth Plan, adopted by Town Council on November 15, 2021, called for a comprehensive update to the UDC to occur within 1-2 years of adoption; and,

WHEREAS, Town Council directed staff to commence a comprehensive update of the Unified Development Code on November 15, 2021; and,

WHEREAS, the "Codify Clayton" Unified Development Ordinance (UDO) is a Town-wide effort to consolidate and update Chapters 151, 155, 156, and 158 of the Town of Clayton Code of Ordinances into one comprehensive document which will guide the Town's growth and development; and,

WHEREAS, On September 25, 2023, the Planning Board unanimously recommended approval of the "Codify Clayton" UDO public draft for a new Unified Development Ordinance for the Town of Clayton and its extraterritorial jurisdiction with staff recommended changes; and,

WHEREAS, the "Codify Clayton" UDO incorporates the best of the existing code with contemporary best practices into a set of regulations designed to guide the Town's future growth, development, and investment consistent with the 2045 Comprehensive Growth Plan; and,

WHEREAS, the Town Council finds this request to adopt the UDO in full, is consistent with the Town of Clayton 2045 Comprehensive Growth Plan in that it directly addresses several plan recommendations and goals;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON THAT:

Section 1. The "Codify Clayton" UDO Public Draft, released on September 11, 2023, and presented for a Town Council public hearing on October 16, 2023, together with the recommendation from the Planning Board on September 25, 2023, and the revisions directed by the Town Council, collectively called the Unified Development Ordinance (UDO), are hereby adopted and enacted into the Town Code on October 16, 2023. The UDO shall be codified into the Town Code upon adoption.

Section 2. The UDO, as further set forth by this ordinance, shall be effective beginning January 2, 2024.

Section 3. Upon the effective date of January 2, 2024, the following chapters, articles, sections, and appendix of the Town Code are repealed in their entirety:

i. Chapter 151: Flood Damage Prevention Code
ii. Chapter 155: Unified Development Code
iii. Chapter 156: Soil Erosion and Sedimentation Control
iv. Chapter 158: Stormwater Management

Section 4. Upon the effective date of January 2, 2024, the following chapters, articles, and sections shall read as follows:

i. Chapter 51.03(C) – "In accordance with G.S. 160A-317, any property proposing to develop within the town limits and within the limits outlined in the Unified Development Ordinance of a water line or sewer collection line owned, leased as lessee, or operated by the town or on behalf of the town shall extend and connect, unless it is determined by the town, in its sole discretion, that connection to the property is not feasible. The minimum distance for the extension of water mains and sewer mains shall be determined as outlined in the Unified Development Ordinance, but no less than 300 feet. In general, the minimum distance for extension shall be one platted block, or in the case of water mains, from main line valve, and in the case of sanitary sewers, from manhole to manhole. However, in no case shall water and sewer lines be extended less than the entire length of the developer's property and to adjacent parcels.

Section 5. Upon the effective date of January 2, 2024, areas mapped on the Official Zoning Map with a conditional zoning district retain their zoning district designations and approved master/site plan conditions remain in effect under the zoning ordinance regulations in place at the time of adoption of the conditional zoning district.

Section 6. Upon the effective date of January 2, 2024, areas mapped on the Official Zoning Map as a conventional zoning district, without an overlay district, are translated to a new UDO zoning district as shown in the table below:

Zoning District Translation	
Previous Conventional Zoning District	**UDO Zoning District**
R-E (Residential Estate)	RLL (Residential Large Lot)
R-10 (Single-Family Residential 10)	RLD (Residential Low Density)
R-8 (Single-Family Residential 8)	RMD (Residential Medium Density)
R-6 (Single-Family Residential 6)	RHD (Residential High Density)
O-R (Office Residential)	OFI (Office Institutional)
O-I (Office Institutional)	
B-1 (Central Business)	DTN (Downtown)
B-2 (Neighborhood Business)	NCM (Neighborhood Commercial)
B-3 (Highway Business)	CRM (Corridor Commercial)
I-1 (Industrial Light)	LID (Light Industrial)
I-2 (Industrial Heavy)	HID (Heavy Industrial)
PF (Public Facilities)	PUB (Public Facilities)
CZ-R (Residential Conditional)	CZR (Conditional Residential)
CZ-I (Industrial Conditional)	CZI (Conditional Industrial)

Section 7. Upon the effective date of January 2, 2024, areas mapped on the Official Zoning Map with a conventional zoning district and an overlay zoning district are translated to a new UDO zoning district as shown in the table below:

Zoning Overlay District Translation	
Previous Conventional Zoning District	**UDO Zoning District**
WPO (Watershed Protection Overlay)	WPOD (Watershed Protection Overlay)
TOD (Thoroughfare Overlay District)	None
DOD (Downtown Overlay District)	None

Section 8. Upon the effective date of January 2, 2024, the following new zoning districts and overlay districts are considered established:

Proposed Zoning District	Proposed Overlay District
RUR (Rural)	FPOD (Flood Protection Overlay)
CON (Conservation)	GTOD (Gateway Overlay)
MXD (Mixed-Use)	LHOD (Local Historic Overlay)
CZM (Conditional Mixed Use)	
CZC (Conditional Commercial)	
CZD (Conditional Downtown)	

Section 9. Upon the effective date of this ordinance, January 2, 2024, if a pending conventional rezoning petition is requesting a pre-UDO zoning district, the request will be changed to the translated UDO district. Any pending conventional rezoning petition will become null and void if no decision has been reached within one (1) year from the application submittal date, or the effective date, whichever is later.

Section 10. Upon adoption of this ordinance, conditional rezoning applications for a zoning map amendment to a pre-UDO zoning district will be accepted by Town staff and processed under the pre-UDO zoning regulations, if a complete application is filed by December 1, 2023, even if a decision is made later. A decision must occur no later than December 1, 2024. The petition will become null and void if no decision is reached within that period.

Section 11. Upon adoption of this ordinance, any pending ordinance amendments to Chapter 151, 155, 156, and/or 158 of the Town Code of Ordinances, will become null and void.

Section 12. Except as otherwise authorized in this section, upon adoption of this UDO, the following text amendments to the UDO may be made without further public hearing to:

a. Codify changes approved by Town Council in conjunction with the approval of the UDO,
b. The addition of or changes to graphics, and
c. To correct typographic or cross-reference errors.

Section 13. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 14. This ordinance has been adopted following a duly advertised public hearing of the Clayton Town Council, and upon a recommendation from the Planning Board.

Duly adopted this 16th day of October 2023, while in regular session.

_____

Jody L. McLeod
Mayor

ATTEST:

_____

Heidi L. Holland, CMC, NCCMC
Town Clerk

UNIFIED DEVELOPMENT ORDINANCE



CODIFY CLAYTON

Adoption Draft
9-6-23

ACKNOWLEDGEMENTS

Town Council

Jody McLeod, Mayor
Jason Thompson, Mayor Pro Tem
Avery Everett, Councilmember
Andria Archer, Councilmember
Porter Casey, Councilmember
Michael Sims, Councilmember

Planning Board

James Moore, Chair
Steven Powers, Vice-Chair
Jeffrey Spence
Lisa Begley
Ronald Williams
Kevin Lee
Ethan Bennett
James Lipscomb
Jodie Dupree

Codify Clayton Steering Committee

Town of Clayton Planning Board
Marty Bizzell, Chair, Board of Adjustment
Thomas Antoine, Vice-Chair, Board of Adjustment
Rebecca Berry, Member, Board of Adjustment
Jim Perricone, Member, Board of Adjustment

Town Staff

Rich Cappola, Town Manager
Lee Barbee, Interim Deputy Town Manager/Fire Chief
Robert Yarborough, Senior Building Codes Official
Anthony Atkinson, Deputy Fire Chief/Fire Marshal
Joshua Baird, Engineering Director
Jonathan Jacobs, Assistant Engineering Director
Byron Poelman, Water Resources Director
Allen Turnage, Electric Director
Ethan Poppe, Energy Services Technician
Benjamin Howell, Planning Director
Dede Bumgarner, Development Services Manager & Zoning Administrator
Bruce Venable, Planner I

Consultant

CodeWright Planners, LLC
Angela S. Manning, Inc
Timmons Group

UDO AMENDMENTS

UDO AMENDMENTS[1]		
Ordinance Number	**Ordinance Date**	**Description**
UDOTA-1-23	13.32.23	A short description listing the main sections modified and an abbreviated summary of the ~~changes~~changes. Section 1.1: added language Section 3.5: section deleted Section 4.2: Some other change, etc.
UDOTA-2-23	13.32.23	Another description and summary from a subsequent round of text amendments.

[1] This is a sample table showing a possible method for the Town to record edits to the UDO text following adoption. The table lists amending ordinance numbers and adoption dates. It also provides a short description of each amendment. This table would be updated as part of any proposed UDO text amendment. In addition to this table, amended sections of the UDO text should be appended with an editor's note indicating the date the section was amended and the applicable ordinance number. The Town should make historical text amendment ordinances available for public review so readers can easily see how the UDO language has evolved over time. One other important aspect is the date in the lower right hand corner of each page. This is the control method the Town and applicants can use to ensure they are using the latest version of the UDO.

ABOUT THIS UDO

This document is the Town of Clayton's County Unified Development Ordinance (or "UDO"). It contains the rules that govern:

- How land can be used in the Town and the Town's extraterritorial jurisdiction;
- What kinds of land uses may be located in particular locations (based on the zoning map); and
- How new development must be configured.

The following paragraphs explain some of the attributes of this document.

Clayton's zoning map is the graphical depiction of the location of the zoning districts and is adopted by reference into this UDO.

This UDO includes a text formatting system comprised of numbered section and sub-section headings that are designed to help code users understand how the text is organized. Section headings include different color backgrounds and sub-section headings use underlining to help them be more visible.

This UDO has 9 chapters, which are ordered alphabetically, including an appendix. Most sections within each chapter are also ordered alphabetically. Some chapters also include an introductory section that explains how the regulations in the chapter are structured and how to use them effectively.

The top of almost every page in the UDO includes the chapter's number and name, as well as the number and name of the section addressed on that page. This is done so users may use the tops of pages to quickly navigate the document (since articles and main sections are ordered alphabetically). Page numbers are included at the bottom of each page.

To ensure that a user is reviewing the most recent version of the document, the bottom of the page also includes the date the UDO was last updated. The most recent version of the document is maintained on the Town's webpage and is also available in the Town's Planning Department office.

Highlighted text in this UDO is a dynamic cross reference that, when selected with a mouse, will automatically advance to the location of the cross-referenced text in this UDO. Individual table of contents entries and index entries are also dynamic cross references that when selected, will automatically advance to the selected location.

There is an index of key terms and concepts at the end of the document. Code users may use this index to quickly locate a particular section or set of regulations.

Questions about this UDO, or any part of the Codify Clayton project may be posted on the project website (www.codifyclayton.com), or applicants may contact the Planning Department at 919-553-5002. [2]

[2] NOTE TO STAFF: This kind of section is becoming a common way of introducing a code user to the basic operational features of a digital development code. It typically includes details on the dynamic links in tables of contents, cross references, and the index. It explains what dynamic cross references look like along with other attributes of the text. One possible addition to this part of the document could be the addition of frequently asked questions (and answers). This provides a uniform foundation of knowledge about the UDO and how it operates for Town staff, code users, and Town officials. It is specifically identified as supplementary and illustrative in nature and is not part of the adopted UDO text.

FREQUENTLY ASKED QUESTIONS

The following is a list of frequently asked questions about the UDO and the development review process. UDO users who are not sure what they are looking for should consult these questions and answers before reviewing the UDO or contacting Town staff. In the event of conflict between an answer listed in this frequently asked questions section and the adopted UDO text, the UDO text will control.[3]

FREQUENTLY ASKED QUESTIONS AND ANSWERS	
QUESTION	**ANSWER**
WHAT IS THE UNIFIED DEVELOPMENT ORDINANCE	The Unified Development Ordinance (or "UDO") is the set of laws used by the Town to ensure land is subdivided and used in ways that promote the health, safety, and welfare of all Town residents, visitors, and landowners. It sets rules for how land can be used in the Town and how to change the application of these rules to allow different uses. The UDO also includes development rules for things like parking, landscaping, signage, fencing, and building architecture. The text of the UDO is available in the offices of the Town of Clayton Planning Department at 111 E Second Street. It is also available online from the Town's website at https://www.townofclaytonnc.org/217/Planning
WHAT IS THE OFFICIAL ZONING MAP?	The Official Zoning Map shows the zoning districts for each property as adopted by the Town of Clayton. Zoning districts control how land is used, as well as the size, width, and required setbacks for each lot. A property's zoning district designation may be changed by following the steps required in the UDO. Copies of the Official Zoning Map are available in the offices of the Town of Clayton Planning Department at 111 E Second Street. It is also available online from the Town's website at https://www.townofclaytonnc.org/217/Planning
WHAT IS THE COMPREHENSIVE PLAN?	The Think Clayton: 2045 Comprehensive Growth Plan is the Town's plan for future growth. The Plan expresses a vision for how the Town can accommodate opportunities for new residents and businesses while retaining what the community loves about Clayton. Within the plan are recommendations for economic development, land use, parks, public services, infrastructure, and arts and culture, among others. This plan was adopted by the Town Council and is the guiding direction that informs the regulations within the UDO. For more details on what is included in the Comprehensive Plan, please visit www.townofclaytonnc.org/234/2045-Comprehensive-Growth-Plan
WHAT CAN I DO OR PLACE ON MY LAND?	Land may be developed in the Town of Clayton based on the zoning district designation for the land. Zoning districts include allowable uses as specified in Chapter 4 of the UDO. Bona fide farm and forestry uses are allowed everywhere in the Town. Anyone with questions about what is allowed on their land should contact the Town of Clayton Planning Department at (919) 553-5002 for more information.

[3] NOTE: This is a table of FAQ that is provided as a means to log and answer the most frequently asked questions about the UDO or development process. The cells will be filled in or substituted with other questions from Town staff as the project progresses.

FREQUENTLY ASKED QUESTIONS

FREQUENTLY ASKED QUESTIONS AND ANSWERS	
QUESTION	**ANSWER**
WHAT PERMITS DO I NEED TO BUILD A HOUSE?	All single-family detached dwellings require prior approval of a Zoning Compliance Permit and a Building Permit issued from the Town of Clayton. In cases where the home is on its own well or septic system, the dwelling also requires prior approval from Johnston County Environmental Health to ensure the lot has a potable water supply and a method for dealing with sewage. Dwellings located in a floodplain or flood prone area also require issuance of a Floodplain Permit. If significant amounts of grading or soil deposition is required before the house can be built, it may be necessary to obtain a Land Disturbance Permit before construction starts. During construction, the building must be inspected by Town Building Inspectors as required by State law, and a Certificate of Occupancy must be issued before the home may be occupied. Applicants seeking to place a mobile or manufactured home may be required to obtain a Special Use Permit, and should contact the Town's Planning Department at (919) 553-5002 for more information.
DO I NEED A PERMIT TO BUILD A DECK?	Building a porch or a deck on or near a single-family detached dwelling requires approval of a Building Permit and may also require a Zoning Compliance Permit. In cases where the home is on a small lot of less than an acre in area or the porch or deck is closer than ten feet to a lot line, it may be necessary to also obtain a Variance. Decks should never be built within a public utility easement.
DO I NEED A PERMIT TO BUILD A FENCE?	A Zoning Compliance Permit is required to build a fence. Fences over six feet in height also need a Building Permit to show compliance with wind loading requirements required under State law. Section 6.3 of the UDO contains the rules for fences and walls. Questions about how to permit a fence should be directed to the Town's Planning Department at (919) 553-5002.
DO I NEED A PERMIT FOR A SIGN?	Most forms of signage require approval of a Sign Permit by the Town. Flags and political (election) signs do not require a sign permit, but are subject to the rules for signage in the UDO in Section 6.13.
DO I NEED A PERMIT TO HAVE OPERATE A BUSINESS IN MY HOME?	Operating a home-based business (also called a "home occupation") requires approval of a Zoning Compliance Permit issued by the Town. Home occupation is an allowed secondary use in the zoning districts designated in Section 4.5 of the UDO. Owners should note that there are several uses that are prohibited as home occupations as listed in Section 4.4.3.

FREQUENTLY ASKED QUESTIONS

FREQUENTLY ASKED QUESTIONS AND ANSWERS	
QUESTION	**ANSWER**
HOW DO I CREATE AN ADDITIONAL LOT FOR A FAMILY MEMBER?	Lots may be created for family members on a limited basis using the process for a "family subdivision" in the UDO. A subdivision of land creating lots for family members must be signed by Town personnel and recorded with the Johnston County Register of Deeds at 207 E. Johnston Street, Suite 209, Smithfield, NC, 27577. Failure to record a plat for a family subdivision will interfere with the ability to obtain a Building Permit to build a structure on the lot.
WHAT IS THE PROCESS FOR REZONING MY LAND?	Rezoning land is a change to the Town's Official Zoning Map and must be approved by a Zoning Map Amendment decision by the Town Council. This process also requires a public hearing before the Town Council, and the decision will take into consideration the recommendation of the Planning Board. Landowners considering a request to change their zoning should talk with the Town of Clayton Planning Department staff at (919) 553-5002 before filing an application.
WHO MAKES DECISIONS ON APPLICATIONS?	Development applications are decided by the Planning Director, the Engineering Director, the Building Inspector, the Town Council, or the Board of Adjustment based on the type of application. The UDO includes a summary table in Chapter 2.2.1 that identifies who decides which kinds of applications.
HOW CAN I APPEAL A DECISION?	Any decision by a Town staff member (like the Planning Director) may be appealed to the Town's Board of Adjustment. Decisions from decision-making bodies like the Board of Adjustment may be appealed to the Superior Court for Johnston County. There are specific deadlines from the date a decision is made within which an appeal may be filed.
WHO SHOULD I CALL ABOUT FLOODING OR OTHER NUISANCES?	Persons with questions about flooding, nuisances, or potential code violations should contact the Town of Clayton Planning Department at (919) 553-5002.
HOW CAN I LEARN MORE?	To learn more about the Town of Clayton's planning and development process and rules, visit the Planning Department's website here: https://www.townofclaytonnc.org/217/Planning Or stay up to date and learn more about the Town of Clayton's UDO at the project website here: https://www.codifyclayton.com/

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KEY CHANGES FROM CURRENT UDC

Chapter 1, Administration, consolidates the standards in Article 1, General Provisions, in the current UDC, along with the material for review bodies in Section 155.700, and the provisions pertaining to vested rights in Section 155.718. In addition, there are several other key changes, including:

1. Consolidation of all the introductory and administrative material into a single chapter.
2. Identification of the full run of statutory authority to adopt the UDO.
3. Clarification that the standards apply to various units of government, including the Town, the County, and the State.
4. Clarification that the standards in the UDO are minimum requirements.
5. Identification of the range of development and activity that is exempted from this Ordinance.
6. Establishment of a new comprehensive set of conflict provisions that address situations where ordinances conflict with one another, or how to interpret the most restrictive standard when relief is granted or incentives are deployed.
7. Identification of the adopted policy guidance documents that serve as the foundation for the UDO.
8. Recognition of a procedures manual (if the Town chooses to prepare one).
9. Inclusion of a new more detailed set of purpose and intent statements that address Town goals like character protection, increased housing options, and more employment opportunities.
10. Includes a new set of general requirements for all review authorities addressing aspects as rules of procedure, oath of office, conflict of interest, and meeting records.
11. A wider array of review responsibilities, including delegation of the Board of Adjustment as the body to consider all quasi-judicial applications.
12. Identification of the Floodplain and Stormwater Administrator functions.
13. New severability provisions that protect UDO language from summary removal via legal action.
14. A new comprehensive vested rights section that identifies the different forms of vesting above and beyond site-specific vesting plans.

1.1 APPLICABILITY[4]

1.1.1 GENERALLY

The provisions of this Ordinance shall apply to the development of all land within the corporate limits and the Extraterritorial Jurisdiction (ETJ) of the Town of Clayton, as shown on the adopted Official Zoning Map, unless the development is located outside the corporate limits or ETJ and subject to a development agreement where these standards are applied.

1.1.2 APPLICATION TO GOVERNMENTAL UNITS

Except when stated elsewhere in applicable law, this Ordinance applies to the following units of government:

A. THE TOWN OF CLAYTON

Development by the Town or its agencies or departments.

B. COUNTY AND STATE GOVERNMENT

Development of buildings by State or County agencies or departments, public colleges or universities, or other political subdivisions of the State, in accordance with the standards in NCGS§160D-913.

C. THE FEDERAL GOVERNMENT

Development owned or held in tenancy by the government of the United States, its agencies, departments, or corporate services, to the full extent permitted by federal law. For those activities of the federal government exempted from these regulations, compliance is strongly encouraged.

1.1.3 JURISDICTION

A. GENERALLY

The standards in this Ordinance shall apply to all development where these standards are applicable unless the development is expressly exempted by a specific section of this Ordinance, other Town requirement, or by State law.

B. EXEMPTIONS FROM ZONING REQUIREMENTS

1. The following forms of development and activities are exempted from the zoning-related requirements of this Ordinance:
   a. Agricultural and agri-tourism related activities taking place on a bona fide farm in accordance with NCGS§160D-903;
   b. Agricultural and agri-tourism related activities taking place on land taxed under the present use value standard;;
   c. Forestry activities taking place on a bona fide farm or on land taxed under the present use value standard; or
   d. Forestry activities subject to a forestry management plan approved in accordance with NCGS§160D-921.
2. In no instance shall the forms of development and activities listed under sub-section (1) above be exempted from the following standards in this Ordinance:
   a. Standards associated with the subdivision of land;

[4] This section replaces current Sections 155.106 and 155.104 with additional details.

b. The flood damage prevention standards in Section <>, FPOD Flood Protection Overlay District;
c. The water supply watershed protection standards in Section <>, Watershed Protection Overlay District;
d. The standards in Section <>, Stormwater; and
e. The standards in Section <>, Erosion and Sedimentation Control.

C. ANNEXATION

Land annexed to the Town of Clayton in accordance with NCGS§§ 160A-31 or 160A-58 shall become subject to the standards of this Ordinance upon the effective date of the annexation approval by the Town.

D. EXTRATERRITORIAL JURISDICTION

In cases where the Town is seeking approval of ETJ extension from a county government, the Town may review development applications from the area and provide a recommendation to the county government considering the ETJ request in accordance with NCGS§160D-204.

1.1.4 MINIMUM REQUIREMENTS

In the application of this Ordinance, all provisions shall be considered as minimum requirements and shall not be deemed to limit or repeal any other powers or authority granted under the North Carolina General Statutes.

1.1.5 NO DEVELOPMENT UNTIL COMPLIANCE WITH ALL APPLICABLE LAWS

No structure, land, or use thereof, shall hereafter be established, located, subdivided, extended, converted, altered, developed, or disturbed in any way without full compliance with the terms of this Ordinance and other applicable law.

A. NO LAND DEVELOPED

Unless exempted, no land shall be developed without compliance with this Ordinance and all other applicable Town, State, and federal regulations.

B. NO GRADING OR EXCAVATION

Unless exempted, no land shall be subjected to clearing, grading, filling, or excavated without compliance with this Ordinance and all other applicable Town, State, and federal regulations.

C. NO REMOVAL OF TREES

Unless exempted, no existing trees of four inches or greater in caliper or in a location regulated by this Ordinance shall be removed without compliance with this Ordinance and all other applicable Town, State, and federal regulations.

D. NO USE OR OCCUPANCY

No person shall use, occupy, or divide any land or a building or authorize or permit the use, occupancy, or division of land or a building under their control, except in accordance with this Ordinance and all other applicable Town, State, and federal regulations.

E. NO BUILDING CONSTRUCTED

No building or structure, or portion thereof, shall be erected, used, occupied, maintained, moved, or altered except in conformity with the applicable regulations in this Ordinance and all other applicable Town, State, and federal regulations.

F. NO SALE OR TRANSFER

No lots in a subdivision may be sold or titles to land transferred until all the requirements of this Ordinance have been met, except as authorized by NCGS§160D-807.

G. NO DOUBLE COUNTING OF REQUIRED AREAS

No land area or other required space counted as part of a required yard, setback, lot area, parking area, or similar feature of one lot may be counted towards the requirements of another lot.

H. NO EXEMPTION FROM SUBDIVISION REQUIREMENTS

Unless exempted in accordance with NCGS§§ 152.105 or 160D-802, the standards and requirements in this Ordinance applicable to subdivisions of land shall apply to the subdivision or re-subdivision of land within a bona fide farm or on land occupied by agricultural activities.

1.2 AUTHORITY[5]

This Ordinance consolidates the Town's zoning and subdivision regulations, as authorized by the North Carolina General Statutes. It is adopted in accordance with:

A. The North Carolina General Statutes, including, but not limited to:

1. Chapter 160A, Article 8 (Police Powers);
2. Chapter 160A, Article 15 (Streets, Traffic, and Parking);
3. Chapter 160D (Local Planning and Development Regulation);
4. Chapter 143, Article 21 (Water and Air Resources);

B. The Charter of the Town of Clayton, North Carolina; and

C. Other relevant laws, including but not limited to:

1. All other relevant laws of the State of North Carolina; and
2. Any special legislation enacted for the Town of Clayton and its planning jurisdiction by the General Assembly.

1.3 CONFLICT[6]

1.3.1 CONFLICT BETWEEN STANDARDS IN THIS ORDINANCE

A. GENERALLY

Unless subject to the standards in Section <>, Alternatives, or where otherwise stated in writing in this Ordinance, in cases where two or more standards in this Ordinance conflict with one another, the more restrictive standard shall control.

B. ALTERNATIVES

1. AUTHORIZED DEVIATIONS

Deviations from Ordinance requirements, such as an approved Administrative Adjustment, Conditional Rezoning, Variance, or alternative form of compliance that are authorized by and established in accordance with this Ordinance shall control and shall not be considered to conflict with other more restrictive standards in this Ordinance.

2. INCENTIVES

Incentives, like density incentives for voluntary compliance with single-family residential design guidelines, incentives provided in response to other forms of preferred development like a Conservation Subdivisions, or incentives like those associated with voluntary use of sustainable development features, shall control and are not considered to conflict with other more restrictive standards in this Ordinance.

[5] Carries forward Section 101 from the current UDC with additional clarity regarding special legislation.

[6] This is a new section that includes portions of Section 105 from the UDC and covers the variety of potential conflicts between UDO provision, conflicts with other Town laws, and conflicts with other laws or private agreements.

3. DEVELOPMENT STANDARDS AND DISTRICT STANDARDS

In cases where a development standard from Chapter 6, Standards, conflicts with a zoning district standard in Chapter 3, Districts, the zoning district standard in Chapter 3 shall control.

4. DEVELOPMENT STANDARDS AND USE STANDARDS

In cases where a development standard from Chapter 6, Standards, or a zoning district standard from Chapter 3, Districts, conflicts with a standard in in Chapter 4, Land Uses, the standards in Chapter 4, Land Uses, shall control.

5. OVERLAY DISTRICT STANDARDS

a. In the event of a conflict between an overlay zoning district standard in Section <>, Overlay Zoning Districts, and another standard in this Ordinance, the overlay zoning district standard shall control even in cases where the overlay zoning district standard is less restrictive.

b. In cases where land is located in two or more different overlay zoning districts and the standards between the overlay districts conflict, the more restrictive requirements shall control.

6. TEXT AND ILLUSTRATIONS

a. In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

b. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

7. TEXT AND MAPS

a. In the event of a conflict or inconsistency between the text of this Ordinance and the Official Zoning Map, the text shall control.

b. In cases where requirements are based upon a map provided by the State or the federal government, and there is a conflict between the map and the text of this Ordinance, the State or federal map shall control.

1.3.2 CONFLICT WITH A CONDITION OF APPROVAL

In cases where the standards in this Ordinance conflict with an authorized and legally established condition of approval that has not expired, the condition of approval shall control.

1.3.3 CONFLICT WITH PRIVATE AGREEMENTS & COVENANTS

A. In cases where a standard in this Ordinance conflicts with a private agreement, covenant, or deed restriction established after (insert the effective date of this Ordinance), and the standards in this Ordinance are more restrictive, the standards in this Ordinance shall control.

B. In cases where a private agreement, covenant, or deed restriction conflicts with State or federal law, the private agreement, covenant, or deed restriction shall be void.

1.3.4 CONFLICT WITH STATE OR FEDERAL LAW

If a provision of this Ordinance is inconsistent with State or federal law, the more restrictive provision controls, to the extent permitted by law.

1.3.5 CONFLICT WITH TOWN CODE OR POLICY

If a provision of this Ordinance is inconsistent with another provision found in other adopted ordinances of the Town, the more restrictive provision shall govern, unless the terms of the more restrictive provision specify otherwise. Town policy is advisory only.

1.3.6 DETERMINATION OF MOST RESTRICTIVE STANDARD

The more restrictive provision is the one that imposes greater restrictions, burdens, or more stringent controls.

1.4 CONSISTENCY WITH ADOPTED POLICY GUIDANCE[7]

1.4.1 ADVISORY IN NATURE

Adopted policy guidance is advisory in nature and does not carry the effect of law. Consistency with adopted policy guidance is not a requirement for the continuing validity of any provision of this Ordinance, except as provided in NCGS§§ 160D-604 and 160D-605.

1.4.2 CONFORMANCE

This Ordinance is intended to ensure that all development within the Town is in conformance with the goals, objectives, policies, strategies, and actions expressed in the Town's adopted policy guidance. While conformance with adopted policy guidance is desired, it is not legally required.

1.4.3 CONSISTENCY

A. To the extent this Ordinance or the Official Zoning Map is or becomes inconsistent with the Town's adopted policy guidance, it should be amended to remain consistent.

B. Consistency with adopted policy guidance is not a prerequisite for approval of a rezoning or planned development application, and the future land use map portion of the Comprehensive Plan shall be deemed amended when the Town Council approves a rezoning or planned development application that is inconsistent with the future land use map in accordance with NCGS§160D-605.

1.4.4 POLICY DOCUMENTS IDENTIFIED

The Town's adopted policy guidance shall include, but is not limited to the following:

A. The Comprehensive Growth Plan;

B. The Town of Clayton Comprehensive Transportation Plan, as amended;

C. The Downtown Master Plan;

D. The Parks and Recreation Comprehensive Plan, as amended;

E. The Clayton Pedestrian Plan;

F. The Comprehensive Bicycle Plan; and

G. Any other policy document adopted by the Town of Clayton in accordance with State law.

1.5 DOCUMENT TITLE[8]

1.5.1 ORDINANCE TEXT

This Ordinance shall be officially known as the "Unified Development Ordinance of the Town of Clayton, North Carolina" and may be referred to "this Ordinance" and several abbreviated references, including "the UDO" or "this UDO."

1.5.2 ZONING MAP

The zoning map referenced in this Ordinance is officially titled as the "Zoning Map, Town of Clayton, North Carolina" and may be referred to as "the Official Zoning Map" or the "Zoning Map."

[7] This section replaces the standards in Section 155.108 of the UDC. It clarifies that policy is advisory and that the Town Council may take action that differs from the adopted policy guidance without legal repercussion.

[8] This section carries forward Section 155.100 of the UDC but also names the Official Zoning Map.

1.6 EFFECTIVE DATE[9]

A. This Ordinance shall be adopted on (insert the date of adoption).

B. This Ordinance shall be in full force and effect on (insert the effective date of this Ordinance), and repeals and replaces the Unified Development Code of the Town of Clayton, North Carolina, as originally adopted on February 15, 2021.

C. Development applications filed between (insert the adoption date) and (insert the effective date) shall be processed in accordance with Section <>, Permit Choice and NCGS§160D-108.

D. Nothing shall limit an applicant from voluntary compliance with this Ordinance prior to its effective date.

1.7 PROCEDURES MANUAL

A. The Procedures Manual is a separate document that supplements the procedures and requirements in this Ordinance with application forms, submittal requirements, the schedule of review, and other resource information for applicants.

B. The Planning Director shall maintain the Procedures Manual.

C. Material in the Procedures Manual is supplemental and is not intended to replace any of the standards or requirements of this Ordinance.

D. Revisions to the Procedures Manual may be made at the Town's discretion and are not subject to requirements for public notification or public hearing.

1.8 PURPOSE AND INTENT OF ORDINANCE[10]

Town residents, business owners, and government officials recognize that unfettered growth or growth that is inconsistent with Clayton's small-town character would forever alter the identity of the Town. It is now and has been the policy of the Town Council to promote the health, safety, and general welfare of the residents of and visitors to the Town, and to provide for the continued orderly development of the Town of Clayton. This Ordinance has been made with reasonable consideration for the unique setting and small-town character of the community and the long-range goal of enhancing the value of existing property and encouraging the most appropriate use of the land throughout the Town, thereby promoting the general welfare of all citizens. In support of these purposes, this Ordinance contains regulations designed to:

A. Maintain ~~a~~ Clayton's small-town appeal and ~~an~~ attractive appearance ~~of the community~~ while continuing to encourage managed growth;

B. Foster a more diverse tax base and range of employment to ensure the Town's fiscal solvency and avoid undue burdens on residential property owners;

C. Ensure responsible development and redevelopment that is sustainable in terms environmental protection, resident and visitor health, and economic equality;

D. Support mixed-use development within the downtown, along key commercial corridors and in designated activity centers throughout the Town's planning jurisdiction;

~~C.~~**E.** Preserve and maintain the Town's historic structures and areas with historic character, such as the neighborhoods around downtown Clayton;

~~D.~~**F.** Ensure Town residents have a wide range of housing options that allow for varying income levels and diverse housing preferences;

~~E.~~**G.** Motivate growth that pays for itself in support of sustainable fiscal management of municipal services;

[9] Replaces Section 155.103.

[10] This section replaces Section 155.102 of the current UDC with a more comprehensive set of purpose and intent statements inclusive of those in the General Statutes as well as language from the Comprehensive Plan.

~~F.~~H. Ensure that growth and the natural environment exist in harmony;

~~G.~~I. Preserve valuable open space throughout the Town and stimulate the expansion of the community's parks and greenways;

~~H.~~J. Advance further development of walking trails and bicycle paths throughout the community with connections to other multi-use trails in the area;

~~I.~~K. Facilitate a well-planned infrastructure with sufficient provision for transportation, water and wastewater services, and other public requirements in an environmentally responsible and timely manner;

~~J.~~L. Increase community involvement by providing a means of meaningful cooperation between the community and Town government thus facilitating community pride;

~~K.~~M. Help secure safety from fire, crime, and other dangers;

~~L.~~N. Protect Clayton's tree canopy which provides clean air, minimizes increases in temperature levels, helps to maintain moisture levels, and provides physical and visual buffers;

~~M.~~O. Help prevent the overcrowding of land and undue concentration of population;

~~N.~~P. Regulate the size of yards, courts, and other spaces;

~~O.~~Q. Regulate the density and distribution of boundaries thereof;

~~P.~~R. Provide penalties for violations; and

~~Q.~~S. For other purposes described herein.

1.9 REVIEW AUTHORITIES[11]

1.9.1 AUTHORITIES ESTABLISHED

The following review authorities have powers and responsibilities for administering this Ordinance, especially with regard to procedures related to development application review and decision:

A. The Town Council;
B. The Planning Board;
C. The Board of Adjustment;
D. The Technical Review Committee;
E. The Planning Director;
F. The Engineering Director;
G. The Building Inspector;
H. The Floodplain Administrator; and
I. The Stormwater Administrator.

1.9.2 GENERAL REQUIREMENTS FOR ALL AUTHORITIES

A. OATH OF OFFICE

All review authority members (including Town staff) who review and decide applications under this Ordinance shall be administered the oath of office prior to commencing their duties in accordance with Article 6, Section 7 of the North Carolina Constitution by a person authorized to administer the oath. The Town Clerk shall maintain a record of the oath's administration.

[11] This section is proposed to replace Section 155.700 from the current UDC with a new set of general requirements applicable to all review authorities. This section goes into greater detail on composition and voting rules for most of the review authorities. The section also identifies and establishes the powers and duties for some staff positions like the Stormwater Administrator.

B. CONFLICT OF INTEREST

1. LEGISLATIVE DECISIONS

a. A review authority member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance with NCGS§160D-109.

b. A review authority member shall not vote on an application where the landowner or applicant is a person with whom the member has a close familial, business, or other associational relationship.

2. QUASI-JUDICIAL DECISIONS

a. A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate an affected persons' constitutional rights to an impartial decision maker in accordance with NCGS§160D-109.

b. Impermissible violations of due process include but are not limited to:

i. A member having a fixed opinion prior to hearing the matter that is not susceptible to change;

ii. An undisclosed ex parte communication;

iii. A close familial, business, or other associational relationship with an affected person; or

iv. A direct, substantial, and readily identifiable financial impact on the member.

3. RECUSAL

a. If a conflict of interest exists, then a review authority member shall recuse themselves from participating in and voting on an application.

b. If an objection is raised to a member's participation and that member does not recuse himself or herself, then the remaining members shall, by majority vote, rule on the objection.

c. In the event a Town staff member deciding an application has a conflict of interest, the decision shall instead be assigned to a supervisor or to the Town Manager.

4. ADMINISTRATIVE DECISIONS

In cases where an administrative decision or action to be performed by Town staff has an outcome reasonably likely to have a direct, substantial, and readily identifiable financial impact as identified in NCGS§160D-109, or the designated Town staff member has a close familial, business, or other associational relationship with the applicant or a responsible entity, the Town Manager shall make the decision, take the specified action, or delegate the responsibility for the decision or action to a different member of Town staff.

C. MEETINGS

The provisions of this section apply to the Town Council, Planning Board, and Board of Adjustment.

1. ADVERTISED

Notice of all meetings of the elected or appointed bodies under this Ordinance shall be provided to the public in accordance with NCGS§143-318 (Meetings of Public Bodies), and shall be conducted in accordance with the procedures set forth in these regulations, the Town Code of Ordinances, Adopted Policy Guidance, and rules of procedure adopted by the respective review authorities.

2. MINUTES AND RECORDS

a. Accurate minutes of each meeting shall be maintained by each review authority showing the vote of each member on each question, or if absent or failing to vote, indicating such fact.

b. Each review authority shall keep records of its examinations and official actions.

c. All minutes and records shall be filed and maintained in the offices of the Planning Department, and shall be made available for inspection by members of the general public during normal business hours.

3. OPEN TO PUBLIC

All meetings of elected or appointed bodies under this Ordinance shall be open to the public in accordance with NCGS§143-318 (Meetings of Public Bodies), and shall be conducted in accordance with the procedures set forth in these regulations, the Town Code of Ordinances, Adopted Policy Guidance, and rules of procedure adopted by the respective review authorities.

D. RULES OF PROCEDURE

All review authorities shall adopt formal rules of procedure consistent with the level of decision-making delegated to that authority. Adopted rules of procedure shall be kept on file, made available on the Town's webpage, are available for public inspection, and shall be maintained by the designated staff to the review authority.

1.9.3 TOWN COUNCIL

A. The Town Council is the elected body of the Town of Clayton, North Carolina, and shall have the power to initiate, review, and decide applications in accordance with Section <>, Application Types Table.

B. The Town Council shall also have all the powers and duties ascribed to it by State law, the Town's Charter, Chapter 30 of the Town Code of Ordinances, and any special legislation.

C. Meetings of the Town Council shall be conducted in accordance with Chapter 30 of the Town Code of Ordinances.

1.9.4 PLANNING BOARD (PB)[12]

The Planning Board is hereby established in accordance with NCGS§160D-301, Chapter 32 of the Town Code of Ordinances, and the following.

A. COMPOSITION

1. The Planning Board shall consist of nine members.
2. The Planning Board shall be comprised of residents from both the corporate limits and the extraterritorial jurisdiction (ETJ) at a ratio proportional to the population found in either area, but in no instance shall there be less than at least one member of the Planning Board who resides within the ETJ.
3. The Town Council shall appoint the members from within the Clayton corporate limits from a list of qualified applicants who have submitted a Planning Board application.
4. The Johnston County Board of Commissioners shall appoint the members from within the ETJ following receipt of a recommendation from the Town Council.
5. Each member from the ETJ shall have equal rights, privileges, and duties as the members from within the corporate limits.

B. POWERS AND DUTIES

1. UNIFIED DEVELOPMENT ORDINANCE

The Planning Board shall have the power to review and provide a recommendation on applications in accordance with Section <>, Application Types Table.

[12] NOTE: This section is proposed to replace the provisions in Section 32.075 through 32.078 in the Town Code. The Town should remove these sub-sections from the Town Code upon UDO adoption.

2. OTHER POWERS AND DUTIES

The Planning Board shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance.

a. To perform studies and surveys of the present conditions and probable future development of the Town and its environs, including but not limited to, studies and surveys of land uses, population, economic conditions, housing, traffic, parking, annexation, urban renewal, and expansions of the extraterritorial jurisdiction.

b. To formulate and recommend to the Town Council the adoption and amendment of the Town of Clayton Comprehensive Plan and other plans as necessary.

c. To initiate proposals for text amendments to the Unified Development Ordinance based upon the findings and recommendations delivered in such studies and adopted plans.

d. To determine whether specific proposed developments conform to the principles and requirements of the adopted comprehensive plan for growth and improvement of the Town.

e. To execute other related duties as assigned by the Town Council, in accordance with State law.

C. RULES OF PROCEDURE

The Planning Board shall adopt rules of procedure, which shall be available for inspection by members of the general public on the Town's website and in the offices of the Planning Department. The rules of procedure shall describe the Planning Board's operating procedures, terms, leadership provisions, and other relevant information not already included in this Ordinance.

D. QUORUM AND RECOMMENDATIONS

1. A quorum of five members shall be necessary to transact official business of the Planning Board.
2. A simple majority of the members present and voting shall be required to adopt a recommendation on an application reviewed under this Ordinance.
3. The Planning Board shall not make a recommendation to the Town Council unless the applicant or a designated agent is present at the meeting and answers the Board's and Town staff's questions about the application. This requirement may be waived by a unanimous vote of the Planning Board members present and voting.

1.9.5 BOARD OF ADJUSTMENT (BOA)[13]

The Board of Adjustment is hereby established in accordance with NCGS§160D-302, Chapter 32 of the Town Code of Ordinances, and the following:

A. COMPOSITION

1. The Board of Adjustment shall consist of five regular members and two alternate members.
2. Four members shall reside within the corporate limits of Clayton and three members shall reside in the extraterritorial planning jurisdiction (ETJ).
3. The Town Council shall appoint the members from within the Clayton corporate limits from a list of qualified applicants who have submitted a Board of Adjustment application.
4. The Johnston County Board of Commissioners shall appoint the members from within the ETJ following receipt of a recommendation from the Town Council.

[13] NOTE: This section is proposed to replace the provisions in Sections 32.010 through 32.011 of the Town Code of Ordinances. The Town should remove these sub-sections from the Town Code upon UDO adoption.

5. Each member from the ETJ shall have equal rights, privileges, and duties as the members from within the corporate limits.

B. POWERS AND DUTIES

The Board of Adjustment shall have the power to review and decide applications in accordance with Section <>, Application Types Table.

C. RULES OF PROCEDURE

The Board of Adjustment shall adopt rules of procedure, which shall be available for inspection by members of the general public on the Town's website and in the offices of the Planning Department. The rules of procedure shall describe the Board of Adjustment's operating procedures, terms, leadership provisions, and other relevant information not already included in this Ordinance.

D. QUORUM AND VOTING

1. A quorum of three members shall be necessary to transact official business.
2. The concurring vote of four-fifths of the members voting on a case shall be necessary to grant a variance.
3. A simple majority of the members present and voting on a case shall be required to decide an appeal of a Town staff decision or determination.
4. A simple majority of the members present and voting on a case shall be required to decide on the issuance of a special use permit.
5. Vacant positions on the Board and members who are disqualified from voting due to a conflict of interest shall be filled by qualified alternate members. Vacant positions on the Board and members who are disqualified from voting due to a conflict of interest and who are not replaced by a qualified alternate member shall not be considered members of the Board for calculation of the required majority.
6. In accordance with NCGS§160D-406(i), simple majority calculations shall be based on the total number of board member positions, regardless of whether a member is absent. Positions may only be excluded from the simple majority calculation when the position is vacant and there is no qualified alternate or when a board member has been recused from voting based upon a conflict of interest and there is no qualified alternate.

E. ORDERS

Each decision of the Board of Adjustment on an application or petition filed under this Ordinance shall be reduced to writing, indicate the findings of fact and conclusions of law associated with the Board's decision, be signed by the Chair or presiding officer, and shall include the applicant's written consent to any conditions of approval.

1.9.6 TECHNICAL REVIEW COMMITTEE (TRC)

The Technical Review Committee (TRC) is hereby established in accordance with NCGS§160D-306 and the following:

A. COMPOSITION

1. The Technical Review Committee is a group of Town staff members, such as the Planning Director, Engineering Director, and other technical staff, along with representatives from external State and County agencies like NCDOT. A full description of the Committee's member composition shall be established in its rules of procedure.
2. The Planning Director shall serve as the Chair of the Technical Review Committee.
3. ~~'s composition shall be established in its rules of procedure~~. Attendance at meetings by some or all of the TRC members shall be at the discretion of the TRC Chair.

B. POWERS AND DUTIES

The Technical Review Committee shall have the power to review and provide a recommendation or comments on applications in accordance with Section <>, Application Types Table.

C. RULES OF PROCEDURE

The Technical Review Committee shall adopt rules of procedure, which shall be available for inspection by members of the general public on the Town's website and in the offices of the Planning Department. The rules of procedure shall describe the Committee's operating procedures, composition, leadership provisions, and other relevant information not already included in this Ordinance.

D. APPEAL OF TRC DECISIONS TO BOARD OF ADJUSTMENT

Appeal of a decision or action by the Technical Review Committee shall be in accordance with NCGS§160D-405, and Section <>, Appeal.

1.9.7 TOWN STAFF

A. PLANNING DIRECTOR

The Planning Director shall have the responsibilities for decision making, recommendations, and comments on applications in accordance with Section <>, Application Types Table, as well as the following other powers and duties:

1. To preside over the Technical Review Committee;
2. To conduct pre-application conferences;
3. To enforce the provisions of this Ordinance, including entering any building, structure, or premises, as provided by law, to perform any duty imposed by this Ordinance;
4. To apply remedies for violations of this Ordinance;
5. To maintain the Official Zoning Map and related materials;
6. To process development applications and prepare staff reports as indicated in this Ordinance;
7. To maintain public records pertaining to this Ordinance and to make those records available to members of the public upon request;
8. To maintain rules of procedures for each review authority in this Ordinance;
9. To provide technical assistance to review authorities, upon request; and
10. To carry out any other powers and duties delegated by the Town Council that are consistent with this Ordinance and State law.

B. BUILDING INSPECTOR

The Building Inspector shall have the responsibilities for decision making, in accordance with Section <>, Application Types Table.

C. ENGINEERING DIRECTOR

The Engineering Director shall have the responsibilities for decision making, recommendations, and comments, on applications in accordance with Section <>, Application Types Table, as well as the following:

1. The Engineering Director shall provide comments on Development Agreements.
2. The Engineering Director shall perform the duties of the Floodplain Administrator and Stormwater Administrator.

D. FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:

1. POWERS AND DUTIES

The Floodplain Administrator shall have the following powers and duties:

a. Review all floodplain development applications and issue permits for all proposed development within the special flood hazard areas to assure that the requirements of this Ordinance have been satisfied;

b. Advise an applicant when additional federal or State permits (wetlands, endangered species, erosion and sedimentation control, riparian buffer, mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit;

c. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA;

d. Assure that maintenance is provided within the altered or relocated portion of a watercourse so that the flood-carrying capacity is not diminished;

e. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this Ordinance are met

f. Obtain the actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures;

g. Obtain the actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed;

h. Obtain the actual elevation (in relation to mean sea level) of all public utilities;

i. When floodproofing is utilized for a particular structure, obtain certifications from a professional engineer or architect licensed by the State of North Carolina;

j. Interpret the exact location of boundaries of the special flood hazard areas or some component of the special flood hazard area;

k. Obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, State, or other source in order to administer the provisions of this Ordinance;

l. Obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, State, or other source when no floodway or non-encroachment area data has been provided;

m. Advise property owners of the option to apply for a Letter of Map Amendment (LOMA) from FEMA when the lowest ground elevation of a parcel or structure in a special flood hazard area is above the base flood elevation;

n. Maintain copies of Letters of Map Amendment (LOMA) issued by FEMA;

o. Permanently maintain all records that pertain to the FPOD, floodplain development permits, and elevation certificates, and make these records available for public inspection;

p. Make on-site inspections of work in progress. The Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the Town's jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action;

q. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the Floodplain Administrator may order the

work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor;

r. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for:

- **i.** Any substantial departure from the approved application, plans, or specifications;
- **ii.** Refusal or failure to comply with the requirements of State or local laws;
- **iii.** Making false statements or misrepresentations in securing the permit; or
- **iv.** Mistaken issuance in violation of an applicable State or local law;

s. Make periodic inspections throughout all lands within the special flood hazard areas;

t. Follow through with corrective procedures in Chapter 7, Violations;

u. Review, provide input, and make recommendations for water-related variance requests;

v. Maintain a repository to include, but not limited to, the FIS Reports, FIRM and other official flood maps and studies adopted in accordance with the standards in Section <>, (FPOD) Flood Protection Overlay District, including any revisions thereto including letters of map change, issued by FEMA;

w. Notify the State and FEMA of any mapping needs; and

x. Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).

E. STORMWATER ADMINISTRATOR

The Stormwater Administrator shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:

1. POWERS AND DUTIES

a. The Stormwater Administrator shall render final decisions regarding applications for stormwater permits.

b. The Stormwater Administrator shall have the following powers and duties under this UDO:

- **i.** To review and approve, approve with conditions or disapprove applications for approval of plans pursuant to stormwater management;
- **ii.** To make determinations about the stormwater management-related provisions of this Ordinance;
- **iii.** To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Town Council on applications for development or redevelopment approvals;
- **iv.** To enforce the stormwater management provisions of this Ordinance in accordance with its enforcement provisions;
- **v.** To maintain records, maps, and official materials as related to the adoption, amendment, enforcement or administration of the stormwater management-related aspects of this Ordinance;
- **vi.** To provide expertise and technical assistance to the Town Council and the Planning Board, upon request;
- **vii.** To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator; and
- **viii.** To take any other action necessary to administer the stormwater management provisions of this Ordinance.

F. DELEGATION OF AUTHORITY

1. Whenever a provision of this Ordinance requires or authorizes a Town staff or designated official to take some action or perform some duty, the Town staff or designated official may

designate, delegate, or authorize professional-level subordinates to perform the act or duty unless the terms of the provision specifically provide otherwise.

2. For the purposes of this section, "professional-level subordinate" shall mean another person employed by the Town who meets the Town's minimum qualifications for the position, and has the minimum amount of experience or professional authority reasonably necessary to execute or undertake the designated action, in the sole opinion of the delegating Town staff member of official.

G. APPEAL OF TOWN STAFF DECISIONS TO THE BOARD OF ADJUSTMENT

1. Except for the Building Inspector, appeals of decisions or actions by a Town staff member shall be to the Board of Adjustment in accordance with Section <>, Appeal.
2. Appeals of decisions or actions of the Building Inspector shall be to the North Carolina Commissioner of Insurance in accordance with applicable State law.

1.10 SEVERABILITY[14]

1.10.1 INVALIDATION

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

1.10.2 PREJUDICIAL APPLICATION

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

1.10.3 LAWFUL PRESUMPTION

There shall be a conclusive presumption when a review authority authorizes regulatory action, that the review authority would not have authorized the action except in the belief that such action was lawful.

1.11 TRANSITIONAL PROVISIONS[15]

The standards in this subsection address existing violations, nonconformities, and applications in process at the time this Ordinance is made effective.

1.11.1 PRIOR AND PENDING APPLICATIONS

A. PRIOR APPROVAL

1. Any development approvals granted before [*insert the effective date of this Ordinance*] shall remain valid until their expiration date.
2. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired.
3. If an approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance.
4. An applicant shall be deemed to have initiated an approved development upon the subsequent application for and diligent pursuit of other required Town, State, or federal permits or approvals.

[14] Replaces the severability provisions from Section 155.105 of the current UDC. Also clarifies that this UDO repeals the prior UDC.

[15] This section carries forward and builds upon Section 155.109 of the UDC with additional clarity.

5. Timelines for the commencement or expiration of development in accordance with an approved application shall be suspended in the event of legal challenge.
6. To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of in Chapter 5, Nonconformities.

B. PENDING APPROVAL

1. COMPLETE APPLICATIONS

Applications accepted as complete prior to [insert the effective date of this Ordinance] may be decided in accordance with either the regulations in affect at the time the application was determined complete or the regulations in this Ordinance, as requested by the applicant in accordance with Section<>, Permit Choice.

2. IF APPROVED

To the extent such a complete application is approved and proposes development that does not comply with this Ordinance, the development, although permitted, shall be nonconforming and subject to the provisions of in Chapter 5, Nonconformities.

3. FILED, BUT NOT COMPLETE APPLICATIONS

Applications that have been filed prior to [insert the effective date of this Ordinance] but not determined to be complete by the Planning Director as of that date shall be reviewed and decided in accordance with this Ordinance.

1.11.2 EXISTING NONCONFORMITIES

If any use, structure, lot, or sign, legally existed on [insert the effective date of this Ordinance] but does not fully comply with the standards of this Ordinance, the use, structure, lot, or sign, is considered nonconforming under this Ordinance and shall comply with the requirements in Chapter 5, Nonconformities.

1.11.3 PRE-EXISTING PERMITS

A. PRE-EXISTING CONDITIONAL USE PERMITS

Existing conditional use permits approved prior to [insert the effective date of this Ordinance] are hereby converted to special use permits and shall continue to apply as approved. In the event an applicant seeks to revise development subject to a conditional use permit, all changes shall be considered in accordance with Section <>, Special Use Permit.

B. PRE-EXISTING SPECIAL USE ZONING DISTRICTS

Special use zoning districts existing as of (insert the effective date of this Ordinance) is automatically converted to the closest corresponding conventional zoning district upon adoption of this Ordinance.

C. PRE-EXISTING PLANNED DEVELOPMENT DISTRICTS

Land designated as a planned development prior to (insert the effective date of this Ordinance) is automatically converted to the closest corresponding conditional zoning district upon adoption of this Ordinance. Revisions to a prior planned development zoning district shall only be permitted subject to compliance with Section <>, Conditional Rezoning.

1.11.4 PRE-EXISTING USES

A. If a use was a lawfully established permitted use before (insert the effective date of this Ordinance) and is subsequently made a special use in Table <>, Listing of Common Principal Uses, the use shall be considered by the Town as a lawfully established nonconforming use.

B. Any modifications to the use or the site after (insert the effective date of this Ordinance), shall require approval of a special use permit in accordance with Section <>, Special Use Permit.

1.11.5 VIOLATIONS

A. Violations of the previous ordinance shall continue to be violations under this Ordinance, unless the development complies with this Ordinance and is no longer considered to be in violation, or the ability to address the violation has lapsed in accordance with Section <>, Statute of Limitations.

B. Violations of this Ordinance shall be subject to the penalties and enforcement provisions in Chapter 7, Violations.

1.12 VESTED RIGHTS[16]

1.12.1 PURPOSE AND INTENT

This section is intended to implement NCGS§160D-108 with respect to the establishment of zoning vested rights for landowners or applicants who have received a development approval from the Town.

1.12.2 VESTED RIGHTS DEFINED

As used in this Ordinance, a zoning vested right is defined as the right to undertake and complete the development and use of land under the terms and conditions of a development approval issued by the Town.

1.12.3 EFFECT OF A VESTED RIGHT

A. Development approvals that have an established vested right in accordance with NCGS§160D-108 and this section shall preclude any action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property authorized by the development approval, except where a change in State or federal law occurs and has a retroactive effect on the development or use.

B. Except when subject to sub-section (C) below, amendments to this Ordinance shall not be applicable to any of the following development approvals after they are vested:

1. Building or uses of land for which a development permit application has been submitted and approved in accordance with this Ordinance and NCGS§143-755;
2. Subdivisions of land for which a subdivision application has been submitted and approved in accordance with this Ordinance and NCGS§143-755;
3. A site-specific vesting plan approved in accordance with this Ordinance and NCGS§160D-108.1;
4. A multi-phase development approved in accordance with this Ordinance and NCGS§160D-108; and
5. A vested right established by the terms of an approved development agreement in accordance with this Ordinance and Article 10 of Chapter 160D of the North Carolina General Statutes.

C. Amendments to this Ordinance shall apply to vested development approvals if:

1. A change to State or federal law occurs and has a retroactive effect on the development or use;
2. There is written consent to be subject to the amendment by the landowner;
3. The development approval expires; or

[16] NOTE TO STAFF: This section replaces Section 155.718 of the current UDC (though there is also a process for the establishment of a vested Rights Certificate in new Chapter 2 that allows an applicant to establish or extend a vesting term associated with a site-specific vesting plan. Additional discussion is needed regarding vesting of pre-existing impervious surfaces from stormwater management rules when such surfaces are proposed for removal and replacement.

4. The development is not undertaken or completed in accordance with the approval.

1.12.4 ESTABLISHMENT OF A VESTED RIGHT

A vested right may only be established following an approval of a development application in accordance with this section and the applicable requirements in the North Carolina General Statutes. The following sub-sections detail the ways in which a vested right may be established.

A. COMMON LAW VESTED RIGHTS

1. DEFINED

A common law vested right establishes the right to undertake and complete the development and use of property on substantial expenditures in good faith reliance on a valid governmental approval. Such approvals include, but are not limited to:

a. Zoning Compliance Permits;
b. Sign Permits;
c. Building Permits;
d. Special Use Permits; and
e. Subdivision Preliminary Plats.

2. ESTABLISHMENT

A request for a determination of a common law vested right will be reviewed and acted upon by the Planning Director in accordance with Section <>, Determination.

3. APPLICATION

The applicant shall provide satisfactory proof that each of the following standards are met in order to establish a common law vested right:

a. The applicant has, prior to the adoption or amendment of an ordinance, made expenditures or incurred contractual obligations amounting to 25 percent or more of the total project cost not including any land costs; and
b. The obligations and/or expenditures were incurred in good faith; and
c. The obligations and/or expenditures were made in reasonable reliance on and after the issuance of a valid governmental permit, if such permit is required provided however, a mistakenly-issued governmental permit shall not give rise to a common law vested right; and
d. The amended or newly adopted ordinance is a substantial detriment to the applicant.

B. ISSUANCE OF A BUILDING PERMIT

Issuance of a building permit by the Town in accordance with the applicable standards in this Ordinance and applicable State law shall entitle the building permit holder to vested rights to develop the proposal as identified in the approved building permit, subject to the following standards:

1. The applicant shall not be required to file for a determination to establish common law vested rights or maintain vested status during the time period for which the building permit remains valid.
2. The owner has a vested right only as long as the building permit remains valid and only for the work approved by the building permit.
3. The building permit shall expire six months after issuance if work has not substantially commenced.
4. The building permit shall expire after work commences if there is a 12-month discontinuance of work.

5. The building permit may be revoked for any substantial departure from the approved plans, failure to comply with any applicable local or State law (not just the building code and UDO), and any misrepresentations made in securing the permit.
6. Building permits mistakenly issued may be revoked.
7. If the building permit expires or is revoked, the vested right based on it is also lost.

C. STATUTORY VESTED RIGHTS

Development permits for a building, use of a building, use of land, or subdivision of land establishes statutory vested rights, which shall entitle the permit holder to vested rights to develop the proposal as identified in the approved permit, subject to the following standards:

1. Issuance of a building permit is not considered a development permit, and the vesting term shall only continue in accordance with Section <>, Issuance of a Building Permit.
2. A development permit is valid for one year after issuance, unless otherwise specified by statute, and the applicant is vested in that permit for the term of validity.
3. If the applicant fails to substantially commence authorized work within one year, then the development permit and vesting expire.
4. Vesting shall continue provided there is a substantial commencement of authorized work under a valid development permit.
5. The development permit and vesting shall expire after substantial work commences if there is a two-year period of intentional and voluntary discontinuance of work unless otherwise specified by statute.

D. SITE-SPECIFIC VESTING PLAN

1. DEFINED

a. For the purposes of this section, a site-specific vesting plan is defined as a plan of land development submitted to the Town for purposes of obtaining approval.

b. A site-specific vesting plan must provide, with reasonable certainty, all of the following:
   i. The boundaries of the development;
   ii. Topographic and natural features affecting the site;
   iii. The approximate location of proposed buildings, structures, and other improvements;
   iv. The approximate dimensions, including height, of proposed buildings and other structures;
   v. The approximate location of all existing and proposed infrastructure on the site, including water, sewer, streets, and pedestrian ways;
   vi. The type or types of proposed land uses; and
   vii. The density or intensity of development.

c. A Variance, Sketch Plan, Concept Plan, or any other document that fails to describe with reasonable certainty the type and intensity of use for a specific lot or lots of property shall not constitute a Site-Specific Vesting Plan.

d. The following development approvals constitute a Site-Specific Vesting Plan:
   i. A Concept Plan associated with a Conditional Rezoning application;
   ii. A Preliminary Plat for a Major Subdivision;
   iii. Site Plans; and
   iv. A Concept Plan associated with a Special Use Permit.

2. ESTABLISHMENT

a. Development approvals identified by this Ordinance as Site-Specific Vesting Plans shall be granted a vested right to develop for a maximum period of two years from the date of the approval, provided the applicant has requested, in writing, that a vested right is sought, and provided the development subject to the approval complies with all applicable terms and conditions.

b. In cases where a Concept Plan is associated with an approved conditional rezoning, the conditional zoning designation shall run with the land but the vesting status of the associated Concept Plan shall be in accordance with the standards for any other Site-Specific Vesting Plan.

3. EXTENSION

a. The two-year vesting duration of a Site-Specific Vesting Plan may be extended up to five years from the date of the approval only in accordance with Section <>, Vested Rights Certificate.

b. Site-Specific Vesting Plans meeting the definition of a Multi-Phase Development shall be vested in accordance with Section <>, Multi-Phase Development Plan.

E. MULTI-PHASE DEVELOPMENT PLAN

1. A Multi-Phase Development Plan that occupies at least 25 acres of land area, is subject to a master plan that depicts the types and intensities of all uses as part of the approval and includes more than one phase shall be considered as a Multi-Phase Development Plan that is granted a vested right to develop for a period of seven years from the date of approval of the first site plan associated with the development.
2. Vesting shall commence upon approval of the Site Plan for the first phase of the development.
3. The vested right shall remain in effect provided the development does not expire and provided it complies with all the applicable terms and conditions of the approval.

F. DEVELOPMENT AGREEMENT

A Development Agreement shall be vested in accordance with the vesting term identified in the Development Agreement.

G. VOLUNTARY ANNEXATION

1. Any petition for Annexation filed with the Town in accordance with Section <>, Annexation, shall contain a signed statement from the applicant indicating if vested rights on the properties subject to the petition have been established in accordance with NCGS§160D-108.
2. A statement that declares that no zoning vested right has been established or the failure to provide a statement declaring whether or not vested rights have been established, shall result in a termination of any vested rights established prior to Annexation.

1.12.5 TERMINATION OF A VESTED RIGHT

A. GENERALLY

1. Vested rights established in accordance with this Ordinance shall run with the land.
2. In no instance shall vesting status extend beyond the maximum duration for the type of development application approval.
3. In no instance shall the vesting status of a development approval continue after the development approval expires or if the development approval is revoked for failure to comply with the terms of the approval or of this Ordinance.
4. In no instance shall the vesting status of a development approval continue after it is determined that the development approval was based upon intentional inaccurate information or material misrepresentations.
5. In no instance shall vested rights continue if the Town Council finds, after a duly noticed public hearing, that natural or man-made hazards resulting from the development would result in a serious threat to public health, safety, or welfare if the development were to be continued or completed.

6. In the event of commenced but uncompleted work associated with a development approval, vested rights shall expire within 24 months of the discontinuance of work. This 24 month period shall not include the time associated with work stoppage resulting from an appeal or litigation.

B. LIMITATIONS

1. The establishment of a vested right does not preclude the Town's application of overlay zoning district requirements or other development regulations that do not affect the type of land use, its density, or intensity.
2. A vested right shall not preclude the application of changes to building, fire, plumbing, electrical, or mechanical codes made after the development approval where a vested right was established.

CHAPTER 2
APPLICATIONS

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KEY CHANGES FROM CURRENT UDC

Chapter 2, Applications, consolidates the procedural provisions in Article 7, Administration, though the provisions for review authorities and vested rights are relocated to new Chapter 1 and the enforcement provisions are relocated to new Chapter 7. In addition, there are several other key changes, including:

1. Fourteen new or newly-codified application types (Administrative Adjustment, Annexation, Building Permit, Certificate of Occupancy, Conservation Subdivision, Determination, Development Agreement, Erosion Control Permit, Exempt Subdivision, Fee-in-Lieu, Floodplain Permit, Performance Guarantee, Stormwater Permit, and Street Renaming/Closure).
2. A summary table identifying the types of subdivision procedures.
3. A set of four process type diagrams (that apply to the application types).
4. A new uniform structure for application types that sets out applicability, application requirements, sequencing, effect, amendment, expiration, vesting, and appeals provisions for each application type.
5. Increased use of dynamic cross referencing to permit faster movement through the digital document (will become active as part of the Adoption version).
6. Review criteria for each application type.
7. An Administrative Adjustment procedure that allows minor administrative deviations or variances from some numeric requirements (as a flexibility mechanism).
8. A detailed Appeal process, including how to appeal some decisions to Superior Court.
9. A three-tiered Conditional Rezoning process that recognizes varying levels of deviation from applicable standards.
10. Revision of the subdivision procedures into Major, Minor, Limited, Conservation, and Exempt Subdivisions.
11. Recognition of the differing phases associated with review of construction drawings for public infrastructure associated with a Site Plan or Major Subdivision.
12. A new Development Agreement procedure.
13. Relocation of several development-related procedures from other parts of the Town Code or other ordinances (Driveway, Erosion Control, Floodplain, Stormwater Permits, etc.).
14. Inclusion of uniform Performance Guarantee and Fee-in-Lieu procedures which can be joined with another application or processed as stand-alone applications.
15. New pre-application conference and neighborhood meeting requirements for some applications.
16. New application completeness requirements to address State permit choice provisions.
17. Additional details on the conduct of public meetings versus public hearings (legislative and evidentiary).
18. New sections clarifying conditions of approval.
19. New standards regarding simultaneous or concurrent application reviews and rules for phased development.
20. New clarity about continuance, withdrawal, and abandonment of applications.
21. Uniform approved application amendment provisions for Administrative Adjustments, Conditional Rezoning Concept Plans, Conservation Subdivisions, Construction Drawings, Final Plats, and Site Plans.

2.1 CHAPTER INTRODUCTION[17]

2.1.1 CHAPTER ORGANIZATION

A. This chapter includes all the development application review provisions, and is comprised of the following three sections:

1. A section setting out the summary tables of application types (Section <>, Application Summary Tables);
2. A section with the application procedures (Section <>, Application Types); and
3. A section containing a set of common or standard review procedures used by the Town regardless of the type of application being reviewed (Section <>, Review Procedures).

B. The summary tables in Section <>, Application Summary Tables, identifies all the development application types in this Ordinance and the review authorities who decide them as well as a summary of the different kinds of subdivision procedures in this Ordinance.

C. Section <>, Application Types, describes each application type in detail, including:

1. Applicability and the types of development exempted from the procedure;
2. The review standards;
3. How the approved application may be amended (if applicable);
4. If and how the approval may expire; and
5. How decisions on a particular application are appealed.

D. Section <>, Review Procedures, describes the steps in the application review process that are identical for each type application, including pre-application conferences, application filing, staff review, notification of decision, and others. In cases where a particular application type follows a procedure that differs from that in Section <>, Review Procedures, those distinctions are noted in Section <>, Application Types.

2.2 APPLICATION SUMMARY TABLES[18]

2.2.1 DEVELOPMENT APPLICATIONS

A. The Application Types Table below lists each of the specific application types in this Ordinance and the review authority (ies) involved in the decision-making process. Review authorities are listed in columns across the top of the table and procedures are listed in alphabetical order in rows down the table's side. Cells in the middle of the table show actions taken by a particular review authority as part of the review process.

B. Generally speaking, comments ("C") are provided prior to recommendations ("R"). Both comments and recommendations are provided prior to decisions ("D"). Appeals ("A") take place after decisions are made.

C. Blank cells ("·") in the table indicate that a particular review authority has no role in the particular procedure.

D. The "UDO Section" Column identifies the section in this Ordinance where the procedural language is located.

E. The "Pre-App Conference" Column includes an "M", "O", or "N/A", to indicate if a pre-application conference is mandatory, optional, or not applicable to a particular kind of application.

[17] This is a new section provided to help make the UDO more user-friendly.

[18] ~~NOTE TO STAFF:~~ This section carries forward and builds on Section 155.701 of the UDC with several notable changes, including a listing of all review authorities (including the Superior Court as an appellate body), 14 new (or more formalized) application types (for a total of 31 application types), inclusion of details regarding appeals, details on pre-application conference requirements, and dynamic hyperlinks (in digital version) to other relevant UDO sections. The current urban archery permit is not carried forward.

F. Some decision and appeal actions in the table include lines or brackets around them. These lines signify if that particular stage of the review process includes a legislative public hearing, or an evidentiary public hearing.

G. Numbers in brackets signify table notes, which are found at the bottom of the table (the table bottom may be on a subsequent page).

TABLE <>: APPLICATION TYPES TABLE

Process Type: see Section <>, Process Diagrams
Pre-Application Conference: M = Mandatory; O = Optional; N/A = Not Applicable
Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal
Type of Public Hearing: ( ) = Legislative; | | = Evidentiary
[#] = Table Note (see end of table)

Application Type	UDO Section	Process Type	Pre-App. Conf.	Tech. Review Committee	Town Staff [1]			Planning Board	Town Council	Board of Adjustment	Superior Court
					Building Inspector	Engineering Director	Planning Director				
Administrative Adjustment	<>	II	O	C	•	•	D	•	•	|A|	•
Appeal	<>	III	O	•	•	•	•	•	•	|D|	A
Annexation	<>	IV	O	C	•	•	R	•	(D)	•	A
Building Permit [2]	<>	I	N/A	•	D	•	•	•	•	•[2]	•
Certificate of Occupancy [2]	<>	I	N/A	•	D	•	•	•	•	•[2]	•
Conditional Rezoning [3]	<>	IV	M	•[3]	•	•	•	R	(D)	•	A
Conservation Subdivision [4]	<>	II	M	C	•	•	D	•	•	|A|	•
Conventional Rezoning	<>	IV	M	C	•	•	•	R	(D)	•	A
Determination [5]	<>	I	O	•	•	D	D	•	•	|A|	•
Development Agreement	<>	IV	O	C	•	C	C	•	(D)	•	A
Driveway Permit	<>	I	O	•	•	D	•	•	•	|A|	•
~~Erosion Control Permit~~	~~<>~~	~~I~~	~~O~~	~~•~~	~~•~~	~~D~~	~~•~~	~~•~~	~~•~~	~~|A|~~	~~•~~
Exempt Subdivision	<>	I	N/A	•	•	•	D	•	•	|A|	•

TABLE <>: APPLICATION TYPES TABLE

Process Type: see Section <>, Process Diagrams
Pre-Application Conference: M = Mandatory; O = Optional; N/A = Not Applicable
Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal
Type of Public Hearing: ( ) = Legislative; | | = Evidentiary
[#] = Table Note (see end of table)

Application Type	UDO Section	Process Type	Pre-App. Conf.	Tech. Review Committee	Town Staff [1]			Planning Board	Town Council	Board of Adjustment	Superior Court
					Building Inspector	Engineering Director	Planning Director				
Fee-in-Lieu [6]	<>	~~IV~~II	O	C	•	D	D	•	•~~D~~	•	A
Floodplain Permit	<>	I	O	•	•	D	•	•	•	|A|	•
Land Disturbance Permit	<>	I	M	•	•	D	•	•	•	|A|	•
Limited Subdivision	<>	I	O	•	•	•	D	•	•	|A|	•
Major Subdivision	<>	II	M	C	•	•	D	•	•	|A|	•
Minor Subdivision	<>	II	O	C	•	•	D	•	•	|A|	•
Performance Guarantee [7]	<>	II	O	C	•	D	D	•	D	D	A
Sign Permit [8]	<>	I	O	•	•	•	D	•	•	|A|	•
Site Plan [9]	<>	II	M	C	•	•~~[9]~~	D	•	•	|A|	•
Special Use Permit [10]	<>	III	M	•~~[10]~~	•	•	•	•	•	|D|	A
Stormwater Permit	<>	I	O	•	•	D	•	•	•	|A|	•
Street Renaming/ Closure	<>	IV	M	C	•	•	•	R	(D)	•	A
Temporary Permit	<>	II	O	C	•	•C	D	•	•	|A|	•
Text Amendment	<>	IV	O	•C	•	•	C	R	(D)	•	A
Transportation Impact Analysis	<>	I	M	•	•	D	C	•	•	|A|	•
Tree Clearing Certificate	<>	II	O	C	•	•	D	•	•	|A|	•

TABLE <>: APPLICATION TYPES TABLE

Process Type: see Section <>, Process Diagrams
Pre-Application Conference: M = Mandatory; O = Optional; N/A = Not Applicable
Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal
Type of Public Hearing: ( ) = Legislative; | | = Evidentiary
[#] = Table Note (see end of table)

Application Type	UDO Section	Process Type	Pre-App. Conf.	Tech. Review Committee	Town Staff [1]			Planning Board	Town Council	Board of Adjustment	Superior Court
					Building Inspector	Engineering Director	Planning Director				
Variance [11]	<>	III	M	•	•	•	•	•	•	|D|	A
Vested Rights Certificate	<>	III	O	•	•	•	R	•	•	|D|	A
Zoning Compliance Permit	<>	I	O	•	•	•	D	•	•	|A|	•

NOTES:
[1] Decision-making authority may be delegated in accordance with Section <>, Delegation of Authority.
[2] Appeals are filed with the North Carolina Commissioner of Insurance.
[3] In cases where a Conditional Rezoning application includes a Concept Plan, the TRC shall review the plan prior to consideration by the Planning Board.
[4] Approval of a Conservation Subdivision also requires approval of a Major Preliminary Plat.
[5] The Engineering Director shall make determinations on matters pertaining to stormwater, erosion control, and infrastructure requirements.
[6] The review authority responsible for making the decision on the associated development application shall also be responsible for making the decision on a Town-mandated Fee-In-Lieu request. ~~Town Council shall decide applicant-requested Fee-In-Lieu applications.~~
[7] The review authority responsible for making the decision on the associated development application shall also be responsible for making the decision on a Performance Guarantee request. Requests for Performance Guarantees filed after an associated application approval shall be decided by the Planning Director.
[8] Alternative Sign Plan requests shall be reviewed and decided by the Board of Adjustment.
[9] Site Plans that include changes to or extension of public infrastructure shall include construction drawings, which shall be decided by the Engineering Director.
[10] The TRC shall review the Concept Plan prior to consideration by the Board of Adjustment.
[11] The Environmental Management Commission shall decide Major Water Supply Watershed and Riparian Buffer Variance applications.

2.2.2 SUBDIVISION TYPES

The Subdivision Types Table below identifies the range of subdivision types addressed by this Ordinance, including details on the maximum number of lots that may be created, minimum tract size before division, whether or not the subdivision involves the extension of public infrastructure, and

whether or not the lots in the subdivision must comply with the zoning district dimensional standards. Each subdivision process is described in more detail in Section <>, Application Types.

TABLE <>: SUBDIVISION TYPES TABLE

Common Subdivision or Development ~~Name~~Type	Number of Lots Involved (#)	Initial Tract Size (Acres)	Involves Extension of Public Infra. (Yes/No)	Compliance With District Dimensional Standards	~~Subdivision Process~~Application Type [1]	UDO Sec.
Combination/ Recombination [2]	N/A	N/A	No	No	Exempt Subdivision ~~[2]~~	<>
Court-ordered Subdivision [3]	N/A	N/A	No	No	Exempt Subdivision	<>
10+-Acre Estate Lot Subdivision	[4]	N/A	No	Yes	Exempt Subdivision	<>
Family Subdivision [5] [6]	Up to 2	N/A	No	Yes	Minor Subdivision ~~[6]~~	<>
Governmental Acquisition	N/A	N/A	No	No	N/A	<>
Limited Subdivision	Max. of 3	5 or more	No	Yes	Limited Subdivision	<>
Major Subdivision [7]	2 or more	N/A	Yes ~~[7]~~	Yes	Major Subdivision	<>
Minor Subdivision [8]	Up to 5	N/A	No	Yes ~~[8]~~	Minor Subdivision	<>
Special Purpose Lot / Easement Plat [9]	N/A	N/A	No	No	N/A ~~[9]~~	<>
Two Acres into Three Lots	Max. of 3	2 or less	No	Yes	Exempt Subdivision	<>

NOTES:
[1] Regardless of the subdivision process type noted in this table, subdivisions that include the extension of public infrastructure shall be reviewed as a Major Subdivision.
[2] Combinations / Recombinations that result in lots that do not meet the minimum dimensional standards for the zoning district where located shall be reviewed as a Minor Subdivision.
[3] Lots within a Court-ordered Subdivision are not required to comply with the dimensional requirements for the zoning district where located.
[4] All lots created shall be at least 10 acres in area or larger, otherwise the subdivision shall be reviewed as a Minor or Major Subdivision, based on the number of lots created.
[5] Family subdivisions are subdivisions created for conveyance between husbands, wives, mothers, fathers, brothers, sisters, children (biological, adopted, or step), grandmothers, grandfathers, grandchildren (biological, adopted, or step), aunts, uncles, nieces, and nephews and shall be reviewed as an exempt subdivision, a limited subdivision, or a minor subdivision, as appropriate.
[6] May be reviewed as an Exempt Subdivision or a Limited Subdivision, based on the number of lots created.
[7] Minor subdivisions of 6 or more shall be reviewed as a Major Subdivision even if the subdivision does not include the extension of public infrastructure.
[8] Lots must comply with district dimensional standards except for combinations or recombinations of existing lots.
[9] May be accomplished as part of a subdivision establishing new development or as its own Exempt Subdivision.

2.2.3 PROCESS DIAGRAMS

A. Development applications in this Ordinance shall be reviewed and decided in accordance with the process type indicated in Table <>, Application Types Table, Section <>, Review Procedures, and this sub-section.

B. The process types used in this Ordinance are illustrated in process flowcharts below (see Figure <>, Process Types). The process flowcharts depict the general procedural steps for each application type. In cases where the actual application review process differs from the corresponding flowchart, details on differences are identified in Section <>, Application Types.

C. The procedural flowcharts use a text box to denote each step in the process. Details on each individual step are located in Section <>, Review Procedures.

D. The procedural flowchart is color coded to depict differing responsibilities. White boxes indicate actions or responsibilities of the applicant. Light grey boxes indicate actions of Town staff. Dark grey boxes show the stage of the process where a decision is made (as appropriate).

FIGURE <>: PROCESS DIAGRAMS

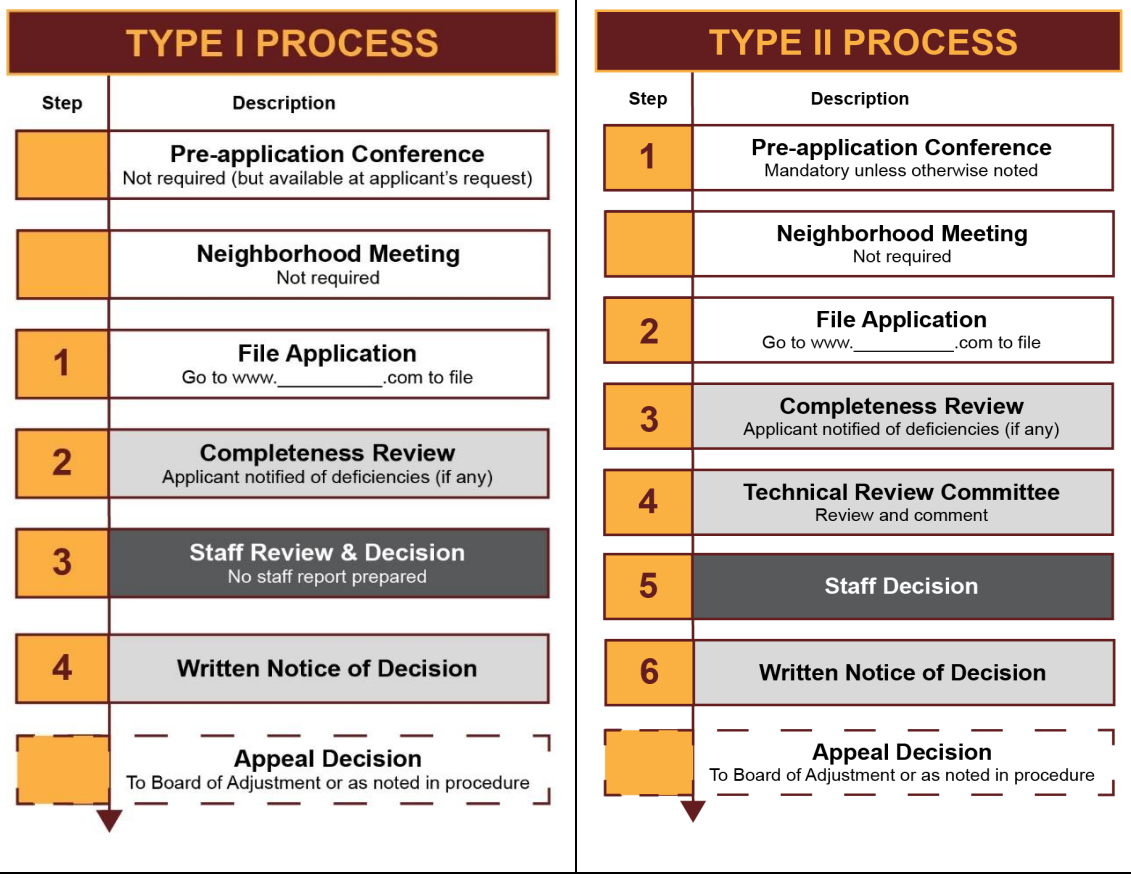


FIGURE <>: PROCESS DIAGRAMS

TYPE III PROCESS

Step	Description
1	**Pre-application Conference** Mandatory unless otherwise noted
2	**Neighborhood Meeting** Required for Special Use Permits & Variances
3	**File Application** Go to www._____.com to file
4	**Completeness Review** Applicant notified of deficiencies (if any)
5	**Staff Review** Completed for Vested Rights and Special Uses
6	**Public Hearing Scheduled**
7	**Public Notice Provided** May be mailed, published, or posted
8	**Board of Adjustment Decision** Following an evidentiary public hearing
9	**Written Notice of Decision**
	Appeal Decision To Johnston County Superior Court

TYPE IV PROCESS

Step	Description
1	**Pre-application Conference** Mandatory unless otherwise noted
2	**Neighborhood Meeting** Mandatory unless otherwise noted
3	**File Application** Go to www._____.com to file
4	**Completeness Review** Applicant notified of deficiencies (if any)
5	**Staff Review & Comment** Including concept plans for conditional rezoning
6	**Planning Board Recommendation** Unless otherwise noted
7	**Public Hearing Scheduled**
8	**Public Notice Provided** May be mailed, published, or posted
9	**Town Council Decision** Following a legislative public hearing
10	**Written Notice of Decision**
	Appeal Decision To Johnston County Superior Court

2.3 APPLICATION TYPES[19]

2.3.1 ADMINISTRATIVE ADJUSTMENT[20]

A. APPLICABILITY

1. Except where otherwise prohibited, an Administrative Adjustment may be requested for a modification or deviation to any of the following:
   a. A zoning district dimensional standard in Chapter 3, Districts.
   b. A numeric use-specific standard in Chapter 4, Land Uses.
   c. A numeric requirement in Chapter 5, Standards.
2. In no instance shall an Administrative Adjustment application seek to reduce any of the following:
   a. The required minimum lot area in a zoning district;
   b. Increases in the maximum allowable residential density on a lot;
   c. Reduce the minimum required separation distance between two use types;
   d. The requirements specified in a transportation impact analysis;
   e. Reductions to the standards pertaining to flood damage prevention, water supply watershed protection, or riparian buffer protection; or
   f. Reductions to required infrastructure standards, including streets, potable water, or wastewater system requirements.
3. Development subject to a Variance shall not also be subject to an Administrative Adjustment.

B. AMOUNT OF ADJUSTMENT

An Administrative Adjustment may allow a deviation from a numeric standard in this Ordinance in accordance with the amount specified in Table <>, Maximum Adjustment Amount.

TABLE <>: MAXIMUM ADJUSTMENT AMOUNT

Location or Type of Development	Maximum Permitted Amount of Adjustment
Establishment of a new principal building on a non-conforming lot of record	50% (setbacks only)
New development or redevelopment within the Downtown zoning district	15%
Redevelopment within all zoning districts except Downtown	10%
New development within all zoning districts except Downtown	5%

C. PROCESS TYPE

Type II (see Section <>, Process Diagrams), including comment by the Technical Review Committee.

[19] This section includes each of the 34 application types under the UDO, and is proposed to replace Sections 155.704 through 718 and 721 in the UDC. Each application has a standardized structure with specified review criteria.

[20] This is a new procedure that permits small deviations in compliance with numeric standards in specific instances. This procedure is drafted in a way that will allow easy expansion to items available for adjustment as the UDO evolves.

D. REVIEW CRITERIA

An application for an Administrative Adjustment shall be decided by the Planning Director in accordance with Section <>, Staff Review and Action, and all of the following:

1. The Administrative Adjustment is consistent with the type and maximum thresholds for an Administrative Adjustment established in this section; and
2. The Administrative Adjustment:
   a. Is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general, including size or shape of the lot; or
   b. Is necessary to allow for proper functioning of public or private infrastructure; or
   c. Saves healthy existing trees; or
   d. Helps limit the need for site grading or revision to existing drainage patterns; and
3. Approval of the Administrative Adjustment is not expected to pose a danger to the public health or safety; and
4. The Administrative Adjustment will not negatively impact the function or performance of on-site wastewater or stormwater management devices; and
5. Adverse impacts resulting from the Administrative Adjustment will be fully mitigated; and
6. The development requirement being adjusted is not the subject of a previously approved Administrative Adjustment, condition of approval, or Variance on the same site.

E. SEQUENCE

1. An Administrative Adjustment may be requested either as a stand-alone application, or in combination with another application for development review.
2. In cases when submitted with another application, the Administrative Adjustment application shall be decided prior to the other associated applications.
3. Applications for Conditional and Conventional Rezonings or Variances shall not include requests for Administrative Adjustments.

F. AMENDMENT

Amendment of a Administrative Adjustment approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

G. EXPIRATION

1. If an Administrative Adjustment is submitted with another development application, the expiration of the Administrative Adjustment shall be the same as the associated development application.
2. See Section <>, Expiration, in cases where an Administrative Adjustment is submitted as a stand-alone application.

H. VESTING

1. If an Administrative Adjustment is submitted with another development application, the vesting term of the Administrative Adjustment shall be the same as the associated development application.
2. In cases where an Administrative Adjustment is submitted as a stand-alone application, see Section <>, Statutory Vested Rights.

I. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.2 APPEAL[21]

A. APPLICABILITY

Appeals of decisions or determinations by the Technical Review Committee, Planning Director, or Engineering Director made pursuant to this Ordinance shall be reviewed and decided in accordance with NCGS§§160D-405 and 160D-1403 and this procedure, as appropriate.

B. APPEALS NOT REGULATED BY THIS ORDINANCE

The following appeals and challenges shall be governed by the following:

1. DECISIONS BY BOARD OF ADJUSTMENT

- **a.** Persons with standing as defined in NCGS§160D-1402(c) may appeal a decision by the Board of Adjustment to the Superior Court for the county where located in accordance with NCGS§160D-1402.
- **b.** Appeal of a quasi-judicial decision shall be in the nature of certiorari and in accordance with NCGS §§160D-406, 160D-1402, and 160D-1405, as appropriate.
- **c.** A landowner or applicant with standing shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the Board of Adjustment and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.
- **d.** Any other person with standing to appeal shall file a petition for review with the Clerk of Court within 30 days from receipt, by any source, actual or constructive notice of the decision being appealed.
- **e.** Receipt of written notice provided via first class mail in accordance with NCGS§160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

2. DECISIONS BY TOWN COUNCIL

Persons with standing as defined in NCGS§160D-1403(b) may challenge legislative decisions by the Town Council, whose challenge shall be heard by the Superior Court for the county where located in accordance with NCGS§§160D-1401 and 160D-1405.

a. CHALLENGES TO OFFICIAL ZONING MAP ADOPTION OR AMENDMENT; DEVELOPMENT AGREEMENT

- **i.** Legislative decisions made by the Town Council pursuant to the adoption of the Official Zoning Map, amendment to the Official Zoning Map, or with respect to a Development Agreement shall be subject to review at the request of any aggrieved party by the Superior Court for the county where located as detailed in NCGS§§160D-1401 and 160D-1405.
- **ii.** The challenge to the legislative decision must be filed with the Clerk of Court for the Superior Court of the county where located within 60 days from the receipt of written notice or receipt from any source of constructive notice of the determination.

b. CHALLENGES TO UNIFIED DEVELOPMENT ORDINANCE TEXT ADOPTION OR AMENDMENT

[21] This section replaces Section 155.717 of the current UDC. While this appeal procedure is solely for consideration of appeals of decisions or determinations by Town staff members, the procedure provides additional details regarding how to apply decisions by the Board of Adjustment or the Town Council (as well as the process for original civil actions). The procedure also defines standing and provides sample review criteria.

Legislative decisions made by the Town Council pursuant to the adoption of this Ordinance or other development regulation shall be subject to review at the request of any aggrieved party by the Superior Court for the county where located as detailed in NCGS§§160D-1401 and 160D-1405. The challenge to the Superior Court must be filed within the following timeframes:

i. **VALIDITY OF ACTION**
Challenges to the validity of ordinance language shall be filed within one year of the date that the ordinance or amendment becomes effective or when the party bringing the challenge has standing to file the challenge, whichever is later.

ii. **PROCEDURAL FLAW**
Challenges to an ordinance or amendment based upon the process of adoption shall be filed within three years of the adoption date of the ordinance or amendment.

3. ORIGINAL CIVIL ACTIONS

Persons with standing, as defined in NCGS§160D-1403.1 may bring an original civil action in Superior Court in the county where located without first being heard by the Board of Adjustment for some administrative decisions, determinations of vested rights, and notices of violation in cases where the applicant claims the decision or a provision in this Ordinance is:

i. Unconstitutional;
ii. Beyond statutory authority;
iii. Pre-empted by State law; or
iv. A taking of all property value.

C. STANDING TO APPEAL A DECISION BY A TOWN STAFF MEMBER

Only those parties possessing any of the following criteria shall have standing to appeal a decision, Determination, or a notice of violation by a Town staff member to the Board of Adjustment:

1. An ownership interest, a leasehold interest, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision or Determination being appealed; or
2. An option or contract to purchase the property that is the subject of the decision or Determination being appealed; or
3. An applicant before the review authority whose decision is being appealed; or
4. Any other person who will suffer special damages as the result of the decision or Determination being appealed; or
5. An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision or determination being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal; or
6. The appellant is the Town Council of Clayton.

D. INITIATION

1. An applicant, property owner, or other person with standing shall initiate an Appeal by filing a notice of appeal with the Planning Director within 30 days of the date they receive the written notice of decision being appealed.

2. Receipt of written notice of decision provided via first class mail in accordance with NCGS§160D-403(b) shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

E. APPLICATION

1. Petitions for Appeal shall specify the grounds for the Appeal.
2. The Planning Director shall transmit to the Board of Adjustment all the papers constituting the record upon which the action being appealed was taken.

F. PROCESS TYPE

Type III (see Section <>, Process Diagrams).

G. DECISION

1. The decision shall be based on the competent, material, and substantial evidence in the record of the Appeal, as supplemented by arguments presented at the evidentiary hearing, and the standards in Section <>, Review Criteria.
2. The decision shall be one of the following:
   a. Affirmation of the decision or determination (in whole or in part);
   b. Modification of the decision or determination (in whole or in part); or
   c. Reversal of the decision or determination (in whole or in part).
3. Voting shall be in accordance with Section <>, Voting.
4. If a motion to reverse or modify is not made, or a motion fails to receive a majority vote from Board of Adjustment members eligible to vote, then the Appeal shall be denied.
5. Each decision shall be made in writing and reflect the Board of Adjustment's determination of contested facts and their application to the standards in this Ordinance.
6. The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.
7. The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning Department.

H. REVIEW CRITERIA

1. The Board of Adjustment is limited to the following decisions in considering the appeal:
   a. Whether the review authority erred in the determination of this Ordinance; or
   b. Whether the review authority erred in determining whether a standard of this Ordinance was met.
2. The Board of Adjustment shall not hear any evidence or make any decision based on hardships or special conditions, except as part of an application for a Variance.

I. EFFECT

1. The filling of an appeal shall stay all of the following:
   a. Any further proceedings or actions conducted by the applicant except in such cases where such stoppage would cause imminent peril to life or property as determined by the Planning Director;
   b. The application of any further remedies for violation of this Ordinance by the Town; and
   c. The accumulation of any further fees or fines associated with violation of this Ordinance.
2. In cases where the Town official from whose decision an appeal is taken certifies to the Board of Adjustment that a stay would cause imminent peril to life or property or would seriously interfere with enforcement of this Ordinance; administrative proceedings shall

not be stayed except through issuance of a restraining order by a court of competent jurisdiction.

3. In the event enforcement proceedings are not stayed by an Appeal, the appellant may file a request for an expedited hearing of the appeal in accordance with NCGS§160D-405(f), and the Board of Adjustment shall conduct a meeting to hear the Appeal within 15 days of the date the request for an expedited hearing is filed.
4. Nothing shall prevent the Board of Adjustment from staying the issuance of any final approval of development applications, including Building Permits, affected by the issue being appealed in accordance with NCGS§160D-405(f).

J. AMENDMENT

Not applicable.

K. EXPIRATION

Not applicable.

L. VESTING

Not applicable.

M. APPEAL

In accordance with Section <>, Decisions by Board of Adjustment.

2.3.3 ANNEXATION[22]

A. APPLICABILITY

1. The Town may review and decide voluntary Annexation petitions from:
   a. The owners of land that is contiguous with the Town's primary corporate limits; and
   b. The owners of land that is not contiguous to the primary corporate limits when the proposed satellite annexation complies with the following standards:
      i. The area must be so situated that the Town will be able to provide the same services as it provides within its primary corporate limits; and
      ii. The nearest point on the proposed satellite annexation is not more than three miles from the primary corporate limits of the Town; and
      iii. No portion of the land proposed for annexation is closer to the contiguous corporate limits of another municipality unless the land is subject to an approved annexation agreement; and
      iv. If the land proposed for annexation is part of a recorded subdivision as defined in NCGS§160D-802, all lots in the recorded subdivision are part of the annexation petition; and
      v. The area within the proposed satellite annexation, when added to the area within all other satellite annexations by the Town of Clayton, may not exceed ten percent of the area within the primary corporate limits of the Town.
2. The Town may accept voluntary Annexation petitions from landowners that do not meet the criteria in sub-section (1) above, but may not decide them until the application is consistent with sub-section (1) above.

B. APPLICATION

1. The Annexation petition shall be signed by all the owners of land proposed for annexation.
2. An Annexation petition shall include a signed statement declaring whether or not any vested right with respect to the land subject to the petition has been established under NCGS§160D-108.
3. The application shall identify the volunteer fire district where the land subject to the petition is located.

C. PROCESS TYPE

Type IV (see Section <>, Process Diagrams), except for the following:

1. Following receipt of an Annexation petition the Town Council shall direct the Town Clerk to investigate the sufficiency of the petition.
2. The Town Clerk shall investigate and certify whether the petition is legally sufficient. Only legally sufficient petitions shall be considered by the Town.
3. The Planning Director shall review the petition and comment on the Town's ability to provide municipal services prior to consideration of the petition's legal sufficiency by the Town Council.
4. The Town shall notify the applicable fire district where the land is located.
5. Following investigation by the Town Clerk and the Planning Director, the Town Council shall determine if the petition is legally sufficient. If the petition is determined to be legally sufficient, the Town Council shall schedule a public hearing to consider the petition.
6. The Planning Board shall not review the application.
7. If the annexation petition is approved, the applicant shall be responsible for preparation of a plat suitable for recording with the Register of Deeds to document the annexation.

[22] This is a new procedure not included in the current UDC.

D. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section <>, Review Criteria.
2. The decision shall be one of the following:
   a. Approval of the Annexation petition;
   b. Denial of the Annexation petition; or
   c. Remand of the Annexation petition to Town staff for further consideration.

E. REVIEW CRITERIA

Approval of an Annexation is a matter committed to the legislative discretion of the Town Council. The voluntary Annexation petition may be approved upon a finding the petition complies with all the standards in NCGS§§160A-31 or 160A-58.1, as appropriate, and:

1. The Annexation petition bears the signatures of all landowners within the area to be annexed;
2. The area to be annexed can be adequately served by the same municipal services provided within the Town's primary corporate limits;
3. The debt obligations from serving the subject lands do not exceed the anticipated revenues to the Town;
4. If any of the land that is the subject of an annexation petition is also proposed for a subdivision, the entire land area occupied by the subdivision is included in the annexation petition; and
5. The public health, safety, and welfare of Town residents and the residents of the lands proposed for annexation will be best served by the Annexation.

F. EFFECTIVE DATE

1. CONTIGUOUS ANNEXATIONS

In accordance with NCGS§160A-31(d), the Town Council shall make the Annexation ordinance effective:

a. Immediately; or
b. Within 24 months of the date the Annexation ordinance was adopted.

2. NONCONTIGUOUS OR SATELLITE ANNEXATIONS

The Town Council shall make the Annexation ordinance effective date immediately or on any specified date within six months from the date the annexation ordinance was passed.

G. RECORDATION

1. An ordinance approving a voluntary Annexation adopted by the Town, together with a plat of the annexed area, shall be promptly recorded in the office of the Register of Deeds for the county where located following adoption of the Annexation.
2. The applicant shall be responsible for preparing a plat meeting the State's minimum requirements.
3. The ordinance approving a voluntary Annexation adopted by the Town, together with a plat of the annexed area, shall be filed in the office of the Secretary of State within 30 days following the effective date of the annexation ordinance.

H. SEQUENCE

1. In cases where land proposed for Annexation is subject to any additional development applications, the Annexation application shall be reviewed and decided prior to the decision on any other applications.
2. The Town Council may consider the initial zoning of newly annexed land immediately or at any other time following approval of an Annexation application.
3. Nothing shall limit the Town Council from adopting a Development Agreement that involves land that is not annexed to the Town.

I. EFFECT

1. Upon the effective date of Annexation, the land shall be subject to the debts, laws, ordinances and regulations of the Town, and shall be entitled to the same privileges and benefits as other parts of the Town.
2. In cases where land to be annexed is located outside the Claytex Volunteer Fire District, the applicant for annexation shall submit payment to the Town corresponding to the land's proportional share of all debt obligations owed by the Town. The Town shall notify the applicant of the applicable amount of the payment.
3. In cases where the applicant does not make payment upon annexation, the Town may require execution of a development agreement, the imposition of conditions of approval on the annexation petition, or other Town-accepted process for securing the land's pro rata share of applicable debt obligation from the applicant as part of annexation.

J. AMENDMENT

Not applicable.

K. EXPIRATION

Not applicable. Land may be de-annexed only by an act of the North Carolina General Assembly.

L. VESTING

Not applicable.

M. APPEAL

In accordance with Section <>, Decisions by Town Council.

2.3.4 BUILDING PERMIT[23]

A. APPLICABILITY

Unless exempted in accordance with the North Carolina General Statutes or the State Building Code(s), no construction, reconstruction, addition, alteration, repair, movement to another site, removal, demolition of any building or structure, or changes in use of an existing development triggering the need for application of a different set of building code requirements shall occur until a Building Permit is approved in accordance with the procedures and standards of this section and Chapter 150 of the Clayton Town Code of Ordinances.

B. EXEMPTIONS

The following forms of development are exempted from the requirement to obtain a Building Permit, but shall be subject to the standards in Section <>, Zoning Compliance Permit:

1. Storage and secondary buildings that serve a residential principal use, of 12 linear feet or less in length on any dimension, and do not include electrical service or running water;
2. Patios and at-grade walkways;
3. Playground equipment and play structures provided as secondary uses to an individual residential dwelling;
4. Ornamental or other pools with depths of less than 24 inches (any pools with water depths exceeding 24 inches are required to obtain a Building Permit);
5. Fences or privacy walls of six feet in height or less, except that all retaining walls shall require a Building Permit; or
6. Other development exempted from building permit requirements by the Town of by State law.

C. PROCESS TYPE

Type I (see Section <>, Process Diagrams).

D. REVIEW CRITERIA

An application for a Building Permit shall be decided by the Building Inspector in accordance with Section <>, Staff Review and Action, and all of the following:

1. The applicable sections of the State Building Code(s);
2. The standards in NCGS§160D-1110;
3. Any applicable requirements of the Johnston County Health Department;
4. The Site Plan, if applicable;
5. The Zoning Compliance Permit;
6. All other standards or conditions of any prior, applicable permits, and development approvals; and
7. All other applicable requirements of this Ordinance, Town policy, State law, and federal law.
8. In cases where commencement or completion of development proposed in a Building Permit application requires infrastructure to be in place and such infrastructure is not in place when required, then a life/safety plan for protecting life/safety shall be filed with an application for a Building Permit.

[23] This is a permit procedure not codified in the current UDC.

E. SEQUENCE

A Building Permit application may be submitted simultaneously with another application but shall be processed in accordance with Section <>, Simultaneous Processing.

F. EFFECT

Approval of a Building Permit authorizes the commencement of on-site or off-site construction activities.

G. AMENDMENT

A Building Permit application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

H. EXPIRATION

1. A building permit shall expire and become null and void if the development it authorizes is not substantially commenced within six months of the permit issuance.
2. A building permit shall expire if work is discontinued for a period of 12 months after work has commenced.

I. VESTING

1. See Section <>, Issuance of a Building Permit.
2. In cases when a Building Permit is associated with a site-specific vesting plan, the vesting period of the Building Permit shall be the same as the development in the associated site-specific vesting plan.

J. APPEAL

An appeal of a decision on a Building Permit may be filed with the North Carolina Commissioner of Insurance, in accordance with NCGS§160D-1127.

2.3.5 CERTIFICATE OF OCCUPANCY[24]

A. APPLICABILITY

Except where exempted by Section <>, Exemptions, no land, newly erected building or structure, or existing building or structure that has been moved or enlarged or changed in use shall be occupied or used until a Certificate of Occupancy certifying that the land, building, or structure, and its use complies with this Ordinance and the applicable standards of the State Building Code(s) is issued in accordance with this section and Chapter 150 of the Clayton Town Code of Ordinances.

B. EXEMPTIONS

Development exempted from a Building Permit in accordance with Section <>, Exemptions, shall also be exempted from this section.

C. PROCESS TYPE

Type I (see Section <>, Process Diagrams).

D. REVIEW CRITERIA

An application for a Certificate of Occupancy shall be decided by the Building Inspector in accordance with Section <>, Staff Review and Action, and the degree to which the land, building, structure, or proposed use complies with:

1. All relevant standards of this Ordinance;
2. Any other applicable Town requirements;
3. All applicable conditions of approval;
4. The Building Permit;
5. The applicable State Building Code(s) requirements; and
6. All applicable State and federal requirements.

E. TEMPORARY CERTIFICATE OF OCCUPANCY

1. A Temporary Certificate of Occupancy may be issued permitting occupancy for a stated period of time of either the entire building or property or of specified portions of the building if the Inspections Director finds that the building or property may safely be occupied prior to the completion of development activity.
2. A temporary Certificate of Occupancy may be issued in cases where the Town has mandated or the applicant has requested and the Town has approved payment of a fee-in-lieu. In no instance shall a final Certificate of Occupancy be issued by the Town in cases where payment of fee-in-lieu is required, but has not taken place.
3. The Planning Director may require the applicant to submit a Performance Guarantee (see Section <>, Performance Guarantees), in an amount necessary to ensure that any work not completed as specified in the development approval will be completed within the specified timeframe for a Certificate of Occupancy. A Performance Guarantee, submitted in accordance with Section <>, Performance Guarantees, shall be required for any incomplete infrastructure or other required site features.

F. SEQUENCE

1. Applications for a Certificate of Occupancy may not be filed until work authorized by other approvals has been completed, or an application for a Performance Guarantee has been approved.

[24] This is a permit procedure not codified in the current UDC.

2. An application for a Performance Guarantee may be filed with an application for a Temporary Certificate of Occupancy, but in these cases, the Performance Guarantee application shall be decided first.

G. EFFECT

Approval of a Certificate of Occupancy authorizes the occupancy of a building or the commencement of activity.

H. AMENDMENT

A Certificate of Occupancy application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

I. EXPIRATION

A Certificate of Occupancy shall not expire. A Temporary Certificate of Occupancy shall expire in accordance with its designated timeframe. In no instance shall a Temporary Certificate of Occupancy remain valid for a period of longer than six months.

J. VESTING

Not applicable.

K. APPEAL

An appeal of a decision on a Certificate of Occupancy may be filed with the North Carolina Commissioner of Insurance, in accordance with NCGS§160D-1127.

2.3.6 CONDITIONAL REZONING[25]

A. PURPOSE AND INTENT

The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish a conditional zoning district in cases where the standards of a conventional zoning district are inadequate to appropriately address the anticipated impacts generated by development. The conditional zoning district, if approved, establishes a unique zoning district that is tailored to the specific proposal and subject to unique conditions of approval. It is the intent of these standards to provide a process where an applicant may voluntarily place additional limitations on the development potential of their land. It is also intended to allow an applicant to request greater flexibility in the application of some development requirements in pursuit of a higher quality of development.

B. APPLICABILITY

1. This procedure is solely for the establishment of a conditional zoning district designation on land within the Town's planning jurisdiction.
2. In no instance shall a Conventional Rezoning application be converted to a Conditional Rezoning application nor shall a Conditional Rezoning application be converted to a Conventional Rezoning application.
3. In no instance shall any lot or tract that is the subject of a Conditional Rezoning application also be the subject of any other rezoning application at the same time.
4. Special use zoning districts established prior to (insert the effective date of this Ordinance) shall be subject to the standards in Section <>, Pre-Existing Special Use Zoning Districts.
5. Planned development zoning districts established prior to (insert the effective date of this Ordinance) shall be subject to the standards in Section <>, Pre-Existing Planned Development Districts.

C. CONDITIONAL REZONING ~~APPLICATIONS~~ DISTRICTS DISTINGUISHED

All Conditional Rezoning applications shall ~~take~~ seek to establish one of the following three forms of conditional zoning district:

1. A Type I Conditional Rezoning application to establish a ~~or~~ "limited use" ~~applications~~conditional zoning district, which include an applicant-sponsored reduction in the range of allowable use types but no other deviations from required standards; or
2. A Type 2 Conditional Rezoning application to establish a~~or~~ "limited standard" ~~applications~~conditional zoning district, which include applicant-sponsored modifications that exceed minimum requirements applied to other forms of development (e.g., deeper setbacks, larger lot areas, more restrictive use-standards, or limits on the range of allowable use types); or
3. A Type 3 Conditional Rezoning application to establish an~~or~~ "unlimited" ~~applications~~conditional zoning district, which ~~include~~ is subject to a Concept Plan and applicant-sponsored conditions that may be more or less restrictive that other applicable Ordinance standards, subject to Section <>, ~~Standards that May Not be Reduced~~Limitations on Reductions, and Section <>, Conditions of Approval. Unlimited applications may include deviations or reductions from otherwise applicable standards.

[25] This section is proposed to replace Section 155.705 of the current UDC. The draft procedure identified here removes the current 5-acre/1 ~~city~~ town block minimum area requirement. In addition, this procedure establishes three types of conditional rezoning application: a limited use application type that does not permit a concept plan and allows an applicant to reduce the range of allowable use types; a limited standards option that allows an applicant to propose additional limitations or restrictions that exceed the current standards; and an unlimited option that permits reductions from standards to be requested. These standards clarify that failure to substantially commence the approved development may result in the Town initiating an application to revert the conditional rezoning district designation, and that concept plans are considered site-specific vesting plans (and that vesting does not run with the land).

D. APPLICATION

1. All Conditional Rezoning applications shall:
   a. Be initiated only by all the landowner(s) of the land subject to the application, or their authorized agents;
   b. Include all applicant-proposed conditions of approval;
   c. Include a detailed written description of the range of potential principal and secondary use types, which shall be treated as a condition;
   d. Not include a Concept Plan in cases where the application is a Type 1 or Type 2 Conditional Rezoning application (see Section <>, Conditional Rezoning Applications Distinguished);
   e. Include a Concept Plan prepared in accordance with Section <>, Concept Plans, if a Type 3 Conditional Rezoning application, seeking to enhance, reduce, or otherwise deviate from an applicable dimensional, development, or use-specific standard in this Ordinance;
   f. Include a Transportation Impact Analysis when required by Section <>, Transportation Impact Analysis;
   g. Include a wastewater allocation request prepared in accordance with all Town requirements if proposing a Type 3 Conditional Rezoning that seeks to utilize public sewer;
   h. Identify requests for reductions from applicable standards in this Ordinance when requested and why such requests are necessary; and
   i. Provide evidence indicating the ways in which a Conditional Rezoning seeking a reduction from standards in this Ordinance will result in development that is in closer alignment with Section <>, Purpose and Intent, and the Town's adopted policy guidance.
2. Applications complying with a Town-mandated Fee-in-Lieu or anticipated to include an applicant-requested Fee-in-Lieu shall include information mandated in Section <>, Fee-in-Lieu.
3. Applications subject to a required neighborhood meeting shall include required information in accordance with Section <>, Neighborhood Meeting.

E. PROCESS TYPE

Type IV (see Section <>, Process Diagrams), except that the Technical Review Committee shall review and comment on all Concept Plans filed with a Conditional Rezoning application prior to consideration of the application by the Planning Board.

F. RECOMMENDATION

1. After conclusion of a public meeting, the Planning Board shall make a recommendation on the application based on its consistency with Section <>, Review Criteria.
2. In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the Town's adopted policy guidance.
3. During its review, the Planning Board may suggest revisions to the application, consistent with Section <>, Conditions of Approval. Only those revisions agreed to in writing by the applicant shall be incorporated into the application.

G. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section <>, Review Criteria.
2. The decision shall be one of the following:

a. Approval of the application;
b. Denial of the application;
c. Approval of a revised application; or
d. Remand of the application to Planning Board or the Technical Review Committee for further consideration.

3. The decision shall be based on the legislative discretion of the Town Council, taking into consideration the recommendation of the Planning Board, citizen comments, if provided, and the standards in Section <>, Review Criteria.
4. In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town's adopted policy guidance in accordance with NCGS§160D-605.

H. CITIZEN COMMENT

In cases where a resident or landowner submits written comments to the Town at least two business days prior to the date a decision is being made on the application, the Town ~~staff~~ Clerk ~~member processing the application~~ shall deliver the statement(s) to the Town Council.

I. APPLICATION REVISION

The applicant may make changes to a Conditional Rezoning application, including changes recommended by the Planning Board or the Town Council at any time prior to the Town Council's decision. The applicant may only propose changes provided that:

1. Changes shall be made in writing to the Planning Director; and
2. Changes shall be signed by all landowners or their agents.

J. REVIEW CRITERIA

The advisability of approving a Conditional Rezoning application is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or deny a proposed Conditional Rezoning, the Town Council may weigh the relevance of and consider the following:

1. If the application is consistent with the applicable standards in Section <>, Conditional Zoning Districts;
2. Whether the proposed Conditional Rezoning advances the public health, safety, or welfare;
3. Whether and the extent to which the proposed Conditional Rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the Town's adopted policy guidance;
4. Whether an approval of the Conditional Rezoning is reasonable and in the public interest;
5. Whether and the extent to which the Concept Plan associated with the Conditional Rezoning is consistent with this Ordinance; and
6. Any other factors as the Town Council may determine to be relevant.

K. CONDITIONS

1. Only conditions mutually agreed to by the applicant and the Town Council may be approved as part of a Conditional Rezoning.
2. Conditions shall be limited to those that address conformance of development and use on the site with Town regulations and adopted policy guidance and that address the impacts reasonably expected to be generated by the development or use of the site.
3. All conditions shall be in compliance with Section <>, Conditions of Approval.
4. Conditions shall be in writing and may be supplemented with text, plans, or maps as permitted by this Ordinance.

L. DESIGNATION

1. The Planning Director shall cause ~~to make~~ changes to be made to the Official Zoning Map promptly after approval of a Conditional Rezoning application by the Town Council.
2. In cases when a Conditional Rezoning application is deemed inconsistent with adopted policy guidance, but is approved by the Town Council, the future land map shall be amended with a note referencing the application approval.

M. SEQUENCE

1. Applications for Subdivisions, Site Plans, and Zoning Compliance Permits may be submitted with a Conditional Rezoning application, but the Conditional Rezoning application establishing the conditional zoning district shall be decided first.
2. A Concept Plan shall not substitute for a required Site Plan or Subdivision Plat, and all applications for required Site Plans or Subdivision Plats shall be reviewed separately from the Conditional Rezoning application.

N. EFFECT

1. In cases where the Town Council approves a Conditional Rezoning application deemed to be inconsistent with the Town's adopted policy guidance, the Conditional Rezoning approval shall also have the effect of amending any applicable future land use map included in the Town's adopted policy guidance, and no additional request or application for a comprehensive plan amendment shall be required.
2. Lands subject to an approved Conditional Rezoning shall be subject to all the standards, conditions, and plans approved as part of that application. These standards, plans, and approved conditions are perpetually binding on the land as an amendment to this Ordinance and the Official Zoning Map. In cases where a Concept Plan is approved as part of a Conditional Rezoning application, the vesting term of the Concept Plan shall be in accordance with the applicable standards in Section <>, Vested Rights.
3. Development located outside the Clayton corporate limits shall comply with Town policies and standards related to annexation and the extension of utilities.
4. Regardless of the type of Conditional Rezoning application, the development shall be subject to subsequent review and approval of a Site Plan or Subdivision Plat, as required under this Ordinance.

O. AMENDMENT

Concept Plans shall only be amended in accordance with the standards in this section. Amendments to a Concept Plan approval shall be considered as minor modifications or major modifications, and must be considered in accordance with the following:

1. MINOR MODIFICATIONS

a. Subsequent plans and permits for development may include minor modifications provided the development continues to meet the minimum requirements of this section. Minor modifications are limited to changes that have no material effect on the character of the development or changes that address technical considerations that could not reasonably be anticipated at the time of the application approval.

b. Minor modifications shall be reviewed and decided by the Planning Director, in consultation with other appropriate Town staff.

c. Minor modifications shall be limited to the following:

i. Changes in internal land use or phase boundaries provided the perimeter location of the development is unaffected;

ii. Revisions to phase boundaries provided each phase is adequately served by necessary infrastructure, stormwater control measures, and open space;
iii. Realignment of internal transportation infrastructure provided the overall connectivity index score of the development or the phase is not reduced;
iv. Changes to the location of entrances or driveways by 100 feet or less;
v. Changes to the configuration of parking areas, but not the number of parking spaces and provided the parking area continues to meet Ordinance requirements for access and circulation;
vi. Changes to the configuration of landscape yards, including types of landscaping or screening materials, provided minimum width and planting requirements continue to be met;
vii. Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character and remains consistent with the design parameters established in the original approval; and
viii. Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.

d. In no instance shall a minor modification include any changes to:
i. The range of permitted uses;
ii. The overall density of the development; or
iii. Site features that require the application of professional judgement or discretion by a licensed landscape architect, architect, or professional engineer.

2. MAJOR MODIFICATIONS

a. Changes that materially affect the basic configuration of the development, a condition of approval, or that exceed the scope of a minor change modification are considered major modifications.
b. Major modifications include, but are not limited to:
i. Increases in building height;
ii. Changes in uses;
iii. Changes in density or intensity;
iv. Decreases in open space;
v. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);
~~v.~~vi. Changes to the location of entrances or driveways by more than 100 feet;
~~vi.~~vii. Change in the location of any public easement; and
~~vii.~~viii. Changes to site features that require the application of professional judgement or discretion by a licensed landscape architect, architect, or professional engineer.
c. Major modifications must be reviewed and considered only in accordance with the procedures and standards established for the original application approval.

P. EXPIRATION

1. Not applicable.
2. In the event the development contemplated in a Conditional Rezoning application is not substantially commenced within three years from the date of the approval, the Town Council may initiate a rezoning application to return the land to its prior or to some other appropriate zoning district designation.

Q. VESTING

1. The establishment of a conditional zoning district shall run with the land, but a Concept Plan associated with a Conditional Rezoning application shall be subject to Section <>, Site-Specific Vesting Plan.

2. Applicants seeking a longer vesting term may file an application in accordance with Section <>, Vested Rights Certificate.

R. APPEAL

In accordance with Section <>, Decisions by Town Council.

2.3.7 CONSERVATION SUBDIVISION[26]

A. PURPOSE AND INTENT

The purpose and intent of this section is to provide landowners in certain portions of the Town's planning jurisdiction a development option that provides additional development flexibility to build on smaller lots when additional open space set-asides are provided, and the development is designed and located in a way that protects surrounding community character, agricultural activities, or sensitive environmental features on the site. This is done in order to:

1. Conserve open land, including those areas containing prime agricultural soils, areas of steep slopes, unique and sensitive natural features such as floodplains, wetlands, river and stream corridors, areas with mature hardwood trees, and watersheds;
2. Promote established community character particularly in areas visible from major roadways in the Town;
3. Retain and protect existing wildlife habitat and environmental, natural, and cultural resources;
4. Create a linked network of open lands; and
5. Provide reasonable economic use of the land.

B. APPLICABILITY

1. TYPE OF DEVELOPMENT

This Conservation Subdivision option shall be limited to development of single-family detached residential dwellings (including manufactured homes) on individual lots in subdivisions of more than five lots. The Conservation Subdivision option shall not be available for any other form of development or use type.

2. WHERE PERMITTED

Single-family detached residential subdivisions of more than five lots on and~~s~~ served by a public wastewater system may be developed as a Conservation Subdivision, in accordance with the standards in this section and Section <>, Listing of Common Principal Uses.

3. RELATIONSHIP TO WATERSHED PROTECTION OVERLAY DISTRICT

a. Land located within a Watershed Protection Overlay District may be configured in accordance with the cluster development option in Section <>, Cluster Development, but a cluster development may not be configured as a conservation subdivision.

b. In the event a conservation subdivision is proposed on land within a Watershed Protection Overlay District, the density shall not exceed that permitted under the cluster development option in Section <>, Cluster Development.

C. PROCESS TYPE

1. Type II (see Section <>, Process Diagrams).
2. Establishment of a Conservation Subdivision also requires review and approval of a Major Subdivision.

[26] NOTE: This procedure is included here from the Annotated Outline. It is new procedure that allows smaller lots and reduced setbacks in recognition of set-aside of at least 50% of the development area. The only way this will work is if sewer is available.

D. CONSERVATION AND DEVELOPMENT PLAN

Prior to review of a Major Subdivision, an applicant shall have a conservation and development plan for the land reviewed and approved, or approved with conditions by the Planning Director in accordance with the following steps and the standards in Section <>, Review Criteria.

1. STEP 1: SITE ANALYSIS MAP

The applicant shall prepare a site analysis map that analyzes existing conditions both on the land proposed for the development and land within 500 feet of the site, and submit the site analysis map to the Technical Review Committee. It is the intent of this section that the information required in the site analysis map be produced from existing sources and maps to ensure the process is economical for the applicant.

2. STEP 2: SITE INSPECTION

After receipt of the site analysis map, a representative from the Technical Review Committee shall schedule a site inspection of the land with the applicant. The applicant or the applicant's representative shall attend the site inspection with a Town staff member. The purpose of this site visit is to:

a. Familiarize the staff with the existing site conditions and features of the site;

b. Identify potential site development issues, including the best location for the development to minimize its visibility from existing neighborhoods and adjacent major roadways; and

c. Provide an opportunity to discuss site development concepts, including the general layout of conservation areas and potential locations for proposed structures, utilities, streets, and other development features. Comments made by the staff during the site inspection shall be interpreted as being only suggestive. No official decision on the conservation and development plan shall be made during the site inspection.

3. STEP 3: CONSERVATION AND DEVELOPMENT PLAN

Based on the site analysis map and the information obtained during the site inspection, the applicant shall prepare a conservation and development plan. The conservation and development plan shall include the following:

a. A site analysis map;

b. A conservation and development areas map that depicts areas intended for conservation and areas intended for development; and

c. A preliminary site improvements plan, showing proposed site development, including the approximate locations of utilities, streets, other development features, buffers (if applicable), and lot lines in the proposed development area.

4. STEP 4: REVIEW

The Planning Director shall review and decide the conservation and development plan based on the standards in Section <>, Review Criteria.

E. REVIEW CRITERIA

A Conservation Subdivision shall comply with the following standards:

1. LOCATION

Conservation Subdivisions shall be configured to minimize the visibility of new dwellings from adjacent developed lands and roadways located outside the proposed Conservation Subdivision. Techniques to achieve this location criteria include placement of lots, retention of existing vegetation, or installation of berms or new landscaping material.

2. MINIMUM PROJECT SIZE

Conservation Subdivisions shall be at least five acres in land area.

3. REQUIRED CONSERVATION AREA

The required conservation area shall occupy at least 50 percent of the total acreage of the Conservation Subdivision site, but nothing shall limit it from occupying more than 50 percent of a Conservation Subdivision site.

4. MAXIMUM RESIDENTIAL DENSITY

A Conservation Subdivision may establish a maximum residential density that exceeds the maximum residential density for lots in the zoning district where located by up to 50 percent, but in no instance shall the density of a Conservation Subdivision exceed the maximum allowable if located within a Watershed Protection Overlay District.

5. DIMENSIONAL REQUIREMENTS

Lots in a Conservation Subdivision may deviate from the minimum dimensional requirements for lots in the zoning district where located, provided:

a. No lot frontage is less than 20 feet wide;

b. Building separation between structures on different lots meets or exceeds the minimum applicable Fire Code provisions; and

c. All structures shall comply with required setbacks from streets, wetlands/surface waters, or other protected natural areas.

6. LAND USED FOR AGRICULTURE OR FORESTRY

Nothing shall limit the ability of an owners' association to lease conservation area for the purposes of agriculture or forestry.

F. OWNERSHIP OF CONSERVATION AREAS

A conservation area shall be owned jointly by a recognized homeowners' or property owners' association, which shall be established in accordance with Section <>, Owners' Associations.

G. SEQUENCE

A Conservation Subdivision shall be approved prior to the associated Major Subdivision Preliminary Plat.

H. AMENDMENT

Amendment of a Conservation Subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

I. EXPIRATION

1. An approved Conservation Subdivision shall be valid for two years from the date of approval.
2. Once a Preliminary Plat application has been filed, the associated Conservation Subdivision approval shall be subject to the expiration provisions associated with the Preliminary Plat.

J. VESTING

See Section <>, Site Specific Vesting Plan.

K. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.8 CONVENTIONAL REZONING[27]

A. PURPOSE AND INTENT

This section provides a uniform means for reviewing and deciding proposed amendments to the Official Zoning Map to establish or revise a conventional zoning district or overlay zoning district boundary whenever the public necessity, general welfare, the Town's adopted policy guidance, or appropriate land use practices justify or require doing so.

B. APPLICABILITY

This procedure is solely for the establishment of a conventional zoning district or overlay zoning district designation on land within the Town's planning jurisdiction.

C. APPLICATION

1. Applications may be initiated by the Town Council, the Planning Board, the Planning Director, a landowner(s), or a contract purchaser(s) of the land in the proposed application.
2. In no instance shall the Town accept third-party rezoning applications submitted by persons who are not owners or agents authorized to act on behalf of landowners.
3. Applications for a Conventional Rezoning shall not include a Concept Plan or any applicant-sponsored conditions.
4. In cases where a Conventional Rezoning application seeks to rezone only a portion of a lot or tract, the remainder of the lot or tract shall be of a size and location that make it possible to subdivide or develop that portion of the property in accordance with the requirements in this Ordinance.
5. Applications subject to a required neighborhood meeting shall include required information in accordance with Section <>, Neighborhood Meeting.

D. PROCESS TYPE

Type IV (see Section <>, Process Diagrams).

E. RECOMMENDATION

1. After conclusion of a public meeting, the Planning Board shall make a recommendation on the application based on its consistency with Section <>, Review Criteria.
2. In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the Town's adopted policy guidance.

F. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section <>, Review Criteria.
2. The decision shall be one of the following:
   a. Approval of the application;
   b. Denial of the application;
   c. Approval of a revised application; or
   d. Remand of the application to Town staff for further consideration.
3. The decision shall be based on the legislative discretion of the Town Council, taking into consideration the recommendation of the Planning Board, citizen comments, if provided, and the standards in Section <>, Review Criteria.

[27] This section is proposed to replace Section 155.704 of the current UDC. These standards prohibit an applicant from modifying an application for a Conditional Rezoning (though it may be modified by the Town Council).

4. In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town's adopted policy guidance in accordance with NCGS§160D-605.

G. CITIZEN COMMENT

In cases where a resident or landowner submits written comments to the Town at least two business days prior to the date a decision is being made on the application, the Town staff member processing the application shall deliver the statement(s) to the Town Council.

H. APPLICATION REVISION

1. In no instance shall a Conventional Rezoning application be converted into a Conditional Rezoning application.
2. Nothing shall limit the Town Council from approving a more restrictive or less intense zoning district than requested by the applicant. In cases where the Town Council decides to approve a more restricted or less intense zoning district than requested, the application shall not require remand back to the Planning Board or any additional public notification.

I. REVIEW CRITERIA

The advisability of approval of a Conventional Rezoning application is a matter committed to the legislative discretion of the Town Council, and is not controlled by any one factor. In determining whether to adopt or deny a rezoning application, the Town Council may weigh the relevance of and consider the following:

1. Whether the proposed rezoning advances the public health, safety, or welfare;
2. Whether and the extent to which the proposed rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the Town's adopted policy guidance;
3. Whether an approval of the rezoning is reasonable and in the public interest; and
4. Other factors as the Town Council may determine to be relevant.

J. DESIGNATION

1. The Planning Director shall cause to make changes to the Official Zoning Map promptly after approval of a Conventional Rezoning application by the Town Council.
2. In cases when a rezoning application is deemed inconsistent with adopted policy guidance, but is approved by the Town Council, the future land use map shall be amended with a note referencing the rezoning application approval.

K. SEQUENCE

A Conventional Rezoning application may be filed with an Annexation petition in accordance with NCGS§§160A-31 or 160A-58.1, but no other application types shall be submitted with a rezoning application.

L. EFFECT

1. Lands subject to an approved Conventional Rezoning application shall be subject to all the applicable standards in this Ordinance, which shall be binding and shall run with the land.
2. Development located outside the Town's corporate limits shall comply with all Town policies related to annexation and the extension of utilities.
3. In cases where the Town Council approves a Conventional Rezoning application they deem to be inconsistent with the Town's adopted policy guidance, the rezoning approval shall also have the effect of amending any applicable future land use map included in the

Town's adopted policy guidance, and no additional request or application for a comprehensive plan amendment shall be required.

M. AMENDMENT

Not applicable.

N. EXPIRATION

Not applicable.

O. VESTING

Not applicable.

P. APPEAL

In accordance with Section <>, Decisions by Town Council.

2.3.9 DETERMINATION[28]

A. APPLICABILITY

1. ENGINEERING DIRECTOR

The Engineer Director shall provide determinations on the portions of this Ordinance pertaining to infrastructure (water lines, sewer lines, etc.); construction-related aspects associated with streets, sidewalks, and driveways; ~~erosion control~~land disturbance; special flood hazard area standards; stormwater requirements; and watershed-related provisions.

2. PLANNING DIRECTOR

The Planning Director shall determine all other aspects of this Ordinance, including boundaries on the Official Zoning Map, undefined terms, unlisted use types, prior conditions of approval, the vesting status of development.

B. DETERMINATIONS DISTINGUISHED

1. FORMAL DETERMINATIONS

a. Formal determinations shall be in writing and prepared in accordance with this section.

b. Only formal determinations are subject to appeal as an administrative decision.

2. ADVISORY OPINIONS

a. Any written or oral opinions that do not meet the strict requirements of this section are advisory opinions.

b. Advisory opinions have no binding effect and are not considered formal determinations subject to appeal.

C. PROCESS TYPE

Type I (see Section <>, Process Diagrams).

D. DECISION

1. The Planning Director or Engineering Director, as appropriate, shall provide determinations of this Ordinance or the Official Zoning Map in accordance with Section <>, Review Criteria.

2. Prior to rendering a determination, a Town staff member may consult with the Town Attorney or other Town officials.

E. REVIEW CRITERIA

1. OFFICIAL ZONING MAP BOUNDARIES

Interpretation of district boundaries on the Official Zoning Map shall be in accordance with the standards in Section <>, Interpretation of Map Boundaries, and consistent with the Town's adopted policy guidance.

2. TEXT PROVISIONS AND PRIOR APPROVALS

Interpretation of this text and approved applications shall be based on the standards in Section <>, Rules of Language Construction, Section <>, Transitional Provisions, and the following considerations:

[28] This section replaces Section 155.715 of the current UDC with a much more explicit procedure covering several different kinds of common questions, recognizing the role of the Engineering Director, and distinguishing between formal determination (written) and advisory opinions (informal or verbal).

a. The legislative intent of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption;
b. When the legislative intent of a provision is unclear, the Planning Director shall consider the clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision, as established in Section <> Terms Defined, and by the common and accepted usage of the term;
c. The general purposes served by this Ordinance, as set forth in Section <>, Purpose and Intent of Ordinance; and
d. Consistency with the Town's adopted policy guidance.

3. UNLISTED USE TYPES

Determination of whether an unlisted use is similar to a use identified in Table <>, Listing of Common Principal Uses, shall be based on consistency with Section <>, Use Category Descriptions, the Town's adopted policy guidance, and the following standards:

a. The function, product, or physical characteristics of the use;
b. The impact on adjacent lands created by the use;
c. The type, size, and nature of buildings and structures associated with the use;
d. The type of sales (retail, wholesale), and the size and type of items sold and displayed on the premises;
e. The types of items stored (such as vehicles, inventory, merchandise, chemicals, construction materials, scrap and junk, and raw materials including liquids and powders);
f. The volume and type of vehicle traffic generated by the use, and the parking demands of the use;
g. Any processing associated with the use, including assembly, manufacturing, warehousing, shipping, distribution, and whether it occurs inside or outside a building;
h. Any dangerous, hazardous, toxic, or explosive materials associated with the use;
i. The amount and nature of any nuisances generated on the premises, including noise, smoke, odor, glare, vibration, radiation, and fumes; and
j. Any prior applicable determinations made by the Planning Director or decisions made by the Board of Adjustment.

4. UNDEFINED TERMS

If a term in this Ordinance is undefined or the meaning is unclear, the Planning Director may determine the term's meaning based upon appropriate definitions in any of the following sources:

a. The North Carolina General Statutes;
b. The North Carolina Administrative Code;
c. The State Building Code(s);
d. Planning-related definitions in publications prepared or offered by the American Planning Association or the Urban Land Institute;
e. The Oxford Dictionary of Construction, Surveying, and Civil Engineering;
f. Black's Law Dictionary; or
g. Other professionally accepted source.

5. VESTING STATUS

The determination of whether or not certain development activity or a development application approval is vested from changes in this Ordinance and the duration of the vesting shall be based on the following:

a. The standards in Section <>, Vested Rights;
b. The standards in NCGS§160D-108; and
c. Prior judicial determination from comparable cases, as determined in the sole discretion of the Planning Director.

F. EFFECT

A written Determination shall be binding on subsequent decisions by the Planning Director or other administrative officials in applying the same provision of this Ordinance or the Official Zoning Map in the same circumstance, unless the Determination is modified in accordance with this section, the Determination is later determined to have been made in error, or the text of this Ordinance is amended.

G. AMENDMENT

Not applicable.

H. EXPIRATION

Not applicable.

I. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.10 DEVELOPMENT AGREEMENT[29]

A. PURPOSE AND INTENT

The Development Agreement procedure is a flexible, voluntary process for the establishment and review of large-scale development projects likely to build out over several years, projects that include over-sizing of public utilities, or projects outside the Town's planning jurisdiction.

B. APPLICABILITY

The Town Council may enter into a Development Agreement with a developer for a development of any size and for any reasonable duration, provided the duration is specified in the agreement. All Development Agreements shall be subject to NCGS§§ 160D-1001 through 160D-1012.

C. PROCESS TYPE

Type IV (see Section <>, Process Diagrams) except that the Planning Board shall not review the application.

D. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section <>, Review Criteria.
2. The decision shall be one of the following:
   a. Enter into the Development Agreement, as submitted;
   b. Enter into the Development Agreement, subject to changes agreed to in writing by the developer; or
   c. Not enter into the Development Agreement.
3. The decision shall be based on the legislative discretion of the Town Council, taking into consideration the recommendation of the Planning Board and the standards in Section <>, Review Criteria.

E. REVIEW CRITERIA

1. The Development Agreement shall comply with the applicable standards in NCGS§160D-1006;
2. The development shall demonstrate the impact on existing and future provisions of capital improvements by the Town, including all of the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreation, and health systems and facilities.
3. The Development Agreement shall not require the Town to exercise any authority or make any commitment that is unauthorized by general or local act, or impose any unauthorized tax or fee.

F. SEQUENCE

A Development Agreement shall be approved prior to any subsequent development subject to the agreement's provisions.

G. ANNUAL REVIEW

During any period of time in which a permit or development approval subject to a Development Agreement is active, the Planning Director shall review the development at least once every year for compliance with the agreement and file a report with the Town Council.

[29] This is a new procedure.

H. AMENDMENT

1. A Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.
2. Consideration of a proposed amendment of a Development Agreement shall be reviewed and considered in accordance with NCGS§160D-1003 and the procedures and standards established for its original approval.

I. EXPIRATION

A Development Agreement shall run for the duration of its term unless the agreement is terminated.

J. VESTING

The Development Agreement shall specify the terms and duration of vesting.

K. APPEAL

In accordance with Section <>, Decisions by Town Council.

2.3.11 DRIVEWAY PERMIT

A. APPLICABILITY

1. All lots seeking to gain vehicular access to a Town-maintained or North Carolina Department of Transportation (NCDOT)-maintained street via a driveway shall obtain a driveway permit in accordance with this section. Lots seeking to obtain vehicular driveway access to an NCDOT-maintained street shall also obtain NCDOT approval prior to issuance of a Driveway Permit. Town staff will inform applicants of the need to contact the NCDOT for a prior NCDOT approval.
2. Lots seeking to gain vehicular access to a private street are not required to obtain a Driveway Permit from the Town, though permission from the owner of the street ~~may~~ shall be required if no public access easement is recorded or public access agreement is in place.

B. APPLICATION

An application for a Driveway Permit shall be accompanied by plans or drawings prepared by a professional engineer. Plans or drawings shall demonstrate compliance with all applicable requirements of this Ordinance, other Town documents, and NCDOT's Policy on Street and Driveway Access to North Carolina Highways, if applicable.

C. PROCESS TYPE

Type I (see Section <>, Process Diagrams).

D. REVIEW CRITERIA

An application for a Driveway Permit shall be decided by the Engineering Director, in accordance with Section <>, Staff Review and Action, and the following:

1. The applicable requirements of the Town's Engineering Specifications and Design Manual;
2. The Town Code of Ordinances or other policy documents;
3. Any applicable requirements of this Ordinance, including but not limited to Section <>, Access and Circulation;
4. NCDOT's Policy on Street and Driveway Access to North Carolina Highways, if applicable; and
5. All other standards or conditions of any prior, applicable permits, and development approvals.

E. SEQUENCE

Applications for a Driveway Permit may be submitted with a Site Plan, Subdivision, or Zoning Compliance Permit, but the Driveway Permit shall be approved after these permit types.

F. INSPECTION

Inspections of the proposed driveway or driveway apron if the driveway is unpaved shall be conducted by the Engineering Director or a designee after the forms demarking the driveway are in place and again after driveway construction is complete but before the approval is finalized.

G. AMENDMENT

A Driveway Permit application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

H. EXPIRATION

A Driveway Permit shall expire if substantial commencement has not taken place within six months of the approval.

I. VESTING

See Section <>, Statutory Vested Rights.

J. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.121.1.1 EROSION CONTROL PERMIT[30]

A. APPLICABILITY

1. Land-disturbing activities occupying one acre or more in area (regardless of the number of different lots or ownership patterns) shall be subject to an Erosion Control Permit issued in accordance with this section.

2.1. Land-disturbing activities occupying less than one acre are exempted from the requirement to obtain an Erosion Control Permit, but shall still be subject to the standards in Section <>, Soil Erosion and Sedimentation.

B.A. APPLICATION

1. An application for an erosion control plan shall include an erosion control plan prepared in accordance with Section <>, Soil Erosion and Sedimentation.

2.1. The permit application shall identify the person financially responsible for the land disturbing activity and shall be signed by the landowner, and the person financially responsible for the land-disturbing activity, or their agent, who shall be licensed to do business in the State of North Carolina.

3.1. Land-disturbing activity subject to NCGS§113A(1) shall include all necessary environmental documentation.

C.A. PROCESS TYPE

Type I (see Section <>, Process Diagrams) except that a pre-application conference is required.

D.A. PHASES DISTINGUISHED

1. Applications for and approval of an Erosion Control Permit shall take place within two distinct phases. Phase One, or "early grading" shall consist solely of the following:

a. Installation of temporary sedimentation control measures;

b.a. Construction of basins, ditches, and outlet devices, and

c.a. Construction entrances.

2.1. Phase Two, or "land disturbance" shall take place following completion of the activity required under Phase One, and shall include clearing, grubbing, excavation, deposition, and transport of fill material.

3.1. The Phase One portion of an Erosion Control Permit may be approved following completion of the Stage One portion of a Site Plan or a Preliminary Plat for Major Subdivision.

4.1. The Phase Two portion of an Erosion Control Permit may be approved following completion of the Stage Two portion of a Site Plan or a Preliminary Plat for Major Subdivision.

E.A. REVIEW CRITERIA

An application for an Erosion Control Permit, whether Phase One or Phase Two, as appropriate, shall be decided by the Engineering Director in accordance with Section <>, Staff Review and Action, and the following:

[30] NOTE: This is a newly-codified procedure. The Town's current sedimentation and erosion control provisions are found in Chapter 156 of the Town Code. These standards are being relocated to the UDO. The Town's current standards include provisions for review of an erosion control plan, which are carried forward here with two notable revisions: 1) removal of the automatic approval if the Town staff fail to approve the plan with30 days of filing, and requirements for appeals of the Engineering Director's decision on a permit being filed with the BOA instead of Town Council. Additional discussion is necessary regarding the need to carry forward the section on transfer of an erosion control plan from one owner to another.

1. All relevant standards in NCGS Art. 4 of Chapter 113A;
2. All relevant standards in Section <>, Soil Erosion and Sedimentation;
3. All State rules pertaining to protection of riparian buffers along surface waters;
4. All other applicable State and federal requirements in place at the time of application acceptance;
5. All other applicable requirements of this Ordinance;
6. Provided the site where land disturbance is proposed is not already in violation of the soil erosion and sedimentation control standards of this Ordinance; and
7. Provided the applicant for the Erosion Control Permit is in compliance with the requirements of this Ordinance with respect to soil erosion and sedimentation and provided there are no outstanding civil penalties related to erosion control requirements.

F.A. PERFORMANCE GUARANTEE

All required erosion control measures depicted in an erosion control plan shall be installed and inspected by the Town, and final stabilization shall be subject to a Performance Guarantee in accordance with Section <>, Performance Guarantees.

G.A. SEQUENCE

1. See Section <>, Phases Distinguished.
2. Erosion Control Permits shall only be issued after approval of a Tree Clearing Certificate, Site Plan, Construction Drawings associated with a Preliminary Plat, or a Zoning Compliance Permit.

H.A. EFFECT

1. Approval of an Erosion Control Permit shall permit the applicant to commence with land-disturbing activity.
2. The approved Erosion Control Permit shall be displayed on site in a location easily accessible to members of the public.

I.A. AMENDMENT

An Erosion Control Permit application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

J.A. REVOCATION

An Erosion Control Permit may be revoked by the Engineering Director, following written notice to the violator and in accordance with this process, for any of the following reasons:

1. Failure or refusal to comply with all applicable State laws or soil erosion and sedimentation control requirements of this Ordinance;
2. Conduct of land-disturbing activities that represent a substantial departure from an approved permit, plan, or specification; and
3. False or misrepresented information providing as part of the application.

K.A. EXPIRATION

See Section <>, Expiration.

L.A. VESTING

See Section <>, Statutory Vested Rights.

M.A. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

~~2.3.13~~2.3.12 EXEMPT SUBDIVISION[31]

A. EXEMPT SUBDIVISIONS, GENERALLY

1. Subdivisions exempted from this Ordinance are identified in Table <>, Subdivision Types Table.
2. The Town may not require a plat for an Exempt Subdivision, but the Register of Deeds may require a plat to record the division of land.
3. Land divided as an Exempt Subdivision is subject to other requirements in this Ordinance, including but not limited to water supply watershed standards, stormwater, and flood damage protection.

B. APPLICATION

Applications for review of an Exempt Subdivision are strictly voluntary and at the discretion of the landowner or subdivider.

C. PROCESS TYPE

Type I (see Section <>, Process Diagrams).

D. REVIEW CRITERIA

An application for an Exempt Subdivision shall be decided by the Planning Director in accordance with Section <>, Staff Review and Action, and the following:

1. GENERALLY

Except for combinations or recombinations, an Exempt Subdivision shall be approved provided it complies with the following:

a. The plat includes a title block identifying the subdivision as an Exempt Subdivision, and describes what makes the subdivision exempt;

b. The plat complies with the standards in NCGS§47-30;

c. The plat is prepared, signed, and sealed by a registered surveyor;

~~c.~~d. The plat complies with the impervious surface requirements, and the minimum buffer requirements, to the maximum extent practicable, if located within the (WPOD) Watershed Protection Overlay District; and

~~d.~~e. The plat includes all applicable statements and declarations identified in Chapter 9 of this Ordinance.

2. COMBINATIONS OR RECOMBINATIONS

a. An Exempt Subdivision consisting of a combination or recombination of lots shall be approved provided it complies with the following:

i. The resultant lots comply with the minimum dimensional requirements of the zoning district where located;

ii. The total number of lots is not increased;

iii. All the metes and bounds boundaries of the affected lots are shown;

iv. All lot boundaries changed or eliminated by requested combination are indicated by dashed lines;

v. The plat complies with the standards in NCGS§47-30;

vi. The title block contains the word "Recombination;"

[31] This is a new procedure mandated under NCGS§160D-802. It provides for a voluntary review process at the discretion of the landowner or subdivider, but the Town may not require a plat (or exactions) for an Exempt Subdivision. It is important to note that the Statutes recognize combinations and recombinations where all resultant lots meet the minimum Ordinance requirements (like district dimensional standards) as exempt. Recombinations that result in lots that do not meet minimum Ordinance requirements are considered as minor preliminary plats.

vii. The plat is signed by all property owners if either the number of lots is reduced or different owners for different lots are involved in the recombination;
viii. The plat is prepared, signed, and sealed by a registered surveyor; and
ix. The plat includes all applicable statements and declarations identified in Chapter 9 of this Ordinance.

b. A combination or recombination of lots where one or more of the newly-established lots does not meet the minimum dimensional requirements of the zoning district where located shall not be considered an Exempt Subdivision, and shall be reviewed in accordance with Section <>, Minor Subdivision.

E. STORMWATER PERMIT REQUIRED

While exempt subdivisions are exempted from the subdivision regulations in this Ordinance, they are not exempt from the requirements in Section <>, Stormwater Permit, and may also be subject to the standards in Section <>, Land Disturbing Permit, based on the amount of land disturbance involved.

~~E.~~ F. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

~~2.3.14~~2.3.13 FEE-IN-LIEU[32]

A. PURPOSE AND INTENT

This fee-in-lieu procedure creates a uniform process for consideration of Town-mandated or applicant-requested payment of a fee instead of providing required land or infrastructure. The fee-in-lieu process is intended to create flexibility in the provision of required aspects of development when payment of a fee is appropriate and in closer alignment with the Town's adopted policy guidance than the alternative.

B. APPLICABILITY

Payment of a fee-in-lieu may be approved by the ~~Town~~ Planning Director or the Engineering Director, as appropriate, only for the following forms of development:

1. LAND DEDICATION OR EASEMENT

Payment of a fee-in-lieu of dedication of the land or granting an easement to the Town for the following features:

- **a.** Public street right-of-way land, including land needed for sidewalks, bike lanes, on-street parking, turn lanes, and ingress or egress into a site;
- **b.** Park land; and
- **c.** Greenway, sidewalk, or trail right-of-way.

2. PUBLIC INFRASTRUCTURE

Payment of a fee-in-lieu of construction of the following public infrastructure features:

- **a.** Streets, including on-street parking;
- **b.** Curb and gutter;
- **c.** Bicycle facilities; and
- **d.** Sidewalks, ~~trails~~sidepaths, or greenways.

3. PRIVATE SITE FEATURES

Payment of a fee-in-lieu of inclusion of the following features:

- **a.** ~~r~~Required open space set-aside; and
- **b.** Parking lot cross-access.

C. REQUESTS DISTINGUISHED

1. APPLICANT-REQUESTED

In cases where an applicant or developer desires to provide a fee-in-lieu, the process for considering such requests shall be in accordance with this section.

2. TOWN-MANDATED

- **a.** Town-mandated fee-in-lieu payments are decided by Town staff as part of a Site Plan, Subdivision, or Zoning Compliance Permit application review in accordance with the applicable standards in Section <>, Review Criteria.
- **b.** Notification of the requirement for provision of a fee-in-lieu shall be in writing, and shall be delivered to the applicant or developer prior to the notice of decision on the associated application.

[32] This is a newly codified procedure that consolidates the current provisions related to fee-in-lieu. It makes a distinction between applicant-requested and Town-mandated fee-in-lieu. Additional revision to this material is anticipated during the UDO draft review process.

c. Upon receipt of notification, an applicant shall provide the required fee-in-lieu in accordance with Section <>, Acceptance of Fee-in-Lieu, or the applicant may appeal the decision in accordance with Section <>, Appeal.

D. APPLICATION

Applicant-requested fee-in-lieu proposals shall be made in writing and shall identify the following:

1. The purpose(s) for the fee-in-lieu;
2. The rationale for why a fee-in-lieu is in closer alignment with the purpose and intent of this Ordinance;
3. The items or site features being replaced by the proposed fee-in-lieu;
4. The amount of the proposed fee-in-lieu; and
5. How the fee amount was determined.

E. PROCESS TYPE

Type II (see Section <>, Process Diagrams), including comment by the Technical Review Committee.

~~Type IV (see Section <>, Process Diagrams) for applicant-requested fee-in-lieu. Town-mandated fee-in-lieu shall be decided by the Town staff member responsible for deciding the associated application as part of a Type II process.~~

~~F. DECISION~~

~~1. After the conclusion of a public meeting, the Town Council shall decide applicant-requested fee-in-lieu proposals in accordance with Section <>, Review Criteria, and Section <>, Determination of Fee Amount.~~

~~2. The decision shall be one of the following:~~

~~a. Approval of the fee-in-lieu request;~~

~~b. Denial of the fee-in-lieu request; or~~

~~c. Remand of the application to Town staff for further consideration.~~

~~G.~~F. REVIEW CRITERIA

An application for a fee-in-lieu shall be decided by the Planning Director or Engineering Director, as appropriate, in accordance with Section <>, Staff Review and Action, and the following:

~~Approval of a fee-in-lieu proposal is a matter committed to the legislative discretion of the Town Council. The proposal may be approved upon a finding it complies with all the following:~~

1. GENERALLY

a. Approval of the fee-in-lieu proposal will not negatively impact public health or safety; and
b. Approval of the fee-in-lieu proposal does not interfere with Town's ability to serve landowners and residents; and
c. The proposal is consistent with necessary amount of funding; and
d. The proposal meets any specialized criteria listed below, as appropriate.

2. PARK LAND

a. There is sufficient public park land in proximity to the proposed development based on a review of the Town's adopted policy guidance and information from Town staff;

b. Private common open space resources provided on the subject site will be available for public use and will mitigate park land needs created by the proposed development;
c. Collected funds could be utilized to further improve an existing park facility in a proximate location;
d. The topography or other natural conditions of the site do not provide adequate opportunities for on-site recreation and park areas;
e. The amount of park land to be dedicated is too small to provide adequate recreation and park opportunities or to be efficiently maintained;
f. The intended location of the park land is too far from existing recreation and park areas to be efficiently maintained; or
g. Adequate access is not available to the proposed park land.

3. GREENWAYS OR TRAILS

a. The conditions on the land make installation or operation of a greenway or trail segment impossible or cost prohibitive for the Town;
b. The potential for the connection of a proposed greenway segment to the Town's greenway or trail network is unlikely within the foreseeable future, in the opinion of Town staff; or
c. There are suitable alternatives to in close proximity to the proposed site.

4. STREETS OR BICYCLE FACILITIES

a. TOWN MANDATED

The Town shall require a fee-in-lieu of installation for residential, residential collector, collector, or commercial streets for the length of the street if any of the following criteria are met:

i. No direct access to the street is proposed;
ii. The minimum street improvement is one-half of an existing unimproved right-of-way, and improvements, if constructed, would not be used for traffic circulation;
iii. Where the new street right-of-way is only partially contained on the development site and therefore, construction of only a portion of the new street cross-section is possible;
iv. The street is a freeway, expressway or any other fully controlled access facility;
v. The street is in the Town's Capital Improvement Program, final design plans have been initiated, and the project will fall under the assessment policy of the Town; or
vi. The street is on NCDOT's Transportation Improvement Program, final design plans have been initiated, and there will be no Town contribution or participation in funding the project. If the Town funds a portion of the project, then a fee-in-lieu of installation will be required as a contribution towards Town-funded improvements.

b. APPLICANT PROPOSED

The Town shall consider a fee-in-lieu request for construction of residential, residential collector, collector, or commercial streets if any of the following criteria and their conditions are satisfied:

i. Where existing unimproved streets have:
1. Insufficient lineal footage to serve overall traffic circulation purposes or interrupts an existing swale/ditch storm drainage system with curb and gutter, which would disrupt the drainage system operation;
2. Curb and gutter improvements would not connect to existing curb and gutter, or there are no similar improvements on the same block;
3. There are no plans for Town improvements on the same block; and
4. 75 percent or more of the block is already developed such that no future Subdivision or Site Plan submittals are anticipated; or

ii. Where construction of the streets by the Town or other party is imminent, in the sole opinion of the Engineering Director; or

iii. Where street construction will not connect to an existing improved street and there are no plans to construct an adjoining street in the near future; or

iv. Where street construction is impractical due to:

1. The need for off-site construction or slope encroachment;
2. Proper street alignment should be determined with off-site development; or
3. Design of bridges or culverts are required and only a portion of the structure is on the development's property.

~~a. The proposed street alignment creates a unacceptable environmental impact; or~~

~~b. The proposed street or bicycle facility is impossible or impractical to build based on topography, slope, soil conditions, or development patterns on adjacent lands.~~

5. SIDEWALKS AND SIDEPATHS

a. The potential for the connection of a proposed sidewalk or sidepath segment to the Town's sidewalk network is unlikely within the foreseeable future, in the opinion of Town staff; or

b. There are suitable alternatives to a sidewalk, such as a greenway or trail, in close proximity to the proposed site.

6. OTHER PUBLIC INFRASTRUCTURE

a. Construction of the proposed infrastructure would create maintenance or service delivery problems, in the opinion of the Engineering Director; or

b. Proposed development may be better served by an alternative configuration.

7. OPEN SPACE SET-ASIDE

a. Other open space and recreation resources are in close proximity to the proposed site; or

b. The amount of open space set-aside required is unfeasible to provide.

8. OTHER CRITERIA

a. When, in the sole opinion of the Planning Director, the decision on a fee-in-lieu requires consideration of additional or different criteria, the Planning Director shall identify those criteria and describe how the proposal does or not address them.

b. The applicant has sufficient opportunity to describe how the proposal meets those criteria prior to a decision by the Town Council.

~~H.~~G. DETERMINATION OF FEE

1. LAND

a. The fee-in-lieu shall be calculated based upon the total acreage of land required for dedication or reservation.

b. The land's current assessed value (as determined by the county Tax Assessor) or an approved appraisal by a certified North Carolina appraiser.

2. INFRASTRUCTURE

a. The amount of fee-in-lieu for streets shall be based on the required improvements for the development.

b. The amount of fee-in-lieu shall be based on an itemized estimate by a professional engineer.

c. The estimate shall include 125 percent of the cost of all materials and labor based on current unit prices.

d. Nothing shall prevent the Engineering or Planning Director, as appropriate, from acquiring an additional estimate for the same infrastructure from another licensed professional.

e. The Engineering or Planning Director, as appropriate, in their discretion, may select the estimate that will form the basis for the fee-in-lieu payment.

~~I.~~H. ACCEPTANCE OF FEE-IN-LIEU

1. All fees collected by the Town pursuant to this section shall be deposited in Town's revolving fund for purchase of recreation land, installation of vegetation, provision of parking facilities, or installation of required infrastructure.
2. Use of funds collected in accordance with this section shall only take place in the general vicinity of where funds are collected and may only be used for the purchase of in-kind lands or the same type of infrastructure in accordance with all applicable State and federal law.
3. The Planning Director or other designated Town official shall maintain records of the amounts collected, the timing, and the location, which shall be used by the Town as part of its capital facilities program.

~~J.~~I. SEQUENCE

1. Applications for payment of fee-in-lieu may be submitted with the associated development application or at any time prior to issuance of a Certificate of Occupancy or other final approval.
2. In cases where a fee-in-lieu is requested by the applicant and approved by the Town, the payment shall take place prior to recordation of a Final Plat or approval of the Construction Drawing phase of a Site Plan.
3. In cases where a fee-in-lieu is mandated by the Town, the payment shall take place prior to the approval of a final Certificate of Occupancy or other final approval. A temporary Certificate of Occupancy may be issued pending receipt of required or approved payment of fee-in-lieu.

~~K.~~J. EFFECT

Approval of fee-in-lieu for a private site feature shall not render the site nonconforming.

~~L.~~K. AMENDMENT

Not applicable.

~~M.~~L. EXPIRATION

Not applicable.

~~N.~~M. VESTING

Not applicable.

~~O.~~N. APPEAL

~~1.~~ Appeals of decision by Town staff shall be in accordance with NCGS§160D-405, and Section <>, Appeal.

~~2. Appeals of decisions by the Town Council shall be in accordance with Section <>, Decisions by Town Council.~~

~~2.3.15~~2.3.14 FLOODPLAIN PERMIT[33]

A. APPLICABILITY

The following forms of development shall obtain a Floodplain Permit in accordance with this section prior to or concurrent with an application for a Site Plan or Building Permit, as appropriate:

1. Development proposed on land in the Flood Hazard Overlay District as defined by the National Flood Insurance Program (NFIP); and
2. Development that is proximate to and may be impacted by unmapped streams or where regulatory flood elevations are not delineated in the NFIP, in accordance with Section <>, Standards for Floodplains Without Established Base Flood Elevations.

B. PROCESS TYPE

Type I (see Section <>, Process Diagrams).

C. REVIEW CRITERIA

An application for a Floodplain Permit shall be decided by the Floodplain Administrator in accordance with Section <>, Staff Review and Action, and the following:

1. The permit is issued prior to the commencement of development; and
2. The development complies with all applicable standards in Section <>, FPOD Flood ~~Hazard~~ Protection Overlay ~~(FHO)~~ District.

D. SEQUENCE

Applications for Floodplain Permits may be submitted with any other application for development in a special flood hazard area, but a Floodplain Permit shall be reviewed and approved prior to any other application type.

E. EFFECT

Approval of a Floodplain Permit authorizes an applicant to obtain all required elevation certificates or other required certificates and proceed with development following issuance of a Building Permit.

F. CERTIFICATES REQUIRED

1. Unless exempted in accordance with Section <>, Flood Protection Overlay District, development subject to this section shall also file elevation or floodproofing certificates in accordance with Section <>, Development Application, Permit and Certification Requirements, no more than 21 days after completing the lowest habitable floor.
2. The Floodplain Administrator shall review the certificate and advise the applicant of any errors or deficiencies, which shall be corrected prior to any further work progressing. Failure to correct errors or deficiencies on an elevation or floodproofing certificate shall be a violation of this Ordinance subject to the provisions in Section <>, Stop Work Orders.

G. AMENDMENT

A Floodplain Permit application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

[33] This permit is proposed to replace portions of Section 151.21 of the Town Code of Ordinances related to a floodplain development application.

H. REVOCATION

A Floodplain Permit may be revoked by the Floodplain Administrator, following written notice to the violator, for any of the following reasons:

1. Failure or refusal to comply with all applicable State laws or flood damage prevention requirements of this Ordinance;
2. Conduct of development activities that represent a substantial departure from an approved permit, plan, or specification; and
3. False or misrepresented information ~~providing~~provided as part of the application.

I. EXPIRATION

A Floodplain Permit shall expire and become null and void if the development it authorizes is not substantially commenced within six months of permit issuance or if activity associated with the permit becomes inactive for a period of one year or longer.

J. VESTING

See Section <>, Statutory Vested Rights.

K. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.15 ~~EROSION CONTROL~~LAND DISTURBANCE PERMIT[34]

A. APPLICABILITY

1. Land-disturbing activities occupying one acre or more in area (regardless of the number of different lots or ownership patterns) shall be subject to a~~n Erosion Control~~Land Disturbance Permit issued in accordance with this section.
2. Land-disturbing activities occupying less than one acre are exempted from the requirement to obtain a~~n Erosion Control~~Land Disturbance Permit, but shall still be subject to the standards in Section <>, Soil Erosion and Sedimentation.

B. APPLICATION

1. An application for a~~n erosion control plan~~Land Disturbance Permit shall include an erosion control plan prepared in accordance with Section <>, Soil Erosion and Sedimentation.
2. The permit application shall identify the person financially responsible for the land disturbing activity and shall be signed by the landowner, and the person financially responsible for the land-disturbing activity, or their agent, who shall be licensed to do business in the State of North Carolina.
3. Land-disturbing activity subject to NCGS§113A(1) shall include all necessary environmental documentation.

C. PROCESS TYPE

Type I (see Section <>, Process Diagrams) except that a pre-application conference is required.

D. "EARLY GRADING" OPTION~~PHASES DISTINGUISHED~~

1. An applicant may, in their sole discretion, apply for an optional early grading approval that permits the commencement of tree removal and land disturbance on a development site. ~~Applications for and approval of an Erosion Control Permit shall take place within two distinct phases. Phase One, or "early grading" shall consist solely of the following:~~
   ~~—Installation of temporary sedimentation control measures;~~
   ~~—Construction of basins, ditches, and outlet devices; and~~
   ~~—Construction entrances.~~
2. Issuance of an approval for early grading by the Town shall not require prior approval of a Site Plan or Construction Drawings but shall require prior approval of a Tree Cleaning Certificate (see Section <>, Tree Clearing Certificate). ~~Phase Two, or "land disturbance" shall take place following completion of the activity required under Phase One, and shall include clearing, grubbing, excavation, deposition, and transport of fill material.~~
3. In no instance shall an approval for early grading from the Town authorize the installation of any infrastructure, which may only take place following issuance of a Land Disturbance Permit in accordance with this section. ~~The Phase One portion of an Erosion Control Permit may be approved following completion of the Stage One portion of a Site Plan or a Preliminary Plat for Major Subdivision.~~

[34] NOTE: This is a newly-codified procedure. The Town's current sedimentation and erosion control provisions are found in Chapter 156 of the Town Code. These standards are being relocated to the UDO. The Town's current standards include provisions for review of an erosion control plan, which are carried forward here with two notable revisions: 1) removal of the automatic approval if the Town staff fail to approve the plan with30 days of filing, and requirements for appeals of the Engineering Director's decision on a permit being filed with the BOA instead of Town Council.

~~The Phase Two portion of an Erosion Control Permit may be approved following completion of the Stage Two portion of a Site Plan or a Preliminary Plat for Major Subdivision.~~

E. REVIEW CRITERIA

An application for a~~n Erosion Control~~ Land Disturbance Permit~~, whether Phase One or Phase Two, as appropriate,~~ shall be decided by the Engineering Director in accordance with Section <>, Staff Review and Action, and the following:

1. All relevant standards in NCGS Art. 4 of Chapter 113A;
2. All relevant standards in Section <>, Soil Erosion and Sedimentation;
3. All State rules pertaining to protection of riparian buffers along surface waters;
4. All other applicable State and federal requirements in place at the time of application acceptance;
5. All other applicable requirements of this Ordinance;
6. ~~Provided~~Evidence the site where land disturbance is proposed is not already in violation of the soil erosion and sedimentation control standards of this Ordinance; and
7. ~~Provided~~Evidence the applicant for the ~~Erosion Control~~Land Disturbance Permit is in compliance with the requirements of this Ordinance with respect to soil erosion and sedimentation and provided there are no outstanding civil penalties related to erosion control requirements.

F. PERFORMANCE GUARANTEE

All required erosion control measures depicted in an erosion control plan and identified in a Land Disturbance Permit shall be installed and inspected by the Town, and final stabilization shall be subject to a Performance Guarantee in accordance with Section <>, Performance Guarantees.

G. SEQUENCE

1. See Section <>, Phases Distinguished.
2. ~~Erosion Control~~Land Disturbance Permits shall only be issued after approval of a ~~Tree Clearing Certificate,~~ Site Plan~~;~~ or Construction Drawings ~~associated with a Preliminary Plat, or a Zoning Compliance Permit~~.
3. Optional early grading approval shall not take place until a Tree Clearing Certificate is approved.

H. EFFECT

1. Approval of an ~~Erosion Control~~Land Disturbance Permit shall permit the applicant to commence with land-disturbing activity.
2. The approved ~~Erosion Control~~Land Disturbance Permit shall be displayed on site in a location easily accessible to members of the public.

I. AMENDMENT

A~~n~~ Land Disturbance ~~Erosion Control~~ Permit application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

J. REVOCATION

A~~n~~ Land Disturbance ~~Erosion Control~~ Permit may be revoked by the Engineering Director, following written notice to the violator and in accordance with this process, for any of the following reasons:

1. Failure or refusal to comply with all applicable State laws or soil erosion and sedimentation control requirements of this Ordinance;
2. Conduct of land-disturbing activities that represent a substantial departure from an approved permit, plan, or specification; and
3. False or misrepresented information ~~providing~~provided as part of the application.

K. EXPIRATION

See Section <>, Expiration.

L. VESTING

See Section <>, Statutory Vested Rights.

M. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.16 LIMITED SUBDIVISION[35]

A. APPLICABILITY

1. The standards in this section shall apply to divisions of land meeting all the following criteria:
   a. The proposed division of land is not exempted from the subdivision standards of this Ordinance in accordance with NCGS§160D-802;
   b. The proposed division will not result in more than three lots (including any residual or "parent" parcel), with each lot meeting the applicable dimensional requirements of the zoning district where located;
   c. The area of land subject to the division shall be comprised of at least five acres under common ownership;
   d. No land included in an expedited subdivision application shall have been the subject of an expedited subdivision application approval within the preceding ten years;
   e. No extension of public infrastructure (streets, water, or sewer) is proposed; and
   f. A proposed permanent means of ingress and egress to each lot is recorded.
2. Divisions of land not meeting all these standards shall be reviewed as a Major or Minor Subdivision, as appropriate.

B. APPLICATION

1. Applications for a Limited Subdivision shall include a plat prepared by a registered land surveyor or professional engineer licensed to practice in North Carolina.
2. Applications for a Limited Subdivision served by on-site wastewater systems shall include an evaluation from the appropriate county health department indicating that an on-site wastewater system may be used on each lot included in the subdivision.

C. PROCESS TYPE

Type I (see Section <>, Process Diagrams).

D. REVIEW CRITERIA

An application for a Limited Subdivision shall be decided by the Planning Director in accordance with Section <>, Staff Review and Action, and the following:

1. The Limited Subdivision plat is on a sheet or sheets suitable for recording with the Register of Deeds in the county where the subdivision is located;
2. The Limited Subdivision plat is prepared and sealed by a licensed professional land surveyor or licensed professional engineer;
3. The Limited Subdivision plat complies with all applicable standards in this Ordinance and NCGS§47-30;
4. The Limited Subdivision complies with all applicable watersupply watershed protection provisions, if located within the (WPOD) ~~Watershed~~Watershed Protection Overlay District;
~~3.~~5. The Limited Subdivision complies with all applicable requirements in Section <>, Stormwater;
~~4.~~6. The Limited Subdivision plat includes all required certifications and declarations;
~~5.~~7. The applicant has secured all required State and federal permit approvals;

[35] This is a newly codified procedure that builds on a portion of Section 155.706 in the current UDC. This section distinguishes between a limited subdivision and other forms of subdivision as the Town may require a plat, but can require nothing else (such as dedication, easement reservation, or other exactions).

~~6.~~8. All lots have been certified by the appropriate county Health Department as capable of accommodating the wastewater generated from the proposed use, if served by an on-site wastewater system;

~~7.~~9. All lots in the Limited Subdivision comply with the applicable dimensional requirements for the zoning district where located;

~~8.~~10. No drainage or utility easements will be required to serve any interior lots;

~~9.~~11. The lot is served by a permanent means of ingress and egress that is depicted on the plat;

~~10.~~12. No land included in a Limited Subdivision application shall have been the subject of a Limited Subdivision application approval within the preceding ten years; and

~~11.~~13. The development complies with all applicable overlay zoning district standards.

E. RECORDATION

1. Once a Limited Subdivision plat is approved, a signed statement by the Planning Director shall be entered on the face of the plat. The plat may not be recorded without this and all other required certifications.
2. Following certification, the subdivider shall record the plat and any associated protective covenants and deed restrictions in the office of the Register of Deeds in the county where the development is located. Failure to record the plat in accordance with Section <>, Expiration, shall render the plat null and void.
3. Land may not be conveyed or construction started until the Limited Subdivision is recorded.

F. SEQUENCE

1. An application for Site Plan, Special Use Permit, or Zoning Compliance Permit may be filed with a Limited Subdivision application, but the Limited Subdivision application shall be approved first.
2. A limited subdivision shall also be subject to the standards in Section <>, Stormwater Permit, and may also be subject to the standards in Section <>, Land Disturbing Permit, based on the amount of land disturbance.

G. EFFECT

1. Approval of the Limited Subdivision plat allows the sale or conveyance of lots within the subdivision.
2. Building permits may be issued following recordation of the Limited Subdivision plat.
3. Land subject to a Limited Subdivision approval shall not be further subdivided as a Limited Subdivision within ten years of the date of the prior subdivision recordation.

H. AMENDMENT

Amendment of a Limited Subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

I. EXPIRATION

A Limited Subdivision plat shall be null and void unless it is recorded in the office of the Register of Deeds of the county where it is located within 10 days of approval.

J. VESTING

See Section <>, Statutory Vested Rights.

K. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.17 MAJOR SUBDIVISION[36]

A. PURPOSE AND INTENT

The purpose for this Major Subdivision procedure is to establish a fair, consistent, and predictable process for the division of land into a series of lots for development or sale in ways that promote the public's health, safety, and welfare. The intent of these standards is to ensure:

1. Orderly growth and development;
2. Coordination of transportation and utility networks;
3. Preservation of open space for purposes of recreation or natural resource protection;
4. Protection from flooding, damaging sedimentation, and decreased surface water quality; and
5. Distribution of population in ways that supports infrastructure investment and diminishes the impact of traffic and overcrowding.

B. APPLICABILITY

Unless exempted by NCGS§160D-802(a), all divisions of land involving the following shall be considered Major Subdivisions subject to the standards of this section:

1. Two or more lots along with the provision of or changes to streets or other public infrastructure (e.g., water lines, sewer lines, storm sewer, etc.); or
2. Six or more lots with no changes to or extension of public infrastructure.

C. STAGES OF REVIEW

The review of a Major Subdivision application is organized into the following three stages:

1. Stage One, review of a Preliminary Plat;
2. Stage Two, review of Construction Drawings, in cases where changes to of extension of public infrastructure is included as part of the development; and
3. Stage Three, review of a Final Plat.
4. Nothing shall prevent the review of application materials associated with Stages One and Two concurrently.

D. PROCESS TYPE

1. Type II (see Section <>, Process Diagrams) for each of the three stages of review.
2. The Technical Review Committee shall comment on plats and plans prepared as part of each stage.

E. STAGE 1, PRELIMINARY PLAT

A Preliminary Plat is the initial design stage of a proposed Major Subdivision, and shall be reviewed and configured in accordance with the following:

1. APPLICATION

a. A Preliminary Plat shall be prepared by a licensed professional surveyor, registered professional landscape architect, or licensed professional engineer.

[36] This section includes the Major Subdivision procedure set out in Section 155.706 of the current UDC with several notable changes. The current UDC consolidates all forms of subdivision approval into a single procedure while this UDO recognizes Five different kinds of subdivision. The Major Subdivision is distinguished from the Minor Subdivision based on lot count and extension of public infrastructure. This proposed procedure differs slightly from the UDO Annotated Outline in that the Preliminary Plat, Construction Drawings, and Final Plat phases are all included in one single procedure (rather than 3 different procedures). This proposed procedure adds new detail on approval criteria for Preliminary Plats and Construction Drawings. The current UDC imparts the same perpetual vested rights to a Preliminary Plat as the rezoning approval – this UDO establishes Preliminary Plats (and Conditional Rezoning concept plans) as site-specific vesting plans.

b. When a Major Subdivision is to be developed in phases, a master plan shall be submitted for the entire development and a Preliminary Plat shall be submitted for each phase, though there is no limitation on the number of phases that may be included in a Preliminary Plat. Phasing shall be in accordance with Section <>, Phased Development.

c. The application shall include a transportation impact analysis for review, when required by Section <>, Transportation Impact Analysis.

d. In cases where lots in the subdivision will utilize on-site wastewater, the subdivider shall provide a report from a licensed soil scientist in the form of a letter, signed and dated, that describes the possibilities of lot sizes the site can support and their general locations within the subdivision.

e. Subdivisions seeking to utilize public sewer shall include a wastewater allocation request completed in accordance with all Town requirements.

f. All Major Subdivisions shall submit a stormwater management plan prepared in accordance with Section <>, Stormwater, and the most current edition of the North Carolina Department of Environmental Quality, Division of Water Quality's Stormwater Best Management Practices Manual.

g. Applications complying with a Town-mandated Fee-in-Lieu or anticipated to include an applicant-requested Fee-in-Lieu shall include information mandated in Section <>, Fee-in-Lieu.

h. In cases where a Major Subdivision is seeking to take advantage of sustainability incentives, allowable density bonuses, or allowable alternative forms of compliance, the application shall include supplemental details and justification for the use of these provisions.

2. REVIEW CRITERIA

An application for a Preliminary Plat shall be decided by the Planning Director in accordance with Section <>, Staff Review and Action, and the following:

a. The Preliminary Plat is prepared and sealed by a professional land surveyor, professional landscape architect, or professional engineer;

b. The Preliminary Plat includes all applicable certifications and declarations;

c. All lots are served by a Town-maintained, NCDOT-maintained, or private street configured in accordance with NCDOT or Town standards, as appropriate;

d. All lots have been certified by a county Health Department as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) are served by on-site wastewater systems;

e. The Preliminary Plat includes a stormwater management plan configured in accordance with applicable requirements;

f. The Preliminary Plat complies with all applicable overlay districts standards in Section <>, Overlay Districts;

g. The lots shown on the Preliminary Plat are in conformance with all applicable requirements in the zoning district where located;

h. The Preliminary Plat complies with all standards and conditions of any applicable master plans, permits and development approvals from outside agencies, utilities, volunteer fire departments, and any other applicable agency or service provider;

i. The name of the subdivision does not duplicate or is not phonetically similar to the name of an existing subdivision in the Town's Planning jurisdiction or Johnston County;

j. Street names comply with all applicable Town and County requirements; and

k. The Preliminary Plat complies with all other applicable requirements in this Ordinance and Town policy.

3. EFFECT

a. Approval of a Preliminary Plat does not constitute the approval for recording a subdivision with the Register of Deeds, or approval for the conveyance of lots, but nothing shall prohibit the landowner or the subdivider, as appropriate, from entering into contracts to sell or lease land by reference to an approved Preliminary Plat in accordance with NCGS§160D-807(c). However, conveyance of ownership may not take place until after recordation of a final plat in accordance with Section <>, Final Plat.

b. In cases where Stages One and Two of the Major Subdivision review are conducted separately, approval of a Preliminary Plat authorizes the subdivider to submit Construction Drawings for the installation of public infrastructure in accordance with Section <>, Construction Drawings.

c. In cases where Stages One and Two of the Major Subdivision review are conducted separately, an approved Preliminary Plat authorizes the submittal of soil erosion and sedimentation control plans and the issuance of an erosion control permit in accordance with Section <>, Erosion Control Permit (as applicable).

d. In cases where Stages One and Two of the Major Subdivision review are conducted separately, an approved Preliminary Plat authorizes the submittal of construction drawings, but approval of stormwater management plans and the issuance of a stormwater permit in accordance with Section <>, Stormwater Permit, shall only take place following completion of Stage Two ~~(as applicable)~~.

4. DEVELOPMENT PHASING

a. Phased development shall comply with Section <>, Phased Development.

b. The initial Preliminary Plat may depict one or more phases of the development.

c. Construction Drawings and Final Plats may be prepared by phase and there is no limitation on including two or more phases on the same set of Construction Drawings or Final Plat provided that the phasing submitted must match the phasing approved as part of the Preliminary Plat. In no instance shall a portion of a phase be submitted for Construction Drawing or Final Plat review.

5. AMENDMENT

Amendment of a Preliminary Plat approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

6. EXPIRATION

a. An approved Preliminary Plat shall be valid for two years from the date of its approval.

b. Failure to submit an application for Construction Drawings or a Final Plat for the phase of the land subject to the Preliminary Plat shall render the Preliminary Plat void.

c. A master plan for a phased Major Subdivision shall not expire.

7. VESTING

a. See Section <>, Site-Specific Vesting Plan. Applicants seeking a longer vesting term may file an application in accordance with Section <>, Vested Rights Certificate.

b. In cases where the proposed subdivision has multiple phases, vesting shall be in accordance with Section <>, Multi-Phase Development Plan.

8. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

F. STAGE 2, CONSTRUCTION DRAWINGS ASSOCIATED WITH SUBDIVISION

Construction Drawings are the middle stage of a proposed Major Subdivision and include the installation of public infrastructure[37] as indicated in the associated Preliminary Plat. Major Subdivisions that do not include any public infrastructure ~~are exempted from th~~remain subject to these~~e~~ Construction Drawing requirements as part of Land Disturbance Permit and Stormwater Permit approvals~~stage~~. Construction Drawings shall be reviewed and configured in accordance with the following:

1. APPLICATION

Following approval of a Preliminary Plat for a division of land that include changes to or extension of public infrastructure, an application for approval of Construction Drawings shall be submitted in accordance with the following:

a. Construction Drawings shall be prepared for changes to or extensions of public infrastructure, configuration of erosion control and sedimentation features, stormwater control measures;

b. Construction Drawings shall be prepared by, signed, and stamped by a licensed professional engineer;

c. Construction Drawings shall show both the horizontal or "plan" view of infrastructure as well as the vertical or "profile" view of infrastructure; and

d. When a subdivision is to be developed in phases, Construction Drawings shall indicate the number of phases in the plat, and ~~be submitted for each individual phase and~~ public infrastructure shall be provided so that each lot is adequately served by public infrastructure at the time of conveyance regardless of the phase of development.

~~d.~~**e.** Phasing must match the phasing approved as part of the Preliminary Plat. In no instance shall a portion of a phase be submitted for Construction Drawing review.

2. REVIEW CRITERIA

Applications for approval of Construction Drawings shall be decided by the Engineering Director in accordance with Section <>, Staff Review and Action, and the following:

a. Construction Drawings shall be prepared by a professional engineer licensed by the State of North Carolina;

b. The location and configuration of public infrastructure shall be substantially consistent with the Preliminary Plat, including the number of any boundaries of phases;

~~b.~~**c.** If included as part of a phased development, be configured to be inclusive of all land area located within the particular phase(s) under review;

~~c.~~**d.** Public infrastructure elements depicted in the Construction Drawings are configured in accordance with all applicable Town and State requirements;

~~d.~~**e.** The Construction Drawings include all design sheets necessary to determine compliance; and

~~e.~~**f.** Copies of all required third-party agreements, permits, and approvals necessary to begin construction are included.

3. EFFECT

a. Approval of Construction Drawings permits a subdivider to commence with construction of public infrastructure following issuance of an ~~Erosion Control~~Land Disturbance Permit and conducting a pre-construction meeting on-site with Town staff.

[37] Public infrastructure is defined as: Development features consisting of streets and public alleys, bicycle infrastructure within a public right-of-way, curb and gutter, potable water lines, sanitary sewer lines, electrical service (where applicable), street drainage facilities, public stormwater control measures, and sidewalks or trails located within public rights-of-way.

b. A subdivider may file an application for a Final Plat before work associated with Construction Drawings is completed, but in no instance shall a Final Plat be approved or Certificate of Occupancy be issued until all public infrastructure associated with approved Construction Drawings is complete, inspected, and accepted, or subject to a Performance Guarantee (see Section <>, Performance Guarantee).

4. AMENDMENT

Amendment of Construction Drawings may only be reviewed and considered in accordance with the procedures and standards established for their original approval.

5. INSPECTION

A passing inspection by Town staff or certification from a third-party utility service provider shall be obtained prior to issuance of a Final Plat or Certificate of Occupancy.

6. AS-BUILT PLANS

As-built plans shall be required prior to issuance of a Final Plat or Certificate of Occupancy in accordance with Section <>, As-built Plans Required.

7. EXPIRATION

See Section <>, Expiration.

8. VESTING

See Section <>, Statutory Vested Rights.

9. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

G. STAGE 3, FINAL PLAT

Submittal of a Final Plat application is the last stage of a proposed Major Subdivision. The Final Plat ensures that the subdivision and associated public infrastructure is configured in substantial conformity with the Preliminary Plat and all applicable regulations. It also helps ensure the Town or another landowner may readily determine and accurately reproduce the location, bearing, radius (as applicable) and length of the elements of a Major Subdivision.

1. APPLICATION

a. A Final Plat shall be submitted for every Preliminary Plat.

b. In cases where a Major Subdivision has multiple phases, each phase must be depicted on its own Final Plat though there is no limitation on including two or more different phases on the same Final Plat.

c. A Final Plat shall be prepared by a licensed professional surveyor.

2. REVIEW CRITERIA

Applications for a Final Plat shall be decided by the Planning Director in accordance with Section <>, Staff Review and Action, and the following:

a. The Final Plat is on a sheet or sheets suitable for recording with the county Register of Deeds;

b. The Final Plat is prepared and sealed by a licensed professional land surveyor;

c. The Final plat complies with the standards in NCGS§47-30;

d. The Final Plat includes all required certifications and declarations;

e. All lots shown on the plat have an assigned street address in accordance with Town and County requirements;

f. All required infrastructure improvements (e.g., streets, sewer lines, water lines, drainage, etc.) depicted on the Construction Drawings are installed, inspected, and accepted by the Town, or are subject to a Performance Guarantee (see Section <>, Performance Guarantees);
g. All required easements and rights-of-way are properly depicted on the Final Plat;
h. If no public wastewater service is associated with the Major Subdivision, all lots have been certified by the county Health Department (as appropriate) as capable of accommodating the wastewater generated from the proposed use;
i. The Final Plat is in substantial conformance with the associated Preliminary Plat(s);
j. The applicant has secured all required State, federal, and other applicable County permit approvals;
k. The Final Plat complies with all standards and conditions of any applicable permits and development approvals; and
l. The Final Plat complies with all other applicable requirements in this Ordinance and Town policy.

3. RECORDATION

a. Once a Final Plat is approved, a signed statement by the Planning Director shall be entered on the face of the plat. The Final Plat may not be recorded without this and all other required certifications.

~~a.~~b. A Final Plat may not be recorded until after public infrastructure has been accepted by the Town.

~~b.~~c. Following certification, the applicant shall record the Final Plat and all associated protective covenants and deed restrictions in the office of the Register of Deeds in the county where the development is located. Failure to record the final plat in accordance with Section <>, Expiration, shall render the plat null and void.

~~c.~~d. The applicant shall be responsible for delivering a digital copy of the recorded Final Plat to the Planning Department. Failure to deliver the digital copy in accordance with Section <>, Expiration, shall render the plat null and void.

4. ACCEPTANCE OF PUBLIC INFRASTRUCTURE

a. Approval and recordation of a Final Plat constitutes an offer of dedication by the owner of the right-of-way of each public street and any other public infrastructure shown on the Plat.
b. Approval of the Final Plat does not constitute acceptance for maintenance responsibility of any improvements within a right-of-way or easement and the Town assumes no responsibility to open, operate, repair, or maintain any improvements until it is in the public interest to do so.
c. Improvements within rights-of-way or easements, such as streets, drainage facilities, or sidewalks may be accepted for maintenance by the Town, when deemed appropriate, in the Town's sole discretion.
d. The Town Council may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes when the lands or facilities are located within the extraterritorial jurisdiction.
e. Acceptance of dedication of lands or facilities located within the extraterritorial jurisdiction but outside the corporate limits of the Town shall not place on the Town any duty to open, operate, repair or maintain any street, utility line, or other land or facility, and the Town shall not be held responsible in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

f. A Final Plat shall not be recorded until public water and sewer service is accepted and in service, if lots in the subdivision are served by public water and sewer service.

5. EFFECT

a. Approval of a Final Plat allows the sale or conveyance of lots within the subdivision following recordation in the office of the Register of Deeds.

b. Building Permits may be issued following recordation of the Final Plat.

6. AMENDMENT

Amendment of a Final Plat approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

7. EXPIRATION

a. A Final Plat shall be null and void unless it is recorded in the office of the Register of Deeds for the county where the development is located within 60 days of approval.

b. If a Final Plat is not recorded within two years of the associated Preliminary Plat approval, or if there is a lapse of more than four years between the recording of different sections or phases, then the Preliminary Plat shall expire. In such cases, the Town may record a notice of expiration in the office of the Register of Deeds for the county where the development is located.

c. An expired Preliminary Plat may be resubmitted in accordance with Section <>, Preliminary Plat.

8. VESTING

See Section <>, Site-Specific Vesting Plan.

9. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal

2.3.18 MINOR SUBDIVISION[38]

A. APPLICABILITY

1. Divisions of land that include up to five lots (including the parent parcel) with no extension of or changes to public infrastructure (streets, sewer, water, etc.) shall be reviewed in accordance with the standards in this section.
2. No lot within a Minor Subdivision (including the parent parcel) shall be the subject of another Minor Subdivision application for a period of three years from the date the initial Minor Subdivision is recorded.

B. APPLICATION

1. Applications for a Minor Subdivision shall include a plat prepared by a registered land surveyor or professional engineer licensed to practice in North Carolina.
2. The application shall include a transportation impact analysis for review, when required by Section <>, Transportation Impact Analysis.
3. Applications for a Minor Subdivision served by on-site wastewater systems shall include an evaluation from the appropriate county health department indicating that an on-site wastewater system may be used on each lot included in the subdivision.
4. Applications complying with a Town-mandated Fee-in-Lieu or anticipated to include an applicant-requested Fee-in-Lieu shall include information mandated in Section <>, Fee-in-Lieu.
5. In cases where a Minor Subdivision is seeking to take advantage of sustainability incentives, allowable density bonuses, or allowable alternative forms of compliance, the application shall include supplemental details and justification for the use of these provisions.

C. PROCESS TYPE

Type II (see Section <>, Process Diagrams) except that a pre-application conference is optional and the Technical Review Committee shall comment on the proposed plat.

D. REVIEW CRITERIA[39]

An application for a Minor Subdivision shall be decided by the Planning Director in accordance with Section <>, Staff Review and Action, and the following:

1. GENERALLY

a. The Minor Subdivision plat is on a sheet or sheets suitable for recording with the Register of Deeds in the county where the subdivision is located;
b. The Minor Subdivision plat is prepared and sealed by a licensed professional land surveyor or licensed professional engineer;
c. The Minor Subdivision plat complies with all applicable standards in this Ordinance and NCGS§47-30;
d. The Minor Subdivision plat includes all required certifications and declarations;
e. The applicant has secured all required State and federal permit approvals;

[38] This section is proposed to replace Section 155.706(H) of the current UDC. This Minor Subdivision procedure further clarifies that Minor Subdivisions are not subject to a Preliminary Plat. This section removes the three-year delay between successive Minor Subdivisions and permits the Planning Director to determine if a subsequent Minor Subdivision on land already subject to a Minor Subdivision plat approval should be reviewed as a Major Subdivision. It carries forward the treatment of Family Subdivisions as Minor Subdivisions and poses some questions about whether or not recombinations of existing lots of record that do not meet district requirements should be reviewed as a Minor Subdivision.

[39] NOTE: One suggestion in this draft UDO is the idea that a Minor Subdivision process can be used as the review procedure for combinations or recombinations of existing lots of record that do not conform to zoning district dimensional standards (with similar standards to those in 155.706(O) from the current UDC.

f. All lots have been certified by the appropriate county Health Department as capable of accommodating the wastewater generated from the proposed use, if served by an on-site wastewater system;
g. No drainage or utility easements will be required to serve any interior lots;
h. All lots will have frontage on existing approved streets or qualify for ingress and egress via a shared driveway (see Section <>, Shared Driveway);
i. Except in cases of a combination or recombination involving existing lots of record, all lots in the Minor Subdivision comply with the applicable dimensional requirements for the zoning district where located; and
j. The development complies with all applicable overlay zoning district standards in Section <>, Overlay Zoning Districts.

2. FAMILY SUBDIVISION

In cases where the Minor Subdivision is also a Family Subdivision, the following criteria shall also apply in addition to the criteria in sub-section (1) above:

a. The owner and grantee certify, in writing, that the grantee of each lot is the husband, wife, mother, father, brother, sister, child (biological, adopted, or step), grandmother, grandfather, grandchild (biological, adopted, or step), aunt, uncle, niece, or nephew of the owner;
b. The owner and grantee certify, in writing, that no consideration shall be paid for any of the lots;
c. The owner and grantee certify that the purpose of the Minor Subdivision is not to circumvent the provisions of this Ordinance, and that none of the lots shall be conveyed to third parties for a period of not less than three years, and that the plat shall indicate this three-year limitation.
d. Family subdivisions shall not be subject to the limit on successive minor subdivisions in Section <>, Limit on Successive Minor Subdivisions.

E. RECORDATION

1. Once a Minor Subdivision plat is approved, a signed statement by the Planning Director shall be entered on the face of the plat. The plat may not be recorded without this and all other required certifications.
2. Following certification, the subdivider shall record the plat, any certifications associated with a Family Subdivision, and any associated protective covenants and deed restrictions in the office of the Register of Deeds in the county where the development is located.
3. Failure to record the plat in accordance with Section <>, Expiration, shall render the plat null and void.
4. Land may not be conveyed or construction started until the Minor Subdivision is recorded.

F. LIMIT ON SUCCESSIVE MINOR SUBDIVISIONS

The Planning Director may, in their sole discretion, determine that an application for a Minor Subdivision shall be processed as a Major Subdivision in cases where the land that is the subject of a Minor Subdivision application has already part of a Minor Subdivision approved after (insert the effective date of this Ordinance).

G. SEQUENCE

1. An application for Site Plan, Special Use Permit, or Zoning Compliance Permit may be filed with a Minor Subdivision application, but the Minor Subdivision application shall be approved first.

2. A limited subdivision shall also be subject to the standards in Section <>, Stormwater Permit, and may also be subject to the standards in Section <>, Land Disturbing Permit, based on the amount of land disturbance.

H. EFFECT

1. Approval of the Minor Subdivision plat allows the sale or conveyance of lots within the subdivision.
2. Building permits may be issued following recordation of the Minor Subdivision plat.

I. AMENDMENT

Amendment of a Minor Subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

J. EXPIRATION

A Minor Subdivision plat shall be null and void unless the signed or certified plat is recorded in the office of the Register of Deeds of the county where it is located within 30 days of approval.

K. VESTING

See Section <>, Statutory Vested Rights.

L. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.19 PERFORMANCE GUARANTEE[40]

A. PURPOSE AND INTENT

1. These standards create the additional flexibility necessary for lots in a subdivision to be conveyed or for issuance of a Building Permit to commence with development prior to completion of all required infrastructure or site improvements, subject to the prior approval of the Town, and provided funds have been reserved for completion of these features.
2. These provisions ensure that funds are available for the Town's use to complete required public infrastructure or private site features in the event an applicant is unable to do so.

B. ELIGIBLE FEATURES

1. Performance Guarantees shall be configured and managed in accordance with the standards in this section. Acceptance of a Performance Guarantee is in the sole discretion of the Town, which is under no obligation to accept a request for or approve a Performance Guarantee for any feature or under any circumstance.
2. Requests for submittal of a Performance Guarantee instead of completion in advance of subdivision approval or Building Permit issuance may be filed with the Town for any of the following public infrastructure elements or private site features:
   a. Sidewalks, sidepaths, trails, and greenways;
   b. The final lift of asphalt on a Town-maintained public street;
   c. Street lights and on-site exterior lighting;
   d. Active and passive recreation features located within open space set-aside;
   e. Private stormwater control measures ~~and erosion control facilities~~; and
   f. Placement or replacement of required vegetation, except when required as part of erosion control measures.

C. INELIGIBLE FEATURES

The following forms of public infrastructure may not be subject to a Performance Guarantee, and shall be completed, dedicated to the Town, and inspected prior to conveyance of lots or issuance of a Certificate of Occupancy:

1. Public potable water;
2. Public sanitary sewer;
3. Functional fire protection infrastructure;
4. The base and initial courses of asphalt on a street;
5. Drainage facilities associated with a street right-of-way;
6. Public stormwater control measures;
7. Curb and gutter; and
8. Street signs and traffic control signals.

D. STORMWATER AND EROSION CONTROL FACILITIES

Stormwater control measures and erosion control facilities shall comply with the specific provisions for Performance Guarantees associated with these features in accordance with NCGS§160D-804 rather than the standards in this section.

[40] This section replaces Section 155.607 of the current UDC. It has been extended to apply to private site features in addition to public infrastructure, and can be applied to site plans and other forms of development in addition to subdivisions. Additional clarity about ineligible features, amounts, extensions, renewal, as-builts, forfeiture, and release have been added. The current requirements for surety bonds are no longer permissible for anything but SCMs and erosion control features.

E. FORM

1. The form of a Performance Guarantee shall take one of the following forms, at the sole discretion of the applicant:
   a. A surety bond issued by a firm licensed to operate in the State of North Carolina;
   b. A letter of credit issued by a financial institution licensed to operate in the State of North Carolina; or
   c. Cash or certified check; or
   d. Other form of guarantee that provides equivalent security to the forms listed above, as determined by the Town.
2. In cases where more than one facility or site feature is requested to be subject to a Performance Guarantee, the applicant may provide a single, consolidated Performance Guarantee for all facilities or site features. In no instance shall Performance Guarantees associated with private stormwater control mechanisms or sedimentation control be consolidated with any other Performance Guarantee.
3. If cash or other instrument is deposited in escrow with a financial institution, an agreement between the financial institution and the developer shall be filed with the Town guaranteeing the following:
   a. That the escrow account shall be held in trust until released by the Town and may not be used or pledged by the developer for any other matter during the term of the escrow; and
   b. That in case of a failure on the part of the developer to complete or repair the improvements, the financial institution shall, upon notification by the Town, immediately pay the funds deemed necessary by the Town to complete or repair the improvements up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town; and
   c. The financial institution holding the cash or other instrument shall indicate to the Town its notification requirements for release or payment of funds.

F. PROCESS TYPE

1. Requests for provision of a Performance Guarantee shall be decided in the same manner as is used by the review authority for deciding the related application type based on the standards in Section <>, Review Criteria.
2. In cases where a request for a Performance Guarantee is filed after approval of a development application, or there is a request for renewal or extension, the Planning Director shall decide the Performance Guarantee request in accordance with Section <>, Staff Review and Action, and Section <>, Review Criteria.

G. REVIEW CRITERIA

1. An application for a Performance Guarantee shall include a map or plan showing the infrastructure and site improvements to be subject to a Performance Guarantee.

~~1.~~2. A Performance Guarantee application shall be approved if the application complies with the following:
   a. The request is for an eligible facility or site feature;
   b. The request is in the form and the amount required;
   c. The term of the guarantee is for the minimum period of time necessary; and
   d. The application complies with this section, Section <>, Purpose and Intent of this Ordinance, and the Town's applicable Adopted Policy Guidance.

~~2.~~3. The Performance Guarantee shall be conditioned on the performance of all work necessary to complete the installation of the required improvements within the term of the guarantee.

H. AMOUNT

1. GENERALLY

a. The amount of the performance guarantee shall ~~not exceed~~be no less than 125% of the reasonably estimated cost of completion at the time the Performance Guarantee is issued.

b. The Town may determine the amount of the Performance Guarantee or use a cost estimate determined by the applicant.

c. The reasonably estimated cost of completion shall include 100% of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing.

d. The additional 25% includes inflation and all costs of administration regardless of how such fees or charges are denominated.

2. ESTIMATED COSTS

Estimated costs of completing installation of required public infrastructure or private site features shall be itemized by improvement type and certified by the developer's licensed professional.

3. EXTENSION

The amount of any extension of any Performance Guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

4. RENEWAL

If a Performance Guarantee is renewed, the Planning Director may require the amount of the Performance Guarantee be updated to reflect changes in cost over time.

I. SEQUENCE

1. Performance Guarantee applications may be filed along with or subsequent to any application for a Subdivision, Site Plan, Special Use Permit, Building Permit, or Zoning Compliance Permit, as appropriate.
2. Development subject to a Performance Guarantee shall not receive a Certificate of Occupancy or other final approval until all public infrastructure and private site features subject to a Performance Guarantee have been installed, inspected, and accepted by the Town or other appropriate agency.

J. AS-BUILT PLANS REQUIRED

1. PUBLIC IMPROVEMENTS

Upon completion of public improvements, a professional engineer shall certify, in writing, that the completed public improvements have been constructed in accordance with the approved plans and shall submit actual "as-built" plans for all public improvements after final construction is completed.

2. STORMWATER CONTROL MEASURES

Upon completion of a private stormwater control mechanism, the developer shall certify to the Engineering Director that the completed project is in accordance with all applicable requirements in this Ordinance and State law.

3. INSPECTION REQUIRED

A final inspection and approval by appropriate Town staff shall occur before the release of the Performance Guarantee.

K. MAINTENANCE WARRANTY

1. WARRANTY FOR STORMWATER CONTROL MEASURES

a. Upon completion of construction of public or private stormwater control measures, the developer shall request a warranty inspection. Once all the improvements are deemed acceptable by the Engineering Director and pass the warranty inspection, the developer shall submit the following to the Town:

- **i.** A set of acceptable as-built drawings;
- **ii.** A written warranty against defects which shall guarantee the material and workmanship of required improvements for a period of not less than one year from the date of such acceptance.

b. A maintenance warranty payable to the Town equal to at least 25% of the cost of the installation of such improvements.

2. MAINTENANCE OF STREETS UNTIL ACCEPTANCE

Following completion, the developer of any development containing streets to be maintained by NCDOT or by an owners' association shall sign a street maintenance disclosure statement to guarantee that the streets will be properly maintained until the offer of dedication is accepted by the NCDOT, or until maintenance responsibility is transferred to an owners' association if streets are private.

L. MAXIMUM TERM

Performance Guarantees shall have a maximum term of one year, unless the developer determines a longer term is necessary to complete the public infrastructure or private site features. Acceptance of a proposed guarantee remains at the discretion of the Town.

M. EXPIRATION

1. The applicant shall demonstrate good faith towards the completion of public infrastructure or private site features subject to a Performance Guarantee. I n the event the aspects subject to a guarantee are not completed prior to the expiration of the guarantee, the applicant shall request a renewal of the Performance Guarantee in accordance with these standards.
2. In the event an application for renewal of a Performance Guarantee has been filed with the Town prior to expiration of an existing guarantee, the Town shall delay the provision of notice of failure to install or complete improvements in accordance with Section <>, Forfeiture.

N. FORFEITURE

1. NOTICE OF FAILURE TO INSTALL OR COMPLETE IMPROVEMENTS

If the owner or developer fails to complete installation of the guaranteed improvements within the term of the Performance Guarantee (as may be extended), the Town shall give the owner or developer 30 day's written notice of the scope and degree of the default, by certified mail.

2. TOWN COMPLETION OF IMPROVEMENTS

a. After the 30-day notice period expires, the Town may draw on the guarantee and use the funds to perform the work necessary to complete installation of the guaranteed improvements.

b. After completing such work, the Town shall provide a complete accounting of the expenditures to the owner or developer.

c. In the event of a default triggering the use of the performance guarantee, the Town shall return any of the unused deposited cash funds or other security.

O. RELEASE OR REDUCTION

1. RELEASE OR REDUCTION REQUESTED

The Town shall release or reduce a Performance Guarantee only after:

a. The owner or developer has submitted a written request to the Town for a release or reduction of the Performance Guarantee that includes certification by a professional engineer or contractor, whichever is appropriate, that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications, and as-builts (if applicable);

b. Town staff has performed an inspection of the improvements and certified in writing that installation of the guaranteed improvements is completed in accordance with approved plans and specifications; and

c. No release or reduction in Performance Guarantee amounts will be considered until more than 25% of the work is in place and approved.

2. ACCEPTANCE SHALL BE DOCUMENTED

The Planning Director or Engineering Director, as appropriate, shall provide written notice of the Town's final acceptance of the improvements subject to a Performance Guarantee.

3. IMPROPER RELEASE OF PERFORMANCE GUARANTEE

If the Town releases a Performance Guarantee through error, the error shall not release the developer from responsibility for the completion of all improvements in accordance with this Ordinance.

P. APPEAL

1. Decisions by a Town Staff member may be appealed in accordance with NCGS§160D-405, and Section <>, Appeal.

2. Decisions by the Board of Adjustment or Town Council may be appealed in accordance with In accordance with Section <>, Decisions by Board of Adjustment, or in accordance with Section <>, Decisions by Town Council, as appropriate.

2.3.20 SIGN PERMIT[41]

A. APPLICABILITY

1. All signs except those exempted from the sign regulations in Section <>, Exclusions, shall obtain a Sign Permit in accordance with this section before being erected, replaced, relocated, or altered.
2. Alterations limited to sign copy on a lawfully-established and conforming sign shall not require approval of a Sign Permit.
3. Temporary signage shall be reviewed in accordance with Section <> Temporary Permit.
4. Establishment of new outdoor advertising after (insert the effective date of this Ordinance) shall be prohibited. Changes to existing outdoor advertising shall be considered in accordance with Section <>, Special Use Permit.
5. Establishment of new development comprised of two or more principal buildings on one or more lots are encouraged to configure signage in accordance with a Uniform Sign Plan as a part of a Sign Permit application.
6. Applicants seeking to deviate from otherwise applicable signage provisions may request consideration of deviations in accordance with Section <>, Alternative Sign Plan.

B. PROCESS TYPE

Type I (see Section <>, Process Diagrams).

C. REVIEW CRITERIA

Applications for a Sign Permit shall be decided by the Planning Director in accordance with Section <>, Staff Review and Action, and the following:

1. GENERALLY

a. The standards in Section <>, Signage;
b. The sign is located on the same lot or site as the business, product, or service being advertised;
c. The North Carolina State Building Code, including requirements for electrical service, if applicable;
d. All standards or conditions of any prior applicable permits and developments approvals; and
e. All other applicable requirements of this Ordinance.

2. UNIFORM SIGN PLANS

Uniform Sign Plans, if submitted, shall indicate each of the following:

a. A Uniform Sign Plan shall include measured drawings and details about the parameters of signage permitted by the Plan;
b. If the total amount of allowable signage in the development will be apportioned in a manner that deviates from the standards in Section <>, Signage, and if so how the signage will be apportioned;
c. The maximum sign sizes by sign type, and by building type, if different;
d. The rules for signage placement on multi-tenant buildings;

[41] NOTE: This procedure is proposed to replace Section 155.713 of the current UDC. This draft procedure seeks to ban new outdoor advertising and off-premise signage, treat temporary signage as a temporary use, and require uniform sign plans for multi-building developments. The current Alternative Sign Plan process is proposed for retention, but review is delegated to the Board of Adjustment rather than the Town Council.

e. The range of proposed unifying elements for signage in the development, including but not limited to style, illumination, color, material;

~~e.~~f. Any sight distance triangles on the site; and

~~f.~~g. Any additional information identified by the Planning Director as necessary to determine compliance with this Ordinance.

D. INSPECTION REQUIRED

Applicants for a Sign Permit shall request inspection of signage by the Town following completion. Operating a use type with signage subject to these Sign Permit requirements but without a passing sign inspection shall be a violation of this Ordinance.

E. SEQUENCE

1. A Sign Permit application may be filed with an application for a Site Plan, Subdivision, or Zoning Compliance Permit, but shall only be approved after these prior applications.
2. An application for a Sign Permit must be submitted with a request for consideration of an Alternative Sign Plan, but the alternative sign plan request shall be decided prior to the Sign Permit.

F. EFFECT

1. SIGN PERMIT

Approval of a Sign Permit shall entitle a landowner to erect or modify signage on a development site.

2. UNIFORM SIGN PLAN

a. Development subject to a Uniform Sign Plan shall require all owners, tenants, sub-tenants, and individual use types within the development to comply with the approved Uniform Sign Plan.

b. No permanent signage shall be erected, altered, or maintained except in accordance with the approved Uniform Sign Plan.

c. In cases where a Uniform Sign Plan is more restrictive than the standards in Section <>, Signage, the standards in the Uniform Sign Plan shall control.

3. ALTERNATIVE SIGN PLAN

Approval of an Alternative Sign Plan request shall permit consideration of the associated application for a Sign Permit.

G. AMENDMENT

Amendment of a Sign Permit, Uniform Sign Plan, or Alternative Sign Plan may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

H. EXPIRATION

If the work authorized by a Sign Permit is not substantially commenced within six months from the date of issuance, the Sign Permit shall become null and void.

I. VESTING

In accordance with Section <>, Statutory Vested Rights.

J. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

K. ALTERNATIVE SIGN PLAN

Development proposing to construct or modify existing signage in ways that do not comply with the standards in Section <>, Signage, shall be subject to the requirements for an alternative sign plan in accordance with this section.

1. PURPOSE

The alternative sign plan process is included to allow for creativity of sign design and configuration in ways that do not otherwise comply with the applicable standards of this Ordinance, but that are found to be in closer alignment with the Town's Adopted Policy Guidance or the provisions in Section <>, Purpose and Intent of Ordinance than would result from the strict application of the signage provisions of this Ordinance.

2. APPLICABILITY

Any application for a Sign Permit may incorporate a request for an alternative sign plan configured in accordance with this section, but in no instance shall an alternative sign plan include prohibited signage identified in Section <>, Prohibited Signage.

3. CONTENTS

Requests for an Alternative Sign Plan shall be part of an application for a Sign Permit, and shall include all of the following:

- **a.** A written statement detailing the project information, the proposed alternatives being requested, and an explanation of how the proposed alternative meets the standards in Section <>, Review Criteria;
- **b.** The location of land subject to the Alternative Sign Plan;
- **c.** The proposed allocation of permitted sign area among tenants and any other proposed signs;
- **d.** The total allowable sign face area for the project;
- **e.** Sketches of generic sign design and appearance for each sign type provided in Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification;
- **f.** Color specifications for each sign component shall be specified, including but not limited to sign face backgrounds, lettering, and the sign structure;
- **g.** A plan or other graphical depiction showing where each particular sign type is proposed;
- **h.** A justification for the Alternative Sign Plan request, including how the proposed signage will result in a development that is in closer alignment with the Town's Adopted Policy Guidance or the standards in Section <>, Purpose and Intent of Ordinance; and
- **i.** Any additional information requested by the Planning Director considered necessary to allow the Board of Adjustment to measure the application's conformance with the applicable review criteria.

4. PROCEDURE

Type III (see Section <>, Process Diagrams), except that applications for an Alternative Sign Plan shall also include an application for Sign Permit, which shall be reviewed in by Town staff following consideration of the Alternative Sign Plan request by the Board of Adjustment

5. DECISION

- **a.** The decision shall be based on the competent, material, and substantial evidence in the record, as supplemented by arguments presented at the evidentiary hearing, and the standards in Section <>, Review Criteria.

b. The decision shall be one of the following:
  - **i.** Approval of the Alternative Sign Plan as proposed;
  - **ii.** Approval of the Alternative Sign Plan with revisions; or
  - **iii.** Denial of the Alternative Sign Plan as proposed.

c. Voting shall be in accordance with Section <>, Voting.

d. Each decision shall be made in writing and reflect the Board of Adjustment's determination of facts and their application to the standards in this Ordinance.

e. The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.

f. The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning Department.

6. REVIEW CRITERIA

An Alternative Sign Plan application shall be only approved provided on a finding the applicant demonstrates:

a. The contents of the Alternative Sign Plan request are consistent with the applicable requirements of this section;

b. The proposed sign design, size, color, illumination, and placement are compatible in style and character with any building to which the sign is to be attached, any surrounding structures, any adjoining signage on the site, and/or the district character or architectural character of the area in which it is located;

c. The Alternative Sign Plan proposes innovative, but appropriate, use of materials and design techniques in response to unique characteristics of the specific site, if applicable;

d. The signage envisioned by the Alternative Sign Plan application will be consistent with approved neighborhood plans, studies, or area plans;

e. The Alternative Sign Plan improves the safety and welfare of the general public by minimizing distractions, hazards, and obstructions from sign design or placement; and

f. The signage anticipated by the Alternative Sign Plan signage will result in a development that is in closer alignment with the Town's Adopted Policy Guidance or the standards in Section <>, Purpose and Intent of Ordinance.

7. CONDITIONS OF APPROVAL

The Board of Adjustment may apply conditions to any approval of an Alternative Sign Plan in accordance with Section <>, Conditions of Approval. Conditions may include, but are not limited to, any of the following:

a. Specification of color(s);

b. The number of signs;

c. The total amount of sign face area;

d. The location of signs;

e. The maximum height of signs;

f. Sign illumination; and

g. The types of signs allowed.

8. AMENDMENT

Amendment of an Alternative Sign Plan approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

2.3.21 SITE PLAN[42]

A. APPLICABILITY

Except for development exempted from Site Plan review in accordance with Section <>, Exemptions, all of the following forms of development shall be subject to Site Plan review in accordance with this section:

1. Any development involving construction, moving, or significant alteration of a building or habitable structure;
2. Any development that results in the increase in the amount of impervious surface on a lot;
3. Any development that changes the vehicular access to or internal circulation on a lot; or
4. Any development subject to a Concept Plan.

B. EXEMPTIONS

1. The following forms of development are exempted from Site Plan review, but remain subject to the applicable standards in this Ordinance:
   a. Construction of one single-family detached dwelling on an individual lot that does not include changes to or extension of public infrastructure;
   b. Placement of one manufactured or mobile home on its own lot in a zoning district permitting such uses that does not include changes to or extension of public infrastructure;
   c. Establishment of an secondary use in an existing structure, or a new secondary structure(s) of 1,000 square feet in floor area or less than the total floor area that existed on a lot on (insert the effective date of this Ordinance);
   d. Interior fit-ups or changes to a lawfully-established non-residential structure or use type that do not result in the need for additional off-street parking spaces, additional screening or landscaping, any changes to existing impervious surface coverage, or changes to or extension of public infrastructure;
   e. The construction or alteration of a sign, subject to the requirements and procedures in Section <>, Sign Permit;
   f. The establishment of a temporary use or structure, subject to the requirements and procedures in Section <>, Temporary Permit;
   g. The construction or alteration of a fence or wall, subject to the requirements of Section <>, Zoning Compliance Permit;
2. Development exempted from Site Plan review is still required to obtain a Building Permit in accordance with the North Carolina State Building Code and a Zoning Compliance Permit in accordance with this Ordinance.

C. LIMITATIONS

A Site Plan application may be filed concurrently with an application for a Conditional Rezoning or a Special Use Permit, but a Site Plan shall not be a part of a Conditional Rezoning or Special Use Permit application. Conditional Rezoning and Special Use Permit applications shall include a Concept Plan, not a Site Plan. Site Plans shall be reviewed for consistency with an approved Special Use Permit or Conditional Rezoning Concept Plan, if applicable.

[42] This section replaces Section 155.707 in the current UDC. Site Plan exemptions for zero lot line developments and duplexes are not carried forward. This procedure places greater reliance on cross referencing amendment, dedication, performance guarantees, and others. The new UDO uses a somewhat more generic set of amendment guidelines and does not carry forward the current tiered approach to minor amendments based on distance shifts relative to development size. Nor does it carry forward the administrative amendment procedure mentioned in the current UDC – major modifications to a Site Plan must undergo the same process as is used to establish the Site Plan (in accordance with State law). The review criteria are also simplified in this proposed procedure. Site Plans that propose changes to or extensions of public infrastructure are required to comply with the Construction Drawing requirements found in the Major Subdivision procedure.

D. STAGES OF REVIEW

The review of a Site Plan application that includes changes to or the extension of public infrastructure is organized into the following two stages:

1. Stage One, review of the Site Plan;
2. Stage Two, review of Construction Drawings for associated public infrastructure, erosion control and sedimentation features, and stormwater control measures.
3. ~~Site Plans that do not include changes to or the extension of public infrastructure shall not require review of Construction Drawings.~~
4. ~~3.~~ Nothing shall prevent the review of application materials associated with Stages One and Two concurrently.

E. PROCESS TYPE

1. Type II (see Section <>, Process Diagrams) for each of the two stages of review.
2. The Technical Review Committee shall comment on plats and plans prepared as part of each stage.

F. APPLICATION

1. Site Plan applications shall be prepared by a North Carolina licensed professional qualified to prepare such documents. Site Plans shall be prepared to scale and shall include the basic information for Site Plans identified in the Procedures Manual or other Town requirements.
2. When a development includes phases, the Site Plan shall depict the entire development and shall indicate all phasing boundaries.
3. ~~2.~~ Phasing shall be in accordance with Section <>, Phased Development
4. ~~3.~~ The application shall include a transportation impact analysis for review, when required by Section <>, Transportation Impact Analysis.
5. ~~4.~~ The Site Plan application shall include a wastewater allocation request prepared in accordance with all Town requirements if proposing to utilize public sewer.
6. ~~5.~~ Applications that involve changes to or extension of public infrastructure, erosion control devices, or stormwater control measures shall include construction drawings prepared in accordance with Section <>, Construction Drawings.
7. ~~6.~~ Applications complying with a Town-mandated Fee-in-Lieu or anticipated to include an applicant-requested Fee-in-Lieu shall include information mandated in Section <>, Fee-in-Lieu.
8. ~~7.~~ In cases where development is seeking to take advantage of sustainability incentives, allowable density bonuses, or allowable alternative forms of compliance, the application shall include supplemental details and justification for the use of these provisions.
9. ~~8.~~ Applications proposing to disturb one acre of land or more shall include details on compliance with Section <>, Erosion Control Plan.

G. REVIEW CRITERIA

Applications for a Site Plan shall be decided by the Planning Director in accordance with Section <>, Staff Review and Action, and the following:

1. All standards or conditions of any prior applicable permits and development approvals;
2. Any applicable Concept Plans, master plans, or plats;
3. All applicable requirements of this Ordinance and Town policy; and
4. All applicable County, State, and federal requirements.

H. CONSTRUCTION DRAWINGS ASSOCIATED WITH A SITE PLAN

1. DRAWING REQUIREMENTS

Site Plan applications that include changes to or extensions of public infrastructure shall include construction drawings configured in accordance with the following:

a. Construction drawings shall be prepared by, signed, and stamped by a licensed professional engineer;

b. Construction drawings shall show both the horizontal or "plan" view of infrastructure as well as the vertical or "profile" view of infrastructure; and

c. When a Site Plan is to be developed in phases, construction drawings shall be submitted for each individual phase and public infrastructure shall be provided so that each lot is adequately served by public infrastructure at the time of conveyance regardless of the phase of development.

2. CONSTRUCTION DRAWING REVIEW CRITERIA

The portion of a Site Plan application including construction drawings shall be decided by the Engineering Director in accordance with Section <>, Staff Review and Action, and the following:

a. Construction Drawings shall be prepared by a professional engineer licensed by the State of North Carolina;

b. The location and configuration of public infrastructure shall be substantially consistent with the Site Plan;

c. Public infrastructure elements depicted in the construction drawings are configured in accordance with all applicable Town and State requirements;

d. The construction drawings include all design sheets necessary to determine compliance; and

e. Copies of all required third-party agreements, permits, and approvals necessary to begin construction are included.

I. SEQUENCE

1. Site Plan applications may be submitted or reviewed concurrently with construction drawings or any other development application, but Site Plans shall not receive final approval until after an associated Annexation, Development Agreement, Rezoning, or Subdivision application.

2. Developments subject to a Site Plan shall also be required to obtain a Zoning Compliance Permit, a Building Permit, and may be required to obtain other approvals, such as a Tree Clearing Certificate. Permits associated with site features depicted on a Site Plan may be filed with a Site Plan application, but shall not be issued until after the Site Plan is approved.

J. EFFECT

1. ZONING COMPLIANCE PERMIT

A Site Plan approval authorizes the submittal of or review of an application for a Zoning Compliance Permit in accordance with Section <>, Zoning Compliance Permit,. In cases where the Planning Director determines that a Zoning Compliance Permit is not required, then an applicant may file an application for a Building Permit in accordance with Section <>, Building Permit.

2. CONSTRUCTION DRAWINGS

a. Construction drawings for all public infrastructure included with the Site Plan application shall be approved prior to street and utility construction in accordance with the applicable Town standards.

b. In the case of a multi-phase Site Plan, any street and utility construction plans shall include all improvements within a phase and all public improvements outside the phase but necessary to serve development within that phase.

c. In no instance shall a portion of a phase be submitted for Construction Drawing review.

~~b.~~**d.** If included as part of a phased development, each phase shall be configured to be inclusive of all land area located within the particular phase(s) under review;

3. AS-BUILT PLANS

As-built plans for all public infrastructure shall be submitted in accordance with Section <>, As-Built Plans Required prior to issuance of a Certificate of Occupancy or other final approval.

4. PERFORMANCE GUARANTEES

All public infrastructure and private site features that have not been installed by the developer, inspected, and accepted by the Town shall comply with the requirements in Section <>, Performance Guarantees, prior to the issuance of a Certificate of Occupancy or other final approval.

5. EROSION CONTROL PERMIT

~~A Site Plan~~Stage Two Construction Drawing approval authorizes the submittal of soil erosion and sedimentation control plans and the issuance of an ~~Erosion Control~~Land Disturbance Permit in accordance with Section <>, ~~Erosion Control~~Land Disturbance Permit, if applicable.

6. STORMWATER PERMIT

~~A Site Plan~~Stage Two Construction Drawing approval authorizes the submittal of stormwater management plans and the issuance of a Stormwater Permit in accordance with Section <>, Stormwater Permit, if applicable.

7. FEE-IN-LIEU

A Site Plan approval authorizes the filing of an applicant-requested payment of Fee-in-Lieu, or payment of Town-mandated Fee-in-Lieu in accordance with Section <>, Fee-in-Lieu.

K. AMENDMENT

Amendment of a Site Plan approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

L. EXPIRATION

1. Approval of a Site Plan application shall expire and become null and void if substantial commencement[43] is not undertaken within one year for the date of approval.

[43] Substantial commencement is defined as follows: The initiation of development or development-related activity subject to the requirements of this Ordinance. Each of the following activities must have taken place in order to achieve substantial commencement:
- All required authorizations to begin the development (including a Building Permit) are secured; and
- All application fees and applicable fines have been paid in full; and
- Any required notice of commencement to all governmental entities or other identified parties has taken place; and
- Performance of some form of site-related activity that requires prior approval from the Town has taken place.

2. Approval of a Site Plan application shall expire and become null and void if work is voluntarily stopped by the developer and the development fails to maintain substantial progress[44] for a period of one year or longer.
3. Where more than one principal building is included with an approved Site Plan, the applicant may submit a series of Building Permit applications. The first application shall be submitted within one year from the date the Site Plan is approved. Each subsequent Building Permit application shall be submitted within 180 days from the date of issuance of a Certificate of Occupancy or other final approval for the previous building.
4. An applicant may file a request, prior to the expiration of the Site Plan, for a one-time one-year extension to the approval of a Site Plan for good cause shown. The determination of good cause shall be at ~~at~~ the sole discretion of the Planning Director.

M. VESTING

1. See Section <>, Site-Specific Vesting Plan, or Section <>, Multi-Phase Development Plan, as appropriate.
2. Applicants seeking a longer vesting term may file an application in accordance with Section <>, Vested Rights Certificate.

N. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

Initiation of site-related activity that does not require some form of approval from the Town, such as surveying, site investigation, plan or study preparation, minor clearing or grubbing of the site, full or partial demolition, or agricultural related activity associated with a bona fide farm, shall not be considered as substantial commencement.

Substantial commencement does not require the start of construction on a principal structure or commencement of the anticipated operation of the approved use.

[44] Substantial progress is defined as follows: condition where an applicant has commenced an activity, achieved a minimum threshold of completion, and maintained regular, continuous progress towards completion of the activity. Regular or frequent intermittent interruptions or discontinuance of activities shall not be considered as substantial progress. Examples of substantial progress include completion of required inspections before permit applications expire, meeting deadlines for affirmative acts such as recordation, payment of funds, or applying for subsequent, but required approvals.

2.3.22 SPECIAL USE PERMIT[45]

A. PURPOSE AND INTENT

This Special Use Permit procedure defines the process for consideration of a proposed use type that may be allowable in a zoning district, but because of its nature or potential deleterious effects, it requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

B. APPLICABILITY

1. Uses identified as requiring a Special Use Permit in Table <>, Listing of Common Principal Uses, or in Table <>, Listing of Common Secondary Uses, shall be approved in accordance with the procedures and standards of this section.
2. Applications subject to a required neighborhood meeting shall include required information in accordance with Section <>, Neighborhood Meeting.
3. In cases where a single use type located within a larger multi-building or multi-use development requires a Special Use Permit, only that particular use type and the lot it is located upon shall be subject to the Special Use Permit, not the entire development.

C. APPLICATION

1. An application for a Special Use Permit shall include a Concept Plan depicting the proposed use and site configuration. The Technical Review Committee shall review and comment on the Concept Plan prior to consideration of the application by the Board of Adjustment.
~~1.~~2. The application shall include a wastewater allocation request prepared in accordance with all Town requirements if proposing development that seeks to utilize public sewer.
~~2.~~3. The application shall include a Transportation Impact Analysis for review, when required by Section <>, Transportation Impact Analysis.
~~3.~~4. Applications that involve changes to or extension of public infrastructure shall identify these features on the Concept Plan.
~~4.~~5. Applications complying with a Town-mandated Fee-in-Lieu or anticipated to include an applicant-requested Fee-in-Lieu shall include information identified in Section <>, Fee-in-Lieu.
~~5.~~6. In cases where development is seeking to take advantage of sustainability incentives, allowable density bonuses, or allowable alternative forms of compliance, the application shall include supplemental details and justification for the use of these provisions.
~~6.~~7. Applications subject to a required neighborhood meeting shall include required information in accordance with Section <>, Neighborhood Meeting.

D. PROCESS TYPE

Type III (see Section <>, Process Diagrams) except that Special Use Permits are required to conduct a neighborhood meeting.

[45] This procedure replaces Section 155.711 in the current UDC. One key change is that review of Special Use Permits has been delegated to the Board of Adjustment rather than the Town Council. The draft procedure requires a Concept Plan, not a Site Plan, though a Site Plan must be reviewed after SUP approval in order to establish the development. The current amendment language has been replaced with a simple requirement that any amendments follow the same process as the original approval. The current 4/5 voting requirement for revocation is not in accordance with State law and has been removed.

E. DECISION

1. A decision by the Board of Adjustment on a Special Use Permit shall be based on the competent, material, and substantial evidence in the record, as supplemented by arguments presented at the evidentiary hearing, and the standards in Section <>, Review Criteria.
2. The decision shall be one of the following:
   a. Approval of the Special Use Permit, as submitted;
   b. Approval of a revised Special Use Permit; or
   c. Denial of the Special Use Permit.
3. In making its decision on a Special Use Permit, the Board of Adjustment shall not waive or reduce any applicable standard of this Ordinance. It is permissible for the Board of Adjustment to apply conditions of approval that exceed the standards in this Ordinance, as necessary, to mitigate any potentially negative impacts of the use on its surroundings.

F. REVIEW CRITERIA

A Special Use Permit shall be approved upon a finding of fact by the Board of Adjustment that the proposed special use:

1. Is subject to a Concept Plan that accurately depicts the proposed use's configuration and addresses public infrastructure if changes to or extension of public infrastructure are required as part of the application;
2. Complies with all required standards, conditions, and specifications of this Ordinance, including all zoning district dimensional requirements and use-specific standards;
3. Will not materially endanger the public health or safety;
4. Will not substantially injure the value of the abutting land, or the special use is a public necessity;
5. The proposed development will not cause traffic congestion or create a traffic hazard; and
6. Will be in harmony with the intensity, scale, and character of existing or planned development in the area in which it is to be located.

G. CONDITIONS

1. The Board of Adjustment may apply conditions of approval that are reasonable and appropriate in accordance with NCGS§160D-705(c) and Section <>, Conditions of Approval.
2. Conditions may be proposed to:
   a. Assure that the use will be harmonious with the intensity, scale, and character of the area where proposed;
   b. Ensure the use is consistent with the purpose and intent of this Ordinance;
   c. Limit the permit to a specified duration;
   d. Place limits on the availability for occupancy of proposed residential dwelling units to coincide with the provision or maintenance of adequate public facilities; or
   e. Address other considerations necessary, in the sole discretion of the Board of Adjustment.
3. All conditions shall be identified in the approval, the notice of decision, and on any associated Concept Plans.
4. The notice of decision shall not be prepared until the applicant has consented to all applicable conditions of approval in writing.

H. SEQUENCE

1. Special Use Permit applications may include an application for a Site Plan, Zoning Compliance Permit, and Building Permit, but the Special Use Permit shall be decided first.
2. A Concept Plan shall not substitute for a required Site Plan or subdivision plat. Site Plans and subdivision plats are reviewed after approval of the Special Use Permit.
3. Special Use Permit applications may be filed with a rezoning application, but the rezoning application shall be decided first.
4. Special Use Permit applications may be filed with an application for a Variance, but the Variance application shall be approved first.

I. EFFECT

1. Approval of a Special Use Permit allows an applicant to file an application for a Site Plan.
2. A Special Use Permit approval is perpetually binding and shall run with the land, unless amended or limited in duration by the Board of Adjustment.
3. An action invalidating a special use condition of approval (such as an intensity or hours of operation limitation) shall render the Special Use Permit and associated Concept Plan null and void.
4. Special uses shall meet all applicable State and federal requirements for location and operation. Failure to maintain compliance with those requirements may result in the revocation of the Special Use Permit and associated Concept Plan.

J. AMENDMENT

Concept Plans shall only be amended in accordance with the standards in this section. Amendments to a Concept Plan approval shall be considered as minor modifications or major modifications, and must be considered in accordance with the following:

1. MINOR MODIFICATIONS

a. Minor modifications are limited to changes that have no material effect on the character of the development or changes that address technical considerations that could not reasonably be anticipated at the time of the application approval.

b. Minor modifications shall be reviewed and decided by the Planning Director, in consultation with other appropriate Town staff.

c. Minor modifications may include any changes not identified as a major modification in Section <>, Major Modifications.

2. MAJOR MODIFICATIONS

a. Changes that materially affect the basic configuration of the development, a condition of approval, or that require additional evidentiary support beyond that presented at the public hearing shall be considered major modifications.

b. Major modifications include, but are not limited to:

i. A change in the boundaries of a site;
ii. A change in the approved use type;
iii. An increase in the amount of floor area by five percent or more beyond that approved under the initial Special Use Permit;
iv. An increase in the total number of provided off-street parking spaces by ten percent or more beyond that approved under the initial Special Use Permit;
v. A change in the location of a principal or secondary structure by more than 10 feet in any direction;
vi. Structural alterations increasing the structure height;

vii. Alterations affecting the form, ornamentation, or appearance of a principal or secondary structure as shown in the Concept Plan;
viii. Changes in density or intensity;
ix. Decreases in open space;
x. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected) or pedestrian access or circulation;
xi. A change in the amount or location of proposed landscaping or required screening; or
xii. Changes to site features that require the application of professional judgement or discretion by a licensed landscape architect, architect, or professional engineer.

c. Major modifications must be reviewed and considered only in accordance with the procedures and standards established for the original application approval.

K. EXPIRATION

1. REPLACEMENT

If a special use is replaced by a use type permitted by right in the zoning district, the Special Use Permit approval is deemed abandoned and the Special Use Permit approval is null and void.

2. FAILURE TO START OR COMPLETE CONSTRUCTION

Unless otherwise stated in the Special Use Permit approval, a Special Use Permit shall expire and become null and void two years after the date of issuance if:

a. An application for a Site Plan or subdivision plat has not been filed;
b. Substantial commencement[46] of construction has not taken place; or
c. Construction activities have started, but the owner has voluntarily stopped construction and substantial progress has not been maintained.

3. MULTIPLE BUILDING PERMITS

Where more than one principal building is included with an approved Special Use Permit, the applicant may submit a series of Building Permit applications. The first application shall be submitted within one year from the date the Special Use Permit is approved. Each subsequent Building Permit application shall be submitted within 180 days from the date of issuance of a Certificate of Occupancy or other final approval for the previous building.

L. REVOCATION

1. In the event of failure to comply with the plans or any other conditions imposed upon the Special Use Permit approval, the Planning Director shall give the permit holder 10 days written notice of intent to revoke the permit and request the permit holder to contact staff to set a reasonable time for the violation to be corrected.
2. A Special Use Permit may only be revoked in accordance with the procedure used to grant its approval.
3. If the permit is revoked and the special use has not ceased, the use is considered a violation of this Ordinance and subject to enforcement and penalties in Chapter 7, Violations.

M. VESTING

1. See Section <>, Site-Specific Vesting Plan.
2. Applicants seeking a longer vesting term may file an application in accordance with Section <>, Vested Rights Certificate.

[46] Substantial commencement is defined in Site Plan procedure.

N. APPEAL

In accordance with Section <>, Decisions by Board of Adjustment.

2.3.23 STORMWATER PERMIT[47]

A. PURPOSE AND INTENT

This Stormwater Permit procedure governs the design, installation, and construction of proposed post-construction structural stormwater control measures or other design features intended to prevent or mitigate any adverse effects of increased post-construction stormwater runoff into receiving surface waters in accordance with Section <>, Stormwater, and NCGS§160D-925.

B. APPLICABILITY

1. The standards in this section shall apply to all forms of residential development that cumulatively disturbs an acre of land or more, including Exempt or Limited Subdivisions.
2. The standards in this section shall apply to all forms of mixed-use or non-residential development that cumulatively disturbs one-half-acre of land or more, including Exempt or Limited Subdivisions.
3. These standards shall also apply to development disturbing less than the specified amount of land area when it is a part of a larger development that will disturb more than the designated minimum threshold in aggregate even though multiple, separate, or distinct activities take place at different times on different schedules.

C. EXEMPTIONS

The following forms of development shall be exempted from these standards:

1. Development or redevelopment that cumulatively disturbs less than one acre and is not part of a larger master plan, subdivision plat, or common plan of development is exempt from these standards;
2. Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (e.g., ongoing farming and forestry activities); and
3. A project owned or operated by a governmental agency that is already subject to a NPDES stormwater permit.

D. APPLICATION

1. An application for a Stormwater Permit shall describe how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this Ordinance.
2. All applications shall include a stormwater management concept plan configured in accordance with the following:
   a. The stormwater management concept plan shall be prepared by a qualified licensed North Carolina professional engineer, surveyor, soil scientist, or landscape architect. The engineer, surveyor, soil scientist, or landscape architect shall perform services only within their area of competence.
   b. The stormwater management plan shall detail ~~how post-development runoff will be controlled and managed and how the proposed project will meet the requirements of this Ordinance, including~~ Section <>, Stormwater the following:
      i. An existing conditions and proposed site layout sketch plan showing existing and proposed topography, perennial and intermittent streams, mapping of predominant soils from soil surveys, boundaries of existing predominant vegetation, proposed limits of clearing and

[47] This section carries forward the Stormwater Permit procedure found in Section 58.026 in the Town Coe of Ordinances. This draft relies on the more generic procedures set out in draft Section 2.4 instead of repeating them in each procedure. In addition, this draft procedure removes the 15- and 30-day review time periods. Based on review of the Town's current standards, the pre-application conference was changed from optional to mandatory.

grading, and location of existing and proposed roads, buildings, parking areas, and other impervious surfaces.

ii. A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project, including a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.).

iii. A written or graphic concept plan of the proposed post-development stormwater management system including:

iv. Preliminary selection and location of proposed structural stormwater controls;

v. Low-impact design elements;

vi. Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains;

vii. Flow paths;

viii. Location of floodplain/floodway limits;

ix. Relationship of site to upstream and downstream properties and drainages; and

~~b.~~x. Preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

c. The stormwater management plan shall contain a signed and sealed statement certifying that the design of all stormwater management facilities and practices will comply with the standards of this Ordinance and all other applicable requirements.

~~c.~~3. The Stormwater Administrator or developer may request a pre-application conference on a stormwater management concept plan to consider the post-construction stormwater management system to be utilized.

E. PROCESS TYPE

Type I (see Section <>, Process Diagrams).

F. REVIEW CRITERIA

The Stormwater Administrator shall decide an application for a Stormwater Permit in accordance with Section <>, Staff Review and Action, and the following:

1. All relevant standards in Section <>, Stormwater;
2. The approved stormwater management plan and associated stormwater maintenance plan;
3. All standards or conditions of any prior applicable permits or development approvals;
4. All other applicable requirements of this Ordinance and Town policy; and
5. All applicable State and federal requirements in place at the time the application is accepted as complete.

G. FINAL APPROVAL

1. COMPLETENESS PRIOR TO RECORDATION

The construction of all structural stormwater management improvements shown on an approved and permitted Stormwater Management Plan shall be substantially complete or subject to a performance guarantee prior to Final Plat recordation or issuance of a Certificate of Occupancy.

2. CERTIFICATION

Upon completion of a project and its associated structural stormwater management improvements, and before a Certificate of Occupancy shall be granted, the professional responsible for its design shall certify, under seal, that the completed project is in accordance with the approved Stormwater Management Plan and the requirements of this Ordinance.

3. AS-BUILTS

a. The professional responsible for the stormwater management improvements shall also submit as-built plans in accordance with this section.

b. As-built plans shall be certified by a licensed North Carolina professional engineer, and shall show the final design specifications for all stormwater management improvements and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed.

c. The professional responsible for the stormwater management plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this Ordinance.

H. SEQUENCE

1. A Stormwater Permit may be filed along with a Site Plan or Preliminary Plat, but shall only be approved ~~in conjunction with or~~ after ~~the Construction Drawing portion of~~ a Site Plan or Construction Drawings for a Preliminary Plat for Major Subdivision.

2. A Stormwater Permit shall be approved prior to a Building Permit or a Final Plat.

I. EFFECT

1. A Stormwater Permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including engineered stormwater controls and other elements of site design for stormwater management.

2. Approval of a Stormwater Permit allows for applicants to convert temporary erosion control measures associated with Phase One of an Erosion Control Plan to permanent stormwater control measures associated with the approved Stormwater Permit.

3. A Stormwater Permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is required in accordance with the standards in Section <>, Stormwater.

J. AS-BUILT PLANS

1. Upon completion of a project, and before a Certificate of Occupancy or Compliance is granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual as built plans for all stormwater management facilities or practices after final construction is completed.

2. The as-built plans shall show:

a. The final design specifications for all stormwater management facilities and practices;
The field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed; and
Storm pipe systems with pipe sizes and inverts, as well as structure tops and inverts.

3. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and this Ordinance.

4. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance guarantees.

K. FINAL APPROVAL

1. Except where multiple units are served by the stormwater practice or facilities, no Certificate of Occupancy or Compliance shall be issued by the Town without final as-built plans and a final inspection and approval by the Stormwater Administrator,.
2. In cases where multiple units are served by the stormwater practice or facilities, the Town may elect to withhold a percentage of permits or Certificates of Occupancy until as-built plans are submitted and final inspection and approval has occurred.

~~J.~~L. AMENDMENT

Amendment of a Stormwater Permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

~~K.~~M. EXPIRATION

1. A Stormwater Permit shall expire and become null and void if an applicant fails to make substantial progress on the site within one year after the date of approval.
2. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

~~L.~~N. VESTING

In accordance with Section <>, Statutory Vested Rights.

~~M.~~O. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.24 STREET RENAMING/ CLOSURE[48]

A. APPLICABILITY

This process for the renaming or closure of streets is applied to publicly-owned or maintained streets operated by the NCDOT or the Town.

B. APPLICATION

1. In cases where the Town initiates an application to abandon an existing or platted street, it shall first file a Resolution of Intent to Abandon the street in accordance with NCGS§160A-299.
2. In cases where an application to rename an existing street is filed by landowners (not the Town) the application shall be supplemented with a petition signed by at least 75 percent of the landowners that are affected by the renaming. The application shall also include the desired street name.
3. Applications for Street Renaming filed by landowners for reasons other than public safety or emergency service delivery shall require a determination of merit by Town staff prior to review by the Planning Board.

C. PROCESS TYPE

Type IV (see Section <>, Process Diagrams).

D. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section <>, Review Criteria.
2. The decision shall be one of the following:
   a. Approve the Street Renaming/ Closure of all or a portion of the street right-of-way;
   b. Denial of the Street Renaming/ Closure; or
   c. Remand of the application to the Planning Board for further consideration.
3. In no instance shall the Town Council approve a different street name or extent than requested without new public notification and another public hearing.

E. REVIEW CRITERIA

An application for a Street Renaming/ Closure shall be approved, provided:

1. STREET CLOSURE

a. Closing of the street is in the best interest of the public; and
b. A landowner in the vicinity of the street would not be deprived of reasonable ingress or egress to their land.

2. STREET RENAMING

a. The street renaming is in accordance with all applicable street name requirements;
b. The street renaming will serve the public interest by enhancing public safety or will do no harm;
c. The street renaming will not adversely affect land values or cause excessive economic impact to landowners or the Town; and
d. The street renaming will result in an overall public good that generally cannot be measured in monetary terms but is found to outweigh known or perceived economic interests and costs.

[48] This is a new procedure.

F. RECORDATION

The Town Clerk shall file a certified copy of a Street Closure approval in the office of the Register of Deeds in the county where located within a reasonable period of time after the approval.

G. SEQUENCE

Not Applicable.

H. EFFECT

1. STREET CLOSURE

Where a platted or existing street is abandoned in accordance with this section, the regulations applicable to a lot shall apply to the portion of the lot formerly occupied by the abandoned street.

2. STREET RENAMING

a. All approved street renaming applications shall have an effective date at least 45 days from the date of approval but may be further delayed for a set period of time not to exceed one year, to assist businesses and other affected landowners in preparing for the name change.

b. Street renaming initiated by the Town due to public safety or emergency service delivery issues may take effect immediately upon approval.

I. AMENDMENT

An application for a Street Renaming with the same name for the same street or portion of the same street shall not be filed within two years from the date of final action on the previous request, unless the Town Council determines a substantial change has occurred in the nature of the application that merits reconsideration.

J. EXPIRATION

Not Applicable.

K. VESTING

Not Applicable.

L. APPEAL

In accordance with Section <>, Decisions by Town Council.

2.3.25 TEMPORARY PERMIT[49]

A. APPLICABILITY

1. The standards in this section apply to non-permanent uses and structures, including temporary signage, that take place on a temporary basis whether on the same site or in different locations in the Town's planning jurisdiction.
2. Temporary uses occurring within the public right-of-way require approval by the Town Council or NCDOT, as appropriate, and are not subject to a Temporary Permit.

B. EXEMPTIONS

Temporary uses or structures operated by the Town or the County for public safety or as part of a sanctioned governmental event shall be exempted from these requirements.

C. PROCESS TYPE

Type II (see Section <>, Process Diagrams).

D. REVIEW CRITERIA

The Planning Director shall decide applications for a Temporary Permit in accordance with Section <>, Staff Review and Action, and the following:

1. The applicant has written permission from the landowner, or is otherwise authorized to make use of the land;
2. The applicant has obtained the appropriate permits and approvals from the Town and other agencies;
3. The temporary use meets public utility and Town requirements for proper connection to water, sewer, electrical, and other utility service connections, as applicable;
4. Inclusion of any lighting or electrical service shall be subject to an approved electrical permit;
5. Any habitable structures shall require approval of a Building Permit;
6. The temporary use or activity complies with all applicable provisions in Section <>, Temporary Uses.
7. The temporary use does not violate the applicable conditions of approval that apply to a site or use on the site;
8. The proposed site contains sufficient land area for the temporary use and for the parking and traffic movement associated with the temporary use, without impacting the site's ability to comply with other applicable requirements of this Ordinance;
9. The temporary use is located outside a special flood hazard area;
10. The temporary use provides adequate on-site restroom facilities, if necessary;
11. Adequate provisions for crowd control shall be provided, if necessary in the sole opinion of the Planning Director;
12. Any signage associated with a Temporary Permit shall comply with the applicable standards in Section <>, Signage; and
13. The site of the temporary use shall be cleared of all debris at the end of the temporary use and all temporary structures shall be cleared from the site within five days after the use is terminated.

[49] NOTE: This procedure carries forward the current Temporary Use Permit in Section 155.712 of the current UDC. Temporary signage is addressed via a Temporary Permit rather than a Sign Permit. The blanket 30-day maximum duration in the current provisions is removed in favor of the variable duration provisions set down for temporary uses in new Chapter 4.

E. SEQUENCE

Temporary Permits shall be issued prior to issuance for Building Permit for a temporary structure.

F. EFFECT

Approval of a Temporary Permit shall authorize the establishment of a temporary use, structure, or activity for the duration identified in the approval.

G. AMENDMENT

Amendment of a Temporary Permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

H. EXPIRATION

1. If the work authorized by a Temporary Permit is not substantially commenced within six months from the date of issuance, the Temporary Permit shall become null and void.
2. An approval of a Temporary Permit is only valid for the term included in the approval. In cases where the activity associated with a Temporary Permit approval cannot be undertaken within the allowable duration, the applicant may withdraw the application and reapply.
3. Failure to achieve substantial commencement or complete the temporary use or activity within the permitted duration shall render the Temporary Permit approval null and void.

I. VESTING

The vesting terms shall be in accordance with Section <>, Issuance of a Building Permit.

J. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.26 TEXT AMENDMENT[50]

A. APPLICABILITY

The standards and requirements of this section shall apply to applications to revise the text of this Ordinance.

B. APPLICATION

Applications to amend the text of this Ordinance may be initiated only by the Town Council, the Planning Board, or Town staff. Owners of land within the Town's planning jurisdiction, and residents of the Town of Clayton or its extraterritorial jurisdiction, may request that the Town consider a text amendment, but the decision to pursue a text amendment shall be within the sole discretion of the Town Staff, Planning Board, or Town Council, as appropriate.

C. PROCESS TYPE

Type IV (see Section <>, Process Diagrams).

D. RECOMMENDATION

1. After conclusion of a public meeting, the Planning Board shall make a recommendation on the application in accordance with Section <>, Review Criteria.
2. In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the Town's Adopted Policy Guidance.

E. DECISION

1. The decision shall be based on the legislative discretion of the Town Council, taking into consideration any recommendation received from the Planning Director, prepared in consultation with other Town staff, the recommendation of the Planning Board, citizen comments, and the standards in Section <>, Review Criteria.
2. In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town's Adopted Policy Guidance in accordance with NCGS§160D-605.

F. CITIZEN COMMENT

In cases where a resident or landowner submits written comments to the Town at least two business days prior to the date a decision is being made on the application, the Town staff member processing the application shall deliver the statement(s) to the Town Council.

G. REVIEW CRITERIA

The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Town Council may, but is not required to, consider whether and the extent to which the proposed text amendment:

1. Enhances the public's health, safety, and welfare;
2. Is consistent with the Town's Adopted Policy Guidance;
3. Is required by changed conditions;
4. Addresses a demonstrated community need;
5. Addresses an unforeseen matter not present when the Ordinance was adopted;
6. Addresses other factors determined to be relevant by the Town Council; and

[50] This section carries forward Section 155.703 of the current UDC with only minor adjustments and no substantive changes.

7. Would not result in significantly adverse impacts on the natural environment, including water, air, noise, stormwater management, wildlife, vegetation, and the natural functioning of the environment.

H. SEQUENCE

A Text Amendment application shall not be submitted with another application.

I. EFFECT

The Planning Director shall make changes to the text of this Ordinance promptly after approval of a text amendment application by the Town Council.

J. AMENDMENT

Not Applicable.

K. EXPIRATION

Not Applicable.

L. VESTING

Not Applicable.

M. APPEAL

In accordance with Section <>, Decisions by Town Council.

2.3.27 TRANSPORTATION IMPACT ANALYSIS[51]

A. PURPOSE AND INTENT

This Transportation Impact Analysis (TIA) procedure allows an assessment of a proposed development's impact on the Town's transportation system. It identifies recommended transportation system improvements to be included by a proposed development as necessary to mitigate any negative impacts created by the proposed development.

B. APPLICABILITY

A Transportation Impact Analysis, prepared in accordance with this section shall be required for any of the following:

1. A new development anticipated to generate 100 or more vehicle trips during any peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual; or
2. A new development that is part of a larger development that, when considered cumulatively, will generate 100 or more vehicle trips during the AM or PM peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
3. The proposed development is located on a roadway that has a demonstrated transportation capacity issue, as determined by the Engineering Director; or
4. There are likely to be significant changes to adjacent development traffic patterns, as determined by the Engineering Director, as a result of the proposed development.

C. TRAFFIC ASSESSMENT OPTION

1. In cases where the number of vehicle trips is not known (such as in the case of a Conventional Rezoning application), or in cases where the proposed uses will not result in 100 or more vehicle trips during any peak hour nor more than 1,000 vehicle trips per day, the Engineering Director shall require a traffic assessment instead of a Transportation Impact Analysis.
2. A traffic assessment is a general investigation of anticipated traffic on adjacent roadway capacity and function as opposed to detailed estimates of the number of trips and steps necessary to maintain a minimum operating level of service.
3. The procedures and requirements associated with a traffic assessment shall be as described in the Procedures Manual.

D. APPLICATION

1. The type, scope, and contents of a Transportation Impact Analysis shall be determined during the mandatory pre-application conference (see Section <>, Pre-Application Conference).
2. A Traffic Impact Analysis shall be prepared by a professional engineer licensed in the State of North Carolina, and shall include all of the following:
   a. The impact area examined, including the points of access and key streets and intersections to be affected by development;
   b. Existing traffic volumes;
   c. Planned and pending street improvements;

[51] This section carries forward the procedure and standards in Section 155.708 of the current UDC with the following changes. The Engineering Director is identified as the Town staff member to decide Transportation Impact Analysis applications. The procedure has been supplemented with a section on applicability (this is a must). There are also additional review criteria added.

d. The analysis methodology;
e. An inventory of the data used;
f. The findings of the analysis; and
g. Recommendations based on the results.

3. The Engineering Director shall determine the geographic area to be included in a traffic impact analysis, which shall extend to a point the farther of:
   a. One-half mile from the edges of the development site; or
   b. Where the project traffic at build-out is less than 10% of the capacity of the roadway or intersection.
4. Traffic recorder and turning movement assessment locations may also have to be determined.

E. PROCESS TYPE

Type I (see Section <>, Process Diagrams) except that a pre-application conference is mandatory and the Town may require third-party review of a proposed Transportation Impact Analysis prior to deciding an application.

F. THIRD-PARTY REVIEW

1. Transportation impact analyses that include State roads shall require review by the NCDOT.
2. The Engineering Director may require that an independent third party be hired by the Town to perform a required Transportation Impact Analysis, or to review a Transportation Impact Analysis filed by an applicant. The third party shall be a professional engineer licensed in the State of North Carolina to prepare such analyses, and the third party's contract shall be administered solely by the Town.
3. The Town shall determine the scope of services to be performed by third party and receive a cost estimate for such services.
4. The applicant shall provide funds to the Town in accordance with the Town's fee schedule.
~~4.~~5. Funds for third-party review are not refundable if an applicant withdraws their application prior to third-party review.

G. REVIEW CRITERIA

The Engineering Director shall decide an application for a Transportation Impact Analysis based on Section <>, Staff Review and Action, the findings of the third-party review (if conducted), and the following:

1. The analysis is prepared and sealed by a licensed professional engineer with expertise in traffic engineering;
2. The analysis includes a summary of findings and recommendations for mitigation based on the Town's Adopted Policy Guidance and applicable State regulations;
3. The analysis conforms with the requirements of this section and the Town's Engineering Specifications and Design Manual;
4. Full payment for all third party review costs has been provided;
5. The analysis identifies the post-development roadway lane configurations and levels of service for signalized and unsignalized intersections within the study area;
6. The projected traffic generated by the project, combined with existing traffic, either does not exceed the desirable operating level established in the impact area as identified in Section <>, Streets, or the impacts of the project traffic are properly mitigated by on-site and off-site improvements recommended in the analysis.

7. The analysis identifies the parties responsible for any recommended improvements; and
8. The applicant is willing and able to successfully mitigate the proportional impact that the proposed development will have on the public transportation network as identified in the Transportation Impact Analysis.

H. SEQUENCE

A Transportation Impact Analysis may be filed with an application for a rezoning, subdivision, Site Plan, Special Use Permit, Zoning Compliance Permit, or Building Permit, but the Transportation Impact Analysis shall be decided before these other application types.

I. EFFECT

1. Approval of a Transportation Impact Analysis permits an applicant to file for the next kind of development approval in the sequence.
2. In some cases, the results of a Transportation Impact Analysis may result in an applicant amending other applications in one or more of the following ways:
   a. Changes in use type or scope to reduce the projected vehicle trips per day;
   b. The dedication of additional right-of-way;
   c. The rerouting of traffic or modifications or additions of the internal street network or proposed access and egress points;
   d. Participation in the funding of a traffic signal, intersection improvement, or other off-site transportation improvement; and
   e. Other modification determined to be necessary.

J. AMENDMENT

Amendment to an approved Transportation Impact Analysis may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

K. EXPIRATION

A Traffic Impact Analysis approval shall expire in accordance with the Concept Plan, Site Plan, subdivision plat, or other approval it is associated with.

L. VESTING

In accordance with Section <>, Statutory Vested Rights.

M. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.28 TREE CLEARING CERTIFICATE[52]

A. PURPOSE AND INTENT

This Tree Clearing Certificate implements the enabling legislation granted to the Town by the North Carolina General Assembly. The purposes of this procedure is to establish some basic requirements for preserving existing vegetation around the perimeter of lots, or tracts for use towards meeting landscaping requirements of this Ordinance in the event the lot or tract is subsequently developed in accordance with this Ordinance. The intent of this procedure is to:

1. Protect existing trees and shrubs located upon undeveloped sites for use as future buffers and streetscapes to meet future development requirements;
2. Preserve existing tree and vegetative cover to protect the health safety and welfare of the public by:
   a. Preserving the visual and aesthetic qualities of the Town;
   b. Maintaining property values;
   c. Controlling erosion; and
   d. Reducing sediment and other pollutant run-off into streams and waterways to protect water quality.

B. APPLICABILITY[53]

Unless exempted in accordance with sub-section (C) below, a Tree Clearing Certificate shall be required for any land disturbing activities proposed on a site, lot or portion of a lot that is not subject to an approved subdivision, Site Plan, Conditional Rezoning, Zoning Compliance Permit, Erosion Control Permit, or similar development approval.

C. EXEMPTIONS

1. The following forms of development, land disturbance, or other activities are exempted from this section, but shall be subject to other applicable Town, County, State, or federal requirements.
   a. Removal of existing trees on lots or tracts subject to an approved subdivision, Site Plan, Conditional Rezoning, Zoning Compliance Permit, Erosion Control Permit, or similar development approval, which shall comply with the tree protection requirements included in the approval.
   b. The removal of existing trees on a single lot located within an approved single-family residential subdivision that is zoned for single-family use, and provided such trees are not included as required landscaping.
   c. Forestry activities on property taxed on its present-use value as agricultural, horticultural, or forestland in accordance with NCGS Ch. 105, Article 12, or forestry activity that is conducted in accordance with a forestry management plan prepared or approved by a forester registered pursuant to NCGS Ch. 89B, and provided such activities are accomplished in compliance with this section.
   d. The removal of vegetation by public or private agencies within the lines of any public street rights-of-way, utility easements, or other Town property, as may be necessary to ensure public safety, to obtain clear visibility at driveways or intersections, to perform

[52] This section carries forward Section 155.721 of the current UDC with additional clarity regarding the applicability of the requirements and minor reorganization for clarity. Use of the term "vegetation" has been replaced with the term "trees." The provisions related to violation have been relocated to new Chapter 7 and are cross referenced here.

[53] NOTE TO STAFF: This sub-section has been revised for clarity. Tree protection standards should be applied as part of review of a development application. Additional discussion is needed about how to improve the standards and change the procedure – for example, allowing more narrow save areas along interior lot lines in favor of wider save areas along streets. In addition, more discussion is needed about how these standards can be applied to Site Plans or subdivisions.

authorized field survey work, or to preserve or enhance the symmetry and beauty of such Town property.

e. Town-initiated or -approved removal of any vegetation which is in an unsafe condition, constitutes a nuisance or noxious weed, or which by its nature is injurious to sanitary sewers, electrical power lines, gas lines, water lines, stream or conveyance channels, or other public improvements, or vegetation which is infected with any injurious fungus, insect, or other pest.

2. In cases where exemption is claimed based on forestry use, the applicant shall include proof that the property is taxed under the present-use value standard or a copy of the valid forestry management plan prepared or approved by a North Carolina registered forester.

D. APPLICATION

Prior to the commencement of any vegetation clearing or removal on any undeveloped property, the owner or the owner's agent shall demonstrate exemption from the requirements of this section, or submit a Tree Clearing Certificate application in accordance with the following:

1. Applications for a Tree Clearing Certificate shall be filed only by all the owners of the property or by such owners' authorized agent.
2. The application shall be accompanied by a Vegetation Protection Plan on a sheet no larger than 24 inches by 36 inches, at a scale of one inch equals 50 feet, that includes all of the following information:
   a. A vicinity map showing the location of the tract at a readable scale;
   b. A map of the entire tract, including the property boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all on-site and adjacent off-site easements (such as drainage, utility, public access, aerial utility, conservation, permanent and temporary construction easements);
   c. General information about the tract, including but not limited to the owner of the tract; the current zoning of the tract, the area of the tract, and any conditional zoning conditions, if applicable;
   d. The location and use(s) of all existing building(s) on the tract;
   e. The owner, current zoning, and present use of all contiguous properties (including property on opposite side of adjoining streets);
   f. The general classification of all existing and proposed adjacent roadways (as depicted in the Adopted Policy Guidance) and the ultimate right-of-way boundaries associated with these roadways.
   g. The location and width of all future required landscaping areas, including riparian buffers, perimeter landscaping buffers, and streetscapes; and
   h. The proposed limits of tree removal or land disturbance activities;
   i. The location and width of all required tree protection areas.
3. Requirements for a Vegetation Protection Plan may be waived only in situations where the applicant can demonstrate, to the satisfaction of the Planning Director, that all existing tree removal will take place outside of and away from areas that would be configured as required landscaping areas.

E. PROCESS TYPE

Type II (see Section <>, Process Diagrams).

F. REVIEW CRITERIA

The Planning Director shall decide an application for a Tree Clearing Certificate in accordance with Section <>, Staff Review and Action, and the following:

1. Other than that necessary to gain reasonable access to the property, clearing and/or removal of trees shall be prohibited in the following areas (see Figure <>, Tree Save Areas):
   a. A tree save area with a width of 50 feet as measured from all ultimate property boundaries that adjoin existing public street rights-of-way. For the purposes of this section, "ultimate property boundary" means the final demarcation line around the perimeter of a lot or tract excluding all areas that must be dedicated to the Town for use as rights-of-way; and
   b. A tree save area with a width of 50 feet as measured from all property boundaries that adjoin developed property or vacant property with an approved Site Plan and/or subdivision plat; and
   c. A tree save area with a width of 25 feet as measured from all property boundaries that adjoin undeveloped property or vacant property without an approved Site Plan and/or subdivision plat; and
   d. Any other areas necessary for the protection of existing vegetation within riparian buffers, jurisdictional wetlands, and resource conservation areas.
2. In situations where one or more tree save areas overlap on the same site, then the area with the wider required width shall apply.
3. The total area of required tree save areas for any tract shall ~~not exceed~~occupy at least 20% of the area of the tract, after subtracting required public street rights-of-way and any required conservation easements.

G. NON-COMPLIANCE

1. Failure to retain existing trees in areas subject to tree protection in accordance with this section shall be a violation of this Ordinance.
2. In cases where all trees or substantially all trees are removed from required tree save areas subject to these standards, the Town shall not grant Site Plan, Building Permit, or subdivision plat approval for the lot or tract for a period of three years following tree removal. For the purposes of this section, "all or substantially all" means 75% or more of the existing trees with a caliper of four inches or greater.
3. The three-year waiting period may be waived if the Town Council by a 3/4 majority vote.

H. INSPECTION

1. Approval of a Tree Clearing Certificate shall permit an applicant to install any and all barriers necessary to protect existing trees within required tree save areas from damage during tree removal or land disturbing activities. Failure to protect required tree save areas is a violation of this Ordinance and shall be subject to the standards in Section <>, Non-compliance.
2. Once all barriers for the protection of existing trees have been installed, the applicant or their agent shall request inspection of such barriers for compliance with the requirements of this Ordinance.
3. Upon a passing inspection of vegetation protection barriers, the Planning Director shall issue the Tree Clearing Certificate, and authorized vegetation clearing may commence.

I. SEQUENCE

~~Not Applicable~~A Tree Clearing Certificate shall be approved prior to authorization for early grading associated with a Land Disturbance Permit.

J. AMENDMENT

Amendment of a Tree Clearing Certificate may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

K. EXPIRATION

An approved Tree Clearing Certificate shall be valid for a period of not more than one year from the date of issuance.

L. VESTING

In accordance with Section <>, Statutory Vested Rights.

M. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal.

2.3.29 VARIANCE[54]

A. PURPOSE AND INTENT

The purpose of this Variance procedure is to allow deviations from certain standards of this Ordinance when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. This section also includes provisions for reasonable accommodation of persons with physical disabilities and variances pertaining to the Town's special flood hazard area requirements, water supply watershed protection standards, riparian buffer protection provisions, and stormwater provisions.

B. APPLICABILITY

1. VARIANCE

a. Development that would otherwise be subject to undue and unique hardship from the applications of the standards in this Ordinance may seek relief from the standards in accordance with this section.

b. No Variance may be sought for uses not allowed in a zoning district.

c. No Variance may be sought that increases development density (e.g., units per acre) beyond that allowed in the zoning district where located.

2. REASONABLE ACCOMMODATION

a. In cases where the strict application of the standards of this Ordinance would deprive an eligible person of their right to equal opportunity to use a dwelling under the federal Fair Housing Act, the person may apply for a Reasonable Accommodation in accordance with this section.

b. For the purposes of this section, an "eligible person" is a person who meets the definition of a disabled or handicapped person under federal law.

c. A person recovering from substance abuse is considered a person with a disability or handicap provided they are not currently engaging in the illegal use of controlled substances.

C. VARIANCES DISTINGUISHED

1. In addition to applications for a Reasonable Accommodation, this procedure recognizes the following different forms of Variance, each of which may have unique review processes and criteria:
   - **a.** Zoning or Subdivision Variances;
   - **b.** Flood Hazard Overlay Variances;
   - **c.** Stormwater Variances;
   - **d.** Riparian Buffer Variances; and
   - **e.** Water Supply Watershed Variances.
2. Riparian Buffer Variances shall take the form of a Minor Variance or a Major Variance. A Minor Variance shall be one pertaining to or impacting only Zone Two of the riparian

[54] This section is proposed to replace the Variance procedure in Section 155.716 of the current UDC with several notable changes. All variances types, including variances from the Town's flood protection, stormwater, riparian buffer, and water supply watershed standards are also included here. Reasonable Accommodation requests made under the federal Fair Housing Act are also included. This draft procedure includes an additional review criteria for Zoning or Subdivision Variances. The neighborhood meeting requirement has been removed since notice is provided and Variances are considered subject to the legally-limited evidentiary hearing procedure.

buffer. Major Variances shall pertain to or impact Zone One of the riparian buffer (see Section <>, Riparian Buffers, for riparian buffer zone boundaries).

3. Water Supply Watershed Variances shall take the form of a Minor Variance or a Major Variance. Minor Variances pertain to a relaxation, by a factor of up to 10% of any buffer, density, or built-upon area requirement under the low-density option. Major Variances pertain to any of the following:
   a. The relaxation, by a factor greater that 10%, of any management requirement under the low-density option;
   b. The relaxation, by a factor greater than five percent, of any buffer, density, or built upon area requirement under the high-density option; or
   c. Any variation in the design, maintenance, or operation requirements of an approved stormwater control measure.

D. APPLICATION

1. Applications for Zoning or Subdivision Variances and Reasonable Accommodations shall be processed by the Planning Director or a designee.
2. Applications subject to a required neighborhood meeting shall include required information in accordance with Section <>, Neighborhood Meeting.
3. Applications for Flood Hazard Overlay, Riparian Buffer, Water Supply Watershed, and Stormwater Variances shall be processed by the Floodplain Administrator or Stormwater Administrator, as appropriate.
4. An application for Reasonable Accommodation may be made by a person with a disability or handicap, or their legal representative, or by a provider of housing for persons with disabilities or handicaps. An application for Reasonable Accommodation shall also include the following:
   a. The basis for the claim that the applicant or persons receiving services from the applicant is considered disabled or handicapped under federal law;
   b. The Ordinance provision from which the Reasonable Accommodation is being requested; and
   c. An explanation of why the Reasonable Accommodation is necessary to make specific land or development available for the applicant.

E. PROCESS TYPE

Type III (see Section <>, Process Diagrams) except that Major Water Supply Watershed and Major Riparian Buffer Variances shall be decided by the North Carolina Environmental Management Commission following review and recommendation by the Board of Adjustment.

F. DECISION

1. GENERALLY

a. The decision shall be based on the competent, material, and substantial evidence in the record, as supplemented by arguments presented at the evidentiary hearing, and the standards in Section <>, Review Criteria.
b. The decision shall be one of the following:
   i. Approval of the Variance or Reasonable Accommodation as proposed;
   ii. Approval of the Variance or Reasonable Accommodation with revisions; or
   iii. Denial of the Variance or Reasonable Accommodation as proposed.
c. Voting shall be in accordance with Section <>, Voting.
d. Each decision shall be made in writing and reflect the Board of Adjustment's determination of facts and their application to the standards in this Ordinance.

e. The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.

f. The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning Department.

2. MAJOR RIPARIAN BUFFER OR WATER SUPPLY WATERSHED VARIANCE

a. In the case of a recommendation of approval for a Major Riparian Buffer or Water Supply Watershed Variance by the Board of Adjustment, the application materials, along with the recommendation of the Board of Adjustment established in accordance with sub-section (1) above, shall be forwarded to the North Carolina Division of Water Resources for consideration by the North Carolina Environmental Management Commission.

b. Denials of a Major Riparian Buffer or Water Supply Watershed Variance application by the Board of Adjustment shall result in the application not being forwarded to the EMC for a final decision.

c. The final decision regarding a Major Riparian Buffer or Water Supply Watershed Variance shall be made within 90 days of receipt by the North Carolina Environmental Management Commission (EMC) in accordance with all applicable State law. The decision by the EMC shall be one of the following:

i. Approval of the Variance application;
ii. Approval of the Variance application with additional conditions; or
iii. Denial of the Variance application.

d. Any final decision by the EMC on a Major Riparian Buffer or Water Supply Watershed Variance may be appealed to the Superior Court of the county where located.

G. REVIEW CRITERIA

1. ZONING OR SUBDIVISION VARIANCE

a. REQUIRED FINDINGS

A Zoning or Subdivision Variance application shall be approved subject to a finding the applicant demonstrates all of the following:

i. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property.
ii. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a Variance.
iii. The hardship did not result from actions taken by the applicant or the landowner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the Variance shall not be regarded as a self-created hardship.
iv. The requested Variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.
v. The Variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.

b. NOT AVAILABLE AS A BASIS FOR DECISION

None of the following may be used as the basis for approving a Zoning or Subdivision Variance:

i. Hardships resulting from factors other than application of the relevant standards of this Ordinance;
ii. Personal circumstances;

iii. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
iv. Hardships resulting from factors other than application of the relevant standards of this Ordinance;
v. The citing of other conforming or nonconforming uses of land or structures in the same or other zoning districts;
vi. The fact that land or a structure may be utilized more profitably or be more marketable with a Variance; or
vii. Financial hardship.

2. FLOOD HAZARD OVERLAY VARIANCE

a. REQUIRED FINDINGS

A Flood Hazard Overlay Variance shall be approved on a finding the applicant demonstrates all the following standards are met:

i. There is a good and sufficient cause to grant the Variance;
ii. Failure to grant the Variance would result in exceptional hardship to the landowner; and
iii. Granting the Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with this Ordinance.

b. OTHER CONSIDERATIONS

In addition to making the required findings, the Board of Adjustment may also consider any of the following:

i. The Variance is the minimum necessary, considering the flood hazard, to afford relief.
ii. Approval of the Variance will not render the building in violation of applicable federal, State, or local requirements.
iii. Approval of the Variance will not result in any increase in flood levels within any designated floodway or non-encroachment area during the base flood discharge.
iv. The Variance is issued prior to any other pre-requisite permit or development approvals.

c. DENIAL

All of the following factors shall be considered by the Board of Adjustment if an application for a Flood Hazard Overlay Variance is denied:

i. The danger that materials may be swept onto other lands and injure others;
ii. The danger to life and land due to flooding or erosion damage;
iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual landowner;
iv. The importance of the services provided by the proposed facility to the community;
v. The necessity to the facility of a waterfront location as a functionally-dependent facility;
vi. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use or activity;
vii. The compatibility of the proposed use with existing and anticipated development;
viii. The relationship of the proposed use to the Town's Adopted Policy Guidance and floodplain management program;
ix. The safety of access to the use in times of flood for ordinary emergency vehicles;
x. The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
xi. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

3. STORMWATER VARIANCE

a. GENERALLY

A Stormwater Variance shall be approved on a finding the applicant demonstrates all of the following standards are met:

i. The applicant can secure no reasonable use of or return from their property if the provisions of the Ordinance are strictly adhered to;
ii. The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
iii. The hardship is due to the physical nature of the applicant's property, such as its location, size, shape, or topography, and compliance with provisions of this Ordinance would not allow reasonable use of the property;
iv. The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
v. The Variance is consistent with the general spirit, purpose, and intent of the State law and this Ordinance; and
vi. In granting the Variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

b. STATUTORY EXCEPTIONS

Exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

i. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCMs.
ii. When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCMs.
~~vi.~~iii. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

4. RIPARIAN BUFFER VARIANCE

a. A Riparian Buffer Variance shall be approved on a finding that there are practical difficulties or unnecessary hardships that prevent compliance with this Ordinance, and a finding of practical difficulties or unnecessary hardships requires that all of the following standards are met:

i. If the applicant complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, their property. Merely proving that the Variance would permit a greater profit from the property shall not be considered adequate justification for a Variance;
ii. Whether the Variance is the minimum possible deviation from the terms of the Ordinance that shall make reasonable use of the property possible;
iii. The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
iv. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this Ordinance would not allow reasonable use of the property;

v. The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
vi. The applicant did not purchase the property after the effective date of this Ordinance, and then request a Variance;
vii. The hardship is rare or unique to the applicant's property;
viii. The Variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance; and
ix. In granting the Variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

b. The North Carolina Environmental Management Commission shall decide a Major Riparian Buffer Variance based on applicable State law.

5. WATER SUPPLY WATERSHED VARIANCE

a. A Water Supply Watershed Variance shall be approved on a finding that there are practical difficulties or unnecessary hardships that prevent compliance with this Ordinance, and a finding of practical difficulties or unnecessary hardships requires that all of the following standards are met:
i. The applicant can make no reasonable use of or return from their property if the provisions of the Ordinance are strictly adhered to;
ii. The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this Ordinance would not allow reasonable use of the property;
iv. The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
v. The Variance is in harmony with the general purpose and intent of the State's water supply watershed requirements and preserves the spirit of this Ordinance; and
vi. In granting the Variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

b. The North Carolina Environmental Management Commission shall decide a Major Water Supply Watershed Variance based on applicable State law.

6. REASONABLE ACCOMMODATION

a. A Reasonable Accommodation application shall be approved on a finding the proposed accommodation:
i. Will be used by an individual or individuals with a disability or handicap protected under federal law;
ii. Is the minimum needed to provide accommodation; and
iii. Is reasonable and necessary.

b. For the purposes of this section, an accommodation is reasonable if it would not undermine the legitimate purposes of this Ordinance, it does not constitute a substantial alteration of this Ordinance or other Town standard, and it will not impose significant financial and administrative burden upon the Town.

c. For the purposes of this section, an accommodation is necessary if it would provide direct or meaningful improvement of the effects of the particular disability or handicap, and would afford handicapped or disabled persons equal opportunity to use housing in the Town's planning jurisdiction.

H. CONDITIONS

In granting a variance, the Board of Adjustment may prescribe conditions of approval to assure that the use of the land to which the variance applies will be compatible with surrounding lands and will not alter the essential character of the neighborhood. Conditions of approval shall be in accordance with Section <>, Conditions of Approval, and the following:

1. Conditions of approval must be reasonably related to the application.
2. An application approval granted subject to a condition of approval shall be permitted as long as there is compliance with the condition.
3. Violation of a condition of approval shall be deemed a violation of this Ordinance.
4. If a violation or invalidation of a condition of approval occurs, the Planning Director, or Engineering Director, as appropriate, may revoke the authorization for the development subject to the approval.

I. SEQUENCE

A Variance application may be filed with any other application except an appeal or rezoning, but the Variance approval shall always be required prior to any other associated application.

J. EFFECT

1. GENERALLY

Approval of a Variance authorizes only the particular regulatory relief approved by the Board of Adjustment. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Ordinance or any other applicable laws, and does not indicate that the development for which the Variance is granted should receive other permits or development approvals unless and until the relevant and applicable portions of this Ordinance are met.

2. NOTIFICATION REGARDING FLOOD INSURANCE COSTS

a. An applicant for whom a Flood Hazard Overlay Variance is approved shall be provided written notice by the Engineering Director specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is built. The notice shall inform the applicant about the risks to life and property from construction below the BFE and that issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance.

b. The notification shall be maintained by the Engineering Director with the record of the Variance action.

3. RECORDS OF FLOOD HAZARD OVERLAY VARIANCES

Upon request, the Engineering Director shall report all Flood Hazard Overlay Variances approved in accordance with this section to the Federal Emergency Management Agency and the State of North Carolina.

4. REASONABLE ACCOMMODATIONS

A Reasonable Accommodation shall not affect an applicant's obligation to comply with other applicable standards in this Ordinance that are not the subject of the reasonable accommodation application.

K. AMENDMENT

Not Applicable.

L. EXPIRATION

Not Applicable.

M. VESTING

Not Applicable.

N. APPEAL

In accordance with Section <>, Decisions by Board of Adjustment. Applications decided by the North Carolina Environmental Management Commission shall be taken to the Superior Court for the country where located in accordance with applicable State law.

2.3.30 VESTED RIGHTS CERTIFICATE[55]

A. PURPOSE AND INTENT

The purpose for this Vested Rights Certificate procedure is to permit an applicant to request vesting, or an extended vesting period, from changes in this Ordinance that take place after approval of a development application but prior to completion of an approved site-specific vesting plan associated with the application.

B. APPLICABILITY

An application for a Vested Rights Certificate shall be limited to applications with an approved site-specific vesting plan in accordance with Section <>, Site-Specific Vesting Plan.

C. PROCESS TYPE

Type IV (see Section <>, Process Diagrams) except that the Planning Board shall not provide a recommendation and a neighborhood meeting is not required.

D. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section <>, Review Criteria.
2. The decision shall be one of the following:
   a. Approval of the Vested Rights Certificate as proposed;
   b. Approval of a revised Vested Rights Certificate; or
   c. Denial of the Vested Rights Certificate.
3. If approved, the Vested Rights Certificate is deemed established upon the date of approval of a qualifying site-specific vesting plan to which the application for a Vested Rights Certificate was attached.

E. REVIEW CRITERIA

An application for a Vested Rights Certificate shall be approved if:

1. The Vested Rights Certificate is for an approved site-specific vesting plan;
2. The development is valid and unexpired;
3. Any required Variances have been obtained; and
4. The request is in accordance with NCGS§160D-108, and Section <>, Vested Rights.

F. SEQUENCE

1. An application for a Vested Rights Certificate may be submitted concurrently with or following the application qualifying as a site-specific vesting plan, but consideration of a Vested Rights Certificate shall only take place following approval of the site-specific vesting plan.
2. A Vested Rights Certificate shall be approved prior to issuance of a Building Permit.

G. EFFECT

1. Each document used to establish a site-specific vesting plan shall bear the following notation:

[55] This is a new section that builds on the standards in Section 155.718 of the current UDC (in concert with the section on Vested Rights in new Chapter 1). This procedure is used solely for the establishment of a two-year or longer vested rights term associated with a Site Plan or Subdivision plat (since vesting of a site-specific vesting plan requires a public hearing – without a public hearing the plan that could be a site-specific vesting plan with a two year term only gets a one year term associated with a typical development approval). In addition to establishing the two-year term for Site Plans and Preliminary Plats, the process also allows an applicant with an approved site-specific vesting plan to request a vesting term of up to five years (note that so-called multi-phase plans automatically receive a seven-year vesting term).

"Approval of this application establishes a zoning vested right under Section 160D-108 of the North Carolina General Statutes, as amended. Unless terminated at an earlier date, the vested right shall be valid until _____(date)."

2. The establishment of a vested right shall not preclude the application of overlay zoning district provisions that impose additional requirements but do not affect the allowable type and intensity of use, or through ordinances that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to: building, fire, plumbing, electrical, and mechanical codes.

H. AMENDMENT

Amendment of Vested Rights Certificate may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

I. DURATION

1. In no instance shall a Vested Right Certificate provide a vested right for a period of longer than five years from the date of approval of the site-specific vesting plan.
2. A Vested Right Certificate shall expire and become null and void:
   a. At the end of the approved vesting period; or
   b. If a Building Permit application for the development subject to the certificate is not submitted within two years of the approval of the Vested Rights Certificate associated with a Special Use Permit Concept Plan, Major Subdivision Preliminary Plat, or Site Plan, or five years of the approval of a Vested Rights Certificate associated with a Conditional Rezoning Concept Plan; or
   c. Upon a finding by the Town Council after public notice and a public hearing, that:
      i. Natural or man-made hazards on or in the immediate vicinity of the land, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated;
      ii. The landowner or landowner's representative intentionally supplied inaccurate information or made material misrepresentations which affected the approval of the site-specific vesting plan;
      iii. The landowner failed to comply with any condition imposed upon the establishment of the site-specific development plan or Vested Rights Certificate; or
   d. Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant fees incurred after approval of the certificate by the Town, together with interest at the legal rate until paid. Compensation shall not include any diminution in the value of the land which is caused by such action; or
   e. With the written consent of the affected landowner.
3. Upon enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan, the Town Council may modify the affected provisions of the certificate by ordinance, if after conducting a hearing, it finds the changed conditions created by the change in the State or federal law have a fundamental effect on the site-specific vesting plan.

J. EXPIRATION

Unless terminated in accordance with Section <>, Termination, a Vested Rights Certificate shall expire at the end of the term identified in the approval.

K. APPEAL

In accordance with Section <>, Decisions by Town Council.

2.3.31 ZONING COMPLIANCE PERMIT[56]

A. PURPOSE AND INTENT

The purpose of a Zoning Compliance Permit is to ensure no development occurs until there is assurance the development complies with the requirements of this Ordinance and all other applicable requirements.

B. APPLICABILITY

1. A Zoning Compliance Permit shall be required for development applications that are exempted from requirements to obtain a Building Permit, and the following:
   a. Erection or modification of a fence or privacy wall over 24 inches in height;
   b. A change in a non-residential tenant within a building;
   c. Any change in principal use within an existing non-residential, multi-family, or mixed-use structure; or
   d. Land disturbing activities; or
2. In cases where a Building Permit is required, review for zoning compliance shall take place as a part of the review for the Building Permit application, and as a result, no Zoning Compliance Permit shall be required for developments subject to a Building Permit.

C. APPLICATION

1. Applications for a Zoning Compliance Permit shall include a generalized sketch of the development that identifies the lot lines and the outer extents of all of the following features (if present):
   a. Principal structure(s);
   b. Secondary structures (including those there on a temporary basis);
   c. Open-air uses of land;
   d. Required setbacks and allowable encroachments, if applicable;
   e. Existing potable water wells, septic tanks, drain fields, and reserve or back-up drain field locations;
   f. Required tree save areas;
   g. Required stormwater control measures;
   h. Any other features identified by the Planning Director as necessary for determining compliance with the requirements of this Ordinance; and
   i. Proposed uses, structures, or development activity associated with the Zoning Compliance Permit.
2. Sketches may not be professionally prepared, but must be drawn to scale.
3. Development activity associated with signage shall comply with the standards in Section <>, Sign Permit.
4. Establishment of a temporary use, structure, or activity shall comply with the standards in Section <>, Temporary Permit.
5. Applications for new development seeking to connect to public sewer shall include a wastewater allocation request completed in accordance with all Town requirements.

D. PROCESS TYPE

Type I (see Section <>, Process Diagrams).

[56] This section is proposed to carry forward Section 155.709 from the current UDC.

E. REVIEW CRITERIA

A Zoning Compliance Permit shall be decided by the Planning Director in accordance with Section <>, Staff Review and Action, and the following:

1. All standards or conditions of any prior applicable permits and developments approvals;
2. Any applicable County, State, and federal requirements;
3. All applicable requirements of this Ordinance, the Town Code of Ordinances, and any applicable Town manuals or associated regulatory documents; and
4. Approval of the Zoning Compliance Permit does not require any reduction, deviation, or waiver not already approved by the Town.

F. SEQUENCE

A Zoning Compliance Permit application may be filed with or after any other application type except for a Building Permit or Certificate of Occupancy. Development subject to a Building Permit shall not require a Zoning Compliance Permit application.

G. AMENDMENT

Amendment of a Zoning Compliance Permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

H. EXPIRATION

1. A Zoning Compliance Permit shall expire and become null and void if the development it authorizes is not substantially commenced within six months of the permit issuance.
2. A Zoning Compliance Permit shall expire if work is discontinued for a period of 12 months after work has commenced.

I. VESTING

See Section <>, Statutory Vested Rights.

J. APPEAL

In accordance with NCGS§160D-405, and Section <>, Appeal

2.4 REVIEW PROCEDURES[57]

2.4.1 OVERVIEW

A. This section describes the standard procedural steps and rules generally applicable to every development application reviewed under this Ordinance, except where identified in the particular application type in Section <>, Application Types.

B. Sub-sections are listed in chronological or sequential order as they relate to the application process rather than being listed in alphabetical order.

2.4.2 PURPOSE AND INTENT

This section establishes the procedures used by the Town for the processing of applications under this UDO. It is the intent of this section to establish a uniform set of processes to foster greater efficiency and predictability for applicants, residents, staff, and elected and appointed officials. The standards in this section are not intended as a substitute for the application of judgement or discretion by a review authority when necessary.

2.4.3 PRE-APPLICATION CONFERENCE[58]

A. PURPOSE

The purpose of a pre-application conference is to provide an opportunity for the applicant to learn about the submittal requirements, procedures, and standards applicable to a particular development application. A pre-application conference is also an opportunity for Town staff to become familiar with, and offer preliminary comments about the scope, features, and impacts of the proposed development, as it relates to the standards in this Ordinance.

B. APPLICABILITY

1. REQUIRED, OPTIONAL, OR NOT APPLICABLE

a. A pre-application conference is required before submittal of some applications, in accordance with Table <>, Application Type Table.

b. Pre-application conferences are optional while others do not have a pre-application conference associated with them, in accordance with Table <>, Application Types Table.

c. When a pre-application conference is not required, applicants may contact Town staff with questions about any development application procedure.

d. There are no limits on the number of pre-application conferences that may be conducted, though the Town may charge a pre-application fee for the third or any subsequent pre-application conference regarding the same project or development site.

C. DISCUSSIONS NON-BINDING

Discussions at a pre-application conference are not binding on the Town and do not constitute filing or review of an application.

[57] This section is proposed to replace Section 155.702 of the UDC. It includes the basic steps that the Town will use to process all application types under the UDO, including more details about permit choice, staff review, legislative and evidentiary hearing procedures, simultaneous processing, rules about processing phased applications, reconsideration of denied applications, approval amendments, and blanket expiration provisions.

[58] NOTE: This section replaces Sec 155.702(A) in the current UDC, which requires every applicant to conduct a pre-application conference (unless waived by the Planning Director). The approach set out here makes pre-application conferences mandatory for 11 of the 35 application types, and voluntary or not applicable for the remainder of the other application types. This section provides considerably more detail on these conferences in response to concerns about the process expressed by some stakeholders.

D. SCHEDULING

Applicants for a pre-application conference may schedule the conference on the Town's webpage in accordance with Town policy.

E. SUBMITTAL REQUIREMENTS

1. Pre-application conferences for development applications that include a Site Plan, subdivision, or Concept Plan shall require the applicant to provide a generalized sketch of the development as part of the request to schedule a pre-application conference. Generalized site sketches do not need to be professionally prepared, and are not required to be to scale.
2. For other types of development applications, the applicant may submit supplemental information regarding their application, as appropriate, with their request for a pre-application conference, though there is no requirement to submit any material in advance of the conference.
3. Material submitted during a pre-application conference is a matter of public record but shall not be binding on the Town or an applicant.

F. PROCEDURE

1. Based upon the scope and complexity of the proposal, a pre-application conference may take the form of a telephone call, video conference call, or in-person meeting at Town Hall, as determined by the Planning Director.
2. The pre-application conference shall include a presentation of the proposal by the potential applicant, including overview of any submitted materials.
3. Town staff will identify the relevant Town standards and applicable policy guidance, and will provide an overview of the appropriate application submittal and review process.
4. Pre-application conferences are conducted with some or all members of the Technical Review Committee, as determined by the Planning Director.

G. EXPIRATION

Applications subject to a mandatory pre-application conference shall be filed with the Town within six months of the conclusion of the pre-application conference or an ~~additiona~~additional pre-application conference shall be conducted.

H. EFFECT

1. When required, completion of a pre-application conference entitles an applicant to take the next step in the application process.
2. In cases where multi-part applications require more than one pre-application conference, an applicant may choose to conduct a single pre-application conference for all portions of a multi-part application or may choose to conduct individual pre-application conferences prior to filing of individual portions of the multi-part application.
3. Applications subject to a mandatory pre-application conference may not be filed until after the pre-application conference has been conducted.

2.4.4 NEIGHBORHOOD MEETING[59]

A. PURPOSE

The purpose of the neighborhood meeting is to inform landowners and occupants of nearby lands about a development application that is going to be reviewed under this Ordinance, and to provide the applicant an opportunity to hear comments and concerns about the proposed development from landowners and occupants of nearby lands. It is not the intent of these standards to unreasonably delay or prevent an applicant from filing their development application.

B. APPLICABILITY

1. Neighborhood meetings are mandatory and shall be conducted by the applicant prior to filing any of the following types of applications:
   a. Rezonings, conditional and conventional, which would establish a more dense or intense zoning district or when the Town is annexing land located outside its extraterritorial jurisdiction;
   b. Street Renaming/Closures;
   c. Special Use Permits; or
   d. Variances.
2. Neighborhood meetings for any other kind of application identified in Table <>, Application Type Table, are optional. However, the Town Council may, by simple majority vote on a motion during a public hearing, require a neighborhood meeting to be conducted before rendering a decision on an application they are deciding.
3. In cases of a multi-part application that includes two or more portions each requiring a neighborhood meeting, only one neighborhood meeting shall be required prior to the filing of the initial portion of the application.

C. PROCEDURE

In cases when a neighborhood meeting is conducted, it shall comply with the following procedures:

1. TIMING

a. The meeting shall start between the hours of 6PM and 8PM on a weekday.
b. The meeting shall take place no less than ten days before the application is to be initially filed with the Town.

2. LOCATION

a. The neighborhood meeting shall take place in a location open to the general public that is as close as possible to the site where development is proposed.
b. In the event no suitable location open to the general public is available, the meeting may take place at a Town-owned or -operated site, subject to any Town requirements for its use.
c. Virtual neighborhood meetings may be conducted when conducted in a manner consistent with the Town's policies for virtual meetings.

[59] This section replaces current Section 155.702.B. The current standards require neighborhood meetings for any zoning, any major subdivision, SUP, variance, or major site plan review. These proposed standards seek to require meetings only for rezonings where intensity is being increased, large subdivisions or in cases where new lots are significantly smaller than surrounding lots, significant site plans, and special use permits. The new procedure provides greater clarity regarding location, notice information, and Town staff attendance.

3. NOTIFICATION

a. The applicant shall provide notification of the neighborhood meeting via first class mail to all landowners within 300 linear feet of the parcel(s) where development is proposed.

b. Mailed notice shall be provided no less than ten days prior to the date of the neighborhood meeting.

c. Landowners are advised that any required public notice of a subsequent development application will be provided in accordance with Section <>, Public Notice, which may be less than 300 feet from the parcel where development is proposed.

d. Multiple meetings may take place, but advance notification for each meeting shall be provided in accordance with this subsection.

4. INFORMATION PROVIDED

The applicant shall provide the following in the neighborhood meeting invitation:

a. The purpose of the meeting;

b. A description of the proposed development;

c. The time, date, and location of the meeting;

d. Telephone and email contact information for the applicant or applicant's representative; and

e. Any additional information that would promote understanding of the development proposal.

5. CONDUCT OF MEETING

At the meeting, the applicant shall explain the development proposal and the proposed application, respond to questions and concerns attendees raise about the application, and propose ways to resolve conflicts and concerns.

6. STAFF ATTENDANCE

Town staff shall not attend a neighborhood meeting in a professional capacity. Nothing shall limit a Town staff member from attending a neighborhood meeting as an interested citizen.

7. WRITTEN SUMMARY

The applicant shall submit a written summary of each neighborhood meeting, accompanied by copies of what was presented. At a minimum, the written summary shall include all of the following:

a. A list of all parties and mailing addresses who were mailed a meeting notice;

b. Written proof of mailing provided in accordance with Section <>, Notification;

c. A copy of the meeting notice;

d. A sign-in sheet of meeting attendees; and

e. A list of the items discussed, including any questions posed by attendees and the answers provided.

2.4.5 APPLICATION FILING[60]

A. AUTHORITY TO FILE APPLICATIONS

1. Unless expressly stated otherwise in this Ordinance, development applications reviewed under this Ordinance shall be filed by the landowner, a contract purchaser with the owner's consent, or other person having a recognized property interest in the land on which development is proposed with the owner's consent.
2. Some applications (e.g., conditional rezoning) must be filed by all landowners, as required in Section <>, Application Types.
3. Third-party applications to downzone land shall be prohibited.

B. APPLICATION FORMS

The Town shall establish development application forms, which shall be maintained by the Planning Director. Applications may only be completed on the forms provided by the Town.

C. APPLICATION FEES

1. The Town Council shall establish application fees in its Comprehensive List of Fees and Charges which may be updated at the sole discretion of the Town Council.
2. Full payment of required application fees shall take place concurrent with filing the application.

D. FILING AND REVIEW SCHEDULE

The Procedures Manual or other Town policy document shall contain the filing and review schedules for applications reviewed under this Ordinance. Copies of the application filing and review schedule shall be on file in the Planning Department.

E. APPLICATION FILING

1. An application shall not be considered submitted until it is determined to be complete in accordance with Section <>, Determination of Application Completeness.
2. No application shall be reviewed or decided until after it is determined to be complete.
3. The provisions in Section <>, Permit Choice, shall only apply to applications that are complete.
4. Multiple concurrent applications may be filed and reviewed in accordance with Section <>, Simultaneous Processing.

F. BURDEN OF PRESENTING COMPLETE APPLICATION

The burden of presenting and maintaining a complete application shall be solely upon the applicant.

G. DETERMINATION OF APPLICATION COMPLETENESS

The Planning Director shall determine, within a reasonable period of time, whether an application is complete or incomplete. A complete application is one that:

1. Contains all information and materials identified in this Ordinance and all supporting documentation, as required for submittal of the particular type of application;
2. Is in the form and number of copies required by the Town;
3. Is legible and to scale, if including a plan or plat;

[60] This section replaces current Section 155.702(C) with more details on who may file applications, what constitutes a complete application, and how incomplete applications are handled (including impacts on permit choice). These proposed standards suggest removal of application fee refunds for withdrawn applications since completeness review must take place.

4. Is signed by the person(s) with the authority to file the application;
5. Includes information in sufficient detail to evaluate whether the application complies with the applicable review standards in this Ordinance;
6. Is accompanied by the required fee(s);
7. Occurs only after conduct of a pre-application conference, if one is required;
8. Occurs only after conduct of a neighborhood information meeting, if one is required; and
9. Is not subject to the limitations described in Section <>, Reconsideration of Denied Application.

H. APPLICATION INCOMPLETE

1. If the application is incomplete, the Planning Director shall notify the applicant of the deficiencies in writing. The applicant may correct the deficiencies and resubmit the application for completeness determination in accordance with Section <>, Application Filing.
2. Following receipt of a notice of application deficiency by the Planning Director, an applicant may revise and resubmit the application
3. Failure of an applicant to submit missing or deficient portions of an application or file a written request to process the incomplete application within 60 days of delivery of a written notice of application deficiency shall render the application abandoned.
4. In no instance shall an application that is abandoned be considered a complete application subject to the protections described in Section <>, Permit Choice.

I. APPLICATION COMPLETE

1. On determining that the application is complete, it shall be considered as submitted, and the Town shall notify the applicant and commence review in accordance with the procedures and standards of this Ordinance.
2. Nothing shall preclude the Planning Director or a review authority from re-evaluating an application for completeness in the event application inadequacies are revealed at a date subsequent to an application being declared complete. Such re-review shall not invalidate options or protections to a complete application extended under Section <>, Permit Choice.

2.4.6 PERMIT CHOICE[61]

A. In cases where the applicable provisions of this Ordinance are amended between the time that an application is declared complete (see Section <>, Determination of Application Completeness) and when it is decided, the applicant may choose which version of this Ordinance shall apply to their application, in accordance with NCGS§143-755.

B. The applicant's decision shall be final, and review under a different set of requirements may only be accomplished through a withdrawal and re-submittal of the application.

C. The application shall be processed in accordance with the newest regulations unless the applicant requests, in writing, to have the application processed in accordance with the rules in place at the time of the application.

D. In cases where an applicant has had an opportunity to exercise permit choice under this section, and subsequently places their application on hold, review of the application shall be discontinued, and the requirements in effect at the time application review recommences shall apply.

[61] This is a new section added based on statutory changes taking place in 2019.

2.4.7 STAFF REVIEW AND ACTION[62]

A. STAFF REVIEW

1. Applications shall be reviewed during the review cycle in place when the application is determined to be complete. Application review cycles are set down on the Procedures Manual or other Town policy document.
2. When an application is determined complete, it shall be distributed to all appropriate staff and review agencies for review and comment, and submitted for preparation of a staff report, in accordance with Town policy.
3. If deficiencies in complying with applicable standards of this Ordinance are identified, the designated Town staff member responsible for processing the application shall notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

B. STAFF REPORT AND RECOMMENDATION

1. The designated Town staff member responsible for reviewing the application shall prepare a written staff report on any application to be reviewed or decided by the Town Council or the Board of Adjustment.
2. A staff report is not required for applications decided by a member of Town staff or the Technical Review Committee, though one may be prepared.
3. The staff report shall conclude whether the application complies with all applicable review standards of this Ordinance and adopted policy guidance, and recommend one of the decisions authorized for the particular type of application, based on the applicable review standards, in accordance with Section <>, Applications Subject to Decision by Town Staff.
4. The staff report shall not include a recommendation from Town staff on Variance, Special Use Permit, or Appeal applications.
5. In cases where the staff finds an application does not comply with the provisions of this Ordinance, the staff report shall cite the specific code section(s) in question and the reasons why the application fails to comply.
6. The staff report may identify and recommend modifications to the development proposal that specify how compliance deficiencies might be corrected and how adverse effects of the development application (if any) might be mitigated.
7. Staff reports prepared for Conditional Rezonings, Special Use Permits, Variances, and Vested Rights Certificates may suggest conditions of approval for consideration by the review authority making the decision on the application.

C. DISTRIBUTION OF APPLICATION AND STAFF REPORT

The designated Town staff member responsible for processing the application shall take the following actions within a reasonable period of time before the application is scheduled for review:

1. Schedule and ensure any required public notice of the application is prepared in accordance with Section <>, Public Notice;
2. Transmit the application, related materials, and staff report to the appropriate review authority(ies);
3. Transmit a copy of the staff report and any related materials to the applicant and the landowner, if different from the applicant; and

[62] This is a new section.

4. Make the application, related materials, and staff report available for examination by the public.

D. APPLICATIONS SUBJECT TO DECISION BY TOWN STAFF

1. In cases where a development application is decided by the Technical Review Committee, the Planning Director, or another designated Town staff member, the appropriate Town staff member shall make one of the following decisions in writing, based on the review standards set forth in Section<>, Application Types:
   a. Approve the application;
   b. Disapprove the application; or
   c. Delay decision making for a specified time to allow the applicant to revise the application for compliance with the requirements in this Ordinance.
2. In some instances, Town staff may decide an application contingent upon further revision by the applicant in accordance with the direction provided in the decision.

E. CONFLICT OF INTEREST

Town staff shall comply with all applicable provisions in Section <>, Conflict of Interest.

2.4.8 PUBLIC NOTICE[63]

A. PUBLIC MEETINGS DISTINGUISHED FROM PUBLIC HEARINGS

Applications subject to public hearings by the North Carolina General Statutes are required to provide public notice about the pending application to adjacent landowners in accordance with this section. Public meetings are not public hearings, and do not require the provision of individual public notice to adjacent landowners about a pending application in accordance with this section but must provide general notification about the meeting in accordance with NCGS§143-318.12 (the "open meetings" law).

B. PUBLIC HEARING SCHEDULING

When a development application is subject to a public hearing, the Planning Director, or a designee, shall ensure that the public hearing is scheduled for a regular meeting or a meeting specially called for that purpose by the review authority.

C. PUBLIC NOTIFICATION REQUIREMENTS

1. All development applications subject to public notification shall comply with the appropriate standards in NCGS§§160D-406, 160D-601, 160D-602, 160D-1005, and other applicable sections of the North Carolina General Statutes.
2. Table <>, Public Notification Requirements, summarizes the requirements for public notice, but in the event of a conflict with State law, State law shall prevail.
3. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

[63] NOTE: This section replaces Section 155.702.D of the current UDC but adds annexations and development agreement notice to the five existing types of applications that are subject to public notice. The proposed standards rely solely on State law with respect to who receives mailed notice (instead of notifying landowners within 100 feet of the proposed development). The Town may provide as much mailed notice as it likes, but that should be done as a matter of policy, not codified in the Ordinance. The optimal legal strategy here is to follow State law with respect to Ordinance specifications and make decisions about increased mailed notice based on policy.

TABLE <>: PUBLIC NOTIFICATION REQUIREMENTS			
TYPE OF DEVELOPMENT APPLICATION	TYPE OF PUBLIC NOTIFICATION REQUIRED (R=REQUIRED)		
	PUBLISHED [1]	MAILED [2]	POSTED [3]
Annexation	R	R	R
Appeal	·	R [4]	R
Development Agreement	R	R	R
Rezoning	R [5]	R	R
Special Use Permit	·	R	R
Street Renaming / Closure	R [6]	R [7]	R [8]
Text Amendment	R	·	·
Variance	·	R	R

NOTES:
[1] Notice shall be published once a week for two successive calendar weeks with the first notice published no more than 25 day nor less than 10 days before the public hearing.
[2] Notice shall be mailed to the applicant, affected property owners, and property owners of abutting land between 10 and 25 days before the public hearing.
[3] Notice shall be posted between 10 and 25 days before the public hearing.
[4] Mailed notice shall only be required in cases where the appeal pertains to a particular property.
[5] In the case of large-scale rezonings of 50 or more different landowners, mailed notice only provided to landowners residing outside the area of published notice circulation in accordance with NCGS§160D-602(b).
[6] Published notice for street abandonment shall be provided once per week for 4 weeks before the hearing.
[7] Mailed notice shall be provided between 10 and 25 days before the first public meeting to all landowners with land abutting the street and the NCDOT.
[8] Posted notice shall be provided in at least two locations along the street no less than 10 days before the hearing.

D. PUBLISHED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be published, the Town staff member responsible shall publish a notice in a newspaper that is regularly published at least one time per week for two successive weeks in a newspaper that has general circulation in the Town.

E. MAILED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be mailed, mailed notice shall be provided in accordance with the following:

1. The Town shall prepare required mailed notice.
2. Mailed notice shall be ~~be~~ provided to the last known address (as listed in County tax records) for each of the following:
   a. The landowner;

b. The applicant, if different from the landowner;
c. Landowners of properties adjacent to the land that is the subject of the application, but also located across a street, railroad, or other transportation corridor; and
d. Any others entitled to receive mailed notice in accordance with NCGS§160D-602.

3. Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed, postage paid. The content and form of the notice shall comply with Section <>, Notice Content.
4. The Town may, on a case-by-case basis, and in the sole discretion of the Town, provide additional mailed notice above and beyond the minimum statutory requirements. The Town is under no obligation to provide any additional notice beyond that specified by the General Statutes, and failure of the Town to provide mailed notice beyond that required by State law shall not impair the notice provided or invalidate the proceedings.
5. A copy of the mailed notice, the list of landowners receiving notice, and a certification of mailing by the Town staff member responsible shall be maintained in the offices of the Planning Department for public inspection during normal business hours.
6. Mailed notice shall not be required when a rezoning includes more than 50 lots or tracts owned by at least 50 different landowners, provided the Town publishes a map (occupying at least ½ of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for two successive calendar weeks between 10 days and 25 days before the public hearing. Affected landowners residing outside the newspaper circulation area shall be notified via first class mail pursuant to Section <>, Mailed Notice Requirements.

F. POSTED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be posted, the Planning Director or a designee shall provide the required posted public notice in accordance with the following:

1. A sign (or signs) shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion(s) of the respective street(s). Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way.

G. NOTICE CONTENT

Unless expressly indicated otherwise by the North Carolina General Statutes, all notices by mail, posting, or publication shall:

1. Identify the date, time, and place of the public hearing;
2. Describe the land involved by parcel identification number (PIN), street address, or by its relationship to a fronting street and the nearest cross street (if applicable);
3. Describe the nature and scope of the proposed development or action; and
4. Identify the means to contact a Town official for further information.

H. CONSTRUCTIVE NOTICE

1. Minor defects in any notice shall not impair the notice or invalidate proceedings if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:
   a. Errors such as landowner name, title, or address existing in the County tax listing; or
   b. Typographical or grammatical errors that do not impede communication of the notice to affected parties.

2. Failure of a party to receive written notice shall not invalidate subsequent action. A posted notice that becomes no longer visible due to weather, theft, or other unintended circumstances shall not invalidate proceedings if a bona fide attempt is made to comply with applicable posted notice requirements. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property shall be strictly adhered to.

2.4.9 PUBLIC HEARINGS AND MEETINGS[64]

A. HEARINGS DISTINGUISHED

Public hearings identified in this Ordinance shall be either legislative or evidentiary (quasi-judicial) in nature.

B. LEGISLATIVE PUBLIC HEARINGS

Table <>, Application Type Table, identifies the kinds of development applications decided following completion of a legislative public hearing, which shall be conducted in accordance with the following requirements:

1. PROCEDURE

a. Legislative public hearings shall not be conducted until after provision of required public notice in accordance with Section <>, Public Notice.

b. The legislative public hearing shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public hearings.

c. Attendees shall be afforded the opportunity to comment during a public hearing, as authorized in the adopted rules of procedure.

2. VOTING

a. The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in Section <>, Application Types.

b. A review authority member shall not vote on an application if there is a conflict of interest in accordance with Section <>, Conflict of Interest.

c. A decision of the review authority on an application considered during a legislative public hearing shall be decided by a simple majority of the review authority members, excluding any members who are recused from voting due to a conflict of interest.

3. APPLICATION REVISION

a. Except in cases where an applicant has compelled the Town staff to process an incomplete application, an applicant may revise an application during a legislative public hearing in response to recommendations or suggestions of the public, the Town staff, or a review authority.

b. In cases where a substantial change to an application is proposed following review by a prior review authority, the review authority deciding the application shall determine if the prior review authority needs to re-review the application before a decision can be made.

[64] This is a new section that sets down the basic procedures for legislative and evidentiary public hearings in accordance with 160D requirements. The section also makes a distinction between public hearings and public meetings.

c. The Town may provide additional public notice related to revision of an application on a case-by-case basis but is under no legal requirement to provide additional notice in cases where applications are revised in accordance with this section.

d. The review authority deciding the application may approve an application modified during a legislative public hearing provided that all changes are properly identified in the motion of approval and that any conditions of approval are consented to, in writing, by the applicant.

e. In cases where an application has been modified during a legislative public hearing, the applicant shall submit any necessary plans or other documents depicting the modification to the appropriate Town staff before a notice of decision is provided.

4. REMAND

A review authority may remand the application to a prior review authority or Town staff for further consideration of new information or specified issues or concerns, if appropriate.

5. RECORD

a. A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with Town policy.

b. Accurate minutes shall be kept of all proceedings, but a transcript need not be made.

C. EVIDENTIARY PUBLIC HEARINGS

Table <>, Application Type Table, identifies the kinds of development applications decided following an evidentiary public hearing, which shall be conducted in accordance with State law, the review authority's rules of procedure, and the following requirements:

1. NOTICE REQUIRED

Evidentiary public hearings shall not be conducted until after provision of required public notice in accordance with Section <>, Public Notice.

2. OPPORTUNITY TO PRESENT TESTIMONY AND EVIDENCE

a. The applicant, the Town, and any party with standing shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of or cross examine the applicant, the applicant's representatives, anyone providing testimony during the hearing, Town staff, and the Town staff's representatives.

b. Determinations of standing shall be in accordance with NCGS§§160D-406(d) and 160D-1402(c).

3. LIMITATION ON EVIDENCE

a. The Chair or other presiding officer may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and personal attacks.

b. Decisions shall not be based upon hearsay evidence though such evidence may be entered into the record.

c. Only evidence presented during the public hearing may be relied upon in making a decision on the application.

4. EX PARTE COMMUNICATION

Ex parte communications between an applicant or an affected party and a member of the review authority are prohibited. If it occurs, it shall be disclosed during the evidentiary public hearing.

5. VOTING

a. GENERALLY

The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in Section <>, Application Types.

b. CLEARLY STATE FACTORS FOR DECISION

Unless stated otherwise in this Ordinance, the decision shall reflect the review authority's determination of any contested facts and their application to the applicable standards.

c. CONFLICTS OF INTEREST

A review authority member shall not vote on an application if there is a conflict of interest in accordance with Section <>, Conflict of Interest.

6. APPLICATION REVISION

a. An applicant may revise an application during an evidentiary public hearing in response to recommendations or suggestions of the review authority, Town staff, or the public.

b. The review authority may approve an application modified during an evidentiary public hearing provided all changes are properly identified in the motion of approval by the review authority and that any conditions of approval are consented to, in writing, by the applicant.

c. In cases where an application has been modified during an evidentiary public hearing, the applicant shall submit any necessary plans or other documents depicting the modification to the appropriate Town staff before a notice of decision is provided.

7. DELAY OF DECISION

The review authority may delay a decision on the application if additional information is requested of the applicant.

8. RECORD

a. A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with Town policy.

b. Accurate minutes shall be kept of all proceedings, but a transcript need not be made.

D. PUBLIC MEETINGS

Review of applications by the Technical Review Committee, Planning Board, and Town Council where public notice is not required shall be considered during public meetings not public hearings. Public meetings shall be conducted in accordance with the review authority's rules of procedure and the following requirements:

1. PROCEDURE

a. Public meetings shall require public notification of the meeting in accordance with NCGS§143-318.12 but shall not require public notice of individual applications to adjacent landowners.

b. The Town many choose, on a case-by-case basis, and in the sole discretion of the Town, to provide public notice of a public meeting to adjacent landowners in accordance with Town policy. The Town shall be under no legal requirement to provide public notice of a public meeting to adjacent landowners, and failure to do so shall not invalidate the proceedings.

c. The public meeting shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public meetings.

d. There is no requirement to allow public comment or testimony during a public meeting, though it may be provided at the Chair or other presiding officer's discretion.

2. VOTING

a. A decision of a review authority during a public meeting shall be decided by a simple majority of the members present and voting.

b. A review authority member shall recuse themselves from voting on an application when there is a conflict of interest in accordance with Section <>, Conflict of Interest.

2.4.10 CONDITIONS OF APPROVAL[65]

A. Conditions shall be limited to those that address conformance of development and use of the site with Town regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use of the site.

B. Conditions shall be in writing and may be supplemented with text or plans and maps.

C. No condition shall be made part of the application which:

1. Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;
2. Establishes a minimum size of a dwelling unit;
3. Establishes a minimum value of buildings or improvements;
4. Excludes residents based upon race, religion, or income; or
5. Obligates the Town to perform in any manner relative to the approval of the application or the development of the land.

D. In no instance shall any of the following standards in this Ordinance be waived, reduced, or made less restrictive as part of an application:

1. Any of the applicable overlay district standards in Section <>, Overlay Districts;
2. The maximum allowable residential density, unless subject to an authorized incentive permitted under this Ordinance;
3. The signage standards in Section <>, Signage, unless part of Alternative Sign Plan; and
4. Technical requirements associated with public infrastructure.

E. All conditions of approval shall be consented to, in writing, by all owners of land or applicants subject to the conditions prior to delivery of a notice of decision (see Section <>, Written Notice of Decision).

F. All conditions of approval shall be identified in the approval, the notice of decision, and on any associated plans or plats.

G. Any condition of approval approved by the Town and the applicant shall become a part of the application approval and the applicant, landowner, or subsequent assign shall remain subject to its terms and requirements.

2.4.11 WRITTEN NOTICE OF DECISION

A. CONTENT

The notification of a decision on a development application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to the address(es) identified in the application materials, and shall identify the following:

1. The land or matter subject to the application;

[65] This is a new section.

2. A reference to any approved plans, as appropriate;
3. The approved use(s), if any; and
4. Any conditions of approval or other applicable requirements.

B. TIMING

The Planning Director shall provide the applicant written notification of a decision or action within a reasonable time after a final decision on a development application has been made.

C. COPY OF DECISION

1. In addition to providing the notification of a decision on an application to an applicant, the Planning Director shall make a copy of the decision available to anyone who submits a written request prior to the issuance of the decision.
2. The Planning Director shall also make a copy of the notice of decision available to the public in the Town offices during normal business hours.

2.4.12 SIMULTANEOUS PROCESSING[66]

A. Whenever possible, the Town shall process related development applications (e.g., a site plan, a zoning compliance permit, and a building permit) simultaneously or concurrently.

B. Generally speaking, establishment of an appropriate zoning designation is a prerequisite to other related application types. A request for a variation, deviation, reduction, or adjustment from required standards is a prerequisite to development plan approval. Development plan approval is a prerequisite to Building Permit approval.

C. In the event a permit or development approval is a prerequisite to another permit or development approval (e.g., Administrative Adjustment or Variance approval prior to a Site Plan approval), a decision on the dependent application may not take place until all prerequisite approvals are obtained.

D. Approval of one development application does not guarantee approval of any subsequent required development application.

2.4.13 PHASED DEVELOPMENT[67]

Nothing shall prohibit the construction of development in phases, sections, or portions, provided the development complies with the following:

A. Applications associated with phased development shall include plans that clearly identify each phase, the location and extent of each phase boundary, and the anticipated schedule of development (e.g., first phase, second phase, third phase, etc.). Construction Drawings submitted with a phase of a phased development shall be inclusive of all land within the phase.

~~**A.**~~**B.** Major subdivisions proposed to be phased shall be configured so that each phase includes at least the lesser of 15 lots or 50% of the land area within the phase. In no instance shall any individual phase include fewer than five lots.

~~**B.**~~**C.** Phased development may provide only the required public infrastructure or other required site features concurrently with the active phase(s) of the development.

~~**C.**~~**D.** Nothing shall limit the Town from requiring the establishment of public infrastructure or required site features in a physical location outside of the active phase(s) of development if such provision is necessary, in the sole discretion of the review authority, for the development to function as required.

~~**D.**~~**E.** Provision of a performance guarantee (see Section <>, Performance Guarantee) shall not be sufficient in cases where a review authority determines that required public infrastructure or

[66] This is a new section.
[67] This is a new section.

required site features outside an active phase must be provided to ensure development functionality.

~~E.~~**F.** Each new phase shall be developed contiguous or adjacent to an earlier phase, to the maximum extent practicable.

2.4.14 CONTINUANCE, WITHDRAWAL, AND ABANDONMENT[68]

An applicant may request that a review authority's consideration of a development application be continued or withdrawn by submitting a written request to the appropriate review authority.

A. PROCEDURE FOR CONTINUANCE OF APPLICATIONS SUBJECT TO A PUBLIC HEARING

1. In cases where an applicant seeks a continuance of an application subject to a public hearing, but public notification of the hearing has not yet been provided, the Planning Director shall consider and decide the request.
2. If public notification of the pending public hearing has been provided in accordance with this Ordinance, the request for continuance shall be placed on the public hearing agenda and be considered by the review authority. Additional public notification may be required for a continued application.
3. A request for continuance may be approved in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, bring the application into closer alignment with the Town's adopted policy guidance or the requirements of this Ordinance, or for good cause, as determined by the review authority.

B. WITHDRAWAL

1. An applicant may withdraw an application at any time following submittal of a signed request to withdraw the application.
2. If an applicant withdraws an application for the same land after public notification two times within a single calendar year, the same application may not be resubmitted for a period of one year from the date of the second withdrawal.
3. Application fees for withdrawn applications shall not be refunded.

C. ABANDONMENT

1. In cases where Town staff has notified the applicant in writing of a deficiency or a need for additional information in order to review or process an application and 60 days has lapsed with no response from the applicant, the application shall be considered abandoned and the review process shall be halted.
2. Abandoned applications are considered withdrawn and shall be subject to the standards in Section <>, Withdrawal.
3. Abandoned applications are returned to the applicant and application fees shall not be refunded.

[68] This section builds on current Section 155. 702.G with additional details for continuance and a reduction in the time period of abandonment from 90 days to 60 days.

2.4.15 RECONSIDERATION OF DENIED APPLICATIONS

A. LEGISLATIVE DECISIONS

If a development application requiring a legislative public hearing is denied, no application proposing the same or similar development on all or part of the same site shall be submitted within one year after the date of denial unless the review authority approves a reduction in this time limit. For the purposes of this section, "the same or similar development" shall mean:

1. The same use type(s) in the same approximate location(s) as the denied application; or
2. The same use type(s) in the same approximate building configuration (e.g., building height, floor area, massing) as the denied application.

B. QUASI-JUDICIAL DECISIONS

There is no time limit on resubmitting an application that is denied during an evidentiary public hearing provided that any subsequent application may not be similar or substantially similar to the application that was denied, in the sole discretion of the review authority responsible for the decision.

C. REDUCTION IN TIME LIMIT

The owner of land subject to this subsection, or the owner's authorized agent, may submit a written request for reduction of the time limit, along with a fee to defray the cost of processing the request, to the Planning Director, who shall transmit the request to the review authority. The review authority may grant the request only on a finding by two-thirds of its membership that the owner or agent has demonstrated that:

1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
2. New or additional information is available that was not available at the time of review of the prior application and that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
3. The new application proposed to be submitted is materially different from the prior application; or
4. The final decision on the prior application was based on a material mistake of fact.

2.4.16 AMENDMENT OF APPROVED APPLICATION[69]

Applications identified as available for amendment in Section <>, Application Types, shall only be amended in accordance with the standards in this section. Amendments to a development application approval shall be considered as minor modifications or major modifications, and must be considered in accordance with the following:

A. MINOR MODIFICATIONS

1. Subsequent plans and permits for development may include minor modifications provided the development continues to meet the minimum requirements of this section. Minor modifications are limited to changes that have no material effect on the character of the

[69] NOTE TO STAFF: This is a new section designed to consolidate the application amendment provisions for Administrative Adjustments, Conditional Rezoning Concept Plans, Conservation Subdivisions, Construction Drawings, Final Plats, and Site Plans. As a result, this section needs more refinement – however, before that takes place, additional discussion is necessary regarding the Town's desire to allow modifications to such a broad range of application approvals.

development or changes that address technical considerations that could not reasonably be anticipated at the time of the application approval.

2. The following minor modifications may be approved by the Planning Director, in consultation with other appropriate Town staff:
   a. Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
   b. Changes to the configuration of parking areas, but not the number of parking spaces;
   c. Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space (whether passive or active) is unchanged;
   d. Changes to the configuration of landscape yards, including types of materials, provided minimum width and planting requirements are met;
   e. Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character and remains consistent with the design parameters established in the original approval; and,
   f. Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.
3. In no instance shall a minor modification include any changes to the range of permitted uses or the overall density of the development.

B. MAJOR MODIFICATIONS

1. Changes that materially affect the basic configuration of the development, a condition of approval, or that exceed the scope of a minor change modification are considered major modifications.
2. Major modifications include, but are not limited to:
   a. Increases in building height;
   b. Changes in uses;
   c. Changes in density or intensity;
   d. Decreases in open space;
   e. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected); and
   f. Change in the location of any public easement.
3. Major modifications must be reviewed and considered only in accordance with the procedures and standards established for the original application approval.

2.4.17 EXPIRATION[70]

A. Unless otherwise specified in Section <>, Application Types, application approvals issued under this Ordinance shall expire within one year of the written notice of decision if the work authorized has not been substantially commenced.

B. In the event the work authorized by an approval has substantially commenced, but has subsequently been delayed or failed to maintain substantial progress for a period of one year or more, the application approval shall expire in accordance with NCGS§160D-403(c).

C. The one-year period identified in this sub-section shall not include the period of time associated with litigation or appeal of an approval.

[70] NOTE TO STAFF: This is a new section. Additional discussion is necessary about additional nuance or necessary clarification.

D. The duration of vested rights associated with an application approval shall be in accordance with Section <>, Vested Rights, unless otherwise stated in this Ordinance.

CHAPTER 3
DISTRICTS

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KEY CHANGES FROM CURRENT UDC

Chapter 3, Districts, consolidates and elaborates on the all the zoning district-related material in Article 2, Zoning Districts, along with relocation of the flood protection provisions from Chapter 151 of the Town Code. There are numerous other changes, including:

- Establishment of four new conventional zoning districts: rural, multi-family, mixed-use, and conservation. Rural is intended as a holding zone; Multi-family permits a wide range of residential uses by-right; Mixed-use permits mixed-uses by-right; and Conservation creates a means of protecting land for conservation purposes.
- Renames all the conventional zoning districts.
- Consolidates the Office Residential and Office Institutional districts into a single zoning district.
- Establishment of a new Downtown district with three new sub-districts: core, transitional, and neighborhood.
- Addition of three new conditional zoning districts: Mixed-use, Commercial, and Downtown, and establishes a set of basic standards for each of the five conditional zoning districts, including basic dimensional requirements and details about the concept plans required with Type 3 (unlimited) conditional rezoning applications.
- Abolition the downtown overlay and replace it with the new sub-districts (pending further revision based on pending Downtown Master Plan).
- Replacement of the thoroughfare overlays with a new gateway corridor overlay district framework.
- Relocation of the watershed protection provisions to a new overlay district and revision of the current provisions in accordance with the State's 2023 model ordinance
- Relocate the flood damage provisions from Chapter 151 of the Town Code to a new flood protection overlay district.
- Overhaul the presentation of each of the 17 conventional zoning districts into a new tabular format with a new detailed purpose statement, precedent images of preferred development forms, a new summary table of dimensional requirements, and schematic diagrams demonstrating how dimensional standards are applied.
- Zoning district densities are carried forward, but new dimensional standards like a street setback, maximum lot coverage, and amount of open space set-aside area added.
- Additional dimensional provisions are added for numerous new residential use types like bungalow courts, pocket neighborhoods, conservation subdivision, and others.
- Incorporation of a new set of general dimensional standards, including methods of increasing maximum density as part of voluntary compliance with residential design guidelines or voluntary inclusion of sustainable development features.
- Establishment of new standards for special purpose lots, and recognition of dimensional requirements applied to unified developments.
- Inclusion of a new detailed set of rules of measurement addressing general measurement, determination of density and yield, height measurements and exceptions, and lot coverage provisions.
- Inclusion of new details on methods of lot measurement, determination of lot lines, and descriptions of lot types.
- Incorporation of new details on setbacks, required yards, and allowable encroachments into required setbacks.
- Establishment of new rules on determining slope and elevation (for the purpose of determining maximum building height).

3.1 CHAPTER INTRODUCTION[71]

3.1.1 CHAPTER ORGANIZATION

A. CONVENTIONAL ZONING DISTRICTS SECTION

1. Sections <> through <> include the detailed purpose statements, dimensional standards, and interpretive diagrams for each conventional zoning district listed in Table <>, Zoning Districts Established. The conventional zoning districts in these sections are listed in alphabetical order.
2. The black lettered circles included in each district's dimensional standards table correspond to the black lettered circles in the same district's interpretive diagram. An interpretive diagram is provided for common use types permitted within the conventional zoning district.
3. The interpretive diagrams are for illustrative purposes only. In cases of conflict between the text and a diagram, the applicable standards in Section <>, Conflict, shall govern.
4. The range of allowable principal use types for each zoning district is identified in Section <>, Listing of Common Principal Uses.
5. In cases where a conventional zoning district also includes unique district-specific standards that apply to all lands in that zoning district classification, the unique district standards are found on pages following the interpretive diagram.

B. CONDITIONAL ZONING DISTRICTS SECTION

Section <>, Conditional Zoning Districts, sets out the standards applicable to the conditional zoning districts listed in Table <>, Zoning Districts Established.

C. OVERLAY ZONING DISTRICTS SECTION

Section <>, Overlay Districts, sets out the rules for each of the overlay districts and how they interact with one another and the underlying conventional or conditional zoning districts.

D. MEASUREMENTS AND EXCEPTIONS SECTION

Section <>, Measurements and Exceptions, sets down general dimensional requirements applied to all uses in the Town's planning jurisdiction and the rules of measurement for lots, setbacks, height, slope, and other dimensional requirements. It also includes the provisions for exceptions from general dimensional requirements.

[71] This chapter is proposed to replace current Article 2 in the UDC with several key changes. It anticipates a translation from the zoning districts in the UDC to the districts in this Ordinance instead of a town-wide rezoning. Zoning district names and abbreviations have been slightly revised to be more descriptive of each district's purpose or configuration. This Ordinance includes 5 new conventional zoning districts (based on recommendations from the 2045 Comprehensive Growth Plan and community input): a by-right mixed-use district, a by-right multi-family district, a flexible industrial district (for campus-style employment uses), a rural residential district, and a conservation district. This Ordinance also proposes a consolidation of the O-R & O-I districts into a new single OFI district; a new Downtown district with a series of three sub-districts, and the addition of five new conditional zoning districts. There are also several new overlay districts, including one for the Town's current water supply watershed standards, an overlay for floodplains, and a new gateway corridor overlay district intended to replace the current thoroughfare corridor overlay district. The downtown overlay is proposed for replacement with a new Downtown conventional zoning district. This chapter also includes a new format for zoning district purpose statements and dimensional requirements. Another important change from the current UDC is the relocation of the principal use table from the article devoted to zoning districts (current Article 2 in the UDC) to the chapter on land uses (Chapter 4) of this document. Many of the zoning districts are proposed to allow a wider range of use types than are permitted in the current UDC. A summary of changes for each zoning district is included at the back of this document.

E. INCENTIVES AND ALTERNATIVES SECTION

This section includes cross references to other UDO provisions that allow applicants to exceed allowable residential densities or deviate from certain Ordinance requirements as part of providing preferred development forms, providing identified sustainable development features, or complying with voluntary guidelines.

F. ZONING MAP SECTION

Section <>, Zoning Map, establishes the Official Zoning Map, describes how it is updated and interpreted, how copies may be obtained, and recognizes other related maps such as the FIRM map.

3.1.2 DISTRICTS DISTINGUISHED

All land within the Town's planning jurisdiction shall be in one or more of the following types of zoning districts:

A. All land subject to these standards shall be classified into one of the conventional or conditional zoning districts identified in Table <>, Zoning Districts Established.

B. Land in any conventional or conditional zoning district may also be classified with one or more overlay zoning district designations.

C. In cases where land is within an overlay zoning district, the standards in the overlay district apply in addition to the standards governing development in the underlying conventional or conditional zoning district.

D. Conflicts between underlying and overlay zoning districts are addressed in accordance with Section <>, Conflict.

E. Land in the Town's planning jurisdiction shall be classified or reclassified into a conventional or conditional zoning district only in accordance with the procedures and requirements set forth in Section <>, Conditional Rezoning, or Section <>, Conventional Rezoning, as appropriate.

3.1.3 DISTRICTS ESTABLISHED

A. Table <>, Zoning Districts Established, sets out the conventional and conditional zoning districts established by this ordinance. Conventional zoning districts are organized into Residential, Non-residential, and Special district categories.

B. On (*insert the effective date of this Ordinance*), land zoned with a zoning district classification from the previous Unified Development Code is translated or reclassified to one of the zoning districts set forth in this Ordinance. The table below summarizes this translation. For example, the table shows that all lands classified as R-E, Residential Estate in the previous Unified Development Code under the column named "Former Zoning Districts" are now classified RLL, Residential Large Lot, in this Ordinance as shown under the column titled "Zoning Districts in this Ordinance."

TABLE <>: ZONING DISTRICTS ESTABLISHED

Former Zoning Districts (from the Prior UDC)		Zoning Districts in This Ordinance	
Conventional Residential Zoning Districts			
N/A		RUR	Rural
R-E	Residential Estate	RLL	Residential Large Lot
R-10	Single-Family Residential 10	RLD	Residential Low Density

TABLE <>: ZONING DISTRICTS ESTABLISHED			
FORMER ZONING DISTRICTS (FROM THE PRIOR UDC)		ZONING DISTRICTS IN THIS ORDINANCE	
R-8	Single-Family Residential 8	RMD	Residential Medium Density
R-6	Single-Family Residential 6	RHD	Residential High Density
N/A		RMF	Residential Multi-Family
Conventional Non-residential Zoning Districts			
O-R	Office Residential	OFI	Office Institutional
O-I	Office Institutional		
B-1	Central Business	DTN	Downtown [1][72]
B-2	Neighborhood Business	NCM	Neighborhood Commercial
B-3	Highway Business	CRM	Corridor Commercial
I-1	Industrial Light	LID	Light Industrial
~~N/A~~		~~FID~~	~~Flexible Industrial~~
I-2	Industrial Heavy	HID	Heavy Industrial
Conventional Special Zoning Districts			
N/A		CON	Conservation
PF	Public Facilities	PUB	Public Facilities
N/A		MXD	Mixed-Use
Conditional Zoning Districts [2]			
CZR	Residential Conditional	CZR	Conditional Residential
N/A		CZM	Conditional Mixed-Use
N/A		CZC	Conditional Commercial
N/A		CZD	Conditional Downtown
CZI	Industrial Conditional	CZI	Conditional Industrial
Overlay Zoning Districts			
TOD	Thoroughfare Overlay District	N/A	
WPO	Watershed Protection Overlay	WPOD	Watershed Protection Overlay
DOD	Downtown Overlay District	N/A	

[72] There is at least one property zoned B-1 that is not within the land area covered by the Downtown Master Plan. As a result, this B-1 land will need to be rezoned to a zoning district other than the Downtown District.

TABLE <>: ZONING DISTRICTS ESTABLISHED		
FORMER ZONING DISTRICTS (FROM THE PRIOR UDC)	ZONING DISTRICTS IN THIS ORDINANCE	
N/A	FPOD	Flood Protection Overlay
N/A	GTOD	Gateway Overlay
N/A	LHOD	Local Historic Overlay (placeholder)

NOTES:
[1] The Downtown zoning district is organized into three sub-districts: Downtown Core (DTNC), Downtown Transitional (DTNT), and Downtown Neighborhood (DTNN).
[2] Conditional zoning districts may be limited use (CZ_-LU), limited standards (CZ_-LS), or unlimited (CZ_-UN).

3.2 CONVENTIONAL ZONING DISTRICTS

3.2.1 (CRM) CORRIDOR COMMERCIAL DISTRICT[73]

A. CORRIDOR COMMERCIAL DISTRICT PURPOSE STATEMENT

The Corridor Commercial (CRM) District is applied to lots along the Town's major commercial roadways and major intersections like those found along Highway 70 and NC Highway 42. The district accommodates the widest range of commercial development types, including large floorplate shopping uses likely to generate significant amounts of traffic. Development in the CRM district tends to be low-rise single-use buildings configured for easy access by patrons travelling in automobiles. Development sites may be comprised of a mix of individual buildings on individual sites and multi-tenant or multi-building developments organized into shopping center or campus-style developments located near major roadway intersections. In addition to commercial uses, the district also accommodates a wide range of office and institutional uses. Limited forms of residential, such as upper-story residential and live/work units, are permitted as part of mixed-use development. Public water and sewer service is required for new development, and uses in the district are subject to standards intended to ensure safe vehicular and pedestrian circulation, and that development is well landscaped and aesthetically pleasing.

B. CORRIDOR COMMERCIAL DISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section <>, Conflict.

Stand-alone commercial building



In-line shopping center



Shopping center with outparcels



Mixed-use building

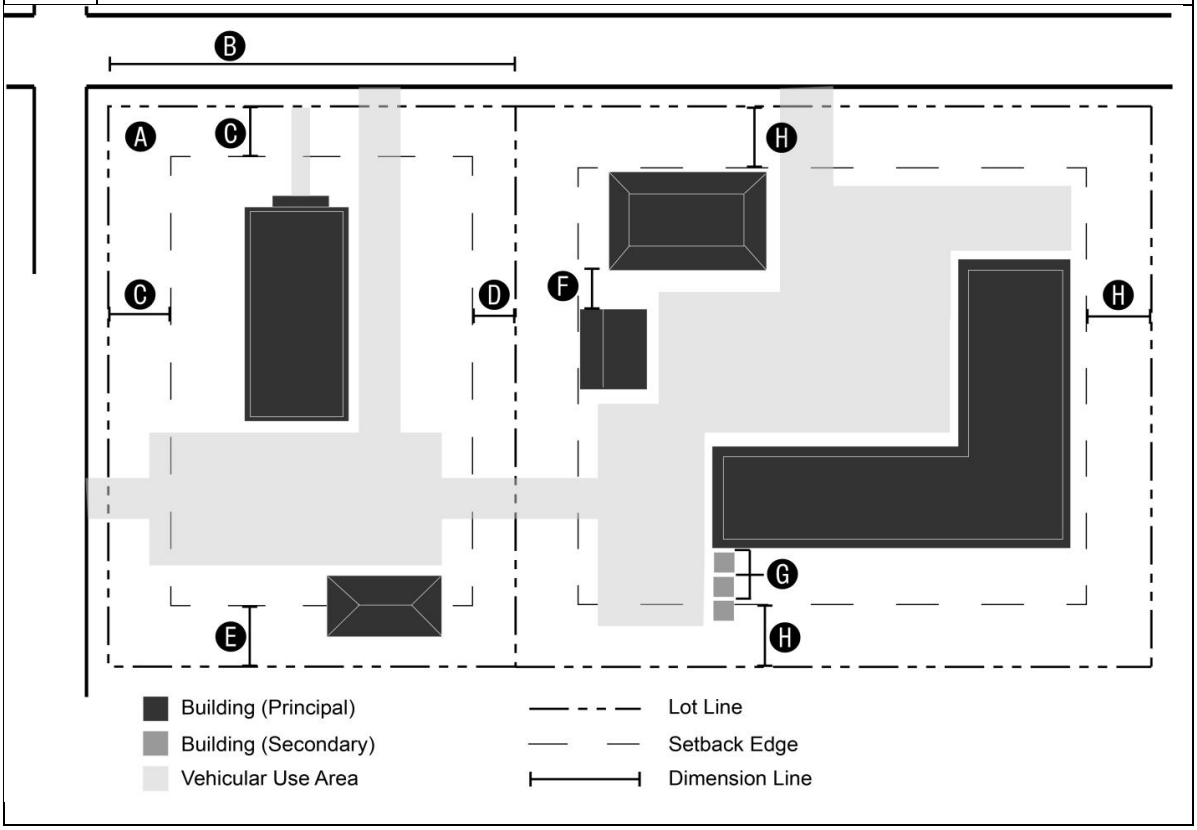


[73] The CRM district is proposed to replace the current B-3 zoning district. There is no direct future land use designation from the Comprehensive Plan – the closest designation is Community Center, which permits a wide range of residential uses at 12 units an acre. The proposed CRM district allows the widest range of commercial uses among the zoning districts, numerous institutional uses, and limited forms of residential. These standards add a maximum residential density of 6 units per acre to accommodate residential in a mixed-use setting (12 units an acre seems high given the predominately commercial nature of this district). The standards add a minimum open space set-aside percentage of 5% of the total lot area, remove building coverage in favor of a single impervious surface limit of 75%, establish a street setback instead of a front and corner side setback, and remove the current differential side setbacks when abutting residential (since this is impossible to maintain over time). The current minimum spacing standard of 20 feet between buildings is maintained and the district adds a perimeter setback from the development's outer perimeter for unified or multi-building developments.

C. CORRIDOR COMMERCIAL DISTRICT DIMENSIONAL STANDARDS FOR ALLOWABLE USE TYPES

	Max. Residential Density (du/ac)	6.0	C	Min. Street Setback (ft) [3]	25
A	Min. Lot Area (sf)	8,000	D	Min. Side Setback (ft)	15
	Min. Lot Area with Residential Use (sf) [1]	20,000	E	Min. Rear Setback (ft)	30
B	Min. Lot Width (ft)	60		Min. Spacing Between Buildings (ft) [4]	
	Max. Lot Coverage (% of lot area)	75	F	Principal	20
	Min. Open Space Set-Aside (% of lot area) [2]	5	G	Secondary	5
	Max. Building Height (ft)	60	H	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [5]	30

NOTES:
[1] Applied to entire development site, not to individual lots within a single development site.
[2] See Section <>, Open Space Set-Aside and Parkland, for the type of open space required.
[3] Applied from the edge of public street rights-of-way. Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if provided.
[4] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[5] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.2 (CON) CONSERVATION[74]

A. CONSERVATION DISTRICT PURPOSE STATEMENT

The Conservation (CON) District is established to preserve and protect natural resources and areas of environmental concern (like the primary and secondary resource conservation areas). The district is intended to protect areas with steep slopes, wetlands, and riparian corridors from erosion and sedimentation; retain and protect environmentally-sensitive areas; protect archeological resources from disturbance; and preserve and maintain the aesthetic qualities and appearance of the Town. The district allows forestry, gardens, public parks, and land conservation activity along with typical secondary uses such as semi-pervious paving and storage. Campgrounds may be permitted as a special use. The district is not intended for athletic fields, courts, or any other features that require significant grading or alteration of existing landforms.

B. CONSERVATION DISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section <>, Conflict.

Aboretum



Boardwalk



Playground



Campground



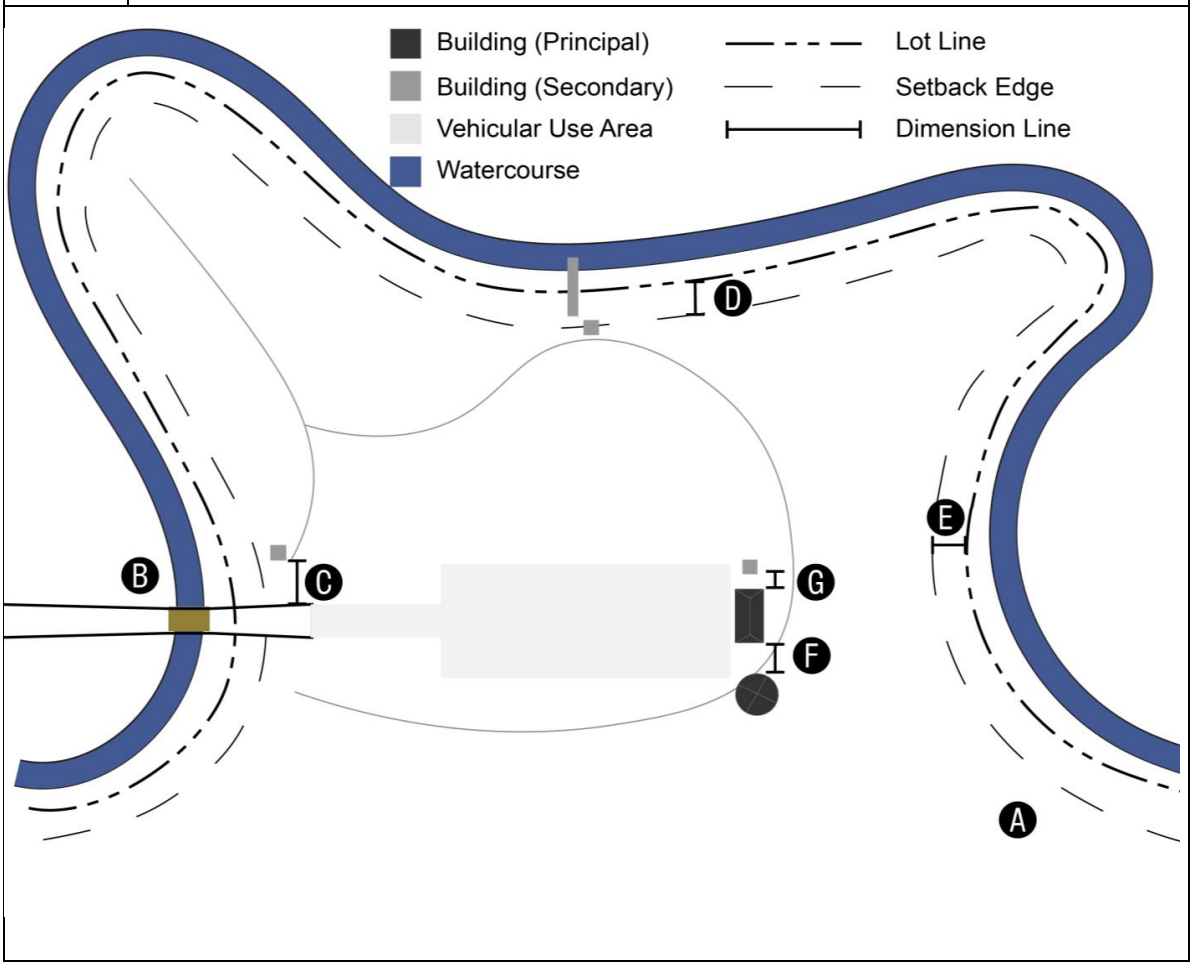
[74] The CON is a new district intended for protection or conservation. There is no direct future land use designation from the Comprehensive Plan – the closest designation is Recreation and Open Space, which permits parks, public recreation areas, active and passive recreation features, and conservation. Given its main focus as a conservation district, CON allows a limited range of uses like forestry, gardens, environmentally-sensitive features, parks with passive recreation features, and lands intended for conservation. Given its maximum impervious surface limitation of 5%, the district could also be used for primary and secondary resource conservation areas (RCAs), open space set-aside associated with a conservation subdivision, or other areas intended to remain in a natural state. The district does not permit residential, commercial, or industrial land uses, and all the dimensional standards are new.

C. CONSERVATION DISTRICT DIMENSIONAL STANDARDS FOR ALLOWABLE USES

	Max. Residential Density (du/ac)	0.0	C	Min. Street Setback (ft) [1]	30
A	Min. Lot Area (sf)	N/A	D	Min. Side Setback (ft)	30
B	Min. Lot Width (ft)	N/A	E	Min. Rear Setback (ft)	30
	Max. Lot Coverage (% of lot area)	5		Min. Spacing Between Buildings (ft) [2]	
	Min. Open Space Set-Aside (% of lot area)	N/A	F	Principal	20
	Max. Building Height (ft)	12	G	Secondary	10
			H	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [3]	40

NOTES:

[1] Applied from edge of public street rights-of-way. Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if provided.
[2] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[3] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.3 (DTNC) DOWNTOWN CORE[75]

A. DOWNTOWN CORE (DTNC) SUBDISTRICT PURPOSE STATEMENT

The Downtown Core (DTNC) Sub-district is the Town's central business district located on the blocks abutting Main Street in the center of Town. The district includes a wide array of allowable uses, including retail, entertainment, offices, institutional, and the highest density residential uses in Town. Uses in the subdistrict are all served by public water and sewer and are located on small lots in close proximity to one another. The area is intended to serve residents and visitors with shopping, dining, entertainment, and recreation offerings for at least 18 hours a day. Buildings are typically two-to-four stories in height, located close to the street they front, and symmetrical in design. High quality design is used to preserve land use compatibility rather than large lots or deep landscaping buffers between different uses. The transportation network is a well-established rectilinear street grid network of uniform block sizes, through streets, and alleys. The district includes parks, sidewalks, on-street parking, and pedestrian amenities such as gathering spaces, outdoor dining and seating, and public art. The district is also the center of government and civic life with numerous public and institutional buildings. Emphasis is placed on quality development, pedestrian orientation, and human-scale development.

B. DOWNTOWN CORE (DTNC) SUBDISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section <>, Conflict.



Mixed-Use Building



Live/Work Building



Commercial Building



Single-Family Attached Buildings

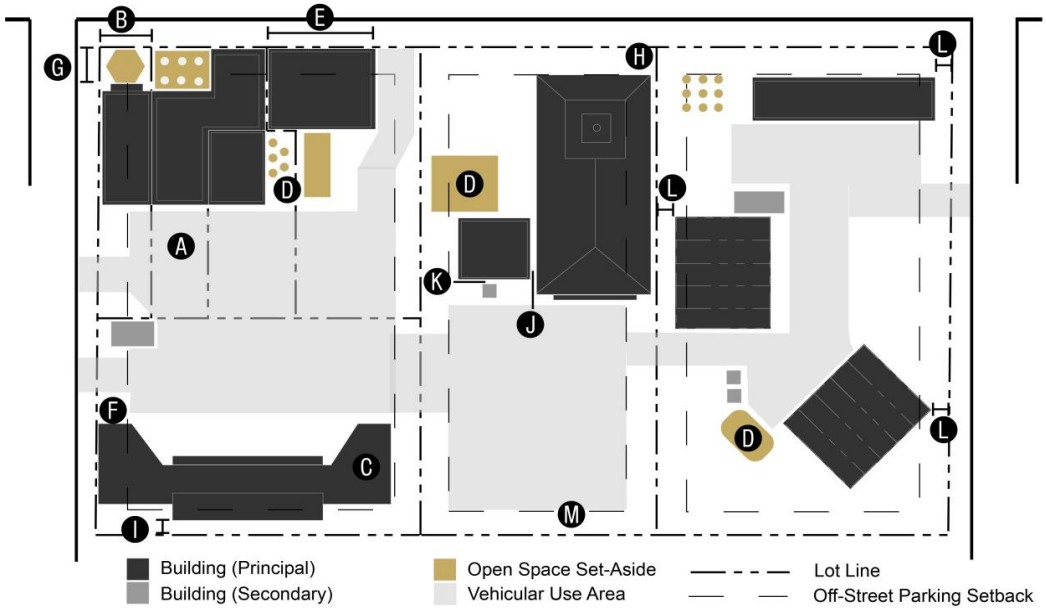
[75] The DTNC is the core portion of the new Downtown district envisioned as a part of the updated Downtown Master Plan. The Comprehensive Plan identifies this area as the highest intensity commercial, employment, and residential uses. Densities are anticipated at around 30 units an acre with apartments, live/work, mixed-uses, and multi-family. Development is high quality, incorporates parks and gathering areas, and is well integrated with surrounding neighborhoods (likely zoned DTNR and DTNT). Older homes remain but are renovated to contain commercial or mixed-uses. The street system maintains a tight, well-connected grid pattern with alley access. Development maintains a "main street" character – buildings of 1-4 stories, built close to the street with parking to the side or rear, a de-emphasis on landscaping and suburban-style building separation, and a strong emphasis on the public realm and places for persons to gather.

C. DOWNTOWN CORE (DTNC) SUBDISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	30.0	F	Min. Street Setback (ft) [9]	None
A	Min. Lot Area (sf)	None	G	Max. Street Setback (ft) [9]	0 [10]
B	Min. Lot Width (ft) [1] [2] [3]	20	H	Side Setback (ft) (Abutting DTN district / Abutting other district) [11] [12] [13]	0/5
	Max. Lot Coverage (% of lot area)	100	I	Rear Setback (ft) (Abutting DTN district / Abutting other district) [11] [12] [13]	0/10
C	Max. Building Size (sf) [4]	30,000		Min. Spacing Between Buildings (ft) [11]	
D	Min. Open Space Set-Aside (% of lot area) [5]	5	J	Between Principal Buildings [14]	3
	Min. Building Height (stories) [6]	2	K	Between Secondary and any other Building	3
	Max. Building Height (ft)	50	L	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [15]	10
E	Min. Building Frontage (% of lot width) [7] [8]	75	M	Min. Off-Street Parking Setback (ft)	20

NOTES:

[1] Applied to the entire development site when buildings on individual lots have shared or party walls.
[2] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[3] New blocks of lots with lot widths of less than 50 feet require the provisions of alleys.
[4] Applied to new commercial buildings only. Buildings on lots over five acres in area are exempt.
[5] Gathering areas are credited as open space set-aside.
[6] At least two stories; but corner buildings shall maintain the same height as an adjacent building of more than two stories.
[7] Measured at inner edge of the street setback adjacent to the primary building facade. Only applied to the lot side adjacent to the primary building façade on corner or dual frontage lots.
[8] Gathering areas abutting the street right-of-way are credited towards building frontage requirements.
[9] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[10] Maximum street setback is applied only to the primary building façade and is zero feet. Primary building walls may be built to the edge of a gathering area located between the primary building wall and the street right-of-way.
[11] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[12] Not applied to lots lines adjacent to shared or party building walls.
[13] Not applied to multi-building and unified developments.
[14] Excludes buildings with shared or party walls.
[15] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



D. DOWNTOWN CORE (DTNC) SUBDISTRICT-SPECIFIC STANDARDS

1. GROUND FLOOR CONFIGURATION

a. New mixed-use and non-residential structures shall be configured to comply with commercial building code requirements throughout the ground or street-level floor.

b. Except for buildings required to include ADA-accessible dwelling units, the portion of the building including the primary façade of the street-level ground floor shall be occupied by a non-residential use with a minimum depth equivalent to one-third of the building's total depth.

c. Nothing shall limit the rear two thirds of the street level floor from being used for residential purposes.

d. In cases where a building is required to include ADA-accessible dwelling units, none of the street level floor area must be occupied by a non-residential use.

~~1.~~2. ON-STREET PARKING

On-street parking shall be provided in accordance with the Town's adopted policy guidance, but shall be limited to one side of the street.

~~2.~~3. OFF-SITE PARKING

Multi-family residential may utilize off-site parking in accordance with Section <> Off-~~Street~~ Site Parking, but no other residential use type shall utilize off-site parking to comply with off-street parking requirements.

~~3.~~4. FENCES AND WALLS

Fences and walls shall comply with the applicable requirements in Section <>, Fences and Walls, and the following:

a. Opaque fences and walls located within the off-street parking setback or between the front building façade plane and the street it faces shall maintain a maximum height of three feet or less.

b. Semi-opaque fences and walls located within the off-street parking setback or between the front building façade plane and the street it faces shall maintain a maximum height of four feet or less.

c. Opaque and semi-opaque fences and walls may maintain a maximum height of up to six feet in locations outside of the off-street parking setback and behind the front façade plane.

~~4.~~5. STREET TREES

Street trees shall be provided in accordance with Section <>, Street Trees, except that understory trees may be utilized instead of canopy trees in any location where overhead or underground utilities may be present.

~~5.~~6. LOT ACCESS

Corner lots shall not maintain direct vehicular ingress or egress to Main Street.

~~6.~~7. ZONING DISTRICT BOUNDARY CHANGES

The zoning district designation of land within a Downtown (DTN) district or applicable sub-district designation only in accordance with the Town's adopted policy guidance for the downtown, Section <>, Conditional Rezoning, or Section <>, Conventional Rezoning, and the following:

a. Applications seeking to establish one of the downtown sub-district designations on land shall be guided by the applicable future land use category on the future land

use map in the 2045 Comprehensive Growth Plan, as amended by the Downtown Master Plan.

b. Applications seeking to alter the sub-district designation from one downtown sub-district to another sub-district designation shall be limited solely to those lots that abut or are adjacent to land within the desired sub-district. Applications on lands not abutting or adjacent to the desired downtown sub-district will be required to demonstrate how the desired rezoning is both compelling and consistent with the public interest.

c. Nothing shall limit an applicant from filing a request to establish a -CZD conditional zoning district on land anticipated to be located within the downtown zoning district by the Town's adopted policy guidance.

3.2.4 (DTNN) DOWNTOWN NEIGHBORHOOD[76]

A. DOWNTOWN NEIGHBORHOOD (DTNN) SUBDISTRICT PURPOSE STATEMENT

The Downtown Neighborhood (DTNN) Sub-district includes three groups of neighborhood blocks located to the north and south of Main Street and surrounded on most sides by the Downtown Transitional (DTNT) Sub-district. The Downtown Neighborhood Transitional (DTNT) Subdistrict is comprised of neighborhoods with mid-century and older single-family residential dwellings on contiguous lots around the downtown area. The sub-district standards are configured to protect and maintain the established residential character of the neighborhoods with allowance for limited amounts of neighborhood-serving non-residential and institutional development, all on public water and sewer utilities. In addition to single-family detached dwellings, the sub-district permits a range of moderate-density housing options like duplexes, bungalow courts, and single-family attached residential. Buildings maintain a residential character and are commonly between one and two stories in height. Privacy fences and landscaping are common methods of maintaining land use compatibility between different lots. As with the other downtown sub-districts, sidewalks, parks, and recreation features are distributed throughout the sub-district. The transportation network continues the well-established rectilinear street grid network of uniform block sizes, through streets, and alleys found in the downtown core and transitional area.

B. DTNN SUBDISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section <>, Conflict.



Quadplex Building



Single-Family Detached Dwellings



Pocket Neighborhood



Live/Work Building

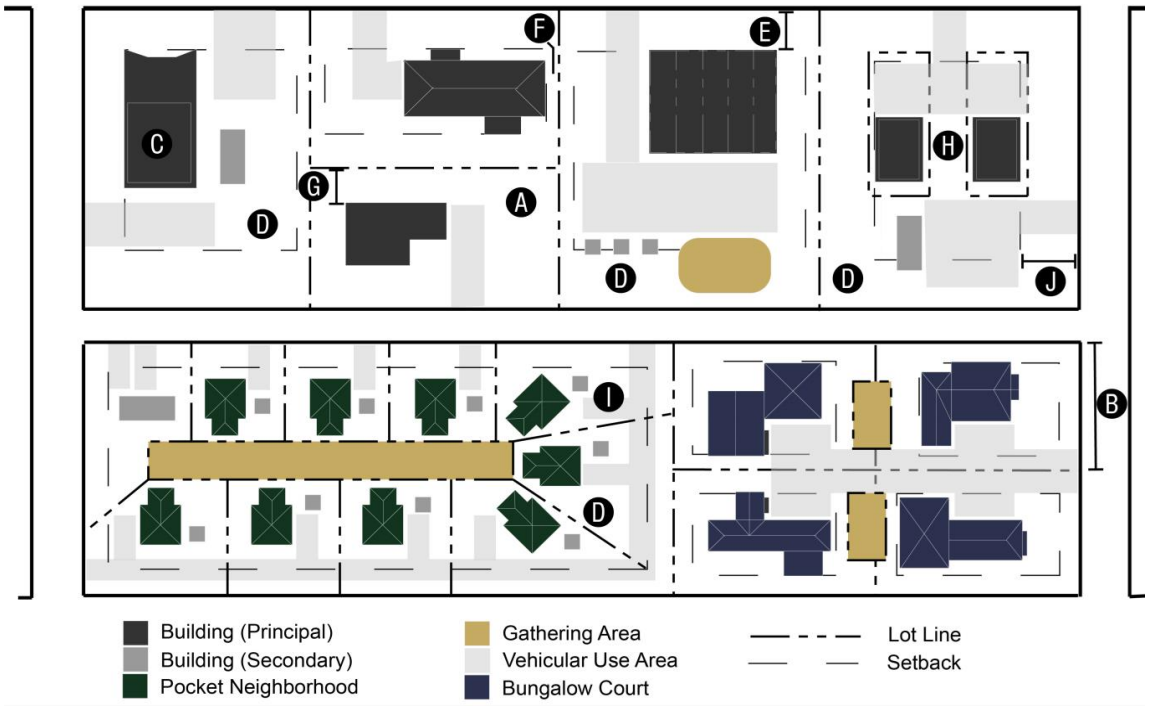
[76] The DTNN district includes the existing residential neighborhoods surrounding the central business district portion of downtown, as envisioned by the updated Downtown Master Plan. The Comprehensive Plan identifies this area as Downtown Neighborhood. It is envisioned as a primarily single-family detached area with small-scale multi-family and single-family attached uses in close proximity to the central business district. It seeks to retain the historic character of the area, with connected streets that include pedestrian circulation features. While not envisioned in the plan, the area ~~could~~ permits very low intensity non-residential uses like ~~offices~~co-working space, home occupations, and personal services operating out of homes ~~or formerly residential structures~~(as Type 2 home occupations). Densities are envisioned at around 9 units per acre, though lot sizes for single-family residential are likely to be larger than 5,000 square feet each. The Plan suggests sites set aside 10% of their area as open space with a blend of active and passive and formal recreation features.

C. DOWNTOWN NEIGHBORHOOD SUBDISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	9.0	E	Min. Street Setback (ft) [6] [10]	20
A	Min. Lot Area (sf) [1]	7,000		Max Street Setback (ft)	None
B	Min. Lot Width (ft) [2] [3]	50	F	Side Setback (ft) (Abutting DTN district / Abutting other district) [7] [8] [9]	5/10
	Max. Lot Coverage (% of lot area)	60	G	Rear Setback (ft) (Abutting DTN district / Abutting other district) [7] [8] [9] [10]	20/25
C	Max. Building Size (sf) [4]	5,000		Min. Spacing Between Buildings (ft) [7] [10]	
D	Min. Open Space Set-Aside (% of lot area) [5]	10	H	Between Principal Buildings [8]	20
	Min. Building Height (stories)	None	I	Between Secondary and any other Building	8
	Max. Building Height (ft)	35	J	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [11]	30
	Min. Building Frontage (% of lot width)	None		Min. Off-Street Parking Setback (ft)	None

NOTES:

[1] Plus an additional 500 sf per residential unit for developments in excess of two units.
[2] Applied to the entire development site when buildings on individual lots have shared or party walls.
[3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[4] Applied to new commercial and institutional buildings only. Buildings on lots over five acres in area are exempt.
[5] Gathering areas are credited as open space set-aside.
[6] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[7] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[8] Not applied to lots lines adjacent to shared or party building walls.
[9] Not applied to multi-building and unified developments.
[10] Reduced by 50% for bungalow court and pocket neighborhood uses.
[11] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



D. DOWNTOWN NEIGHBORHOOD (DTTN) SUBDISTRICT-SPECIFIC STANDARDS

1. ON-STREET PARKING

On-street parking shall be provided in accordance with the Town's adopted policy guidance, but shall be limited to one side of the street.

2. STREET TREES

Street trees shall be provided in accordance with Section <>, Street Trees, except that understory trees may be utilized instead of canopy trees in any location where overhead or underground utilities may be present.

3. ZONING DISTRICT BOUNDARY CHANGES

The zoning district designation of land within a Downtown (DTN) district or applicable sub-district designation only in accordance with the Town's adopted policy guidance for the downtown, Section <>, Conditional Rezoning, or Section <>, Conventional Rezoning, and the following:

a. Applications seeking to establish one of the downtown sub-district designations on land shall be guided by the applicable future land use category on the future land use map in the 2045 Comprehensive Growth Plan, as amended by the Downtown Master Plan.

b. Applications seeking to alter the sub-district designation from one downtown sub-district to another sub-district designation shall be limited solely to those lots that abut or are adjacent to land within the desired sub-district. Applications on lands not abutting or adjacent to the desired downtown sub-district will be required to demonstrate how the desired rezoning is both compelling and consistent with the public interest.

c. Nothing shall limit an applicant from filing a request to establish a -CZD conditional zoning district on land anticipated to be located within the downtown zoning district by the Town's adopted policy guidance.

3.2.5 (DTNT) DOWNTOWN TRANSITIONAL[77]

A. DOWNTOWN TRANSITIONAL (DTNT) SUBDISTRICT PURPOSE STATEMENT

The Downtown Transitional (DTNT) Sub-district includes the lots surrounding the Town's central business district along Main Street and lands surrounding the downtown core. The sub-district provides a gradual transition in development densities and intensities from the downtown core to the surrounding lower-density neighborhoods and auto-oriented commercial uses along Highway 70. The sub-district is a blend of moderate-to-high-density housing, mixed-uses, institutional development, and neighborhood-serving commercial in small footprint buildings. Uses in the sub-district are found on lots of varying sizes, all served by public water and sewer service. Lots tend to be slightly larger than those found in the downtown core, and the sub-district utilizes a blend of setbacks, architectural controls, and landscaping to protect land use compatibility. Buildings are typically one-to-three stories in height with moderate setbacks from the streets they front. Sidewalks, parks, and recreation features are distributed throughout the sub-district. The transportation network continues the well-established rectilinear street grid network of uniform block sizes, through streets, and alleys found in the downtown core. Emphasis is placed on providing effective transitions between the dense downtown core and the neighborhoods found around the core.

B. DOWNTOWN TRANSITIONAL SUBDISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section <>, Conflict.



Mixed-Use Building



Commercial Building



Single-Family Detached Building



Single-Family Attached Building

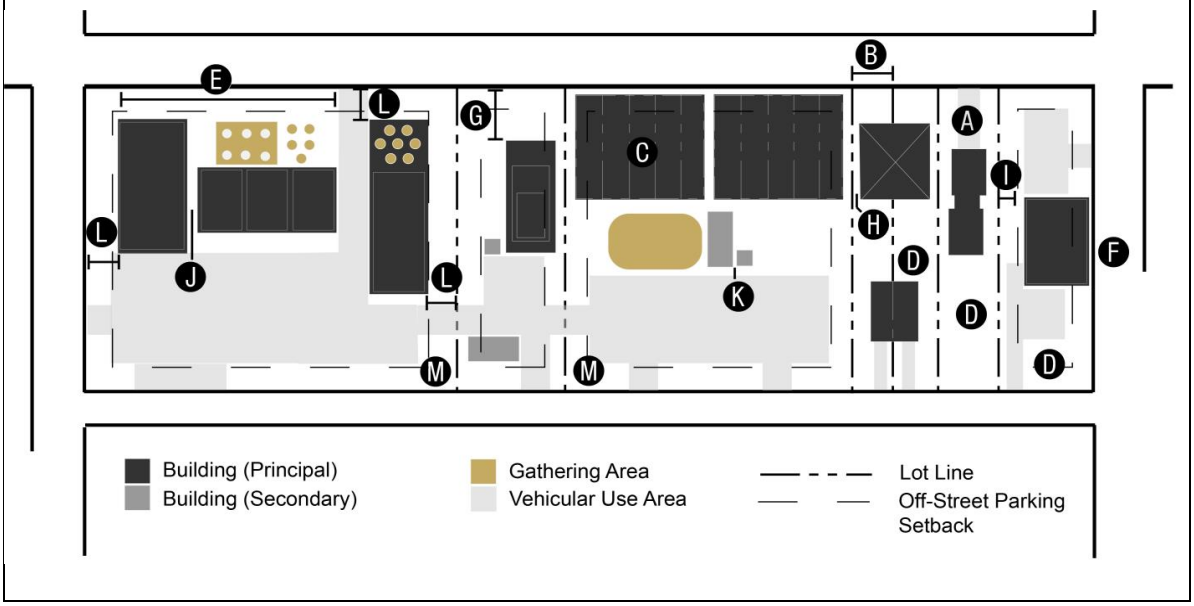
[77] The DTNT subdistrict includes exiting developed areas surrounding the central business district and downtown residential neighborhoods. The Comprehensive Plan identifies this areas as "Downtown Support". The transitional area includes a blend of single-family detached homes, ~~mutli~~multi-family development, and non-residential uses surrounding the central business district. The Comprehensive Plan indicates this is an area of medium to high-density housing in tandem with small-scale retail and office uses that provide supporting services to downtown and serve as a transition between the higher density downtown core and adjacent older residential neighborhoods near downtown. The Plan also suggests mixed use development and the allowance for live/work units. It anticipates densities of around 25 units an acre with a connected street network organized as a formal grid with short blocks, alleys, and wide sidewalks. This draft of the UDO caps densities at 16 per acre, which is more realistic. While the plan is silent on open space set aside amounts, similar amounts and forms of open space as are anticipated for the downtown neighborhood subdistrict are appropriate.

C. DOWNTOWN TRANSITIONAL (DTNT) SUBDISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	16.0	F	Min. Street Setback (ft) [9] [10]	None
A	Min. Lot Area (sf) [1]	5,000	G	Max Street Setback (ft) [9] [11]	35
B	Min. Lot Width (ft) [2] [3] [4]	40	H	Side Setback (ft) (Abutting DTN district / Abutting other district) [12] [13] [14]	5/6
	Max. Lot Coverage (% of lot area)	70	I	Rear Setback (ft) (Abutting DTN district / Abutting other district) [12] [13] [14]	15/20
C	Max. Building Size (sf) [5]	7,000		Min. Spacing Between Buildings (ft) [12]	
D	Min. Open Space Set-Aside (% of lot area) [6]	7	J	Between Principal Buildings [15]	10
	Min. Building Height (stories)	2	K	Between Secondary and any other Building	5
	Max. Building Height (ft)	40	L	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [16]	20
E	Min. Building Frontage (% of lot width) [7] [8]	55	M	Min. Off-Street Parking Setback (ft)	15

NOTES:

[1] Plus an additional 500 sf per residential unit for developments in excess of two units.
[2] Applied to the entire development site when buildings on individual lots have shared or party walls.
[3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[4] New blocks of lots with lot widths of less than 50 feet require the provisions of alleys.
[5] Applied to new commercial buildings only. Buildings on lots over five acres in area are exempt.
[6] Gathering areas are credited as open space set-aside.
[7] Measured at inner edge of the street setback adjacent to the primary building facade. Only applied to the lot edge adjacent to the primary building façade on corner or dual frontage lots.
[8] Gathering areas abutting the street right-of-way are credited towards building frontage requirements.
[9] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[10] Primary building facades may abut the edge of a public street right-of-way unless off-street parking is proposed between the primary façade and the street it faces.
[11] Maximum street setback is applied only to the primary building façade. Primary building walls may be farther than 35 feet from the street, but must be built to the edge of a gathering area abutting the street right-of-way.
[12] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[13] Not applied to lots lines adjacent to shared or party building walls.
[14] Not applied to multi-building and unified developments.
[15] Excludes buildings with shared or party walls.
[16] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



D. DOWNTOWN TRANSITIONAL SUBDISTRICT-SPECIFIC STANDARDS

1. ON-STREET PARKING

On-street parking shall be provided in accordance with the Town's adopted policy guidance, but shall be limited to one side of the street.

2. OFF-SITE PARKING

Multi-family residential may utilize off-site parking in accordance with Section <> Off-Street Parking, but no other residential use type shall utilize off-site parking to comply with off-street parking requirements.

3. STREET TREES

Street trees shall be provided in accordance with Section <>, Street Trees, except that understory trees may be utilized instead of canopy trees in any location where overhead or underground utilities may be present.

4. ZONING DISTRICT BOUNDARY CHANGES

The zoning district designation of land within a Downtown (DTN) district or applicable sub-district designation only in accordance with the Town's adopted policy guidance for the downtown, Section <>, Conditional Rezoning, or Section <>, Conventional Rezoning, and the following:

a. Applications seeking to establish one of the downtown sub-district designations on land shall be guided by the applicable future land use category on the future land use map in the 2045 Comprehensive Growth Plan, as amended by the Downtown Master Plan.

b. Applications seeking to alter the sub-district designation from one downtown sub-district to another sub-district designation shall be limited solely to those lots that abut or are adjacent to land within the desired sub-district. Applications on lands not abutting or adjacent to the desired downtown sub-district will be required to demonstrate how the desired rezoning is both compelling and consistent with the public interest.

c. Nothing shall limit an applicant from filing a request to establish a -CZD conditional zoning district on land anticipated to be located within the downtown zoning district by the Town's adopted policy guidance.

3.2.6 (HID) HEAVY INDUSTRIAL[78]

A. HEAVY INDUSTRIAL (HID) DISTRICT PURPOSE STATEMENT

The Heavy Industrial (HID) district is established to provide industrial and similar high impact uses associated with manufacturing, energy production, and utilities. HID areas are typically found on larger lots in areas proximate to major roadways and rail access and located away from residential and environmentally sensitive areas. The district is intended to provide employment opportunities to Town residents and to help the community maintain a diversified tax base. Buildings tend to be large, single-story structures with a utilitarian design and very little architectural embellishment except for the ground-, wall-, and roof-based mechanical equipment and facilities associated with the industrial purpose of the site. Heavy industrial buildings are often surrounded by accessory activity areas such as bulk outdoor storage, trailer and container staging areas, typically surrounded by security fencing. District standards are intended to prevent the establishment of any use types that would interrupt or interfere with industrial operations. The district accommodates uses and activities with extensive movement of vehicles, materials, and goods, truck traffic and greater potential for adverse environmental and visual impacts on neighboring lands. The district also allows limited forms of heavier commercial uses as well as public safety and similar institutional use types, but lighter commercial and residential development are prohibited (except for caretaker quarters as an accessory use). Uses in the industrial district should include adequate setbacks from less intense land uses and methods for mitigating the impacts of noise, lighting, and dust such as extensive landscaping buffers or areas of undisturbed vegetation.

B. HEAVY INDUSTRIAL (HID) DISTRICT PREFERRED DEVELOPMENT FORMS



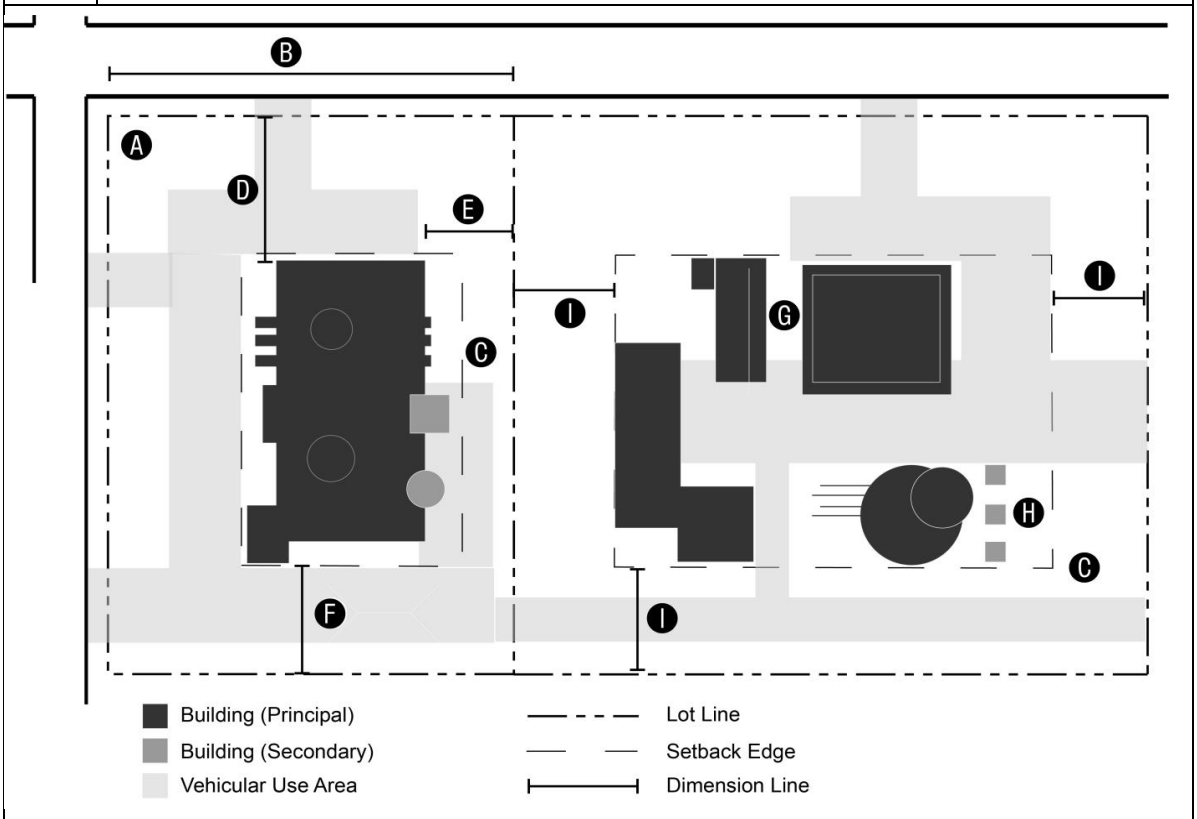


[78] The HID District is proposed to replace the current I-2 Heavy Industrial district with a few changes including the application of a single street setback dimension, removal of side and rear setback differential when the district abuts a residential district, and an increase in the maximum height from 50 to 60 feet. The new HID district includes a 5% open space set-aside requirement (which could be a gathering location), and the addition of a perimeter setback for multi-building and unified developments.

C. HEAVY INDUSTRIAL (HID) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	N/A	E	Min. Side Setback (ft) [3] [4]	20
A	Min. Lot Area (sf)	20,000	F	Min. Rear Setback (ft) [3] [4]	40
B	Min. Lot Width (ft)	100		Min. Spacing Between Buildings (ft) [5]	
	Max. Lot Coverage (% of lot area)	75	G	Principal	20
C	Min. Open Space Set-Aside (% of lot area) [1]	5	H	Secondary	0
	Max. Building Height (ft)	60	I	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [6]	40
D	Min. Street Setback (ft) [2] [3]	50			

NOTES:
[1] See Section <>, Open Space Set-Aside and Parkland, for the type of open space required.
[2] Applied from the edge of public street rights-of-way. Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if provided.
[3] Setbacks applied equally to principal and secondary buildings and open use areas.
[4] Buildings are not required to be setback from rail siding or other active rail facilities serving the use even if located within required setbacks.
[5] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[6] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.7 (LID) LIGHT INDUSTRIAL[79]

A. LIGHT INDUSTRIAL (LID) DISTRICT PURPOSE STATEMENT

The Light Industrial (LID) District accommodates a wide range of light industrial and commercial uses on lands well-served by public infrastructure, including water, sewer, and good transportation access. The district provides employment opportunities and contributes to the Town's non-residential tax base. Buildings tend to be one or two-story structures that are smaller than the buildings occupied by heavy industrial uses. Uses allowed in the district do not require large amounts of land or large building areas for operation nor large yard areas for isolation or protection from adjoining premises or activities. Buildings may be closer to streets and allow up to one row of off-street parking spaces between the primary building entrance(s) and the street it faces, though most parking is located to the side or rear of the principal building(s). Activities take place almost entirely indoors and result in minimal exterior movement of vehicles, materials, and goods in areas around the district. Buildings are situated so as to have minimal visual impacts and are well-screened from adjacent lots in lower intensity zoning districts with perimeter landscaping buffers. Compatibility with surrounding lower intensity uses and lots in lower intensity districts is addressed through community character standards applied to commercial and industrial uses. The LID district is suitable for light manufacturing and similar light industrial uses such as assembly, fabrication, processing, distribution, storage, and wholesales sale of finished or semi-finished products from previously prepared materials. The district also accommodates a wide variety of commercial use types as well as a limited array of institutional uses. Heavy industrial uses and uses with significant adverse impacts on adjoining lands, most forms of residential, and other low intensity uses are prohibited in the LID district.

B. LIGHT INDUSTRIAL (LID) DISTRICT PREFERRED DEVELOPMENT FORMS









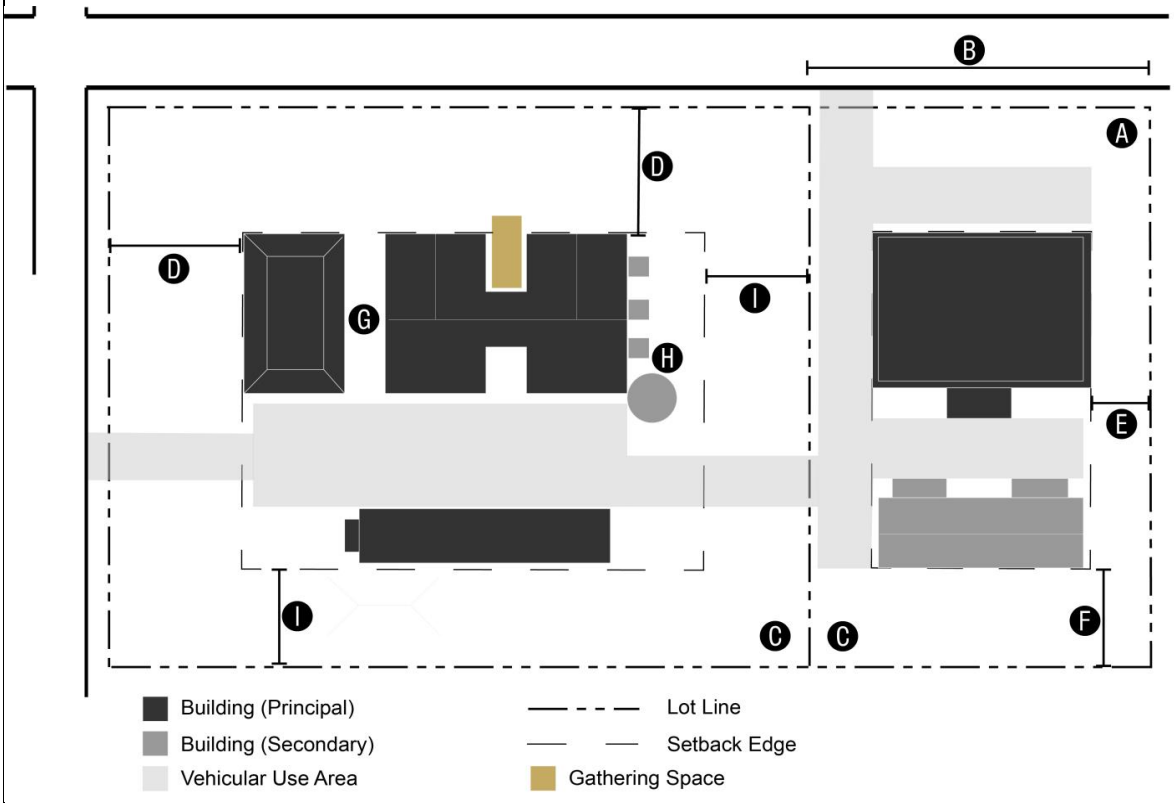
[79] The LID District is proposed to replace the current I-1 Light Industrial district with a few changes including the application of a single street setback dimension and removal of side and rear setback differential when the district abuts a residential district. The new HID district includes a 7% open space set-aside requirement (which could be a gathering location), and the addition of a perimeter setback for multi-building and unified developments.

C. LIGHT INDUSTRIAL (LID) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac) [1]	N/A	E	Min. Side Setback (ft) [4] [5]	20
A	Min. Lot Area (sf)	20,000	F	Min. Rear Setback (ft) [4] [5]	40
B	Min. Lot Width (ft)	100		Min. Spacing Between Buildings (ft) [6]	
	Max. Lot Coverage (% of lot area)	75	G	Principal	20
C	Min. Open Space Set-Aside (% of lot area) [2]	7	H	Secondary	0
	Max. Building Height (ft)	50	I	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [7]	50
D	Min. Street Setback (ft) [3] [4]	50			

NOTES:

[1] Live/work units are permitted at up to four units per acre.
[2] See Section <>, Open Space Set-Aside and Parkland, for the type of open space required.
[3] Applied from the edge of public street rights-of-way. Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if provided.
[4] Setbacks applied equally to principal and secondary buildings and open use areas.
[5] Buildings are not required to be setback from rail siding or other active rail facilities serving the use even if located within required setbacks.
[6] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[7] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.8 (MXD) MIXED-USE[80]

A. MIXED-USE (MXD) DISTRICT PURPOSE STATEMENT

The Mixed-Use (MXD) District accommodates residential, institutional, and commercial land uses on lands well-served by public utilities. MXD areas are generally located adjacent to major streets and along primary transportation corridors. The district is intended to foster functional neighborhoods where Town residents and visitors can live, work, shop, and recreate without travelling large distances between differing uses. Buildings are built close to the sidewalk and close to one another or within pedestrian-oriented campuses without suburban-style setbacks and heavy landscaping areas between them. Developments incorporate public gathering areas that create places for people to congregate and interact. Off-street parking and service areas are located to the sides and rears of buildings to help ensure a continuity of building facades along street edges and to avoid areas that are unsafe or undesirable for pedestrians. Buildings range in height from one-to-three stories. The district encourages a fine-grained network of streets and pedestrian ways that allow a wide freedom of movement and choices in transportation mode. Live/work dwellings, upper-story residential units, and a variety of other residential developments are allowed, but the district does not permit single-family detached dwellings. The district accommodates a wide variety of commercial and institutional use types, as well as low-impact industrial uses like maker space. Ground-floor non-residential is encouraged but not required provided the ground floor is configured in accordance with non-residential building code requirements, and horizontally mixed uses (a blend of different use types in adjacent detached structures) is allowable but may be subject to maximum timeframes for establishment of use mixing by the Town.

B. MIXED-USE (MXD) DISTRICT PREFERRED DEVELOPMENT FORMS



Horizontal Mixed-Use



Vertical Mixed-use



Horizontal Mixed-Use



Vertical Mixed-Use

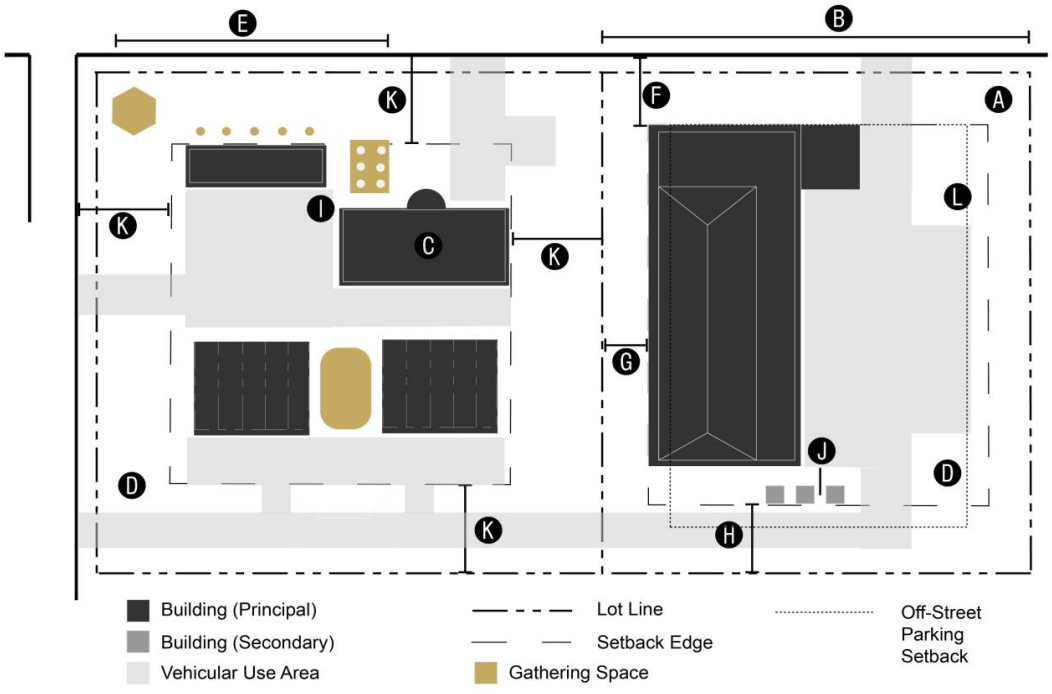
[80] This is a new by-right mixed-use district That will be made available for applicants to request as part of a rezoning (there is a corresponding conditional zoning district option as well). The districts permits the establishment of mixed-use development without need of a special use permit, but development must include floor area or land uses from two or more different use classifications (residential, commercial, institutional, etc.). Ground-floor non-residential is encouraged but not required, and horizontally mixed uses (a blend of different use types in adjacent detached structures) is common. Development is subject to design control with an emphasis on compact form and use of architectural aspects and building design to protect compatibility rather than suburban landscaping and perimeter buffering. Buildings are close to the street or organized in campus settings with an emphasis on pedestrian orientation.

C. MIXED-USE (MXD) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	12.0	F	Min. Street Setback (ft) [10] [11]	20
A	Min. Lot Area (sf) [1]	4,000		Max Street Setback (ft)	None
B	Min. Lot Width (ft) [2] [3] [4]	40	G	Side Setback (ft) [12] [13] [14]	15
	Max. Lot Coverage (% of lot area)	70	H	Rear Setback (ft) [12] [13] [14]	25
C	Max. Building Size (sf) [5]	10,000		Min. Spacing Between Buildings (ft) [12]	
D	Min. Open Space Set-Aside (% of lot area) [6]	10	I	Between Principal Buildings	10
	Min. Building Height (stories) [7]	2	J	Between Secondary and any other Building	5
	Max. Building Height (ft)	42	K	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [15]	30
E	Min. Building Frontage (% of lot width) [8] [9]	60	L	Min. Off-Street Parking Setback (ft) [16]	20

NOTES:

[1] Plus an additional 500 sf per residential unit for developments in excess of two units.
[2] Applied to the entire development site when buildings on individual lots have shared or party walls.
[3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[4] New blocks of lots with lot widths of less than 50 feet require the provisions of alleys.
[5] Applied to the non-residential portion of a building. Buildings on lots over five acres in area are exempt.
[6] Gathering areas are credited as open space set-aside.
[7] Only applied to buildings comprised of a single use type.
[8] Measured at inner edge of the street setback adjacent to the primary building facade. Only applied to the lot edge adjacent to the primary building façade on corner or dual frontage lots.
[9] Gathering areas abutting the street right-of-way are credited towards building frontage requirements.
[10] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[11] Reduced by 50% for bungalow court and pocket neighborhood uses.
[12] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[13] Not applied to lots lines adjacent to shared or party building walls.
[14] Not applied to multi-building and unified developments.
[15] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.
[16] Applied to off-street parking areas including two or more rows of parking spaces.



3.2.9 (NCM) NEIGHBORHOOD COMMERCIAL[81]

A. NEIGHBORHOOD COMMERCIAL (NCM) DISTRICT PURPOSE STATEMENT

The Neighborhood Commercial (NCM) District accommodates commercial, institutional, and several forms of residential development on lots located adjacent to major roadway corridors and intersections. Non-residential buildings are low-rise, small-scale, with small footprints, and with building heights of no greater than two stories. Development in the district is human-scaled, designed to promote visual interest for pedestrians, and to provide convenient retail and services for patrons from nearby neighborhoods. Emphasis is placed on gathering spaces and interaction with others outside of personal vehicles. In addition to retail and personal services uses, the district allows a variety of office and institutional uses. As a means of providing additional housing options, the district allows live/work dwellings and upper story residential over ground-floor non-residential uses, single-family attached residential, and single-family detached dwellings. Industrial uses, multi-family uses, and monolithic automobile-oriented development is not permitted. District regulations discourage uses that are too intense or that draw the majority of their patrons from outside the immediate area.

B. NEIGHBORHOOD COMMERCIAL DISTRICT PREFERRED DEVELOPMENT FORMS



Commercial Use


Commercial Use


Mixed-Use Building



Commercail Use

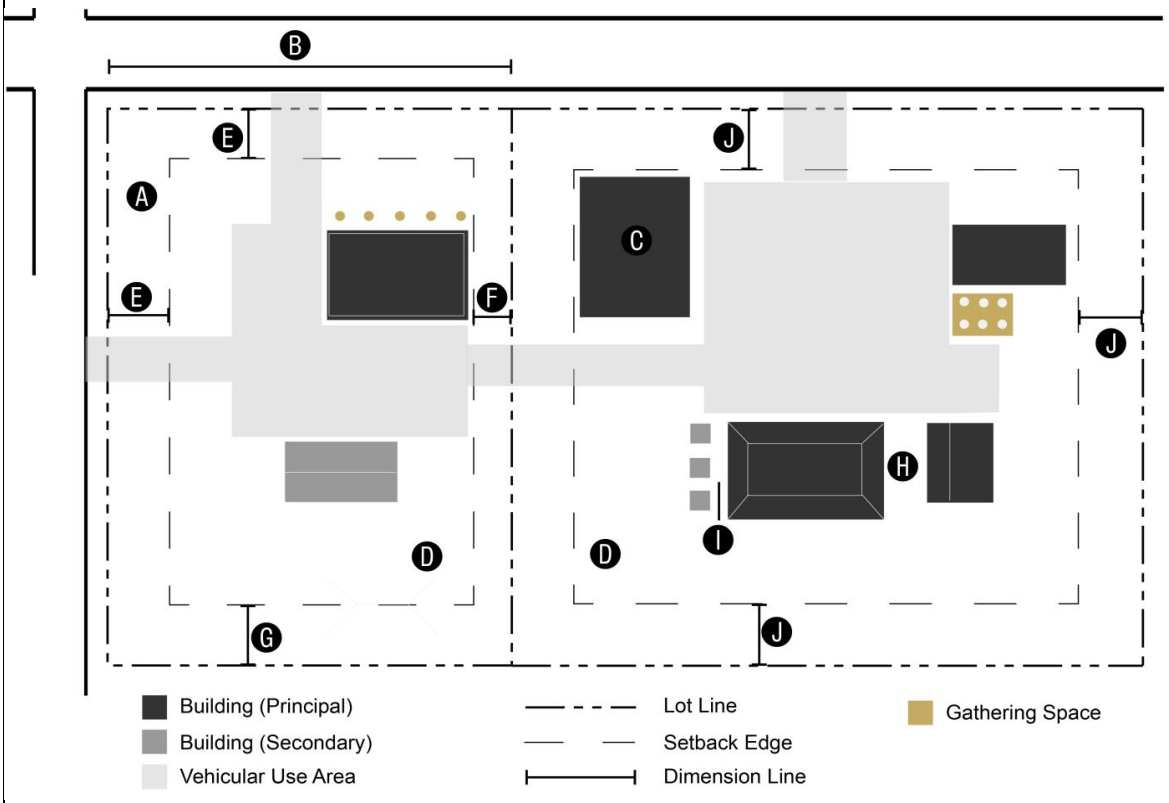
[81] The NCM District replaces the B-2 zoning district. It is intended to be neighborhood scale with a versatile blend of residential and non-residential use types with an emphasis on small scale, low building heights, pedestrian orientation, and high quality development that will not negatively impact adjacent residential uses.

C. NEIGHBORHOOD COMMERCIAL (NCM) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	6.0	F	Side Setback (ft) [8] [9] [10]	10
A	Min. Lot Area (sf) [1]	6,000	G	Rear Setback (ft) [8] [9] [10]	20
B	Min. Lot Width (ft) [2] [3]	50		Min. Spacing Between Buildings (ft) [8]	
	Max. Lot Coverage (% of lot area)	75	H	Between Principal Buildings	10
C	Max. Building Size (sf) [4]	5,000	I	Between Secondary and any other Building	5
D	Min. Open Space Set-Aside (% of lot area) [5]	10	J	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [11]	30
E	Min. Street Setback (ft) [6] [7]	20		Max. Building Height (ft)	35

NOTES:

[1] Plus an additional 500 sf per residential unit for developments in excess of two units.
[2] Applied to the entire development site when buildings on individual lots have shared or party walls.
[3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[4] Vertically-integrated buildings and buildings on lots over five acres in area are exempt.
[5] Gathering areas are credited as open space set-aside.
[6] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[7] Reduced by 50% for bungalow court and pocket neighborhood uses.
[8] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[9] Not applied to lots lines adjacent to shared or party building walls.
[10] Not applied to multi-building and unified developments.
[11] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.10 (OFI) OFFICE INSTITUTIONAL[82]

A. OFFICE INSTITUTIONAL (OFI) DISTRICT PURPOSE STATEMENT

The Office Institutional (OFI) district is established to accommodate office uses, personal services, institutional facilities, educational uses, research and development, and health-related uses in high quality single-building and multi-building campus-style developments. Buildings have a wide range of sizes and heights, based on their function. Land uses typically associated with the office and institutional zoning benefit from a proximate location to one another, and as such this Ordinance encourages the establishment of concentrated areas of OFI zoning rather than a highly dispersed pattern. The district also accommodates the ancillary personal services and commercial uses necessary to support the predominant office and institutional development but is not intended as a retail district. Retail and commercial uses not related to health care should be secondary in nature and configured to minimize visibility from off-site areas. Residential uses are limited to live/work and upper story residential formats. The OFI district often serves as a transition area between higher intensity commercial uses and nearby lower density single-family residential neighborhoods. Higher intensity institutional uses that support activity after 5:00PM should only be located on major streets and should avoid the creation of traffic on residential neighborhood streets.

B. OFFICE INSTITUTIONAL (OFI) DISTRICT PREFERRED DEVELOPMENT FORMS









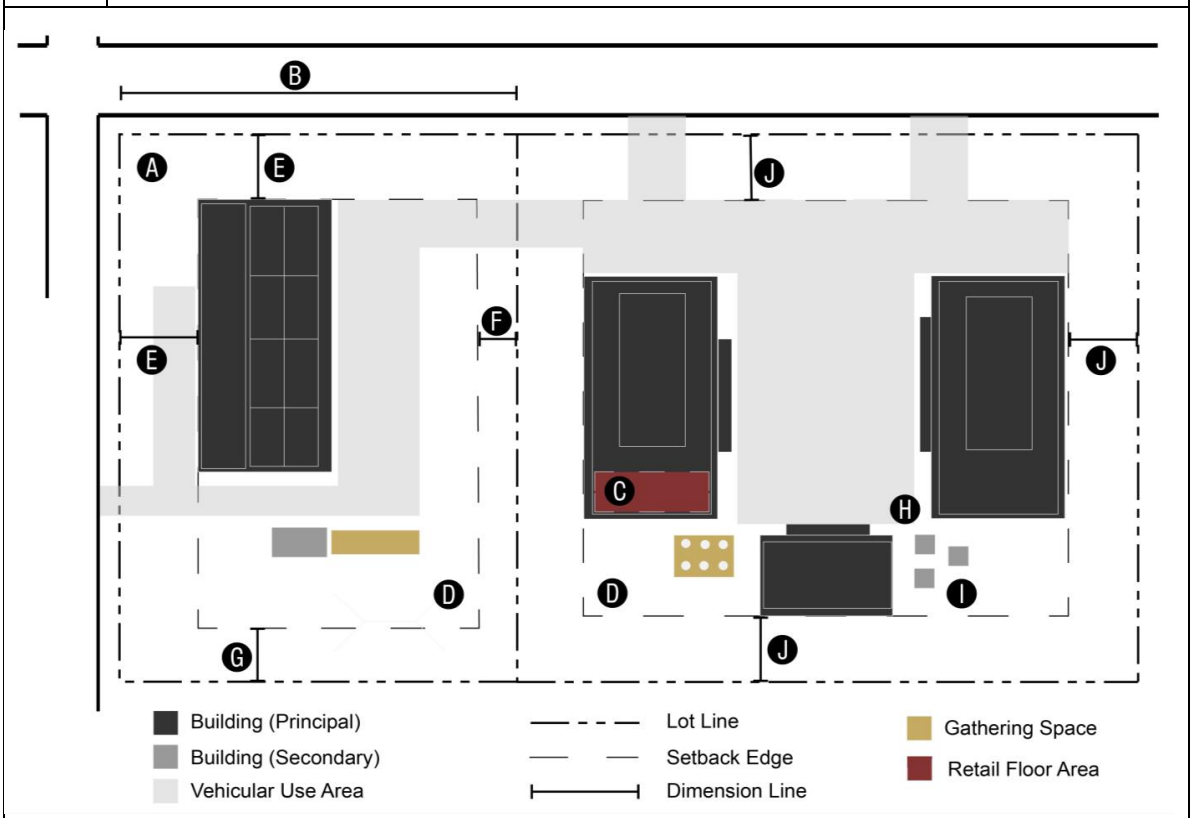
[82] The OFI District consolidates the current O-R Office Residential & O-I Office Institutional districts into a new single district. The dimensional standards are based upon the O-I standards to avoid creation of nonconformities. These district standards limit non-health related retail to secondary use status.

C. OFFICE INSTITUTIONAL (OFI) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	5.0	F	Side Setback (ft) [7] [8] [9]	10
A	Min. Lot Area (sf) [1]	6,000	G	Rear Setback (ft) [7] [8] [9]	20
B	Min. Lot Width (ft) [2] [3]	60		Min. Spacing Between Buildings (ft) [7]	
	Max. Lot Coverage (% of lot area)	75	H	Between Principal Buildings	20
C	Max. Retail Building Floor Area (% of building floor area) [4]	20	I	Between Secondary and any other Building	10
D	Min. Open Space Set-Aside (% of lot area) [5]	7	J	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [10]	30
E	Min. Street Setback (ft) [6]	30		Max. Building Height (ft)	60

NOTES:

[1] Plus an additional 500 sf per residential unit for developments in excess of two units.
[2] Applied to the entire development site when buildings on individual lots have shared or party walls.
[3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
[4] Retail uses engaged solely in sale of heath-related and health care-related products are exempt from floor area limits.
[5] Gathering areas are credited as open space set-aside.
[6] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[7] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[8] Not applied to lots lines adjacent to shared or party building walls.
[9] Not applied to multi-building and unified developments.
[10] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.11 (PUB) PUBLIC FACILITIES[83]

A. PUBLIC FACILITIES (PUB) DISTRICT PURPOSE STATEMENT

The Public Facilities (PUB) district is established to recognize publicly-owned or operated lands and facilities throughout the Town's Planning Jurisdiction. The district also provides a zoning district designation for certain environmentally-sensitive or conservation lands where development could endanger natural resources. The district permits a broad range of governmental and institutional land uses, utilities, health care, open space, recreation, and transportation uses. The district does not permit residential or most forms of commercial development. Development in the district is configured to promote land use compatibility through setbacks, undisturbed vegetation, landscaping, and avoidance of use of residential neighborhood streets except in cases where such use is in the interest of public safety. Uses that include habitable buildings have limited heights, and public facilities are sited, configured, and operated in ways that generate the lowest possible compatibility impacts on surrounding land uses.

B. PUBLIC FACILITIES (PUB) DISTRICT PREFERRED DEVELOPMENT FORMS







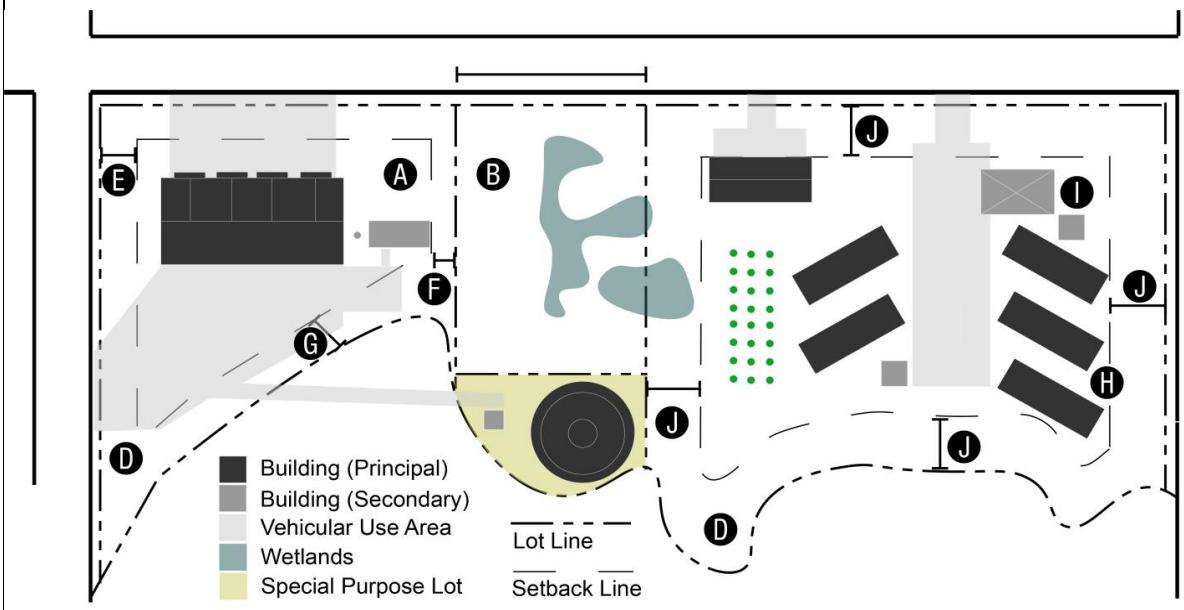


[83] The PUB District carries forward the current PF district except that it allows a wider range of uses, including some agricultural, institutional, energy-generating, utility, and government-related uses. The current district includes no dimensional standards of any kind, but this has been amended to establish dimensional requirements since several use types are permitted in the district.

C. PUBLIC FACILITIES (PUB) DISTRICT DIMENSIONAL STANDARDS

	Max. Residential Density (du/ac)	N/A	E	Min. Street Setback (ft) [3]	20
	Min. Lot Area (sf)		F	Side Setback (ft) [4] [5]	10
A	With Water & Sewer	20,000	G	Rear Setback (ft) [4] [5]	30
B	Without Water & Sewer	2,000		Min. Spacing Between Buildings (ft) [4]	
C	Min. Lot Width (ft) [1]	50	H	Between Principal Buildings	20
	Max. Lot Coverage (% of lot area)	75	I	Between Secondary and any other Building	5
D	Min. Open Space Set-Aside (% of lot area) [2]	5	J	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [6]	30
	Max. Building Height (ft)	35			

NOTES:
[1] Not applied to conservation or environmentally-sensitive lands with no buildings.
[2] Gathering areas are credited as open space set-aside.
[3] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
[4] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
[5] Not applied to multi-building and unified developments.
[6] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



3.2.12 (RHD) RESIDENTIAL HIGH DENSITY[84]

A. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT PURPOSE STATEMENT

The Residential High Density (RHD) District is established to accommodate a wide variety of moderate-density residential uses and their complementary secondary uses in neighborhood and individual lot contexts. The district provides a variety of different locations near downtown and proximate to major transportation corridors for Town residents to establish dwellings at densities necessary to support nearby shopping and employment uses. Residential uses in the district are well-connected with surrounding areas via connected streets, sidewalks, greenways, and trails. Proximity and access to transit facilities and alternative forms of transportation are vital for residents. The district accommodates single-family detached dwellings, single-family attached dwellings, triplexes, quadplexes, ~~two-family homes~~duplexes, and a wide variety of small-lot residential developments like bungalow courts, pocket neighborhoods, and conservation subdivisions. Higher density residential uses like multi-family and upper-story residential are not permitted. In order to promote functional neighborhoods, the district also permits a wide variety of institutional uses, like educational, cultural, and governmental uses along with recreation and open space uses. Residential uses are anticipated to include landscaping and private areas for outdoor activity by occupants. The district discourages any uses or development configurations that would interfere with the residential nature of the district.

B. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Attached Building



Bungalow Court



Quadplex Building



Pocket Neighborhood

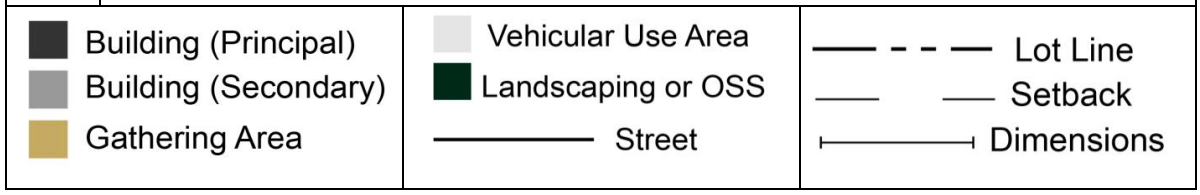
[84] The RHD district is proposed to replace the current R-6 zoning district. The R-6 density is carried forward but the range of residential use types has been broadened to include numerous new use types like conservation subdivisions, bungalow courts, triplexes, and others. The district also permits a fairly wide range of institutional use types. Open space standards are based upon the future land use designations in the Comprehensive Growth Plan. Dimensional requirements have been revised to be more tailored to individual use types, but care was taken to ensure that few or no nonconformities were created.

C. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT DIMENSIONAL STANDARDS

Dimensional Standard (see following pages for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	~~Two-Family~~ Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	8.26 [2]	10.8	N/A	8.26 [3]	7.26 [4]	7.26 [4]	7.26	7.26	N/A	N/A
(A) Minimum Site Size	1 ac	5 ac	N/A	1 ac	12,000 sf [5]	N/A	N/A	N/A	N/A	N/A
(B) Minimum Lot Area (sf)	3,600	N/A	N/A	3,600	N/A	6,000	9,000	6,000	N/A	6,000
(C) Minimum Lot Width (lf) [6]	50 [7]	20	N/A	50 [7]	50 [7]	50	60	50	N/A	50
Maximum Lot Coverage (% of lot area) [8]	80	90	N/A	90	60 [7]	60	60	60	N/A	60
(D) Minimum Open Space Set Aside (% of lot or site size) [9]	7	50	N/A	10 [10]	10	10 [11]	10	10 [11]	N/A	5
(E) Minimum Street Setback (lf)	20	3 [12]	N/A	3 [12]	25 [13]	25	25	25	N/A	20
(F) Minimum Side Setback (lf)	3 [12]	3 [12]	N/A	3 [12]	6 [7]	6	6	6	N/A	6
(G) Minimum Rear Setback (lf)	3	3 [12]	N/A	3 [12]	20 [7]	20	20	20	N/A	20
(H) Minimum Spacing Between Principal Buildings on Same Lot (lf) [14]	N/A	N/A	N/A	20	20	N/A	N/A	N/A	N/A	20
(I) Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [14]	3	3	N/A	3	10	5	7	5	N/A	10
(J) Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	[15]	[16]	N/A	[15]	25	N/A	25	25	N/A	20
Maximum Building Height (lf) [17]	35	35	N/A	24	35	35	35	35	N/A	35

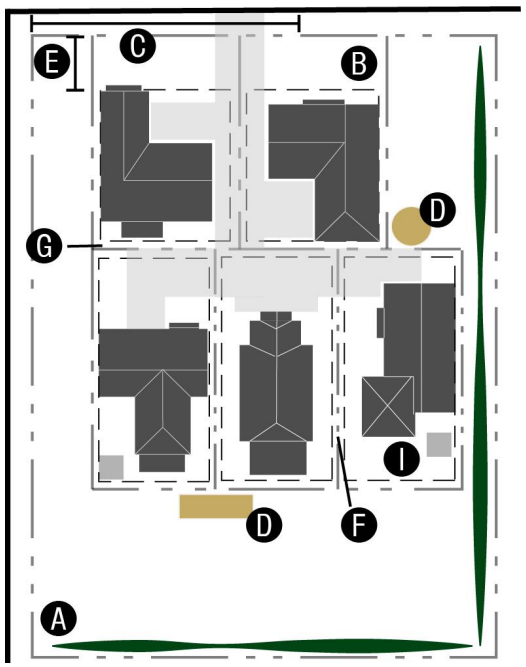
NOTES:

[1] Density bonuses may be granted for inclusion of sustainable development features in accordance with Section <>, Sustainable Development Incentives.
[2] Must include at least three principal dwelling units.
[3] Must include at least four principal dwelling units but not more than 24 principal dwelling units.
[4] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines.
[5] 12,000 for the first two dwelling units plus an additional 500 sf for each unit beyond two.
[6] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.
[7] Applied to entire development, not individual lots.
[8] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[9] Residential developments of five or fewer dwelling units and non-residential developments with no residential component may configure 100% of the OSS as passive open space. Residential uses of six or more units shall provide at least 50% of the OSS as gathering area or active open space.
[10] At least 300 sf of OSS per unit shall be configured as a central green or garden.
[11] Applied to subdivisions, not individual dwellings.
[12] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.
[13] May be reduced to three feet through provision of rear-loaded alleys and no curb cuts along streets abutting front building facades.
[14] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[15] Requires a Type C buffer along any portion of the development perimeter abutting a residential zoning district.
[16] As necessary to comply with visibility requirements in Section <>, Conservation Subdivision.
[17] May be increased in accordance provision of sustainable development incentives.

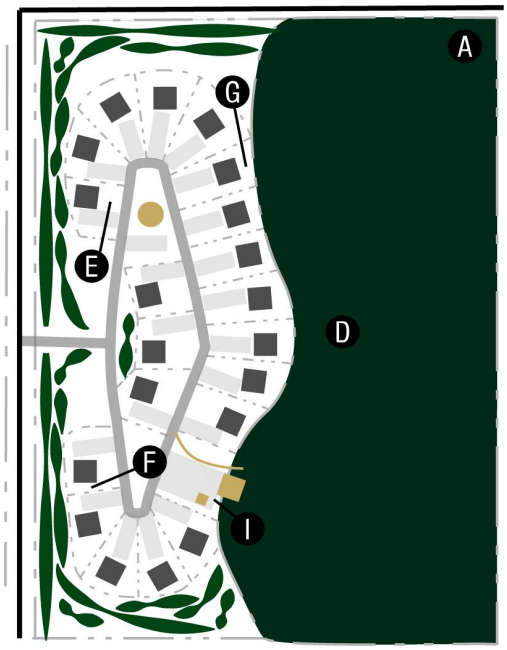


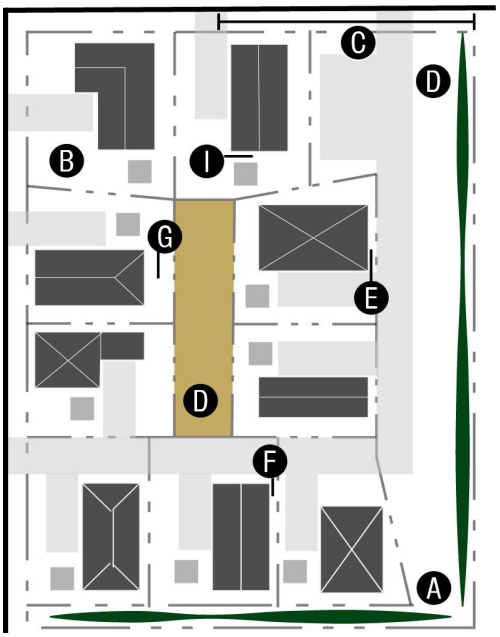
D. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT DIMENSIONAL DIAGRAMS

Bungalow Court Development

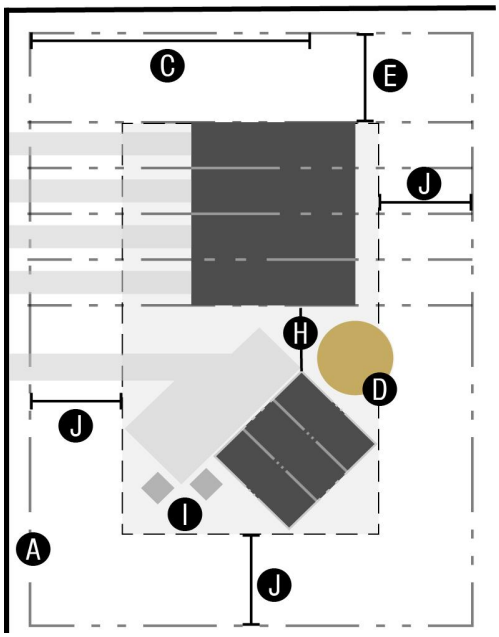


Conservation Subdivision Development





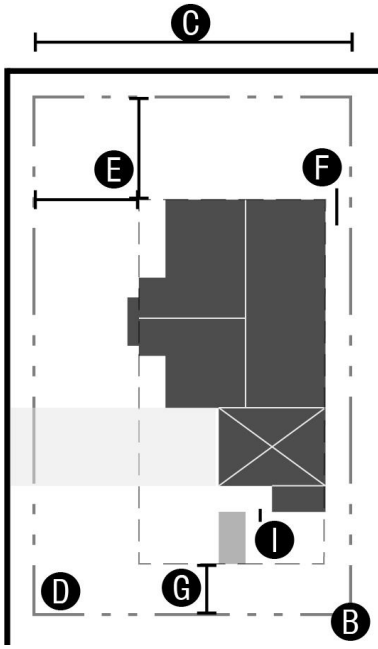
Pocket Neighborhood Development



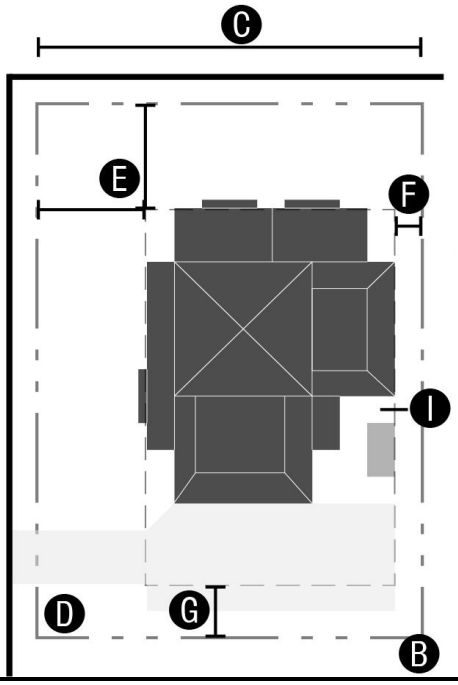
Single-Family Attached Development

E. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT DIMENSIONAL DIAGRAMS (CON'T)

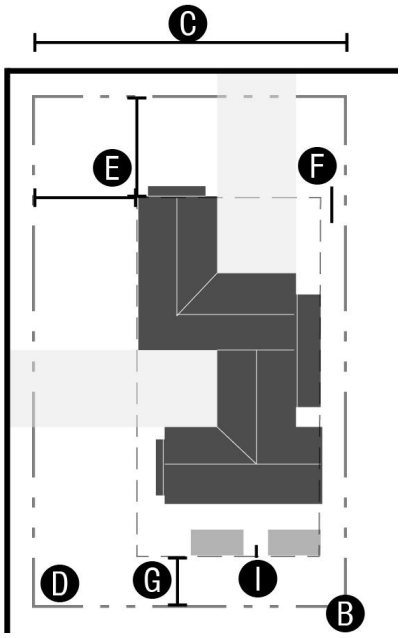
Single-Family Detached Development



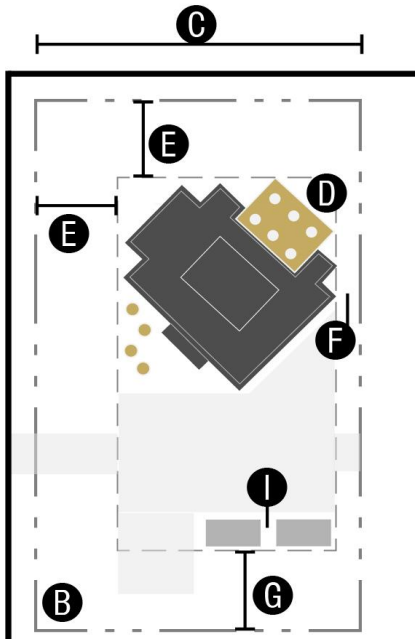
Triplex/Quadplex Development



~~Two-Family~~Duplex Development



Non-Residential Development



3.2.13 (RLL) RESIDENTIAL LARGE LOT[85]

A. RESIDENTIAL LARGE LOT (RLL) DISTRICT PURPOSE STATEMENT

The Residential Large Lot (RLL) District is created to accommodate low-density single-family detached dwellings on individual lots and in estate-style neighborhoods in areas outside the corporate limits within the extraterritorial jurisdiction. Sanitary sewer is not anticipated to be extended to areas zoned RLL within the next five-to-ten years. The district is intended to provide larger lots for executive housing and large homes in perimeter areas of Town away from significant concentrations of commercial or industrial development. The district encourages larger homes in lower densities with more suburban forms of infrastructure, supplemented with greenways that provide for pedestrian connection. Streets meet minimum connectivity requirements, but are curvilinear in nature and comprised of long blocks. The district also permits conservation subdivisions of smaller lots on tracts where at least half of the total area is set aside as open space, and the visibility of the dwellings from adjacent streets and neighborhoods is obscured. Agricultural uses, animal-related commercial activity, institutional uses, and single-family detached dwellings (including manufactured homes). The district does not permit moderate density residential uses, commercial activity, or industrial uses.

B. RESIDENTIAL LARGE LOT (RLL) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Detached Dwelling



Conservation Subdivision



Manufactured Home (Type A)



Single-Family Detached Dwelling

[85] The RLL district is proposed to replace the RE district. The dimensional standards are carried forward, but the minimum open space set-aside amounts are increased to 30 percent of the site size in accordance with the Comprehensive Plan. The district allows conservation subdivisions instead of the current open space subdivision provisions.

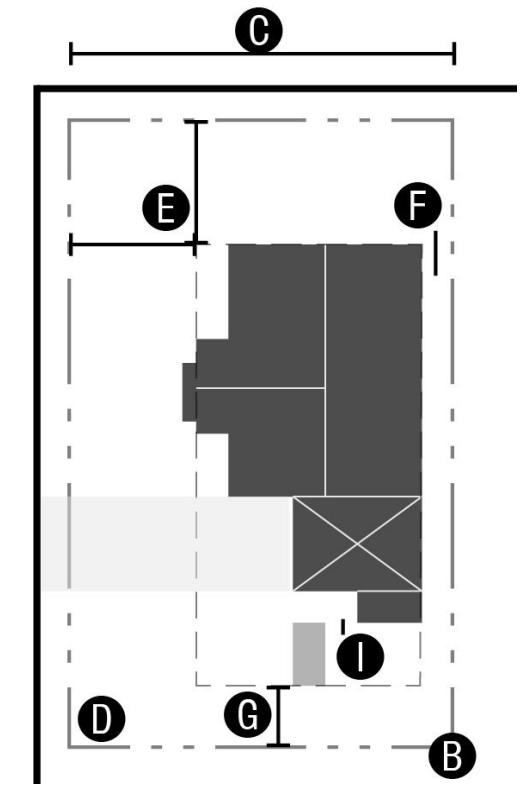
C. RESIDENTIAL LARGE LOT (RLL) DISTRICT DIMENSIONAL STANDARDS

Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	~~Two-Family~~ Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	N/A	3.0	N/A	N/A	N/A	2.1 [2]	N/A	N/A	N/A	N/A
Ⓐ Minimum Site Size	N/A	5 ac	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Ⓑ Minimum Lot Area (sf)	N/A	N/A	N/A	N/A	N/A	20,000 [3]	N/A	N/A	N/A	20,000
Ⓒ Minimum Lot Width (lf) [4]	N/A	20	N/A	N/A	N/A	80 [5]	N/A	N/A	N/A	80
Maximum Lot Coverage (% of lot area) [6]	N/A	90	N/A	N/A	N/A	50	N/A	N/A	N/A	50
Ⓓ Minimum Open Space Set Aside (% of lot or site size) [7]	N/A	50	N/A	N/A	N/A	30 [8]	N/A	N/A	N/A	30
Ⓔ Minimum Street Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	35	N/A	N/A	N/A	35
Ⓕ Minimum Side Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	15	N/A	N/A	N/A	15
Ⓖ Minimum Rear Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	30	N/A	N/A	N/A	30
Minimum Spacing Between Principal Buildings on Same Lot (lf) [10]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	20
Ⓘ Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [10]	N/A	3	N/A	N/A	N/A	5	N/A	N/A	N/A	10
Ⓙ Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	N/A	[11]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	35
Maximum Building Height (lf) [12]	N/A	35	N/A	N/A	N/A	35	N/A	N/A	N/A	35

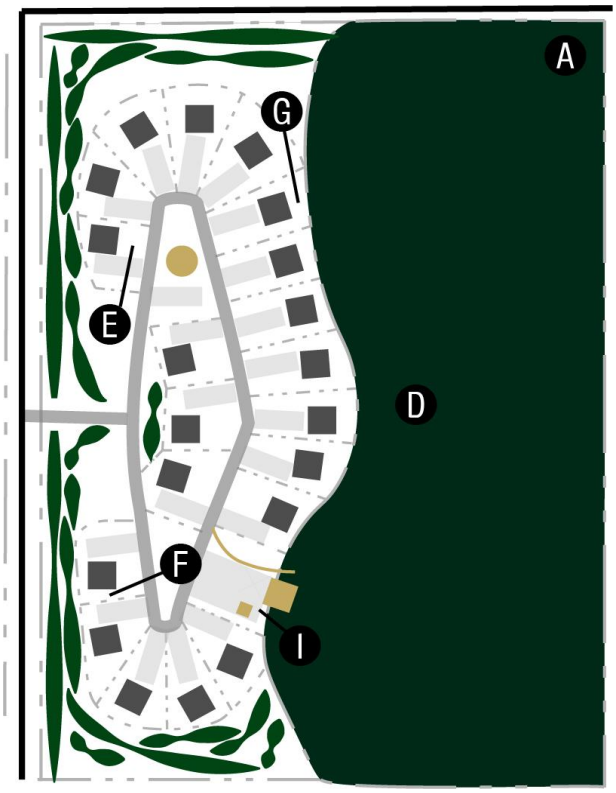
NOTES:

[1] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with Section <>, Sustainable Development Incentives.
[2] Maximum residential density for development with water but no sewer is 1.7 units per acre; for development with no public water or sewer 1.0 units per acre.
[3] Minimum lot area of 25,000 square feet for lot with public water but no public sewer.
[4] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.
[5] Minimum lot width is 100 linear feet for lots with no public water or sewer.
[6] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[7] Residential developments of five or fewer dwelling units and non-residential developments with no residential component may configure 100% of the OSS as passive open space. Residential uses of six or more units shall provide at least 50% of the OSS as gathering area or active open space.
[8] Applied to subdivisions, not individual dwellings.
[9] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.
[10] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[11] As necessary to comply with visibility requirements in Section <>, Conservation Subdivision.
[12] May be increased in accordance provision of sustainable development incentives.

D. RESIDENTIAL LARGE LOT (RLL) DISTRICT DIMENSIONAL DIAGRAMS



Single-Family Detached Development



Conservation Subdivision Development

Building (Principal)
Building (Secondary)
Gathering Area

Vehicular Use Area
Landscaping or OSS
Street

Lot Line
Setback
Dimensions

3.2.14 (RLD) RESIDENTIAL LOW DENSITY[86]

A. RESIDENTIAL LOW DENSITY (RLD) DISTRICT PURPOSE STATEMENT

The Residential Low Density (RLD) District creates opportunities for low-density suburban-style residential neighborhoods within the corporate limits and extraterritorial jurisdictional areas of the Town. Lands within the RLD district are typically served by public water and sewer, an informal curvilinear street pattern characterized by loop streets, cul-de-sacs, and single-loaded roadways. Sidewalks are provided in heavily traffic areas, but much of the pedestrian movement is accommodated by greenways and trails. Lots are of moderate size, well-landscaped, and provide areas of privacy for residents. Buildings are setback from streets and may include accessory structures, though two or more principal residential dwellings are prohibited on a single lot. Residential uses include single-family detached, organized into either traditional residential neighborhood patterns or as conservation subdivisions with significant amounts of open space and homes concealed from off-site view. ~~Two-family~~ Duplex dwellings are also permitted by-right, and are encouraged to be configured to appear as single-family detached dwellings through use of a single shared primary entrance, or separation of primary entrances on different façade walls. The district also permits a wide range of institutional uses, including religious facilities, educational uses, government-related uses, and open space. Agricultural and industrial uses are not permitted.

B. RESIDENTIAL LOW DENSITY (RLD) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Detached Dwelling



Conservation Subdivision



~~Two-Family~~Duplex Dwelling



Bed and Breakfast Use

[86] The RLD district is proposed to replace the current R-10 district. The current dimensional standards are carried forward except that the minimum lot area standards have been supplemented with a no-public sewer option. The new district no longer allows townhouse or multi-family (as it is allowed in so many other places by-right). The conservation subdivision option is proposed to replace the open space subdivision option. The minimum open space requirements have been increased to 25% in accordance with the Comprehensive Plan.

C. RESIDENTIAL LOW DENSITY (RLD) DISTRICT DIMENSIONAL STANDARDS

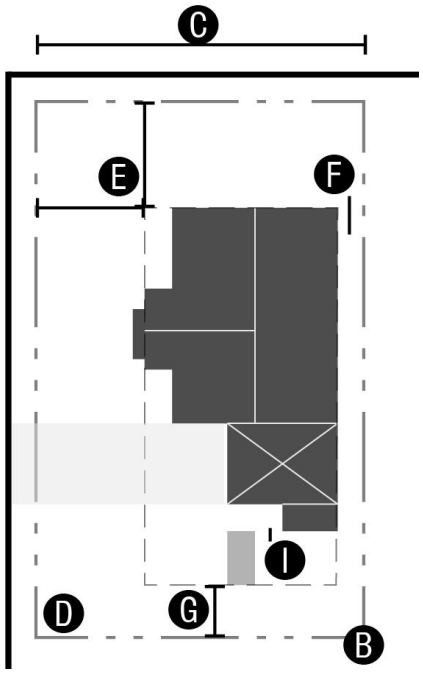
Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	~~Two-Family~~ Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	N/A	6.0	N/A	N/A	N/A	4.0 [2]	N/A	7.26	N/A	N/A
Ⓐ Minimum Site Size	N/A	5 ac	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Ⓑ Minimum Lot Area (sf)	N/A	N/A	N/A	N/A	N/A	10,000 [3]	N/A	6,000	N/A	10,000
Ⓒ Minimum Lot Width (lf) [4]	N/A	20	N/A	N/A	N/A	70 [5]	N/A	60	N/A	70
Maximum Lot Coverage (% of lot area) [6]	N/A	90	N/A	N/A	N/A	50	N/A	10	N/A	50
Ⓓ Minimum Open Space Set Aside (% of lot or site size) [7]	N/A	50	N/A	N/A	N/A	25 [8]	N/A	25	N/A	25
Ⓔ Minimum Street Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	30	N/A	6	N/A	30
Ⓕ Minimum Side Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	10	N/A	20	N/A	10
Ⓖ Minimum Rear Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	25	N/A	N/A	N/A	25
Minimum Spacing Between Principal Buildings on Same Lot (lf) [10]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	5	N/A	20
Ⓘ Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [10]	N/A	3	N/A	N/A	N/A	5	N/A	25	N/A	10
Ⓙ Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	N/A	[11]	N/A	N/A	N/A	N/A	N/A	35	N/A	30
Maximum Building Height (lf) [12]	N/A	35	N/A	N/A	N/A	35	N/A	7.26	N/A	35

NOTES:

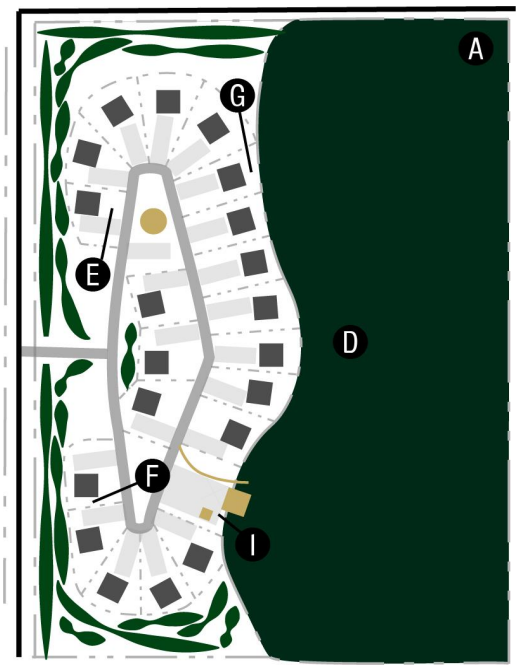
[1] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with Section <>, Sustainable Development Incentives.
[2] Maximum residential density for development with water but no sewer is 1.7 units per acre; for development with no public water or sewer 1.0 units per acre.
[3] Minimum lot area of 25,000 square feet for lot with public water but no public sewer.
[4] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.
[5] Minimum lot width is 100 linear feet for lots with no public water or sewer.
[6] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[7] Residential developments of five or fewer dwelling units and non-residential developments with no residential component may configure 100% of the OSS as passive open space. Residential uses of six or more units shall provide at least 50% of the OSS as gathering area or active open space.
[8] Applied to subdivisions, not individual dwellings.
[9] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.
[10] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[11] As necessary to comply with visibility requirements in Section <>, Conservation Subdivision.
[12] May be increased in accordance provision of sustainable development incentives.

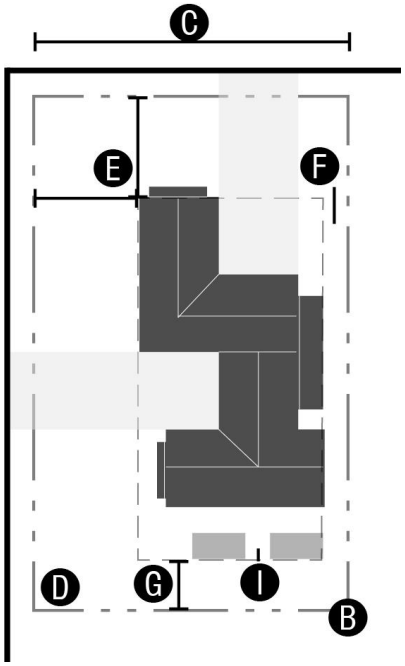
D. RESIDENTIAL LOW DENSITY (RLD) DISTRICT DIMENSIONAL DIAGRAMS

Single-Family Detached Development

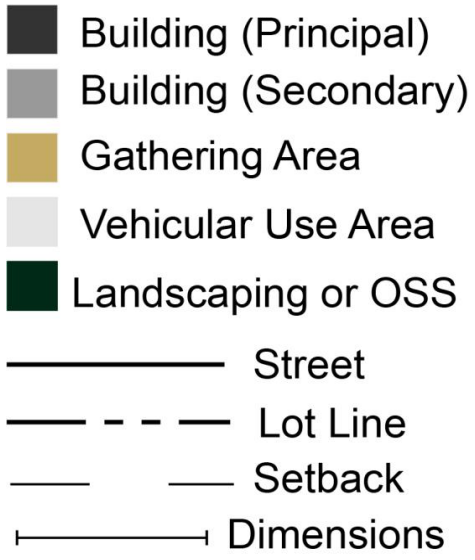


Conservation Subdivision Development





~~Two-Family~~Duplex Development



Legend

3.2.15 (RMD) RESIDENTIAL MEDIUM DENSITY[87]

A. RESIDENTIAL MEDIUM DENSITY (RMD) DISTRICT PURPOSE STATEMENT

The Residential Medium Density (RMD) District is established to accommodate low-to-moderate-density residential development and complimentary uses on lots served by public utilities in the suburban portions of the Town's jurisdiction. The RMD district provides a transition between lower-density residential areas and higher intensity commercial and shopping areas along major corridors. Development in the RMD district is typically organized as a series of individual neighborhoods. The vast majority of RMD lots are around 8,000 square feet in area and contain a single-family detached dwelling located in the center of a landscaped yard. Off-street parking takes place on a driveway in front of or to the side of the dwelling. Most homes are two-to-three stories tall and around 1,000 square feet in size. While the district accommodates single-family detached homes, it also permits ~~two-family homes~~duplex, ~~and~~ triplex, and~~/~~ quadplex dwellings as well as~~-~~ "small-lot" residential developments such as bungalow courts, pocket neighborhoods, and conservation subdivisions. It also accommodates a limited range of institutional uses but almost no commercial or industrial use types. Streets are typically organized as a modified grid with some curvilinear segments. Neighborhoods are well-served by sidewalks and greenways that permit pedestrians to access nearby institutional and commercial uses.

B. RESIDENTIAL MEDIUM DENSITY DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Detached Dwelling



~~Two-Family~~Duplex Dwelling



Conservation Subdivision



Pocket Neighborhood



Bungalow Court



Quadplex

[87] The RMD district replaces the current R-8 district with no changes in dimensional requirements except for increases in the amount of open space as suggested n the Comprehensive Plan. The district includes a diverse range of residential development forms, but few-to-no commercial uses. All development is anticipated to be served by public water and sewer, and neighborhood-serving institutional development and recreational uses are permitted. Open space subdivisions are replaced with the conservation subdivision option.

C. RESIDENTIAL MEDIUM DENSITY (RMD) DISTRICT DIMENSIONAL STANDARDS

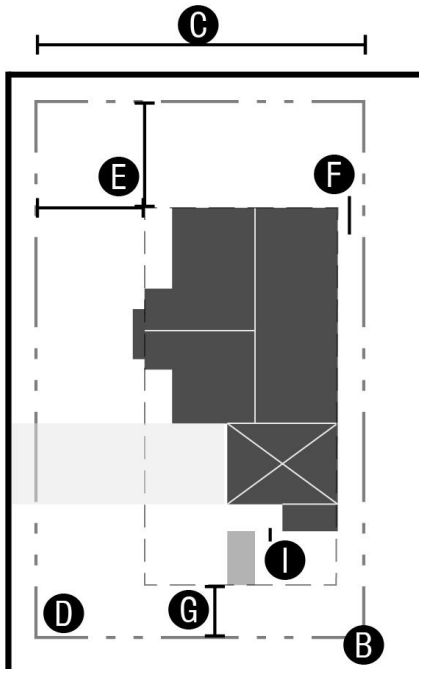
Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	~~Two-Family~~ Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	6.0	7.5	N/A	6.0	N/A	5.0	5.0	5.0	N/A	N/A
A Minimum Site Size	1 ac	5 ac	N/A	1 ac	N/A	N/A	N/A	N/A	N/A	N/A
B Minimum Lot Area (sf)	7,000	N/A	N/A	7,000	N/A	8,000	11,000	10,000	N/A	8,000
C Minimum Lot Width (lf) [2]	60 [3]	20	N/A	60 [3]	N/A	60	60	60	N/A	60
Maximum Lot Coverage (% of lot area) [4]	80	90	N/A	90	N/A	55	55	55	N/A	55
D Minimum Open Space Set Aside (% of lot or site size) [5]	7	50	N/A	10 [6]	N/A	20 [7]	20 [7]	20 [7]	N/A	20
E Minimum Street Setback (lf)	20	3 [8	N/A	3 [8]	N/A	25	25	25	N/A	25
F Minimum Side Setback (lf)	3	3 [8]	N/A	3 [8]	N/A	10	10	10	N/A	10
G Minimum Rear Setback (lf)	3	3 [8]	N/A	3 [8]	N/A	25	25	25	N/A	25
Minimum Spacing Between Principal Buildings on Same Lot (lf) [9]	N/A	N/A	N/A	20	N/A	N/A	N/A	N/A	N/A	20
I Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [9]	3	3	N/A	3	N/A	5	5	5	N/A	10
J Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	[10]	[11]	N/A	[10]	N/A	N/A	25	25	N/A	25
Maximum Building Height (lf) [12]	35	35	N/A	24	N/A	35	35	35	N/A	35

NOTES:

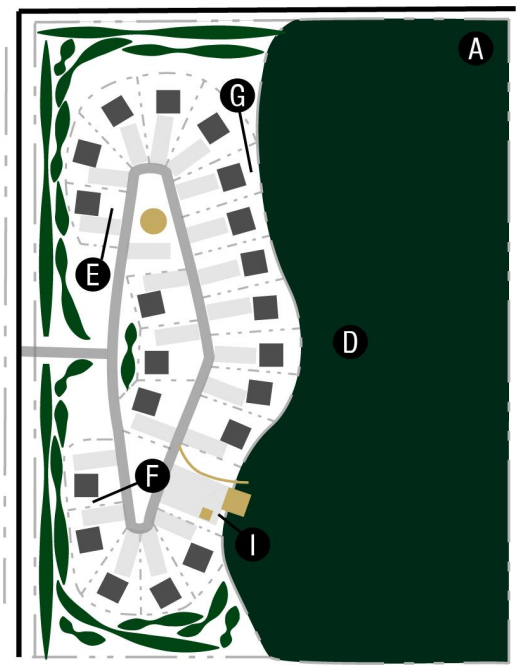
[1] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with Section <>, Sustainable Development Incentives.
[2] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.
[3] Applied to subdivisions, not individual dwellings.
[4] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[5] Residential developments of five or fewer dwelling units and non-residential developments with no residential component may configure 100% of the OSS as passive open space. Residential uses of six or more units shall provide at least 50% of the OSS as gathering area or active open space.
[6] At least 300 sf of OSS per unit shall be configured as a central green or garden.
[7] Applied to subdivisions, not individual dwellings.
[8] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.
[9] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[10] Requires a Type C buffer along any portion of the development perimeter abutting a residential zoning district.
[11] As necessary to comply with visibility requirements in Section <>, Conservation Subdivision.
[12] May be increased in accordance provision of sustainable development incentives.

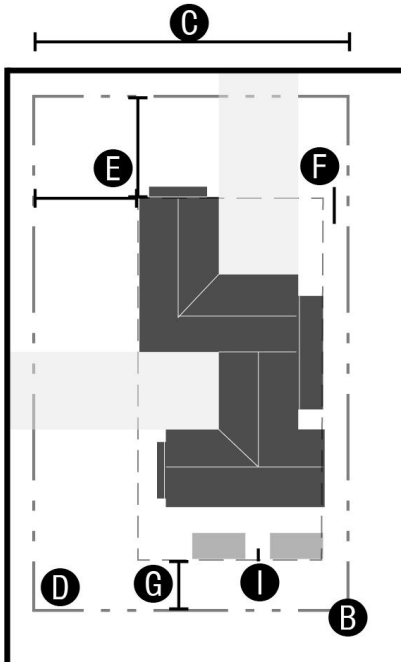
D. RESIDENTIAL MEDIUM DENSITY (RMD) DISTRICT DIMENSIONAL DIAGRAMS

Single-Family Detached Development

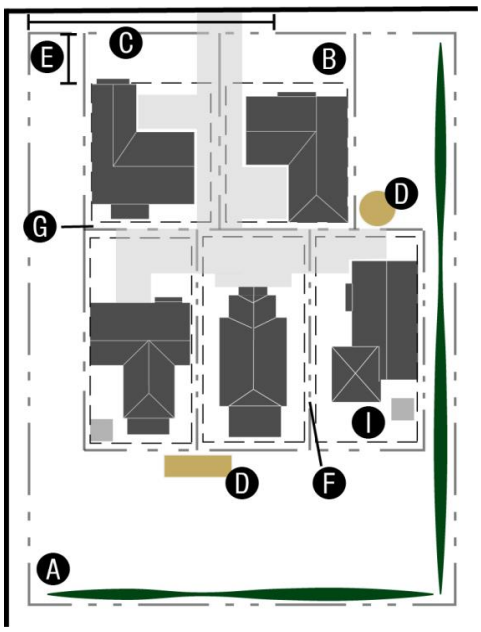


Conservation Subdivision Development





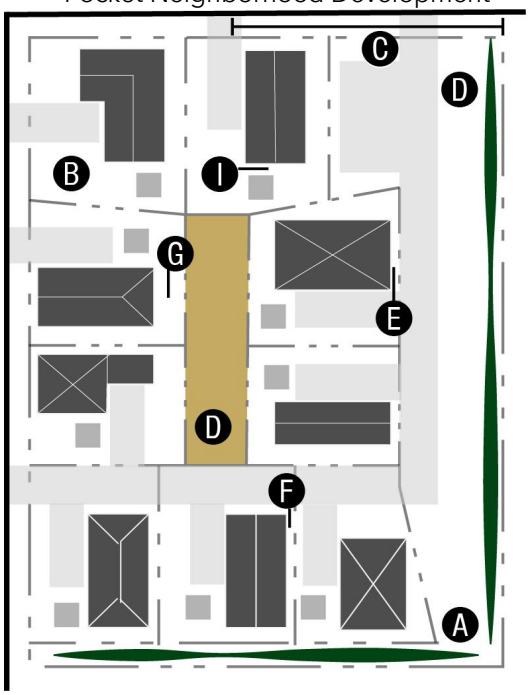
~~Two-Family~~Duplex Dwelling Development



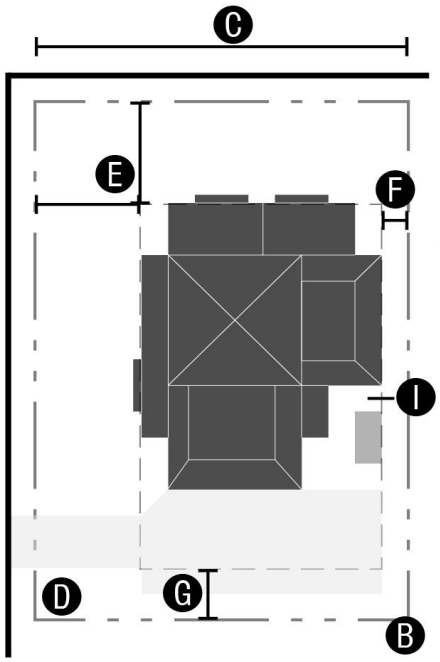
Bungalow Court Development

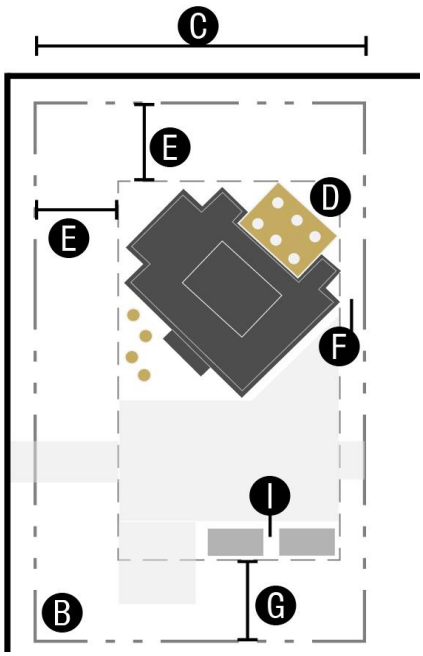
E. RESIDENTIAL MEDIUM DENSITY DISTRICT DIMENSIONAL DIAGRAMS (CON'T)

Pocket Neighborhood Development



Triplex/Quadplex Development





Non-Residential Development

Building (Principal)
Building (Secondary)
Gathering Area
Vehicular Use Area
Landscaping or OSS
Street
Lot Line
Setback
Dimensions

Legend

3.2.16 (RMF) RESIDENTIAL MULTI-FAMILY[88]

A. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT PURPOSE STATEMENT

The Residential Multi-Family (RMF) District is established to accommodate high-density forms of residential development and complimentary uses on lots served by public utilities in the urban portions of Town. The district is intended to provide a wide range of housing choices to Town residents as well as to create sufficient residential densities to support the downtown and employment centers. The district is configurated to support the establishment of functional neighborhoods that include residential, employment, and recreational uses in close proximity to one another. In addition to a wide range of residential uses, the district also permits live/work units, upper-story residential in mixed-use buildings, and neighborhood-serving low-intensity non-residential uses like offices, co-working spaces, walk-up restaurants, and micro-retail. Numerous forms of institutional use are also permitted. Land uses in the RMF district are well-connected with surrounding areas via connected streets, sidewalks, greenways, and trails. Open space set-asides may take the form of active or urban formats. Off-street parking takes place on a driveway in front of or to the side of individual dwellings and in shared surface lots for other residential uses. While the district accommodates residential densities around 12 units an acre, it also allows density bonuses for voluntary compliance with design guidelines or inclusion of sustainable development incentives. All development in the district shall be in accordance with the dimensional requirements in this section and the applicable use standards in Chapter 4, Land Uses.

B. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Attached Buildings



Pocket Neighborhood



Triplex Building



Multi-family Building



Live/Work Building



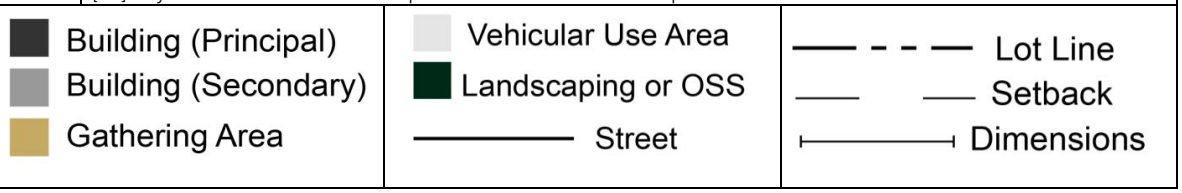
Single-Family Detached

[88] The RMF district is a new district that permits multi-family, single-family attached, and upper-story residential by-right.

C. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT DIMENSIONAL STANDARDS

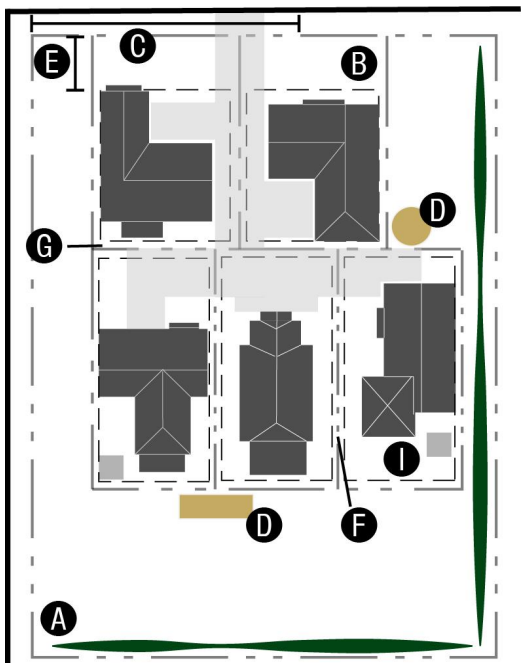
Dimensional Standard (see following pages for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	~~Two-Family~~ Duplex	Live/Work	Non-Residential [1]
Maximum Residential Density (du/ac) [2]	12 [3]	12	12	12 [4]	12 [5]	12 [5]	12	12	6	6
A Minimum Site Size	1 ac	5 ac	18,000 sf	1 ac	8,000 sf [6]	N/A	N/A	N/A	N/A	N/A
B Minimum Lot Area (sf)	3,600	N/A	N/A	3,600	N/A	3,600	7,000	3,600	7,000	6,000
C Minimum Lot Width (lf) [7]	50 [8]	20	50	50 [8]	50 [8]	50	50	50	50	50
Maximum Lot Coverage (% of lot area) [9]	80	90	60	90	60	60	60	60	60	60
D Minimum Open Space Set Aside (% of lot or site size) [10]	7	50	10	10 [11]	10	10	10	10	7	5
E Minimum Street Setback (lf)	20	3 [12]	20	3 [12]	20 [12]	20	20	20	20	20
F Minimum Side Setback (lf)	3 [12]	3 [12]	10	3 [12]	10 [12]	5	10	5	10	10
G Minimum Rear Setback (lf)	3	3 [12]	15	3 [12]	15 [12]	15	15	15	15	15
H Minimum Spacing Between Principal Buildings on Same Lot (lf) [13]	N/A	N/A	20	20	20	N/A	N/A	N/A	20	20
I Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [13]	3	3	10	3	10	5	7	5	7	10
J Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	[14]	[15]	20	[14]	20	N/A	20	20	20	20
Maximum Building Height (lf) [16]	35	35	45	24	35	35	35	35	45	45

NOTES:
[1] Includes upper-story residential.
[2] Density bonuses may be granted for inclusion of sustainable development features in accordance with Section <>, Sustainable Development Incentives.
[3] Must include at least three principal dwelling units.
[4] Must include at least four principal dwelling units but not more than 24 principal dwelling units.
[5] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines.
[6] 8,000 for the first two dwelling units plus an additional 500 sf for each unit beyond two.
[7] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.
[8] Applied to entire development, not individual lots.
[9] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[10] Residential developments of five or fewer dwelling units and non-residential developments with no residential component may configure 100% of the OSS as passive open space. Residential uses of six or more units shall provide at least 50% of the OSS as gathering area or active open space.
[11] At least 300 sf of OSS per unit shall be configured as a central green or garden.
[11] Applied to subdivisions, not individual dwellings.
[12] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.
[13] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[14] Requires a Type C buffer along any portion of the development perimeter abutting a residential zoning district.
[15] As necessary to comply with visibility requirements in Section <>, Conservation Subdivision.
[16] May be increased in accordance provision of sustainable development incentives.

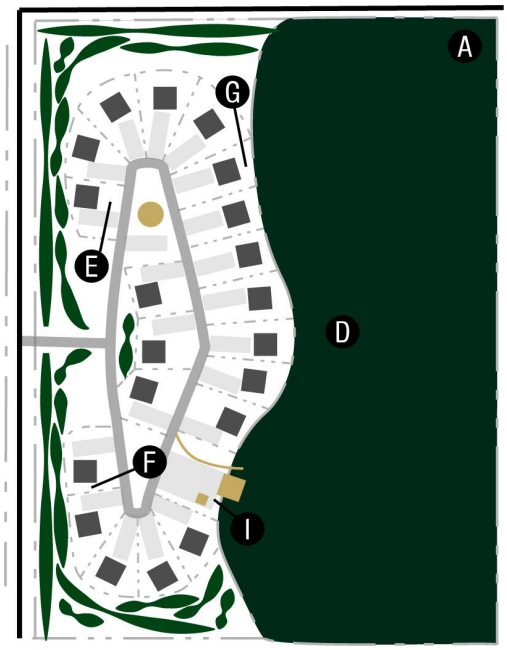


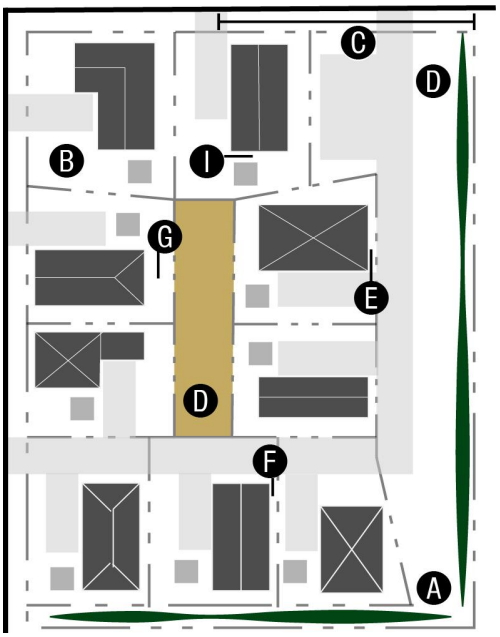
D. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT DIMENSIONAL DIAGRAMS

Bungalow Court Development

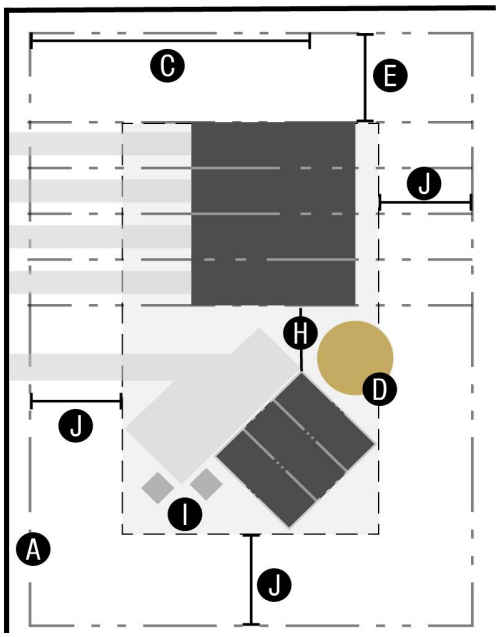


Conservation Subdivision Development





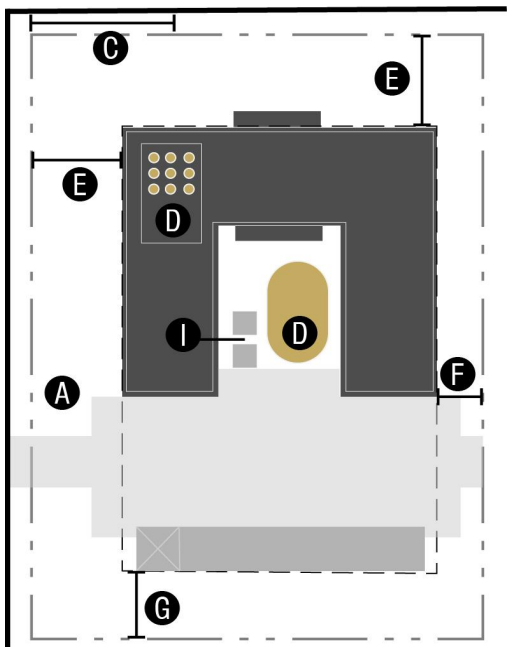
Pocket Neighborhood Development



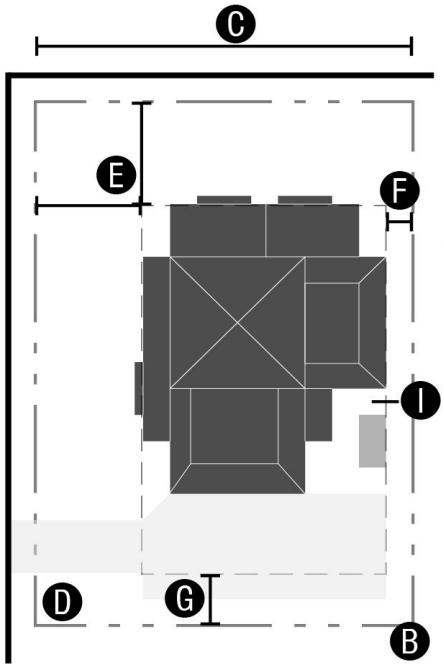
Single-Family Attached Development

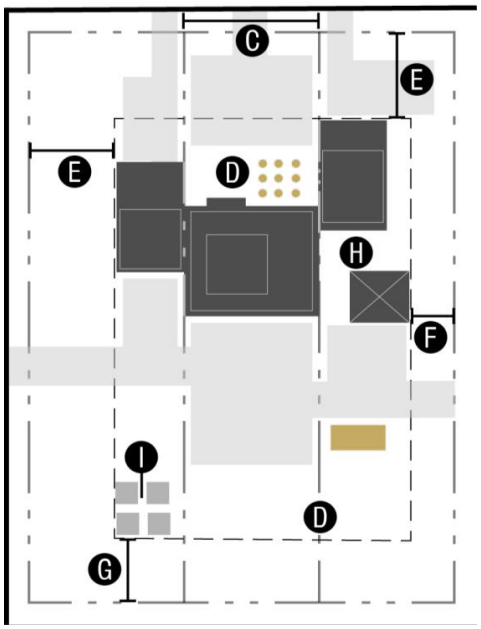
E. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT DIMENSIONAL DIAGRAMS (CON'T)

Multi-Family Development

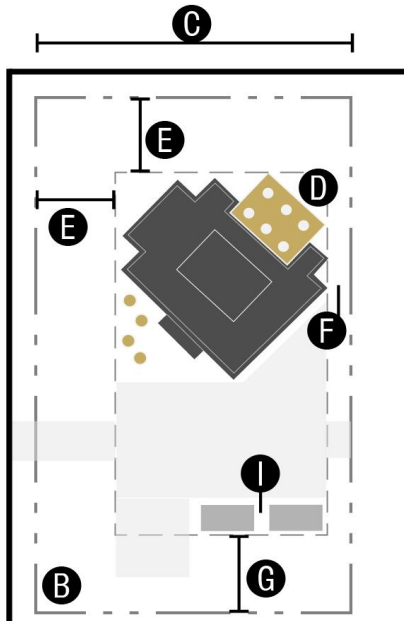


Triplex/Quadplex Development





Live/Work Development



Non-Residential Development

3.2.17 (RUR) RURAL[89]

A. RURAL (RUR) DISTRICT PURPOSE STATEMENT

The Rural (RUR) district is established to protect rural and undeveloped land from premature development at densities that are inconsistent with the Town's adopted policy guidance. The district accommodates low density residential neighborhoods and supporting uses on lots near bona fide farms and agricultural areas in the rural portions of the Town's planning jurisdiction. The district is intended to accommodate residential development in ways that will not interfere with agricultural activity or negatively impact the surrounding rural character. Public water and sewer service is not likely in the district in the short- or medium-terms, and as such, conservation subdivisions and uses that rely on public water and sewer service are generally not permitted. The district accommodates differing agricultural uses and single-family detached homes, including manufactured home parks as a special use. It also allows energy creation uses, telecommunications facilities, parks, public safety facilities, and minor utilities. District regulations discourage uses that interfere with the development of residential dwellings or that are detrimental to the rural nature of the district.

B. RURAL (RUR) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Detached Dwelling



Manufactured Home (Type A)



Agricultural Development



Solar Energy Conversion Use

[89] The RUR is a new rural holding district that permits agricultural, limited forms of residential, and utility-style uses that are best accommodated in rural settings.

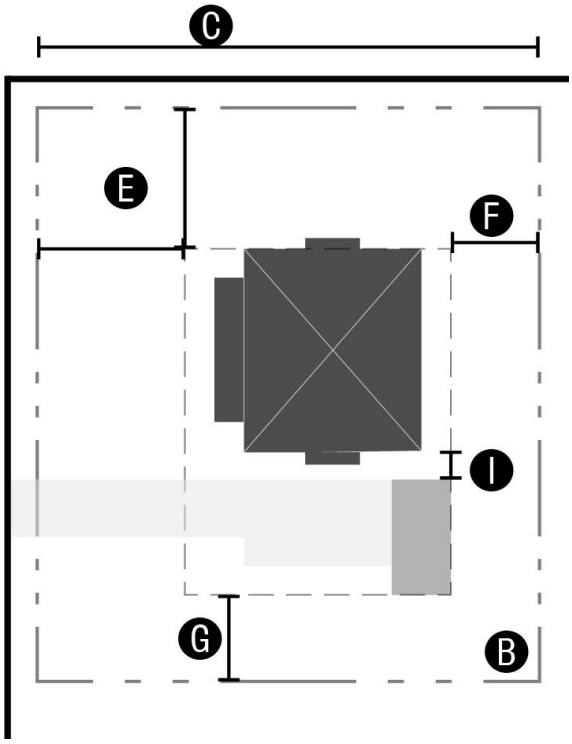
C. RURAL (RUR) DISTRICT DIMENSIONAL STANDARDS

Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	~~Two-Family~~Duplex	Upper-Story Residential	Non-Residential [1]
Maximum Residential Density (du/ac)	N/A	N/A	N/A	N/A	N/A	1.0 [2]	N/A	N/A	N/A	1.0 [3]
A Minimum Site Size	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	43,560
B Minimum Lot Area (sf)	N/A	N/A	N/A	N/A	N/A	43,560	N/A	N/A	N/A	N/A
C Minimum Lot Width (lf)	N/A	N/A	N/A	N/A	N/A	100	N/A	N/A	N/A	100 [4]
Maximum Lot Coverage (% of lot area) [5]	N/A	N/A	N/A	N/A	N/A	40	N/A	N/A	N/A	40 [4]
D Minimum Open Space Set Aside (% of lot or site size) [6]	N/A	N/A	N/A	N/A	N/A	10	N/A	N/A	N/A	10
E Minimum Street Setback (lf)	N/A	N/A	N/A	N/A	N/A	50	N/A	N/A	N/A	50
F Minimum Side Setback (lf)	N/A	N/A	N/A	N/A	N/A	20	N/A	N/A	N/A	20
G Minimum Rear Setback (lf)	N/A	N/A	N/A	N/A	N/A	35	N/A	N/A	N/A	35
Minimum Spacing Between Principal Buildings on Same Lot (lf) [7]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	20
I Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [7]	N/A	N/A	N/A	N/A	N/A	10	N/A	N/A	N/A	10
J Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	50
Maximum Building Height (lf) [8]	N/A	N/A	N/A	N/A	N/A	35	N/A	N/A	N/A	N/A

NOTES:

[1] Includes manufactured home parks.
[2] Maximum density may be increased by up to one-half unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with Section <>, Sustainable Development Incentives.
[3] Applied to manufactured home parks only.
[4] Applied to entire manufactured home park, not individual home spaces.
[5] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.
[6] Residential developments of five or fewer dwelling units and non-residential developments with no residential component may configure 100% of the OSS as passive open space. Residential uses of six or more units shall provide at least 50% of the OSS as gathering area or active open space.
[7] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.
[8] May be increased in accordance provision of sustainable development incentives.

D. RURAL (RUR) DISTRICT DIMENSIONAL DIAGRAMS



Single-Family Detached Development



Legend

3.3 CONDITIONAL ZONING DISTRICTS[90]

3.3.1 GENERAL PROVISIONS

A. PURPOSE AND INTENT

Conditional zoning districts are established to:

1. Provide an alternative to conventional zoning districts when a conventional zoning district may allow a range of uses that could have adverse impacts on public facilities or surrounding lands;
2. Create an adequate amount of flexibility in addressing the standards of this Ordinance to accommodate unique site-specific conditions or contexts;
3. Allow a landowner to propose, and the Town Council to consider, additional conditions or restrictions on the range of allowable uses, use-specific standards, development intensities, development standards, and other applicable regulations;
4. Allow a landowner to propose, and the Town Council to consider, a reduction in use-specific standards, development intensities, development standards, and other applicable regulations that would otherwise apply, in accordance with these standards;
5. Identify the range of development standards that may not be reduced or varied as part of a conditional rezoning application; and
6. Establish a legislative means to accommodate desirable development while avoiding or addressing anticipated problems that may arise from the proposed development.

B. CREATION

Land shall be classified into a Type 1, Type 2, or Type 3 conditional zoning district only in accordance with this section and the procedures and requirements set forth in Section <>, Conditional Rezoning.

C. DISTRICTS ESTABLISHED

The conditional zoning districts are established in accordance with the summary table in Section <>, Districts Established.

D. CONDITIONS, GENERALLY

Applications for the establishment of a conditional zoning district shall include conditions proposed in accordance with Section <>, Conditions of Approval, and the following standards:

1. Conditions associated with a conditional zoning district may be proposed by an applicant or the Town Council. Regardless of how proposed, only those conditions agreed to by both the applicant and the Town Council shall be included in the approved conditional rezoning.
2. All conditions of approval shall be consented to, in writing, by the applicant, prior to issuance of the conditional rezoning application approval.

[90] This section replaces Section 155.203(L) of the current UDC. It that establishes the basic requirements for the consideration of conditional rezoning applications. This UDO establishes five unique conditional zoning districts (as opposed to parallel conditional districts that align with their conventional district counterparts), configured primarily by the type of uses they permit (residential, commercial, downtown, mixed-use, etc.). The listing of common principal uses table in Chapter 4 sets out the six conditional districts and the types of uses that may be permitted within each. Applicants may seek to establish a conditional zoning district to do one of four things: One, accommodate a particular use type in a particular location; or two, use conditional zoning to apply further restrictions on the range of allowable uses (limited use); or three apply more restrictive dimensional/development standards (limited standards) to a particular development; or four, request a reduction from otherwise applicable requirements (unlimited). Applications seeking an unlimited conditional rezoning are required to submit a concept plan for the proposed development as a condition of approval. One of the key criteria for consideration of an unlimited conditional rezoning application is for the applicant to demonstrate that the proposed development, including the requested deviations, will result in a development that is in closer alignment with all applicable adopted policy guidance than would result from a strict application of the standards. This section establishes the six conditional zoning districts and provides additional details on how they are established.

3. Conditions associated with a conditional rezoning application may be either more restrictive or less restrictive than the standards applicable to the parallel conventional zoning district, subject to the provisions in Section <>, Limitations on Reductions.
4. In cases where a Type 3 Conditional Rezoning application is proposed, the applicant shall provide the following as part of the application materials:
   a. A Concept Plan, prepared in accordance with Section <>, Concept Plans;
   b. An explanation as to why the proposed conditions are necessary;
   c. The ways in which approval of the less restrictive condition(s) will result in development that is in closer alignment with the provisions in Section <>, Purpose and Intent of Ordinance, and the Town's adopted policy guidance; and
   d. Applicants are strongly encouraged to provide mitigation for any potential negative impacts anticipated to result from proposed conditions that are less restrictive than the applicable requirements.

E. CONCEPT PLANS ASSOCIATED WITH A TYPE 3 CONDITIONAL REZONING

1. GENERALLY

A Concept Plan, prepared in accordance with this section, shall be provided with an application for a Type 3 Conditional Rezoning application (see Section <>, Application).

2. PREPARATION

A Concept Plan shall be prepared by a professional engineer, a licensed architect, or a licensed landscape architect.

3. CONTENTS

All Concept Plans shall include the following:

a. The general location of individual development areas, identified by land use(s) and/or development density or intensity;
b. The general configuration and relationship of the principal elements of the proposed development, including general building types;
c. Identify, for the entire district and each development area, the acreage, types and mix of land uses, number of residential units (by use type), non-residential floor area (by use type), residential density, and non-residential intensity (floor area square footage);
d. The general location, amount, and type (whether designated for active, passive, or gathering area) of open space set-aside;
e. The location of environmentally sensitive lands, wildlife habitat, and resource protection lands;
f. The on-site transportation circulation system, including the general location of all streets, existing or projected transit service, pedestrian and vehicular circulation features, and how they will connect with existing and planned systems;
g. The general location of on-site potable water and wastewater facilities, and how they will connect to existing systems;
h. The general location of on-site stormwater control measures, and how they will connect to existing public systems; and
i. The general location of all other on-site public facilities serving the development, including but not limited to parks, schools, bus shelters, and facilities for fire protection, police protection, EMS, and solid waste management.
j. The applicable dimensional standards, including consistency with the conditional zoning district dimensional requirements or any requested deviations.

4. DEVIATIONS OR REDUCTIONS

a. Concept Plans shall clarify the degree to which the development depicted in the Concept Plan will or will not comply with all applicable standards in Chapter 6, Standards.

b. In cases where the application seeks a deviation from the applicable standards, the Concept Plan shall clearly identify all deviations in both narrative and graphic forms.

c. It is insufficient to simply prepare a plan that depicts a building or site configuration that deviates from the applicable standards. Deviations from standards must be clearly noted and described in terms of their scope. Language in the narrative must match or be consistent with visual representations and vice versa.

5. PRINCIPAL AND SECONDARY USES

a. The Concept Plan shall include a list of proposed principal and secondary uses.

b. It is insufficient to reference the table of common principal or secondary uses; Concept Plans shall list all potential allowable uses.

c. Uses that are not listed in a Concept Plan and proposed after its approval shall be considered unlisted uses subject to the process identified in Section <>, Determination.

6. PHASING

If development in conditional zoning district is proposed to be phased, the Concept Plan shall include phasing details or a phasing plan that identifies the general sequence or phases in which the district is proposed to be developed, including how residential and non-residential development will be timed, how infrastructure (public and private) and open space will be provided and timed, and how development will be coordinated with the Town's capital improvements program.

7. CONSISTENCY

All Subdivisions, Site Plans, and Zoning Compliance Permit applications shall be substantially consistent with the approved Concept Plan. A Concept Plan may only be modified in accordance with Section <>, Amendment.

8. LIMITATIONS ON REDUCTIONS

In no instance shall any of the following standards in this Ordinance be waived or reduced as part of an application for a conditional rezoning:

a. Any of the applicable overlay district standards in Section <>, Overlay Zoning Districts;

b. The maximum allowable residential density, unless the landowner complies with the applicable provisions in Section <>, Incentives and Alternatives;

c. Any applicable conservation subdivision standards in Section <>, Conservation Subdivision;

d. Any use separation standards in Section <>, Standards for Specific Principal Uses;

e. Any of the standards applicable in Section <>, Prohibited Uses.

f. Any applicable standards in Section <>, Infrastructure; and

g. Any applicable standards in Section <>, Stormwater, and Section <>, Stream Buffers.

9. COMPLIANCE WITH SUBDIVISION REQUIREMENTS

Divisions of land within a conditional zoning district shall be subject to all applicable subdivision requirements in Section <>, Application Types.

10. RELATIONSHIP TO OVERLAY DISTRICT STANDARDS

Regulations governing development in an overlay zoning district shall apply in addition to all other applicable conditional zoning district standards.

3.3.2 (CZC) CONDITIONAL COMMERCIAL

A. PURPOSE AND INTENT

The Conditional Commercial (CZC) District is established to provide greater flexibility in terms of the range of allowable uses or applicable development standards than is permitted within the CRM or NCM conventional zoning districts. The CZC District creates a means for an applicant to voluntarily further restrict a proposed development in order to protect community character or seek relief from otherwise applicable standards in order to produce commercial development that is in closer alignment with the Town's goals for development than would result from a strict application of the standards applicable in the CZM or NCM districts.

B. DIMENSIONAL STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the dimensional standards in Section <>, (CRM) Corridor Commercial District, shall apply to all development within a CZC District.

C. ALLOWABLE USES

1. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable principal uses shall be in accordance with the principal uses listed in the CZM, NCM, or CZC columns of the table in Section <>, Listing of Common Principal Uses.
2. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable secondary uses shall be in accordance with the secondary uses listed in the CZM, NCM, or CZC columns of the table in Section <>, Listing of Common Secondary Uses.
3. In no instance shall a principal or secondary use that is not listed in the CZM, NCM, or CZC columns of the appropriate table be permitted within a CZC District.

D. USE-SPECIFIC STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the use-specific standards in Section <>, Standards for Specific Principal Uses, or Section <>, Standards for Specific Secondary Uses, as appropriate shall apply to development in a CZC District.

E. DEVELOPMENT STANDARDS

Unless modified as part of a Type 3 Conditional Rezoning application, the standards in Chapter 6, Standards, shall apply to all development in the CZC district. Type 3 Conditional Rezoning applications shall comply with the standards in Section <>, Limitations on Reductions.

3.3.3 (CZD) CONDITIONAL DOWNTOWN

A. PURPOSE AND INTENT

The Conditional Downtown (CZD) District is established to provide greater flexibility in terms of the range of allowable uses or applicable development standards than is permitted within DTNC, DTNT, or DTNN conventional zoning sub-districts. The CZD District creates a means for an applicant to voluntarily further restrict a proposed development in order to protect community character or seek relief from otherwise applicable standards in order to produce a development that is in closer alignment with the Town's goals for downtown development than would result from a strict application of the standards applicable in a particular DTN sub-district.

B. DIMENSIONAL STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the dimensional standards in Section <>, (DTNC) Downtown Core, shall apply to all development within a CZD District.

C. ALLOWABLE USES

1. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable principal uses shall be in accordance with the principal uses listed in the DTNC, DTNT, DTNN, or CZD columns of the table in Section <>, Listing of Common Principal Uses.
2. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable secondary uses shall be in accordance with the secondary uses listed in the DTNC, DTNT, DTNN, or CZD column of the table in Section <>, Listing of Common Secondary Uses.
3. In no instance shall a principal or secondary use that is not listed in the CZD column of the appropriate table be permitted within a DTNC, DTNT, DTNN, or CZD District.

D. USE-SPECIFIC STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the use-specific standards in Section <>, Standards for Specific Principal Uses, or Section <>, Standards for Specific Secondary Uses, as appropriate shall apply to development in a CZD District.

E. DEVELOPMENT STANDARDS

Unless modified as part of a Type 3 Conditional Rezoning application, the standards in Chapter 6, Standards, shall apply to all development in the CZD district. Type 3 Conditional Rezoning applications shall comply with the standards in Section <>, Limitations on Reductions.

3.3.4 (CZI) CONDITIONAL INDUSTRIAL

A. PURPOSE AND INTENT

The Conditional Industrial (CZI) District is established to provide greater flexibility in terms of the range of allowable uses or applicable development standards than is permitted within LID or HID conventional zoning districts. The CZI District creates a means for an applicant to voluntarily further restrict a proposed development in order to protect community character or seek relief from otherwise applicable standards in order to produce a development that is in closer alignment with the Town's goals for industrial development than would result from a strict application of the standards applicable in the LID or HID districts.

B. DIMENSIONAL STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the dimensional standards in Section <>, (HID) Heavy Industrial, shall apply to all development within a CZI District.

C. ALLOWABLE USES

1. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable principal uses shall be in accordance with the principal uses listed in the LID, HID, or CZI columns of the table in Section <>, Listing of Common Principal Uses.

2. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable secondary uses shall be in accordance with the secondary uses listed in the LID, HID, or CZI columns of the table in Section <>, Listing of Common Secondary Uses.
3. In no instance shall a principal or secondary use that is not listed in the CZI column of the appropriate table be permitted within a LID, HID, or CZI District.

D. USE-SPECIFIC STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the use-specific standards in Section <>, Standards for Specific Principal Uses, or Section <>, Standards for Specific Secondary Uses, as appropriate shall apply to development in a CZI District.

E. DEVELOPMENT STANDARDS

Unless modified as part of a Type 3 Conditional Rezoning application, the standards in Chapter 6, Standards, shall apply to all development in the CZI district. Type 3 Conditional Rezoning applications shall comply with the standards in Section <>, Limitations on Reductions.

3.3.5 (CZM) CONDITIONAL MIXED-USE

A. PURPOSE AND INTENT

The Conditional Mixed-Use (CZM) District is established to provide greater flexibility in terms of the range of allowable uses or applicable development standards than is permitted within the MXD conventional zoning district. The CZM District creates a means for an applicant to voluntarily further restrict a proposed development in order to protect community character or seek relief from otherwise applicable standards in order to produce a development that is in closer alignment with the Town's goals for industrial development than would result from a strict application of the standards applicable in the CZM district.

B. DIMENSIONAL STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the dimensional standards in Section <>, (MXD) Mixed-Use, shall apply to all development within a CZM District.

C. ALLOWABLE USES

1. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable principal uses shall be in accordance with the principal uses listed in the MXD and CZM columns of the table in Section <>, Listing of Common Principal Uses.
2. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable secondary uses shall be in accordance with the secondary uses listed in the MXD and CZM columns of the table in Section <>, Listing of Common Secondary Uses.
3. In no instance shall a principal or secondary use that is not listed in the MXD or CZM columns of the appropriate table be permitted within a CZM District.

D. USE-SPECIFIC STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the use-specific standards in Section <>, Standards for Specific Principal Uses, or Section <>, Standards for Specific Secondary Uses, as appropriate shall apply to development in a CZM District.

E. DEVELOPMENT STANDARDS

Unless modified as part of a Type 3 Conditional Rezoning application, the standards in Chapter 6, Standards, shall apply to all development in the CZM district. Type 3 Conditional Rezoning applications shall comply with the standards in Section <>, Limitations on Reductions.

3.3.6 (CZR) CONDITIONAL RESIDENTIAL

A. PURPOSE AND INTENT

The Conditional Residential (CZR) District is established to provide greater flexibility in terms of the range of allowable uses or applicable development standards than is permitted within the RHD, RLL, RLD, RMD, RMF, or RUR conventional zoning districts. The CZR District creates a means for an applicant to voluntarily further restrict a proposed development in order to protect community character or seek relief from otherwise applicable standards in order to produce a development that is in closer alignment with the Town's goals for industrial development than would result from a strict application of the standards applicable in the RHD, RLL, RLD, RMD, RMF, or RUR districts.

B. DIMENSIONAL STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the dimensional standards in Section <>, (RMD) Residential Medium Density, shall apply to all development within a CZR District.

C. ALLOWABLE USES

1. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable principal uses shall be in accordance with the principal uses listed in the RHD, RLL, RLD, RMD, RMF, RUR, or CZR columns of the table in Section <>, Listing of Common Principal Uses.
2. Unless further limited by a Type 1 or Type 2 Conditional Rezoning application, the range of allowable secondary uses shall be in accordance with the secondary uses listed in the RHD, RLL, RLD, RMD, RMF, RUR, or CZR columns of the table in Section <>, Listing of Common Secondary Uses.
3. In no instance shall a principal or secondary use that is not listed in the RHD, RLL, RLD, RMD, RMF, RUR, or CZR columns of the appropriate table be permitted within a CZR District.

D. USE-SPECIFIC STANDARDS

Unless modified as part of a Type 2 or Type 3 Conditional Rezoning application, the use-specific standards in Section <>, Standards for Specific Principal Uses, or Section <>, Standards for Specific Secondary Uses, as appropriate shall apply to development in a CZR District.

E. DEVELOPMENT STANDARDS

Unless modified as part of a Type 3 Conditional Rezoning application, the standards in Chapter 6, Standards, shall apply to all development in the CZR district. Type 3 Conditional Rezoning applications shall comply with the standards in Section <>, Limitations on Reductions.

3.4 GENERAL DIMENSIONAL STANDARDS[91]

3.4.1 MAXIMUM RESIDENTIAL DENSITY MAY BE INCREASED

A. Unless otherwise indicated in this Ordinance, the maximum density for a conventional or conditional zoning district may be increased beyond the amount listed in Section <>, Conventional Zoning Districts, or Section <>, Conditional Zoning Districts, only in accordance with the standards, incentives, and procedures identified in Section <>, Incentives and Alternatives.

B. In cases where an incentive or alternative identified in Section <>, Incentives and Alternatives, is proposed and approved by the Town, the increase in maximum residential density shall not require a conventional or conditional rezoning application.

3.4.2 MULTIPLE BUILDINGS OR STRUCTURES ON A LOT

In no instance shall there be more than one principal building per lot, except as allowed by the following:

A. NONRESIDENTIAL UNIFIED DEVELOPMENT

Two or more separate principal non-residential buildings may be permitted on a single lot as a unified development provided the development has been reviewed and approved in accordance with Section <>, Site Plan, and provided that each building shall be served by a street or an accessway that is maintained in passable condition for service and emergency vehicles.

B. MULTIPLE FAMILY DEVELOPMENT

Two or more separate principal residential buildings may be permitted on a single lot as a part of a single-family attached, multiple-family detached, or multi-family development subject to the applicable use standards in Section <>, Standards for Specific Principal Uses, and approval of a site plan in accordance with Section <>, Site Plan. Each building with residential units shall be served by street or accessway that is maintained in passable condition for service and emergency vehicles.

C. MANUFACTURED OR MOBILE HOME PARK

Manufactured or mobile home buildings may be permitted in a manufactured or mobile home park on a single lot, subject to approval of a Site Plan (see Section <>, Site Plan), and compliance with all applicable use-specific standards.

D. SINGLE-FAMILY RESIDENTIAL UNIFIED DEVELOPMENT

Two or more principal single-family detached dwellings may be permitted on a single lot, provided:

1. The development is identified, planned, approved, and developed as a unified development;
2. The development has received site plan approval in accordance with Section <>, Site Plan.

[91] This is a new section that sets out a range of broad dimensional requirement provisions. It recognizes unified developments, establishes the rules for special purpose lots, and does not carry forward the current rules for zero lot lines (since district setbacks are not applied along lot lines abutting party walls or to unified developments). This section also clarifies that lots with lot widths less than 50 feet (except conservation subdivision lots) are to be served by rear-loaded alleys.

3.4.3 REQUIRED LOT CONFIGURATION

A. DIMENSIONAL REQUIREMENTS

1. a. The size, width, depth, shape, orientation, and minimum setback lines of lots shall be as required for the zoning district where located in accordance with the standards in Chapter 3, Districts.
2. All lots created after (*insert the effective date of this Ordinance*), shall have sufficient area, dimensions, and access to allow a principal building to be erected on it in compliance with the requirements of this Ordinance.
3. Lots intended for non-residential development shall be of an adequate size and shape to accommodate required off-street parking, loading, landscaping, and on-site circulation features.

B. DOUBLE-FRONTAGE LOTS

1. Double frontage (or "through" lots) shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific challenges of topography and orientation.
2. In cases where a double frontage lot abuts an arterial or collector street, access to the lot shall be provided from the street with the lowest average daily trips. This requirement may be waived by the Planning Director in cases where compliance with this standard will likely result in dramatic increases in traffic within residential areas.
3. A double frontage lot shall include an easement of at least ten feet in width across the rear of the lot which shall prohibit access to the abutting street.

C. FLAG LOTS

New flag lots may be established, subject to the following requirements:

1. No more than two flag lots may be created from a parent parcel after (*insert the effective date of this Ordinance*);
2. New flag lots may only be established along existing streets;
3. The "pole," arm," or "pan handle" portion of a flag lot shall maintain a minimum width of at least 30 feet;
4. Use of a single driveway to serve an adjoining lot is encouraged. Wherever possible, the shared driveway shall be on the flag lot; and
5. In no case shall flag lots be configured to have two "poles," "arms," or "pan handles" on different lots adjacent to one another.

~~A.~~ D. MINIMUM LOT SIZE

1. Except for special purpose lots, or in cases of governmental acquisition of land in accordance with Section <>, Governmental Acquisition of Land, no lot established after (*insert the effective date of this Ordinance*), shall be reduced in size or dimension such that noncompliance with respect to any dimensional requirement, setback, parking, landscaping, or other development standard is created.
2. Except for special purpose lots, or lots subject to a valid approval in accordance with Section <>, Incentives and Alternatives, all lots created after (*insert the effective date of this Ordinance*), shall meet the minimum lot dimensional requirements for the district where located.
3. Corner lots shall be of sufficient size to ensure development may be configured in accordance with the standards in Section <>, Sight Distance Triangles.

~~B.~~E. MINIMUM LOT FRONTAGE

The minimum frontage of any lot at the right-of-way line shall be at least 20 linear feet.

~~C.~~F. MINIMUM LOT WIDTH

1. Except for lots within conservation subdivisions, new lots created after (*insert the effective date of this Ordinance*), with a lot width of less than 50 linear feet shall be served by rear-loaded alleys.
2. Alleys shall be the minimum length necessary to serve the lot or lots in question, and will be required to extend to a logical termination point necessary to ensure safe vehicular movement, in the sole discretion of the Town's Engineering Director.

~~D.~~G. SIDE LOT LINES

Side lines of lots should be at or near right angles or radial to street lines.

3.4.4 REQUIRED YARDS

A. The land area between a lot line and the inner boundary of a required setback is considered as a required yard.

B. The location of street, side, or rear yards on irregularly-shaped lots shall be determined by the Planning Director in accordance with Section <>, Rules of Measurement. Wherever possible, the Planning Director shall interpret these boundaries in ways that minimize nonconformities.

C. Except where otherwise provided in Section <>, Setback Encroachments, required yards shall not be subject to encroachment by a building, structure, or outdoor use area.

3.4.5 SPECIAL PURPOSE LOTS

Zoning district requirements related to street frontage, lot width, minimum lot area, and minimum lot dimensions shall not apply to special purpose lots, which shall be configured in accordance with the following:

A. LOTS DISTINGUISHED

Lots established for the sole purpose of family or church cemeteries, cluster mailbox units, guard houses, wastewater lift stations, wastewater treatment facilities, and similar utility uses shall be considered special purpose lots in accordance with these standards.

B. MINIMUM SIZE

A special purpose lot shall be permitted only after the Planning Director, or TRC, as appropriate, has determined if the proposed lot has sufficient dimensions to accommodate the intended use and any additional required elements.

C. ACCESS REQUIRED

If the special purpose lot does not have direct access to a public road, an easement for ingress and egress with a minimum width of ten feet shall be platted.

D. IDENTIFICATION

The boundaries and purpose for all special purpose lots shall be included on Preliminary and Final Plats.

3.4.6 SPLIT ZONING

Wherever a single lot is located within two or more different zoning districts, each portion of the lot shall be subject to all the regulations applicable to the zoning district where it is located.

3.4.7 UNIFIED DEVELOPMENT

A. A unified development is a residential, non-residential, or mixed-use development consisting of at least two buildings located on one or more lots that are planned, permitted, developed, and operated as a single unit.

B. Structures and land uses located on different lots within a unified development are subject to perimeter setbacks rather than traditional side and rear setbacks applied to individual lots.

C. All the buildings and land uses within a unified development are treated as a single use or structure with respect to the location of off-street parking, the location of landscaping, the application of exterior lighting provisions, the amount and location of required open space set-aside, stormwater requirements, and tree protection provisions.

D. Signage provisions shall be applied to individual lots and uses unless subject to a uniform sign plan in accordance with Section <>, Uniform Sign Plan.

3.5 INCENTIVES AND ALTERNATIVES[92]

3.5.1 DENSITY

Unless otherwise indicated in this Ordinance, the maximum residential density for a conventional or conditional zoning district may be increased beyond the amount identified in Section <>, Conventional Zoning Districts, and Section <>, Conditional Zoning Districts, only in accordance with the following:

A. Provision of sustainable development features in accordance with Section <>, Sustainable Development Incentives;

B. Voluntary compliance with Section <>, Residential Design Guidelines, as applied to a single-family detached use, a ~~two-family~~duplex use, or a single-family attached dwelling; or

C. Approval of a conditional zoning district in accordance with Section <>, Conditional Rezoning.

3.5.2 DIMENSIONAL STANDARDS

Required dimensional standards on lots in conventional, conditional, or overlay districts may be reduced or revised in accordance with the following:

A. Section <>, Administrative Adjustment;

B. Section <>, Sustainable Development Incentives; or

C. Section <>, Variance.

3.5.3 ALTERNATIVE COMPLIANCE

[placeholder pending completion of Chapter 6]

[92] This is a new section that clarifies that maximum densities and minimum setbacks can be revised.

3.6 MEASUREMENTS AND EXCEPTIONS[93]

3.6.1 PURPOSE AND INTENT

The purpose of this section is to clarify the rules of measurement and exemptions that apply to all principal and accessory uses allowed in this Ordinance. These standards may be modified by other applicable sections of this Ordinance.

3.6.2 GENERALLY[94]

A. STRAIGHT LINES

Unless otherwise stated in this Ordinance, distances specified in this Ordinance are to be measured as the length of an imaginary straight line joining two points.

B. ROUNDING

All calculations that result in a fractional unit or part of a whole number, the number shall be rounded up to the next highest whole number, unless otherwise provided in this section or elsewhere in this Ordinance.

C. IRREGULAR SHAPES

In cases where an irregular shape complicates the application of these standards, the Planning Director shall determine the applicable dimensional, setback, or bulk standards in accordance with the standards in this section and Section <>, Determination.

D. SEPARATION

1. LOT TO LOT

When the provisions of this Ordinance require separation between two or more lots, or a lot and another feature, separation shall be measured by drawing straight lines from the nearest point of one lot line to the nearest point of the lot line subject to the separation requirement (see Figure <>: Use Separation).

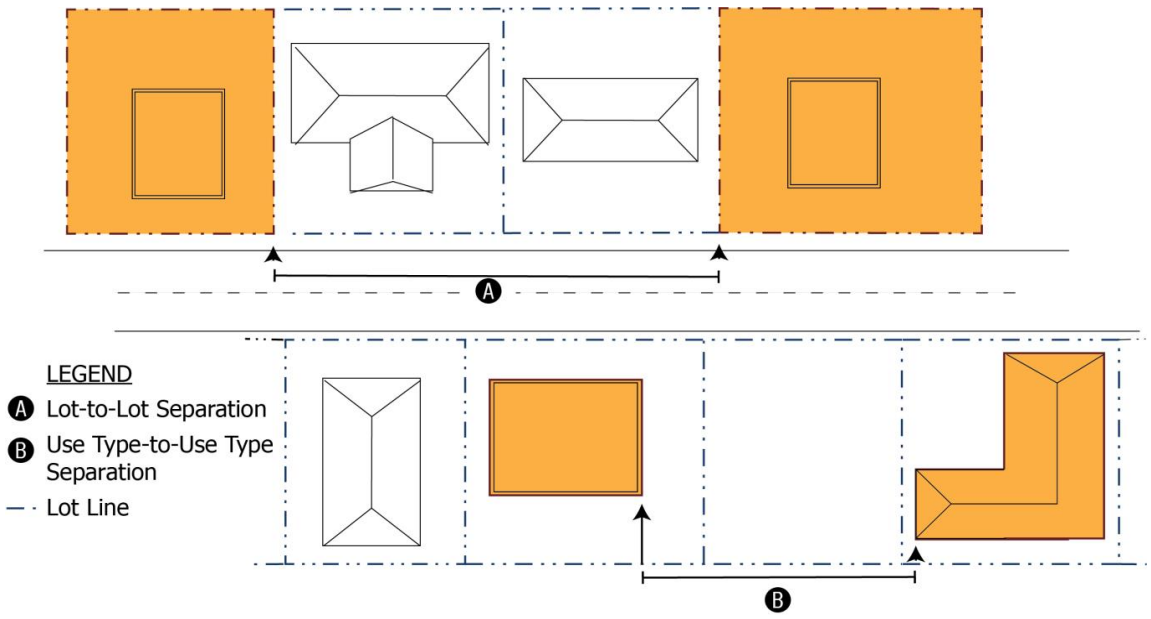
2. USE TYPE TO USE TYPE

When the provisions of this Ordinance require one use type to be separated from another use type, separation shall be measured by drawing straight lines from the nearest point of the wall of one existing or proposed principal structure to the nearest point of the wall of another existing or proposed structure subject to the separation requirement (see Figure <>: Use Separation).

[93] This section carries forward and builds on Section 155.201 of the current UDC. It includes additional details on general measurements and details on lot types.

[94] New.

FIGURE <>: USE SEPARATION



E. ABUTTING VERSUS ADJACENT

1. ABUTTING

The term abutting describes a condition where two or more features (a lot line, building, driveway, etc.) are immediately beside or next to one another either on the same lot or on different lots sharing a common lot line.

2. ADJACENT

The term adjacent describes a condition where two or more similar features (a lot line, building, use type, structure, site feature, etc.) are proximate to one another, but are separated by some form of intervening feature, such as a street, alley, water feature, railroad, lot or property under separate ownership, or natural feature of sufficient size so as to prevent direct site visibility or impede the movement of sound from one feature to another.

3.6.3 DENSITY & YIELD CALCULATIONS[95]

A. GENERALLY

1. Density is the maximum allowable number of residential dwelling units permitted on a particular site, tract, lot, or other unit of land area, typically expressed as a maximum number of residential units per acre.
2. Lot area is the minimum size of a lot, in square feet, that is devoted to a residential dwelling unit as identified for the zoning district where located. Lot area is used to determine the maximum number of lots that can be accommodated on a particular site, tract, lot, or other unit of land area, typically expressed as a whole number.
3. Yield is the total number of residential dwelling units permitted within a particular development. Yield is the lesser of the allowable density or the maximum number of lots.
4. Fractional numbers resulting from a calculation of density, maximum number of lots, or yield shall be rounded downwards to the next whole number.

B. CALCULATION OF DENSITY

1. Maximum residential density is calculated by dividing the square footage of a lot by the number of square feet in an acre (43,560), then multiplying the maximum number dwelling units allowed in the zoning district, and rounding the product downwards (in the tenths place) to remove any fractions.

   a. **EXAMPLE: 67,000 SQUARE-FOOT SITE IN THE RMD DISTRICT**
      i. Lot size: 67,000 square feet / 43,560 = 1.53 acres.
      ii. Zoning district maximum density for single-family detached dwellings or ~~two-family~~duplex dwellings is 5.0 units per acre: 1.53 x 5.0 = 7.65.
      iii. Maximum residential density = 7 units (fractions are rounded downwards).
2. Land area associated with floodplains and riparian buffers may be included in the calculation of the square footage of a tract or site for the purposes of determining the maximum residential density.
3. Land area located within a public right-of-way shall not be included in the calculation of allowable density.
4. Maximum residential density in a particular zoning district may be increased beyond the amount stated for the zoning district, in accordance with the standards in Section <>, Incentives and Alternatives.

C. CALCULATION OF MAXIMUM NUMBER OF LOTS

The maximum number of lots is calculated by dividing the total square footage of a lot or tract by the minimum lot area for the type of use proposed, the resulting number (the quotient) is then rounded downwards to the next lowest whole number to produce the total number of lots permissible for the type of use proposed.

   a. **EXAMPLE 1: 67,000 SQUARE-FOOT SITE IN THE RMD DISTRICT FOR SINGLE-FAMILY DETACHED DWELLING LOTS**
      i. Lot size: 67,000 square feet.
      ii. Minimum lot area for a single-family detached dwelling: 8,000 square feet.
      iii. Maximum number of single-family detached dwelling lots: 67,000 / 8,000 = 8.37, or 8 single-family detached lots (fractions are rounded downwards).

[95] Replaces 155.201. The 50% reduction from density based on land area within a resource conservation area is not carried forward. The General Statutes require all land area (including unbuildable) to be factored into density calculations.

b. EXAMPLE 2: 67,000 SQUARE-FOOT SITE IN THE RMD DISTRICT FOR ~~TWO-FAMILY~~DUPLEX DWELLING LOTS

i. Lot size: 67,000 square feet.
ii. Minimum lot area for ~~two-family~~duplex dwelling: 10,000 square feet.
iii. Maximum number of ~~two-family~~duplex dwelling lots: (67,000 - 10,000) = 6.70, or 6 ~~two-family~~duplex dwelling lots (fractions are rounded downwards).

D. CALCULATION OF YIELD

Residential yield is the lesser of the maximum allowable density or the maximum number of lots for a given site.

a. EXAMPLE 1: 67,000 SQUARE -FOOT SITE IN THE RMD DISTRICT FOR SINGLE-FAMILY DETACHED DWELLING LOTS

i. Maximum density (based on Example a in Subsection B above): 7 units.
ii. Maximum number of lots (based on Example a in Subsection C above): 8 lots.
iii. Yield = 7 units.

b. EXAMPLE 2: 67,000 SQUARE -FOOT SITE IN THE RMD DISTRICT FOR ~~TWO-FAMILY~~DUPLEX DWELLING LOTS

i. Maximum density (based on Example a in Subsection B above): 7 units.
ii. Maximum number of lots (based on Example b in Subsection C above): 6 lots (12 dwelling units).
iii. Yield = 7 units (three ~~two-family~~duplex dwelling structures).

E. DENSITY EQUIVALENCE

1. Accessory dwelling units associated with a single-family residential principal use shall not be counted towards the maximum allowable residential density.
2. When calculating the density for a private dormitory associated with an educational use, two bedrooms in a private dormitory shall be equivalent to one regular dwelling unit.
3. Maximum density amounts do not apply to student housing or lodging on college or university campuses when the housing is owned or operated by the college or university. In these instances, residential land uses are considered as an accessory to the college or university principal use.

3.6.4 HEIGHT[96]

A. MEASUREMENT

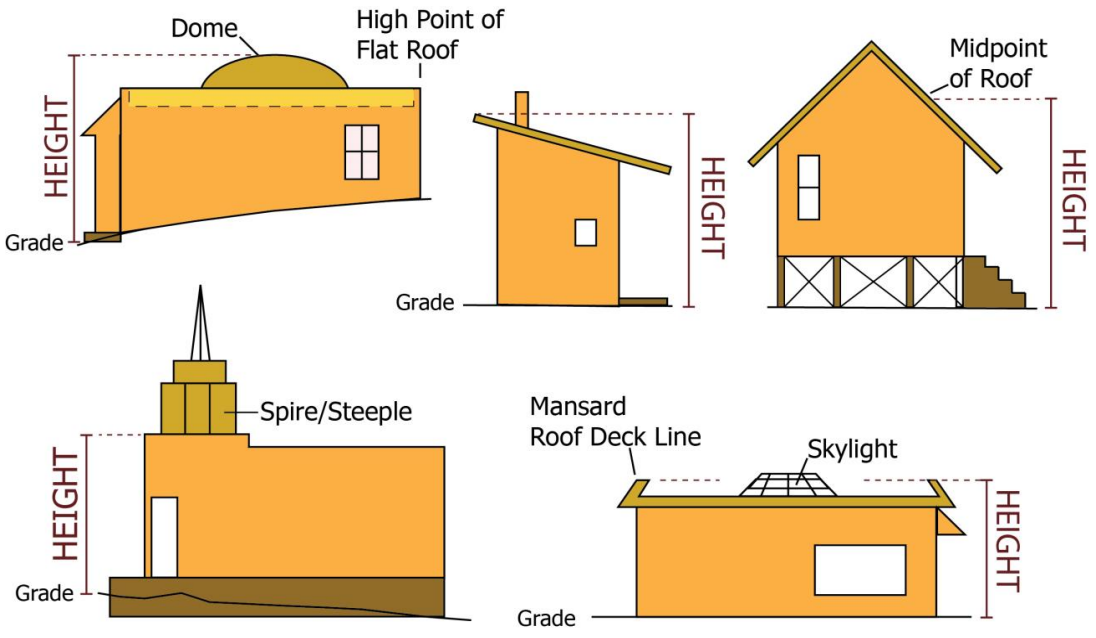
Building height shall be measured from the finished or established grade elevation following any land disturbing activities.

B. MAXIMUM HEIGHT

Building height is the vertical distance from a point established as the mean elevation of the finished grade along the front façade of a building to any of the following points (see Figure <>: Building Height):

1. The highest point of a flat roof (excluding coping or parapet walls shorter than five feet above the roof deck);
2. The deck line of a mansard or gambrel roof;
3. The mid-point of the roof between the ridge and the eaves for a gable or hip roof; or
4. To the highest point of a dome, mono-pitch shed, or cricket-style roof.

FIGURE <>: BUILDING HEIGHT



C. STORY

A building story is the portion of a building where all rooms share the same floor and ceiling level.

[96] This section replaces Section 155.201(C) form the current UDC with numerous changes. Maximum height is proposed to be measured from the mean finished elevation along the front façade to variable points at the top of the building based on the type of roof. Maximum height on a pitched roof is measured to the midpoint of the roof. The standards recognize stories (for the calculation of minimum heights), and incorporates the height exclusions in this portion of the regulations. The additional height allowance for building heights beyond the district maximum (based on deeper setbacks) is not carried forward.

1. A crawlspace, basement, or condition space with a ceiling height of less than seven feet is not considered as a story.
2. An attic with an average ceiling height of less than six feet is not considered a story.

D. EXCEPTIONS

The following features are exempted from the maximum height requirements in this Ordinance:

1. Parapet walls of less than five feet in height above the roof deck;
2. Spires, steeples, minarets, belfries, cupolas, domes, and similar architectural features not intended for human habitation;
3. Water tanks, vent housings, elevator housings, and equipment covers;
4. Chimneys, vent pipes, skylights, or mechanical equipment; and
5. Bulkheads or a single-story penthouse occupying 25 percent or less of the total roof area.

3.6.5 FLOOR AREA

Gross floor area (GFA) shall be defined as the sum in square feet of all floors of the building measured from the exterior face of the exterior walls. The gross floor area shall include or exclude areas as indicated below:

A. AREAS INCLUDED IN GROSS FLOOR AREA

1. All enclosed habitable space.
2. Elevators, hallways, and stairwells on stories containing habitable space.

B. AREAS EXCLUDED FROM GROSS FLOOR AREA

1. Unenclosed porches or decks.
2. Off-street parking areas, including the elevators, hallways, mechanical equipment, and stairwells serving structured parking.
3. Utility services areas devoted to the electric service, the potable water service, the wastewater system, the telephone service, the cable service, or to a backup generator.
4. Mechanical areas and uninhabited enclosed spaces on tops of roofs not intended for general storage.

3.6.6 LOT COVERAGE

Lot coverage is the percentage of a lot or development site that is covered by buildings or roof structures, excluding allowed projecting eaves and balconies.

3.6.7 LOTS

A. LOT MEASUREMENTS

1. ACREAGE

The total number or gross number of acres on a tract or site.

2. LOT DEPTH

The dimension measured from the front of the lot to the extreme rear line of the lot. In case of irregularly shaped lots, the mean depth shall be taken.

3. LOT WIDTH

The width of a lot is measured at right angles to its depth at the edge of the street setback or at a proposed building setback line, whichever is further from the street right-of-way. If the lot line parallel to the street edge is not straight, the lot width is measured as a chord between the intersection of the street setback line and the two side lot lines.

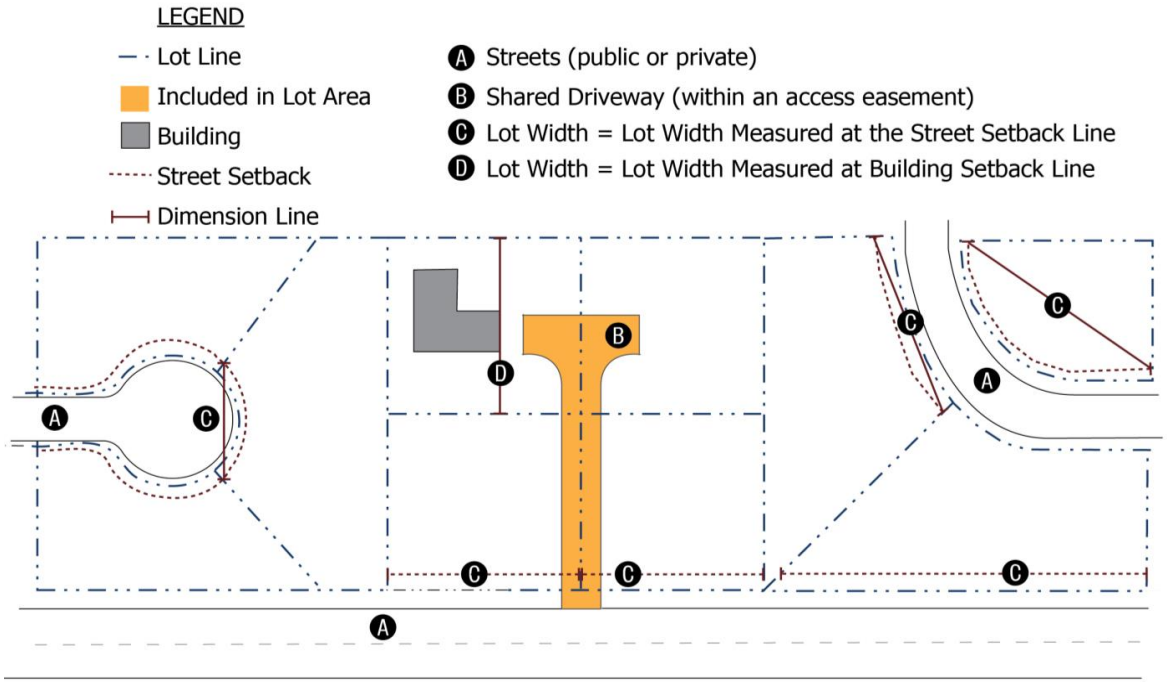
4. MINIMUM LOT AREA

The minimum amount of required land area, measured horizontally, that must be included within the lines of a lot (see Figure <>: Lot Measurement). Lands located within any easements shall be included within the lot area, but public rights-of-way shall not.

5. STREET FRONTAGE

The length of the lot line of a single lot abutting a public or existing private street right-of-way.

FIGURE <>: LOT MEASUREMENT



B. LOT LINES

A lot line is a line of record bounding a lot which separates one lot from another lot or separates a lot from a public or private street or any other public space (see Figure <>: Lot Lines). The following terms describe differing types of lot lines:

1. STREET LOT LINE

The lot line along the edge of the street that provides a lot's street address or the primary entrance of a building. Street setbacks are applied to any lot line abutting a street, but only one lot line serves as the street lot line. The street lot line is the lot line corresponding the front or primary building façade.

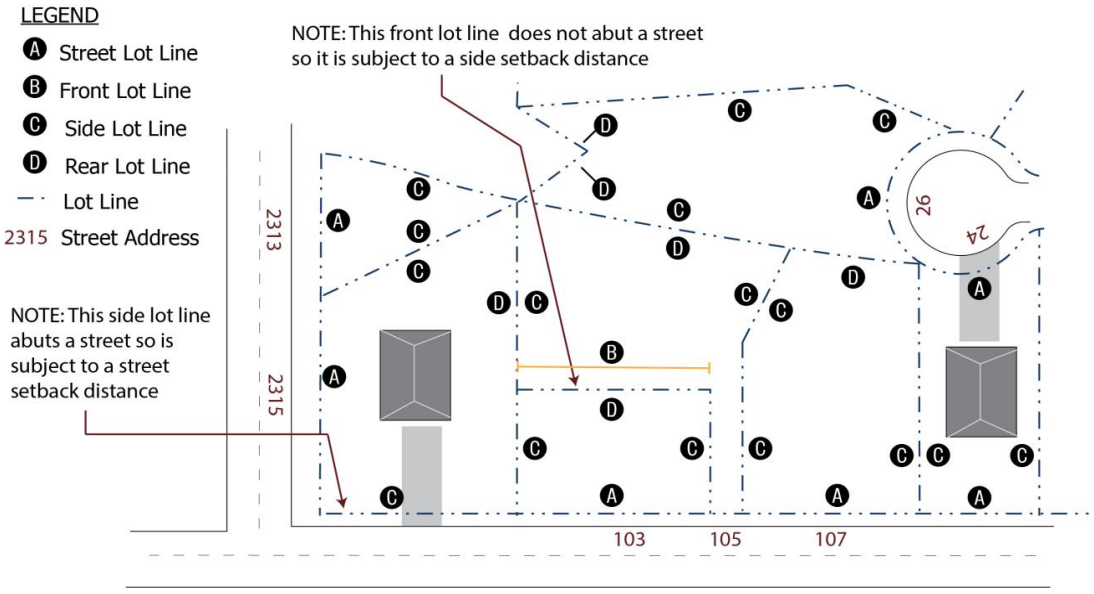
2. REAR LOT LINE

The lot line opposite the street lot line.

3. SIDE LOT LINE

The lot line connecting the street and rear lot lines regardless of whether it abuts a right-of-way or another lot line.

FIGURE <>: LOT LINES



C. LOT TYPES

1. CORNER LOT

A lot which occupies the interior angle at the intersection of two street lines or a single street which make(s) an angle of more than 45 degrees and less than 135 degrees.

2. FLAG LOT

A lot having shape and configuration so that it connects to street frontage by an extension and/or arm of the main portion of the lot.

3. INTERIOR LOT

A lot other than a corner lot with only one frontage on a street.

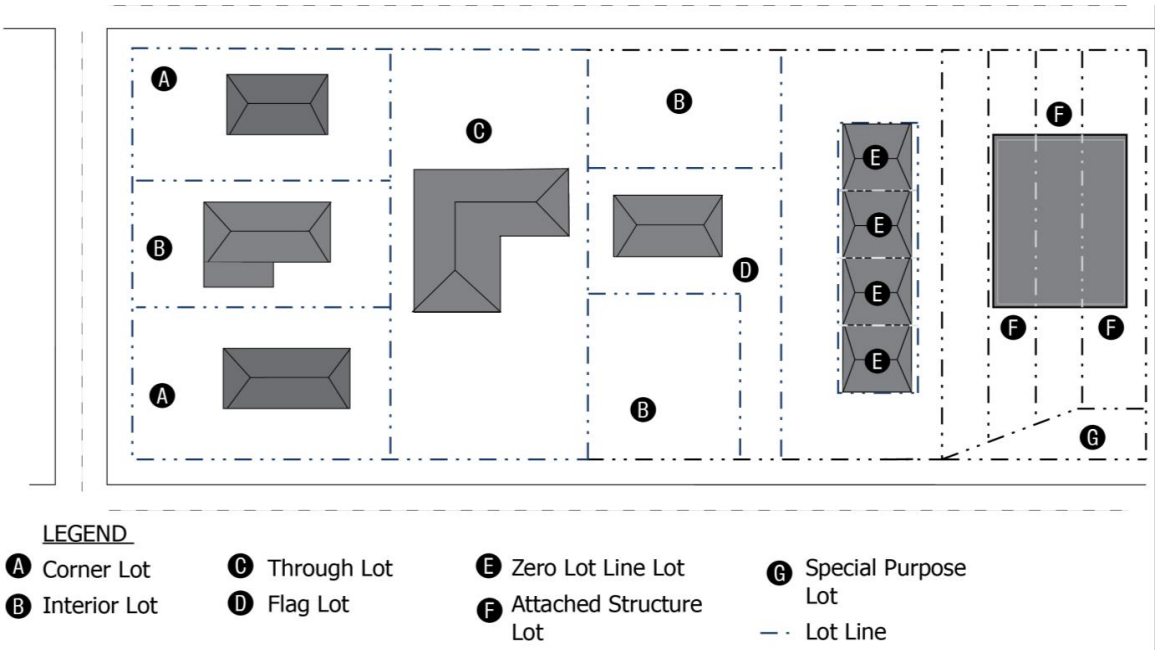
4. LOT OF RECORD

A lot that is a part of a subdivision, a plat of which has been recorded in the office of the Johnston County Register of Deeds, as appropriate or a lot described by metes and bounds, the description of which has been recorded with the Johnston County Register of Deeds, as appropriate.

5. THROUGH LOT (DOUBLE FRONTAGE LOT)

A lot which fronts upon two parallel streets, and/or which fronts upon two streets which do not intersect at the boundaries of the lot.

FIGURE <>: LOT TYPES



D. ZERO LOT LINES

Zero lot line lots serving individual attached structures, whether residential or non-residential, that do not have individual lot frontages are exempted from minimum lot area requirements in this Ordinance but shall be located on a larger site or parent tract that meets the site size standards for the zoning district where located.

3.6.8 SETBACKS[97]

A setback is the horizontal distance from a lot line or street right-of-way line to the nearest part of the applicable building, structure, sign, or activity, measured perpendicularly to the line.

A. PERIMETER SETBACK

Setbacks applied to unified developments or multiple building developments or two or more lots apply only to the outermost buildings along the perimeter of a development. A perimeter setback does not apply along streets, where the minimum or maximum required street setback shall prevail.

B. REAR SETBACK

A setback from an interior lot line lying on the opposite side of the lot from the street setback.

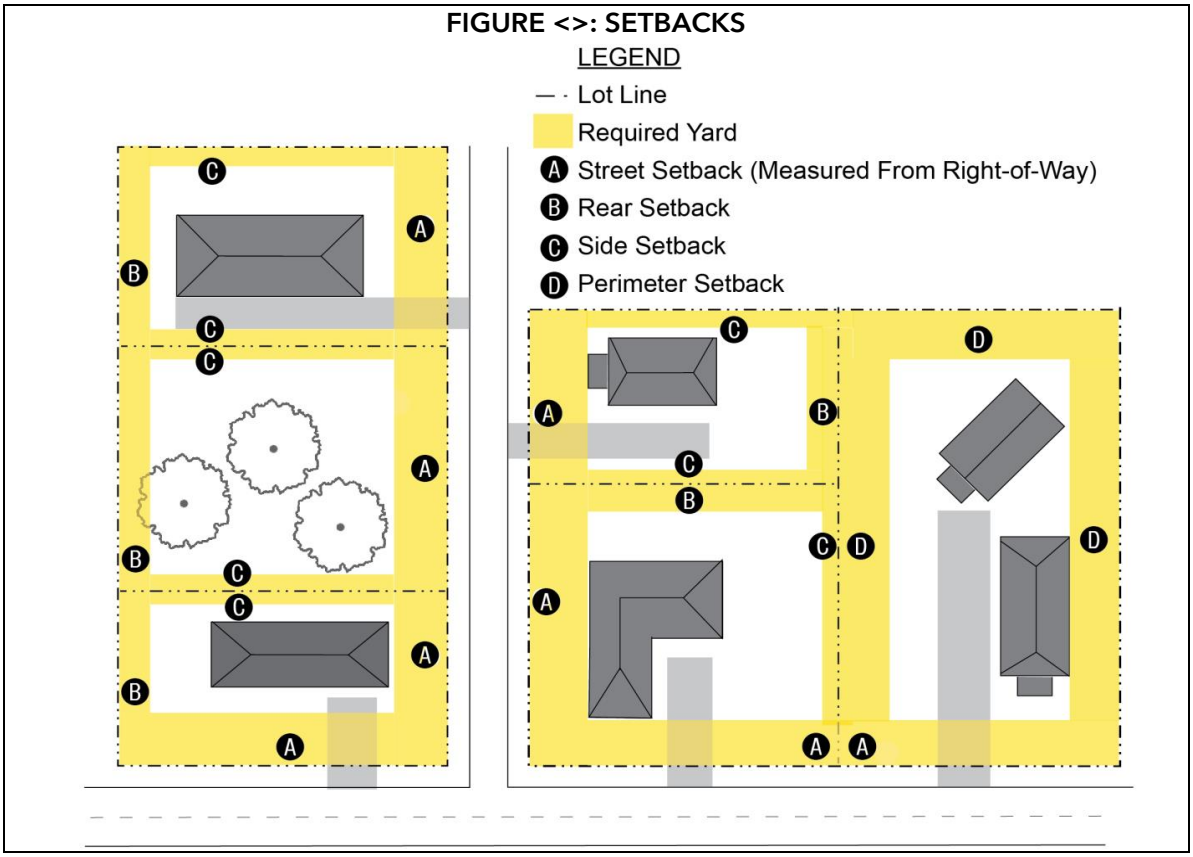
C. SETBACKS FROM RAILROADS OR SIDINGS

Lots serving industrial or commercial uses and abutting a railroad or railroading siding are not required to provide a side or rear setback from the railroad or siding.

D. SIDE SETBACK

Any interior property line setback other than a rear setback.

FIGURE <>: SETBACKS



[97] This section is proposed to replace Section 155.201(G). It adds a perimeter setback for multi-building and unified developments, and does not carry forward the current average front yard setbacks or the concept of minimum required yard widths – it applies minimum dimensions to setbacks instead. Yards are simply the land area located within a required setback. It also removes the concept of a side street setback in favor of a basic street setback applied regardless of where the street is located.

E. STREET SETBACK

1. A setback measured from the right-of-way edge associated with a public street.
2. The street setback is a minimum setback, and nothing shall prohibit a building from being located farther from the street right-of-way, except where a maximum street setback is specifically identified by this Ordinance or a condition of approval.
3. In cases where the street right-of-way edge is not readily identifiable, the location of the right-of-way edge shall be determined by measuring outwards from the street centerline one-half of the total right-of-way width. The right-of-way edge location shall be certified by a professional engineer or land surveyor licensed by the State of North Carolina.
4. Lots shall provide a street setback from all lot lines abutting a street (excluding alleys).
5. Lots abutting private streets shall not be subject to a street setback.

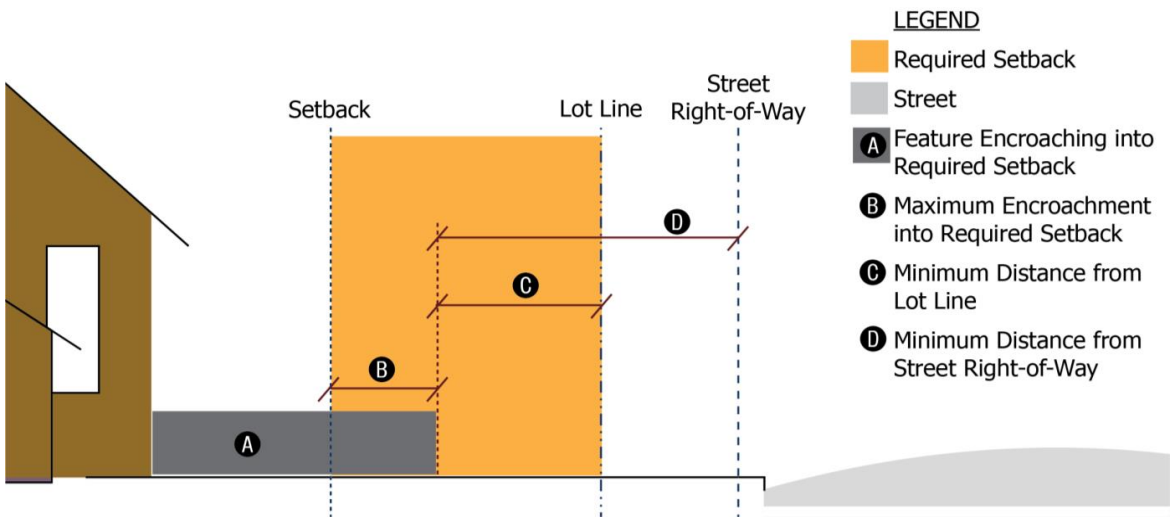
F. USE-BASED SETBACKS

In cases where a particular use type has setback requirement or an applicable condition of approval that differs from the generally-applicable setback requirements for the zoning district where located, then the more restrictive setback requirement shall apply.

3.6.9 SETBACK ENCROACHMENTS[98]

Table <>, Allowable Encroachment into Setbacks, sets out the kinds of features that are permitted to encroach within a required setback, provided they do not obstruct visibility for motorists at any street intersection (see Figure <>: Setback Encroachment Diagram).

FIGURE <>: SETBACK ENCROACHMENT DIAGRAM



[98] This section builds on the standards in Section 155.201(G)(4) in the current UDC.

TABLE <>: ALLOWABLE ENCROACHMENTS INTO REQUIRED SETBACKS

Feature	Maximum Allowable Encroachment Distance into a Required Setback [1]
Art Installation	May encroach into a required setback but no closer than five feet from any lot line
Awnings	May encroach into any setback up to eight feet, but shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access
Balcony or Bay Window	May extend up to four feet into any required setback within a residential zoning district, but shall be no closer than three feet from any lot line
Bicycle Parking Facilities	Allowed within a setback, but no closer than five feet to the edge of the pavement of a street
Building Eave or Roof Overhang	May encroach up to 24 inches into a required setback, but must maintain at least seven-and-one-half feet above a sidewalk, greenway, or street
Canopy, Attached	May encroach into any setback up to three feet, but shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access. In the DTN district, a canopy shall maintain a minimum distance of at least two feet from the back of the curb
Canopy, Freestanding	May be located in a setback provided no portion is closer than 15 feet to a street right-of-way
Chimneys, Fireplaces, Outdoor Kitchens, or steps	May extend up to four feet into any setback, but shall be no closer than three feet from any lot line
Cluster Mailbox Unit	May encroach into a required setback but no closer than five feet from any lot line
Cornice, Beltcourse, or Sill	May extend up to two feet into any required setback but no closer than five feet from any lot line
Decks, Covered	Subject to the setbacks applied to principal structures
Decks, Uncovered	May extend up to four feet into a required side yard or ten feet into a required street or rear yard but no closer than five feet from any lot line
Driveways	May be located in any required setback
Elevators and Similar Mechanical Devices	May encroach into side setbacks no more than 18 inches and rear setbacks no more than 36 inches

TABLE <>: ALLOWABLE ENCROACHMENTS INTO REQUIRED SETBACKS

Feature	Maximum Allowable Encroachment Distance into a Required Setback [1]
Fences, Gates, or Walls, excluding Retaining Walls	May be located in any required setback, subject to the limitations in Section <>, Fences and Walls, but shall not be located within a required sight distance triangle
Fire Escape	May encroach up to eight feet into any required yard, but must maintain at least seven-and-one-half feet above a sidewalk, greenway, or street
Flagpoles, Mailboxes, Lamp and Address Posts	May be located in any required setback but no closer than three feet from any lot line
Detached Carport or Garage	May be located within rear yard but no closer than five feet from any lot line, and no closer than 10 feet to the principal structure
Gazebo or Garden Structure	May not be located within a street setback or closer than five feet from any lot line
Handicap Ramps	May be located in any required setback provided it does not unduly obstruct pedestrian or vehicular access
Outdoor Display of Merchandise for Sale (when proposed as part of a non-residential use)	May encroach into a required setback but no closer than five feet from any lot line
Outdoor Equipment (e.g., HVAC condenser, water heater, etc.) Serving Single-family Detached Residential Use	May extend up to four feet into any required setback but no closer than five feet from any lot line
Outdoor Equipment Serving a Use other than Single-family Detached Residential	May encroach by up to five feet into a required setback
Outdoor Seating Areas Serving a Non-residential Use	May encroach into a setback up to eight feet but no closer than three feet from any lot line
Outdoor Storage	May not encroach into a required setback
Parking Structure	May extend up to four feet into a rear yard
Patio or Porch, Covered	May extend up to four feet into a required side yard or ten feet into a required street or rear yard but no closer than five feet from any lot line
Patio or Porch, Uncovered	May be located in any required setback but no closer than five feet from any lot line

TABLE <>: ALLOWABLE ENCROACHMENTS INTO REQUIRED SETBACKS

Feature	Maximum Allowable Encroachment Distance into a Required Setback [1]
Pet Shelters	Subject to the setbacks applied to principal structures
Playground Equipment Accessory to a Residential Use	When located ten or more feet from the principal structure, may be located within five feet of a side or rear lot line, but shall not be located within a required street setback
Produce Stand	May encroach into a required setback but no closer than five feet from any lot line
Retaining Walls	May encroach into a required setback
Roof Eaves, Rakes, and Overhangs	May extend up to four feet into any required setback but no closer than three feet from any lot line
Signs	May extend into any required setback in accordance with Section <>, Signage
Swimming Pool/Hot Tub, (including all ancillary appurtenances)	May extend into a required side or rear setback, but shall be no closer than five feet to a lot line
Tool Shed	May be located within rear yard but no closer than five feet from any lot line, and no closer than five feet to the principal structure
Underground Structures (including septic systems but excluding swimming pools)	May be located in any required setback but no closer than three feet from any lot line
Vegetation and Landscaping Features	May be located in any required setback
Vehicular Off-street Parking Area	May be located in any required setback provided that no parking area is located within five feet of the street right-of-way
Well House (functional or aesthetic)	May be located in any required setback, but shall be no closer than eight feet from a right-of-way

NOTES:
[1] Regardless o the amount of allowable encroachment, no features shall be permitted within a public utility easement.

3.6.10 SLOPE AND ELEVATION[99]

A. SLOPE

The degree of deviation of the ground surface from a flat, horizontal elevation, usually expressed in percent or degrees of deviation from horizontal.

B. BASE FLOOD ELEVATION (BFE)

1. A determination of the water surface elevations of the base flood as published in the flood insurance study.
2. When the BFE has not been provided for land within the ~~FPOD~~Flood Protection Overlay District, it may be obtained from engineering studies available from a federal, State, or other source using FEMA approved engineering methodologies. This elevation establishes the Regulatory Flood Protection Elevation.

C. FINISHED GRADE

The established grade following grading, excavation, or other land-disturbing activity.

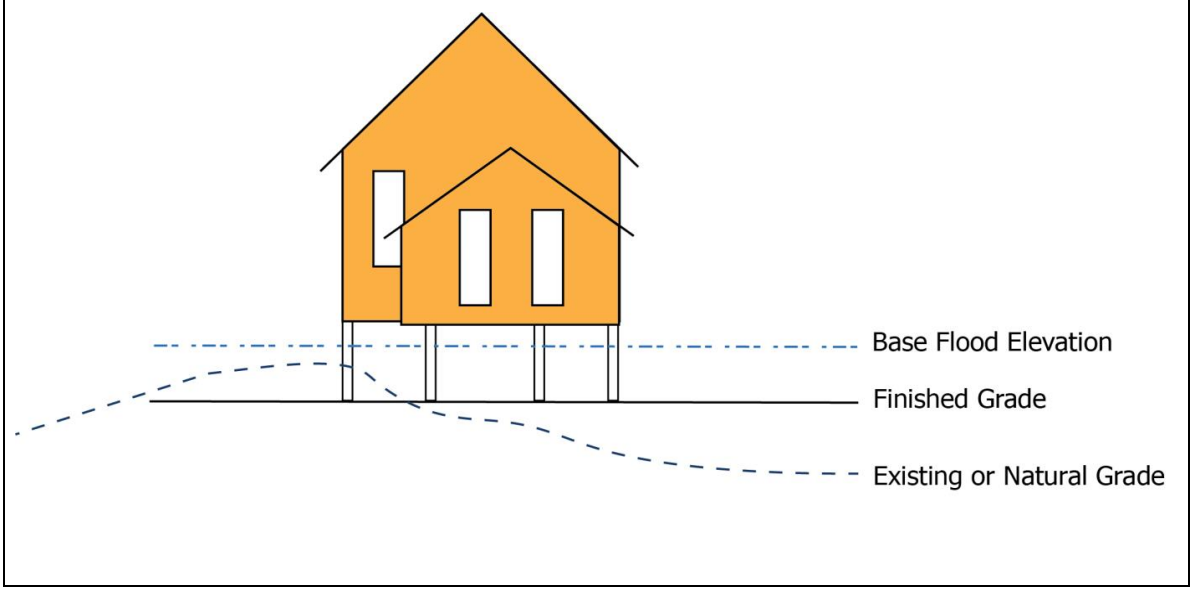
D. NATURAL GRADE

The level of the ground elevation prior to the commencement of development or land disturbing activity (see Figure <>: Grade Determination).

E. REGULATORY FLOOD PROTECTION ELEVATION

The minimum height allowable for lowest structural member comprising habitable space within a building. This is a height equivalent to two linear feet in elevation above the base flood elevation.

FIGURE <>: GRADE DETERMINATION



[99] New section.

3.7 OVERLAY ZONING DISTRICTS

3.7.1 GENERALLY

A. PURPOSE

Overlay zoning districts are superimposed over either all or a portion of one or more underlying conventional or conditional zoning districts with the intent of supplementing generally applicable development regulations with additional development regulations that address special area-specific conditions, features, or plans while maintaining the character and purposes of the underlying zoning district.

B. ESTABLISHMENT

The conditional zoning districts are established in accordance with the summary table in Section <>, Districts Established.

C. CLASSIFICATION

Land shall be classified or reclassified into an overlay zoning district only in accordance with the procedures and requirements set forth in Section <>, Conventional Rezoning, and this section.

D. RELATIONSHIP TO UNDERLYING ZONING DISTRICTS

1. Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying conventional or conditional zoning district, unless otherwise expressly stated.
2. In cases where the standards governing an overlay zoning district expressly conflict with those governing an underlying conventional or conditional zoning district, the provisions in Section <>, Conflict, shall control.
3. Where land is classified into multiple overlay zoning districts and the standards governing one overlay zoning district expressly conflict with those governing another overlay district, the provisions in Section <>, Conflict, shall control.

3.7.2 FPOD FLOOD PROTECTION OVERLAY DISTRICT[100]

A. GENERAL PROVISIONS

1. STATUTORY AUTHORIZATION; FINDINGS OF FACT

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter l60A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Town Council does ordain as follows:

a. The flood prone areas within the jurisdiction of the Town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

[100] This section relocates the flood protection provisions in Chapter 151 of the Town Code to the new UDO with subsequent change. The definitions are relocated to Chapter 8, Word Usage. The Floodplain Administrator powers and duties are relocated to the section dealing with review authorities in Chapter 1, Administration. The various procedural information (floodplain permits, elevation certificates, variances, etc.) are relocated to Chapter 2, Procedures, and the enforcement standards are relocated to Chapter 7, Violations.

b. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

2. STATEMENT OF PURPOSE

It is the purpose of this section to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

a. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights, or velocities;

b. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

c. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

d. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

e. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

3. OBJECTIVES

The objectives of these standards are to:

a. Protect human life, safety, and health;

b. Minimize expenditure of public money for costly flood control projects;

c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. Minimize prolonged business losses and interruptions;

e. Minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

f. Minimize damage to private and public property due to flooding;

g. Make flood insurance available to the community through the National Flood Insurance Program;

h. Maintain the natural and beneficial functions of floodplains;

i. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

j. Ensure that potential buyers are aware that property is in a special flood hazard area.

4. APPLICABILITY

a. LANDS TO WHICH THIS CHAPTER APPLIES

These standards shall apply to all special flood hazard areas within the Town's planning jurisdiction.

b. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION CODE

These standards are a re-enactment of some of the provisions of the flood damage prevention ordinance enacted June 16, 1987, as amended, and it is not the intention to repeal but rather to reenact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of these standards shall not affect any action, suit, or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Clayton enacted on June 16, 1987, as amended, which are not reenacted herein are repealed.

c. EFFECTIVE DATE

The date of the initial Flood Damage Prevention Ordinance for Johnston County is September 30, 1983.

d. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or a designee before the time of passage of these standards; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this section.

5. BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS

a. The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated June 20, 2018 for Johnston County, January 19, 2022 for Wake County, and associated DFIRM panels and any revision thereto, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this section.

b. Hereinafter, special flood areas shall be described as the "FPOD," or the Flood~~plain~~ Protection Overlay District.

6. ESTABLISHMENT OF FLOODPLAIN PERMIT

A floodplain permit, in the form or document established by the Town, shall be required in conformance with the provisions of this section and Section <>, Floodplain Permit, prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of Section <>, Basis for Establishing Special Flood Hazard Areas.

7. COMPLIANCE

No structure or land subject to these standards shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this section and other applicable regulations.

8. ABROGATION AND GREATER RESTRICTIONS

This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Conflicts between these provisions and other standards in this Ordinance shall be addressed in accordance with the standards in Section <>, Conflict.

9. DEFINITIONS

The terms used in this section are further defined in Section <>, Terms Defined.

10. INTERPRETATION

In the interpretation and application of this section, all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the governing body; and

c. Deemed neither to limit nor repeal any other powers granted under state statutes.

11. WARNING AND DISCLAIMER OF LIABILITY

a. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur.

b. Actual flood heights may be increased by man-made or natural causes.

c. These standards do not imply that land outside the ~~FPOD~~Flood Protection Overlay District or uses permitted within such areas will be free from flooding or flood damages.

d. These standards shall not create liability on the part of the Town or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

B. PROVISIONS FOR FLOOD HAZARD REDUCTION

1. GENERAL STANDARDS

The following general standards are applied to all lands and development within the ~~FPOD~~Flood Protection Overlay District:

a. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

b. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.

c. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

d. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the regulatory flood protection elevation, or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, duct work, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.

- **i.** Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
- **ii.** Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

g. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

h. Nothing in these standards shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this section and located totally or

partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this section.

i. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in accordance with Section <>, Prohibited Uses~~, except by variance as specified in Section <>, Variance~~. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Section <>, Floodplain Permit.

j. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

k. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

l. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

m. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

n. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

o. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

2. SPECIFIC STANDARDS

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in Section <>, Basis for Establishing Special Flood Hazard Areas, or Section <>, Standards for Floodplains without Established Base Flood Elevations, the following provisions, in addition to Section <>, General Standards, are required:

a. RESIDENTIAL CONSTRUCTION

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section <>, Terms Defined.[101]

b. NON-RESIDENTIAL CONSTRUCTION

i. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section <>, Terms Defined.

ii. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural

[101] The two-foot freeboard is located in the definition which is how the State model ordinance is set up. This standard should be elsewhere.

components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

iii. A registered professional engineer or licensed architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section <>, Floodplain Permits, along with the operational plan and the inspection and maintenance plan.

c. MANUFACTURED HOMES

i. New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section <>, Terms Defined.

ii. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS§ 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

iii. All enclosures or skirting below the lowest floor shall meet the requirements of Section <>, Elevated Buildings.

iv. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local emergency management coordinator.

d. ELEVATED BUILDINGS

Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

i. Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;

ii. Not be temperature-controlled or conditioned;

iii. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

iv. Include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or licensed architect or meet or exceed the following minimum design criteria:

1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
2. The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
4. The bottom of all required flood openings shall be no higher than one foot above the higher of the interior or exterior adjacent grade;
5. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

e. ADDITIONS/IMPROVEMENTS

i. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
2. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

ii. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

iii. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

iv. Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

v. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of these standards. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Town and that are the minimum necessary to assume safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

f. RECREATIONAL VEHICLES

Recreational vehicles placed on sites within a special flood hazard area shall either:

i. TEMPORARY PLACEMENT

1. Be on site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.

ii. PERMANENT PLACEMENT

Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.

g. TEMPORARY NON-RESIDENTIAL STRUCTURES

Prior to the issuance of a floodplain permit for a temporary structure, applicants must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

i. A specified time period for which the temporary use will be permitted. The time specified may not exceed three months, renewable up to one year;
ii. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
iii. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
iv. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
v. Designation, accompanied by documentation of a location outside the special flood hazard area, to which the temporary structure will be moved.

h. ACCESSORY STRUCTURES

When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

i. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
ii. Accessory structures shall not be temperature-controlled;
iii. Accessory structures shall be designed to have low flood damage potential;
iv. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
v. Accessory structures shall be firmly anchored in accordance with Section <>, General Standards;
vi. All service facilities such as electrical shall be installed in accordance with Section <>, General Standards; and
vii. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Section <>, General Standards.
viii. An accessory structure with a footprint less than 144 square feet or that is a minimal investment of $3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section <>, Specific Standards. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section <>, Floodplain Permit.

i. TANKS

When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

i. UNDERGROUND TANKS

Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

ii. ABOVE-GROUND TANKS, ELEVATED

Above-ground tanks in flood hazard areas shall be elevated to or above the regulatory flood protection elevation on a supporting structure that is designed to prevent flotation, collapse

or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

iii. **ABOVE-GROUND TANKS, NOT ELEVATED**
Above-ground tanks that do not meet the elevation requirements of Section <>, Floodplain Permit, shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

iv. **TANK INLETS AND VENTS**
Tank inlets, fill openings, outlets and vents shall be at or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood, and anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

j. OTHER DEVELOPMENT

i. Fences in regulated floodways and non-encroachment areas that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section <>, Fences and Walls.

ii. Retaining walls, sidewalks and driveways in regulated floodways and non-encroachment areas. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section <>, Floodways and Non-Encroachment Area.

k. ROADS AND WATERCOURSE CROSSINGS

Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways or non-encroachment areas shall meet the limitations of Section <>, Floodways and Non-Encroachment Area.

3. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the special flood hazard areas designated as Approximate Zone A and established in Section <>, Basis for Establishing the Special Flood Hazard Areas, where no base flood elevation data has been provided by FEMA, the following provisions, in addition to the provisions of Section <>, General Standards, shall apply:

a. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

b. The base flood elevation used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

i. When base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with standards in Section <>, General Standards, and Section <>, Specific Standards.

ii. When floodway or non-encroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and non-encroachment

areas shall also comply with the requirements of Section <>, Specific Standards, and Section <>, Floodways and Non-Encroachment Areas.

iii. All subdivision, manufactured home park, and other development proposals shall provide base flood elevation data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation data shall be adopted by reference in accordance with Section <>, Basis for Establishing the Special Flood Hazard Areas, and utilized in implementing this section.

iv. When base ~~flodd~~flood elevation data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in Section, <>, Terms Defined. All other applicable provisions of Section <>, Specific Standards, shall also apply.

4. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where base flood elevation data is provided but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

a. Standards outlined in Section <>, General Standards, and Section <>, Specific Standards; and

b. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

5. FLOODWAYS AND NON-ENCROACHMENT AREAS

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in Section <>, Basis for Establishing the Special Flood Hazard Areas. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section <>, General Standards, and Section <>, Specific Standards, shall apply to all development within such areas:

a. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

i. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

ii. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

b. If division (a) of this sub-section is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Ordinance.

c. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

i. The anchoring and the elevation standards of Section <>, Specific Standards; and

ii. The no encroachment standard of division (a) of this sub-section are met.

3.7.3 GTOD GATEWAY OVERLAY DISTRICT[102]

A. PURPOSE AND INTENT

The Gateway Overlay (GTOD) district regulations are intended to enhance the visual appeal of certain roadways in the Town, and to:

1. Designate, preserve, and enhance key roadways that serve as gateways to the Town in order to create aesthetically pleasing and welcoming entryways for residents and visitors;
2. Capitalize on the development potential within the Town's primary commercial corridors as "image-makers" that demonstrate the Town's commitment to design quality and development aesthetics; and
3. Address development issues of special concern along designated corridors, with specific requirements which relate to use, development form, traffic movement, access, environment, landscaping, visual quality, image, and aesthetics.

B. GATEWAY CORRIDOR PLAN REQUIRED

1. Prior to establishment of a GTOD district for a specific gateway corridor, a gateway corridor plan for the specific area shall be adopted by the Town Council.
2. The gateway corridor plan shall describe the conditions, boundaries, development goals, and standards for the proposed GTOD district. The plan shall, at a minimum, address the following:
   a. The unique qualities of the corridor, such as significant buildings, views and vistas, and natural features which lend themselves to special consideration.
   b. The value of the corridor as an entryway to the Town which can influence the perception of citizens and persons or businesses considering investment in the Town.
   c. Transportation conditions on the corridor, including vehicular access, dedication of right-of-way, public transit, pedestrian and bicycle circulation, driveway limitations, and traffic impact.
   d. The arrangement of uses along the corridor which shall create a visually pleasing impression.
   e. The vision and general goals for development along the corridor, and specific recommendations for regulatory changes to achieve the vision and development goals.

3. GATEWAY CORRIDOR PLAN APPROVAL

The gateway corridor plan shall be forwarded to the Planning Board for its review and recommendation. Upon completion of its review, the plan along with the recommendations of the Planning Board shall be forwarded to the Town Council for review. A gateway corridor plan shall be approved by the Town Council for a specific gateway corridor before establishment of a GTOD sub-district for the specific corridor.

[102] The Gateway Corridor Overlay District (GTOD) is proposed to replace Section 155.204(A), the Thoroughfare Overlay District. The GTOD is a "framework" district that anticipates establishment of one or more different gateway corridor plans, each with its own unique standards. The GTOD establishes some basic provisions applied to all gateway corridor overlay districts, and is the location within the UDO where additional specific standards are located following adoption of a plan. The street yard requirements (and associated landscaping provisions) in the current thoroughfare district are not carried forward (though future plans may re-establish similar provisions in some areas). The access management standards in the current regulations are carried forward.

4. ESTABLISHMENT OF A GATEWAY CORRIDOR OVERLAY SUB-DISTRICTS

a. The standards establishing a specific GTOD sub-district may only be established in accordance with Section <>, Conventional Rezoning, and Section <>, Text Amendment.

b. Individual corridor-specific standards shall be developed and included as individual sub-districts in this section.

c. Nothing shall limit amendment to Section <>, General Standards Applicable to All Gateway Corridor Sub-districts.

5. GENERAL REQUIREMENTS FOR GATEWAY CORRIDOR SUB-DISTRICT STANDARDS

GTOD district standards for a specific gateway corridor shall follow the policy direction in the gateway corridor plan approved by the Town Council. The individual GTOD sub-district standards shall, at a minimum, address the following elements:

a. The name and boundaries of the overlay sub-district.

b. The development along the corridor to which the overlay district applies (typically all new development and certain expansions and remodels).

c. Any variations from the requirements of the underlying conventional zoning district(s).

d. The uses allowed in the district, if appropriate.

e. The development and form standards of the overlay district, including some or all of the following:

- **i.** Dimensions (height, setbacks, build-to-lines, etc);
- **ii.** Streetscape landscaping;
- **iii.** Sidewalks and pedestrian circulation features;
- **iv.** Off-street parking;
- **v.** Landscaping and tree preservation/reforestation;
- **vi.** Open space set-asides;
- **vii.** Signage;
- **viii.** Exterior lighting;
- **ix.** Building design and form;
- **x.** Transit amenities;
- **xi.** Road access and traffic circulation; and
- **xii.** The extent to which a sub-district district-specific standard may be modified.

6. GENERAL STANDARDS APPLICABLE TO ALL GATEWAY CORRIDOR SUB-DISTRICTS

The following standards shall be applied to all gateway corridor sub-districts unless further modified, in writing, by the sub-district specific standards:

a. OVERLAY DEPTH

- **i.** The GTOD standards are applied to all lots located within 300 linear feet of the edge of a designated roadway corridor or gateway area.
- **ii.** In cases where some, but not all, of a lot is located within the minimum overlay district depth, the entire lot shall be considered as subject to the overlay district standards.

b. PROHIBITED USES

Lands located within a GTOD shall not permit any of the following use types or activities:

- **i.** Animal shelters or animal processing uses;
- **ii.** Asphalt or concrete plants;
- **iii.** Bulky items sales uses;

iv. Outdoor advertising;
v. Pawn shops;
vi. Recreational vehicle parks;
vii. Sexually-oriented businesses; or
viii. Solar energy conversion uses (level 2 or 3).

c. MULTI-TENANT/MULTI-BUILDING RETAIL CONFIGURATION

i. Development consisting of a multi-building, multi-tenant retail establishment shall be configured in a campus-style configuration where buildings are stand-alone, separated from one other by access, parking, and gathering areas, and configured to enclose and obscure large off-street parking lots from off-site view.

ii. Multi-tenant retail buildings shall not to be configured as a single-story "in-line" or strip shopping centers where tenant spaces abut one another in a side-by-side fashion under a single roof. Nothing shall limit the ground floor side-by-side retail tenant placement if the building includes live/work or upper-story residential units.

d. ACCESS MANAGEMENT

i. Development on lots abutting thoroughfare or higher classification streets shall comply with all applicable NCDOT standards and the following access management ~~standards~~provisions:

1. Any lot or development site with less than 400 feet of frontage on a thoroughfare street shall be limited to a maximum of one point of vehicular access to the thoroughfare.
2. One additional driveway for each additional 400 feet of thoroughfare street frontage is permitted.
3. Where medians which prohibit turns into oncoming traffic, access points may be provided every 200 linear feet.
4. No driveway shall be allowed within 300 feet of the intersection of two thoroughfares or within 200 feet of an intersection of any other public street on the thoroughfare.
5. Driveways shall be a minimum of 200 feet apart (measured from center line to center line) on thoroughfares, and shall align with opposing drives, where possible.
6. Shared driveways or parallel access roads shall be used when deemed necessary, and the appropriate legal documents may be required by the Town prior to driveway permit issuance.

~~i.~~ii. Access may be further limited or controlled by the NCDOT or the Engineering Director, as determined necessary, and in their sole discretion, for the protection of public health or safety.

e. STREETSCAPE BUFFER

Development in a GTOD shall provide a streetscape buffer along all abutting public streets in accordance with Section <>, Streetscape Buffers, except that the number of required plantings shall be double what is required outside the GTOD.

f. SIGNAGE

Pole signs shall not be permitted within 100 feet of the primary transportation corridor in a GTOD. Ground signs may take the form of monument signage, subject to the applicable standards in Section <>, Signage.

3.7.4 LHOD LOCAL HISTORIC OVERLAY DISTRICT[103]

[Placeholder]

[103] NOTE: A historic overlay district has been discussed by the Town Council, but requires a special process in cooperation with the State Office of Historic Preservation. This section is a placeholder for the Town to use if it decides to prepare a historic overlay district in the future.

3.7.5 WPOD WATERSHED PROTECTION OVERLAY DISTRICT[104]

A. AUTHORITY

The General Assembly has, in NCGS§§143-214.5, 160A-174, 160D-702, 160D-801 and 160D-926, delegated the responsibility and directed the Town to establish water supply watershed protection programs, to regulate land use and development within water supply watersheds and to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

B. INTENT

This Watershed Protection Overlay District (WPOD) is intended to provide a higher level of development control to activities and situations that could degrade the quality of the water entering the Neuse River, as identified in the State's watershed protection management plan.

C. APPLICABILITY[105]

1. The provisions of this section shall apply within the area designated as a public water supply watershed by the N.C. Environmental Commission and are defined and established on the map entitled "Watershed Protection Overlay District of Clayton, North Carolina," and as otherwise designated as the (WPOD) Watershed Protection Overlay District on the Official Zoning Map of the Town. For the purposes of this section, the Town's WPOD is comprised solely of lands found in the Protected Area (PA) portion of a Class IV watershed.
2. Land use and development within the WPOD district that requires an erosion and sedimentation control permit must comply with all the requirements of this section as well as the requirements in the underlying zoning district.
3. Except where exempted in Section <>, Exceptions to Applicability, expansions to existing development shall meet the requirements of this section. In an expansion, the built-upon area of the existing development is not required to be included in the density calculations. Where there is a net increase of built upon area, only the area of net increase is subject to these standards. Where existing development is being replaced with new built-upon area, and there is net increase of built-upon area, only areas of net increase shall be subject to these standards.
4. Land located within an exempt subdivision (see Section <>, Exempt Subdivision) or other lot created through a subdivision exempted from the provisions of this Ordinance shall be subject to the land use and impervious surface requirements in these standards, but the lot(s) shall only be required to comply with the minimum buffer requirements to the maximum extent practicable.
5. Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of the Town; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and

[104] This section replaces Section 155.501 in the current UDC, and has been revised in accordance with the State's 2023 model watershed protection ordinance. As was done with the flood protection rules, these standards split the definitions, procedures, and review authority provisions into their constituent parts and relocates them with like materials. There are two aspects of these draft standards that differ from the State's model ordinance: the Town does not have a Watershed Review Board (since staff reviews most applications), and the draft UDO does not include a specific Watershed Protection Permit or Watershed Occupancy Permit (since the Town has a detailed stormwater and sedimentation program, and there is a zoning compliance permit process that can address the watershed-related aspects). It is ~~faily~~fairly common for local ordinance to not include a specific Watershed Review Board or Watershed Protection Permit and Watershed Occupancy permit in favor of other existing review authorities and permit procedures. The major and minor watershed variance provisions are addressed under the current Variance procedure provisions. The subdivision provisions in Section 302 of the State's model ordinance are not included.

[105] NOTE TO STAFF: Is there a separate water supply watershed map? If so, what is it named, and where can it be inspected?

regulations in effect in the Town at the time of the adoption of these standards that may be construed to impair or reduce the effectiveness of these standards or to conflict with any of their provisions.

6. It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

D. EXCEPTIONS TO APPLICABILITY

These watershed protection requirements shall not apply to the following:

1. Existing development, as defined in Section <>, Terms Defined;
2. Expansions to existing single family residential development or expansion that is part of an approved common plan of development;
3. Development or redevelopment of a single-family residential use on a nonconforming existing lot of record that is not contiguous to any other lot owned by the same landowner;
4. Minor or limited subdivisions established to convey land from one family member to another family member, provided the lot(s) to be developed is for a single-family detached residence;
5. A development may exceed the density limits in Section <>, <>, if all of the following circumstances apply:
   a. The property was developed prior to the effective date of these standards;
   b. The property has not been combined with additional lots after January 1, 2021;
   c. The property has not been a participant in a density averaging transaction under NCGS§ 143-214.5(d2);
   d. The current use of the property is nonresidential;
   e. The stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable Town, State, and federal laws, in the sole discretion, and at the voluntary election, of the landowner;
   f. The remaining vegetated buffers on the property are preserved in accordance with the requirements of these standards.

E. EFFECTIVE DATE

These WPOD standards are effective as of November 21, 2005.

F. THE WATERSHED REVIEW BOARD

The Board of Adjustment shall serve as the Watershed Review Board indicated in 15A N.C. Administrative Code 02B.0623 (5).

G. DEFINITIONS

The terms used in this section are further defined in Section <>, Terms Defined.

H. WATERSHED PROTECTION PERMITS

1. No watershed protection permit shall be issued except in conformity with the provisions of this Ordinance. This permit shall be filed with the Town and shall expire at the end of 24 months if not used, or if a building permit is not obtained.
2. A zoning compliance permit (see Section <>, Zoning Compliance Permit) shall serve as a watershed protection permit for development located within the Watershed Protection Overlay (WPOD).

3. Except where provided elsewhere in this Ordinance, no building permit required under the State Building Code shall be issued for any activity for which a watershed protection permit is required until a zoning compliance permit has been issued.
4. A certificate of occupancy (see Section <>, Certificate of Occupancy) shall serve as a watershed protection occupancy permit for development located within the Watershed Protection Overlay (WPOD). A certificate of occupancy shall not be issued unless the development complies with all applicable requirements in this section.

I. ENFORCEMENT

Enforcement of these WPOD standards shall be in accordance with the applicable provisions of Chapter 7, Violations, particularly Section <>, Violation of Water Supply Watershed Controls.

J. USES

1. EXISTING DEVELOPMENT

Existing development, as defined in this Ordinance, may be continued and maintained subject to the provisions in this section.

a. All existing development, whether or not it meets the statewide minimum standards, is exempt from the provisions of these standards.
b. Expansions to structures classified as existing development must meet the requirements of this section, however, the built-upon area of the existing development is not required to be included in the built-upon area calculations.

2. EXISTING DEVELOPMENT THAT WOULD BE PROHIBITED IF NEW

a. Existing development that would be prohibited if new may be continued except as follows:
   i. Such use of land shall be changed only to an allowed use.
   ii. When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
   iii. When such use ceases for a period of at least one year, it shall not be reestablished.
b. Existing industrial uses and/or the storage of hazardous or toxic materials where a spill containment plan is not implemented and where such use of the land is not permitted to be established in the watershed area may be continued.

3. RECONSTRUCTION OF BUILDINGS OR BUILT-UPON AREAS

Any existing building or built-upon area not in conformance with the restrictions of this section that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:

a. Repair or reconstruction is initiated within 12 months and completed within two years of such damage.
b. The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

4. PERMITTED NEW USES

The following uses are permitted as principal uses in the WPOD provided such uses are also permitted in the underlying zoning district:

a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I .0101.0209).

c. Residential development as permitted in the underlying zoning district provided that it meets the standards of the WPOD.

d. Nonresidential development as permitted in the underlying zoning district provided that it meets the standards of the WPOD.

5. PROHIBITED USES

Uses identified in Section <>, (WPOD) Watershed Protection Overlay District, shall be prohibited within the WPOD.

K. OCCUPIED NONCONFORMING RESIDENTIAL LOTS

1. Nonconforming lots occupied for residential purposes may continue to be used, provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after November 21, 2005, and such lots individually or together have less area than the minimum requirements for residential purposes specified in this section, such lots shall be combined to create lots which meet the minimum size requirements, or which minimize the degree of nonconformity.

2. The undeveloped lot may not be developed unless and until it complies with this Ordinance.

L. DENSITY AND BUILT-UPON (IMPERVIOUS) LIMITS

The following maximum allowable project densities and minimum lot sizes shall apply to a project according to the classification of the water supply watershed where it is located, its relative location in the watershed, its project density, and the type of development:

1. LOW DENSITY DEVELOPMENT IN WS-IV PA

a. SINGLE-FAMILY DETACHED RESIDENTIAL

Single-family detached residential development may take place under the low density development option using either of the following three alternatives:

i. Up to one dwelling unit per one-half acre or one dwelling unit per 20,000 square foot lot excluding roadway right-of-way; or

ii. A maximum of 24 percent built-upon area; or

iii. Up to three dwelling ~~unti~~units per acre or 36 percent built upon area when streets are configured ~~without~~without curb and gutter.

b. NON-RESIDENTIAL AND ALL OTHER FORMS OF RESIDENTIAL

Non-residential and all forms of residential development other than single-family detached may take place under the low density development option using either of the following two alternatives:

i. A maximum of 24 percent built-upon area; or

ii. Up to 36 percent built upon area provided streets are configured without curb and gutter.

2. HIGH DENSITY DEVELOPMENT IN WS-IV PA

All residential and non-residential development shall maintain a 24-to-70 percent built-upon area.

M. CALCULATION OF PROJECT DENSITY

1. Project density shall be calculated as the total built-upon area divided by the total project area;

2. A project with existing Development, as defined in this Ordinance, may use the calculation method in sub-section (1) above or may calculate project density as the difference of total built-upon area minus existing built-upon area divided by the difference of total project area minus existing built-upon area.
3. Expansions to existing development shall be subject to 15A NCAC 02B .0624 except as excluded in Rule15A NCAC 02B .0622 (1)(d).
4. Where there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
5. Where existing development is being replaced with new built-upon area, and there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
6. Total project area shall exclude areas below the Normal High Water Line (NHWL);
7. Projects under a common plan of development shall be considered as a single project for purposes of density calculation except that on a case-by-case basis, local governments may allow projects to be considered to have both high and low density areas based on one or more of the following criteria:
   a. Natural drainage area boundaries;
   b. Variations in land use throughout the project; or
   c. Construction phasing.

N. LOW DENSITY PROJECTS

In addition to complying with the project density requirements of Section <>, Density and Built Upon (Impervious) Limits, low density projects shall comply with the following:

1. VEGETATED CONVEYANCES

Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether this criteria has been met, the Town shall take into account site-specific factors such as topography and site layout as well as protection of water quality. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this section:

a. Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the local government that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and
b. The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.

2. CURB OUTLET SYSTEMS

In lieu of vegetated conveyances, low density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:

a. The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;
b. The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;

c. The swale's cross section shall be trapezoidal with a minimum bottom width of two feet;
d. The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);
e. The minimum length of the swale or vegetated area shall be 100 feet; and
f. Low density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in Sub-Items (a) through (e) of this Sub-Item.

O. HIGH DENSITY PROJECTS

In addition to complying with the project density requirements of Section <>, Density and Built Upon (Impervious) Limits, high density projects shall comply with the following:

1. Stormwater Control Measures (SCMs) shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in 15A NCAC 02B .0621;
2. For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment;
3. Stormwater runoff from off-site areas and existing development, shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in sizing of on-site SCMs;
4. SCMs shall meet the relevant minimum design criteria set forth in 15A NCAC 02H .1050 through .1062; and
5. Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the 10-year storm event as shown by engineering calculations.

P. DENSITY AVERAGING

An applicant may average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:

1. The properties are within the same water supply watershed. However, if one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.
2. Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.
3. Vegetated setbacks on both properties meet the minimum statewide water supply watershed protection requirements.
4. Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
5. Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.
6. The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the local government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the areas to remain

vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deeds. Any such limitations or restrictions on ~~useshall~~use shall be irrevocable.

7. Development permitted under density averaging and meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.
8. A special use permit to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have record of how the watershed regulations were applied to the properties.

Q. CLUSTER DEVELOPMENT

1. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section <>, Density and Built Upon (Impervious) Limits. Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.
2. All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
3. Areas of concentrated density development shall be located in upland area and as far as practicable from surface waters and drainageways.
4. The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement.
5. Cluster developments that meet the applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

R. VEGETATED SETBACKS REQUIRED

1. A minimum 100-foot vegetative setback is required for all new development activities that exceed the low density option; otherwise, a minimum 30-foot vegetative setback for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.
2. Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations.
3. No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

S. OPERATION AND MAINTENANCE OF STORMWATER CONTROL MEASURES (SCM)

When engineered stormwater control measures are required, they shall be operated and maintained according to the provisions of 15A NCAC 02B.0623 (7), as amended, which is incorporated herein by reference as if fully set out herein.

3.8 ZONING MAP[106]

3.8.1 GENERALLY

A. The digital Official Zoning Map maintained in the offices of the Planning Department shall be the final authority as to the status of the current zoning district classification of land in the Town's planning jurisdiction, and shall only be amended in accordance with Section <>, Revision.

B. The Official Zoning Map designates the location and boundaries of the conventional, conditional, and overlay zoning districts established in this Ordinance.

C. The Flood Insurance Rate Map (FIRM) shall designate the location and boundaries of the ~~(~~FPOD~~)~~ Flood Protection Overlay District, as amended by any associated Flood Insurance Studies (FIS).

D. The Official Zoning Map shall be maintained in a digital format and paper copies shall be kept on file in the Planning Department and are available for public inspection during normal business hours.

E. The Town's Geographic Information System (GIS) Administrator shall maintain digital copies of superseded versions of the Official Zoning Map for historical reference, as appropriate.

F. Copies of the Official Zoning Map may be purchased from the Town and paper copies of the map that are certified by the GIS Administrator in accordance with NCGS§160A-79 shall be admissible in evidence and have the same force of effect as the original map.

3.8.2 INCORPORATED BY REFERENCE[107]

A. The Official Zoning Map, as amended, is hereby incorporated by reference herein and made part of this Ordinance.

B. The Flood Insurance Rate Maps (FIRM) prepared by FEMA and the associated Flood Insurance Study (FIS) are hereby incorporated by reference herein and made part of this Ordinance.

3.8.3 INTERPRETATION OF MAP BOUNDARIES

The Planning Director shall be responsible for determination of boundaries on the Official Zoning Map in accordance with the standards in Section <>, Determination, and the following standards:

A. Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public accessway shall be interpreted as following the centerline of the right-of-way or easement for the utility line or accessway.

B. If a street, alley, railroad, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated roadbed or utility easement.

C. Boundaries shown as approximately following a lot line shall be interpreted as following the lot line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the lot line moving ten feet or less, the zoning boundary shall be interpreted as moving with the lot line.

D. Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).

E. Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.

F. Boundaries shown as following the boundary of the Town's corporate limits shall be interpreted as following the boundary of municipal incorporation.

[106] This section carries forward and builds on Section 155.200.

[107] NOTE TO STAFF: Are there other maps to include here?

G. Wherever a single lot is located within two or more different zoning districts, each portion of the lot shall be subject to all the regulations applicable to the zoning district where it is located.

H. If the specific location of a depicted boundary cannot be determined from application of the above standards, it shall be determined by using the Official Zoning Map's scale to determine the boundary's distance from other features shown on the map.

I. Where the actual location of existing physical or natural features vary from that shown on the Official Zoning Map, or in other circumstances that are not covered by this subsection, the Planning Director shall have the authority to determine the district boundaries.

J. Determinations of the (FPOD) Flood Protection Overlay District boundary shall be made by the Floodplain Administrator, in accordance with the standards in Section <>, ~~(~~FPOD~~)~~ Flood Protection Overlay District.

K. In the case of flood hazard overlay district boundaries, the FEMA work maps, if available, shall be used for scaling.

L. In cases where boundaries on the Town's Official Zoning Map are based on another official map promulgated by the State or other federal agency and the other State or federal map is amended, the Town's maps shall automatically be amended to remain consistent with the officially promulgated State or federal map.

3.8.4 REVISION

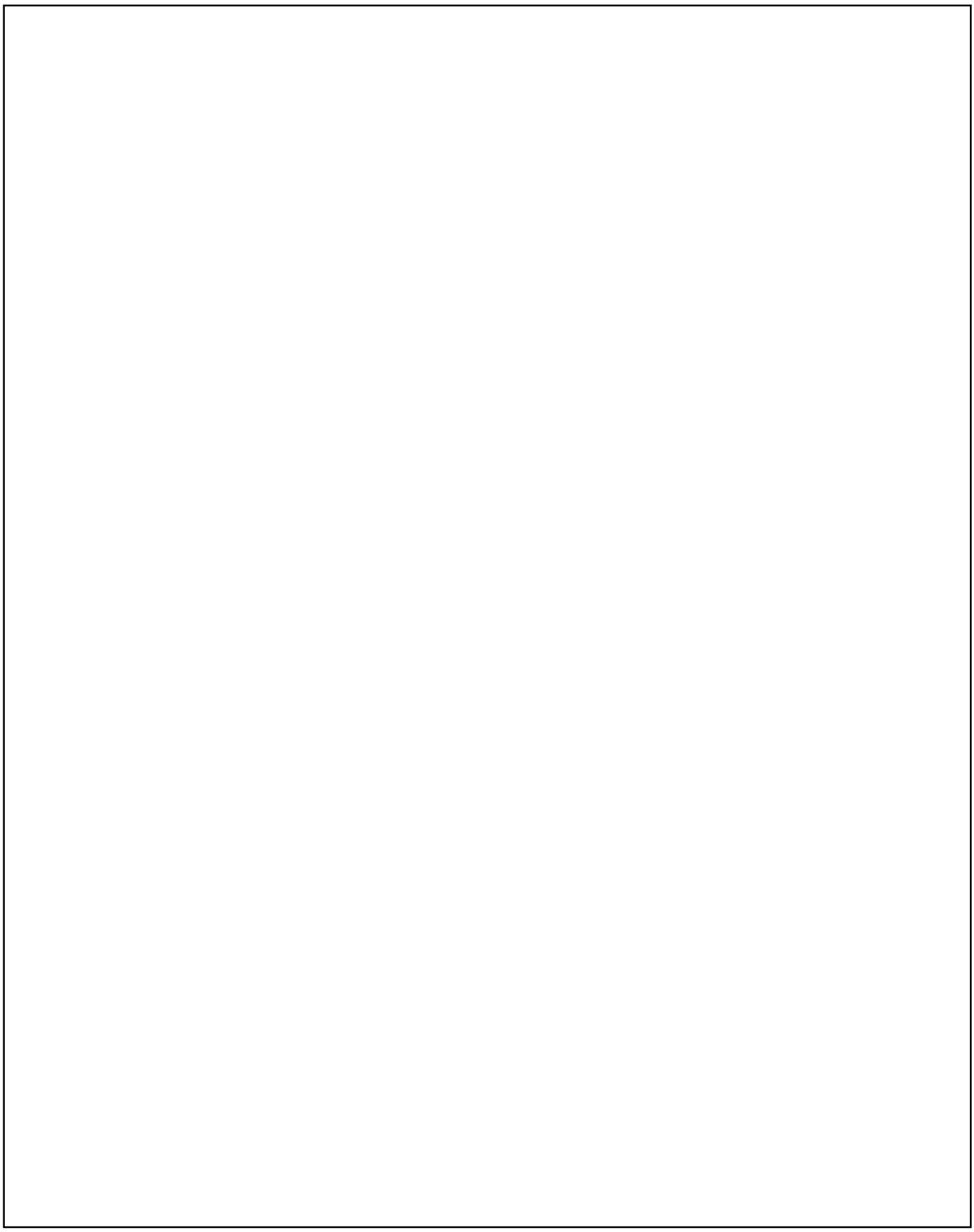
A. Changes made in zoning district boundaries on the Official Zoning Map shall be considered an amendment to this Ordinance and are made in accordance with Section <>, Conditional Rezoning, or Section <>, Conventional Rezoning, as appropriate.

B. Changes to the Official Zoning Map approved by the Town Council shall be entered on the Official Zoning Map by the GIS Administrator promptly after the approval.

C. Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the GIS Administrator shall enter the boundary on the Official Zoning Map in accordance with the ordinance wording.

D. Upon entering the most recently approved amendment on the Official Zoning Map, the GIS Administrator shall also change the date of the map to indicate the date of its latest revision.

E. Prior versions of the Official Zoning Map shall be retained in a digital format that is capable of being reproduced on paper if requested.



CHAPTER 4
LAND USES

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KEY CHANGES FROM CURRENT UDC

Chapter 4, Land Uses, consolidates and elaborates on the all the use-related material in Article 3, Specific Use Standards. There are numerous other changes, including:

- Inclusion of details on differences between principal, secondary, and temporary use types.
- A new three-tiered use classification system to help organize and classify individual uses types and simplify the determination of unlisted use types.
- Inclusion of 5 new conditional zoning districts in the use table and how use types can be permitted through approval of conditional zoning applications.
- New detail on how changes of use are determined (which is important for applicability of development standards in new Chapter 6).
- The principal use table includes the current zoning districts and use types for the sake of comparison (this information will not be included in the adopted UDO).
- The new principal use table include several new use types, such as: bungalow courts, pocket neighborhoods, live/work units, CCRCs, bottle shops, mobile restaurants, event venues, makerspace, cryptoming, and others.
- The use type is more graphically driven and will include hyperlinks to use standards.
- The number of principal uses requiring special use permits has been decreased.
- The range of uses subject to use standards has been dramatically expanded to help simplify the review process.
- Each set of use-specific standards identifies if the standards are new, carry forward of existing rules, or a modification of existing rules.
- The telecommunication requirements have been overhauled.
- The list of prohibited uses has been expanded and distinguishes between use classification, uses prohibited by overlay districts, and prohibited secondary uses.
- The provisions for secondary ("accessory") uses are overhauled with new general standards for all that rely on district dimensional standards rather than individual specific standards.
- The chapter includes a new summary table of common secondary use types.
- There are numerous new secondary uses and associated standards.
- The temporary uses section includes a new set of general standards to all temporary uses, a table of maximum duration and frequency, and several new temporary use types and associated standards.
- The unlisted uses section sets out a series of summary tables, by use classification, that provide details on the characteristics of different use categories, and examples of use types within a particular use category. This information will assist with determinations of how to treat unlisted use types.

4.1 CHAPTER INTRODUCTION[108]

4.1.1 CHAPTER ORGANIZATION

A. PRINCIPAL USES

1. Section <>, Principal Uses, sets out the principal use table, or the master listing of common principal use types and the districts where they are allowed. Each principal use listed in the table is defined in Section <>, Terms Defined.
2. Section <>, Standards for Specific Principal Uses, sets out the requirements applied to designated principal uses, regardless of the zoning district where they might be located.

B. PROHIBITED USES

1. Section <>, Prohibited Uses, identifies principal and secondary use types that are prohibited throughout the Town's planning jurisdiction.
2. In some cases, overlay zoning districts include prohibitions on certain principal or secondary uses. Additional information on these use prohibitions is located within the particular overlay district standards (see Section <>, Overlay Zoning Districts).

C. SECONDARY USES

Section <>, Secondary Uses, sets out the general standards applicable to all secondary uses as well as any additional standards applicable to specifically designated secondary uses or structures commonly found in the Town. Secondary uses may also be referred to as "accessory uses."

D. TEMPORARY USES

Section <>, Temporary Uses, sets out the standards for temporary uses, including the districts where allowed, the maximum allowable duration for the temporary use, and any additional standards applicable to specific temporary uses or activities.

E. UNLISTED USES

Section <>, Unlisted Uses, sets out the process and use type classification details for use by the Planning Director in making a Determination on how to classify an unlisted principal or secondary use type.

4.1.2 LAND USES DISTINGUISHED

Chapter 4. Land Uses, contains all the standards related to the use of land in the Town's planning jurisdiction, and is organized by the three types of land uses: principal, secondary, and temporary.

A. Principal uses are the primary, permanent use types proposed on a lot (like a single-family home).

B. Secondary (or accessory) uses are secondary or subordinate uses found on the same lot as a principal use (like a detached garage structure serving a single-family home) and may be a structure or an activity.

C. Temporary uses are structures or activities permitted for a limited duration of time on a lot (like a portable storage container used for the purposes of storing or moving a household's belongings).

[108] This is a new chapter that consolidates all the use-related provisions into a single location. This section is new and explains the organization of the chapter.

4.2 PRINCIPAL USES[109]

4.2.1 APPLICABILITY

A principal use is the main or primary purpose for which a building, other structure and/or lot is designed, arranged, or intended, or for which they may be used, occupied or maintained under this chapter.

4.2.2 ESTABLISHMENT OF A PRINCIPAL USE

A. USES PERMITTED BY RIGHT

1. A "P" in a cell of the principal use table indicates that the specific use type is permitted by right in the corresponding zoning district, subject to compliance with any referenced use standards and any other applicable standards in this Ordinance.
2. By-right uses require issuance of a Zoning Compliance Permit or Building Permit prior to establishment and may also require approval of a Site Plan (see Section <>, Site Plan).

B. USES PERMITTED BY SPECIAL USE PERMIT

An "S" in a cell of the principal use table indicates that the specific use type is permitted in the corresponding zoning district only upon approval of a Special Use Permit in accordance with Section <>, Special Use Permit. Special uses must also comply with any referenced use standards and any other applicable standards in this Ordinance.

C. USES ALLOWED IN A CONDITIONAL ZONING DISTRICT

1. A "C" in a cell of the principal use table indicates that the specific use type is allowable in a conditional zoning district, subject to any referenced use standards.
2. Establishment of a conditional use requires approval of a Conditional Rezoning (see Section <>, Conditional Rezoning).
3. Conditional rezoning applications shall be a Type 1, Limited Use, Type 2, Limited Standards, or a Type 3, Unlimited conditional rezoning application.

[109] This section replaces Section 155.202 of the current UDC. It includes several new aspects. It establishes a use-classification system that recognizes five use classifications (Agriculture, Commercial, Industrial, Institutional, and Residential). Within each of the five use classifications is a series of different use categories. These are groups of related use types (shown as orange rows in the table of common principal uses). Use categories are included as a means of organizing similar use types under each of the use classifications (for example, the Residential Use Classification has three use categories: Assisted Living, Group Living, and Household Living). Each use category, in turn, includes a series of different use types that are similar in terms of their intensity or use characteristics.

Another significant change from current Section 155.202 is the inclusion of the five new conditional zoning districts established in new Chapter 3. Conditional uses are established as part of a conditional zoning district application (see Chapter 2) – uses with a "C" under a particular conditional zoning district column heading are permitted as conditional uses within that particular district. Note: conditional uses may only be established within one of the five designated conditional zoning districts.

This section also includes additional detail regarding how changes in use are considered. This is important with respect to how development standards in Chapter 6 are applied, and how nonconforming site features are addressed as part of the nonconforming rules in Chapter 5.

The basic concept of a principal use table is carried forward here, subject to the use classification organizing system. For the sake of comparison, the draft use table included here also identifies the current zoning districts and current use types (in yellow rows). This is provided for informational purposes only during the review process. Yellow rows will not be included in the adopted UDO.

The new use table includes a wide range of new, modern use types, including numerous types of housing options, modern use types (like event venues, makerspace, cryptomining, co-working establishments, etc.) The table also seeks to streamline use distinctions between low and high intensity, indoor versus outdoor, and other modern approaches). The table is for principal uses only; accessory uses (now referred to as "secondary" uses are relocated to their own table later in the chapter). This table seeks to reduce the number of use types requiring special use permit review in favor of an increased reliance on by-right permitting subject to a larger number of codified use specific standards. Finally, this table includes a couple minor formatting techniques like inclusion of a symbol in cells where uses are prohibited and the use standard cross references will be hyperlinks in the adopted digital UDO.

D. USES NOT PERMITTED

An "•" symbol in a cell of the summary use table indicates that the specific use type is not permitted in the corresponding zoning district.

E. USE STANDARD APPLIES

The right-most column of the table includes a reference to any applicable use standards associated with a particular use type. Unless otherwise stated in the standards, a use standard applies to a particular use regardless of the zoning district where it is located.

4.2.3 CHANGE OF A PRINCIPAL USE

A. Several of the provisions in this Ordinance are applied at the time of a change in use. For the purposes of this Ordinance, each of the following shall constitute a "change in use:"

1. When an existing principal use is replaced by a new principal use that is of a different use classification or~~,~~ use category~~, or use type designation~~ (see Section <>, Unlisted Uses);
2. When an existing principal use that is conducted entirely indoors becomes conducted entirely outdoors, or vice versa;
3. Any change in an existing use or development site that triggers the application of a differing set of building code requirements, such as the switch from residential requirements to non-residential or combined use requirements; and
4. ~~When an existing principal use intensifies or expands (with or without a shift in the use type) in a manner that increases the average daily trips associated with the use by 50 percent or more; and~~
5. ~~4.~~ If a combined or multiple principal use is changed in ways where the mixture of use types changes or where the relative proportion of floor area devoted to one of the existing use types is modified to the extent that the total minimum off-street parking standards for the entire development are ~~changed~~increased.

B. Conversion from one use type to the same use type under the same or a different owner is not a change in use.

C. Additions or expansions of an existing use may require the need for compliance with development ~~or design~~ standards in this Ordinance (see Section <>, Nonconforming Sites).

D. Addition or conversion of secondary uses or the operation of a temporary use does not constitute a change in principal use.

4.2.4 COMBINATION PRINCIPAL USES

Developments with combination or multiple principal uses, such as shopping centers or unified developments, shall be configured in accordance with Section <>, Unified Development, and the following:

A. Incorporate only those use types allowed in the applicable zoning district;

B. Comply with all the use standards that apply to each use type in the development; and

C. Comply with the required method of establishment for the use type identified in Table <>, Listing of Common Principal Uses.

4.2.5 LISTING OF COMMON PRINCIPAL USES[110]

Table <>, Listing of Common Principal Uses, lists use classifications, use categories, principal use types, and indicates whether the principal use type is permitted by-right, by a special use permit, or is prohibited in a particular zoning district. It also includes a reference to any applicable use standards

[110] NOTE: After discussion with the UDC Steering Committee, the decision has been made to remove the FID district. This change is not shown in tracked changes in the use table.

that apply to a particular principal use (the right-most column will include a cross reference to any applicable use standards in the UDO).

A. USE CLASSIFICATIONS

1. Individual principal uses in the principal use listing are organized into one of the following five different use classifications, based upon their characteristics: Agricultural; Commercial; Industrial; Institutional; and Residential.
2. Use classifications are more generally described in Section <>, Unlisted Uses.

B. USE CATEGORIES

1. Each of the five use classifications includes a series of use categories. Use categories are groupings of similar use types that are grouped based on similar purposes or functional characteristics.
2. Individual use types listed in the table of principal use types are listed in alphabetical order by use category.
3. Use categories are more generally described in Section <>, Unlisted Uses.

C. USE TYPES

1. Use types are the individual principal use types.
2. Each individual use type is defined in Section <>, Terms Defined.

TABLE <>: LISTING OF COMMON PRINCIPAL USES

P = Permitted, subject to a Zoning Permit & applicable use standards
S = Permitted, subject to a Special Use Permit & applicable use standards
C =Permitted within a conditional zoning district, subject to applicable use standards
"•" = Prohibited
[#] = Table note (see end of table)

USE CATEGORY		RESIDENTIAL DISTRICTS							NON-RESIDENTIAL DISTRICTS									CONDITIONAL DISTRICTS					
USE TYPE	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	USE STDS.
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
AGRICULTURAL USE CLASSIFICATION																							
Agricultural Processing																							
Agricultural Packaging & Processing	·	S	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	C	·	·	
Agricultural Storage & Distribution	·	S	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	C	·	·	
Agricultural Production																							
Horticulture	-P	P	P	·	·	·	·	·	·	·	·	·	·	P	-P	·	·	·	·	·	·	·	
Plant Nursery (retail or wholesale)	·	·	P	·	·	·	·	·	·	·	·	·	P	P	-P	·	P	·	·	·	·	·	
Nursery			P						P	S	S	S	P	P			P						
Row, Field, or Tree Crops	·	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	
Silviculture	P	P	P	·	·	·	·	·	·	·	·	·	·	·	-P	·	·	·	·	·	·	·	
Viticulture	·	P	P	·	·	·	·	·	·	·	·	·	·	·	-P	·	P	·	·	·	·	·	
Agricultural Support Service																							
Farm Equipment Sales and Service	·	P	·	·	·	·	·	·	·	·	·	·	·	·	-P	P	·	·	·	C	·	·	
Farm Supply Sales (retail or wholesale)	·	-P	-P	·	·	·	·	·	·	·	·	·	·	·	-P	P	·	·	·	C	·	·	
Agriculture, Sales and Service			P													S							
Livestock Related																							
Animal Husbandry	·	P	P	·	·	·	·	·	·	·	·	·	·	·	-P	·	·	·	·	C	·	·	<>
Agriculture, Livestock			P																				
Animal Processing	·	S	·	·	·	·	·	·	·	·	·	·	·	·	·	S	·	·	·	·	·	·	<>
Equestrian Facility	·	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	<>

TABLE <>: LISTING OF COMMON PRINCIPAL USES

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"•" = Prohibited
[#] = Table note (see end of table)

Use Category		Residential Districts							Non-Residential Districts									Conditional Districts					
Use Type	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	Use Stds.
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Stable, Private			P																				
COMMERCIAL USE CLASSIFICATION																							
Animal Related																							
Animal Shelter	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	P	·	·	C	·	·	<>
Boarding, Indoor Only	·	P	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	·	C	<>
Boarding Indoor and Outdoor	·	S	·	·	·	·	·	·	·	·	·	·	·	S	P	·	·	·	·	C	·	C	<>
Kennel			S										P	P									
Grooming	·	P	·	·	·	·	·	·	·	P	P	·P	P	P	·	·	·	·	C	C	·	·	
Veterinary Services, Large Animal	·	P	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	C	·	·	<>
Veterinary Services, Small Animal	·	P	·	·	·	·	·	·	P	·	·	·	P	P	·	·	·	·	C	C	C	·	
Veterinary Clinic									P				P	P									
Eating & Drinking																							
Bar, Cocktail Lounge, Private Club	·	·	·	·	·	·	·	P	·	P	P	·P	S	P	P	·	·	·	C	C	C	C	<>
Lounge, Cocktail										S	S	S	S	S	S								
Bottle Shop (on-premise consumption)	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	P	·	·	·	C	C	C	C	<>
Catering Establishment	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	P	·	·	·	C	C	C	·	
Coffee Shop or Bakery	·	·	·	·	·	·	·	P	·	P	P	P	P	P	P	·	·	·	C	C	C	C	
Micro Brewery or Distillery	·	·	·	·	·	·	·	·P	·	P	P	·P	P	P	P	P	·	·	C	C	C	C	<>
Microbrewery										P	P	P	S	P	P	P							

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"•" = Prohibited
[#] = Table note (see end of table)

Use Category		Residential Districts							Non-Residential Districts									Conditional Districts					
Use Type	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	Use Stds.
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Restaurant with Drive Through	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	C	C	C	C	<>
Restaurant Indoor Seating Only	·	·	·	·	·	·	·	P	·	P	P	P	P	P	·	·	·	·	C	C	C	C	
Restaurant Indoor and Outdoor Seating	·	·	·	·	·	·	·	P	·	P	P	P	P	P	·	·	·	·	C	C	C	C	<>
Restaurant									P	P	P	P	P	P									
Restaurant Walk-up Service Only	·	·	·	·	·	·	S	P	·	P	P	P	P	P	·	·	·	·	C	C	C	C	
Equipment Related																							
Heavy Equipment Sales, Rental, & Repair	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	P	·	·	·	C	·	C	<>
Light Equipment Sales, Rental, & Repair	·	·	·	·	·	·	·	·	·	·	·	·	P	P	P	P	·	·	C	C	·	C	<>
Event Venue																							
Event Venue, Indoor Only	·	S	·	·	·	·	·	·	P	P	P	P	P	P	·	·	·	·	C	C	C	C	<>
Event Venue, Indoor & Outdoor	·	S	S	·	·	·	·	·	P	P	P	P	S	P	·	·	·	·	C	C	C	C	<>
Financial Services																							
Bank or Credit Union	·	·	·	·	·	·	·	P	P	P	P	P	P	P	P	·	·	·	C	C	C	C	
Financial Services	·	·	·	·	·	·	·	P	P	P	P	P	P	P	·	·	·	·	C	C	C	C	
Financial Institution									P	S	S	S	P	P									
Pawn Shop	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	C	<>
Pawn Shop														P	P								
Lodging																							
Bed & Breakfast	·	P	P	P	·	·	P	P	P	P	P	P	P	·	·	·	·	C	C	C	C	·	<>
Bed and Breakfast			P			S			S	S	S	S											

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Use Category		Residential Districts							Non-Residential Districts									Conditional Districts					
Use Type	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNI	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	Use Stds.
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Campground	S	S	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	C	C	·	·	<>
Hotel or Motel	·	·	·	·	·	·	·	P	P	P	P	·P	P	P	·	·	·	·	C	C	C	C	<>
Hotel/Motel									P	S	S	S	P	P									
Recreational Vehicle Park	·	S	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	C	<>
Office Related																							
Co-Working Space	·	·	·	·	·	·	P	P	P	P	P	P	P	P	P	·	·	·	C	C	C	C	<>
Office, High Intensity	·	·	·	·	·	·	·	P	P	P	P	·P	P	P	P	·	·	·	C	C	C	C	<>
Office, Medical									P	P	P	P	P	P									
Office, Low Intensity	·	·	·	·	·	P	P	P	P	P	P	·P	P	P	P	·	·	C	C	C	C	C	
Office, General									P	P	P	P	P	P	P		P						
Parking Related																							
All Use Types	·	·	·	·	·	·	·	·	P	P	P	P	P	P	P	P	P	·	C	C	C	C	
Parking Lot									S	S	S	S	S	S	S	S	S						
Personal Services																							
Computer Related Services	·	·	·	·	·	·	·	P	P	P	P	P	P	P	·	·	·	·	C	C	C	C	
Service									P	P	P	P	P	P									
Day Spa (medical or non-medical)	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	·	·	·	·	C	C	C	·	
Fitness Center	·	·	·	·	·	·	P	P	P	P	P	·P	P	P	P	·	·	·	C	C	C	C	<>
Fitness/ Recreation Center									P	S	S	S	P	P	P		P						
Funeral Related Services	·	·	·	·	·	·	·	·	P	·	·	·	·	P	P	·	·	C	·	·	·	·	<>
Funeral Home			S						P														
Crematorium															P	P							
Hair, Nail, and Skin Related Services	·	·	·	·	·	·	·	P	·	P	P	P	P	P	·	·	·	·	C	C	C	·	
Instructional Services	·	·	·	·	·	·	·	P	P	P	P	P	P	P	P	·	·	·	C	C	C	C	

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USE CATEGORY	RESIDENTIAL DISTRICTS								NON-RESIDENTIAL DISTRICTS									CONDITIONAL DISTRICTS					USE STDS.
USE TYPE	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Creative Studio									P	P	P	P	P	P									
Laundry and Fabric Cleaning	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	P	·	·	·	C	C	C	C	<>
Laundry Services													P	P	P	P							
Packaging and Shipping	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	P	·	·	·	C	C	C	C	
Publisher									P					P	P	P							
Repair Shop	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	P	·	·	·	C	C	C	C	<>
Tanning Salon	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	·	·	·	·	C	C	C	·	
Tattoo & Piercing Establishment	·	·	·	·	·	·	·	·P	·	·	·	·	·P	P	·	·	·	·	C	·	·	C	<>
Tattoo Parlor														P									
Recreation Related																							
Nightclub or Dance Hall	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	·	C	C	<>
Indoor Commercial Recreation	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	P	·	·	·	C	C	C	C	<>
Entertainment, Indoor									P	S	S	S	P	P	P		P						
Outdoor Commercial Recreation	·	S	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	·	C	<>
Entertainment, Outdoor	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·							
Theatre, Indoors	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	P	·	·	·	C	C	C	C	
Theatre, Outdoors	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	C	<>
Retail Sales																							
Bulky Item Sales	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	C	·	C	<>
Convenience Store (with gasoline sales)	·	·	·	·	·	·	·	·	·	·	·	·	P	P	P	·	·	·	C	C	C	C	<>
Convenience Store (with gas sales)													P	P	P								

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USE TYPE	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Flea Market	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·P	·	·	·	·	C	·	C	<>
Gasoline Sales	·	·	·	·	·	·	·	·	·	·	·	·	P	P	P	·	·	·	C	C	·	C	<>
General Retail, High Intensity	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	C	C	C	C	<>
General Retail, Low Intensity	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	·P	·	·	·	C	C	C	C	<>
Retail Sales										P	P	P	P	P	P								
Grocery Store	·	·	·	·	·	·	·	P	·	P	P	·P	P	P	·P	·	·	·	C	C	C	·	<>
Pharmacy	·	·	·	·	·	·	·	P	P	P	P	·P	P	P	·P	·	·	·	C	C	C	·	<>
Retail, Large Format	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	C	C	·	C	<>
Retail, Micro	·	·	·	·	·	·	P	P	·	P	P	P	P	P	·P	·	·	C	C	C	C	C	<>
Sexually-Oriented Business																							
All Use Types	·	·	·	·	·	·	·	·	·	·	·	·	·	·	S	·	·	·	·	·	·	·	<>
Adult Oriented Business															S								
Storage Related																							
Storage, Indoor Only	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	C	C	C	C	<>
Storage, Indoor and Outdoor	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	C	·C	·	C	<>
Self-storage Facility														S	P								
Vehicle Related																							
Vehicle Repair and Service (no painting/ bodywork)	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·P	·	·	·	·	·	C	C	<>
Vehicle Repair or Service														S	P	P							
Vehicle Sales and Rental	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·P	·	·	·	C	C	·	C	<>
Vehicle Sales and Rental														S	P	P							

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Use Type	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNI	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	Use Stds.
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Vehicle Painting/ Bodywork	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	<>
Vehicle Parts and Accessory Sales	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	C	C	C	·	<>
Vehicle Towing and Storage	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	P	·	·	C	C	C	C	<>
Towing Service and Storage														S	S	P							
Vehicle Washing or Detailing	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	C	C	C	C	<>
Car Wash/Auto Detailing													P	P									
INDUSTRIAL USE CLASSIFICATION																							
Energy Related																							
Fuel Oil/Bottled Gas Distribution	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	·	C	<>
Gas and Fuel, Wholesale															P	P	P						
Level 2 Solar Energy Conversion	·	S	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	C	·	C	<>
Level 3 Solar Energy Conversion	·	S	·	·	·	·	·	·	·	·	·	·	·	·	·	S	S	·	·	C	·	C	<>
Renewable Energy Facility			S												S	S	S						
Wind Energy Conversion	·	S	·	·	·	·	·	·	·	·	·	·	·	·	·	S	S	·	·	·	·	C	<>
Extractive Industry																							
All Use Types	·	S	·	·	·	·	·	·	·	·	·	·	·	·	·	S	·	·	·	·	·	·	
Flex Space																							

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Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Business Incubator	•	•	•	•	•	•	•	•	P	P	P	P	P	P		P	•	•	C	C	C	C	<>
Cryptomining and Data Processing	•	•	•	•	•	•	•	•	•	•	•	•	•	•		PS	•	•	•	•	•	C	<>
Maker Space	•	•	•	•	•	•	•	P	•	•	•	•	•	P	P	P	P	•	C	C	C	C	<>
Research and Development	•	•	•	•	•	•	•	•	P	•	•	•	•	•	P	P	P	•	C	C	C	C	
Research and Development									P						P	P							
Laboratory, Research									P						P	P							
Industrial Services																							
Asphalt or Concrete Plant	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	P	•	•	•	•	•	C	<>
Contractor Services Office/Yard	•	•	•	•	•	•	•	•	•	•	•	•	•	•	P	P	•	•	•	C	•	C	<>
Contractor Office									P					P	P	P							
Electrical, HVAC, or Plumbing Fabrication	•	•	•	•	•	•	•	•	•	•	•	•	•	•	P	P	•	•	•	C	•	C	<>
Metal Fabrication	•	•	•	•	•	•	•	•	•	•	•	•	•	•	P	P	•	•	•	•	•	C	<>
Manufacturing																							
Heavy Manufacturing	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	P	•	•	•	•	•	C	<>
Manufacturing, Heavy																P							
Light Manufacturing	•	•	•	•	•	•	•	•	•	•	•	•	•	•	P	P	•	•	•	•	•	C	<>
Manufacturing, Light															P	P							
Utility Related																							
Major Utility	•	•	•	•	•	•	•	•	S	•	•	•	•	•	P	P	P	•	•	C	C	C	<>
Utility, Major															P	P	P						
Minor Utility	•	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C	
Utility, Minor			P	P	P	P			P	P	P	P	P	P	P	P	P						
Warehouse Related																							
Freight Terminal	•	•	•	•	•	•	•	•	•	•	•	•	•	S	P	P	•	•	•	•	•	C	<>

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		Residential Districts							Non-Residential Districts									Conditional Districts					
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Warehouse, Distribution or Storage	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	C	·	C	<>
Warehouse, Freight Movement														S	P	P							
Waste Related																							
Recycling Center	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	P	·	·	·	·	·	<>
Recycling Center															S	P	P						
Salvage and Junkyard	·	S	·	·	·	·	·	·	·	·	·	·	·	·	·	P	·	·	·	·	·	C	<>
Transfer Station	·	S	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	·	C	<>
Waste Service															S	P	P						
Wholesale Sales																							
Indoor Only	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	C	C	C	
Indoor and Outdoor	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	·	·	·	C	·	C	<>
Building Supplies, Wholesale															P	P							
INSTITUTIONAL USE CLASSIFICATION																							
Assembly																							
Auditorium, Coliseum, Convention Center	·	·	·	·	·	·	·	·	P	P	P	-P	·	P	·	·	P	·	C	C	C	·	<>
Assembly			S						P	S	S	S	S	P			P						
Community Center	·	·	·	·	·	·	P	P	P	P	P	P	P	P	·	·	·	C	C	C	C	·	
Fraternal Club or Lodge	·	·	S-	-S	S-	S-	S	P	P	-P	-P	-P	·	-P	·	·	·	C	·	C	C	·	<>
Assembly			S						P	S	S	S	S	P									
Religious Institution High Intensity	·	·	-S	-S	-S	-S	S	P	P	·	·	·	·	-P	·	·	·	C	·	C	C	·	<>

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Use Type	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	Use Stds.
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Religious Institution Low Intensity	·	·	P[1]	P[1]	P[1]	P[1]	P	P	P	P[1]	P[1]	P[1]	·	P[1]	·	·	·	C	·	C	C	·	<>
Church or Place of Worship			S	S	S	S			P				P	S									
Cultural Facility																							
Library	·	·	·	·	·	P	P	P	P	P	P	P	P	P	·	·	P	C	C	C	C	·	
Museum	·	·	·	·	·	·	·	P	P	P	P	P	P	P	·	·	P	·	C	C	C	·	
Day Care																							
Adult Day Care	·	·	·	·	·	·	·	P	P	·	·	·	P	P	P	·	·	C	C	C	C	C	<>
Child Day Care	·	·	·	·	·	·	P	P	P	P	P	P	P	P	·	·	·	C	C	C	C	C	<>
Day Care Facility			S	S	S	S			P				P	P									
Education Related																							
College or University	·	·	·	·	·	·	·	·	P	·	·	·	·	P	·	·	P	·	C	C	C	·	<>
College or University									P								P						
School, Elementary or Middle	·	·	P	P[1]	P[1]	P[1]	P[S]	P	P	P[1]	P[1]	P[1]	·	·	·	·	·	C	·	C	·	·	
School, High	·	·	S[P]	S[1]	S[1]	S[1]	P[S]	P	P	P[1]	P[1]	P[1]	·	·	·	·	·	C	·	C	·	·	<>
School (Elementary or Secondary)			S	S	S	S			P														
School, Vocational	·	·	·	·	·	·	S[1]	P[1]	P	·	·	·	·	P	P	P	·	·	·	C	C	C	<>
School (Technical, Trade, or Business)			S	S	S	S			P					P	P	P	P						
Government Related																							
Fire/EMS/ Police Station	·	P	P	P	P	P	P	P	P	P	P	P	P	P	P	·	P	C	C	C	C	C	<>
Government Office	·	·	·	·	·	·	·	P	P	P	P	P	P	P	·	·	P	C	C	C	C	C	
Government Service			S	S	S	S			P	P	P	P	P	P	P	P	P						
Governmental Training Facility	·	·	·	·	·	·	·	·	·	·	·	·	·	·	P	P	P	C	C	C	C	C	<>
Gun Range										S	S	S		S	S	S	S						

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USE TYPE	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNI	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	USE STDS.
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Post Office	·	·	·	·	·	·	·	P	P	P	P	P	P	P	P	·	P	C	C	C	C	·	
Health Care																							
Hospital	·	·	·	·	·	·	·	·	P	·	·	·	·	P	·	·	P	·	C	C	C	·	<>
Hospital or Medical Center									P					P			P						
Laboratory	·	·	·	·	·	·	·	·	P	·	·	·	P	P	·	·	P	·	C	C	·	C	<>
Outpatient Facility	·	·	·	·	·	·	·	P	P	P	P	P	P	P	·	·	P	·	C	C	C	·	<>
Psychiatric Services	·	·	·	·	·	·	·	·	S	·	·	·	·	·	·	·	S	·	·	·	·	·	<>
Residential Treatment Facility	·	·	·	·	·	·	S	·	P	·	·	·	·	·	·	·	P	·	C	·	C	·	<>
Urgent Care	·	·	·	·	·	·	·	P	P	·	·	·	P	P	·	·	P	·	·	C	C	C	<>
Open Space																							
Arboretum or Formal Garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P	·	·	P	C	C	C	C	·	
Cemetery or Mausoleum	·	P	P	·	·	·	·	·	P	·	·	·	·	·	·	·	P	C	·	C	·	·	<>
Cemetery			P											S			P						
Community Garden	P	P	P	P	P	P	P	P	P	P	P	P	P	·	·	·	P	C	C	C	C	·	
Community Recreation Facility (private)	·	P	P	P	P	P	P	P	P	·	·	·	·	·	·	·	·	C	C	C	C	·	
Recreation Related																							
Athletic Field or Court	·	P	P	P	P	P	P	P	P	P	P	P	P	P	P	·	P	C	C	C	·	·	
Golf Course (public or private)	·	P	P	P	P	·	·	·	·	·	·	·	·	·	·	P	P	·	·	C	·	·	
Golf Course			P	P	P	P											P						
Indoor Recreation, Public	·	·	P	·	·	·	P	P	P	P	P	P	P	P	·	·	P	C	C	C	C	C	
Outdoor Recreation, Public	·	P	P	P	·	·	P	P	P	·	·	·	·	·	·	·	P	C	C	C	C	·	

TABLE <>: LISTING OF COMMON PRINCIPAL USES

P = Permitted, subject to a Zoning Permit & applicable use standards
S = Permitted, subject to a Special Use Permit & applicable use standards
C =Permitted within a conditional zoning district, subject to applicable use standards
"•" = Prohibited
[#] = Table note (see end of table)

Use Category		Residential Districts							Non-Residential Districts									Conditional Districts					
Use Type	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	Use Stds.
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Park or Playground (public or private)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	·	·	P	C	C	C	C	·	
Park			P	P	P	P			P	S	S	S	P				P						
Telecommunications																							
Antenna Collocation, Major	·	P	·	·	·	·	·	P	P	P	P	P	P	P	P	P	P	·	C	C	C	C	<>
Antenna Collocation, Minor	·	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C	<>
Broadcasting Studio	·	·	·	·	·	·	·	·	P	·	·	·	P	P	P	·	P	·	·	·	C	·	
Radio or Television Studio														P	P	P							
Small Wireless Facility	·	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	·	·	·	·	·	<>
Telecommunications Facility, Major	·	S	·	·	·	·	·	·	·	·	·	·	·	·	·	P	S	·	·	·	·	C	<>
Telecommunications Facility			S	S	S	S			S	S	S	S	S	S	S	S	S						
Telecommunications Facility, Minor or Concealed	·	P	·	·	·	P	P	P	P	P	P	P	P	P	P	P	P	C	·	·	·	·	<>
Transportation																							
Bus Station	·	·	·	·	·	·	·	P	P	P	P	P	P	P	·	·	P	C	C	C	C	C	
Park and Ride Facility	·	·	·	·	·	·	P	P	P	·	·	·	P	P	P	·	P	C	C	C	C	C	
Rail Related	·	·	·	·	·	·	·	P	P	P	P	P	P	P	P	·	P	·	·	·	C	C	
RESIDENTIAL USE CLASSIFICATION																							
Assisted Living																							
Congregate Care	·	·	·	·	·	P	P	P	P	·	·	·	P	·	·	·	·	C	C	C	C	·	<>
Nursing Home (Congregate Living Facility)			P						P				P	P									

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C =Permitted within a conditional zoning district, subject to applicable use standards
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USE CATEGORY		RESIDENTIAL DISTRICTS							NON-RESIDENTIAL DISTRICTS									CONDITIONAL DISTRICTS					USE STDS.
USE TYPE	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Continuing Care Retirement Community	·	·	·	·	·	S	P	P	P	·	·	·	P	·	·	·	·	C	C	C	C	·	<>
Group Living																							
Boarding House		·	·	·	·	P	P	P	·	·	·	·	·	·	·	·	·	C	C	C	C	·	<>
Boarding House						S			S				S										
Family Care Home	·	P	P	P	P	P	P	P	·	P	P	P	P	·	·	·	·	C	·	·	·	·	<>
Group Home	·	·	·	·	·	S	S	S	S	·	·	·	·	·	·	·	·	C	·	C	·	·	<>
Group Care Home (2-6)			P	P	P	P																	
Group Care Home (7-12)			S	S	S	S			S				S										
Group Care (13+)									S				S										
Halfway House	·	·	·	·	·	·	·	·	S	·	·	·	·	·	·	·	·	·	·	C	·	·	<>
Homeless Shelter	·	·	·	·	·	·	·	·	S	·	·	·	·	S	·	·	·	·	·	·	·	C	<>
Household Living																							
Bungalow Court	·	·	·	·	P	P	P	P	P	P	P	P	P	·	·	·	·	C	C	·	·	·	<>
Conservation Subdivision	·	P	P	P	P	P	P	P	·	·	·	·	·	·	·	·	·	C	·	·	·	·	<>
~~Two-Family~~Duplex Dwelling	·	·	·	P	P	P	P	P	P	P	P	P	P	·	·	·	·	C	C	C	C	·	<>
Duplex				S	S	S			S														
Live/Work	·	·	·	·	·	·	P	P	P	P	P	P	P	P	P	·	·	C	C	C	C	C	<>
Manufactured Home (Class A Doublewide)	·	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	<>
Manufactured Home			P																				
Manufactured Home (Class B Singlewide)	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	<>
Manufactured Home Park	·	S	·	·	·	·	·	·	·	·	·	·	·	·	·	·	·	C	·	·	·	·	<>

TABLE <>: LISTING OF COMMON PRINCIPAL USES

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C =Permitted within a conditional zoning district, subject to applicable use standards
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USE CATEGORY		RESIDENTIAL DISTRICTS							NON-RESIDENTIAL DISTRICTS									CONDITIONAL DISTRICTS					
USE TYPE	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	USE STDS.
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Manufactured Home Park			S																				
Multi-Family Dwelling	·	·	·	·	·	·	P	P	~~P~~	P	P	~~P~~	·	·	·	·	·	C	C	C	C	·	<>
Apartments				S	S	S			S	S			S	S									
Pocket Neighborhood	·	·	·	·	~~P~~	P	P	P	~~P~~	P	P	P	P	·	·	·	·	C	C	C	C	·	<>
Single-Family Attached Dwelling	·	·	·	·	·	P	P	P	~~P~~	P	P	P	P	·	·	·	·	C	C	C	C	·	<>
Townhouse				S	S	S			S				S	S									
Single-Family Detached Dwelling	·	P	P	P	P	P	P	P	·	~~P~~	P	P	P	·	·	·	·	C	·	·	·	·	<>
Single Family House			P	P	P	P			P														
~~Tiny Home~~	~~·~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~·~~	~~·~~	~~·~~	~~·~~	~~·~~	~~·~~	~~·~~	~~·~~	~~·~~	~~·~~	~~·~~	~~C~~	~~C~~	~~C~~	~~C~~	~~·~~	~~<>~~
Triplex or Quadplex	·	·	·	·	P	P	P	P	~~P~~	P	P	P	P	·	·	·	·	C	C	C	C	·	<>
Upper-Story Dwelling	·	·	·	·	·	·	P	P	P	P	P	P	P	P	·	·	·	C	C	C	C	·	<>
Upper-Story Residence									P	P	P	P	P	P									

4.3 STANDARDS FOR SPECIFIC PRINCIPAL USES[111]

The standards in this section are applied to individual principal use types as identified in Table <>, Listing of Common Principal Uses. These standards are applied to identified principal uses in addition to all other applicable zoning district, design, or development standards in this Ordinance or the Town Code of Ordinances. Conflicts between these standards and other standards in this Ordinance shall be addressed in accordance with Section <>, Conflict. Developments with two or more of these use types on a single lot or within a single development shall also be subject to the standards in Section <>, Unified Development.

4.3.1 SECTION STRUCTURE EXPLAINED

This section identifies the use-specific standards applied to principal use types identified in Table <>, Listing of Common Principal Uses, as subject to "Use Stds," however, the principal uses included in this section are listed in alphabetical order rather than by use classification or use category.

4.3.2 GENERAL REQUIREMENT

Principal uses structures may deviate from these listed standards only where expressly authorized by this Ordinance, as part of an approved Variance or Administrative Adjustment, as subject to conditions of approval associated with a Type 3 conditional rezoning, or when configured in accordance with Section <>, Incentives and Alternatives.

4.3.3 ADULT DAY CARE[112]

An adult day care center use shall comply with the following requirements:

A. The use shall be certified by the North Carolina Department of Health and Human Services;

B. The use shall obtain all required licenses and permits from the State;

C. The use shall not permit overnight accommodation of patrons;

D. The use includes a pick-up and drop-off area that allows patrons to enter and exit vehicles without crossing a parking lot or vehicular accessway;

~~**D.**~~**E.** The use shall comply with the standards in Section <>, Non-Commercial Design Standards; and

~~**E.**~~**F.** The pick-up and drop-off area shall not be located within a required yard or landscaping area.

4.3.4 AGRICULTURAL PACKAGING & PROCESSING

These uses shall comply with the standards in Section <>, Light Manufacturing.

4.3.5 AGRICULTURAL STORAGE & DISTRIBUTION[113]

A. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from all lot lines.

B. Equipment-capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

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[111] This section is proposed to replace current Article 3 in the UDC. The use interpretation section in current Section 155-300 is relocated to the unlisted use provisions later in this draft chapter. Accessory and temporary uses in Section 308 and 309 are relocated to their own respective sections after this one. The current UDC sets out principal use standards by different groups (e.g., residential, public and civic, etc.). That approach is not used here. Standards for individual use types are listed alphabetically for all use types so that it is not necessary for a code user to know what use classification or use category a particular use type is included in. These use standards are based on the use standards for similar uses in the current UDC, though some have been updated such as for telecommunications facilities, for consistency with best practice. As indicated in the Conflict section in Chapter 1 of this draft Ordinance, in cases where dimensional requirements in these standards conflict with other zoning district or dimensional standards, these standards shall control.

[112] Replaces 155.302(E).

[113] New

C. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

D. Outdoor storage visible from a residential zoning district shall be screened in accordance with Section <>, Screening.

4.3.6 ANIMAL HUSBANDRY[114]

Animal husbandry as a principal use shall comply with the following standards:

A. Animal husbandry is only permitted on lots located outside the Town's corporate limits.

B. Any use engaged in animal husbandry shall have a minimum of five contiguous acres.

C. All barns, pens, enclosures, feeding troughs or mechanisms, storage, and any secondary structures shall be located at least 100 linear feet from lot lines and water bodies that flow into drinking water sources.

D. A maximum of up to five large animals may be permitted for each acre. For the purposes of this section, "large animals" shall include horses, swine of any size, cattle, goats, llamas, and sheep.

E. A maximum of up to 100 small animals may be permitted for each acre. For the purposes of this section, "small animals" shall include rabbits and fowl, excluding peafowl.

F. In no instance shall exotic animals or animals not typically maintained as livestock be permitted as part of an animal husbandry use.

G. Animals (excluding waterfowl) shall be maintained within pens, fenced areas, or other suitable enclosures.

H. Pens, stalls, and grazing areas shall be maintained in a sanitary manner free from noxious odors.

I. Manure stockpiles shall not exceed six feet in height.

4.3.7 ANIMAL PROCESSING[115]

A. Animal processing uses shall comply with the applicable standards in NCGS§§ 143-215.10.A through 10.I.

B. All animal processing shall take place inside a closed building in a confined area to prevent the transmission of sound to the outside.

C. An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

D. Animals shall be enclosed in gated enclosures with a minimum height of six feet.

E. The use shall not generate fumes or odors beyond what normally occurs in the zoning district in which it is located.

F. Waste shall be stored in airtight containers and shall be confined in fully enclosed structures.

G. All loading and unloading areas shall be screened from view from adjacent lands and public streets.

4.3.8 ANIMAL SHELTER[116]

A. All activities associated with the use shall take place within enclosed and soundproofed structures, or the use shall be separated from land in an OFI or residential district by at least 1,000 feet.

B. Outdoor areas used to house or exercise animals shall be protected from the weather and enclosed by a fence at least six feet in height.

[114] New
[115] New
[116] New

4.3.9 ANTENNA COLLOCATION, MAJOR

See Section <>, Telecommunications Facilities.

4.3.10 ANTENNA COLLOCATION, MINOR

See Section <>, Telecommunications Facilities.

4.3.11 ASPHALT OR CONCRETE PLANT[117]

An asphalt or concrete plant shall comply with the following standards:

A. SETBACKS

An asphalt plant, including secondary structures and storage of materials shall be located at least 100 feet from all lot lines. This standard shall not be applied to temporary asphalt or concrete plants located entirely within a public street right-of-way.

B. SECURITY FENCING

A security fence, a minimum of six feet in height, and a locking gate shall be provided around the use.

C. REHABILITATION

1. Within one year of the cessation of the use, all equipment and stock piles incidental to the operation shall be dismantled and removed by and at the expense of the landowner.
2. The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course, except in an instance where redevelopment for another permitted use is in progress.

D. ACCESS

1. Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.
2. Access drives shall be located no closer than 15 feet from a lot line.
3. A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

4.3.12 ATHLETIC FIELD OR COURT[118]

A. Athletic fields and courts shall comply with the following standards:

B. Athletic fields and courts used for night-time or weekend activities shall be located at least 100 feet from lot lines shared with residentially zoned land.

C. The athletic field or court shall be surrounded by a fence with a minimum height of four feet, and shall be supplemented with netting or other devices that limit projectiles from travelling off-site, if determined necessary by the Planning Director.

D. Exterior lighting for athletic fields and courts shall comply with the applicable standards in Section <>, Exterior Lighting, and configured so that the maximum illumination at any lot lines abutting residentially zoned or used lands does not exceed one footcandle.

[117] New
[118] New

4.3.13 AUDITORIUM, COLISEUM, CONVENTION CENTER[119]

A. Unless located in the Downtown district, the parcel or site shall have an area of at least three acres;

B. Dining and banquet facilities may be provided for employees, trainees, and conferees, provided the gross floor area devoted to such facilities does not exceed 50 percent of the total floor area of the principal building;

C. The building shall be located at least 500 feet from any lot in a single-family residential zoning district;

~~C.~~**D.** The use shall comply with the standards in Section <>, Non-Commercial Design Standards; and

~~D.~~**E.** The main entrance to the lot or site shall be served by a collector or higher capacity street.

4.3.14 BANK OR CREDIT UNION[120]

A. Freestanding automated teller machines require site plan approval and shall comply with the Standards in Section <>, Automated Teller Machines.

B. Drive-throughs shall comply with the standards in Section <> Drive-Through.

4.3.15 BAR, COCKTAIL LOUNGE, PRIVATE CLUB[121]

A bar, cocktail lounge, or private club shall comply with the following requirements:

~~**A.** Except within the Downtown district, no bar, cocktail lounge, or private club, or similar venue shall be located within 200 feet of a religious institution, school, public park, or residentially zoned property.~~

~~**B.** The minimum separation requirement above is reduced to 100 feet in the MXD district and there is no separation requirement in the Downtown district;~~

~~C.~~**A.** The main entrance of the use shall face a street or outdoor gathering area. In cases where the main entrance could face more than one street, it shall be configured to face the street with the larger number of non-residential establishments or where the larger number of non-residentially zoned lots are located. In no instance shall the use shall orient the primary entrance toward an abutting lot in a residential district;

~~D.~~**B.** Except within the Downtown district, the use shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district; and

~~E.~~**C.** Outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the standards in Section <>, Outdoor Dining and Seating.

4.3.16 BARBER OR BEAUTY SALON[122]

All activity shall take place entirely within a fully-enclosed building.

4.3.17 BED & BREAKFAST[123]

A. The use shall be owned and operated by a person who resides on the site.

B. The use shall be located in a structure that was originally constructed as a residential dwelling and there shall be no substantial modifications to the exterior appearance of the structure, provided that fire escapes, handicapped entrances and other features may be added to protect public safety.

[119] New
[120] Carries forward Section 155.305(G) with a cross reference to the drive-through secondary use standards.
[121] Replaces Section 155.305(L).
[122] Carries forward 155.305(X).
[123] Carries forward Section 155.305(B) with several additional standards.

C. No more than six guest sleeping rooms may be included. Bed and breakfast uses with more than six guest sleeping rooms are classified as a hotel or motel.
D. Meals served on the premises shall be solely for guests and employees.
E. Rooms shall not be equipped with cooking facilities.
F. Off-street parking other than on a driveway with a maximum width of 24 feet shall not be allowed in any required setback.
G. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.18 BOARDING HOUSE[124]

A boarding house shall comply with the following standards:

A. Boarding houses shall comply with Sections 152.25 through 152.28 of the Town Code of Ordinances;
B. A boarding house shall not be located within 1,000 feet of another boarding house;
~~B.~~**C.** A boarding house shall meet the applicable dimensional requirements for a single-family detached residential use in the zoning district where located;
~~C.~~**D.** The property owner or a designated property manager responsible for operating the boarding house in accordance with this Ordinance must reside on the same premise as the boarding house;
~~D.~~**E.** No more than five resident sleeping rooms shall be available for rent;
~~E.~~**F.** At least 15 square feet of common living area other than the kitchen, hallways, and bathrooms shall be provided per resident sleeping room;
~~F.~~**G.** Separate structures, secondary buildings, and garages shall not be used as a resident sleeping room;
~~G.~~**H.** No separate exterior doorways for individual resident sleeping rooms shall be permitted;
~~H.~~**I.** A resident sleeping room shall not contain a kitchen;
~~I.~~**J.** Off-street parking other than on a driveway with a maximum width of 24 feet shall not be allowed in any required setback; and
~~J.~~**K.** A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.19 BOARDING (FOR ANIMALS), INDOOR ONLY[125]

A. All activities, including kennels, runs, and exercise areas shall take place within fully-enclosed and soundproofed structures;
B. Animal waste shall not be stored within 50 feet of any lot line; and
C. Any animal suspected of showing symptoms of rabies infection shall be immediately segregated and reported to Animal Control.

4.3.20 BOARDING (FOR ANIMALS) INDOOR AND OUTDOOR[126]

A. All structures shall be designed and maintained in a manner to prevent the development of unsanitary conditions;
B. All activities associated with the use shall take place within enclosed and soundproofed structures, or the use shall comply with the following requirements:
1. An outdoor activity area or run may be provided only for exercise/relief areas for the animals;

[124] Replaces Section 155.301(C). Reduces the maximum number of rental rooms from 9 to 5.
[125] New
[126] Carries forward Section 155.305(J) but removes the requirement for a special use permit for outdoor activity.

2. All outdoor activity areas or runs shall be located to the side or rear of the principal building;
3. No outdoor activity area or run shall be located within 50 feet of any lot line;

C. Outdoor activity areas shall include areas protected from the weather and be enclosed by a fully opaque fence or wall at least six feet in height; and

D. Any animal suspected of showing symptoms of rabies infection shall be immediately segregated and reported to Animal Control.

4.3.21 BOTTLE SHOP (ON-PREMISE CONSUMPTION)[127]

A bottle shop use shall comply with the standards in Section <>, Bar, Cocktail Lounge, or Private Club.

4.3.22 BROADCASTING STUDIO[128]

~~A. The use shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities;~~

~~B.~~A. Any broadcasting towers associated with the use shall be setback from all lot lines a minimum distance equal to the height of the tower; and

~~C.~~B. The use shall not include a helipad or helicopter landing facilities.

~~D.~~C. Broadcasting studios that incorporate towers or other vertical projections that send or receive electronic signals shall also comply with the applicable requirements in Section <>, Telecommunication Facilities.

4.3.23 BULKY ITEM SALES[129]

A. Portable storage containers and dumpsters that are utilized for the purpose of display and any bulky item that exceeds 10 feet in height shall not be placed within required setbacks, parking, or landscape areas.

B. Bulky items that are less than or equal to 10 feet in height must be located at least 10 feet from any public street and shall not be placed within required parking or landscape areas.

C. Bulky items are defined in Section <> Terms Defined.

4.3.24 BUNGALOW COURT[130]

A. PURPOSE AND INTENT

A bungalow court is a group of smaller single-family detached dwellings built in close proximity to one another around a shared driveway. The bungalow court use type is a voluntary means of reducing zoning district dimensional requirements in return for voluntary compliance with the Section <>, Residential Design Guidelines, and the standards in this section.

[127] New
[128] New
[129] New
[130] New

FIGURE <>: BUNGALOW COURT CONCEPTUAL DESIGN



B. STANDARDS

1. A bungalow court shall be located on a site of at least one acre, but not more than five acres in area, and shall include at least three principal dwelling units.
2. ~~1.~~ All dwellings shall be located on their own individual lots.
3. ~~2.~~ The use shall comply with the maximum density and minimum setback requirements for the bungalow court use type in the zoning district where proposed.
4. ~~3.~~ Bungalow courts shall be limited to single-family detached dwellings as the principal use, though accessory dwelling units in accordance with Section <>, Accessory Dwelling Units, and home occupations in accordance with Section <>, Home Occupation, Level 1, shall be permitted.
5. ~~4. Each residential unit shall include an automatic fire suppression system.~~
6. All residential structures in a bungalow court shall voluntarily comply with the provisions in Section <> Residential Design Guidelines.
7. The bungalow court shall provide a Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, along all lot lines outside the bungalow court that abut a residential district.
8. ~~6.~~ All driveways shall be shared by at least two, but no more than five lots.
9. ~~7.~~ Bungalow courts that incorporate off-street parking shall include a shared driveway(s) that:
   - ~~a. Provides vehicular access to no more than five dwelling units;~~
   - ~~b.~~ a. Is located on commonly-owned land or is the subject of a shared access easement granting access to all lots or dwellings ~~within the development~~served by the shared driveway;
   - ~~c.~~ b. Comprised of concrete, brick, or pavers; and
   - ~~d.~~ c. Located central to the ~~development~~dwellings served.

4.3.25 BUSINESS INCUBATOR[131]

A business incubator may be provided as a principal use in its own building, as tenant space within a multi-tenant building, or as a secondary use to an existing non-residential use, subject to the following standards.

A. When proposed as a principal use, the maximum floor area associated with a business incubator shall be 10,000 square feet.

B. When proposed as a tenant space within a multi-tenant building, the maximum floor area associated with a business incubator shall be 7,500 square feet.

C. When proposed as a secondary use, the floor area devoted to the business incubator shall not exceed 25 percent of the principal use's total floor area.

D. Use types located within a business incubator use type are subject to the business incubator use specific standards, not the use standards that would typically apply if it were a principal use on its own lot.

E. In no instance shall a business incubator include a use type that is not permitted as a principal use in the district where located, or any of the following use types:

1. Bar; cocktail lounge, or private club;
2. Cryptomining or data processing;
3. Funeral-related services or mausoleums;
4. Heavy equipment sales, rental, or repair;
5. Heavy manufacturing;
6. Metal fabrication;
7. Nightclub or dance hall;
8. Psychiatric services;
9. Residential uses of any kind or type;
10. Salvage or junkyard;
11. Sexually-oriented business;
12. Tattoo or piercing establishment; or
13. Vehicle painting or bodywork.

F. Business incubators shall meet the off-street parking requirement for this use type in Table <>, Table of Minimum Off-Street Parking Requirements, not the individual types of uses within the business incubator.

G. Floor area within a building serving as a business incubator may be used for storage, but no outdoor activity or storage shall be permitted with a business incubator.

~~G.~~**H.** When located within a MXD, OFI, NCM, CRM, or conditional zoning district, the use shall comply with the standards in Section <>, Non-Commercial Design Standards.

4.3.26 CAMPGROUND[132]

A. Campgrounds shall not include permanent residences, except as necessary for caretakers;

B. Individual campsites shall maintain a minimum size of 500 square feet in area each and at least 20 feet in width;

C. Campgrounds shall provide a common recreational area consisting of at least 100 square feet per campsite;

D. Campgrounds shall provide sufficient groundcover to prevent erosion;

[131] New
[132] New

E. Individual campsites shall be set back at least 100 feet from the front lot line and at least 50 feet from the side and rear lot lines; and

F. Waste collection facilities shall be screened in accordance with Section <> Screening.

4.3.27 CATERING ESTABLISHMENT[133]

Catering establishments shall not prepare food or beverages for on-site consumption by patrons.

4.3.28 CEMETERY OR MAUSOLEUM[134]

Except as otherwise required in this Ordinance, new cemeteries and the expansion of existing cemeteries (as a principal use) shall comply with the following standards:

A. New cemeteries shall be located on a site or parcel with an area of at least two acres; this standard shall not apply to existing cemeteries or the expansion of existing cemeteries;

B. New cemeteries shall be located on a site or parcel that fronts a collector or higher classification street; this standard shall not apply to existing cemeteries or the expansion of existing cemeteries;

C. Cemeteries shall include drive aisles or vehicular accessways of at least 12 feet in width or greater as needed for the parking and maneuvering of funeral processions; and

D. Interments shall take place at least 25 feet from any lot line and comply with all applicable requirements of the North Carolina General Statutes.

4.3.29 CHILD DAY CARE[135]

Child day care centers shall comply with the standards for licensure in Article 7, Chapter 110, of the North Carolina General Statutes, as well as the Summary of North Carolina Child Care Laws and Rules pamphlet, as amended, prepared by the NC Department of Health and Human Services.

A. The use shall not permit overnight accommodation of patrons;

B. The use shall include a fenced outdoor gathering area of at least 25 square feet per patron receiving care;

C. The use includes a pick-up and drop-off area that allows patrons to enter and exit vehicles without crossing a parking lot or vehicular accessway;

D. The pick-up and drop-off area shall not be located within a required yard or landscaping area;

~~D.~~**E.** The use shall comply with the standards in Section <>, Non-Commercial Design Standards; and

~~E.~~**F.** A child day care shall provide a Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, along all lot lines that abut a residential district.

4.3.30 COFFEE SHOP OR BAKERY[136]

A. To assure provision of adequate parking, the maximum amount of seating and/or square footage of the public floor area for a coffee shop or bakery in a multi-tenant building shall be specified at the time of site plan approval;

B. Except in the Downtown district, a coffee shop or bakery in its own principal building shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district; and

C. Coffee shops or bakeries with outdoor seating or gathering areas shall comply with the standards in Section <>, Outdoor Dining and Seating.

[133] New
[134] New
[135] Replaces Section 155.302(E).
[136] New

4.3.31 COMMUNITY CENTER[137]

A. The main entrance to the lot or site shall be served by shall have direct access to a collector or higher classification street;

B. Outdoor courts, swimming pools, and athletic fields shall be located at least 50 feet from any lot line abutting a residential district;

C. Community centers proposed in residential districts shall be on a lot of at least two acres in area;

~~C.~~**D.** The use shall comply with the standards in Section <>, Non-Commercial Design Standards; and

~~D.~~**E.** A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

4.3.32 COMMUNITY RECREATION FACILITY (PRIVATE)[138]

A. The minimum area for a private community recreation facility shall be at least two acres.

B. Private community recreation uses shall have at least one direct vehicular access to a collector or higher classification street. However, if the use is intended to serve only a membership that is limited to a residential development, access may be provided from an interior street within the same residential development.

C. A minimum distance of at least 50 feet shall be maintained between a clubhouse, swimming pool, any court or athletic field, or golf course tee, green, or fairway and any adjacent residence.

D. A type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district as well as along all lot lines shared with a residential dwelling unit, if located within a residential or mixed-use development.

E. Outdoor swimming pools shall be protected by a fence or locking ladders in accordance with Section <>, Swimming Pools/Hot Tubs.

F. Events conducted at community recreation facilities shall be subject to the standards in Section <>, Special Events.

4.3.33 COMPUTER RELATED SERVICES[139]

The use shall be limited to the repair, sales, re-sale, or refurbishment of desktop and small-scale computers and computer-related equipment. Data processing shall be subject to the standards in Section <>, Cryptomining and Data Processing.

4.3.34 CONGREGATE CARE[140]

A. Congregate care uses shall meet other applicable dimensional requirements for a non-residential use in the zoning district where located.

B. Congregate care buildings containing living units shall comply with the standards in Section <>, Multi-Family Residential Design Standards.

~~A.~~**C.** The facility shall provide centrally located, shared food preparation, services to residents, and shared dining areas.

~~B.~~**D.** Common recreation, social, and service facilities shall be provided at a minimum rate of 30 square feet per dwelling unit or per rooming unit.

~~C.~~**E.** All facilities shall be solely for the use of residents and their guests.

~~D.~~**F.** A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

[137] New
[138] New
[139] New
[140] Carries forward Section 155.301(F) (Nursing Homes).

4.3.35 CONSERVATION SUBDIVISION[141]

A. Conservation subdivisions shall comply with the standards in Section <>, Conservation Subdivision.

B. All dwelling units located within a conservation subdivision shall be served by a public wastewater treatment system and a public potable water system.

4.3.36 CONTINUING CARE RETIREMENT COMMUNITY (CCRC)[142]

A. The maximum development density is based on the number of independent living units only and may not exceed that permitted in the zoning district where located.

B. Single-family detached dwellings are not subject to the dimensional standards for the zoning district where located but must maintain 15 feet from each lot line and any other principal structure whether on the same or a different lot. CCRCs shall meet all the other applicable dimensional requirements for a non-residential use in the zoning district where located.

~~B.~~**C.** Multi-unit structures within a CCRC shall comply with the standards in Section <>, Multi-Family Design Standards.

~~C.~~**D.** In no instance shall any individual site within a CCRC exceed a maximum lot coverage of 70 percent.

~~D.~~**E.** A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed around the perimeter of the development.

~~E.~~**F.** Access and circulation shall adequately provide for firefighting equipment, service deliveries and refuse collection.

~~F.~~**G.** Pedestrian paths shall form a logical, safe, and convenient system for pedestrian and handicap access to all on-site buildings and facilities as well as major off-site destinations.

4.3.37 CONTRACTOR SERVICES OFFICE/YARD[143]

A. All activity, including storage of materials, shall be conducted entirely within a fully enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.

B. Storage of fleet vehicles and equipment is permitted as a secondary use, subject to the standards in Section <>, Screening.

4.3.38 CONVENIENCE STORE (WITH GASOLINE SALES)[144]

Convenience stores with gasoline sales shall comply with the following standards:

A. Vehicle repair or storage shall be prohibited.

B. Inclusion of a restaurant or food counter providing products for on-site consumption shall require the development to comply the standards in Section <>, Mixed-Use Design Standards, and shall require the provision of adequate off-street loading facilities that may be utilized without interrupting typical on-site vehicular and pedestrian circulation.

C. Fuel facilities shall comply with the standards in Section <>, Gasoline Sales.

D. Drive through and fuel canopies shall comply with the standards in Section <>, Canopies (Drive Through, Fuel, etc.).

E. Automatic car washes provided as a secondary structure shall be located behind the rear building line of the principal structure and shall comply with the standards in Section <> Vehicle Washing and Detailing.

[141] New
[142] New
[143] Carries forward Section 155.305(D).
[144] Replaces Section 155.305(E).

F. Outdoor sales and display areas, if provided, shall comply with the standards in Section <>, Outdoor Display/Sales.

4.3.39 CO-WORKING SPACE[145]

A. Use types and activities associated with a co-working space shall be limited to the range of activities typically associated with office uses.

B. Food or beverages produced or sold within the use shall be limited to patrons of co-working space not the general public.

C. Delivery of personal services within the co-working space (manicure, massage, education, exercise classes, child care, etc.) shall be limited to patrons of the co-working space and shall take place indoors or within designated outdoor gathering areas located outside public rights-of-way.

D. Facilities for pets shall be indoors or fully screened from adjacent streets and other uses.

4.3.40 CRYPTOMINING AND DATA PROCESSING[146]

All principal and secondary structures shall be located and soundproofed so that no use-related noise exceeds 90 decibels when measured at the lot line during daylight hours and 60 decibels after sundown.

4.3.41 DUPLEX DWELLING[147]

A. Use of a single shared primary entrance serving both individual dwelling units is strongly encouraged. If a shared entrance is not practical or possible, placement of primary entrances on separate building facades is encouraged.

B. When a duplex dwelling is on a corner lot, the use may include two separate driveways on different lot frontages, provided each driveway is configured in accordance with Section <>, Access and Circulation, and all applicable Town or State standards related to driveway placement and street access.

C. Except in cases where the duplex dwelling complies with the provisions in Section <>, Single-Family Residential Design Guidelines, a Type B perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

~~4.3.41~~4.3.42 ELECTRICAL, HVAC, OR PLUMBING FABRICATION[148]

A. All activity, including storage of materials and products shall be conducted entirely within a fully enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.

B. Storage of fleet vehicles and equipment is permitted as a secondary use, subject to the standards in Section <>, Screening.

C. Uses shall not emit smoke, odor, objectionable waste materials, or excessive noise.

D. No vibration that is discernible without the aid of instruments shall be produced at or beyond the lot line.

E. No direct glare from high temperature processes such as combustion or welding shall be permitted to be visible from off-site areas.

~~4.3.42~~4.3.43 EQUESTRIAN FACILITY[149]

A. There shall be minimum 100-foot distance between manure storage areas, barns, or stables and any adjacent residentially zoned property.

[145] New
[146] New
[147] New
[148] New
[149] New

B. All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjoining properties.

C. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

~~4.3.43~~4.3.44 EVENT VENUE, INDOOR & OUTDOOR[150]

A. Outdoor activity areas shall be set back from lot lines shared with a residential use by an amount at least twice the minimum rear setback for the district where the use is located.

B. The maximum number of guests shall be in accordance with the maximum occupancy of the principal structure as determined by the Fire Chief.

C. Outdoor activities shall not take place between the hours of 10:00 PM and 7:00 AM on Sundays through Thursdays, and 11:00PM and 7:00AM on Fridays and Saturdays.

D. Exterior lighting shall not project into adjoining residential lots. Use of stadium-style or other pole-mounted lighting is prohibited.

E. Lighting of accessible paths may be provided, if necessary.

F. The event venue shall provide sufficient on-site trash receptacles and shall ensure that windblown trash or other debris does not accumulate anywhere on the site.

G. Event venue uses shall demarcate the boundaries of the event venue site for guests and shall include fences, walls, or other techniques such as landscaping to ensure guests to do not inadvertently trespass on adjacent lots.

H. Event venues shall ensure adequate ingress and egress from all buildings and structures to accommodate emergencies.

I. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

~~4.3.44~~4.3.45 EXTRACTIVE INDUSTRY[151]

Quarries and other extractive industries shall comply with the following requirements:

A. GENERAL REQUIREMENTS

1. The minimum development area shall be five acres.
2. The use shall not require the use of residential neighborhood streets to gain ingress or egress.
3. Where the final slope of areas being excavated will exceed 30 percent, such areas shall be enclosed with a fence at least six feet high located not less than ten feet from the excavation's edge.
4. Excavated areas, stockpiles, waste storage piles, and associated processing, storage, and loading areas shall be fully screened from view from arterial streets, collector streets, and lots in residential zoning districts in accordance with the standards in Section <>, Screening.
5. No blasting operations shall be conducted during the hours from 6:00 PM to 8:00 AM, and when conducted, shall not cause unreasonable amounts of noise, vibration, dust, or flying debris on nearby lots.
6. No operations shall impede the normal flow of any stream or watercourse, result in the deposition or erosion of stream banks, pollute any stream, undermine any public street or bridge, or promote flooding on adjacent land.

[150] New
[151] New

B. REHABILITATION PLAN AND GUARANTEE REQUIRED

1. Upon discontinuance of operations, all buildings and equipment shall be removed, and excavated areas shall be rehabilitated in accordance with a rehabilitation plan included as part of the application to establish the use.
2. The rehabilitation plan shall identify the ways the site will be returned as closely as possible to its original condition or a condition suitable for a specified alternate use. The rehabilitation plan shall address the storage and protection of topsoil removed during the course of operations as well as regrading, re-fertilization, and replanting.
3. The estimated cost of carrying out the rehabilitation plan shall be filed with the application. The estimate shall be certified as approximately correct by a professional engineer licensed to practice in the State of North Carolina with expertise in rehabilitation.
4. A rehabilitation guarantee, payable to the Town, shall be required in an amount equal to the estimated cost of carrying out the rehabilitation plan in accordance with Section <>, Performance Guarantees.
5. The rehabilitation guarantee shall be maintained as a legally binding obligation until such time as the Town Council determines that all rehabilitation work has been satisfactorily completed.
6. If the Town Council finds that extractive uses have been discontinued for a period of 12 consecutive calendar months and that no major attempts have been made to implement the rehabilitation plan, it shall order forfeiture of the guarantee and the proceeds shall be used to carry out, to the extent possible, the rehabilitation plan.

~~4.3.45~~4.3.46 FAMILY CARE HOME[152]

A. Family care homes shall obtain a Zoning Compliance Permit and shallcomply with the standards in NCGS§ 160D-907.

B. A lot containing a family care home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or a group home.

~~B.~~**C.** A family care home house shall meet the applicable dimensional requirements for a single-family detached residential use in the zoning district where located.

~~4.3.46~~4.3.47 FARM EQUIPMENT SALES AND SERVICE[153]

A. All outdoor storage of materials and machinery service areas shall be screened from view of adjacent streets and residentially zoned land in accordance with Section <>, Screening. This screening requirement shall not apply to the placement of goods or products for sale.

B. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.

C. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

D. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

~~4.3.47~~4.3.48 FARM SUPPLY SALES (RETAIL OR WHOLESALE)[154]

A. All outdoor storage of materials shall be screened from view of adjacent streets and residentially zoned land in accordance with Section <>, Screening. This screening requirement shall not apply to the placement of goods or products for sale.

[152] New
[153] New
[154] New

B. Products for sale shall not be placed within required off-street parking areas, required landscape areas, sight distance triangles, public easements, or within public street rights-of-way.

C. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

~~4.3.48~~4.3.49 FINANCIAL SERVICES[155]

Drive-throughs, if provided, shall be located to the side or rear of the building and shall be subject to the standards in Section <>, Drive Throughs.

~~4.3.49~~4.3.50 FIRE/EMS/POLICE STATION[156]

A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

~~4.3.50~~4.3.51 FITNESS CENTER[157]

A. Except within the Downtown district, fitness centers that include outdoor exercise or use areas shall be located on lots of at least one acre in size.

B. Outdoor swimming pools or hot tubs shall comply with all applicable requirements in Section <>, Swimming Pools/Hot Tubs.

C. Outdoor exercise or use areas shall:

1. Be fully enclosed by a fence or wall meeting the minimum height necessary to ensure equipment is contained within the fitness center site;
2. Comply with all applicable requirements in Section <>, Exterior Lighting; and
3. Not include a public address system or amplified music audible beyond the lot line after nightfall.

~~4.3.51~~4.3.52 FLEA MARKET[158]

Flea market uses shall comply with the following requirements:

A. Hours of operation shall be limited to 7:00 AM to 7:00 PM;

B. Off-street parking shall be provided with a minimum of three spaces per stand or rented space;

C. Sanitary facilities shall be provided for both men and women;

D. Provisions shall be made for garbage or trash removal for each day the flea market is open to the public; and

E. All rental spaces and buildings shall maintain a 50-foot setback from residentially-zoned land.

~~4.3.52~~4.3.53 FRATERNAL CLUB OR LODGE[159]

A. Fraternal clubs and lodges shall be located on sites of two acres or more in size or shall have direct access to a collector or higher classification street.

B. Outdoor activity areas shall be at least 100 feet from a lot line shared with a single-family residential district.

C. Public address systems are prohibited except when contained entirely within a building.

D. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

[155] New
[156] New
[157] New
[158] New
[159] New

~~4.3.53~~4.3.54 FREIGHT TERMINAL[160]

A. An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

B. The use shall have direct access onto a collector or higher classification street.

C. Areas intended for the short term storage of trucks or trailers shall be considered impervious, regardless of the surfacing material.

D. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

E. Security fencing of a minimum height of six feet or other comparable method of enclosure shall be provided around all outside storage and staging areas.

F. Where the site is bounded by a railroad right-of-way currently being used for rail service to the terminal, no setback shall be required between the railroad right-of-way and the freight terminal use.

~~4.3.54~~4.3.55 FUEL OIL/BOTTLED GAS DISTRIBUTION[161]

A. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

B. Above ground storage tanks with a capacity of 55 gallons or more shall be located at least 100 feet from all lot lines.

~~4.3.55~~4.3.56 FUNERAL RELATED SERVICES[162]

A. Crematories shall not be included with a funeral-related service use within or abutting a residential zoning district;

B. All storage shall take place within enclosed buildings; and

C. Display of sample headstones or other memorials shall be fully screened from any lot line shared with a lot in a residential zoning district as well as from any public right-of-way or greenway.

~~4.3.56~~4.3.57 GASOLINE SALES[163]

A. Fuel storage shall take place entirely underground.

B. Fuel storage shall be located at least 20 feet from all principal buildings.

C. Tank access ports for refilling shall be configured so that no refilling vehicle blocks vehicular ingress or egress to the site during the refilling process.

D. Fuel pumps and pump islands shall be located no closer than 20 feet to any lot line or right-of-way.

E. Any secondary use shall comply with the applicable standards in Section <>, Secondary Uses.

F. In no instance shall fuel lines be located within a public utility or drainage easement.

G. Vents may not be freestanding, and shall be attached to a principal or secondary structure.

H. Gasoline sales uses shall include an opaque fence or wall of six feet in height or higher if permitted by the fence standards in the district where located, along all lines abutting a residential zoning district.

[160] New
[161] New
[162] Replaces Section 155.305(H).
[163] New

~~4.3.57~~4.3.58 GOLF COURSE (PUBLIC OR PRIVATE)[164]

A. A minimum distance of at least 50 feet shall be maintained between a tee, green, or fairway and any adjacent principal or habitable secondary structure not associated with the golf course use.

B. Activities like driving ranges and similar features shall incorporate fencing, netting, or other control measures around the perimeter of the activity area to ensure projectiles do not leave the area and endanger off-site areas.

C. Golf course uses that include recreational structures shall comply with the standards applied to Section <>, Community Recreational Facility (private).

~~4.3.58~~4.3.59 GOVERNMENT OFFICE[165]

A. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residential zoning district.

B. All unpaved areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

C. The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

~~C.~~**D.** The use shall comply with the standards in Section <>, Non-Commercial Design Standards.

~~4.3.59~~4.3.60 GROCERY STORE[166]

A. Outdoor display and sales areas shall be configured in accordance with Section <>, Outdoor Display/Sales.

B. Storage shall take place within an enclosed building or be located behind the rear line of the principal building.

~~4.3.60~~4.3.61 GROOMING (ANIMAL)[167]

A. Overnight boarding of animals shall not be permitted.

B. All activities shall take place solely within an enclosed structure.

C. Animal grooming uses located within multi-tenant structures shall be soundproofed.

D. Free-standing animal grooming facilities abutting a residential zoning district shall be soundproofed.

~~4.3.61~~4.3.62 GROUP HOME[168]

A group home shall comply with the following standards:

A. A lot containing a group home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home, residential treatment facility, or another group home;

~~A.~~**B.** A group home shall meet the applicable dimensional requirements for a single-family detached residential use in the zoning district where located;

~~B.~~**C.** A group home shall provide at least 150 square feet of floor area per occupant;

~~C.~~**D.** The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities;

[164] New
[165] Replaces Section 155.302(F).
[166] New
[167] New
[168] Replaces Section 155.301(A).

~~D.~~**E.** The number of occupants in a group home shall be limited to the maximum number that may be accommodated while at the same time complying with all applicable Town regulations and State requirements;

~~E.~~**F.** The use shall maintain a residential appearance compatible with its surroundings when proposed in a residential or mixed-use district; and

~~F.~~**G.** The use shall meet all State requirements, as well as all applicable housing and building code requirements.

~~4.3.62~~4.3.63 HAIR, NAIL, AND SKIN RELATED SERVICES[169]

All activities shall take place within a fully-enclosed building.

~~4.3.63~~4.3.64 HALFWAY HOUSE[170]

A halfway house shall comply with the following standards:

A. A lot containing a halfway house shall not be located within one-half mile (2,640) feet of another lot containing another halfway house, or a bar, cocktail lounge, nightclub, boarding house, or sexually oriented business;

~~A.~~**B.** A halfway house shall meet the applicable dimensional requirements for a non-residential use in the zoning district where located.

~~B.~~**C.** The maximum number of residents in a halfway house shall be limited to five in addition to any staff or landowners and their families;

~~C.~~**D.** Visitation by members of the public to a resident living in a halfway house may only take place between the hours of 7:00 AM and 7:00 PM;

~~D.~~**E.** The use shall meet all State requirements, as well as all applicable housing and building code requirements; and

~~E.~~**F.** The use shall include information, visible from outside the front entrance, the lists an emergency contact name and telephone number that is available 24 hours a day.

~~4.3.64~~4.3.65 HEAVY EQUIPMENT SALES, RENTAL, & REPAIR[171]

Uses engaged in the sales, rental, or repair of heavy equipment shall comply with the following standards:

A. All outdoor storage of materials, equipment, and service areas shall be screened from view in accordance with Section <>, Screening;

B. No heavy equipment or displays shall be located within a required setback, perimeter landscaping buffer, sight distance triangle, public utility easement, or public right-of-way;

C. No heavy equipment shall be displayed ~~in front of or~~ on the top of a building; and

D. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

~~4.3.65~~4.3.66 HEAVY MANUFACTURING[172]

Heavy manufacturing uses shall comply with the following standards:

A. Outdoor processing associated with a heavy manufacturing use shall be located at least 1,000 feet from a lot line shared with a residential zoning district.

B. A Type D perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be provided along any lot line shared with another property not zoned for industrial uses.

[169] Carries forward 155.305(X).
[170] New
[171] New
[172] New

C. The use shall not require the use of residential neighborhood streets to gain ingress or egress.

D. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

~~4.3.66~~4.3.67 HORTICULTURE[173]

Sale of produce grown on-site or on an adjacent lot that is part of the same agricultural operation is permitted provided they take place outside the right-of-way.

~~4.3.67~~4.3.68 HOSPITAL[174]

A hospital shall comply with the following standards:

A. Be located on a site or parcel with an area of at least five acres;

B. Be located on a parcel that fronts or has direct access to a collector or higher classification street;

C. Locate the emergency vehicle entrance on a collector or higher classification street;

D. Not locate an emergency vehicle entrance in an area across the street from a residential zoning district;

E. Be served by a public water and wastewater system;

~~E.~~F. The use shall comply with the standards in Section <>, Non-Commercial Design Standards; and

~~F.~~G. Ensure that principal structures are located at least 100 feet from any lot line.

~~4.3.68~~4.3.69 HOMELESS SHELTER[175]

A. A lot containing a homeless shelter shall not be located within one-half mile (2,640) feet of another lot containing another homeless shelter, halfway home, group home, or sexually-oriented business.

B. A homeless shelter shall meet the applicable dimensional requirements for a non-residential use in the zoning district where located.

~~B.~~C. The use shall meet all State requirements, as well as all applicable housing and building code requirements.

~~4.3.69~~4.3.70 HOTEL OR MOTEL[176]

A. Except in the Downtown district, ~~A~~all hotel and motel buildings and parking shall be located at least 50 feet from any lot line abutting a residential zoning district.

~~A.~~B. In the Downtown district all hotel and motel buildings and parking shall be located at least 25 feet from any lot line abutting a residential zoning district.

~~B.~~C. Any secondary uses or structures, such as restaurants, shall not be located along the side of the property adjacent to a residential district or use.

~~C.~~D. Restaurants, bars, and night clubs approved as a secondary to a hotel or motel use shall be subject to the principal use standards for these use types.

~~D.~~E. Outdoor activity areas shall not be located along the side of the property adjacent to a residential zoning district or use.

[173] New
[174] New
[175] New
[176] Replaces Section 155.305(I).

~~4.3.70~~4.3.71 INDOOR COMMERCIAL RECREATION[177]

All activity shall take place entirely within an enclosed structure.

~~4.3.71~~4.3.72 INDOOR RECREATION, PUBLIC[178]

A. All activity shall take place entirely within an enclosed structure.

B. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

~~4.3.72~~4.3.73 INSTRUCTIONAL SERVICES[179]

All activity shall take place entirely within an enclosed structure.

~~4.3.73~~4.3.74 LABORATORY[180]

Laboratory uses shall locate all activities within an enclosed structure except within an industrial zoning district.

~~4.3.74~~4.3.75 LAUNDRY AND FABRIC CLEANING[181]

A. No more than 10,000 square feet of floor area shall be devoted to the dry cleaning, laundering, or finishing processes;

B. No smoke-producing equipment or process shall be used;

C. Individual washing machines shall not exceed 50 pounds of capacity;

D. No petroleum-based chemicals in excess of 500 gallons shall be stored in above-ground tanks; and

E. Drive throughs shall comply with the standards in Section <>, Canopies and Drive Throughs.

4.3.76 LIBRARIES

The use shall comply with the standards in Section <>, Non-Commercial Design Standards.

~~4.3.75~~4.3.77 LIGHT EQUIPMENT SALES, RENTAL, & REPAIR[182]

A. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residentially zoned property.

B. The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

C. Equipment cleaning and repair shall take place entirely within an enclosed structure.

D. Outdoor storage of equipment shall be screened in accordance with Section <>, Screening.

~~4.3.76~~4.3.78 LIGHT MANUFACTURING[183]

A. All manufacturing activity shall be conducted entirely within a fully enclosed building.

B. All structures, buildings, or enclosed areas used for the operation shall be a minimum of 100 feet from any residential zoning districts.

C. The use shall not generate excessive noise, discernable vibration, glare, fumes, odors, or electrical interference at the lot line.

D. Outdoor storage shall be fully screened in accordance with Section <>, Screening.

E. Above-ground outdoor storage tanks shall be located at least 200 feet from any lot line.

[177] New
[178] New
[179] New
[180] Carries forward Section 155.306(D).
[181] New
[182] New
[183] Builds on Section 155.306(E).

F. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

~~4.3.77~~4.3.79 LIVE/WORK DWELLING[184]

A live/work dwelling shall comply with the mixed-use design standards in Section <>, Mixed-Use Design Standards, and the following standards:

A. The residential portion of the building shall occupy at least 50 percent of the gross floor area;

B. The non-residential portion of the building shall be limited to an office, personal service, retail sales, or restaurant use type;

C. Drive-through facilities are prohibited; and

~~**D.** Signage for the non-residential portion of the use shall be limited to wall signage or projecting signage; and~~

~~**E.**~~**D.** Nothing shall limit the placement of residential floor area on the ground floor on lots within the Downtown district, provided the non-residential portion of the use has its own entrance or provided that the building has a shared primary entrance. A non-residential portion of the building must occupy at least 33 percent of the front façade width of the street-level ground floor.

~~4.3.78~~4.3.80 MAKER SPACE[185]

A. No outdoor storage or activity shall be permitted.

B. The use shall include adequate ventilation and equipment for the dispersal of vapors, dust, or airborne contaminates created within the structure.

C. The use shall include a fire suppression system as required by the North Carolina Fire Code and associated appendices.

D. The use shall not operate between the hours of 11:00 PM and 7:00 AM.

E. Incidental sale of products created on site is permitted, but shall take place entirely within an enclosed building.

~~**E.**~~**F.** When located within a MXD, OFI, NCM, CRM, or conditional zoning district, the use shall comply with the standards in Section <>, Non-Commercial Design Standards.

~~4.3.79~~4.3.81 MANUFACTURED HOME, CLASS A[186]

A. A class A manufactured home located within a manufactured dwelling park shall comply with the standards in Section <>, Manufactured Dwelling Park.

B. A class A manufactured dwelling located outside a manufactured dwelling park shall comply with the following standards:

1. It shall be occupied only as a single-family dwelling;
2. It shall be the single principal use on a lawfully-established lot of record;
3. It shall comply with NCGS§ 160D-910;
4. It shall be configured in accordance with the standards established by the North Carolina Department of Insurance and the most current version of the State of North Carolina Regulations for Manufactured Homes;
5. It shall maintain a minimum width of 16 feet;

[184] New
[185] New
[186] Replaces Section 155.301(D). The minimum size requirement has been removed.

6. The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;
7. It shall be oriented with the longest axis parallel to the lot frontage, to the maximum extent practicable;
8. The towing apparatus, wheels, axles, and transporting lights shall be removed;
9. It shall include a continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, installed under the perimeter and unpierced except for required ventilation and access;
10. It shall include stairs, porches, entrance platforms, ramps, and other means of entrance and exit that are installed or constructed in accordance with the standards set by the North Carolina Building Code. They shall be attached firmly to the primary structure and anchored securely to the ground;
11. It shall maintain exterior siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, which consists of one or more of the following:
    a. Vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint);
    b. Cedar or other wood siding;
    c. Stucco siding; or
    d. Brick or stone siding;
12. It shall maintain a roof pitch with a minimum vertical rise of three feet for each 12 feet of horizontal run;
13. It shall include a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;
14. It shall provide an eave projection of no less than six inches, which may include a gutter; and
15. All areas not used for parking, manufactured homes, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.

~~15.~~ C. A manufactured "tiny home" shall be treated as a class A manufactured home, subject to the standards in this section.

~~4.3.80~~4.3.82 MANUFACTURED HOME, CLASS B[187]

A. A class B manufactured may only be located on a lot of record or manufactured dwelling unit space within a manufactured home park.

B. Class B manufactured dwellings established prior to (*insert the effective date of this Ordinance*) located as the principal use on a lot of record outside a manufactured home park shall be considered a nonconforming use subject to the standards in Section <>, Nonconforming Use.

~~4.3.81~~4.3.83 MANUFACTURED HOME PARK[188]

A. MINIMUM AREA

A manufactured home park shall be at least three acres in area.

[187] New

[188] Carries forward Section 155.301(E), but does not include the minimum dwelling size standard.

B. INDIVIDUAL DWELLING UNIT SPACES

1. GENERALLY

a. The site plan for a manufactured home park shall indicate each individual dwelling unit space.

b. Yards and setbacks shall be measured from dwelling unit space boundaries.

c. No more than one manufactured dwelling may be located on any single dwelling unit space.

d. No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.

2. SPECIFIC REQUIREMENTS

In no instance shall a manufactured dwelling be located on a individual dwelling unit space that fails to meet the minimum requirements in the table below.

TABLE <>: MANUFACTURED HOME PARK DWELLING UNIT SPACE DIMENSIONAL REQUIREMENTS

Dimensional Requirement		Amount
Min. Dwelling Unit Space Area (square feet)	Spaces served by both community or public water and sewer	6,000
	Spaces served by public water & individual septic tank or public sewer & individual well	15,000
	Spaces served by individual well & individual septic tank	25,000
Min. Dwelling Unit Space Width (linear feet at front setback)	Spaces served by both community or public water and sewer	50
	Spaces served by public water & individual septic tank or public sewer & individual well	75
	Spaces served by individual well & individual septic tank	75
Max. Impervious Surface Coverage per Dwelling Unit Space (% of space)		40
Min. Setback from Dwelling Unit Space Perimeter Line Abutting a Street (feet)		20
Min. Setback from Side of Dwelling Unit Space Perimeter Line (feet)	Space served by public water and sewer	6
	Space not served by public water and sewer	10
Min. Setback from Rear of Dwelling Unit Space Perimeter Line (feet)		20

C. MANUFACTURED HOME STANDARDS

1. Except for the foundation skirting requirements, all manufactured homes located within a manufactured home park shall comply with the standards in Section <>, Manufactured Home, Class A.

2. The foundation area of a manufactured home in a manufactured home park shall be at a minimum, completely screened with faux skirting panels constructed from durable vinyl, or panels simulating a faux brick, rock or stone finish. The skirting shall be completely framed including a bottom track. The foundation screening must be kept in a well maintained condition.

D. REPLACEMENT DWELLINGS

1. All new or replacement manufactured homes located in manufactured home parks shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home.

2. In no instance shall the total number of manufactured or mobile dwellings exceed the total number of dwelling unit spaces as they existed on (*insert the effective date of this Ordinance*).

E. ADDITIONS TO DWELLINGS AND SECONDARY STRUCTURES

1. Detached garages and secondary buildings may be erected on manufactured home dwelling unit spaces in accordance with Section <>, Secondary Uses.
2. No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home.
3. Porches covered with a roof and open on three sides may be permitted if required setbacks can be maintained and if such the porch complies with the North Carolina Building Code.

F. PROJECT BOUNDARY BUFFER

A manufactured home park shall include a Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, along the perimeter of the development abutting other lots.

G. PARK OFFICE

Within a manufactured home park, one manufactured home may be used as an administrative office.

H. STREETS

1. Each manufactured home dwelling space shall abut an improved street, accessway, or driveway, which shall have unobstructed access to a Town or State-maintained street.
2. Streets in the manufactured home park shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of 40 feet.
3. Maintenance of such streets shall be provided by the owner or operator of the park.
4. Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround or other means of complying with all applicable Fire Code requirements.
5. Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a street or drive intersects a public street, the park street or drive shall comply with all applicable NCDOT or Town design standards.
6. New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.

I. UTILITY REQUIREMENTS

1. WATER

a. An accessible, adequate, safe supply of water shall be provided in each manufactured home park.
b. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.

2. SEWER

a. Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks.

b. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Environmental Quality and the County Health Department shall be provided.

3. SOLID WASTE

a. The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage, insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.

b. All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.

c. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.

d. No junked or abandoned vehicles shall be allowed in the park.

4. STREET LIGHTS

a. All streets in the manufactured home park shall be adequately illuminated.

b. The minimum size street light shall be a 175-watt mercury vapor, approximately 7,000-lumen class or its equivalent, spaced at intervals of not more than 400 feet.

c. Equivalent illumination LED lights are also allowed. Streetlights shall be at each intersection.

5. TELEPHONE AND POWER LINES

a. All telephone lines and power lines are to be located underground.

b. Utility easements shall not be less than ten feet in width. Easements containing Town-owned or operated utilities shall be configured in accordance with Section <>, Easements.

J. RECREATION AREAS AND FACILITIES

1. All manufactured home parks having 25 or more manufactured home spaces shall have an active recreation area of 10,000 square feet for every 25 manufactured home spaces. Parks with fewer than 25 spaces shall not be required to provide an active recreation facility, but may still be subject to the provision of private common open space in accordance with Section <>, Open Space Set Aside.
2. No active recreational facilities shall be placed in an area utilized for septic tank filter fields.

K. MOBILE HOME PARKS WITH PRIOR APPROVAL

All mobile home parks approved for development by the Town, County, or State prior to (*insert the effective date of this Ordinance*) are hereby granted special use status in accordance with Section <>, Pre-Existing Uses, and the number of units contained therein may be maintained and replaced with other units, provided that:

1. All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.

2. All replacement units shall meet the requirements of this section except for dimensional standards applied to pre-existing, lawfully-established manufactured dwelling unit spaces.
3. No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.
4. Any expansion of a mobile home park shall be in full accordance with the current standards of this Ordinance.
5. If a mobile home park which does not conform to current standards has been discontinued, or if 80% of the number of spaces are vacated for a period of 180 days, the mobile home park shall be subject to the standards in Section <>, Cessation.

~~4.3.82~~4.3.84 METAL FABRICATION[189]

The use shall not generate noise, vibration, glare, fumes, or odors on adjacent residentially zoned or used property.

~~4.3.83~~4.3.85 MICRO BREWERY OR DISTILLERY[190]

A microbrewery or microdistillery use shall comply with the standards in Section <>, Bar, Cocktail Lounge, or Private Club.

~~4.3.84~~4.3.86 MULTI-FAMILY DWELLING[191]

Multi-family development shall comply with the standards in this section. Residential development located above non-residential development in the same building is considered upper-story residential.

A. BUILDING PLACEMENT

1. Buildings shall be setback from one another in accordance with the district dimensional requirements unless a larger distance is required by the North Carolina Building Code.
2. Buildings shall be set back from private drives and parking lots a minimum of ten feet as measured from back of curb or from the edge of pavement if no curb is provided.
3. Buildings shall be setback from public streets in the development in accordance with the street setbacks for the zoning district where located.

B. BUILDING LENGTH

1. The maximum length of an individual multi-family building shall be 250 linear feet, except in the Downtown district, where no maximum length is applied.
2. No maximum building length shall be applied if the building includes facilities for dining, recreation, or gathering that occupy at least 10 percent of the building's total floor area.
3. In no instance shall the provision of a firewall between different building sections constitute two separate buildings for the purpose of meeting the building length requirement.

C. DESIGN

Multi-family development shall comply with the applicable design standards in Section <>, Multi-Family Residential Design Standards.

D. OFF-STREET PARKING LOCATION

Except when proposed within the setback from a rear lot line, no off-street parking space shall be located in a required setback area.

[189] New
[190] New
[191] Incorporates the standards from Section 155.301(B).

E. RECREATION FACILITIES

Any active recreation facilities shall be located at least 50 feet from any lot line shared with a single-family detached residential dwelling.

F. PEDESTRIAN CONNECTION

Sidewalks or other ADA-compliant trails shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to: off-street parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks or greenways, and on-site active recreation or gathering areas.

G. SCREENING

Utility areas such as clothes drying yards and outdoor storage areas shall be fully screened from public streets and adjacent lots in accordance with Section <>, Screening.

H. LIGHTING

All entrances and exits to multi-family residential buildings containing more than five units, shall be adequately lighted to ensure the safety of persons and the security of the building.

~~H. DEVELOPMENT ENTRANCE~~

~~For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median configured in accordance with Town standards is required at the main entrance to the community.~~

I. UTILITIES

1. All new electric, communications, water and sewer utility lines shall be installed underground.
2. Any existing overhead utilities located adjacent to a multi-family development are strongly encouraged to be relocated to an underground location.
3. ~~2.~~ Multi-family development shall be served by a public potable water system and a public sanitary sewer system.

J. CONDOMINIUMS

Multi-family development configured as condominiums shall comply with the following standards:

1. Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
2. Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
3. Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be recorded in the office of the Register of Deeds in the county where the development is located.

4.3.87 MUSEUMS

The use shall comply with the standards in Section <>, Non-Commercial Design Standards.

~~4.3.85~~4.3.88 NIGHTCLUB OR DANCE HALL[192]

A nightclub or dance hall shall comply with the standards in Section <>, Bar, Cocktail Lounge, or Private Club, and the following:

[192] New

A. Except in the Downtown district, such uses shall be separated from land in a residential zoning district by at least 500 feet;

B. Except in the Downtown district, such uses shall have direct access via a collector or higher classification street;

C. The main entrance of the building shall face a street or a public gathering area. In cases where the building could face more than one street, it shall be configured to face the street with the larger number of non-residential establishments or where the larger number of non-residentially zoned lots are located; and

D. The building shall be configured and the use operated such that sound from amplified music or other performance taking place within the building is not audible at the lot line after 11:00 PM on a weeknight or 2:00 AM on a weekend night.

~~4.3.86~~4.3.89 OFFICE, HIGH INTENSITY[193]

A. High intensity office uses with 5,000 or more square feet of floor area shall include an outdoor gathering area for patrons or employees with seating and provision of shade to the side or rear of a principal structure.

B. Off-street loading facilities shall comply with the standards in Section <>, Off-Street Loading.

C. Retail, personal service, and eating establishments may be provided as a secondary use, provided:

1. These secondary uses shall not exceed a cumulative total of 20 percent of the total floor area of the principal use;
2. These secondary uses are accessed via a primary entrance shared with the office use; and
3. These secondary uses do not have signage visible from off-site areas.

~~4.3.87~~4.3.90 OFFICE, LOW INTENSITY[194]

A. Low intensity office uses shall conduct all activities within an enclosed building.

B. Assembly, fabrication, display of products for on-site consumption, or related activities shall not take place within a low intensity office use.

~~4.3.88~~4.3.91 OUTDOOR COMMERCIAL RECREATION[195]

A. GENERALLY

Outdoor commercial recreation uses shall comply with the following standards:

1. Outdoor recreation uses shall be screened from abutting collector or higher classification streets with a Type B perimeter buffer configured in accordance with Section <>, Perimeter Buffers;
2. Grading shall be limited to a maximum of five feet above or below the average grade existing prior to development, but in no instance shall this standard be construed to prevent swimming pools; and
3. No ~~associated~~ outdoor ~~facilities~~ activities or recreation facilities shall be located between the front façade of the building and the street the front building façade faces. ~~directly related with the kind of recreational opportunities provided shall be located between the front façade of the building and the street fronting the lot.~~

B. DRIVE-IN THEATRE

A drive-in theatre shall comply with the following requirements:

1. The viewing screen shall be directed away from collector or higher classification streets;

[193] New
[194] New
[195] New – advise if additional use types should be added

2. Lighting shall be shielded so as to cast no direct light on adjoining lots;
3. An eight-foot-high opaque screen shall be required around the perimeter, except at driveways;
4. Audio shall be delivered to each car by individual speakers only; and
5. The use shall provide stacking spaces at the entrance capable of accommodating 20 percent of the vehicular capacity of the use.

C. GOLF DRIVING RANGE

Golf driving ranges shall comply with the following standards:

1. The depth of a driving range along the driving axis shall be at least 250 yards measured from the location of the tees and at 125 yards wide; and
2. Lighting shall be shielded so as to cast no direct light upon any adjacent lot.

D. MINIATURE GOLF

In addition to the general standards for outdoor commercial recreation uses in sub-section (A) above, miniature golf uses shall also comply with the following:

1. No green shall be allowed within a street setback or closer than 100 feet to any lot line; and
2. Lighting shall be shielded so as to cast no direct light upon any adjacent lot.

~~4.3.89~~4.3.92 OUTDOOR RECREATION, PUBLIC[196]

A. Such uses may only take place on lots or sites of five acres in area or more.
B. No buildings or structures, temporary or otherwise, shall be located within 50 feet of any exterior lot line.
C. No amusement equipment, machinery, or mechanical device of any kind may be operated within 200 feet of any residentially zoned property.
D. Activities like batting cages, driving ranges, and similar features shall incorporate fencing, netting, or other control measures around the perimeter of the activity area to ensure projectiles do not leave the area and endanger other lands.
E. Security fencing with a minimum height of six feet shall be provided along the entire perimeter of the lot or site.
F. The hours of operation shall be compatible with adjacent land uses and in no instance shall outdoor activities take place between the hours of midnight and 7:00 AM.

~~4.3.90~~4.3.93 OUTPATIENT FACILITY[197]

A. An outpatient facility located on a site or parcel with an area of at least five acres shall front and have direct access to a collector or higher classification street.
B. The use shall comply with the standards in Section <>, Non-Commercial Design Standards.

~~4.3.91~~4.3.94 PACKAGING AND SHIPPING[198]

All activity shall take place within an enclosed structure. Outdoor storage is permitted as a secondary use, subject to the standards in Section <>, Outdoor Storage.

~~4.3.92~~4.3.95 PARK OR PLAYGROUND (PUBLIC OR PRIVATE)[199]

A. The hours of operation allowed shall be compatible with the land uses adjacent to the facility.
B. Outdoor storage shall be screened in accordance with Section <>, Screening.

[196] New
[197] New
[198] New
[199] New

~~C. Principal access must be from a collector or higher classification street for any facility greater than three acres in size or that generates an average daily traffic volume of over 200 or more trips per day.~~

~~D.~~C. Outdoor swimming pools shall be protected by a fence or other security device in accordance with the county health department's regulations where located.

~~E.~~D. Illumination of outdoor recreation areas shall be in accordance with Section <>, Exterior Lighting.

~~4.3.93~~4.3.96 PARKING RELATED USES[200]

A. PARKING LOT

A commercial parking lot that is the principal use shall comply with the parking lot configuration requirements in Section <>, Off-Street Parking and Loading, and the following standards:

1. Parking shall be the principal use of the parking lot. Parking spaces may be rented for parking, or otherwise used in accordance with an approved temporary use permit or other permit, but no other business of any kind shall be conducted on the lot, including repair service, washing, display, or storage of vehicles or other goods;
2. Except in the Downtown Districts, commercial parking lots shall not be located contiguous to a single-family residential zoning district.~~; and~~

~~3. Commercial parking lots that are the principal use of the lot shall have no more than 100 feet of street frontage occupied by parking or vehicular access area. The balance of the frontage shall be screened or occupied by vegetation.~~

B. PARKING STRUCTURE

Parking structures, whether serving as a principal or secondary use shall be configured in accordance with the following standards:

1. DIMENSIONAL REQUIREMENTS

Parking structures shall comply with the dimensional standards applicable to non-residential principal uses the zoning district where located.

2. GROUND FLOOR CONFIGURATION

The ground floor of a parking structure abutting an existing sidewalk shall be configured as building floor area capable of accommodating a non-residential use or shall be configured with a minimum first floor ceiling height of 20 feet above grade to ease conversion of the ground floor parking area to a habitable space in the future.

3. ARCHITECTURE

a. Parking structures visible from street frontages shall be designed to be compatible with the architectural character and quality of adjacent buildings and shall not adversely impact abutting sidewalks.
b. Parking structure elevations shall use color, massing, or architectural features to reduce the appearance of building bulk.
c. Parking structure façades facing residentially-zoned lots shall:
   i. Be enclosed to prevent light spillover from headlights, adverse noise, or pollutants; and
   ii. Incorporate architectural design elements, including surface treatments, offset planes, structural articulation, and landscaping to provide visual interest and compatibility with adjacent residential uses.

[200] New

4. DRAINAGE

Parking structures shall be designed and constructed so that stormwater ~~water~~ will not drain over sidewalks or adjacent lots.

5. LIGHTING

a. Parking and pedestrian areas shall have adequate illumination for security and safety with a minimum of one foot candle at every point within the parking structure.

b. Lighting fixtures shall be designed and located to illuminate only the interior of the parking structure and not project glare into adjoining land.

~~4.3.94~~4.3.97 PAWN SHOP[201]

A. All activities shall take place within an enclosed structure.

B. Outdoor storage shall be prohibited.

C. Security measures for windows or doors shall be located internally within the building.

D. Exterior lighting shall comply with the standards in Section <>, Exterior Lighting.

~~4.3.95~~4.3.98 PHARMACY[202]

~~**A.** A lot containing a pharmacy shall be served by a collector or higher classification street.~~

~~**B.**~~**A.** Drive throughs shall comply with the standards in Section <> Drive Throughs.

~~**C.**~~**B.** A pharmacy may be permitted as a secondary use to a principal use in the Health Care use category provided:

1. The pharmacy is on the ground floor and does not occupy more than 50 percent of the ground floor square footage;
2. The public may access the pharmacy solely through a ~~shred~~ shared principal entrance; and
3. The pharmacy be limited to sales of drugs, prescription medicines, medicinal supplies and appliances, and pharmaceutical products.

~~4.3.96~~4.3.99 PLANT NURSERY (RETAIL OR WHOLESALE)[203]

A. No greenhouse shall be operated within 20 feet of any lot line.

B. Any outside storage of equipment, vehicles, or supplies shall be fully screened from off-site views in accordance with Section <>, Screening.

C. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

~~4.3.97~~4.3.100 POCKET NEIGHBORHOOD[204]

A. PURPOSE AND INTENT

A pocket neighborhood is a group of smaller single-family detached dwellings built in close proximity to one another around a small green or commonly owned open space with off-street parking areas to the rear of the homes or in common areas. The pocket neighborhood use type is a voluntary means of reducing zoning district dimensional requirements in return for voluntary compliance with the Section <>, Residential Design Guidelines, and the standards in this section.

[201] New
[202] New
[203] New
[204] New

FIGURE <>: POCKET NEIGHBORHOOD CONCEPTUAL DESIGN



B. SITE CONFIGURATION

1. A pocket neighborhood shall be located on a parcel of land or site that is at least one acre but not more than ~~four~~ five acres in area.
2. Pocket neighborhoods shall be limited to single-family detached dwellings and typical secondary uses. Manufactured homes, mobile homes, and accessory dwelling units are not permitted in a pocket neighborhood.
3. Secondary uses may include common open space, gardens, a common building for the purposes of storage or recreation, outdoor recreational features, and garages.
4. A pocket neighborhood shall include at least four dwelling units but not more than 24 dwellings.
5. Vehicular entryways into pocket neighborhoods and accessways serving off-street parking areas and individual dwelling lots shall be configured as private streets.
6. A pocket neighborhood shall include common open space that comprises at least 40 percent of the total site and includes improved pedestrian walkways that provide

pedestrian access to each dwelling, connections to the public sidewalk or greenway network (if present), and gathering areas for pocket neighborhood residents.

7. The pocket neighborhood shall configure a portion of its required open space as a centrally-located green, lawn, or garden area that fronts each dwelling in the neighborhood and includes at least 300 square feet of area for each dwelling unit in the pocket neighborhood. This area shall be credited towards either the active, urban, or passive recreation requirements, at the discretion of the applicant.
8. Pocket neighborhoods shall include at least one vehicular parking space for each dwelling unit plus one designated guest parking space for every four dwelling units. In no instance shall a parking area be located between a dwelling and the centrally-located green, lawn, or garden area.
9. The pocket neighborhood may include a shared parking area that accommodates all resident and guest parking.
10. Each individual dwelling shall have at least 40 square feet of covered or enclosed storage space outside the dwelling's heated floor area. Storage space may be located on an individual lot or on common land or within a common building. Storage space located outside of an enclosed building and on common land within the development shall comply with the requirements for outdoor storage in Section <>, Screening.
11. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

C. DWELLING UNIT CONFIGURATION

1. A dwelling unit in a pocket neighborhood shall not exceed 1½ stories, or 24 feet, above grade.
2. No dwelling unit shall ~~not~~ be more than 2,000 square feet in floor area.
3. At least two dwellings in a pocket neighborhood shall maintain a total square footage that differs by at least 200 square feet in floor area from the average square footage of all other dwellings. Nothing shall prohibit a configuration where all dwellings are different sizes.

D. OWNERS' ASSOCIATION

A pocket neighborhood shall include a homeowners' or property owners' association established and configured in accordance with Section <>, Owners' Associations, that maintains control of common areas and takes responsibility for maintenance of common features in the neighborhood.

~~4.3.98~~4.3.101 PSYCHIATRIC SERVICES[205]

A. A psychiatric services use may only be operated in accordance with a valid State license and all applicable State requirements.
B. The use shall be located on a site with a minimum area of one acre plus an additional 1,000 square feet per patron at total capacity.
C. The use shall front a collector or higher classification street.
D. Outdoor gathering, therapy, or recreation areas shall be located behind the rear building line of the principal structure unless such placement would place outdoor activities closer to a street or residential use.
E. In cases where a psychiatric services use provides services to patrons who are considered a danger to themselves or others under State law, the use shall either:
    1. Be fully surrounded by a fence or wall with a minimum height of six feet equipped with anti-climbing mechanisms and locking gates; or

[205] New

2. Include 24-hour on-site security.

~~4.3.99~~4.3.102 RAIL RELATED USE[206]

Outdoor storage of goods or materials and outdoor activity areas shall be screened in accordance with Section <>, Screening.

~~4.3.100~~4.3.103 RECREATIONAL VEHICLE PARK[207]

A. GENERALLY

1. No recreational vehicle space shall be used as a permanent residence. Continuous occupancy extending beyond three months in any 12-month period shall be presumed to constitute a permanent residence.
2. The park shall meet the standards for adequate fire protection as established by the latest edition of the National Fire Protection Association Bulletin No. 501-A.
3. Any action toward removal of wheels of a travel trailer except for temporary purposes of repair or to attach the trailer to the ground for stabilizing purposes shall be prohibited.
4. Secondary uses, including management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, and other uses and structures shall be clearly incidental to the operation of the park.
5. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. No portion of the site subject to unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose that would expose persons or property to hazards.
6. Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with gravel, or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
7. There shall be at least one off-street parking space for each RV site.
8. All garbage and refuse shall be stored in a suitable water-tight and fly-tight standard garbage receptacle and shall be kept covered with tight-fitting covers.
9. At least one such receptacle shall be provided and conveniently located for every RV site, except where a dumpster or dumpsters are conveniently located and used in the same manner as separate receptacles.

B. DIMENSIONAL REQUIREMENTS

1. Minimum density shall be limited to 15 sites per gross acre., excluding public areas, rights-of-way, watercourses, and other areas as may be set forth.
2. In no case shall any recreational vehicle site contain less than 1,500 square feet.
3. Sites shall be level and well-drained.
4. Recreational vehicles shall be separated from each other and from other structures within the RV park by at least 10 feet.
5. The minimum setback of any building, structure, or recreational vehicle site from a public street right-of-way shall be the same as that required for the zoning district in which the park is located. The minimum setback from any private, interior street shall be 20 feet from the edge of pavement.
6. The recreational vehicle park shall maintain a minimum perimeter setback of at least 50 feet from perimeter lot lines.

[206] New
[207] New

C. RECREATIONAL VEHICLES

~~6.~~ A moveable "tiny home", which is built on a chassis, has wheels, and is capable of being relocated shall be treated as a recreational vehicle subject to the standards in this section.

~~4.3.101~~4.3.104 RECYCLING CENTER[208]

A. A recycling center shall be surrounded by an opaque fence or wall of at least six feet in height along all sides of the site except between the principal structure and the street it faces.

B. In no instance shall any outdoor storage take place between a principal or secondary structure and the street that gives the site its street address.

C. Recycled batteries must be stored in non-porous containers.

D. All loading and storage areas shall be diked to prevent runoff/spill contamination.

E. Recycled motor oil and grease shall be stored in above-ground tanks in accordance with the adopted NC Fire Code and associates appendices.

~~4.3.102~~4.3.105 RELIGIOUS INSTITUTION, HIGH INTENSITY[209]

A. High intensity religious institutions shall:

1. Be located on a lot or site of at least five acres in buildable area;
2. Be served with direct access from a collector or higher classification street;
3. Ensure that all principal structures maintain a minimum distance of at least 50 feet from perimeter lot lines and secondary uses maintain a minimum distance of at least 20 feet from perimeter lot lines; and
4. Include a Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

B. High intensity religious institutions may be developed in accordance with the standards in Section <>, Unified Development, but each principal and secondary use types, including cemeteries, shall comply with all applicable use and off-street parking standards for each principal and secondary use included within the development.

C. Outdoor recreation areas shall be fenced with a fence of at least four feet in height.

D. Vehicles associated with the use shall be parked within designated parking areas meeting the applicable standards in Section <> Off-Street Parking and Loading.

E. On-site residential facilities for members of the clergy and their families are permitted as a secondary use, but no other residential activity or overnight lodging shall be permitted.

F. Uses that have or are intended to have more than one worship ceremony or meeting within any two-hour window shall provide overflow parking at one space for every four persons of maximum fire-rated occupancy in addition to the standard parking requirements Section <>, Off-Street Parking and Loading.

~~4.3.103~~4.3.106 RELIGIOUS INSTITUTION, LOW INTENSITY[210]

A. Each principal and secondary use types, including cemeteries, shall comply with all applicable use and off-street parking standards for each principal and secondary use included within the development.

B. Outdoor recreation areas shall be fenced with a fence of at least four feet in height.

C. Vehicles associated with the use shall be parked within designated parking areas meeting the applicable standards in Section <> Off-Street Parking and Loading.

[208] Replaces Section 155.307(A).
[209] Builds on Section 155.302(C).
[210] New

D. On-site residential facilities for members of the clergy and their families are permitted as a secondary use, but no other residential activity or overnight lodging shall be permitted.

E. Low intensity religious uses proposed as part of a multi-tenant building shall maintain a minimum number of designated off-street parking spaces as are required for the use in Section <>, Off-Street Parking and Loading.

F. Low intensity religious institutions that are part of a multi-tenant development shall not include outdoor activity, and shall be configured so that congregants or visitors to the institution have adequate space to gather or wait indoors rather than outside the use.

~~4.3.104~~4.3.107 REPAIR SHOP[211]

A. All repair uses shall limit repair activities to those occurring indoors.

B. Gun repair shops shall limit repair ~~activivites~~activities to entirely within enclosed structures and may include testing facility for firearms, provided:

1. The facilities are constructed in accordance with all applicable laws and regulations;
2. The facilities include acoustical apparatus and/or materials that prevent any noise or disturbance to the owners and/or occupants of the adjoining properties; and
3. The facilities are not used as a shooting range for target practice or the testing of marksmanship skills.

C. Retail sales may take place as a~~n~~ secondary use, but no outdoor display or sales area shall be permitted.

~~4.3.105~~4.3.108 RESEARCH AND DEVELOPMENT[212]

A. Research and development uses shall not include any retail or wholesale sales activities.

B. No residential activity other than a caretaker or security guard quarters shall be included as part of a research and development use.

C. All outdoor storage shall be screened in accordance with Section <>, Screening.

D. Outdoor testing, development, assembly, or similar outdoor activity may only take place of site of 10 acres in area or larger.

E. The use shall not generate noise, vibration, glare, fumes, odors, or electrical interference on adjacent residentially zoned land.

~~E.~~**F.** When located within a MXD, OFI, NCM, CRM, or conditional zoning district, the use shall comply with the standards in Section <>, Non-Commercial Design Standards

~~4.3.106~~4.3.109 RESIDENTIAL TREATMENT FACILITY

A. A lot containing a residential treatment facility shall not be located within one-half mile (2,640 feet) of another lot containing a family care home, group home, or other residential treatment facility.

B. The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities.

C. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines shared with a residential zoning district.

D. The number of occupants in a residential treatment facility shall be limited to the maximum number that may be accommodated while at the same time complying with all applicable county regulations and State requirements.

E. The principal structure(s) shall maintain a residential appearance compatible with its surroundings when proposed in a residential district.

[211] New
[212] New

F. The use shall meet all State requirements, as well as all applicable housing and building code requirements.

~~F.~~G. The use shall comply with the standards in Section <>, Multi-Family Residential Design Standards.

~~4.3.107~~4.3.110 RESTAURANTS[213]

All restaurant use types shall comply with the following requirements:

A. A restaurant shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential zoning district.

B. Restaurants having outdoor seating or gathering areas (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the standards in Section <>, Outdoor Dining and Seating.

C. Restaurants with drive throughs shall comply with the standards in Section <>, Drive Throughs.

D. Except in the Downtown district, walk-up restaurants shall incorporate outdoor dining areas approximate to the window where food or beverages may be picked up.

~~4.3.108~~4.3.111 RETAIL, GENERAL (HIGH INTENSITY)[214]

A. High intensity general retail uses may only be permitted on lots or sites of at least three acres in size and shall be served by a collector or higher classification street.

B. Nothing shall limit the placement of a high intensity general retail use within a unified development or mixed-use development, provided the development meets the minimum size and access requirements for high intensity general retail uses.

C. Such uses shall comply with the standards in Section <>, Commercial Design Standards, including the standards for large format retail establishments, if applicable.

D. Wholesale sales, manufacturing, assembly of raw materials, or on-site consumption of products shall not take place as part of a high intensity general retail use.

E. Outdoor display and sales may be permitted as a secondary use, subject to the standards in Section <>, Outdoor Display/Sales, provided such display and sales areas:

1. Comply with locational requirements;
2. Do not interfere with safe vehicular or pedestrian circulation; or
3. Obstruct the proper function of stormwater control measures.

F. All outdoor storage shall be screened in accordance with the applicable standards in Section <>, Screening.

G. Outdoor storage of any kind, including storage within containers, shall not exceed the height of the principal structure.

H. All drive throughs and canopies shall comply with the standards in Section <>, Drive Throughs and Canopies.

~~4.3.109~~4.3.112 RETAIL, GENERAL (LOW INTENSITY)[215]

A. Low intensity general retail uses shall not exceed 10,000 square feet in floor area. ~~when configured as a single tenant in a principal structure or as part of a mixed-use structure. When configured as an individual tenant in a multi-tenant building, the maximum floor area for each low intensity general retail tenant shall not exceed 7,000 square feet, and the total amount of retail floor area shall be less than 40,000 square feet.~~ Low intensity general retail uses not meeting these maximum size standards shall be considered as a high intensity general retail use ~~types~~.

[213] New
[214] Replaces Section 155.305(V).
[215] Replaces Section 155.305(V).

B. Except in the Downtown district, no outdoor display or sales shall be permitted as part of a low intensity general retail use. Retail uses outside of the Downtown district that include outdoor display or sales shall be considered as high intensity retail use types.

C. All storage associated within a low intensity general retail use shall take place entirely within an enclosed structure or shall be located entirely behind the rear façade of the building and shall be screened in accordance with the standards in Section <>, Screening.

D. Wholesale sales, manufacturing, assembly of raw materials, or on-site consumption of products shall not take place as part of a low intensity general retail use.

~~4.3.110~~4.3.113 RETAIL, LARGE FORMAT[216]

A. Large format retail uses shall comply with he standards in Section <>, Design Standards for Large Format Retail Uses.

B. Outdoor display and sales areas shall comply with the standards in Section <>, Outdoor Display/Sales.

C. Outdoor storage areas shall comply with the standards in Section <>, Outdoor Storage.

D. In cases where a large format retail use includes outparcels with other use types, those uses shall not be subject to the standards for large format retail uses unless they meet the minimum size thresholds.

E. Large format retail uses shall not engage in wholesale sales activity.

F. Large format retail uses engaged in sales of bulky items shall also comply with the standards in Section <>, Bulky Items Sales.

~~4.3.111~~4.3.114 RETAIL, MICRO[217]

A. Micro retail uses shall be limited to no more than ten separate tenants or establishments per use.

B. Outdoor sales and display is permitted in accordance with Section <>, Outdoor Display/Sales, but all outdoor display or sales shall take place in a single central area that serves all micro retail tenants.

C. Off-street parking standards shall be in accordance with the requirements for the micro retail use rather than the individual tenants.

~~4.3.112~~4.3.115 SALVAGE AND JUNKYARD[218]

A. The minimum area required to establish a salvage and junkyard shall be five acres.

B. The operations of salvage and junkyards shall not be any closer than 300 feet to any residential lot line, school, hospital, congregate care home, or day care facility.

C. All portions of a salvage or junkyard containing junked or wrecked vehicles, inoperable vehicles, or operable vehicles used for parts shall be fully screened in accordance with Section <>, Screening.

D. All screening shall be maintained in a sound and stable manner for the life of the operation.

E. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest lot line. Operations that produce noise that is audible on off-site areas shall not take place on Sundays, holidays, or at any time between the hours of 6:00 PM and 7:00 AM.

F. No vibration shall be produced which is transmitted through the ground and which is discernable without the aid of instruments at or beyond the lot line; nor will any vibration produce a particle velocity of 2.0 inches per second measured at or beyond the property line.

[216] New
[217] New
[218] New

G. Emissions of dust and particulates shall be in accordance with the State of North Carolina rules and regulations governing air contamination and air pollution. Particulate matter emission from materials and products subject to becoming windborne shall be kept to a minimum by paving, sodding, oiling, wetting, covering, or other means such as to render the surface wind resistant.

H. Gasoline and oil shall be removed from scrap engines or vehicles on the premises and adequately stored for disposal.

I. Salvage and junkyard sites shall be adequately drained to assure that no standing water shall exist that might provide breeding habitation for insects.

~~4.3.113~~4.3.116 SCHOOL, ELEMENTARY OR MIDDLE[219]

A. Elementary and middle schools shall be located on sites of three acres or more.

B. Outdoor recreation areas shall be surrounded by a fence at least four feet in height.

C. A middle school shall include a Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines shared with a residential district.

~~4.3.114~~4.3.117 SCHOOL, HIGH[220]

A. A high school shall be located on a lot or site of at least five acres in area.

B. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines shared with a residential district.

C. Outdoor recreation areas that include illumination shall comply with the standards in Section <>, Exterior Lighting.

D. Outdoor storage shall be screened in accordance with Section <>, Screening.

~~4.3.115~~4.3.118 SCHOOL, VOCATIONAL[221]

Facilities within a vocational school which generate significant noise or fumes, such as auto body or engine repair, industrial/auto body painting, or manufacturing processes, and that are adjacent to a residential district shall be at least 300 feet from any lot line abutting the residential district.

~~4.3.116~~4.3.119 SEXUALLY-ORIENTED BUSINESS[222]

A. No sexually-oriented business shall be located within 1,000 feet of a religious institution; elementary, middle, or high school; residentially-zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other sexually-oriented business.

B. There shall be no more than one such use on the same property or in the same building or structure.

C. Except for permanent signage as permitted in Section <>, Signage, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of-way.

~~4.3.117~~4.3.120 SINGLE-FAMILY ATTACHED DWELLING[223]

Single-family attached dwellings shall comply with the following standards:

A. A single-family attached dwelling development of more than eight units shall be served with access from a collector or higher classification street.

B. Individual single-family attached dwelling buildings with more than eight units in a single row shall be served by alleys located to the rear of the building.

[219] New
[220] New
[221] New
[222] Carries forward Section 155.305 with no changes.
[223] Builds on Section 155.301(G).

C. Each single-family attached dwelling shall have at least one party wall shared fully or partially within another single-family attached dwelling.

~~C.~~D. A single-family attached dwelling unit shall meet all applicable State Building Code standards for minimum room size and ceiling clearance requirements.

~~D.~~E. Attached garages are prohibited for one-story single-family attached dwellings.

~~E.~~F. Detached garages serving single-family attached dwellings shall be located behind the rear building line of the dwelling they serve, or shall be located on common land. In no instance shall a detached garage be located closer than 20 feet to the closest edge of an alley, right-of-way, vehicular travel way, or pedestrian access.

G. In no instance shall a single-family attached dwelling with off-street parking located between the front of the building and the street it faces be located closer than 25 feet from the edge of a right-of-way, sidewalk, or other pedestrian access.~~be configured so that when a vehicle is parked near the dwelling it projects out into an adjacent pedestrian or vehicular travelway when parked.~~

~~F.~~H. In cases where a single-family attached dwelling is served by off-street parking located to the side or rear, the edge of the building shall be no closer than 20 feet from the closest edge of the right-of-way, vehicular travel way, or pedestrian access.

~~G.~~I. Principal buildings shall be setback from parking lots, private streets, and driveways on common land by at least 10 feet, as measured from back of curb or edge of pavement (if no curb is proposed).

~~H.~~J. All new utilities shall be located underground and existing overhead utilities are strongly encouraged to be relocated to underground locations.

~~I.~~K. All single-family attached dwelling developments shall provide private common open space in accordance with ~~this Ordinance~~Section <>, Open Space Set-Aside, and shall include an owners' association established in accordance with Section <>, Owners' Association.

~~J. Each dwelling unit within an attached single-family dwelling development shall have a right of access through common areas containing open space, vehicular use areas, or driveways.~~

~~K.~~L. Adequate access to all dwelling units shall be provided for firefighting equipment, service deliveries, and refuse collection.

~~L.~~M. A single-family attached dwelling development shall incorporate pedestrian circulation in accordance with Section <>, Access and Circulation.

~~M.~~N. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines shared with a residential district that has a lower maximum residential density.

~~N.~~O. Single-family attached dwelling development may take advantage of available residential density bonuses for voluntary compliance with the applicable provisions in Section <>, Single-Family Design Guidelines.

~~O.~~P. Single-family attached dwelling units configured as condominiums shall comply with the following standards:

1. Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
2. Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
3. Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be recorded in the office of the County Register of Deeds.

~~4.3.118~~4.3.121 SINGLE-FAMILY DETACHED DWELLING[224]

A. Modular homes shall comply with the standards in NCGS§ 160D-911, and shall be treated as site-built single-family detached structures.

~~A.~~B. A single-family detached dwelling shall meet all applicable State Building Code standards for one-family homes, including minimum room size and ceiling clearance requirements.

~~B.~~C. Single-family detached dwellings located on lots 55 feet wide or less established after *(insert the effective date of this Ordinance)* shall be served by alleys configured as private streets that are configured in accordance with the applicable standards in this Ordinance. Developments of five or fewer single-family detached structures on contiguous lots are exempted from this requirement.

~~C.~~D. Single-family detached dwellings constructed in a conditional zoning district shall comply with the standards in Section <>, Single-Family Residential Design Guidelines.

~~D.~~E. Single-family detached development in all other conventional districts may comply with Section <>, Single-Family Residential Design Guidelines, with the consent of the landowner(s) at the time of application to establish the development.

~~E.~~F. Single-family detached dwelling development may take advantage of available residential density bonuses for voluntary compliance with the applicable provisions in Section <>, Single-Family Design Guidelines.

~~4.3.119~~4.3.122 SMALL WIRELESS FACILITY[225]

See Section <>, Telecommunications Facilities.

~~4.3.120~~4.3.123 SOLAR ENERGY CONVERSION, LEVEL 2 OR 3[226]

A solar energy conversion use shall comply with the standards in NCGS§ 160D-911, and the following:

A. The facility shall be on a site of at least one acre in area.

B. Signage shall be limited to ownership and contact information, and any other information required by State or federal government regulation.

C. Commercial advertising is prohibited.

D. The entire facility shall be enclosed by a fence of at least six feet in height with a locking gate.

E. Equipment shall be configured so as not to create glare or shadows on adjacent lands.

F. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines shared with a residential district.

~~4.3.121~~4.3.124 STORAGE, INDOOR[227]

Indoor storage uses include "self-storage" use types, and shall comply with the following standards:

A. The use shall be located on a lot or site of at least two acres in area.

B. All storage shall be contained within a fully enclosed building. Outdoor storage may be permitted as a secondary use in accordance with the standards in Section <>, Secondary Uses.

C. External-access only storage buildings shall not exceed 20 feet or one story in height; indoor-only storage buildings with shared ground-floor entrances may exceed one story height but shall remain subject to the applicable zoning district standards.

D. No activity other than storage shall take place within a storage unit.

[224] Builds on Section 155.301(J)
[225] New
[226] New
[227] Builds on Section 155.305(W) (self-storage facility).

E. The following uses and activities shall be prohibited as a part of indoor storage:

1. Habitation of storage units by humans or animals;
2. Storage of hazardous, toxic, or explosive substances;
3. Commercial, wholesale, or retail sales, flea markets or peddling, or miscellaneous or garage sales;
4. Servicing, repair, or fabrication of vehicles or equipment;
5. Operation of power tools, except when needed for maintenance of the use; or
6. Operation of a transfer-and-storage business.

F. In no instance shall a tractor trailer be used for storage except as part of active construction of a principal or secondary use.

G. Nothing shall prohibit the indoor storage use from conducting a quarterly one-day sale of abandoned or stored materials to settle unpaid storage bills in accordance with State regulations.

~~4.3.122~~4.3.125 STORAGE, OUTDOOR (AS A PRINCIPAL USE)[228]

A. The extent of the outdoor storage area shall be clearly delineated on an application for establishment of the use.

B. Except in the LID, HID, and CZI districts, no outdoor storage shall be permitted between the front façade walls of a building and the street it faces.

C. No outdoor storage area shall be located within a perimeter buffer required in accordance with Section <>, Perimeter Buffers, or a streetscape buffer in accordance with Section <>, Streetscape Buffers.

D. Outdoor storage areas abutting a street right-of-way, public park, or greenway shall be screened by at least a Type A perimeter buffer configured in accordance with Section <>, Perimeter Buffers, along with a fully opaque fence or wall of the maximum height permitted in the zoning district where located. The fence or wall shall be located between required plantings and the outdoor storage area.

E. In cases where an additional buffer is required by these standards and the lot is also required to provide a perimeter or streetscape buffer, the plant material required for the additional buffer shall be integrated with other required plantings, but the required fence shall be located between the plantings and the storage area.

F. Flammable liquids or gas containers in excess of 1,000 gallons shall be stored underground.

G. No materials shall be stored in areas intended for vehicular or pedestrian circulation.

H. No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement.

I. Outdoor storage areas shall be paved or surfaced with gravel.

J. In no instance shall a tractor trailer be used for storage except as part of active construction of a principal or secondary use.

~~4.3.123~~4.3.126 TANNING SALON[229]

All activities shall take place within an enclosed structure.

~~4.3.124~~4.3.127 TATTOO & PIERCING ESTABLISHMENT[230]

A. All activity shall take place within an enclosed structure.

B. Tattoo and piercing establishments shall obtain all required State and local licenses and permits.

[228] New
[229] New
[230] New

C. Windows and glass doors shall not be obstructed with tinting or other coatings that prevent visibility into the use.

D. The use shall maintain proper sharps and biohazard disposal protocols, including tamper-proof containers for these types of wastes when located outdoors in areas accessible by the public.

~~4.3.125~~4.3.128 TELECOMMUNICATIONS FACILITIES[231]

Major, minor, and concealed telecommunications towers, as well as antenna collocations, and small wireless facilities shall comply with the standards in Chapter 160D Article 9, Part 3, of the North Carolina General Statutes, and the following standards:

A. PURPOSE AND INTENT

This section establishes general standards for the siting of telecommunications facilities that will provide for the public health, safety, and welfare. The standards are intended to ensure that residents, businesses, and public safety operations in the Town's jurisdiction have reliable access to telecommunications services. More specifically, the provisions of this section are intended to:

1. Ensure adequate protection of residential areas and uses from potential adverse impacts of telecommunications facilities, and to generally encourage the location of these facilities in areas where adverse impact on the community is minimal;
2. Encourage the placement of telecommunications facilities in non-residential areas;
3. Minimize the number of new telecommunications towers taller than 30 feet in height;
4. Create conditions where telecommunications service providers are able to provide telecommunications services effectively and efficiently in accordance with State and federal law;
5. Strongly encourage the joint use or collocation of new and existing telecommunications facilities so as to minimize the number of new telecommunications towers throughout the Town;
6. Establish collocation and concealed towers as the preferred options for the accommodation of telecommunications equipment; and
7. Ensure that telecommunications facilities located within the public right of way do not obstruct sight distance triangles or create safety hazards for pedestrians or bicyclists.

B. APPLICABILITY

The standards in this section shall apply to all telecommunications facilities except for the following, which are exempted from these standards but remain subject to all other applicable standards in this Ordinance:

1. Removal of antennas, antenna support structures, or telecommunications equipment on an existing telecommunications tower, utility pole, vertical projection, or equipment compound that does not result in a substantial modification;
2. The operation of a small wireless facility solely within the interior of a structure, stadium, athletic facility, or within a public street right-of-way;
3. Routine maintenance on an existing wireless telecommunication facility;
4. Installation, modification, or operation of a micro-wireless facility, receive-only television antenna, or receive-only radio antenna for noncommercial use;
5. Installation, modification, or operation of FCC-licensed amateur ("ham") radio equipment; and
6. Dish antenna or earth stations.

[231] Replaces Section 155.310.

C. GENERAL STANDARDS APPLICABLE TO ALL TYPES OF TELECOMMUNICATIONS FACILITIES

The following requirements shall apply to all new telecommunications facilities and any modifications to an existing telecommunications facility that exceeds the scope of routine maintenance, as defined in this section.

1. BUILDING PERMIT REQUIRED

Prior to installation or modification exceeding the scope of routine maintenance, all telecommunications facilities subject to these standards shall receive a Building Permit in accordance with the requirements in this Ordinance.

2. COMPLIANCE WITH FEDERAL AND STATE REGULATIONS

a. All telecommunication facilities shall comply with or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government that regulates telecommunications facilities.

b. In addition to federal requirements, all telecommunication facilities shall comply with or exceed current standards and regulations of the State of North Carolina pertaining to telecommunications facilities in NCGS§§ 160D-930 through 160D-934.

3. INTERFERENCE

No telecommunication facility shall disturb, diminish, or interfere with public safety, radio, television, or other wireless communications signals in accordance with FCC requirements.

4. STRUCTURALLY SOUND

All elements of a telecommunication facility shall demonstrate, to the satisfaction of the Town, that the equipment and the structure supporting the equipment is structurally sound and can accommodate the proposed equipment and appurtenances.

5. SIGHT DISTANCE AT INTERSECTIONS

All elements of a telecommunication facility shall be located outside of, and shall in no way obstruct, required sight distances at street intersections. This requirement shall apply to existing streets as well as to future street intersections that have been designed or where right-of-way is currently being protected by the Town.

6. ACCESSORY EQUIPMENT

a. Accessory equipment, including any buildings, cabinets, or shelters, shall be used only for the purposes of housing telecommunications equipment and other supplies in direct support of the operation of the telecommunications facility.

b. Any equipment or materials not used in direct support of such operation shall not be stored on the site.

7. SITE GRADING

Grading and vegetation removal for a telecommunications facility shall comply with the standards in Section <>, Soil Erosion and Sedimentation, and be limited to the area necessary for the facility and any required secondary structures, including: stormwater management devices, access drives, or off-street parking.

8. LIGHTING

a. Lighting of a telecommunications facility shall be limited to that required for compliance with FAA minimum standards.

b. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA.

c. Nighttime strobing or flashing lights are prohibited, unless required by the FAA.

d. Lights serving equipment compounds or other service areas shall be configured so that the source of illumination is not visible from off-site areas.

e. All exterior lighting shall comply with the lighting regulations of this Ordinance.

9. SIGNAGE

a. Signage shall be limited to safety or informational signage identifying the party responsible for the operation and maintenance of the facility and any additional security or safety signs, as necessary, in the opinion of the Town.

b. If the electrical service is in excess of 220 volts, the telecommunications facility shall include signs located at least every 20 feet around the perimeter that display the words "HIGH VOLTAGE - DANGER" in bold, high contrast letters with minimum height of four inches for each letter.

c. No signage shall be posted higher than 15 feet above grade.

d. Signage required by this section shall be considered to be safety or governmental signage that is not subject to 1st Amendment protection regarding the regulation of sign content.

10. UNAUTHORIZED ACCESS PROHIBITED

Telecommunications towers and vertical projections with telecommunications equipment with a height of 30 feet above grade or more shall be designed or configured to prevent unauthorized persons from climbing on the telecommunication facility whether through use of walls or fencing with a minimum height of six feet above adjacent grade and configured in accordance with the standards in Section <>, Fences and Walls, or anti-climbing devices.

D. STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

Table <>, Standards for Specific Types of Telecommunication Facilities, sets out the standards that apply to the identified type of telecommunications facility, and shall apply in addition to the standards in Section <>, General Standards Applicable to All Types of Telecommunications Facilities.

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

1. TELECOMMUNICATIONS TOWER, MAJOR	
New or replacement major telecommunications towers shall comply with the following standards:	
Towers Distinguished	a. A new or replacement telecommunications tower with a height of 30 feet or more above grade is a major telecommunications tower subject to these standards. b. A new or replacement telecommunications tower with a height less than 30 feet above grade shall be considered a minor telecommunications tower and shall be subject to the standards for a concealed or minor telecommunications tower in this table.
Type of Structure	a. Telecommunications towers shall be configured as a monopole, self-supporting tower, or be concealed in accordance with this table. b. Construction of new guyed telecommunications tower configurations are prohibited.

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
1. TELECOMMUNICATIONS TOWER, MAJOR	
New or replacement major telecommunications towers shall comply with the following standards:	
Setbacks	a. Towers and their associated antennas shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall telecommunications facility height. b. In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement tower shall comply with the setback requirements, to the maximum extent practicable. c. Secondary structures, including equipment cabinets and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.
Maximum Height	a. The maximum height (including antenna and other appurtenances) for any new, replaced, or collocated wireless telecommunication tower is ~~200~~ 199 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. b. In no instance shall the collocation of an eligible facility or a collocation that constitutes a substantial modification result in a telecommunication tower with a height that exceeds ~~200~~ 199 feet above the adjacent pre-construction grade. c. In cases where a telecommunications tower is mounted to or on top of a building, the overall height of the building and the attached tower shall not exceed ~~200~~ 199 feet from the adjacent preconstruction grade. The adjacent pre-construction grade shall be the grade at the base of the building closest to the tower.
Collocation Required	a. Telecommunications towers shall be designed to accommodate the present and future needs of the owner and as well as the collocation of additional equipment, in accordance with the following standards: i. Towers of 30 to 80 feet in height shall be configured to accommodate the collocation of at least two wireless telecommunications service provider's equipment. ii. Towers of 81 to 130 feet in height shall be configured to accommodate the collocation of at least three wireless telecommunications service provider's equipment. iii. Towers of 131 feet in height or higher shall be configured to accommodate the collocation of at least four wireless telecommunications service provider's equipment. b. In no instance shall an existing telecommunications tower be permitted to remain in place for a period of more than 60 ~~14~~ days following installation of a replacement telecommunications tower constructed to accommodate a collocation.
Screening	a. Except when located in commercial or industrial zoning districts, all ground-based elements, such as an equipment compound or equipment cabinets, shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based elements.

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
1. TELECOMMUNICATIONS TOWER, MAJOR	
New or replacement major telecommunications towers shall comply with the following standards:	
	b. Screening is not required for ground-based equipment that is not visible from off-site areas. c. Landscaping material shall reach and maintain a minimum height of six feet above grade within four years of planting. d. Landscaping material is not required in front of access gates, provided the gates are fully opaque or are not visible from off-site areas.
Example Images	The following images depict potential monopole telecommunications tower configurations, and are provided for informational purposes only.

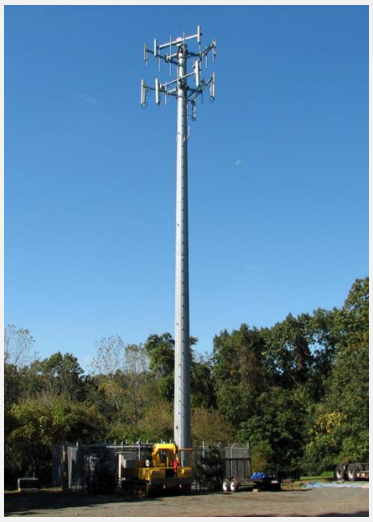






TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
2. TELECOMMUNICATIONS TOWER, CONCEALED AND MINOR	
New or replacement concealed or minor telecommunications towers shall comply with the following standards:	
Towers Distinguished	a. A concealed telecommunications tower is a telecommunications tower and associated equipment that is designed to appear as something other than a traditional telecommunications facility. b. A minor telecommunications tower is a use that is designed to appear as a traditional telecommunications facility except that the maximum height of the tower portion of the facility is less than 30 feet above grade.
Appearance of a Concealed Tele-communications Tower	a. A concealed telecommunications tower shall be configured to conceal the presence of the tower, antennas, antenna-support structures, and related telecommunications equipment in order to obscure its purpose as a telecommunications facility, to the maximum extent practicable. b. Allowable configurations include, but are not limited to: bell towers, clock towers, water towers, silos, chimneys, steeples, light poles, flag poles, or evergreen trees.

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
2. TELECOMMUNICATIONS TOWER, CONCEALED AND MINOR	
New or replacement concealed or minor telecommunications towers shall comply with the following standards:	
	c. Antennae, antenna support structures, cabling, and related appurtenances shall be enclosed, camouflaged, screened, or otherwise obscured so that they are not readily identifiable as telecommunications equipment to the casual observer. d. Equipment cabinets and related structures shall be designed, located, and camouflaged in a manner that is compatible with the tower portion of the facility. e. Placement of ground-based telecommunications equipment associated with a concealed telecommunications tower is strongly encouraged to be located indoors or underground.
Setbacks	a. Concealed and minor telecommunications towers and associated secondary structures, including equipment cabinets, shall comply with the applicable dimensional requirements for non-residential uses in the zoning district where located. b. In no instance shall a concealed or minor telecommunications tower be exempted from the minimum applicable setback requirements for non-residential uses. c. In cases where an existing concealed telecommunication tower's height is increased or where an existing concealed telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement concealed telecommunications tower shall comply with the setback requirements in subsection (i) above, to the maximum extent practicable.
Maximum Height	a. The maximum height for any concealed telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. b. In no instance shall a collocation of an eligible facility or work associated with a substantial modification result in a concealed telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. c. The maximum height for a minor telecommunications tower is less than 30 feet from the adjacent pre-construction grade to the top of the highest appurtenance on the tower.
Collocation	a. Concealed and minor telecommunications towers are encouraged (but not required) to accommodate the collocation of other antennae. b. Collocations of equipment on a minor telecommunications tower (whether a major or minor collocation) shall not increase the overall height of the tower by more than 10 feet beyond the initially approved height of the minor telecommunications tower. Actions that result in an increase in tower height by more than 10 feet shall require the minor telecommunications tower to undergo review as a major telecommunications tower. c. Any collocated equipment on a concealed telecommunications tower must maintain the appearance of the facility as a concealed telecommunications tower.

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
2. Telecommunications Tower, Concealed and Minor	
New or replacement concealed or minor telecommunications towers shall comply with the following standards:	
	d. In no instance shall a concealed telecommunications tower be replaced with a telecommunications tower that is not concealed in order to accommodate a collocation.
Screening	a. Except when located in commercial or industrial zoning districts, all ground-based elements, such as an equipment compound or equipment cabinets, shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based elements. b. Screening is not required for ground-based equipment that is not visible from off-site areas. c. Landscaping material shall reach and maintain a minimum height of six feet above grade within four years of planting. d. Landscaping material is not required in front of access gates, provided the gates are fully opaque or are not visible from off-site areas.
Example Images	The following images depict potential concealed telecommunications tower configurations, and are provided for informational purposes only.
	  

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
3. Collocation of Antennas	
Collocations, whether on a building wall or roof, a telecommunications tower, or on another vertical projection such as a water tank or electrical transmission tower, shall comply with the following standards:	
Collocations Distinguished	All collocations shall be classified as either a major collocation or a minor collocation in accordance with Section <>, Terms Defined, and the following: a. A major collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on any of the following:

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
3. COLLOCATION OF ANTENNAS	
Collocations, whether on a building wall or roof, a telecommunications tower, or on another vertical projection such as a water tank or electrical transmission tower, shall comply with the following standards:	
	i. A building's roof; ii. A building's wall; iii. A vertical projection such as a water tank, electric transmission tower, or similar vertical projection not constructed for the sole purpose of providing wireless telecommunications services; or iv. An existing or replacement telecommunications tower where the collocation requires a substantial modification, as defined in these standards and NCGS§ 160D-931. b. A minor collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on an existing or replacement telecommunications tower, provided no substantial modification, as defined in these standards and NCGS§ 160D-931, is required. A minor collocation may also be referred to as an "eligible facility," as defined in these standards and NCGS§ 160D-931. c. In addition to the placement of antennas and antenna-support structures, collocations may also include the placement of telecommunications equipment on a telecommunications tower, on a vertical projection, on the ground in close proximity to a telecommunications tower or vertical project, within an equipment compound, within an equipment cabinet, within a building, or on a building's roof. d. Nothing shall prohibit the replacement of an existing telecommunications tower or activities that increase the overall height of an existing telecommunications tower in order to accommodate a proposed collocation.
Substantial Modification	Collocations on an existing or replacement telecommunications tower that require or result in any of the following shall be considered a substantial modification: a. Increasing the existing overall height of the telecommunications tower by the greater of: i. 20 feet; or ii. More than ten percent; or b. Adding an appurtenance (excluding cabling supports) to the body of an existing telecommunications tower that protrudes horizontally from the edge of the tower by the greater of: c. Collocation i. More than the width of the telecommunications tower at the height of the appurtenance; or ii. More than 20 feet from the edge of the tower; or

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
3. COLLOCATION OF ANTENNAS	
Collocations, whether on a building wall or roof, a telecommunications tower, or on another vertical projection such as a water tank or electrical transmission tower, shall comply with the following standards:	
	iii. Increasing the square footage of an existing equipment compound by more than 2,500 square feet. d. Substantial modifications that require an increase in the overall height of an existing telecommunications tower or require a replacement tower that exceeds the height of the existing telecommunications tower by more than 40 feet shall require review as a new telecommunication tower subject to the standards in this table. e. In no instance shall an existing telecommunications tower be permitted to remain in place for a period of more than ~~14~~ 60 days following installation of a replacement telecommunications tower constructed to accommodate a collocation.
Collocation Prohibited	In no instance shall a collocation take place on or in a single-family detached, duplex, or attached residential structure.
Maximum Height	Antennae, antenna-support structures, or other telecommunications equipment, associated with a major collocation on a building wall or roof shall not project more than ten feet above the highest point of the building's roof or parapet wall.
Method of Attachment	a. Antennae, antenna-support structures, or other telecommunications equipment, associated with a collocation shall be mechanically fastened to the building, roof, vertical projection, or telecommunications tower in a manner that minimizes the potential for structural failure or endangerment of the public from falling telecommunications equipment. b. The Planning Director shall require an applicant for a collocation to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed collocation meets the applicable State and local building and fire code requirements.
Appearance when Concealed	When a collocation is proposed on a concealed telecommunications tower, the collocation shall be configured in the manner necessary to ensure the tower's concealment is not compromised or negatively impacted.
Setbacks	a. In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a collocation, the existing or replacement tower shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall telecommunications facility height, to the maximum extent practicable. b. Secondary structures, including equipment cabinets, guy wire anchors, and other ground-based equipment shall

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES

3. COLLOCATION OF ANTENNAS

Collocations, whether on a building wall or roof, a telecommunications tower, or on another vertical projection such as a water tank or electrical transmission tower, shall comply with the following standards:

	conform with the applicable dimensional requirements for the zoning district where located.
Screening	a. Except when located in commercial or industrial zoning districts, all ground-based elements, such as an equipment compound or equipment cabinets, shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based elements. b. Screening is not required for ground-based equipment that is not visible from off-site areas. c. Landscaping material shall reach and maintain a minimum height of six feet above grade within four years of planting. d. Landscaping material is not required in front of access gates, provided the gates are fully opaque or are not visible from off-site areas. e. Roof- or building wall-mounted wireless telecommunications equipment (excluding antennae and antenna-support structures) shall be screened from view or shall be camouflaged in order to minimize its appearance from on-site and off-site areas.
Example Images	The following images depict potential collocation configurations, and are provided for informational purposes only.





TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
4. SMALL WIRELESS FACILITY	
Small wireless facilities may be located within a public right-of-way, other right-of-way, or on an individual lot only in accordance with the following standards:	
Consolidated Application	An applicant may file a single consolidated application for up to 25 separate small wireless facilities at one time, but the Town may choose to issue separate decisions on one or more of the facilities included within a consolidated application.
Located within Public Right-of-Way	In cases where a small wireless facility is proposed within a public right-of-way, the small wireless facility shall comply with the Town's policies and standards for right-of-way management instead of the standards in this section.
Timeframe for Review	Applications for establishment of a small wireless facility shall be processed and decided within 45 days from the date the application is determined to be complete. Nothing shall prohibit the Town and the applicant from mutually agreeing to a longer review period.
Timing for Operation	Construction of a small wireless facility shall commence within six months of its approval and the small wireless facility shall be activated for use within one year from the permit issuance date, unless delayed by a lack of commercial power at the site.
Maximum Equipment Size	a. In no instance shall a small wireless facility exceed the following maximum size limitations: i. Each antenna, and any exposed elements, shall be capable of fitting within an enclosure of six cubic feet, or less. ii. All other wireless equipment associated with the small wireless facility shall maintain a maximum cumulative volume of 28 cubic feet, or less. The following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or the support structure. b. A small wireless facility that exceeds these maximum size limitations shall be reviewed in accordance with the standards for a collocation.
Maximum Height	a. No new structure intended to support a small wireless facility shall be taller than 50 feet above the adjacent pre-construction grade. b. An existing structure (such as a utility pole, light standard, sign, etc.) may be replaced in order to accommodate a small wireless facility, but the replacement structure shall not exceed the height of the original structure being replaced. c. In no instance shall the antennae or equipment associated with a small wireless facility project more than ten feet above the height of the structure the small wireless facility is mounted on. d. In cases where a new structure installed to serve a small wireless facility exceeds 50 feet in height, the structure shall be reviewed and decided in accordance with the standards for a telecommunications tower. e. In cases where a replacement structure intended to serve a small wireless exceeds the height of the original structure, the replacement

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES	
4. SMALL WIRELESS FACILITY	
Small wireless facilities may be located within a public right-of-way, other right-of-way, or on an individual lot only in accordance with the following standards:	
	structure shall be reviewed and decided in accordance with the standards for a collocation.
Placement	A small wireless facility, including the support structure and all other equipment, shall not obstruct the safe passage of vehicles, pedestrians, or bicycles.
Method of Attachment	a. Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a small wireless facility shall be mechanically fastened to the supporting structure in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. b. The Planning Director shall require an applicant for a small wireless facility to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed wireless telecommunications facility meets the applicable State and local building and fire code requirements.
Appearance	a. The portion of a small wireless facility attached to the support structure shall match the color of the support structure, to the maximum extent practicable. b. In cases where an applicant proposes inclusion of a small wireless facility on a decorative support structure, sign, or other existing structure not constructed solely for the purposes of providing telecommunications services, the Town may require the small wireless facility to be configured or concealed to ensure compatibility with the structure.
Screening	a. Except when located in commercial or industrial zoning districts, all ground-based equipment shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based equipment. b. Screening is not required for ground-based equipment that is not visible from off-site areas.
Electrical Service	In cases where a small wireless facility is proposed in areas where electrical service is underground, all electrical service to the small wireless facility shall also be underground.
Example Images	The following images depict potential small wireless facility configurations, and are provided for informational purposes only.

TABLE <>, STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES		
4. SMALL WIRELESS FACILITY		
Small wireless facilities may be located within a public right-of-way, other right-of-way, or on an individual lot only in accordance with the following standards:		
		

E. NONCONFORMING TELECOMMUNICATIONS FACILITIES

1. Lawfully established telecommunications facilities in operation prior to (*insert the effective sate of this Ordinance*), that do not comply with these standards may remain and operate as nonconforming uses.
2. Minor collocation of antennae, antenna-support structures, and related telecommunications equipment is allowed in accordance with the requirements in Table <>, Standards for Specific Types of Telecommunication Facilities, provided that the overall height of the existing nonconforming wireless telecommunications facility remains unchanged or is reduced.
3. In no instance shall a collocation resulting in an increased overall height or a requiring substantial modification, as defined in this section and NCGS§ 160D-932, be permitted on a nonconforming telecommunications facility.
4. In the event a nonconforming telecommunications tower is removed, it shall not be replaced with another nonconforming telecommunications tower.

F. CESSATION, ABANDONMENT, AND REMOVAL OF TELECOMMUNICATIONS FACILITIES

1. I. CESSATION

a. A telecommunication facility shall be considered to have ceased operation if:
   i. The Town receives written notice from a telecommunication services provider that it intends to cease operations at a particular telecommunication facility; or
   ii. A telecommunications facility ceases to transmit a telecommunications signal for a period of 30 consecutive days or longer.

b. Upon receipt of a written notice from a telecommunication services provider or upon determination that a telecommunication facility has ceased operation, the Town shall forward written documentation of the cessation to the telecommunication services provider, or the owner of the land, if different.

2. ABANDONMENT

a. The telecommunications facility shall be deemed abandoned if telecommunications signals do not resume for a period of 180 consecutive days or longer from the date the written documentation of cessation is filed.

b. Upon making a determination that a telecommunications facility has been abandoned, the Town shall forward written documentation of the abandonment to the telecommunication services provider, or the owner of the land, if different.

3. REMOVAL

a. The Town may require the telecommunication services provider or the owner of the land, if different, to remove an abandoned telecommunications facility within 30 days of the date it is deemed abandoned.

b. Should the telecommunication services provider, or the owner of the land, if different, fail to remove the abandoned telecommunications facility within 30 days of the date that notice of abandonment is filed, the Town may cause the telecommunications facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the telecommunication services provider, or the owner of the land, if different.

~~4.3.126 TINY HOME~~[232]

~~Tiny homes shall be permitted in the Town's planning jurisdiction, subject to Table <>, Listing of Common Principal Uses, and this section.~~

~~A. TINY HOMES DISTINGUISHED~~

~~A tiny home shall take one of the following three forms:~~

~~1. A manufactured tiny home, which shall be treated as a class A manufactured home, subject to the standards in Section <>, Manufactured Home, Class A.~~

~~2. A moveable tiny home, which is built on a chassis, has wheels, and is capable of being relocated shall be treated as a recreational vehicle subject to the standards in Section <>, Recreational Vehicle; and~~

~~3. A permanent tiny home which shall be treated as a single-family detached dwelling, subject to the standards in this section.~~

~~B. PERMANENT TINY HOME~~

~~1. A permanent tiny home shall meet all applicable State Building Code standards for one-family homes, including minimum room size and ceiling clearance requirements.~~

~~2. A development of two or more permanent tiny homes, each on their own lot, may be established in accordance with the standards for Section <>, Bungalow Court, or Section <>, Pocket Neighborhood.~~

~~3. A permanent tiny home may be permitted as a secondary use to a principal single-family detached residential dwelling in accordance with Section <>, Detached Secondary Dwelling Unit.~~

~~4.3.127~~4.3.129 THEATRE, INDOORS[233]

A. Ticket purchase areas shall be configured so that patron ques take place entirely indoors or in outdoor gathering areas that do not impede the movement of pedestrian, bicycles, or vehicles.

[232] ~~New~~
[233] New

B. All exits, including emergency exits, shall be served with sidewalks or pedestrian walkways configured so that patrons may exit the building within the need to walk in parking lot drive aisles or streets.

C. Theatres that include restaurants or sit-down dining facilities shall comply with all applicable requirements in Section <>, Restaurants.

~~4.3.128~~4.3.130 THEATRE, OUTDOORS[234]

A. The hours of operation allowed shall be compatible with the land uses adjacent to the outdoor theater.

B. The amount of noise generated shall not disrupt the activities of the adjacent land uses.

C. Principal access must be from a collector or higher classification street.

D. No part of any theater screen, projection booth, or other building shall be located closer than 500 feet to any residentially zoned property or any closer than 50 feet to any other property line or public street right-of-way.

E. No parking space shall be located closer than 100 feet to any residentially-zoned property.

F. The theater screen shall not face a collector or higher classification street.

~~4.3.129~~4.3.131 TRANSFER STATION[235]

A. All structures, buildings, and landfilling operations shall be a minimum of 500 feet from a residential zoning district.

B. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residential district.

C. Access to the facility shall be by way of a collector or higher classification street.

D. Entrances shall be controlled to prevent unregulated access to the facility.

E. Access streets leading to any part of the facility shall be constructed with a gravel or crushed stone surface and maintained in a dust-free manner.

F. No part of access streets shall be located closer than 15 feet to an external property line other than a limited access highway or railroad right-of-way line.

G. An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

H. The siting and design of the facility shall comply with the applicable requirements of the NC Solid Waste Management Rules.

I. The operation of the facility shall be in compliance with the State of North Carolina's operation, maintenance, and monitoring regulations for solid waste disposal facilities.

~~4.3.130~~4.3.132 TRIPLEX OR QUADPLEX[236]

A. Triplex and quadplex dwellings shall comply with ~~Section <>, Multi-Family Residential Design Standards, and~~ the following:

~~A.~~ **1.** Use of a single shared primary entrance serving all of the individual dwelling units is strongly encouraged. If a single shared entrance is not practical or possible, then consolidation of individual dwelling unit entrances into shared entrances is encouraged.

~~B.~~ **2.** At least one primary entrance of the structure shall face the street from which the structure derives its street address.

[234] New
[235] New
[236] New

~~C.~~3. Except for through lots, if a parking lot is provided, it shall be located to the interior side or rear of the dwelling and not be located between the dwelling and a street. Through lots are exempted from this requirement, but shall not locate a parking lot between the primary entrance and the street from which the structure derives its street address.

~~D.~~4. Attached garages or carports shall be located to the side or rear of the principal structure.

5. When a triplex or quadplex dwelling is on a corner lot, the use may include two separate driveways on different lot frontages, provided each driveway is configured in accordance with Section <>, Access and Circulation, and all applicable Town or State standards related to driveway placement and street access.

~~E.~~6. ~~When a triplex or quadplex is on a corner lot, the use may include two separate driveways, provided each driveway is configured in accordance with Section <>, Access and Circulation, and all applicable Town or State standards related to driveway placement and street access~~.

~~F.~~7. In no instance shall a lot with a triplex or quadplex include more than one recreational vehicle, inoperable vehicle, or trailer, all of which shall be located in accordance with the applicable standards in Section <>, Secondary Uses.

~~G.~~8. Up to one detached secondary structure may be permitted on a lot with a triplex or quadplex, and in no instance shall it contain an accessory dwelling unit.

9. A Type B perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

~~H.~~B. Triplex and quadplex buildings are strongly encouraged to comply with the standards in Section <>, Residential Design Guidelines.

~~4.3.131 TWO-FAMILY DWELLING~~[237]

~~A. Use of a single shared primary entrance serving both individual dwelling units is strongly encouraged. If a shared entrance is not practical or possible, placement of primary entrances on separate building facades is encouraged.~~

~~B. When a two-family dwelling is on a corner lot, the use may include two separate driveways, provided each driveway is configured in accordance with Section <>, Access and Circulation, and all applicable Town or State standards related to driveway placement and street access.~~

~~C. Except in cases where the two-family dwelling complies with the provisions in Section <>, Single-Family Residential Design Guidelines, a Type B perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.~~

~~4.3.132~~4.3.133 UPPER-STORY DWELLING

A. Except within the Downtown district, an upper-story dwelling unit shall occupy the second or higher floor of a building with a non-residential use on the ground floor.

B. In the Downtown district, nothing shall limit the placement of residential floor area on the ground or basement floor provided:

1. The non-residential portion of the building occupies the front façade of the street-level ground floor; and
2. The non-residential portion of the use has its own entrance or the building has a shared primary entrance.

C. Upper story dwelling units are subject to the dimensional requirements for non-residential development in the zoning district where located.

[237] ~~New~~

~~C.~~D. Buildings containing upper-story dwelling units shall comply with the standards in Section <>, Mixed-Use Design Standards.

~~D.~~E. In no instance shall upper-story dwellings have individual exterior primary entrances.

~~E.~~F. Upper-story dwellings configured as condominiums shall comply with the standards in Section <>, Condominiums.

~~4.3.133~~4.3.134 URGENT CARE[238]

A. An urgent care use shall have direct access to a collector or higher classification street.

B. All activity shall take place within an enclosed structure.

C. A six-foot-high opaque fence or wall shall be erected along all lot lines shared with a residential zoning district.

D. The use shall maintain proper sharps and biohazard disposal protocols, including tamper-proof containers for these types of wastes when located outdoors in areas accessible by the public.

~~D.~~E. The use shall comply with the standards in Section <>, Non-Commercial Design Standards.

4.3.135 UTILITY, MAJOR[239]

~~4.3.134~~ Major utilities shall comply with the standards in this section, but these standards are not applied to minor utility use types.

A. All structures, buildings, or enclosed areas used for the operation of a wastewater treatment facility shall be a minimum of 300 feet from a residentially zoned lot.

B. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residential district, unless located on a special purpose lot.

C. Security fencing, a minimum of six feet in height, shall be provided around the perimeter of the use.

D. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

~~4.3.135~~4.3.136 VEHICLE PAINTING/ BODYWORK[240]

A. The use shall be located at least 250 feet from any residential district, school (except vocational schools), or public recreation area.

B. Vehicles shall not be parked or stored as a source of parts.

C. No vehicle sales or rental shall be permitted.

D. Repair all vehicles shall occur within an enclosed building. In no instance shall any activity that results in airborne particulates, including painting, sanding, or application of coatings, take place outdoors.

E. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and fully screened by an opaque fence or wall of at least six feet in height.

~~4.3.136~~4.3.137 VEHICLE PARTS AND ACCESSORY SALES[241]

A. No vehicle sales or rental shall be permitted.

B. No vehicle repairs shall take place as part of a vehicle parts and accessory sales use.

C. No vehicles or part shall be stored outside and all storage shall take place within an enclosed structure.

[238] new
[239] New
[240] New
[241] New

~~4.3.137~~4.3.138 VEHICLE REPAIR AND SERVICE (NO PAINTING/ BODYWORK)[242]

A. No vehicle sales or rental shall be permitted, but sales of parts or accessories may take place as a secondary use.
B. Service bay doors shall not be oriented toward land in a residential zoning district.
C. All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. Nothing shall limit the opening of bay doors during hours of operation.
D. Outdoor storage of vehicles shall comply with the applicable standards in Section <>, Screening. Outdoor parking of vehicles outside of hours of operation shall be considered outdoor storage subject to applicable screening requirements.
E. There shall be no dismantling of vehicles for salvage.
F. The temporary storage of impounded vehicles is prohibited.

~~4.3.138~~4.3.139 VEHICLE SALES AND RENTAL[243]

A. Vehicle display areas shall be surfaced with concrete, asphalt, or other permanent surfacing material other than crushed stone.
B. No vehicles or other similar items shall be displayed on the top of a building.
C. Vehicle display areas shall provide landscaping in accordance with Section <>, Perimeter Parking Lot Landscaping, when abutting public or private street rights-of-way.
D. All lights and lighting shall be designed and arranged so no source of illumination is directly visible from any adjacent property.
E. Repair and service functions are permitted as an secondary use provided all repair-related activities take place entirely within an enclosed building.
F. Outdoor parking of vehicles being serviced shall only take place within an area that complies with the applicable requirements in Section <>, Screening.

~~4.3.139~~4.3.140 VEHICLE TOWING AND STORAGE[244]

A. A maximum of no more than 100 vehicles at any one time shall be stored on the property.
B. All towed vehicles must be stored in an vehicle towing and storage area depicted in a approved site plan.
C. Vehicles shall be operable and no wrecked or junked vehicles shall be permitted.
D. The storage area shall be paved with asphalt, concrete, or other suitable all-weather surface to minimize dust emissions and the buildup of dirt, mud, and other debris.
E. All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.
F. Storage of motor vehicles shall comply with the applicable standards in Section <>, Screening.

~~4.3.140~~4.3.141 VEHICLE WASHING OR DETAILING[245]

A. Equipment capable of producing noise or sound in excess of 70 decibels, including vacuums, shall be located no closer than 200 feet to the nearest lot line shared with residentially-zoned land.
B. No vehicle washing bays shall be located within 20 feet of a side or rear lot line.
C. No outdoor display of merchandise or outdoor storage shall be permitted. Storage of chemicals in containers larger than 55 gallons shall take place entirely underground.

[242] Carries forward Section 155.305(AA) with a few minor clarifications.
[243] Carries forward Section 155.305(BB) with a few minor clarifications.
[244] New
[245] New

D. No overnight storage of vehicles shall be permitted.

E. Outdoor drying and detailing areas shall include drains or other features that prevent the accumulation of rinse water or chemicals on a street right-of-way or in a roadway's drainage system.

F. Retail sales of gasoline or vehicle-related products may be permitted as a secondary use, subject to the applicable standards in Section <>, Secondary Uses.

~~4.3.141~~4.3.142 VETERINARY SERVICES, LARGE ANIMAL[246]

No pens or runs shall be located within 500 feet of a lot line.

~~4.3.142~~4.3.143 VETERINARY SERVICES, SMALL ANIMAL[247]

A. All activities, except for pet rehabilitation or testing activities, shall take place entirely within an enclosed structure.

B. Outdoor activity areas shall be located to the side or rear of a structure unless such placement results in these areas having a closer proximity to a residential zoning district boundary.

C. Small animal veterinary service uses offering boarding shall comply with the standards in Section <>, Boarding (for Animals), Indoor Only.

D. Principal and secondary structures used for boarding or animal recuperation located on lots that border residential zoning districts shall be fully soundproofed.

E. Animal waste shall not be stored within 50' of any adjacent property.

F. The use shall maintain proper sharps and biohazard disposal protocols, including tamper-proof containers for these types of wastes when located outdoors in areas accessible by the public.

~~4.3.143~~4.3.144 WAREHOUSE, DISTRIBUTION AND STORAGE[248]

A. A warehouse use shall have direct access to a collector or higher classification street.

B. An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

C. No outdoor storage of products or materials shall be permitted.

D. Areas engaged in the storage of trucks or trailers shall be paved with asphalt, concrete, or other suitable all-weather surface to minimize dust emissions and the buildup of dirt, mud, and other debris.

E. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

F. In cases where the lot is served by a rail line, buildings may reduce required side or rear setbacks in order to facilitate utilization of rail service.

G. No manufacturing or assembly activity shall be permitted.

~~4.3.144~~4.3.145 WHOLESALE SALES, INDOOR AND OUTDOOR[249]

A. Except for above-ground storage tanks, outdoor storage areas shall be no closer than 50 feet to any adjoining OFI or residentially-zoned property.

[246] New
[247] New
[248] New
[249] New

B. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residential district.

C. All non-paved storage areas shall be maintained in a manner so as to limit dust from leaving the storage area.

D. A wholesale sales use shall have direct access to a collector or higher classification street.

E. An application for establishment of this use shall include a truck route plan that designates routes to minimize impacts on residential areas, schools, or other land uses that would be negatively impacted by truck traffic.

F. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

G. Above-ground outdoor storage tanks shall be subject to the following standards:

1. They shall be located at least 200 feet from any lot line.
2. Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways.
3. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.
4. Dikes or retaining walls shall be of earth, steel, concrete, or solid masonry designed and constructed to be liquid tight and to withstand a full hydraulic head.
5. Earthen dikes three feet or more in height shall have a flat section at the top not less than two feet in width.
6. The slope shall be consistent with the angle of repose of the material of which the dikes are constructed.
7. Dikes shall be restricted to an average height of not more than six feet above the exterior grade unless means are available for extinguishing a fire in any tank.
8. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave.
9. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks.
10. No loose combustible material, empty or full drums or barrels, shall be permitted within the diked area.
11. Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed that when in use they will not permit flammable liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.

~~4.3.145~~4.3.146 WIND ENERGY CONVERSION[250]

A. No tower associated with a wind energy conversion use shall be located within 1,000 feet of land in a residentially-zoned district or a public park.

B. All ground-based equipment buildings shall be located under the blade sweep area, to the maximum extent practicable.

C. All towers associated with a wind energy conversion use shall be set back a distance equal to one-and-one-half times the overall height of the tower and associated wind turbine blade.

[250] New

D. All associated facilities other than towers and associated wind turbines shall be subject to the setback standards for the district where located.

E. Wind energy conversion uses shall utilize monopole or self-supporting towers.

F. All towers and turbines within the use shall maintain uniform design in terms of the following features:

1. Tower type;
2. Tower, turbine, and blade colors;
3. The number of blades per turbine; and
4. The direction of blade rotation.

G. The maximum height of a wind energy conversion use (including the tower and extended blades) shall be 300 feet.

H. The blade tip or vane of any wind energy conversion use shall have a minimum ground clearance of 50 feet above grade, as measured at the lowest point of the arc of the blades. No blades shall extend over public rights-of-way.

I. All wind energy conversion uses shall incorporate anti-climbing devices to prevent unauthorized climbing.

J. Except for transmission lines, all utilities associated with a wind energy conversion use shall be located underground.

K. The wind turbine and tower shall be painted or finished in the color originally applied by the manufacturer, or a matte neutral color (e.g., gray, white, or galvanized steel).

L. No illumination of the turbine or tower shall be allowed, unless required by the (FAA). In the event obstruction lighting is required by the FAA, it shall be of the lowest intensity allowed, and strobes or blinking lights shall be avoided, to the maximum extent practicable.

M. Signage visible from any public street or off-site area shall be limited to the manufacturer's or installer's identification, appropriate warning signs, or owner identification.

N. The noise at the lot line produced by the wind energy conversion use during operation shall not exceed 55 decibels. This standard shall not apply during power outages, windstorms, or other conditions beyond the owner's control.

O. Shadows cast by the rotating blade of a wind energy conversion use shall not fall upon off-site areas.

P. The owner shall take all reasonable steps to prevent or eliminate interference with transmission of communications signals (e.g., radio, television, telephone, etc.) resulting from a wind energy conversion use.

4.4 PROHIBITED USES

4.4.1 PROHIBITED EVERYWHERE

A. The following use types are not listed in Table <>, Listing of Common Principal Uses, and are prohibited throughout the Town's planning jurisdiction in all zoning districts.

B. In cases where one or more of these uses is lawfully established and in operation prior to (*insert the effective date of this Ordinance*), the use shall be subject to the provisions in Section <>, Transitional Provisions.

1. AGRICULTURAL USES

- **a.** Concentrated animal feeding operations; and
- **b.** Slaughterhouses, or offal and animal reduction and processing.

2. COMMERCIAL USES

- **a.** Electronic gaming operations;
- **b.** Outdoor advertising or billboards, in accordance with Section <>, Outdoor Advertising; and
- **c.** Outdoor shooting ranges.

3. INDUSTRIAL USES

- **a.** Acetylene gas manufacture;
- **b.** Acid manufacture;
- **c.** Ammonia, bleaching powder, or chlorine manufacture;
- **d.** Brick, tile, or terra cotta manufacture;
- **e.** Cellophane manufacture;
- **f.** Creosote manufacture or treatment plants;
- **g.** Distillation of bones, coal, petroleum, refuse, tar, or wood;
- **h.** Explosives, ammunition, fireworks, or gunpowder manufacture;
- **i.** Fat rendering, or production of fats and oils from animal or vegetable products by boiling or distillation;
- **j.** Glue and size manufacture;
- **k.** Hazardous materials handling or storage;
- **l.** Leather and leather products manufacturing involving tanning;
- **m.** Linseed oil, shellac, turpentine manufacture or refining;
- **n.** Nitrogenous tankage, fish meal or manufacture of any fertilizer materials carrying an objectionable odor;
- **o.** Oilcloth or linoleum manufacture;
- **p.** Ore reduction;
- **q.** Pulp mills;
- **r.** Storage or processing of radioactive or infectious waste; and
- **s.** Vinegar manufacturing.

4. INSTITUTIONAL USES

- **a.** Package treatment plant wastewater disposal systems that discharge to surface waters or that involve use of spray fields; and
- **b.** Correctional or detention facilities.

5. RESIDENTIAL USES

a. Use of a boat, houseboat, or other floating structure as a temporary or permanent residence (this shall not prevent the overnight occupancy of a vessel temporarily moored while in transit on navigable waters);
b. Use of a structure that does not comply with the applicable State Building Code requirements as a permanent, single-family dwelling; and
c. Use of a tent, recreational vehicle, travel trailer, or movable tiny home as a permanent residence.

4.4.2 PROHIBITED BY OVERLAY DISTRICT STANDARDS[251]

Regardless of how a use type is permitted or prohibited in Table <>, Listing of Common Principal Uses, if a lot or tract is located within one or more overlay zoning districts, any use type limitations in the overlay district standards (see Section <>, Overlay Districts) shall control.

A. WATERSHED PROTECTION OVERLAY DISTRICT

The following uses are prohibited in the WPOD:

1. New demolition or sanitary landfills;
2. New sites for land application of residuals; ~~and~~
3. New sites for land application of petroleum-contaminated soils;
4. Collection, storage, or application of untreated sewage; and
5. Collection, storage, or application of industrial or other wastes.

~~3.~~

B. FLOOD PROTECTION OVERLAY DISTRICT

1. The following uses are prohibited in designated floodways:
   a. Buildings, including manufactured homes;
   b. Any use that would cause any increase in base flood levels; and
   c. Accessory dwelling units within the regulatory floodplain.
2. The following development is prohibited in designated floodplains due to the North Carolina Flood Act of 2000:
   a. New solid waste disposal facilities;
   b. New hazardous waste management facilities;
   c. New salvage or junkyards; and
   d. New chemical storage facilities.

4.4.3 PROHIBITED AS SECONDARY USES

The following uses shall not be permitted as secondary uses within the Town's planning jurisdiction:

A. HOME OCCUPATIONS

In no instance shall a Type 1 or Type 2 home occupation include any of the following activities or use types:

1. Vehicle repair of any kind, whether to drive trains, body work, or other aspects;
2. Outdoor repair of any kind;
3. Outdoor storage of any kind;
4. Commercial nurseries or horticulture;

[251] Gateway and Local Historic Overlays were not added.

5. Food handling, processing, or packing with industrial-scale equipment;
6. Medical or dental labs;
7. Restaurants of any kind;
8. Sale, repair, manufacture, or discharge of firearms or explosives;
9. Bulk storage of flammable or hazardous liquids;
10. Funeral homes and mortuaries; and
11. Animal hospitals, boarding, and kennels.

4.5 SECONDARY USES[252]

4.5.1 ESTABLISHMENT OF A SECONDARY USE

A. Secondary uses or structures may be approved in conjunction with the approval of the principal use or subsequently following the establishment of the principal use. No secondary use or structure shall be approved, established, or constructed before the principal use is approved in accordance with this Ordinance.

B. Except when indicated as a special use or a conditional use in Table <>, Listing of Common Secondary Uses, establishment of a secondary use or structure subsequent to an established principal use shall require approval of a Zoning Compliance Permit in accordance with Section <>, Zoning Compliance Permit.

C. In cases where a secondary use or structure is identified as a special use in Table <>, Listing of Common Secondary Uses, establishment of a secondary use or structure subsequent to an established principal use shall require approval of a Special Use Permit in accordance with Section <>, Special Use Permit.

D. In cases where a secondary use or structure is identified as a conditional use in Table <>, Listing of Common Secondary Uses, establishment of a secondary use or structure subsequent to an established principal use shall require approval of a conditional rezoning in accordance with Section <>, Conditional Rezoning. Applications to establish a conditional zoning district shall include a written list of proposed secondary uses which shall be attached to the application approval along with other conditions of approval.

E. Section <>, Listing of Common Secondary Uses, may not be inclusive of all possible secondary uses, and in the event a secondary use is proposed that is not listed in the table, the Planning Director shall consult Table <>, Listing of Common Principal Uses, to determine if the proposed secondary use corresponds to a listed principal use. Any listed principal use is permitted as a secondary use in any zoning district where the principal use is permitted. In no instance shall a secondary use be permitted in a zoning district where it is prohibited as a principal use.

F. In the event a proposed secondary use is not listed in Section <>, Common Secondary Use Table, and there is no corresponding principal use, the Planning Director shall determine how to treat the secondary use in accordance with Section <>, Unlisted Uses.

4.5.2 INTENT OF THESE STANDARDS

This section authorizes the establishment of secondary uses and structures that are incidental and subordinate to principal uses. The purpose of this section is to allow a broad range of secondary uses

[252] This section is proposed to replace Section 155.308. One significant change is the use of the term "secondary" structure or use rather than "accessory." This section includes a summary table of common secondary uses by zoning district and sets out secondary use-specific standards by alphabetical order rather than type of zoning district (as is the current practice). This section relies more heavily on zoning district dimensional standards and does not carry forward the limitations on the maximum number of secondary structures as this can be difficult to enforce. The standards for accessory uses for places of worship are not carried forward, as these are more appropriately included with the standards for the principal use. The standards for food trucks are relocated to temporary uses.

and structures, provided they comply with the standards set forth in this section in order to reduce potentially adverse impacts on surrounding lands.

4.5.3 GENERAL STANDARDS FOR ALL SECONDARY USES

Secondary structures may deviate from these general standards and the specific standards in Section <>, Standards for Specific Secondary Uses, only where expressly authorized by this Ordinance, as part of an approved Variance or Administrative Adjustment, are subject to conditions of approval associated with a Type 3 conditional rezoning, or are configured in accordance with Section <>, Incentives and Alternatives.

A. CHARACTERISTICS OF SECONDARY USES AND STRUCTURES

Permitted secondary uses and structures include those that the Planning Director determines:

1. Are clearly incidental to an allowed principal use or structure;
2. Are subordinate to and serving an allowed principal use or structure;
3. Are subordinate in extent and purpose to the principal use or structure;
4. Are smaller in terms of total floor area or square footage than the principal structure; or
5. Are shorter in height and smaller in mass than the principal structure.

B. LOCATION OF SECONDARY USES AND STRUCTURES

1. ON A LOT WITH AN ESTABLISHED PRINCIPAL USE

a. Except on special purpose lots, secondary uses may only be established on lots that contain a pre-existing principal use. Some secondary uses or structures may be located on a lot during construction of a principal use when expressly permitted by this Ordinance.
b. Secondary uses may be located on a designated special purpose lot prior to a principal use.
c. A secondary use and the principal use it serves shall be located within the same zoning district.

2. WITHIN REQUIRED LANDSCAPING OR STREETSCAPE BUFFERS

Except for fences and walls contributing to the screening function of a buffer, no secondary structure shall be located within a required landscaping or streetscape buffer except where permitted in accordance with Section <>, Landscaping, or Section <>, Screening.

3. WITHIN A REQUIRED SETBACK

No secondary use or structure shall deviate from the setbacks applied to the zoning district where located, except as authorized by Table <>, Allowable Encroachment into Setbacks.

4. WITHIN OTHER AREAS ON A SITE

No secondary use or structure shall:

a. Be located within a designated fire lane;
b. Obstruct required sight distance triangles;
c. Impede ingress or egress to a lot, site, or principal structure;
d. Be located within a public utility easement;
e. Interfere with drainage or stormwater control measures;
f. Be within an emergency access route designated on an approved site plan; or
g. Create an unsafe condition, in the sole opinion of the Planning Director or Engineering Director.

5. WITHIN AN EASEMENT (OTHER THAN A PUBLIC UTILITY EASEMENT)

a. No secondary uses or structures shall be located within a public utility easement.

b. Except for authorized stormwater control measures within a drainage easement, no secondary use or structure shall be located within any platted or recorded easement without the prior written consent of the landowner.

6. PROXIMITY TO A STREET

In no instance shall the following secondary uses or structures be closer to a public street right-of-way than a principal structure on the same lot:

a. Accessory dwelling unit;

b. Detached garage or carport;

c. Ham radio antenna or equipment;

d. Stables;

e. Tool sheds;

f. Swimming pools or hot tubs;

g. Storage of an inoperable vehicle; or

h. Parking of a recreational vehicle, heavy truck, or trailer containing another vehicle, boat, or equipment.

C. MAXIMUM SIZE

1. Except for in-ground swimming pools, secondary uses and structures shall be smaller in square footage, floor area, and use area than the principal structure they serve.

2. In-ground swimming pools may have a use area or volume greater than the principal structure they serve.

3. Barns, silos, green houses, and similar features serving as secondary structures to agricultural uses may exceed the total floor area or square footage of a principal single-family dwelling on the lot where the agricultural use is located.

D. ALLOWABLE HEIGHT

1. Secondary structures shall comply with the maximum building height requirements for the zoning district where located, except that secondary structures within 10 feet of a lot line shall not be taller than 15 feet.

2. Maximum height standards shall not apply to certain secondary structures in accordance with Section <>, Exemption from Maximum Height Standards.

E. COMPLIANCE WITH DESIGN STANDARDS

1. Secondary uses and structures serving principle uses that are subject to the design standards or guidelines in Section <>, Design Standards and Guidelines, shall comply with the design standards applied to the principal use they serve or shall employ exterior materials, colors, and architectural details that are configured to be ~~complimentary~~ complementary to the principal use.

2. The degree to which proposed exterior materials, colors, and architectural details are configured in a complementary ~~complimentary~~ manner to a principal use shall be in the sole opinion of the review authority deciding the application.

F. COMPLIANCE WITH USE STANDARDS

1. Secondary uses shall only be permitted subject to all applicable standards in Section <>, Standards for Specific Secondary Uses.

2. In cases where a use type identified in Table <>, Listing of Common Principal Uses, is proposed as a secondary use, the secondary use shall also comply with all applicable standards in Section <>, Standards for Specific Uses.

4.5.4 LISTING OF COMMON SECONDARY USES

A. TABLE AS GUIDE

Table <>, Listing of Common Secondary Uses, is established as a guide to identify the appropriateness of the more common secondary uses in each zoning district.

B. LISTED SECONDARY USES

Table <>, Listing of Common Secondary Uses, lists what types of secondary uses, structures, and activities are allowed in each of the zoning districts.

1. If a specific secondary use is allowed by-right, subject to issuance of a Zoning Compliance Permit, and any applicable secondary use-specific standards, the cell underneath the zoning district is marked with a "P".
2. If a specific secondary use is allowed subject to a special use permit, subject to any applicable secondary use-specific standards the cell underneath the zoning district is marked with a "S".
3. If the specific secondary use or structure is not allowed in a zoning district, the cell is blank (marked with a "•").
4. In the case of conditional development districts, if a secondary use is allowable subject to any applicable secondary use-specific standards, it is marked with an "C", and the secondary use must be identified in the application or approved conditions.

TABLE <>: LISTING OF COMMON SECONDARY USES

"C" = Permitted, subject to Section <>, Conditional Rezoning, applicable secondary use-specific standards, and conditions of approval
"P" = Permitted, subject to applicable secondary use-specific standards
"S" = Permitted subject to Section <>, Special Use Permit, and applicable secondary use-specific standards
" • " (blank cell) = Not allowed or no additional secondary use-specific standards
Most secondary uses are subject to use standards in Section <>, Standards for Specific Secondary Uses

Secondary Use Type [1]	Con	Residential						MXD	Non-Residential						PUB	Conditional				
		RUR	RLL	RLD	RMD	RHD	RMF		OFI	DTN [2]	NCM	CRM	LID	HID		CZR	CZM	CZC	CZD	CZI
Accessory Dwelling Unit, Detached	•	P	P	P	P	P	•	•	•	P	•	•	•	•	•	C	•	•	•	•
Accessory Dwelling Unit, Internal	•	P	P	P	P	P	•	•	•	P	P	•	•	•	•	C	•	•	•	•
Amateur Ham Radio	•	P	P	P	P	P	P	P	P	P	P	P	P	•	•	C	C	C	C	C
Art Installation	•	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Automated Teller Machine	•	•	•	•	•	•	•	P	P	P	P	P	P	•	•	•	C	C	C	•
Bus Shelter	•	•	•	•	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Canopy (Drive Through, Fuel, etc.)	•	•	•	•	P	P	P	P	P	•	P	P	P	P	P	C	C	C	C	C

TABLE <>: LISTING OF COMMON SECONDARY USES

"C" = Permitted, subject to Section <>, Conditional Rezoning, applicable secondary use-specific standards, and conditions of approval
"P" = Permitted, subject to applicable secondary use-specific standards
"S" = Permitted subject to Section <>, Special Use Permit, and applicable secondary use-specific standards
" • " (blank cell) = Not allowed or no additional secondary use-specific standards
Most secondary uses are subject to use standards in Section <>, Standards for Specific Secondary Uses

Secondary Use Type [1]	Con	Residential						MXD	Non-Residential						PUB	Conditional				
		RUR	RLL	RLD	RMD	RHD	RMF		OFI	DTN [2]	NCM	CRM	LID	HID		CZR	CZM	CZC	CZD	CZI
Child Care, Incidental	•	P	P	P	P	P	P	P	P	P	P	P	P	•	P	C	C	C	C	C
Cluster Box Unit	•	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Drive Through	•	•	•	•	•	•	•	S	P	•	P	P	P	P	P	C	C	C	•	C
Electric Vehicle Charging Station ~~(level 1, 2, or 3)~~	•	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Family Health Care Structure	•	P	P	P	P	P	P	P	P	P	•	•	•	•	•	C	C	•	C	•
Flagpole	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Garage or Carport, Detached	•	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Guard House, Shelter, or Gatehouse	•	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Helistop	•	•	•	•	•	•	•	•	S	•	•	•	•	S	S	•	C	C	C	C
Home Occupation, Type 1	•	P	P	P	P	P	•	•	P	P	P	P	•	•	•	C	•	•	•	•
Home Occupation, Type 2	•	P	S	S	S	S	•	•	S	P	P	P	•	•	•	C	•	•	•	•
Mobile Restaurant	•	•	•	•	•	•	•	•	•	P	•	P	P	P	•	•	C	C	C	C
Outdoor Dining and Seating	•	•	•	•	•	•	P	P	P	P	P	P	P	P	•	C	C	C	C	C
Outdoor Display/Sales	•	•	•	•	•	•	•	S	•	P	P	P	P	P	P	•	C	C	C	•
Outdoor Storage	•	•	•	•	•	•	•	•	•	P	P	P	P	P	P	•	•	C	C	C
Parking of Heavy Trucks or Trailers	•	P	•	•	•	•	•	•	•	•	•	P	P	P	P	•	•	C	•	C
Parking of Recreational Vehicles	•	P	P	P	P	•	•	•	•	•	•	P	P	P	•	C	•	C	•	C
Play Equipment	P	P	P	P	P	P	P	P	P	P	P	•	•	•	P	C	C	C	C	•
Private Stables	•	P	P	P	•	•	•	•	•	•	•	•	•	•	•	C	•	•	•	•
Produce Stand	•	P	P	P	P	P	•	•	P	P	P	P	•	•	•	C	•	C	C	•
Solar Energy Conversion, Level 1	•	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C

TABLE <>: LISTING OF COMMON SECONDARY USES

"C" = Permitted, subject to Section <>, Conditional Rezoning, applicable secondary use-specific standards, and conditions of approval
"P" = Permitted, subject to applicable secondary use-specific standards
"S" = Permitted subject to Section <>, Special Use Permit, and applicable secondary use-specific standards
" • " (blank cell) = Not allowed or no additional secondary use-specific standards
Most secondary uses are subject to use standards in Section <>, Standards for Specific Secondary Uses

Secondary Use Type [1]	CON	RESIDENTIAL						MXD	NON-RESIDENTIAL						PUB	CONDITIONAL				
		RUR	RLL	RLD	RMD	RHD	RMF		OFI	DTN [2]	NCM	CRM	LID	HID		CZR	CZM	CZC	CZD	CZI
Swimming Pool/Hot Tub	•	P	P	P	P	P	P	P	P	P	P	P	•	•	•	C	C	C	C	•
Tool/Storage Shed	•	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Underground Storage Tank	•	•	•	•	•	•	•	•	•	•	P	P	P	P	P	•	•	C	•	C
Vehicle Repair (non-commercial)	•	P	P	P	P	•	•	•	P	•	P	P	P	•	•	C	•	C	•	•

NOTES:
[1] Unlisted secondary uses may be permitted in accordance Section <>, Unlisted Uses.
[2] Permitted in each Downtown subdistrict unless specifically noted in the applicable standards in Section <>, Standards for Specific Secondary Uses.

4.5.5 STANDARDS FOR SPECIFIC SECONDARY USES

A. ACCESSORY DWELLING UNIT, DETACHED[253]

A detached accessory dwelling unit (DADU) is permitted as secondary to a single-family detached dwelling, subject to the following standards:

1. No more than one DADU shall be located on a lot with a single-family detached dwelling;
2. A DADU shall not exceed 50 percent of the total amount of finished floor area in the principal structure;
3. A DADU shall be configured as a complete residential dwelling or housekeeping unit.
4. A tiny home structure may be utilized as an accessory dwelling unit provided the tiny home structure does not exceed the lesser of 600 square feet in floor area or 50 percent of the finished floor area of the principal structure;
5. A DADU shall not exceed ~~one story~~the height of the principal structure, but nothing shall limit an DADU from being located on a second or third story provided the structure complies with the applicable maximum height limitations in the district where located;
6. The DADU shall be located at least ten feet from the principal structure;
7. A DADU shall include at least one but not more than two off-street parking spaces;
8. A DADU and the principal dwelling shall have the same street address and mailbox;
9. A DADU shall not be subdivided or otherwise separated in ownership from the principal dwelling unit;

[253] Replaces Section 155.308(C)(1)

10. A DADU and the principal dwelling shall utilize the same driveway, unless the ADU is accessed from a right-of-way not used by the principal dwelling (e.g., a rear alley or separate street access on a corner or through lot);
11. A DADU ~~may~~ shall be served by ~~separate or~~ shared water, sanitary sewer, gas, and electrical utilities~~, but it must have separate sewer service if served by a separate water meter~~;
~~11.~~12. A permanent "tiny home" may be permitted as a secondary use to a principal single-family detached residential dwelling subject to the standards in this section; and
~~12.~~13. In no instance shall a movable "tiny home" be used as an accessory dwelling unit.

B. ACCESSORY DWELLING UNIT, INTERNAL[254]

An internal accessory dwelling unit (IADU) is permitted as secondary to a single-family detached dwelling only in accordance with the following standards:

1. No more than one IADU shall be located on a lot with a single-family detached dwelling;
2. The IADU shall be fully enclosed within the outer extents of the principal structure walls and roof, and shall not be located in a detached structure of any kind;
3. An IADU shall be configured as a complete residential dwelling or housekeeping unit.
4. An IADU shall not exceed 35 percent of the total amount of finished floor area in the principal structure;
5. An IADU and the principal dwelling shall have the same street address and mailbox;
6. An IADU and the principal dwelling shall utilize the same driveway;
7. An IADU shall include at least one but not more than two off-street parking spaces; and
8. An IADU ~~may~~ shall be served by ~~separate or~~ shared water, sanitary sewer, gas, and electrical utilities.

C. AMATEUR HAM RADIO[255]

Amateur radio antennas shall comply with NCGS§ 160D-905 and the following:

1. Towers associated with an amateur ham radio operator or private television antenna shall not exceed 100 feet above grade;
2. Towers or antennas attached to a principal structure shall be located on a side or rear elevation; and
3. Freestanding towers or antennas shall be located behind the principal structure.

D. ART INSTALLATION[256]

1. In no instance shall an art installation visible from a street or off-site area depict specified anatomical areas or specified sexual activities as defined by this Ordinance and the North Carolina General Statutes.
2. Public art or murals are exempted from the standards for signs, but shall be subject to any applicable adopted policy guidance and the following:
   a. A mural or public art installation shall require approval of a Zoning Compliance Permit in accordance with the standards in Section <>, Zoning Compliance Permit, if proposed on private property or within a public street right-of-way. If a mural is inside a building or is not visible off-site areas, then no zoning compliance permit is required.
   b. A mural may be configured to include a wall sign provided:

[254] New
[255] New
[256] New

i. The wall sign is applied to the wall using a similar technique as is used for the mural;
ii. The wall sign portion of the mural is clearly delineated to enable the Town to determine its compliance with applicable sign standards;
iii. The wall sign portion of the mural complies with the standards for a wall sign in accordance with Section <>, Sign Standards by Sign Type.

c. Murals and public art shall be maintained and periodically cleaned, refreshed, or refurbished so that the mural remains visible and consistent with its approval.

d. In the event the owner of a building with a mural no longer wishes to maintain the mural, it shall be removed or covered with paint or other material consistent with the existing exterior material on the building wall where the mural is located. In cases where an approved mural is removed or concealed, it may only be re-established through approval of a Zoning Compliance Permit in accordance with Section <>, Zoning Compliance Permit.

3. Public art that is determined by the Planning Director to be a sign shall comply with the standards in Section <>, Public Art as Signage.

E. AUTOMATED TELLER MACHINE (ATM)[257]

1. An ATM designed for walk-up use and located in the exterior wall of a building or a parking area shall be designed to avoid obstructions to pedestrian movement along sidewalks, through public use areas, or between parking areas and building entrances, or vehicular movement in front of buildings or through parking areas.
2. If an ATM is designed for use by customers in their vehicles, it shall comply with the secondary use standards (including districts where permitted) in Section <>, Drive Through.
3. The overall character of an automated teller machine in terms of materials, colors, and architectural character shall be compatible with that of the principal structure.

F. BUS SHELTER[258]

Nothing shall limit the placement of a bus shelter within a required yard or setback, provided it shall:

1. Maintain a maximum size or floor area of 100 square feet or less;
2. A height of 15 feet or less;
3. Be located outside any required sight distance triangles; and
4. Maintain a minimum distance of five feet from the edge of the street paving.

G. CANOPIES (DRIVE THROUGH AND FUEL, ETC.)[259]

1. Canopies located between the front façade of a building and a street shall be arched, vaulted, or monopitch shed style, but shall not be flat or maintain a slope of 3:12 or less. This standard shall not apply to canopies located behind a principal structure and farther from a street right-of-way than the principal structure.
2. Supports or uprights for a canopy structure shall be clad in brick, masonry, or treated with some other architectural treatment ~~compatabile~~compatible with the principal structure. In no instance shall supports or uprights take the form of a simple metal pole that is just painted.

[257] New
[258] New
[259] New

3. The maximum height of the canopy may exceed the height of the principal building, but in no instance shall any signage associated with the canopy be higher above grade than would be permitted on the exterior wall of the adjacent principal structure.
4. The edge of the canopy structure shall be no closer than 15 feet from a lot line or right-of-way.
5. Exterior lighting associated with a fuel canopy shall comply with the requirements for shielding and glare control in Section <>, Exterior Lighting.

H. CHILD CARE, INCIDENTAL[260]

1. An incidental child care or home day care for three or more children is permitted as a secondary use to an occupied residential dwelling unit provided it complies with Article 7 of Chapter 110 of the North Carolina General Statutes, and the Summary of North Carolina Child Care Laws and Rules pamphlet, as amended prepared by the NC Department of Health and Human Services.
2. Incidental child care uses shall obtain all applicable approvals from the State of North Carolina.
3. In cases where an incidental child care use is operated within a residential dwelling and includes more than five children or includes employees who do not reside in the principal dwelling the incidental child care use shall meet all the requirements in Section <>, Home Occupation, Level 2.

I. CLUSTER BOX UNIT[261]

Cluster box units shall comply with the standards of the United States Postal Service and the following:

1. Cluster box units shall be located within one or more of the following locations:
   a. On land owned or maintained by an owners' association;
   b. ~~Within~~ Outside a public street right-of-way; or
   c. Within a private access easement.
2. Wherever possible, cluster box units shall be located central to the development they serve or proximate to a primary vehicular entrance to the development.
3. In no instance shall a cluster box unit be located within a required sight distance triangle, a public utility easement, within the vehicular travelway portion of a street or alley, or in a manner that obstructs the movement of pedestrians along a sidewalk or trail.
4. A cluster box unit shall be positioned so that the individual mailbox units may be accessed without the need to stand within a street travelway.
5. In cases where a subdivision includes a recreational amenity building, cluster box units are encouraged to be located within or adjacent to the building.
6. All cluster box units in a development shall be directly served by a sidewalk, pedestrian trail, or include facilities for vehicular access.
7. At least five percent of the provided mailboxes shall be configured to permit access in accordance with the American with Disabilities Act.
8. A cluster box unit with 20 or more mailboxes shall be served by one on-street or off-street parking space. Cluster box units with 40 mailboxes or more shall be served by two on-street or off-street parking spaces plus one additional on-street or off-street parking space for every additional 20 mailboxes beyond 40 to a maximum of four parking spaces. At

[260] Replaces Section 155.308(C)(3)
[261] New

least one of the parking spaces provided shall meet the requirements for an accessible parking space in accordance with the State Building Code. All on-street parking spaces shall be parallel parking spaces.

9. In cases where cluster box units are located within a building or structure used for other purposes, vehicular parking spaces shall be reserved for patrons using the cluster box, and such spaces shall include signage or other visible designations to this effect.
10. As an alternative to providing parking spaces, a cluster box unit may incorporate a separate vehicular pull-off area with sufficient width to accommodate a standard passenger vehicle and a sufficient length to accommodate the same number of stacked vehicles as could be accommodated by required on-street or off-street parking.
11. Cluster box units shall be served by one or more streetlights in developments where street lights are provided.
12. Except in cases where cluster units are located within a building, such facilities shall be located on paved concrete pads and anchored in accordance with the NC State Building Code and US Postal Service requirements.
13. Cluster box facilities with 100 or more mailboxes in one location shall be located within a roofed structure that provides shelter from sun or rain.

J. DETACHED GARAGE/CARPORT[262]

1. Detached garages or carports shall be located behind the rear building wall of the principal structure and shall comply with all applicable standards.
2. Detached garages may include interior storage or activity areas or accessory dwelling units, provided all secondary uses comply with the applicable requirements of this Ordinance.

K. DRIVE-THROUGH[263]

Drive-through facilities shall comply with the following standards:

1. Outdoor speakers associated with a drive-through shall be at least 50 feet from any abutting lot in a residential district;
2. In cases where a use with a drive through that includes an outdoor speaker abuts a residential zoning district, the perimeter buffer located between the outdoor speaker and the residential lot shall include a fence or wall of at least six feet in height, regardless of the type of perimeter buffer required;
3. Drive-through windows, menus, or order boxes shall not be located on the ~~front~~ primary façade of the building they serve;
4. Drive-through facilities shall be designed so as not to obstruct the movement of pedestrians along sidewalks, through areas intended for public use, or between the building entrance and customer parking spaces;
5. Drive through lanes located adjacent to a public street right-of-way shall include screening configured in accordance with Section <>, Parking Lot Perimeter Landscaping;
6. Canopies or other features installed over a drive through window shall maintain common roof lines and materials with the principal structure and comply with all applicable standards in Section <>, Canopies; and
7. Drive throughs shall not be located within a Downtown district.

[262] New
[263] Replaces Section 155.308(D)(1)

L. ELECTRIC VEHICLE (EV) CHARGING STATION[264]

1. Electric vehicle (EV) charging station spaces shall be reserved for the charging of electric vehicles only and shall be posted with signage identifying the spaces as reserved only for the charging of electric vehicles, amperage and voltage levels, any enforceable time limits or tow away provisions, and contact information for reporting non-operating equipment or other problems.
2. A required accessible parking space may also serve as an EV charging station space, provided the charging station and its controls meet ADA standards for accessibility to persons with physical disabilities.
3. EV charging station equipment shall be located so as not to interfere with vehicle, bicycle, or pedestrian access and circulation, or with required landscaping.
~~3.~~4. Equipment-capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residence.
~~4.~~5. Transformers and similar equipment shall be screened in accordance with Section <>, Screening.

M. FAMILY HEALTH CARE STRUCTURE[265]

One family health care structure is permitted on a lot with a single-family detached dwelling, in accordance with the standards in NCGS§ 160D-915 and the following:

1. STRUCTURE

A family health care structure is one that:

a. Is transportable and primarily assembled at a location other than the site of installation;
b. Is located on a lot with an existing single-family detached dwelling;
c. Is limited to one occupant who is a mentally or physically impaired person related to the caregiver;
d. Is used by a caregiver or legal guardian in providing care for one mentally or physically impaired person on property owned or occupied as the caregiver's or guardian's residence;
e. Has no more than 300 square feet of gross floor area;
f. Is connected with water, wastewater, and electrical systems by branching service from the single-family detached dwelling;
g. Has the same street address and mailbox as the existing single-family detached dwelling;
h. Uses the same driveway as the existing single-family dwelling, unless the structure is accessed from a right-of-way not used by the dwelling (e.g., a rear alley or separate street access on a corner or through lot);
i. Meets the dimensional standards of the zoning district for a single-family detached dwelling; and
j. Meets the applicable provisions in the North Carolina Building Code; however, is not located on a permanent foundation.

2. NEED AND RELATIONSHIP

a. The occupant of the structure must be a mentally or physically impaired person that is a resident of the State who requires assistance with two or more activities of daily living

[264] New
[265] New

(bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating) as certified in writing by a physician licensed to practice in North Carolina.

b. The caregiver must be an individual 18 years of age or older who provides care for the mentally or physically impaired person and is a first or second degree relative of the impaired person. A first or second degree relative is a spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew or niece, including half, step, and in-law relationships.

3. PERMIT CONDITIONS

a. Once the applicant provides sufficient proof that the family health care structure meets all standards, then the structure shall be permitted for a period of 12 months.

b. The applicant may renew the prior approval for a 12-month period and continue to renew it provided the applicant provides evidence of continued need and compliance with these standards.

c. The Town may make periodic inspections of the family health care structure at reasonable times convenient to the applicant.

d. No signage shall be permitted on the exterior of the structure or on the lot that identifies or promotes the existence of the structure.

e. The structure shall not be subdivided or otherwise separated in ownership from the single-family detached dwelling.

f. The structure shall be removed within 60 days if the impaired occupant is no longer receiving or in need of assistance.

g. The approval may be revoked or other enforcement actions taken if these standards are violated.

N. FLAGPOLE[266]

1. No more than two flagpoles shall be allowed on a residential lot in a residential zoning district.

2. Flagpoles on all other lots shall comply with the following standards:

a. No more than three flagpoles shall be allowed;

b. Flagpoles shall be located on the same lot as the principal building;

c. Flagpoles may be located on the wall of the principal building on the lot or within 75 feet of the building's main entrance;

d. Flagpoles shall not be located within a public right-of-way; and

e. Flagpoles shall not exceed a height of 25 feet.

3. Flags shall comply with the appropriate standards in Section <>, Sign Standards by Sign Type.

O. GUARD HOUSE, SHELTER, OR GATEHOUSE[267]

Nothing shall limit the placement of a guard house, guard shelter, or gatehouse within a required yard or setback, provided it shall:

1. Maintain a maximum size or floor area of 100 square feet or less;

2. A height of 15 feet or less;

3. Be located outside any required sight distance triangles; and

4. Maintain a minimum distance of five feet from a public street right-of-way.

[266] New
[267] New

P. HELISTOP[268]

Auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment are not permitted.

Q. HOME OCCUPATION, LEVEL 1[269]

1. The area set aside for a home occupation shall occupy no more than 25 percent of the gross floor area of a dwelling unit or of a secondary structure or 500 square feet, whichever is less.
2. No outside storage or display of materials, animals, or items associated with the home occupation is permitted. Nothing shall limit storage of such items within enclosed structures.
3. No goods, stock-in-trade, or other commodities shall be displayed.
4. The home occupation shall be conducted entirely within a dwelling unit or secondary structure. It must be a use that is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character of the residence.
5. Permitted home occupations include, but are not limited to:
   a. Offices;
   b. Personal services;
   c. Day care of up to five children;
   d. Catering, provided food is prepared solely with residential-grade equipment;
   e. Tailoring; and
   f. Handcrafting, and similar vocations.
6. No on-site retail sales, except for goods made on the premises, are allowed. Nothing shall prohibit the digital sale of material for delivery off-site.
7. Activities shall not generate traffic, noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.
8. No home occupation shall involve the use of electrical or mechanical equipment that would change the fire rating of the structure in which the home occupation is located.
9. No one may be employed who is not an occupant of the residence.
10. Instruction in music, dancing, art, or similar subjects shall be limited to no more than five students at one time.
11. Signs for home occupations shall be limited to incidental signs permitted in residential zoning districts (see Section <>, Signage).

R. HOME OCCUPATION, LEVEL 2[270]

1. The level 2 home occupation shall be located on a lot or tract of one acre or more in area.
2. The total floor area of all buildings engaged in the home occupation shall not exceed the lesser of: 20% of the principal dwelling's floor area or 1,000 square feet.
3. All operations associated with the home occupation use shall maintain a minimum 50-foot setback from all lot lines.
4. A Type C perimeter buffer configured in accordance with Section <>, Perimeter Buffers, shall be installed along all lot lines abutting a residential district.

[268] New
[269] Proposed to replace Section 155.308(C)(2)(b)
[270] Proposed to replace Section 155.308(C)(2)(b)

5. All operations associated with the home occupation shall be located behind the rear building line of the principal dwelling.
6. The person operating the home occupation shall reside on the property.
7. No more than two persons shall be employed other than those residing on the property.
8. Establishment of a level 2 home occupation shall require review of a site plan in accordance with Section <>, Site Plan, and the site plan shall indicate the location of outside storage, if any, the proposed number of vehicles to be parked on the lot, and methods of screening.
9. The home occupation shall not be operated between the hours of 9 PM to 6 AM.
10. Permitted uses shall be limited to those products assembled or manufactured on-site for resale elsewhere, professional and business services, or stock-in-trade clearly incidental to such services.

S. MOBILE RESTAURANT[271]

1. LOCATION

Mobile restaurants may only be operated on private land in accordance with Section <>, Listing of Common Secondary Uses. Nothing shall limit the operation of a mobile restaurant on public property provided the use takes place solely within a space designated for mobile restaurants.

2. PERMITS REQUIRED

a. The operation of a mobile restaurant shall require approval of a Zoning Compliance Permit, which must be renewed by the operator on an annual basis.
b. Vendors in vehicles must provide documentation of approval from the Health Department of the County in which the mobile restaurant's associated restaurant or commissary is located.
c. The County Health Permit must be displayed during hours of operation.

3. PLACEMENT DURING AND AFTER FOOD SALES

a. Mobile restaurants shall be parked on private property with the property owners' permission and shall not be parked within any public street, right-of-way, or sidewalk unless the street has been closed for a special event.
b. Mobile restaurants shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Associated vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, and driveway entrances.
c. No more than two mobile restaurants are permitted as an secondary use, unless at an approved special event, market, festival, or an active construction site.
d. A mobile restaurant shall be removed after operating hours or a special event and be stored in a legally permissible location.

4. ADDITIONAL STANDARDS FOR MOBILE RESTAURANTS WITHIN DOWNTOWN DISTRICT

a. ~~Food trucks~~Mobile restaurants operating between the hours of 8 AM and 5 PM shall not be parked on the street for more than two consecutive hours unless the street has been closed for a special event.

[271] Builds on Section 155.308(D)(2)

~~a.~~**b.** In cases where a mobile restaurant is operating within an off-street parking lot, the mobile restaurant shall be located outside of loading zones, fire zones, and vehicular travelways.

~~b.~~**c.** Customer access for food sales shall be from the side of the food truck facing the sidewalk not the street.

~~c.~~**d.** Food sales shall not impede pedestrian traffic along the sidewalk.

5. MINIMUM DISTANCE FROM CERTAIN USE TYPES

a. No mobile restaurant shall operate within 100 feet of any school, religious institution, or cemetery.

b. No mobile restaurant shall operate within 100 feet of the main entrance of a restaurant located within a principal structure during business hours, unless authorized by a restaurant.

6. OPERATION

a. The mobile restaurant owner or their designee shall be present at all times except in case of an emergency.

b. The hours of operation shall be between the hours of 7:00 AM and 12:00 AM except for special events.

c. Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.

d. Grease and wastewater must be contained and disposed of in an approved grease receptacle located at the associated restaurant or commissary.

e. The operator shall keep all areas within ten feet of the mobile restaurant clean of grease, trash, paper, cups, or cans associated with the operation. No liquid waste or grease is to be disposed into tree pits, storm drains, or onto the sidewalks, streets, or other public locations. Under no circumstances shall grease be released into or disposed of in the Town's sanitary sewer system.

f. If the vendor is operating a vehicle after dark, the vehicle shall provide appropriate lighting.

g. A mobile restaurant or vehicle shall not operate as a drive-up window.

h. Mobile restaurant operators are responsible for the proper disposal of waste and trash associated with the operation. Town trash receptacles are not to be used for this purpose. Operators shall remove all waste and trash from their location at the end of each day or as needed to maintain the health and safety of the public.

i. The Planning Director may initiate enforcement action if a mobile restaurant is causing parking, traffic congestion, or litter problems either on or off the property where the use is located or such use is otherwise creating a danger to the public health or safety.

7. ASSOCIATED FEATURES

~~a. There shall be no audio amplifier or similar device to attract the attention of the public.~~

~~b.~~**a.** No tables, chairs, or other structures shall be allowed outside of the mobile restaurant.

~~c.~~**b.** Advertising consisting of business name, logo, and items available for sale may be displayed on the mobile restaurant's vehicle(s). No other form of advertising shall be permitted.

T. OUTDOOR DINING OR SEATING[272]

Outdoor dining or seating shall comply with the following requirements:

1. GENERALLY

a. Approval of a Zoning Compliance Permit shall be required for the establishment of outdoor dining or seating areas capable of accommodating up to 12 people. Site Plan approval shall be required for outdoor dining or seating areas capable of accommodating more than 12 people.

b. Unless proposed within a public right-of-way, outdoor dining or seating shall be located on the same lot or tract or under the same ownership as the principal use it serves. If located within a public right-of-way, the outdoor dining or seating area shall be directly adjacent to the lot where the principal use is located.

c. Outdoor dining or seating areas where alcohol is served or may be consumed shall be clearly demarcated from other areas of the site or a public right-of-way with planters, fencing, roping, railing, or some other physical barrier that separates the area from its surroundings.

d. Outdoor dining or seating areas that include any form of public address system, recorded or live musical performances, or other sounds provided as part of the operation of the principal use shall be located as far as possible from adjacent residential zoning.

e. Lighting associated with outdoor dining or seating shall comply with the standards in Section <>, Exterior Lighting, except that exterior lighting may be located within Town right-of-way subject to all applicable Town policies.

f. Outdoor dining or seating areas shall comply with the applicable off-street parking standards in Section <>, Off-Street Parking and Loading.

g. In no instance shall an outdoor dining or seating area take place within a required landscaping, screening, or parking area or interfere with safe pedestrian or vehicular circulation on or off the site.

h. In no instance shall an outdoor dining or seating area obstruct access to an entrance or exit, emergency exit, drainage infrastructure, fire hydrant, standpipe, utility access area, ventilation, or ADA access features.

i. Outdoor dining or seating areas shall include trash receptacles and shall not result in the accumulation of litter or waste in the public right-of-way or on adjacent lots.

2. IF LOCATED WITHIN A PUBLIC RIGHT-OF-WAY

a. In cases where outdoor dining or seating areas are proposed on a public sidewalk or other public right-of-way, establishment of the secondary use shall require approval of a site plan and execution of an encroachment agreement with the Town or NCDOT in accordance with Town policy, as appropriate.

b. Outdoor dining and seating areas in a public right-of-way areas shall comply with the standards in NCGS§136-27.4, and the following:

i. All tables, chairs, and other furnishing shall be at least six linear feet from any vehicular travel lane;

ii. There shall be at least five feet of unobstructed sidewalk width maintained at all times across the frontage of a site with outdoor dining or seating areas on a public sidewalk;

iii. Awnings, umbrellas and coverings shall maintain at least nine feet of clearance above sidewalks and shall not project out into the vehicle travelway;

[272] Builds on Section 155.308(D)(6), though most of the public sidewalk provisions are carried forward with no major revisions

iv. In on instance shall an outdoor dining or seating area be located adjacent to a street with a posted speed limit of 45 miles-per-hour or greater; and

v. No water misters, heaters, or mechanical climate control devices shall be located within the public right-of-way.

c. The owner of the business utilizing an outdoor dining or seating area within a public right-of-way shall be responsible for repairing any incidental damage to public sidewalk resulting from the secondary use.

d. The owner or operator of the principal use shall provide evidence of adequate liability insurance specified by the Town under NCGS§ 160A-485 as the limit of the Town's waiver of immunity or the amount of tort claim liability specified in NCGS§ 143-299.2, whichever is greater. The insurance shall protect and name NCDOT and the Town as additional insured on any policies covering the use and any activities on a public sidewalk.

e. The owner or operator of the principal use shall provide an agreement to indemnify and hold harmless NCDOT and the Town from any claim resulting from the operation of activities on a public sidewalk.

f. The owner or operator of the principal use shall provide a copy of all permits and licenses issued by the State, County, or Town, including health and ABC permits, if any, necessary for the operation of the principal use, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the principal use.

g. The owner or operator of the principal use shall cease any outdoor activities in the public right-of-way in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the Town, its agents or employees, or by any other governmental entity or public utility.

h. The owner or operator of the principal use shall comply with any other requirements deemed necessary by the NCDOT or Town, either for a particular Town or a particular component of the State highway system.

i. The Town reserves the right to terminate the authorization for outdoor dining or seating within a public right-of-way at any time. Upon notice, all furnishings must be removed from the public right-of-way within 24 hours of notice from the Town. If furnishings are not removed within the time specified, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town also has the right to remove such items immediately in emergency situations, and the Town is not responsible for damage to the furnishings under any circumstances.

U. OUTDOOR DISPLAY/SALES[273]

The outdoor display and sale of goods as a secondary use shall be limited to a commercial or mixed-use development and shall comply with the following standards:

1. GENERALLY

a. Outdoor seasonal sales proposed as a temporary use shall be subject to the standards in Section <>, Outdoor Seasonal Sales.

[273] This section builds on Section 155.308(D)(5). Note this section does not incorporate the standards in Section 155.305(Q) which is also entitled outdoor seating and is applied to restaurants, but is located within the principal use section, which is confusing since sidewalk dining is an accessory or secondary use, not a principal use. Additional discussion is needed about if and how the accessory use standards should be further modified to encompass both the current principal standards in 305(Q) as well as 308(D)(5).

b. Establishment of a display/sales area greater than 50 square feet in area shall require approval of a site plan (see Section <>, Site Plan). Display/sales areas smaller than 50 square feet shall require approval of a Zoning Compliance Permit.

c. Outdoor display/sales areas shall provide ADA-compliant customer access.

d. Except on lots in the Downtown district, outdoor display/sales shall be located on the same site as the principal use, and shall be located at least five from any lot line.

2. ALONG THE FRONT FAÇADE

Outdoor display/sales areas located along the front façade of a principal use shall comply with the following standards:

a. Outdoor display/sales areas shall be located on a sidewalk.

b. In no instance shall a outdoor display/sales area occupy more than 75 percent of the front façade wall of a single tenant or individual tenant's portion of a multi-tenant building facade wall.

c. Outdoor display/sales areas shall be no closer than five feet to a building entrance or exit.

d. In no instance shall an outdoor display/sales area block an emergency exit, standpipe, utility meter, or ventilation access.

e. Outdoor display/sales areas shall maintain at least five feet of pedestrian access on all sides.

f. Outdoor display/sales area shall not exceed five feet in height from the sidewalk.

g. Outdoor display/sales areas that are not accessible to members of the public shall be subject to the standards in Section <>, Outdoor Storage.

3. WITHIN A PARKING LOT

Outdoor display/sales areas located within a parking lot of a principal use shall comply with the following standards:

a. Outdoor display/sales area shall not occupy a required parking or landscaping area.

b. Outdoor display/sales areas shall not be located in ways that interfere with loading or on-site circulation of vehicles or pedestrians.

c. Outdoor display/sales areas shall not include signage that is legible from off-site areas.

d. Display areas that are inaccessible to the public are considered outdoor storage.

e. Outdoor display/sales areas in parking lots shall comply with the dimensional requirements for the district where located.

4. ON A PUBLIC SIDEWALK

Outdoor display/sales area proposed on a public sidewalk shall comply with all applicable standards in this section and the following:

a. Outdoor display/sales areas on a public right-of-way shall require an encroachment agreement with the Town.

b. Products, merchandise, and display structures must be removed from the sidewalk within 24 hours of notice from the Town. If such items are not removed following notice, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situations. The Town is not responsible for damage to the merchandise under any circumstances.

c. The owner or operator of the principal use displaying or selling merchandise within a public sidewalk shall be responsible for repairing any incidental damage to public sidewalk resulting from outdoor display/sale.

V. OUTDOOR STORAGE[274]

Outdoor storage as a secondary use shall comply with the standards in Section <>, Outdoor Storage (as a Principal Use).

W. PARKING OF HEAVY TRUCKS OR TRAILERS[275]

1. The parking or storage of motorized vehicles in excess of 10,000 pounds of gross vehicle weight, or with more than two axles, shall be prohibited in all residential districts except for loading and unloading purposes; for emergency home service; for use in the conduct of a legal non-conforming use; for temporary construction purposes; or for bona fide agricultural purposes.
2. The parking or storage of non-motorized vehicles with more than two axles shall be prohibited in all residential districts except for loading and unloading purposes; for emergency home service; for use in the conduct of a legal non-conforming use; for temporary construction purposes; or for bona fide agricultural purposes.
3. In no instance shall a non-motorized vehicle have an overall length exceeding 22 feet not including the tongue or towing assembly.
4. No apparatus designed to be used as a motor vehicle or designed to be towed by a separate motorized unit or vehicle shall be used for the purposes of storage in any residential district.

X. PARKING OF RECREATIONAL VEHICLES[276]

1. No recreational vehicle (RV) shall be used as a permanent residence or business.
2. Nothing in this section shall preclude a RV owner from parking the RV on a parcel of land they own provided the RV is not used as an occupied dwelling or business.
3. Recreational vehicles shall meet the setbacks of a single-family dwelling in the zoning district in which it is located.
4. The RV shall not be located between a principal structure and a street.
5. Sewer or water connections are not permitted.
6. Any source of electricity must by solely intended for the RV and be on the same parcel of land as the RV.
7. Removal of wheels of a recreational vehicle except for temporary repairs shall be prohibited.
8. Any RV subject to these standards must be road ready and capable of moving within 24 hours.
9. These standards shall not apply to RVs located within a lawfully established and operating recreational vehicle park.

[274] This section replaces the limited outdoor storage/accessory general outdoor storage provisions in Section 155.308(D)(7)&(8). Simply relying on the principal use standards as a much easier way to address the outdoor storage issue rather than trying to distinguish between two or more different kinds of storage.

[275] New

[276] New

Y. PLAY EQUIPMENT[277]

1. Play equipment shall comply with the setback requirements for the zoning district where located, though it may encroach into setbacks in accordance with Section <>, Allowable Encroachment into Setbacks.
2. In no instance shall play equipment be located between the front façade of a residential dwelling and the street it faces in cases where the lot or tract is two acres or less in area.

Z. PRIVATE STABLES[278]

Stables shall comply with the following standards:

1. Stables are not permitted on land within the corporate limits;
2. The land on which the facility is located shall be at least two acres in size;
3. No stalls or stables shall be within 200 feet of any existing adjoining residential dwelling and 100 feet from any adjoining well being used for human consumption; and
4. Stables must be operated and maintained in a healthy and safe manner. Healthy and safe is defined as, but not limited to: fences kept in good repair; potable water available on demand; protection from wind or rain; a sign posted indicating the name and phone number of the person to be contacted in case of emergency.

AA. PRODUCE STAND

The sale of fresh vegetables and produce from curbside stands or in a similar fashion shall:

1. Be located on the same lot as a principal use;
2. Be limited to retail sale of agricultural or horticultural products grown on-site or in agricultural facilities under the same ownership as the produce stand;
3. Be located outside public street rights-of-way, sight distance triangles, or other areas that may result in visual obstructions to drivers;
4. Not exceed 1,000 square feet in area; and
5. Provide adequate ingress/egress and off-street parking.

BB. SOLAR ENERGY CONVERSION, LEVEL 1

A level 1 solar energy conversion use shall comply with the following requirements:

1. The system may be roof-mounted, attached to a principle or secondary structure, be ground-mounted, or placed over a parking or other hard-surface area;
2. The footprint of a ground-mounted system shall not exceed 50 percent of the footprint of the principal structure, or one acre, whichever is less;
3. The system shall comply with the dimensional requirements for the district where located, as modified by Section <>, General Standards for All Secondary Uses and Structures;
4. The system shall not obscure required sight distance triangles;
5. Ground-mounted facilities are exempted from the screening requirements in Section <>, Screening; and
6. Ground-mounted facilities shall not exceed 20 feet in height above adjacent pre-construction grade.

[277] New
[278] New

CC. SWIMMING POOLS/HOT TUBS[279]

1. Swimming pools and hot tubs shall be configured in accordance with all applicable requirements of the North Carolina State Building Code and Chapter 154 of the Town Code of Ordinances.
2. All swimming pools, hot tubs, and ancillary facilities shall comply with the setback provisions applicable in the zoning district where located.
3. In-ground swimming pools built as secondary uses shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet and configured to prevent small children from gaining unsupervised access to the pool or hot tub.
4. Hot tubs shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet or include a cover with a lockable latch to prevent small children from gaining unsupervised access to the hot tub.
5. Gates or doors opening into the area around the in-ground swimming pool or hot tub from outside the dwelling shall have self-closing and self-latching devices for keeping the gate or door closed at all times when not in use.
6. Above ground swimming pools are not required to have a fence but shall have a locking ladder that prevents access to the surface of the water when raised or otherwise locked.
7. These standards shall apply to any built structure placed or constructed for the purpose of bathing or swimming with a depth of two feet or more.
8. Access to a pool or hot tub serving a non-residential use shall limit access to the pool or hot tub by members of the general public.
9. Swimming pools and hot tubs included as a~~n~~ secondary use to a residential or mixed-use development shall include one off-street parking space for every four persons of design capacity. This standard does not apply to private pools located on single-family detached residential lots.
10. In no instance shall a swimming pool or ho~~u~~t tub included as a secondary use to a residential or mixed-use development include a public address system capable of playing music or other audio.
11. Swimming pools built as secondary uses shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet and configured to prevent small children from gaining unsupervised access to the pool or hot tub.
12. Gates or doors opening into the area around the swimming pool from outside the dwelling shall have self-closing and self-latching devises for keeping the gate or door closed at all times when not in use.
13. These standards shall apply to any built structure placed or constructed for the purpose of bathing or swimming with a depth of two feet or more.
14. Access to a pool or hot tub serving a non-residential use shall limit access to the pool or hot tub by members of the general public.
15. Swimming pools and hot tubs included as an secondary use to a single-family subdivision shall include one off-street parking space for every four persons of design capacity.

[279] Consolidates the standards in Sections 155.308(C)(4) and 155.308(D)(9)

DD. TOOL/STORAGE SHED[280]

1. Tool or storage sheds shall comply with the dimensional requirements for the zoning district where located.
2. Tool or storage sheds may not be located within required landscaping areas, within ten feet of an on-site wastewater facility (including drain fields).
3. Tool or storage sheds shall be required to secure a zoning compliance permit prior to construction or installation.

EE. UNDERGROUND STORAGE TANK[281]

Underground storage tanks shall comply with the following requirements:

1. Underground storage tanks shall not be located within required setbacks, easements, or beneath public rights-of-way;
2. Underground storage tanks shall be installed and operated only in accordance with the North Carolina Building Code and all applicable Fire Code requirements; and
3. Underground storage tanks shall be depicted on site plans and as-builts.

FF. VEHICLE REPAIR (NON-COMMERCIAL)[282]

Up to two private vehicles may be repaired on residentially-zoned land, provided:

1. The vehicles are registered to the occupant of the residence; and
2. The repair takes place within an entirely enclosed structure or within an area meeting the standards in Section <>, Screening, and located to the interior side or rear of the principal structure.

[280] New
[281] New
[282] Builds on Section 155.308(C)(6)

4.6 TEMPORARY USES[283]

4.6.1 ESTABLISHMENT OF A TEMPORARY USE OR STRUCTURE

A. Temporary uses or structures may be approved prior to the establishment of a principal use, in conjunction with the approval of the principal use, or subsequent to the establishment of a principal use.

B. All temporary uses or structures listed in this section shall require prior approval of a temporary permit in accordance with Section <>, Temporary Permit.

C. In the event a temporary use is proposed that is not listed in this section, the Planning Director shall consult Section <>, Unlisted Uses, to determine how to treat the proposed temporary use.

4.6.2 INTENT OF THESE STANDARDS

This section allows for the establishment of specific temporary uses of limited duration, provided that such uses do not negatively affect adjacent land, and provided that such temporary uses are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

4.6.3 GENERAL STANDARDS FOR ALL TEMPORARY USES

All temporary uses and structures shall comply with the following general standards, unless otherwise specified in this Ordinance:

A. GENERAL REQUIREMENTS[284]

An applicant proposing a temporary use or structure shall:

1. Secure written permission from the landowner;
2. Obtain the appropriate permits and licenses from the Town and other agencies;
3. Comply with the applicable requirements for signs in Section <>, Signage, if signage is proposed;
4. Meet public utility requirements for proper connection to water, sewer, electrical and other utility service connections, as applicable;
5. Not violate the applicable conditions of approval that apply to a site or use on the site;
6. Not result in a situation where the principal use, if present, fails to comply with the standards of this Ordinance;
7. Ensure the site of a temporary use or structure contains sufficient land area for the temporary use and for the parking and traffic movement associated with the temporary use, without impacting environmentally sensitive lands;
8. Ensure temporary uses remain in place no longer than 90 days if located within a special flood hazard area;
9. Provide adequate on-site restroom facilities (as appropriate); and
10. Cease all outdoor activities within 500 feet of a residential use by 11:00 PM.

[283] This section is proposed to replace Section 155.309. It includes several new temporary uses (including the food truck standards from current Section 155.308(D)(2)). This section includes a new summary table that identifies all the listed temporary uses, maximum duration, and maximum number of occurrences per lot per year. These standards do not include exemptions, and do not apply standards for garage sales. The standards for temporary outdoor storage are not carried forward as outdoor storage is addressed as a secondary use

[284] NOTE: Additional discussion is needed about the establishment of a basic maximum duration for temporary uses or structures not subject to a specific duration as part of the standards applied to specific temporary uses.

B. GENERAL CONDITIONS

In approving a Temporary Permit, the Planning Director is authorized to impose any of the following general conditions upon the premises benefited by the permit as may be necessary to reduce or minimize any potential adverse impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed temporary use or structure. The Planning Director is authorized, where appropriate, to require:

1. Provision of temporary parking facilities, including vehicular access and egress;
2. Control of nuisance factors, such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;
3. Prohibition of the storage or use of hazardous materials;
4. Regulation of placement, height, size, and location of equipment;
5. Provision of sanitary and medical facilities;
6. Provision of solid waste collection and disposal;
7. Provision of security and safety measures;
8. Use of an alternate location or date;
9. Modification or elimination of certain proposed activities;
10. Regulation of operating hours and days, including limitation of the duration to a shorter time period than requested or specified in this subsection; and
11. Submission of a performance guarantee (see Section <>, Performance Guarantees) to ensure that any temporary use will be removed from the lot.

4.6.4 DURATION OF COMMON TEMPORARY USES

This section includes a summary table of common temporary uses and their maximum duration.

TABLE <>: TABLE OF COMMON TEMPORARY USES AND DURATION

Type of Temporary Use or Structure		Maximum Duration [1]	Maximum Frequency per Calendar Year
Itinerant Merchant Sale		No more than 45 continuous days per lot per calendar year	Three, subject to maximum duration per year
Outdoor Seasonal Sales		No more than 45 continuous days per lot per calendar year	Three, subject to maximum duration per year
Portable Storage Containers		90 days per lot per calendar year	Once, subject to maximum duration per year
Other Special Event	Circus, Carnival or Fair	Up to 14 consecutive days per calendar year	Once
	Grand Opening Sale	Up to 7 consecutive days per calendar year	Once
	Non-profit Event	Up to 7 consecutive days per calendar year	Once every three months
	Outdoor Vehicle Sale	Up to 3 consecutive days per calendar year	Twice
	Religious Event	Up to 5 consecutive days per calendar year	Up to four per development per calendar year
	Tent Sale	Up to 7 consecutive days per calendar year	Twice per lot per calendar year
Temporary Disaster Dwelling		No more than 12 months	N/A
Temporary Dwelling		No more than 6 months	N/A
Temporary Fencing		Up to 90 days per calendar year	Once
Temporary Office		Must be removed within 30 days after all units are sold or leased	
Temporary Wireless Communications Facility		No more than 14 days unless placed for emergency purposes	
		No more than 30 days when placed to serve emergency purposes	

NOTES:
[1] No temporary use shall remain in place more than 90 days if located on a lot within the within a Flood Protection Overlay District.

4.6.5 STANDARDS FOR SPECIFIC TEMPORARY USES

A. ITINERANT MERCHANT SALES[285]

Itinerant merchant sales, not including mobile restaurant vendors, are permitted on lots in non-residential and mixed-use zoning districts, subject to the following standards:

1. The sale of merchandise, products, or material must be a permitted principal or secondary use in the zoning district where the sales are temporarily located;
2. Itinerant merchants shall file an indemnification form with the Town when engaged in open air sales;

[285] New

3. Itinerant merchant sales shall be located outside of street rights-of way, required sight distance triangles, required landscape areas, vehicular circulation areas, required off-street parking spaces, and areas where pedestrian access is needed to ensure safe movement through or across a site;
4. Signage shall comply with the applicable standards in Section <>, Signage;
5. All merchandise and related materials shall be removed from the site following the sale;
6. The maximum period of operation of itinerant merchant sales shall be from 8:00 AM to 11:00 PM; and
7. Permitted itinerant merchant sales shall be limited in duration to a maximum of 45 continuous days from the date the Temporary Permit is issued.

B. OUTDOOR SEASONAL SALES[286]

Outdoor seasonal sales are permitted on a lot in all zoning districts, except lots occupied by residential uses, subject to the following standards:

1. Seasonal sales shall be limited to seasonal agricultural products such as Christmas trees, pumpkins, and living plants;
2. The maximum hours of operation of an outdoor seasonal sales use shall be from 8:00 AM to 11:00 PM, except when located in a residential district, then the seasonal sales use shall cease by 9:00 PM;
3. Exterior lighting shall comply with the requirements in Section <>, Exterior Lighting;
4. One recreational vehicle is allowed as a temporary dwelling for security purposes in association with the seasonal sales use, provided it meets the general standards of Section <>, Temporary Dwelling, and is removed at the end of the sales;
5. The on-site secondary sale of seasonal products by an agricultural use or retail sales use is not considered outdoor seasonal sales and is not subject to these standards; and
6. Outdoor seasonal sales shall be limited in duration to a maximum of 45 continuous days from the date the Temporary Permit is issued.

C. OTHER SPECIAL EVENTS[287]

1. EXEMPT EVENTS

A special event is not subject to the requirements in this Section, if:

a. The event lasts one day or less within a 180-day period on a lot with an established principal use; or
b. The event is sponsored by the Town, a county, or the State.

2. SUBJECT TO THIS ORDINANCE

A special event not otherwise exempted from the standards in this section is permitted on a lot in a non-residential zoning district, subject to the following standards:

a. A special event includes, but is not limited to arts and crafts shows, cultural events, musical events, concerts and stage shows, celebrations, festivals, fairs, carnivals, circuses, or outdoor religious events; and
b. Circuses, carnivals and similar amusements may be subject to the applicable provisions of the Town Code of Ordinances.

[286] New
[287] New

D. PORTABLE STORAGE CONTAINERS[288]

1. RESIDENTIAL USES

Storage in a storage container (e.g., a portable storage container) may be permitted as a temporary use to a single-family detached, single-family attached, ~~two-family~~duplex, triplex, or quadplex dwelling unit, subject to the following standards.

a. TYPES DISTINGUISHED

Storage containers shall take one of the following two forms:

i. A container used for the purposes of storage of personal property such as household items being temporarily stored or relocated; or

ii. A roll-off box, bin, or construction dumpster used for the collection and hauling of waste or debris.

b. PERMIT REQUIRED

A building permit shall not be required for a storage container, but a temporary use permit issued in accordance with Section <>, Temporary Permit, is required.

c. EXEMPTIONS

The standards in this section shall not apply to storage containers used as temporary construction trailers, construction dumpsters, or construction materials recycling facilities, provided construction on the site is on-going.

d. MAXIMUM SIZE

Containers shall be no larger in dimension than eight feet in height, eight feet in width, or 20 feet in length.

e. MAXIMUM NUMBER

No more than two storage containers shall be located on a single lot or parcel of land.

f. HAZARDOUS SUBSTANCES

Storage containers shall not be used to store or transport non-residential materials and substances, including but not limited to the following: solid waste, hazardous materials, explosives, or unlawful substances and materials.

g. LOCATION

i. A storage container may be located in a driveway, a designated parking area, or behind a dwelling.

ii. If site conditions make placement of the storage container behind a dwelling, on a driveway, or in a designated parking area impossible, then the storage container may be located immediately adjacent to the driveway or designated parking area.

iii. A storage container shall not be located between the front of a dwelling and the street it faces unless any other placement is impossible due to site conditions.

iv. In no instance shall a storage container be located within a Town street, public street right-of-way, or in a location that poses a threat to public health or safety.

h. DURATION

i. Storage containers may be located on a site for a maximum of up to 90 days per calendar year. This period may be renewed once by the Planning Director, for good cause shown, as determined in the sole discretion of the Planning Director and based upon factors outside the control of the applicant.

ii. In no instance shall these standards be construed to allow placement of one or more storage containers on a single site for more than 90 days in any single calendar year.

[288] New

2. NON-RESIDENTIAL AND MIXED USES

Storage of goods, products, or materials within a storage container (e.g., portable storage container, shipping container, etc.) may be permitted as a temporary use as part of a lawfully established non-residential or mixed-use, subject to the following standards:

a. TYPES DISTINGUISHED

Storage containers shall take one of the following four forms:

i. A portable storage container (sometimes referred to a as a "POD") used for the purposes of storage of finished goods or bulk materials within packaging;
ii. A shipping container;
iii. A roll-off box, bin, or construction dumpster used for the collection and hauling of waste or debris; or
iv. A fully-enclosed, non-motorized, trailer (commonly known as a semi-trailer) with wheels intended to be towed to a site for the purpose of storage or transport of goods, materials, or equipment.

b. PERMIT REQUIRED

A building permit shall not be required for a storage container, but a temporary use permit issued in accordance with Section <>, Temporary Permit, is required.

c. EXEMPTIONS

The standards in this section shall not apply to storage containers used as temporary construction trailers, construction dumpsters, or construction materials recycling facilities, provided construction on the site is on-going.

d. MAXIMUM SIZE

Containers shall be no larger in dimension than ten feet in height, eight feet in width, or 40 feet in length.

e. MAXIMUM NUMBER

No more than four storage containers shall be located on a single lot or parcel of land.

f. HAZARDOUS SUBSTANCES

Storage containers shall not be used to store or transport solid waste, hazardous materials, explosives, or unlawful substances and materials.

g. LOCATION

i. A storage container may be located to the side or rear of a building, but shall not be located between a primary building wall and the street.
ii. If site conditions make placement of the storage container behind or beside a building impossible, then the storage container may be located within designated parking or loading area provided such placement does not interfere with the safe operation of vehicles and provided the placement does not render the site nonconforming with respect to off-street parking space requirements.
iii. In no instance shall a storage container be located within a ~~City~~ Town street, public street right-of-way, or in a location that poses a threat to public health or safety.

h. DURATION

i. Portable storage containers may be located on a site for a maximum of up to 90 days per calendar year.
ii. In no instance shall these standards be construed to allow placement of one or more storage containers on a single site for more than 90 days in any single calendar year.

E. TEMPORARY DISASTER DWELLING[289]

A temporary disaster dwelling unit is permitted on a lot in a residential, business, special, or conditional zoning district, subject to the following standards:

1. One temporary dwelling may be used to house occupants of the principal dwelling under construction or subject to repair due to a disaster, natural or fire or other damage.
2. Temporary dwellings shall be located on the same lot as the structure under construction.
3. Temporary emergency dwellings operated by a religious institution, governmental agency, or nonprofit organization may be located to provide emergency shelter where fire, flood, or other natural disaster has displaced persons.
4. A temporary dwelling shall be removed within 30 days of issuance of a certificate of occupancy for the structure, or removed immediately if the building permit expires or is revoked.
5. A temporary dwelling shall be limited in duration to a maximum of twelve months, except that the Temporary Permit may be renewed for good cause shown.

F. TEMPORARY DWELLING[290]

A temporary dwelling is permitted on a lot while a permanent dwelling is being constructed, subject to the following standards:

1. GENERAL STANDARDS

a. A temporary dwelling may be either a dwelling that meets all applicable North Carolina Building Code requirements for a dwelling or a recreational vehicle.
b. The temporary dwelling shall be located on the lot in a manner to meet the dimensional standards of the zoning district, to the maximum extent practicable.
c. One temporary dwelling may be used to house occupants of the principal dwelling under construction or subject to repair.
d. Temporary dwellings may be used on a construction site and occupied by persons having construction or security responsibilities over such construction site.
e. Temporary dwellings shall be located on the same lot as the structure under construction.
f. The temporary use permit shall not be issued until a site plan approved or a building permit is issued for the principal structure.

2. DURATION

a. A temporary dwelling shall be removed within 30 days of issuance of a certificate of occupancy for the structure, or removed immediately if the building permit expires or is revoked.
b. A temporary dwelling shall be limited in duration to a maximum of six months, except that the temporary use permit may be renewed for good cause shown.

G. TEMPORARY FENCING

Temporary fencing shall require approval of a Temporary Use Permit in accordance with Section <>, Temporary Use Permit, and the shall be subject to the following standards:

1. Temporary fencing sections shall be adequately secured to the ground in order to prevent uplift, movement, or shifting;

[289] New
[290] New

2. Temporary fencing shall be located outside of rights-of-way unless subject to prior approval by the owner of the right-of-way;
3. Temporary fencing shall maintain a minimum height of at least four feet in accordance with OSHA regulations, but in no instance shall temporary fencing exceed a maximum height of six feet above grade.
4. Temporary fencing that includes screening cloth or other opaque material shall not be located within a required sight distance triangle.
5. Temporary fencing may be comprised of chain link, wire, or plastic, but shall comply with the standards in Section <>, Restricted Fence Materials.

~~G.~~H. TEMPORARY OFFICE[291]

1. A temporary office is permitted on a lot in a non-residential zoning district, subject to the following standards:
2. The office is located on a lot that is part of the development being sold or leased;
3. Signage complies with the standards of Section <>, Signage;
4. The office complies with the dimensional standards of the zoning district in which it is located;
5. The temporary office is converted into a dwelling or removed within 30 days after all units are sold or leased; and
6. In the event a temporary office is a trailer, it shall be removed within 30 days after all units are sold or leased.

I. TEMPORARY USES ON TOWN-OWNED LAND IN THE PUB DISTRICT[292]

1. PURPOSE AND INTENT

This section provides standards for temporary uses and structures on Town-owned lots located in the PUB zoning district. This section outlines the permitting requirements and standards for temporary uses and structures often required as a part of new projects and routine maintenance on Town facilities.

2. APPLICABILITY

The provisions of this section shall only apply lo lands under the Public Facilities (PUB) zoning district. These provisions shall apply to all types or applications regardless or the review procedures by which they are approved, unless otherwise specified in this Ordinance. These standards may be modified by other applicable standards or requirements in this Ordinance.

3. STANDARDS

At the Planning Director's discretion, a Temporary Permit may be granted for placement of mobile or modular structures in the PUB district for up to one year, subject to the following standards:

a. GENERALLY

All temporary uses and structures shall:

i. Not be placed within a public right-of-way;
ii. Meet all current zoning standards for building height, impervious surface, and setbacks;
iii. Have active Building and Zoning Permits;
iv. Be shown on an approved Site Plan and Construction Drawings;

[291] New
[292] Carries forward TA 2022-4-2 with no substantive changes.

v. Conform to structural strength and uplift requirements;
vi. Show the occupancy, means of egress, and occupant load for all temporary structures;
vii. Be provided with a portable fire extinguisher in accordance with the State Building Code;
viii. Not include permanent alterations to the site; and
ix. Not interfere with the normal operations or any permanent use on the site.

b. TEMPORARY PARKING

i. Temporary parking areas associated with uses subject to these standards may be unpaved and may be used regardless or whether a structure exists at the site.
ii. Temporary parking areas are exempt from the standards in Section <>, Off-Street Parking Lot Landscaping.

c. TEMPORARY PERMIT RENEWAL

i. Upon expiration, a Temporary Permit may be renewed for up to one year by the Town Council.
ii. A Temporary Permit approved under this section may be renewed up to two times.
iii. The maximum period of time a temporary use permitted under these standards may a be in place is three years.

d. SITE RESTORATION

Applicants shall be required to either restore the site, structure, or parking area to its original condition, or construct a permanent site, structure, or parking area in accordance with plans and permits approved in accordance with this Ordinance.

~~H.~~J. TEMPORARY WIRELESS COMMUNICATIONS FACILITY[293]

A temporary wireless telecommunications facility shall comply with the following standards:

1. A temporary wireless telecommunications facility may be allowed on a lot after a disaster or other emergency for a period not to exceed 30 days, except that the Temporary Permit may be renewed for good cause shown;
2. A temporary wireless telecommunications facility may be allowed on a lot to evaluate the technical feasibility of a site for a period not to exceed 14 days, except that the Temporary Permit may be renewed for good cause shown;
3. A temporary wireless telecommunications facility may be allowed on a lot in association with an event where the anticipated demand cannot be handled by existing facilities for a period not to exceed 14 days;
4. A temporary wireless telecommunications facility may be allowed on a lot with an existing permanent wireless telecommunications facility where the permanent structure is undergoing reconstruction or maintenance and the temporary facility is needed to maintain sufficient levels of service. The temporary facility shall be removed after reconstruction or maintenance is complete and service restored on the permanent structure; and
5. All temporary wireless telecommunications facilities, including all supporting cables and anchors, shall be contained on the lot.

[293] New

4.7 UNLISTED USES

4.7.1 PROCEDURE FOR DETERMINATION

A. In the event that a proposed principal, secondary, and temporary use type is not listed in this Ordinance, and such land use is not listed in Section <>, Prohibited Uses, or is not otherwise prohibited by law, the Planning Director shall determine whether a materially similar land use exists in this Ordinance.

B. The Planning Director shall determine whether or not an unlisted use is similar to an existing use type based on the definitions in Section <>, Terms Defined, the standards for unlisted uses in Section <>, Determination, and the appropriate table in Section <>, Use Category Descriptions. Nothing shall limit the Planning Director from seeking input from Town staff, the Planning Board, or the Town Council in making a determination of how to categorize an unlisted use.

C. Should the Planning Director determine that a materially similar land use does exist, the regulations governing that land use shall apply to the unlisted use type and the Planning Director's determination shall be recorded in writing.

D. In cases where a proposed unlisted use type is not found to be similar to an existing use type, the Planning Director may, but shall not be required to, initiate a text amendment application to revise the text of this Ordinance to add the use type in accordance with Section <>, Text Amendment.

4.7.2 USE CATEGORY DESCRIPTIONS

The following tables set out the range of use categories, use characteristics, and example use types by use classification listed in Table <>, Listing of Common Principal Uses.

A. AGRICULTURAL USE CLASSIFICATION

Table <>, Agricultural Use Categories, sets out the use categories included in the agricultural use classification in Table <>, Listing of Common Principal Uses. It also describes the characteristics and examples of the use types in each use category.

TABLE <>: AGRICULTURAL USE CATEGORIES

USE CATEGORY	CHARACTERISTICS EXAMPLES
Agricultural Processing	The Agricultural Processing Use Category is characterized by uses engaged in the storage, distribution, refinement, packaging, and transport of agricultural products and by-products.
	Example use types include grain and feed elevators, processing, caning, and dehydration plants, as well as storage facilities. Processing of animal products is an industrial use.

TABLE <>: AGRICULTURAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
Agricultural Production	The Agricultural Production Use Category is characterized by general agricultural activities, including the cultivation and production of orchard, garden, or nursery crops on a small or large scale, the production of field grown crops, specialty crops, flowers, fruit, grapes, market gardening, nursery stock, nuts, ornamental plants, sod, vegetables, and similar horticultural uses. The use category also includes agronomy, aquaculture, biotechnical agriculture (including education parks for biotechnical agriculture or a demonstration farm), fisheries, honey production, and similar uses. Secondary uses may include offices, storage areas and repair facilities related to agriculture uses.
	Example use types include agronomy, aquaculture, biotechnical, crop farming, fisheries, apiculture, silviculture, plant nurseries, and similar uses.
Agricultural Support Services	The Agricultural Support Services Use Category is characterized by commercial establishments engaged in the sales, repair, rental, and storage of tools, equipment, supplies, and machinery in support of farms, farming, agriculture, or horticulture.
	Example use types include farm equipment sales, sales of farming supplies, establishments engaged in repair, refurbishment, servicing of farm equipment (whether on-site or in a centralized location), agricultural research facilities, and similar uses.
Livestock-Related	The Livestock-Related Use Category is characterized by the commercial and non-commercial propagation, rearing, exercising, feeding, milking, housing, controlling, handling, or general care of living animals and livestock.
	Example use types include the raising and production of cattle (beef and dairy), pigs, mules, ducks, horses, goats, poultry, sheep, and similar livestock or domesticated animals. Breeding and rearing of animals typically thought of as household pets (e.g., dogs, cats, small rodents, etc.) is not animal husbandry.

B. COMMERCIAL USE CLASSIFICATION

Table <>, Commercial Use Categories, sets out the use categories included in the commercial use classification in Table <>, Listing of Common Principal Uses. It also describes the characteristics and examples of the use types in each use category.

TABLE <>: COMMERCIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
Animal Related	The Animal-Related Use Category is characterized by uses related to the provision of medical services and treatment to animals, including veterinary services, animal hospitals, and the boarding of animals related to the provision of these services.
	Examples use types include animal shelters, animal grooming, kennels (outdoor and indoor), animal hospitals, and veterinary clinics.
Eating & Drinking	The Eating and Drinking Use Category includes use types that prepare and sell food and beverages for immediate or direct on- or off-premise consumption. Secondary uses may include bars or cocktail lounges associated with the establishment, decks and patios for outdoor seating, drive-through facilities, facilities for live entertainment or dancing, customer and employee parking areas, and valet parking facilities.
	Example use types include restaurants (including brewpubs) with indoor and outdoor seating, caterers, restaurants, specialty eating establishments (ice cream parlors, bakery shops, dessert shops, juice or coffee houses). Secondary uses may include bars or cocktail lounges associated with the establishment, decks and patios for outdoor seating, drive-through facilities, facilities for live entertainment or dancing, customer and employee parking areas, and valet parking facilities.
Equipment Related	The Equipment-Related Use Category is characterized by commercial establishments engaged in the rental and repair of large and small equipment, tools, tables, chairs, party supplies, plants, and similar features available for short term rental for consideration.
	Example use types include tool rental, and heavy and light equipment repair/refurbishment uses.
Event Venue	The Event Venue Use Category is characterized by establishments that provide gathering spaces and facilities available for conducting events, receptions, and similar shared experiences. Such facilities are rented hourly or by the day, and may include dining, catering, and activity areas. Secondary uses may include classrooms, accommodations, and equipment storage.
	Example use types include conference halls, conference centers, retreats, wedding venues, and similar spaces.
Financial Services	The Financial Services Use Category includes use types engaged in the provision of financial advice, savings, making of loans, and secure storage of currency or similar valuables.
	Example use types include banks, credit unions, investment offices, payday loan establishments, credit counselling, and pawn shops.
Lodging	The Lodging Use Category includes use types that provide lodging units or space for short-term stays for rent, lease, or interval occupancy. Secondary uses may include pools and other recreational facilities, limited storage, restaurants, bars, supporting commercial, meeting facilities, offices, and parking.

TABLE <>: COMMERCIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include hotels, motels, bed and breakfast inns, extended stay facilities, campgrounds and hunting lodges.
Office Related	The Office Use Category includes use types that provide for activities that are conducted in an office setting and generally focus on business, professional, or financial services. Secondary uses may include cafeterias, day care facilities, recreational or fitness facilities, parking, supporting commercial, or other amenities primarily for the use of employees in the business or building.
	Example use types include business and sales offices (such as tax preparers, and real estate agents), and professional services (such as lawyers, accountants, engineers, or architects). Offices that are part of and located with a principal use in another use category are considered secondary to the establishment's primary activity. Contractors and others who perform services off-site are included in the Offices Use Category if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site. Government offices and medical and dental clinics, medical or dental labs, and blood collection facilities are classified as Institutional uses.
Parking Related	The Parking-Related Use Category includes uses engaged in the provision of short-term, temporary off-site parking for automobile, trucks, motorcycles, battery powered vehicles, and similar vehicles intended for personal transport. Such uses may or may not permit the temporary storage of trailers and similar vehicle-related appurtenances.
	Example use types include parking lots and parking structures. Uses engaged in sales or rental are vehicle-related uses.
Personal Services	The Personal Service Use Category is characterized by use types related to the provision of services or product repair for consumers. Personal services use types meet frequent or recurrent service needs of a personal nature, including the repair of small personal items such as shoes, watches, jewelry, and clothing.
	Example use types include laundromats, laundry and dry-cleaning drop-off establishments, photographic studios, mailing or packaging services, photocopy and blueprint services, funeral homes, fitness centers, locksmiths, hair salons and barber/beauty shops, tanning and nail salons, tattoo parlors and body piercing establishments, massage therapy and day spas, dance or music instruction, and psychics or mediums.
Recreation Related	The Recreation-Related Use Category is characterized by use types that provide recreational, amusement, and entertainment opportunities that are privately-owned and commercial in nature. Uses may be either indoors, outdoors, or both.

TABLE <>: COMMERCIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include recreational uses occurring outdoors (private golf driving ranges and privately-owned miniature golf facilities; go-cart racing, race-track, or dirt-track facilities; water parks, and amusement parks; and privately-owned active sports facilities), billiard halls, indoor commercial recreation uses, bowling alleys, movie theatres, dance and yoga studios, fitness centers, sports instructional schools, martial arts instruction, and similar uses.
Retail Sales	The Retail Sales Use Category includes use types involved in the sale, lease, or rent of new or used products primarily intended for the general public. Secondary uses may include offices, storage of goods, limited assembly, processing, or repackaging of goods for on-site sale, concessions, ATM machines, outdoor display/sales areas, and parking. Use types within this use category are categorized based on their intensity, scale, and function.
	Example use types include stores selling, leasing, or renting consumer, home, and business goods, whether new or used, including art and art supply stores, audio/video stores, bicycle sales, book stores, clothing stores, convenience stores, department stores, dry good sales, electronic equipment stores, fabric shops, furniture stores, florist shops, garden supply centers, gift shops, grocery stores, hardware stores, stores that sell household products, jewelry stores, office supply stores, pet and pet supply stores, and pharmacies. Secondary uses may include storage of products for sale, offices, concessions, seating areas, areas for testing of products prior to purchase, and provision of product-related service or repair.
Sexually-Oriented Business	An adult use as defined in Section 14-202.10(2) of the North Carolina General Statutes.
Storage Related	The Storage-Related Use Category includes uses engaged in the temporary short-term storage of goods, personal property, vehicles, and similar aspects in off-site areas. Storage of goods can take place in indoor and outdoor facilities.
	Example use types include self-storage facilities.
Vehicle Related	The Vehicle-Related Use Category includes use types involving the direct sale; rental; storage; and servicing of automobiles, trucks, boats, motorcycles, recreational vehicles, and other consumer motor vehicles intended to transport persons or goods over land or water or through the air, whether for recreation, commerce, or personal transport. Secondary uses may include offices, sales of parts, maintenance facilities, parking, outdoor display, and vehicle storage.

TABLE <>: COMMERCIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include vehicle sales or rentals; automotive repair and servicing; automotive painting/bodywork; boat and marine sales or rental; aircraft parts, sales, and maintenance; transmission shops; automotive wrecker services; oil change, state vehicle inspection, and muffler shops; automotive parts sales and maintenance; car wash and auto detailing; and tire sales and mounting services.

C. INDUSTRIAL USES

Table <>, Industrial Use Categories, sets out the use categories included in the industrial use classification in Table <>, Listing of Common Principal Uses. It also describes the characteristics and examples of the use types in each use category.

TABLE <>: INDUSTRIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
Energy Related	The Energy-Related Use Category is characterized by establishment engaged in the industrial-scale production of energy (electricity).
	Example use types include solar energy conversion, wind energy conversion, geothermal, and gas energy conversion activities, as well as coal-fired plants, natural gas plants, and hydro-electric facilities.
Extractive Industry	The Extractive Industry Use Category includes use types involving the extraction, removal, or basic processing of minerals, liquids, gases, or other natural resources. Such uses also include quarrying, well operation, drilling, mining, or other procedures typically done at an extraction site. Secondary uses may include offices, limited wholesale sales, security or caretaker's quarters, outdoor storage, and maintenance facilities.
	Examples use types include quarries, borrow pits, mining, and sand and gravel operations.
Flex Space	The Flex Space Use Category includes uses engaged in the provision of covered floor area available for short-term or long-term rental for the conduct of light industrial, assembly, storage, office, and related functions.
	Example use types include industrial floor area that is available for rental and configuration as a wide variety of use types.

TABLE <>: INDUSTRIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
Industrial Services	The Industrial Services Use Category includes use types involving the repair or servicing of industrial, business, or consumer machinery equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Secondary activities may include limited retail or wholesale sales, offices, parking, warehousing, and outdoor storage.
	Example use types include machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; heavy equipment sales, rental, or storage; heavy equipment servicing and repair; building, heating, plumbing, or electrical contractors; fuel oil or bottled gas distributors; research and development facilities; laundry, dry-cleaning, and carpet cleaning plants; and general industrial service uses. Contractors and others who perform services off-site are included in the Office Use Category under Commercial Use Classification if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.
Manufacturing	The Manufacturing Use Category includes use types involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. The use category also includes custom industries (establishments primarily engaged in the on-site production of goods by use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, such sales are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Secondary uses may include retail or wholesale sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, fueling facilities, security and caretaker's quarters.
	Manufacturing uses include, but are not limited to: manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; lumber mills, pulp and paper mills, the manufacture of other wood products; production or repair of small machines or electronic parts and equipment; and similar uses.
Utility-Related	The Utility-Related Use Category is characterized by activities associated with the provision of a utility or infrastructure-related service such as electricity distribution, potable water treatment, storage, or delivery, wastewater collection, storage, or treatment. Facilities are classified as major or minor depending upon their impacts or scale.

TABLE <>: INDUSTRIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include potable water treatment plants, utility equipment and storage yards, utility substations, water towers, pump stations, stormwater management facilities, telephone exchanges, and facilities serving transit.
Warehouse-Related	The Warehouse-Related Use Category includes use types involving the storage or movement of goods for themselves or other firms or businesses. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Secondary uses include offices, truck fleet parking, outdoor storage, and maintenance areas.
	Example use types include separate storage warehouses (used for storage by retail stores such as furniture and appliance stores); distribution warehouses (used for distribution by trucking companies; cold storage plants; and outdoor storage (as a principal use). Self-storage is a commercial use type.
Waste-Related	The Waste-Related Use Category includes use types that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. This use category also includes use types that receive wastes from others. Secondary uses may include offices, outdoor storage, recycling of materials, and repackaging and trans-shipment of by-products.
	Example use types include recycling and salvage centers, convenience centers, transfer stations, land clearing and construction debris landfills, tire disposal or recycling, waste composting, incinerators, energy recovery plants, salvage yards and junkyards, and recycling drop-off centers.
Wholesale Sales	The Wholesale Use Category includes use types involving the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or taking of orders and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer. Secondary uses may include offices, product repair, warehouses, minor fabrication services, outdoor storage, and repackaging of goods.
	Example use types include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; mail order houses; and wholesalers of food, clothing, plants and landscaping materials, auto parts, and building hardware.

D. INSTITUTIONAL USES

Table <>, Institutional Use Categories, sets out the use categories included in the institutional use classification in Table <>, Listing of Common Principal Uses. It also describes the characteristics and examples of the use types in each use category.

TABLE <>: INSTITUTIONAL USE CATEGORIES

USE CATEGORY	CHARACTERISTICS EXAMPLES
Assembly	The Assembly Use Category is characterized by uses and facilities that bring people together for the purposes of learning or discussion, worship, recreation, or as part of a fraternal organization. Secondary uses may include entertainment or recreation facilities, day care, food preparation facilities, offices, parking, and similar features.
	Example use types include auditoriums, community centers, fraternal clubs, lodges, and religious institutions. Schools are included in the education related category.
Cultural Facility	The Cultural Facility Use Category includes use types of a public, nonprofit, or charitable nature that provide cultural amenities and educational services. Services and facilities typically include meeting areas, display areas, recreational features, as well as indoor facilities used primarily for business or professional conferences, seminars, and training programs. Generally, such uses are open to or provide services to members of the general public. Secondary uses may include parking, training facilities, kitchens/cafeterias, recreation areas, offices, meeting rooms, storage, food sales or consumption.
	Example use types include museums, libraries, senior centers, youth clubs, and art galleries.
Day Care	The Day Care Use Category includes use types that provide care, protection, and supervision for children or adults on a regular basis away from their primary residence, and for less than 24 hours a day. Care can include education and development activities. Care can be provided during daytime or nighttime hours. Secondary uses include offices, food preparation, recreation areas, and parking.
	Example use types day care centers, nurseries, nursery schools, adult day care facilities. Home day care is considered a secondary use. Drop-in or short-term day care provided in connection with employment or at a shopping center, recreational facility, religious institution, hotel, or other principal uses are not included in the Day Care Use Category.
Education Related	The Educational Use Category is characterized by uses engaged in the provision of educational services to children and adults, whether through public or private learning institutions. Secondary uses include living quarters, food preparation facilities, recreational facilities, offices, gathering spaces, and related activities.
	Example use types include primary and secondary schools, colleges, vocational schools, and establishments engaged in providing training whether for profit or as a community service.

TABLE <>: INSTITUTIONAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
Governmental Related	The Government-Related Use Category includes facilities and establishments engaged in governance and the provision of governing-related services, public safety, and operations.
	Example use types include governmental offices, governmental maintenance facilities, post offices, law enforcement facilities, fire stations, and similar uses.
Health Care	The Health Care Use Category includes use types that provide medical or surgical care and treatment to patients as well as laboratory services. Secondary uses may include offices, laboratories, laundry facilities, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, housing for staff or trainees, and limited accommodations for family members.
	Example use types include hospitals, outpatient medical facilities, urgent care providers, medical offices (doctors, dentists, radiologists, etc.), clinics, congregate care, memory care, drug and alcohol treatment facilities, psychiatric treatment facilities, and blood/tissue collection facilities.
Open Space	The Open Space Use Category includes use types that focus on open space areas largely devoted to vegetative landscaping or outdoor recreation and that tend to have few structures. Secondary uses may include club houses, recreational structures, statuary, fountains, maintenance facilities, concessions, parking, and columbaria and mausoleums (as secondary to cemeteries).
	Example use types include arboretums or botanical gardens, parks, community gardens, areas of undisturbed vegetation on land owned by the public or a conservation entity, and cemeteries.
Recreation Related	The Recreation Use Category includes active and passive recreation uses and facilities (whether indoor or outdoor) that are available for use by the general public or by the residents of a neighborhood or community.
	Example use types include athletic fields or courts, swim clubs, country clubs, golf courses, indoor recreation uses, and similar facilities.
Telecommunications	The Telecommunications Use Category is characterized by uses and facilities engaged in the provision of wireless telecommunication signals and information.
	Example use types include telecommunications antennae, signal processing equipment, antenna supporting structures, broadcasting studio and broadcasting towers.
Transportation	The Transportation Use Category includes use types that provide for the landing and takeoff of airplanes and helicopters, and passenger terminals for surface transportation. Secondary uses may include freight handling areas, concessions, offices, parking, maintenance, and fueling facilities.

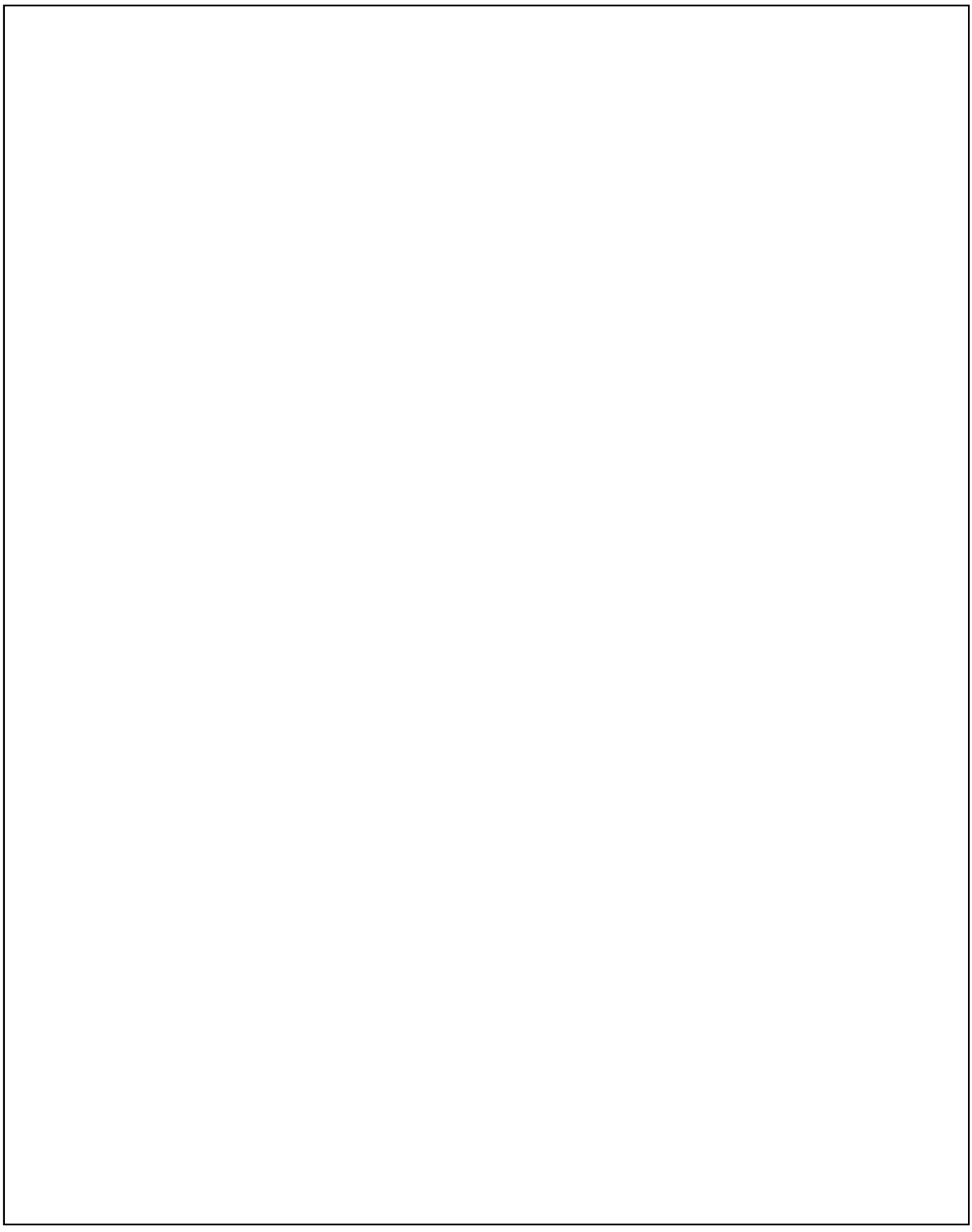
TABLE <>: INSTITUTIONAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include airports, helicopter landing facilities, and passenger terminals for ground transportation (train, bus). Transit route facilities such as bus stops, bus shelters, and park-and-ride facilities are classified as Utilities.

E. RESIDENTIAL USES

Table <>, Residential Use Categories, sets out the use categories included in the residential use classification in Table <>, Listing of Common Principal Uses. It also describes the characteristics and examples of the use types in each use category.

TABLE <>: RESIDENTIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
Assisted Living	The Assisted Living Use Category is characterized by establishment providing residential occupancy to unrelated individuals in need of care, treatment, or assistance. Assistance may take the form of daily life care, specialized medical care, counselling, addiction, or fostering services.
	Example use types include congregate care, nursing homes, rehabilitation centers, and retirement communities.
Group Living	The Group Living Use Category includes use types that provide for the residential occupancy of a structure by a group of people who do not meet the definition of "household." The size of the group may be larger than the average size of a household. Tenancy is typically arranged on a monthly or longer basis. Generally, group living structures have a common eating and or congregating area for residents. The residents may receive care, training, or treatment. Secondary uses include recreational facilities, dining facilities, and parking of vehicles for occupants and staff.
	Example use types include dormitories, family care homes, group homes, rooming, boarding houses, and similar uses. Facilities for rehabilitation or the treatment of addiction are considered assisted living facilities.
Household Living	The Household Living Use Category includes use types that provide for the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Secondary uses commonly associated with household living are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations are secondary uses that are subject to additional regulations.

TABLE <>: RESIDENTIAL USE CATEGORIES	
USE CATEGORY	CHARACTERISTICS EXAMPLES
	Example use types include detached residential dwellings like single-family detached dwellings or manufactured homes, attached residential structures like townhouses, multi-family uses, upper story dwellings, and similar uses.



CHAPTER 5
NONCONFORMITIES

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KEY CHANGES FROM CURRENT UDC

Chapter 5, Nonconformities, expands on the current standards in Section 155.110 of the UDC with several new provisions. This chapter adds standards for nonconforming signs and several other key changes, including:

1. The inclusion of new purpose and intent statements.
2. An allowance for routine maintenance, strengthening, and elevation of a nonconformity above the regulatory floodplain elevation.
3. Recognizes distinctions between development on nonconforming lots in downtown, residential, and non-residential districts.
4. Clarifies that governmental acquisition of land (for features like public infrastructure) will not render an existing lot of record nonconforming.
5. Specifies that special purpose lots no longer used for their previous special purposes shall be treated as nonconforming lots of record.
6. Establishes new standards for relocation, repair, and removal of nonconforming signage, including limitations on the digitization of nonconforming outdoor advertising signs.
7. Requires removal of existing nonconforming signage prior to placement of new ground signs or electronic message boards (where such signage is permitted).
8. Incorporates a new approach to nonconforming site features (parking, landscaping, screening, open space, fences/walls, and lighting) that requires full compliance only with a change in use, reconstruction of a demolished building, or additions/expansions exceeding 75% of the structure's assessed value. This removes disincentives for redevelopment of sites with nonconforming site features.
9. Adds clarity regarding how to address structures that are nonconforming with respect to applicable design standards and how to handle reconstruction of nonconforming structures following casualty damage.
10. Includes new provisions that permit expansions to nonconforming single-family detached homes and provides guidance for replacement of a nonconforming manufactured or mobile home.
11. Provides additional detail about reconstruction of a nonconforming use following casualty damage.
12. Includes a new provision that in cases where land with a nonconforming use is subject to an application for a rezoning, the nonconforming use must be permitted in the new district, or must be removed prior to the application approval.

5.1 CHAPTER INTRODUCTION[294]

5.1.1 PURPOSE AND INTENT

There are existing structures, uses of land, signs, and lots of record that were lawfully established before the effective date of this Ordinance or a subsequent amendment thereto, that now do not conform to standards and requirements of this Ordinance. Such uses, structures, signs, and lots are collectively referred to as "nonconformities" that are subject to the standards in this Chapter. The purpose of this Chapter is to establish the rules under which nonconformities may continue and how their continued existence may be affected by changing conditions. More specifically, these standards are intended to:

A. Allow lawfully-established nonconformities to continue;

B. Encourage routine maintenance and activities necessary to preserve or improve public safety associated with a lawful nonconformity;

C. Foster compliance with development and design standards as part of redevelopment or expansion of a nonconforming site;

D. Clarify how certain nonconformities may be continued or re-established following casualty damage;

E. Limit the re-establishment of a nonconformity following its discontinuance; and

F. Require removal of nonconforming signage following cessation of the use being advertised.

5.1.2 DETERMINATION OF NONCONFORMING STATUS[295]

In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the owner of the land on which the nonconformity is located.

5.1.3 MAINTENANCE, MINOR REPAIRS, AND CONTINUATION ALLOWED

A. CONTINUATION

Nonconformities are allowed to continue in accordance with the requirements of this Chapter.

B. COMPLETION

1. Nonconforming projects incomplete as of (*insert the effective date of this Ordinance*), shall only be completed in accordance with this Chapter and Section <>, Existing Nonconformities.
2. Nothing in these standards shall require a change in approved plans or uses for development upon which construction was lawfully commenced prior to (*insert the effective date of this Ordinance*) even though the development is nonconforming.

C. MAINTENANCE ALLOWED

Incidental or minor repairs and routine maintenance necessary to keep a nonconformity in safe and sound condition are permitted and encouraged. Activities that amount to an expansion of a nonconformity may only be permitted in accordance with the provisions of this Ordinance.

[294] This chapter replaces the standards in Section 155.110 of the UDC. It clarifies that the burden of demonstrating lawful existence is on the applicant or landowner, not the Town. These standards allow nonconformities to remain and be maintained, even strengthened or otherwise improved if doing so is in the interest of public safety. The standards address uses, lots, and structures just like the current requirements, but also address signage. In addition, there is a new more detailed set of provisions addressing nonconforming site features that is proposed with a flexible approach to current UDO compliance so as to avoid disincentives for redevelopment or improvement of developments that conform with use and dimensional standards, but don't meet the new development or design standards.

[295] This replaces a large portion of Section 155.110(B) and does not carry forward language about a use being in continuous operation during business hours since cessation or abandonment must be total, not partial.

D. STRENGTHENING ALLOWED

1. Nothing in this Ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by a duly authorized Town official.
2. Nothing shall prevent the elevation of habitable or conditioned floorspace to a point above the regulatory floodplain or freeboard elevation, as appropriate.

5.1.4 TENANCY AND OWNERSHIP CHANGES

Nonconforming status shall run with the land and is not affected by a change in tenancy, ownership, or management.

5.1.5 OVERLAY ZONING DISTRICTS

Nonconformities located on lots within an overlay zoning district shall be subject to the standards for the overlay district in accordance with Section <>, Overlay Districts.

5.2 NONCONFORMING LOTS OF RECORD[296]

5.2.1 APPLICABILITY

Lawfully established nonconforming lots of record may be developed in accordance with the standards in this section.

5.2.2 NONCONFORMING LOT WIDTH OR AREA

A. SINGLE LOT OF RECORD IN A DOWNTOWN OR RESIDENTIAL ZONING DISTRICT

1. When a lawfully-established single lot of record in a downtown or residential zoning district has a lot width or area that does not conform to the dimensional requirements of the district where it is located, a single-family detached dwelling may be built on the lot, provided the dwelling complies with the applicable setback standards to the maximum extent practicable.
2. In cases where the single-family detached dwelling is a manufactured or mobile home, such dwelling may only be established in zoning districts that permit such uses, and the dwelling shall comply with applicable setback standards, to the maximum extent practicable.
3. An Administrative Adjustment or Variance to lot width or lot area shall not be required to establish a single-family detached dwelling as a principal structure on lots subject to these standards.

B. SINGLE LOT OF RECORD IN A NON-RESIDENTIAL ZONING DISTRICT

1. When a lawfully-established single lot of record in a non-residential or mixed-use zoning district has a lot width or area that does not conform to the dimensional requirements of the district where it is located, then development on the lot may be permitted, subject to compliance with all other required dimensional, development, and design standards.
2. An Administrative Adjustment or Variance to lot width or lot area standards shall not be required to establish permitted principal structures on lots subject to these standards.

C. LOTS WITH CONTIGUOUS FRONTAGE IN ONE OWNERSHIP

Whenever two or more contiguous vacant lots are in single ownership, and the lots individually or together have less minimum lot area than is required for the zoning district where located, such lots shall be combined via an Exempt Subdivision or Minor Subdivision in order to reduce the nonconformity.

D. ADDITION OF LAND ENCOURAGED

Landowners seeking to develop a nonconforming lot of record are strongly encouraged to investigate if adjacent landowners will consider transferring land to the nonconforming lot in order to reduce or remove the nonconforming situation.

5.2.3 NONCONFORMITY AFFECTS SETBACKS

A. In cases where the size or shape of a nonconforming lot inhibits the ability of a use to comply with required setbacks, an applicant may apply to reduce the setback requirements the minimum amount necessary in accordance with the standards and requirements in Section <>, Administrative Adjustment, or Section <>, Variance.

[296] Replaces 155.110(C).

B. Development of a single-family detached dwelling on a lawfully-established nonconforming lot of record within a downtown or any residential zoning district shall comply with the applicable setbacks to the maximum extent practicable., but shall not be required to request an Administrative Adjustment or a Variance.

5.2.4 FURTHER SUBDIVISION LIMITED

The boundaries, shape, or size of a nonconforming lot may be modified in accordance with Section <>, Minor Subdivision, provided such modification ~~reduces~~ does not increase the extent of the nonconformity.

5.2.5 GOVERNMENTAL ACQUISITION OF LAND

Lawfully-established conforming lots of record subject to governmental acquisition of a portion of the lot for a public purpose where the acquisition results in the lot no longer complying with required minimum lot area, width, or setback standards of the district shall be deemed conforming provided the development complies with the following:

A. COMPLIES WITH USE TABLE

The development proposed complies with the requirements in Table <>, Listing of Common Principal Uses; and

B. COMPLIES WITH APPLICABLE USE-SPECIFIC STANDARDS

The development continues to apply with all applicable use-specific standards in Section <>, Standards or Specific Principal Uses.

5.2.6 NONCONFORMING SPECIAL PURPOSE LOT

In cases where a use or feature on a lawfully-established special purpose lot ceases or is abandoned, the special purpose lot shall be considered a nonconforming special purpose lot. Development on a nonconforming special purpose lot shall comply with all applicable dimensional requirements of the zoning district where it is located, or shall be subject to an approved Administrative Adjustment or Variance.

5.3 NONCONFORMING SIGNS[297]

5.3.1 APPLICABILITY

A sign that was legally in existence on (*insert the effective date of this Ordinance*), and was constructed in accordance with the applicable laws and ordinances in effect, but by reason of its size, height, location, design, or construction is no longer in compliance with the requirements of this Ordinance, shall be deemed a nonconforming sign subject to the standards in this section.

5.3.2 MAINTENANCE OF NONCONFORMING SIGNAGE ALLOWED

A nonconforming sign may remain in place and be maintained, subject to the following standards:

A. MAINTENANCE ACTIONS

Routine maintenance of a nonconforming sign shall be allowed, and shall be limited to the following:

1. Nonstructural repairs, such as repainting or electrical repairs;
2. Incidental alterations which do not increase the degree or extent of the nonconformity; and
3. Changing of copy, as provided in this section.

B. CHANGE OF SIGN COPY

Nonconforming signs may change copy in the form of replacement panels or replacement lettering, provided such change does not impact or reduces the degree of nonconformity.

C. DIGITIZATION

In no instance shall a non-digital existing sign be replaced with a new digital sign. This prohibition includes digitization of existing ~~nonconforming~~ outdoor advertising.

~~5.3.3 PROHIBITED ACTIONS~~

~~The following actions associated with a nonconforming sign shall be prohibited:~~

~~A.~~D. ENLARGEMENT OR ALTERATION

Structural alteration, enlargement, or extension of a nonconforming sign or sign structure shall not be permitted; however, nothing shall limit the ability to modernize an existing and lawfully permitted outdoor advertising ~~use~~ sign type in accordance with NCGS§136.131.2. ~~; and~~

~~B. RELOCATION~~

~~Relocation of a nonconforming sign upon the premises, unless the relocation meets the requirements of this Ordinance; however, nothing shall limit the ability to modernize an outdoor advertising use in accordance with NCGS§136.131.2.~~

~~5.3.4~~5.3.3 REPLACEMENT OF NONCONFORMING SIGNAGE

A. REMOVAL

A nonconforming sign that is removed for any reason shall only be replaced with a sign that complies with the provisions of this Ordinance.

[297] This is a new section.

B. RELOCATION[298]

1. A nonconforming sign may be relocated on the same lot or within the same development provided:
   ~~1.~~a. The need for relocation results solely from right-of-way acquisition or roadway construction;
   ~~2.~~b. The relocation complies with the applicable requirements of this Ordinance, including Section <>, Outdoor Advertising; and
   c. The amount of nonconformity is not increased.
~~3.~~2. A lawfully established nonconforming outdoor advertising sign located on property that is annexed for development may be relocated through approval of a Development Agreement (see Section <>, Development Agreement) or Annexation Agreement, provided the outdoor advertising complies with the applicable requirements in Section <>, Sign Standards by Signage Type. In no instance shall a nonconforming outdoor advertising sign be relocated to a zoning district that prohibits such forms of signage.

~~C. REPLACEMENT~~

~~Nonconforming signage that is or becomes inoperable may be replaced, provided the nonconforming aspect of the signage is not increased in any way.~~

~~D.~~C. DAMAGE

1. If damage to a nonconforming sign from any cause is less than 50 percent of its replacement cost, the sign may be rebuilt or repaired to its original condition in its original location and may continue to be displayed as long as the use it serves remains in operation.
2. If damage from any cause to a nonconforming sign equals or exceeds 50 percent of its replacement cost, the nonconforming sign, including sign supports and mounting hardware, may only be replaced with a sign that complies with the provisions of this Ordinance.
3. For the purposes of this section, "replacement cost" shall be a figure provided by the applicant. The Town may require review of the proposed replacement cost by a qualified third party. The Town staff may determine a reasonable replacement costs based upon this third party review. Town decisions on the amount of a replacement cost may be appealed in accordance with Section <>, Appeal.

D. CESSATION OF USE BEING ADVERTISED

In cases where the principal use being advertised by a nonconforming sign is abandoned or ceases for a period of 180 days or more, then the nonconforming sign shall be removed or altered to make it conforming with respect to the applicable requirements in this Ordinance.

E. LOTS WITH NONCONFORMING SIGNAGE

In cases where development that includes nonconforming signage seeks to establish a new ground sign or electronic message board, the nonconforming signage shall be removed from the site prior to the establishment of the new ground signage or electronic message board.

5.3.4 AMORTIZATION OF NONCONFORMING OUTDOOR ADVERTISING

Outdoor advertising located on property that is annexed into Town limits, and properly relocated billboards as allowed by this section, shall be removed within the timeframe established within a

[298] Includes the text amendments in 2023-05-05 pertaining to relocated outdoor advertising.

Development Agreement or annexation agreement but not to exceed 15 years from the date of annexation.

5.4 NONCONFORMING SITE FEATURES[299]

5.4.1 APPLICABILITY

A. Applications that include any of the following actions shall address nonconforming site features in accordance with the standards in this section:

1. Changes of principal use within an existing single-tenant structure;
2. Demolition of all or substantially all of an existing principal structure;
3. Expansion to the floor area of an existing principal structure totaling 75 percent or more of the structure's assessed value; or
4. Expansion of the outdoor use area of 50 percent or more.

B. For purposes of this section, the term "nonconforming site features" includes only the following:

1. Nonconforming off-street parking;
2. Nonconforming landscaping;
3. Nonconforming screening;
4. Nonconforming open space set-aside;
5. Nonconforming walls or fences; and
6. Nonconforming exterior lighting.

C. Town staff may develop administrative guidelines to assist in the implementation of this section, including guidelines for the resolution of conflicts when it may not be possible for one or more types of nonconforming site features to be brought into compliance with the requirements of this Ordinance because of particular site constraints or impacts on adjacent sites.

D. Applications for development on sites with existing structures that do not comply with applicable design standards shall be subject to the applicability standards in Section <>, Mixed-Use Design Standards, Section <>, Multi-Family Design Standards, or Section <>, Non-Residential Design Standards, as appropriate.

5.4.2 DETERMINATION OF COST AND ASSESSED VALUE

A. For purposes of determining if upgrading of nonconforming site features is required by this section, the cost of the expansion shall be as shown on the approved building permit application. In cases where no building permit is required, the applicant shall provide a written cost estimate detailing the cost of the expansion. The Planning Director may require a written cost estimate to be reviewed by a licensed professional engineer to ensure accuracy.

B. Assessed value shall be based on the most recently available tax records from the county where the development is located.

5.4.3 CHANGE OF USE

A. Except on lots in the Downtown district, in cases where an existing principal use in a single-tenant building is replaced by a different use type, or a vacant principal structure is proposed for occupancy by a new principal use, all nonconforming site features shall be brought into full compliance with all applicable requirements in this Ordinance.

B. In cases where the principal use within a principal structure on a lot within the Downtown district is subject to a change in use, nonconforming site features associated with screening, fences, walls,

[299] This is a new section that replaces Section 155.110(F). These standards recognize that many of the existing developed sites in the Town will not comply with some of the new development or design standards. While the current provisions require any addition or expansion to an existing building to bring the site up to full compliance with the current requirements, this kind of standard can be a disincentive to redevelopment (based on the cost or reaching compliance). To address this issue, these standards propose a more flexible approach to compliance that allows additions, expansions, and revisions of site features without requiring full code compliance, based on the value of the improvement. Certain activities costing less than half of the site's current value may take place without reaching full code compliance.

and exterior lighting shall be brought into full compliance with all applicable requirements of this Ordinance. Full compliance with off-street parking, landscaping, or open space set-aside shall not be required, but are encouraged.

5.4.4 RECONSTRUCTION OF PRINCIPAL STRUCTURE

If all or substantially all of a principal structure is demolished and a new principal structure or structures is proposed, all nonconforming site features shall be brought into full compliance with all applicable requirements in this Ordinance.

5.4.5 EXPANSION OF EXISTING PRINCIPAL STRUCTURE

If an existing principal structure on a lot with nonconforming site features is expanded, the expansion shall require correction of existing nonconforming site features in accordance with this section.

A. 75 PERCENT OR LESS OF STRUCTURE VALUE

Expansions in any one-year period that cost 75 percent or less of the current assessed value of the principal structure shall not require any correction to nonconforming site features.

B. MORE THAN 75 PERCENT OF STRUCTURE VALUE

Expansions to the floor area of an existing principal structure in any one-year period that cost more than 75 percent of the current assessed value of the structure shall require all nonconforming site features be brought into full compliance with all applicable requirements in this Ordinance.

5.4.6 EXPANSION OF OUTDOOR USE AREA

When existing or new outdoor use area other than that necessary for accommodating required off-street vehicular parking spaces or open space set-aside is increased by 50 percent or more, all nonconforming site features shall be brought into full compliance with all applicable requirements in this Ordinance.

5.4.7 TWO OR FEWER ADDITIONAL PARKING SPACES

In cases where two or fewer additional vehicular off-street parking spaces are required as a result of a change in use, demolition, or expansion, the additional vehicular off-street parking shall not be not required to be installed, but the applicant may install a comparable number of bicycle parking spaces.

5.4.8 PHYSICALLY-CONSTRAINED PROPERTIES

Only those lands that are physically constrained due to limited lot area, topography, or other environmental considerations may seek a reduction to these standards in accordance with Section <>, Administrative Adjustment, or Section <>, Variance.

5.5 NONCONFORMING STRUCTURES[300]

5.5.1 APPLICABILITY

Nonconforming principal and secondary[301] structures shall be subject to the standards in this section.

5.5.2 CONTINUATION AND REPLACEMENT

A. CONTINUATION

A nonconforming structure may be continued in accordance with Section <>, Maintenance, Minor Repairs, and Continuation Allowed.

B. REPLACEMENT

1. Nonconforming manufactured or mobile homes may be replaced in accordance with the standards in Section <>, Nonconforming Manufactured or Mobile Homes.
2. Nothing shall limit activities that increase habitable space of a nonconforming residential structure to a height above the regulatory flood elevation.

C. RELOCATION

A nonconforming structure shall not be moved, in whole or in part, to another location on the parcel of land on which it is located, unless the relocation removes the nonconformity.

5.5.3 ALTERATION AND EXPANSION

A. No nonconforming structure may be altered in any way which increases the nonconformity; however, any nonconforming structure or portion thereof may be altered to decrease the degree of nonconformity.

B. Additions or expansions to a nonconfoming structure that encroaches into a required setback may be permitted provided that no portion of the addition or expansion is closer to a lot line than the closest point of the existing nonconforming structure.

C. Nothing shall limit the elevation of a residential structure as necessary to ensure habitable floor area is outside the regulatory flood elevation provided that the maximum height of the structure is in compliance with the standards for the district where it is located.

5.5.4 COMPLIANCE WITH DESIGN STANDARDS

Applications for expansions, alterations or additions to existing principal nonconforming structures that do not comply with applicable design standards shall be subject to the applicability standards in Section <>, Mixed-Use Design Standards, Section <>, Multi-Family Design Standards, or Section <>, Non-Residential Design Standards, as appropriate.

5.5.5 RECONSTRUCTION FOLLOWING DAMAGE

A. Except for single-family detached dwellings, if a nonconforming structure is damaged or destroyed by any means to an extent of 51 percent or more of its replacement cost or size, it may only be reconstructed in accordance with the requirements of this Ordinance.

B. Nonconforming single-family detached dwellings damaged or destroyed by any means may be restored or reconstructed to the pre-damaged state regardless of the degree of damage or cost of restoration or reconstruction. In no instance shall the restoration or reconstruction increase the level of nonconformity.

[300] This section replaces Section 155.110(E).

[301] Added "accessory" since they don't seem to be referenced elsewhere.

5.6 NONCONFORMING USES[302]

The lawful nonconforming use of a structure, land, or water existing as of *(insert the effective date of this Ordinance*), may only be continued in accordance with the standards in this section. The standards in this section shall apply to both principal and secondary uses unless otherwise indicated.

5.6.1 DECLARED INCOMPATIBLE

All nonconforming uses are hereby declared generally incompatible with the permitted uses in the district in which they are located and with the provisions of this Ordinance.

5.6.2 CONTINUATION ALLOWED

Nonconforming uses are allowed to continue, be maintained, and strengthen in accordance with the requirements of this Chapter.

5.6.3 INCREASING ELEVATION

Nothing in this section shall limit the increase in elevation of an existing or damaged building or structure in the Flood Protection Overlay District to a height above the regulatory flood elevation.

5.6.4 SEPARATION REQUIREMENTS

In cases where a use type is lawfully established and in compliance with the applicable standards of this Ordinance, and another use type is subsequently established within a minimum required separation distance required by Section <>, Standards for Specific Principal Uses, the initial existing use shall not be rendered nonconforming.

5.6.5 EXTENSION OR EXPANSION

A nonconforming use shall not be extended or expanded to occupy more space or altered in any way that increases the degree of nonconformity, except in accordance with the following standards:

A. SINGLE-FAMILY DETACHED DWELLINGS

1. ADDITIONS

a. A lawfully-established nonconforming single-family detached residential dwelling that is a principal use may be altered or extended to include additional interior floor space or outdoor use area (such as a deck, patio, or other typical feature) in an amount equal to or less than the total floor area of the structure as it existed on (*insert the effective date of this Ordinance*).

b. Any alteration or expansion shall comply with all applicable setback requirements for a single-family detached dwelling in the RMD zoning district.

2. SECONDARY USES OR STRUCTURES

Any lot containing a lawfully-established nonconforming single-family detached dwelling as a principal use may be supplemented with an secondary use or structure meeting the applicable requirements of Section <>, Secondary Uses, and the zoning district where located.

B. MANUFACTURED OR MOBILE HOMES

1. An existing nonconforming manufactured or mobile home serving as a principal use may be replaced with another nonconforming manufactured or mobile home provided the replacement mobile or manufactured home:

a. Is 12 feet wide or wider;

[302] Replaces section 155.110(D) with additional standards for extension to certain residential use types and reconstruction following casualty damage.

b. Is in place within 365 days of the removal of the prior nonconforming mobile or manufactured home;
c. Is connected to the public sewer system, or has all the necessary permits from the county health department pertaining to wastewater treatment; and,
d. Is surrounded by underpinning comprised of an all-weather base material.

2. Nothing shall require the owner of a mobile home park or manufactured dwelling park to surrender the ability to maintain a lawfully established leasehold or home/dwelling site even after a nonconforming mobile or manufactured home is removed.
3. A mobile home park or manufactured dwelling park may reconfigure individual sites within the park as long as each home or dwelling continues to meet applicable dimensional requirements.
4. In cases where a mobile home park or a manufactured home park is reconfigured by the owner in ways that reduce the total number of individual sites from the number that existed prior to the reconfiguration, the total number of sites shall not be increased after the reconfiguration.
5. A nonconforming mobile home park or manufactured dwelling park shall not be re-established after removal of all mobile homes or manufactured dwellings has taken place.

C. ALL OTHER USES

A nonconforming use may not be extended, expanded, enlarged, or altered in any way that increases the degree of nonconformity.

D. RENOVATION

A nonconforming use may be renovated provided the renovation does not extend, expand, or enlarge the nonconformity or create a new nonconforming use.

5.6.6 CONVERSION

No nonconforming use shall be converted to another nonconforming use. Nonconforming uses may only be converted to a conforming use.

5.6.7 RESTORATION FOLLOWING CASUALTY DAMAGE

A. SIGNIFICANT DAMAGE

1. Except for single-family detached dwellings, a nonconforming use that is damaged by fire, explosion, flood, or other calamity in an amount equal to 51 percent or more of the use's current assessed value may not be restored or reconstructed, except as a conforming use.
2. Nonconforming single-family detached dwellings damaged by fire, explosion, flood, or other calamity may be restored or reconstructed to the pre-damaged state regardless of the degree of damage or cost of restoration or reconstruction.
3. Nonconforming manufactured or mobile homes damaged by fire, explosion, flood, or other calamity in an amount equal to 51 percent or more of the use's current assessed value may be restored or reconstructed only in accordance with the standards in Section <>, Manufactured or Mobile Homes.

B. INSIGNIFICANT DAMAGE

If a nonconforming use is damaged by fire, explosion, flood, or other calamity to an extent less than 51 percent of its current assessed value or square footage, it may be restored to its pre-damage condition, provided the degree of nonconformity is not extended, expanded, enlarged, or the use is altered in any way that increases the degree of nonconformity.

5.6.8 CESSATION

A. In the event a nonconforming use is discontinued or abandoned for a period of more than 180 consecutive days, the nonconforming use may only be replaced by a use permitted in the district where located.

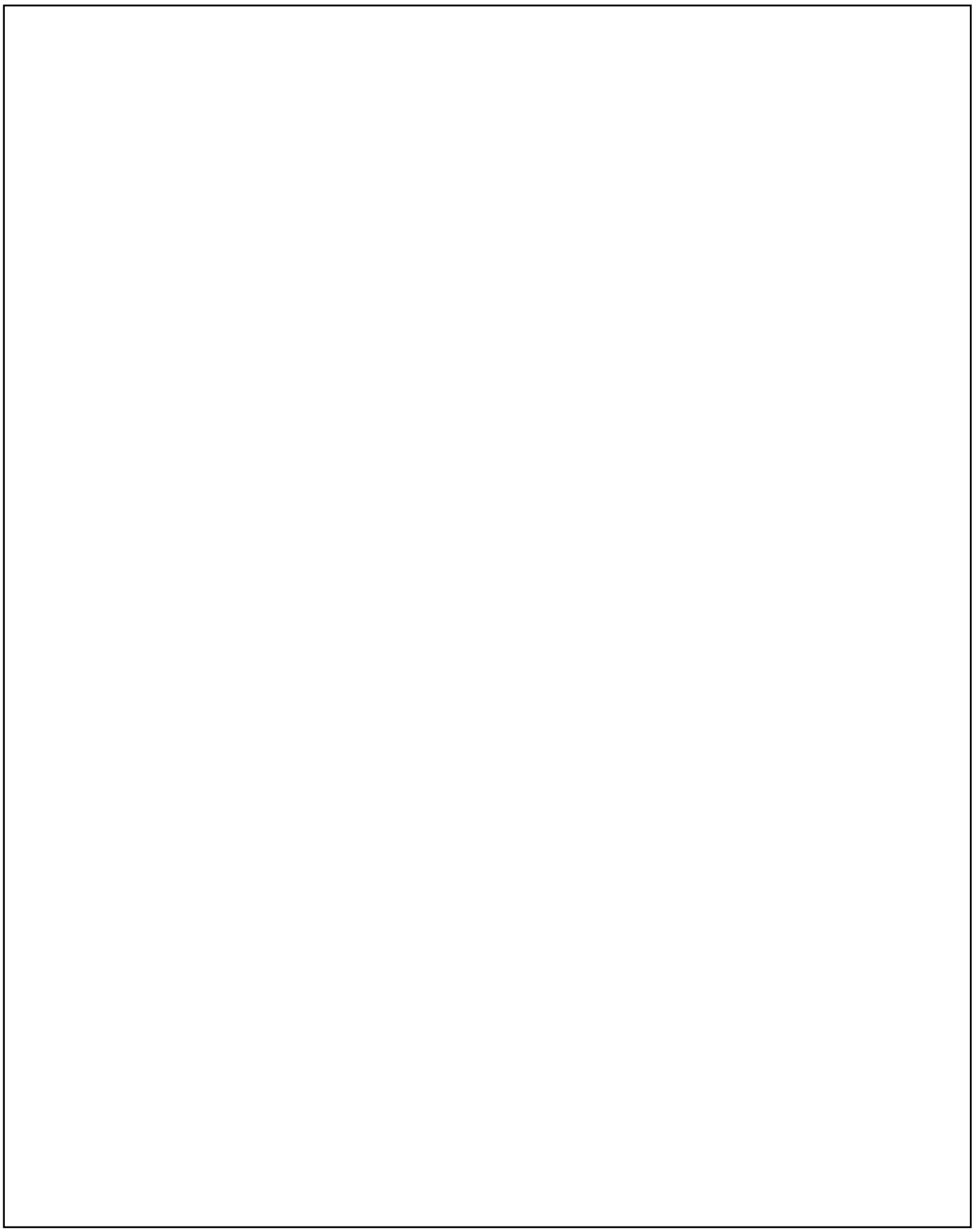
B. Any time a nonconforming use is converted to a conforming use, the conforming use shall not revert to the former nonconforming use or any other nonconforming use.

5.6.9 REZONING

A. Nonconforming uses located on land subject to an application for a Conventional or Conditional Rezoning shall either be permitted uses or special uses in the zoning district being requested in the application.

B. In cases where an existing nonconforming use is not permitted within a zoning district being requested, the nonconforming use shall be eliminated prior to the effective date of the application seeking to rezone the land.

C. In cases where an existing nonconforming use is permitted as a special use in a newly-approved conventional zoning district designation, an application for the special use permit (see Section <>, Special Use Permit) shall be filed within 30 days of the date the rezoning becomes effective or the nonconfoming use shall be eliminated.



CHAPTER 6
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KEY CHANGES FROM CURRENT UDC

Chapter 6 Standards, consolidates all of the "nuts and bolts" development-related provisions like landscaping, parking, signage, etc. Into a single location, along with a new consolidated infrastructure section and numerous chapters from the current Town code related to development. Key changes, include the following:

1. A consolidated access and circulation section with new standards for residential and non-residential driveways, new parking lot cross-access, new requirements for on-site pedestrian circulation, and new sight distance triangle requirements.
2. A comprehensive set of design standards for multi-family, commercial, and mixed-use development along with new farmland compatibility standards and voluntary residential design guidelines.
3. Overhauled fence and wall regulations with new standards for fence appearance when fences are within a street setback.
4. Updated exterior lighting with maximum illumination levels at lot lines, limitations on flashing and overly-bright LED accent lighting, and new basic standards for streetlights.
5. A comprehensive infrastructure section with new guidance on mandatory water/sewer connection distances, street continuation and connectivity standards, easements, and cluster mailbox units. Additional clarity that these infrastructure standards apply to all forms of development, not just subdivisions.
6. Overhauled landscaping standards with new parking lot shading, perimeter buffer, street trees, and foundation planting requirements.
7. New comprehensive screening standards for differing levels of screening based on site feature and vantage point.
8. New open space set-aside requirements for all use types as well as new active and passive recreation standards and credits for gathering areas (plazas, outdoor dining, etc.) in urban locations.
9. New per-unit parkland dedication requirements for single-family detached and attached dwellings and a fee-in-lieu alternative.
10. Comprehensive owners' association standards clarifying membership, formation, responsibilities, and transfer of maintenance responsibility ~~along with a new reserve fund requirement prior to maintenance transfer~~.
11. Overhauled parking and loading provisions with new parking standards for all listed uses, new bike parking, stacking, and parking lot configuration requirements. Loading facility provisions are voluntary, but must comply with listed standards, if provided.
12. New requirements for greenway reservation and construction.
13. New sidewalk and multi-use path standards.
14. Riparian buffer standards now follow the applicable updated North Carolina Administrative Code, rather than just being a cross reference.
15. Complete overhaul to signage with removal of content-based standards, clarification of prohibited signage (including outdoor advertising), new basic requirements for illumination, requirements for removal of dilapidated or obsolete signage, 13 new types of signage, all with new definitions, dimensional standards, and diagrams.
16. Soil erosion and sedimentation standards relocated from Town Code of Ordinances.
17. Stormwater standards relocated from Town Code of Ordinances and updated for compliance with new State model ordinance.
18. New consolidated subdivision design section.
19. Comprehensive set of voluntary sustainable development incentives that allow additional density, height, or reduction of some standards for provision of sustainable development features from the menu provided.
20. New tree retention standards of 15% of existing tree canopy with an option to reforest instead at a rate of 25% of the site area.

6.1 ACCESS AND CIRCULATION[303]

6.1.1 PURPOSE AND INTENT

The purpose of this section is to establish standards for the safe and efficient ingress into, egress from, and circulation within development sites in the Town's planning jurisdiction for vehicles, pedestrians, and bicyclists. More specifically, these standards are intended to:

A. Protect the health and safety of the Town's residents and visitors;
B. Clarify when access and circulation standards are applied to new development or redevelopment of existing sites;
C. Establish uniform methods for site access and driveway configuration;
D. Protect visibility for motorists, bicyclists, and pedestrians at intersections;
E. Facilitate pedestrian movement around development sites; and
F. Enable vehicles to travel from one parking lot to another without needing to enter a street right-of-way.

6.1.2 APPLICABILITY

A. GENERALLY

Unless otherwise expressly exempted from these standards elsewhere in this Ordinance, these access and circulation standards shall apply to all new development in the Town's planning jurisdiction.

B. REDEVELOPMENT

Compliance with these standards shall also apply to redevelopment of an existing principal building, parking lot, or outdoor use that is proposed for an expansion or an increase in intensity by 50 percent or more.

C. REVIEW REQUIRED

Revisions to the access or on-site circulation system of a developed lot or site shall require site plan approval in accordance with Section <>, Site Plan.

6.1.3 ACCESS TO LOTS

Except where authorized in accordance with Section <>, Alternative Access, all development subject to these standards shall comply with the following:

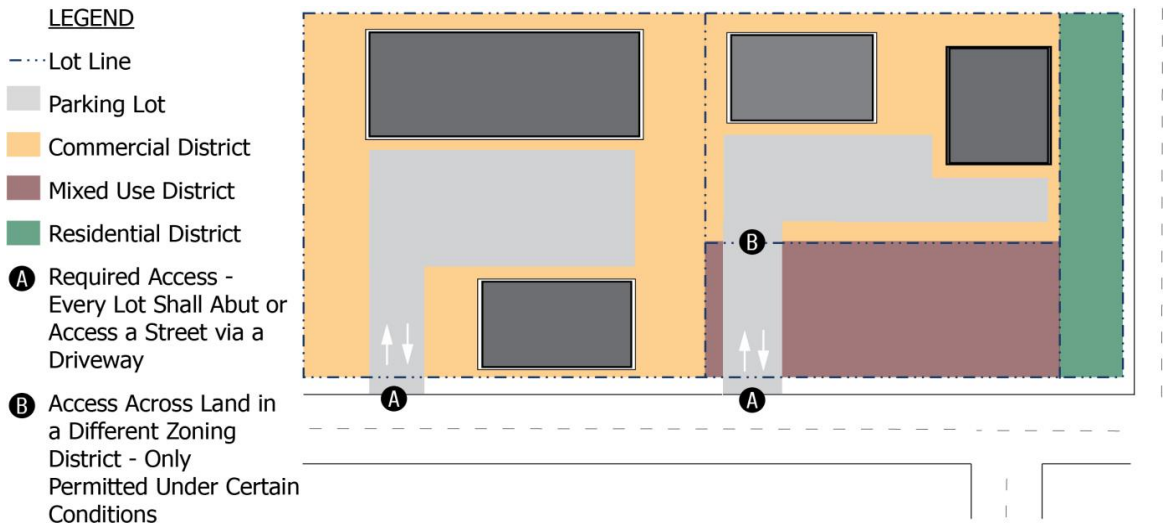
A. ACCESS REQUIRED FOR ALL LOTS

1. Every lot shall abut or have driveway access to a public or private street.
2. No building or structure shall be constructed or placed on a lot that does not abut or have driveway access to a public or private street.
3. Except for lots within conservation subdivisions, lots that abut a public or private street shall maintain at least 30 linear feet of street frontage along the abutting public or private street right-of-way. Lots within a conservation subdivision shall maintain a minimum street frontage of at least 20 feet. Lots that do not abut a public or private street shall receive access via a driveway configured in accordance with Section <>, Driveways.

[303] This section replaces the standards in Section 400 of the current UDC. It clarifies minimum access requirements, adds increased detail for residential driveways, a sub-section on alternative access, a new section on parking lot access depth, standards for on-site pedestrian circulation, and greater detail for parking lot cross access. The standards related to minimum access points for developments is relocated to the section on streets.

4. Driveways may be located exclusively on the same lot as the building they serve, or may cross a lot under separate ownership, in order to access a public or private street.
5. In cases where a driveway must cross a lot under separate ownership, the driveway shall be located within a recorded access easement and may not extend through or across land in a different zoning district than the lot being served by the driveway (see Figure <>, Lot Access via Driveway). This requirement is waived when the land in the different zoning district:
   a. Is classified as a business or mixed-use district; or
   b. Allows the use being served by the direct access; or
   c. Provides the sole means of access for the lot.

FIGURE <>: LOT ACCESS VIA DRIVEWAY



B. DIRECT ACCESS TO MAJOR THOROUGHFARES

Lots serving individual residential dwelling units should generally not have direct access to a major thoroughfare street. Direct access to a major thoroughfare shall be configured in accordance with the following standards.

1. In cases where a vacant lot of record abuts a major thoroughfare and is proposed for development, access to the lot shall be obtained from a street other than the thoroughfare, or from a driveway that accesses a street other than the thoroughfare, to the maximum extent practicable.
2. In cases where a tract or site abutting a major thoroughfare is proposed for subdivision (whether residential or otherwise), then all lots created shall maintain sufficient frontage on a different street, either pre-existing or created as part of the subdivision, so that direct access to lots ~~need~~ is not ~~be~~ provided by the thoroughfare. Driveways serving lots along a new frontage street shall be located no closer than 150 feet from the new frontage street's intersection with other streets.

3. The final plat creating the subdivision shall indicate that driveway access to a thoroughfare is limited and shall be provided by a different street.
4. In the event the subdivision is unable to comply with the access limitations in this subsection, an applicant may seek a variance in accordance with Section <>, Variance.

C. AUTHORIZATION REQUIRED BEFORE CONSTRUCTION

Prior to beginning any driveway construction, permits necessary to connect to the right-of-way network of the Town or State shall be secured by the applicant.

1. Failure to secure necessary permits prior to construction may result in the removal of the driveways and/or denial of access at that location.
2. A certificate of occupancy shall not be issued until the access requirements of this section have been met.

6.1.4 DRIVEWAYS

A. PURPOSE FOR THESE STANDARDS

These driveway standards are intended to:

1. Ensure safe vehicular movements in the Town's planning jurisdiction;
2. Configure lot access in accordance with the Town's adopted policy guidance for roadway corridors;
3. Minimize conflicts between pedestrians, bicyclists, and vehicles;
4. Provide as much physical separation between street intersections and driveways serving individual land uses as is practicable;
5. Minimize individual access points to thoroughfare streets to the minimum necessary; and
6. Encourage shared access to individual lots.

B. PARKING LOTS DISTINGUISHED

1. The standards in this section shall apply to driveways, which are areas of ingress or egress onto an individual lot or site measured from the edge of the abutting street pavement inwards to one of the following termination points:
   a. The end of the driveway pavement on lots where off-street parking is permitted to take place within a driveway; or
   b. The minimum depth of the driveway on lots or sites where off-street parking takes place within a shared parking lot or structure.
2. Surfacing, width, and other configuration requirements associated with a parking lot are located in Section <> Parking and Loading.

C. GENERAL STANDARDS APPLIED TO ALL DRIVEWAYS

1. COMPLIANCE WITH NCDOT STANDARDS

a. Driveways providing ingress or egress to a State-maintained street shall be placed and constructed in accordance with the "Policy on Street and Driveway Access to North Carolina Highways" adopted by the North Carolina Department of Transportation (NCDOT), as amended.
b. In cases where Town requirements are more stringent than NCDOT's standards, the driveway shall comply with Town standards.
c. All driveways connecting to State-maintained streets shall obtain driveway permit approval from NCDOT prior to the construction.

2. COMPLIANCE WITH TOWN STANDARDS

a. Driveways providing ingress or egress to a Town-maintained street shall be placed and constructed in accordance with applicable Town requirements.

b. All driveways connecting to Town-maintained streets shall obtain driveway permit approval from the Town prior to construction.

3. CONFIGURATION

a. All driveways shall be constructed so that:

i. Vehicles can enter and exit from a lot without posing any substantial danger to themselves, pedestrians, bicycles, or vehicles traveling on abutting streets; and

ii. Interference with the free flow of traffic on abutting or surrounding streets is minimized.

b. No driveway serving an off-street parking area or providing on-site circulation is permitted within any required landscaping area, but driveways may be installed across these areas.

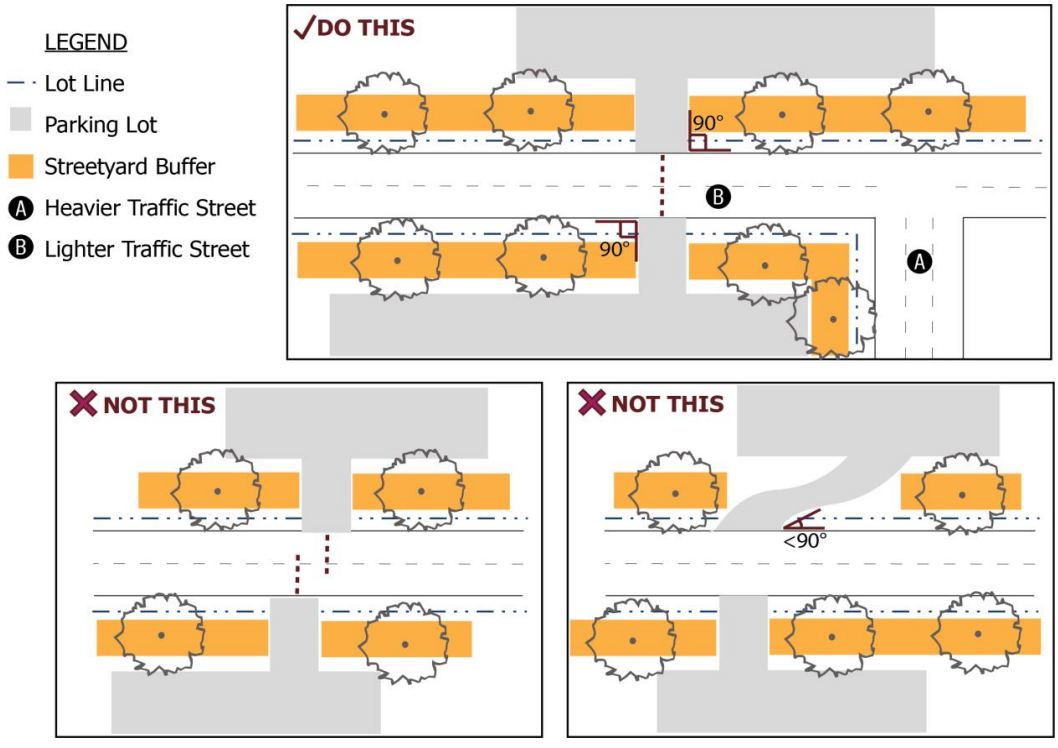
c. Driveway radii shall be designed in accordance with the NCDOT's or the Town's Engineering Specifications and Design Manual and shall not extend beyond lot lines.

d. Driveways shall be as nearly perpendicular to the street right-of-way as possible (see Figure <>, Driveway Configuration);

e. Driveways shall line up with other driveways across the street, where practicable.

f. Driveways on corner lots shall provide access from the street with less traffic, to the maximum extent practicable.

FIGURE <>: DRIVEWAY CONFIGURATION



4. DRIVEWAY SURFACING

a. New driveways established after (*insert the effective date of this Ordinance*), that abut a right of way with a paved street shall be surfaced with asphalt or six inches of concrete and extend outwards from the lot line to the edge of the pavement and inwards from the lot line for a distance of at least five feet from the edge of the existing pavement.

b. In cases where a sidewalk is present or is not present but is required, the apron shall be configured so as not to interfere with the sidewalk.

5. MAINTENANCE

The Town shall not be responsible for maintenance of driveways or other vehicular use areas, whether located within or outside a public right-of-way, or on land not owned and operated by the Town of Clayton.

D. RESIDENTIAL DRIVEWAYS

1. DESIGN

The standard residential driveway access for the Town shall be a "ramp" type driveway section, constructed in accordance with applicable Town standards.

2. WIDTH AND DEPTH

Table <>, Driveway Width and Depth for Residential Development, establishes the driveway width and depth requirements for residential developments (see Figure <>: Residential Driveway Width and Depth).

TABLE <>: DRIVEWAY WIDTH AND DEPTH FOR RESIDENTIAL DEVELOPMENT

Type of Development [1]	Minimum Driveway Width (feet)	Maximum Driveway Width (feet) [2]	Minimum Driveway Depth (feet) [3]
Single-Family Detached Home on its Own Lot	10 [4]	24 [5]	20
~~Two-Family~~Duplex Dwelling	10 [4]	24 [6]	25
Triplex/Quadplex	12	24 [6]	25
Single-Family Attached Dwelling with a Driveway on the Same Lot	10	[7]	20
Single-Family Attached Development with Shared Parking and Multi-family Development	One way: 15 Two way: 30 [8]	One way: 18 Two way: 45	[9]

NOTES:
[1] Standards for Mixed-Use, Live/Work, and Upper-story Residential are included in the corresponding table for non-residential development.
[2] Only applied within the portion of the driveway subject to the minimum depth requirement.
[3] Measured from the edge of the right-of-way inwards. All driveways shall be the minimum depth necessary to ensure that no vehicle protrudes past the edge of the lot line.
[4] Increased to 15 feet when part of a shared driveway serving two or more different lots.
[5] When two driveways abut one another, the maximum width shall not exceed 24 feet. Two driveways shall not be considered to be abutting when there is at least six feet of unpaved area between each driveway edge.
[6] Individual driveways on the same lot and located outside a required setback area shall maintain a minimum spacing of at least 20 feet from one another.

TABLE <>: DRIVEWAY WIDTH AND DEPTH FOR RESIDENTIAL DEVELOPMENT			
TYPE OF DEVELOPMENT [1]	MINIMUM DRIVEWAY WIDTH (FEET)	MAXIMUM DRIVEWAY WIDTH (FEET) [2]	MINIMUM DRIVEWAY DEPTH (FEET) [3]

[7] Shall not exceed the lesser of: 24 feet or the lot's width.
[8] Shall increase by up to five feet with inclusion of a center median. Minimum accessway width of at least 15 feet required on each side of median.
[9] In accordance with Section <>, Minimum Parking Lot Accessway Depth.

FIGURE <>: RESIDENTIAL DRIVEWAY WIDTH AND DEPTH



3. ~~MAXIMUM~~ REQUIRED NUMBER

a. The maximum number of driveway access points serving an individual single-family detached, ~~two-family~~duplex, triplex, or quadplex dwelling on its on lot shall be two, but

the lot shall maintain a minimum lot width of at least 80 linear feet. Lots with lot widths less than 80 feet shall be limited to a maximum of one driveway. Alley-loaded driveways are not included in the number of driveways calculation.

b. The maximum number of driveway access points serving an individual single-family attached dwelling on its own lot shall be one. Developments of up to six single-family attached dwellings may be configured to include individual driveways on commonly-owned land, provided all driveways meet the spacing requirements in this Ordinance.

c. The ~~maximum~~ minimum number of driveways serving a multi-family residential development shall be:

i. One for developments of 100 or fewer units;

ii. Two for developments of 101 to 300 units;

iii. One additional driveway for every 100 units beyond 300.

~~iii.~~**d.** The number of driveway access points serving a multi-family residential development may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common or shared access points.

4. SPACING

a. Except for developments of six or fewer single-family attached residential dwellings, ~~R~~residential driveways shall be spaced at least 20 feet from one another when located on the same lot.

~~a.~~**b.** Driveways serving six or fewer single-family attached residential units where driveways are located within commonly-owned land shall be at least three feet from one another.

~~b.~~**c.** Driveways shall be no closer than 3 feet from any lot line, except where two driveways on abutting lots are intended to touch one another.

~~c.~~**d.** The minimum corner clearance from the curb line or edge of pavement of intersecting streets shall be at least 20 feet from the point of tangency of the radius curvature, or 20 feet from the intersection of right-of-way lines, whichever is greater.

~~d.~~**e.** The radius of the driveway shall not encroach on the minimum corner clearance.

5. ALTERNATIVE ACCESS[304]

As an alternative to compliance with the other standards in this section, single-family detached and ~~two-family~~duplex dwellings may comply with one of the following alternative lot access standards (see Figure <>, Alternative Lot Access):

a. MULTIPLE RESIDENTIAL LOT DEVELOPMENT

An individual residential lot configured with a single-family detached or ~~two-family~~duplex dwelling may establish access across one or more different lots via a single shared driveway, provided the shared driveway:

i. Does not serve more than five single-family detached or ~~two-family~~duplex dwellings on the same or different lots;

ii. Is located within a recorded access easement configured in accordance with Section <>, Access Easement; and

iii. Connects to a publicly maintained or a private street built to public street standards.

b. SINGLE-FAMILY LOT OF RECORD

[304] These standards are proposed to replace the current Type C private street standards.

A vacant single-family lot of record established prior to (*insert the effective date of this Ordinance*) that does not abut a publicly maintained street may establish access across another lot provided the driveway:

i. Does not serve more than five single-family or ~~two-family~~duplex dwellings on the same or different lots;
ii. Is located within a deeded access easement configured in accordance with Section <>, Access Easement; and
iii. Connects to a publicly maintained or a private street built to public street standard.

c. DRIVEWAYS SERVING MORE THAN ~~FIVE~~ FOUR LOTS

Driveways serving more than four single-family detached or ~~two-family~~duplex dwelling lots shall be configured as a public or private street in accordance with the applicable standards in this Ordinance.

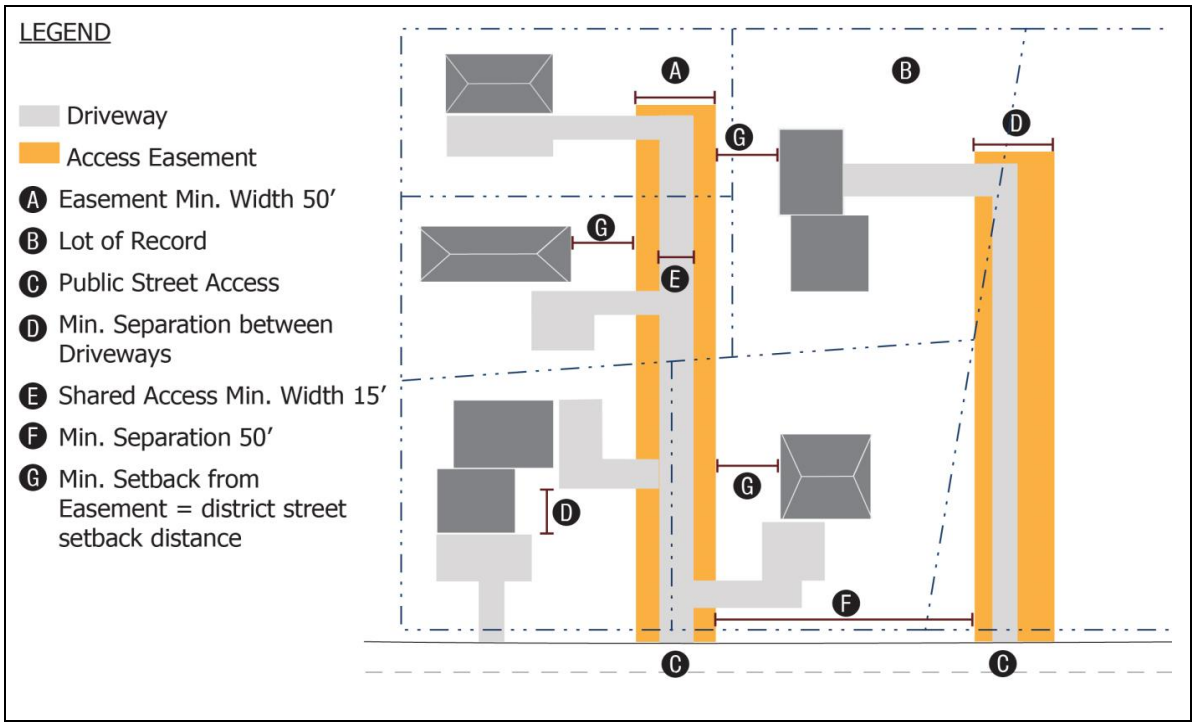
d. ACCESS EASEMENT

i. Driveways serving development utilizing these alternative access provisions shall be located within an access easement.
ii. All new access easements shall be configured in accordance with the following:
    1. The easement shall maintain a minimum width of at least 50 feet;
    2. There shall be a minimum separation between the easement and any other platted access or right-of-way of at least 50 feet;
    3. The location of the easement shall be recorded on a plat; and
    4. The easement shall be configured to permit safe ingress, egress, regress, and necessary utilities to serve the lot.

e. MAINTENANCE

The landowners who benefit from the access easement associated with a shared driveway shall be responsible for maintenance of the driveway and access easement. In no instance shall the Town be responsible for maintenance of driveways or access easements.

FIGURE <>: ALTERNATIVE LOT ACCESS



E. NON-RESIDENTIAL DRIVEWAYS

1. DESIGN

a. Non-residential driveway access to and from streets shall be constructed in accordance with the standards and specifications provided in *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by NCDOT.

b. In cases where a development includes outparcels, the outparcel shall be directly accessible from the vehicular accessways serving the larger development in addition to access from the adjacent public street network.

2. NUMBER

The number of driveway access points may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common or shared access points.

3. SPACING

Approval of driveway access between a lot and the right-of-way at an interval less than those specified in the *Policy on Street and Driveway Access to North Carolina Highways,* manual, as adopted and amended by NCDOT, may be granted subject to the approval of the Town Engineer and NCDOT.

4. MINIMUM PARKING LOT ACCESSWAY DEPTH

a. Driveways serving off-street parking lots shall comply with the standards for minimum depth in Table <>: Parking Lot Accessway Depth.

b. In no instance shall a parking lot be configured to allow access to an individual off-street parking space, drive aisle, or other vehicular accessway at a point closer to the

street right-of-way than the minimum parking lot accessway depth (see Figure <>: Parking Lot Accessway Depth).

c. In cases where a development is subject to a transportation impact analysis, the parking lot accessway depth specified in the transportation impact analysis shall control.

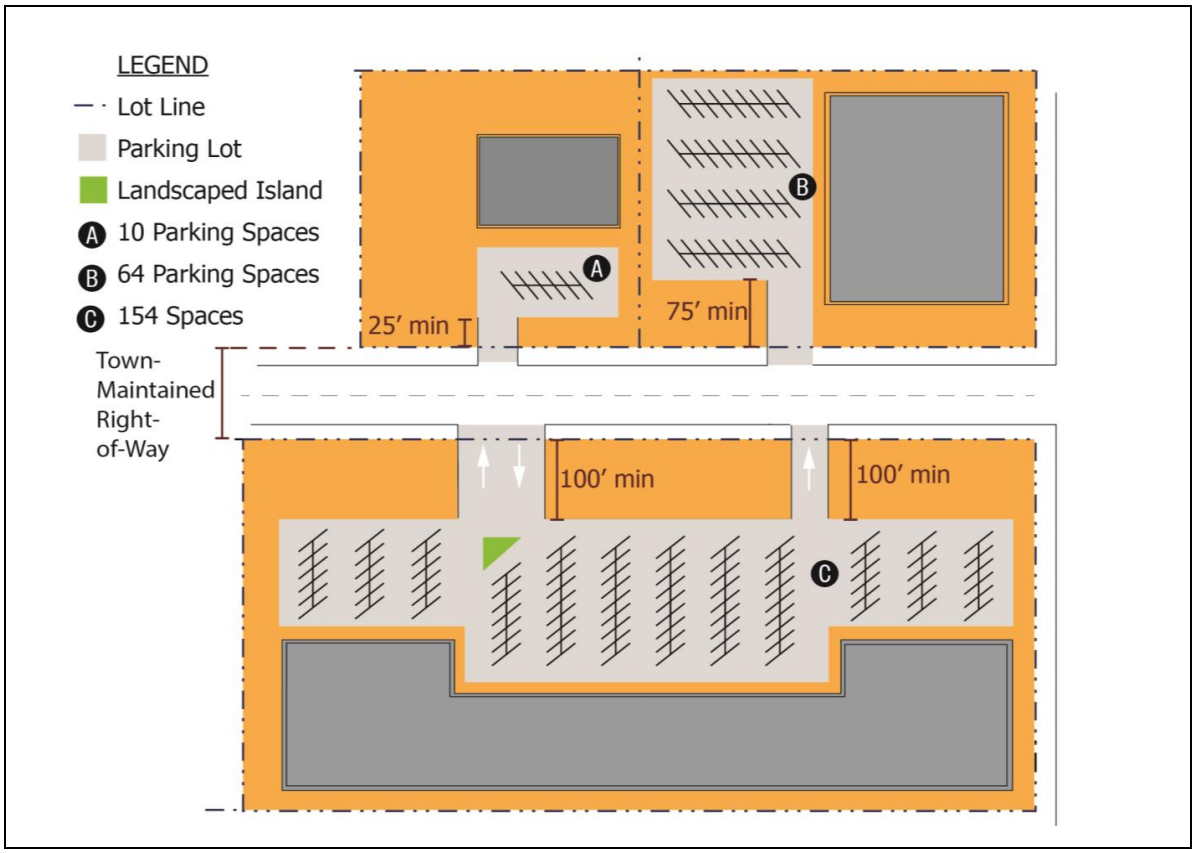
d. Nothing shall limit a parking lot accessway from having a deeper depth than specified in this subsection.

TABLE <>: PARKING LOT ACCESSWAY DEPTH

Number of Provided Off-Street Parking Spaces in Parking Lot	Minimum Parking Accessway Depth (feet) [1] [2]	
	From a Town-Maintained Street	From a NCDOT-Maintained Street
10 or less	25	100
11 to 50	50	100
51 to 100	75	100
101 to 200	100	100
201 or more	As determined by the Engineering Director	As determined by NCDOT

NOTES:
[1] Measured from the edge of the right-of-way serving the parking lot.
[2] The Engineering Director may require a planted landscaping island opposite the accessway where necessary for access management or traffic control.

FIGURE <>: PARKING LOT ACCESSWAY DEPTH



F. SHARED ACCESS

Shared driveways may be required between adjacent lots fronting on a thoroughfare in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.

G. ~~CLOSURE~~ REVISION OF EXISTING ACCESS

1. The Town Council, in conjunction with NCDOT, shall have the authority to require the closure, ~~or~~ relocation, or restriction of existing access points where multiple access points to the site are available.
2. The Town Council may require the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

H. NONCONFORMING DRIVEWAYS

Lawfully-established driveways existing prior to (insert the effective date of this Ordinance) that do not conform to these standards shall be subject to the standards in Chapter 5, Nonconformities.

6.1.5 ON-SITE PEDESTRIAN CIRCULATION

On-site pedestrian walkways that minimize conflict between pedestrians and vehicles shall be provided on all non-residential, mixed-use, single-family attached, and multi-family development sites, and shall be configured in accordance with the following standards:

A. On-site pedestrian walkways shall connect each primary building entrance to off-street parking areas and to other building entrances on the same site (see Figure <>, Pedestrian Walkways);

B. Development subject to these standards shall provide at least one connection to an existing or planned public sidewalk or existing greenway via an on-site pedestrian walkway, configured in accordance with these standards;

~~B.~~**C.** In cases where a lot has two or more sides bounded by a sidewalk, a sidewalk connection shall be made on each side with an existing or planned sidewalk; ~~Corner lots shall provide a connection on two sides;~~

~~C.~~**D.** Connections shall be made to all existing or planned adjacent transit facilities, to the maximum extent practicable;

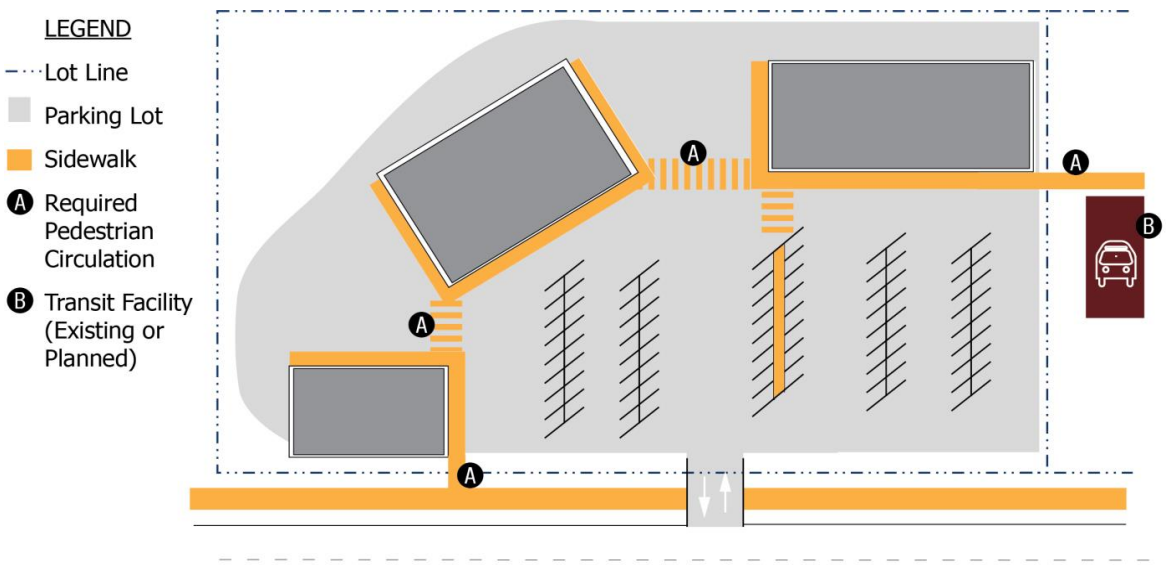
~~D.~~**E.** On-site pedestrian walkways shall be paved with asphalt, concrete, pavers, bricks, stone, or other masonry material, and shall be of contrasting color or materials when crossing drive aisles;

~~E.~~**F.** On-site pedestrian walkways shall be positively drained and configured to avoid areas of pooling water;

~~F.~~**G.** On-site pedestrian walkways shall be in compliance with applicable State and federal requirements, including ADA requirements; and

~~G.~~**H.** Development with 200 or more off-street parking spaces shall provide fully-separated, improved on-site pedestrian walkways within planted landscape islands located a minimum of every six parking rows. On-site pedestrian walkways shall be aligned perpendicular to the buildings served and terminate at building entrances, to the maximum extent practicable.

FIGURE <>: PEDESTRIAN WALKWAYS



6.1.6 PARKING LOT CONNECTIONS

A. PURPOSE AND INTENT

The intent of this section is to provide for parking lot connections between comparable commercial, mixed-use, single-family attached, and multi-family land uses that front ~~arterial and collector streets~~thoroughfare streets so that vehicles leaving one lot may access the adjoining lot without having to re-enter the street system.

B. APPLICABILITY

The standards in this section shall apply to lots abutting ~~arterial and collector~~thoroughfare streets that contain any of the following uses:

1. Uses in the commercial uses classification in Section <>, Listing of Common Principal Uses;
2. Mixed-use development;
3. Single-family attached residential development; and
4. Multi-family development.

C. EXEMPTIONS

Parking lot connections are not required when any of the following conditions are present:

1. Adjacent lots do not have common frontage along an arterial or collector street;
2. The adjacent lot is nonconforming with respect to the minimum number of required off-street parking spaces;
3. Significant natural features exist in the only viable location for parking lot connections and construction of the connection would damage the significant natural features;

4. Vehicular safety factors exist or would be created including, but not limited to, unsafe turning movements or pedestrian conflicts;
5. Sufficient access already exists without need for additional parking lot connections;
6. Residential, institutional, or other incompatible land uses are present on adjacent lots;
7. Existing infrastructure obstructions; or
8. Other safety or security concerns, or topographic constraints, in the sole opinion of the ~~Planning Director or~~ Town Engineer.

D. CONFIGURATION

Parking lot connections shall join parking lots on two or more different lots (see Figure <>: Parking Lot Connections) subject to these standards:

1. A parking lot connection shall be included on at least two sides of a lot except when conditions prevent connections in accordance with Section <>, Exemptions;
2. Parking lot connections shall be paved with asphalt, concrete, or pavers and shall maintain a minimum width of 12 feet for one-way traffic and 24 feet for two-way traffic;
3. All parking lot connections shall be built to the lot line, to the maximum extent practicable; and
4. A minimum distance of 60 feet shall be required between a parking lot connection and the intersection of a driveway entrance and a street.

E. IMPACT ON REQUIRED SITE FEATURES

1. Where a required parking lot connection eliminates a required landscape planting area, the landscaping requirements shall be reduced to accommodate the cross-accessway and replacement landscaping shall not be required.
2. When a required parking lot connection eliminates required off-street parking spaces, replacement parking spaces shall not be required.
3. The cross-accessway may be used for off-street parking until cross access on the adjacent lot is complete and the accessway is opened to permit vehicular traffic between the two lots provided this is noted on approved Site Plans and Construction Drawings~~.~~

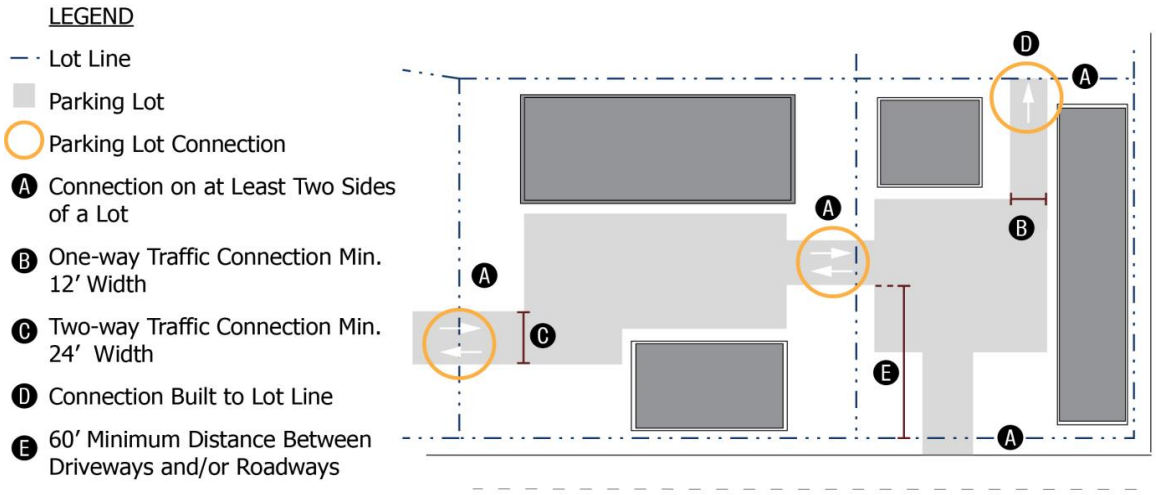
F. EASEMENT REQUIRED

A parking lot connection easement shall be dedicated on the final plat for property involving a subdivision, or deeded by a separate recorded instrument, when no plat is proposed.

G. CONNECTION REQUIRED

Development subject to these standards shall install parking lot connections to the shared lot line. ~~However, if the abutting landowner that does not already have a parking lot connection stub, or the land is vacant and the abutting landowner is unwilling to allow the connection to be built to the shared lot line due to the impact of the grading equipment or other construction activity on their property, then the Planning Director shall notify the abutting landowner that they will be responsible for completing the entire parking lot connection when their vacant lot is developed.~~ In the event development subject to these standards can not achieve a required parking lot cross-access connection, the applicant shall provide a fee-in-lieu in accordance with Section <>, Fee-in-Lieu.

FIGURE <>: PARKING LOT CONNECTIONS



6.1.7 SIGHT DISTANCE TRIANGLES

A. SIGHT DISTANCE TRIANGLES ESTABLISHED

Corner lots and lots with driveways, alleys, or other methods of ingress/egress to a street shall include sight distance triangles to ensure visibility for drivers and pedestrians moving through or in an intersection. Required sight distance triangles shall be configured in accordance with Table <>: Sight Distance Triangle Requirements. Land within a required sight distance triangle shall comply with the standards in Section <>, Limitations on Obstructions within Required Sight Distance Triangles.

TABLE <>: SIGHT DISTANCE TRIANGLE REQUIREMENTS

Type of Street, Intersection, or Driveway		Minimum Sight Distance Configuration Required [1] [2]
Intersections of street [3]		10/70
Driveways serving parking lots		10/70
Driveways serving individual land uses without parking lots	Single-family detached, single-family attached, Duplex, Triplex, Quadplex	None
	All other uses of land	10/70, wherever possible

NOTES:
[1] The NCDOT or the Town may require an alternative sight distance triangle configuration.
[2] AASHTO requirements shall be applied to curved or curvilinear streets.
[3] Includes all streets (State-maintained or Town-maintained).

B. MEASUREMENT OF SIGHT DISTANCE TRIANGLE

Sight distance triangles shall be ~~an area between a point at the edge of the street pavement located 70 linear feet from the intersection and a second point at the edge of the opposing street pavement located ten feet from the intersection (see Figure <>, Sight Distance Triangles)~~provided in locations and in configurations as specified in the Town's Engineering Specifications and Design Manual.

C. LIMITATIONS ON OBSTRUCTIONS WITHIN REQUIRED SIGHT DISTANCE TRIANGLES

1. No planting, structure, fence, wall, slope, embankment, parked vehicle, or other obstruction to vision between the heights of two-and-one-half (2½) feet and ten feet above the centerline grades of intersecting streets or accessways may be located within a required sight distance triangle.
2. No structure or object, regardless of its size, which obstructs visibility within a required sight distance triangle to the detriment of vehicular or pedestrian traffic shall be permitted.

~~FIGURE <>: SIGHT DISTANCE TRIANGLES~~

6.2 DESIGN STANDARDS AND GUIDELINES[305]

6.2.1 SECTION CONTENTS

A. DESIGN STANDARDS

The design standards in this section address the following types of development:

1. Farmland;
2. Mixed-uses;
3. Multi-family residential uses; and
4. Non-residential uses (including institutional, light industrial, office, and retail use types).

B. DESIGN GUIDELINES

This section also sets out a series of design guidelines that may be applied to single-family detached, single-family attached, duplex, triplex, and quadplex development through landowner or applicant consent or as a condition associated with establishment of a conditional zoning district designation (see Section <>, Conditional Rezoning).

6.2.2 FARMLAND PROTECTION STANDARDS[306]

A. PURPOSE AND INTENT

The purpose and intent of these farmland protection standards is to promote development that is compatible with existing farms and agricultural uses in the Town's planning jurisdiction. More specifically, these standards are intended to:

1. Ensure new development does not negatively impact existing adjacent agricultural uses;
2. Maintain and promote rural character in agricultural areas; and
3. Ensure greater compatibility between existing farms and new non-farm uses developed in close proximity to an existing farm or tract engaged in agricultural activity.

B. APPLICABILITY

The standards in this section shall apply to all major and minor subdivisions, conditional rezonings, special use permits, or site plans on lots or tracts of two acres in area or greater proposed adjacent to a bona fide farm or agricultural use associated with a bona fide farm.

C. COMPATIBILITY STANDARDS

Development subject to the standards in this section shall comply with the following compatibility standards:

1. VEGETATED BUFFER

a. Development subject to these standards shall provide a 50-foot-wide vegetated buffer between building lots in the development and an adjacent agricultural use (see Figure <>: Vegetated Buffer). The buffer shall:

[305] This section is proposed to replace Section 405 in the current UDC. Design standards are mandatory and are applied to mixed-use, multi-family, and several forms of non-residential uses. Each set of standards includes a purpose and intent section, applicability and exemptions, and a set of basic design requirements. Design requirements are focused on exterior appearance and aesthetic concerns of buildings as well as site configuration issues (like the placement of service areas). Aesthetic concerns focus on primary entrances, building articulation, exterior cladding materials, roof form, fenestration (glazing or transparency), and issues relating to multi-building development. In addition to the design standards, this section also includes a set of voluntary single-family residential design guidelines which may be followed voluntarily by a developer in return for additional density, or may be included as part of a conditional rezoning.

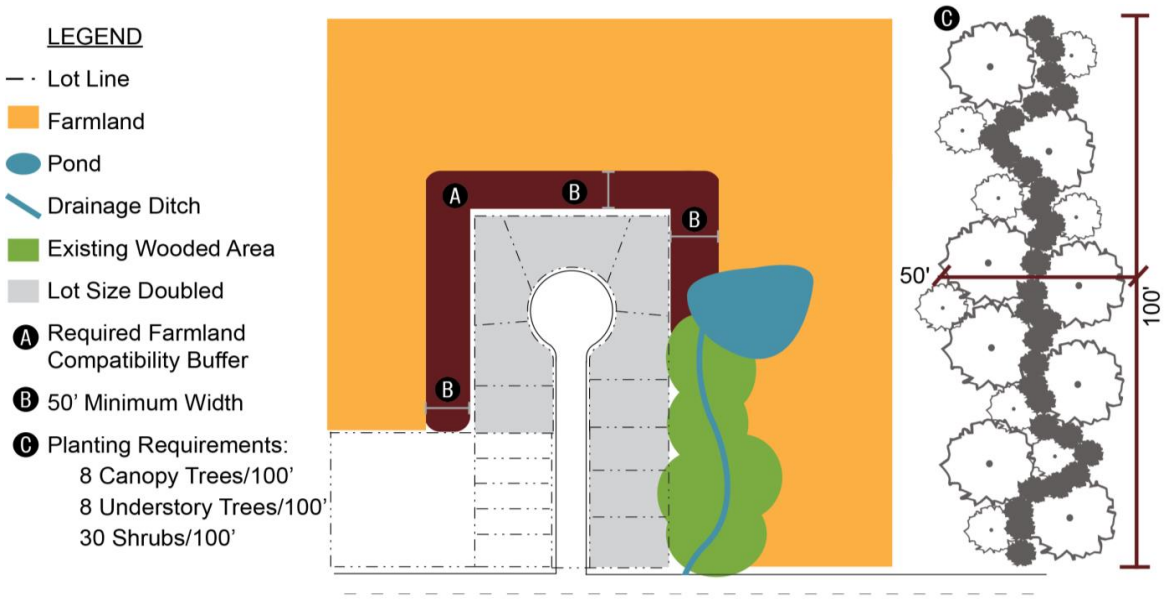
[306] These ~~are~~are new standards.

i. Remain undisturbed for a minimum distance of 25 feet from the edge of the agricultural use or boundary of the agricultural activity;
ii. Include at least eight trees for every 100 linear feet of buffer length;
iii. Include at least eight evergreen shrubs for every 100 linear feet of buffer length;
iv. Incorporate existing or planted vegetation, configured in a staggered fashion, so as to create two or more rows of trees within the buffer; and
v. Incorporate a berm, drainage ditch, or any combination of these features to physically separate the agricultural use from the new development.

b. Nothing shall limit the placement of a required stormwater control measure or best management practice within a required buffer provided the minimum buffer width is maintained.

c. No plantings shall be required in cases where a water feature or stormwater control measure is located within the area occupied by the required buffer.

FIGURE <>: VEGETATED BUFFER



2. LOCATION OF OPEN SPACE SET-ASIDE

In cases where new development includes an open space set-aside, it shall be located between the agricultural use and the buildings in the new development, to the maximum extent practicable. Land area occupied by the vegetated buffer may be credited towards the open space set-aside requirements. Nothing shall limit the requirement for the vegetated buffer even in cases when it will result in more open space than is required by Section <>, Open Space Set-Aside.

3. LOT SIZE INCREASED

Except for lots in a conservation subdivision, lots bordering the vegetated buffer shall maintain a minimum lot area twice the minimum lot area required by the base zoning district where the subdivision is located.

D. NOTIFICATION ON PLAT

Preliminary and final plats subject to these standards shall bear a notation indicating the development is adjacent to an existing agricultural or farm use that is anticipated to generate noise, light, dust, odor, or vibration as part of its normal operations.

6.2.3 MIXED-USE DESIGN STANDARDS[307]

A. PURPOSE AND INTENT

The purpose for these standards is to create vibrant, pedestrian-oriented areas of residential and non-residential use that are located in the same building or in close proximity to one another on the same site. More specifically, these standards are intended to:

1. Create well-designed, desirable places for Town residents and visitors to shop, dine, recreate, and live;
2. Ensure development within mixed use areas is compact and walkable;
3. Shorten travel times and support alternative modes of transportation by reducing the need for automobile travel within urban portions of the Town;
4. Encourage human-scaled development that is pedestrian-oriented;
5. Reduce development costs by facilitating the most dense forms of development in areas easily served by public infrastructure; and
6. Accommodate both vertically mixed-use development within an individual building as well as horizontally mixed-use development on a single site.

B. APPLICABILITY

The standards in this section shall apply to all the following:

1. New development within the MXD district;
2. Live/work dwellings;
3. Upper story residential; and
4. Any development that includes principal use types from the residential and commercial, industrial, ~~or~~and institutional use classifications in Section <>, Table of Common Principal Uses, within the same building or within the same development site; and
5. The demolition, addition, or expansion of existing structures identified in this section in accordance with the following table:

[307] These are new standards.

TABLE <>: APPLICABILITY OF MIXED-USE DESIGN STANDARDS TO EXISTING SITES

Type of Structure or Activity	Applicability of Mixed-Use Design Standards
New principal structure(s) on a vacant site	Full compliance required
Construction of a new principal structure following removal of an existing principal structure	Full compliance required
Addition or expansion to an existing principal structure already subject to the mixed-use design standards	Full compliance required
Addition or expansion to an existing principal structure constructed prior (*insert the effective date of these standards*) or not subject to the mixed-use design standards [1]	Exempt from mixed-use design standards
Interior or exterior upfit of an existing principal structure with no addition of floor space constructed prior to (*insert the effective date of these standards*) or not subject to the mixed-use design standards	Exempt from mixed-use design standards
Site improvement of an existing site with no changes to existing principal structure(s)	Mixed-use design standards not applicable
Construction of a new secondary structure	Secondary structures must be complimentary to the principal structure in terms of form and materials

NOTES:
[1] Activity resulting in the addition of new floor area only shall be exempted from these standards if the addition or expansion:
a. Physically touches the existing structure; and
b. Is enclosed by walls and a roof; and
c. Includes conditioned space; and
d. Allows direct access between the existing structure and the addition or expansion without having to walk outside or through unconditioned space.

C. EXEMPTIONS

These standards shall not be applied to the following forms of development:

1. Agriculture-related uses;
2. Renovation of existing structures in the DTN district; and
3. Mixed-use development established prior to (*insert the effective date of this Ordinance*).

D. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated rezoning, Site Plan, or Special Use Permit, as appropriate.

E. DESIGN REQUIREMENTS

Development subject to these standards shall be designed in accordance with the following:

1. MIXED-USE STREET NETWORK

In cases where mixed-use development involves the construction of new streets or alleys, the new streets, whether public or private, shall be configured in accordance with the following standards:

- **a.** Streets shall be organized into a grid pattern with block lengths that do not exceed 500 feet;
- **b.** Streets shall be configured to a design speed of 25 miles per hour;
- **c.** Streets shall include traffic-calming features such as roundabouts, raised pedestrian crossings, bulb-outs, speed tables, raised medians, and chicanes, but excluding speed bumps, which shall not be included;
- **d.** Streets shall include well-defined ADA-compliant crosswalks and small turning radii at intersections;
- **e.** Streets shall include bicycle lanes in cases where the roadway is subject to size or volume constraints, such as in the downtown area;
- **f.** Streets shall include sidewalks configured in accordance with Section <>, Sidewalks;
- **g.** Mid-block alleys shall be included to facilitate off-street parking and to accommodate service functions; and
- **h.** Cul-de-sacs and dead-end streets are prohibited, except where topography or natural features make them necessary.

2. MIXED-USE BUILDING ORIENTATION

a. SINGLE BUILDING DEVELOPMENT

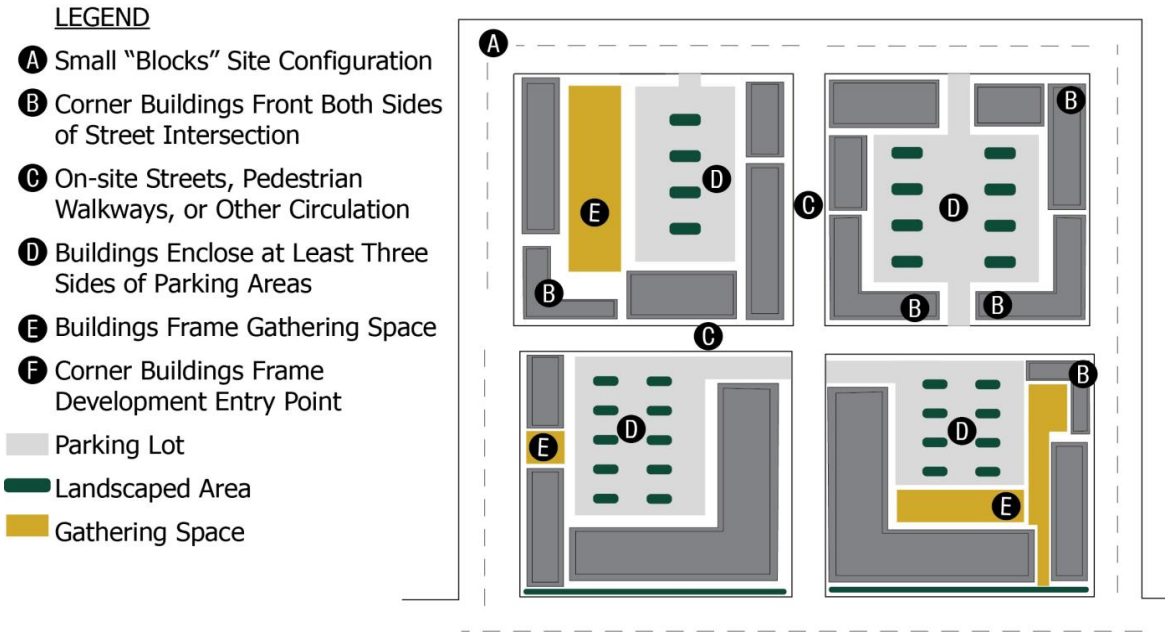
New development consisting of a single building shall be oriented such that the long axis of the building is either parallel or perpendicular to the street right-of-way it faces. This standard may be waived when topographic constraints make compliance impractical, in the sole discretion of the Planning Director.

b. MULTIPLE BUILDING DEVELOPMENT

Development comprised of multiple buildings shall be configured with two or more of the following design elements (see Figure <>, Multiple Building Development):

- **i.** Site configuration as a series of smaller "blocks" defined by buildings fronting on-site streets and internal vehicle accessways, utilizing pedestrian-oriented design such as walkways, or other circulation routes and multi-modal transportation access/waiting areas when appropriate;
- **ii.** Corner buildings designed to front both sides of an adjacent street intersection or entry point to the development in an "L" configuration;
- **iii.** Buildings facing each other across a relatively narrow vehicular access area with pedestrian amenities in a "main street" character;
- **iv.** Buildings enclosing at least three sides of parking areas, public spaces, or other site amenities; or
- **v.** Buildings enclosing outdoor dining or gathering spaces for pedestrians between buildings.

FIGURE <>: MULTI-BUILDING DEVELOPMENT



3. MIXED-USE BUILDING LOCATION

a. Buildings on lots bounding streets shall be built to the edge of the sidewalk. In the case of double or reverse frontage lots, the building shall be located adjacent to the street providing the street address for the building.

b. When development is proposed on a corner lot, the building shall be configured to occupy the lot corner at the street intersection.

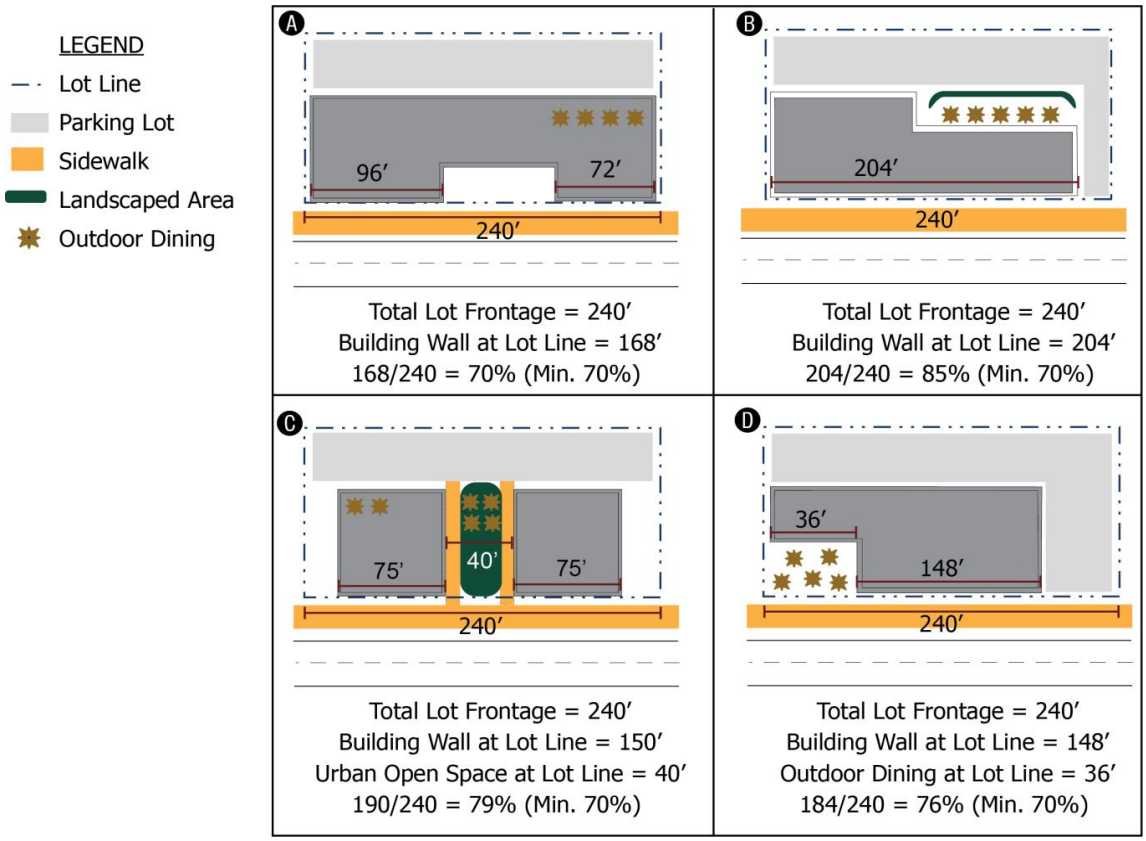
c. Nothing shall prevent a mixed-use building from exceeding a maximum street setback, provided the area between the building and the street is occupied by a public gathering space, open space set-aside, or an area used for outdoor dining.

4. MIXED-USE LOT FRONTAGE TO BE OCCUPIED BY BUILDING WALL

a. In order to ensure an inviting and desirable streetscape for pedestrians, mixed use development shall be configured so that at least 70 percent of the lot frontage is occupied by building wall (see Figure <>, Occupied Frontage).

b. Areas occupied by gathering areas (like plazas), urban open space set-aside, or outdoor dining areas shall be credited towards the lot frontage requirements.

FIGURE <>: OCCUPIED FRONTAGE



5. MIXED-USE GROUND FLOOR CONFIGURATION

a. The ground floor of mixed-use buildings and buildings located in the MXD district shall be configured to meet the North Carolina Building Code requirements for commercial development.

b. Except for buildings required to include ADA-accessible dwelling units, ~~T~~the portion of the building including the primary façade of the street-level ground floor shall be occupied by a non-residential use with a minimum depth equivalent to one-third of the building's total depth.

c. Nothing shall limit the rear two thirds of the street level floor from being used for residential purposes.

~~b.~~d. In cases where a building is required to include ADA-accessible dwelling units, none of the street level floor area must be occupied by a non-residential use.

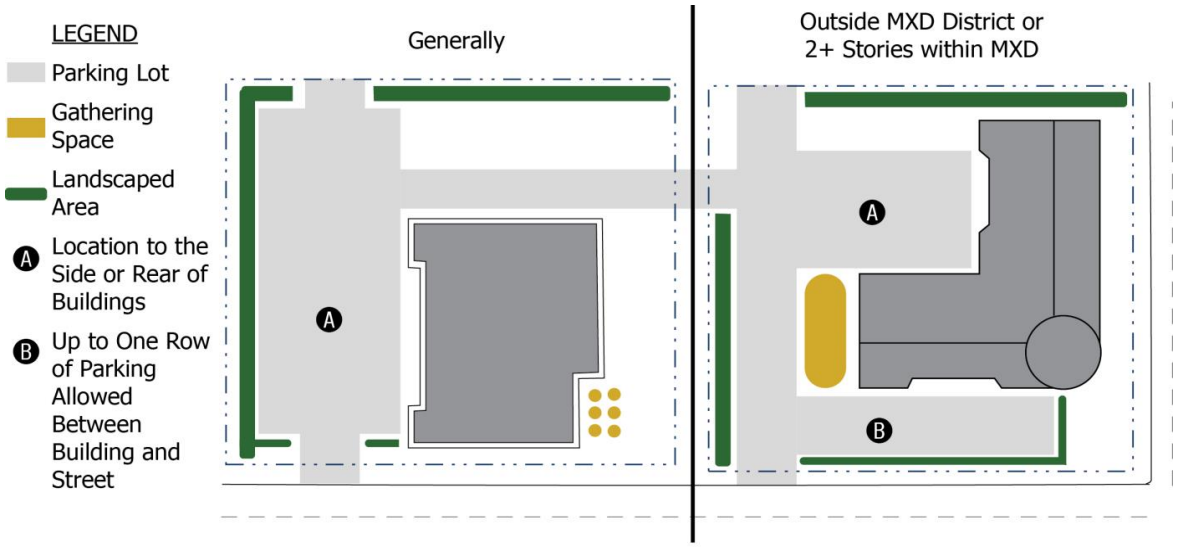
~~c. Nothing shall prevent the remaining portion of the ground floor from being occupied by a residential use.~~

6. OFF-STREET PARKING LOCATION

a. Off-street parking areas shall be located to the side or rear of buildings subject to these standards.

b. Mixed-use buildings located outside the MXD district and with two or more habitable stories may be configured to allow up to one row of off-street parking spaces between the building and the street it fronts (see Figure <>, Off-Street Parking Location). All other off-street parking shall be located to the side or the rear of a mixed-use building.

FIGURE <>: OFF-STREET PARKING LOCATION



7. MIXED-USE BUILDING ARTICULATION

Buildings subject to these standards shall be configured so that no single facade fronting a public street shall extend for longer than 35 linear feet without inclusion of one or more of the following features (see Figure <>, Mixed-use Building Articulation):

a. The use of projections or recesses in the building façade wall with a minimum depth of 18 inches from the primary facade plane and a minimum span of eight feet;

b. The use of columns, pilasters, or other architectural detail harmonious with the general design of the structure with a minimum width of eight inches and spaced no less than every ten feet on-center;

c. Distinct changes in building material that are vertically aligned with variations in roof form and parapet heights;

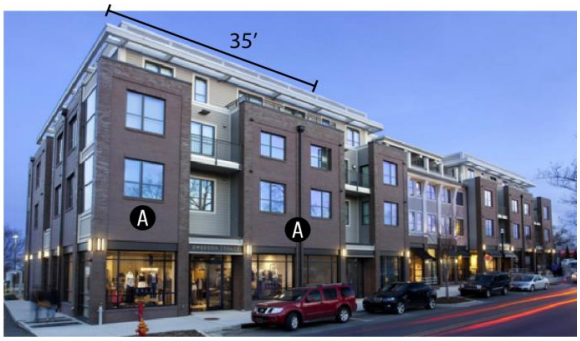
d. Inclusion of weather protection for pedestrians, such as awnings, canopies, or overhangs along the entire building frontage abutting a street. Execution of an encroachment agreement is required in cases where weather protection features extend into the public right-of-way; or

e. A single vertical accent or focal point such as a tower feature located on a prominent building corner.

FIGURE <>: MIXED-USE BUILDING ARTICULATION

LEGEND

- (A) Projections or Recesses in the Facade Wall (Depth Between 18-36" and Min. Span 8')
- (B) Columns, Pilasters, or Other Architectural Detail (Spaced Max. 10' On-center)
- (C) Changes in Building Material (Vertically Aligned with Roof Form Changes)
- (D) Single Vertical Accent Point on Corner









F. MIXED-USE BUILDING FENESTRATION

1. Blank, windowless walls facing sidewalks, streets, and other public places shall be prohibited.
2. At least 40 percent of the first floor facade facing a street shall be transparent, whether through the use of glass windows, doors, or both (see Figure <>, Mixed-Use Building Fenestration).
3. At least 25 percent of each upper story façade facing a street shall be transparent.
4. Ventilation grates or emergency exit doors located at the first floor level oriented toward a street shall be decorative.

FIGURE <>: MIXED-USE BUILDING FENESTRATION

Ⓐ Upper Story Facade =
10′ x 60′ = 600 sf

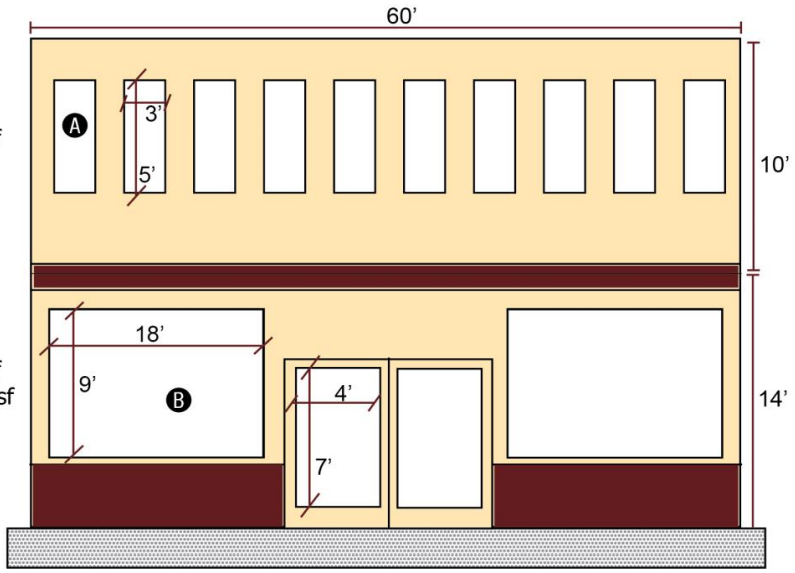
Fenestration =
10 Windows x 15 sf = 150 sf

Percent Transparent =
150 ÷ 600 = **25%**
(Minimum 25%)

Ⓑ First Floor Facade =
14′ x 60′ = 840 sf

Fenestration =
2 Windows x 162 sf = 324 sf
Glass Portion of Doors = 56 sf

Percent Transparent =
380 ÷ 840 = **45.2%**
(Minimum 40%)

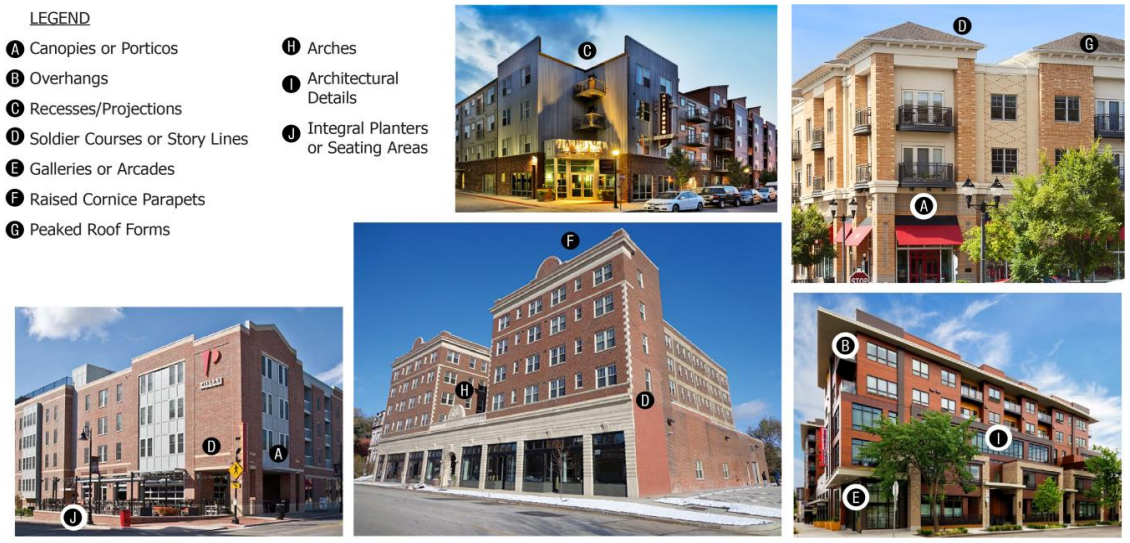


G. MIXED-USE BUILDING ENTRANCES

1. Primary structures must be oriented with their main entrance facing the street upon which the project fronts.
2. If the site is on a corner, it may have its main entrance oriented to either street or at the corner.
3. Entrances serving mixed-use buildings shall include at least two of the following features fronts (see Figure <>, Mixed-Use Building Entrances):
   a. Canopies or porticos;
   b. Overhangs;
   c. Recesses/projections;
   d. Soldier courses or story lines;
   e. Galleries or arcades;
   f. Raised corniced parapets over the door;

g. Peaked roof forms;
h. Arches;
i. Architectural detail such as tile work and moldings integrated into the building structure and design; or
j. Integral planters that incorporate landscaped areas and places for sitting.

FIGURE <>: MIXED-USE BUILDING ENTRANCES



H. MIXED-USE ROOF FORM

1. Roof pitches less than 3:12 and flat roofs shall require a parapet wall on all sides visible from the street. Parapet walls shall fully screen all roof-top mechanical equipment from the street.
2. Parapet walls shall have decorative cornices or caps.
3. A pitched roof shall have eaves that extend a minimum of 12 inches from the building face.
4. Roof-mounted mechanical equipment on a pitched roof shall be screened or otherwise camouflaged from view from the street.

6.2.4 MULTI-FAMILY DESIGN STANDARDS[308]

A. PURPOSE AND INTENT

These multi-family residential design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing the minimum requirements for design and configuration of multi-family development within the Town's planning jurisdiction. They are intended to:

1. Ensure multi-family development takes place in a manner consistent with the context, scale, and proportion of its surroundings;
2. Promote greater compatibility between new multi-family development and other allowable use types, particularly adjacent residential single-family detached dwellings;
3. Establish expectations for minimum level of quality for multi-family development;
4. Encourage creativity in design and promote individual project identity;
5. Create neighborhoods with enhanced architectural and visual interest; and
6. Preserve property values and protect public and private investment.

B. APPLICABILITY

1. GENERALLY

Except where expressly exempted in writing in this Ordinance, the standards in this section shall apply to the following forms of development:

a. New multi-family buildings;
b. New multi-unit residential structures within a continuing care retirement community use type; and
c. New residential treatment facilities;
d. New congregate care buildings containing residential uses.

2. EXEMPTIONS

The following forms of development shall be exempted from these standards:

a. Renovation of existing multi-family buildings; and
b. Detached multi-family development consisting of two or more structures located on a lot under common ownership. These structures shall comply with the standards in Section <>, Residential Design Guidelines.

3. VOLUNTARY COMPLIANCE FOR SINGLE-FAMILY ATTACHED DEVELOPMENT

a. Single-family attached development shall be subject to these standards in cases where the applicant agrees to voluntarily comply with them. In such cases, a signed copy of the following statement shall be included on all approved site plans and plats.

[308]These are new standards intended to replace Section 155.405 of the UDC.

VOLUNTARY COMPLIANCE WITH MULTI-FAMILY RESIDENTIAL DESIGN STANDARDS

The single-family attached development depicted on the attached site plan or subdivision plat is subject to the Town of Clayton's Multi-family Residential Design Standards in place at the time the application for this development was determined to be complete. I hereby voluntarily consent to the application of these design standards, the acceptance of which shall run with the land regardless of changes in ownership, and recognize that failure to comply with the applicable requirements following approval is a violation of the Clayton Unified Development Ordinance.

_____ _____

Landowner Signature Date

b. The signed statement of consent and an associated plans depicting how the development complies with these standards shall be recorded in the office of the Register of Deeds for the county where the development is located prior to issuance of a building permit.

C. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated Type 3 Conditional Rezoning, Site Plan, or Special Use Permit, as appropriate.

D. DESIGN REQUIREMENTS

Development subject to these standards shall be designed in accordance with the following:

1. MULTI-FAMILY STREET NETWORK

a. On sites including new streets, whether public or private, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development.

b. Vehicular driveways into a development with 10 or more dwelling units shall be at least 100 feet away from any major intersection, to the maximum extent practicable.

c. Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

2. MULTI-FAMILY BUILDING ORIENTATION

a. Buildings that abut streets shall be oriented parallel to the street they front rather than being oriented at an angle to the street.

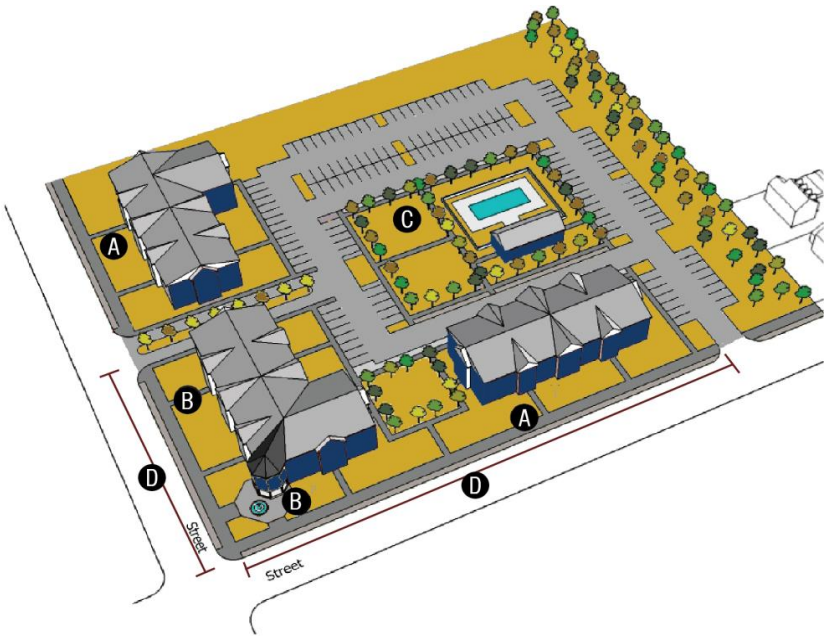
b. On corner lots, the long axis of the building shall be parallel to the longest lot frontage unless such orientation is incompatible with adjacent, existing development along the same street (see Figure <>, Multi-family Building Orientation).

c. Buildings within multiple-building developments shall be clustered in order to define open space recreation areas and development entry points.

FIGURE <>: MULTI-FAMILY BUILDING ORIENTATION

LEGEND

- Ⓐ Buildings Abutting Streets Oriented Parallel to Street
- Ⓑ Corner Lot Building's Longer Axis Parallel to Longest Lot Frontage
- Ⓒ Buildings Clustered to Define Open Space Areas
- Ⓓ Vehicular Entrance Min. 100' Separation from Intersection



3. MULTI-FAMILY BUILDING ENTRANCES

a. The facades of buildings abutting streets shall be configured so that entryways to individual dwelling units or shared entrances face the street.

b. Access to upper-floor dwelling units shall be obtained from shared internal entries. In no instance shall walkways to individual upper-story dwelling units take place on the exterior of the building.

c. Individual ground-floor and shared entryways shall be sheltered from the weather either by:

- **i.** Recessing the entrance at least three feet to the inside of the primary ground floor façade plane; or
- **ii.** Inclusion of an overhead architectural treatment that extends outward at least three feet from the primary façade plane.

4. MULTI-FAMILY BUILDING FACADES

a. Buildings subject to these standards shall maintain a consistent level of architectural detailing and composition on each building façade facing a street.

b. Building facades facing streets shall provide a minimum of three of the following architectural elements (see Figure <>, Multi-Family Building Facades):

- **i.** A covered porch or terrace;
- **ii.** One or more dormer windows or cupolas;
- **iii.** Eyebrow windows;
- **iv.** Awnings or overhangs;
- **v.** Decorative moldings;
- **vi.** Shutters;
- **vii.** Pillars, posts, or pilasters;
- **viii.** One or more bay windows with a minimum twelve-inch projection from the facade plane;
- **ix.** Multiple windows with a minimum of four-inch-wide trim;
- **x.** Corniced parapets;
- **xi.** Eaves with a minimum of four-inch-wide trim; or
- **xii.** Integral planters that incorporate landscaped areas and/or places for sitting.

FIGURE <>: MULTI-FAMILY BUILDING FACADES



LEGEND

- A Covered Porch or Terrace
- B Dormer Windows or Cupolas
- C Eyebrow Windows
- D Awnings or Overhangs
- E Decorative Moldings
- F Shutters
- G Pillars, Posts, or Pilasters
- H Bay Window(s) (Min. 12" Projection)
- I Windows With Minimum 4" Wide Trim
- J Corniced Parapets
- K Eaves With Min. 12" Depth
- L Integral Planters or Seating Areas

c. Garage entries, loading and service entries, utility rooms, stairs, elevators, or similar features shall not occupy more than 20 percent of the width of a building façade facing a street.

d. Attached street-facing garages serving individual dwelling units shall be recessed at least three feet inwards from the primary first floor façade plane or be associated with an upper-story projection that exists above the garage.

5. BUILDING FAÇADE VARIATION IN MULTI-BUILDING DEVELOPMENTS

Multi-family developments with three or more principal buildings shall provide variation between the different buildings in accordance with the following standards:

a. MINIMUM NUMBER OF VARIATION ELEMENTS TO BE INCLUDED

Multi-family development comprised of three or more principal buildings ~~and~~ shall incorporate a minimum number of variation elements in accordance with Table <>: Multi-Family Building Variability:

TABLE <>: MULTI-FAMILY BUILDING VARIABILITY

Number of Principal Buildings in the Multi-Family Development	Minimum Number of Variation Elements to Include [1] [2]
Three to Five	Two
Six to Eight	Three
Nine to Eleven	Four
Twelve or More	Five

NOTES:
1] Variation elements must be provided on each different building. All or the majority of the features may not be located on a single building.
[2] The menu of different variation elements are listed in Section <>, Menu of Variation Elements.

b. MENU OF VARIATION ELEMENTS

Multi-family developments comprised of three or more principal buildings shall provide the minimum number of the following variation elements in accordance with Table <>, Multi-Family Building Variability. Nothing shall prevent a development from including more than the minimum number of required building variation elements.

i. One or more principal buildings has a maximum height of one or more stories either greater than or less than average number of stories of the other principal buildings.
ii. One or more of the principal buildings has a footprint that differs in square footage by 25 percent or more than the average principal building footprints of the other principal buildings.
iii. One or more of the principal buildings has a different primary exterior color than the other principal buildings.
iv. One or more of the principal buildings incorporates required architectural elements from Section <>, Multi-Family Building Facades, on building facades that do not face streets.
v. One or more principal buildings has a different primary exterior material than the other principal buildings (use of the same material with a different color is insufficient). Use of brick as a primary material on all principal buildings shall be credited as compliance with this element.
vi. One of more of the principal buildings has a different roof style (gabled, shed, flat, hip, etc.) than the other principal buildings (use of the same combination of roof forms on each principal building is insufficient).
vii. One or more of the buildings has a different roof material than the other principal buildings (use of the same material with a different color is insufficient). Use of roof-mounted solar panels over 40 percent of one principal building's roof shall be credited as compliance with this element.
viii. One or more of the principal buildings shall be oriented with the long axis of the principal building perpendicular to the street that serves the primary entrance of the development.

ix. One or more of the principal buildings includes overhangs, roofs, or coverings for all patios, balconies, or terraces.
x. One or more of the principal buildings is configured so that all the windows incorporate a canopy, awning, overhang, or other covering.
xi. An alternative that differs from those listed that meets the intent of these standards, in the opinion of the Planning Director.

6. MULTI-FAMILY BUILDING MASSING

a. Upper-story façade walls shall not project beyond the ground floor footprint except to accommodate bump-outs with windows.
b. In the case of two-story buildings, the exterior façade walls of the second floor shall be in line with or setback from the first floor façade walls.
c. Multi-family buildings configured with upper story façade walls that are setback from the second or ground-floor floor façade walls to preserve light and air and avoid casting shadows (see Figure <>, Multi-family Building Massing) may utilize sustainable development incentives in Section <>, Sustainable Development Incentives.

FIGURE <>: MULTI-FAMILY BUILDING MASSING



7. MULTI-FAMILY BUILDING ARTICULATION

a. Street-facing building facades shall be articulated with wall offsets, in the form of recesses or projections from the primary façade plane, of at least two feet for every 35 linear feet of facade frontage (see Figure <>, Multi-family Façade Articulation).
b. Projections or recesses shall occupy at least one building floor, and may extend downwards to the grade or upwards beyond the primary roof line.

FIGURE <>: MULTI-FAMILY FAÇADE ARTICULATION

LEGEND

- A Primary (street-facing) Facade
- B Minimum 2' Articulation Every 35 Linear Feet
- C Projections Extend Beyond Primary Roof Line
- D Entry Feature

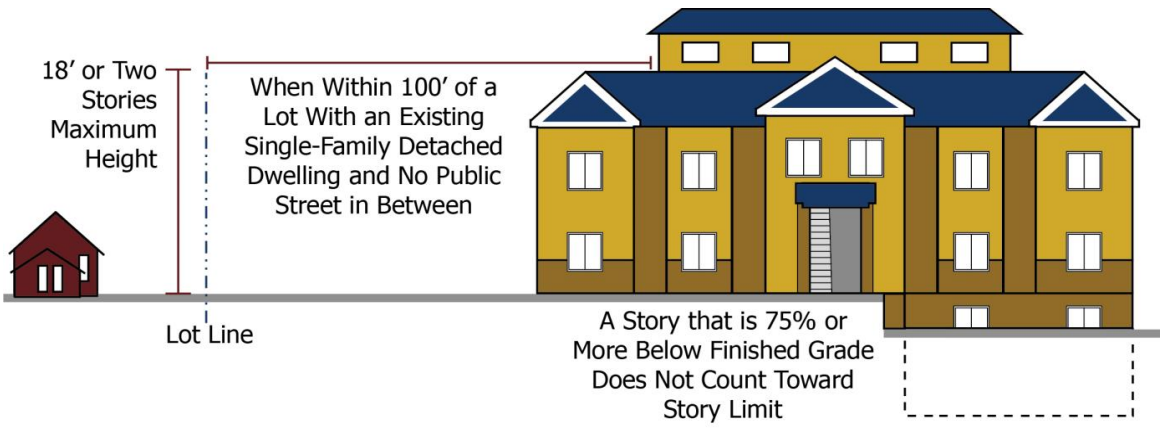


8. MULTI-FAMILY BUILDING HEIGHT

a. Buildings subject to the standards of this section shall have a maximum height of two stories or 18 feet within 100 feet of a lot with an existing single-family detached residential dwelling, without an intervening street. This standard shall apply regardless of any incentives, administrative adjustments, or conditional rezoning conditions (see Figure <>, Multi-family Building Height).

b. Building stories that are 75 percent or more below the finished grade at the front of the lot shall not be counted towards the number of allowable stories.

FIGURE <>: MULTI-FAMILY BUILDING HEIGHT



9. MULTI-FAMILY ROOF FORM

a. Development shall incorporate roof pitches between 3:12 and 12:12, or shall incorporate parapet walls with a dimensional cornice around a flat roof.

b. Alternative roof forms or pitches are encouraged for small roof sections over porches, entryways, or similar features.

c. Buildings with eaves shall be configured such that no single horizontal eave continues for more than 60 linear feet without being broken up by a gable, building projection, or articulation feature.

d. Overhanging eaves and roof rakes shall extend at least six inches beyond supporting walls.

10. MULTI-FAMILY BUILDING MATERIALS AND COLORS

a. CONFIGURATION

i. Buildings subject to these standards shall include at least two primary exterior materials on any single building.

ii. Changes in colors and materials shall take place at internal corners or in logical locations, such as: building wings, bays, bump-outs, or recesses (see Figure <>, Multi-family Building Materials). In no instance shall exterior materials or colors change at outside corners.

iii. Heavier or more bulky exterior materials shall be located beneath or below lighter materials.

b. PROHIBITED MATERIALS

The following materials shall be prohibited on any façade facing a street, open space, or district intended primarily for single-family detached development:

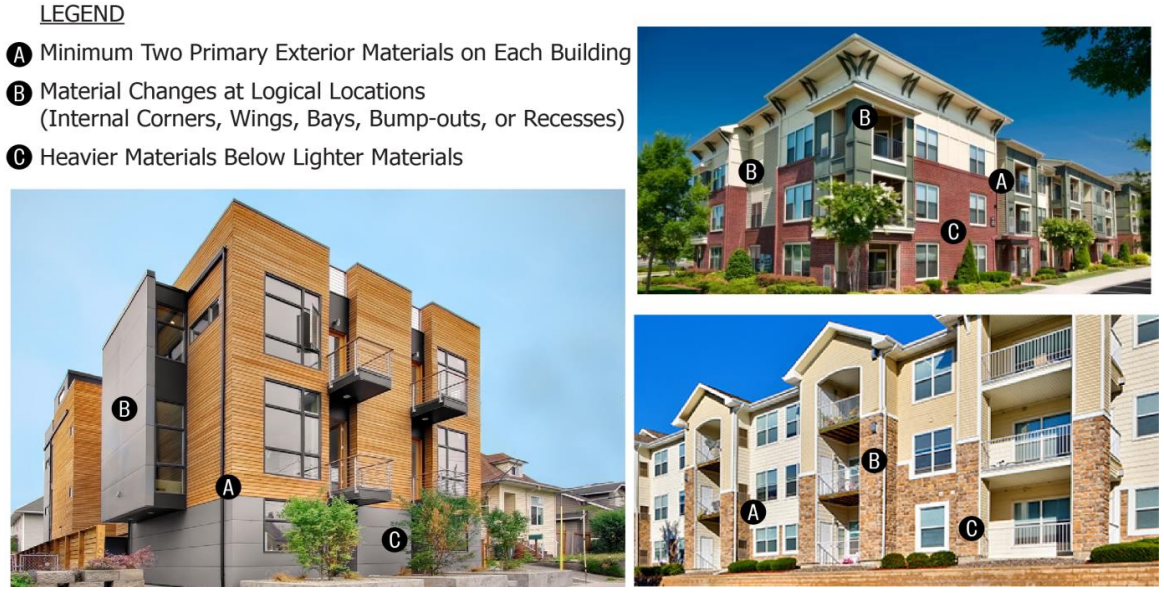
i. Vinyl, asphalt, or aluminum siding;

ii. Smooth-faced concrete block;

iii. Corrugated metal siding; or

iv. Synthetic stucco within two feet of the grade.

FIGURE <>: MULTI-FAMILY BUILDING MATERIALS



11. MULTI-FAMILY SECONDARY STRUCTURES

In addition to the standards in Section <>, Secondary Uses, secondary uses and structures associated with a development subject to these standards shall comply with the following:

a. Street-facing detached garages on corner lots shall be located to the side or rear of buildings;

b. Access to secondary structures (such as garages, carports, storage areas, etc.) shall be provided from alleys or secondary streets, to the maximum extent practicable;

c. Secondary buildings shall include exterior materials, colors, and roof form designed to be consistent with the principal structure;

d. Secondary structures shall not physically obstruct pedestrian entrances; and

e. Centralized refuse collection containers, if provided, shall be located in an enclosed area located to the rear of principal buildings.

12. MULTI-FAMILY SITE FEATURES

a. Multi-family development accessed by a public street shall not include a gate or obstruction that blocks access to the site for vehicles. Multi-family development accessed via a private street or driveway may include a vehicular gate in accordance with Section <>, Vehicular Gates.

b. Off-street parking serving guests shall be evenly distributed throughout the development.

c. Shared refuse collection containers shall be evenly distributed throughout the development or be centrally located.

d. Detached garages or carports shall not be located between a principal building and the street it faces.

e. Utilities shall be provided underground, and utility vaults shall be clustered in areas outside of required landscaping.

6.2.5 NON-RESIDENTIAL DESIGN STANDARDS

A. PURPOSE AND INTENT

These non-residential design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing minimum requirements for design and configuration of certain non-residential development within the Town's planning jurisdiction. They are proposed to provide clarity on the Town's expectations for the quality and appearance of these forms of development. More specifically, the purposes of these standards are to:

1. Foster high-quality, attractive non-residential development consistent with Town's adopted policy guidance;
2. Assure a fair and consistent application of the design standards to certain forms of new non-residential development and redevelopment;
3. Foster creativity in design and greater compatibility between non-residential development and its local surroundings; and
4. Promote property values and protect existing public and private investment.

B. APPLICABILITY

These non-residential design standards shall apply to the following use types:

1. NEW COMMERCIAL USE TYPES

New principal structures from all use types listed in the Commercial Use Classification section of Table <>, Table of Common Principal Uses.

2. NEW INSTITUTIONAL USE TYPES

The following newly-established institutional use types, in every zoning district where permitted:

a. Auditoriums, coliseums, and convention centers;
b. Adult and child day care centers;
c. Bus stations;
d. Community centers;
e. Government offices;
f. Hospitals;
g. Libraries;
h. Museums;
i. Outpatient facilities; and
j. Urgent care uses.

3. NEW INDUSTRIAL USE TYPES

The following new-established industrial use types, when proposed in a MXD, OFI, NCM, or CRM zoning district:

a. Business incubators;
b. Maker space; and
c. Research and development;

4. EXPANSIONS AND ADDITIONS TO EXISTING USE TYPES

The demolition, addition, or expansion of existing structures identified in this section in accordance with the following table:

TABLE <>: APPLICABILITY OF NON-RESIDENTIAL DESIGN STANDARDS TO EXISTING SITES	
TYPE OF STRUCTURE OR ACTIVITY	**APPLICABILITY OF MIXED-USE DESIGN STANDARDS**
New principal structure(s) on a vacant site	Full compliance required
Construction of a new principal structure following removal of an existing principal structure	Full compliance required
Addition or expansion to an existing principal structure already subject to the non-residential design standards	Full compliance required
Addition or expansion to an existing principal structure constructed prior (*insert the effective date of these standards*) or not subject to the non-residential design standards [1]	Exempt from non-residential design standards
Interior or exterior upfit of an existing principal structure with no addition of floor space constructed prior to (*insert the effective date of these standards*) or not subject to the non-residential design standards	Exempt from non-residential design standards
Site improvement of an existing site with no changes to existing principal structure(s)	Non-residential design standards not applicable
Construction of a new secondary structure	Secondary structures must be complimentary to the principal structure in terms of form and materials

NOTES:
[1] Activity resulting in the addition of new floor area only shall be exempted from these standards if the addition or expansion:
a. Physically touches the existing structure; and
b. Is enclosed by walls and a roof; and
c. Includes conditioned space; and
d. Allows direct access between the existing structure and the addition or expansion without having to walk outside or through unconditioned space.

C. EXEMPTIONS

The standards in this section shall not apply to the following forms of development:

1. Mixed-uses, which shall instead comply with the standards in Section <>, Mixed-Use Design Standards;
2. Industrial use types identified in Table <>, Table of Common Principal Uses, when located in the LID or HID districts (standards may be applied in the CZI district);
3. Routine maintenance and repairs, provided that such maintenance or repairs does not render a conforming use or building as nonconforming with respect to these standards.

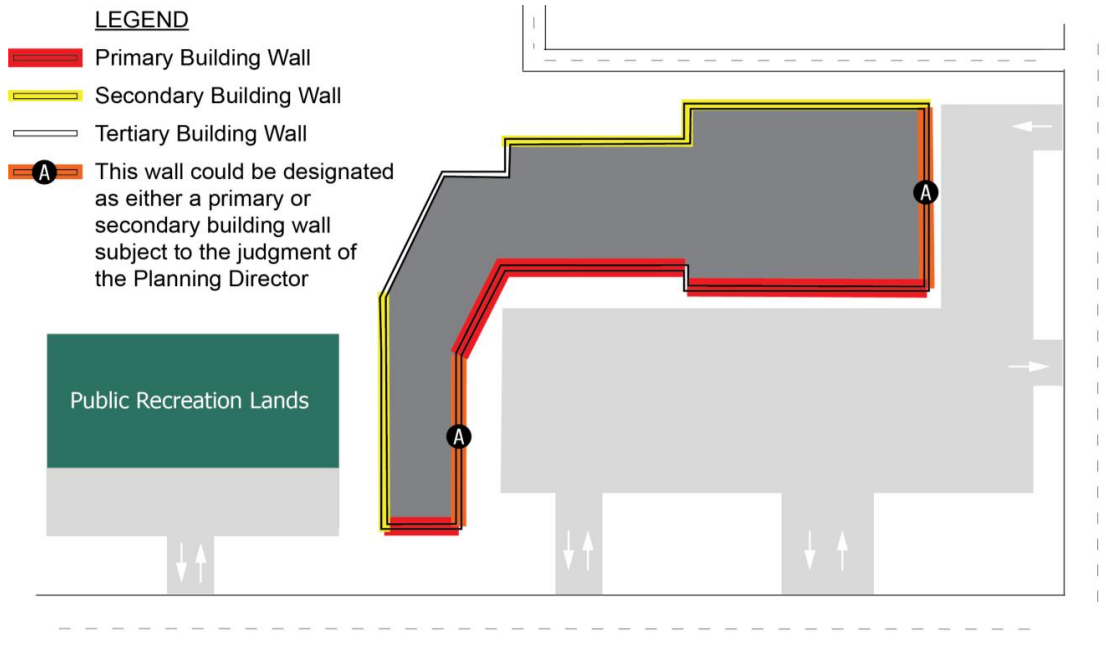
D. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated rezoning, site plan, planned development master plan, or special use permit, as appropriate.

E. NON-RESIDENTIAL BUILDING WALLS DISTINGUISHED

1. Exterior building wall facades shall be distinguished as primary, secondary, or tertiary, in accordance with the following standards (see Figure: <>, Building Façade Walls Distinguished):
   a. Primary walls are the architectural front façade of the building that faces the street from which the building is addressed. As an alternative, the primary wall is the building wall that includes the use's primary entrance.
   b. Secondary building walls are exterior building walls that are visible from a street or public recreation land such as a park, greenway, or other public recreation use but that are not the building's primary wall.
   c. Tertiary walls are all other exterior building walls that are not primary or secondary.
2. Different standards apply to building walls based on their designation as a primary, secondary, or tertiary building wall.
3. In cases where site conditions result in a situation where a building wall could be designated as either a primary or secondary wall by the Planning Director, the wall shall be treated as a primary wall. Nothing in these standards shall limit the number of primary walls on any particular building.
4. In cases where site conditions result in a situation where a building wall could be designated as either a secondary or tertiary wall by the Planning Director, the wall shall be treated as a secondary wall.

FIGURE <>: BUILDING FAÇADE WALLS DISTINGUISHED



F. NON-RESIDENTIAL DESIGN REQUIREMENTS

Development subject to these commercial design standards shall be designed in accordance with the following:

1. STREET NETWORK

a. On sites including new streets, whether public or private, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development.

b. Circulation patterns for drive-through facilities shall be designed to accommodate the stacking of vehicles without interfering with the movement of vehicles or pedestrians.

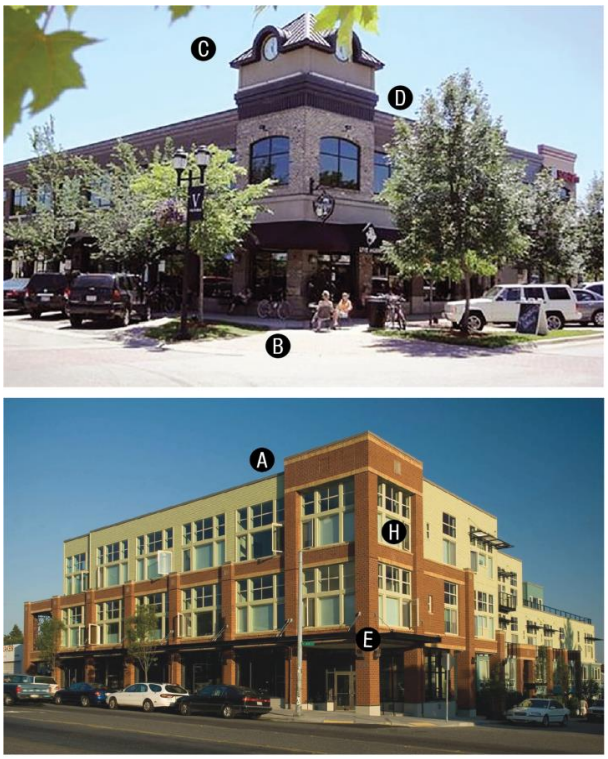
c. Development shall comply with all applicable provisions in Section <>, Access and Circulation.

2. CUSTOMER ENTRANCES

a. Building entrances shall be designated as a primary or a secondary entrance by the applicant, but each principal building shall have at least one primary entrance. Nothing shall limit a building from having multiple primary entrances.

b. Primary building entrances shall be visually prominent and shall include at least three of the following features (see Figure <>: Primary Building Entrances):

FIGURE <>: PRIMARY BUILDING ENTRANCES





LEGEND

- A Change in Building Material or Color
- B Change in Paving Material
- C Significant Architectural Feature
- D Projections or Recesses
- E Canopy, Gallery or Arcade
- F Architectural Detail Such as Tile Work
- G Landscaping Planter
- H Glazing Extending Upwards
- I Outdoor Pedestrian Gathering Area

i. Changes in building material or color;
ii. Changes in paving or walking surface materials, textures, colors, or discernable pattern adjacent to the entrance;
iii. A significant architectural feature that extends above the primary roof height;
iv. A projection or recess of at least five feet beyond the adjacent wall plane;
v. Outdoor pedestrian gathering or seating areas capable of serving at least five people at the same time;
vi. A canopy, awning, portico, archway, arcade, or other covering that extends outwards from the building wall by at least five feet;
vii. Glazing that extends upwards for at least 75 percent of the building's height proximate to the entrance door(s);
viii. Architectural detailing around the entryway such as tilework, entablature, or integrated moldings; or
ix. Fountains, artwork, or landscaping plantings in raised planters adjacent to the entrance door(s).

3. NON-RESIDENTIAL BUILDING ADDRESS NUMBERS

a. Every principal building subject to these standards shall include the building's street address above or adjacent to the primary building entrance in accordance with applicable requirements in the ~~City~~ Town Code of Ordinances.
b. Address numbers shall be provided in numeric form rather than spelled out, and shall be provided in an easily discernable typeface.

4. NON-RESIDENTIAL BUILDING ARTICULATION

Building walls subject to these standards shall include articulation features in accordance with the following standards (see Section <>, Non-Residential Building Walls Distinguished).

a. NUMBER OF ARTICULATION FEATURES REQUIRED

The minimum number of articulation features to be provided on any single building wall depends upon whether the wall is a primary, secondary, or a tertiary wall. Nothing shall limit a building wall from providing more articulation features than the minimum number required by this section.

i. PRIMARY BUILDING WALLS

Primary building walls shall be configured to provide at least two types of building articulation listed in Section <>, Types of Building Articulation.

ii. SECONDARY BUILDING WALLS

Secondary building walls shall provide at least one of the building articulation types identified in Section <>, Types of Building Articulation.

iii. TERTIARY BUILDING WALLS

Tertiary building walls shall not be required to provide any building articulation features.

b. TYPES OF BUILDING ARTICULATION

Each of the following seven features shall qualify as one type of building articulation for the purposes of Section <>, Number of Articulation Features Required:

i. HORIZONTAL FACADE MODULATION

1. Horizontal façade modulation is the projection or recesses of building floor area either forward of primary wall plane or inwards from the primary wall plane.
2. Each individual projection or recess shall have a minimum depth of five feet either beyond or inwards from the primary wall plane.
3. Each individual projection or recess shall have a minimum span of at least 20 percent of the façade's total length.

4. At least 40 percent of the façade's total length shall be occupied by a projection or recess.
5. Individual projections or recesses along a wall shall be separated from one another by at least two linear feet.
6. In the case of multi-story buildings, horizontal façade modulation shall be required only on the first floor for two-story buildings and on the first and second floors for three- or more-story buildings.

ii. VERTICAL FAÇADE MODULATION

Vertical façade modulation consists of architectural building elements such as columns, pilasters, posts, bays, fins, ribs, moldings, pediments, arcades, or similar features that extend outwards or recess inwards from the primary wall plan for a minimum distance of two feet. Vertical façade modulation shall extend from the grade to the top of the façade and shall maintain regular spacing across at least 50 percent of the facade.

iii. BOW OR CURVILINEAR FEATURE

1. Inclusion of a convex or concave bow or other curvilinear wall feature with a minimum depth or projection of at least ten feet relative to the primary façade plane.
2. Bows or curvilinear features shall occupy at least 50 percent of the total facade length.
3. In the case of multi-story buildings, a bow or curvilinear feature shall be required only on the first floor for two-story buildings and on the first and second floors for three- or more-story buildings.

iv. GREEN WALL

Wall-mounted panels affixed to an exterior building wall configured in accordance with the following:

1. Each panel shall include living plants in a growing medium spaced so that no portion of the growing medium or the exterior wall beneath the panel is visible from a distance of five feet;
2. Panels shall be self-watering and comprised of cold-hardy plants endemic to central North Carolina;
3. Panels shall be configured so that at least 40 percent of the exterior façade is beneath a panel; and
4. Plants shall be maintained and replaced as needed to ensure compliance with subsection (1) above.

v. ROOF MODULATION

Inclusion of two or more differing roof planes, roof pitches, roof heights, or roof materials that are visually distinct from one another and visible from the public realm adjacent to the building wall. This standard may be met by any of the following:

1. Combining sections of flat roof with sections of pitched roof on a single building such that no single type occupies more than 75 percent of the roof area;
2. Use of three or more roof pitches that differ from one another by an amount that is discernable from the adjacent public realm;
3. Use of two or more parapet wall heights with a height difference of at least two feet from one another;
4. Use of dormer windows or shed dormers spaced at uniform intervals or configured to present a balanced appearance;
5. Use of a barrel vault, arc, or other curvilinear roof form configured to cover at least 25 percent of the roof area;
6. Use of a tower, spire, steeple, or other vertical projection with a width no less than ten feet and a height of at least seven feet above the adjacent roof height; or
7. Other architectural feature acceptable to the review authority approving the development.

vi. PRIMARY BUILDING ENTRANCE

Inclusion of a primary building entrance configured in accordance with Section <>, Customer Entrances.

vii. OUTDOOR SEATING

Inclusion of an outdoor seating or outdoor dining area adjacent to the façade with all the following features:

1. A direct means of entry into the building if the public is permitted to enter the building;
2. Seating capable of accommodating at least five people at the same time;
3. Protection from automobiles and bicycles circulating on the site or on an adjacent street;
4. Exterior lighting, if the establishment is open before sunrise or after dark;
5. Shading from the sun or rain; and
6. Wi-Fi access, if Wi-Fi is provided to members of the public indoors.

viii. WEATHER PROTECTION

Inclusion of weather protection for pedestrians, such as awnings, canopies, or overhangs along the entire building frontage abutting a street. Execution of an encroachment agreement is required in cases where weather protection features extend into the public right-of-way.

FIGURE <>: NON-RESIDENTIAL BUILDING ARTICULATION



5. NON-RESIDENTIAL MATERIALS AND COLORS

a. MATERIAL CONFIGURATION

i. Where two or more materials are proposed on a building façade, the heavier or more massive material (like stone) shall be located below the lighter or less massive material (like stucco).
ii. Heavier materials may be permitted as details on corners or around doors and windows.
iii. Material changes shall take place at locations such as the intersection of building wings, the intersection of differing storefronts or leaseholds, interior corners, or other logical locations.
iv. Material changes shall not take place at outside corners and material returns shall be included to a logical termination point past an exterior building corner such as a bump-out, building wing, or change in wall direction (see Figure <>: Non-Residential Building Materials).

FIGURE <>: NON-RESIDENTIAL BUILDING MATERIALS

LEGEND
- A Heavier Materials Below Lighter Materials
- B Heavier Details on Corners or Around Doors and Windows
- C Material Changes at Logical Locations (Not Permitted on Outside Corners)







b. PROHIBITED MATERIALS

i. The following materials shall be prohibited on any primary or secondary building façade walls:
1. Untextured tilt-up concrete panels;
2. Pre-fabricated steel panels;
3. Corrugated sheet metal;
4. Smooth-face concrete blocks;
5. Vinyl siding, soffit, or fascia;
6. Synthetic stucco within two feet of the grade;
7. Asphalt shingles or siding; or
8. Mirrored glass.

ii. A secondary wall may be configured with one or more of the prohibited materials listed above. However, in cases where the secondary wall includes a prohibited material, the secondary wall shall comply with the building articulation standards in Section <>, Building Articulation, and the fenestration standards in Section <>, Fenestration, applied to primary building façade walls.

c. COLOR

i. PRIMARY COLORS

Overly-bright, neon, or "day-glow" colors shall not be used as primary exterior building colors. Nothing shall limit the use of pastel or traditional community material colors as primary colors.

ii. ACCENT COLORS

Building trim and accent areas may feature brighter colors including primary colors, but accent colors may not comprise more than 15 percent of any building facade.

6. NON-RESIDENTIAL BUILDING WALL ATTACHMENTS AND FIXTURES

a. Building wall attachments and fixtures shall be located so as to avoid primary building walls where possible.

b. For the purposes of this section, building wall attachments and fixtures shall include the following:

i. Downspouts;
ii. Utility meters;
iii. Utility panels and disconnects;
iv. Utility doors;
v. Vents, pipes, and stacks; and
vi. Condensers, coolers, and air handling equipment.

c. In no instance shall exterior lighting, security cameras, fire protection equipment be considered as a building wall attachment or fixture subject to these standards.

d. In cases where placement on a primary building wall is necessary, the appearance of building wall attachments or fixtures shall be minimized in at least one of the following ways:

i. Concealment within a chase or other enclosure configured to match the building wall materials or colors;
ii. Painted the same color as the primary building wall color; or
iii. Fully screened with evergreen vegetation of a height necessary to fully conceal the attachment or fixture.

7. NON-RESIDENTIAL ROOF FORM

a. Roof pitches less than 3:12 and flat roofs shall require a parapet wall on all sides visible from the street. Parapet walls shall fully screen all roof-top mechanical equipment from the street in accordance with Section <>, Screening.

b. Parapet walls shall have decorative cornices or caps.

c. A pitched roof shall have eaves that extend a minimum of 12 inches beyond the building's exterior walls.

d. Gable roofs shall incorporate roof rakes that project outwards a minimum of six inches beyond the building's exterior walls.

8. NON-RESIDENTIAL FENESTRATION

Building walls shall incorporate fenestration features in accordance with the following standards (see Figure <>, Non-Residential Building Fenestration):

a. PRIMARY BUILDING WALLS

Primary building walls shall be configured so that:

i. At least 30 percent of the ground floor portion of the primary wall is occupied by visually transparent windows or doors. For the purposes of this section, the ground floor extends from the finished floor elevation upwards to the underside of the roof deck of a one-story structure;

ii. At least 20 percent of a second floor portion of the primary wall (if provided) is occupied by visually transparent windows or doors;

iii. Primary wall calculations exclude parapet walls, cornices, mansard roofs, and dormer windows;

iv. A window or functional general access doorway is located at least every 20 feet along the façade; and

v. No more than 50 percent of any single window or door is obstructed by a window sign or other opaque display.

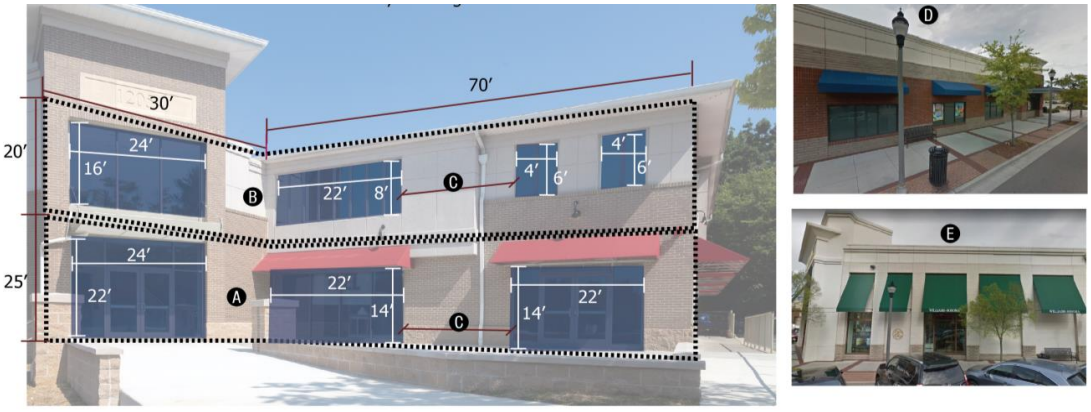
b. SECONDARY BUILDING WALLS

i. Secondary building walls shall be configured so that at least 20 percent of the ground floor façade and at least 10 percent of any second floor façade is occupied by visually transparent windows or doors with regular spacing;

ii. For the purposes of this section, the ground floor extends from the finished floor elevation upwards to the underside of the roof deck;

iii. Secondary wall calculations exclude parapet walls, cornices, mansard roofs, and dormer windows.

FIGURE <>: NON-RESIDENTIAL BUILDING FENESTRATION



LEGEND

Ⓐ First Floor Primary Wall
Total Area = 25 x (30+70) = 2,500 sf
Fenestration Area = (22x24) + (22x14) + (22x14) = 1,164 sf
Percent Fenestration = 1,164 / 2,500 = 46.6% (Minimum 40%)

Ⓑ Second Floor Primary Wall
Total Area = 20 x (30+70) = 2,000 sf
Fenestration Area = (16x24) + (22x8) + (4x6) + (4x6)= 1,176 sf
Percent Fenestration = 608 / 2,000 = 30.4% (Minimum 30%)

Ⓒ 20′ Max. Distance Between Windows or General Access Doorways

Ⓓ Secondary Building Wall Alternative: False or Opaque Windows

Ⓔ Secondary Building Wall Alternative: Articulated Wall Forms with Awnings

c. ALTERNATIVES TO VISUALLY TRANSPARENT WINDOWS AND DOORS

Primary and secondary walls may utilize one or more of the following alternatives to visually transparent windows or doors provided the alternatives occupy an equal or greater percentage of the façade area:

i. Two or more false or opaque windows with regular spacing;
ii. Recesses or projections of at least four inches in deviation from the primary façade plane that are designed to mimic window or door openings in terms of size and placement;
iii. Features or fixtures of a different material than the exterior wall that are mechanically attached or otherwise affixed (i.e., not painted or glued on) and designed to be compatible with the building's architecture or appearance (For example, false sliding barn doors, louvered doors, shuttered windows, or similar features; metal utility doors shall not be credited towards this requirement); or
iv. Inclusion of a series of awnings or overhangs that mimics how such features would be configured if windows were included on the building facade.

9. NON-RESIDENTIAL AWNINGS

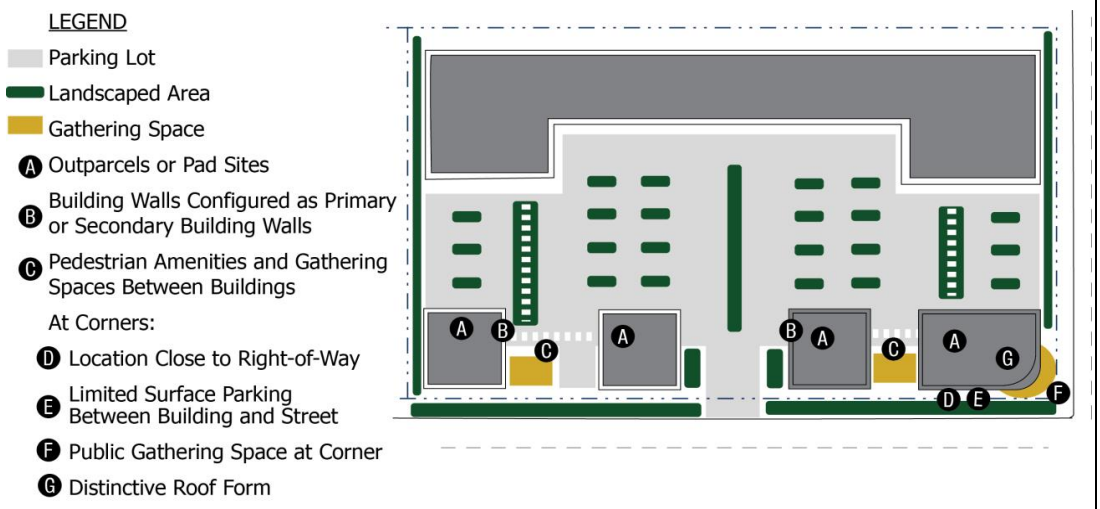
a. No awning shall extend outwards from the building wall more than the width of the sidewalk or ten feet, whichever is less.
b. Awnings must be self-supporting from the building wall.
c. No supports shall rest on or interfere with the use of pedestrian walkways or streets.
d. In no case shall any awning extend beyond the street curb or interfere with street trees or public utilities.

10. NON-RESIDENTIAL OUTPARCELS

Development on outparcels or pad sites associated with a commercial development shall comply with the following requirements (see Figure <>: Outparcel Development):

a. Buildings on outparcels or pad sites shall incorporate materials that are similar to and compatible with those used on the primary buildings in the development. Corporate or prototypical architecture shall be reconfigured as necessary in order to comply with this standard.
b. Building walls associated with development on an outparcel or pad site shall be configured solely in accordance with the articulation and fenestration provisions for primary or secondary walls, as appropriate, for the main buildings in the development.
c. Spaces between buildings on outparcels or pad sites shall include pedestrian amenities such as plazas, seating areas, and gathering places in addition to off-street parking spaces.
d. Outparcel buildings on lots at street corners shall be located and configured to define the corner through a combination of:
   i. Locating the building as close to the rights-of-way as is practicable;
   ii. Limiting surface parking between the building and the streets;
   iii. Providing a public gathering space adjacent to the corner; and
   iv. Use of distinctive roof form or other pedestrian features such as porches, canopies, or arcades.

FIGURE <>: OUTPARCEL DEVELOPMENT

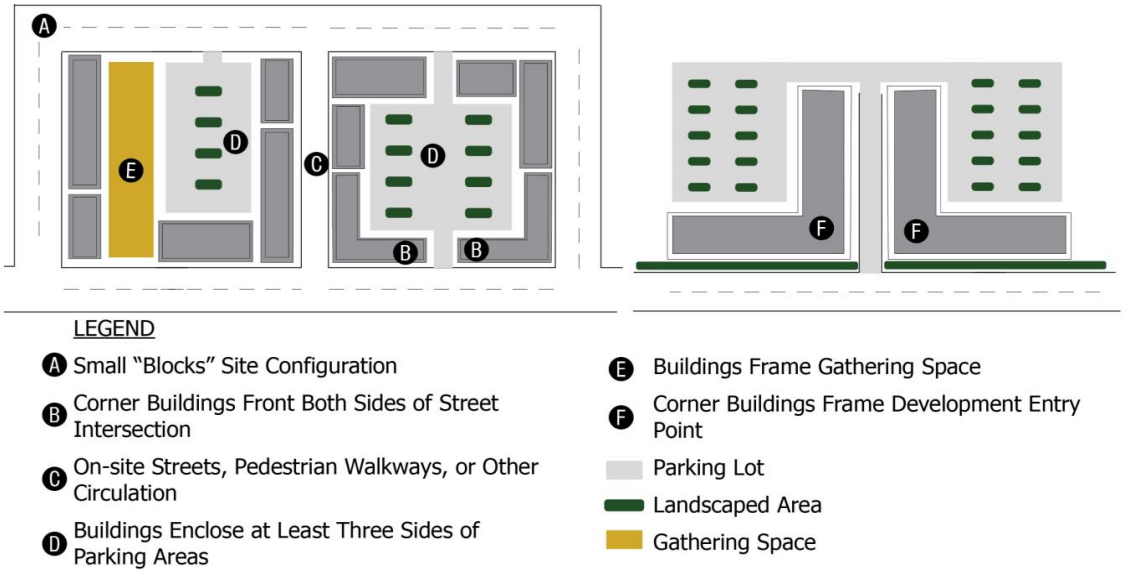


11. MULTI-BUILDING DEVELOPMENT

Development composed of multiple buildings totaling 30,000 gross square feet or more shall be configured in one or more of the following ways (see Figure <>, Multi-building Development):

a. Break up the site into a series of smaller "blocks" defined by on-site streets,
b. pedestrian walkways, or other circulation routes;
c. Locate the buildings around the corner of an adjacent street intersection or entry point to the development;
d. Enclose parking areas, public spaces, or other site amenities on at least three sides through the placement of buildings; or
e. Enclose outdoor dining or gathering places between buildings.

FIGURE <>: MULTI-BUILDING DEVELOPMENT



G. RETAIL, LARGE FORMAT

The following standards shall apply to large format retail uses:

1. LARGE FORMAT RETAIL USES DISTINGUISHED

Large format retail uses are commercial use types (see Table <>, Table of Common Principal Uses) consisting of a single or multiple commercial tenants in one or more buildings totaling more than 70,000 square feet in area when 70% or more of the total floor area is occupied by retail sales activity.

2. COMPLIANCE WITH COMMERCIAL DESIGN REQUIREMENTS

Large format retail uses shall comply with the following commercial design standards:

- **a.** Section <>, Street Network;
- **b.** Section <>, Non-Residential Building Address Numbers;
- **c.** Section <>, Non-Residential Building Articulation;
- **d.** Section <>, Non-Residential Materials and Colors;
- **e.** Section <>, Non-Residential Building Wall Attachments and Fixtures;
- **f.** Section <>, Non-Residential Roof Form;
- **g.** Section <>, Non-Residential Awnings;
- **h.** Section <>, Non-Residential Outparcels;
- **i.** Section <>, Multi-building Development; and

3. ADDITIONAL STANDARDS FOR LARGE FORMAT RETAIL USES

a. CUSTOMER ENTRANCES

Large format retail uses shall comply with the standards in Section <>, Customer Entrances, except that primary entrances shall include four of the listed options instead of three.

b. FENESTRATION

Building walls on large format retail uses shall incorporate fenestration features in accordance with the following standards (see Figure <>, Large Retail Building Fenestration):

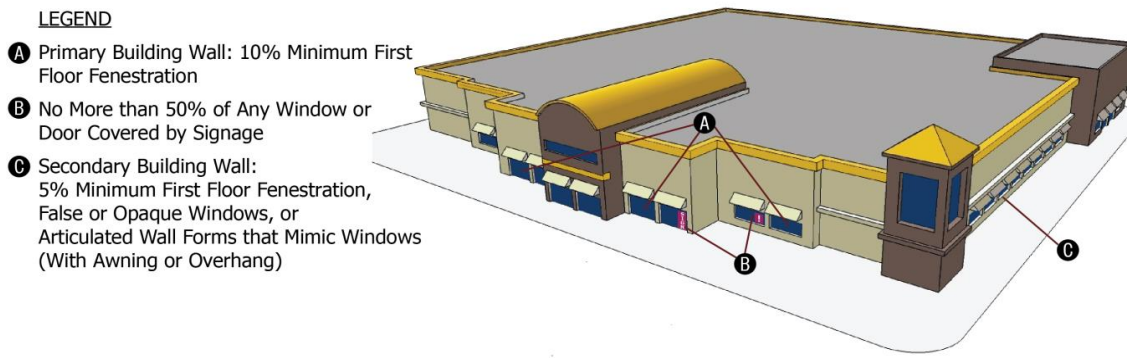
i. PRIMARY BUILDING WALLS

Primary building walls shall be configured so that at least 10 percent of the first-floor portion of the primary wall is occupied by visually transparent windows or doors; and no more than 50 percent of any single window or door is obstructed by a window sign or other opaque display.

ii. SECONDARY BUILDING WALLS

Secondary building walls shall be configured so that at least five percent of the ground floor façade is occupied by visually transparent windows or doors; false or opaque windows; or articulated wall forms designed to mimic window openings that also include an overhang or awning.

FIGURE <>: LARGE RETAIL BUILDING FENESTRATION



c. OFF-STREET PARKING LOCATION

i. Sites comprised of large format retail uses subject to these design standards shall be configured such that no more than 75 percent of the provided off-street parking shall be located between a building's primary building façade and the street it faces.

ii. Off-street parking serving large format retail development located within a Gateway Corridor Overlay District shall be configured in accordance with the applicable requirements in Section <>, (GTOD) Gateway Corridor Overlay District.

6.2.6 SINGLE-FAMILY RESIDENTIAL DESIGN GUIDELINES

A. PURPOSE AND INTENT

These residential design guidelines are proposed as ways to ensure that new single-family detached and duplex housing is high quality, aesthetically pleasing, and provides a wide variety of living options for Town residents. More specifically, these guidelines are intended to:

1. Ensure single-family detached and duplex homes maintain consistent exterior materials and architectural treatments on the front and sides of buildings;
2. Establish guidance regarding changes of exterior finishes and materials on individual facades;
3. Avoid garage-dominated street fronts in residential neighborhoods;
4. Encourage duplex structures to appear as single-family homes; and
5. Ensure an adequate level of variability in single-family home design so as to avoid monotonous streetscapes where every dwelling appears identical or very similar to its neighboring dwellings.

B. APPLICABILITY

1. Single-family detached, ~~two-family~~duplex, triplex, and quadplex dwellings shall comply with these guidelines in the following instances:
   a. When proposed development is subject to a signed statement of consent in accordance with Section <>, Statement of Consent; and
   b. When compliance with these guidelines is included as a condition of approval associated with a conditional rezoning (see Section <>, Conditional Rezoning).
2. Single-family detached, ~~two-family~~duplex, triplex, and quadplex dwellings not subject to a statement of consent are not required to comply with these guidelines, though conformance is strongly encouraged.

C. STATEMENT OF CONSENT

1. Compliance with the design guidelines in this section is voluntary and at the discretion of the applicant. In cases where an applicant chooses to comply with the guidelines in this section, the landowner shall sign the following statement of consent and include it with the application for a Preliminary Plat, Final, Plat Special Use Permit, Site Plan, or Building Permit, as appropriate.

VOLUNTARY COMPLIANCE WITH RESIDENTIAL DESIGN GUIDELINES

The single-family detached, ~~two-family~~duplex, triplex, or quadplex depicted on the attached site plan, subdivision plat, or other development approval is subject to the Town of Clayton's Single-Family Residential Design Guidelines in place at the time the application for this development was determined to be complete. I hereby voluntarily consent to the application of these design guidelines, this acceptance of which shall run with the land regardless of changes in ownership, and recognize that failure to comply with the applicable guidelines following approval is a violation of the Clayton Unified Development Ordinance.

_____ _____

Landowner Signature Date

2. The signed statement of consent and the development approval shall be recorded in the office of the Register of Deeds for the county where the development is located prior to issuance of a building permit.
3. When the guidelines are to be applied to lots within a subdivision, the final plat shall include a disclosure statement that all lots shown on the plat shall be subject to these guidelines.

D. DESIGN FEATURES

1. SIDE AND REAR FACADES

a. Although the front facade of a principal building is expected to be the primary focal point in terms of architectural character and features, all sides of a building shall incorporate architectural detailing and windows that complement the front facade and provide visual interest.
b. Blank walls void of windows and architectural detailing are prohibited when adjacent to a street.

2. FOUNDATION MATERIALS

a. Poured concrete foundations, concrete block foundations, or smooth-faced concrete masonry unit foundations shall be covered by decks, porches, or be clad in face brick, stone, stucco, or some other masonry material accurately imitating these materials. In no instance shall poured concrete, concrete block, or smooth-faced concrete masonry unit foundations be visible on a front or street-facing facade.
b. In cases where a dwelling includes a finished or unfinished basement, the exterior basement walls on the rear or on sides not visible from streets are exempted from these standards.

3. MATERIAL CHANGES

a. Exterior materials on the front façade shall not change at outside corners, but shall continue along side or rear facades for a minimum distance of at least five feet. Wherever possible, materials shall continue to a logical termination point such as a change in roof line or where a separate wing meets the main body of the dwelling (see Figure <>, Exterior Material Changes).
b. Exterior material changes shall take place along a horizontal line where two forms meet, such as the wall and the foundation, the first and second stories, or the wall and roof. It is acceptable for material changes to be configured as architectural accents in areas around windows, doors, cornices, at corners, or in a repeating pattern across a façade.
c. Where two or more exterior materials meet or are combined, the heavier or more massive material shall be located below the lighter element(s). For example, brick below wood siding, stone below brick, wood siding below stucco, etc.
d. It is acceptable for heavier materials to be used as accents around doors, windows, and corners.

FIGURE <>: EXTERIOR MATERIAL CHANGES

LEGEND

- (A) Materials Change at Least 5' Past Outside Corners
- (B) Materials Change at Logical Points
- (C) Heavier or More Massive Material Below Lighter Material
- (D) Heavier Materials Acceptable as Accents Around Doors, Windows, and Corners







4. PROHIBITED MATERIALS

a. The use of corrugated metal siding, unpainted plywood, or smooth-face concrete block is prohibited.

b. Synthetic stucco or EIFS shall be prohibited within two feet of the finished grade.

5. STREET-FACING GARAGES

a. MAXIMUM DOOR WIDTH

Street-facing garage doors configured in accordance with these guidelines shall not exceed a maximum width of 18 feet per garage door.

b. LOCATION

The placement of the primary entrance closer to the street than a street-facing garage door is strongly encouraged, but in no instance shall a primary dwelling entrance be more than nine feet farther from the street than a street-facing garage door.

c. DESIGN FEATURES

Street-facing garages configured in accordance with these guidelines shall incorporate at least three of the following design features on the building wall containing the garage doors (see Figure <>, Garage Door Design Features):

i. Each garage door shall include transparent or opaque windows;

ii. Garage doors shall incorporate decorative hinges or hardware that may be functional or aesthetic;

iii. Garage doors shall include an overhang, eave, trellis, arbor, awning, or other similar architectural feature that projects at least 16 inches beyond the facade directly above the garage door(s);
iv. Garage doors shall be flanked on either side by vertical design elements like columns, pilasters, posts, or similar vertical feature; or
v. The garage door(s) are located at least two or more feet behind a front porch or the primary entrance to the dwelling.

FIGURE <>: GARAGE DOOR DESIGN FEATURES



6. SIDE-LOADED GARAGES

Side-loaded garages configured in accordance with these guidelines may be closer to the street than the primary entrance to the dwelling, provided the garage facade facing the street includes compatible design features found on other building facades, including but not limited to:

a. Windows;
b. Eaves;
c. Overhangs;
d. Decorative trim;
e. Material changes; or
f. Other architectural features included for the sake of compatibility with the building's other facades.

7. ~~TWO-FAMILY~~DUPLEX, TRIPLEX, AND QUADPLEX ENTRANCES

a. A ~~two-family~~duplex, triplex, or quadplex structure shall be organized so as to give the appearance of being a large single-family detached home.
b. A single shared main entry door is strongly encouraged.

c. In no instance shall the primary façade of the building contain fewer than one dwelling entrance.

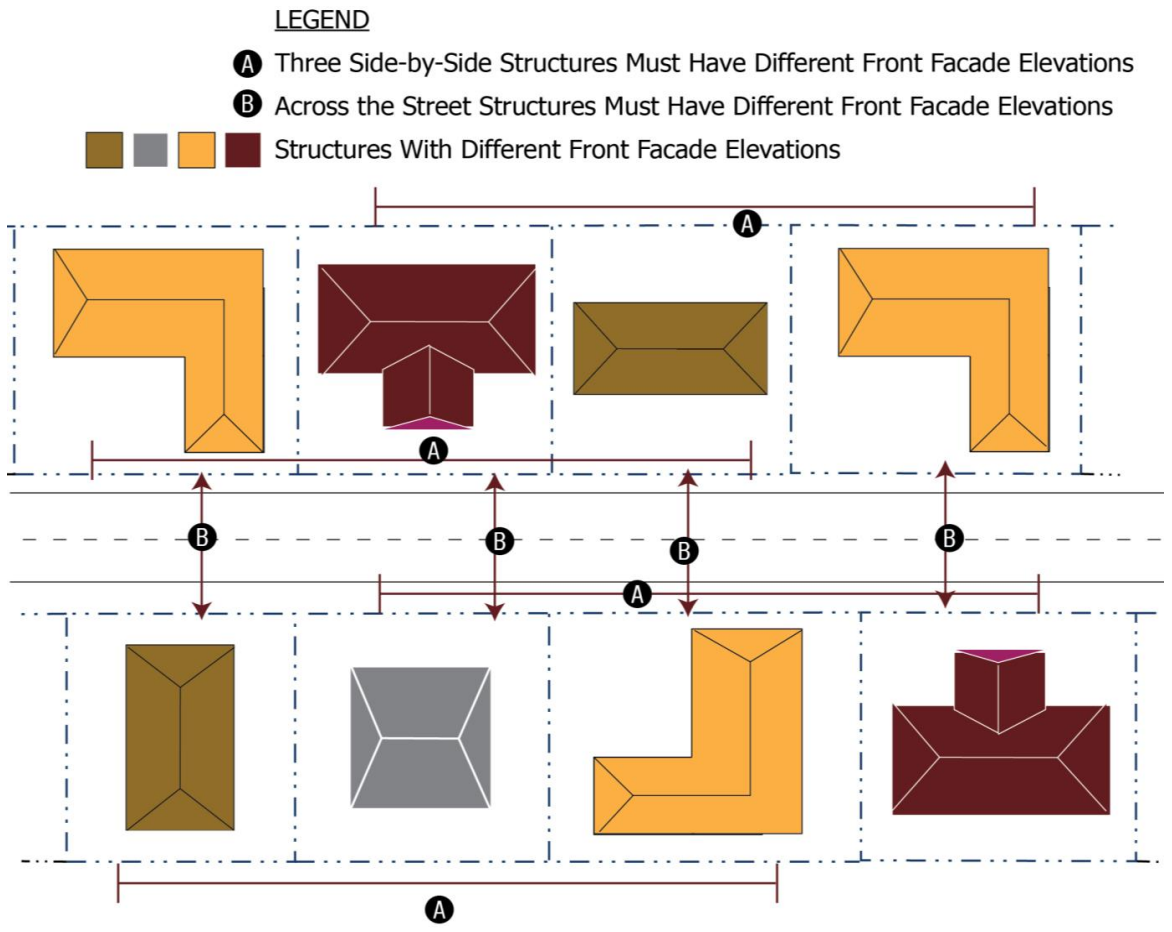
8. ARCHITECTURAL VARIABILITY

a. A continuous row of identical buildings along a block shall be prohibited. Each building shall include "distinctly different" front facade elevations within any single phase of the development such that:

i. No three structures that are side-by-side may have the same front facade elevation; and

ii. No structures directly across the street from one another shall have the same front facade elevation (see Figure <>: Distinctly Different).

FIGURE <>: DISTINCTLY DIFFERENT



b. For the purposes of this section, "distinctly different" shall mean that a dwelling must differ from other adjacent and opposing dwellings in at least six of the following ways (see Figure <>: Distinction Options):

i. A discernable exterior primary color variation, not a slight variation of a similar hue, such as beige or pastel;
ii. Variation in exterior materials;
iii. Use of two or more distinct variations in roof forms (e.g., gable, hip, shed, mansard, gambrel, flat, or other);
iv. Variations in the number of building stories of at least one story;
v. Variation in the amount of habitable space by 400 square feet or more;
vi. A change in the depth of the setback from the street which gives the dwelling its street address by 15 feet or more;
vii. Changes in the type and color of roofing material on structures with pitched roofs;
viii. The orientation of the longest building axis to the street the dwelling faces, whether parallel, perpendicular, or at an angle; or
ix. The orientation of primary roof ridgeline to the street the dwelling faces, whether parallel, perpendicular, or at an angle.

FIGURE <>: DISTINCTION OPTIONS



6.3 FENCES AND WALLS[309]

6.3.1 PURPOSE AND INTENT

These standards provide development standards for permanent fences and walls on individual lots or development sites. These standards are proposed to protect the health and safety of the public while balancing the practical uses for fencing and walls like security and privacy with the need for aesthetic quality and a high-quality built environment. More specifically, these standards are intended to:

A. Provide for privacy and security on individual lots;
B. Ensure proper construction techniques are followed and that fences and walls are maintained in good repair;
C. Assist with the transition between public and private spaces;
D. Minimize the appearance of fence or wall "canyons" along streets; and
E. Ensure fencing and walls are consistent with the Town's desired architectural character.

6.3.2 APPLICABILITY

A. GENERALLY

1. The provisions of this section shall apply to all new fence or wall construction or replacement of all fences, screening walls, or retaining walls.
2. A fence or wall may only be erected in accordance with the standards in this section and Section <>, Zoning Compliance Permit.
3. Except for retaining walls, fences or walls over six feet in height shall comply with the structural requirements necessary to meet applicable wind loading standards and shall be subject to issuance of a building permit in accordance with Section <>, Building Permit.
4. Retaining walls with a total height of five feet or more, including the buried portion, require sealed plans prepared by a professional engineer as part of the application for a building permit.

B. EXEMPTIONS

The following are exempted from the standards in this section:

1. Fences and walls associated with bona fide farms and agricultural use types in districts where these uses are permitted; and
2. Temporary fences for construction sites, including but not limited to: fencing necessary for soil erosion and sedimentation control and tree protection.

C. PRE-EXISTING DEVELOPMENT

Lawfully established fences and walls established prior to (insert the effective date of this Ordinance), that do not comply with these standards shall be subject to the applicable standards in Section <>, Nonconforming Site Features.

[309] This section is proposed to replace Section 155.402(G)(6) of the UDC. These standards provide more detail on redevelopment on sites with pre-existing fences and walls that do not comply with these standards. These standards clarify that fences or walls are prohibited with public utility and drainage easements. Barbed and concertina wire is allowed in the industrial and conditional districts with a minimum height of 6 feet above grade. The standards carry forward the current provisions for chain link fence and add new provisions for wire mesh/fabric (garden) fencing. There are new standards for fence and wall height by type of zoning district (industrial and public facility districts may have 8-foot-tall fences in side and rear yards. There are new requirement for fences when located within street setbacks along side or rear lot lines. Requirements for breaks in fencing are not carried forward.

6.3.3 LOCATIONAL STANDARDS

A. GENERAL

No fence or wall shall:

1. Be located within the public right-of-way (except for public fences or walls, or as needed for retention of soil, subject to an approved encroachment agreement with the Town);
2. Be located within a designated public utility or drainage easement;
3. Obstruct visibility at intersections as required in accordance with Section <>, Sight Distance Triangles;
4. Impede visibility of the required property address number; or
5. Block pedestrian access from doors or windows.

B. EASEMENTS

1. Retaining walls shall provide maintenance easements along their course, particularly when a retaining wall cross lot lines shall be located within a maintenance easement.

~~1.~~2. In cases where a fence or wall is permitted within an easement, the fence or wall shall be allowed to cross the easement perpendicularly or run parallel to and within the easement as close as is practicable to the edge of the easement. Crossings may be required to install a gate wide enough for maintenance equipment to transverse.

~~2.~~3. It is the landowner's responsibility to verify fence or wall locations within a private easement with the easement owner. The Town's permitting of fences or walls does not supersede or negate any private easement agreements or allowances.

~~3.~~4. The landowner shall remain solely liable for any repair or replacement if any portion of the fence or wall located within a required easement is damaged during maintenance or construction activities within the easement by the easement owner or their agent.

C. BLOCK DRAINAGE

Fences or walls shall not alter or impede the natural flow of water in any stream, creek, drainage swale, or ditch.

D. REQUIRED SETBACKS

Fences or walls may be located within required setbacks but shall not encroach onto a separate lot.

E. REQUIRED LANDSCAPING AREAS

Fences or walls may be located within required landscaping areas, subject to the standards in Section <>, Features Allowed Within Required Landscaping Areas. In no instance shall chain link or other semi-opaque fencing be credited towards applicable screening requirements.

6.3.4 MATERIALS

A. LIFESPAN

1. Fences ~~and walls shall~~ be designed, constructed, and maintained to ensure a minimum useful life of at least ten years.
2. Walls be designed, constructed, and maintained to ensure a minimum useful life of at least 30 years.

B. PERMITTED FENCE MATERIALS

The following fencing materials are permitted for fences:

1. Masonry or stone;
2. Ornamental iron, steel, or aluminum;
3. Wood;
4. Vinyl, rigid non-rolled plastic, or composite; or
5. Wire or chain-link only in accordance with Section <>, Wire and Chain Link Fencing.

C. PROHIBITED FENCE MATERIALS

1. Fences made of wooden pallets, tires, debris, junk, rolled or sheet plastic, sheet metal, untreated or unpainted plywood, readily flammable material, or waste materials shall be prohibited, unless the materials have been recycled and reprocessed, for marketing to the general public as building materials designed to resemble new building materials (e.g., picket fencing made from recycled plastic and fiber).
2. In no instance shall tarps or silt fencing remain on a lot or site after completion of construction.

D. RESTRICTED FENCE MATERIALS

1. ELECTRIC FENCES

Fences that carry an electrical current are allowed solely for the purposes of enclosing livestock as part of a bona fide farm use. Nothing shall prohibit below-ground electrical fences intended for the keeping of pets.

2. WIRE AND CHAIN LINK FENCING

a. BARBED, RAZOR, OR CONCERTINA WIRE AS FENCING

Barbed wire as a fence is prohibited in all zoning districts except that it may be allowed as part of a bona fide farm use.

b. BARBED, RAZOR, OR CONCERTINA WIRE ATOP ANOTHER MATERIAL

i. Barbed, razor, or concertina wire may be permitted atop another material or along the top of a wall within the CZC, CZD, CZI, CZM, CZR, PUB, LID, or HID districts.
ii. Where permitted barbed, razor, or concertina wire shall be at least six feet above the grade measured from the base of the fence or wall upon which it is located.

c. CHAIN LINK FENCING

Chain link fencing shall be fully coated in black vinyl, and shall comply with the following requirements:

i. Except within industrial districts, black vinyl coated chain link fencing is prohibited in the area forward of the front façade line of a principal building and the street it faces.
ii. Black vinyl coated chain link fencing may not be located with a street setback unless fully obscured from view from the street by landscaping material to the same height as the chain link fencing.
iii. Shrubs used for the purposes of obscuring chain link fencing shall be at least 30 inches in height at planting.
iv. Vinyl coating is not required for chain link fences located in non-residential districts when the fence is not visible from adjacent property or right-of-way.
v. Nothing shall limit the use of black vinyl coated chain link fencing around all sides of a recreational facility, educational institution, utility, or governmental facility where such fencing is necessary for public safety or security.

d. WIRE MESH OR WIRE FABRIC FENCING

Wire mesh fencing (e.g., chicken wire, hardware cloth, etc.) is permitted as part of a residential use provided it is not located within a required setback or does not exceed 36 inches in height above the adjacent grade.

E. TEMPORARY FENCE MATERIALS

Temporary fences shall comply with the requirements in Section <>, Temporary Fencing.

F. WALL MATERIALS

1. Walls shall be constructed of one or more of the following materials:
   a. Stucco or similar parging over concrete block;
   b. Exposed aggregate concrete; or
   c. Brick, stone, or architectural block assembled in a structurally safe and attractive condition.
2. No walls of exposed smooth-face concrete block shall be permitted. Smooth-face concrete block is permitted when coated with stucco, parging, or other masonry material. Painting alone is insufficient to meet these requirements.
3. Stacked stone or other masonry configurations where no mortar or other bonding agent is used between stones or individual masonry units shall not exceed 36 inches in height above grade.
4. Alternative wall materials may be permitted by the Planning Director provided they provide a similar level of opacity to that of the listed materials and are in keeping with the architecture of the development.

6.3.5 MAINTENANCE

A. Any fence or wall which, through neglect, lack of repair, type or manner of construction, method of placement or otherwise, constitutes a hazard or endangers any person, animal, or property is in violation of this Ordinance.

B. When a fence or wall is in violation of this Ordinance, the Planning Director shall require the owner or occupant of the property upon which the fence or wall is located to repair, replace, or demolish the fence or wall in accordance with all applicable standards in this Ordinance.

6.3.6 MAXIMUM HEIGHT

A. Maximum fence and wall height shall be in accordance with Table <>, Maximum Fence and Wall Height, and Figure <>, Maximum Fence and Wall Height.

B. Fence and wall height shall be measured in accordance with the standards in Section <>, Measurement.

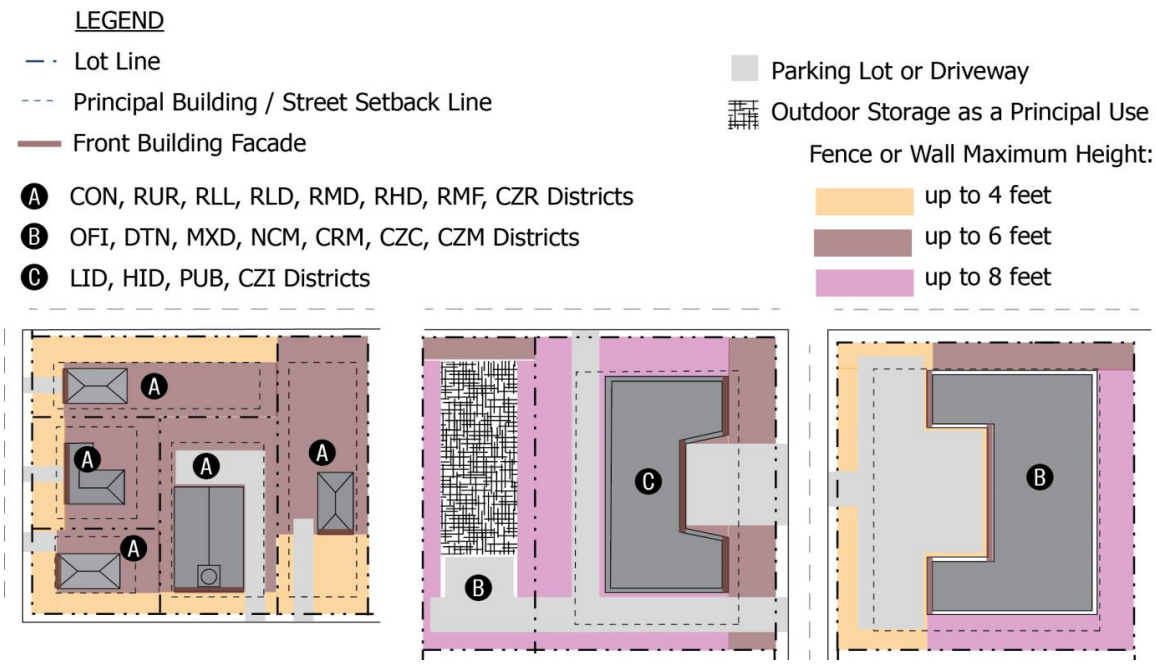
TABLE <>: MAXIMUM FENCE AND WALL HEIGHT

Zoning District Where Located	Location on Lot or Site	Maximum Height (feet) [1]
CON, RUR, RLL, RLD, RMD, RHD, RMF, CZR	Anywhere between the front façade line of a principal building and a lot line abutting a street right-of-way	4
	Anywhere behind the front façade line and between a lot line abutting a street right-of-way and the inner edge of a required street setback	4 [2]

TABLE <>: MAXIMUM FENCE AND WALL HEIGHT		
Zoning District Where Located	**Location on Lot or Site**	**Maximum Height (feet) [1]**
	All other locations	6
OFI, DTN, MXD, NCM, CRM, CZC, CZM	Anywhere between the front façade line of a principal building and a lot line abutting a street right-of-way	4
	Anywhere behind the front façade line and between a lot line abutting a street right-of-way and the inner edge of a required street setback	6
	All other locations	8 [3]
LID, HID, PUB, CZI	Anywhere between the front façade line of a principal building and a lot line abutting a street right-of-way	6
	All other locations	8 [3]

NOTES:
[1] Fence height limits are not applied to fences or walls surrounding tennis courts, athletic fields, ballstops, and around public utility features where public safety must be maintained.
[2] On through lots bounding a street at the front and the rear, a fence or wall in the rear of the lot may have a maximum height of six feet between the street setback line and the lot line abutting the street right-of-way.
[3] All fences or walls over six feet in height shall require issuance of a Building Permit and compliance with State Building Code standards for wind loading.

FIGURE <>: MAXIMUM FENCE AND WALL HEIGHT



6.3.7 FINISHED SIDE

A. Fences over three feet in height and located within a required street setback shall be configured so that the finished side faces outwards toward the abutting street right-of-way.

B. All fences or walls shall be configured so that the finished side faces outwards. For the purposes of this section, the finished side does not include any supporting members or bracing (see Figure <>, Finished Side).

C. As an alternative to configuring the fence with the finished side facing outwards, the fence may be obscured by an evergreen hedge configured with shrubs planted no greater than 30 inches on-center and located between the fence and the street right-of-way. Shrubs shall be planted along the entire span of the fence that is located within a street setback and located no closer than 36 inches to the edge of the right-of-way. Shrubs shall comply with the minimum standards for shrubs at the time of planting in Section <>, Plant Material Specifications.

FIGURE <>: FINISHED SIDE

Ⓐ Finished Side of Fence - Facing Outward

Ⓑ Unfinished Side of Fence - Facing Inward



6.3.8 MEASUREMENT

A. MEASUREMENT LOCATION

1. Fence height shall be measured at the highest point above grade (not including columns or fence posts) on the portion of the fence nearest an abutting or adjacent lot or street right-of-way.
2. In cases where a fence or wall is placed on a berm, the maximum fence or wall height shall include the height of the berm, as measured from the toe of the slope (see Figure <>, Fence Height Measurement).

B. COLUMN AND POST HEIGHT

Columns or posts shall not exceed a height 18 inches above the built height of the fence.

C. RAILINGS NOT INCLUDED

Safety railings required by the North Carolina Building Code shall not be included in wall height measurements.

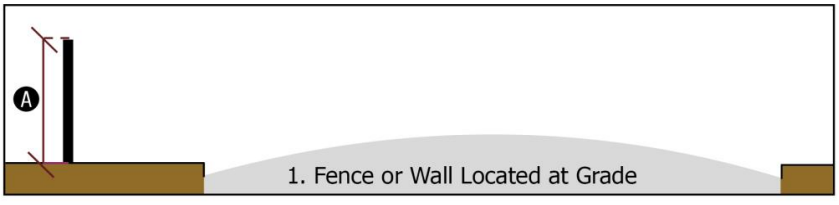
FIGURE <>: FENCE HEIGHT MEASUREMENT

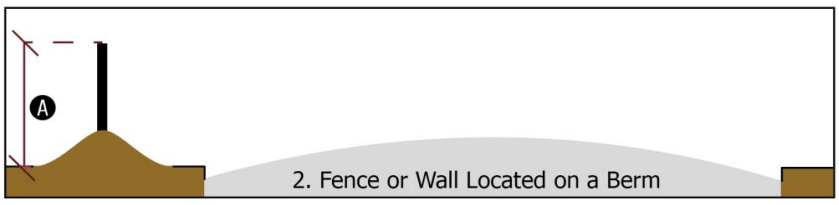
LEGEND

Street

Fence or Wall

Ⓐ Maximum Height Measurement





6.4 EXTERIOR LIGHTING[310]

6.4.1 PURPOSE AND INTENT

The purpose of these standards is to control light trespass and glare so as not to adversely affect motorists, pedestrians, or adjacent properties. Lighting intensities should be controlled to assure public health, safety, and welfare. Further, it is the intent of this section to:

A. Maintain the minimal amounts of exterior lighting needed for night-time safety, security, commerce, and enjoyment;
B. Minimize the adverse off-site impacts of light pollution such as glare, and light trespass, and obtrusive light;
C. Promote the conservation of energy;
D. Help protect the natural environment from the adverse effects of nighttime lighting;
E. Provide adequate lighting for pedestrian and bicycle safety; and
F. Promote the ability of Town residents and visitors to enjoy dark nighttime skies and the ability to see stars after nightfall.

6.4.2 APPLICABILITY

A. GENERALLY

The provisions of this section shall apply to all multi-family, single-family attached residential, mixed-use, and non-residential development unless exempted in accordance with Section <>, Exemptions.

B. RESIDENTIAL DEVELOPMENT

Single-family detached, ~~two-family~~duplex, triplex, and quadplex development shall comply with the standards in Section <>, Prohibited Lighting, and Section <>, Shielding, but shall be exempted from the rest of the standards in this section.

C. EXPANSION OR REMODELING

All expansions or remodeling of principal buildings, parking areas, or open uses of land shall comply with these standards, subject to the requirements in Section <>, Nonconforming Site Features.

D. NONCONFOMING LIGHTING

Exterior lighting for development subject to these standards that does not comply with these provisions shall be addressed in accordance with Section <>, Nonconforming Sites.

6.4.3 EXEMPTIONS

The following forms of exterior lighting or activities are exempt from the requirements of this section:

A. Special events and holiday displays;
B. FAA-required lighting on buildings, towers, or other structures;
C. Interior lighting for stadiums, arenas, and similar facilities; and
D. Temporary lighting necessary for construction or emergencies, used by construction workers or emergency personnel.

[310] This section is proposed to replace Section 155.404 in the UDC. It sets down a series of prohibited lighting (including LED strips around windows and flashing lights. A lighting plan or certification of meeting these lighting standards is required. Lighting heights have been capped at 25 feet in parking lots and 16 feet elsewhere. There are new maximum illumination and shielding standards, as well as requirements for some form of non-residential uses to extinguish exterior lighting after closing 9but motion sensor lighting is permitted).

6.4.4 PROHIBITED LIGHTING

The following forms of exterior lighting shall be prohibited.

A. EXCESSIVE ILLUMINATION

Exterior lighting that exceeds the maximum allowable levels of illumination at a lot line, fails to maintain the minimum required level of shielding, or that creates glare on off-site areas shall be a violation of these standards and subject to the provisions in Chapter 7, Violations.

B. FLASHING OR REVOLVING

Flashing, revolving, or intermittent exterior lighting visible from any lot line or street is prohibited.

C. HIGH INTENSITY LIGHTING

The following forms of exterior lighting shall be prohibited:

1. High intensity light beams, such as searchlights or laser lights, except when used by federal, State, or local authorities;
2. High intensity LED or neon lighting fixtures mounted around the interior or exterior of a window, door, or other architectural feature on a structure; or
3. Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources.

D. LUMINOUS TUBE LIGHTING

Luminous tube lighting (e.g., neon, rope lighting, etc.) is prohibited on building exteriors and in configurations where it outlines a window or glass door from the inside or outside of a structure. Nothing shall prevent the use of neon lighting as a sign when configured in accordance with Section <>, Signage.

E. TRAFFIC CONTROL SIGNALS

Lighting that imitates an official highway or traffic control light or sign or that is in the direct line of sight with any traffic control light or sign is prohibited.

6.4.5 LIGHTING PLAN

A. APPLICABILITY

1. An exterior lighting plan shall be required for all areas proposed for illumination that exceed 10,000 square feet in area.
2. Projects with multiple areas proposed to be illuminated (such as separate parking lots) shall submit a lighting plan if the sum of the multiple areas exceed 10,000 square feet.

B. LIGHTING PLAN NOT REQUIRED

In cases where development proposes exterior lighting, but a lighting plan is not required, the development application shall indicate the following:

1. Exterior lighting fixture type(s);
2. Exterior lighting mounting height(s); and
3. A written statement by the applicant that all proposed exterior lighting complies with the applicable requirements in this section.

C. CERTIFICATION REQUIRED

Certification must be provided by the person preparing a lighting plan that the proposed development complies with the exterior lighting standards of this section.

6.4.6 EXTERIOR LIGHTING STANDARDS

All exterior lighting fixtures on any portion of a site shall meet the following requirements:

A. APPEARANCE

1. Exterior lighting fixtures shall be designed as an integral element that complements the design of the project through compatible style, material, and color.
2. Exterior lighting fixtures shall be designed in a consistent and coordinated manner for the entire site.
3. Light poles, bases, and housings shall be matte or low-gloss finish to minimize glare from the light source.

B. ARCHITECTURAL LIGHTING

1. Shielded floodlights, spotlights, or any other similar lighting may be used to accent architectural elements but shall not be used to illuminate entire building facades.
2. Only lighting used to accent architectural features, landscaping, flags, or art may be directed upwards; however, such uplighting shall be shielded, directed away from off-site view, and shall be limited to a light source of 50 watts or less.

C. FIXTURE HEIGHT

1. Lighting fixtures shall be a maximum of 25 feet in height within a parking lot and shall be a maximum of 16 feet in height within non-vehicular pedestrian areas.
2. Except within the Downtown District, no exterior light fixtures, where pole-mounted or building mounted, located within 50 feet of any single-family detached or ~~two-family~~duplex dwelling shall exceed 16 feet in height.

D. LAMP TYPE

1. Incandescent, florescent, metal halide, light-emitting diode (LED), or color corrected high-pressure sodium lamps are permitted. Other lamp types are allowed when the color emitted is similar to the permitted lamp types.
2. Low-pressure sodium, non-color-corrected high pressure sodium, and mercury vapor light sources are prohibited.
3. The same lamp type must be used for the same or similar types of lighting throughout a development.

E. MAXIMUM ILLUMINATION LEVELS

New development subject to these standards shall be configured so that the maximum illumination level at the lot lines of the new development complies with the limitations as specified in Table <>, Maximum Illumination Levels.

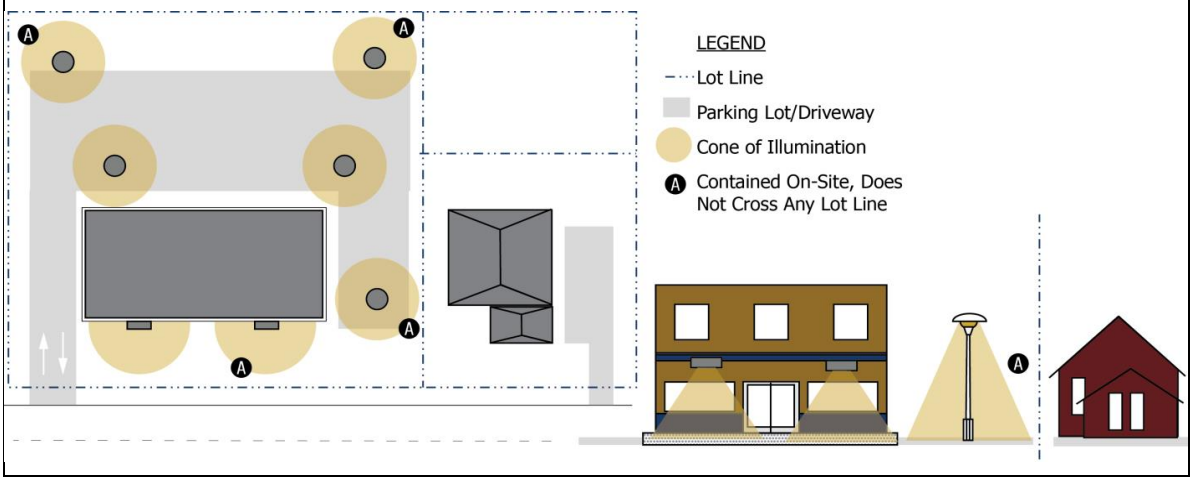
TABLE <>: MAXIMUM ILLUMINATION LEVELS	
LOCATION OF NEW DEVELOPMENT [1]	MAXIMUM ILLUMINATION LEVEL AT THE LOT LINE (FOOTCANDLES) [2] [3] [4]
Lot abuts land in a CON, RUR, RLL, RLD, or RMD zoning district	1.0
Lot abuts land in a RHD, RMF, MXD, or CZR zoning district	1.5
Lot abuts land in an OFI, DTN, NCM, CZM, or CZD zoning district	2.0
Lot abuts land in a PUB, CRM, LID, HID, CZC, or CZI zoning district	2.5

NOTES:
[1] Standards are applied based on the zoning district designation of abutting land, not the zoning district designation where the new development is located.
[2] Maximum illumination level measured at a lot line shared with the zoning district identified in the corresponding Location column.
[3] Illumination level as determined in accordance with Section <>, Measurement.
[4] In cases where a single development occupies multiple lots, the standard shall apply to the lot line(s) around the perimeter of the project.

F. MOUNTING LOCATION

1. Exterior lighting shall be mounted and configured in such a manner so that the cone of illumination is contained on-site and does not cross any lot line around the perimeter of the site (see Figure <>: Mounting Location).
2. Wall pack and wall-mounted lighting fixtures shall not project above the fascia or roof line of the building.

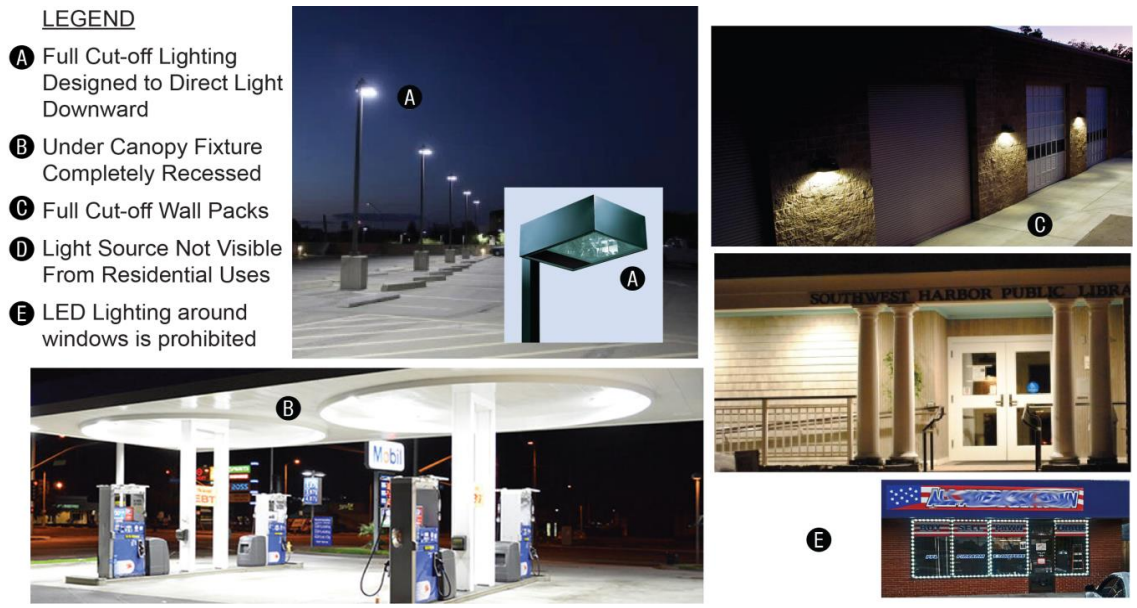
FIGURE <>: MOUNTING LOCATION



G. SHIELDING

1. Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky (see Figure <>: Light Shielding).
2. Under canopy lighting fixtures shall be recessed within the canopy so that no source of illumination is visible except from directly underneath the light fixture.
3. Wall packs and floodlights and shall be shielded (e.g., true full cut-off type bulb or light source not visible from off-site) and configured to direct light downwards rather than outwards.

FIGURE <>: LIGHT SHIELDING



6.4.7 STANDARDS FOR SPECIFIC SITE FEATURES AND USES

A. BUILDING ENTRANCES AND GATHERING AREAS

Entrances to buildings and outdoor gathering spaces available for use by the general public after dusk shall be illuminated to provide safety and security, subject to Section <>, Exterior Lighting Standards.

B. OUTDOOR RECREATION AND PERFORMANCE USES

Exterior lighting of outdoor recreation, sports areas, athletic fields and courts, and outdoor performance areas shall comply with the following standards:

1. GLARE CONTROL PACKAGE

All lighting fixtures subject to these standards shall be equipped with a glare control package (e.g., louvers, shields, or similar devices) and be aimed so that their beams are directed and fall solely within the designated playing or performance areas.

2. HOURS OF OPERATION

The hours of operation for the lighting system for any game or event shall not continue more than one hour after the end of the game or event.

C. PARKING LOTS

1. LIGHTING REQUIRED

Off-street parking lots of five or more spaces shall include exterior lighting configured in accordance with Section <>, Exterior Lighting Standards.

2. AMBIENT LIGHTING REQUIRED

a. Exterior lighting within parking lots, including driveways and drive aisles, shall be configured and operated in order to maintain a minimum threshold of ambient lighting of at least 0.5 footcandles after dusk throughout the parking lot and vehicular use areas.

b. Exterior lighting serving residential and mixed-use parking lots shall provide ambient lighting throughout the evening hours unless a reduced period of time is approved as part of a conditional rezoning approval (see Section <>, Conditional Rezoning).

3. PLACEMENT CONSISTENT WITH REQUIRED LANDSCAPING

Exterior lighting located within a parking lot shall comply with the standards in Section <>, Separation of Light Poles and Trees.

D. STRING LIGHTS[311]

String lights are permitted as a part of non-residential and mixed-use development in the CRM, DTN, MXD, NCM, OFI, CZC, CZD, and CZM districts, subject to the following standards:

1. Exposed decorative string lighting shall be limited to a maximum bulb rating of 5 watts or less.

2. Decorative string lighting shall consist of single strands and run in any of the following configurations:

a. Following the architectural features of a building, including doors, windows, awnings, or rooflines;

b. Hung parallel or perpendicular to the architectural feature;

c. Wrapped around columns, posts, or pillars on a building;

d. Wrapped around existing on-site features such as landscaping, trees, or posts;

e. Strung overhead in activated public and private alleys; or

f. Placed around, across, or as a way to define outdoor dining or outdoor seating areas.

3. Decorative string lighting shall be designed to create a constant glow and prevent glare.

4. The color of decorative string lighting shall be white light in the color temperature range of not less than 2,700 K and not exceeding 4,200 K, except as permitted during a holiday period as defined below:

a. Colors beyond white are permitted for decorative string lighting between November 1 and January 15 of each year.

b. Decorative string lighting of a different color than white must be removed, turned off, or changed back to an allowable shade of white no later than 10 days following the end of the holiday period.

[311] Carries forward text amendment 2023-51-OA Sign Ordinance-String Lighting Text Amendment with no substantive changes.

5. All decorative string lighting must be maintained in proper working order, and must be replaced, turned off, or removed entirely if a portion of the string lighting is not in proper working order.
6. Decorative string lighting can be left on at all times to enhance the beautification and lighting of downtown, even outside of business hours.
7. Decorative string lighting must be securely and safely affixed to any structure or site feature.
8. Suggestions of movement such as flashing, blinking, flickering, neon or scrolling string or rope lighting, or lighting that changes in intensity or color is prohibited.
9. Lighting in shape of a sign, or spelling out the name or products of a business shall be prohibited.

6.4.8 STREET LIGHTS

A. Public and private streets shall be illuminated in accordance with NCDOT's Roadway Lighting Policy, 2020, as amended.

B. In cases where a subdivision includes streets and intersections subject to these standards, the subdivider shall coordinate with the Town or Duke ~~Progress~~ Energy Progress, as appropriate, or other designated electrical service provider to prepare a street lighting plan that identifies the location and configuration of required street lights.

C. The infrastructure plan associated with the subdivision shall include the street light plan.

D. Street lights, where provided shall be located within the street right-of-way.

E. Street lights shall maintain a maximum on-center spacing of 150 linear feet unless topographic or safety concerns mandate a different configuration.

~~C.~~**F.** Street lights shall generally be located on the opposite side of the street from the closest adjacent street light.

~~D.~~**G.** All street lights shall be located inside full cut-off fixtures mounted on non-corrosive poles served by underground wiring.

~~E.~~**H.** The light structure and light color of street lights shall be consistent throughout the subdivision.

~~F.~~**I.** Nothing shall limit a subdivider from providing street lights in areas beyond street intersections provided the street lighting is configured in accordance with NCDOT or Town policy guidance and provided the owners' association is responsible for street light maintenance.

6.4.9 MEASUREMENT

A. MEASURED AT THE LOT LINE

Light level measurements shall be made at the lot line of the land upon which light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the land.

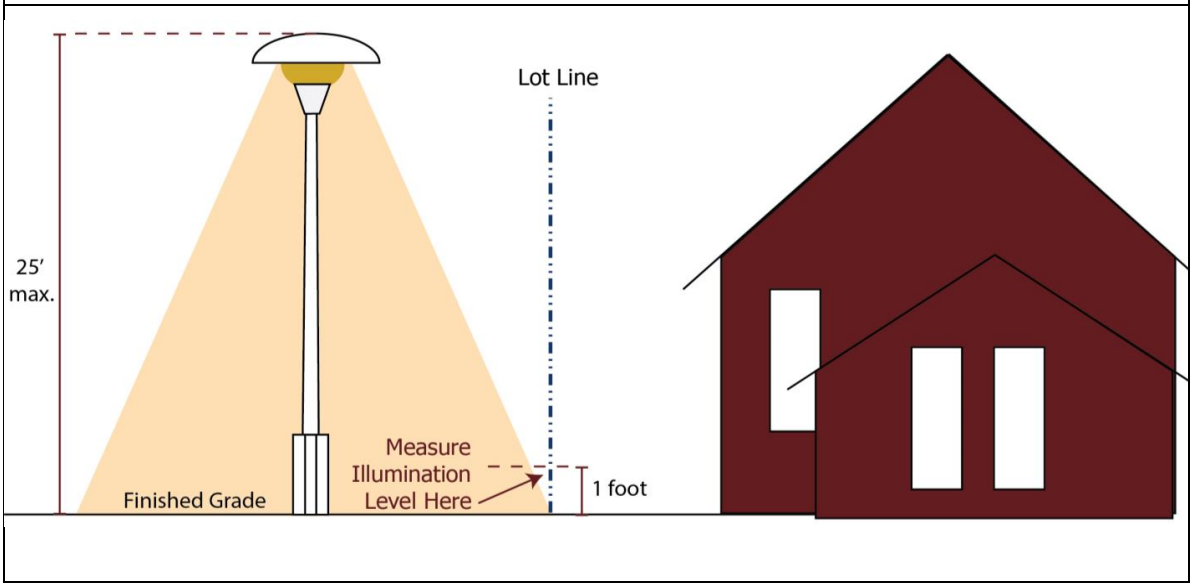
B. MEASURED AT FINISHED GRADE

Measurements shall be made within one foot of the finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five percent.

C. MEASUREMENT DEVICE

Measurements shall be taken with a light meter that has been calibrated within two years and by a person certified to operate the device.

FIGURE <>: LIGHT MEASUREMENT



6.5 INFRASTRUCTURE[312]

6.5.1 PURPOSE AND INTENT

The purpose of this section is to establish standards for the planning and installation of public infrastructure as part of development, whether as part of a subdivision, site plan, or expansion or addition of an existing site. More specifically, this section is intended to:

A. Provide for the orderly growth and development of the Town, and its planning jurisdiction;
B. Coordinate the logical extension of streets and other public utilities as a part of new development and redevelopment;
C. Provide for the adequate provision of services and infrastructure for features such as potable water, wastewater, and fire protection;
D. Maintain conditions essential to the public's health, safety, and general welfare;
E. Protect environmentally sensitive lands and resources; and
F. Facilitate the further re-subdivision of larger tracts into smaller parcels of land, where appropriate.

6.5.2 APPLICABILITY

A. The standards in this section are applied to all forms of development that include or are served by the following forms of infrastructure:
  1. Electricity, whether provided by the Town or other service provider;
  2. Fire protection features, such as fire hydrants;
  3. Natural gas (other than propane or liquified petroleum stored and used by a principal or secondary use on the same site);
  4. Streets, including private streets;
  5. Street curbing, drainage, lighting, and signage;
  6. Potable water, other than an on-site water source;
  7. Wastewater (sanitary sewer), other than an on-site wastewater treatment system located on the same site as the principal use it serves.

B. The timing of review for compliance with these standards shall take place as part of review for a Site Plan, Subdivision Plat, Construction Drawings, Zoning Compliance Permit, Building Permit, or Certificate of Occupancy, as appropriate.
C. Development subject to these standards shall have installed all required infrastructure in accordance with this section or shall have secured its completion in accordance with Section <>, Performance Guarantee, prior to final approval of a Final Plat (see Section <>, Final Plat) or issuance of a Certificate of Occupancy (see Section <>, Certificate of Occupancy).

6.5.3 GENERALLY

The following standards are applied to all forms of infrastructure regulated under this Ordinance.

A. BEAR REASONABLE RELATIONSHIP

All required improvements and rights-of-way (other than required reservations) in this section shall substantially benefit the development or bear a reasonable relationship to the need for infrastructure attributable to the new development.

[312] This section consolidates and broadens the standards in Article 6 of the current UDC. One key change is a broader recognition that infrastructure standards apply to site plans and other forms of development in addition to the subdivision process. This section includes new standards for bridges and dams, cluster mailboxes, electricity, and fire protection. The standards include the provisions for streets and street-related features, but sidewalks, trails and greenways are relocated to their own new section. The standards for school site reservation and reference points are relocated to the section on subdivision design. The standards dealing with performance guarantees are relocated to Chapter 2, Procedures.

B. CONSISTENCY WITH ADJACENT DEVELOPMENT

Whenever it can reasonably be anticipated that infrastructure constructed in one development will be extended to serve other adjacent or nearby developments, the infrastructure (such as streets, water, or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

C. INSTALLATION SEQUENCE

Infrastructure shall be installed in the following sequence:

1. Street grading and installation of water distribution lines, sanitary sewers, storm sewers, gas, telephone, cable television, and electric service lines, with connections for each system extended beyond the curb line to preclude subsequent cutting of pavement;
2. Street base material;
3. Curb and gutter and sidewalks; and
4. Street paving. Installation of the final lift of asphalt on roadway surfaces shall be delayed until at least 80 percent of the development (or 80 percent of the development within a particular phase) is completed.

D. LOCATION

1. All infrastructure located within a Town-maintained right-of-way shall be subject to the Town's policies regarding public rights-of-way.
2. Placement of required infrastructure within a special flood hazard area shall only be in accordance with the applicable standards in this Ordinance and applicable State law.

E. MAINTENANCE REQUIRED

1. Required infrastructure installed or caused to be installed by a subdivider and intended for ownership or operation by another entity (like the Town, NCDOT, or an owners' association) shall be maintained by the subdivider until such time as the infrastructure is accepted by the entity who will own or operate it.
2. All infrastructure shall be constructed in a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

F. PLANS (AS-BUILT) REQUIRED

1. Whenever a subdivider installs or causes to be installed any Town-operated or maintained infrastructure, the subdivider shall, as soon as practicable after installation is complete, and before acceptance, furnish the Town with an as-built plan prepared by a professional engineer that shows the exact location and configuration of all infrastructure features. Nothing shall limit the depiction of more than one type of infrastructure or utility on the same as-built plan sheet.
2. The as-built plan must be verified as accurate by the Town or appropriate utility service provider. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing the development.
3. As-built plans shall be prepared and verified prior to commencement of operation, issuance of a Certificate of Occupancy, approval of a Final Plat, or as otherwise required by the Engineering Director.

G. UNDERGROUND UTILITIES REQUIRED

1. Except for high voltage electrical transmission lines, all new electric power lines, excluding transformers or enclosures containing electrical equipment which may be pad mounted, as well as telephone, gas distribution, and cable television lines in development constructed after (*insert the effective date of this Ordinance*) shall be placed underground in accordance with the specifications and policies of the respective utility service providers.
2. Except for existing high voltage electrical transmission lines, existing overhead utilities located on land adjacent to new development subject to the standards of this section are strongly encouraged to be relocated to underground locations.
3. No electric power, telephone, cable television or other utility lines may be installed over ponds, lakes, rivers, or other bodies of water.

6.5.4 BRIDGES AND DAMS[313]

A. BRIDGES

All bridges for vehicles and pedestrians shall be designed and configured by a professional engineer in accordance with applicable NCDOT standards.

B. DAMS

All dams shall be designed, constructed, and operated in accordance with NCGS§143-215.23, the Dam Safety provisions of the North Carolina Administrative Code, the Town's Engineering Specifications and Design Manual, and the following:

1. If located within a Special Flood Hazard Area, the structure shall be designed to meet or exceed all FEMA standards for such structures;
2. Dams shall not incorporate landscaping material and shall not be credited towards open space set-aside standards;
3. Maintenance of a dam structure shall be the responsibility of the developer or an owners' association, who shall be responsible for conducting all scheduled inspections and furnishing results of inspections to the Town, upon request; and
4. The party responsible for dam maintenance shall provide a performance guarantee for the dam's maintenance in perpetuity in accordance with the standards in Section <>, Performance Guarantees.

6.5.5 CLUSTER MAILBOXES[314]

New subdivisions and new phases to existing subdivisions shall incorporate cluster mailbox units configured in accordance with all applicable US Postal Service requirements and the following:

A. ACCESS

1. All cluster box units in a development shall be directly served by a sidewalk, pedestrian trail, or include facilities for vehicular access.
2. At least five percent of the provided mailboxes shall be configured to permit access in accordance with the American with Disabilities Act.

B. CONSTRUCTION

Cluster box units shall be constructed in accordance with the following requirements:

[313] These are new standards.
[314] These are new standards.

1. Except in cases where cluster units are located within a building, such facilities shall be located on paved concrete pads and anchored in accordance with the NC State Building Code and US Postal Service requirements.
2. Cluster box facilities with 100 or more mailboxes in one location shall be located within a roofed structure that provides shelter from sun or rain.

C. LOCATION

1. Cluster box units shall be located within one or more of the following locations:
   a. On land owned or maintained by an owners' association; or
   ~~b. Within a public street ROW; or~~
   ~~c.~~b. Within a private access easement.
2. Where possible, cluster box units shall be located central to the development they serve or proximate to a primary vehicular entrance to the development.
3. In no instance shall a cluster box unit be located within a required sight distance triangle, a public utility easement, within the vehicular travelway portion of a street or alley, or in a manner that obstructs the movement of pedestrians along a sidewalk or trail.
4. A cluster box unit shall be positioned so that the individual mailbox units may be accessed without the need to stand within a street travelway.
5. In cases where a subdivision includes a recreational amenity building, cluster box units are encouraged to be located within or adjacent to the building.

D. LIGHTING

Cluster box units shall be served by one or more street lights configured in accordance with Section <>, Street Lights, in developments where street lights are provided.

E. PARKING

1. A cluster box unit with 20 or more mailboxes shall be served by one on-street or off-street parking space.
2. Cluster box units with 40 mailboxes or more shall be served by two on-street or off-street parking spaces plus one additional on-street or off-street parking space for every additional 20 mailboxes beyond 40 to a maximum of four parking spaces.
3. Parking spaces shall be off-site or parallel to the vehicle travelway. Parking spaces that are perpendicular to the travelway is prohibited.
4. At least one of the parking spaces provided shall meet the requirements for an accessible parking space in accordance with the State Building Code.
5. As an alternative to providing parking spaces, a cluster box unit may incorporate a separate vehicular pull-off area with sufficient width to accommodate a standard passenger vehicle and a sufficient length to accommodate the same number of stacked vehicles as could be accommodated by required on-street or off-street parking.
~~5.~~6. In cases where a cluster box unit is located within an neighborhood amenity use (like a clubhouse) or shares parking with such a use, the off-street parking provided for the cluster box unit shall be marked and reserved. In no instance shall the off-street parking serving a cluster box unit be shared or off-site parking.

6.5.6 DRAINAGE FACILITIES[315]

New development shall provide for the proper drainage of all stormwater runoff in order to protect the proposed development and neighboring developments from water damage in accordance with State law, this Ordinance, and the following standards.

A. APPLICABILITY

New non-residential, mixed-use, multi-family, and major residential subdivisions shall provide drainage facilities in accordance with the standards in this section.

B. APPROVAL REQUIRED

The design of a drainage facility system, whether on public or private land, shall be subject to the approval of the Engineering Director in accordance with all applicable State law and standards in this Ordinance.

C. CONFIGURATION

1. COMPLIANCE WITH STORMWATER SECTION

Drainage facilities subject to these standards shall also comply with the standards in Section <> Stormwater.

~~1.~~2. MUNICIPAL STORM DRAINAGE SYSTEM

a. Where feasible, the developer shall connect to the municipal storm drainage system.

b. Storm sewers, drains, and structures installed by the developer shall be installed of a size, type, and location approved by the Technical Review Committee, the Engineering Director, or NCDOT, as appropriate.

c. Cross pipes under streets and driveways shall be a minimum of 15 inches in diameter and comprised of concrete, reinforced concrete, or other material, as approved by the Engineering Director.

d. In cases where storm drainage infrastructure associated with the municipal storm drainage system is not located within a street right of way, it shall be located within a public drainage easement configured in accordance with Section <>, Drainage Easements.

~~2.~~3. PRIVATE DRAINAGE SYSTEM

a. Where the municipal storm drainage system cannot feasibly be extended to a proposed development, a surface or sub-surface private drainage system shall be designed to complement surface drainage systems serving surrounding properties.

b. All aspects of a private drainage system shall be located within a designated private drainage easement configured in accordance with Section <>, Drainage Easements.

c. Surface drainage courses shall have side slopes of at least one foot of horizontal distance for each foot of vertical distance.

d. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately one foot in each 300 feet of horizontal distance.

e. In no instance shall surface stormwater be channeled into a sanitary sewer system.

[315] Carries forward and builds upon Section 155.604(E) in the current UDC.

D. MAINTENANCE RESPONSIBILITY

1. Street drainage facilities located outside the street right-of-way shall be maintained by the developer, the landowner, or an owners' association, and maintenance responsibility shall be noted on the final plat.
2. The Town shall not be responsible for any private or commonly-held subdivision drainage infrastructure connected to publicly-maintained drainage facilities, streams, or other outlets having constant flow.

E. TIMING

1. All required drainage facilities shall be constructed prior to approval of a Final Plat (see Section <>, Final Plat), or a Certificate of Occupancy (see Section <>, Certificate of Occupancy).
2. In the case of phased development, drainage facilities shall be completed for the active phase of development unless an alternative configuration is warranted in accordance with Section <>, Phasing.

6.5.7 EASEMENTS[316]

Easements for infrastructure shall be required when infrastructure is located outside a public street right-of-way or land owned by the Town. Easements, where required, shall be configured in accordance with the following standards:

A. GENERALLY

1. EASEMENTS DISTINGUISHED

a. Easements shall take one of the following forms:
   i. An access easement;
   ii. A drainage easement;
   iii. A maintenance easement;
   iv. A public utility easement; or
   v. A roadway slope easement.

b. All easements shall be either public easements or private easements. Public easements are granted in favor of the Town, the NCDOT, or some other governmental entity. Private easements are granted in favor of an owners' association or to one or more individual landowners.

2. ALLOWABLE FEATURES

a. No landscaping, signage, fences, walls, patios, decks, or secondary structures shall be located within a public utility easement or a drainage easement.

b. Greenways, configured in accordance with Section <>, Greenways, may be located within a public utility easement.

c. Parking lots, driveways, and vehicular accessways may be located within any type of easement provided the purpose and function of the easement are not interrupted and provided the Town may access utility features, such as valves or manholes, at all times.

3. AUTHORIZATION FOR REMOVAL OF FEATURES IN EASEMENT

a. In the event landscaping or other structure located within a public easement must be removed in order to gain access or conduct maintenance, the Town may remove such

[316] Builds on current Section 155.604 in the UDC.

features at the owner's expense and shall not be required to replace any removed landscaping or other structures located within a designated public easement.

b. In the event the removed landscaping or other required feature is required by this Ordinance, then it shall be re-established by the landowner promptly after removal by the Town.

4. IDENTIFICATION

All easements whether public or private, shall be granted in favor of the Town of Clayton, the State of North Carolina, the appropriate utility provider, an owners' association, or to the benefit of specific lots, as appropriate, and shall be shown and clearly labeled on a Site Plan or Final Plat.

B. ACCESS EASEMENTS

Access easements shall take one of the following forms:

1. An access easement for the purposes of accommodating a shared driveway, configured in accordance with Section <>, Alternative Access;
2. An access easement for the purposes of an existing or future parking lot cross accessway configured in accordance with Section <>, Parking Lot Connections;
3. An access easement associated with a private street, configured in accordance with Section <>, Private Streets.

C. DRAINAGE EASEMENTS

Drainage infrastructure that crosses a lot line and that is not located within a public street right-of-way shall be located within a drainage easement configured in accordance with the following standards:

1. Drainage easements shall either be public, with the infrastructure owned and operated by the Town or other governmental entity, or private, with the infrastructure owned and operated by a landowner or private entity.
2. No development or land disturbance shall block or obstruct a drainage easement. Nothing shall limit vegetation within a drainage easement provided the vegetations does not interrupt the
3. Open channel drainage easements shall have a minimum width of at least 10 feet.
4. Drainage easements containing sub-surface piped stormwater facilities shall have a minimum width of at least 20 feet.
5. Drainage easements of greater width may be required along the lines of or across lots where necessary for storm drainage, channels, surface overflow or for the extension of main sewers or similar utilities and when necessary for adequate separation of specific utilities.
6. Where development abuts or is traversed by a watercourse, drainage way, canal or stream, the developer shall provide a drainage easement with a minimum width of at least 20 feet for channel improvement, but may be wider if necessary to accommodate deep channels. The drainage easement shall be the minimum width necessary ~~location shall~~ to include both banks and follow the center line of the watercourse, drainage way, canal, or stream.

D. MAINTENANCE EASEMENTS

Maintenance easements shall be required as a part of stormwater control measures in accordance with the standards in Section <>, Stormwater, as well as along retaining walls in Section <>, Fences and Walls.~~-~~

E. PUBLIC UTILITY EASEMENTS

Public utility easements shall be configured in accordance with the Town's Engineering Specifications and Design Manual and the following standards:

1. CONFIGURATION

a. POWER OR COMMUNICATIONS

Where alleys are not provided, public utility easements of not less than ten feet in width shall be provided adjacent to public rights-of-way or in such other locations as may be directed by the Engineering Director for poles, wires, or conduits for electrical utilities, natural gas service, or telephone services.

b. POTABLE WATER

i. Public utility easements of at least 20 feet in width, centered on the pipe, shall be provided for public potable water supply distribution systems in locations as may be directed by the Engineering Director for water distribution lines, water meters, and access points.

ii. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the easement's width or depth.

c. SANITARY SEWER

i. Public utility easements of at least 30 feet in width, as centered on the pipe, shall be provided for public sanitary sewer collection systems in locations as may be directed by the Engineering Director for sewer collection lines and access points.

ii. Easements for lift stations and other facilities shall be sized and located as may be directed by the Engineering Director.

~~ii.~~iii. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the easement's width or depth.

d. SHARED EASEMENTS

Potable water and sanitary sewer may also be located within a 40-foot-wide shared easement.

2. GRADE

Public utility easements shall be configured with a cross-slope of 6:1 and a maximum grade of four percent or less.

3. LOCATION

a. Public utility easements shall:

i. Be located in commonly-held lands, where practicable;

~~i.~~ii. Be placed along and centered on property lines, where practicable; and

~~ii.~~iii. Be located proximate to side or rear lot lines, wherever possible.

b. Public utility easements may be located within off-street parking lots, driveways, and vehicular use areas provided access to valves is maintained at all times.

c. In cases where public utilities are located within a development required to provide open space set-aside, public utility easements may be located within open space-set areas.

d. Redesign of the lot arrangements may be required to accommodate easements in extreme conditions.

4. MAINTENANCE

a. Following acceptance, ~~P~~public utility easements shall be maintained by the Town or other public entity.

b. Easements for public utilities shall be cleared of undergrowth, trees, and other obstructions prior to approval of the Final Plat or Certificate of Occupancy unless the Engineering Director certifies in writing that such clearance is unnecessary.

c. Clearance is not required for easements that are provided for possible future use.

d. Public utility easements shall be fully accessible from a rubber-tired vehicle.

F. ROADWAY SLOPE EASEMENTS

A roadway slope easement is provided in cases where a developer seeks to install improvements proximate to the street right-of-way that could make it impossible or impractical to construct or maintain street-related features. Roadway slope easements shall be configured in accordance with the Town's Engineering Specifications and Design Manual and the following standards:

1. A roadway slope easement of 20 feet in width may be required adjoining each side of a public street right-of-way.
2. The Town may reduce or increase the slope easement width due to surrounding terrain conditions.
3. Private improvements may be located within a required roadway slope easement in cases where the applicant submits information sufficient to demonstrate that, in the sole opinion of the Engineering Director, the private improvements do not interfere with the right of the public to construct within the adjoining right-of-way streets, sidewalks, or both.

6.5.8 ELECTRICITY[317]

New development located within the Town's electrical service provision area shall comply with the following standards:

A. SERVICE PROVIDER DETERMINATION

1. The electrical service provider to new development shall be determined based on the proximity of current electrical service provider boundaries, and whether a particular provider was already providing electrical service in the area to be developed.
2. Applicants for new development shall be informed of the designated electrical service provider as the pre-application conference (see Section <>, Pre-Application Conference), or upon the application for a determination in accordance with Section <>, Determination.
3. Maps indicating the boundaries of ~~electrical service providers~~Duke Energy Progress and the Town's electrical service shall be on file and available for public inspection in the offices of the Town's Engineering Department.

B. CONFIGURATION

1. Electrical service shall be configured in accordance with all applicable standards and requirements of the electrical service provider.
2. All Site Plans and subdivision plats shall indicate the electrical delivery point(s).
3. Landscaping shall be located at least three feet from ground-based electrical equipment.
4. In cases where the design or configuration of development changes following approval of the electrical delivery point, the development shall require additional review and approval by the Town.

[317] These standards replace the provisions in current Section 155.604 (F) of the UDC.

C. OWNERSHIP

All electrical facilities located within the Town's electrical service provision area shall become the sole property of the Town upon acceptance. A deed to the Town for such facilities, including any necessary easements, shall be executed prior to connections to the electrical system.

6.5.9 FIRE PROTECTION[318]

A. FIRE CODE[319]

~~[placeholder]~~All new development subject to these standards shall comply with 2018 North Carolina Fire Code, as amended, which is adopted by the Town.

B. FIRE HYDRANTS

1. Fire hydrants shall be required when indicated by the applicable Fire Code or when a development includes four or more proposed lots, four or more dwelling units, or non-residential uses to be served by extension of a public water supply system. Fire hydrants shall comply with the following requirements:
   a. Fire hydrants shall be located within street rights-of-way, no more than 1,000 feet apart, and no more than 500 feet from any lot or unit to be served;
   b. Fire hydrants shall be located at street intersections where practical, near the turnaround of a dead-end street, and at property line intersections;
   c. Water lines serving fire hydrants shall be at least six inches in diameter, or larger size, as required by the water service provider, and shall not be dead-end lines, unless no other practicable alternative exists;
   d. Fire hydrants shall comply with standard hydrant design (National Standard Thread, 4½-inch steamer, two 2½- inch discharge connections, etc.);
   e. Fire hydrants shall be maintained by the provider providing water to the development; and
   f. Fire hydrants shall only be required in cases where the system operator is capable of supplying sufficient water pressure to operate the hydrants.
2. All fire hydrants installed under the requirements of this section shall become the sole property of the Town upon acceptance.
~~2.~~3. In cases where a building includes sprinklers or similar fire suppression devices, fire hydrants shall be required in accordance with Appendix B Table 105.1(2) and Chapter 5 507.5.1.1 of the 2018 North Carolina Fire Code.

6.5.10 POTABLE WATER[320]

All development utilizing potable water shall comply with the following standards:

A. POTABLE WATER SUPPLY SYSTEM REQUIRED

1. Every development, building lot, and manufactured home space shall be served by a means of a water supply that is adequate to accommodate the reasonable needs of the use(s) or lot(s) and complies with all applicable public health regulations.

[318] NOTE TO STAFF: These are new standards. How does the Town apply fire hydrant standards when buildings have sprinklers?

[319] ~~NOTE TO STAFF: What is the official name of the Fire Code(s) the Town has adopted and where may it be inspected by members of the public?~~

[320] This section is proposed to replace the standards in Section 155.604 pertaining to potable water. A subsequent section is devoted to wastewater. There are few significant changes to the current standards except that this section now clarifies that a water source is required for all lots and it adds additional standards for on-site potable water systems.

2. All materials and pipes shall be provided by the developer and shall meet or exceed the requirements established by State, Town, or utility service provider requirements for the potable water system.
3. The Town may, before issuing any approval under this Ordinance, make an investigation and require the developer to submit the information as appears reasonably necessary to ensure that the development will be able to comply with the water supply system requirements of this Ordinance.

B. CONNECTION TO PUBLIC POTABLE WATER SYSTEM

~~1. WITHIN THE CORPORATE LIMITS~~

~~Each new development and each lot in all major subdivisions within the Town's corporate limits, and each development and lot in all major subdivisions in the extraterritorial jurisdiction located within 300 linear feet of the Town's existing public potable water system shall be connected, at the developer's expense to the Town's potable water system.~~

1. WITHIN THE CORPORATE LIMITS

a. Each new development and each lot in all major subdivisions within the Town's corporate limits, and each development and lot in all major subdivisions in the extraterritorial jurisdiction located within a specified distance of an existing or approved but not yet constructed public potable water system shall be connected, at the developer's expense to the Town's potable water system. Mandatory connections to public potable water system shall be in accordance with Table <>, Mandatory Sewer System Connection Required.

TABLE <>: MANDATORY WATER SYSTEM CONNECTION REQUIRED

Number of Lots Proposed	Maximum Distance From Existing Water System Before Water System Connection is No Longer Required (feet) [1]
5-20	300
21-50	500
51-100	1,000
More than 100	Connection is mandatory regardless of distance

NOTES:
[1] Measured from closest point of proposed development to the existing or approved but not yet constructed public potable water system.

b. In the event a development has 100 or fewer lots and is farther than the maximum distance required in Table <>, Mandatory Water System Connection Required, the applicant may choose to connect the development to the public potable water supply system, but such connection is voluntary and is not required.

2. OUTSIDE THE CORPORATE LIMITS

a. Where a new development or a proposed major subdivision located in the Town's extraterritorial jurisdiction and is located within a specified distance from an existing or approved but not yet constructed public potable water supply system, the applicant shall, at the applicant's expense, connect the development or subdivision lots to the Town's public potable water system. Minimum connection distances shall be in

accordance with Table <>, Mandatory Water System Connection Required, except that if a new development or major subdivision includes fewer than 100 units and is located more than 1,000 linear feet from an existing public potable water service line, connection to the Town's public potable water system is voluntary at the discretion of the applicant.

b. In the event a development in the extraterritorial jurisdiction is farther than the maximum distance required in Table <>, Mandatory Sewer System Connection Required, the applicant may choose to connect the development to the public potable water system, but such connection is voluntary and is not required.

~~2. OUTSIDE THE CORPORATE LIMITS~~

~~a. Where a new development or a proposed major subdivision located in the Town's extraterritorial jurisdiction lies more than 300 linear feet from the public potable water supply system, the applicant may, at the applicant's expense, connect the development or subdivision lots to the Town's public potable water supply system, but a connection shall not be required.~~

~~b.~~**c.** No public potable water service shall be provided to any lot or development outside the Town's corporate limits, except in accordance with one of the following:

i. If the lot or site is contiguous to the Town's corporate limits, the landowner shall immediately petition for and obtain annexation of the property into the Town's corporate limits.

ii. If the lot or site is not then contiguous to the Town's corporate, the landowner shall enter into a written agreement with the Town for the voluntary annexation of the lot or site at such future date as indicated by the Town.

~~ii.~~**iii.** If the lot is located behind the Town's Master Meter Network, and is subject to an agreement with Johnston County.

~~iii.~~**iv.** The Town Council may negotiate terms for voluntary annexation of major industrial or commercial tracts which require water and/or sewer system extensions.

3. Any applicant desiring to extend potable water service in an area where no public potable water service is available shall apply, in writing, to the Town for a specific daily allocation for such services.

C. CONFIGURATION

A public water supply system shall comply with the following requirements:

1. When a public water supply is provided, water service shall be required along all lot frontages and along all proposed street extensions, including street stubs.

2. The developer shall install potable water mains in a development so that all lots to be developed will be able to connect to the centralized water system.

3. Water mains shall be installed within street rights-of-way or dedicated public utility easements.

4. The minimum diameter of a water main shall be six inches.

~~5. Except on cul-de-sac lots served by a fire hydrant, water distribution lines shall be no smaller in size than six inches nominal diameter.~~

~~6. On cul-de-sacs served by fire hydrants connected to a six-inch-nominal-diameter water line, or larger, water distribution lines smaller than six inches may be utilized provided:~~

~~a. A blow-off valve is established at the end of such line;~~

~~b. The line is connected to another line within the subdivision to form a loop; or~~

~~c. The line does not serve as the interconnection between the subdivision and the municipal system.~~

~~7.~~5. Water service shall be provided by service lines with a minimum six-inch nominal diameter on streets which are "stubbed out" at property lines to permit future development.

~~8.~~6. In cases where development is proposed in ~~phases,water~~phases, water line valves shall be installed at all phase boundaries.

~~9.~~7. The developer shall submit detailed drawings with the Construction Drawings associated with a development, prepared and sealed by a professional engineer, showing the installation of the required public water supply system infrastructure.

~~10.~~8. All materials and pipes shall meet or exceed the requirements of the public water supply system provider.

D. DEDICATION AND ACCEPTANCE

1. Each developer of land connected to a public potable water supply system shall be responsible for providing system-related equipment and appurtenances, including water tanks, water mains, pump stations, fire hydrants, gate valves, blow-offs, and valve covers between their property and the Town's water supply system.
2. Individual water service meters shall be installed by the Town at the expense of the applicant.
3. All potable water supply facilities installed in accordance with these standards shall become the sole property of the Town upon acceptance. A deed to the Town for such facilities, including easements pertaining to right-of-way entrance for maintenance, shall be executed prior to connection to the Town system.

E. CONNECTION FEES

The applicant shall pay all applicable water system development fees for each lot or development to be served by a connection to the Town's public potable water supply system in accordance with the Comprehensive List of Fees and Charges in place at the time of Building Permit issuance or Construction Drawing approval, whichever is appropriate.

F. OVERSIZING

1. Where the Town Council deems it necessary in the interest of the health, safety, and general welfare, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's development.
2. Where oversized improvements are required, the Town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's development.
3. Such reimbursement shall be mutually agreed upon through a reimbursement agreement as authorized by NCGS§ 160A-499.

G. ON-SITE POTABLE WATER SUPPLY SERVICE

1. All on-site potable water supply systems shall be designed and installed in accordance with Johnston County Health Department requirements.
2. On-site potable water supply systems shall be located upon the same lot as the use they serve.
3. When proposing lots or units to be served by on-site potable water service, the lot shall be of sufficient size to accommodate all the proposed on-site utilities as well as to provide for adequate building area.

4. Every plat with lots served by on-site potable water service shall include the following disclosure statement:

   "Public potable water services are not available, as of the date of the recording of this deed. On-site potable water systems must be approved by the Johnston County Health Department."

6.5.11 REFUSE COLLECTION

Developments seeking to incorporate Town-provided refuse collection shall be configured to allow access by collection vehicles in accordance with the minimum requirements in the Town's Engineering Specifications and Design Manual.

~~6.5.11~~6.5.12 STREETS[321]

A. COMPLIANCE WITH ADOPTED POLICY GUIDANCE

1. All streets and street-related infrastructure in the Town's planning jurisdiction shall be installed and maintained in accordance with these standards and the Town's adopted policy guidance, including, but not limited to the following:
   a. The Comprehensive Transportation Plan;
   b. The Functional Classification Map, as amended;
   c. The Town's Standard Specifications; and
   d. Any applicable North Carolina Department of Transportation requirements.
2. All public streets and rights-of-way shall be constructed in accordance with the standards established for the particular type of street in question by the Town of Clayton, unless a higher or more restrictive standard is established by NCDOT, in which case the street or right-of-way shall meet that higher or more restrictive standard.

B. STREETS DISTINGUISHED

All streets within the Town's planning jurisdiction shall take one of the following three forms:

1. Public streets, owned and operated by the NCDOT;
2. Public streets, owned and operated by the Town; or
3. Private streets, owned and operated by landowners or owners' association.

C. DEDICATION REQUIRED

1. In cases where development abuts or is transected by a thoroughfare or other type of street identified in the Town's adopted policy guidance, the street(s) shall be designated as a public street and the developer shall dedicate land necessary for the street right(s)-of-way in accordance with NCGS§§ 136-66.10 and 160D-804, and the following:
   a. In cases where the designated street alignment is surrounded by the land to be developed, the entirety of the street right-of-way shall be dedicated; or
   b. In cases where the land to be developed abuts one side of the designated street alignment, one-half of the total right-of-way, as measured from the street centerline, shall be dedicated along the development's frontage.
2. In cases where a developer intends to provide new or extend existing public streets and the NCDOT or the Town has indicated a willingness to accept a proposed street or street segment as a public street, the developer shall dedicate all land necessary for the street right(s)-of-way in accordance with NCGS§§ 136-66.10 and 160D-804. In cases where the land to be developed abuts one side of a proposed street alignment, one-half of the total right-of-way, as measured from the street centerline, shall be dedicated along the development's frontage.

[321] This section carries forward and builds on the standards in Section 155.602. The key changes to these standards include the addition of street continuation and connectivity requirements, the addition of new minimum points of access to subdivisions, and removal of Type C private streets (which are now considered "shared driveways" in the alternative access portion of the access and circulation standards in new Section 6.1), and new requirements for private streets to be configured to meet public street standards. The fee-in-lieu material is relocated to Chapter 2, Procedures.

3. Subdivisions located adjacent to and anticipated to be served by existing streets of inadequate right-of-way width shall dedicate the additional right-of-way necessary to meet the minimum widths specified in the applicable Town or NC~~C~~DOT standards.
4. Reservation of designated right(s)-of-way shall be required in lieu of dedication of land for public streets in cases where a right of direct access from abutting property in the proposed development is denied.
5. Right-of-way area to be dedicated or reserved shall be depicted on a Site Plan, Preliminary Plat, Construction Drawings, and a Final Plat, as appropriate, and shall include bearings and distances of the required dedication or reservation lines shown.
6. Any right-of-way required to be dedicated or reserved shall not be included in the calculation of land area for district dimensional requirements for the zoning district where located.

D. CONSTRUCTION AND IMPROVEMENT REQUIRED

1. New development in the Town's planning jurisdiction that meets any of the following criteria shall dedicate all required street right-of-way, and construct new streets, and/or improve existing abutting street facilities in accordance with all applicable Town requirements:
   a. The development is located on or includes land designated for provision of a public street right-of-way;
   b. The development is on a lot or site that abuts land with public streets stubbed to the adjoining lot line;
   c. The development anticipates the inclusion of new public streets; or
   d. The development abuts an existing street that does not meet all the applicable street standards.

~~1. In cases where development includes land abutting or within a designated public street right-of-way, or the developer intends to dedicate the street(s) to the public, the developer shall construct the street, along with associated required facilities such as turn lanes, medians, street drainage, curb and gutter, or street lights, etc., in accordance with the Town's requirements.~~

2. In cases where the street is to be owned and operated by the NCDOT, and the NCDOT's street standards are more stringent than the Town's street standards, the street shall be constructed to the NCDOT's standards.
3. A fee-in-lieu of public street construction may be required by the Town or requested by an applicant in accordance with the appropriate provisions in Section <>, Fee-in-Lieu.

E. MAINTENANCE REQUIRED

In cases where new development includes public streets and is located outside the Town's corporate limits but within its extraterritorial jurisdiction, the applicant shall provide the Town and all purchasers of land within the development an agreement configured in accordance with NCGS§136-102.6 specifying that the developer is responsible for adequate maintenance of all new streets until the streets are accepted for maintenance by the NCDOT.

F. GENERAL REQUIREMENTS FOR ALL STREETS

1. STREET CLASSIFICATION[322]

a. All streets dedicated to public use shall be ~~classified in accordance with Table <>: Street Classification~~ configured in accordance with the applicable NCDOT standards, the Town's Comprehensive Transportation Plan, the Town's Engineering Specifications and Design Manual, or the Town's adopted policy guidance, as appropriate.

~~TABLE <>: STREET CLASSIFICATION~~

~~STREET TYPE [1] [2]~~	~~DESCRIPTION~~
~~Interstate~~	~~Interstates are the highest classification of arterials streets and are designed and are constructed with mobility and long-distance travel in mind. Access is controlled, intersections are grade-separated, and roadways are designed for high-speed travel. Roadways in this functional classification category connect the Town to other destinations in the State and connect major activity centers in the Town to one another. Interstates carry the highest traffic volumes.~~
~~Principal Arterial~~	~~These streets provide a high degree of mobility both within the Town's urban areas as well as through neighboring rural areas. While principal arterials do provide direct access to adjacent land uses along their alignments, their primary function is to facilitate the movement of vehicles from one part of the Town's jurisdiction to another. Principal arterials are found in the most urban or intense parts of the Town and are generally not located within residential neighborhoods, office centers, or industrial parks. Vehicles move at moderate speeds and four-way intersections are often signal-controlled. These streets include at-grade intersections with other streets, but driveways to individual lots are kept to a minimum. The average number of vehicles trips can vary widely based on the urban or rural location of an arterial street.~~
~~Minor Arterial~~	~~Minor arterial streets connect principal arterial streets to one another and provide for vehicle trips of moderate length within geographic areas smaller than those served by principal arterials. Minor arterials help to distribute vehicle trips across the Town and provide much more direct access to individual lots and land uses via driveways. Normally, the spacing of arterial streets should not exceed one mile in fully developed areas.~~

[322] NOTE TO STAFF: This information is proposed to replace the standards in current UDC Section 155.602(C) and (D), but could easily be removed in favor in reliance on an outside plan or other document. Unclear if these street typologies are consistent with the types intended for use by the Town. This information could also be supplemented with trip count details by street type.

TABLE <>: STREET CLASSIFICATION	
STREET TYPE [1] [2]	DESCRIPTION
Major Collector	Major collector streets gather traffic from local streets and funnel it to the arterial street network. They serve as traffic circulators as well as facilitators of direct vehicular access to individual land uses such as multi-family residential, commercial, and industrial developments. Major collector streets may also serve larger single-family residential neighborhoods. Most vehicular trips on a major collector street are longer than three-quarters of a mile. Collector streets accommodate higher vehicle speeds than local streets and often have a blend of signalized and non-signalized intersections in addition to individual driveways for larger developments. In rural areas, major collectors often facilitate intra-county travel of distances shorter than those typical to an arterial street.
Minor Collector	Minor collectors also gather or collect traffic from local streets and connect it with the larger arterial street network. Most vehicular trips on minor collector streets are less than three-quarters of a mile. Typically, minor collector streets are shorter than major collectors, have fewer travel lanes, have a lower density of individual driveway access points, are designed for lower traffic speeds, and are spaced at greater intervals than major collectors. At the same time, the total lane mileage of minor collector streets in a community is typically greater than the total mileage of major collector streets.
Local	Local streets occupy the largest percentage of lane miles across all types of streets and primarily provide direct access to individual lots. Local streets are often configured to discourage through traffic, though local streets can also effectively disperse local traffic when configured as part of a highly-connected network offering multiple routes.
Cul-de-Sac	A dead-end local street that terminates in a vehicular turnaround.
Alley	A secondary street that provides direct access to a limited number of individual lots or land uses. In most cases, access is provided to the side or rear of the lot served by the alley.

NOTES:
[1] The classification shall be based upon the function of the street and projected volume of traffic to be carried by the street, stated in terms of the number of trips per day.
[2] The types of streets and their general locations are depicted on the Town's Functional Classification Map, as amended.

b. New streets constructed in the Town's jurisdiction shall be designated in accordance with Table <>, Street Classification.

c.b. Whenever a street within a new development continues an existing street that formerly terminated outside the development or it is expected that a new street will be continued beyond the development at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the development.

2. STREET CROSS SECTIONS

a. All public streets established in the Town's planning jurisdiction shall include a minimum street right-of-way and cross section configured in accordance with the applicable Town or NCDOT standards.

b. Street cross section requirements for Town-maintained streets shall be located in the Town's Engineering Specifications and Design Manual.

c. Alternative cross-sections may be approved in accordance with the standards and procedures in Section <>, Variance, or as a part of a Type 3 Conditional Rezoning application (see Section <>, Conditional Rezoning). In cases where the alternative cross section is proposed for a street owned and operated by NCDOT, the NCDOT shall also approve the proposed alternative street cross section.

d. Alternative street cross sections shall be configured to readily accommodate emergency vehicles and sanitation trucks.

3. STREET DESIGN

a. GENERAL LAYOUT

i. The layout, arrangement, width, grade, character, and location of streets shall conform to the Town's adopted policy guidance, topographic conditions, natural features, and drainage systems.

ii. When a development abuts or contains an existing or proposed major thoroughfare, the Town may require frontage streets, reverse frontage lots with landscape plantings, or other treatment as may be necessary for adequate protection of residential properties and to ensure separation of through and local traffic.

iii. Reserve strips or parcels controlling access to streets shall be prohibited, except where required as part of development on a double-frontage lot.

iv. Public streets shall not terminate into a driveway, parking lot, or alley.

b. COMPLIANCE WITH OTHER STANDARDS

New streets and changes to existing streets located within or adjacent to a lot or tract shall comply with the applicable standards in the following sections:

i. Section <>, Access and Circulation;
ii. Section <>, Sight Distance Triangles;
iii. Section <>, Drainage Facilities; and
iv. Section <>, Easements.

c. COMPLIANCE WITH TIA FINDINGS

In cases where new development is subject to Section <>, Transportation Impact Analysis, all streets and street-related infrastructure shall comply with the findings of the analysis.

d. STREET INTERSECTIONS

Street intersections shall be configured in accordance with the following standards (see Figure <>: Street Intersections):

i. Not more than two streets shall intersect at any one point unless the Town or NCDOT certifies that such an intersection can be constructed with no extraordinary danger to public safety;

ii. Streets shall intersect at right angles to the maximum extent practicable, and no two streets shall intersect at less than 60 degrees;

iii. Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of the street;

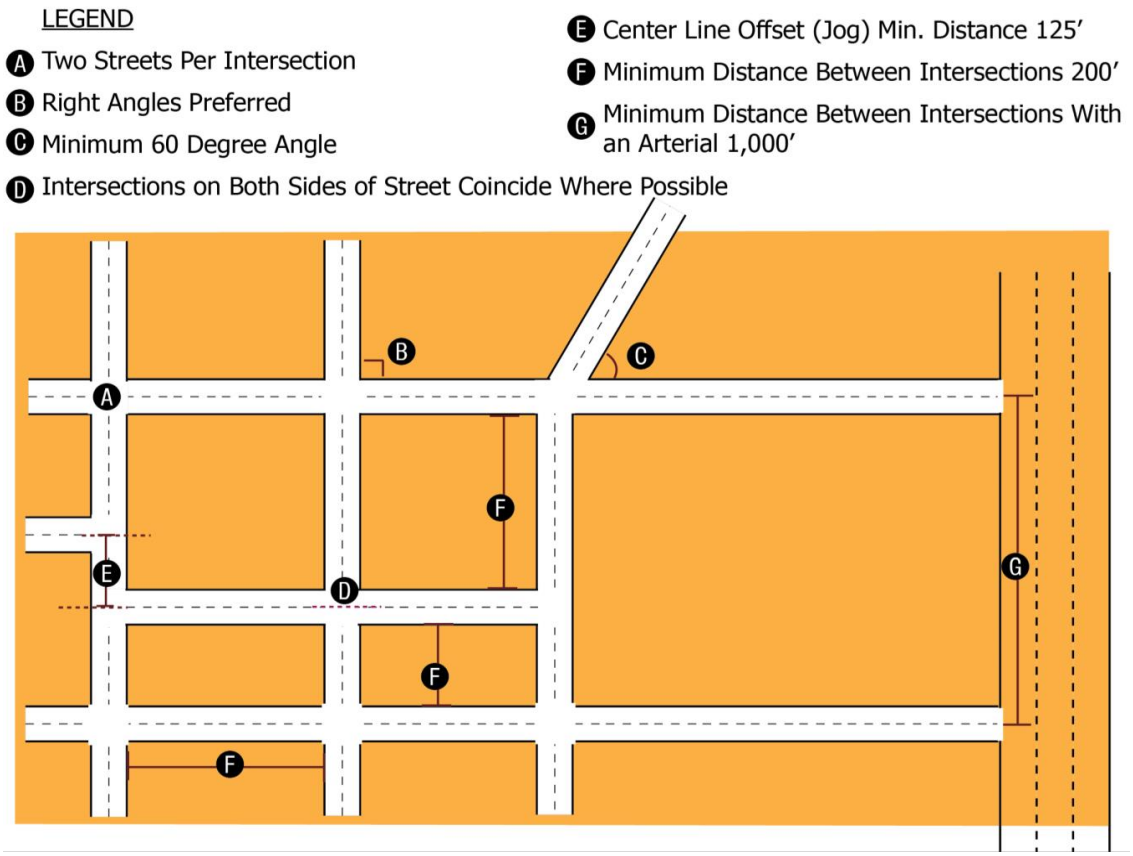
iv. Where a street center line offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 125 feet;

v. Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 200 feet measured from centerline to centerline of the intersecting street. When the intersected street is a major thoroughfare, the distance between intersecting streets shall be at least 1,000 feet, unless no other alternative is practicable;

vi. Property lines at street intersections shall be shown as a chord connecting points not less than 15 feet back from the street intersection along each street right-of-way line. Longer setbacks for chord connections for property lines may be required by the Town as needed for public safety; and

vii. In commercial developments, the Town may assign traffic control to thru traffic within 500 feet of the point of access to the public right-of-way.

FIGURE <>, STREET INTERSECTIONS



e. CUL-DE-SAC AND DEAD END STREET DESIGN

i. No cul-de-sac or dead end street serving residential lots of 20,000 square feet or greater in area shall exceed 1,000 feet in length.

ii. No cul-de-sac or dead end street serving residential lots less than 20,000 square feet in area shall exceed 750 feet in length.

iii. No cul-de-sac or dead end street serving commercial or mixed-use development shall exceed 400 feet in length.

iv. In cases where one cul-de-sac is accessed from another cul-de-sac, the maximum length for all cul-de-sacs accessed from another cul-de-sac street shall be 400 linear feet (see Figure <>, Maximum Cul-de-Sac Length).

v. Cul-de-sac medians may be permitted where the cul-de-sac radius is increased and ~~at~~ emergency vehicles and sanitation trucks can be accommodated. Unless agreed to in writing by the Town, landscaped medians in cul-de-sac streets will not be maintained by the Town. Provision of maintenance for any landscaped median within a cul-de-sac shall require approval of a private maintenance agreement by the Town Attorney.

vi. All permanent cul-de-sacs or other dead-end streets shall be provided with a turn-around at the closed end configured in accordance with the Town's Engineering Specifications and Design Manual.

vii. Stub streets shall be provided in accordance with the standards in Section <>, Street Continuation.

viii. Stub-streets shall not exceed 150 feet in length without inclusion of an approved turn-around for emergency vehicles.

ix. In cases where adjacent development connects to an existing stub-street and provides another point of ingress/egress, the development with the stub street and turn around may be amended to remove the turn-around and convert it to recreational amenities, open space, or additional lots as permitted within this Ordinance.

FIGURE <>: MAXIMUM CUL-DE-SAC LENGTH



f. TERMINATION

In no instance shall a public street terminate into a parking lot.

f.g. STREET GRADE AND CURVES

Street grades, curves, reverse curves, tangents, and other street characteristics shall be in accordance with NCDOT requirements or the Town's Engineering Specifications and Design Manual, as appropriate.

~~g.~~h. HALF STREETS

i. Whenever an existing half street is adjacent to a tract of land to be subdivided or otherwise developed, the other half of the street shall be dedicated and constructed unless no access to the street from the development is ~~not~~ permitted.

ii. In cases where access to an adjacent half street is not permitted, then the land corresponding to the other half of the street shall be reserved and included within an easement for conditional future dedication within the new subdivision or other development.

iii. New half streets are prohibited except when essential to the reasonable progression of the subdivision or other development in conformity with the other requirements of these regulations and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided or otherwise developed.

~~h.~~i. MARGINAL ACCESS STREETS

When a tract of land to be subdivided or developed adjoins a limited access highway, the developer may be required to provide a marginal access street parallel to the highway or reserve frontage on an interior street for the lots being proposed that are adjacent to the highway.

4. BLOCK LENGTH AND WIDTH

a. BLOCK LENGTH

Except for major thoroughfare streets, streets surrounded by the RUR or RLL districts, or where otherwise required by the NCDOT, intersecting streets shall be laid out at such intervals that block lengths do not exceed 1,500 linear feet. Streets may exceed a block length of 1,500 linear feet, provided the street includes traffic calming devices configured in accordance with the Town's Engineering Specifications and Design Manual.

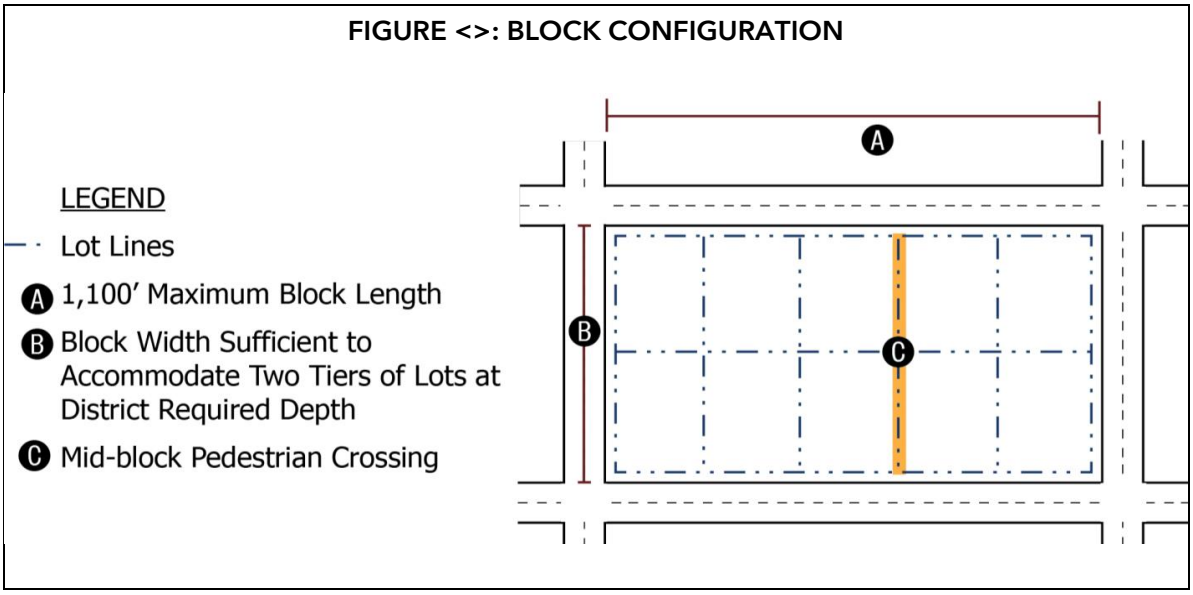
b. BLOCK WIDTH

i. Except where required to separate residential development from through traffic, the width of a block shall normally be sufficient to allow two tiers of lots of appropriate depth.

ii. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries (see Figure <>, Block Configuration).

iii. In cases where the block length exceeds 900 linear feet, a mid-block pedestrian connection through the entire depth of the block shall be provided for all forms of development except when located in a RUR, RLL, LID, or HID district.

FIGURE <>: BLOCK CONFIGURATION



5. STREET CONTINUATION

a. Whenever a street within a new subdivision or development continues an existing street that formerly terminated outside the development or it is expected that a new street will be continued beyond the subdivision boundaries at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the development.

b. The arrangement of streets in a subdivision or development shall provide for the alignment and continuation of existing or proposed streets into adjoining undeveloped lands or in cases where adjoining lands are developed but include opportunities for such connections.

c. Street rights-of-way shall be extended to or along adjoining property boundaries such that a roadway connection or street stub shall be provided for development where practicable and feasible in each direction (north, south, east, and west) for development which abuts vacant lands.

d. Major thoroughfare streets shall intersect with surrounding thoroughfare streets at safe and convenient locations, as determined by the Town and the NCDOT, as appropriate.

e. At all locations where streets terminate with no street connection, but a future connection is planned or accommodated, a sign shall be installed at the location with the words "FUTURE ROAD CONNECTION" to inform property owners.

f. The Site Plan or Final Plat shall identify all stub streets and include a notation that all street stubs are intended for connection with future streets on adjoining undeveloped or underdeveloped lands.

g. The use of residential strips of land in order to prevent the extension of proposed or existing streets or access thereto is prohibited.

6. STREET CONNECTIVITY

Streets within new developments and subdivisions shall be connected to one another to ensure emergency access and prevent traffic congestion in accordance with the following:

a. MINIMUM CONNECTIVITY INDEX SCORE REQUIRED

All development subject to this Ordinance shall achieve an internal street connectivity score in accordance with the following table:

TABLE <>: MINIMUM STREET CONNECTIVITY INDEX SCORE

ZONING DISTRICT WHERE LOCATED [1]	MINIMUM REQUIRED INDEX SCORE
RUR, RLL, RLD	1.20
LID, HID, CZI	1.25
RMD, RHD, CZR	1.30
NCM, PUB, CZC	1.40
DTN, MXD, CZM, CZD	1.50

NOTES:
[1] In cases where a single development is located within more than one zoning district, the connectivity index score shall be based on the zoning district with the highest minimum score requirements.

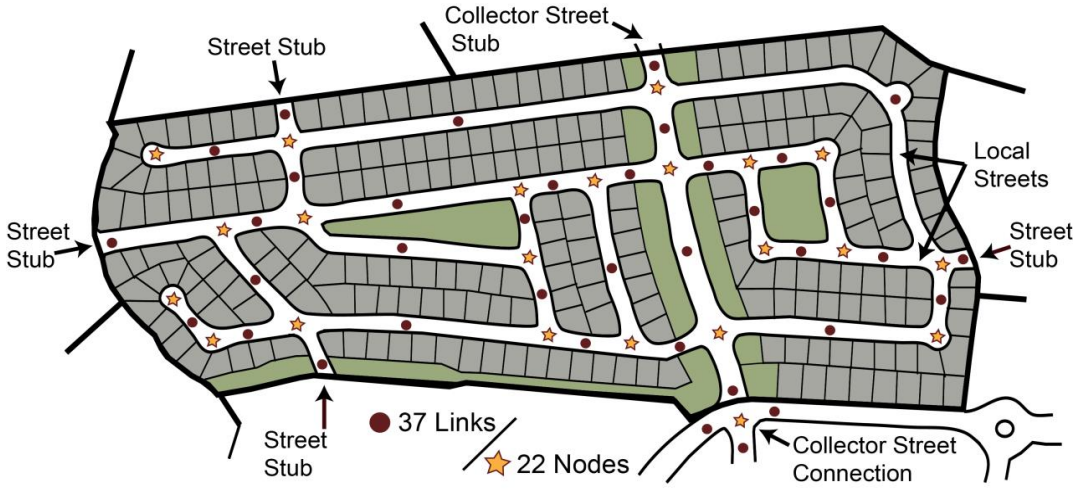
b. CONNECTIVITY INDEX SCORE CALCULATION

i. The connectivity index for a development is calculated by dividing its links by its nodes.

ii. Figure <>, Street Connectivity Index Example, provides an example of how to calculate the connectivity index. Nodes (stars) exist at street intersections and cul-de-sac heads within the development. Links (circles) are stretches of road that connect nodes. Street stub-outs are considered as links, but temporary dead-end streets internal to a development or alleys are not counted as links. One link beyond every node that exists in the development and provides access to the street system outside the development shall be included in the index calculation.

iii. In the diagram, there are 37 links (circles) and 22 nodes (stars); therefore, the connectivity index is 1.68 (37/22 = 1.68).

FIGURE <>, STREET CONNECTIVITY INDEX EXAMPLE



c. REDUCTION IN MINIMUM INDEX SCORE

The minimum connectivity index score may be reduced if the developer demonstrates it is not possible to achieve due to topographic conditions, natural features, existing road configurations, or adjacent existing development patterns. In these instances, internal street design shall achieve as high a connectivity index score as is reasonably practical.

7. DEVELOPMENT ENTRY POINTS

a. All new subdivisions and developments shall provide streets from the development to the street system outside the development in accordance with the following table:

TABLE <>: MINIMUM NUMBER OF DEVELOPMENT ENTRY POINTS [1]

TYPE OF PROPOSED DEVELOPMENT	DEVELOPMENT SIZE	MINIMUM NUMBER OF VEHICULAR ACCESS POINTS [2]
Single-Family Detached Residential, ~~Two-Family~~Duplex, Triplex, and Quadplex	50 or fewer lots or units	1
	51 to 100 lots or units	2
	101 or more lots or units	3 + 1 for every additional 100 units
Single-Family Attached Development, Multi-Family, and Mixed-Use Development	Less than 100 units	2
	101 to 500 units	3
	501 or more units	4
Non-Residential Development [3]	Less than 10 acres	1
	10 to 50 acres	2
	More than 50 acres	3

NOTES:
[1] Development entry points shall refer to streets, not driveways.
[2] Additional development entry points may be required by the Town.
[3] Industrial development is exempted from these standards.

FIGURE <>: DEVELOPMENT ENTRY POINTS



b. Nothing in this section shall limit the total number of streets providing access to the street system outside a development, or exempt a development from meeting all applicable street connectivity standards.

b.c. In cases where a development is required to provide three or more access points, one access point may be access-controlled and limited to emergency access by authorized vehicles only.

~~**c.** Street stubs may be credited as an access point when all ingress or egress to a development is only available from a major thoroughfare street.~~

d. Development shall be exempted from these standards if it is demonstrated the following conditions apply:

- **i.** A transportation impact analysis allows a deviation;
- **ii.** No other street access points can be located due to existing lot configurations, absence of connecting streets, environmental, or topographic constraints;
- **iii.** NCDOT will not authorize the required number of entrances; or
- **iv.** Alternative access can be provided in a manner acceptable to the Town that is supported by a transportation impact analysis.

G. PRIVATE STREETS

1. COMPLY WITH STANDARDS FOR PUBLIC STREETS

New private streets proposed after (*insert the effective date of this Ordinance*) shall be configured in accordance with applicable public street standards.

2. LIMITED TO LOCAL STREETS

In no instance shall a street with a classification higher than a local street be configured as a private street.

3. MAINTENANCE

a. Neither the Town of Clayton or NCDOT shall be responsible for maintenance of private streets.

b. Private streets may be marked with signage indicating where Town or State maintenance responsibility stops.

4. PRIVATE STREET DEED DISCLOSURE

Every deed created for a lot served by a private street subject to this Ordinance filed with the Johnston County Register of Deeds shall include the following disclosure:

> "It is hereby acknowledged that a Subdivision Streets Disclosure Statement has been executed in accordance with Section 136-102.6 of the North Carolina General Statutes."

5. COMPLIANCE WITH EASEMENTS

All private streets shall be located within an access easement configured in accordance with the applicable requirements in Section <>, Easements.

6. VEHICULAR GATES

a. In no instance shall vehicular gates be placed across public street rights-of-way.

b. Gates on a non-residential, mixed-use, or multi-family site shall:

i. ~~a.~~ Conform to Town requirements for emergency access;

ii. ~~b.~~ Be located no closer than 50 feet to the street right-of-way;

~~ii.~~ **iii.** Be served by a vehicular turnaround.

~~iii.~~ **iv.** ~~c.~~ Be reviewed and approved by the Technical Review Committee.

H. CURB AND GUTTER

1. All public streets, whether inside the corporate limits of the Town or outside the Town's corporate limits but abutting land served by public water or sewer, shall be constructed with curb and gutter.

2. Curb and gutter shall be configured in accordance with the Town's Engineering Specifications and Design Manual.

3. Rolled or valley-type curbs may be permitted for new residential streets, but are prohibited on residential collector and other collector streets.

I. STREET NAMES

1. All street names, including names for private streets, shall be in accordance with the County's street naming ordinance, and shall require approval by Johnston County prior to recordation of a final plat.

2. Where proposed streets are extensions of existing streets, or are in obvious alignment with existing streets, the existing street names shall be used except where a new name can reasonably be used to avoid further street name duplication.

3. Proposed street names shall not duplicate or phonetically approximate the name of any street anywhere within Clayton or unincorporated Johnston County.

J. STREET SIGNS

1. The subdivider or developer shall install street signs as part of new development.

2. All streets within a development shall be marked with a street name sign of a design specification and location in accordance with Town requirements.
3. Decorative street signs shall be approved as to form and configuration by the Town or NCDOT, as appropriate, prior to installation.
4. In cases where decorative street signs are proposed, the developer or subdivider shall be responsible for the cost of the decorative street signs.
5. Street signs shall be configured as break away signs in the event of collision with a vehicle.
6. All street name signs shall conform to Town and NCDOT standards.
7. Street name signs shall be installed free of visual obstruction.

K. TRAFFIC CONTROL DEVICES

1. If deemed necessary by the Town or by NCDOT, signals shall be installed by the developer at each street intersection within the subdivision and at each intersection of a subdivision street and a state-maintained road or access road.
2. Signs and signals shall comply with NCDOT regulations with regards to size, shape, color, location, and information contained thereon.
3. At least two or more traffic-control signs shall be placed at each four-way street intersection and at least one at each "T" street intersection.
4. Signs and signals shall be installed free of visual obstruction.

~~6.5.12~~6.5.13 WASTEWATER[323]

All development connected to a potable water supply shall include a wastewater treatment system configured to comply with the following standards:

A. WASTEWATER TREATMENT SYSTEM REQUIRED

1. Every development, building lot, and manufactured home space shall be served by a wastewater treatment or disposal system that is adequate to accommodate the reasonable needs of the use(s) or lot(s) and complies with all applicable Town, County, and State requirements.
2. All materials and pipes shall be provided by the subdivider and shall meet or exceed the requirements established by State, Town, or utility service provider requirements for wastewater.
3. The Town may, before issuing any approval under this Ordinance, make the investigation and require the developer to submit the information as appears reasonably necessary to ensure that the development will be able to comply with the wastewater treatment or disposal system requirements of this Ordinance.

B. CONNECTION TO PUBLIC WASTEWATER TREATMENT SYSTEM

1. WITHIN THE CORPORATE LIMITS

a. Each new development and each lot in all major subdivisions within the Town's corporate limits, and each development and lot in all major subdivisions in the extraterritorial jurisdiction located within a specified distance of an existing or approved but not yet constructed gravity-fed public wastewater treatment line shall be connected, at the developer's expense to the Town's wastewater treatment system. Mandatory connections to public sanitary sewer service shall be in accordance with Table <>, Mandatory Sewer System Connection Required.

TABLE <>: MANDATORY SEWER SYSTEM CONNECTION REQUIRED

NUMBER OF LOTS PROPOSED	~~MAXIMUM~~MAXIMUM DISTANCE FROM EXISTING SEWER SYSTEM BEFORE SEWER SYSTEM CONNECTION IS NO LONGER REQUIRED (FEET) [1]
5-20	300
21-50	500
51-100	1, 000
More than 100	Connection is mandatory ~~regardless of distance~~within 5,000 linear feet

NOTES:
[1] Measured from closest point of proposed development to the existing or approved but not yet constructed public sewer system.

b. In the event a development has 100 or fewer lots and is farther than the maximum distance required in Table <>, Mandatory Sewer System Connection Required, the

[323] This section is proposed to replace the standards in Section 155.604 pertaining to potable water. A prior section is devoted to potable water. There are few significant changes to the current standards except that this section now clarifies that water treatment is required for all lots and it adds additional standards for on-site potable water systems. There are also additional standards for community-level wastewater treatment systems.

applicant may choose to connect the development to the public sewer system, but such connection is voluntary and is not required.

2. OUTSIDE THE CORPORATE LIMITS

a. Where a new development or a proposed major subdivision located in the Town's extraterritorial jurisdiction and is located within a specified distance from an existing or approved but not yet constructed gravity-fed public wastewater line, the applicant shall, at the applicant's expense, connect the development or subdivision lots to the Town's public wastewater treatment system. Minimum connection distances shall be in accordance with Table <>, Mandatory Sewer System Connection Required, except that if a new development or major subdivision is more than 1,000 linear feet from an existing sanitary sewer service line, connection to the Town's sanitary sewer system is voluntary at the discretion of the applicant.

b. In the event a development in the ~~extraterriorital~~extraterritorial ~~jurisdicition~~jurisdiction is farther than the maximum distance required in Table <>, Mandatory Sewer System Connection Required, the applicant may choose to connect the development to the public sewer system, but such connection is voluntary and is not required.

c. No public wastewater treatment system service shall be provided to any lot or development outside the Town's corporate limits, except in accordance with one of the following:

i. If the lot or site is contiguous to the Town's corporate limits, the landowner shall immediately petition for and obtain annexation of the property into the Town's corporate limits.

ii. If the lot or site is not then contiguous to the Town's corporate, the landowner shall enter into a written agreement with the Town for the voluntary annexation of the lot or site at such future date as indicated by the Town.

iii. The Town Council may negotiate terms for voluntary annexation of major industrial or commercial tracts which require water and/or sewer system extensions.

3. Any applicant desiring to extend public wastewater treatment system service in an area where no public wastewater treatment service is available shall apply, in writing, to the Town for a specific daily allocation for such services.

C. CONFIGURATION

Public wastewater treatment systems shall comply with the following requirements:

1. The minimum diameter for a sewer main shall be eight inches.

2. All sewer mains shall be installed at a maximum depth to ensure service to as large an area as possible.

3. The developer shall install sewer mains so that all lots to be developed will be able to connect to the wastewater treatment system.

4. Sewer lines shall be installed within street rights-of-way or dedicated public utility easements.

5. The developer shall submit detailed drawings with the Construction Drawings plan associated with the development, prepared and sealed by a professional engineer, showing the installation of the required wastewater infrastructure.

6. All materials and pipes shall meet or exceed the requirements of the public wastewater treatment system provider.

7. On streets which are "stubbed out" at property lines to permit future development, wastewater service must be provided by lines of at least eight inches in diameter. This requirement is not applied in cases when abutting land is located within a different drainage basin.

D. DEDICATION AND ACCEPTANCE

1. Each developer of land connected to a public wastewater treatment system shall be responsible for providing system-related equipment and appurtenances, including treatment facilities, pump stations, force mains, laterals, valve, and manhole covers between their property and the Town's wastewater treatment system.
2. Individual water service meters shall be furnished and installed by the Town.
3. All wastewater treatment system facilities installed in accordance with these standards shall become the sole property of the Town upon acceptance. A deed to the Town for such facilities, including easements pertaining to right-of-way entrance for maintenance, shall be executed prior to connection to the Town system.

E. CONNECTION FEES

The applicant shall pay all applicable wastewater treatment system development fees for each lot or development to be served by a connection to the Town's public wastewater treatment system.

F. OVERSIZING

1. Where the Town Council deems it necessary in the interest of health, safety, and general welfare, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's development.
2. Where oversized improvements are required, the Town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's development.
3. Such reimbursement shall be mutually agreed upon through a reimbursement agreement as authorized by NCGS§ 160A-499.

G. ON-SITE WASTEWATER TREATMENT SERVICE

1. All on-site wastewater disposal systems shall be designed and installed in accordance with Johnston County Health Department requirements.
2. In cases where a development includes lots to be served by individual on-site wastewater disposal systems, the application for a Preliminary Plat shall include a preliminary soil suitability analysis prepared by a professional engineer. Prior to approval of a Final Plat, all lots in the development indicated for on-site wastewater service shall be certified as capable of accommodating an on-site wastewater disposal system by the Johnston County Health Department.
3. When proposing lots or units to be served by an on-site wastewater disposal system, the lot shall be of sufficient size to accommodate all proposed on-site utilities and provide for adequate building area.
4. In no instance shall on-site wastewater treatment facilities be located on a lot other than the lot where the principal use being served is located. Off-site septic easements are not permitted by this Ordinance.
5. In no instance shall a sewer service line serving an individual use extend across the lot line of a lot owned or controlled by a separate landowner.
6. In cases where an existing lot of record served by an on-site wastewater disposal system is proposed for subsequent re-subdivision, all plats must indicate the locations of exiting on-site wastewater disposal and on-site potable water systems.
7. Every plat with lots served by on-site wastewater disposal system shall include the following disclosure statement:

"Public sanitary sewer services are not available, as of the date of the recording of this deed. All on-site potable water supply systems shall be designed and installed in accordance with Johnston County Health Department requirements."

H. PRIVATE COMMUNITY-LEVEL WASTEWATER TREATMENT FACILITIES

1. Existing, lawfully-established and functioning private community-level wastewater treatment facilities established prior to (*insert the effective date of this ordinance*) shall be permitted to continue operation provided such systems continue to comply with all applicable Town, County, and State rules.
2. Private community-level wastewater treatment facilities shall require the approval of a Development Agreement (see Section <>, Development Agreement).
3. In no instance shall a wastewater service line associated with a private community-level wastewater treatment facility cross a lot line dividing two or more lots under separate ownership. Lots located within a unified development may be served by a community-level wastewater treatment facility that includes service lines that cross one or more lot lines.
4. In cases where an existing force main private community-level wastewater treatment system is proposed for connection to the Town's public sewer system, such private force main systems shall be converted to gravity systems at the applicant's expense. The Engineering Director may also require separate metering of a prior to connection.

6.6 LANDSCAPING AND SCREENING[324]

6.6.1 PURPOSE AND INTENT

The purpose of these provisions is to establish minimum requirements for the provision and maintenance of functionally adequate, attractive screening and buffering of buildings, certain site features, and off-street parking areas. These standards are intended to:

A. Promote and increase design compatibility between different land uses, while ensuring attractive views from streets and adjacent properties;
B. Assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites;
C. Shield adjacent properties from potentially adverse external impacts of adjacent land uses and activities;
D. Abate glare and moderate temperatures of impervious areas;
E. Help filter air of fumes and dust;
F. Provide shade;
G. Reduce noise;
H. Reduce the visual impact of large expanses of pavement;
I. Promote energy conservation;
J. Reduce the amount and rate of stormwater runoff and erosion;
K. Improve water quality;
L. Increase in the capacity for groundwater recharge; and
M. Enhance the appearance and value of both residential and non-residential development.

6.6.2 APPLICABILITY

The standards in this section apply to the following forms of development:

A. NEW PRINCIPAL BUILDINGS OR USES

New principal buildings, except for single-family detached dwellings on individual lots of record, open uses of land, and publicly-owned buildings or sites, constructed, reconstructed, or established after (*insert the effective date of this Ordinance*).

B. SUBDIVISIONS OF LAND

Except for subdivisions exempted from subdivision review by NCGS§160D-802 and Limited Subdivisions (see Section <>, Limited Subdivision), the subdivision of land shall comply with the applicable landscaping and screening requirements in this section.

[324] This section is proposed to replace Section 402 in the UDC. The section clarifies that landscaping is required as part of most subdivisions and that development in the DTNC sub-district is exempted from perimeter buffers and parking lot landscaping (but not street trees and screening). The standards include new detail on when landscaping plans are required, and the standards clarify that a site inspection is conducted by Planning staff prior to issuance of a Certificate of Occupancy as well as another inspection a year after occupancy. The plant material specifications are carried forward with slightly different standards for shrub height and spread at time of planting. The parking lot landscaping standards include interior and perimeter plantings along with tree shading requirements. The parking lot setbacks have been removed. The current UDC identifies 4 kinds of buffers, but includes streetscape and parking lot screening as buffer types (these kinds of landscaping are treated separately in this draft Ordinance). The draft UDO establishes 4 different types of perimeter buffers along side and rear lot lines, applied by the type of abutting district (application based on existing use type is not carried forward as this can change). The draft UDO allows two different buffer width configurations, as opposed to three choices in the current UDC. Street trees are required within street rights-of-way in the downtown, residential, mixed-use, and neighborhood commercial districts (including the conditional versions). Streetscape buffers are required along (but outside) the edges of street rights-of-way abutting local, collector, and arterial streets in other districts (except conservation). The current site interior landscaping standards are revised into requirements for foundation plantings along commercial, mixed-use, and multi-family primary and secondary building facades.

C. IMPROVEMENTS AND EXPANSIONS

All improvements and expansions of principal and secondary buildings, off-street parking areas, or open uses of land lawfully-established before (*insert the effective date of this Ordinance*), shall comply with the standards for landscaping and screening in Section <>, Nonconforming Site Features.

D. MULTI-PHASE DEVELOPMENT

Development that is planned and developed in phases shall be required to install landscaping that is associated with the active phase or phases only, unless an alternative arrangement is otherwise agreed to by the Planning Director and the developer. An active phase of a development is the one that is subject to permitted and on-going development activity.

6.6.3 EXEMPTIONS

A. The following forms of development are exempted from these standards:

1. Routine maintenance of existing vegetation, such as watering and fertilizing;
2. The removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, provided the screening function of the landscaping is maintained or re-established. Failure to maintain the screening function of a required landscaping area is a violation of this Ordinance;
3. Pruning of vegetation, provided the screening function of the required landscaping is maintained. Severe pruning is a violation of this Ordinance, and shall require replacement of required vegetation; and
4. Repaving or restriping of a parking lot, provided there is no increase in parking lot size or the number of parking spaces, which would impact landscaping requirements.

B. Development in the DTNC district shall be exempted from the off-street parking landscaping standards in Section <>, Parking Lot Landscaping, the perimeter landscaping buffer standards in Section <>, Perimeter Buffers, and the foundation planting standards in Section <>, Site Landscaping, but shall be subject to the other standards in this section.

6.6.4 LANDSCAPING PLAN REQUIRED

Development subject to these standards shall include a landscape plan as part of the submittal for a Site Plan, Major or Minor Subdivision Plat, Concept Plan associated with a Special Use Permit, Type 3 Conditional Rezoning Application, or other application type, as directed by the Planning Director.

A. GENERALLY

1. A landscape plan depicting how required landscaping will be planted in accordance with these standards shall be included with an application for site plan, preliminary plat, planned development master plan, special use permit, or building permit, as appropriate, to ensure compliance with this section.
2. The landscape plan shall be approved prior to, or concurrent with an associated application.
3. A landscape plan shall be prepared or sealed by a registered landscape architect and contain, at a minimum, the following:
   a. Location of required planting material;
   b. Grouping or clusters of planting material, if proposed;
   c. Identification of required plants, including their scientific names;
   d. Minimum and maximum dimensions of all planting yard areas;

e. Calculations determining the number of canopy trees, understory trees, and shrubs required;
f. Locations, species, sizes, and methods of protection during construction for existing trees to be retained and counted towards minimum landscaping requirements; and
g. Existing topography, or proposed topography where site grading is proposed to occur.

B. LANDSCAPING IN A STORMWATER RETENTION POND

If trees or shrubs are proposed on or within 20 feet of the embankment of a stormwater retention pond, a landscape plan showing the retention pond and surrounding landscaping shall be submitted for review to determine that the safety and functionality of the device will not be compromised by the trees or shrubs.

C. PHASED DEVELOPMENT

Development subject to these standards that is planned in phases may submit a landscape plan for the entire development, or separate landscape plans for each phase, which shall be approved as part of development of that phase.

6.6.5 LANDSCAPING TIMING

A. A Certificate of Occupancy shall not be issued, until all required landscaping and screening have been placed in accordance with the approved Site Plan, Subdivision Plat, or other approval, and requirements of this section.
B. A temporary Certificate of Occupancy may be issued by the Building Inspector for a period of up to 30 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon approval of the request to the Planning Director.
C. In cases where a temporary Certificate of Occupancy is requested, the applicant shall furnish the following:
   1. A signed contract for the installation of all required landscape materials; and
   2. A performance guarantee for the amount of the contract configured in accordance with the standards in Section <>, Performance Guarantees.

6.6.6 MAINTENANCE AND INSPECTION REQUIRED[325]

A. RESPONSIBILITY

1. The responsibility for maintenance of required landscaping areas shall remain with the landowner, their successors, heirs, assignees, or any consenting grantee.
2. Maintenance is required in order to ensure the proper functioning of landscaping and screening material.
3. Failure to adequately maintain required landscaping or screening material is a violation of this Ordinance subject to the remedies and penalties in Chapter 7, Violations.

B. MAINTENANCE

1. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to: watering, mulching, fertilizing, pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.

[325] ~~NOTE TO STAFF: Additional discussion about irrigation requirements is necessary. The current standards require irrigation; however, this adds significant expense and is not sustainable.~~

2. Necessary pruning and trimming shall be accomplished in accordance with the Tree Care Industry Association (TCIA) Standards for the Professional Arborist, and shall not include:
   a. The topping of trees;
   b. Removal of 30 percent or more of the crown material in one calendar year;
   c. Removal of the central leader; or
   d. Any other similarly severe procedures that may cause irreparable harm to the natural form of the tree.
3. Dead or diseased plantings shall be removed. Unless specifically exempted (such as understory trees shaded by canopy trees), replacement plantings shall be provided for any dead, diseased, or removed vegetation when such replacement plantings are necessary to meet the standards or this Ordinance or maintain the screening objective of the landscaping material.
4. Landscape structural features such as walls, fences, berms, or water features shall be maintained in a structurally safe and attractive condition.
5. Where other uses, including pedestrian and bicycle accessways, are allowed within a required landscaping area, these uses shall be maintained to provide for their safe use.
6. A water source shall be supplied within 50 feet of any planting requiring continuing watering. Where non-native or non-drought tolerant native vegetation is incorporated an irrigation system shall be required. Irrigation systems shall meet the standards of the Town.

C. INSPECTION

1. POST CONSTRUCTION INSPECTION

a. A permanent Certificate of Occupancy for any development shall not be issued unless the landscaping and screening required under this section is installed in accordance with these standards and the development approval.
b. No person shall refuse entry or access to any staff or authorized representative of the Town who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with that representative while in the process of carrying out official duties.

2. FOLLOW-UP INSPECTION

The Planning Director, or a designee, may inspect a site one year after the issuance of a permanent Certificate of Occupancy in order to ensure compliance with this Ordinance.

3. PERIODIC INSPECTION

a. The Planning Director, or a designee, may periodically inspect sites subject to the provisions of this Ordinance. If, through inspection, it is determined that a site does not comply with the development approval, a notice of violation shall be prepared in accordance with Section <>, Written Notice of Violation.
b. The Town shall have the power to conduct investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance and for this purpose may enter at reasonable times upon the property, public or private, for the purpose of inspecting the site(s) subject to the provisions of this Ordinance.

6.6.7 PLANT MATERIAL SPECIFICATIONS

Landscaping materials required under these standards shall be configured in accordance with the following:

A. CANOPY TREE SIZE

1. Canopy trees shall have a minimum height at maturity of 40 feet and a minimum crown width of 30 feet (see Figure <>, Plant Material Specifications).
2. All canopy trees shall have a minimum height of eight feet, or more, and a minimum caliper size of 2.5 inches, or more, at planting (see Section <>, Plant Measurement).
3. Evergreen trees shall be a minimum of eight feet in height at planting.

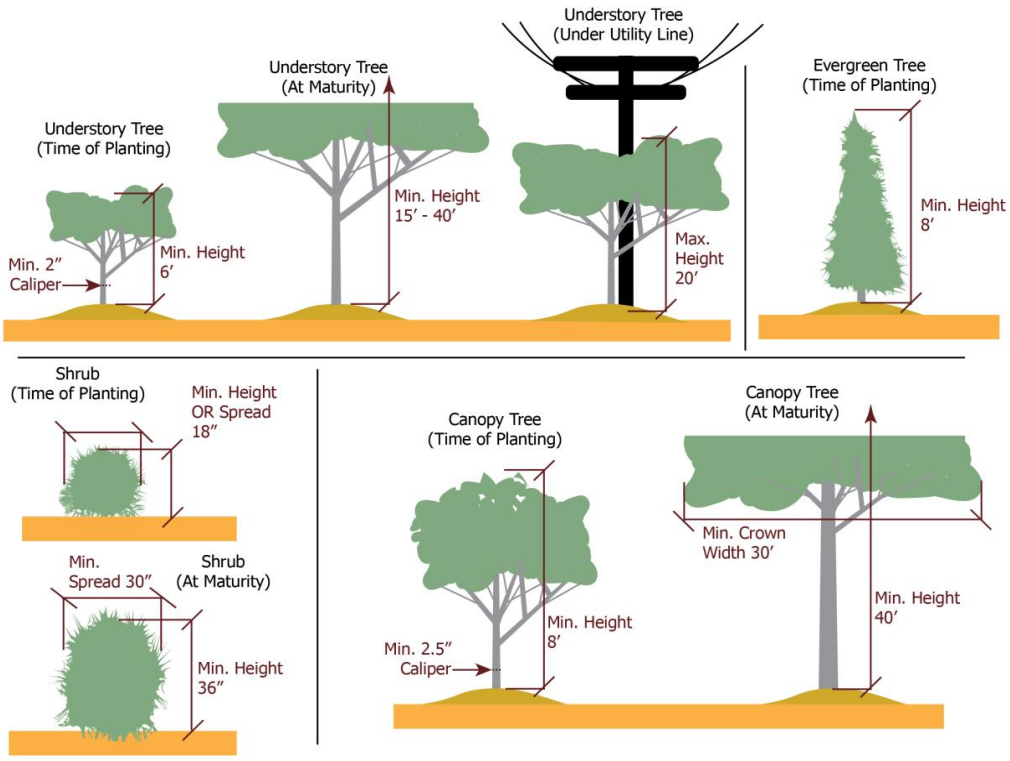
B. UNDERSTORY TREE SIZE

1. Understory trees shall have a minimum height at maturity of 15 to 40 feet, except that trees to be placed below overhead utility lines may not exceed a mature height of 20 feet (see Figure <>, Plant Material Specifications).
2. All understory trees shall have a minimum height of six feet, or more, and a minimum caliper size of two inches, or more, at planting (see Section <>, Plant Measurement).
3. Drought tolerant understory trees shall be so designated in the field and shall have a minimum caliper size of one-and-half inches inch at planting.
4. Nothing shall limit the use of multi-stemmed understory trees provided that 25 percent or more of the leaders meet the requirements in Section <>, Plant Measurement.

C. SHRUB SIZE AND VARIETY

1. All shrubs shall be at least a three-gallon size and have a minimum height or spread of 18 inches at the time of planting (see Figure <>, Plant Material Specifications).
2. Shrubs shall reach a minimum height of 36 inches and a spread of 30 inches within three years of planting.
3. Decorative grasses may be proposed as a substitute for shrubs, provided the grasses meet the screening objectives and are approved by the Planning Director.
4. Shrubs or grasses used to screen off-street parking areas shall be evergreen or retain their leaves/blades throughout the year.

FIGURE <>: PLANT MATERIAL SPECIFICATIONS



D. NATIVE OR LOCALLY-ADAPTED SPECIES

1. Required landscaping materials shall be cold-hardy for the location where planted.
2. Plant species used in required landscaping areas ~~must~~ shall be native species ~~or species of a locally-adapted nature~~. Use of exotic or other invasive species ~~requires prior approval by the Planning Director~~is prohibited.

E. SPECIES DIVERSITY

To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the following standards:

1. When fewer than 20 trees are required on a site, at least two different species shall be utilized, in roughly equal proportions (see Figure <>, Species Diversity);
2. When more than 20 but fewer than 40 trees are required to be planted on site, at least three different species shall be utilized, in roughly equal proportions;
3. When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions;
4. A larger number of different species than specified may be utilized; and
5. In no instance shall invasive species, as determined by the North Carolina Forest Service, be utilized as landscaping materials to meet the requirements of this Ordinance.

FIGURE <>: SPECIES DIVERSITY



F. SOIL STABILIZATION

1. Planting areas shall have uncompacted coarse loam that is a minimum of 12 inches deep and free of large stones, rubble, ~~trach~~trash, or other debris.
2. Required landscaping areas shall be stabilized and maintained with vegetative cover, mulch, decorative gravel, cinders, or other approved materials to prevent soil erosion and allow rainwater infiltration.
3. Gravel, decorative gravel, or cinders shall not be permitted as a ground cover or stabilization material within a required streetscape or perimeter buffers.
4. Required landscaping areas with slopes of 15 percent or more shall be stabilized with vegetative cover (not mulch or gravel) designed to minimize erosion. Required vegetative cover shall be established and functional prior to issuance of a certificate of occupancy.
5. Use of landscape fabric on slopes of 15 percent or more is discouraged.

6.6.8 PLANT MEASUREMENT

A. DETERMINING TREE SIZE AT TIME OF PLANTING

1. TREES UNDER FOUR INCHES IN CALIPER

Minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of six inches above the bole, or the location where tree trunk meets the soil it is planted in.

2. TREES OVER FOUR, BUT LESS THAN TWELVE INCHES, IN CALIPER

Minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of 12 inches above the bole, or the location where tree trunk meets the soil it is planted in.

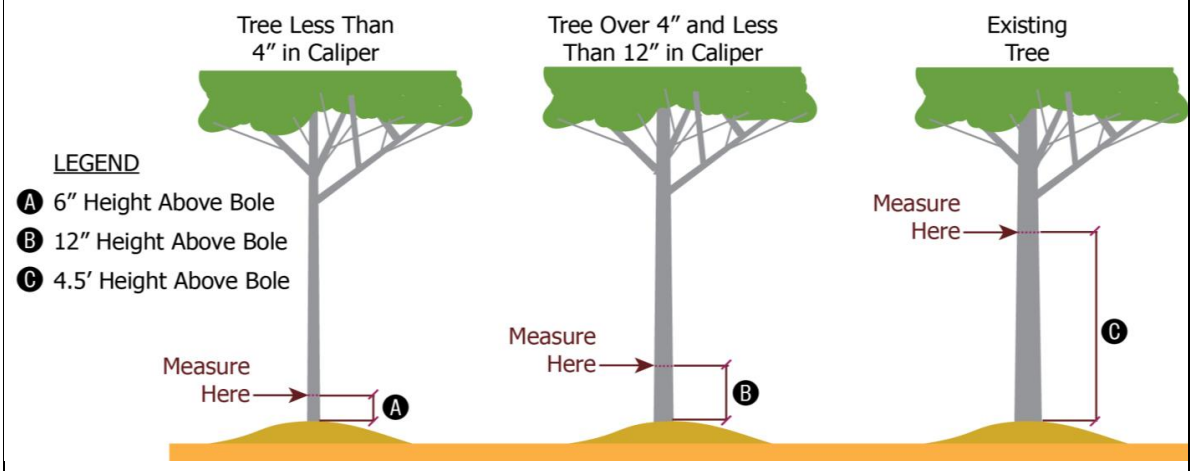
3. TREES OF TWELVE INCHES, OR MORE, IN CALIPER

Existing tree size shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of four-and-one-half feet above the bole, or the location where tree trunk meets the soil it is planted in.

B. DETERMINING TREE SIZE OF EXISTING TREES

1. Existing tree size shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of four-and-one-half feet above the bole, or the location where tree trunk meets the soil it is planted in.
2. In the case of a multi-stemmed tree, the cumulative DBH shall be the square root of the sum of all the individual stem diameters squared. As an alternative, the tree's basal area is the sum of the diameters of all tree stems.

FIGURE <>: PLANT SIZE DETERMINATION



C. ROUNDING

When computation of the amount of landscaping material to be provided results in a fraction, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

D. CALCULATION OF REQUIRED LANDSCAPING YARD OR AREA DISTANCES

1. In cases where a driveway, sidewalk, or greenway trail intersects a required landscaping area or yard, the width of these features shall be subtracted from the yard or area distance.
2. In cases where an easement that prohibits the placement of landscaping material intersects a required landscaping yard or area, the width of the easement shall not be subtracted from the required yard or area distance. Required plant material shall be located outside the easement but within the required landscaping area or yard.

6.6.9 PLANT PLACEMENT

A. OUTSIDE PUBLIC STREET RIGHTS-OF-WAY

1. Except for street trees, required landscaping material shall not be located within a street right-of-way.
2. Street trees may be located within a street right-of-way in the DTNC, DTNN, and DTNT sub-districts as well as within the GTOD when specified by adopted policy guidance.
3. Where provided, street trees shall be configured in accordance with Section <>, Street Trees.

B. GROUPING OF PLANT MATERIAL

1. Except for street trees, vegetation within a Type A perimeter buffer, shrubs around a parking lot perimeter, or when vegetation is included as a screening device in accordance with Section <>, Screening, required plant material may generally be grouped or clustered, however, the overall screening intent must be adequately addressed.
2. Required plant material in a Type A perimeter buffer may not be grouped, and shall be planted according to the required on-center spacing in Table <>, Buffer Configuration.
3. Street trees shall maintain on-center spacing requirements in Section <>, Street Trees.
4. Shrubs intended to screen features in accordance with Section <>, Screening, may not be grouped if such grouping results in the failure to meet the minimum screening standards of this Ordinance.

C. MULTIPLE-LOT UNIFIED DEVELOPMENT

A multiple-lot unified development is not required to provide perimeter buffers along lot lines internal to the development, but the perimeter of the development shall be subject to the standards in Section <>, Perimeter Buffers.

D. EASEMENTS

1. Landscaping material may not be located within a public utility or drainage easement.[326]
2. When authorized, trees and shrubs may be located within a required easement on a case-by-case basis with the permission of the easement holder.
3. When landscaping is within an easement, the landowner is responsible for replacement of any required vegetation if maintenance or other actions result in its removal.
4. Where an easement and a required landscape area coincide and there is a prohibition on planting within the easement, then the required landscaping area shall be located outside the easement.

E. SETBACK SMALLER THAN REQUIRED LANDSCAPING AREA

In cases where a required setback or yard is smaller or more narrow than a required landscaping area, the landscaping area width or size shall not be reduced except as authorized by any of the following:

1. An alternative landscape plan;
2. An administrative adjustment;
3. A conditional rezoning approval; or
4. A sustainable development incentive.

[326] NOTE TO STAFF: The current UDC permits landscaping buffers within public utility easements.

F. FIRE PROTECTION SYSTEM

Minimum clear separation distances required by the current adopted version of the North Carolina Fire Code shall be maintained for landscaping near a fire protection system.

G. LANDSCAPING IN BIO-RETENTION CELLS

Trees and shrubs used in bio-retention cells or rain gardens located in parking lots or within landscape yards may be counted toward tree or shrub requirements of this Ordinance, provided they meet the minimum specifications in Section <>, Plant Material Specifications.

H. PERMITTED ENCROACHMENTS

1. The following features may be located entirely within required landscaping areas, provided the screening function of the landscaping is maintained and provided any encroachments into a required setback are in accordance with Table <>, Setback Encroachments:
   - **a.** Principal buildings, provided the minimum setbacks of the zoning district where located, are maintained;
   - **b.** Landscaping features such as, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;
   - **c.** Pet shelters, well houses, and mechanical enclosures;
   - **d.** On-grade patios, steps, benches, outdoor fireplaces, playground equipment serving an individual dwelling unit, accessibility ramps, roof overhangs, and fire escapes;
   - **e.** Ornamental entry columns, gates, fences, walls, and retaining walls;
   - **f.** Flagpoles of 30 feet in height or less;
   - **g.** Lamp and address posts;
   - **h.** Utility cabinets of four feet in height or less;
   - **i.** Mailboxes; and
   - **j.** Signage.
2. The following features may cross a required landscaping area in a manner that minimizes the impact to the required landscaping:
   - **a.** Driveways, sidewalks, pedestrian walkways, greenways, or multi-use trails;
   - **b.** Utilities; and
   - **c.** Stormwater management facilities.

I. PROHIBITED FEATURES

The following features shall not be located within a required landscaping area:

1. A secondary structure or open air use;
2. Off-street parking or loading areas; or
3. Outdoor storage or display of products for sale.

6.6.10 PLANTING FLEXIBILITY

A. CREDIT FOR EXISTING VEGETATION

1. In order to encourage the preservation of established, healthy vegetation, credit shall be given towards the landscaping requirements in this section for preservation of existing trees that are pre-existing within the boundaries of required landscaping areas and that meet the standards in this Ordinance at a rate of two times the amount of existing, healthy trees proposed to be retained during and after development. The Planning Director may require certification of a tree's health by a certified arborist or landscape architect.

2. Vegetation to be credited towards these requirements shall be protected in accordance with Section <>, Tree Protection During Construction, before and during development of the site and maintained thereafter in a healthy growing condition.
3. In no instance shall credit be given for the retention of existing vegetation that is identified as an invasive species by the North Carolina Agricultural Extension, the North Carolina Forest Service, or the North Carolina Invasive Plant Council.

B. REVISIONS TO APPROVED LANDSCAPE PLANS

Due to seasonal planting problems and/or a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting plans may be approved by the Planning Director if:

1. There is no reduction in the quantity of plant material;
2. There is no significant change in size or location of plant materials; and
3. The new plants are of the same general category (i.e., canopy tree, understory tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread, etc.) as the materials being replaced.

C. ALTERNATIVE LANDSCAPE PLANS

An alternate landscape plan that allows modifications to the requirements of this section may be approved by the Planning Director in accordance with the following.

1. CONDITIONS JUSTIFYING ALTERNATIVE LANDSCAPE PLAN

Any of the following natural physical conditions may be used as a justification for an alternative landscape plan:

a. Wetland areas;
b. Topography;
c. Non-arable soils;
d. Difficult or unusual lot configuration;
e. Utility or drainage easements;
f. A desire to retain existing on-site vegetation;
g. Natural rock formations;
h. Required landscaping areas that are shaded; and
i. Impractical situations that would result from application of this section.

2. INTENT

To be approved, any alternative landscape plan shall meet the intent of the applicable planting area(s) and the purpose and intent of the landscaping standards of this section.

3. ALLOWABLE MODIFICATIONS

a. The following landscape standards may be modified by an alternate landscape plan:
   i. The location of required plant materials;
   ii. The width of required planting areas;
   iii. The configuration of required plant materials; and
   iv. The number of required plant materials.
b. The alternative landscape plan shall include justification for the modifications requested, based upon but not limited to, the following:
   i. The presence or planned location of public utilities, infrastructure, or easements;

ii. The location of existing healthy vegetation or other beneficial site features to be retained after development;
iii. The size, shape, or topographic elevation of the site relative to the street(s) it abuts; and
iv. The need to protect solar access or avoid permanently shaded areas on the site.

4. DOCUMENTATION

In cases where a proposed development employs planting flexibility provisions to address the landscaping requirements of this section, the site plan, subdivision, permit, or other approval shall document the locations where and describe the extent to which planting flexibility provisions were employed.

D. BERMS

Berms may be used independently, or in conjunction with a wall or fencing, to meet the screening intent of a perimeter buffer or other required screening when configured in accordance with the following:

1. Berms shall have a minimum height of three feet, a minimum crown width of at least three feet, and a slope of no greater than 3:1;
2. Berms shall be no taller than twelve feet above the toe of the berm;
3. Berms shall be stabilized with vegetation and ground cover;
4. A berm may not damage the roots of existing healthy vegetation being preserved for credit towards the landscaping requirements in this Ordinance. Suffocation of existing roots by deposition of fill in excess of 12 inches shall be considered damage to existing tree roots; and
5. A berm shall not interfere with a required sight distance triangle (see Section <>, Sight Distance Triangles).

E. FENCES AND WALLS

1. Opaque fences or walls, a minimum of four feet in height, constructed within required landscaping areas, and configured in accordance with Section <>, Fences and Walls, may reduce the minimum and average perimeter buffer width requirement in accordance with Table <>, Buffer Configuration.
2. If utilized, fences or walls shall be located within the required landscaping area and all required shrubs shall be planted between the fence or wall and the lot line.
3. Required trees may be planted either in front of or behind the fence or wall.

F. PLANTERS

1. Planters, if provided, shall be constructed of masonry, stone, or pressure treated lumber stamped for ground contact. Other materials may be approved, based upon their durability, by the Planning Director.
2. Planters shall maintain a minimum height of 30 inches and have an effective planting area of seven feet (measured in any direction) if trees are to be planted and an effective planting area of four feet (measured in any direction) if no trees are to be included.
3. The minimum height of shrubs in the planter, except for ground cover, shall be six inches at the time of planting.

6.6.11 OFF-STREET PARKING LOT LANDSCAPING

All off-street parking lots with five or more spaces serving multi-family, single-family attached residential, mixed-use, and non-residential developments shall comply with the following parking lot landscaping standards:

A. INTERIOR PLANTINGS

1. AREA TO BE LANDSCAPED

For the purposes of this section, the interior of a parking lot shall be all of the area within the outer boundary of the parking lot including interior and corner landscape islands intended to fulfill the interior parking lot landscaping requirements, but not including landscaping planted around the perimeter of the parking lot (see Figure <>, Parking Lot Interior Plantings).

2. LANDSCAPING ISLANDS AND STRIPS

A parking aisle with 12 or more vehicle spaces in a single row shall provide and maintain landscaping islands at each end of the row as well as a landscaping island located every 12 spaces, in accordance with the following standards:

a. Islands shall have ~~a~~no minimum dimension ~~of~~ less than nine feet and a minimum area of 180 square feet, including the curb (if curbing is provided);

b. Landscape islands that do not contain canopy trees shall contain three or more shrubs and also may contain understory trees;

c. Off-street parking lots of 100 or more spaces shall include at least one landscaping strip for every six rows of parking spaces; and

d. Landscaping strips shall maintain a minimum width of nine feet and run the full length of a row of parking spaces. Landscape strips shall include shrubs and a pedestrian walkway of at least four feet in width and configured to comply with applicable ADA requirements, and may include trees and parking lot lighting, provided tree trunks are at least five feet from the pedestrian accessway.

3. PROTECTION OF LANDSCAPE ISLANDS

a. Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods.

b. The placement of plant material within landscape islands shall allow for a two-and-one-half-foot vehicle overhang from the face of the curb or wheel stop.

4. PROTECTION FROM PEDESTRIAN WALKWAYS

In cases where a pedestrian walkway must be located within five feet of a tree trunk, wooden walkways, pervious pavers, or other methods shall be used to ensure the required tree is not damaged by the walkway.

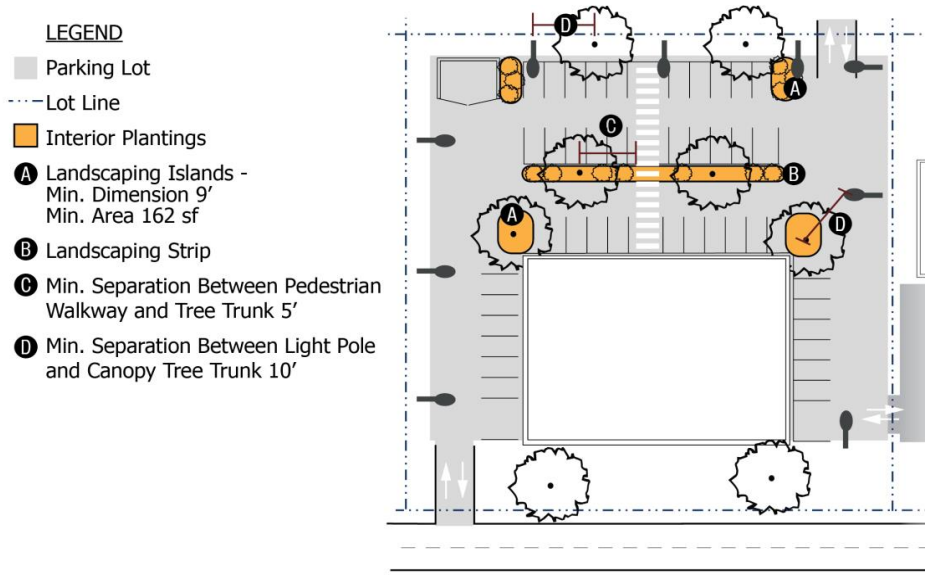
5. STORMWATER MANAGEMENT

A landscape island may be designed to function as a stormwater control measure, provided its landscaping performance function is maintained.

6. STRUCTURAL SOIL REQUIRED

Landscaping islands and strips located within a parking lot shall be comprised of properly-prepared structural soil that has been amended and cultivated to support healthy vegetation.

FIGURE <>: PARKING LOT INTERIOR PLANTINGS



B. PERIMETER PLANTINGS

1. INTENT

Parking lot perimeter landscaping shall be designed to soften the view of the parking lot from an abutting street or development and to filter spillover light from vehicle headlights. Required plant material shall be planted in such a way as to best achieve this intent.

2. LOCATION

Required plant material shall be placed adjacent to the perimeter of the parking lot. Landscaping material located within the boundaries of the parking lot paving shall not be credited towards these perimeter planting requirements.

3. PLANTING RATE

Parking lot perimeter landscaping shall consist of a single continuous row of evergreen shrubs planted no greater than three feet on-center and within five feet of the parking lot edge.

4. SIZE OF PLANT MATERIAL

a. Shrubs used for parking lot perimeter landscaping shall be of a minimum size necessary to achieve a maximum height of 36 inches above grade within three years of planting.

b. In cases when vegetation provided as perimeter plantings around a parking lot grow to a height exceeding 48 inches above grade, they shall be trimmed or pruned as necessary to maintain a minimum height of 36 inches.

c. It shall be a violation of this Ordinance to remove or severely prune shrubs required as parking lot perimeter vegetation to a height of less than 36 inches.

5. CREDIT TOWARDS REQUIRED PERIMETER BUFFERS

Perimeter parking lot landscaping may be credited towards the perimeter buffer requirements in this Ordinance only in cases where it meets the locational requirements of this section and is also located within an adjacent perimeter landscaping buffer.

6. ALTERNATIVES

Perimeter parking lot plantings may be supplemented or replaced through use of a vegetated berm configured in accordance with Section <>, Berms, or an opaque fence or wall that meets the screening objective of this section and is configured in accordance with Section <>, Fences and Walls.

7. EXEMPTIONS

a. Where off-street parking lots are adjacent to one another, but on different lots, perimeter plantings or other forms of screening are not required along the common boundary between the two parking lots.

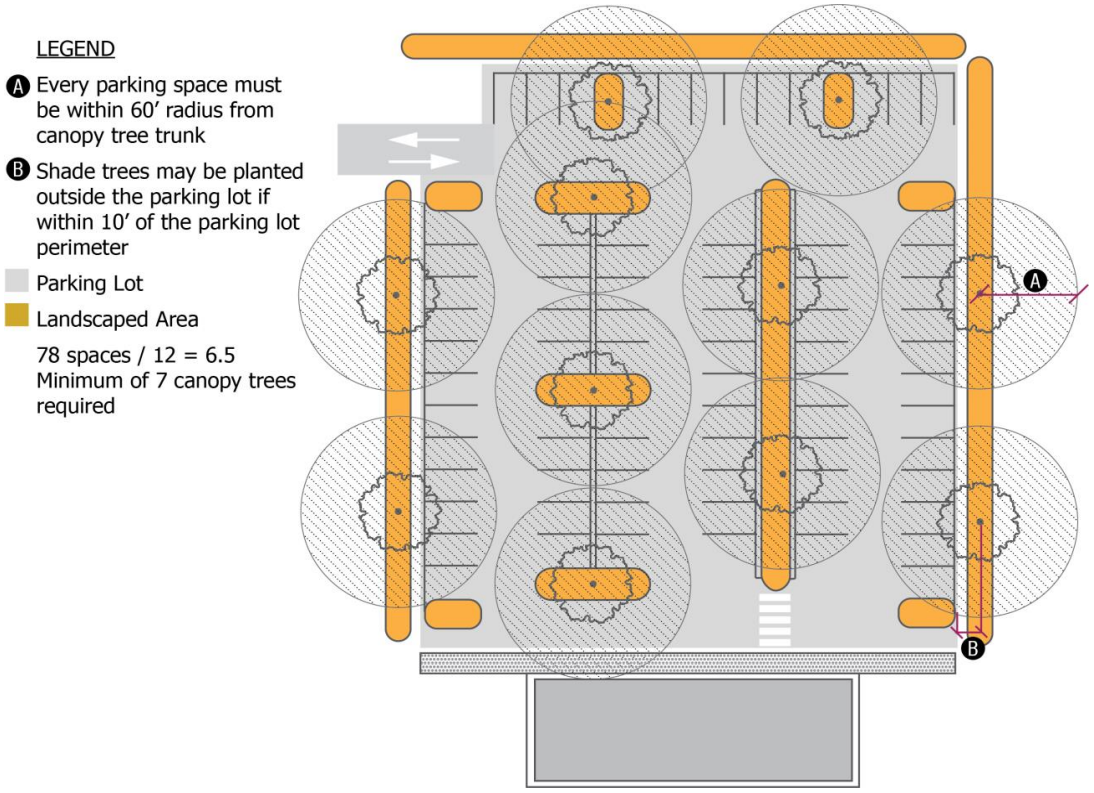
b. Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter plantings are only located around the perimeter of the entire development instead of between parking lots and buildings located within the development.

C. SHADE TREES

All parking lots shall be served by shade trees to reduce the heat island effect and soften the appearance of the parking lot, in accordance with the following standards:

1. Parking lots subject to these standards shall include at least one canopy tree for every 12 off-street parking spaces provided;
2. Required canopy trees may be placed around, in, or near the parking lot provided that no parking space is more than 60 feet from the trunk of a canopy tree (see Figure <>: Parking Lot Shading); and
3. Required canopy trees shall be distributed throughout parking areas and may be located in landscape islands, between rows of parking, in driveway medians, and within ten feet of the perimeter of the parking lot.

FIGURE <>: PARKING LOT SHADING



6.6.12 PERIMETER BUFFERS

A. PURPOSE AND INTENT

These standards are proposed to eliminate or minimize potential nuisances, such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas through physical and visual separation between land uses in separate zoning districts.

B. APPLICABILITY

1. All development subject to these landscaping standards shall comply with the perimeter buffer standards in this section.
2. Development shall provide perimeter buffers along side and rear lot lines in accordance with Table <>, Buffer Application.
3. Lot lines abutting street rights-of-way shall comply with the standards in Section <>, Streetscape Buffers, or Section <>, Street Trees, as appropriate.

C. BUFFERS DISTINGUISHED

Table <>, Perimeter Buffer Configuration, establishes the standards for perimeter buffers, including the minimum requirements for each of the following buffer types:

1. Type A, Separation Buffer;
2. Type B, Intermittent Buffer;
3. Type C, Semi-Opaque Buffer; and
4. Type D, Opaque Buffer.

D. BUFFER DETERMINATION

1. The lot or site being developed is the one responsible for providing the required perimeter buffer, which shall be located solely upon the lot or site being developed.
2. Landscaping material located on an adjacent lot may not be credited towards these perimeter buffer requirements.
3. The type of perimeter buffer required is based upon the zoning district designation of the land being developed as well as the zoning district designation of the abutting lots (see Table <>, Buffer Application).

E. BUFFER LOCATION

1. Perimeter buffers required by this section shall be located along the outer perimeter of the lot and shall extend to the connecting lot lines.
2. In cases where the lot line is within a drainage swale, the perimeter buffer shall extend to the edge of the swale instead of the lot line.
3. A perimeter buffer may be located along shared access easements between parcels in non-residential developments.

F. MASS GRADING

~~3.~~ In cases where new development subject to these standards includes mass grading, as defined, in this Ordinance, the minimum required buffer width and the minimum number of required plantings specified in this section shall be doubled.

TABLE <>: PERIMETER BUFFER CONFIGURATION

TYPE A – SEPARATION

The Type A Separation perimeter buffer serves as a visual break between land ownership or zoning district designations. It is not intended to provide complete visual or acoustic buffering. The image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet)	10
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	None / None
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	4 / None [1]
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [2]	15 / None [1]
Minimum percentage of evergreen shrubs (% of total along 1 side)	50

NOTES:
[1] Grouping of trees or shrubs is permitted provided there is no span of un-vegetated buffer exceeding 30 feet in length.
[2] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and the lot line, but no closer than three feet to the lot line.

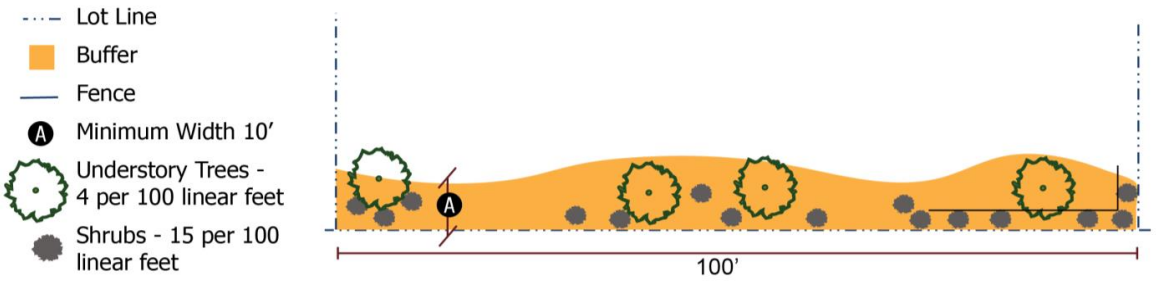


TABLE <>: PERIMETER BUFFER CONFIGURATION

TYPE B - INTERMITTENT

The Type B Intermittent perimeter buffer functions as an intermittent visual screen from the ground to a height of five feet. It is intended to partially block visibility between different uses but not totally obstruct visual contact from one use to another. The image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet)	20
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	2 / 50
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	4 / 25 [1]
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [2]	15 / None [1]
Minimum percentage of evergreen shrubs (% of total along 1 side)	60

NOTES:
[1] Grouping of trees or shrubs is permitted provided there is no span of un-vegetated buffer exceeding 30 feet in length.
[2] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and the lot line, but no closer than three feet to the lot line.

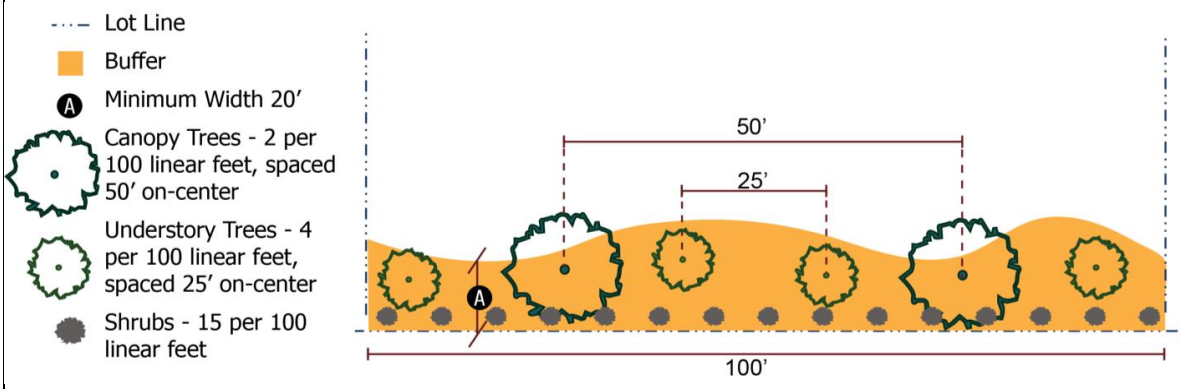


TABLE <>: PERIMETER BUFFER CONFIGURATION

TYPE C – SEMI-OPAQUE

The Type C Semi-Opaque perimeter buffer functions as a partially opaque screen from the ground to a height of six feet. This type of buffer prevents visual contact between uses but not total obstruction from one use to another. The buffer creates a sense of visual separation but provides only minor acoustic separation. The image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet) [1]	30
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	3 / 33
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	6 / 16 [2]
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [3]	25 / 4 [2]
Minimum percentage of evergreen shrubs (% of total along 1 side)	75

NOTES:
[1] Provision of a semi-opaque fence or wall along the entire buffer span allows the buffer width to be reduced by 5 feet (chain-link fencing is not permitted). Provision of a fully-opaque fence, wall, or berm along the entire buffer span allows the buffer width to be reduced by 10 feet.
[2] Grouping of trees or shrubs is permitted provided there is no span of un-vegetated buffer exceeding 20 feet in length.
[3] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and the lot line, but no closer than three feet to the lot line.

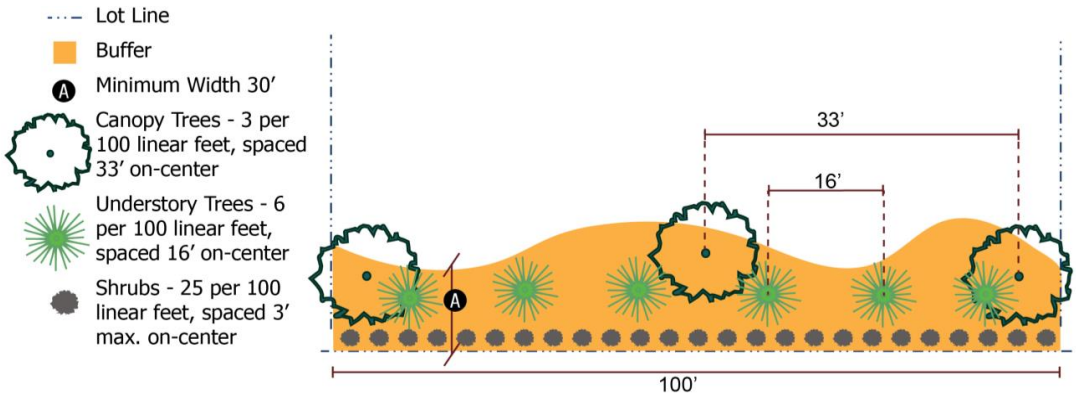


TABLE <>: PERIMETER BUFFER CONFIGURATION

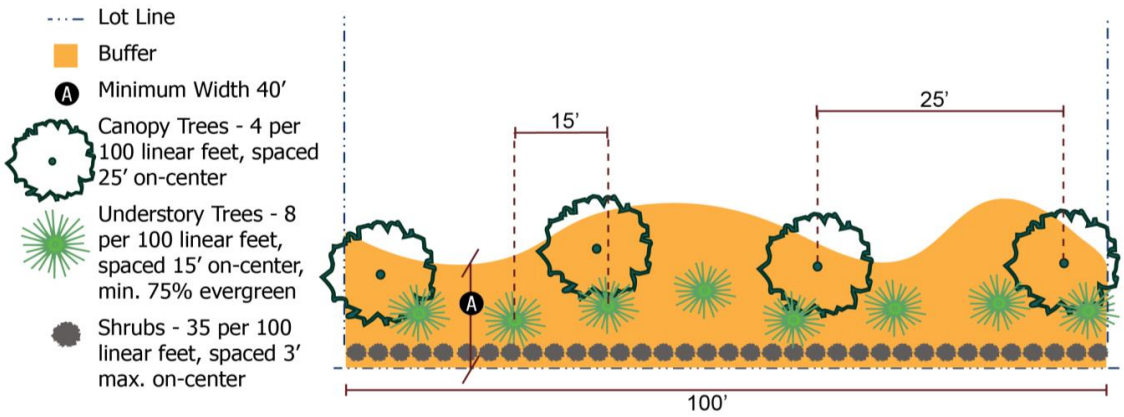
TYPE D – OPAQUE

The Type D Opaque perimeter buffer functions as a fully opaque screen from the ground to a height of eight feet. This type of buffer provides a strong sense of visual and acoustic separation between uses. The cross-section image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet) [1]	40
Canopy trees per every 100 linear feet (#) / Max. on-center spacing (feet)	4 / 25
Understory trees per every 100 linear feet (#) / Max. on-center spacing (feet)	8 / 15
Minimum percentage of evergreen understory trees (% of total along 1 side)	75
Shrubs per every 100 linear feet (#) / Max. on-center spacing (feet) [2]	35 / 3
Minimum percentage of evergreen shrubs (% of total along 1 side)	85

NOTES:
[1] Provision of a semi-opaque fence or wall along the entire buffer span allows the buffer width to be reduced by 5 feet (chain-link fencing is not permitted). Provision of a fully-opaque fence, wall, or berm along the entire buffer span allows the buffer width to be reduced by 10 feet.
[2] In the event a fence or wall is provided, it shall be located within 10 feet of the lot line. Shrubs, if required, shall be located between the fence or wall and the lot line, but no closer than three feet to the lot line.



~~F.~~G. BUFFER APPLICATION

Table <>, Buffer Application, specifies the type of perimeter buffer that development shall provide between it and adjacent land, based on the zoning district of the development site and that of the adjacent land. The buffer type is indicated by a letter corresponding to one of the four buffer types described in Table <>, Perimeter Buffer Configuration.

TABLE <>: BUFFER APPLICATION

Zoning District of Developing Land [1] [2]	Zoning District of Land Adjacent to Proposed Development [3] [4] [5] [6] [7]					
	CON, RLD, RLL, RUR	RMD, RMF, CZR	RHD, OFI, DTN, CZD	NCM, PUB, MXD,	CRM, CZM, CZC, LID	HID, CZI
CON, RLD, RLL, RUR	A	None	None	A	B	B
RMD, RMF, CZR	B	A	A	None	A	B
RHD, OFI	C	B	A	A	None	A
NCM, PUB, MXD	D	C	B	A	A	None
CRM, CZM, CZC, LID	D	D	C	B	A	None
HID, CZI	D	D	D	D	C	None

NOTES:
[1] This column identifies the zoning district of the land that is developing and is responsible for providing a perimeter buffer.
[2] Development within the DTNC, DTNT, and DTNN sub-districts are exempted from providing a perimeter buffer.
[3] Lot lines abutting public street rights-of-way shall be subject to the standards in Section <>, Streetscape Buffers.
[4] A perimeter buffer shall not be required when the developing lot abuts unbuildable land within a riparian buffer, a lot in the Flood Protection Overlay (FPOD) district, a Town-designated tree-save area, or other Town-designated conservation area where existing vegetation will not be removed.
[5] A Type A buffer shall be provided along all lot lines bordering the Town's planning jurisdiction.
[6] A Type D buffer of at least 40 feet in width shall be provided along all lot lines bordering an interstate or limited access highway, including on- and off-ramps, and railroad lines.
[7] A perimeter buffer is not required if proposed development is surrounded by existing vegetation of a minimum width necessary to obstruct view from off-site areas provided such existing vegetation remains in place in perpetuity.

~~G.~~H. EXEMPTIONS

Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter buffers are only located around the perimeter of the entire development instead of between lots within the development.

6.6.13 SCREENING

A. PURPOSE AND INTENT

These standards are intended to reduce the visual and auditory impact upon adjacent lots and the public realm from certain site features and activities occurring on individual non-residential, multi-family, single-family attached residential, and mixed-use lots. In addition to mitigating negative impacts, these standards are also proposed to enhance the aesthetics of development in the Town's jurisdiction.

B. USING THESE STANDARDS

1. These standards identify a series of use types, site features, and activities that are required to be screened from off-site views (see Section <>, Applicability, and Section <>, Exemptions).
2. The standards establish a series of screening methods organized into differing levels (e.g., Level 1 through Level 10). The higher the screening method's level number, the greater its opacity, or its ability to obscure a particular site feature from off-site view (see Table <>, Screening Methods).
3. In addition to a range of screening methods, these standards also recognize that differing levels of screening are necessary from different viewpoints. For example, the ways in which a refuse collection feature should be screened from view from an adjacent single-family detached dwelling likely differ from the ways in which the same refuse collection feature needs to be screened from the back of a commercial establishment or from a private street. The standards identify which methods of screening may be used to screen a particular site feature or activity from the view from a particular location, such as an adjacent street or abutting lot with residential zoning (see Table <>: Views to be Screened). Nothing prohibits a landowner from using a more intense or opaque screening technique than is required by Table <>: Views to be Screened.

C. APPLICABILITY

1. GENERALLY

Unless exempted in accordance with Section <>, Exemptions, the standards in this section apply to the following site features and activities for all development in the Town's jurisdiction:

a. Refuse collection containers of more than 100 gallons in size;
b. Recycling containers of more than 100 gallons in size, including cardboard recycling containers;
c. Waste and cardboard compactors;
d. Ground-based mechanical equipment, including but not limited to wireless telecommunications equipment, permanently-mounted electrical generators, compressors, climate control equipment, electrical circuit breaker panels or disconnects, and similar equipment;
e. Roof-mounted equipment of any kind;
f. Above ground storage tanks for gases, solids, or liquids;
g. Outdoor equipment storage or repair areas;
h. Outdoor storage of raw or semi-finished materials, including tires;
i. Outdoor storage of finished products for sale, including tires;

j. The outdoor storage, repair, or impoundment of vehicles or equipment, whether operable, inoperable, or being used for parts; and

k. Other items as determined by the Planning Director as part of a determination prepared in accordance with Section <>, Determination.

2. PRE-EXISTING DEVELOPMENT

Lawfully-established development existing prior to (*insert the effective date of this Ordinance*), that is subject to, but that does not comply with these standards may continue, subject to applicable the standards in Chapter 5, Nonconformities.

3. EXPANSIONS OR REMODELING

Unless exempted in accordance with Section <>, Exemptions, all expansions or remodeling of principal buildings or open uses of land existing on or before (*insert the effective date of this Ordinance*), shall comply with these standards as required by Section <>, Nonconforming Site Features.

D. EXEMPTIONS

The following items are exempted from the screening requirements of this section:

1. Any of the features listed in the sub-section (<>) above that are located entirely within a building;
2. Refuse collection containers serving individual single-family detached or ~~two-family~~duplex dwellings;
3. Refuse containers serving an individual single-family attached dwelling unit located on the same building lot as the single-family attached dwelling it serves;
4. Mechanical and climate control equipment serving individual single-family detached, single-family attached, or ~~two-family~~duplex dwellings;
5. Utility meters, whether wall or ground mounted;
6. Small wireless facilities;
7. Roof-mounted solar energy or wind energy conversion devices;
8. Transformers and similar devices serving electric vehicle charging stations;
9. Family health care structures;
10. Outdoor display/sales as a principal or secondary use subject to an approved Zoning Compliance Permit (see Section <>, Zoning Compliance Permit);
11. Outdoor seasonal sales and portable storage containers subject to an approved Temporary Use Permit (see Section <>, Temporary Uses); and
12. Above ground storage tanks serving individual single-family detached, single-family attached, and ~~two-family~~duplex dwellings located upon the same lot as the dwelling it serves.

E. GENERAL REQUIREMENTS

1. Items or activities subject to the requirements in this section shall be fully screened from one or more off-site views in accordance with Section <>, Views to be Screened, using one of the allowable methods identified in Table <>, Screening Methods.
2. Table <>, Screening Methods, sets out the various methods for screening site features and activities subject to these standards. Screening, when required, shall comply with the configuration requirements listed in the table.

TABLE <>: SCREENING METHODS [1]
LEVEL OF SCREENING
Requirements
A. SCREENING LEVEL 1 UNDERSTORY SHRUB ~~HEDGE~~ROW

i. All shrubs shall be of the same species and all shrubs shall be of an evergreen species. ii. ~~A hedge~~Screening shall include one row of evergreen shrubs. iii. The screening~~hedge~~ shall include plants capable of providing a fully opaque screen of at least 36 inches in depth from the grade to the minimum height required. iv. Shrubs shall maintain an on-center spacing of no greater than 36 inches. v. Shrubs shall be of a minimum height necessary at time of planting to achieve a minimum height of 5 feet above grade within 3 years. vi. If damaged in a manner that impairs the performance of the screening, vegetative material shall be promptly replaced.
B. SCREENING LEVEL 2 EVERGREEN TREE HEDGEROW

i. All trees shall be evergreen and of the same species. ii. The screening material shall be configured as two staggered rows of trees that together form a hedgerow. iii. The area devoted to screening material shall be at least six feet in depth. iv. Each trees shall be capable of providing a fully opaque screen of at least 36 inches in depth from the grade to the required height. v. Tree rows shall be planted no more than 36 inches apart. vii. Trees shall maintain an on-center spacing of no greater than 36 inches. vii. Trees shall be of a minimum height necessary at time of planting to achieve a minimum height of 6 feet above grade within 3 years. ix. If damaged in a manner that impairs the performance of the screening, vegetative material shall be promptly replaced.

TABLE <>: SCREENING METHODS [1]
LEVEL OF SCREENING
Requirements
C. SCREENING LEVEL 3 CHAIN LINK FENCE WITH SEMI-OPAQUE SLATS/FABRIC

i. Fencing must be configured in accordance with Section <>, Fences and Walls. ii. All fencing shall remain subject to maximum fence or wall height standards for the district where located. iii. Fencing shall be at least 60 percent opaque, when viewed from a distance of 10 feet or more. iv. All gates shall maintain a complimentary level of opacity excluding gaps for mounting hardware, latches, and hinges. v. Slats or fabric shall extend downwards to the grade level. vi. The fence and screening material shall be comprised of consistent materials and shall maintain a single color. vii. Slats may be plastic or wood and shall be promptly repaired if damaged in any way.
D. SCREENING LEVEL 4 CHAIN LINK FENCE WITH FULLY OPAQUE SLATS/FABRIC

i. Fencing must be configured in accordance with Section <>, Fences and Walls. ii. All fencing shall maintain a minimum height of six feet above adjacent grade, but shall not exceed the maximum fence height standards for the district where located. iii. Fencing shall be 100 percent opaque, when viewed from a distance of 10 feet or more. iv. All gates shall maintain a complimentary level of opacity excluding gaps for mounting hardware, latches, and hinges. v. Slats or fabric shall extend downwards to the grade level. vi. The fence and screening material shall be comprised of consistent materials and shall maintain a single color. vii. Slats may be plastic or wood and shall be promptly repaired if damaged in any way.

TABLE <>: SCREENING METHODS [1]
LEVEL OF SCREENING
Requirements
E. SCREENING LEVEL 5 WOODEN OPAQUE FENCE

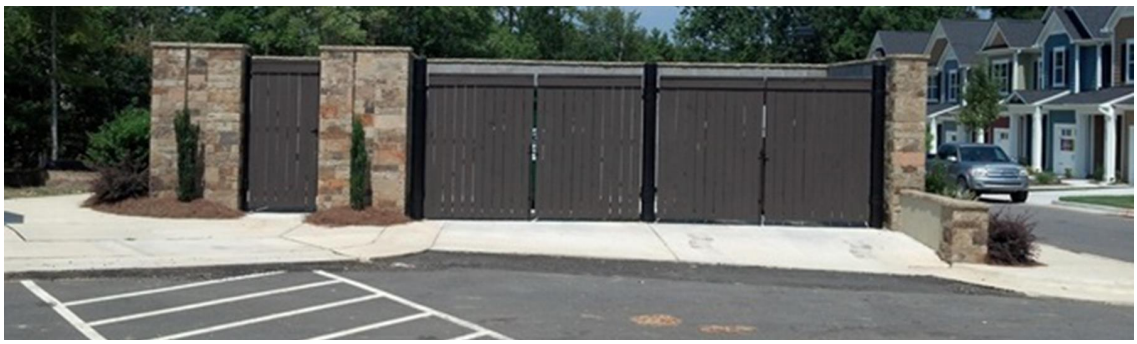
i. Fencing shall be configured in accordance with Section <>, Fences and Walls, and the North Carolina Building Code. ii. All fencing shall maintain the minimum height necessary to fully screen the site feature or activity, but shall not exceed a maximum height of 10 feet. iii. All gates shall maintain a complimentary level of opacity excluding gaps for mounting hardware, latches, and hinges. iv. The fence shall be comprised of consistent materials and colors. v. Enclosures for refuse and recycling containers shall meet all applicable Town requirements for such enclosures. vi. Screening material shall be promptly repaired if damaged in any way.
F. SCREENING LEVEL 6 OPAQUE MASONRY WALL

i. Walls shall be configured in accordance with Section <>, Fences and Walls. ii. All walls shall maintain the minimum height necessary to fully screen the site feature or activity, but shall not exceed a maximum height of 10 feet. iii. The wall shall be comprised of consistent materials and colors to those used on the principal structure. iv. Masonry walls may incorporate louvers or similar features, provided the screening function is maintained. v. All gates shall be comprised of a complimentary material and be opaque, excluding gaps for mounting hardware, latches, and hinges. vi. Support columns may exceed the maximum height as necessary for wall construction. vii. Enclosures for refuse and recycling containers shall meet all applicable Town requirements for such enclosures. viii. Screening material shall be promptly repaired if damaged in a manner that reduces the screening function.

TABLE <>: SCREENING METHODS [1]
LEVEL OF SCREENING
Requirements
G. SCREENING LEVEL 7 BERMS AND MOUNDS

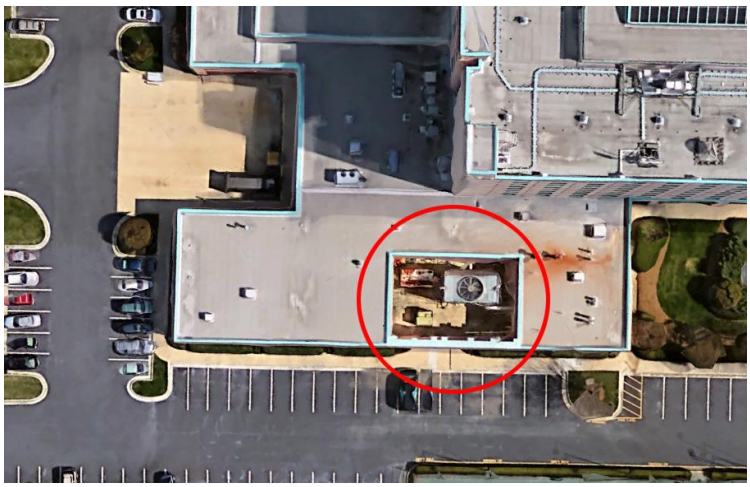
i. Berms shall be configured in accordance with the standards in Section <>, Berms. ii. Nothing shall limit the use of retaining walls, as necessary. iii. Berms shall be supplemented with walls, fencing, or vegetation as necessary to meet screening objectives.
H. SCREENING LEVEL 8 CONCEALMENT BY OTHER ON-SITE STRUCTURES

i. Site features and activities subject to these standards may be screened by other permanent buildings or structures on the same lot. ii. Buildings or structures used to provide screening shall be permanent and shall be of a minimum height necessary to provide required screening. (note: red circle in photo added for clarity)

TABLE <>: SCREENING METHODS [1]
LEVEL OF SCREENING
Requirements
I. SCREENING LEVEL 9 ROOF SCREENING

i. Roof screening shall match the primary exterior color of the building, be 100 percent opaque, and shall only be used to screen items on a roof. ii. Roof screening shall extend the minimum height necessary to fully screen roof-mounted equipment as seen at grade from any lot line. iii. Roof-mounted equipment on pitched roofs shall be located on the side of the roof least visible from the street, to the maximum extent practicable.
J. SCREENING LEVEL 10 PARAPET WALL

i. Parapet walls shall be comprised of the same exterior material or be the same color as the building and shall be capped with a cornice, coping, or other decorative molding. ii. Parapet walls shall be in alignment with the exterior building wall below. iii. Parapet walls shall extend above the roof deck the minimum height necessary to screen roof-mounted equipment as seen from grade-level at the lot line. iv. Parapet walls shall be engineered to comply with all applicable North Carolina Building Code requirements, including wind loading.

TABLE <>: SCREENING METHODS [1]
LEVEL OF SCREENING
Requirements
NOTES: [1] Screening provided in accordance with this section shall be credited towards perimeter buffer and parking lot landscaping requirements when the screening methods contribute to the performance objective of required landscaping.

F. VIEWS TO BE SCREENED

Site features and activities subject to these standards shall be screened from identified locations in Table <>, Views to be Screened. The level of screening provided is at the applicant or landowner's discretion, provided it meets or exceeds the minimum screening level specified in the table below.

TABLE <>: VIEWS TO BE SCREENED

FEATURE OR ACTIVITY TO BE SCREENED	REQUIRED SCREENING LEVEL, BY LOCATION			
	FROM AN ABUTTING PUBLIC STREET, SIDEWALK, GREENWAY, OR OPEN SPACE	FROM LAND IN A RESIDENTIAL OR MIXED-USE ZONING DISTRICT	FROM LAND IN A COMMERCIAL ZONING DISTRICT	FROM LAND IN AN INDUSTRIAL ZONING DISTRICT
Refuse or Recycling Containers or Compactors	6 or higher	5 or higher	3 or higher	2 or higher
Ground-based Mechanical Equipment	4 or higher	4 or higher	3 or higher	1 or higher
Roof-mounted Equipment	10	9 or higher	9 or higher	9 or higher
Above Ground Storage Tanks	6 or higher	5 or higher	3 or higher	1 or higher
Outdoor Storage of Raw or Semi-finished Materials	5 or higher	4 or higher	3 or higher	1 or higher
Outdoor Storage of Finished Products for Sale including vehicles for sale, but not including parts or partial assemblies of products	2 or higher	2 or higher	1 or higher	1 or higher

TABLE <>: VIEWS TO BE SCREENED				
Feature or Activity to be Screened	Required Screening Level, By Location			
	From An Abutting Public Street, Sidewalk, Greenway, or Open Space	From Land In a Residential or Mixed-Use Zoning District	From Land in a Commercial Zoning District	From Land in an Industrial Zoning District
Outdoor Storage of Equipment and Vehicles that are Licensed and Operable but not for Purposes of Sale	4 or higher	5 or higher	4 or higher	1 or higher
All Other Forms of Outdoor Storage of Equipment or Vehicles, including Inoperable, Unlicensed, Wrecked, or Junked	5 or higher	5 or higher	4 or higher	3 or higher

6.6.14 SITE LANDSCAPING

A. PURPOSE AND INTENT

Site landscaping material is intended to soften the visual impact of the building foundation as seen from a street.

B. SITE LANDSCAPING STANDARDS

1. Site landscaping shall be required for all development except single-family detached, single-family attached, and ~~two-family~~duplex dwellings.
2. Site landscaping shall consist of shrubs, grasses, or a combination of these kinds of plantings. At least 50 percent of site landscaping shall be evergreen.
3. Shrubs shall be planted at a rate of one shrub per every five linear feet of building façade that faces a public or private street.
4. Shrubs shall be planted within 15 feet of the building façade.
5. Site landscaping shall meet the requirements in Section <>: Plant Material Specifications.
6. Shrub placement may be interrupted as needed to accommodate utilities, accessways, architectural projections, outdoor dining or gathering areas, or other features, however, the minimum required number of shrubs shall be located upon each site (see Figure <>: Site Landscaping).
7. ~~6.~~ These site landscaping standards are waived in cases where development is located on lots of two acres or more in size provided the buildings may not been seen from off-site areas.

FIGURE <>: SITE LANDSCAPING



6.6.15 STREET TREES

Development within the downtown, residential, mixed-use, NCM, CZD, CZM, and CZR districts shall provide street trees in accordance with the following standards:

A. WHERE REQUIRED

Street trees shall be located within tree pits or planting strips within the street right-of-way (see Figure <>: Street Tree Configuration).

B. LOCATION

1. WITHIN TREE PITS

In cases where sidewalks, boardwalks, or paving is located in the right-of-way, street trees shall be located within tree pits, configured in accordance with the following standards:

- **a.** Tree pits shall have a minimum planting area of at least 36 square feet per tree pit;
- **b.** Tree pits shall be covered or configured with ground covering at the same general height as the pedestrian walkway to avoid being a tripping hazard; and
- **c.** Tree pits shall include structural soils or screened backfill to ensure appropriate drainage and backfill.

2. WITHIN PLANTING STRIPS

In cases where sidewalks are not present or where a portion of the right-of-way is not paved, street trees may be placed within planting strips, configured in accordance with the following standards:

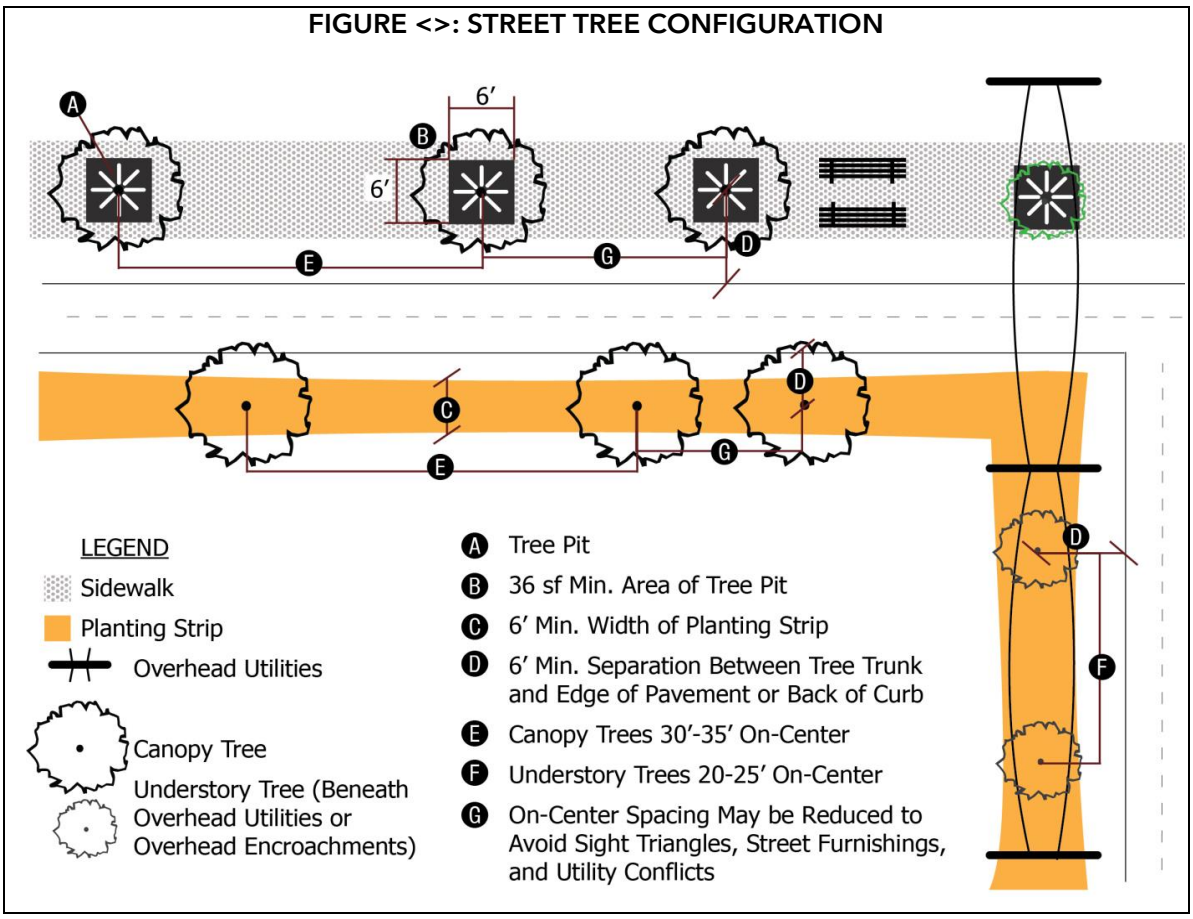
- **a.** Tree planting strips shall be configured parallel to the street;
- **b.** Tree planting strips shall maintain a minimum width of six feet; and
- **c.** Tree planting strips shall be raised above the grade or include edging that prevents pedestrians from walking in the planting strip.

3. TREE PLACEMENT

a. Street trees, when located within tree pits or planting strips, shall be located so that the trunk is at least two-and-one-half feet from the back of the curb or the edge of the pavement.

b. Street trees shall not be located within sight distance triangles (see Section <>, Sight Distance Triangles).

FIGURE <>: STREET TREE CONFIGURATION



4. TYPES OF TREES

a. Except in areas underneath existing overhead utilities or upper story encroachments into the right-of-way, street trees shall be canopy trees that meet the standards in Figure <>, Plant Material Specifications.

b. In areas beneath existing overhead utilities or upper story encroachments into the right-of-way, street trees shall be understory trees that meet the standards in Figure <>, Plant Material Specifications.

5. SPECIES

a. Only those species identified in Table <>: Preferred Street Tree Species, shall be utilized to meet these standards:

TABLE <>: PREFERRED STREET TREE SPECIES

CANOPY TREES (BY COMMON NAME)	UNDERSTORY TREES (BY COMMON NAME)
Bald Cypress	Carolina Silverbell
European Hornbeam	Chinese Pistache
Hedge Maple	Common Witchhazel
Japanese Zelkova	Crape Myrtle
Lacebark Elm	Dogwood
London Planetree	Eastern Redbud
Hardy Rubber Tree~~Pin Oak~~	Fringetree
Thornless Honey Locust	Green Hawthorne
Kentucky Coffee Tree~~Willow Oak~~	Serviceberry

b. Applicants may propose a different species, subject to approval by the Engineering Director.

6. ON-CENTER SPACING

a. Canopy trees shall be planted 30 to 35 feet on-center.
b. Understory trees shall be planted 20 to 25 feet on-center.
c. Grouping or clustering of street trees shall be prohibited, but on-center spacing may be reduced as necessary to avoid sight distance triangles, street furnishings, or other utility conflicts.

7. COMPLIANCE WITH NCDOT STANDARDS

In cases where street trees are located within street rights-of-way maintained by the NCDOT, street tree configuration shall be in accordance with NCDOT standards in addition to the standards in this section. In the event the standards in this section conflict with applicable NCDOT standards, the NCDOT standards shall control.

6.6.16 STREETSCAPE BUFFERS

A. PURPOSE AND INTENT

Streetscape buffers are proposed to soften the view of development from the Town's street rights-of-way, and are intended to:

1. Enhance pedestrian orientation and encourage pedestrian travel;
2. Address urban heat islands by providing shade for streets and sidewalks;
3. Provide shade on sidewalks;
4. Promote the Town's "sense of place";
5. Support property values by enhancing the aesthetic character of the Town's streets; and

6. Provide habitat for flora and fauna.

B. APPLICABILITY

Streetscape buffers shall be provided on lots in the CRM, CZC, CZI, HID, LID, OFI, PUB districts in accordance with the following:

1. The standards in this section shall apply to all lot lines bounded by the following features, whether existing or identified in the Town's adopted policy guidance:
   a. Local streets;
   b. Collector streets;
   c. Arterial streets; and
   d. As specified in Section <>, GTOD Gateway Overlay District.
2. In cases where a future street is planned but its approximate location is not indicated on an adopted or approved Town map or plan, streetscape buffering shall not be required on lots abutting the future street alignment.
3. In cases where the rear yard of a lot abuts a Town street right-of-way, the rear yard shall include a streetscape buffer configured in accordance with these standards.

C. EXEMPTION

1. Streetscape buffers are not required in the following locations:
   a. Land in the CON district;
   b. Adjacent to portions of lot lines crossed by driveways, private drives, or alleys;
   c. Lot lines abutting platted street rights-of-way that are or have remained unopened for at least 15 years; or
   d. Lot frontages where the entirety of the lot frontage is within a required sight distance triangle.
2. Development subject to the standards in Section <>, Street Trees, is not required to provide streetscape buffers.

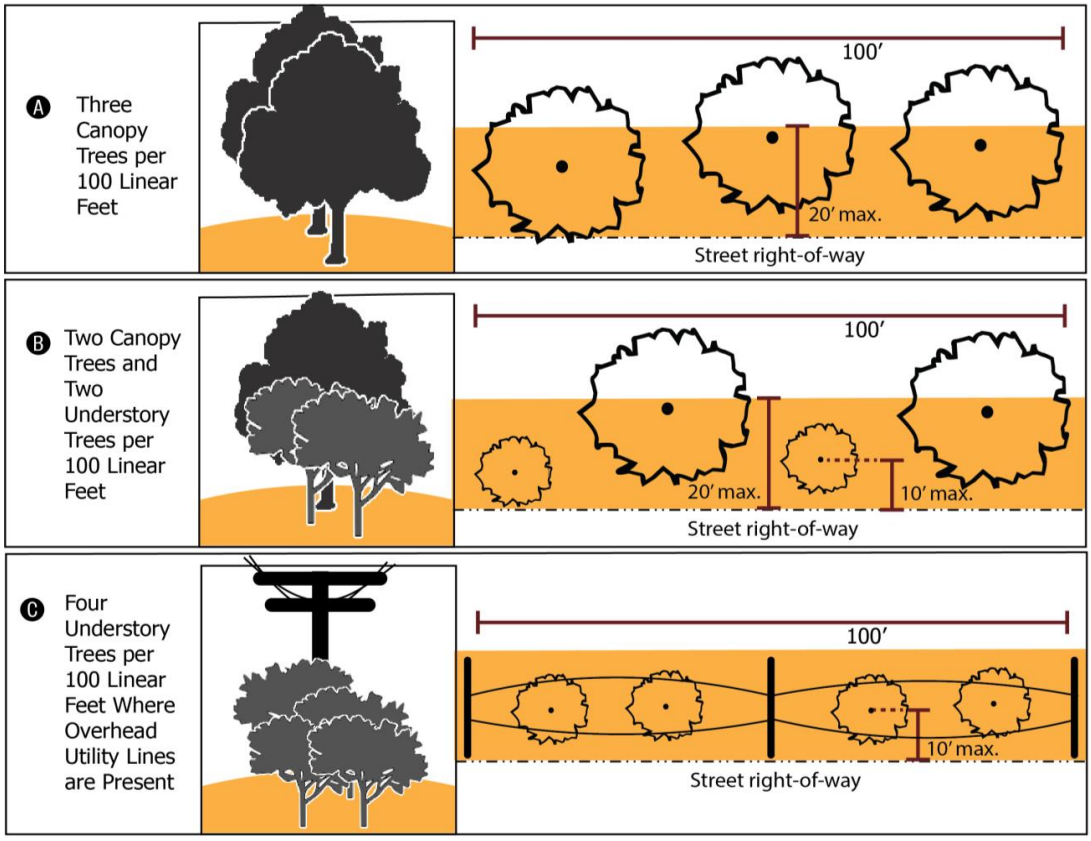
D. REQUIRED PLANT MATERIAL

1. GENERALLY

Streetscape buffers shall be configured in one of the following three ways (see Figure <>: Streetscape Buffer Configuration):

a. Three canopy trees for every 100 linear feet of lot frontage; or
b. Two canopy trees and two understory trees for every 100 linear feet of lot frontage; or
c. Four understory trees for every 100 linear feet, where overhead utilities are present.

FIGURE <>; STREETSCAPE BUFFER CONFIGURATION



2. REAR YARD STREETSCAPE BUFFERS

In cases when a lot's rear yard abuts a Town street right-of-way, the rear yard shall be configured with a streetscape buffer meeting the requirements for a Type C perimeter buffer (see Section <>, Perimeter Buffers). In cases where a streetscape buffer is configured in accordance with a Type C perimeter buffer, trees shall maintain a uniform on-center spacing across the width of the buffer and the distance from the right of way shall be in accordance with the perimeter buffering standards instead of the placement standards in this section.

E. PLACEMENT

1. Vegetation required as part of a streetscape buffer shall be located outside the street right-of-way.
2. Canopy trees shall be located within 20 feet of the right-of-way edge.
3. Understory trees shall be located within 10 feet of the right-of-way edge.

4. An alternative location may be approved by the Planning Director in cases where underground utilities, drainage easements, topography, or other obstructions make placement of streetscape buffer vegetation in accordance with these standards impractical.

F. PROHIBITED FEATURES

Off-street parking, off-street loading, merchandise display, outdoor storage, or use of gravel, decorative gravel, or cinders as a ground cover shall not take place within a required streetscape buffer.

6.6.17 VIOLATION AND REPLACEMENT

A. DAMAGE OR REMOVAL OF VEGETATION IS A VIOLATION

The damage, disturbance, or removal of any landscaping area or vegetation required by this section shall constitute a violation of this Ordinance subject to the remedies described in Chapter 7, Violations.

B. REPLACEMENT REQUIRED

1. Any disturbed landscaping areas, areas of preserved existing vegetation, or required plant material shall be replaced in accordance with the approved development application and these standards.
2. Trees or vegetation that die within one year of construction completion shall be removed and replaced with new vegetation of equal or greater size.
3. Replacement trees shall be planted within 90 days of removal of required vegetation.

C. REVEGETATION PLAN REQUIRED

In cases where required landscaping or existing vegetation required to be preserved is damaged, disturbed, or removed, a revegetation plan shall be submitted for review and approval by the Planning Director, in accordance with the following standards:

1. Any tree with a caliper of at least eight inches that is damaged or removed shall be replaced with one or more trees that have a caliper of at least three inches and a cumulative caliper equal to or greater than the original tree.
2. Trees damaged or destroyed less than eight inches in diameter shall be replaced to satisfy the performance criteria of this section.
3. Shrubs may also be required to restore the landscaping performance criteria for the disturbed area.

D. LOCATION OF REPLACEMENT TREES AND VEGETATION

1. Replanting shall be located within the vicinity of the vegetation to be replaced.
2. If the area is too small for sufficient growth, a more suitable location on the site may be selected, as permitted by the Planning Director.

E. EXCESSIVE PRUNING OR TRIMMING

Pruning or trimming exceeding the TCIA standards or activities exceeding necessary pruning or trimming shall be a violation of this Ordinance, and shall require replacement of damaged vegetation in accordance with Section <>, Replacement required.

F. FAILURE TO MAINTAIN

Failure to maintain required landscaping areas is a violation of this Ordinance, in accordance with Chapter 7, Violations.

6.7 OPEN SPACE SET-ASIDE AND PARKLAND[327]

6.7.1 OPEN SPACE SET-ASIDE

A. HOW TO USE THESE STANDARDS

1. Developments subject to these open space set-aside standards (see Section <>, Applicability) shall provide the minimum amount of open space set-aside required for the zoning district where located as identified in Chapter 3, Districts.
2. The physical amount of open space to be set aside within a particular development is a percentage of total development size. These percentage requirements ~~in~~ are found in the dimensional standards tables for the zoning districts in Chapter 3, Districts. There is no limitation on the provision of additional open space set-aside beyond the minimum specified in Chapter 3, Districts.
3. Once the minimum amount of open space set-aside to be provided is determined, the type of open space set-aside, if specified, should also be determined.
4. Applicants should consult Section <>, Open Space Set-Aside Configuration, in order to determine any applicable design requirements or prohibited features.
5. The required amount of open space set-aside may be reduced based on the provision of sustainable development features in accordance with Section <>, Sustainable Development Incentives, or other aspects of this Ordinance.

B. PURPOSE AND INTENT

The purpose of this section is to help ensure the provision and maintenance of open space resources that encourage recreation and the gathering of Town residents and visitors. These standards are further intended to:

1. Establish the standards under which residential, mixed-use, and non-residential development shall set aside a portion of the development area as open space;
2. Distinguish between the characteristics, requirements, and appropriate locations for open space set-asides, based on the zoning district designation; and
3. Establish minimum ownership and maintenance standards for homeowner and property owner associations related to open space set-asides.

C. APPLICABILITY

1. GENERALLY

a. Unless exempted in accordance with Section <>, Exemptions, the standards in this section shall apply to all new development and redevelopment in the Town.

b. Redevelopment conducted after (*insert the effective date of this Ordinance*), shall comply with the standards in this section, to the maximum extent practicable, and shall provide its pro rata share of open space set-aside.

[327] This is a new section that consolidates the standards from UDC Section 155.203(I). These standards replace the current fixed number of square feet (1,245 sf) per dwelling unit to be set aside as open space for new standards that require a percentage of the total site area to be configured as open space (the percentage amount, by use type, are identified in Chapter 3, Districts. Open space set-aside shall be configured for passive recreation, active recreation (for residential uses only), as gathering space (in urban areas), or as a blend of these types. There is also an option for payment of a fee-in-lieu. Each type of open space includes a range of allowable features that are permitted within that type of open space, as well as details on the other kinds of site features that are credited towards open space requirements. There are also new parkland dedication standards applied to single-family detached and attached developments of five or more lots or dwellings. Each unit is required to dedicate 800 sf of land area for parkland or to pay a fee-in-lieu. The Town may determine cases in which fee-in-lieu is acceptable. There are also basic standards for parkland location and configuration.

2. CONSERVATION SUBDIVISIONS

Open space set-asides associated with a conservation subdivision shall be subject to the standards in Section <>, Conservation Subdivision, in addition to these standards. In the event of a conflict, the standards in Section <>, Conservation Subdivision, shall control.

3. EXEMPTIONS

The following forms of development shall be exempted from the standards in this section:

a. Development of an individual single-family dwelling (including manufactured homes) on lots platted prior to (*insert the effective date of this Ordinance*);

b. Single-family detached residential subdivisions comprised solely of five or fewer lots where all lots are intended for single-family detached residential dwellings;

c. Development consisting of up to five duplex, triplex, or quadplex buildings (not individual units); and

d. Development located within the CON district.

D. MINIMUM OPEN SPACE SET-ASIDE REQUIREMENTS

1. AMOUNT

a. The minimum required amount of open-space set-aside, as a percentage of a development's size, shall be in accordance with the dimensional standards for the type of use in the zoning district where the development is located. Chapter 3, Districts, sets out the dimensional standards for each zoning district.

b. Nothing shall limit the provision of a greater minimum percentage or other type of open space set-aside, provided the minimum requirements in this section are met.

2. TYPE

a. Unless otherwise indicated in the appropriate dimensional standards table in Chapter 3, Districts, open space set-aside shall be configured in accordance with the standards in Section <>, Passive Open Space Set-Aside.

b. In cases where development must configure open space set-aside with active recreation features, it shall be configured in accordance with Section <>, Active Open Space Set-Aside.

c. In cases where open space set-aside shall be configured as gathering space, it shall be configured in accordance with Section <>, Gathering Space.

d. Except in instances where open space set-aside must be configured for active recreation, nothing shall limit development from configuring required open space set-aside in accordance with the standards in Section <>, Gathering Space.

E. OPEN SPACE SET-ASIDE CONFIGURATION

Open space set-asides shall be configured in accordance with the following standards.

1. PASSIVE OPEN SPACE SET-ASIDE

Passive open space set-asides are intended to provide land area that is undeveloped, or that is developed with low-intensity recreational features (such as those for walking or sitting), landscaping, replacement trees, or stormwater control measures that are configured as a site amenity (see Figure <>, Types of Open Space).

a. ALLOWABLE FEATURES

The land area occupied by any of the following types of features is credited towards required passive open space set-aside:

i. Walking, bicycling, and equestrian trails outside of greenways;
ii. Boardwalks outside of greenways;
iii. Gardens;
iv. Benches and seating areas;
v. Tables, grills, and related picnicking facilities;
vi. Lawn areas and community greens;
vii. Lakes, ponds, wetlands, swamps, canals, and streams;
viii. Areas occupied by trees and undisturbed vegetation;
ix. Piers and docks for fishing or viewing wildlife; and
x. Undisturbed land subject to a deed restriction or conservation easement.

b. SITE FEATURES CREDITED TOWARDS PASSIVE OPEN SPACE SET-ASIDE REQUIREMENTS

i. The following site features shall be credited towards passive open space set-aside requirements:
   1. Lands dedicated for public parks or greenways, when not already credited towards active open space set-asides or gathering areas;
   2. Required landscaping areas;
   3. Permanent tree save areas;
   4. U.S. Army Corps of Engineers designated 404 wetlands;
   5. Riparian buffer areas;
   6. Natural heritage areas;
   7. Areas qualifying as resource conservation areas; and
   8. Land area occupied by stormwater control measures, including retention ponds, fully vegetated detention basins, and other bio-retention devices, provided these facilities are treated as a site amenity.

ii. In order to be considered a site amenity that is credited towards passive open space set-aside requirements, stormwater control measures shall include all the following:
   1. Pedestrian access to the facility;
   2. Gentle slopes of three-to-one (3:1) or less;
   3. Pedestrian elements such as paths, benches, and similar aspects to and around the facility; and
   4. Vegetation, whether planted or retained.

c. CONFIGURATION

In no instance shall passive open space set-asides be retained, located, or configured in ways that reduce required street setbacks between the edge of a street right-of-way. Passive open space set aside areas that border a street shall maintain a minimum width at least as deep as the applicable street setback in the district where located.

2. ACTIVE OPEN SPACE SET-ASIDE

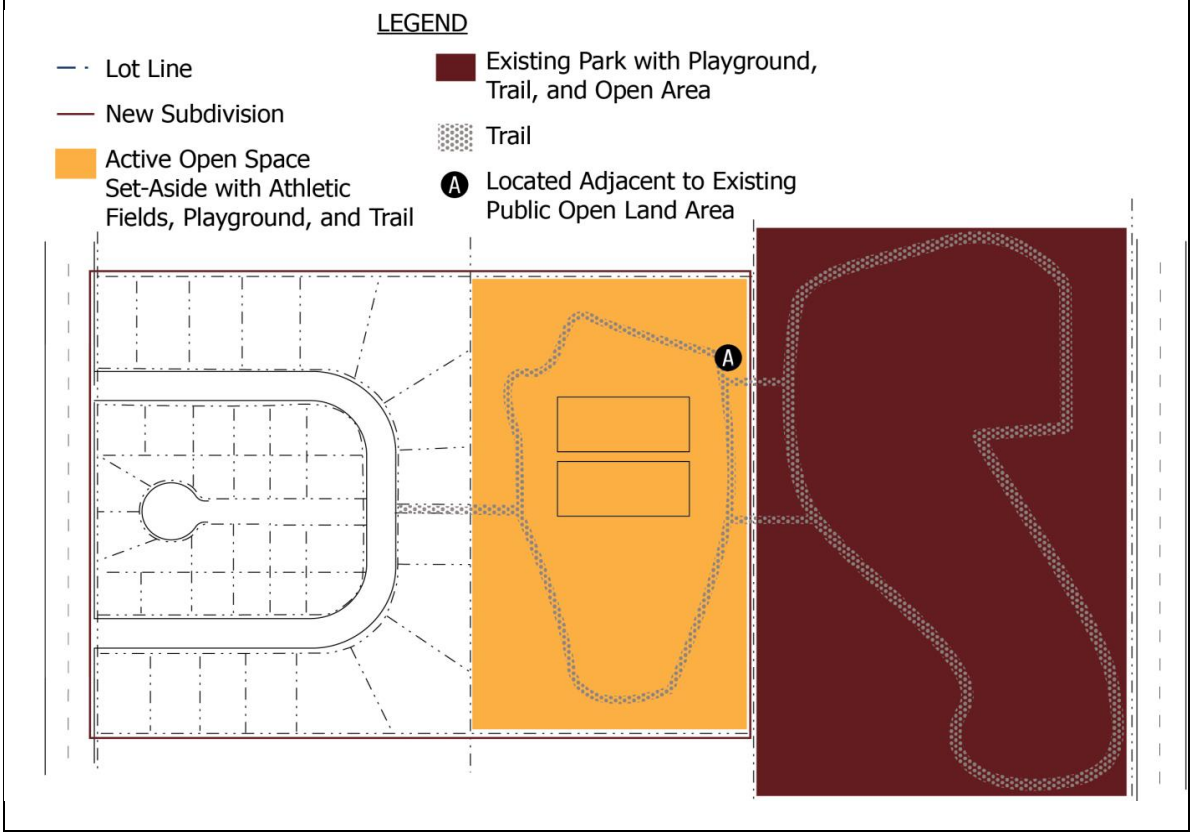
Active open space set-asides provide for active recreational needs of the residents or visitors they serve. Active features include fields and courts as well as built structures (see Figure <>, Types of Open Space). Active open space set-asides shall meet the following standards:

a. CONFIGURATION

i. Lands set aside as active open space set-aside shall be compact and contiguous unless the land is used as a continuation of an existing trail, or specific natural or topographic features require a different configuration.
ii. Active open space set-aside areas shall be located so as to be readily accessible and useable by residents and users of the development.
iii. Where possible, a portion of the open space set-aside should provide focal points for the development.

iv. Where the development site is adjacent to existing or planned trails, parks, or other public open area land, the open space set-aside shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other open area (see Figure <>, Open Space Continuation).

FIGURE <>: OPEN SPACE CONTINUATION



b. ALLOWABLE FEATURES

The following types of features are allowable in and credited towards active open space set-asides:

i. Lands dedicated for public parks or greenways;
ii. Swimming pools, splash pads, and areas devoted to water play for children;
iii. Athletic fields and courts;
iv. Boat launches and swimming platforms;
v. Club houses and shelters;
vi. Playgrounds and play structures for children; and
vii. Obstacle courses and exercise trails.

3. GATHERING SPACES

Gathering spaces are open space set-asides that provide formal or informal gathering areas for people or locations for vegetation or stormwater uptake within urbanized portions of the Town's planning jurisdiction. Gathering spaces can include outdoor dining areas, outdoor seating areas, performance spaces, building atriums with plants and seating, or green roofs (see Figure <>, Types of Open Space).

a. ALLOWABLE FEATURES

The following types of features are allowable in gathering spaces:

i. Lands dedicated for public parks or greenways;
ii. Plazas and courtyards;
~~ii.~~iii. Public art installations;
~~iii.~~iv. Roof gardens;
~~iv.~~v. Indoor atriums with plantings and seating that are open to the general public;
~~v.~~vi. Outdoor dining areas;
~~vi.~~vii. Fountains; and
~~vii.~~viii. Areas devoted to public gathering.

FIGURE <>: TYPES OF OPEN SPACE



4. FEATURES NOT CREDITED TOWARDS OPEN SPACE SET-ASIDE

The following areas shall not be included in or credited towards any open space set-aside requirements:

- **a.** Private yards not subject to a deed restriction or conservation easement;
- **b.** Street rights-of-way;
- **c.** Parking areas and driveways for dwellings or other uses;
- **d.** Land covered by structures not designated for active recreational uses;
- **e.** On-site wastewater treatment facilities, including septic tank drain fields;
- **f.** Stormwater control measures not configured as a site amenity; and
- **g.** Designated outdoor storage areas.

F. MAINTENANCE OF OPEN SPACE SET-ASIDES

1. The owner of the land shall be responsible for maintenance of all open space set-aside areas including land, vegetation, private infrastructure, greenways, and other features, in accordance with this Ordinance and any conditions of approval associated with the development.
2. Failure to maintain open space set-aside areas is a violation of this Ordinance subject to the remedies and penalties in Chapter 7, violations.

G. OWNERSHIP OF OPEN SPACE SET-ASIDES

Open space set-asides are intended to remain under private ownership while being available for use to residents and visitors in the development where located. Ownership of open space set-asides shall remain with the owner of the land, except in the following circumstances.

1. HOMEOWNERS' OR PROPERTY OWNERS' ASSOCIATION

All open space set-aside areas may be owned jointly or in common by the owners of the development through a recognized homeowners' or property owners' association, which shall be established in accordance with Section <>, Owners' Associations.

2. NONPROFIT ORGANIZATION

The landowners may decide to convey an open space set-aside to a nonprofit organization such as a land trust or land conservancy for management and maintenance if the Town is provided adequate assurance the set-aside will be properly managed and maintained.

3. DEDICATED TO TOWN OR OTHER PUBLIC AGENCY

In some cases, certain lands designated as open space set-asides, such as wildlife habitat or greenways, may be dedicated to the Town or other public agency during the development review process. The Town Council shall determine which lands and under what conditions open space set-asides may be dedicated to the Town or other public agency.

6.7.2 PARKLAND DEDICATION

Subdivisions of land for five or more single-family residential lots (including detached or attached units) shall be required to dedicate a portion of the land, or pay a fee-in-lieu thereof, for public parkland, in accordance with the standards of this section.

A. DEDICATION AMOUNT

1. Single-family residential subdivisions of five or more lots shall dedicate ~~800~~ 1,244 square feet of land per residential lot or principal dwelling unit to the Town for its use in developing public parkland.
2. No credit towards required parkland dedication is given for lands mandated for preservation by State or federal requirements.
3. No more than 25 percent of the total dedication requirement may be met through dedication of water areas.

B. DEDICATION OR PAYMENT OF FEE-IN-LIEU PROCEDURE

1. The developer or landowner, as appropriate, shall identify land proposed for dedication or propose payment of a fee-in-lieu as part of the application for approval in accordance with Section <>, Fee-in-Lieu.
2. The Town staff shall review the proposed application and determine if it complies with the standards in this section. The decision to accept dedication or payment of a fee-in-lieu is up to the sole discretion of the Town Council.
3. In the event a request for payment of fee-in-lieu is made, the request shall be accompanied by the following:
   a. The assessed value of the land indicated for dedication and how the assessed value amount was determined; and
   b. The rationale or basis for the request for payment of a fee-in-lieu.
4. The fee-in-lieu shall be calculated based upon the total acreage of land required for dedication.
5. The land's assessed value (as determined by the Johnston County Tax Assessor) ~~following subdivision~~ shall be used to arrive at the required payment-in-lieu amount.
6. Use of funds collected in accordance with this section shall only take place in the general vicinity of where funds are collected and may only be used for the purchase of in-kind lands or the same type of infrastructure in accordance with all applicable State and federal law.
7. The planning director shall maintain records of the amounts collected, the timing, and the location, which shall be used by the Town as part of its capital facilities program.
8. Land shall be dedicated prior to recording the first final plat for the subdivision, or the payment-in-lieu shall be paid prior to recording the first final plat for the subdivision for which the payment-in-lieu is paid.

C. NATURE OF LAND TO BE DEDICATED

All lands proposed for dedication as park areas shall meet the following standards:

1. UNITY

The dedicated land shall be a single parcel of land, whether the development is developed in phases or sections, except where it is determined by the Town that multiple parcels would better serve Town residents and visitors.

2. USABILITY

a. Public parkland must be without significant topographic elevation changes, well-drained, usable land for a park, as determined by the Planning Director.
b. In cases where dedication includes an area of water, public access to all portions of a water feature shall be provided and maintained, regardless of the water feature's size.
c. The land must not be a former site of or contain any remains of hazardous materials.

3. SHAPE

The dedicated land shall be of a shape that supports gathering and recreation activities.

4. LOCATION

a. The dedicated parkland shall be located so it can reasonably serve the park needs of the residents of the development and immediate area.

b. The Town may require that the land dedicated be located on the periphery of the development in order to allow enlargement by combining the recreation and park area with adjacent development or park facilities, existing or planned.

5. ACCESS

a. All dwelling units in the development and residents in the immediate area shall have access to and from the parkland provided by means of streets and public walkways or trails.

b. Rights-of-way for this access shall be shown on the preliminary and final plats.

c. All dedicated lands shall have access by way of a street. Such access can be provided when the dedicated land is adjacent to existing or proposed public parkland with street access.

6. GREENWAYS

In cases where a proposed subdivision is located or configured in ways that would assist the Town in developing its greenway or trail network, dedication of greenway land will be credited towards public parkland dedication.

6.8 OWNERS' ASSOCIATIONS[328]

6.8.1 PURPOSE

The purpose of this section is to set out the requirements for establishment of a homeowners' or property owners' association (hereinafter "owners' association") that shall be responsible for the long-term maintenance of common areas, common features, and private infrastructure in a subdivision. This section also sets out the requirements associated with transfer of subdivision control and maintenance responsibility from the subdivider to the association.

6.8.2 APPLICABILITY

A. The standards in this section shall apply to developments with lands held under common ownership (like open space set-aside), or with shared responsibility for common infrastructure including, but not limited to:

1. Stormwater control measures;
2. Private potable water systems;
3. Private sewage system features (such as pump stations serving only the development where located);
4. Cluster mailbox units;
5. Commonly-held streets and off-street parking facilities; and
6. Open space set-asides.

B. In no instance shall any common area be further subdivided, developed, or conveyed by the owners' association, except in accordance with the provisions of this Ordinance.

6.8.3 CREATION REQUIRED

A. An association shall be established in areas that have private common open space or shared private infrastructure. Associations are required to accept ownership and maintenance responsibility of all open space set-aside(s), shared infrastructure, or common areas within a development.

B. Associations are also required in order to fulfill the requirements of Chapter 47C (the "Condominium Act") of the North Carolina General Statutes, or the requirements of Chapter 47F (the "Planned Community Act") of the North Carolina General Statutes.

C. The association shall be in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development, though maintenance responsibility shall only transfer from the developer to the association in accordance with Section <>, Transfer of Maintenance Responsibility.

6.8.4 MEMBERSHIP REQUIREMENTS

A. Following establishment of the association by the subdivider, membership in the association shall be automatic and mandatory for all purchasers of land within the subdivision and their successors in title.

B. All members of an association shall be responsible for contributions to the association's reserve fund to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure.

[328] These are new standards that replace the standards for ownership and management of open space areas in UDC Section 155.203(I)(8). These standards go into greater detail regarding creation of the association, timing of maintenance transfer to the association from the developer~~, and a new requirement for creation of a reserve fund by the developer that is given to the owners' association to help fund maintenance in the early stages of the development after maintenance transfer but before the association has had an opportunity to collect a significant amount of dues for maintenance~~.

6.8.5 PROCEDURE FOR ESTABLISHMENT

A. Documents for the creation of the association shall be submitted to the Town for review and approval prior to approval of the final plat (see Section <>, Final Plat). Documentation shall include, but not be limited to the information in Section <>, Documentation Requirements.

B. The association shall be established by the subdivider prior to the sale of the first lot in the subdivision.

C. The association documents shall establish that the subdivider shall maintain the common area, common facilities, and infrastructure at least until 51 percent of the lots are sold.

D. Responsibility for maintaining the subdivision's common areas, common facilities, and private infrastructure shall be transferred in accordance with the standards in Section <>, Transfer of Maintenance Responsibility.

E. Nothing shall prevent the subdivider from retaining maintenance responsibility after more than 51 percent of the lots are sold.

6.8.6 RESPONSIBILITIES

A. Upon transfer of maintenance responsibility, the association shall be responsible for:

1. Liability insurance and payment of premiums for liability insurance and local taxes;
2. Maintenance of all common elements including, but not limited to, stormwater control measures in accordance with Section <>, Special Requirement for Homeowners' and Other Associations, private utilities, private drives, private sidewalks and trails, private streetlights, and private common recreation facilities shown on the preliminary and final plats;
3. Maintenance of public streets until such time as the Town or NCDOT agrees to accept the responsibility for street maintenance;
4. Maintenance of an escrow account intended for the maintenance and repair of community facilities;
5. Payment of system development fees for public and private improvements made to or for the benefit of the common elements; and
6. Payment of assessments for public and private capital improvements made to or for the benefit of the common area located within the development.

B. The owners' association shall grant easements over the common areas for access, ingress, and egress from and to public streets and walkways, and easements for enjoyment of the common area and for parking areas shall be granted to each owner of any lot or unit within the development, unless expressly stated otherwise and classified as "limited common areas and facilities" with the declaration.

C. Common walls between any units shall be party walls, and provisions for the maintenance thereof, including restoration in the event of destruction or damage, shall be established within the covenants.

D. In the event of default by the owners' association in the payment to the Town of any ad valorem taxes levied against the common area or assessments for public improvements to the common area, for a period of six months or more, then each owner of a lot or unit in the development shall become personally obligated to pay to the Johnston County Tax Assessor a proportionate share of such taxes or assessments. If such sum is not paid by the owner within 30 days following receipt of notice of the amount due, then such sum shall become a continuing lien on the lot or unit of the then owner(s), the owner(s)' heirs, devisees, personal representatives and assigns, and the Johnston County Tax Assessor may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the property of the owner.

6.8.7 REQUIRED DOCUMENTATION

A. The association documents submitted to the Town for review shall include, but not be limited to, the following:

1. A declaration of all restrictive covenants;
2. A declaration of all deed restrictions;
3. A declaration that the association is responsible for liability insurance and all applicable taxes;
4. A declaration of common ownership and maintenance responsibilities of all on-site improvements not dedicated to a local or State agency, including but not limited to drainage systems, wastewater systems, open space set-aside areas, recreational facilities, and private infrastructure;
5. A statement that all common areas shall not be further subdivided, developed, or conveyed by the owners' association, except where approved under the provisions of this Ordinance;
6. A description of the structural organization and operating procedures of the association;
7. Association by-laws;
8. A legal description of all open space set-asides and other lands owned in common;
9. A description of areas designated as limited common areas and facilities, where access to or through such areas by members of the associated is limited, and the reasons for such limitations;
10. Provisions establishing the legal authority of the association to maintain control over all common areas, common features, and private infrastructure in the subdivision, following transfer of control by the subdivider;
11. Provisions authorizing the association to compel contributions from owners in the development to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure;
12. Provisions authorizing the association to increase the amount of mandatory fees or assessments, when necessary, for the continued maintenance of common areas, common features, or private infrastructure;
13. Provisions authorizing the association to convert any member's unpaid assessments into a lien on real property; and
14. Evidence related to the establishment of a reserve fund under the sole control of the association to support the continued maintenance and upkeep of common areas, common features, and private infrastructure.

B. Following review of the required documentation by the Town, the subdivider shall record all required documentation with the Johnston County Register of Deeds, as appropriate.

6.8.8 TRANSFER OF MAINTENANCE RESPONSIBILITY

A. The developer shall be responsible for maintenance of all common areas, common features, and private infrastructure until maintenance responsibility is transferred to the association in accordance with the standards in this subsection.

B. The developer shall be responsible for conveyance of the fee simple title to all areas designated as common areas as a part of transfer of maintenance responsibility.

C. The developer shall submit, along with the final plat, documents showing proof that any mortgage on the property or facility is subject to all easements or rights which may be transferred to the individual lot or unit owner or to the owners' association.

~~D. Maintenance responsibility shall not be transferred from the developer to the association until all of the following occur:~~

~~1. The developer commissions a report prepared by a professional engineer licensed in North Carolina indicating that all common areas, common features, and infrastructure elements comply with the minimum standards in this Ordinance and the Town Code of Ordinances. The report shall also include verification of the reserve fund balance in accordance with the standards in this section; and~~

~~2. County staff reviews and approves the report prepared by the professional engineer; and~~

~~3. A reserve fund dedicated to the continued maintenance and upkeep of common areas, common features, and private infrastructure is established in the name of the association that contains a minimum balance sufficient to cover the following:~~

~~a. Ten percent of the construction costs of common features and private infrastructure;~~

~~b. Liability insurance and taxes (if applicable) for two years; and~~

~~c. Facilities, stormwater, and landscaping maintenance costs for two years.~~

~~4. In the event the association has not collected sufficient assessment funds from the lot owners in the subdivision to meet the minimum balance requirements of the reserve fund, the subdivider shall be responsible for the difference needed to meet the minimum balance requirements.~~

6.8.9 FAILURE TO MAINTAIN IS A VIOLATION

Failure to maintain common areas, common features, or infrastructure is a violation of this Ordinance and is subject to the penalties and remedies in Chapter 7, Violations.

6.9 PARKING AND LOADING[329]

6.9.1 PURPOSE AND INTENT

The purpose of this section is to ensure provision of off-street parking and loading facilities in proportion to the generalized parking, loading, and transportation demand of the different uses allowed by this Ordinance. The standards are further intended to:

A. Provide for adequate off-street parking, off-street loading, and safe movement of vehicles into, out of, and through parking areas;

B. Allow for flexibility to accommodate alternative solutions to off-street parking and loading needs, where such flexibility is consistent with the Town's adopted policy guidance;

C. Reduce the aesthetic impact of surface parking lots in gateway corridors, downtown, and mixed-use areas through standards addressing on-site parking lot locations;

D. Avoid excessive paved surface areas and the resulting problems associated with stormwater runoff and urban heat islands; and

E. Protect compatibility between adjacent uses of land.

6.9.2 APPLICABILITY

The standards in this section shall apply to all development in the Town's jurisdiction, unless exempted in accordance with Section <>, Exemptions.

A. GENERALLY

Whenever a building is constructed, an open-air use of land is conducted, or a principal or secondary use is established, the development shall meet the requirements of this section.

B. ADDITIONS AND EXPANSIONS

Whenever an existing building, open air use of land, or principal or secondary building is enlarged or increased in capacity after (*insert the effective date of this Ordinance*), the development shall comply with the requirements in Section <>, Nonconforming Site Features.

C. CHANGES IN USE

1. If the principal use changes, then the new principal use shall meet the requirements of this section, except that if the use change results in an increase of less than five percent in the required number of off-street parking spaces, or less than two additional parking spaces, no additional parking spaces are required.
2. In cases where an existing off-street parking lot does not comply with the parking lot configuration requirements of this section, changes in use shall require the parking lot's configuration to be brought into compliance with these standards, to the maximum extent practicable.

[329] This section carries forward and builds on Section 401 of the UDC. The new section includes a comprehensive applicability section that addresses how the standards are applied to changes in use, minor additions of parking spaces to existing parking lots, and minor building additions, as well as a more comprehensive consideration of parking standards in Downtown. The new section provides a minimum parking space standard for each listed principal use, parking maximums for some commercial uses, and simplified bicycle parking standards. The standards also update parking lot configuration, surfacing, and stacking or standing spaces (also by use type or by type of secondary structure like a drive-through). The loading standards are revised to specify that if loading facilities are provided, they must comply with the minimum standards, but that loading facilities are not required. The standards also clarify that required parking and vehicular circulation areas may not be occupied by delivery vehicles during hours of operation that are open to the public (nothing limits the use of these areas for delivery outside of hours open to the public, or the use of designated loading zones).

D. ADDITION OF NEW PARKING SPACES

1. New off-street parking spaces added to a development, lot, or site after (*insert the effective date of this Ordinance*) shall comply with the standards in this section. In cases where the development, lot, or site has existing off-street parking spaces that do not comply with these standards, those spaces are subject to Section <>, Pre-Existing Nonconforming Development.
2. Driveways, aisles, or vehicular maneuvering areas serving new off-street parking spaces or connecting new off-street parking spaces to the existing parking spaces established prior to (*insert the effective date of this Ordinance*) shall also comply with the requirements in this section. Nothing shall preclude the use of an administrative adjustment or alternative parking plan as needed to ensure continuity and practical connection between different parking areas.

E. PRE-EXISTING NONCONFORMING DEVELOPMENT

Lawfully-established off-street parking and loading areas established prior to (*insert the effective date of this Ordinance*) that do not comply with these standards shall be subject to the applicable standards in Chapter 5, Nonconformities.

6.9.3 EXEMPTIONS

A. The following forms of development are exempt from the requirements of this section:

1. Lawfully-established lots of record existing prior to (*insert the effective date of this Ordinance*), that are 33 feet wide or less, contain a single-family detached residential structure, and are not served by an alley; and
2. Re-striping an existing parking lot which does not create a deficient number of parking spaces or a nonconforming situation.

B. Non-residential and mixed-use development located in the DTN district is exempted from the minimum off-street parking requirements in Table <>, Table of Minimum Off-Street Parking Requirements, but off-street parking lots, if provided, shall comply with the standards in Section <>, Parking Lot Configuration.[330]

6.9.4 OFF-STREET PARKING REQUIREMENTS

A. PARKING PLAN REQUIRED

Every application for a site plan or building permit shall include a parking plan or plot plan drawn to scale and fully-dimensioned as necessary in order to demonstrate compliance with the standards in this section.

B. MINIMUM OFF-STREET PARKING SPACES REQUIRED

1. The minimum number of off-street parking spaces required for development shall be in accordance with Table <>, Table of Minimum Off-Street Parking Requirements.
2. Off-street parking shall be provided to meet the parking demand without the use of streets, driveways, and garages, except as specifically allowed by this section.
3. Some uses may also be required to provide vehicle stacking spaces in accordance with Section <>, Stacking Spaces.
4. Some uses may also be required to provided bicycle parking spaces in accordance with Section <>, Bicycle Parking.

[330] See TA 2022-9-4.

C. OFF-STREET PARKING SPACE MAXIMUM

1. Where identified in Table <>, Table of Minimum Off-Street Parking Requirements, uses subject to an off-street parking maximum shall comply with the applicable maximum provisions in the table.
2. Deviations from the maximum parking space standards may be requested in accordance with Section <>, Parking Flexibility.

D. USE TYPE NOT LISTED

1. For use types that do not correspond to the use types listed in Table <>, Table of Minimum Off-Street Parking Requirements, any one of the following actions may be taken as part of determining the applicable off-street parking requirements:
   a. The applicant may provide a parking study for the use(s) prepared by a professional engineer licensed by the State of North Carolina;
   b. The applicant may propose a text amendment to this UDO in accordance with Section <>, Text Amendment;
   c. The applicant may request a formal determination of these off-street parking standards in accordance with Section <>, Determination, or
   d. The Planning Director may determine the minimum parking space requirement based on a similar use in accordance with the standards of this Ordinance.
2. In cases where the applicant desires the Planning Director to make a determination, the application shall provide the following information:
   a. The type of use(s);
   b. Number of employees;
   c. The availability of transit;
   d. The occupancy of the building;
   e. Anticipated square feet of sales, service, and office areas;
   f. Number of off-street parking spaces proposed; and
   g. Hours of operation.

E. DEVELOPMENTS WITH MULTIPLE USE TYPES OR LOTS

1. Development containing more than one principal use shall provide the minimum number of off-street parking spaces in an amount equal to the total required for all individual principal uses in the development, except as allowed by Section <>, Parking Flexibility.
2. Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured to locate a portion of the required parking for one lot on another in the same development as allowed by Section <>, Parking Flexibility.

F. USE OF REQUIRED OFF-STREET PARKING SPACES

1. Off-street parking areas used for any of the following vehicles are not credited towards the minimum number of required off-street parking spaces in Table <>, Table of Minimum Off-Street Parking Requirements, and such vehicles shall be located outside required off-street parking spaces and any street right-of-way:
   a. Vehicles for sale or lease;
   b. Vehicles being stored, serviced, or repaired; or
   c. Vehicles belonging to the use, such as company vehicles.

2. Required off-street parking spaces shall not be used for any purpose other than the temporary parking of operable vehicles.
3. In no instance shall motor vehicle servicing or repair of a vehicle take place within a required off-street parking space except for washing and emergency service necessary to start the vehicle.

G. DRIVEWAYS USED TO MEET PARKING REQUIREMENTS

1. Driveways may be used to accommodate required off-street parking spaces only for the following uses:
   a. Boarding houses;
   b. Cemeteries;
   c. Family care homes;
   d. Group homes;
   e. Live/work dwellings;
   f. Manufactured dwellings;
   g. Mobile homes;
   h. Single-family attached dwellings when located in developments of six or fewer dwellings (driveways may be located on land owned in common);
   i. Single-family detached dwellings, including those in bungalow courts and pocket neighborhoods;
   j. Secondary dwelling units;
   k. Triplex/quadplex dwellings; and
   l. ~~Two-family~~Duplex dwellings.
2. Driveways shall be of sufficient size to accommodate all the off-street parking spaces required by Table <>, Table of Minimum Off-Street Parking Requirements, and comply with the applicable standards in Section <>, Driveways. In no instance shall accommodation of vehicle parking in accordance with this subsection result in parked vehicles protruding into or over street rights-of-way, sidewalks, greenways, required sight distance triangles, areas used for refuse collection, or required landscaping areas.

H. GARAGES USED TO MEET PARKING REQUIREMENTS

On-site garages may be credited towards the off-street parking requirements only in accordance with the following:

1. SINGLE-FAMILY DETACHED DWELLINGS

a. Except when configured as bungalow courts or pocket neighborhoods, single-family detached dwellings, whether occupied as a principal or secondary use, that include one one-car garage shall not receive credit from this garage parking space towards meeting the required number of off-street parking spaces. Lots with single-family detached dwellings that include two or more garage parking spaces shall receive credit towards off-street parking requirements for the second and each subsequent garage parking space on the lot.
b. A one-car garage shall be credited towards off-street parking space requirements for a single-family detached dwelling when the dwelling is included as part of a bungalow court or pocket neighborhood.

2. SINGLE-FAMILY ATTACHED, ~~TWO-FAMILY~~DUPLEX, TRIPLEX, AND QUADPLEX DWELLINGS

a. A one-car garage integral or attached to a single-family attached dwelling shall not receive credit towards ~~from this garage parking space be credited towards required~~ off-street parking. Garages with two or more garage parking spaces shall receive credit towards off-street parking requirements for the second and each subsequent garage parking space on the lot.

b. Garage parking spaces intended to serve three or more individual dwelling units and located within a single principal or secondary structure shall be credited towards the off-street parking spaces in this section.

3. STRUCTURED PARKING

Garage parking spaces located within structured parking and serving two or more ~~seperate~~separate residential dwellings or a non-residential use type shall be credited towards the off-street parking requirements in this section.

I. MINIMUM OFF-STREET PARKING REQUIREMENTS TABLE

The following table sets out the minimum and applicable maximum off-street parking standards for development subject to these standards. Off-site and on-street parking may be used to satisfy some or all of these requirements if configured in accordance with Section <>, Parking Flexibility.

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
AGRICULTURAL USE CLASSIFICATION	
Agricultural Packaging & Processing	1 per every 1,500 sf [3]
Agricultural Storage & Distribution	1 per every 6,000 sf [3]
Horticulture	1 per every 1,500 sf [3]
Plant Nursery	1 per every 1,500 sf
Row, Field, or Tree Crops	None
Silviculture	None
Viticulture	None
Farm Equipment Sales and Service	1 per every 300 sf
Farm Supply Sales	1 per every 300 sf
COMMERCIAL USES CLASSIFICATION	
Animal Shelter	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Animal Boarding, Indoor only	1 per every 200 sf
Animal Boarding, Indoor and Outdoor	1 per every 200 sf [3]

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

Use Type	Minimum Number of Require Off-Street Parking Spaces [1] [2]
Animal Grooming	1 per every 200 sf
Bank or Credit Union	1 per every 300 sf
Bar, Cocktail Lounge, or Private Club	1 per every 150 sf
Bed & Breakfast	1 per guest room plus minimum required for single-family detached dwelling
Bottle Shop (with on premise consumption)	1 per every 4 seats [4]
Bulky Item Sales	1 for every 600 sf
Campground	1 + 1 per camping space
Catering Establishment	1 per every 300 sf
Co-Working Space	1 per every 250 sf
Coffee Shop or Bakery	1 per every 150 sf; May not exceed 125% of minimum
Computer Related Services	1 per every 600 sf
Convenience Store (with gasoline sales)	1 per every 200 sf
Day Spa (medical and non-medical)	1 per every 150 sf; May not exceed 125% of minimum
Event Venue, Indoor Only	1 per every 150 sf; May not exceed 125% of minimum
Event Venue, Indoor & Outdoor	1 per every 150 sf + 1 per every 1,500 sf of outdoor use area; May not exceed 125% of minimum
Financial Services	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Fitness Center	1 per every 200 sf; May not exceed 125% of minimum
Flea Market	1 per every 200 sf; May not exceed 125% of minimum
Funeral-related Service	Greater of: 1 per every 200 sf used by public, or 1 per every 4 seats in worship area
Gasoline Sales	1 per every 200 sf
General Retail, High Intensity	10,000 sf – 40,000 sf: 1 per every 200 sf; May not exceed 125% of minimum
	>40,000 sf: 1 per every 300 sf; May not exceed 125% of minimum
General Retail, Low Intensity	1 per every 350 sf; May not exceed 125% of minimum
Hair, Nails, and Skin-related Service	1 per every 200 sf
Grocery Store	<30,000 sf: 1 per every 400 sf; May not exceed 125% of minimum
	30,000 sf – 55,000 sf: 1 per every 300 sf; May not exceed 125% of minimum

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

Use Type	Minimum Number of Require Off-Street Parking Spaces [1] [2]
	>55,000 sf: 1 per every 200 sf; May not exceed 125% of minimum
Heavy Equipment Sales, Rental, and Repair	1 per every 600 sf
Hotel or Motel	5 + 1 per every rental unit
Indoor Commercial Recreation	1 per every 200 sf; May not exceed 125% of minimum
Instructional Services	1 per every 200 sf
Laundry and Cleaning Service	1 per every 200 sf used by the public
Light Equipment Sales, Rental, and Repair	1 per every 250 sf
Micro Brewery or Distillery	1 per every 150 sf
Nightclub or Dance Hall	1 per every 150 sf; May not exceed 125% of minimum
Office, High Intensity	1 per every 200 sf; May not exceed 125% of minimum
Office, Low Intensity	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Outdoor Commercial Recreation	1 per every 1,000 sf of activity area (including building sf); May not exceed 125% of minimum
Parking Related Use	1 per employee on the largest shift
Packaging and Shipping	1 per every 200 sf
Pawn Shop	1 per every 300 sf
Pharmacy	1 per every 200 sf
Recreational Vehicle Park	1 per employee on largest shift + 0.25 per every recreational vehicle space
Repair Shop	1 per every 600 sf
Restaurant with Drive-Through	1 per every 4 seats [4]; May not exceed 1 per every 150 sf
Restaurant, Indoor Seating Only	1 per every 4 seats [4]; May not exceed 1 per every 150 sf
Restaurant, Indoor and Outdoor Seating	1 per every 5 seats [4]; May not exceed 1 per every 150 sf
Restaurant, Walk-up Service Only	1 per employee on largest shift + 1 per every two outdoor seating locations
Retail, Large Format	70,000 sf – 200,000 sf: 1 per every 600 sf; May not exceed 125% of minimum
	>200,000 sf: 1 per every 800 sf; May not exceed 125% of minimum
Retail, Micro	1 per every 600 sf
Sexually-Oriented Business	1 per every 200 sf
Storage, Indoor Only	1 per every 5,000 sf

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED [#] = Notes at the end of the table	
USE TYPE	**MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]**
Storage, Indoor and Outdoor	1 + 1 per employee on largest shift
Tanning Salon	1 per every 200 sf
Tattoo and Piercing Establishment	1 per every 600 sf
Theatre, Indoors	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating; May not exceed 1 per every 150 sf
Theatre, Outdoors	2 + 1 per employee on largest shift
Vehicle Repair and Service (no painting/body work)	2 + 1 per each service bay
Vehicle Sales and Rental	1 per every 200 sf of floor area open to the public
Vehicle Painting/Bodywork	2+ 1 per employee on largest shift + 1 per service bay
Vehicle Parts and Accessory Sales	1 per every 200 sf
Vehicle Towing and Storage	1 per employee on the largest shift
Vehicle Washing or Detailing	1 + 1 per employee on largest shift
Veterinary Services, Large Animal	1 + 1 per doctor or care provider
Veterinary Services, Small Animal	1 per every 200 sf
INDUSTRIAL USE CLASSIFICATION	
Asphalt or Concrete Plant	2 per every 3 employees on major shift
Business Incubator	1 per every 450 sf
Contractor Services/Yard	Greater of: 1 per every 300 sf or 1 per every 1,000 sf of outdoor area
Cryptomining and Data Processing	1 per employee on the largest shift
Electrical, HVAC, or Plumbing Fabrication	2 per every 3 employees on largest shift
Extractive Industry	1 + 1 per employee on largest shift
Freight Terminal	2 per every 3 employees on largest shift
Fuel Oil/Bottled Gas Distributor	1 per every 200 sf used by public + 1 per employee on largest shift
Level 2 Solar Energy Conversion	None
Level 3 Solar Energy Conversion	None
Makerspace	1 per every 400 sf
Manufacturing, Heavy/Light	2 per every 3 employees on largest shift
Metal Fabrication	2 per every 3 employees on largest shift
Transfer Station	10 + 1 per employee on the largest shift

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1] [2]
Recycling Center	1 per every 1,000 sf (min. of 2 spaces)
Research and Development	1 per every 300 sf of office area + 1 per every 500 sf of other floor area
Salvage or Junkyard	3+ 1 per employee on the largest shift
Utility, Major	1 per employee on largest shift
Utility, Minor	None
Warehouse, Distribution/Storage	2 per every 3 employees on largest shift
Wholesale Sales, Indoor Only	1 per every 900 sf
Wholesale Sales, Indoor and Outdoor	1 per every 900 sf + 1, per every 5,000 sf of outdoor area
Wind Energy Conversion	None
INSTITUTIONAL USE CLASSIFICATION	
Adult Day Care Center	1 + 1 per every employee on largest shift
Antenna Collocation, Major or Minor	None
Arboretum or Formal Garden	1 per employee on largest shift + 1 per 5,000 sf of garden area
Athletic Field or Court	1 per every 1,000 sf of court or field area
Auditorium, Coliseum, Convention Center	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating
Broadcasting Studio	1 per every employee on largest shift
Bus Station	1 per every 200 sf [5]
Cemetery or Mausoleum	1 per every employee on largest shift
Child Day Care Center	1 per employee + 1 per every 10 children
College or University	5 per every classroom and 1per every office
Community Center	1 per every 300 sf
Community Garden	None
Community Recreation Facility (private)	1 per every 1,000 sf of outdoor activity area + 1 per every 400 sf of building area
Coliseum, Convention, Conference Center	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating
Fire/EMS/Police Station	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Fraternal Club or Lodge	1 per every 300 sf
Golf Course (public or private)	1 per every 4 persons of design capacity

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED [#] = Notes at the end of the table	
Use Type	**Minimum Number of Require Off-Street Parking Spaces [1] [2]**
Government Office	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Governmental Training Facility	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Hospital	1 per every 2 beds + 1 per every employee on largest shift
Indoor Recreation, Public	1 per every 400 sf
Laboratory	2 per every 3 employees on major shift
Library	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Museum	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Outdoor Recreation, Public	1 per every 1,000 sf of outdoor activity area
Outpatient Treatment Facility	1 per every 200 sf
Park	1 per employee on largest shift + 1 per acre
Park and Ride Facility	1 per every 200 sf [3]
Post Office	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Psychiatric Services	1 per every 3 patient beds
Rail Related	Passenger: 1 per every 400 sf [5]
	Freight: 1 per every employee on largest shift
Religious Institution, High Intensity	Greater of: 1 per every 4 seats or 1 per every 50 sf of floor area in main worship area; May not exceed 125% of minimum
Religious Institution, Low Intensity	Greater of: 1 per every 6 seats or 1 per every 50 sf of floor area in main worship area; May not exceed 125% of minimum
Residential Treatment Facility	2 + 1 per every employee on largest shift
School, Elementary or Middle	1 per every employee on largest shift
School, High	5 per every classroom and 1 per every office
School, Vocational	1 per every 3 students + 1 per classroom
Small Wireless Facility	None
Telecommunications Facility, Major	One
Telecommunications Facility, Minor or Concealed	None
Urgent Care	1 per employee on the largest shift + 1 per every 300 sf
RESIDENTIAL USE CLASSIFICATION	

TABLE <>: MINIMUM OFF-STREET PARKING SPACES REQUIRED
[#] = Notes at the end of the table

Use Type	Minimum Number of Require Off-Street Parking Spaces [1] [2]
Boarding House	2 + 1 per each rental room
Bungalow Court	1 + 0.25 guest spaces per dwelling unit
Congregate Care	1 per employee on largest shift + 0.25 per bed
Continuing Care Retirement Community	1.5 per each individual dwelling unit + 1 per employee on the largest shift + 1 per each 200 sf used by the public
Family Care Home	2 + 1 per bedroom
Group Home	2 + 1 per bedroom
Halfway House	2 per bedroom
Homeless Shelter	1 per every employee on largest shift
Live/Work Dwelling	2 + 1 per every 500 sf of non-residential floor area
Manufactured Home	2 per dwelling unit
Manufactured Home Park	2 per each home site + 0.25 guest spaces per dwelling unit
Multi-Family Dwelling	1 per each one-bedroom unit; 1.25 per each unit with two or more bedrooms; 0.25 guest spaces per dwelling unit
Pocket Neighborhood	1 + 0.25 guest spaces per dwelling unit
Single-Family Attached Dwelling	2 per dwelling unit + 0.25 guest spaces per dwelling unit
Single-Family Detached Dwelling	2 per dwelling unit [6]
Triplex/Quadruplex	2 per dwelling unit
~~Two-family~~Duplex Dwelling	2 per dwelling unit
Upper-Story Dwelling	1 per dwelling unit

NOTES:
[1] See Section <>, Measurement, for details on how required parking spaces are computed.
[2] "sf" means the total square feet of all principal buildings, the total square footage associated with all secondary buildings used for a use listed in this table, and outdoor use area when specified in this table.
[3] Excludes bona fide farms, raw land in agricultural production, and other non-habitable agricultural buildings.
[4] In the event seating associated with on-site consumption is permanently removed from the premises, the off-street parking standard shall convert to 2 + 1 per employee on the largest shift.
[5] Excludes long-term parking for travelers.
[6] Major subdivisions in the DTNN, RHD, and RMF districts shall include an additional 0.25 off-street parking space for every dwelling unit. These parking spaces shall be designated as guest parking, located in commonly-held off-street areas, and centrally-located or dispersed throughout the subdivision.

6.9.5 BICYCLE SPACES

Bicycle parking shall be provided in accordance with the following standards:

A. APPLICABILITY

1. Bicycle parking facilities shall be provided on all new commercial, mixed-use, multi-family, and institutional use types served by 20 or more required off-street parking spaces for vehicles.
2. The following use types are exempted from these providing bicycle parking space requirements:
   a. Single-family detached dwellings, manufactured homes, or mobile homes;
   b. Single-family attached dwellings;
   c. Telecommunications facilities of any type;
   d. Helistops;
   e. Bulky item sales;
   f. Equipment or tool rental;
   g. Funeral-related service;
   h. Outdoor storage;
   i. Repair shop;
   j. Self service storage (regardless of access type);
   k. Sexually-oriented businesses; or
   l. Any industrial use types.

B. RATE OF PROVISION

Bicycle parking spaces shall be provided in accordance with Table <>, Bicycle Parking Space Provisions:

TABLE <>: BICYCLE PARKING SPACE PROVISIONS

Type of Use or Development	Minimum Number of Bicycle Spaces Provided
Commercial Development	1 per every 5,000 square feet of floor area
Institutional Development	
Mixed-Use Development	1 per every 15 units + 1 per every 1,500 square feet of non-residential floor area
Multi-family Development	1 per every 15 units

NOTES:
[1] Nothing shall limit the provision of more bicycle parking spaces than are required.

C. CONFIGURATION

All bicycle parking spaces provided, including those provided in excess of the minimum number of required spaces, shall comply with the following configuration requirements.

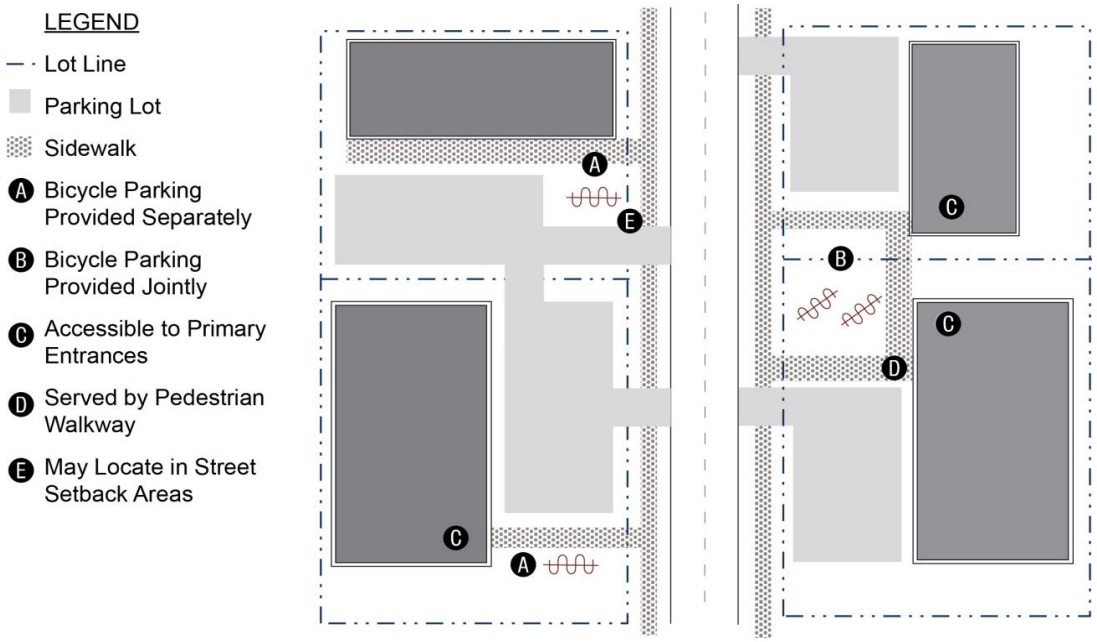
1. Bicycle parking should be accessible to the primary entrances of the development and located in a visible, well-lit area (see Figure <>, Bicycle Parking).
2. Bicycle parking shall be served by a pedestrian walkway connecting the bicycle parking to the closest primary building entrance.

3. Bicycle parking shall be located where it does not interfere with pedestrian traffic and is protected from conflicts with vehicular traffic.
4. Bicycle parking may be accommodated within street setback areas.
5. A bicycle rack or other device shall be provided to enable bicycles to be secured.

D. SHARED PARKING SPACES

Nothing shall limit uses on the same block face from establishing shared or consolidated bicycle parking spaces in central or mid-block locations, provided there are sufficient bicycle parking spaces for all uses sharing the required bicycle parking.

FIGURE <>: BICYCLE PARKING



6.9.6 STACKING SPACES

A. GENERAL

Uses with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service shall provide adequate stacking spaces on-site for the uses or buildings in accordance with Table <>: Stacking Spaces Required, and Figure <>, Stacking Space Configuration.

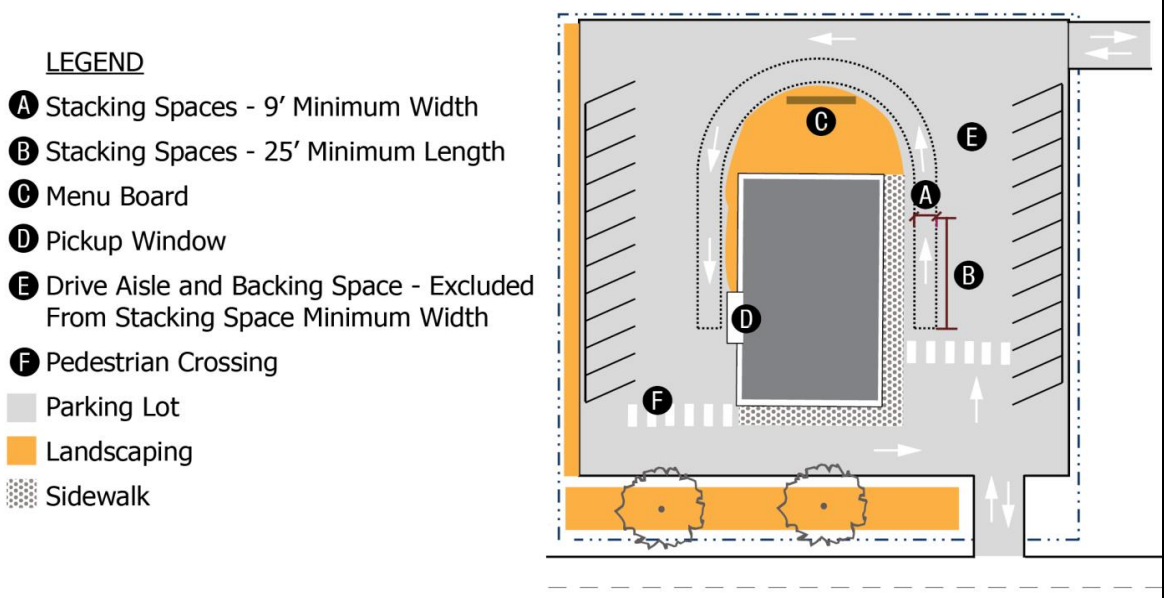
TABLE <>: STACKING SPACES REQUIRED

Use or Activity	Minimum Number of Stacking Spaces Required [1]	Origin Point of Measurement for Stacking Spaces
Assisted living facility and nursing home	1 per bay	Bay entrance
Automated teller machine (drive through)	2	Teller machine
Automobile repair and servicing / Automotive painting or body shop	1 per bay	Bay entrance
Car wash or automobile detailing	1 per bay for manual car washes, otherwise 3	Bay/wash process entrance
Child day care center	2	Building entrance adjacent to stacking spaces
Convenience store with gasoline sales	~~1~~2	Each end of the outermost gas pump
Coffee shop with drive through	~~[1]~~4	[1]
Equipment and tool rental	2	Security gate
Financial services with drive through	3 per lane	Agent window
Funeral-related service	2	Building entrance adjacent to stacking spaces
Gasoline sales, whether as a principal or accessory use	~~1~~2	Each end of the outermost gas pump
Heavy equipment sales, rental, and repair	2 [2]	Security gate
Hospital	4	Building entrance adjacent to stacking spaces
Hotel or motel	2	Building entrance adjacent to stacking spaces
Laundry and cleaning service with drive through	3	Agent window or door intended for service to vehicles
Outpatient treatment facility	4	Building entrance adjacent to stacking spaces
Pharmacy with drive through	3 per lane	Agent window
Post office	2	Each mailbox intended for access via automobile
Public convenience center/transfer station	5	Front edge of scale, first dumpster, or first service point
Restaurant with drive through	~~[1]~~4	[1]
School (elementary, middle, or high)	~~3~~In accordance with MSTA calculator	Building entrance adjacent to stacking spaces
Truck or freight terminal	1 [3]	Security gate
Truck stop	[4]	[4]
Valet Parking	3	At drop-off point

TABLE <>: STACKING SPACES REQUIRED		
USE OR ACTIVITY	MINIMUM NUMBER OF STACKING SPACES REQUIRED [1]	ORIGIN POINT OF MEASUREMENT FOR STACKING SPACES

NOTES:
[1] Stacking spaces shall be ~~provided in accordance with a stacking space needs study prepared for the specific use type proposed and in accordance with the business model and local experience of similar establishments and authored by professional engineer licensed by the State of North Carolina.~~ measured from menu board, input devices, or other locations of interaction with service providers.
[2] Each stacking space shall be at least 50 feet long.
[3] The stacking space shall be of sufficient length to accommodate a trailer attached to a cab.
[4] Subject to the standards for gasoline sales if provided to individual passenger automobiles.

FIGURE <>: STACKING SPACE CONFIGURATION



6.9.7 PARKING LOT CONFIGURATION

Except for driveways credited towards these parking standards in Section <>, Driveways Used to Meet Parking Requirements, or parking areas subject to an approved alternative parking plan (see Section <>, Parking Flexibility), all parking lots shall comply with the following standards:

A. GENERAL

1. All required off-street parking spaces shall be located on the same lot as the principal use they serve, except as allowed in Section <>, Parking Flexibility.

2. Required off-street parking shall be maintained for the duration of the principal use and shall not be reduced unless the principal use ceases or changes.
3. Except where allowed by this Ordinance, off-street parking spaces shall not be located in any required landscaping or stormwater management area.
4. Off-street parking spaces shall not protrude into any street, fire lane, drive aisle, sidewalk, greenway, or pedestrian connection.

B. CURBS AND WHEEL STOPS

All off-street parking spaces provided in accordance with Table <>, Table of Minimum Off-Street Parking Requirements, shall have curbs or wheel stops located so that no part of the parked vehicle extends onto or over a sidewalk, walkway of six feet in width or less, adjacent property, or landscape area, whether the vehicular use area is paved or unpaved.

C. DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES

Off-street parking spaces and drive aisles serving them shall comply with the minimum dimensional standards established in Table <>, Dimensional Standards for Off-Street Parking Spaces, and Figure <>, Parking Space and Access Aisle Dimensions.

TABLE <>: DIMENSIONAL STANDARDS FOR OFF-STREET PARKING SPACES

Type of Parking Space [1]	Minimum Width (Feet)	Minimum Depth (Feet)	Minimum Aisle Width (Feet) [2]	
			One-Way	Two-Way
Parallel (0°)	9	22	12	24
Angled (45°)	10	20	12	24
Angled (60°)	10	20	18	24
Perpendicular (90°)	9	20	20	24

NOTES:
[1] All off-street parking spaces shall remain unobstructed from grade level to a height of at least 6½ feet above the parking space's grade level.
[2] Minimum aisle width shall be measured from edge-of-pavement to edge-of-pavement, and shall not include gutters or curbing.
[3] The Town may require one direction of travel to maintain a wider width than the other direction.

D. EXTERIOR LIGHTING

1. Exterior lighting in parking lots shall be designed to provide illumination of parking lot areas for the purposes of safe vehicle and pedestrian circulation.
2. Exterior lighting within a parking lot shall be configured to prevent glare or illumination exceeding maximum allowable levels on adjacent land and shall comply with the standards of Section <>, Exterior Lighting, as appropriate.

E. GRADING AND DRAINAGE

1. The parking lot shall be graded, properly drained, stabilized, and maintained to minimize dust and erosion.
2. Parking lots shall not impound stormwater unless surface impoundment is required as an approved stormwater control measure. However, in no instance shall surface

impoundment result in a fewer number of parking spaces than required by Table <>, Table of Minimum Off-Street Parking Requirements.

F. LANDSCAPING

Parking lot landscaping shall be provided in accordance with Section <>, Off-Street Parking lot Landscaping.

G. MAINTENANCE

The Town shall not be responsible for maintenance of drive aisles or other vehicular use area located outside a public right-of-way or on land not owned and operated by the Town of Clayton.

H. MARKINGS

1. All parking spaces and lanes in parking lots shall be clearly delineated with paint lines, curbs, or other treatment.
2. All pavement markings shall be maintained to be distinguishable. Failure to maintain required markings shall be a violation of this Ordinance.

I. MINIMUM PARKING LOT STEM LENGTH

All vehicular accessways serving off-street parking lots shall comply with the standards in Section <>, Minimum Parking Lot Stem Length.

J. PARKING SPACE ACCESS

1. All off-street parking spaces shall be accessed directly from drive aisles or private driveways and not directly from arterial or collector streets.
2. All off-street parking areas shall be designed with an appropriate means of vehicular access to a street or alley in a manner that allows for safe vehicular movements.

K. PEDESTRIAN WALKWAYS

Pedestrian walkways between the principal buildings on a development site and a sidewalk or other pedestrian way (like a greenway trail) shall be provided in accordance with Section <>, Access and Circulation.

L. SEPARATION FROM FIRE PROTECTION FACILITIES

1. No required off-street parking space shall be located within 15 feet of a fire hydrant or other fire protection facility.
2. Parking shall not take place within designated fire lanes or other areas demarcated for fire protection.

M. SURFACE MATERIALS

1. All off-street parking spaces, accessible parking spaces, drive aisles, and vehicular use areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights (see Figure <>, Parking Lot Surface Materials).
2. The use of pervious or semi-pervious materials may be approved as part of an alternative parking plan (see Section <>, Parking Flexibility), provided it is demonstrated that the materials will function in a similar fashion as required materials.
3. Configuration of parking lots in accordance with low impact development practices (see Section <>, Menu of Sustainable Development Practices) is encouraged.

4. Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement unless alternative provisions for drainage are proposed and accepted by the Engineering Director.

FIGURE <>: PARKING LOT SURFACE MATERIALS



N. VEHICLE BACKING

Vehicular use areas shall be designed so that a vehicle is not required to back onto a street to enter or exit the parking lot, a parking space, or a stacking space.

6.9.8 PARKING FLEXIBILITY

Development may deviate from the off-street parking requirements in this section through the requirements and procedures in Section <>, Administrative Adjustment, Section <>, Variance, or through approval of an alternative parking plan accepted by the Planning Director and configured in accordance with the following:

A. GENERALLY

All parking spaces provided in accordance with this section shall comply with the applicable provisions in Section <>, Parking Lot Configuration.

B. ALTERNATIVE SURFACING

1. The use of pervious or semi-pervious parking area surfacing materials—including, but not limited to, "grasscrete," "turfstone," cellular reinforced paving systems, porous concrete, crushed stone, or recycled materials such as glass, rubber, used asphalt, brick, block, and concrete, may be proposed for required off-street parking spaces, drive aisles, or vehicular surface areas on a site, provided such areas are properly maintained. Where possible, such materials should only be used in areas proximate to and in combination with on-site stormwater control measures or tree protection measures.
2. Grass or other pervious parking surfaces may be permitted for the following use types:

a. Uses which require off-street parking less than five days per week during a month;
b. ~~Schools and r~~Religious institutions; and
c. Parks, trailheads, playgrounds, ballfields, football and baseball stadiums, fairgrounds, and similar outdoor recreation areas.

3. Where provided, such alternative parking surfaces shall be maintained in a smooth, well-graded condition. If parking demand is such that the grass is damaged or destroyed to the extent that it ceases to grow and is not repaired or replaced, then paving in accordance with this section will be required.

C. DEVIATION FROM REQUIRED MINIMUM

An applicant may propose a reduced rate of provision for off-street parking less than that specified in Table <>, Table of Minimum Off-Street Parking Requirements, in accordance with a parking study prepared by a professional engineer licensed by the State of North Carolina. The parking study shall document why fewer spaces than required will be adequate while still protecting the public's health, safety, and welfare.

D. OFF-SITE PARKING

Up to 50 percent of off-street parking space requirements may be met by locating required parking in an off-site location, in accordance with the following standards:

1. The off-site parking is located within 1,000 feet from the use it serves, as measured from the entrance of the use to the nearest off-site parking space;
2. A sidewalk or paved pedestrian walkway is provided to the off-site parking area from the use;
3. In cases where the off-site parking is located on land under separate ownership from the use it serves, the off-site parking shall be subject to a written agreement executed by the owners involved and filed with the Planning Director prior to the use of off-site parking facilities. The agreement shall guarantee the long-term availability of the off-site parking in question; and
4. Should an off-site parking agreement cease, then the use shall be considered a nonconformity subject to the standards in Chapter 5, Nonconformities, unless the use is brought into compliance with the minimum off-street parking requirements of this section.
5. In no instance shall a residential use other than multi-family utilize off-site parking on lots within the DTNC district.

E. ON-STREET PARKING

1. On-street parking spaces located immediately abutting the subject parcel, entirely within the extension of the side lot lines into the street right-of-way, and not within any required clear sight triangle, may be credited toward minimum off-street parking standards.
2. On-street parking shall consist solely of parallel parking spaces and shall not encroach into vehicle travelways.
3. In no instance shall on-street parking located within the middle of the street or on the opposite side of a street from the use to be served be credited toward required off-street parking.

F. PROVISION OVER THE MAXIMUM ALLOWED

An applicant proposing development subject to the standards in Section <>, Off-Street Parking Space Maximum, may propose a total number of off-street parking spaces that exceeds the maximum allowed only through the provision of a parking study prepared by a professional engineer licensed by the State of North Carolina. The parking study shall document why the provision of off-street parking spaces beyond the maximum authorized is necessary for the public's health, safety, or welfare.

G. SHARED PARKING

The required off-street parking for a use may be met with shared use of the required off-street parking spaces of another use, only in accordance with the following standards:

1. The use of shared off-street parking spaces shall be subject to a shared parking agreement executed by the landowners of the uses involved, approved by the Planning Director, and recorded in the office of the Register of Deeds for the county where the development is located;
2. The shared parking agreement shall guarantee the long-term availability of the shared parking spaces in question. Nothing shall limit the percentage of required off-street parking spaces that may be provided through a shared parking agreement;
3. The shared parking is located within 1,000 feet, as measured from the entrance of the use to the nearest shared parking space;
4. A sidewalk or paved pedestrian walkway is provided to the shared parking area from the use;
5. The uses served by the shared parking must have different peak parking demands, differences in hours or days of operation, or otherwise operate such that the uses sharing parking have access to the required minimum number of off-street parking spaces when in operation; and
6. Should the shared parking agreement cease, then the use(s) formerly served by shared parking shall be considered a nonconformity subject to the standards in Chapter 5, unless the use(s) is brought into compliance with the minimum off-street parking requirements of this section.

H. VALET PARKING

The Planning Director shall approve valet parking as a means of satisfying off-street parking requirements. Valet parking shall not cause customers or patrons who do not use the valet service to park off site or in the right-of-way or cause queuing in a street, driveway, or drive aisle. The following additional standards shall apply to valet parking:

1. Adequate assurance of the continued operation of the valet parking is provided, such as a contractual agreement for valet services or the tenant's affidavit agreeing to provide such services;
2. The maximum number of spaces reserved for valet parking shall not exceed 25 percent of the minimum number of required off-street parking spaces.
3. Valet parking area shall not be located within 200 feet of a public entrance to a building. Areas designated for valet parking shall not interfere with vehicular circulation or emergency access and shall not cause customers who do not use the valet service to park off-premise or cause queuing in the right-of-way.

6.9.9 OFF-STREET LOADING

A. LOADING FACILITIES REQUIRED

Every application for a non-residential use shall ensure that adequate off-street loading facilities are provided so that loading vehicles do not occupy required off-street parking spaces, block vehicular access, or prevent appropriate on-site maneuvering during times when the site is open to the public. Nothing shall limit the use of these areas at times of the day when the use is not open to the public. Uses may also establish dedicated loading zones for the purpose of accepting deliveries or making shipments during operating hours.

B. MINIMUM OFF-STREET LOADING SPACE REQUIREMENTS

1. A minimum number of off-street loading spaces is not established; however, if off-street loading spaces are provided, they shall be provided and maintained in sufficient numbers to adequately handle the needs of a non-residential use.
2. Failure to provide or maintain off-street loading spaces when they are necessary to serve the development is a violation of this Ordinance.
3. In no instance shall an off-street loading space occupy a required off-street parking space, project into a required drive aisle, or interrupt the safe operation of vehicles or circulation of pedestrian or bicycles.
4. Each off-street loading space shall be designed with an appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic circulation.

C. LOCATION

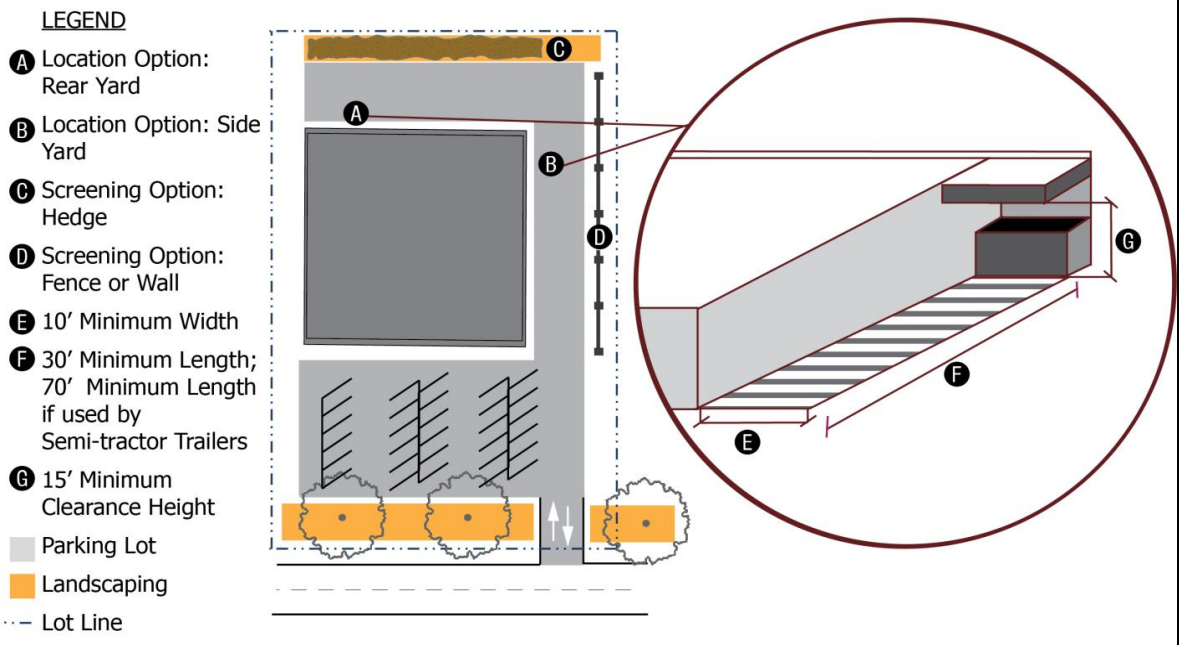
No off-street loading space shall be located within a required setback or within 30 feet of a street intersection.

D. DIMENSIONAL STANDARDS FOR LOADING SPACES

When off-street loading spaces are provided, they shall comply with the following minimum requirements (see Figure <>, Off-Street Loading Spaces):

1. Except for loading spaces used by semi-tractor trailers, off-street loading spaces shall be at least 10 feet wide and at least 30 feet long;
2. Off-street loading spaces used by semi-tractor trailers shall be at least 70 feet long;
3. Overhead clearance for an off-street loading space shall be at least 15 feet; and
4. Off-street loading spaces shall be designed so that no backing onto or from a public street is necessary.

FIGURE <>: OFF-STREET LOADING SPACES



6.9.10 MEASUREMENT

A. ROUNDING

When computation of the number of required parking spaces results in a fraction, the fraction shall be rounded ~~downwards~~ upwards to the ~~previous~~ next highest whole number.

B. MULTIPLE AND MIXED USES

Unless otherwise approved, development containing more than one principal use shall provide off-street parking in an amount equal to the total requirements of all individual uses, unless the Planning Director determines that a lower standard would be adequate because of differences in peak operating hours.

C. SEAT BASED STANDARDS

Where the minimum number of off-street parking spaces is based on the number of seats, all computations shall be based on the number of seats provided, including outdoor and waiting areas.

D. EMPLOYEE BASED STANDARDS

When the minimum number of off-street parking spaces is based on the number of employees, the computations shall be based on the number of employees on the largest shift.

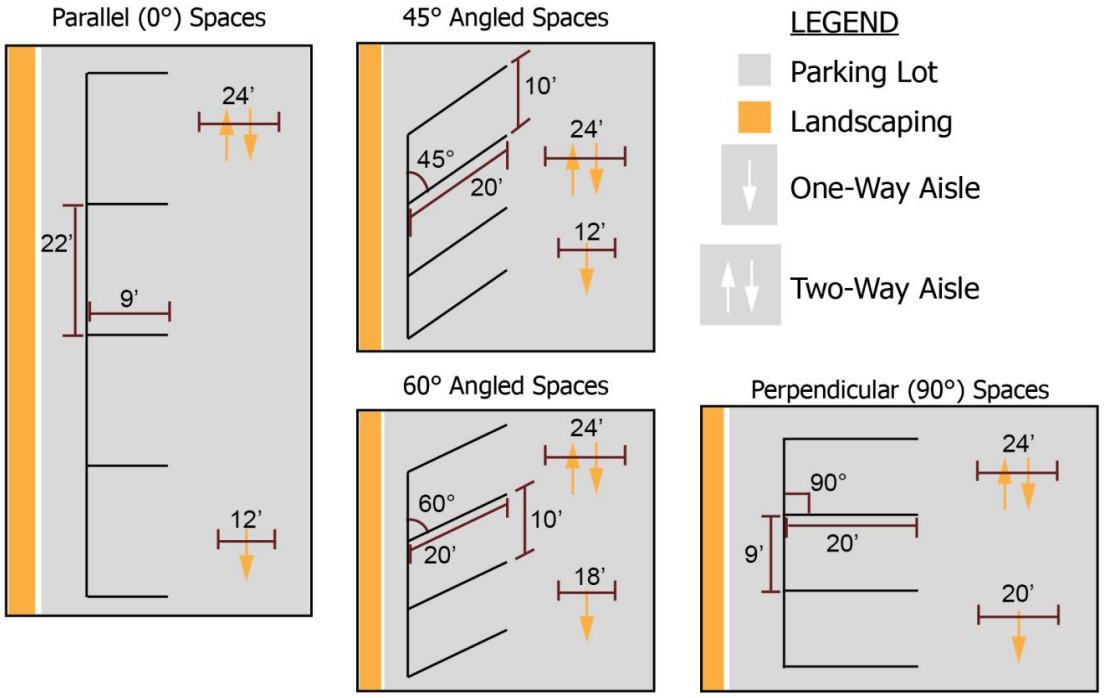
E. FLOOR-AREA BASED STANDARDS

Where the minimum number of off-street parking spaces is based on square feet of floor area, all computations shall be based on gross floor area. The square footage shall include outdoor use area.

F. PARKING SPACE AND ACCESS AISLE DIMENSIONS

Figure <>: Parking Space and Aisle Dimensions, sets out the minimum off-street parking space dimensions and minimum widths of access aisles.

FIGURE <>: PARKING SPACE AND AISLE DIMENSIONS



6.10 PEDESTRIAN FACILITIES[331]

6.10.1 GREENWAYS AND TRAILS

A. GREENWAYS AND TRAILS DISTINGUISHED

1. GREENWAYS

a. Greenways are linear alignments of land that incorporate an improved pedestrian walkway or multi-purpose accessway available for use by bicyclists as well as pedestrians. Greenways are located within access easements reserved for and granted to the Town for the purpose of allowing access to members of the general public.

b. Greenways are located in areas designated by the Town's adopted policy guidance and may take the place of a required sidewalk or sidepath.

c. Greenways are constructed to Town standards and operated and maintained by the Town.

d. Greenways are configured in accordance with the standards in this section.

2. TRAILS

a. Trails are linear alignments of land that incorporate an improved pedestrian walkway or multi-purpose accessway available for use by bicyclists as well as pedestrians, but that are included as part of required private common open space set-aside.

b. Trails are not located in access easements granted to the Town for members of the general public, though the owner(s) of a trail may make it available for use by members of the general public.

c. Trails may not be substituted for required sidewalks or greenways.

d. Trails are not required to be constructed to Town standards and are operated and maintained by an owners' association.

e. Trails are configured in accordance with the standards in Section <>, Open Space Set-Aside and Parkland.

B. GREENWAY RESERVATION AND CONSTRUCTION REQUIRED

1. Whenever a tract of land included within any proposed Major Subdivision, Minor Subdivision, Site Plan, or Rezoning includes any part of a greenway designated in the Town's adopted policy guidance, the land area indicated for use as a greenway alignment shall be reserved and included within an access easement in favor of the Town.

2. Development on land subject to these standards shall incorporate greenway reservation and construction as specified in the relevant adopted policy guidance and in Table <>: Greenway Construction Required, as part of the required infrastructure serving the development.

[331] This is a new section that consolidates the standards for sidewalks with new standards for greenways or multi-use paths as specified in the Town's adopted policy guidance. The standards require reservation of land for and construction of greenways in cases where a greenway is depicted or otherwise identified in policy guidance. The standards also recognize that some developments may seek to include walking trails as open space set-aside features that do not rise to the level of greenways (though may connect to them). Trails are not required to meet the standards for greenways. This section also includes new standards to replace current UDC Section 155.602(H) related to sidewalks. These draft standards recognize sidewalks and multi-purpose trails and set out the requirements for when these pedestrian facilities need to be dedicated and constructed by a developer. The standards set out detailed configuration requirements for these facilities based on the Town's adopted policy guidance and best practices.

TABLE <>: GREENWAY CONSTRUCTION REQUIRED		
TYPE OF ACTIVITY OR DEVELOPMENT		GREENWAY CONSTRUCTION REQUIREMENT [1]
Subdivision of Land [2]		Greenway Reservation and Construction Required
Development on a Vacant Lot or Site		
Replacement of an Existing Principal Structure		
Addition or Expansion of Existing Principal Building with no new Principal Building Construction	Total Project Cost Exceeds 50% of Preconstruction Assessed Value	Greenway Reservation and Construction Required
	Total Project Costs are 50% or less than Preconstruction Assessed Value	Greenway Reservation Required; Exempted from Greenway Construction
Change of Use with No Addition or Expansion to any Principal Building and with no New Principal Building Construction		Exempted from Greenway Reservation and Construction
Addition or Expansion of a Secondary Building with no Changes to any Principal Buildings		
Establishment of or Change to Open Air Use of Land		
NOTES: [1] Greenways are only required in locations specified in the Town's adopted policy guidance. [2] Exempt and Limited Subdivisions are exempted from these requirements.		

3. In cases where a greenway extends between two or more phases of a development, only the portion of the greenway in the active phase of the development is required to be reserved and constructed.

C. GREENWAY CONFIGURATION

Greenways shall be located and configured in accordance with the Town's adopted policy guidance and the following:

1. MINIMUM GREENWAY WIDTH

The land area associated with a greenway shall be at least ~~15~~ 20 feet wide, though a wider greenway may be required in accordance with adopted policy or as needed in cases where a public utility or drainage easement is located within the greenway alignment.

2. EASEMENT REQUIRED

The greenway shall be wholly located within an access easement granted by the landowner in favor of the Town. The easement shall be clearly identified on all Site Plans, Construction Drawings, and Subdivision Plats, and shall be recorded in the office of the Johnston County Register of Deeds prior to the issuance of any Certificates of Occupancy.

3. GREENWAY ACCESS

A greenway may only be accessed by a public street, publicly-owned land, or by another greenway segment.

4. GREENWAY SURFACE

a. The trail or pathway portion of a greenway shall maintain a minimum width of at least ten feet unless a wider configuration is specified in the adopted policy guidance.

b. The trail or pathway portion shall be paved with concrete or asphalt in accordance with ~~all~~ the Town's Engineering Specifications and Design Manual ~~Town~~ and federal ADA requirements.

c. The trail or pathway portion shall be crowned or maintain positive drainage so that water does not collect or pool within the walkway.

d. All bridges located within a greenway shall include railings of at least 42 inches in height and shall be configured to accommodate the movement of public vehicles.

e. All greenways shall maintain a minimum vertical clearance of at least eight feet.

5. MAXIMUM ~~SLOPE~~GRADE

In no instance shall the ~~slope~~ grade of a paved greenway surface exceed 5 percent.

6. SLOPE

In no instance shall the vertical slope exceed 5 percent or the cross slope exceed 2 percent.

~~6.~~7. ASSOCIATED FEATURES

Benches, seating, trashcans, lighting, play structures, and other related features located within a greenway shall be approved by the Town ~~pripr~~prior to placement.

~~7.~~8. LOCATION WITHIN BUILDABLE LOTS

In no instance shall a greenway easement be located within the boundaries of a buildable lot.

~~8.~~9. LOCATION WITH RIPARIAN AREAS

Greenways may be located within riparian buffers, watersupply watershed areas, and resource conservation areas in accordance with the standards in this Ordinance and applicable State and federal law.

D. GREENWAY FEE-IN-LIEU

Only Town-mandated fee-in-lieu proposals (see Section <>, Fee-in-Lieu) for the reservation or construction of a required greenway shall be considered.

E. GREENWAY CREDITS

Land that is occupied by a required greenway easement shall be credited toward the donating parcel, lot, or tract area for the purpose of calculating the available density of development though no longer part of the parcel.

F. OPEN SPACE SET-ASIDE CREDITS

Land located within a greenway access easement and accepted for operation and maintenance by the Town shall be credited towards applicable open space set-aside requirements for active recreation or gathering space in Section <>, Open Space Set-Aside and Parkland.

G. MAINTENANCE REQUIREMENTS

Maintenance and operation of a greenway following reservation and construction shall be the responsibility of the Town.

6.10.2 SIDEWALKS AND MULTI-USE PATHS

A. SIDEWALKS AND MULTI-USE PATHS DISTINGUISHED

1. SIDEWALKS

a. Sidewalks are improved pedestrian walkways located within and parallel to a public street right-of-way.

b. Sidewalks are paved with concrete and maintain a minimum width of five to eight feet, depending upon location, width of adjacent pre-existing sidewalks, anticipated use level, or terrain.

2. MULTI-USE PATHS

a. Multi-use paths are improved pedestrian ways located within a public street right-of-way, or located on public land dedicated to the Town located outside a public street right-of-way.

b. Multi-use paths are paved with concrete or asphalt.

c. Multi-use paths are at least ten feet wide, though they may be wider based on site conditions, anticipated use level, or terrain.

B. APPLICABILITY

1. The standards in this section shall be applied to applications for a Major Subdivision, Minor Subdivision, Site Plan, or Rezoning in accordance with Table <>: Sidewalk or Multi-use Path Construction Required.
2. These standards are not applied to the development of a single lot with a single-family detached, single-family attached, or ~~two-family~~duplex dwelling.

C. SIDEWALK AND MULTI-USE PATH DEDICATION AND CONSTRUCTION REQUIRED

1. Whenever a tract of land included within any proposed Major Subdivision, Minor Subdivision, Site Plan, or Rezoning includes or abuts an existing or planned pedestrian facility identified by this section or the Town's adopted policy guidance, the land area indicated for use as a sidewalk or multi-use path shall be dedicated to the Town.
2. All new sidewalks and multi-use paths shall be constructed by the developer as part of the proposed development or redevelopment in accordance with this section.
3. The determination of whether a required pedestrian facility will take the form of a sidewalk or a multi-use path, or both depending upon the size of the proposed development, shall be based upon the Town's adopted policy guidance, the Town's Comprehensive Transportation Plan, the current Capital Improvement~~s~~ Plan, any applicable conditions of approval, or existing conditions on lands abutting a proposed development or redevelopment. In cases where one or more of these provisions conflict, the Engineering Director shall determine the pedestrian facility configuration. The Engineering Director's decision may be appealed in accordance with Section <>, Appeal.
4. In cases where an existing pedestrian facility is already present on land subject to development or redevelopment, but is substandard in terms of its minimum width, required materials, location, or other Town requirement, the developer shall take whatever actions are necessary to improve the existing pedestrian facility to the minimum level required by this Ordinance and adopted policy guidance.
5. Table <>: Sidewalk or Multi-use Path Construction Required, listed below, identifies the kinds of development subject to or exempted from these standards.

TABLE <>: SIDEWALK OR MULTI-USE PATH CONSTRUCTION REQUIRED		
TYPE OF ACTIVITY OR DEVELOPMENT [1]		SIDEWALK OR MULTI-USE PATH REQUIREMENT
Construction of New Street or Street Segment		Sidewalk/Multi-use Path Dedication and Construction Required
Subdivision of Land [~~1~~2]		
Development on a Vacant Lot or Site		
Replacement of an Existing Principal Structure		
Addition or Expansion of Existing Principal Building with no new Principal Building Construction	Total Project Cost Exceeds 50% of Preconstruction Assessed Value	Sidewalk/Multi-use Path Dedication and Construction Required
	Total Project Costs are 50% or less than Preconstruction Assessed Value	Exempted from Sidewalk/Multi-use Path Construction [~~2~~3]
Change of Use with No Addition or Expansion to any Principal Building and with no New Principal Building Construction		Exempted from Sidewalk/Multi-use Path Requirements
Addition or Expansion of a Secondary Building with no Changes to any Principal Buildings		
Establishment of or Change to Open Air Use of Land		
NOTES: [1] Development exempted in accordance with Section <>, Applicability, are exempted from these standards. [2] Exempt and Limited Subdivisions are exempted from these requirements. [~~2~~3] The Town may, in its sole discretion, require dedication of land necessary for a sidewalk or multi-use path.		

6. In cases where a sidewalk or multi-use path extends between two or more phases of a development, only the portion of the sidewalk or multi-use path in the active phase of the development is required to be dedicated and constructed.

D. SIDEWALK AND MULTI-USE PATH LOCATION

Sidewalk and multi-use path locations are established in accordance with the Town's adopted policy guidance and the following standards:

1. BOTH SIDES OF THE STREET

a. Except where otherwise allowed by this section, sidewalks or multi-use paths (or a combination of the two) shall be provided along both sides of all public streets, including cul-de-sac heads, within the Town's corporate limits.

b. Outside the corporate limits, sidewalks or multi-use paths are required on both sides of all public streets within and abutting developments where lots are smaller than one acre in size ~~in acre~~.

2. ONE SIDE OF THE STREET

a. Sidewalks or multi-use paths are required on only one side of a street within and abutting developments where lots are one acre in size or larger located outside the Town's corporate limits.

b. When sidewalks are required on one side of the street, they shall generally be located on the side of the street to best continue existing sidewalk networks, if present.

c. Where there is no clear preferable street side for the placement of a sidewalk or a multi-use path, the pedestrian facility shall be placed on the street side where it is least likely to have a negative impact on deployment of subsequent infrastructure or stormwater management, in the opinion of the Engineering Director.

d. In cases where a new sidewalk or multi-use path is only required on one side of the street, the subdivider shall provide a pedestrian crossing or other acceptable form of pedestrian connection to ensure a continuous and uninterrupted pedestrian access, as appropriate.

3. NO SIDEWALKS OR MULTI-USE PATHS REQUIRED

No sidewalks or multi-use paths shall be required in the following locations:

a. Along alleys and accessways to individual lots not served by a street;

~~**b.** Around cul-de-sac heads;~~

b. Where an existing or proposed greenway can provide an equivalent level of pedestrian circulation, in the sole opinion of the Engineering Director;

c. In developments where provision of a fee-in-lieu in accordance with Section <>, Fee-in-Lieu, is approved; and

d. In cases where environmental or topographic conditions make required sidewalk or multi-use path provision impossible, in the sole opinion of the Engineering Director.

E. SIDEWALK AND MULTI-USE PATH CONFIGURATION

1. Sidewalks and multi-use paths shall be configured in accordance with the Town's Engineering Specifications and Design Manual.
2. Sidewalks shall be located within public street rights-of-way. In cases where the street is operated and maintained by NCDOT, the sidewalk location shall be in accordance with applicable NCDOT requirements.
3. Except when configured to transverse a tract in areas apart or away from a public street, multi-use paths shall be located within public street rights-of-way. In cases where a multi-use path is not located within a public street right-of-way, it shall be located on land dedicated to the Town.
4. Whenever curb and gutter construction is used on public streets, wheelchair ramps for the disabled, configured in accordance with Town or NCDOT standards, as applicable, shall be provided at intersections and other major points of pedestrian flow in accordance with NCGS§136-44.14.
5. Multi-use paths when located outside a street right-of-way shall originate and terminate at logical locations as determined by the applicable adopted policy guidance, condition of approval, or site conditions as determined by the Engineering Director.
6. Sidewalks and multi-use paths shall connect with existing or planned sidewalks at property boundaries.
7. Sidewalks and multi-use paths shall continue across the full frontage of a lot from lot line to lot line.
8. Any required sidewalk shall be constructed with concrete or other approved surface material and shall comply with the provisions of the Americans with Disabilities Act.

9. The required sidewalk shall be constructed with a minimum width of 60 inches, a minimum of four inches thickness for areas subject to pedestrian traffic, a minimum of seven inches thickness for areas subject to vehicular traffic, joints spaced every three feet, and a minimum 3,000 PSI compressive strength.

~~9.~~10. The required sidewalk width shall increase from 60 inches to 72 inches when it abuts the back of the curb.

~~10.~~11. In cases where new sidewalk or multi-use path sections are proposed to join with existing pedestrian facilities of a differing width, the new sidewalk or multi-use path width shall include a gradual taper or flare, as appropriate so as to avoid abrupt changes in pedestrian facility width.

F. TIMING OF INSTALLATION

Sidewalks and multi-use paths shall be installed by the developer in accordance with Section <>, Construction Drawings, if associated with a Site Plan, or Section <>, Stage 2, Construction Drawings Associated with Subdivision, if associated with a Subdivision.

G. FEE-IN-LIEU

1. Proposed sidewalks and multi-use paths that may cause conflicts with other Town, State, or federal infrastructure projects in the opinion of the Engineering director may be subject to the requirements for Town-mandated fee-in-lieu provision in accordance with Section <>, Fee-in-Lieu.
2. All other fee-in-lieu requests shall be considered in accordance with Section <>, Fee-in-Lieu.

H. MAINTENANCE REQUIREMENTS

Maintenance and operation of a sidewalk or multi-use path following acceptance by the Town shall be the responsibility of the Town.

6.11 RESOURCE CONSERVATION AREAS[332]

6.11.1 DETERMINATION OF RESOURCE CONSERVATION AREAS

The following are considered resource conservation areas and shall be unoccupied by buildings or other impervious surfaces unless permitted in accordance with the standards in this section.

A. The 100-year floodplain;
B. Stream buffer areas;
C. Jurisdictional wetlands under federal law that meet the definition applied by the United States Army Corps of Engineers; and
D. Natural steep slopes defined as slopes 25% (4:1) or greater that are directly connected to one of the above features, and at least 5,000 square feet of contiguous area.

6.11.2 GENERAL REQUIREMENTS

A. Resource conservation areas shall be identified on Site Plans, Preliminary Plats, and Final Plats as being permanently set aside from development.
B. No resource conservation area shall be counted towards the minimum lot area required in Chapter 3, Districts, with the exception of land occupied by a riparian buffer in accordance with NCGS §143-214.23A.
C. Resource conservation areas may be included within a platted lot provided the area of the lot not identified as resource conservation area is sufficient to meet the lot area requirements for the zoning district where located.
D. Except for the following, no resource conservation area shall be counted as open space set-aside required in Section <>, Open Space Set-aside and Parkland:
  1. Riparian buffers identified in accordance with NCGS §143-214.23A, and Section <>, Riparian Buffers; and
  2. Greenways, greenway access, and water-access configured in accordance with the Town's adopted policy guidance and Section <>, Greenways and Trails.

6.11.3 PERMITTED USES OF RESOURCE CONSERVATION AREAS

Uses in resource conversation areas may include the following:

A. Conservation areas for natural, archeological, or historical resources;
B. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
C. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
D. Walking or bicycle trails;
E. Easements for drainage, access, and underground utility lines;
F. Other conservation-oriented uses compatible with the purposes of this section; and
G. Public infrastructure projects and supporting facilities.

6.11.4 PROHIBITED USES OF RESOURCE CONSERVATION AREAS

Use of resource conservation areas may not include the following:

A. Stormwater control measures;
B. Roads, parking lots and impervious surfaces, except as specifically authorized through the appropriate governing body (DEQ, USACE, etc.); and

[332] Carries forward the language from TA 2022-1-1 with no substantive changes.

C. Golf courses, agricultural and forestry activities not conducted according to accepted best management practices.

6.11.5 OWNERSHIP AND MAINTENANCE

A. OWNERSHIP

Resource conservation areas shall be accepted and owned by one of the following entities:

1. LAND CONSERVANCY OR LAND TRUST

The responsibility for maintenance shall be borne by a land conservancy or land trust.

2. OWNERS' ASSOCIATION

An owners association representing residents of the subdivision shall own the resource conservation areas. The owners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance of the resource conservation area shall be borne by the owner's association.

3. PRIVATE LANDOWNER

A private landowner may retain ownership of the resource conservation areas and may be responsible for maintenance of the resource conservation area.

B. MAINTENANCE REQUIREMENTS

1. Resource conservation area maintenance is limited to removal of litter, dead tree and plant materials and brush.
2. Natural water courses are to be maintained as free-flowing and devoid of debris.
3. Stream channels shall be maintained so as not to alter floodplain levels.
4. Unless otherwise specified by the Town Council, maintenance is limited to ensuring that there exist no hazards, nuisances, or unhealthy conditions.

C. LEGAL INSTRUMENT FOR PERMANENT PROTECTION

1. Resource conservation areas shall be protected in perpetuity by a binding legal instrument that is recorded with the Register of deeds for Johnston County.
2. The instrument for permanent protection shall include clear restrictions on the use of the of resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration.

6.12 RIPARIAN BUFFERS[333]

6.12.1 AUTHORITY

This section is adopted pursuant to the authority vested in the Town of Clayton and the General Statutes of North Carolina, particularly:

A. NCGS§§ 153A-121 and 153A-140;
B. NCGS§§ 160A-174 and 160A-193;
C. Chapter 160D of the North Carolina General Statutes; and
D. Any special legislation enacted by the General Assembly for the Town of Clayton.

6.12.2 PURPOSE AND INTENT

This section is adopted to protect and preserve existing riparian buffers throughout the Neuse River Basin as generally described in Rule 15A NCAC 02B .0714 (Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers) of the North Carolina Administrative Code, in order to maintain their nutrient removal and stream protection functions. Further, this section is intended to:

A. Help protect the water supply uses of Falls of the Neuse Reservoir Watershed and designated water supplies throughout the Neuse River Basin;
B. Enhance and protect the natural ecology of stream systems;
C. Protect water quality through bank stabilization, shading, and nutrient removal;
D. Minimize flood damage in flood prone areas;
E. Help to remove nitrogen from surface waters; and
F. Prevent sediment and sediment-bound pollutants such as phosphorous from reaching the streams.

6.12.3 APPLICABILITY

Except where exempted by Section <>, Exemptions, the standards in this section shall apply to all landowners and governmental entities conducting activities within riparian buffer areas as designated below.

A. GENERALLY

1. These standards shall apply to activities conducted within 50-foot wide riparian buffers directly adjacent to surface waters in the Neuse River Basin (intermittent streams, perennial streams, lakes, ponds, reservoirs and estuaries), excluding wetlands.
2. Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to 15A NCAC 02H .0506.
3. Riparian buffers shall be determined in accordance with Section <>, Zones of the Riparian Buffer.
4. No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of these standards.
5. Stormwater runoff from activities conducted outside the riparian buffer but that result in stormwater entering the riparian buffer shall comply with Section <>, Stormwater Runoff Through Riparian Buffer.
6. A riparian buffer may be exempt from these standards in accordance with Section <>, Exemptions.

[333] This section replaces current UDC Section 155.502 with much more detail from the latest version of the NC Administrative Code.

B. RIPARIAN BUFFERS DESIGNATED BY MAP

A surface water, and the buffer area along it, shall be subject to these standards if the surface water is approximately shown on any of the following references:

1. The most recent version of the published manuscript of the soil survey map that shows stream layers prepared by the Natural Resources Conservation Service of the United States Department of Agriculture;
2. The United States Geologic Survey's (USGS) National Map; or
3. Other maps approved by the Environmental Management Commission as more accurate than those identified above. Other maps shall use a hydrography dataset developed using hydrography specifications and standard metadata approved by the Geographic Information Coordinating Council (GICC) and maintained on a GICC list of the best available hydrography. Edits, deletions, and additions to the hydrography dataset shall follow GICC approved standards and specifications, per stewardship governance. Other maps shall have their hydrography dataset and procedures for edits, deletions and additions reviewed and approved by the GICC. Other maps shall be submitted to the Division for review and recommendation to the Environmental Management Commission. Prior to recommendation to the Environmental Management Commission, the Division shall issue a 30-calendar day public notice through the Division's Mailing List in accordance with 15A NCAC 02H .0503. Division staff shall present recommendations including comments received during the public notice period to the Environmental Management Commission for a final decision. Maps approved in this way shall not apply to projects subject to Section <>, Exemption When Existing Uses are Present and Ongoing.

~~C. RIPARIAN BUFFERS DESIGNATED BY ON-SITE DETERMINATION~~

~~1. When a landowner or other affected party believes that a map listed in Section <>, Riparian Buffer Designated by Map, has inaccurately depicted surface waters or the specific origination point of a stream, or the specific origination point of a stream is in question or unclear, they may request the Town to make an on-site determination.~~

~~2. On-site determinations shall be made by Town staff that are certified pursuant to NCGS§143-214.25A.~~

~~3. Registered Foresters under Chapter 89B of the North Carolina General Statutes who are employees of the North Carolina Forest Service of the Department of Agriculture and Consumer Services may make on-site determinations for forest harvesting operations and practices.~~

~~4. On-site determinations shall expire five years from the date of the determination.~~

~~5. Any disputes over on-site determinations shall be referred to the Director in writing within 60 calendar days of written notification from the Town.~~

~~6. The Director's determination is subject to review as provided in Chapter 150B of the North Carolina General Statutes.~~

6.12.4 EXEMPTIONS

A. EXEMPTIONS BASED ON ON-SITE DETERMINATION

Surface waters that appear on the maps identified in Section <>, Riparian Buffers Designated by Map, shall not be subject to these standards if an on-site determination shows that they fall into one of the following categories:

1. Ditches and manmade conveyances other than modified natural streams unless constructed for navigation or boat access;

2. Manmade ponds and lakes that are not fed by an intermittent or perennial stream or do not have a direct discharge point to an intermittent or perennial stream;
3. Ephemeral streams; and
4. The absence on the ground of a corresponding perennial waterbody, intermittent waterbody, lake, pond or estuary.

B. EXEMPTION WHEN EXITING USES ARE PRESENT AND ONGOING

1. The standards in this section shall not apply to portions of the riparian buffer where a use is existing and ongoing. A use shall be considered existing if:
   a. It was present within the riparian buffer as of July 22, 1997, and has continued to exist since that time; or
   b. It was a deemed allowable activity as listed in Table <>, Table of Uses; or
   c. It was conducted and maintained pursuant to an authorization or Variance.
2. Existing and ongoing uses shall include, but not be limited to, agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns (i.e., can be mowed without a chainsaw or bush-hog), existing utility line maintenance corridors and on-site sanitary sewage systems, any of which involve either specific periodic management of vegetation or displacement of vegetation by structures or regular activity.
3. Only the portion of the riparian buffer that contains the footprint of the existing and ongoing use is exempt from these standards.
4. Change of ownership through purchase or inheritance is not a change of use.
5. Activities necessary to maintain existing and ongoing uses are allowed provided that the site remains similarly vegetated, no built upon area is added within the riparian buffer where it did not exist prior to July 22, 1997, and the site is in compliance with Section <>, Stormwater Runoff through the Riparian Buffer.
6. These standards shall apply at the time an existing and ongoing use is changed to another use. Change of use shall involve the initiation of any activity not defined as existing and ongoing in this sub-section.

C. EXEMPTION FOR PONDS CONSTRUCTED AND USED FOR AGRICULTURAL PURPOSES

These standards shall not apply to a freshwater pond if all of the following conditions are met:

1. The property on which the pond is located is used for agriculture as that term is defined in NCGS§ 106-581.1.
2. The use of the property is in compliance with all other water quality and water quantity statutes and rules applicable to the property before July 22, 1997.
3. The pond is not a component of an animal waste management system as defined in NCGS§143-215.10B (3).

6.12.5 ZONES OF THE RIPARIAN BUFFER

The protected riparian buffer shall have two zones as follows (see Figure <>: Riparian Buffer Zones):

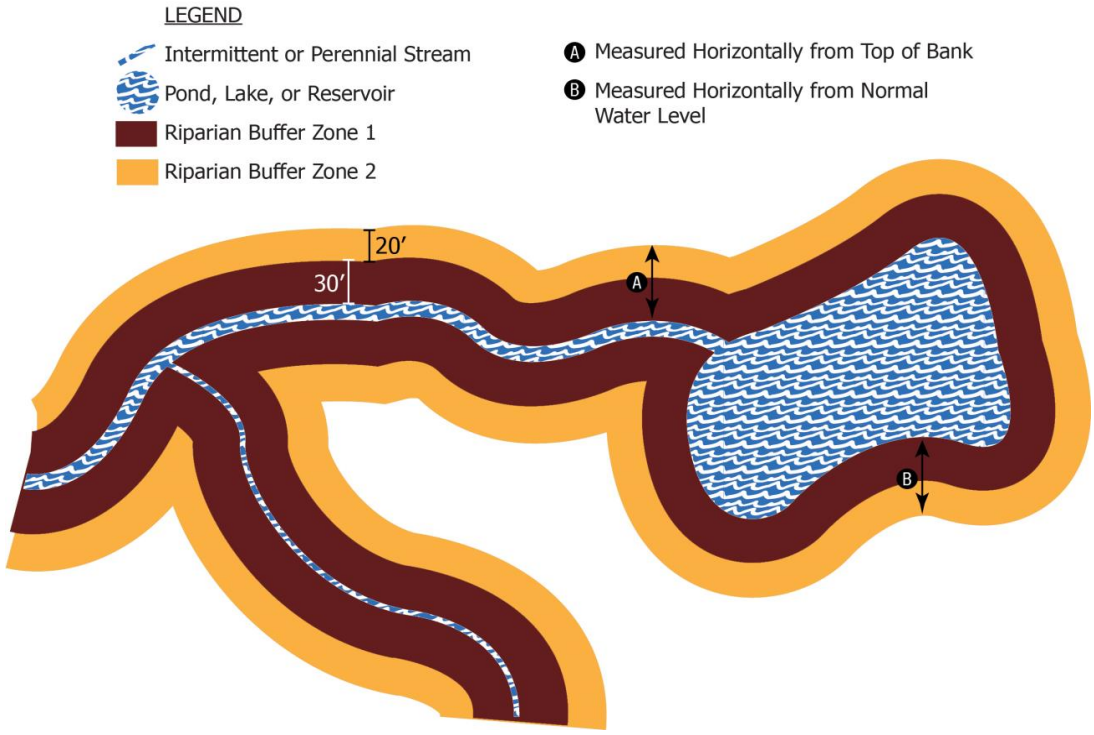
A. Zone 1 shall consist of a vegetated area that is undisturbed except for uses provided for in Section <>, Stormwater Runoff through the Riparian Buffer, and Section <>, Table of Uses. The location of Zone 1 shall be as follows:
   1. For intermittent and perennial streams, Zone 1 shall begin at the most landward limit of the top of bank or the rooted herbaceous vegetation and extend landward a distance of 30 feet on all sides of the stream, measured horizontally on a line perpendicular to the stream

(where an intermittent or perennial stream begins or ends, including when it goes underground, enters, or exits a culvert, or enters or exits a wetland, the required distance shall be measured as a radius around the beginning or the end).

2. For ponds, lakes, and reservoirs subject to these standards, Zone 1 shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to the surface water.

B. Zone 2 shall consist of a stable, vegetated area that is undisturbed except for activities and uses provided for in Section <>, Stormwater Runoff through the Riparian Buffer, and Section <>, Table of Uses. Grading and revegetating Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised. Zone 2 shall begin at the outer edge of Zone 1 and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones 1 and 2 shall be 50 feet on all sides of the surface water.

FIGURE <>: RIPARIAN BUFFER ZONES



6.12.6 STORMWATER RUNOFF THROUGH THE RIPARIAN BUFFER

Stormwater runoff into the riparian buffer shall meet dispersed flow as defined in 15A NCAC 02H .1002 except as otherwise described in this sub-section. Drainage conveyances include drainage ditches, roadside ditches, and stormwater conveyances. The following stormwater conveyances through the riparian buffer are either deemed allowable or allowable upon authorization, as defined in Section <>, Table of Uses, provided that they do not erode through the riparian buffer and do not cause erosion to the receiving waterbody. Stormwater conveyances through the riparian buffer that are not listed below shall be allowable with exception as defined in Section <>, Allowable with Exception.

A. ALLOWABLE - RUNOFF

The following are deemed allowable as defined in Section <>, Deemed Allowable:

1. New drainage conveyances from a primary SCM, as defined in 15A NCAC 02H .1002, when the primary SCM is designed to treat the drainage area to the conveyance and that comply with a stormwater management plan reviewed and approved under a State stormwater program or a State-approved local government stormwater program; and
2. New stormwater flow to existing drainage conveyances provided that the addition of new flow does not result in the need to alter the conveyance.

B. ALLOWABLE UPON AUTHORIZATION - RUNOFF

The following are allowable upon authorization as defined in Section <>, Allowable Upon Authorization:

1. New drainage conveyances from a primary SCM as defined in 15A NCAC 02H .1002 when the primary SCM is provided to treat the drainage area to the conveyance but are not required to be approved under a State stormwater program or a State-approved local government stormwater program;
2. New drainage conveyances when the drainage area to the conveyance is demonstrated via approved nutrient calculation methodologies to meet the nutrient loading goal of 3.6 pounds per acre per year of Nitrogen (N) outside of the Falls of the Neuse Reservoir Watershed~~. Within the Falls of the Neuse Reservoir Watershed, new drainage conveyances when the drainage area to the conveyance is demonstrated via approved nutrient calculation methodologies to meet the nutrient loading goal of 2.2 pounds per acre per year of Nitrogen (N) and 0.33 pounds per acre per year of Phosphorus (P)~~;
3. New drainage conveyances when the flow rate of the conveyance is less than 0.5 cubic feet per second during the peak flow from the 0.75 inch per hour storm;
4. New stormwater runoff that has been treated through a level spreader-filter strip that complies with 15A NCAC 02H .1059;
5. Realignment of existing drainage conveyances applicable to publicly funded and maintained linear transportation facilities when retaining or improving the design dimensions provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations;
6. Realignment of existing drainage conveyances retaining or improving the design dimensions provided that the size of the drainage area and the percent built-upon area within the drainage area remain the same;
7. New or altered drainage conveyances applicable to publicly funded and maintained linear transportation facilities provided that SCMs or BMPs from the NCDOT Stormwater Best Management Practices Toolbox, are employed;
8. New drainage conveyances applicable to publicly funded and maintained linear transportation facilities that do not provide a stormwater management facility due to topography constraints provided other measures are employed to protect downstream water quality to the maximum extent practical; and
9. New drainage conveyances where the drainage area to the conveyance has no new built-upon area as defined in 15A NCAC 02H .1002 and the conveyance is necessary for bypass of existing drainage only.

6.12.7 PLATTING WITHIN A RIPARIAN BUFFER

In no instance shall riparian buffers be included as part of a buildable lot established as part of a Major, Minor, or Limited Subdivision.

6.12.8 USES

Uses within the riparian buffer, or outside the riparian buffer with hydrological impacts on the riparian buffer, shall be designated as deemed allowable, allowable upon authorization, allowable with mitigation upon authorization, allowable with exception or prohibited. Potential new uses shall have the following requirements:

A. DEEMED ALLOWABLE

Uses designated as deemed allowable in Section <> Allowable – Runoff, or Section <>, Table of Uses, may occur within the riparian buffer. Deemed allowable uses shall be designed, constructed, and maintained to minimize vegetation and soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities. In addition, deemed allowable uses shall meet the requirements listed in Section <>, Table of Uses, for the specific use.

B. ALLOWABLE UPON AUTHORIZATION

Uses designated as allowable upon authorization in Section <> Allowable Upon Authorization – Runoff, or Section <>, Table of Uses, require a written authorization from the Town for impacts within the riparian buffer pursuant to these standards.

C. ALLOWABLE WITH MITIGATION UPON AUTHORIZATION

Uses designated as allowable with mitigation upon authorization in Section <> Table of Uses, require a written authorization from the Town for impacts within the riparian buffer pursuant to these standards and an appropriate mitigation strategy that has received written approval pursuant to Section <>, Mitigation.

D. PROHIBITED

Uses designated as prohibited in Section <> Table of Uses, may not proceed within the riparian buffer unless a variance has been granted in accordance with Section <>, Variance. Mitigation may be required as a condition of approval of the variance.

E. ALLOWABLE WITH EXCEPTION

Uses not designated as deemed allowable, allowable upon authorization, allowable with mitigation upon authorization or prohibited in Section <>, Table of Uses, require a written authorization certificate with exception from the Town for impacts within the riparian buffer pursuant to this Ordinance and an appropriate mitigation strategy that has received written approval pursuant to Section <>, Mitigation.

6.12.9 TABLE OF USES

The following table sets out potential new uses within the riparian buffer, or outside the riparian buffer with hydrological impacts on the riparian buffer, and designates them as deemed allowable, allowable upon authorization, allowable with mitigation upon authorization, or prohibited:

TABLE <>: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
1. Airport facilities				
(i) Vegetation removal activities necessary to comply with Federal Aviation Administration requirements (e.g. line of sight requirements) provided the disturbed areas are stabilized and revegetated	X			
(ii) Airport facilities that impact equal to or less than one-third of an acre of riparian buffer		X		
(iii) Airport facilities that impact greater than one-third of an acre of riparian buffer			X	
2. Archaeological activities	X			
3. Bridges				
(i) Impact equal to or less than one-tenth of an acre of riparian buffer	X			
(ii) Impact greater than one-tenth of an acre of riparian buffer		X		
4. Dam maintenance activities				
(i) Dam maintenance activities that do not cause additional riparian buffer disturbance beyond the footprint of the existing dam	X			
(ii) Dam maintenance activities that do cause additional riparian buffer disturbance beyond the footprint of the existing dam		X		
5. Drainage of a pond subject to Section <>, Riparian Buffers Designated by Map, provided that a new riparian buffer is established by natural regeneration or planting, within 50 feet of any stream which naturally forms or is constructed within the drained pond area. Drained ponds shall be allowed to naturalize for a minimum of six months from completion of the draining activity before a stream determination is conducted pursuant to Section <>, Riparian Buffers Designated by On-Site Determination	X			
6. Fences				
(i) Fencing livestock out of surface waters	X			
(ii) Installation does not result in removal of trees from Zone 1	X			
(iii) Installation results in removal of trees from Zone 1		X		
7. Fertilizer Application				

TABLE <>: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
(i) One-time fertilizer application at agronomic rates in the riparian buffer to establish replanted vegetation. No runoff from this one-time application in the riparian buffer is allowed in the surface water	X			
(ii) Ongoing fertilizer application				X
8. Forest harvesting	See Section 15A NCAC 02B .0612			
9. Grading only in Zone 2 provided that the health of existing vegetation in Zone 1 is not compromised, Section <>, Stormwater Runoff through the Riparian Buffer, is complied with, and disturbed areas are stabilized and revegetated	X			
10. Greenways, trails, sidewalks or linear pedestrian/ bicycle transportation systems				
(i) In Zone 2 provided that no built upon area is added within the riparian buffer	X			
(ii) In Zone 1 provided that no built upon area is added within the riparian buffer and the installation does not result in the removal of tree(s)	X			
(iii) When built upon area is added to the riparian buffer, equal to or less than 10 feet wide with two foot wide shoulders. Shall be located outside Zone 1 unless there is no practical alternative		X		
(iv) When built upon area is added to the riparian buffer, greater than 10 feet wide with two foot wide shoulders. Shall be located outside Zone 1 unless there is no practical alternative			X	
11. Historic preservation	X			
12. New landfills as defined in NCGS§ 130A-290				X
13. Maintenance access on modified natural streams or canals: a grassed travelway on one side of the waterbody when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travelway shall be located to maximize stream shading		X		
14. Mining activities				
(i) Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of Section <>, Zones of the Riparian Buffer, and Section <>, Stormwater Runoff through the Riparian Buffer, are established adjacent to any relocated channels		X		

TABLE <>: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
(ii) Mining activities that are not covered by the Mining Act or where new riparian buffers that meet the requirements of Section <>, Zones of the Riparian Buffer, and Section <>, Stormwater Runoff through the Riparian Buffer, are not established			X	
(iii) Wastewater or mining dewatering wells with approved NPDES permit	X			
15. On-site sanitary sewage systems - new ones that use ground absorption				X
16. Pedestrian access trail and associated steps leading to a surface water, dock, canoe or kayak access, fishing pier, boat ramp or other water dependent structure				
(i) Equal to or less than six feet wide that does not result in the removal of tree(s) within the riparian buffer and does not result in the addition of built upon area to the riparian buffer	X			
(ii) Equal to or less than six feet wide that results in the removal of tree(s) or the addition of built upon area to the riparian buffer		X		
(iii) Greater than six feet wide			X	
17. Playground equipment				
(i) Playground equipment on single-family lots provided that installation and use does not result in removal of vegetation	X			
(ii) Playground equipment on single-family lots where installation or use results in the removal of vegetation		X		
(iii) Playground equipment installed on lands other than single-family lots		X		
18. Ponds created or modified by impounding streams subject to riparian buffers pursuant to Section <>, Riparian Buffers Designated by Map and not used as stormwater control measures (SCMs)				
(i) New ponds provided that a riparian buffer that meets the requirements of Section <>, Zones of the Riparian Buffer, and Section <>, Stormwater Runoff through the Riparian Buffer is established adjacent to the pond		X		
(ii) New ponds where a riparian buffer that meets the requirements of Section <>, Zones of the Riparian Buffer, and Section <>, Stormwater Runoff through the Riparian Buffer is not established adjacent to the pond			X	
19. Protection of existing structures and facilities when this requires additional disturbance to the riparian buffer		X		

TABLE <>: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
20. Public Safety - publicly owned spaces where it has been determined by the head of the local law enforcement agency with jurisdiction over that area that the riparian buffers pose a risk to public safety. The head of the local law enforcement agency shall notify the local government with land use jurisdiction over the publicly owned space and the Division of Water Resources of any such determination in writing	X			
21. Removal of previous fill or debris provided that Section <>, Stormwater Runoff through the Riparian Buffer, is complied with and any vegetation removed is restored	X			
22. Residential Properties: Where application of this Rule would preclude construction or expansion of a single-family residence and necessary infrastructure, the single-family residence may encroach in the buffer if all of the following conditions are met: (1) the residence is set back the maximum feasible distance from the top of the bank, rooted herbaceous vegetation, normal high-water level, or normal water level, whichever is applicable, on the existing lot; (2) the residence is designed to minimize encroachment into the riparian buffer; (3) the residence complies with Section <>, Stormwater Runoff through the Riparian Buffer; and (4) if the residence will be served by an on-site wastewater system, no part of the septic tank or drainfield may encroach into the riparian buffer				
(i) The residence or necessary infrastructure only impact Zone 2		X		
(ii) The residence or necessary infrastructure impact Zone 1			X	
(iii) Impacts other than the residence or necessary infrastructure			X	
23. Restoration or enhancement (wetland, stream) as defined in 33 CFR Part 332				
(i) Wetland or stream restoration is part of a compensatory mitigation bank, nutrient offset bank, or the in-lieu fee program	X			
(ii) Wetland or stream restoration other than those listed above		X		
24. Road, driveway, or railroad - impacts other than perpendicular crossings of streams and other surface waters subject to these standards			X	
25. Road, driveway, or railroad - perpendicular crossings of streams and other surface waters subject to these standards				
(i) Impact equal to or less than one-tenth of an acre of riparian buffer	X			
(ii) Impact greater than one-tenth of an acre but equal to or less than one-third of an acre of riparian buffer		X		

TABLE <>: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
(iii) Impact greater than one-third of an acre of riparian buffer			X	
(iv) Driveway crossings in a residential subdivision that cumulatively impact equal to or less than one-third of an acre of riparian buffer		X		
(v) Driveway crossings in a residential subdivision that cumulatively impact greater than one-third of an acre of riparian buffer			X	
(vi) Farm roads and forest roads that are exempt from permitting from the U.S. Army Corps of Engineers per Section 404(f) of the Federal Clean Water Act	X			
26. Road relocation of existing private access roads associated with public road projects where necessary for public safety				
(i) Less than or equal to 2,500 square feet of riparian buffer impact		X		
(ii) Greater than 2,500 square feet of riparian buffer impact			X	
27. Scientific studies and stream gauging	X			
28. Slatted uncovered decks, including steps and support posts, which are associated with a dwelling, provided that it meets the requirements of Section <>, Zones of the Riparian Buffer, and Section <>, Stormwater Runoff through the Riparian Buffer				
Installation does not result in removal of vegetation in Zone 1		X		
(ii) Installation results in removal of vegetation in Zone 1			X	
29. Stormwater Control Measure (SCM) as defined in 15A NCAC 02H .1002				
(i) In Zone 2 if Section <>, Stormwater Runoff through the Riparian Buffer is complied with		X		
(ii) Installation results in removal of vegetation in Zone 1			X	
30. Streambank or shoreline stabilization		X		
31. Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions and replanted with comparable vegetation within two months of when construction is complete. Tree planting may occur during the dormant season. At the end of five years, any restored wooded riparian buffer shall comply with the restoration criteria in 15A NCAC 026 .0295(i)				
(i) Less than or equal to 2,500 square feet of riparian buffer disturbance	X			
(ii) Greater than 2,500 square feet of riparian buffer disturbance		X		
(iii) Associated with culvert installation or bridge construction or replacement		X		
32. Temporary sediment and erosion control devices provided that the disturbed area is restored to preconstruction topographic and hydrologic conditions and replanted with comparable vegetation within two months of when construction is complete. Tree planting may occur during the dormant season. At the end of five years, any restored wooded riparian buffer shall comply with the restoration criteria in 15A NCAC 026 .0295(i)				

TABLE <>: TABLE OF USES IN RIPARIAN BUFFERS

Use or Activity	Deemed Allowed	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
(i) In Zone 2 provided that ground cover is established within the timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone 1 is not compromised, and that discharge is released in accordance with Section <>, Stormwater Runoff through the Riparian Buffer	X			
(ii) In Zones 1 and 2 to control impacts associated with uses identified in this Table or uses that have received an Authorization Certificate with Exception provided that sediment and erosion control for upland areas is addressed outside the riparian buffer		X		
(iii) In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Clean Water Act	X			
33. Utility Lines - Streambank stabilization for the protection of publicly owned utility lines (not including new line installation)				
(i) Less than 150 feet of streambank disturbance	X			
(ii) Greater than 150 feet of streambank disturbance		X		
34. Utility – Sewer lines – Sanitary Sewer Overflows				
(i) Emergency sanitary sewer overflow response activities, provided that the disturbed area within the riparian buffer outside of the existing utility line maintenance corridor is the minimum necessary to respond to the emergency overflow, is restored to pre-construction topographic and hydrologic conditions, and is replanted with comparable vegetation (e.g. grass with grass, hardwoods with hardwoods) within two months of when disturbance is complete	X			
(ii) Emergency sanitary sewer overflow response activities that do not meet the listing above. For any new proposed permanent impacts that are not a "Deemed Allowable Activity", an application for an Authorization Certificate shall be submitted to the Authority no later than 30 calendar days of conclusion of the emergency response activities		X		
35. Utility - Sewer Lines – Vegetation maintenance activities that remove forest vegetation from existing sewer utility right of ways (not including new line installation) outside of the existing utility line maintenance corridor				
(i) Zone 2 impacts	X			
(ii) Zone 1 impacts: For lines that have not been maintained, the vegetation can be mowed, cut or otherwise maintained without disturbance to the soil structure for a maintenance corridor that is equal to or less than 30 feet wide	X			
(iii) Zone 1 impacts other than those listed above		X		

TABLE <>: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
36. Utility - Sewer Lines –Replacement / Rehabilitation of existing sewer lines within, or adjacent to, an existing right of way but outside of an existing utility line maintenance corridor provided that comparable vegetation (e.g., grass with grass, hardwoods with hardwoods) is allowed to regenerate in disturbed riparian buffers outside of the permanent maintenance corridor and riparian buffers outside of the permanent maintenance corridor are not maintained				
(i) Permanent maintenance corridor equal to or less than 30 feet wide provided there is no grading and/or grubbing within 10 feet of the top of bank when the sewer line is parallel to the stream	X			
(ii) Grading and/or grubbing within 10 feet of the top of bank when the sewer line is parallel to the stream and permanent maintenance corridor equal to or less than 30 feet wide		X		
(iii) Permanent maintenance corridor greater than 30 feet wide. For impacts other than perpendicular crossings, mitigation is only required for Zone 1 impacts. For perpendicular crossings that disturb equal to or less than 40 linear feet, no mitigation is required. For perpendicular crossings that disturb greater than 40 linear feet, mitigation is only required for Zone 1 impacts			X	
37. Utility - Sewer Lines – New Line Construction / Installation Activities – Perpendicular crossings of streams and other surface waters subject to this Rule or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to these standards provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor				
(i) Construction corridor of less than or equal to 40 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide	X			
(ii) Construction corridor of greater than 40 linear feet wide and less than or equal to 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide		X		
(iii) Construction corridor of greater than 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide			X	
(iv) Permanent maintenance corridor greater than 30 feet wide. For impacts other than perpendicular crossings, mitigation is only required for Zone 1 impacts. For perpendicular crossings that disturb equal to or less than 40 linear feet, no mitigation is required. For perpendicular crossings that disturb greater than 40 linear feet, mitigation is only required for Zone 1 impacts			X	

TABLE <>: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
38. Utility - Sewer Lines – New Line Construction / Activities – Impacts other than perpendicular crossings provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor				
(i) Zone 2 impacts	X			
(ii) Zone 1 impacts to less than 2,500 square feet when impacts are solely the result of tying into an existing utility line and when grubbing or grading within 10 feet immediately adjacent to the surface water is avoided		X		
(iii) Zone 1 impacts other than those listed above			X	
39. Utility - Non-Sewer Underground Lines – Vegetation maintenance activities that remove forest vegetation from existing utility right of ways (not including new line installation) outside of the existing utility line maintenance corridor				
(i) Zone 2 impacts	X			
(ii) Zone 1 impacts: For lines that have not been maintained, the vegetation can be mowed, cut or otherwise maintained without disturbance to the soil structure for a maintenance corridor that is equal to or less than 30 feet wide	X			
(iii) Zone 1 impacts other than those listed above		X		
40. Utility – Non-Sewer Underground Lines – Perpendicular crossings of streams and other surface waters subject to this Rule or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to these standards provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor				
(i) Construction corridor of less than or equal to 50 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide	X			
(ii) Construction corridor of greater than 50 linear feet wide and less than or equal to 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide		X		
(iii) Construction corridor of greater than 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide			X	
(iv) Permanent maintenance corridor that is greater than 30 linear feet wide (mitigation is required only for Zone 1 impacts)			X	
41. Utility – Non-Sewer Underground Lines – Impacts other than perpendicular crossings provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor				
(i) Zone 2 impacts	X			
(ii) Zone 1 impacts to less than 2,500 square feet when impacts are solely the result of tying into an existing utility line and when grubbing or grading within 10 feet immediately adjacent to the surface water is avoided		X		
(iii) Zone 1 impacts other than those listed above			X	

TABLE <>: TABLE OF USES IN RIPARIAN BUFFERS				
USE OR ACTIVITY	DEEMED ALLOWED	ALLOWABLE UPON AUTHORIZATION	ALLOWABLE WITH MITIGATION UPON AUTHORIZATION	PROHIBITED
42. Utilities – Non-sewer aerial lines - Perpendicular crossings of streams and other surface waters subject to this Rule or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to these standards				
(i) Disturb equal to or less than 150 linear feet wide of riparian buffer provided that a minimum zone of 10 feet wide immediately adjacent to the waterbody is managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed, that no land grubbing or grading is conducted in Zone 1, and that poles or aerial infrastructure are not installed within 10 feet of a waterbody	X			
(ii) Disturb greater than 150 linear feet wide of riparian buffer		X		
43. Utilities – Non-sewer aerial lines - Impacts other than perpendicular crossings of streams and other surface waters subject to this Rule or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to these standards				
(i) Impacts in Zone 2 only	X			
(ii) Impacts in Zone 1 provided that a minimum zone of 10 feet wide immediately adjacent to the waterbody is managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed, that no land grubbing or grading is conducted in Zone 1, and that poles or aerial infrastructure are not installed within 10 feet of a waterbody		X		
44. Vegetation management				
(i) Emergency fire control measures provided that topography is restored	X			
(ii) Periodic mowing and harvesting of plant products only in Zone 2	X			
(iii) Placement of mulch ring around restoration plantings for a period of five years from the date of planting	X			
(iv) Planting non-invasive vegetation to enhance the riparian buffer	X			
(v) Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised	X			
(vi) Removal of individual trees, branches or limbs which are in danger of causing damage to dwellings, existing utility lines, other structures or human life, or are imminently endangering stability of the streambank provided that the stumps are left or ground in place without causing additional land disturbance	X			
(vii) Removal of individual trees that are dead, diseased or damaged	X			

TABLE <>: TABLE OF USES IN RIPARIAN BUFFERS

Use or Activity	Deemed Allowed	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
(viii) Removal of poison ivy, oak or sumac. Removal can include application of pesticides within the riparian buffer if the pesticides are certified by EPA for use in or near aquatic sites and are applied in accordance with the manufacturer's instructions. If removal is significant, then the riparian buffer shall be replanted with non-invasive species	X			
(ix) Removal of understory nuisance vegetation as defined in: Smith, Cherri L. 2008. Invasive Plants of North Carolina. Dept. of Transportation. Raleigh, NC. Removal can include application of pesticides within the riparian buffer is the pesticides are certified by EPA for use in or near aquatic sites and are applied in accordance with the manufacturer's instructions. If removal is significant then the riparian buffer shall be replanted with non-invasive species	X			
(x) Removal of woody vegetation in Zone 1 provided that Section <>, Stormwater Runoff through the Riparian Buffer is complied with			X	
45. Vehicle access roads and boat ramps (excluding parking areas) leading to surface water, docks, fishing piers, and other water dependent activities				
(i) Single vehicular access road and boat ramp to the surface water but not crossing the surface water that are restricted to the minimum width practicable not to exceed 15 feet wide		X		
(ii) Vehicular access roads and boat ramps to the surface water but not crossing the surface water that are restricted to the minimum width practicable and exceed 15 feet wide			X	
46. Water dependent structures (except for boat ramps) as defined in 15A NCAC 02B .0202		X		
47. Water supply reservoirs:				
(i) New reservoirs provided that a riparian buffer that meets the requirements of Section <>, Zones of the Riparian Buffer, and Section <>, Stormwater Runoff through the Riparian Buffer is established adjacent to the reservoir		X		
(ii) New reservoirs where a riparian buffer that meets the requirements of Section <>, Zones of the Riparian Buffer, and Section <>, Stormwater Runoff through the Riparian Buffer is not established adjacent to the reservoir			X	
48. Water wells	X			
49. Wildlife passage structures		X		

6.12.10 MITIGATION

Persons who wish to undertake uses designated as allowable with mitigation upon authorization as defined in Section <>, Allowable with Mitigation upon Authorization, or allowable with exception as defined in Section <>, Allowable with Exception, shall meet the following requirements in order to proceed with their proposed use:

A. Obtain an authorization certificate pursuant to 15A NCAC 02B.0611; and

B. Obtain written approval for a mitigation proposal pursuant to 15A NCAC 02B.0295.

6.13 SIGNAGE[334]

6.13.1 PURPOSE AND INTENT

This section provides guidance and standards for signage across the Town's jurisdiction. The erection and maintenance of signs is controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on streets and sidewalks. These provisions are also intended to balance between the promotion of beneficial commerce and the protection of community character. More specifically, these standards are intended to:

A. Promote traffic safety;
B. Avoid interference with protected free speech;
C. Regulate the content of signs to the least extent possible and only when absolutely necessary to protect public health and safety;
D. Regulate off-premise signage in accordance with State law and federal jurisprudence;
E. Ensure that any content-based signage standards serve a compelling public purpose and are as narrowly-tailored as possible;
F. Promote economic development and beneficial commerce;
G. Ensure residents and visitors can locate desired goods, services, and destinations;
H. Avoid conflicts between advertising and public safety signage;
I. Reflect the aesthetic character and design quality anticipated in the Town's adopted policy guidance; and
J. Minimize any detrimental effects of signage on adjacent properties.

6.13.2 APPLICABILITY

A. Except for the sign types exempted from these standards identified in Section <>, Exemptions, all signs shall be constructed, erected, affixed, placed, posted, painted, repainted, hung, or otherwise established only in accordance with the standards in this section and Section <>, Sign Permit.
B. Deviations from these standards may be proposed in accordance with Section <>, Alternative Sign Plan.
C. New development comprised of two or more principal buildings on one or more lots is encouraged (but not required) to configure signage in accordance with a Uniform Sign Plan as specified in Section <>, Sign Permit.

6.13.3 EXEMPTIONS

The following forms of signage shall not be subject to these signage standards, but may be subject to other applicable standards in this Ordinance, such as the requirement to obtain a Building Permit. Applicants shall be responsible for securing all required permits prior to erecting or modifying any of the following forms of excluded signage:

A. Fence-wrap signs affixed to fences surrounding a construction site in accordance with the standards in NCGS§ 160D-908;
B. Legal notices required by governmental bodies, public utilities, or civic associations;

[334] This section replaces Section 403 of the UDC. It enhances the purpose and intent standards to identify content neutrality and protection of 1st amendment rights while also removing the remaining content-based sign standards (insignia, yard sale, real estate, menu displays, tenant identification, etc.). Establishment of basic exemptions for several kinds of signage including governmental and parking-related signs. Increase clarity regarding the range of prohibited signs like moving, off-premise, and outdoor advertising signs. Establishment of a series of tabular-based provisions for each of the 13-14 generic sign types anticipated by the UDO. Add provisions for uniform sign plans applied to multi-building developments.

C. Signage owned or maintained by any unit of government or public agency that includes, but is not limited to, flags, street signs, traffic warning signs, and other signage provided solely by governmental agencies for public health and safety;
D. Building cornerstones, historical plaques, or grave markers;
E. Signage associated with public transit stops;
F. Holiday displays on lots within all zoning districts;
G. Signage affixed to a motor vehicle or trailer, provided the motor vehicle or trailer is parked or stored on the same lot or site where the business being advertised is located;
H. Signage that is not visible from any off-site areas (e.g., entirely enclosed by opaque walls that prevent the visibility of signage from any off-site areas); and
I. Signage associated with off-street parking spaces or the prohibition of parking in certain locations like fire lanes, bus lanes, or loading zones.

6.13.4 NONCONFORMING SIGNAGE

Nonconforming signage is subject to the standards in Section <>, Nonconforming Signs.

6.13.5 PROHIBITED SIGNS

The following signs, sign construction, and displays are prohibited throughout the Town's jurisdiction:

A. Freestanding or pole signs where the sign face area is mounted on one or more poles in a manner where air or open space exists between the bottom of the sign face area and the surface of the ground beneath it, provided that this prohibition shall not apply to incidental signs configured in accordance with the applicable standards in Section <>, Sign Standards by Sign Type;
B. Off-premise signs or signage that advertises goods or services provided on a different lot, tract, or site from where the sign is located, provided that this prohibition shall not apply to subdivision signs configured in accordance with the applicable standards in Section <>, Sign Standards by Sign Type;
C. Outdoor advertising, whether on- or off-premise, except for outdoor advertising lawfully established prior to (*insert the effective date of this Ordinance*), which may be permitted to continue as a nonconforming use for up to 15 years following the date of annexation by the Town.
D. Feather flags, bow signs, pennants, and streamers;
E. Moving signs, excluding flags, banners, and clocks;
F. Flashing, scrolling, twirling, or blinking signs;
G. Gas- or air-filled balloons, figures, and other inflatable signs;
H. Signs on the roof or above the parapet of a building;
I. Any sign which the Planning Director determines obstructs the view of bicyclists, pedestrians, or motorists using any street, approach to any street intersection, sidewalk, public trail, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal;
J. Signs, lights, rotating features, words, and other devices, which resemble or may be erroneously construed as traffic signals, traffic signs, or emergency vehicle lights;
K. Illuminated or highly reflective signs that law enforcement determines hampers the vision of motorists, pedestrians, or bicyclists;
L. Any sign which interferes with free passage from or obstructs any fire escape, downspout, door, stairway, ladder, or opening intended as a means of ingress or egress;
M. Any sign placed on a utility pole, street sign post, traffic signal support, hydrant, bridge, tree, aspect of public infrastructure, or street paving that is not installed or approved by an appropriate governmental agency;

N. Signage affixed to a stationary motor vehicle, boat, or trailer on a lot or site not occupied by the business being advertised. Nothing shall prohibit a motor vehicle, boat, or trailer with signage at a location while services are being provided at that location.

O. Signs with speakers intended for audio playback;

P. Unpainted plywood; and

Q. Use of vinyl or fabric material over or around a cabinet sign frame.

6.13.6 PROHIBITED SIGN LOCATIONS

A. In no instance shall a sign or sign support structure be located within the following areas:

1. Within five feet of the street right-of-way, except as allowed in Section<>, Signs in Street Rights-of-Way;
2. Sight distance triangles, unless required by NCDOT;
3. Required open space set-asides; or
4. Within a public utility or drainage easement.

B. Nothing shall limit the placement of a sign or sign support structure within a required zoning district setback, provided it complies with the applicable standards in this section and does not interfere with landscaping materials required by Section <>, Landscaping and Screening.

6.13.7 PROVISIONS APPLICABLE TO ALL SIGNS

A. SIGN PERMIT REQUIRED

1. Unless exempted by Section <>, Exclusions, or included in Section <>, Signs Not Subject to Sign Permit, all signs shall require issuance of a sign permit in accordance with Section <>, Sign Permit, prior to construction, installation, revision, or display.
2. Some signs may also require building and electrical permits in accordance with the North Carolina Building Code.

B. SIGNS NOT SUBJECT TO SIGN PERMIT

1. The following sign types shall not be required to obtain a sign permit, but shall comply with all applicable requirements in this section and this Ordinance:
   a. The placement of one or more incidental signs, subject to the applicable standards in Table <>, Sign Standards by Sign Type;
   b. The placement of a temporary sign, subject to the applicable standards in Section <>, Temporary Permit, and Table <>, Sign Standards by Sign Type; and
   c. Public art, subject to the standards in Section <>, Public Art.
2. Failure to comply with the standards for these sign types shall be a violation of this Ordinance subject to the provisions in Chapter 7, Violations.

C. SIGNS IN PUBLIC STREET RIGHTS-OF-WAY

1. GENERALLY

No sign shall be permitted within a public street right-of-way except in accordance with Section <>, Signs Allowed in the Right-of-Way.

2. SIGNS ALLOWED IN THE RIGHT-OF-WAY

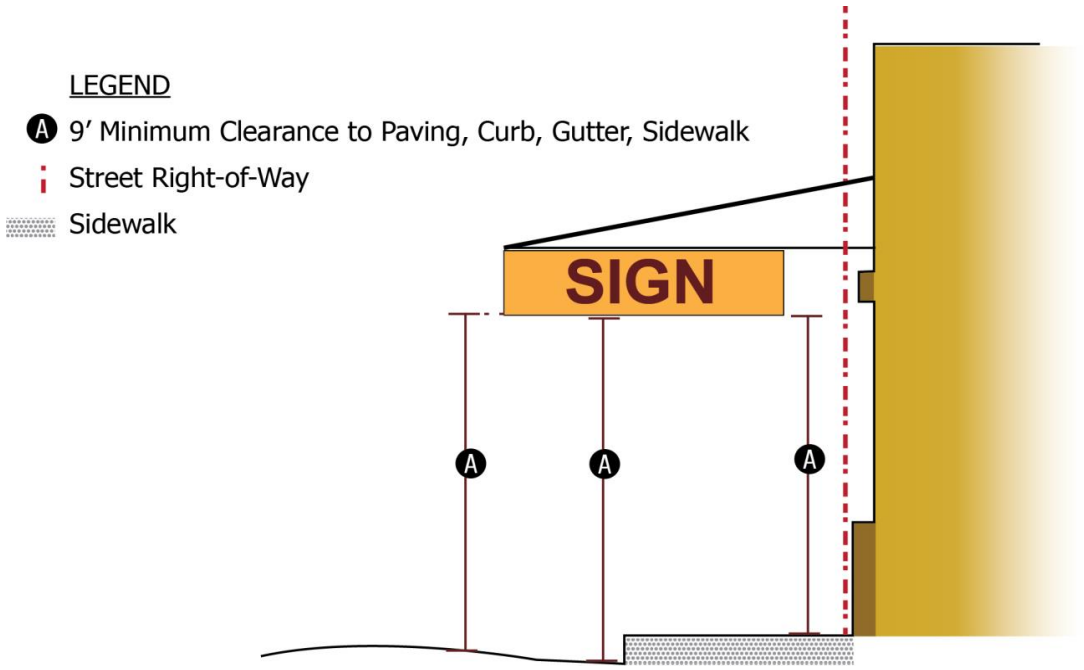
a. Only the following signs may be permitted in a public street right-of-way:
   i. Governmental signage erected by the Town of Clayton;
   ii. Signage erected by NCDOT;

iii. Emergency warning signage erected by a governmental agency, public utility, or contractor performing work within the right-of-way;
iv. Political signs; and
v. Allowable farm signs.

b. Except for sidewalks signs, signs permitted within a street right-of-way shall maintain a minimum vertical clearance of at least nine feet above the paving, curb, gutter, sidewalk, or grade, as appropriate (see Figure <>, Minimum Vertical Clearance).

c. In the event the establishment or realignment of a street results in an existing sign becoming wholly or partially within the right-of-way in violation of these standards, the sign shall be removed at the expense of the person or agency establishing or realigning the street.

FIGURE <>: MINIMUM VERTICAL CLEARANCE



3. REMOVAL OF ILLEGAL SIGNS IN RIGHT-OF-WAY AND ON PUBLIC PROPERTIES

a. The Planning Director or a designee may remove any sign placed on public property or within any public right-of-way in violation of this Ordinance.

b. Signage determined to be in violation of this Ordinance and removed from public property or a public right-of-way shall be discarded.

c. Penalties may be levied for each such illegal sign as prescribed in Chapter 7, Violations.

D. CHANGEABLE COPY

Areas devoted to changeable copy on a sign shall be subject to the following standards:

1. Changeable copy areas may only be located on ground or wall signs;
2. No more than 50 percent of the sign face area may be devoted to changeable copy area;

3. As a means of avoiding distractions for drivers, bicyclists, and pedestrians, the display of changeable copy shall not change more than once per minute;
4. Outdoor advertising signs shall not include areas devoted to changeable copy;
5. Signage copy shall not be animated, and shall not blink, scroll, flash, or have other moving effects. This provision shall not restrict the copy from changing from one message to another.

E. ILLUMINATION

Where authorized, signs may only be illuminated in accordance with the following standards:

1. GENERALLY

a. Illuminated signs shall obtain a building permit and be configured in accordance with North Carolina Building Code, applicable electric code, and the adopted fire code.
b. All wiring to ground, pole, or other freestanding signs erected after (*insert the effective date of this Ordinance*), shall be located underground.

2. INTERNAL ILLUMINATION

a. Internally illuminated signs are prohibited within all residential districts.
b. Nothing shall require a pre-existing internally illuminated sign lawfully established prior to (*insert the effective date of this Ordinance*) to be removed if the lot it faces becomes used solely for residential purposes.

3. INDIRECT OR EXTERNAL ILLUMINATION

a. All external or indirectly illuminated signs shall illuminate only the face of the sign and shall not shine directly into or create glare on a right-of-way or residential use.
b. Indirect or externally illuminated signs shall comply with the standards in Section <>, Maximum Illumination Levels.

4. FLASHING OR INTERMITTENT LIGHTS PROHIBITED

a. Flashing lights are prohibited.
b. Sign illumination shall not vary in degrees of brightness or intensity.

F. STRUCTURAL CONFIGURATION

All signs and sign supporting structures shall be constructed and designed according to generally accepted engineering practices to withstand wind pressures and load distribution as specified in the current North Carolina Building Code.

G. MAINTENANCE REQUIRED

1. All signs and sign supports shall be maintained in good repair.
2. In the event a sign or sign support is poorly maintained or becomes unsafe, the Planning Director shall notify the sign owner of the condition in writing, and the sign owner shall take whatever action is required to maintain public safety.
3. Failure to correct the unsafe condition is a violation of this Ordinance and shall be subject to the remedies in Section <>, Remedies.

H. REMOVAL OF DILAPIDATED OR OBSOLETE SIGNS

1. DILAPIDATED SIGNS

a. Dilapidated signs shall be removed or repaired by a landowner or other responsible party in accordance with the requirements described in a notice of violation by the Planning Director.

b. An existing sign shall be considered dilapidated if it:

- **i.** Is in disrepair or exhibits a state of being broken or neglected;
- **ii.** Fails to maintain its form as originally constructed or permitted;
- **iii.** Fails to perform its intended function;
- **iv.** Suffers from support pole or structural failure;
- **v.** Has borders that are falling off or are already removed;
- **vi.** Has panels that are missing or that have fallen off;
- **vii.** Has its message falling off or in a state of disrepair such that it cannot be interpreted by the motoring public; or
- **viii.** Is overgrown by vegetation.

2. OBSOLETE SIGNS

a. Signs identifying business establishments that are no longer in operation shall be removed from the premises within 180 days from the date of termination.

b. For the purposes of this sub-section, removal of a sign shall mean:

- **i.** The removal of the entire sign including all supports and mounting hardware; or
- **ii.** The removal of the just the sign's face.

c. The decision as to whether the entire sign is removed or just the sign face is removed shall be at the discretion of the landowner. Failure to provide a decision to the Town may result in Town action in accordance with Section <>, Failure to Remove Signage.

d. In cases where the entire sign is removed, all sign supports, sign framework, mounting hardware, or similar features shall also be removed.

e. In cases where only the sign face is removed, all internal elements, internal frameworks, wiring, or mounting hardware associated with the sign face shall be obscured from view by fully covering them with painted plywood, rigid plastic, or other permanent material that includes no copy or other embellishment. Coverings shall be of a neutral, non-reflective color. The plywood, rigid plastic, or other covering shall be mechanically attached to the sign support structure. In no instance shall fabric, vinyl, or other non-permanent material be used to obscure sign cabinets, framework, or mounting hardware.

3. FAILURE TO REMOVE SIGNAGE

Failure of an owner to remove an obsolete or dilapidated sign face or sign structure may result in removal of the sign face or sign structure at the owner's expense following provision of written notice to the owner by the Planning Director.

4. 5. INSPECTION

If, through inspection, the Planning Director determines that a sign or sign supporting structure does not comply with the provisions of these regulations, the Town shall take action in accordance with the standards in Chapter 7, Violations.

I. PUBLIC ART

1. Painted or printed murals or other forms of public art shall not be considered as signage subject to these standards in cases where the art or mural does not incorporate a direct or

indirect reference to a tradename, trademark, or the name of the establishment associated with the mural or artwork. Public art shall be subject to the standards in Section <>, Art Installation.

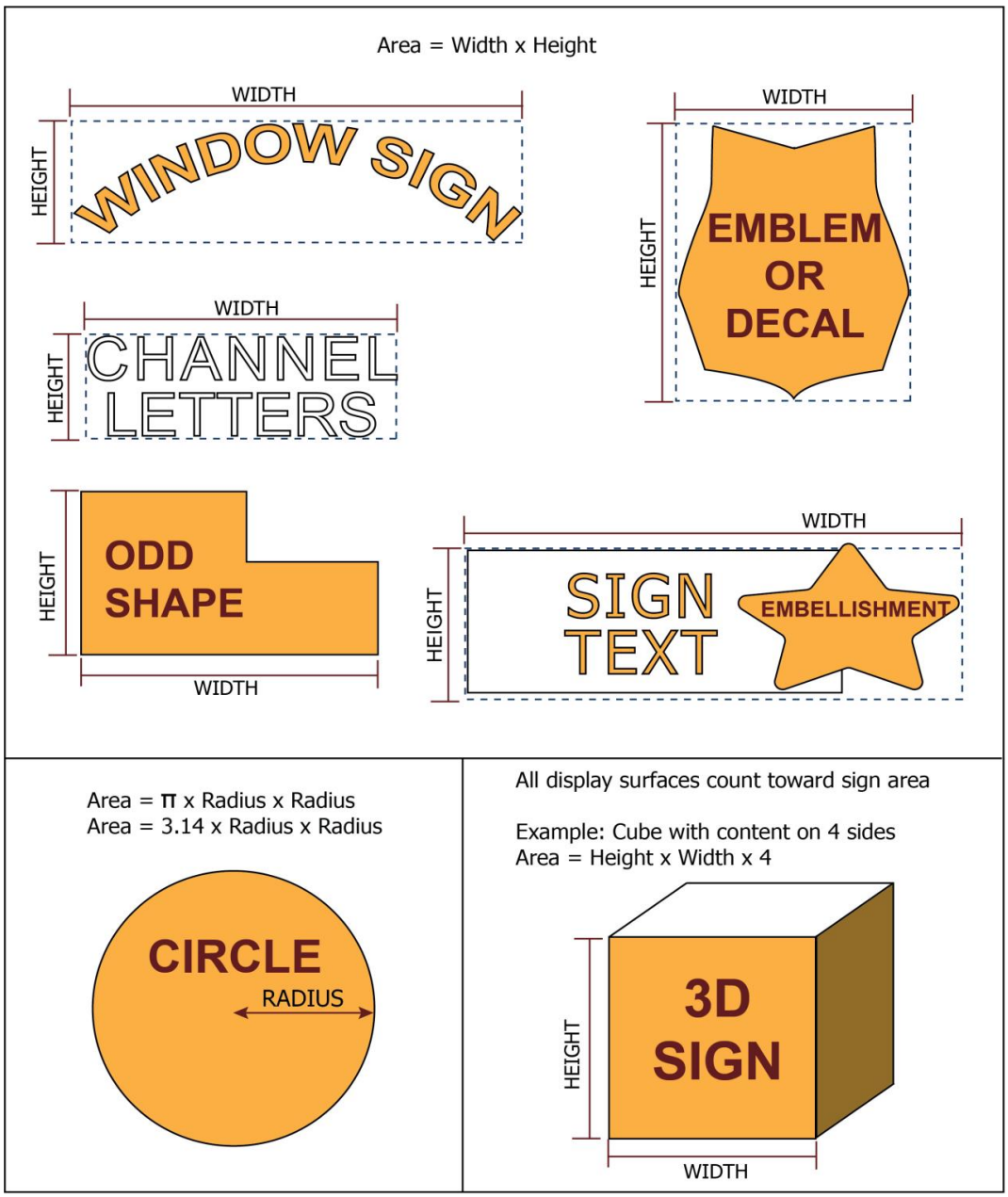
2. Public art or murals may incorporates a direct or indirect reference to a tradename, trademark, or the name of the establishment associated with the mural or public art shall be considered as signage subject to the applicable standards in this section.

6.13.8 SIGN MEASUREMENT

A. SIGN FACE AREA DETERMINATION

1. The sign face area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle, or other regular geometric figure, including all of the elements of the display, including incidental or changeable copy signage, frames, display of identification or licensing officially required by any governmental body, and structural elements.
2. The supporting structure for a sign shall not be included within the calculation of the sign face area unless otherwise indicated in this Ordinance.
3. In the case of signs mounted back-to-back, only one side of the sign is to be included in the calculation of sign face area. Otherwise, the face area of each sign is to be separately computed.
4. When two identical sign faces are placed back-to-back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
5. For multi-faced signs, the sign area shall be computed by summing the area of all sign faces.
6. In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces, is included in the computation of sign face area.
7. Embellishments such as display portions of signs extending outside the primary sign face area, incidental signage, changeable copy, or supplemental signage affixed to or included on a sign or sign support structure shall be computed as part of the total face area of the sign, unless otherwise indicated in this Ordinance.
8. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence on which the sign face or letters are placed shall be calculated in the sign face area.

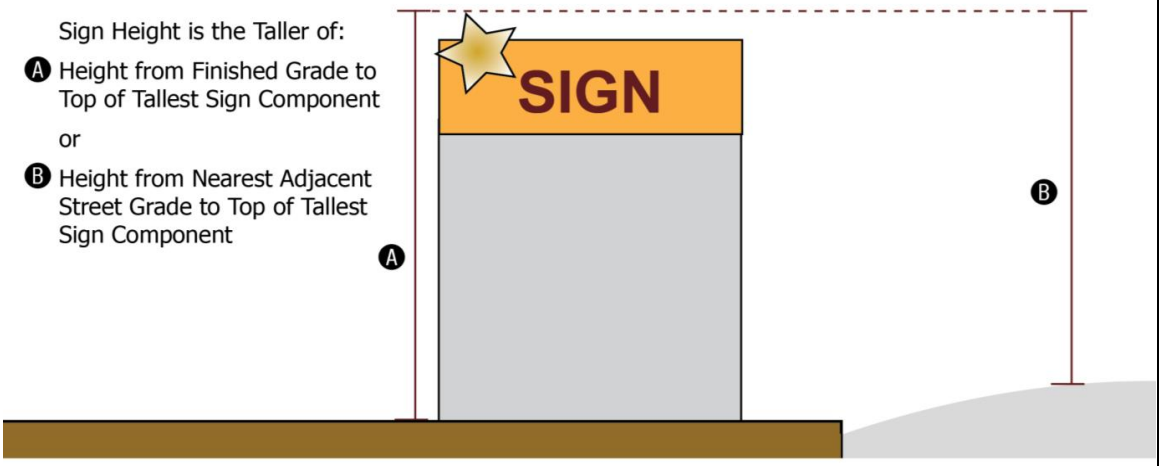
FIGURE <>, SIGN FACE AREA DETERMINATION



B. SIGN HEIGHT DETERMINATION

1. Sign height shall be computed as the distance from the base of the sign at the finished grade or from the nearest adjacent street grade to which the sign is oriented and on which the lot has frontage, whichever is higher, to the top of the highest component of the sign.
2. Finished grade shall be the grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

FIGURE <>, SIGN HEIGHT DETERMINATION

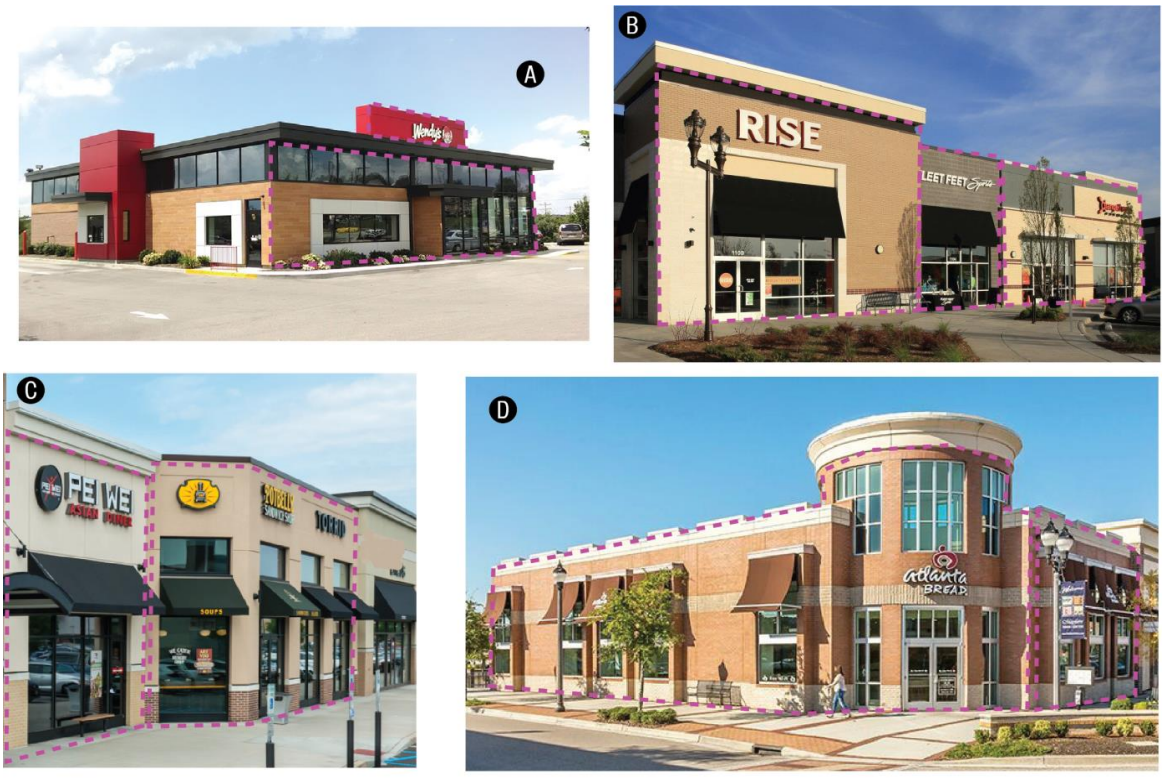


C. WALL AREA (FOR THE PURPOSES OF SIGN AREA MEASUREMENT)

For the purposes of determining allowable sign area, a wall is the vertical exterior surface of a building, the area of which shall be determined as follows:

1. The area of all parallel vertical surfaces along a single building elevation regardless of offsets shall be counted as one wall. This includes wall surfaces that are parallel or approximately parallel that may be located in front of or behind the primary façade plane.
2. The front of each unit of a multiple tenant commercial building shall be counted as a separate wall.
3. The area of an angled wall surface shall be counted as part of whichever adjoining wall surface it is most parallel with.
4. A 45-degree angled wall may be counted as part of the area of either adjoining wall, but not as a part of both.

FIGURE <>, WALL AREA DETERMINATION FOR WALL SIGNAGE



LEGEND

One Wall

Ⓐ Area of Parallel Vertical Surfaces Along a Single Building Elevation, Regardless is One Wall

Ⓑ Front of Each Unit of a Multi Tenant Commercial Building is One Wall

Ⓒ Area of An Angled Wall Surface is Part of the Adjoining Wall Surface it is Most Parallel With

Ⓓ 45 Degree Angled Wall May Count as Part of Either Adjoining Wall, But Not Both

6.13.9 SIGN STANDARDS BY SIGN TYPE

The following section sets out the standards applicable to each sign type regulated by this Ordinance.

A. AWNING SIGNS

1. Definition

A sign that is part of or attached to an awning, canopy, or other protective canvas, plastic, or metal cover affixed to a building and located over a door, entrance, window, or other outdoor area. Colors, stripes, or patterns on an awning's surface shall not be considered as signage.

2. Districts Where Permitted

CON, PUB	Residential, CZR	OFI, NCM	DTN, CZD, MXD, CZM	CRM, CZC	LID, HID, CZI
No	No	Yes	Yes	Yes	Yes

3. Dimensional Standards

Maximum Number of Awning Signs per Lot	1 per every ten linear feet of building façade facing a street [1]
Maximum Height	Under the roof or top of a parapet wall [2]
Maximum Sign Face Area per Individual Awning Sign	25 percent of the awning area upon which it is located, including the drip flap, if provided
Maximum Sign Face Area of all Awning Signs per Lot	5 percent of each façade facing a street [1]

NOTES:
[1] Signage on umbrellas or shade structures associated with an outdoor dining area are not counted as awning signs and are exempted from the awning sign number and face area standards.
[2] Awning signs attached to a building shall maintain a minimum height of at least nine feet above grade.

4. Additional Requirements

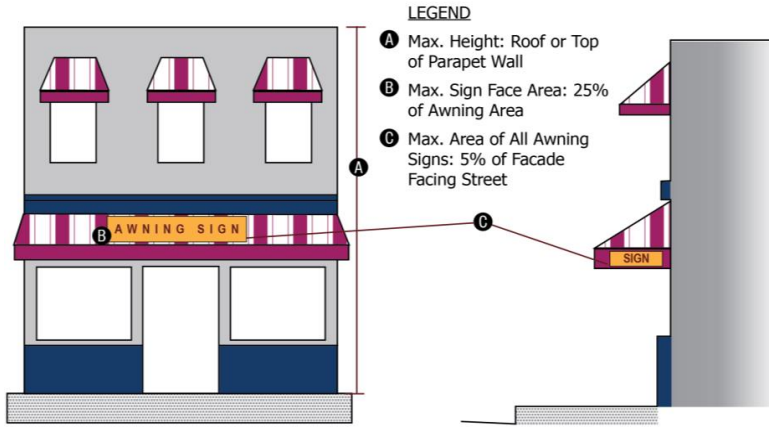
a. Signage may be located on the drip flap, subject to the maximum sign face area standards.

b. No awnings above the 3rd building story may be internally illuminated.

c. Awning signs, when allowed within a street right-of-way, shall not project more than five feet into a right-of-way, nor closer than two feet from the curb line.

e. An awning sign may only be established on a lot with a principal structure.

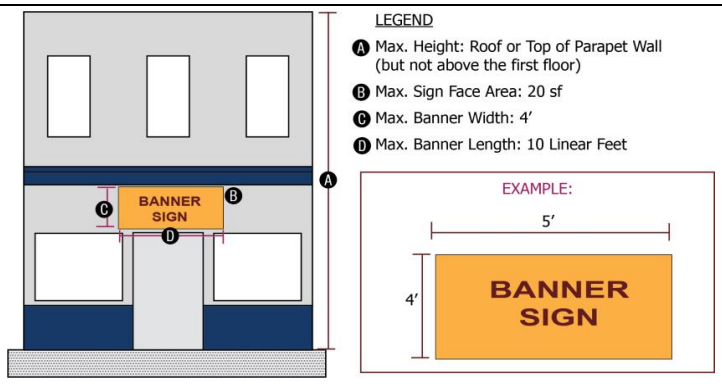
5. Sample Calculation



EXAMPLE:
Total Awning Area of Lower Awning = 90 sf
Total Area of Facade Facing Street = 600 sf

Max. Awning Sign Area on Lower Awning = 25% x 90 = **22.5 sf**
Max. Area of All Awning Signs: 5% x 600 sf = **30 sf**

B. BANNER SIGNS

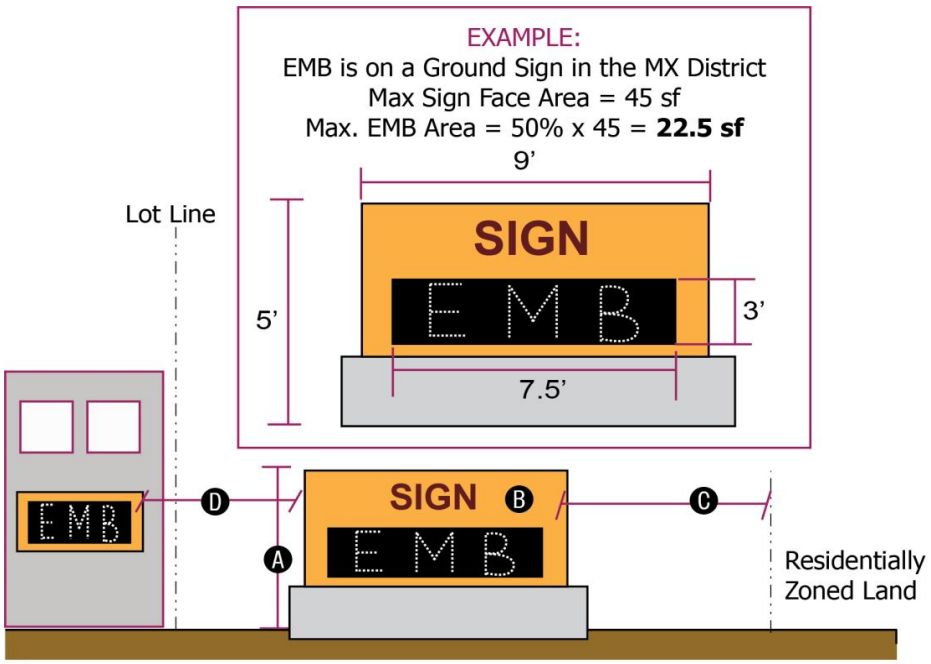
1. Definition	A sign made of a flexible fabric or plastic material that is affixed to a building or other vertical projection, except utility poles, but is not an awning sign or a flag. Feather flags and bow signs are not banners and are prohibited by this Ordinance.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTN, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	No	No	Yes	Yes	No
3. Dimensional Standards	**Maximum Number of Banners per Lot**			1 per use or non-residential tenant in a multi-tenant building [1]		
	Maximum Mounting Height			Below the roof or parapet [2]		
	Maximum Sign Face Area per Individual Banner			20 square feet		
	Maximum Banner Length			10 linear feet		
	Maximum Banner Width			4 linear feet		
	Minimum Setback	10 feet from the edge of pavement or minimum necessary to avoid placement within a street right-of-way [3]				
	Maximum Duration	One occurrence for a maximum duration of 30 consecutive days per use or tenant per calendar year [4]				
	NOTES:	[1] Maximum of 3 banners per multi-tenant development at any one time. [2] When located on a fence, wall, or as a freestanding banner, a maximum height of 12 feet to the highest point. When located on a building wall, the banner shall not be mounted above the first floor. [3] Banners in a unified development subject to a single site plan shall be at least 10 feet from the outside perimeter boundary of the development. [4] Placement of a banner shall require prior issuance of a temporary use permit in accordance with Section <>, Temporary Permit.					
4. Additional Requirements	a. Banners shall be adequately secured through the use of grommets, d-rings, brackets, or similar fastening devices.					
	b. Banners over 9 square feet in size shall incorporate wind slits.					
	c. Banners shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.					
	d. Except for open air uses of land, a banner may only be established on a lot with a principal structure.					
5. Sample Calculation						

C. ELECTRONIC MESSAGE BOARDS

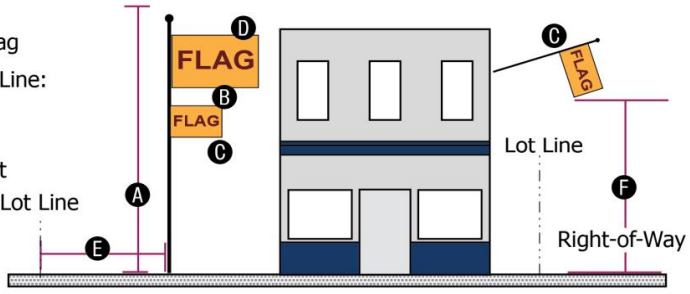
1. Definition	A wall or ground sign, or portion thereof that electronically displays information that may or may not change. Sign content is displayed by light emitting diodes (LED's), fiber optics, light bulbs, or other illumination devices arranged in a matrix within the display area. Electronic message boards ("EMBs") do not display animation or imagery that appears to move.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTN, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	No [1]	No [1]	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of EMBs per Lot**	One per lot or development [2]				
	Minimum Separation of EMB from Residentially-Zoned Land	150 linear feet [3]				
	Minimum Separation from Another EMB	35 linear feet				
	Maximum Height	In accordance with wall or ground sign standards, as appropriate [4]				
	Maximum EMB Face Area	In accordance with wall or ground sign standards, as appropriate [5]				
	Maximum Percentage of Total Sign Face Area Devoted to an EMB	Lesser of: 32 square feet or 50% of the total allowable sign face area for the type of sign proposed (i.e., wall, ground) [6]				
	Minimum Static Hold Time Between Message Changes	1 minute [7]				
	Maximum Brightness	465 lumens per square foot during daytime hours				
		70 lumens per square foot during dawn, dusk, and nighttime hours				
	NOTES:	[1] May be permitted on a lot containing a religious institution, school, or fraternal club or lodge, and the EMB may occupy 100% of the allowable sign face area. [2] Development on corner lots of two acres or more in area may have up to two EMBs, subject to these standards. [3] Not applied on residential lots containing a religious institution, school, or fraternal club with an EMB. [4] In no instance shall an EMB extend higher than 30 feet above grade. [5] The face area shall include all mounting hardware, framework, and sign supports. [6] A sign's face area could include two or more separate EMB areas, provided the total amount of EMB does not exceed the maximum permitted percentage of allowable EMB size (For example, a ground sign could be configured with one portion of the sign face areas as an EMB with prices and another portion of the same sign face could include a separate EMB area that displays different information). [7] Transition between images shall take place within one second or less.					

Continued on the Following Page

C. ELECTRONIC MESSAGE BOARDS CONTINUED

4. ADDITIONAL REQUIREMENTS	a. EMBs may only be configured as a wall or ground sign, or portion thereof.
	b. EMBs may only be allowed as part of a permanent sign, not a temporary sign.
	c. Use of the terms "stop", "caution", or "danger" is prohibited on an EMB for reasons of public safety.
	d. Appearance of animation or message movement is prohibited.
	e. The owner or operator of an EMB shall attest to the installation of a power supply system that will power the EMB off after a power outage or other condition that causes the sign to blink, flash, or have the appearance of movement.
	f. An EMB may only be established on a lot with a principal structure.
5. SAMPLE CALCULATION	 A Max Height = According to Sign Type (Ground, Wall) B Maximum Sign Face Area =According to Sign Type (Ground, Wall); Maximum EMB Area = Lesser of 50% Total Allowable Sign Face Area or 32 sf C Minimum Separation from Residentially-Zoned Land = 150' D Minimum Separation from Another EMB = 35'

D. FLAGS

1. Definition	A piece of cloth or similar material, typically rectangular or square in shape, that is attached to a pole or rope along the shorter side of the material. Flags flown by a governmental agency, located on land owned or operated by a governmental agency, or on a building owned or operated by a governmental agency are exempted from these standards. Flags affixed to two or more poles at the same time are subject to the standards for banners. Feather flags and bow signs are prohibited.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTN, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	Yes	Yes	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Flags per Lot**			3		
	Maximum Flagpole Height			40 feet above grade or 40 feet above the highest point of a building if building-mounted [1]		
	Maximum Number of Flags per Flag Pole			2		
	Maximum Size per Flag			60 square feet		
	Minimum Setback from any Lot Line for a Flagpole or other Mounting Device			The height of the flagpole or mounting device if building-mounted		
	NOTES:	[1] In cases where a flag projects out into a street right-of-way, the flag shall maintain a minimum vertical clearance of 18 feet above the street pavement and 9 feet above a sidewalk.				
4. Additional Requirements	a. Flags and flagpoles shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.					
	b. Except on lots in residential districts, flags on poles shall be located no more than 10 feet from the front building line.					
5. Sample Calculation	LEGEND Ⓐ Max. Height: 30' or 30' Above Highest Point of Building if Mounted Ⓑ Max. Flags per Pole: 2 Ⓒ Max Flags Per Lot: 3 Ⓓ Max. Size: 40 sf per Flag Ⓔ Min. Setback from Lot Line: Height of Flagpole or Mounting Device Ⓕ If Projecting into Street Right-of-Way, Min. Vertical Clearance: 18' Above Street; 9' Above Sidewalk					

E. GROUND SIGNS

1. Definition

Any sign, other than a pole sign, that is attached directly to the ground by means of a supporting system comprised of a solid pedestal, or other bracing system where there is no open space between the bottom of the sign face area and the ground. Ground signs are configured so that the base of the sign support structure is at least as wide as the sign face area. Ground signs may also be referred to as "pedestal" signs or "monument" signs. Any sign with an opening between the bottom of the sign's face area and ground or where the sign face area is wider than the sign support structure shall be considered as a pole or "freestanding" sign, which are prohibited. Ground signs are not mounted to a building wall, and are not located within a street right-of-way.

2. Districts Where Permitted

CON, PUB	Residential, CZR	OFI, NCM	DTN, CZD, MXD, CZM	CRM, CZC	LID, HID, CZI
Yes	Yes	Yes	Yes	Yes	Yes

3. Dimensional Standards

Maximum Number of Ground Signs Per Lot	1 [1]	
Maximum Height [2]	6 feet for lots in residential districts; 15 feet for lots in all other districts [3] [4]	
Maximum Sign Face Area [2]	Lots in CON, PUB, and residential districts	32 sf per sign
	Lots in OFI, NCM	32 sf per sign
	Lots in DTN, CZD, MXD CZM	48 sf per sign
	Lots in CRM, CZC, LID, HID, CZI	150 sf per sign
Minimum Setback from any Lot Line	5 feet [5]	
Min. Separation between Ground Signs on Same Lot	At least 250 feet apart at the closest point	
Min. Separation between Ground Signs on Adjacent Lots	50 feet [6]	

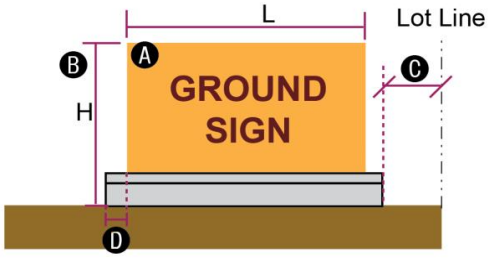
NOTES:

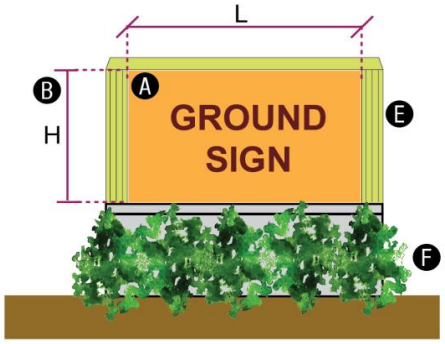
[1] Developments on corner lots of 2 acres in size or greater may have a ground sign for each roadway frontage.
[2] The following features may be excluded from the calculation of maximum sign height and maximum sign face area:
a. The first 36 inches in height of a sign's base when it is surrounded by evergreen shrubs configured as a fully opaque screen and sized in accordance with Section <>, Shrub Size and Variety.
b. Architectural embellishments along the side of the sign support structure, such as columns, pilasters, coping, or vertical design features with a maximum width of up to 1 foot, provided such embellishments do not include advertising copy.
c. Architectural embellishments along the top of the sign support structure, such as caps, cornices, coping, eaves, or horizontal design features with a maximum height of up to 1 foot and a maximum projection of up to 6 inches beyond the sign face, provided such embellishments do not include advertising copy.
[3] Sign height shall be determined based on the higher of: the adjacent grade level or the grade level of the adjacent street.
[4] The support structure shall be included within the measurement of the sign's maximum height.
[5] All portions of a ground sign shall be at least 5 feet from a public street right-of-way.

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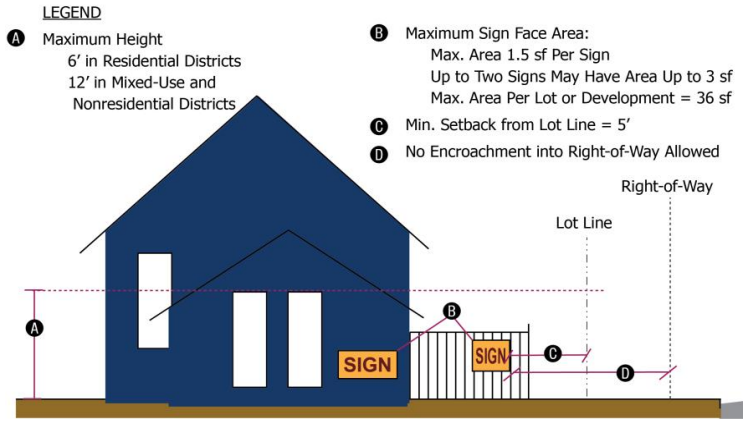
E. GROUND SIGNS CONTINUED

	NOTES:	[6] In cases where a ground sign is proposed and it is impossible to meet the minimum separation distance requirements from an existing ground sign, the proposed sign shall maintain the minimum street setback necessary to ensure an unimpeded view of the existing ground sign on an adjacent lot.
4. ADDITIONAL REQUIREMENTS	a. Establishment of a new ground sign on a lot with an existing pole or freestanding sign shall require removal of the existing pole or freestanding sign prior to or concurrent with establishment of the ground sign.	
	b. Ground signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.	
	c. A ground sign base may project outwards beyond the edge of the sign face or architectural embellishment by up to six inches on the front, rear, and each side of the sign.	
	d. In no instance shall the depth of a ground sign, including the sign base, architectural embellishments, and the sign face area exceed four feet.	
	e. Ground signs shall not be located on the same lot as a single-family detached, single-family attached, ~~two-family~~duplex, triplex, or quadplex dwelling.	
	f. A ground sign face area may be comprised of durable, UV resistant, professionally printed fabric stretched taught over an interior frame is permitted provided the sign does not show visible disrepair (fading, torn corners, etc.).	
	g. Except for open air uses of land, a ground sign may only be established on a lot with a principal structure.	
5. SAMPLE CALCULATION	LEGEND Ⓐ Maximum Sign Face Area = LxH: Ⓑ 6′ Max. Height in Residential District; 15′ in Mixed-Use and Nonresidential Districts Ⓒ 5′ Minimum Setback from Lot Line Ⓓ 6″ Max. Foundation Base Extension Ⓔ Allowable Architectural Embellishment Ⓕ Evergreen Shrubs Forming Opaque Screen	

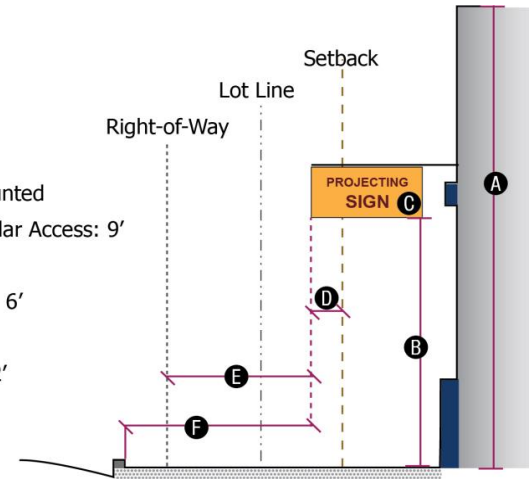




F. INCIDENTAL SIGNS

1. Definition	Any small or nondescript sign that only provides directional information or safety information for the public. Examples of incidental signs include signs addressing on-site traffic circulation (such as "entrance" or "exit" signs), public safety (such as "high voltage" or "beware of dog" signs), or address signs.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTN, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	Yes	Yes	Yes	Yes	Yes	Yes
3. Dimensional Standards [1]	**Maximum Number of Incidental Signs Per Lot**	Lots with an existing single family detached dwelling or manufactured home			1 per principal + 1 per secondary building	
		Lots with a single family attached, duplex, triplex, or quadplex dwelling unit			1 per dwelling unit	
		Multi family dwelling			1 per building + 5	
		Lots in a mixed-use or non-residential district			[2]	
	Maximum Height	6 feet for lots in residential districts; 12 feet for lots in mixed-use and non-residential districts [3]				
	Maximum Sign Face Area	1½ square feet per sign [4]				
	Total Incidental Sign Face Area per Mixed-use or Nonresidential Lot or Development	36 square feet				
	Minimum Setback from any Lot Line	5 feet [5]				
	NOTES:	[1] Incidental signs that exceed the maximum height or sign face area shall be considered as a wall sign, ground sign, pole sign, or projecting sign, as appropriate. [2] See total incidental sign face area per mixed-use or nonresidential lot or development. [3] Sign height shall be determined based on the grade adjacent to the sign. [4] Up to two incidental signs on any single lot may be up to three square feet in sign face area size. [5] In no instance shall an incidental sign be located within a right-of-way, a sight distance triangle, or in locations that obstruct the safe movement of vehicles and pedestrians					
4. Additional Requirements	a. No sign permit shall be required for the establishment of incidental signs, but all incidental signage shall comply with the standards in this section.					
5. Sample Calculation						

G. PROJECTING SIGNS

1. Definition	Any sign that projects outward from a building's exterior wall where the sign face area is not parallel to the building wall upon which is mounted. Projecting signs are also referred to as "marquee" signs. Signs mounted to a building wall with sign face areas that are parallel to the building wall are considered "wall" signs. A sign comprised of fabric or similar material is a "flag" or a "banner" sign.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTN, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	No	Yes	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Projecting Signs Per Lot**			One per building façade		
	Maximum Height			A projecting sign shall not project above the height of the wall it is mounted to [1]		
	Maximum Sign Face Area			40 square feet [2]		
	Minimum Setback from any Lot Line			A projecting sign shall not encroach into a required yard by more than 6 feet [3]		
	NOTES:	[1] Any projecting sign that projects into a right-of-way or that projects over a sidewalk or vehicular accessway shall maintain a minimum clearance of at least 9 feet above grade. [2] Projecting signs with 3 sides may have up to 80 square feet of sign area. [3] A projecting sign shall not project into a right-of-way by more than 36 inches, and shall maintain a minimum of two feet of horizontal distance from the back of the curb.				
4. Additional Requirements	Projecting signs of 1½ square feet in total sign area or less shall be considered incidental signs.					
	Any electrical wiring shall be located within the sign or the wall it is affixed to.					
	Projecting signs shall not be located on the same lot as a single-family detached, attached, ~~two-family~~duplex, triplex, or quadplex dwelling.					
	A projecting sign may only be established on a lot with a principal structure.					
5. Sample Calculation	LEGEND Ⓐ Max. Height: Wall on Which Sign is Mounted Ⓑ Min. Clearance Over Sidewalk or Vehicular Access: 9' Ⓒ Max. Sign Face Area: 40 sf Ⓓ Max. Encroachment into Required Yard: 6' Ⓔ Max. Projection into Right-of-Way: 36" Ⓕ Minimum Distance from Back of Curb: 2'					

H. SIDEWALK SIGNS

1. Definition

A pedestrian-oriented movable sign that sits on the grade located proximate to the primary entrance of the non-residential or mixed use being advertised. Sidewalk signs are also referred to as "A-frame" signs or "Board" signs. The sign shall be self-supporting and only visible during operating hours. Sidewalk signs are configured with a broader base then a top or are equipped with supports to ensure they remain stable in normal wind conditions.

2. Districts Where Permitted

CON, PUB	Residential, CZR	OFI, NCM	DTN, CZD, MXD, CZM	CRM, CZC	LID, HID, CZI
No	Yes	No	Yes	Yes	No

3. Dimensional Standards

Maximum Number of Sidewalk Signs Per Lot	1 per street frontage, regardless of the number of tenants [1] [2]
Minimum Clearance Around Sidewalk Sign	5 feet [3] [4]
Maximum Height	4 feet
Maximum Sign Face Area	8.5 square feet
Maximum Number of Sidewalk Sign Sides	2
Maximum Distance from Primary Entrance of Use Being Advertised	25 linear feet

NOTES:

[1] Sidewalk signs may only be permitted on a sidewalk or on-site pedestrian walkway.
[2] Nothing shall limit the rotating of different sidewalk signs on an individual lot provided the total number of signs does not exceed the maximum.
[3] A sidewalk sign may only be placed in a manner that allows for unrestricted pedestrian access around all sides of the sign, and shall not be located within a disabled pedestrian access ramp, proximate to an accessible parking space, or within a sight distance triangle.
[4] A sidewalk sign shall be no closer than 6 inches from the curb.

4. Additional Requirements

a. A sidewalk sign shall not be permanently attached to the sidewalk, signs, street trees, landscaping, bicycle rack, or any other fixtures on the sidewalk.

b. Sidewalk signs may be located within the street right-of-way adjacent to lots in the DTN, MXD, CZM districts only.

c. Each sidewalk sign shall be removed each day by the close of business.

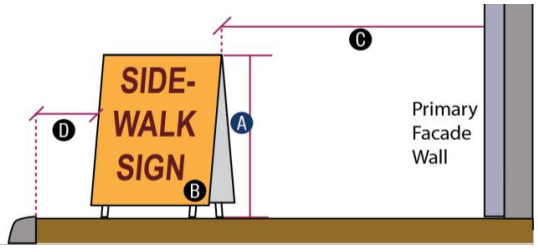
d. Sidewalks signs may include changeable copy.

e. Sidewalks signs shall not be illuminated.

f. Except for open air uses of land, a sidewalk sign must be associated with an adjacent principal structure.

5. Sample Calculation

LEGEND
- Ⓐ Maximum Height = 4′
- Ⓑ Maximum Sign Face Area = 8.5 sf
- Ⓒ Minimum Clearance = 5′
- Ⓓ Min. Distance from Curb = 6″



I. SUBDIVISION SIGNS

1. Definition

A ground sign located at the entrance to a subdivision consisting of two or more lots. Subdivision signs shall be located outside all street rights-of-way, unless permitted by the Engineering Director, and shall not be located on a lot with a principal building.

2. Districts Where Permitted

CON, PUB	Residential, CZR	OFI, NCM	DTN, CZD, MXD, CZM	CRM, CZC	LID, HID, CZI
No	Yes	Yes	Yes	Yes	Yes

3. Dimensional Standards

Maximum Number of Subdivision Signs Per Development	1 per development entrance
Maximum Height	6 feet [1]
Maximum Sign Face Area	32 square feet [2] [3]
Minimum Setback from any Lot Line	None
Minimum Setback from Right-of-Way	5 feet

NOTES:
[1] Sign height shall be determined based on the higher of: the adjacent grade level or the grade level of the adjacent street.
[2] The support structure for a subdivision sign configured as a ground sign shall not be included with the calculation of the maximum allowable sign face area.
[3] Developments with 2 or more entries may have up to 64 square feet of subdivision sign provided that no single entry has a subdivision sign with a sign face area exceeding 32 square feet.

4. Additional Requirements

a. Subdivision signs may only be configured as a ground sign.

b. Subdivision signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.

c. Subdivision signs that are illuminated shall comply with the applicable limitations on glare in Section <>, Exterior Lighting.

5. Sample Calculation

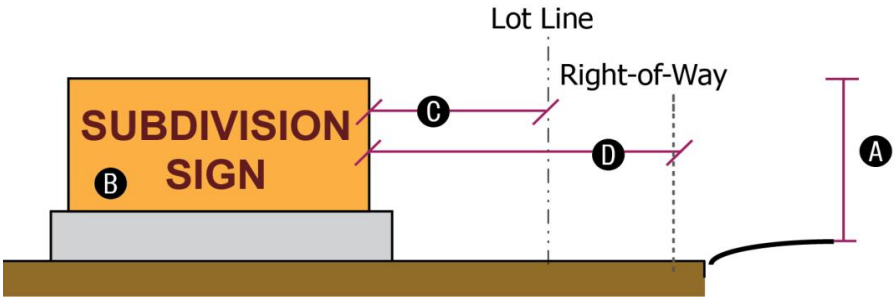
LEGEND

Ⓐ 6′ Maximum Height

Ⓑ Maximum Sign Face Area = 32 sf
(Support Structure Not Counted as Sign Area)

Ⓒ No Min. Setback from Lot Line

Ⓓ Minimum Setback from Right-of-Way = 5′



J. SUSPENDED SIGNS

1. Definition

A sign that is suspended from the underside of a principal building's overhang or canopy that is intended for view by pedestrians or patrons already on a site. The sign may be parallel or perpendicular to the building wall. A sign that is not suspended from a canopy or overhang of a building is not a suspended sign. A sign mounted on a building wall parallel to the wall is a "wall" sign. A sign mounted on a building wall perpendicular to the building wall is a "projecting" sign. Signs visible through a window are "window" signs.

2. Districts Where Permitted

CON, PUB	Residential, CZR	OFI, NCM	DTN, CZD, MXD, CZM	CRM, CZC	LID, HID, CZI
No	No	Yes	Yes	Yes	Yes

3. Dimensional Standards

Maximum Number of Projection Signs Per Development	1 per lot or 1 per tenant in a multi-tenant building
Maximum Mounting Height	Below the roof or parapet [1]
Maximum Sign Face Area	3 square feet; 6 square feet in the DTN district
Minimum Setback from any Lot Line	[2]

NOTES:
[1] Any suspended sign that projects into a right-of-way or that projects over a sidewalk, walkway, or vehicular accessway shall maintain a minimum clearance of at least 9 feet above the grade or the walkway.
[2] A suspended sign shall maintain a minimum of two feet of horizontal distance from the back of the curb.

4. Additional Requirements

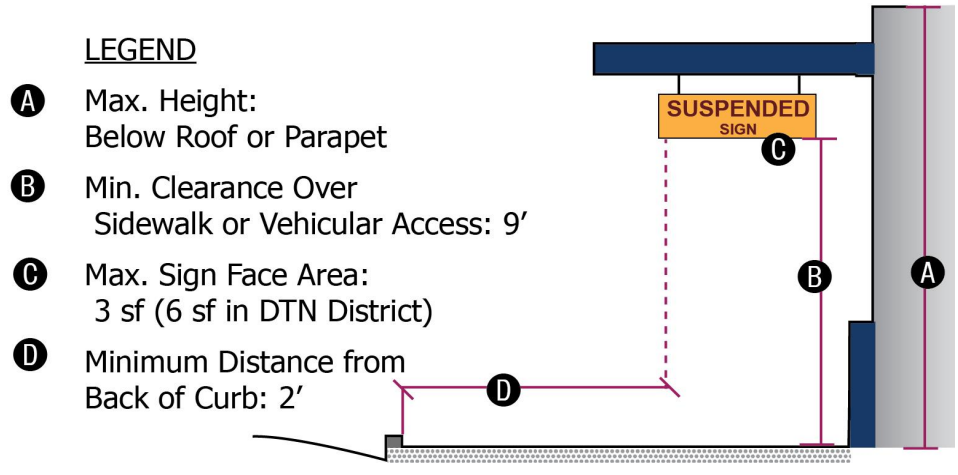
a. Suspended signs shall not project beyond the canopy or overhang they are mounted to.

b. Suspended signs shall be flush mounted or drop mounted with metal pipe, chain, wire, or other comparable material and permanently affixed to the overhang or canopy where mounted.

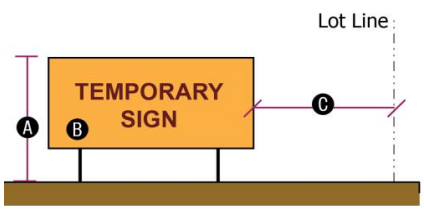
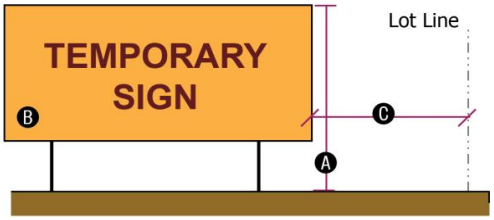
c. Suspended signs shall not be mounted to an accessory structure.

d. A suspended sign may only be established on a lot with a principal structure.

5. Sample Calculation



K. TEMPORARY SIGNS

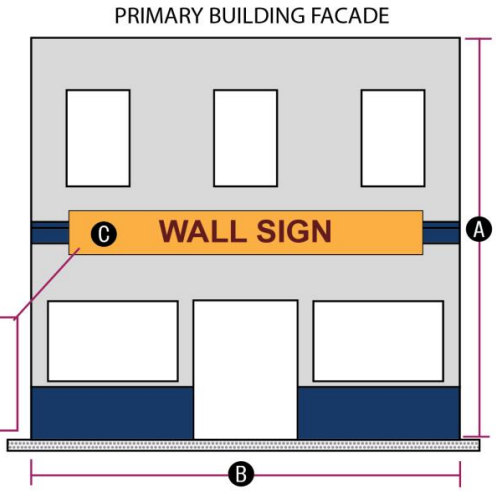
1. Definition	Any sign that is not permanently affixed to the ground or a building which can be removed without special handling and which is in place for a limited duration. Banners and incidental signs are not supplemental signs. Ideological signs are considered supplemental signs.					
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTN, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**
	Yes	Yes	Yes	Yes	Yes	Yes
3. Dimensional Standards	**Maximum Number of Supplemental Signs Per Lot**		1 per lot + 1 per non-residential tenant in a multi-tenant development			
	Maximum Sign Height [1]		Residential Districts		6 feet	
			All Other Districts		12 feet	
	Maximum Sign Face Area [2]		Residential Districts		6 square feet	
			All Other Districts		32 square feet [3]	
	Minimum Setback		10 feet from the edge of pavement or minimum necessary to avoid placement within a street right-of-way [4]			
	Maximum Duration		30 days per site per calendar year			
	Maximum Frequency		Not more than twice per site per calendar year			
	NOTES:		[1] Sign support structures shall be included in maximum sign height and face area. [2] Signs visible through a window are also subject to the standards for window signs. [3] In the case of a multi-tenant building, the temporary sign provided to each individual tenant shall not exceed 6 square feet in area. [4] Signs in a unified development shall be at least 10 feet from the outside perimeter boundary of the development.			
4. Additional Requirements	a. Temporary signs shall not require issuance of a Sign Permit but do require approval of a Temporary Permit.					
	b. Temporary signs shall not be located within a street right-of-way.					
	e. Temporary signs may not be illuminated.					
	f. Temporary signs shall not block windows or doors.					
	h. A temporary sign consisting of durable, UV resistant, professionally printed fabric stretched taught over an interior frame is permitted provided the sign does not show visible disrepair (fading, torn corners, etc.).					
5. Sample Calculation	In Residential Districts A Maximum Height = 6′ B Maximum Sign Face Area = 6 sf C Min. Setback from Lot Line = 10′ 		In Nonesidential Districts A Maximum Height = 12′ B Maximum Sign Face Area = 20 sf C Min. Setback from Lot Line = 10′ 			

L. WALL SIGNS

1. Definition	Any sign, other than a projecting sign, that is mounted to or painted on an exterior building wall. Wall signs have only one sign face and are configured to be parallel to the building wall upon which they are located. Signs mounted perpendicular to a wall are "projecting" signs. Signs mounted from the ceiling of a building's canopy or overhang are "suspended" signs. Signs made of fabric or other material that moves are "banners" or "flags." Signs visible through a window are "window" signs.						
2. Districts Where Permitted	**CON, PUB**	**Residential, CZR**	**OFI, NCM**	**DTN, CZD, MXD, CZM**	**CRM, CZC**	**LID, HID, CZI**	
	Yes	Yes	Yes	Yes	Yes	Yes	
3. Dimensional Standards	**District**	**Type of Tenancy**	**Type of Façade [1]**	**Max. # of Signs**	**Total Sign Area/Façade [2]**		
	CON, PUB, Residential, CZR	All	Primary [3]	1	16 square feet		
	OFI, NCM	Single-tenant	Primary [3]	1	32 square feet		
		Multi-tenant	Primary [3]	1/tenant			
	All Others	Single-tenant [4]	Primary	2	Lesser of: 1.5 sf/linear foot of building façade or 200 sf		
		Single-tenant [4]	Secondary	1	Lesser of: 1 sf/linear foot of building façade or 100 sf		
		Multi-tenant	Primary	1/tenant	Lesser of: 1.5 sf/linear foot of building façade or 200 sf		
		Multi-tenant	Secondary	1/tenant [5]	Lesser of: 1 sf/linear foot of building façade or 100 sf		
		Large format retail	Primary	4	Lesser of: 1.5 sf/linear foot of building façade or 200 sf		
		Large format retail	Secondary	2	Lesser of: 1 sf/linear foot of building façade or 100 sf		
	Maximum Mounting Height	No wall sign shall extend above, below, or beyond the building wall to which it is attached [6]					
	Maximum Distance from a Building Corner or Multi-Tenant Boundary	Wall signs shall be no less than 18 inches from the outside corner of a building wall or from the boundary of a tenant's wall frontage on a multi-tenant building					
	Minimum Setback from any Lot Line	Same as the building [7]					
	NOTES:	[1] See Section <>, Non-Residential Building Walls Distinguished, for building façade type determination. [2] This is the total amount of allowable wall sign face area per façade of a single-tenant or a large format retail building, regardless of the number of individual wall signs on the façade. It is also the total amount of allowable wall sign face area per individual tenant wall frontage in a multi-tenant building (see Section <>, Sign Measurement, for determination of individual tenant wall frontage). [3] Wall signs not permitted on secondary or tertiary building facades.					

Continued on the Following Page

L. WALLS SIGNS CONTINUED

		[4] Does not include large format retail establishments. [5] End units in a multi-tenant building may have a wall sign on a primary and secondary building façade. [6] Wall signs that project into a right-of-way shall maintain a minimum vertical clearance of at least 9 feet above grade. [7] Wall signs shall not project into a right-of-way by more than six inches.
4. Additional Requirements	a. No wall sign shall be located in a manner that covers or blocks ingress or egress from a door, window, or fire escape.	
	b. Any electrical wiring shall be located within the sign or the wall it is affixed to.	
	c. Wall signs on secondary building walls abutting a residential use shall not be illuminated.	
	d. Wall signs that are illuminated shall comply with the applicable limitations on glare in Section <>, Exterior Lighting.	
	e. A wall sign face area may consist of durable, UV resistant, professionally printed fabric stretched taught over an interior frame is permitted provided the sign does not show visible disrepair (fading, torn corners, etc.).	
	f. A wall sign may only be established on a lot with a principal structure.	
5. Sample Calculation	Ⓐ Max. Height: Height of Building Ⓑ Primary Facade Length Ⓒ Max. Sign Face Area: 16 sf Residential Districts 32 sf OFI and NCM Districts All Other Districts = Lesser of: 1.5 sf area per linear foot of facade or 200 sf on primary building facade; + Lesser of: 1 sf area per linear foot of facade or 100 sf on secondary or building facades EXAMPLE: Building is in CRM District 30' Primary Facade Length Max. Wall Sign Area = 30 x 1.5 = **45 sf**	

M. WINDOW SIGNS

1. Definition

A sign affixed to or visible through the surface of a window or glass door that is intended to be visible to the public from outside the building. Signs painted on glass and etched or frosted glass that includes text or symbols shall be considered as a window sign. Signs not visible from off-site areas are exempted from these standards. Signs mounted to a building's exterior wall are "wall" signs.

2. Districts Where Permitted

CON, PUB	Residential, CZR	OFI, NCM	DTN, CZD, MXD, CZM	CRM, CZC	LID, HID, CZI
No	No	Yes	Yes	Yes	Yes

3. Dimensional Standards

Maximum Number of Window Signs Per Development	No limit, subject to the maximum sign face area standards	
Maximum Mounting Height	Window signs are not permitted above the second story or higher than 25 feet above ground level	
Maximum Sign Face Area [1]	DTN District	25% of the outer extent of any single window or door [2]
	All Other Districts	33% of the outer extent of any single window or door [2]

NOTES:
[1] Groups of multiple windows or doors within six inches of one another on the same building façade shall be considered as one window or door for the purposes of sign face area calculation.
[2] Window signs shall not be located or configured in ways that prevent patrons operating doors safely.

4. Additional Requirements

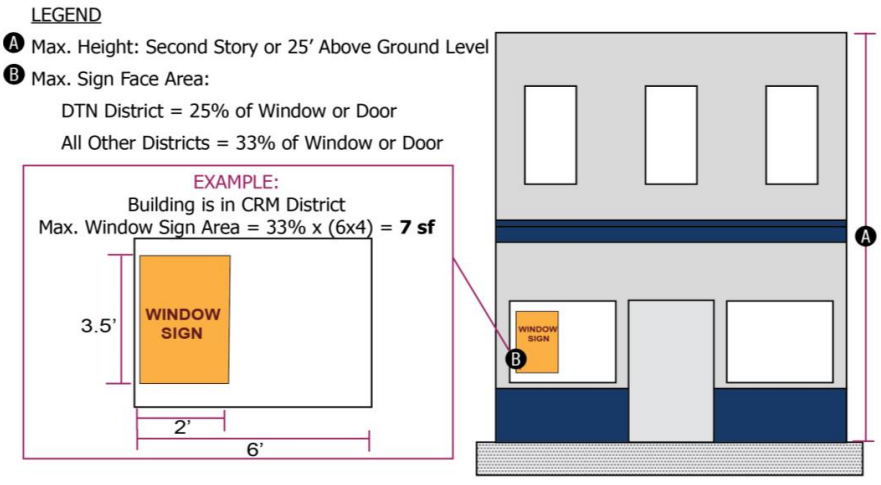
a. Up to six square feet of window signage may be illuminated per lot or tenant in a multi-tenant building.

b. Material used to block views into a vacant building (such as brown paper) is not considered to be a window sign.

c. Blinds, shades, or curtains bearing symbols or text that is visible from off-site areas shall be considered to be a window sign subject to these standards.

d. A window sign may only be established on a lot with a principal structure.

5. Sample Calculation



6.14 SOIL EROSION & SEDIMENTATION CONTROL[335]

6.14.1 PURPOSE AND INTENT

This section is adopted for the purposes of:

A. Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and

B. Establishing procedures through which these purposes can be fulfilled.

6.14.2 SCOPE AND EXCLUSIONS

A. GEOGRAPHICAL SCOPE OF REGULATED LAND-DISTURBING ACTIVITY

This section shall apply to land-disturbing activity within the territorial jurisdiction of the town and to the extraterritorial jurisdiction of the Town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

B. EXCLUSIONS FROM REGULATED LAND-DISTURBING ACTIVITY

Notwithstanding the general applicability of this section to all land-disturbing activity, these standards shall not apply to the following types of land-disturbing activity:

1. Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
   - **a.** Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.
   - **b.** Dairy animals and dairy products.
   - **c.** Poultry and poultry products.
   - **d.** Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
   - **e.** Bees and apiary products.
   - **f.** Fur producing animals.
   - **g.** Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.
2. An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this chapter shall apply to such activity and any related land-disturbing activity on the tract.
3. An activity for which a permit is required under the Mining Act of 1971, North Carolina General Statutes Chapter 74, Article 7.
4. A land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in NCGS§113A-56(a).
5. An activity which is essential to protect human life during an emergency.

[335] This section carries forward Chapter 156 from the Town Code of Ordinances. The provisions pertaining to definitions, procedures, and enforcement have been relocated to the appropriate locations in this draft Ordinance.

6. Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
7. Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations Section 12.2.
8. Notwithstanding the general requirement to obtain a plan approval prior to undertaking land-disturbing activity, a plan approval shall not be required for land-disturbing activity that does not exceed one acre (43,560 square feet) in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

C. PLAN APPROVAL REQUIREMENT FOR LAND-DISTURBING ACTIVITY

No person shall undertake any land-disturbing activity subject to this section without first obtaining the appropriate form(s) of approval from the Town.

D. PROTECTION OF PROPERTY

Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

6.14.3 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY

No land-disturbing activity subject to these standards shall be undertaken except in accordance with the following:

A. BUFFER ZONE; STANDARD BUFFER

1. No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity.

a. PROJECTS ON, OVER OR UNDER WATER

This standard shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

b. BUFFER MEASUREMENT

Unless otherwise provided, the width of a buffer zone is measured horizontally from the top of bank to the nearest edge of the disturbed area, with the 25% of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

B. GRADED SLOPES AND FILLS

The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 14 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

C. FILL MATERIAL

Unless a permit from the Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding 12 inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.

D. GROUND COVER

Whenever land-disturbing activity is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Provisions for a ground cover sufficient to restrain erosion must be accomplished within 14 calendar days following completion of construction or development if an NCG01 permit is required. Unless where otherwise specified in the Act or the rules of this chapter, provisions for permanent ground cover sufficient to restrain erosion shall be accomplished within 90 calendar days following completion of construction or development.

E. PRIOR PLAN APPROVAL

No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless, 30 or more days prior to initiating the activity, a plan for the activity is filed with and approved by the Town. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved.

F. DE-WATERING

The Town shall forward to the Director of the Division of Water Resources a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

G. PLAN APPROVAL REQUIRED

1. The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.
2. All individuals that obtain a state or locally-approved erosion and sedimentation control plan that disturb one acre or more of land are required by the U.S. Environmental Protection Agency to obtain coverage under the N.C. Department of Environmental Quality Construction General Permit No. NCG010000 (NCG01). The requirements in NCG01 for temporary or permanent ground cover may differ from the ground cover, or stabilization, requirements in this chapter. It is the responsibility of the person conducting the land-disturbing activity to ensure compliance with the NCG01.

6.14.4 EFFECTIVE DATE

This section shall be effective on January 1, 2021.

6.14.5 VIOLATIONS

Violations of these provisions shall be addressed in accordance with Chapter 7, Violations, including Section <>, Violation of Soil Erosion and Sedimentation Controls.

6.14.6 EROSION AND SEDIMENTATION CONTROL PLANS

A. PLAN SUBMISSIONS

A plan shall be prepared for all land-disturbing activities subject to this section whenever the proposed activity will disturb more than one acre on a tract. Plans should be submitted per current Town standard procedures and policies.

B. FINANCIAL RESPONSIBILITY AND OWNERSHIP

1. Plans shall be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible; (2) the owner of the land; and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this section, or rules or orders adopted or issued pursuant to this section. Except as provided in Section <>, Utilities, and Section <>, Plan Appeals, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.
2. Plans shall be disapproved unless accompanied by documentation of property ownership.

C. UTILITIES

If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

D. PERFORMANCE GUARANTEE

1. A performance guarantee, configured in accordance with Section <>, Performance Guarantee, is required to ensure that stabilization of the site is achieved throughout the disturbed area in the event the contractor is unable to complete the project and shall be paid to the Town prior to the issuance of the Land Disturbance Permit.
2. The guarantee amount shall be equal to $1,500/acre of land disturbance rounded to the nearest half acre.
3. The guarantee will be released once a certificate of completion is issued by the Town. A certificate of completion will be provided when the site is stabilized with a sufficient amount of ground cover to prevent erosion, or permanent mow-able planting with 100% coverage and 80% growth with no large bare patches.
4. The Town may cash the guarantee if the site is issued a continuing violation notice for ground stabilization.

E. ENVIRONMENTAL POLICY ACT DOCUMENT

Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (NCGS§ 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Town shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to this section shall not begin until a complete environmental document is available for review.

F. CONTENT

The plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with these requirements. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the Town on request.

G. TIMELINE FOR DECISIONS ON PLANS

1. The Town will review each complete plan submitted to them and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved.
2. Failure to approve, approve with modifications, or disapprove a complete plan within 30 days of receipt shall be deemed approval.
3. The Town of Clayton will review each revised plan submitted to them and within 15 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved.
4. Failure to approve, approve with modifications, or disapprove a revised plan within 15 days of receipt shall be deemed approval.

H. APPROVAL

1. The Town shall only approve a plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and State water quality laws, regulations, and rules.
2. The Town shall condition approval of plans upon the applicant's compliance with federal and State water quality laws, regulations, and rules.
3. Plan approval is contingent on land-disturbing activity commencing within a year of Land ~~Distrubing~~Disturbing Permit issuance.
4. Issuance and regulation of a Land Disturbance Permit shall be in accordance with Section <>, Land Disturbance Permit.

I. DISAPPROVAL FOR CONTENT

The Town may disapprove a plan or draft plan based on its content. A disapproval based upon a plan's content must specifically state in writing the reasons for disapproval.

J. OTHER DISAPPROVALS

1. The Town shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters.

2. The Town may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under Section <>, Plan Appeals, upon finding than an applicant or a parent, subsidiary, or other affiliate of the applicant:
   a. Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or the Town pursuant to this section and has not complied with the notice within the time specified in the notice.
   b. Has failed to pay a civil penalty assessed pursuant to these standards by the time the payment is due.
   c. Has been convicted of a misdemeanor pursuant to NCGS§ 113A-64(b) or other aspect of these standards.
   d. Has failed to substantially comply with State rules or these regulations.
3. In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Town pursuant to this sub-section, the Town shall notify the Director of the Division of Energy, Mineral, and Land Resources within ten days of the disapproval. The Town shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section <>, Plan Appeals, the applicant may appeal the local government's disapproval of the plan directly to the Commission.
4. For purposes of this section, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

K. PLAN APPEALS

1. The appeal of a disapproval or approval with modifications of a plan shall be governed by the following provisions:
   a. The disapproval or modification of any proposed plan by the Town, may be appealed in accordance with Section <>, Appeal.
   b. If the Board of Adjustment upholds the disapproval or modification of a proposed plan following the hearing, the person submitting the plan shall then be entitled to appeal the decision to the Commission as provided NCGS§ 113A-61(c) and 15A NCAC 4B.0118(d).
2. In the event that a plan is disapproved pursuant to Section <>, Other Disapprovals, the applicant may appeal the Town's disapproval directly to the Commission.

L. TRANSFERS

The Town may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this section.

1. The Town may transfer a plan if all of the following conditions are met:
   a. The successor-owner of the property submits to the Town a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.
   b. The Town finds all of the following:
      i. The plan holder is one of the following:
         1. A natural person who is deceased.
         2. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

3. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
4. A person who has sold the property on which the permitted activity is occurring or will occur.

ii. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
iii. The successor-owner is the sole claimant of the right to engage in the permitted activity.
iv. There will be no substantial change in the permitted activity.

2. The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
3. The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
4. Notwithstanding changes to law made after the original issuance of the plan, the Town may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this section shall prevent the Town from requiring a revised plan pursuant to NCGS§ 113A-54.1(b).

M. NOTICE OF ACTIVITY INITIATION

No person may initiate a land-disturbing activity before notifying the agency that issued the plan approval of the date that land-disturbing activity will begin.

N. PRE-CONSTRUCTION CONFERENCE

When deemed necessary by the Town, a pre-construction conference may be required and shall be noted on the approved plan.

O. DISPLAY OF PLAN APPROVAL

1. A plan approval issued under this section shall be prominently displayed at either the primary entrance of the job site or at another location that is observable to the public and inspectors until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized.
2. A paper copy of the approved plan shall be kept on file at the job site.

P. REQUIRED REVISIONS

After approving a plan, if the Town, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Town shall require a revised plan.
Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.
If following commencement of a land-disturbing activity pursuant to an approved plan, the Town determines that the plan is inadequate to meet the requirements of this section, the Town may require any revision of the plan that is necessary to comply with these standards.

Q. AMENDMENT TO A PLAN

Applications for amendment of a plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as the amendment is approved by the Town, the land-disturbing activity shall not proceed except in accordance with the plan as originally approved.

R. FAILURE TO FILE A PLAN

Any person engaged in land-disturbing activity who fails to file a plan in accordance with this section, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this Ordinance.

6.14.7 INSPECTIONS

A. SELF INSPECTIONS

1. The landowner, the financially responsible party, or their agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with NCGS§ 113A-57(2).
2. In addition, weekly and rain-event self-inspections are required by federal regulations that are implemented through the NPDES Construction General Permit No. NCG 010000.
3. The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation; and document the completion of those measures.
4. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan.
5. The inspections required by this section shall be in addition to inspections required by NCGS§ 113A-61.1.
6. Where inspections are required by this section or NCGS§ 113A-54.1(e), the following apply:
   a. The inspection shall be performed during or after each of the following phases of a plan:
      i. Installation of all erosion and sediment control measures;
      ii. Clearing and grubbing of existing ground cover;
      iii. Completion of any grading that requires ground cover;
      iv. Completion of storm drainage facilities;
      v. Completion of all land-disturbing activities, construction, or development, including permanent ground cover establishment and removal of all temporary measures;
      vi. Quarterly until the establishment of permanent ground cover sufficient to restrain erosion;
      vii. Transfer of ownership or control of the tract of land where the erosion and sedimentation control plan has been approved and work has begun. The new owner or person in control shall conduct and document inspections until the project is permanently stabilized with ground cover following completion of grading.
   b. Documentation of self-inspections shall include:
      i. Visual verification of ground stabilization and other erosion control measures and practices as called for in the approved plan;
      ii. Verification by measurement of settling basins, temporary construction entrances, energy dissipators, and traps;
      iii. The name, address, organization affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection shall be included, whether on a copy of the approved erosion and sedimentation control plan or an inspection report. A template for an example of an inspection and monitoring report is provided on the DEMLR website at: https://deq.nc.gov/about/divisions/energy-mineral land-resources/erosion-sediment-control/forms. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site.

iv. A record of any significant deviation from any erosion or sedimentation control measure from that on the approved plan. For the purpose of this rule, a "significant deviation" means an omission, alternation, or relocation of an erosion or sedimentation control measure that prevents it from performing as intended. The record shall include measures required to correct the significant deviation, along with documentation of when those measures were taken. Deviations from the approved plan may also be recommended to enhance the intended performance of the sedimentation and erosion control measures..

B. OTHER INSPECTIONS AND INVESTIGATIONS

1. INSPECTION

Agents, officials, or other qualified persons authorized by the Town, will periodically inspect land-disturbing activities to ensure compliance with the Act, this section, or rules or orders adopted or issued pursuant to this section, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan.

2. WILLFUL RESISTANCE, DELAY OR OBSTRUCTION

No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Town, while that person is inspecting or attempting to inspect a land-disturbing activity under this section.

3. NOTICE OF VIOLATION

If the town determines that a person engaged in land-disturbing activity has failed to comply with the Act, this section, or rules or orders adopted or issued pursuant to this section, a notice of violation shall be served upon that person in accordance with Section <>, Enforcement Procedure.

4. INVESTIGATION

The Town shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this section, and who presents appropriate credentials for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.

5. STATEMENTS AND REPORTS

The Town shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

6.14.8 BASIC CONTROL OBJECTIVES

A. OBJECTIVES

An erosion and sedimentation control plan may be disapproved if the plan fails to address the following control objectives:

1. IDENTIFY CRITICAL AREAS

On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

2. LIMIT TIME OF EXPOSURE

Limit exposure to the shortest time specified in NCGS§ 113A-57, the rules of this section, or as directed by the approving authority.

3. LIMIT EXPOSED AREAS

All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at anyone time.

4. CONTROL SURFACE WATER

Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

5. CONTROL SEDIMENTATION

All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.

6. MANAGE STORMWATER RUNOFF

Plans shall be designed so that any increase in velocity of stormwater runoff resulting from a land-disturbing activity will not result in accelerated erosion of the receiving stormwater conveyance or at the point of discharge. Plans shall include measures to prevent accelerated erosion within the project boundary and at the point of discharge.

6.14.9 DESIGN AND PERFORMANCE STANDARDS

A. DESIGN AND PERFORMANCE STANDARDS

1. Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of a ten-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture, Natural Resources Conservation Service's "National Engineering Field Handbook 630 (Handbook 630)."
2. This document is herein incorporated by reference including subsequent amendments and editions.
3. Other methodologies may be used if based on generally accepted engineering standards that are shown to be equivalent to or improved over the procedures in Handbook 630. The approving authority shall determine acceptability of an alternative methodology based upon a showing that the runoff model used was based on observed data in agreement with the predictive model.
4. The Sedimentation Control Commission and DEQ have created and adopted a North Carolina Erosion and Sedimentation Control Planning and Design Manual describing recommended sedimentation control techniques for construction activities. This is an acceptable resource for design of the erosion control plan.

6.14.10 STORMWATER OUTLET PROTECTION

A. INTENT

Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.

B. PERFORMANCE STANDARD

1. Persons shall conduct land-disturbing activity so that the post construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
   a. The velocity established in Table <>, Maximum Permissible Velocities; or
   b. The velocity of the ten-year storm runoff in the receiving watercourse prior to development.
2. If the standards in sub-section (1) above cannot be met, then the receiving watercourse and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by 10 percent.

TABLE <>: MAXIMUM PERMISSIBLE VELOCITIES

MATERIAL	FPS (FEET PER SECOND)	MPS (METERS PER SECOND)
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

C. ACCEPTABLE MANAGEMENT MEASURES

Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Town recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

1. Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
2. Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;
3. Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;
4. Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and
5. Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

D. EXCEPTIONS

This rule shall not apply where it can be demonstrated to the Town that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

6.14.11 OTHER DISTURBED AREAS

A. BORROW AND WASTE AREAS

1. If the same person conducts the land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, NCGS Chapter 74, Article 7, or is a landfill regulated by the Division of Waste Management.
2. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered by the approving authority as separate land-disturbing activities.

B. ACCESS AND HAUL ROADS

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

6.14.12 NATURAL FEATURES

A. OPERATIONS IN LAKES AND NATURAL WATERCOURSES

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize changes in the stream flow characteristics. Permits shall be obtained by other regulatory authorities, such as DEQ and USACE, when applicable and prior to issuance of grading permit from the Town.

6.14.13 MAINTENANCE

A. RESPONSIBILITY FOR MAINTENANCE

1. During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this section, the North Carolina Environment Policy Act (NCGS§ 113A-1, et seq.), or any order adopted pursuant to this section or the Act.
2. After site development, the landowner or person in possession or control of the land shall maintain all necessary permanent stormwater post-construction measures per the town's NPDES Phase 2 permit, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

B. ADDITIONAL MEASURES

Whenever the Town, determines that accelerated erosion and sedimentation continues despite the installation of protective practices, they shall direct the person conducting the land-disturbing activity to take additional protective action necessary to achieve compliance with the conditions specified in the North Carolina Environment Policy Act (NCGS§ 113A-1, et seq.) or its rules.

6.15 STORMWATER[336]

6.15.1 AUTHORITY

The Town is authorized to adopt these stormwater standards pursuant to North Carolina law, including but not limited to:

A. Article 14, Section 5 of the Constitution of North Carolina;
B. NCGS§143-214.7 and rules promulgated by the Environmental Management Commission thereunder;
C. NCGS§§ 143-215.6A, 153A-454, 160A-174, 160A-185, and 160A-459;
D. Session Law 2009-216 and Session Law 2009-484;
E. Section NCAC 02B .0711 of the North Carolina Administrative Code;
F. The Charter of the Town of Clayton; and
G. Any special legislation enacted by the North Carolina General ~~Asssmebly~~Assembly for the Town of Clayton.

6.15.2 FINDINGS

A. It is hereby determined that:
  1. Development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;
  2. These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and
  3. These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.
B. It is further determined that the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this section.
C. Additionally, the North Carolina Environmental Management Commission has identified and has promulgated rules that have been amended and affirmed by the North Carolina General Assembly (Neuse River Nutrient Management Strategy) to reduce the average annual loads of nitrogen delivered to the Neuse River Basin from all point and nonpoint sources of these nutrients located within its watershed, including stormwater from new development in Clayton's planning jurisdiction;
D. Therefore, the Town establishes this set of water quality and quantity regulations to meet the requirements of State and federal law regarding control of stormwater runoff and discharge from development and redevelopment.

6.15.3 PURPOSE

A. The purpose of this section is to protect, maintain and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to

[336] This section carries forward Chapter 158 from the Town Code of Ordinances with amendments based on the updated State model code made by Engineering. The section has been revised to relocate definitions, procedures, and enforcement-related provisions to the appropriate places in this Ordinance.

control the adverse effects of increased post-development stormwater runoff, including nitrogen, phosphorus, and total suspended solids in stormwater runoff, as well as to control the adverse effects of nonpoint and point source pollution associated with new development and redevelopment. It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

B. This section seeks to meet its general purpose through the following specific objectives and means:

1. Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;
2. Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
3. Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establishing design and review criteria for the construction, function, and use of structural stormwater best management practices ("BMPs") and stormwater control measures ("SCMs") that may be used to meet the minimum post-development stormwater management standards;
5. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;
6. Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs and SCMs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
7. Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance;
8. Controlling illicit discharges into municipal separate stormwater system;
9. Coordinating site design plans that include open space and res; and
10. Assigning responsibility and processes for approving the creation and maintenance of adequate drainage.

6.15.4 APPLICABILITY AND JURISDICTION

A. GENERAL

Beginning with and subsequent to its effective date, this section shall be applicable to all development and redevelopment, including, but not limited to, Site Plan applications, Subdivision applications, and Land Disturbance Permit applications, unless exempted in accordance with Section <>, Exemptions.

B. ESTABLISHMENT OF VESTED RIGHTS

Vested rights are established in accordance with Section <>, Vested Rights, and Section <>, Vested Rights Certificate.

C. EXEMPTIONS

The following forms of development and actions shall be exempted from the requirements in this section:

1. Single-family detached dwellings, ~~two-family~~duplex dwellings, and manufactured home dwellings and recreational development and redevelopment that cumulatively disturbs less than one acre and are not part of a larger common plan of development or sale are exempt from the provisions of this section, unless deemed otherwise by the Stormwater Administrator.
2. Commercial, industrial, institutional, single-family attached, and multi-family residential, or local government development and redevelopment that cumulatively disturbs less than one-half acre and are not part of a larger common plan of development or sale are exempt from the provisions of this section.
3. Development and redevelopment that disturbs less than a stated area threshold are not exempt if such activities are part of a larger common plan of development or sale that exceeds the relevant threshold, even though multiple, separate, or distinct activities take place at different times on different schedules.
4. Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from these provisions.
5. In accordance with the requirements of 15A NCAC 02B .0711 and the Town's Phase II Permit NCS000559, new development undertaken by the Town solely as a public road project shall be deemed compliant with the purposed of this section if it meets the riparian buffer protection requirements of the Neuse River buffer rules. For these public road projects, the following shall be done to the maximum extent practicable:
   a. Minimize BUA;
   b. Divert runoff away from surface waters; and
   c. Implement BMPs and SCMs.
6. Existing impervious surfaces established prior to November 1, 2008, as determined through aerial photography, permits, plans, etc. however, if the impervious area limits are reduced after November 1, 2008 and the previously impervious area is reestablished as pervious for a period of one year or more, the impervious area is no longer exempt.

D. NO DEVELOPMENT OR REDEVELOPMENT UNTIL COMPLIANCE AND PERMIT

1. No development or redevelopment shall occur except in compliance with the provisions of this section or unless exempted.
2. No development for which a permit is required pursuant to this section shall occur except in compliance with the provisions, conditions, and limitations of the permit.

E. MAP

1. The provisions of this chapter shall apply within the areas designated on the map titled "Stormwater Map of Town of Clayton, North Carolina" (the Stormwater Map), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this chapter.
2. The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this section and the geographic location of all engineered stormwater controls permitted under this section. In the event of a dispute, the applicability of this section to a particular area of land or SCM or

BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and this Ordinance.

6.15.5 DESIGN MANUAL[337]

A. REFERENCE TO DESIGN MANUAL

1. The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Design Manual as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater SCMs.
2. The Design Manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II and other applicable stormwater laws.

B. RELATIONSHIP OF DESIGN MANUAL TO OTHER LAWS AND REGULATIONS

If the specifications or guidelines of the Design Manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Design Manual.

C. CHANGES TO STANDARDS AND SPECIFICATIONS

If the standards, specifications, guidelines, policies, criteria, or other information in the Design Manual are amended subsequent to the submittal of an application for approval pursuant to this chapter but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this chapter with regard to the application.

6.15.6 EFFECTIVE DATE

These standards shall take effect on ~~January 1, 2021~~ (*insert the effective date of this Ordinance*).

6.15.7 REVIEW PROCEDURES

A. PERMITS

Stormwater Permits shall be reviewed and decided in accordance with Section <>, Stormwater Permit.

B. VARIANCE

Variance from the standards in this section shall be in accordance with Section <>, Variance.

C. APPEALS

Appeals of decisions of the Stormwater Administrator regarding these standards shall be in accordance with Section <>, Appeal.

6.15.8 STANDARDS

All development and redevelopment subject to these standards shall comply with the following:

[337] NOTE to STAFF: What is the official name of this document? Is it a State document or a Town document? Where may this document be obtained by an applicant?

A. RESTRICTION REQUIRED

Approval of the Stormwater Permit shall require enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved stormwater management plan.

B. NEUSE RIVER ESTUARY NUTRIENT MANAGEMENT REQUIREMENTS

1. Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed 3.6 pounds per acre per year unit-area mass loading rates for nitrogen.
2. Redevelopment subject to these standards that would replace or expand existing structures or improvements and would result un a net increase in built-upon area shall have the option of either meeting the loading standards identified in this sub-section or meeting a loading rate that achieves a nutrient load corresponding to a 35 percent reduction for nitrogen as compared to the existing development.
3. The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the latest NCDEQ-approved nutrient accounting tool.

C. NITROGEN AND PHOSPHORUS STANDARD IS SUPPLEMENTAL; TOTAL SUSPENDED SOLIDS (TSS) REMOVAL

1. The nitrogen and phosphorus loading standards in this section are supplemental to, not replacements for, stormwater standards otherwise required by federal, State, or local law, including without limitation any riparian buffer requirements applicable to the location of the development, including, without limitation, the riparian buffer protection requirements of 15A NCAC 2B.0714.
2. All stormwater systems used to meet these requirements shall be designed to have a minimum of 85 percent average annual removal for TSS.

D. CONTROL AND TREATMENT OF RUNOFF VOLUME

1. Stormwater systems shall be designed to control and treat runoff volume generated from all surfaces by one inch of rainfall; the treatment volume.
2. The treatment volume shall not exceed the maximum ponding depth and be drawn down pursuant to standards specific to each practice as provided in the Design Manual.
3. To minimize flooding and to ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by evasive flows, stormwater flows from development or redevelopment shall not contribute to degradation of waters of the State.
4. At a minimum, the development and redevelopment shall not result in a net increase in peak flow leaving the site from pre-development conditions for the 1-year, 24-hour storm; 2-year, 24-hour storm; and 10-year, 24-hour storm events.

E. PARTIAL OFFSET OF NUTRIENT CONTROL REQUIREMENTS

1. Development subject to these standards shall attain a maximum nitrogen loading rate on-site of six pounds per acre per year for single-family detached and ~~two-family~~duplex residential development, and ten pounds per acre per year for other development, including multi-family residential, commercial, and industrial. Development shall also meet any requirements for engineered stormwater controls otherwise imposed by these standards. A developer subject to these standards may achieve the additional reductions in nitrogen and phosphorus loading by use of the following options:

a. Purchasing offset credits from an approved private seller with a project located in the same eight-digit Hydrologic Unit Code (8-digit HUC) as the proposed development (refer to the North Carolina Department of Environmental Quality (NCDEQ) Division of Water Resources (DWR) for approved mitigation banks with applicable and eligible credits in Clayton).
b. Making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that program.
c. Making offset payments to the Town of Clayton for equivalent nutrient credits at 80 percent of the rate calculated by the NC Ecosystem Enhancement Program for the Neuse-Falls Lake watershed.
d. A developer may propose to offset measures to the Town, including providing their own off-site offset.

2. All offsite measures shall meet the requirements of 15A NCAC 02B .0273 (2) through (4) and 15A NCAC 02B. 0240.
3. Documentation and proof of purchase for offset credit options is required prior to construction plan approval.

F. STANDARDS FOR STORMWATER CONTROL MEASURES

1. EVALUATION ACCORDING TO CONTENTS OF DESIGN MANUAL

a. All stormwater control measures, stormwater systems, and stormwater treatment practices (also referred to as Best Management Practices, or BMP/SCMs) required by these standards shall be evaluated by the Stormwater Administrator according to the policies, criteria for each stormwater practice, in the most updated version of the Design Manual.
b. The Stormwater Administrator shall determine whether proposed BMP/SCMs will be adequate to meet the requirements of this section.

2. DETERMINATION OF ADEQUACY; PRESUMPTIONS AND ALTERNATIVES

a. Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Design Manual and the approved accounting tool will be presumed to meet the minimum water quality and quantity performance standards of these standards.
b. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of these standards.
c. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

3. SAFETY REQUIREMENTS

All SCM facilities subject to this ordinance shall be designed with features to discourage access from unauthorized personnel to prevent injury and accidental loss of life.

G. COMPLETION OF STORMWATER BMPS AND SCMS

1. The developer of any non-residential development will be expected to have installed and stabilized the final stormwater BMP/SCMs supporting their development prior to issuance of a Certificate of Occupancy.

2. For residential development, the final stormwater device can be installed at such point that 80 percent or more of the residential lots are completed.

H. DEDICATION OF BMP/SCMS, FACILITIES, AND IMPROVEMENTS

The Town may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

I. VARIATIONS FROM THIS SECTION

The town shall have the option to approve projects that do not comply with all the provisions of these standards on a case-by-case basis as follows:

1. If the variation pertains to a BMP/SCM design that does not meet all the minimum design criteria, then the applicant shall provide technical justification based on engineering calculations and the results of research studies showing that the proposed design provides equal or better stormwater control and equal or better protection of waters of the State than these requirements and that it shall function in perpetuity.
2. The town shall have the option to require compliance with the minimum design criteria in the event that the alternative BMP/SCM design fails.
3. If the variation pertains to other aspects of the project, then the applicant shall demonstrate that the project provides equal or better stormwater control and equal or better protection of waters of the State than these requirements.

6.15.9 MAINTENANCE

A. GENERAL STANDARDS FOR MAINTENANCE

1. FUNCTION OF BMPS OR SCMS AS INTENDED

The owner of each structural and engineered stormwater control installed pursuant to this chapter shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the engineered stormwater control was designed.

2. ANNUAL MAINTENANCE INSPECTION AND REPORT

a. The person responsible for maintenance of any structural and engineered stormwater control installed pursuant to this section shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:
   i. The name and address of the land owner;
   ii. The recorded book and page number of the lot of each structural and engineered stormwater control;
   iii. A statement that an inspection was made of all structural and engineered stormwater control;
   iv. The date the inspection was made;
   v. A statement that all inspected structural and engineered stormwater controls are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this section; and
   vi. The original signature and seal of the engineer, surveyor, or landscape architect.

b. All inspection reports shall be on forms supplied by the Stormwater Administrator.

c. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as built certification.

B. OPERATION AND MAINTENANCE AGREEMENT

1. IN GENERAL

a. Prior to the conveyance or transfer of any lot or building site to be served by a engineered stormwater control pursuant to this section, and prior to issuance of any permit for development or redevelopment requiring a engineered stormwater control pursuant to this section, the applicant or owner of the site shall execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the engineered stormwater control in a form acceptable to the Stormwater Administrator.

b. Until the transference of all property, sites, or lots served by the engineered stormwater control, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

c. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the engineered stormwater control, and shall state the terms, conditions, and schedule of maintenance for the engineered stormwater control. In addition, it shall grant to the Town a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the engineered stormwater control; however, in no case shall the right of entry, of itself, confer an obligation of the Town to assume responsibility for the engineered stormwater control.

d. The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the Final Plat and shall be recorded with the Johnston County Register of Deeds upon Final Plat approval.

e. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within 14 days following its recordation.

f. For all engineered stormwater controls required pursuant to this section that are to be or are owned and maintained by an owners' association, the required operation and maintenance agreement shall include all of the following provisions:

- **i.** A statement that the agreement shall grant the Town of Clayton a right of entry to inspect, monitor, repair, and reconstruct structural BMP/SCMs.
- **ii.** A statement that the Town of Clayton is authorized to recover from the property owner and/or association and its members, any and all costs the Town of Clayton expends to maintain or repair the structural BMP/SCMs or to correct any operational deficiencies. Failure to pay the Town of Clayton all of its expended costs, after 45 days' written notice, shall constitute a breach of the agreement. The Town of Clayton shall thereafter be entitled to bring an action against the property owner and/or association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.
- **iii.** A statement that the agreement shall not obligate the Town of Clayton to maintain or repair any structural BMP/SCMs or encompassing easements, and the Town of Clayton shall not be liable to any person for the condition or operation of structural BMP/SCMs.
- **iv.** Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

v. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town to enforce any of its ordinances as authorized bylaw.

vi. A statement that the property owner and/or association and its members indemnifies and holds harmless the Town of Clayton for any costs and injuries arising from or related to the structural BMP/SCM, unless the Town of Clayton has agreed in writing to assume the maintenance responsibility for the BMP/SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

2. THIRD PARTY TRANSFER DOCUMENT FOR OWNERS' ASSOCIATIONS

A third-party document signed by the Town of Clayton, the developer, and the owners' association shall be required upon completion of the project and handoff of all structural BMP/SCM devices included in the recorded operations and maintenance agreement.

a. A formal onsite inspection with all three parties present shall be required. If all devices are compliant and functioning as designed the agreement will be signed by all three parties and recorded.

b. The attachment shall then be recorded as an addendum to the original recorded operations and management agreement.

C. INSPECTION PROGRAM

1. Inspections and inspection programs by the town may be conducted or established on any reasonable basis, including but not limited to:
   a. Routine inspections;
   b. Random inspections;
   c. Inspections based upon complaints or other notice of possible violations; and
   d. Joint inspections with other agencies inspecting under environmental or safety laws.
2. Inspections may include, but are not limited to:
   a. Reviewing maintenance and repair records;
   b. Sampling discharges, surface water, groundwater, and material or water in BMPs and SCMs; and
   c. Evaluating the condition of BMPs and SCMs.
3. If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to NCGS§ 15-27.2.
4. No person shall obstruct, hamper, or interfere with the Stormwater Administrator while carrying out their official duties.

D. PERFORMANCE GUARANTEE FOR INSTALLATION AND MAINTENANCE[338]

1. REQUIRED

a. The Town requires the submittal of a performance guarantee, the form of which may be selected by the applicant. The guarantee is required to be posted prior to issuance of a permit in order to ensure that the structural BMPs/SCMs are installed by the permit holder as required by the approved stormwater management plan.

b. The guarantee is also required to ensure the BMPs/SCMs are maintained by the owner as required by the operation and maintenance agreement.

[338] NOTE TO STAFF: this section needs further revision – as initially drafted, it blends the notions of performance guarantees for installation of a BMP/SCM with the notion of a performance guarantee for on-going maintenance. The installation guarantee may be for 125% but the maintenance guarantee may be for an additional 25% of the cost. The Town does not get to retain the portion of the guarantee associated with the cost of construction – only the 25% associated with maintenance.

2. GUARANTEES DISTINGUISHED

Performance guarantees required by this section take one of the following two forms:

a. INSTALLATION PERFORMANCE GUARANTEE

An installation performance guarantee shall be required by the Town prior to the commencement of construction of all required structural or ~~enginnered~~engineered stormwater controls.

Installation performance guarantees shall be submitted, reviewed, retained, and released in accordance with Section <>, Performance Guarantees. However, submittal of an installation performance guarantee identified in this section shall be mandatory, not optional.

b. MAINTENANCE PERFORMANCE GUARANTEE

A maintenance performance guarantee shall be required by the Town following construction and inspection of a required structural or engineered stormwater control.

3. MAINTENANCE GUARANTEE

a. AMOUNT

The amount of a maintenance guarantee shall be 25 percent of the total cost of construction of the BMP or SCM.

b. COSTS IN EXCESS OF PERFORMANCE SECURITY

If the Town takes action upon such failure by the applicant or owner, the Town may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the guarantee held, in addition to any other penalties or damages due.

c. FORM OF MAINTENANCE GUARANTEE

The form of the maintenance guarantee shall be at the discretion of the applicant, but shall take one of the forms identified in Section <>, Form.

d. DEFAULT

i. Upon default of the owner to maintain, repair and, if necessary, reconstruct any structural SCM in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the maintenance guarantee to make necessary improvements based on an engineering estimate.

ii. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement.

e. RELEASE

A maintenance guarantee shall not be released, but instead shall be held by the Town until the associated BMP or SCM is lawfully removed by the owner or responsible party.

E. NOTICE TO OWNERS

1. DEED RECORDATION AND INDICATIONS ON PLAT

a. The applicable operations and maintenance agreement and conservation easement, pertaining to every structural and engineered stormwater control shall be referenced on the Final Plat and shall be recorded with the Johnston County Register of Deeds upon Final Plat approval.

b. If no Subdivision Plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable, shall be recorded with the Johnston County Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

2. SIGNAGE

a. Where determined appropriate by the Stormwater Administrator to assure compliance with this section, engineered stormwater controls shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection.
b. The sign shall be maintained so as to remain visible and legible.
c. For the purposes of this Ordinance, these signs are considered government signs exempted from First Amendment protections regarding regulation of sign content.

F. RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The owner of each engineered stormwater control shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

G. NUISANCE

The owner of each stormwater SCM, whether structural or engineered, shall maintain it so as not to create or result in a nuisance condition.

H. ACCESS AND MAINTENANCE EASEMENT

1. Every engineered stormwater control installed pursuant to this section shall be made accessible for adequate maintenance and repair by a maintenance easement accessible to a public right-of-way. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.
2. Access and maintenance easements shall not have lateral or incline slopes that exceed 5:1 (horizontal to vertical).

6.15.10 ENFORCEMENT

Enforcement of the standards in this section shall be in accordance with Chapter 7, Violations, and Section <>, Violation of Stormwater Controls.

6.16 SUBDIVISION DESIGN[339]

6.16.1 PURPOSE AND INTENT

The purpose of this section is to establish standards for the subdivision of land and extension of public infrastructure in the Town's planning jurisdiction. More specifically, this section is intended to:

A. Provide for the orderly growth and development of the Town;
B. Maintain conditions essential to the public's health, safety, and welfare;
C. Facilitate the further re-subdivision of larger tracts into smaller parcels of lands and individual lots, where appropriate;
D. Coordinate the provision of streets within and contiguous to proposed subdivisions;
E. Provide for the dedication or reservation of rights-of-way, and easements, in accordance with the Town's adopted policy guidance; and
F. Ensure lots and public infrastructure are configured in ways that ensure public safety, easy maintenance, and good planning practice.

6.16.2 APPLICABILITY

Unless exempted in accordance with Section <>, Exemptions, any division of land consistent with the definition of a subdivision in Section <>, Terms Defined, that is located within the Town's planning jurisdiction or the subject of a development agreement to become part of the Town's planning ~~jurisdiction~~jurisdiction at some point in the future shall comply with the requirements of this section, the standards in Chapter 6, Standards, and the relevant application procedures in Chapter 2, Applications.

6.16.3 EXEMPTIONS

~~A.~~ The following divisions of land shall be exempt from these subdivision standards:

A. Exempt subdivisions in accordance with Section <>, Exempt Subdivisions;

~~B. Subdivisions exempted in accordance with NCGS§ 160D-802; and~~

~~C.~~**B.** Court-ordered subdivisions that comply with Chapter 29 of the North Carolina General Statutes.

~~D.~~**C.** In no instance shall any division of land be exempted from the standards in the following sections:

1. Section <>, Access and Circulation;
2. Section <>, Infrastructure;
3. Section <>, Resource Conservation Areas;
4. Section <>, Riparian Buffers;
5. Section <>, Soil Erosion and Sedimentation Control, unless the amount of land disturbance is below established thresholds;
6. Section <>, Stormwater; and
7. Section <>, Tree Protection.

6.16.4 APPROVAL AND RECORDATION OF PLATS REQUIRED

A. No subdivision of land within the Town's planning jurisdiction, as defined in Section <>, Terms Defined, shall occur, and no lot or parcel created by such division of land may be conveyed or developed unless the division complies with the standards of this Ordinance as well as the

[339] This section consolidates the standards in current UDC Sections 603, 605, and 606 along with new provisions for addressing subdivision names, monuments, and basic subdivision layout.

applicable standards in Section <>, Limited Subdivision, Section <>, Major Subdivision, or Section <>, Minor Subdivision, as appropriate.

B. Subdivisions of land subject to these standards shall be recorded in the office of the Johnston County Register of Deeds following approval of the plat by the Town.

C. The owner of land or an authorized agent shall sign a statement on the plat prior to recordation that states whether or not all the land shown on the plat is within the Town's planning jurisdiction.

D. No subdivision plat of land within the Town's planning jurisdiction that is subject to these standards shall be filed or recorded until it has been approved by the Town in accordance with this Ordinance.

E. The Johnston County Register of Deeds shall not file or record a subdivision plat for land located within the Town's planning jurisdiction without evidence that the division has been approved by the Town, or is not subject to this Ordinance.

6.16.5 EASEMENTS

Subdivisions including infrastructure, as defined in Section <>, Terms Defined, shall comply with the standards in Section <>, Easements.

6.16.6 LANDSCAPING

Subdivisions shall be subject to the applicable standards for ~~permiter~~perimeter buffers, street trees, and streetscape landscaping in Section <>, Landscaping and Screening.

6.16.7 LOT CONFIGURATION

All lots shall be configured in accordance with the standards in Section <>, Required Lot Configuration, or Section <>, Special Purpose Lots, as applicable.

6.16.8 MONUMENTS

Monuments shall be included as part of any subdivision, and shall be configured in accordance The Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, and the following:

A. Markers shall be set at all lot corners, points of curvature, points of tangency, and at all points with a change in bearings; and

B. The location and type of all markers used shall be indicated on the Final Plat.

6.16.9 REASONABLE RELATIONSHIP

All required improvements, easements, and rights-of-way (other than required reservations) shall substantially benefit the development or bear a reasonable relationship to the need for public facilities attributable to the new development.

6.16.10 SCHOOL SITE RESERVATIONS

A. When a Major Subdivision application is submitted for approval and school site is identified on the site in the Town's or the County's adopted policy guidance, the school site shall be reserved and the Planning Director shall notify the County Board of Education that the subdivision has been submitted for approval.

B. In reviewing the subdivision and giving approval the Planning Director shall consult the Board of Education in determining the exact size and location of any school site to be reserved therein.

C. Before the Final Plat of the subdivision is approved, the Board of Education shall determine whether or not it wishes to have a school site reserved in the subdivision. If the Board of Education does wish to have a school site reserved in the subdivision, the subdivider shall reserve a school site of a size and location agreeable to the Board of Education and the Planning Director.

D. The Board of Education shall then have 18 months, beginning on the date of the final approval of the subdivision, within which to acquire the site. If the Board of Education has not purchased or begun proceedings to acquire the site within 18 months after the subdivision is finally approved, the applicant may proceed to dispose of the reservation and develop the area in accordance with the subdivision procedure and provisions of this Ordinance.

6.16.11 SUBDIVISION NAME

Every subdivision shall be given a name that shall not duplicate or be similar to that of any other subdivision existing or previously planned within the Town's planning jurisdiction or the unincorporated county in which the development is located.

6.17 SUSTAINABLE DEVELOPMENT INCENTIVES[340]

6.17.1 HOW TO USE THESE INCENTIVES

These sustainable development incentives are intended to reward applicants and forms of development that are configured in ways that conserve resources or are better able to withstand damaging natural hazards. Rewards take the form of increased maximum residential densities, increased maximum building heights, or reductions from other kinds of development standards such as required off-street parking or maximum sign face area.

A. Applicants seeking to take advantage of these sustainable development incentives should first understand the type of incentives available in accordance with Section <>, Type of Incentives.

B. Once the preferred type of incentive(s) is determined, an applicant should review Section <>, Procedure, in order to determine the minimum number and type(s) of sustainable development practices required to take advantage of the desired incentive(s).

C. Each type of incentive requires provision of one or more types of sustainable development practice from each of two different schedules (Schedule A and Schedule B).

D. The sustainable development practices are listed, by schedule type, in Table <>, Menu of Sustainable Development Practices.

E. The types of sustainable development practices to be provided are at the applicant's discretion, but the minimum number of practices from each schedule must be provided in order to benefit from a sustainable development incentive. Nothing shall limit the Town Council from including a condition of approval that specifies the use of one or more particular types of sustainable development practice should an applicant decide to pursue a sustainable development incentive.

F. Site Plans, Subdivision Plats, Concept Plans, and other application materials shall identify the type(s) of incentives sought and the sustainable development practices provided.

6.17.2 PURPOSE AND INTENT

In an effort to encourage sustainable development practices as a means of addressing climate change and the need for more resilient development practices, the protection of natural resources, and ensuring a high quality of life for future Town residents, this Ordinance provides the following sustainable development practice incentives.

6.17.3 APPLICABILITY

The incentives included in this section are available to any new development in the Town's planning jurisdiction unless use of an incentive or inclusion of a particular sustainable development feature has been limited as a condition of approval or is prohibited by State or federal law.

6.17.4 TYPE OF INCENTIVES

A. Development integrating sustainable development practices in accordance with the provisions of this section shall be eligible for incentives identified in Table <>, Sustainable Development Practice Incentives.

B. Development may include a sufficient number of sustainable development practices to take advantage of more than one type of incentive, but in no instance shall the amount of an incentive be increased or decreased (as appropriate) beyond the maximum listed in this sub-section.

[340] This is a new section that establishes a series of incentives, in the form of density bonuses and relief from other Ordinance requirements, for the provision of sustainable development features. There is a summary list of the available incentives and a menu of sustainable development features that may be incorporated into a new development. Compliance with these standards is strictly voluntary at the discretion of the applicant. Incentives listed here may be included with other incentives like those associated with voluntary compliance with residential design guidelines.

TABLE <>: SUSTAINABLE DEVELOPMENT PRACTICE INCENTIVES		
TYPE OF INCENTIVE	MINIMUM NUMBER OF SUSTAINABLE DEVELOPMENT PRACTICES NECESSARY TO UTILIZE INCENTIVE	
	FROM SCHEDULE A	FROM SCHEDULE B
A density bonus of up to one additional dwelling unit per acre beyond the maximum allowed in the base zoning district [1]	1	2
A density bonus of up to two additional dwelling units per acre beyond the maximum allowed in the base zoning district [2]	1	3
A density bonus of up to three additional dwelling units per acre beyond the maximum allowed in the base zoning district [2]	2	4
An increase in the maximum allowable height by up to one story or ten feet beyond the maximum allowed in the base zoning district	2	3
A reduction from the minimum parking space requirements by 15 percent, or an increase to the maximum allowable number of parking spaces provided by 15 percent	2	2
An increase in the maximum allowable sign area or maximum height for wall or ground-based signs by 10 percent	1	3

NOTES:
[1] All zoning district dimensional requirements still apply.
[2] Zoning district dimensional requirements may be reduced in accordance with the standards and procedures for an Administrative Adjustment.

6.17.5 PROCEDURE

A. Development seeking to use incentives in this section shall include a written request with the development application that identifies the type of sustainable development practice proposed and demonstrates how compliance with the standards will be achieved.

B. Review for compliance with this section, and granting of requests in accordance with this section shall occur during review of a Site Plan, Subdivision, Type 3 Conditional Rezoning, Special Use Permit, or Building Permit, as appropriate. The review authority responsible for review of the development application shall also be responsible for the review of sustainable development incentive request.

C. Approval of use of a particular incentive shall be based on the number of sustainable development practices provided, in accordance with Table <>, Sustainable Development Practice Incentives, and Table <>, Menu of Sustainable Development Practices. To obtain the right to a particular incentive, development shall provide the minimum number associated of sustainable development practices from both schedule A and schedule B in the table below.

D. In cases where a proposed development seeks to combine two or more development incentives, the minimum number of required sustainable development practices for each individual incentive shall be provided.

6.17.6 MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

One or more of the sustainable development practices in Table <>, Menu of Sustainable Development Practices, may be offered by an applicant for proposed development in accordance with Table <>, Sustainable Development Practice Incentives. An applicant may suggest a practice not listed, approval of which shall require approval via a Determination (see Section <>, Determination) by the Planning Director.

TABLE <>: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

Schedule [1]	Type of Practice	Documentation of Compliance
ENERGY CONSERVATION		
A	Inclusion of solar photovoltaic panels or small wind energy facilities in an amount capable of producing 900 kilowatt hours of electricity per month for each dwelling or principal use in the development	Indication on site plan
A	Use of central air conditioners that are Energy Star qualified	Provision of manufacturer's certification statement
A	Use of only solar water heating systems throughout the structure	Inclusion on construction drawings
A	Use of a white roof or roofing materials with minimum reflectivity rating of 60 percent or more	Provision of materials sample and manufacturer's certification statement (statement not required for white roofs)
A	Pre-plumb and pre-wire structures for solar water heating and photovoltaic installation	Indication on site plan
B	Provision of skylights in an amount necessary to ensure natural lighting is provided to at least 15 percent of the habitable rooms in the structure	Indication on site plan
B	Roof eaves or overhangs of three feet or more on southern or western elevations	Indication on site plan

TABLE <>: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES		
SCHEDULE [1]	TYPE OF PRACTICE	DOCUMENTATION OF COMPLIANCE
B	Structure design that can accommodate the installation and operation of solar photovoltaic panels or solar thermal heating devices (including appropriate wiring and water transport systems)	Inclusion on construction drawings
B	Inclusion of shade features (e.g., awnings, louvers, shutters, etc.) to shade all windows and doors on the southern building facade	Indication on site plan
B	Shade impervious surfaces and southern/western building exposures to limit heat gain	Indication on site plan
B	Inclusion of on-demand hot water systems instead of tank-based systems	Indication on site plan
B	Configuration of new buildings with one axis at least 1.5 times longer than the other, and the long axis oriented in an east-west configuration for solar access	Indication on site plan
BB	Inclusion of electrical transmission lines and transformers capable of providing sufficient electrical current to the development to power EV charging facilities for each principal use	Indication on construction drawings
CERTIFICATION		
AAA	Construction of the principal structure(s) to meet or exceed LEED Platinum certification standards	Provision of verification of project compliance by certifying agency (may be provided within one year following occupancy)
AA	Construction of the principal structure(s) to meet or exceed LEED Gold certification standards	
BBB	Construction of the principal structure(s) to meet or exceed LEED Silver certification standards	
BB	Construction of the principal structure(s) to meet or exceed LEED Bronze certification standards	
AAA	Construction of the principal structure(s) to meet or exceed BREEAM "Excellent" certification standards	
AA	Construction of the principal structure(s) to meet or exceed BREEAM "Very Good" certification standards	
BBB	Construction of the principal structure(s) to meet or exceed BREEAM "Good" certification standards	

TABLE <>: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES		
SCHEDULE [1]	TYPE OF PRACTICE	DOCUMENTATION OF COMPLIANCE
BB	Construction of the principal structure(s) to meet or exceed BREEAM "Pass" certification standards	
AAA	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Emerald" certification standards	
AA	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Gold" certification standards	
BBB	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Silver" certification standards	
BB	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Bronze" certification standards	
AA	Green Globes certification for new construction or an existing building, as appropriate	
A	Construction of the principal structure(s) to meet some other recognized organization's sustainability standards, as determined by the Technical Review Committee	
WATER CONSERVATION AND QUALITY PROTECTION		
AA	Configuration of the principal structure's roof so that at least 50 percent of the roof is a "green" roof intended to capture and hold rain water	Indication on site plan
A	Inclusion of rain water capture and re-use devices such as cisterns, rain filters, and underground storage basins with a minimum storage capacity of 500 gallons	Inclusion on construction drawings
A	Provision of bio-retention area(s) or other appropriate stormwater infiltration system(s) of at least 700 square feet in area	
A	Provision of open space set-asides at a rate 200 percent or more beyond the minimum required	Indication on site plan
B	Provision of bio-retention area(s) or other appropriate stormwater infiltration SCM systems of at least 100 square feet in area (includes features in off-street parking lots)	

TABLE <>: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES		
SCHEDULE [1]	TYPE OF PRACTICE	DOCUMENTATION OF COMPLIANCE
B	Removal of all lawn or turf in favor of living ground cover	
B	Use of xeriscape landscaping techniques without irrigation	
B	Provision of 150-foot undisturbed buffers adjacent to/surrounding all wetlands or surface waters	
B	Use of permeable surfacing on 50 percent or more of the vehicular use area	
AA	Configuration of a development that avoids placement of principal or secondary structures outside the 500-year floodplain boundary	Indication on site plan or subdivision plat
BUILDING CONFIGURATION		
AA	Compliance with the multi-family residential design standards in Section <>, Multi-Family Residential Design Standards, for single-family attached development	Indication on site plan & signature on statement of consent
B	Exceeding minimum design standards requirements in Section <> Design Standards and Guidelines	
A	Construction of principle structure in accordance with Barrier Free Design Standards (ANSI A1171.1)	Inclusion on construction drawings
A	Construction of the principal structure to a design wind speed standard of 160 mph	Signed attestation from a qualified NC licensed engineer
B	Inclusion of 2 to 4 dedicated off-street parking spaces devoted to electrical vehicle charging via a level 1 or level 2 EV charging station	Indication on site plan
BB	Inclusion of 5 or more dedicated off-street parking spaces devoted to electrical vehicle charging via level 1 or level 2 EV charging stations	
A	Inclusion of 2 to 4 dedicated off-street parking spaces devoted to electrical vehicle charging via a level 3 EV charging station	
AA	Inclusion of 5 or more dedicated off-street parking spaces devoted to electrical vehicle charging via level 3 EV charging stations	

TABLE <>: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES		
SCHEDULE [1]	TYPE OF PRACTICE	DOCUMENTATION OF COMPLIANCE
A	Inclusion of underground parking or parking structures sufficient to accommodate 51 percent or more of the off-street parking requirements	
A	Setback of a second- or higher story primary building façade wall from a multi-family building's first floor primary façade plane by 12 feet or more	
B	Include operable windows on all building sides	
B	Provision of on-site transit facilities (e.g., designated park-and-ride parking spaces, bus shelters, or similar features)	
B	Inclusion of showering and dressing facilities in non-residential developments for employees using alternative forms of transportation	Inclusion on construction drawings
B	Provision of at least one enclosed recycling station per building suitable for storage and collection of recyclable generated on-site	Indication on site plan
B	Setback of a second- or higher story primary building façade wall from a multi-family building's first floor primary façade plane by six feet or more	

NOTES:
[1] In cases where there are two or more letters listed in the Schedule column, the sustainable development practice qualifies as two or three sustainable development practices.

6.17.7 FAILURE TO INSTALL OR MAINTAIN SUSTAINABLE DEVELOPMENT PRACTICES

The failure to install or maintain approved sustainable development practices is a violation of this Ordinance, shall render the subject development nonconforming, and may result in revocation of the authorization for use of sustainable development practice incentives.

6.18 TREE PROTECTION[341]

6.18.1 PURPOSE AND INTENT

This section is proposed to ensure that the Town's planning jurisdiction includes areas of mature tree canopy cover during and after development. These standards are further intended to:

A. Promote sequestration of carbon dioxide through the retention of existing trees on lots or the re-establishment of new trees as part of the development process;

B. Protect species diversity and habitat through the establishment of connected or linked areas of tree canopy;

C. Encourage the retention of existing trees during the development process through accelerated credit towards Ordinance requirements; and

D. Establish tree protection requirements for trees voluntarily proposed for retention during the development process.

6.18.2 APPLICABILITY

Unless exempted in accordance with Section <>, Exemptions, the standards in this section shall apply to new development, including Subdivisions for single-family detached residential dwellings, in the Town's planning jurisdiction.

6.18.3 EXEMPTIONS

The following activities are exempt from the standards of this section:

A. Activity on a bona fide farm;

B. Tree removal associated with normal forestry activity that is conducted:

1. On land taxed on the basis of its present-use value as forestland pursuant to Chapter 105, Article 12 of the North Carolina General Statutes; or
2. In accordance with a forest management plan prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes;

C. Tree removal associated with an approved Tree Clearing Certificate (see Section <>, Tree Clearing Certificate);

D. Development or redevelopment within Downtown zoning district;

E. Construction of an individual single family detached dwelling on its own lot;

F. Construction of an individual ~~two-family~~duplex dwelling on its own lot;

G. The removal of diseased trees posing a threat to adjacent healthy trees;

H. The removal of invasive species of trees, provided the removal results in the complete removal of the trees including roots;

I. The selective and limited removal of trees or vegetation necessary to obtain clear visibility within required sight distance triangles;

J. The removal of trees that the Engineering Director determines to be a hazard to traffic or that interfere with the provision of utility lines or public services; and

K. The removal of trees as necessary for rescue in an emergency or for clean-up following a natural disaster.

[341] This is a new section intended to promote the retention of existing tree canopy coverage or permit the reforestation of portions of development sites where tree canopy does not exist or can not reasonably be maintained.

6.18.4 LIMITATION ON DEVELOPMENT PROPOSALS FOLLOWING CLEAR CUTTING

A. GENERALLY

1. Clear cutting of a lot or tract subject to this Ordinance in a manner not consistent with the requirements of Section <>, Tree Clearing Certificate, or Section <>: Tree Canopy Retention, is prohibited and shall be subject to the requirements of this subsection.
2. For the purposes of these standards, "clear cutting" shall be defined as any activity that results in the removal of 80 percent or more of the tree canopy coverage over a lot or tract from existing trees that meet or exceed the minimum size at time of planting requirements in this Ordinance.

B. DELAY FOLLOWING CLEAR CUTTING AS PART OF EXEMPTED FORESTRY ACTIVITY OR A TREE CLEARING CERTIFICATE

If 80 percent or more of a lot or site is cleared of trees that would have been protected by this section, no application for a Rezoning, Special Use Permit, Subdivision, or Site Plan shall be accepted for development of the land for a period of three years after the tree clearing activity.

C. DELAY FOLLOWING CLEAR CUTTING THAT IS NOT EXEMPTED

If one of the exemptions from Section <>, Exemptions, is not met and 80 percent or more of the trees that would have been protected by this section are removed, no application for a Rezoning, Special Use Permit, Subdivision, or Site Plan shall be accepted for development of the land for a period of five years after completion of the tree removal.

D. ABILITY TO DEVELOP FOLLOWING MITIGATION

Delays on the acceptance of applications in accordance with subsections (B) or (C) above may be reduced or removed by the Town Council following reforestation of the land in accordance with Section <>, Replacement Trees.

6.18.5 RETENTION OR RE-ESTABLISHMENT OF TREE CANOPY REQUIRED

Development subject to the standards in this section shall comply with the following tree canopy retention or re-establishment requirements:

A. MINIMUM PERCENTAGE OF EXISTING TREE CANOPY COVER TO BE RETAINED

1. Existing trees shall be retained on a lot or site at a rate sufficient to ensure that at least 15 percent of the lot or total site area is covered by existing tree canopy cover at the time of development approval.
2. For the purposes of this section, "existing tree canopy cover" shall mean the percentage of a lot or tract's total area located beneath the canopy (leaves or needles) of existing, healthy, non-invasive trees prior to development or land disturbing activity. The area to be occupied by required street rights-of-way, required public utility easements, and water surface areas are excluded from a lot or tract's total area. Only those trees meeting or exceeding the minimum size at time of planting requirements in Section <>, Plant Material Specifications, shall be considered as part of the existing tree canopy cover.

B. MINIMUM PERCENTAGE OF TREE CANOPY COVER TO BE RE-ESTABLISHED

1. As an alternative to compliance with the tree canopy cover retention requirements in sub-section (A) above, an applicant for development subject to these standards may remove all or a portion of the existing trees on a lot or site, provided that the lot or site is replanted

with replacement trees during the development process at a rate sufficient to ensure that at least 25 percent of the lot or total site area is covered by tree canopy cover at tree maturity.

2. The area to be occupied by required street rights-of-way, required utility easements, and water surface areas are excluded from a lot or tract's total area.
3. Trees planted in accordance with these standards shall be at least three inches in caliper at time of planting.
4. Except for trees located within parking lot landscaping islands, trees of three inches in caliper or greater that are provided in order to comply with the standards in Section <>: Landscaping and Screening, shall be credited towards these requirements.

C. DETERMINATION OF TREE CANOPY COVER

1. EXISTING TREE CANOPY COVER TO BE RETAINED

Compliance with the standards in Section <>, Minimum Percentage of Existing Tree Canopy to be Retained, shall be determined in accordance with the following procedure:

a. The extent of the existing tree canopy to be retained shall be determined in accordance with Section <>, Existing Tree Canopy Cover Determination.
b. The Planning Director may require an applicant to provide a square footage number associated with the tree canopy cover area in cases where aerial photography is used to identify the existing tree canopy coverage to be retained.
c. The total size of the lot or area (in square feet) minus street rights-of-way, required public utility easements, and water surface areas is then divided by the size of the retained tree canopy cover area.
d. The product of the calculation shall equal or exceed 15 percent of the lot or site area. In the event the product of the calculation does not equal or exceed 15 percent of the lot or site area, then the applicant shall also be required to plant additional trees in accordance with Section <>, Minimum Percentage of Tree Canopy to be Re-established, at the minimum rate necessary to equal or exceed 15 percent of the lot or site area.

2. TREE CANOPY COVER TO BE RE-ESTABLISHED

Compliance with the standards in Section <>, Minimum Percentage of Tree Canopy to be Re-established, shall be determined in accordance with the following procedure:

a. The applicant shall determine the total size of the lot or area (in square feet) minus street rights-of-way, required public utility easements, and water surface areas.
b. The total lot area shall be multiplied by 0.25 to determine the total square footage of the area to be covered by re-established tree canopy.
c. Canopy and understory trees shall be re-planted at the rate necessary to ensure that the total crown square footage of all newly planted trees at maturity meets or exceeds the total area required to be covered by re-established tree canopy.
d. The Site Plan, Subdivision Plat, or Concept Plan, as appropriate shall depict the designated area to be covered by re-established tree canopy and the approximate placement of the trees that will be utilized to establish the canopy, along with their species.
e. Each newly planted tree shall be credited towards the total re-established tree canopy cover in accordance with the following table:

TABLE <>: RE-ESTABLISHED CANOPY COVER BY TREE TYPE		
TREE SIZE	TREE TYPE	TREE CROWN SIZE AT MATURITY (SQUARE FEET)
Canopy	Deciduous	900
	Evergreen	450
Understory	Deciduous	225
	Evergreen	100

D. MAINTENANCE AND PROTECTION OF TREES COMPRISING THE TREE CANOPY COVER

1. Trees retained or replanted in accordance with these standards shall be protected during the development process in accordance with Section <>, Tree Protection During Construction.
2. Damage or removal of trees required by this section shall be subject to Section <>, Remedies for Removal.

6.18.6 TREE CANOPY COVER DETERMINATION

A. AERIAL PHOTOGRAPHY

1. The extent, location, and general characteristics of trees comprising a site's existing tree canopy cover shall be determined based on the following:
   a. The most recent aerial photography of the site, as provided by The Town of clayton, Johnston County, or other recognized source;
   b. Prior aerial photographs in cases where tree clearing has taken place prior to application submittal; and
   c. A diagram showing the site boundaries and the outer extent of the dripline of trees comprising the existing tree canopy cover prepared by an ISA-certified arborist, registered landscape architect, registered forester, professional land surveyor, or professional engineer.
2. Nothing shall limit an applicant from preparing a tree survey in addition to or in lieu of aerial photography, provided the tree survey includes sufficient information for the determination of the extent, location, and general characteristics of the exiting tree canopy cover on a site.

B. TREE SURVEY

1. A tree survey shall be provided in cases where an applicant seeks to receive credit towards the landscaping requirements in Section <>, Landscaping and Screening, from existing retained trees. A tree survey shall be prepared by an ISA-certified arborist, registered landscape architect, registered forester, professional land surveyor, or professional engineer, and shall identify all the following for each existing tree to be credited:
   a. The exact location of the tree;
   b. Species, by common name;
   c. Whether the tree is evergreen or deciduous;
   d. Whether the tree is an understory or canopy tree;
   e. Size of the tree in DBH or caliper, as appropriate;

f. The approximate height of the tree;
g. The general health and approximate life stage (young, mature, or aged) of the tree; and
h. Any observations or special characteristics of the tree, as appropriate.

2. The tree survey will be used by the Planning Director to determine if the retained trees will meet the performance standards for the type of required landscaping. Supplemental plantings may be required in cases where the retention of trees is insufficient to meet landscaping performance objectives.
3. Tree surveys may be limited to only those portions of the site being used to meet landscaping requirements, and in no instance shall existing trees located outside the boundaries of required landscaping areas be used to meet the standards in Section 7.4: Landscaping.

6.18.7 TREE PROTECTION DURING CONSTRUCTION

A. RESPONSIBILITY

During any development activity (including demolition or clearing activity), the property owner or developer shall be responsible for protecting existing or replacement trees within a tree save area in accordance with the standards in this section.

B. PROTECTIVE FENCING AND SIGNAGE

1. PROTECTIVE FENCING

a. Continuous fencing consisting of a bright orange plastic mesh at least four feet high shall be provided along the boundaries of tree save areas (see Figure <>: Tree Fencing). The Town shall consider existing site conditions and the species and size of the trees to be protected in determining the exact location of tree protective fencing and may require the fencing to be extended to include the critical root zones of trees. In no instance shall the area required to be located within protective fencing exceed the size of the required tree save area.
b. Tree save areas that are inaccessible to development activities or separated from development activities by a distance of at least 100 linear feet are exempted from the requirement for tree protection fencing.
c. Nothing shall prevent tree protection fencing and silt fencing from being consolidated.

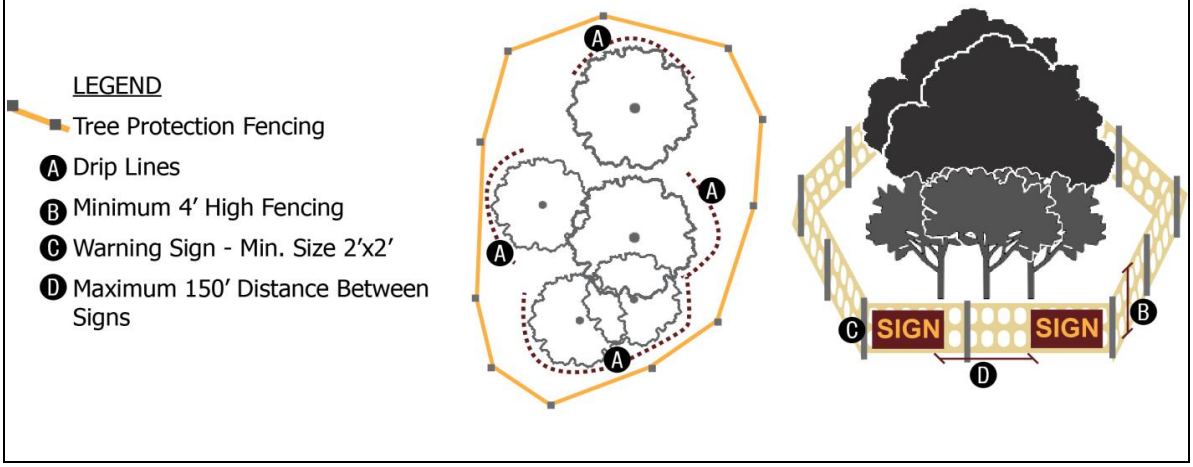
2. WARNING SIGN

Warning signs shall be installed along any required tree protective fencing at points no more than 150 feet apart. The signs shall be clearly visible from all sides of the outside of the fenced-in area. The size of each sign must be a minimum of two feet by two feet. The sign message shall, in both English and Spanish, identify the fenced or marked area as a tree protection area and direct workers not to encroach into the area (e.g., "Tree Protection Area: Do Not Enter"). For the purposes of this Ordinance, these warning signs are considered government signs exempted from First Amendment protections regarding regulation of sign content.

3. DURATION OF PROTECTIVE FENCING OR SIGNAGE

Required protective fencing and signage shall be erected before any grading or other development activity begins and shall be maintained until issuance of a Certificate of Occupancy or other final approval.

FIGURE <>: TREE FENCING



C. TREE SAVE AREA REQUIREMENTS

Except where agreed to by the Town, encroachments into a tree save area may occur only when no other alternative exists, and shall comply with landscaping best management practices and the following limitations and requirements:

1. No development activity—including grade changes, the operation or parking of heavy equipment, or the washing down of concrete or cement handling equipment, or the storage of fuel, chemicals, materials, supplies, or construction waste and debris—shall be allowed within the tree save area;
2. Any permitted clearing of vegetation within the tree save area shall be only by hand;
3. Retaining walls and drywells may be used to protect trees to be preserved from severe grade changes if venting, adequate to allow air and water to reach tree roots, is provided through any fill;
4. No structures or hard surfaces shall be located within a tree save area; and
5. Installation of fences and walls shall take into consideration the root systems of existing trees. Post-holes and trenches close to trees shall be dug by hand and adjusted as necessary to avoid damage to major roots. Continuous footers for masonry walls shall end at the point where major large roots are encountered, and major roots shall be bridged.

6.18.8 CREDIT TOWARDS LANDSCAPING AND OPEN SPACE STANDARDS

A. Existing trees within a tree save area that coincides with a required landscaping area may be credited towards the landscaping requirements of this Ordinance in accordance with Section <>, Planting Flexibility.

B. Tree save areas shall be credited towards the passive recreation area requirements in Section <>, Open Space Set-Aside and Parkland.

6.18.9 REMEDIES FOR REMOVAL

Remedies for removal of existing trees required to be retained by these standards shall be in accordance with the following standards.

A. REPLACEMENT TREES

1. RATE OF PROVISION

a. TREES WITHIN A DESIGNATED TREE SAVE AREA

i. Each existing tree that is removed in violation of this Ordinance shall be replaced with one or more trees with a minimum DBH of four inches each and a cumulative DBH equal to the DBH of the removed tree(s).

ii. Required replacement tree(s) shall be planted and maintained in accordance with the planting standards in Section <>, Plant Placement, and shall comply with all the standards in this subsection.

b. TREES REMOVED PRIOR TO ESTABLISHMENT OF A TREE SAVE AREA

i. In cases where irreparable damage to or removal of existing trees takes place on a site that is subject to these standards, but where a tree save area has not yet been established, a reforestation plan prepared by a North Carolina registered forester shall be prepared and provided to the Town.

ii. The reforestation plan shall require new tree plantings throughout the area where existing trees were irreparably damaged or removed. The number and placement of replacement trees shall be as necessary to result in a comparable density of trees at maturity as were removed.

iii. New vegetation identified in the reforestation plan shall be installed within six months of the tree removal or within a timeframe specified by a North Carolina registered forester and agreed to by the Planning Director.

2. LOCATION OF REPLACEMENT TREES

a. TREES WITHIN A DESIGNATED TREE SAVE AREA

Replacement trees shall be planted in the following planting areas, listed in priority order. Replacement trees shall maintain adequate spacing across an area as needed for proper growth and development and may be located in more than one priority location. However, to the maximum extent practicable, replacement trees shall first be planted in the highest priority location and may only be located in the next highest priority area when the area of higher priority can no longer accommodate additional replacement trees. Replacement tree planting areas in priority order are as follows:

i. Inside a designated tree save area;

ii. Outside a designated tree save area but within the area of development;

iii. Away from an area of development but upon the same lot;

iv. On a different lot within the Town's planning jurisdiction but under the same ownership as the area of development;

v. On land owned by the Town; or

vi. Within a public right-of-way, subject to approval of the right-of-way owner.

b. TREES REMOVED PRIOR TO AN ESTABLISHED TREE SAVE AREA

Reforestation shall occur within the entire area where existing trees were irreparably damaged or removed.

3. GUARANTEED ESTABLISHMENT PERIOD

a. The applicant shall guarantee the survival and health of all replacement trees during an establishment period of at least three years and guarantee any associated replacement costs in accordance with Section <>, Performance Guarantee.

b. If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees and guarantee their survival and health for a new three-year establishment period.

B. PAYMENT IN-LIEU OF PROVIDING REQUIRED REPLACEMENT TREES

1. In-lieu of providing all or a portion of the replacement trees required by sub-section (A) above, the developer may, with the approval of the Town Council, and subject to the provisions in Section <>, Fee-in-Lieu, make a payment to the Town that approximates the cost of purchasing and installing the required replacement trees.
2. The Town Council may approve the use of the in-lieu payment option only upon determining that it is impractical to provide the replacement trees for which in-lieu payment is proposed on the development site.
3. The amount of the in-lieu payment shall be determined based upon an estimate provided by the applicant and accepted by the Planning Director. The Town may require an independent analysis of the estimate, the cost of which shall be the responsibility of the applicant.
4. The applicant shall make the in-lieu payment before recordation of any Subdivision Plat for the development or issuance of any Building Permit for the development (if no subdivision approval is required)—provided, however, that the payment may be phased in accordance with an approved phasing plan for the development.
5. The Town shall deposit any in-lieu payment into a special Town fund that shall be used only for purchasing, installing, replacing, and/or maintaining trees in public parks, greenways, or other land owned or leased by the Town.

6.18.10 TREE REMOVAL AND TOPPING ON PUBLIC PROPERTY

A. The removal or topping of trees shall be prohibited on public property and designated rights-of-way unless such activity is conducted by the Town or a public utility provider, and is necessary to protect public health, safety, or welfare.

B. Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this standard by the Planning Director.

CHAPTER 7
VIOLATIONS

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KEY CHANGES FROM CURRENT UDC

Chapter 7, Violations, sets out the provisions pertaining to enforcement of violations from the standards in the UDO. It replaces the somewhat abbreviated standards in Section 155,720 of the current UDC. In addition, there are several other key changes, including:

1. Recognition that the goal of the Violations chapter is to achieve compliance, not assess fines.
2. A comprehensive list of the generic violations of the Ordinance (for use in preparation of notices of violation).
3. An enumeration of the range of entities who may be held responsible for a violation, not just the owner or tenant.
4. A detailed description of the enforcement procedure, including receipt of complaints and investigation.
5. Details related to the filing of a written notice of violation.
6. Enumeration of the range of remedies available to the Town for correcting violations.
7. Increased clarity on the process for assessment and collection of civil penalties.
8. Inclusion of special enforcement provisions related to erosion control and flood protection.
9. Recognition that willful violation of stormwater, riparian buffer protection, and water supply watershed protection standards may subject a responsible entity to criminal penalties.
10. Inclusion of the statute of limitations on enforcement under State law.

7.1 PURPOSE AND INTENT[342]

This chapter identifies the range of activities commonly considered as violations of this Ordinance and sets out the process used by the Town to investigate and remedy identified violations. These provisions are intended to encourage the voluntary correction of violations where possible, rather than to simply punish violators.

7.2 COMPLIANCE REQUIRED

Compliance with all the procedures, standards, and provisions of this Ordinance, as well as with conditions of approval applied under this Ordinance, is required by all persons owning, developing, managing, using, or occupying land or structures in the Town.

7.3 DESCRIPTION OF VIOLATIONS[343]

Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided by this Ordinance and by State law:

7.3.1 DEVELOPMENT WITHOUT AUTHORIZATION

Engaging in the development, use, construction, land disturbance, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required plan approvals, permits, certificates, or other forms of authorization as set forth in this Ordinance.

7.3.2 DEVELOPMENT INCONSISTENT WITH AUTHORIZATION

Engaging in any development, use, construction, land disturbance, or related activity of any nature in any way inconsistent with any approved plan, plat, permit, certificate, or other form of authorization granted for such activity.

7.3.3 VIOLATION BY ACT OR OMISSION

Violating, by act or omission, any term, variance, modification, adjustment, condition, requirement, or qualification placed upon any required plan, plat, permit, certificate, or other form of authorization for the development, use, construction, land disturbance, or other activity upon land or improvements thereon.

7.3.4 USE IN VIOLATION

Erecting, constructing, altering, repairing, maintaining, or using any building or structure, or use of any land in violation of this Ordinance or any regulation made under the authority conferred thereby.

7.3.5 SUBDIVIDE LAND IN VIOLATION

Subdividing land in violation of this Ordinance, or transferring land by reference to a plat or map showing a subdivision of land before the plat or map has been properly approved under this Ordinance and recorded in the office of the Register of Deeds in the county where the subdivision is located.

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[342] This chapter replaces current Section 155.720, which is somewhat abbreviated. The current standards fail to identify the wide range of potential violations, identify the range of responsible parties, describe the violation investigation and correction process (a 160D requirement), and list the range of remedies available to the Town (which is important for code users to understand). In addition, the current standards include a reference to criminal penalties for violations of standards established under NCGS§160D, which was changed by the General Assembly in 2022. One of the important changes in these draft standards is the recognition that these violation provisions are focused on achieving compliance, not assessing penalties or applying punitive actions.

[343] This is a new section that identifies the violations of this Ordinance in a general way. These provisions are available for use by Town officials in preparing notices of violation.

7.3.6 VIOLATION OF ENVIRONMENTAL REGULATIONS

Failing to follow or violating the rules or regulations of Section <>, Stormwater, Section <>, Riparian Buffer Protection, Section <>, FPOD Flood Protection Overlay ~~(FPOD)~~ District, and Section <>, Soil Erosion and Sedimentation Control.

7.3.7 REMOVAL OF EXISTING TREES SUBJECT TO PROTECTION

Removal of all or substantially all existing trees at or above four inches in caliper from a lot, tract, or development site, including lots designated for use by single-family detached residential dwellings, prior to receipt of all required approvals in accordance with Section <>, Application Types.

7.3.8 CONTINUING OR REPEATING A PRIOR VIOLATION

Where a violation of the same nature has been issued to the same violator at the same property within two years and the violation continues or is repeated, the violation shall be treated as an on-going violation.

7.4 ENTITY RESPONSIBLE FOR VIOLATION[344]

7.4.1 GENERALLY

Any of the following parties associated with or participating in a situation that is contrary to the requirements of this Ordinance may be jointly or separately held responsible for a violation and subject to the penalties and remedies provided in this Ordinance:

A. A property owner(s);
B. A tenant or occupant of any land, building, structure, sign, use of land, or part thereof;
C. A permit or approval holder;
D. A contractor or designated agent;
E. An architect, engineer, or builder; or
F. Any person conducting the violating activity.

7.4.2 FAILURE BY TOWN DOES NOT RELIEVE INDIVIDUAL

Except as authorized under Section <>, Statute of Limitations, failure of a Town official charged with enforcement responsibility to observe or recognize conditions which violate this Ordinance, or to deny the issuance of a development permit, shall not relieve the applicant or landowner from responsibility for the condition or damages that may result and shall not result in the Town, its officers, or agents being responsible for conditions or damages.

[344] This is an important new section that clarifies that an entity responsible for a violation is not just the owner – it could be a wide variety of persons, and the Town has the ability (and duty) to enforce the UDO in ways that hold the listed entities accountable.

7.5 ENFORCEMENT PROCEDURE[345]

When a Town official identifies or is made aware of a potential violation of this Ordinance, the enforcement procedure shall take place in accordance with this section.

7.5.1 COMPLAINTS

A. Whenever the Planning Director or other designated Town official receives a complaint in a manner consistent with Town policy that alleges a violation of this Ordinance, the Planning Director or other designated Town official shall investigate the violation allegation in accordance with the standards in this section.

B. The Planning Director, or other designated Town official, shall inform the complainant, if complainant has identified themselves, as to whether a violation of this Ordinance was discovered upon investigation, and if a violation is found to exist, the actions that will be taken by the Town to address the violation.

C. Nothing shall limit the Planning Director or other designated Town official from investigating possible violations of this Ordinance without receipt of a written compliant.

7.5.2 INSPECTIONS AND INVESTIGATIONS

A. The Planning Director or other designated Town official, as appropriate, shall have the power to conduct any lawful inspection and investigation as may be deemed necessary to carry out their duties as prescribed in this Ordinance.

B. In exercising these powers, the Planning Director or other designated Town official may enter any premises open to the general public and located within the Town's planning jurisdiction at all reasonable hours for the purposes of inspection or other enforcement action.

C. The Planning Director or other designated Town official shall, upon presentation of proper credentials, and receipt of permission from a responsible entity, have the right to enter any premises within the Town's planning jurisdiction not open to the general public at any reasonable hour for the purpose of inspecting locations subject to any complaints or alleged violations, or determination of compliance or other enforcement action of this Ordinance.

D. If the Planning Director or other designated Town official charged with enforcing this Ordinance seeks to enter a premises not open to the general public but cannot obtain permission to enter from a responsible entity, the Town shall obtain an administrative search or inspection warrant prior to entering the property.

E. The Planning Director or other designated Town official shall have the power to compel a person responsible for an alleged violation to provide written statements, certificates, certifications, evidence, or reports relating to complaints or alleged violations of this Ordinance.

7.5.3 WRITTEN NOTICE OF VIOLATION

A. CONTENTS OF WRITTEN NOTICE OF VIOLATION

When the Planning Director or other designated Town official finds that a violation of this Ordinance exists, a written notice of violation shall be delivered to the responsible entity(ies). The notice of violation shall include all of following:

1. VIOLATION EXISTS

That the land, building, structure, sign, or use is in violation of this Ordinance;

2. NATURE OF THE VIOLATION

The nature of the violation, and citation of the section(s) of this Ordinance violated;

[345] 160D requires development regulations to specify the parameters and steps in the enforcement process, which is what this section does.

3. REMEDY

The measures necessary to remedy the violation;

4. TIME PERIOD FOR CORRECTION

The time period in which the violation must be corrected;

5. PENALTIES THAT MAY BE ASSESSED

That penalties or remedies may be assessed if the violation is not addressed within the time period for correction; and

6. APPEAL

That the responsible entity has the right to appeal the notice in accordance with Section <>, Appeal.

B. DELIVERY OF WRITTEN NOTICE

1. The notice of violation shall be delivered to the responsible entity and the landowner if the landowner is not the responsible entity, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity.
2. The notice of violation may be posted on the property.
3. The Town official providing the notice of violation shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

C. INITIAL NOTICE SHALL CONSTITUTE FINAL NOTICE

The initial written notice of a violation shall constitute final notice regarding a violation, though additional written notice may be provided, in the sole discretion of the Planning Director or other designated Town official.

7.5.4 REMEDY UPON NOTICE

Upon delivery of a written notice of a violation, the landowner or any other responsible person shall remedy the violation within the time period for correction stated in the notice of violation.

7.5.5 FAILURE TO COMPLY WITH ORDER

If the landowner or responsible entity fails to comply with a notice of violation from which no appeal has been taken, or fails to comply following a final decision by the Board of Adjustment on an appeal, the landowner or responsible entity shall be subject to such remedies and penalties as may be provided for by State law or Section <>, Remedies.

7.5.6 EACH DAY A SEPARATE VIOLATION

Each day a violation continues following notice or failure to comply is considered a separate and distinct offense.

7.6 REMEDIES[346]

Upon failure to address a notice of violation in accordance with this Ordinance, the Town may pursue any of the following remedies to correct the violation. Each of these remedies is cumulative and continuous to the maximum extent provided by State law. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

7.6.1 CIVIL PENALTIES

A. GENERALLY

Any responsible person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty of the minimum amount per day specified in the Town's adopted schedule of fees in accordance with Section <>, Assessment, and any other applicable enforcement provisions in this Ordinance and the Town Code of Ordinances.

B. ASSESSMENT

The following procedure shall be applied by the Town in the assessment and collection of civil penalties.

1. NOTICE

a. NOTIFICATION REQUIRED

Civil penalties may not be assessed until the responsible entity in violation has been notified in accordance with Section <>, Enforcement Procedure.

b. CIVIL PENALTY IMPOSED

If after receiving a written notice of violation under Section <>, Enforcement Procedure, the responsible party fails to take corrective action or file an appeal, a civil penalty may be imposed in accordance with this section.

c. NOTICE OF PENALTY ASSESSMENT

Notice of the civil penalty assessment shall be served in the same manner as a notice of violation.

d. ASSESSMENT CONTENTS

The assessment notice shall state the nature of the violation, the civil penalty to be imposed upon the responsible party, and shall direct the responsible party to pay the civil penalty within 30 days of the date of the notice.

e. SEPARATE NOTICES

Separate notices must be provided for the first or second violations. The Town may, in its discretion, treat the first notice for a violation as the final notice for chronic violators.

f. ASSESSMENT UNTIL COMPLIANCE

Civil penalties may be assessed until compliance is achieved.

C. CONTINUING VIOLATION

For each day the violation is not corrected, the responsible party shall be guilty of an additional and separate offense and subject to additional civil penalty.

D. DEMAND FOR PAYMENT

1. If compliance is not achieved, then the Town shall make written demand for payment of penalties that have accrued while the property has been in violation.

[346] This new section sets down the wide range of responses or remedies to violations of this Ordinance. The section does include criminal penalties, which may be applied to violations of environmental aspects like erosion control, flood damage prevention, and others.

2. The demand for payment shall be sent to the responsible party in violation and must include a description of the violation for which the civil penalties have been imposed.
3. Payment of the penalty shall not constitute a remedy for the violation.

E. NONPAYMENT

If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the Town may recover any unpaid civil penalty by filing a civil action in the nature of debt.

F. PENALTIES

Any person who violates any provision of this Ordinance shall be subject to assessment of a civil penalty for each succeeding violation over the course of a calendar year.

7.6.2 CONDITIONED PERMIT OR AUTHORIZATION

A. The Planning Director or other designated Town official may condition a permit, authorization, or other approval for land, subdivision, building, structure, sign, use, or development activity on the correction of the violation, payment of civil penalties, and/or the posting of a compliance guarantee approved by the appropriate governmental authority.

B. In no instance shall the authorization of any permit, certificate, or approval for one property with a violation or outstanding enforcement action be conditioned with the correction of a violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee for a different property.

7.6.3 CRIMINAL PENALTIES

Violations of certain environmental standards may subject the violator to the imposition of criminal penalties in accordance with the following sections:

A. Section <>, Violation of Flood Protection Controls;
B. Section <>, Violation of Soil Erosion and Sedimentation Controls;
C. Section <>, Violation of Stormwater Controls;
D. Section <>, Violation of Stream Buffer Controls; and
~~7.6.3~~**E.** Section <>, Violation of Water Supply Watershed Controls.

~~A. CRIMINAL VIOLATION OF EROSION AND SEDIMENTATION CONTROL PROVISIONS~~

~~1. Any responsible entity who knowingly or willfully violates any provision of Section <>, Erosion Control Permit, or Section <>, Soil Erosion and Sedimentation Control, shall be subject to criminal penalties in accordance with Section <>, Criminal Penalties.~~

~~2. Accidental violation of the erosion and sedimental control standards shall be subject to the standards in Section <>, Violations of Soil Erosion and Sedimental Controls.~~

~~B.A. CRIMINAL VIOLATION OF FLOOD DAMAGE PROTECTION PROVISIONS~~

~~Any violation of the flood damage protection standards in Section <>, Floodplain Permit, or Section <>, FPOD Flood Protection Overlay District, including violation of conditions and safeguards established in connection with Section <>, Variance, shall constitute a Class 1 misdemeanor pursuant to NCGS§143-215.58.~~

~~Any responsible entity who violates these standards or fails to comply with these standards shall, upon conviction thereof, be fined not more than $100 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Clayton from taking such other lawful action as is necessary to prevent or remedy any violation.~~

~~C.A. CRIMINAL VIOLATIONS OF STORMWATER, RIPARIAN BUFFER, OR WATERSHED PROTECTION STANDARDS~~

~~1. Any willful violation of the stormwater, riparian buffer protection, or water supply watershed protection standards in this Ordinance may be enforced as a Class 3 misdemeanor as provided for by NCGS§ 14-4 and all other applicable law, subject to a maximum fine of $500 or a maximum of 30 days imprisonment.~~

~~2.1. Accidental violation of the stormwater, riparian buffer protection, or water supply watershed protection standards shall be subject to the standards applicable to a civil penalty.~~

~~3.1. In addition to the remedies available in Section <>, Remedies, and the standards related to the assessment of civil penalties in this section, the North Carolina Environmental Management Commission may also assess civil penalties for violation of the Watershed Protection Overlay District standards in accordance with NCGS§ 143-215.6(A).~~

7.6.4 DENIAL OF PERMIT OR AUTHORIZATION

The Planning Director or other designated Town official may withhold or deny a permit or other authorization for the same land, subdivision, building, structure, sign, use, or development activity in which there is an uncorrected violation of a provision of this Ordinance, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

7.6.5 EQUITABLE REMEDY

The Town may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. The fact that other remedies are provided under general law or this Ordinance shall not be used by the responsible party as a defense to the Town's application for equitable relief.

7.6.6 INJUNCTIVE RELIEF

A. ACTION BY TOWN COUNCIL

Whenever the Town Council has reasonable cause to believe that any person is violating or threatening to violate this Ordinance, or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved development plan, or soil erosion and sedimentation control plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the Town, for injunctive relief to restrain, correct, abate, mandate, or enjoin the violation or threatened violation.

B. SUPERIOR COURT

The action shall be brought in the Superior Court of the appropriate county. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation.

C. NO RELIEF FROM CRIMINAL PENALTIES

The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

7.6.7 ORDER OF ABATEMENT

In addition to an injunction, the Towny may apply for and the court may enter an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

A. That buildings or other structures on the property be closed, demolished, or removed;

B. That fixtures, furniture, or other moveable property be moved or removed entirely;
C. That improvements, alterations, modifications, or repairs be made; or
D. That any other action be taken as necessary to bring the property into compliance with this Ordinance.

7.6.8 REVOCATION OF PERMITS

A. The Planning Director or other designated Town official may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation.
B. Building permits may be revoked, in accordance with NCGS§ 160D-1115, for any of the following:
1. Any substantial departure from the approved application, plans, or specifications;
2. Refusal or failure to comply with the requirements of State or local laws; or
3. For making false statements or misrepresentations in securing the permit, certificate, or approval.

C. Any permit or certificate mistakenly issued in violation of an applicable State or Town law may also be revoked.

7.6.9 STOP WORK ORDERS

A. GENERAL

Whenever the Planning Director or other designated Town official determines that a person is engaged in doing work that constitutes, creates, or results in a violation of this Ordinance and that irreparable injury will occur if the violation is not terminated immediately, that Town official may order all or the specific part of the work that constitutes, creates, or results in a violation of this Ordinance to be immediately stopped.

B. ORDER IN WRITING

1. The stop work order shall be in writing and directed to the landowner, and the occupant or person doing the work.
2. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
3. A copy of the order shall be delivered to the responsible party and to the owner of the property involved (if that person is not the responsible party) by personal delivery, electronic delivery, or first-class mail.
4. The Town official delivering the notice shall certify that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud.

C. APPEAL

Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment in accordance with Section <>, Appeal. No further work or activity shall take place in violation of a stop work order until the ruling on the appeal has been made.

D. COMPLIANCE REQUIRED

Neither the responsible entity nor a landowner upon whom a stop work order is served shall continue with work in violation of the stop work order while it remains in effect, unless the order is stayed in accordance with applicable State law.

~~7.7 ASSESSMENT OF CIVIL PENALTIES~~

~~7.8~~7.7 STATUTE OF LIMITATIONS

Enforcement of violations of this Ordinance shall be in accordance with NCGS§ 1-49(3) and NCGS§1-51(5) of the North Carolina General Statutes.

~~7.9~~7.8 VIOLATION OF FLOOD PROTECTION ~~STANDARDS~~CONTROLS[347]

7.8.1 VIOLATIONS TO BE CORRECTED

When the Floodplain Administrator finds violations of applicable State and Town laws, the Floodplain Administrator shall notify the responsible party(ies) of the violation. The responsible party(ies) shall immediately remedy each of the violations of law pertaining to their property.

7.8.2 ACTIONS IN EVENT OF FAILURE TO TAKE CORRECTIVE ACTION

If the responsible party(ies) fails to take corrective action within the timeframe specified by the Floodplain Administrator, the Floodplain Administrator shall give the responsible party(ies) written notice, by certified or registered mail to the party's last known address or by personal service, stating:

A. That the building or property is in violation of the flood damage prevention standards in this Ordinance;

B. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the responsible party(ies) shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

C. That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

7.8.3 ORDER TO TAKE CORRECTIVE ACTION

A. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator finds that the building or development is in violation of the flood damage prevention standards in this Ordinance, they shall issue an order in writing to the responsible party(ies), requiring them to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days.

B. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in a lesser period, as may be feasible.

7.8.4 APPEAL

A. Any responsible party who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the Floodplain Administrator and the Town Clerk within ten days following issuance of the final order.

B. In the absence of an appeal, the order of the Floodplain Administrator shall be final.

C. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

[347] This section carries forward and consolidates the standards in Town Code Sections 151.23 and 151.99 with no substantive changes except that the Board of Adjustment shall hear appeals.

7.8.5 FAILURE TO COMPLY WITH ORDER

If the responsible party(ies) fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the Board of Adjustment following an appeal, the party(ies) shall be guilty of a Class 1 misdemeanor pursuant to NCGS § 143-215.58 and shall be punished at the discretion of the court, and the standards in this section.

7.8.6 PENALTIES

A. Violation of the provisions of Section <>, FPOD Flood Protection Overlay District, Section <>, Floodplain Permit, this section, or violation of conditions and safeguards established in connection with a related Variance, shall constitute a Class 1 misdemeanor pursuant to NCGS§ 143-215.58.

B. Any person convicted by a court of appropriate jurisdiction of violating the flood protection controls enumerated in this sub-section shall be fined not more than $100 or imprisoned for not more than 30 days, or both.

C. Each day such violation continues shall be considered a separate offense.

D. Nothing shall prevent the Town from taking any additional lawful actions as is necessary to prevent or remedy any violation of the flood protection provisions in this Ordinance or applicable State law.

~~**CRIMINAL VIOLATION OF FLOOD DAMAGE PROTECTION PROVISIONS**~~

~~Any violation of the flood damage protection standards in Section <>, Floodplain Permit, or Section <>, FPOD Flood Protection Overlay District, including violation of conditions and safeguards established in connection with Section <>, Variance, shall constitute a Class 1 misdemeanor pursuant to NCGS§143-215.58.~~

~~Any responsible entity who violates these standards or fails to comply with these standards shall, upon conviction thereof, be fined not more than $100 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Clayton from taking such other lawful action as is necessary to prevent or remedy any violation.~~

~~7.10~~7.9 VIOLATION OF SOIL EROSION AND SEDIMENTATION CONTROLS[348]

Violations of the Town's erosion control and sedimentation standards (see Section <>, Soil Erosion and Sedimentation Control) shall be subject to the provisions of this Chapter as well as the following:

A. CIVIL PENALTIES

1. GENERALLY

Any responsible entity who accidentally or inadvertently violates any of the provisions of Section <>, Erosion Control Permit, or Section <>, Soil Erosion and Sedimentation Control, or who initiates or continues a land-disturbing activity for which an erosion control or sedimentation plan is required, or fails to comply with the provisions of an approved erosion control and sedimentation plan, shall be subject to a civil penalty in accordance with the following:

a. The maximum civil penalty amount the Town may assess per violation is $5,000.

b. A civil penalty may be assessed from the date of the violation, and each day of a continuing violation shall constitute a separate violation.

c. When the responsible entity has not been assessed any civil penalty under this section for any previous violation, and that responsible entity has abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this section for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is $25,000.

2. ENVIRONMENTAL IMPACTS

a. In addition to the civil penalties provided with the Town's fee schedule, the Town may also assess a one-time civil penalty of $5,000 on the day of the violation for off-site sedimentation damage especially in the case of damage to a body of water, wetlands, or riparian buffer.

b. Any malicious or intentional destruction of silt fencing or other sedimentation and erosion control device will result in a one-time civil penalty of up to $1,000.

3. REPEAT OFFENSES

a. An additional civil penalty of $1,000 per day shall be charged to any responsible entity assessed a civil penalty for any violation of these standards within the prior two years.

b. A responsible may be assessed a civil penalty from the date the violation is detected if the deadline stated is not met.

c. Each day of a continuing violation shall constitute a separate violation.

4. CIVIL PENALTY ASSESSMENT FACTORS

The Engineering Director shall determine the amount of the civil penalty based upon the following factors:

a. The degree and extent of harm caused by the violation;

b. The cost of rectifying the damage;

c. The amount of money the responsible entity saved by noncompliance;

[348] Carries forward Section 156.999 of the Town Code of Ordinances except that appeals of civil penalties are heard by the Board of Adjustment and that petitions for remission are filed with the NC Sedimentation Control Commission, not the Town Council.

d. Whether the violation was committed willfully, and therefore subject to Section <>, Criminal Penalties; and

e. The prior record of the responsible entity in complying of failing to comply with the Town's standards for erosion and sedimentation control.

5. NOTICE OF PENALTY ASSESSMENT

a. The Engineering Director shall provide notice of the civil penalty amount and basis for assessment to the responsible entity in accordance with NCGS§ lA-1, Rule 4.

b. A notice of assessment shall direct the responsible entity to either pay the assessment, contest the assessment within 30 days by filing an appeal (see Section <>, Appeal), or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice of assessment.

c. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to NCGS Chapter 150B and a stipulation of the facts on which the assessment was based.

6. REMISSION OF CIVIL PENALTY ASSESSMENT

A request for remission of a civil penalty imposed under NCGS§ 113A-64 may be filed with the North Carolina Sedimentation Control Commission within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to NCGS § 150B-31 and a stipulation of the facts on which the assessment was based.

7. COLLECTION

a. If payment is not received within 60 days after it is due, the Town may institute a civil action to recover the amount of the assessment.

b. The civil action may be brought in the Johnston County Superior Court, or the County Superior Court of the responsible entity's residence or principal place of business.

c. Such civil actions must be filed within three years of the date the assessment was due.

d. An assessment that is not contested and a remission that is not requested is due when the responsible entity is served with a notice of assessment.

e. An assessment that is contested or a remission that is requested is due at the conclusion of the administrative and judicial review of the assessment.

B. CRIMINAL PENALTIES

Any person who knowingly or willfully violates any provision of Section <>, Erosion Control Permit, or Section <>, Soil Erosion and Sedimentation Control, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control and sedimentation plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor pursuant to NCGS§ 113A-64. Any responsible entity who engages in this conduct, shall, upon conviction thereof, be fined not more $5,000.

C. RESTORATION AFTER NON-COMPLIANCE

The Town, may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by Section <>, Soil Erosion and Sedimentation Control, and NCGS§ 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this Ordinance.

7.10 VIOLATION OF STORMWATER CONTROLS[349]

7.10.1 GENERALLY

A. AUTHORITY TO ENFORCE

The stormwater provisions in this Ordinance (see Section <>, Stormwater) shall be enforced by the Stormwater Administrator, or a designee.

B. VIOLATION UNLAWFUL

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by the stormwater standards in this Ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this Ordinance, is unlawful and shall constitute a violation subject to the standards in this section and applicable State law.

C. EACH DAY A SEPARATE OFFENSE

Each day that a violation continues shall constitute a separate and distinct violation or offense.

D. RESPONSIBLE PARTIES

1. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair, or maintain any structure, SCM, practice, or condition in violation of this Ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section.
2. Parties subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this Ordinance, or fails to take appropriate action, so that a violation of this Ordinance results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.
3. For the purposes of this section, responsible party(ies) shall include but not be limited to:

a. PERSON MAINTAINING CONDITION RESULTING IN OR CONSTITUTING VIOLATION

An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of the stormwater provisions in this Ordinance, or fails to take appropriate action, so that a violation of this Ordinance results or persists.

b. RESPONSIBILITY FOR LAND OR USE OF LAND

The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

[349] This section carries forward and consolidates the standards in Section 158.080, 158.081, and 158.082 from the Town Code of Ordinance with no substantive changes except that the Board of Adjustment shall hear appeals.

7.10.2 ENFORCEMENT PROCEDURES

A. INITIATION OR COMPLAINT

Whenever a violation of the stormwater provisions in this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

B. INSPECTION

The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this Ordinance.

C. NOTICE OF VIOLATION AND ORDER TO CORRECT

1. When the Stormwater Administrator finds that any building, structure, or land is in violation of the stormwater provisions of this Ordinance, the Stormwater Administrator shall notify, in writing, the responsible party(ies). The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.
2. The Stormwater Administrator may deliver the notice of violation and correction order personally, by the Town Police Department, by Town Code Enforcement Officer, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by NCGS § 1A-1, Rule 4.
3. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this Ordinance to correct and abate the violation and to ensure compliance with this Ordinance.

D. EXTENSION OF TIME

1. A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation.
2. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 30 days.
3. The Stormwater Administrator may grant 15-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this Ordinance.
4. The Stormwater Administrator may grant an extension only by written notice of extension.
5. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

E. ENFORCEMENT AFTER TIME TO CORRECT

After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this Ordinance.

F. EMERGENCY ENFORCEMENT

1. If delay in correcting a violation would seriously threaten the effective enforcement of this Ordinance or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation.
2. Any responsible party(ies) so ordered shall cease any violation immediately.
3. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this section.

7.10.3 REMEDIES AND PENALTIES

The remedies and penalties provided for violations of the stormwater provisions in this Ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

A. REMEDIES

1. WITHHOLDING OF CERTIFICATE OF OCCUPANCY

The Stormwater Administrator or other authorized agent may refuse to issue a Certificate of Occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible party(ies) has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

2. DISAPPROVAL OF SUBSEQUENT PERMITS AND DEVELOPMENT APPROVALS

As long as a violation of the stormwater provisions in this Ordinance continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Planning Board may disapprove, any request for permit or development approval or authorization provided for by this Ordinance or the building regulations, as appropriate, for the land on which the violation occurs.

3. INJUNCTION AND ABATEMENT

The Stormwater Administrator, with the written authorization of the Town Manager, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of the stormwater provisions of this Ordinance. Any person violating this Ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

4. CORRECTION AS PUBLIC HEALTH NUISANCE, COSTS AS LIEN

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by NCGS§ 160A-193, the Stormwater Administrator, with the written authorization of the Town Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

5. STOP WORK ORDER

The Stormwater Administrator may issue a stop work order to the responsible party(ies) violating this Ordinance. The stop work order shall remain in effect until the party(ies) has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

B. CIVIL PENALTIES

Violation of the stormwater provisions in this Ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator.

C. CRIMINAL VIOLATIONS OF STORMWATER~~, RIPARIAN BUFFER, OR WATERSHED PROTECTION STANDAR~~ STANDARD~~DS~~

1. Any willful violation of the stormwater~~, riparian buffer protection, or water supply watershed protection~~ standards in this Ordinance may be enforced as a Class 3 misdemeanor as provided for by NCGS§ 14-4 and all other applicable law, subject to a maximum fine of $500 or a maximum of 30 days imprisonment.
2. Accidental violation of the stormwater~~, riparian buffer protection, or water supply watershed protection~~ standards shall be subject to the standards applicable to a civil penalty.

~~In addition to the remedies available in Section <>, Remedies, and the standards related to the assessment of civil penalties in this section, the North Carolina Environmental Management Commission may also assess civil penalties for violation of the Watershed Protection Overlay District standards in accordance with NCGS§ 143-215.6(A).~~

7.11 VIOLATION OF STREAM BUFFER CONTROLS

7.11.1 WILLFUL VIOLATION MAY RESULT IN CRIMINAL PENALTY

Any willful violation of the stream buffer standards in this Ordinance may be enforced as a Class 3 misdemeanor as provided for by NCGS§ 14-4 and all other applicable law, subject to a maximum fine of $500 or a maximum of 30 days imprisonment.

7.11.2 ACCIDENTAL VIOLATION MAY RESULT IN CIVIL PENALTY

Accidental violation of the stream buffer standards in this Ordinance shall be subject to the standards in Section <>, Civil Penalties.

7.12 VIOLATION OF WATER SUPPLY WATERSHED CONTROLS

7.12.1 WILLFUL VIOLATION MAY RESULT IN CRIMINAL PENALTY

Any willful violation of the water supply watershed protection standards in this Ordinance may be enforced as a Class 3 misdemeanor as provided for by NCGS§ 14-4 and all other applicable law, subject to a maximum fine of $500 or a maximum of 30 days imprisonment.

7.12.2 ACCIDENTAL VIOLATION MAY RESULT IN CIVIL PENALTY

A. Accidental violation of the water supply watershed protection standards shall be subject to the standards applicable to a civil penalty (see Section <>, Civil Penalties).

B. In addition to the remedies available in Section <>, Remedies, the North Carolina Environmental Management Commission may also assess civil penalties for violation of the Watershed Protection Overlay District standards in accordance with NCGS§ 143-215.6(A).

CHAPTER 8
WORD USAGE

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KEY CHANGES FROM CURRENT UDC

Chapter 8, Word Usage, consolidates all the definitions of terms used in the Ordinance into a single location. In addition, Chapter 8 includes the following key changes:

- Incorporation of a glossary of all abbreviations and acronyms used in this Ordinance.
- A comprehensive set of provisions governing the use of terms in the Ordinance, including the calculation of time, delegation, and cross-referencing.
- An updated set of definitions consisting of almost 100 pages of terms.

8.1 ABBREVIATIONS

Table <>, Abbreviations, is a summary of the abbreviations and acronyms used in this Ordinance.

TABLE <>: ABBREVIATIONS	
ABBREVIATION	MEANING
AASHTO	American Association of State Highway and Transportation Officials
ABC	Alcoholic Beverage Control
ADA	Americans with Disabilities Act
ADU	Accessory Dwelling Unit
AM	Ante Meridiem (before noon)
ANSI	American National Standards Institute
ATM	Automated Teller Machine
BFE	Base Flood Elevation
BMP	Best Management Practice
BOA	Board of Adjustment of Clayton, North Carolina
BUA	Built-Upon Area
CBU	Cluster Mailbox Unit
CCRC	Continuing Care Retirement Community
CFR	Code of Federal Regulations
CLG	Certified Local Government
CLOMR	Conditional Letter of Map Revision
CO	Certificate of Occupancy
CON	Conservation Zoning District
CZC	Conditional Commercial Zoning District
CZD	Conditional Downtown Zoning District
CZI	Conditional Industrial Zoning District
CZM	Conditional Mixed-Use Zoning District
CZR	Conditional Residential Zoning District
CTS	Cooperating Technical State
CWA	Clean Water Act
DADU	Detached Accessory Dwelling Unit
DAS	Distributed Antenna System
DBH	Diameter at Breast Height
DEMLR	Department of Energy, Mineral, and Land Resources
DFIRM	Digital Flood Insurance Rate Map
DTN	Downtown Zoning District
DTNC	Downtown Core Zoning Sub-District

TABLE <>: ABBREVIATIONS	
ABBREVIATION	MEANING
DTNN	Downtown ~~Neighborhod~~Neighborhood Zoning Sub-District
DTNT	Downtown Transitional Zoning Sub-District
EIFS	Exterior Insulation and Finish System
EMB	Electronic Message Board
EMC	Environmental Management Commission
EMS	Emergency Medical Service
EPA	Environmental Protection Agency
ETJ	Extraterritorial Jurisdiction
EV	Electric Vehicle
FAA	Federal Aviation Administration
FBFM	Flood Boundary and Floodway Maps
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FHBM	Flood Hazard Boundary Map
FIRM	Flood Insurance Rate Map
FIS	Flood Insurance Study
FPOD	Flood Protection Overlay District
FPS	Feet per Second
GFA	Gross Floor Area
GICC	Geographic Information Coordinating Council
GIS	Geographic Information System
GTOD	Gateway Corridor Overlay District
HID	Heavy Industrial Zoning District
HVAC	Heating, ~~Venilation~~Ventilation, and Air Conditioning
IADU	Internal Accessory Dwelling Unit
ITE	Institute of Traffic Engineers
LAG	Lowest Adjacent Grade
LED	Light-Emitting Diode
LID	Light Industrial Zoning District
LOMA	Letter of Map Amendment
LOMA-F	Letter of Map Amendment - Fill
LOMC	Letter of Map Change
LOMR	Letter of Map Revision
MDC	Minimum Design Criteria
MPS	Meters per Second

TABLE <>: ABBREVIATIONS	
ABBREVIATION	MEANING
MXD	Mixed-Use Zoning District
NAVD	North American Vertical Datum (of 1988)
NC	North Carolina
NCAC	North Carolina Administrative Code
NCDEQ (DEQ)	North Carolina Department of Environmental Quality
NCDOT	North Carolina Department of Transportation
NCG	North Carolina General [Permit]
NCGS	North Carolina General Statutes
NCM	Neighborhood Commercial Zoning District
NEA	Non-Encroachment Area
NFIP	National Flood Insurance Program
NFPA	National Fire Protection Association
NHWL	Normal High Water Line
NPDES	National Pollutant Discharge Elimination System
OFI	Office Institutional Zoning District
OSHA	Occupational Safety and Health Administration
OSS	Open Space Set-Aside
PA	Protected Area
PB	Planning Board of Clayton, North Carolina
PIN	Parcel Identification Number
PM	Post Meridiem (after noon)
PMS	Pantone Matching System
POD	Portable On-Demand Storage Container
PSI	Pounds Per Square Inch
PUB	Public Facilities Zoning District
RHD	Residential High Density Zoning District
RLD	Residential Low Density Zoning District
RLL	Residential Large Lot Zoning District
RMD	Residential Medium ~~Deisntiy~~Density Zoning District
RMF	Residential Multi-Family Zoning District
ROW	Right-of-Way
RUR	Rural Zoning District
RV	Recreational Vehicle
SCM	Stormwater Control Measure
SES	Solar Energy System

TABLE <>: ABBREVIATIONS	
ABBREVIATION	MEANING
SFHA	Special Flood Hazard Area
TCIA	Tree Care Industry Association
TIA	Transportation Impact Analysis
TRC	Technical Review Committee of Clayton, North Carolina
TSS	Total Suspended Solids
UDC	Unified Development Code
UDO	Unified Development Ordinance
US	United States
USACE	United States Army Corps of Engineers
USC	United States Code
USGS	United States Geologic Survey
UV	Ultraviolet
WPOD	Watershed Protection Overlay District
WSE	Water Surface Elevation

8.2 LANGUAGE CONSTRUCTION

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

8.2.1 MEANINGS AND INTENT

A. All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section <>, Purpose and Intent of this Ordinance, and the specific purpose statements set forth throughout this Ordinance.

B. When a specific section of these regulations gives a different meaning than the general definition provided in Section <>, Terms Defined, the specific section's meaning and application of the term shall control.

C. Terms that are not defined are subject to their common or customary meaning.

8.2.2 LISTS AND EXAMPLES

Unless otherwise specifically indicated, lists of items or examples that use terms like "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

8.2.3 COMPUTATION OF TIME

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the Town.

8.2.4 TIME-RELATED LANGUAGE

A. Whenever certain hours are named, they shall mean standard time or daylight savings time as may be in current use by the Town.

B. The term "day" means a calendar day, or any day during a week, including business days and weekend days.

C. The term "holiday" means a legal holiday recognized by the Town.

D. The term "week" means five business days and two weekend days.

E. Weeks commence on a Monday.

F. The term "month" means a calendar month.

G. The term "year" means a calendar year.

H. The term "temporary" shall mean a condition lasting for only a limited period of time; not permanent.

8.2.5 REFERENCES TO THIS ORDINANCE

A reference to a chapter, section, sub-section, or paragraph means a chapter, section, sub-section, or paragraph of this Ordinance, unless otherwise specified.

8.2.6 REFERENCES TO OTHER ORDINANCES OR PUBLICATIONS

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition or adopted version of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

8.2.7 REFERENCES TO NORTH CAROLINA GENERAL STATUTES

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section.

8.2.8 DELEGATION OF AUTHORITY

Whenever a provision of this Ordinance requires or authorizes an officer or employee of the Town to do some act or perform some duty, the officer or employee may designate, delegate, or authorize subordinates to perform the act or duty unless the terms of the provision specifically provide otherwise.

8.2.9 JOINT AUTHORITY

All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

8.2.10 TECHNICAL AND NON-TECHNICAL TERMS

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

8.2.11 PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of the Town of Clayton, North Carolina, unless otherwise indicated.

8.2.12 MANDATORY AND DISCRETIONARY TERMS

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may," "can," and "should" are permissive in nature.

8.2.13 CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

A. "And" indicates that all connected items, conditions, provisions or events apply.

B. "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

8.2.14 TENSES, PLURAL, AND GENDER

A. Words used in the past or present tense include the future tense as well as the past and present.

B. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

C. Words used in the masculine gender include the feminine gender and the neuter, and vice versa.

8.2.15 OATH

The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

8.2.16 TERM NOT DEFINED

If a term used in any article of this Ordinance is not defined, the Planning Director is authorized to interpret the term in accordance with Section <>, Determination, based upon the definitions used in professionally accepted sources.

8.3 TERMS DEFINED

This section sets out the definitions of terms used in the UDO, including all use types, all procedures, all review authorities, and terms common to development standards and use standards. The section will include notes that some definitions, like those associated with signs, lot dimensions, or flood protection standards are located elsewhere in the Ordinance.

TABLE <>: TERMS DEFINED

TERM	DEFINITION(S)
10-YEAR, 24-HOUR STORM	For the purposes of Stormwater Management, the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 120 months and with a duration of 24 hours.
1-YEAR, 24-HOUR STORM	For the purposes of Stormwater Management, the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.
2-YEAR, 24-HOUR STORM	For the purposes of Stormwater Management, the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 24 months and with a duration of 24 hours.
A	
ABANDONED APPLICATION	See "Application, Abandoned."
ABANDONMENT	The relinquishment of property or a cessation of the use of the property for a continuous period.
ABROGATE	To abolish or annul.
ABUTTING	The condition of two parcels of land having a common property line or boundary, including cases where two or more parcels of land adjoin at a corner, but not including cases where parcels of land are separated by a street, water body, or right-of-way.
ACCELERATED EROSION	For the purposes of Soil Erosion and Sedimentation, any increase over the rate of natural erosion as a result of land-disturbing activity.
ACCENT	The use of an alternate material or color to a detail that is emphasized by contrasting with its surroundings.
ACCESS EASEMENT	See "Easement, Access."
ACCESSIBLE PARKING SPACE	An off-street parking space provided for the exclusive use of vehicles serving disabled persons.
ACCESSORY DWELLING UNIT	See "Dwelling Unit, Accessory."
ACCESSWAY	A paved or unpaved travelway intended to serve vehicles for the purposes of obtaining ingress, egress, or circulation around a lot or site.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
~~ACQUISTION~~ACQUISITION	Act or process of acquiring fee title or interest other than fee title of real property (including the acquisition of development rights or remainder interest).
ACT	For the purposes of Soil Erosion and Sedimentation, act shall mean the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.
ACTIVE OPEN SPACE SET-ASIDE	Land set aside for the residents or a development and under common ownership that is configured for active forms of recreation. Active open space typically includes playgrounds, athletic fields and courts, and similar features devoted to movement, activity, or sports pursuits.
ADDITION (TO AN EXISTING BUILDING)	For the purposes of the Flood Protection Overlay District standards, an extension or increase in the floor area or height of a building or structure.
ADEQUATE EROSION ~~CONTAL~~CONTROL MEASURE, STRUCTURE, OR DEVICE	For the purposes of Soil Erosion and Sedimentation, one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.
ADJACENT	A parcel of land or development that shares all or part of a common lot line or boundary with another parcel of land, or a parcel of land that would abut another parcel of land, but for the fact a street, waterbody, or right-of-way divides the parcels.
ADMINISTRATIVE ADJUSTMENT	A request by an applicant to deviate from a specified numerical standard of this UDO by a specified percentage, subject to consistency with applicable review criteria.
ADMINISTRATIVE SEARCH WARRANT	An order signed by a court of competent jurisdiction authorizing a Town official to enter land or a structure for the purposes of inspection for compliance with the requirements of this Ordinance.
ADOPTED POLICY GUIDANCE	The combined future land-use policy guidance provided by the adopted comprehensive plan, the comprehensive transportation plan, area or corridor plans prepared for specific parts of the Town, and system plans related to the Town's infrastructure systems.
ADULT DAY CARE	A program operated in a structure other than a single-family dwelling that provides group care and supervision on a less than 24-hour basis, and in a place other than their usual place of residence, to adults 18 years or older who may be physically or mentally disabled, and which is certified or approved to operate by the State of North Carolina.
ADVISORY OPINION	See "Determination, Advisory (Opinion)."
AFFECTED PARTY	Owners of land adjoining the land subject to an application and any other person who could suffer an adverse effect to a property interest from a proposed development.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
AFFILIATE	For the purposes of Soil Erosion and Sedimentation, a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.
AGRICULTURAL LAND	Land, including water areas, engaged in the production of crops, plants, livestock, or other agricultural commodities. Agricultural land does not include land used for processing or altering agricultural products.
AGRICULTURAL PACKAGING AND PROCESSING	A commercial establishment engaged in the preparation, processing, and packaging of agricultural products.
AGRICULTURAL STORAGE AND DISTRIBUTION	Commercial establishments devoted to the assembly, storage, and shipment of produce and agricultural products. Such uses do not include farms or places of production.
AGRICULTURE (AGRICULTURAL ACTIVITY)	A commercial establishment engaged in farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products for trade or re-sale.
AGRI-TOURISM	Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.
ALLEY	See 'Street, Alley."
ALL-WEATHER SURFACE	Paving or surface treatment to a walkway or vehicular use area that is capable of withstanding adverse weather while still maintaining is regular or typical surface characteristics.
ALTERATION OF A WATERCOURSE	For the purposes of the Flood Protection Overlay District standards, a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.
ALTERNATIVE FORM OF COMPLIANCE	Use or a different approach, configuration, set of materials, or other means of complying with a particular standard in this Ordinance that has been considered and approved by the Town.
ALTERNATIVE LANDSCAPE PLAN	A document prepared by an applicant that proposes an alternative means of compliance with the standards in Section <>, Landscaping and Screening.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
ALTERNATIVE PARKING PLAN	A document prepared by an applicant that proposes an alternative means of compliance with the standards in Section <>, Off-Street Parking and Loading.
AMATEUR HAM RADIO	Equipment, including antennas, transmitters, and antenna support structures used by a non-professional person in the transmittal of messages and information within the radio frequency portion of the electro-magnetic spectrum.
AMENDMENT	A significant change, revision, addition, or deletion to a legal statutory document such as a development approval, the text of this Ordinance, or the Official Zoning Map. Amendment to a development approval is also referred to as a "major modification".
ANIMAL HUSBANDRY	The commercial and non-commercial propagation, rearing, exercising, feeding, milking, housing, controlling, handling, or general care of living animals and livestock. Examples include, but are not limited to, the raising and production of cattle (beef and dairy), pigs, mules, ducks, horses, goats, poultry, sheep, fish, and similar livestock or domesticated animals, and equestrian facilities. Concentrated animal feeding operations (CAFOs) are industrial uses. Breeding and rearing of animals typically thought of as household pets (e.g., dogs, cats, small rodents, etc.) is not animal husbandry.
ANIMAL PROCESSING	Commercial processing, rendering, or preparation of edible or non-edible animal carcasses and tissues and any products prepared from these tissues, including red meat, white meat, seafood, or game.
ANIMAL SHELTER	A facility used to house and care for stray, homeless, abandoned, or neglected animals and that is owned, operated, or maintained by a public body, an established humane society, or other private or nonprofit organization.
ANNEXATION	The process where land not located within the Town's corporate limits is added to the corporate limits.
ANSI STANDARDS	Standards published by the American National Standards Institute (ANSI), a private, non-profit organization [501(c)(3)] that administers and coordinates the U.S. voluntary standardization and conformity assessment system.
ANTENNA	Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whips, but not including satellite earth stations.
ANTENNA COLLOCATION, MAJOR	Uses involving the placement of antennas on building's roof or wall, placement of antennas on a vertical projection not constructed for communications purposes, or placement of antennas on a communications structure that requires "substantial modifications" as defined in NCGS§ 160D-931.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
ANTENNA COLLOCATION, MINOR	Uses involving the placement of antennas on a vertical projection (including a structure built for communications) that does not require substantial modifications and meets the definition of an "eligible facility" in NCGS§ 160D-931.
ANTENNA SUPPORT STRUCTURE	The frame, bracket, or other mechanical device, including mounting hardware such as bolts, screws, or other fasteners used to affix an antenna to a wireless telecommunications tower, building, utility pole, or other vertical projection.
APPEAL	A request for a review of a determination, decision, or the application of any provision of this Ordinance.
APPLICANT	A person who has submitted a development application for review under applicable provisions of this Ordinance.
APPLICATION	The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the appropriate Town department or board as part of the development review processes.
APPLICATION, ABANDONED	An application for development approval that has been delayed and has not met the timing standards in Section <>, Abandonment.
APPLICATION, COMPLETE	A complete application is one that: 1. Contains all information and materials established by the Planning Director as required for submittal of the particular type of application; 2. Is in the form established by the Planning Director as required for submittal of the particular type of application; 3. Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate review standards of this Ordinance; and 4. Is accompanied by the fee established for the particular type of application. An application is not considered as submitted until it is determined to be a complete application.
APPLICATION, INCOMPLETE	An application for proposed development that does meet the minimum requirements in Section <>, Determination of Application Completeness.
APPLICATION, MULTI-PART	An application for development approval submitted under this Ordinance that is comprised of two or more different application types described in Chapter 2, Applications.
APPROVING AUTHORITY	For the purposes of Soil Erosion and Sedimentation, the division or other state or local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provision of the Act.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
APPURTENANT (SECONDARY) STRUCTURE	For the purposes of the Flood Protection Overlay District standards, a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban appurtenant structures. Pole barns, hay sheds, and the like qualify as appurtenant structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
AQUACULTURE	The cultivation of saltwater or freshwater plants or animals on land in tanks under controlled conditions.
ARBOR	A structure with an open roof system providing partial shading and which may also have non-opaque fencing on the outside perimeter.
ARBORETUM OR FORMAL GARDEN	A place where trees, shrubs, or other woody plants are grown, exhibited or labeled for scientific, educational, or passive recreational purposes, not including the harvest of plants or their produce.
ARCADE	A series of arches supported by piers or columns. It is typical for an arcade to have habitable floor space directly above it.
ARCH OR ARCHWAY	A curved, semicircular opening in a wall.
ARCHITECTURAL METAL PANEL	A strip or sheet of high-quality metal (typically stainless steel, copper, or bronze) applied to the exterior wall of a building for decorative purposes.
AREA OF FUTURE-CONDITIONS FLOOD HAZARD	For the purposes of the Flood Protection Overlay District standards, the land area that would be inundated by the 1% annual chance (100-year) flood based on future- conditions hydrology.
AREA OF SHALLOW FLOODING	For the purposes of the Flood Protection Overlay District standards, a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
AREA OF SPECIAL FLOOD HAZARD	See "Special Flood Hazard Area (SFHA)."
ART INSTALLATION	Two- or three-dimensional art (such as sculpture, painting, or other physical form of expression) that is created, constructed, and installed on the site where it is displayed for the purposes of expressing an idea, feeling, or desire to evoke a reaction from the viewer.
ARTERIAL STREET	See "Street, Arterial."
ARTICULATION	The presence or projections, recesses, or other architectural features along a building façade.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
AS-BUILT PLAN	A set of engineering or site drawings that delineate the specific permitted development as actually constructed.
ASPHALT OR CONCRETE PLANT	An industrial establishment engaged in the production of asphalt, macadam, blacktop, concrete, or mortar for use in the construction and repair of buildings, roadways, and vehicular use areas. The use involves the stockpiling of sand, binder and filler, as well as a heater to mix the ingredients, and trucks to deliver products to the site of installation.
ASSISTED LIVING	See "Congregate Care."
ATHLETIC FIELD OR COURT	An outdoor facility used for organized or unorganized sports or recreation. Such facilities may include storage or gathering structures, equipment housing, lights, spectator areas, hard or soft surface play areas, fences, walls, or netting. Swimming pools are not athletic fields or courts.
ATRIUM	An open, central area of a building with large windows or a glass roof available for use by the occupants of the building or the public at large. The atrium typically includes or open onto the building's primary entrance.
AUDITORIUM, COLISEUM, OR CONVENTION CENTER	A building or structure designed or intended for use for spectator sports, entertainment events, expositions, conferences, seminars, product displays, recreation activities, and other public gatherings, all occurring inside a structure typically limited to a capacity of 500 or fewer seats, along with secondary functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.
AUTHORIZED AGENT	A person or legal entity with express written consent to act upon another's behalf.
AUTOMATED TELLER MACHINE	An automated mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether inside or outside of a financial institution, or located in a structure unrelated to the financial institution operating it. Such uses may not serve as the principal use of a parcel of land or site.
AWNING	A plastic, canvas, or metal porch or shade supported by a frame and often foldable that is placed over a storefront, doorway, or window.
AXIS	See "Building Axis."
B	
BALCONY	A sign of lightweight fabric or similar material which is rigidly mounted to a pole or a building by a rigid frame at two or more opposite sides. Flags are mounted along one side and shall not be considered banners.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
BANK OR CREDIT UNION	An establishment that provides retail banking services, mortgage lending, or similar services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities but shall not include bail bond brokers. Banks or credit unions may also provide automated teller machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only, as well as drive-through facilities. A financial establishment that does not retain or provide cash or currency services to customers on-site is a financial services use.
BANNER	A sign of lightweight fabric or similar material which is rigidly mounted to a pole or a building by a rigid frame at two or more opposite sides. Flags are mounted along one side and shall not be considered banners.
BAR, COCKTAIL LOUNGE, OR PRIVATE CLUB	An establishment having as its principal or predominant use the serving of beer, wine, or liquor for consumption on the premises, and which sets a minimum age requirement for entrance, consistent with state law. The primary source of revenue for such use is derived from alcohol sales, and the secondary source from the serving of food. Such uses may also provide on-site entertainment in the form of live performances, dancing, billiards, or other entertainment activities.
BARBED, CONCERTINA, OR RAZOR WIRE	Wire serving as a fence or located on top of a fence, wall, or building, that includes clusters of short spikes set at regular intervals or supplemented with strands of sharpened metal used as a security method to deter people or animals from climbing the fence, building, or wall.
BARBER OR BEAUTY SALON	A personal services establishment where one or more persons provides grooming services to members of the general public. Such uses may include secondary retail sale of personal products for patrons.
BASE FLOOD	For the purposes of the Flood Protection Overlay District standards, the flood having a 1% chance of being equaled or exceeded in any given year.
BASE FLOOD ELEVATION (BFE)	For the purposes of the Flood Protection Overlay District standards, a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the Regulatory Flood Protection Elevation.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
BASEMENT	Any area of a building having its floor subgrade (below ground level) on all sides. For the purposes of the Flood Protection Overlay District standards, any area of the building having its floor subgrade (below ground level) on all sides.
BAY WINDOW	A window, typically with two or more sides that is built to project outward from an outside wall.
BED AND BREAKFAST	A private residence, generally a single-family residence, engaged in renting one or more dwelling rooms on a daily basis to tourists, vacationers, and businesspeople, where provision of meals is limited to breakfast for guests only. A bed and breakfast with more than six rooms available for rent is considered a hotel or motel.
BEING CONDUCTED	For the purposes of Soil Erosion and Sedimentation, a land-disturbing activity has been initiated and not deemed complete by the approving authority.
BELFRY	An enclosed vertical projection attached or detached to another habitable structure (like a church or school) typically used for the location of bells.
BELT COURSE	A projecting horizontal course of the same or a contrasting material (often masonry) on the exterior of a building used to direct water off the wall or denote an interior floor level.
BERM	An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses or site features.
BEST MANAGEMENT PRACTICE (BMP)	For the purposes of riparian buffers or stormwater management, a practice or combination of practices that is determined to be an effective and practicable means of preventing or reducing the amount of pollution to a level compatible with the water quality goals in Section <>, Riparian Buffers, or Section <>, Stormwater.
BICYCLE LANE	A portion of a street designated solely for use by bicyclists.
BICYCLE PARKING SPACE	Land and facilities used for the parking of bicycles, including a mechanism for securing a parked bicycle.
BILLBOARD	See "Outdoor Advertising."
BIO-RETENTION CELL	A stormwater infiltration device consisting of an excavated area that is filled with a specialized soil media and plants, grass, or sod.
BLOCK	The land lying within an area bounded on all sides by streets.
BLOCK FACE	The lands abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, railroad right-of-way, watercourse, or un-subdivided land.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
BOARD OF ADJUSTMENT	A quasi-judicial decision-making body responsible for hearing Appeals, Variance requests, and Special Use Permits in Clayton, North Carolina.
BOARDING (FOR ANIMALS), INDOOR AND OUTDOOR	A commercial establishment providing socialization, training, or housing, in the absence of the owner, during the daytime or overnight for domesticated pets owned by the general public for which a fee is charged. Such uses may include any outdoor activity areas, runs, enclosures, or storage.
BOARDING (FOR ANIMALS), INDOOR ONLY	A commercial establishment providing socialization, training, or housing, in the absence of the owner, during the daytime or overnight for domesticated pets owned by the general public for which a fee is charged. Such uses do not include any outdoor activity areas, runs, enclosures, or storage.
BOARDING HOUSE	A residential dwelling that offers five or fewer sleeping rooms for rent by lodgers staying one or more nights. The dwelling contains a single common kitchen and may include other common areas for dining, laundry, and congregating. Boarding houses are not intended as group homes or halfway houses.
BOLE	For the purposes of this Ordinance, a specific location on the trunk or main stem of a tree where the adjacent soil touches the tree trunk or stem. Tree size is determined by measuring the tree's circumference at specified distances upwards from the bole. The portion of the tree below the established soil line around the base of the trunk is not considered to be the bole.
BONA FIDE FARM	Any tract or tracts of land used for farm purposes as defined in NCGS§ 160D-930, including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in NCGS§106-581.1. In addition, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under NCGS§106-743.2 is a bona fide farm purpose. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes: 1. A farm sales tax exemption certificate issued by the Department of Revenue; 2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to NCGS§105-277.3; 3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; and 4. A forest management plan.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
BORROW	For the purposes of Soil Erosion and Sedimentation, fill material that is required for on-site construction that is obtained from other locations.
BOTTLE SHOP (ON-PREMISE CONSUMPTION)	A commercial establishment engaged in the retail sale of beer, wine, or spirits in sealed containers offered for sale to an individual solely as a sealed container such as a bottle or can. Beverages may be sold for off-site or on-site consumption only in accordance with all applicable State laws and permits. Incidental sale of food or associated merchandise may also take place. Bottle shops that do not permit on-site consumption are considered general retail, high intensity.
BOW	An exterior building wall that is curved.
BOW SIGN	See "Sign, Bow."
BROADCASTING STUDIO	Uses including buildings, studios, and transmission facilities for the production and distribution of radio and television signals.
BUFFER	An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use. For the purposes of riparian buffers or watershed protection, a buffer is a vegetated area bordering a body of water such as a stream, pond, or lake.
BUFFER ZONE	For the purposes of Soil Erosion and Sedimentation, the strip of land adjacent to a lake or natural watercourse.
BUFFER, PERIMETER	Vegetative material and structures (i.e., walls, fences) that are used to separate uses from each other as required by this Ordinance, including the Type A Separation, Type B Intermittent, Type C Semi-Opaque, and Type D, Opaque.
BUFFER, STREETSCAPE	Landscaping provided on individual lots abutting arterial, collector, or local streets, but located outside the street right-of-way.
BUILDING	Any structure used or intended for supporting or sheltering any use or occupancy.
BUILDING AXIS	An imaginary line between two points on a building that describes or explains how the building is organized. For example, the ridgeline of a roof gable depicts a building's axis.
BUILDING CORNERSTONE	A stone that forms the base of a building's most prominent corner.
BUILDING FACADE	The entire exterior wall of a building facing a lot line measured from the grade to the eave or highest point of a flat or mansard roof. Facades may be on the front, side, or rear elevation of the building.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
BUILDING FLOOR AREA	The gross floor area of an individual structure built for support, shelter or enclosure for any occupancy or storage.
BUILDING FLOORPLATE	The area occupied by the outermost perimeter of a building or structure at the ground level only.
BUILDING FOOTPRINT	The area occupied by the perimeter of a principal building. Accessory structures and non-building facilities are not included in the building footprint.
BUILDING PERMIT	Authorization granted by the Town for an applicant to begin construction of a building or structure.
BUILDING PROJECTION	An extension of a building wall or building façade projecting outwards from the primary building façade plane typically used to conceal or screen a service element of site feature like a refuse collection container.
BUILDING RECESS	The portion of a building wall or building façade receding or directed inwards from the primary building façade plane typically used as an entryway or as an area for outdoor activity. A recess may or may not include an overhanging roof.
BUILDING WALL	See "Wall, Building."
BUILDING WING	A portion of a building that is subordinate to the main or central part of the structure. Building wings may share a wall with the main or central part of the building or be joined to it by another ancillary structure like a hallway or a colonnade.
BUILT-UPON AREA (BUA)	For purposes of Stormwater Management, that portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. built-upon area does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material. The project site or area must exclude any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, State, or local stormwater regulation.
BULB OUT	A curb extension used to extend the sidewalk, reducing the street crossing distance for pedestrians while also allowing approaching vehicle drivers to see pedestrians when vehicles parked in a parking lane would otherwise block visibility.
BULKHEAD	A vertical or horizontal wall used to enhance structural integrity or to conceal mechanical equipment.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
BULKY ITEM SALES	A commercial establishment engaged in the retail sale of large or bulky items that are not commonly constructed or maintained indoors, such as truck camper tops, bed liners, prefabricated outdoor buildings, manufactured homes, modular homes, play equipment, portable storage containers, or hot tubs. Such uses may include on-site assembly or fabrication of such items for sale.
BUNGALOW COURT	A series of single-family detached homes configured as a cohesive development that incorporates smaller lot sizes, reduced setbacks, shared accessways, a shared driveway, perimeter landscape buffering, and where each home complies with the residential design guidelines in this Ordinance.
BUS SHELTER	A structure or covering located within or adjacent to a street right-of-way or vehicular driveway that includes areas for standing or seating for patrons waiting to board or disembark from a bus or other form of public transportation. Such uses may include un-manned ticket sales or vending machines, secondary bicycle parking, or refuse collection.
BUSINESS DAY	Any day in which normal business is conducted. A business day does not include a holiday or a weekend day.
BUSINESS INCUBATOR	A commercial establishment that provides support and encouragement to new business startups and ventures in the form of affordable floor area to rent, shared office space, shared marketing resources, and may also provide management training services and access to financing. Business incubators contain a wide array of use types, including retail, office, personal service, and light manufacturing uses. Some use types are specifically prohibited within a business incubator use, as specified in this Ordinance.
C	
CALENDAR DAY	Any day of the week.
CALIPER	Measurement for determining the size of trees at time of planting. Caliper is the quantity in inches of the diameter of trees measured at six inches or 12 inches above the ground, depending upon the size of the tree.
CAMPER	A portable dwelling (as a special equipped trailer or automobile vehicle) for use during casual travel and camping.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
CAMPGROUND	A commercial establishment containing two or more campsites or cabins available for overnight camping use whether by rental fee or short-term lease. Campgrounds may include recreational facilities, a store for the sale of food or camping supplies while on the premises, and facilities for the assembly of campers and guests. Campground does not include a summer camp, migrant labor camp, manufactured or mobile home park, or recreational vehicle park.
CAMPUS-STYLE DEVELOPMENT	A development of two or more principal buildings along with any accessory structures that are planned, designed, and operated as an integral unit. Campus-style developments are typically organized around a central feature such a central open space or common area, and use consistent architecture, landscape plantings, street configurations, and other features to reinforce the idea that all buildings are part of one centralized campus.
CANOPY (DRIVE THROUGH, FUEL, ETC.)	A permanent structure other than an awning made of cloth, metal, or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature. A canopy is not a completely enclosed structure.
CANOPY TREE	A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.
CARETAKER DWELLING	See "Dwelling, Caretaker."
CARPORT	A permanent structure comprised of a roof and vertical supports typically used to house an automobile or other vehicle. A carport is open or lacks structural walls on two or more sides and may be detached or attached to a principal structure. Overhead coverings for vehicles not intended as a location to park a vehicle are canopies.
CARRIER OR WIRELESS CARRIER	An entity licensed by the FCC to provide radio frequency communications services to individuals.
~~CASULTY~~CASUALTY DAMAGE	The damage to or loss of a nonconforming structure or use that is sudden, unexpected, and unusual. Typically associated with fire, severe weather, or Act of God.
CATERING ESTABLISHMENT	A commercial establishment that prepares, delivers, and may or may not serve food and/or beverages to clients in a pre-arranged on-site or off-site location at a pre-arranged time. Catering operations associated with a restaurant are considered eating establishments, and catering associated with a hotel, motel, or conference venue is considered an secondary use.
CELLULAR REINFORCED PAVING SYSTEM	Plastic, metal, or polymers that are installed into a matrix of earth or crushed stone and used to reinforce or stabilize parking or vehicular use areas.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
CEMETERY OR MAUSOLEUM	Uses intended for the burial of the dead and dedicated for cemetery purposes. This use type may include a funeral home or mortuary or a mausoleum or columbarium (a structure or vault lined with recesses for cinerary urns), but does not include a crematory.
CENTRAL LEADER	The dominant upright branch (or trunk) of a tree.
CERTIFICATE OF OCCUPANCY	Authorization granted by the Town for the occupancy of a building reviewed and approved under this Ordinance.
CERTIFIED ARBORIST	An individual who has successfully completed the International Society of Arboriculture (ISA) exam process.
CERTIFIED LOCAL GOVERNMENT (CLG) PROGRAMS	For the purposes of the Flood Protection Overlay District standards, CLG Programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.
CERTIORARI	A court process to used to seek judicial review of a decision of a lower court or government agency. Cases reviewed in the manner of certiorari are cases reviewed by a court solely upon the record that exists, and new testimony, facts, or evidence are not typically considered.
CHANGE OF USE	The change in the use of a building, structure, or land. "Change of use" includes a change from one use type to another use type.
CHANGEABLE COPY	Text or other depictions on the face of a sign that are capable of being revised on a regular or infrequent basis.
CHANNEL	As used in the riparian buffer standards, a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.
CHEMICAL STORAGE FACILITY	For the purposes of the Flood Protection Overlay District standards, a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
CHICANE	A serpentine curve added to a street as a traffic calming measure.
CHILD CARE, INCIDENTAL	A secondary use where, at any one time, three or more children under the age of 13, receive child care on a regular basis of at least once per week for at least four (but less than 24) hours per day from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. This definition does not include child day care centers, cooperative arrangements among parents, or other activities not defined as child care by NCGS§ 110-86. Provision of child care services for more than six children in a residential dwelling is not a secondary use and is subject to the standards for a child day care center.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
CHILD DAY CARE	A commercial or non-profit use licensed by the State where, at any one time, three or more unrelated children under the age of 13 receive child care from an unrelated person in a building other than a private residence on a regular basis of at least one occurrence per week for more than four hours per occurrence. Such uses may also involve the provision of educational services in preparation for elementary school. This definition does not include incidental child care, cooperative arrangements among parents, or drop-in or short-term child care provided while parents work part-time or participate in other activities on the premises (e.g., churches, shopping malls, hotels, health spas).
CITATION	As used in Chapter 7, Violations, a formal notice to a person that he or she is charged with a violation of this Ordinance, and that penalty is due.
CIVIL ACTION	A legal action at law brought between a private party(ies) and the Town to protect a civil right or to compel a civil remedy (as opposed to criminal prosecution).
CIVIL PENALTY	A fine or other financial penalty imposed by a court, the County, or another governmental entity as restitution for violation of this Ordinance or other wrongdoing.
CLEAN WATER ACT	For the purposes of stormwater management, the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended, 33 USC 1251, et seq.
CLEAR CUTTING	Any activity that results in the removal of 80 percent or more of the tree canopy coverage over a lot or tract from existing trees that meet or exceed the minimum size at time of planting requirements in this Ordinance.
CLEARING	The act of removing existing vegetation. Grading of the land includes clearing when grading is taking place while vegetation is still present.
CLIMATE CONTROL EQUIPMENT	Heating, ventilation, air conditioning, and similar heating or cooling equipment typically located outdoors.
CLOSE FAMILIAL RELATIONSHIP	An instance where a review authority responsible for a decision under this Ordinance has or maintains any of the following types of relationships with an applicant: spouse, parent, child, brother, sister, grandparent, or grandchild, including step, half, and in-law relationships.
CLUSTER BOX UNIT	A centralized grouping of individually locked and keyed mailboxes meeting the specifications of the United States Postal Service.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
CLUSTER DEVELOPMENT	For the purposes of water supply watershed protection, the grouping of buildings to conserve land and minimize stormwater runoff impacts. Non-residential, multi-family, and single-family development can be clustered, and planned and mixed-use development are also considered cluster developments for the purposes of the WPOD standards.
COCKTAIL LOUNGE	See "Bar, Cocktail Lounge, or Private Club."
COFFEE SHOP OR BAKERY	A commercial establishment engaged in the retail sale of coffee, tea, related beverages, as well as bread, baked goods, and confections for on-site and off-site consumption. Coffee shops or bakeries may also offer a limited range of food available for on-site or off-site consumption as well as merchandise associated with home consumption of coffee or tea. A coffee shop may also include, as a secondary use, equipment and facilities to prepare coffee beans for consumption. Uses engaged solely in coffee bean, flour, sugar, fruit, or other food staple processing for off-site consumption are manufacturing uses. Uses that derive the majority of their income from sales of food are restaurant uses.
COLD-HARDY	A plant's ability to withstand normal winter temperatures while remaining alive.
COLLECTOR STREET	See "Street, Collector."
COLLEGE OR UNIVERSITY	A public or private, non-profit institution for post-secondary education offering courses in general or technical education which operates within buildings or premises on land owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities and sororities, and other facilities which further the educational mission of the institution. In no event shall this definition prohibit a college or university from engaging in an activity historically conducted by such institutions.
COLLOCATION	See "Antenna Collocation Major," or "Antenna Collocation, Minor."
COLOR CORRECTED HIGH-PRESSURE SODIUM	A form of exterior illumination from a bulb with a compact arc tube that, when energized, produces a warm, deep yellow light.
COLUMN	An upright pillar, typically cylindrical and made of stone or concrete, supporting an entablature, arch, or other structure or standing alone as a monument.
COMBINATION / RECOMBINATION	The assembling or joining of two or more different lots of record into a different configuration of lot lines.
COMMISSION	For the purposes of Soil Erosion and Sedimentation, the North Carolina Sedimentation Control Commission.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
COMMON AREA	Land within a subdivision or development that is owned in common by two or more residents or property owners. Common area may or may not be open to use by members of the general public.
COMMON LAW VESTED RIGHT	Legal doctrine that recognizes where property owners have reasonably made a substantial expenditure of money, time, labor or energy in a good faith reliance on a permit from the government, that they acquire "vested rights" or a protected right to complete the development of their land as originally begun despite any changes in the zoning on the property.
COMMON PLAN OF DEVELOPMENT	For purposes of Stormwater Management, a site where multiple separate and distinct development activities may be taking place at different times on different schedules but governed by a single development plan regardless of ownership of the parcels. Information that may be used to determine a common plan of development include plats (including exempt), blueprints, marketing plans, contracts, building permits, public notices or hearings, zoning requests, and infrastructure development plans.
COMMON PROCEDURE	Actions undertaken by Town staff or requirements of applicants that are uniformly applied to all types of development applications reviewed and decided under this UDO.
COMMUNITY CENTER (PUBLIC)	A building and grounds, open to members of the general public to be used as a place of meeting, recreation, or social activity and not operated for profit. Community centers are operated by governmental agencies, not-for-profit entities, or other private institutions.
COMMUNITY CHARACTER	The sum or combined effect of the attributes and assets that make the Town unique and that establish the Town's "sense of place." Attributes include the resident population, local institutions, visual characteristics, natural features, and shared history.
COMMUNITY GARDEN	See "Garden, Community, Public, or Private."
COMMUNITY RECREATION FACILITY (PRIVATE)	A non-commercial establishment engaged in the provision of recreational opportunities, features, or facilities to the owners or residents of a specific development or subdivision and their guests. Such uses are not typically available for use by non-members. A community recreation facility may or may not include a habitable structure.
COMPLETE APPLICATION	See "Application, Complete."
COMPLETE RESIDENTIAL DWELLING OR HOUSEKEEPING UNIT	A structure primarily devoted to residential occupancy that complies with all applicable requirements for a dwelling for human habitation in the North Carolina Building Code and that contains its own kitchen, bathroom facilities for sanitation and washing, and sleeping area(s).

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
COMPLETENESS DETERMINATION	The process of determining if an application for a development approval is or is not complete. An application for development is not considered as "submitted" until it is determined to be complete.
COMPLETION OF CONSTRUCTION OR DEVELOPMENT	For the purposes of Soil Erosion and Sedimentation, no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
COMPREHENSIVE PLAN	A comprehensive plan that has been officially adopted by the Town Council in accordance with Section 160D-501.
COMPUTER RELATED SERVICES	A commercial establishment engaged in diagnosis and repair of personal computers and associated peripherals, including printers, network equipment, monitors, and related equipment. Such uses may also procure replacement parts and construct computer components or systems for clients. Limited sale of new or reconstructed computers and computer equipment is a secondary use. Manufacture or assembly of computer systems on an industrial scale or for resale to members of the general public is a light manufacturing use.
CONCENTRATED ANIMAL FEEDING OPERATION	A facility devoted to the large-scale storage, feeding, and processing of animals in accordance with NCGS§ 143-215.10B.
CONCEPT PLAN	See "Plan, Concept."
CONCRETE PLANT	See "Asphalt or Concrete Plant."
CONDITION OF APPROVAL	A limitation or stipulation on the range of allowable uses, density, intensity, configuration, or operational parameters of new development or redevelopment. A condition may be proposed by an applicant, a staff member, or a review authority that must be accepted by an applicant and the Town to become binding.
CONDITIONAL LETTER OF MAP REVISION (CLOMR)	For the purposes of the Flood Protection Overlay District standards, a CLOMR is a formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.
CONDITIONAL REZONING	A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
CONDITIONAL ZONING DISTRICT	A type of zoning district subject to one or more conditions included as part of the legislative approval by the Town Council that establishes the conditional zoning district. Conditions may address dimensional standards, development standards, subdivision requirements, or other elements, as permitted by this Ordinance.
CONDOMINIUM	A development containing individually owned dwelling units and jointly owned and shared areas and facilities that is subject to the North Carolina Unit Ownership Act (North Carolina General Statutes Section Ch. 47A) and/or the North Carolina Condominium Act (North Carolina General Statutes Section Ch. 47C).
CONE OF ~~ILUMINATION~~ILLUMINATION	The detectable spread of illumination from a source of exterior lighting.
CONGREGATE CARE	A residential facility with support and supervisory personnel for the elderly or infirm that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services such as recreational and social activities, financial services, transportation, laundry, and other services appropriate for the residents and designed to provide a relatively independent lifestyle.
CONNECTIVITY	The relative degree of connection between streets, sidewalks, or other means of travel.
CONSERVATION AND DEVELOPMENT AREA	The two portions of a conservation subdivision. The conservation area is the portion of the land protected from development and the development area is the portion of the subdivision utilized for development purposes. Agricultural activities may take place in either or both portions.
CONSERVATION EASEMENT	See "Easement, Conversation."
CONSERVATION SUBDIVISION	See "Subdivision, Conservation."
CONSISTENT	Architectural design, site configuration, or building materials or colors that are compatible, accordant, or harmonious with one another or with similar features in other developments in the general vicinity.
CONSTRUCTION	The erection of any building, structure, on-site improvement, or any preparations (including land disturbing activities) for the same, regardless whether the site is presently improved, unimproved or hereafter becomes unimproved by "demolition," destruction of the improvements located thereon by fire, windstorm or other casualty.
CONSTRUCTION DRAWINGS	Technical diagrams, drawn to scale, depicting the placement and configuration of buildings, structures, site features, and infrastructure.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
CONTAINERIZED STOCK	Trees or other vegetation delivered for planting or establishment in individual or group containers.
CONTIGUOUS	See "Abutting."
CONTINUANCE	The adjournment or postponement of review or a decision on an application for development approval to a specified future date.
CONTINUING CARE RETIREMENT COMMUNITY (CCRC)	A retirement community configured as a single unified campus that includes independent living dwellings, assisted living facilities, and skilled nursing facilities that are owned and operated by a private company that provides a continuum of care to residents of the community. It may include on-site dining, medical care, and recreation and social facilities in addition to guest lodging and employee housing.
CONTRACT PURCHASER	A person who has entered into a contract with another party to purchase real property, but who has not yet settled on the purchase.
CONTRACTOR SERVICES OFFICE/YARD	Offices for building, heating, plumbing, electrical, or similar contractors, along with related indoor and outdoor storage facilities. Such uses may include minor assembly of parts but do not include fabrication of finished products from raw materials.
CONVENIENCE STORE (WITH GASOLINE SALES)	A retail establishment which offers for sale, primarily, the following types of articles: gasoline, vehicle-related products, pre-packaged, canned, and bottled foods and drinks, tobacco products, beer, wine, candy, papers and magazines, and general hardware articles. Site-prepared food products may also be offered for sale but only as a secondary activity of a convenience store and subject to the standards of this Ordinance. If vehicular maintenance and service are provided, the establishment is not classified as a convenience store.
CONVENTION CENTER	See "Auditorium, Coliseum, or Convention Center."
CONVENTIONAL ZONING DISTRICT	A designation or classification applied to certain lots or tracts as shown on the Official Zoning Map. Conventional zoning districts specify the broad range of allowable land use types permitted on lots or tracts within the particular district. The conventional zoning district standards also specify the applicable dimensional requirements for lots and buildings as well as any unique provisions that apply to solely lands in the particular district.
COPING	A finishing or protective course of masonry or cap of metal located at the top of a brick, stone, or masonry wall.
CORNICE	Any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.
CORPORATE LIMITS	The legal name that refers to the boundaries of a municipal corporation (i.e., the Town of Clayton, North Carolina).

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
CORRECTIONAL OR DETENTION FACILITIES	Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense. Such uses may include cafeterias, housing for facility staff, outdoor storage and maintenance areas, recreational areas, agricultural facilities, and facilities for the production of goods or materials produced for sale.
COUNTY	Johnston County, North Carolina.
COURT-ORDERED SUBDIVISION	See "Subdivision, Court-Ordered."
COURTYARD	An open, unoccupied space, other than a required yard, on the same lot as a building and bounded on two or more sides by a building on the same lot.
COVENANT	A binding written agreement between two or more private parties regarding the use, occupancy, or configuration of development that runs with the land.
CO-WORKING SPACE	A land use that serves as a shared workspace for employees of different organizations. Co-working spaces consist of private, self-contained offices as well as shared or common office workspaces available for rent by more than one individual. Co-working spaces may include shared administrative staff, document production, presentation equipment, storage, kitchens, or private meeting rooms.
CRIMINAL PENALTY	A fine, fee, imprisonment, or other activity ordered by a court or governmental agency as punishment for a violation of this Ordinance or other applicable law.
CRITICAL ROOT ZONE	The area around the stem or trunk of a tree located around the trunk, the radius of which is 12 inches in distance from the base of the trunk for every inch of tree diameter measured at 4.5 feet above grade.
CRYPTOMINING AND DATA PROCESSING	An industrial-scale facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer or network equipment, systems, servers, appliances, climate control, back-up power generation, and other associated components related to digital data storage and transfer operations. Such uses may include secondary office or storage facilities located within enclosed structures.
CUL-DE-SAC STREET	See "Street, Cul-de-Sac."
CUPOLA	A domelike structure on top of a roof or dome, often used as a lookout or to admit light and air.
CURB	A constructed element used to stabilize paving, gutter, planting areas, or sidewalks.
CURB OUTLET SYSTEM	For purposes of Stormwater Management, curb and gutter with breaks or other outlets used to convey stormwater runoff to vegetated conveyances or other vegetated areas.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
CURVILINEAR WALL FEATURE	A portion of a building's exterior wall that is curved or arced relative to the primary wall plane.
CUT-OFF BULB	A device providing a source of visible illumination that is painted, shielded, or otherwise configured so that the direction of light is controlled and prevented from travelling upwards, downwards, or sideways from the bulb's relative location.
D	
DAM	A barrier, whether constructed or natural that holds back water.
DANCE HALL	See "Nightclub or Dance Hall."
DATA PROCESSING	See "Cryptomining and Data Processing."
DAY SPA (MEDICAL OR NON-MEDICAL)	A commercial or institutional use engaged in the provision of health, relaxation, exercise, diet, or lifestyle training or related services to members of the general public during regular business hours. Day spas do not offer overnight lodging or accommodations.
DEAD-END STREET	See "Street, Dead-End."
DECK	A structure, without a roof, directly adjacent to a principal building which has an average elevation above finished grade.
DECORATIVE GLASS	Glass located on an exterior wall of a building that may be transparent, semi-transparent, or opaque.
DEDICATION	The act of giving, donating, or dedicating land or infrastructure improvements to a unit of government for their operation and maintenance.
DEED RESTRICTION	A written private agreement that restricts the use, occupancy, or configuration placed upon the title of real estate often by the developer.
DEPARTMENT	For the purposes of Soil Erosion and Sedimentation and Stormwater Management, the North Carolina Department of Environmental Quality (DEQ).
DESIGN FLOOD	See "Regulatory Flood Protection Elevation."
DESIGN MANUAL	For purposes of Stormwater Management, the stormwater design manual approved for use in Phase II jurisdictions by the Department for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the Design Manual are to the latest published edition or revision.
DESIGN VOLUME	For purposes of Stormwater Management, the amount of stormwater runoff that a BMP/SCM or series of BMP/SCMs is designed to treat.
DESIGNEE	A person selected or designated to carry out a duty or role.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
DETACHED GARAGE/CARPORT	See "Carport," or "Garage."
DETENTION BASIN	Surface storage basins or facilities that provide flow control through attenuation of stormwater runoff. They also facilitate some settling of particulate pollutants. Detention basins are normally dry and in certain situations the land may also function as a recreational facility.
DETERMINATION, ADVISORY (OPINION)	An oral interpretation of a provision in this Ordinance, a boundary on the Official Zoning Map, or a prior development approval that is not binding on the Town or the Town official making the interpretation.
DETERMINATION, FORMAL	A determination, made in writing, by the Planning Director, Engineering Director, or Town Attorney regarding the proper application of provisions in this Ordinance, vested rights, the boundaries on the Official Zoning Map, or a prior-approved condition of approval.
DEVELOPER	A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.
DEVELOPMENT	Development means any of the following: [1] The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; [2] Excavation, grading, filling, clearing, or alteration of land; [3] The subdivision of land, as defined in Section 160D-802 of the North Carolina General Statutes; or [4] The initiation or substantial change in the use of land or the intensity of the use of land. For the purposes of the Flood Protection Overlay District standards, any activity defined as development which necessitates a Floodplain Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures. For the purposes of Stormwater Management, any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
DEVELOPMENT ACTIVITY	For the purposes of the Flood Protection Overlay District standards, any activity defined as development which necessitates a Floodplain Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.
DEVELOPMENT AGREEMENT	A written agreement between the Town and a developer or applicant that sets down the rights and responsibilities of each party as pertaining to a single development.
DEVELOPMENT ENTRY POINT	A vehicular access point providing ingress or egress to an individual neighborhood or development.
DIAMETER AT BREAST HEIGHT (DBH)	Measurement for determining the size of existing trees to be credited towards landscaping requirements or for violations of this Ordinance. DBH is the measurement of the diameter of an existing tree trunk taken at a height of 4 ½ feet above the ground. Trees with multiple trunks should be treated as multiple trees and the DBH for each trunk added to aggregate diameter measurement.
DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)	For the purposes of the Flood Protection Overlay District standards, the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.
DIRECTOR	For the purposes of Soil Erosion and Sedimentation, the Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.
DISCHARGE POINT OR POINT OF DISCHARGE	For the purposes of Soil Erosion and Sedimentation, that point where runoff leaves a tract of land where a land disturbing activity has occurred or enters a lake or natural watercourse.
DISH ANTENNA	A directional antenna consisting of a parabolic reflector used to send and receive microwave or radio frequency communication signals.
DISPOSAL	For the purposes of the Flood Protection Overlay District standards, as defined in NCGS§ 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
DISTRIBUTED ANTENNA SYSTEM (DAS) NODE	Wireless telecommunications equipment that includes one or more antennas mounted on a support structure (such as a utility pole, building, or other vertical projection) which is connected via cable or wirelessly to an equipment cabinet on site that is joined via cable to the internet and/or other communication network. Applications for the establishment of a DAS node are reviewed and decided in accordance with the procedures for establishment of a small wireless facility.
DISTURBED AREA	Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation including but not limited to grubbing, stump removal, grading or removal of structures.
DITCH OR CANAL	For the purposes of the Riparian Buffer standards, a man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.
DIVISION	For the purposes of Stormwater Management, the Division means the Division of Energy, Mineral, and Land Resources.
DOME	A roof having a circular, polygonal, or elliptical base and a generally spherical shape.
DORMER WINDOW	A window that projects vertically from a sloping roof.
DOUBLE FRONTAGE LOT	See "Lot, Double Frontage."
DOWNZONE	A reduction in the available development potential of a lot or lots based on a zoning map amendment that establishes a new zoning district for the lot(s) in question.
DRAINFIELD	The portion of an on-site septic or wastewater treatment system designed to allow treated wastewater to percolate into the adjacent soil.
DRIP LINE	An area on the ground that corresponds to the outer extents of a tree's canopy where rainwater falls from leaves and branches downward to the ground.
DRIVE AISLE	A vehicular accessway within a surface parking lot or a parking structure.
DRIVE THROUGH	A primary or secondary facility where goods or services may be obtained by motorists without leaving their vehicles. These facilities include drive-through bank teller windows, dry cleaners, fast-food restaurants, drive-through coffee, photo stores, pharmacies, etc., but not automated teller machines (ATMs), gas stations, or other vehicle services such as car washes.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
DRIVEWAY	The portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not a part of the vehicle accommodation.
DRIVEWAY APRON	The portion of a driveway within or adjacent to a street right-of-way.
DRIVEWAY MEDIAN	A constructed device, whether raised or lowered from grade level, located within a driveway or drive aisle that is used to control traffic direction or limit turning movements.
DRIVEWAY, SHARED	A driveway serving two to four single-family detached or duplex lots.
DROUGHT TOLERANT TREE	See "Tree, Drought Tolerant."
DWELLING	Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses or appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home, mobile home, or recreational vehicle if used solely for a seasonal vacation purpose.
DWELLING UNIT	A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
DWELLING UNIT, ACCESSORY	A separate or distinct residential dwelling or housekeeping unit that is located either internal to or fully detached from a principal single-family dwelling. An accessory dwelling unit is a complete residential dwelling or housekeeping unit.
DWELLING UNIT, ACCESSORY (DETACHED)	An accessory dwelling unit established on the same lot as a principal single-family detached dwelling but within a separate structure that is clearly separate and detached from the principal single-family detached dwelling.
DWELLING UNIT, ACCESSORY (INTERNAL)	An accessory dwelling unit established within the perimeter walls and roof of an existing single-family detached residential dwelling unit.
DWELLING, CARETAKER	A secondary dwelling unit on a non-residential, mixed-use, or multi-family development site that houses staff responsible for security or maintenance of the site. Accessory dwelling units are not considered as a caretaker dwelling.
DWELLING, DUPLEX	A single detached dwelling on one lot that contains two dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
DWELLING, LIVE/WORK	A structure or portion of a structure combining a dwelling unit with an integrated non-residential work space typically used by one or more of the residents. The non-residential work space is found on the building's ground floor.
DWELLING, MANUFACTURED HOME	See "Manufactured Home."
DWELLING, MOBILE HOME	See "Mobile Home."
DWELLING, MULTI-FAMILY	A structure containing five or more dwelling units that are not located on individual lots. Units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. Multi-family dwellings include what are commonly called apartments, or condominium units, but not single-family attached dwellings since single-family attached dwellings are on their own individual lots. Structures containing two dwelling units on one lot are ~~two-family~~duplex or duplex uses. Structures containing three dwelling units on one lot are triplexes. Structures containing four dwelling units on one lot are quadplexes.
DWELLING, QUADPLEX	A single residential structure on one fee simple lot that contains four dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. A residential structure containing four units, each on its own fee simple lot, is single-family attached.
DWELLING, SINGLE-FAMILY ATTACHED	A principal dwelling unit in its own structure located on its own fee simple lot. One or more dwelling unit walls on each lot may be shared, party walls. Lots may maintain individual lot frontages on a public street, or may be located entirely within a larger parcel owned in common that incorporates shared parking, recreation features.
DWELLING, SINGLE-FAMILY DETACHED	A dwelling in a single structure located on its own fee simple lot containing one principal dwelling unit meeting the minimum size requirements in the North Carolina Building Code that is occupied by one family and that is not physically attached to any other principal structure on an individual lot. For regulatory purposes, this term does not include manufactured dwellings, mobile homes, or recreational vehicles. An accessory dwelling unit may be within, attached to, or on the same lot as a single-family detached home.
DWELLING, TEMPORARY	A structure established to serve as a temporary domicile while an existing principal residence is constructed, repaired, or established. A temporary dwelling may also be located on a non-residential construction site and occupied by persons having construction or security responsibilities over the construction.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
DWELLING, TEMPORARY DISASTER	A residence (which may be a manufactured home) that is located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster.
~~**DWELLING, TINY HOME (MOVEABLE)**~~	~~A form of single-family detached dwelling that is built on a frame with wheels and a towing apparatus that is built in accordance with all applicable Depart of Transportation requirements. For the purposes of this Ordinance, a movable tiny home shall also be subject to the standards applicable to a recreational vehicle or travel trailer.~~
~~**DWELLING, TINY HOME (PERMANENT)**~~	~~A form of single-family detached dwelling meeting the applicable requirements for residential uses in the State Building Code that is built on site and placed on a permanent foundation. Tiny homes typically include less floor area than a traditional single-family detached dwelling. A tiny home that is located on the same lot as a principal dwelling unit is an accessory dwelling unit or other form of secondary structure.~~
DWELLING, TRIPLEX	A single residential structure on one fee simple lot that contains three dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. A residential structure containing three units, each on its own fee simple lot, is single-family attached.
DWELLING, TWO-FAMILY	~~A single residential structure on one fee simple lot that contains two dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. A residential structure containing two units, each on its own fee simple lot, is single-family attached.~~See "Dwelling, Duplex."
DWELLING, UPPER-STORY RESIDENTIAL	A multi-family residential dwelling unit located on the second or higher floors of a building with some form of non-residential use on the first or ground floor. Dwelling units may be configured as apartments or condominiums. Building devoted entirely to residential apartments or condominiums are multi-family.
E	
EASEMENT	The right to use or occupy the real property of another owner for a specifically identified purpose. An easement is a recognized interest in real property, but legal title to the underlying land is retained by the owner granting the easement.
EASEMENT PLAT	See "Plat, Easement."
EASEMENT, ACCESS	An easement granted for the purpose of allowing others access to or across land, a site, or a development feature.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
EASEMENT, CONSERVATION	An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition.
EASEMENT, DRAINAGE	An easement granted for the purpose of allowing stormwater runoff to collect and be conveyed to another location.
EASEMENT, MAINTENANCE	An easement granted to enable the Town or other non-owning party to maintain a building, site, or site feature.
EASEMENT, PUBLIC UTILITY	An easement granted for the purpose of overhead or underground public utilities.
EASEMENT, ROADWAY SLOPE	An easement located alongside a public street right-of-way that controls roadside features, topography, vegetation, and drainage.
EAVE	The projecting lower edges of a roof that overhangs the wall of a building.
EGRESS	An exit from a building or site.
ELECTRIC VEHICLE CHARGING STATION	An off-street parking space that is served by an electrical component assembly or cluster of component assemblies (battery charging station) designed and intended to transfer electric energy, by conductive or inductive means, from the electric grid or other off-board electrical source to a battery or other energy storage device within an electric vehicle.
ELECTRICAL, HVAC, OR PLUMBING FABRICATION	An industrial establishment operated by a contractor, supplier, or distributor engaged in the fabrication and assembly of plumbing fixtures, electrical fixtures, HVAC ducting and equipment, fireplaces, or similar household or commercial features for off-site installation.
ELECTRONIC GAMING OPERATION	Any business or enterprise where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games or chance, skill, or sweepstakes, and where cash, merchandise, or anything else or value is redeemed or otherwise distributed or placed on an account or other record, whether or not the value or such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations, cybercafes, business centers, or by whatever other terminology such establishment might be known. Electronic gaming operation does not include any lottery approved by the State or video arcade game uses.
ELEVATED BUILDING	For the purposes of the Flood Protection Overlay District standards, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
ELEVATION CERTIFICATE	A written certificate of the elevation of a building or structure located in a special flood hazard area used to determine the proper flood insurance premium rate for the building.
ELIGIBLE FACILITY REQUEST	An application for the installation of new or replacement antennas and related telecommunications equipment on an existing telecommunications tower. An eligible facilities request may include increasing the height and/or replacement of an existing telecommunications tower but shall not include any activities that constitute a "substantial modification" as defined in this Ordinance and NCGS§ 160D-931. Eligible facility requests are reviewed and decided in accordance with the procedures for a minor collocation.
ENCROACHMENT	The location of a building, structure, or portion of a building or structure in an open space, setback, yard, or other area typically required to remain free of buildings or structures. For the purposes of the Flood Protection Overlay District standards, the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.
ENERGY DISSIPATOR	For the purposes of Soil Erosion and Sedimentation, a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.
ENLARGEMENT	Increasing the floorplate, footprint, or square footage of a building, structure, outdoor use area, or activity.
ENTABLATURE	A horizontal, continuous lintel on a classical building supported by columns or a wall, comprising the architrave, frieze, and cornice.
ENTRANCE, PRIMARY	See "Primary Entrance."
EQUESTRIAN FACILITY	A commercial establishment engaged in the provision of boarding, training, and basic health care for horses and mules. Such uses may provide educational instruction. Secondary uses include showing areas, pastures, exercise facilities, and may also include facilities for conducting horse shows and hunts.
EQUIPMENT CABINET	A non-habitable structure, such as a box, enclosure, vault, shelter, or pedestal, typically located above ground, that contains radios, computers, or other equipment necessary for the transmission or reception of telecommunication signals.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
EQUIPMENT COMPOUND	An area containing telecommunications equipment serving antennas on a nearby telecommunications tower, utility pole, building, or other vertical projection. An equipment compound is commonly fenced or surrounded by walls that limit access to members of the general public. Nothing shall limit an equipment compound from being located within a building, on the roof of a building, or underground.
EQUITABLE REMEDY	A court-ordered non-monetary remedy that directs a party to take a particular action for violation of this Ordinance or other applicable law.
EROSION	For the purposes of Soil Erosion and Sedimentation, the wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.
EROSION CONTROL FACILITY	Site features and elements on a construction site configured to prevent erosion and contain sediment.
EROSION CONTROL PLAN	See "Plan, Erosion Control."
ESTABLISHED GRADE	See "Grade, Established."
EVENT VENUE, INDOOR & OUTDOOR	A commercial establishment and associated grounds engaged in the hosting and production of pre-planned events like weddings, corporate parties, or reunions. Typical secondary uses include kitchens or meal preparation space, limited overnight accommodations, photography studios, facilities to accommodate live or recorded music, on- and off-site parking, and outdoor recreation facilities.
EVERGREEN TREE	See "Tree, Evergreen."
EVIDENTIARY PUBLIC HEARING	See "Public Hearing, Evidentiary."
EXCESSIVE NOISE	A steady-state or short pulse of sound that exceeds maximum allowable levels.
EXEMPTION	A use, site feature, or development condition that is exempted authorized to deviate from otherwise applicable requirements.
EXISTING BUILDING AND EXISTING STRUCTURE	For the purposes of the Flood Protection Overlay District standards, any building or structure for which the start of construction commenced before April 1, 1982, the effective date of the initial Flood Insurance Rate Map.
EXISTING DEVELOPMENT	Those projects that are built prior to (*insert the effective date of this Ordinance*) or those projects with an established a vested right established in accordance with Section <>, Vested Rights, as of the effective date of this Ordinance.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION	For the purposes of the Flood Protection Overlay District standards, a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed June 16, 1987, before the initial effective date of the floodplain management regulations adopted by the Town.
EXISTING TREES	Trees or other woody vegetation that exist prior to development or land disturbance and that are retained on a development site after construction, development, or land disturbance.
EXPANSION	An increase in the floor area of an existing structure or building, or the increase of area of a use.
EX-PARTE COMMUNICATION	Any communication between a member of a decision-making body and another person involved in a development application that is made without the presence or knowledge of the other members of the same decision-making body.
EXTERIOR ARCHITECTURAL FEATURES	Includes the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size, and location of all such signs. Such "exterior features" shall include historic signs, color and significant landscape, archaeological and natural features of the area.
EXTERIOR LIGHTING	Illumination of a building, parking lot, or site feature.
EXTRACTIVE INDUSTRY	A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, hydraulic fracturing, and similar activities. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision or excavations associated with, and for the improvement of, a bona fide agricultural use.
EXTRATERRITORIAL JURISDICTION	The land area located outside the corporate limits of a municipality, but still subject to the planning and zoning laws associated with the municipality.
EYEBROW WINDOW	A low dormer window with no sides located on the slope of a roof where the roofing material is carried over the top of the window without interruption.
F	
FACADE	See "Building Façade."

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
FAÇADE, FRONT	The exterior façade of a building where the primary or front entrance is located. Typically, the front façade faces the street from which the building derives its street address.
FAÇADE, PRIMARY	See "Façade, Front."
FAÇADE, REAR	The exterior façade of a building that is opposite the front façade.
FAÇADE, SIDE	The exterior façade of a building perpendicular to the front façade.
FALSE (OR OPAQUE) WINDOWS	An exterior building material provided to replace or approximate a window.
FAMILY	One or more persons related by blood, adoption or marriage living and cooking together as a single housekeeping unit. The number of persons, but not exceeding a total of three unrelated persons, living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage, shall be deemed to constitute a family.
FAMILY CARE HOME	A North Carolina licensed facility home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. A mental health facility licensed by the State of North Carolina for up to six people shall also be considered a family care home. A disabled person is a person with a temporary or permanent physical, emotional, or mental disability including but not limited to an intellectual disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in NCGS§ 122C-3(11)b.
FAMILY HEALTH CARE STRUCTURE	A transportable residential structure that is primarily assembled at a location other than its site of installation and provides an environment facilitating a caregiver's provision of care for a mentally or physically impaired person.
FARM EQUIPMENT SALES AND SERVICE	Commercial establishments engaged in the sales, repair, rental, and storage of tools, equipment, supplies, and machinery in support of farms, farming, agriculture, or horticulture. Uses also include sales of products grown on a farm, provision of farm-related experiences (e.g., immersion farming or pick-your-own establishments), wineries, and agritourism.
FARM SUPPLY SALES (RETAIL AND WHOLESALE)	Commercial establishments engaged in the sale, whether at retail or wholesale, of seeds, feed, tools, equipment, or services related to the operation of agricultural uses. Farm supply sales uses are not engaged in the sale of produce or agricultural products for end-user or non-farm consumption.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
FARMERS MARKET	A principal use which includes the sale of horticulture or agriculture products, including nursery stock, perennial, annuals, bulbs, mulch, compost, dried flowers, Christmas trees and greens, fresh produce, honey, cider, and similar agriculture products.
FASCIA	A fascia is a board or other exterior material provided at the edge of a building where the roof meets the exterior wall. When gutters are provided, they are typically mounted to the fascia.
FEATHER FLAG	See "Sign, Feather Flag."
FEE	An amount charged in accordance with the regularly adopted fee schedule of the Town.
FEE-IN-LIEU	Monetary compensation offered by a landowner or applicant as an alternative to provision of some other required site or development feature.
FENCE OR WALL	A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal, or similar material used as a boundary or means of protection, retention, or confinement, but not including a hedge or vegetation.
FENESTRATION	The arrangement of windows, doors, and false casements on a building's façade.
FINAL PLAT	See "Plat, Final."
FINANCIAL GUARANTEE	See "Performance Guarantee."
FINANCIAL SERVICES	A commercial establishment that provides financial advice, information, or retail financial services to customers and businesses. Financial institutions include those establishments that receive cash or checks for the purposes of payments or investments as well as bail bond brokers. Establishments where patrons compete against others for cash or other prizes in games where the outcome is based on skill are electronic gaming operations.
FINE	A sum of money imposed on a violator as punishment for violation of law.
FINISHED GRADE	The grade after construction, exclusive of any filling, berming, mounding, or excavating.
FINISHED SIDE OF FENCE	The side of a fence configured for the best possible appearance that does not include structural supports or exterior materials with imperfections.
FINS	A decorative or structural device consisting of a series of narrow vertical projections or ribs along a building's façade that provide screening to windows or that conceal structural supports that provide rigidity to the walls or support the roof.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
FIRE ESCAPE	A structural mechanism affixed to the exterior of a building that allows occupants to gain egress from each floor of the building without use of the primary entrance in the event of fire or other dangerous situation.
FIRE HYDRANT	A connection point to a public water supply system used by firefighters to access water as a part of fire suppression.
FIRE LANE	A lane or designated area in a parking lot or on a street that is reserved for firefighting equipment or staging of people during a fire and is not intended for the parking of vehicles or storage.
FIRE PROTECTION SYSTEM	A fire hydrant, water storage tank, or connection to a building's sprinkler system, typically referred to as a standpipe, all used for the purposes of providing water for fire suppression.
FIRE/EMS/POLICE STATION	A facility that serves as the base of operations for a fire company, police precinct, sheriff's office, or emergency medical technician operation. Such facilities may also include living quarters for personnel, equipment storage, and vehicular maintenance areas.
FIREPLACE	A structure, located within or outside a building, used for the sole purpose of combustion of wood or gas for recreational, food preparation, or climate control purposes.
FIRST CLASS MAIL	Correspondence, including postcards, sealed letters, and sealed packages deposited with the US Postal Service for transmittal to an addressee for a fee. First class mail is the basic level of service offered by the US Postal Service and does not include a guarantee of delivery or receipt.
FITNESS CENTER	A facility where members or nonmembers use equipment or space for the purpose of physical exercise. Such uses may include indoor swimming pools, athletic courts, tracks, or other similar features. Retail sales of hand-held fitness equipment, clothing, or health foods may occur as an secondary use.
FLAG	See Section <>, Sign Standards by Sign Type.
FLAG LOT	See "Lot, Flag."
FLAGPOLE	A freestanding structure or structure attached to the wall or roof of a building that is used to display flags.
FLEA MARKET	A market held in an open area or structure where individual sellers offer goods for sale to the public. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items and may include the sale of fruits, vegetables, and other edible items. A farmer's market, where food items predominate, is different than a flea market. This also differs from a garage sale or yard sale that is conducted on a residentially developed lot by members of a household, or civic groups selling primarily donated items.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
FLOOD AND FLOODING	For the purposes of the Flood Protection Overlay District standards, a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; or the unusual and rapid accumulation or runoff of surface waters from any source.
FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)	For the purposes of the Flood Protection Overlay District standards, an official map of a community, issued by the FEMA, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).
FLOOD HAZARD BOUNDARY MAP (FHBM)	For the purposes of the Flood Protection Overlay District standards, an official map of a community, issued by the FEMA, where the boundaries of the special flood hazard areas have been defined as Zone A.
FLOOD INSURANCE	For the purposes of the Flood Protection Overlay District standards, the insurance coverage provided under the National Flood Insurance Program.
FLOOD INSURANCE RATE MAP (FIRM)	For the purposes of the Flood Protection Overlay District standards, an official map of a community, issued by the FEMA, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated. See also "DFIRM."
FLOOD INSURANCE STUDY	For the purposes of the Flood Protection Overlay District standards, an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.
FLOOD PRONE AREA	See "Floodplain."
FLOOD ZONE	For the purposes of the Flood Protection Overlay District standards, a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
FLOODPLAIN	For the purposes of the Flood Protection Overlay District standards, any land area susceptible to being inundated by water from any source.
FLOODPLAIN ADMINISTRATOR	For the purposes of the Flood Protection Overlay District standards, the Floodplain Administrator is the individual appointed to administer and enforce the floodplain management regulations.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
FLOODPLAIN MANAGEMENT	For the purposes of the Flood Protection Overlay District standards, the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
FLOODPLAIN MANAGEMENT REGULATIONS	For the purposes of the Flood Protection Overlay District standards, this Ordinance and development regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, State, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
FLOODPLAIN PERMIT	For the purposes of the Flood Protection Overlay District standards, any type of permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any development activity.
FLOODPROOFING	For the purposes of the Flood Protection Overlay District standards, floodproofing is any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
FLOOD-RESISTANT MATERIAL	For the purposes of the Flood Protection Overlay District standards, any building product [material, component, or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Acceptable flood-resistant materials are identified in Technical Bulletin 2, Flood Damage-Resistant Materials Requirements available from the FEMA.
FLOODWAY	For the purposes of the Flood Protection Overlay District standards, the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
FLOODWAY ENCROACHMENT ANALYSIS	For the purposes of the Flood Protection Overlay District standards, an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina professional engineer using standard engineering methods and models.
FLOOR	The top surface of an enclosed area in a building, including basement, such as, top of slab in concrete slab construction or top of wood flooring in frame construction.
FLUORESCENT	A method of providing illumination by a bulb coated in a material that releases photons when subject to an electrical current.
FOOD TRUCK	See "Mobile Restaurant."
FOOTCANDLE	A unit of measure of the intensity of light falling on a surface. It is often defined as the amount of illumination the inside surface of a one-foot-radius sphere would be receiving if there were a uniform point source of one candela in the exact center of the sphere. One footcandle is equal to one lumen per square foot.
FOOTPRINT	See "Building Footprint."
FORESTLAND	Land used for the purposes of growing trees for harvest.
FORESTRY	An activity related to plating, maintaining, or removing trees as part of a forestry management plan or bona fide farming activity.
FORESTRY MANAGEMENT PLAN	"See Plan, Forestry Management."
FORMAL DETERMINATION	See "Determination, Formal."
FRATERNAL CLUB OR LODGE	A building and related facilities owned and operated by a corporation, association, or group of individuals established for fraternal, social, educational, recreational, or cultural enrichment of its members and primarily not for profit, and whose members meet certain prescribed qualifications for membership and pay dues.
FREEBOARD	For the purposes of the Flood Protection Overlay District standards, the height added to the Base Flood Elevation to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation plus the freeboard establishes the Regulatory Flood Protection Elevation.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
FREIGHT TERMINAL	A use where trucks, trailers, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed. A commercial use engaged solely in short- or long-term storage is a warehouse use.
FRONT FAÇADE	See "Façade, Front."
FRONTAGE	The portion of a lot a strip or extent of land abutting and extending along a street.
FRONTAGE STREET	See "Street, Frontage."
FUEL OIL/BOTTLED GAS DISTRIBUTION	An establishment that stores and distributes fuel oil or bottled gases such as propane, oxygen, or liquid petroleum in bulk quantities for wholesale sale or distribution to retail outlets or end consumers at the point of use. A use engaged in sale of automobile fuel is a retail use.
FUNCTIONALLY DEPENDENT FACILITY	For the purposes of the Flood Protection Overlay District standards, a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.
FUNERAL RELATED SERVICES	A commercial establishment engaged in the provision of services related to funeral services for humans or pets. Such uses may provide embalming, cremation, and memorial services. Chapels and storage areas are secondary uses. Uses for the internment of human or animal remains are cemeteries.
FUTURE LAND USE MAP	A portion of the Town's Comprehensive Plan that identifies the locations and boundaries of adopted future land use designations, including information on the types of appropriate land uses and the desired density or intensity of development.
G	
GABLE	A triangular area of an exterior wall formed by two sloping roofs.
GALLERY	A balcony or platform on an upper floor that projects from the primary wall plane of the building that is open underneath.
GARAGE	A secondary structure that includes four connected walls and a roof that is typically used for the storage of automobiles or equipment. A garage may be attached to or detached from the principal structure it serves.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
GARAGE OR YARD SALE	A sale conducted by an occupant of a residence alone or in cooperation with neighbors conducted for the purpose of selling surplus household items for profit or for charitable purposes. Such sales are usually conducted from a garage associated with the residence or from the yard of the residence. Garage or yard sales may be distinguished from flea markets by the number of days of sale.
GARDEN (COMMUNITY, PUBLIC, OR PRIVATE)	An exterior area for the small-scale production of vegetables and flowering plants for personal or small commercial use. This definition includes community and private gardens. This definition does not include crop production and nurseries.
GASOLINE SALES	A commercial establishment engaged in the retail sale of gasoline for use by consumers in private vehicles. Gasoline sales uses may also offer minor vehicle repairs and similar services as well as the secondary sale of food or beverages for off-site consumption. Gasoline sales uses are not engaged in the sale of oil products unrelated to the operation of private vehicles.
GATEWAY CORRIDOR	A portion of a street corridor and the lots that front it as designated in the Town's adopted policy guidance where additional design or development standards are applied. Typically gateway corridor areas are designated as overlay zoning districts.
GATHERING AREA	A formal or informal area intended for or used by the general public to gather or congregate together for interaction or recreation. A gathering area may be a part of required private common open space, and may be owned and operated by the Town or by a private landowner. Areas configured for outdoor dining or seating, outdoor performance spaces, plazas and beneath permitted public art installations are considered as gathering areas.
GENERAL ASSEMBLY	The General Assembly for the State of North Carolina. Also referred to as the Legislature.
GENERAL PUBLIC	Residents of and visitors to the Town on a lot, site, or within a building, but who do not own the lot, site, or building, or who do not belong to an owners' association with maintenance responsibility of the lot, site or building.
GENERAL RETAIL (HIGH OR LOW INTENSITY)	See "Retail, General (High Intensity)," or "Retail, General, (Low Intensity)."
GENERAL STATUTES	A statute is a written law passed the General Assembly that sets forth general propositions of law that courts apply to specific situations.
GLARE	The effect produced within the visual field by a high intensity or insufficiently shielded light source that is significantly brighter than the level to which the eyes are adapted, causing annoyance, discomfort, or loss of visual performance or visibility of objects.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
GLAZING	The portion of an exterior building surface occupied by glass or windows. Also referred to as transparency.
GOLF COURSE (PUBLIC OR PRIVATE)	A tract of land laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse (with or without eating facilities), shelters, a driving range, putting green, maintenance facilities, an irrigation system, and outdoor storage of materials and equipment.
GOOD CAUSE	Legally adequate or substantial grounds or reason to take a certain action based upon the circumstances of each individual case.
GOOD FAITH	Sincere conduct free from malice or a desire to defraud others.
GOVERNMENT OFFICE	An office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to, employment offices, public assistance offices, or motor vehicle licensing and registration services.
GOVERNMENTAL TRAINING FACILITY	A governmental operation, including structures, open areas, and other facilities intended for training use by governmental emergency service providers and personnel. Governmental training facilities are not open to members of the general public.
GRADE, ESTABLISHED	The ground elevation at a specific point on a site after completion of development activity or prior to development activity on a vacant site.
GRADE, FINISHED	See "Finished Grade."
GRADING	Excavating, filling (including hydraulic fill) or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.
GRATE	Metal, wood, or plastic configured to cover or obscure an opening in a wall, roof, or the ground.
GREEN ROOF	The roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems.
GREEN WALL	See "Wall, Green."
GREENWAY	Public open space under the control and maintenance of the ~~City~~ Town which has been designated on an officially adopted greenway or open space plan and developed in accordance with the adopted greenway or open space plan.
GROCERY STORE	An establishment engaged in retail and/or wholesale sale of food, foodstuffs, sundries, or other common household items to members of the public.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
GROOMING (ANIMAL)	Any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and/or health and for which a fee is charged.
GROSS FLOOR AREA	See Section <>, Gross Floor Area.
GROUND COVER	Low growing plants such as grasses, ivy, creeping bushes and similar decorative plantings as well as mulch, pinestraw, or other similar materials used to cover the ground within required landscaping areas. For the purposes of Soil Erosion and Sedimentation, any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.
GROUND-BASED MECHANICAL EQUIPMENT	Utility or other equipment of a mechanical nature that is mounted on or below grade on the site it serves.
GROUP HOME	A residential facility (such as an orphanage, shelter, crisis center) with support and supervisory personnel that provides temporary room and board, housekeeping, personal care, or rehabilitation services for more than six persons needing emergency or post-incarceration services (but not including those with mental illness who are dangerous to themselves or others).
GUARD HOUSE, SHELTER, OR GATEHOUSE	A secondary structure typically located on the perimeter or at the entry of a development and used to screen visitors or maintain records of persons entering or leaving a development.
GUYED TOWER	A telecommunications tower that is supported, in whole or in part, by guy wires and ground anchors.
H	
HABITABLE SPACE	A space in a building for living, sleeping, eating, or cooking, or used as a home occupation.
HAIR, NAIL, AND SKIN RELATED SERVICES	A commercial establishment engaged in the provision of services pertaining to hair care, hair styling, hair removal, nail care, makeup, facial treatments, tanning, massage therapy, and similar cosmetic treatments. Such uses may or may not include other spa or salon facilities such as showers, baths, and the incidental sales of food for on-site consumption and personal skin or hair care products. Commercial uses engaged in hair cutting, hair styling, or hair coloring are barber and beauty salons.
HALF STREET	See "Street, Half."
HALFWAY HOUSE	A licensed home for juveniles or adult persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling is provided to assist residents back into society, enabling them to live independently.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
HARDSHIP	Special or specified circumstances that place an unreasonable or disproportionate burden on one applicant or landowner over another.
HAZARDOUS WASTE	By-products, derivatives, or residuals taking the form of a solid, liquid, or gas that has a degree rating in health, flammability, or reactivity of Class 3 or 4 as ranked by the National Fire Protection Association's Document 704 and that is used directly in research, laboratory, or production processes that have as their end product materials that are not hazardous, as defined in the North Carolina Building Code, Volume V – Fire Prevention.
HAZARDOUS WASTE MANAGEMENT FACILITY	For the purposes of the Flood Protection Overlay District standards, as defined in NCGS§ 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.
HEAT ISLAND EFFECT	An effect, typically in more urban areas, where ambient heat builds up in localized areas due to increased absorption of solar radiation by constructed surfaces such as paving, building walls, and roofs.
HEAVY EQUIPMENT SALES, RENTAL, & REPAIR	Premises on which new or used heavy equipment (tractors, loaders, excavators, backhoes, cranes, lifts, rollers and similar devices) are displayed for sale, lease, or rental. On-site repair and service to heavy equipment is also provided.
HEAVY MANUFACTURING	Uses that tend to require large amounts of bulk or unrefined materials which are typically processed and stored outdoors on the site. These uses require a significant amount of energy for the processing of raw materials, and are likely to generate significant noise, vibration, dust, glare, heat, odor, smoke, truck traffic, in the immediate vicinity of the use. Heavy manufacturing uses include, but are not limited to, manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; lumber mills, pulp and paper mills, and the manufacture of other wood products; and electric power generation plants.
HEDGE	A row of shrubs planted with close spacing that grow together to form a dense opaque screen.
HEDGEROW	A row of shrubs and trees planted with close or uniform on-center spacing that grow together to form a dense opaque screen that blocks wind or visibility between different areas.
HELISTOP	An area of land, water, or structural surface designed for discharge or pick-up of passengers or cargo from or by helicopters, but excluding field service or maintenance.
HIGH INTENSITY LED	One or more light emitting diodes that are optimized for providing an extra-bright, highly visible light.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
HIGH INTENSITY OFFICE	See "Office, High Intensity."
HIGH PRESSURE SODIUM LAMP	A lamp of lightbulb that uses sodium under pressure to produce a broad spectrum of visible light for the purposes of providing exterior illumination.
HIGHEST ADJACENT GRADE	For the purposes of the Flood Protection Overlay District standards, the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.
HISTORIC MARKER	A sign, plaque, or other visual appurtenance used to identify a particular location, activity, or event of historic significance.
HISTORIC STRUCTURE	For the purposes of the Flood Protection Overlay District standards, any structure that is: 1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; 2. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; 3. Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or 4. Certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (CLG) Program.
HOLIDAY DISPLAY	Lights or other exterior display in recognition of a holiday, tradition, or event.
HOME OCCUPATION, LEVEL 1	A commercial or other non-residential secondary use of a portion of a principal dwelling that employs one or more of the dwelling's residents in activity that takes place entirely indoors and is of a low intensity nature that is unlikely to create disturbance of adjacent residential uses.
HOME OCCUPATION, LEVEL 2	A commercial or other non-residential secondary use of a portion of a principal dwelling that may employ the dwelling's residents as well as other non-residents. The activity is more intense in nature than the level 1 home occupation, including limited assembly, limited in-person sales, and a slightly higher level of anticipated traffic to the site where located. The use incorporates aspects to help mitigate any potential negative impacts on adjacent residential uses.
HOMELESS SHELTER	A facility or structure established by a governmental, institutional, or non-profit agency intended to provide shelter from the elements, food, and other services to community members who lack individual homes or who are in danger of losing their home.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
HORIZONTAL FAÇADE MODULATION	Projections, recesses, ribs, fins, or building wings distributed evenly across the façade of a building.
HORIZONTAL MIXED-USE	A development that includes use types from at least two different use classifications on the same lot or on different lots within a unified development.
HORTICULTURE	The cultivation and production of orchard, garden, or nursery crops on a small or large scale, the production of field grown crops, specialty crops, flowers, fruit, market gardening, nuts, ornamental plants, sod, vegetables, and similar horticultural uses.
HOSPITAL	An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, that is licensed by State law to provide facilities and services in surgery, obstetrics, or general medical practice. Such institutions may include in-patient medical or surgical care for the sick or injured and related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.
HOT TUB	See 'Swimming Pool/Hot Tub."
HOTEL OR MOTEL	A building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis. Hotels or motels may include an associated eating establishment, conference facilities, and on-site recreational amenities. Hotels or motels regularly offering extended duration stay facilities to patrons are extended stay facilities. Hotel, motel, resorts, lodges, and similar overnight lodging uses are to be considered synonymous uses.
HOUSEBOAT	A barge or boat designed and equipped for use as a residence that is docked or moored, connected to land-based utilities, and is occupied by one or more residents using the vessel as a residence for any period of time.
I	
ILLICIT DISCHARGE	Any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges pursuant to an NPDES permit (other than the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permit), allowable non-stormwater discharges, and discharges resulting from fire-fighting activities.
IMPERVIOUS SURFACE	Any material that prevents or reduces the infiltration of stormwater into the soil as it entered in natural conditions prior to development.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
IMPOUNDED VEHICLE	A private vehicle that is being stored in a controlled location pending action by the vehicle's owner.
IMPROVEMENT	The construction of buildings and the establishment of basic services and amenities associated with development, including, but not limited to streets and sidewalks, parking areas, water and sewer systems, drainage system, property markers and monuments, recreation facilities (i.e., lakes, swimming pools, tennis courts, golf courses, riding stables, club houses, cabanas, marinas, docks and the like) and other similar construction or establishment.
INCANDESCENT	A method of providing illumination by a bulb with a filament that is heated to incandescence by an electrical current.
INCOMPLETE APPLICATION	See "Application, Incomplete."
INDOOR ATRIUM	An interior court enclosed by building walls with or without a roof.
INDOOR COMMERCIAL RECREATION	A commercial establishment located entirely indoors that provides recreational, amusement, and entertainment opportunities for patrons, including activities such as billiards, bingo, bowling, video games, escape rooms, fortune tellers, skating rinks, laser tag, trampolines, and climbing walls.
INDOOR RECREATION, PUBLIC	An institutional or public use that provides generalized or specialized recreational services or opportunities to members of the general public for free or for a fee. Recreation services could include swimming, court-based sports, fitness activities, or other forms of community-based recreation.
INFILL	The process of developing vacant or under-used parcels within existing developed areas that are already largely developed.
INFRASTRUCTURE, PUBLIC	See "Public Infrastructure."
INGRESS	Access or entry to a building or site.
INJUNCTIVE RELIEF	A court-order act or inhibition of an act by a violator granted to the County or other governmental agency for a violation of this Ordinance or other applicable law.
IN-LIEU FEE	See "Fee-in-Lieu."
INSTRUCTIONAL SERVICES	A commercial establishment that offers instruction in arts, sports, crafts, skilled trades, or recreational activities to members of the general public for a fee.
INTEGRAL PLANTER	A structure provided for the purpose of cultivating plants that is located within or connected to an exterior building wall.
INTERMITTENT	Lighting, movement, or other activity that alternately starts or stops at regular intervals.
INTERNALLY ILLUMINATED	An awning, sign, or canopy with an internal source of illumination.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
INTERNATIONAL BUILDING CODE	The model building code developed by the International Building Code Council.
INVASIVE SPECIES	A plant species identified as noxious or dangerous by the Town or other governmental agency.
ITINERANT MERCHANT SALES	An individual or business offering goods or services for sale at retail to members of the general public either in their homes, their place of business, or from a vehicle on a lot with an established use or a vacant lot, but not within a street right-of-way.
J	
JUNKYARD	See "Salvage and Junkyard."
JURISDICTION	The official power to make legal decisions and judgements. The term can also be used to describe the geographic boundaries of a municipal corporation or the extent over which a particular agency has control.
JURISDICTIONAL STREAM	A stream or other waterbody that meets the definition of "waters of the United States" or "waters of the State," and is thus subject to the jurisdiction of the US Army Corps of Engineers or the NC Department of Environmental Quality.
JUST CAUSE	Legitimate cause; legal or lawful ground for action.
K	
KENNEL	A facility where dogs, cats, or other domestic animals over six months of age are kept, raised, boarded, bred, or shown. This use is also referred to as animal boarding. The facility may be indoors, outdoors, or both.
L	
LABORATORY	An institutional use type engaged in the analysis, testing, identification, or research of chemicals, compounds, tissue, animals, or equipment.
LAKE OR NATURAL WATERCOURSE	For the purposes of Soil Erosion and Sedimentation, any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond.
LAND TRUST	A legal agreement in which a property owner transfers the title to a property to a trustee. The property owner is typically the beneficiary and directs the trustee in all matters relating to the management of the property, as outlined in the trust agreement or deed.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
LAND-DISTURBING ACTIVITY	For the purposes of Soil Erosion and Sedimentation, any use of the land by any person in residential, industrial, education, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.
LANDFILL	A facility for the disposal of solid waste other than compost on land in a sanitary manner in accordance with Chapter 130A, Article 9, of the North Carolina General Statutes
LANDOWNER	The holder of the title to land in fee simple. Absent evidence to the contrary, the Town may rely on county tax records to determine the landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as their representative for the purpose of making applications for development approvals.
LANDSCAPE FABRIC	A geotextile material used to control weeds by inhibiting their exposure to sunlight.
LANDSCAPE ISLAND	The portion of a parking lot intended for landscaping material and pervious surfaces.
LANDSCAPE STRIP	Linear landscape islands located between two parallel rows of off-street parking spaces.
LANDSCAPING	The improvement of a lot, parcel or tract of land with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary, and objects designed and arranged to produce an aesthetically pleasing effect.
LARGE FORMAT RETAIL	See "Retail, Large Format."
LATTICE TOWER	A guyed or self-supporting, open, steel frame structure, with three or more sides, that is used to support telecommunications equipment.
LAUNDRY AND FABRIC CLEANING	A commercial establishment engaged in the cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in water or volatile solvents. Such uses may provide cleaning and laundering services on-site or in off-site locations.
LEGISLATIVE PUBLIC HEARING	See "Public Hearing, Legislative."

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
LETTER OF MAP CHANGE (LOMC)	For the purposes of the Flood Protection Overlay District standards, an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include a Letter of Map Amendment (LOMA) - an official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
LETTER OF MAP REVISION (LOMR)	For the purposes of the Flood Protection Overlay District standards, a revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
LETTER OF MAP REVISION BASED ON FILL (LOMR-F)	For the purposes of the Flood Protection Overlay District standards, a determination that a structure or parcel of land has been elevated by fill above the Base Flood Elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the Town's floodplain management regulations.
LEVEL 1 EV CHARGING STATION	A facility or device providing 120-volt electric service and at least one dedicated off-street parking space intended for charging an electric vehicle.
LEVEL 2 EV CHARGING STATION	A facility or device providing 240-volt single-phase electric service and at least one dedicated off-street parking space intended for charging an electric vehicle.
LEVEL 3 EV CHARGING STATION	A facility or device providing 480-volt triple-phase electric service and at least one dedicated off-street parking space intended for charging an electric vehicle. May also be referred to as a "DC" EV charging station.
LIBRARY	A public facility for the use, but not sale, of literary, historical, scientific, musical, artistic, or other reference materials.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
LIGHT DUTY TRUCK	For the purposes of the Flood Protection Overlay District standards, any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 C.F.R. 86.082-2 and is: 1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or 2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or 3. Available with special features enabling off-street or off-highway operation and use.
LIGHT EQUIPMENT SALES, RENTAL, & REPAIR	A commercial established engaged in the retail sale, rental, or service of hand tools, small electrical or gasoline-powered tools, or similar devices typically used by home or business owners for non-professional purposes. Such uses may also provide for the rental of furniture, household goods, or appliances on a non-continuous short-term basis.
LIGHT MANUFACTURING	Uses that involve indoor processing or assembly of finished or partially finished goods and do not require large stockpiles of raw material. Processing and storage activities take place solely within enclosed buildings, which helps limit (but does not completely prevent) the creation of noise, vibration, dust, glare, heat, odor, and smoke. Examples include, but are not limited to: production or repair of small machines or electronic parts and equipment; woodworking and cabinet building; publishing and lithography; computer design and development; research, development, testing facilities and laboratories; apparel production; sign making; assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.
LIGHT TRESPASS	Unwanted light that shines from one lot to another.
LIGHTING PLAN	A graphic deposition of proposed exterior lighting fixture locations, height, anticipated luminance, and cones of illumination.
LIVE/WORK DWELLING	See "Dwelling, Live/Work."
LOADING SPACE, ZONE, FACILITY	Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles, and not considered as part of the minimum required off-street surface parking.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
LOCAL GOVERNMENT	For the purposes of Soil Erosion and Sedimentation, any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.
LOCAL STREET	See "Street, Local."
LOT	A parcel of land not divided by streets that is or will be occupied by a building and its accessory building(s) or an open air use of land, together with all required yard and other required open spaces, with all forms of required access and necessary utilities.
LOT DEPTH	See Section <>, Lot Depth.
LOT FRONTAGE	For the purposes of the subdivision regulations, the distance for which the front boundary line of a lot and the street line are coincident. In the case of corner lots, this shall be the lot line adjacent to the street from which the lot obtains its street address.
LOT OF RECORD	A lot or tract of land that is either part of a subdivision or identified by a set of metes and bounds that has been recorded in the office of the Register of Deeds for the county where it is located prior to the effective date of this Ordinance.
LOT WIDTH	See Section <>, Lot Width.
LOT, CORNER	See Section <>, Corner Lot.
LOT, DOUBLE FRONTAGE	A lot with frontage on streets located at the front and rear of the lot.
LOT, FLAG	An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm. Further, in cases where a minimum lot width is prescribed, the arm is less than the presumptive minimum required lot width.
LOT, NONCONFORMING	A lot of record that that was lawful at the date on which it was established, but does not conform to the current dimensional requirements of the zoning district in which it is located.
LOT, THROUGH	A lot having frontage on two parallel or approximately parallel streets.
LOUVERS	A set of angled slats or flat strips fixed or hung at regular intervals in a door, shutter, screen, or light fixture to allow air or light to pass through.
LOW IMPACT DEVELOPMENT	A method of site development and stormwater management that mimics the natural hydro- logic functions of infiltration, runoff, and evapotranspiration on a site before development occurs.
LOW INTENSITY OFFICE	See "Office, Low Intensity."

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
LOWEST ADJACENT GRADE (LAG)	For the purposes of the Flood Protection Overlay District standards, the lowest elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.
LOWEST FLOOR	For the purposes of the Flood Protection Overlay District standards, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.
LUMEN	A quantitative unit measuring the amount of light emitted by a light source.
LUMINOUS TUBE LIGHTING	Tubing, whether flexible or rigid, mounted to a building wall or other building feature for the purposes of providing illumination, security, attracting attention, or displaying a message.
M	
MAJOR INTERSECTION	An intersection between two or more local or higher-traffic streets.
MAJOR MODIFICATION	A significant deviation in an application, proposed development, or portion of a development that impacts the operation, appearance, function, value, or compatibility of proposed development with its surroundings. A change in the meaning or language of a legal document, such as a contract, agreement, or approval that is made by one party to the document without the consent of the other after it has been signed or completed.
MAJOR SUBDIVISION	See "Subdivision, Major."
MAJOR UTILITY	See "Utility, Major."
MAJOR VARIANCE (WATERSHED)	A variance from the minimum statewide watershed protection rules that results in the relaxation by a factor of greater than 10 percent of any of the management requirements. Major variances shall be approved by the North Carolina Environmental Management Commission after initial review and recommendation from the Town of Clayton. The Stormwater Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
MAKERSPACE	A collaborative workspace that includes shared tools, workspaces, technology, and knowledge in order to assist participants working alone or with collaborators to create and produce ideas, products, and services. Makerspaces can be formed for the purpose of instruction, creation of material for sale, or a combination of the two.
MANUFACTURE	A commercial or industrial activity devoted to the production, assembly, refinement, or processing of raw or semi-finished materials into a finished product.
MANUFACTURED HOME	A factory-built structure, transportable in one or more sections, that 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 conditioning and electrical systems contained therein. This includes any structure with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.), as amended. This does not include recreation vehicles. For the purposes of the Flood Protection Overlay District standards, a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle."
MANUFACTURED HOME PARK	The location of two or more manufactured or mobile homes on a parcel of land shall constitute a manufactured home park. For the purposes of the Flood Protection Overlay District standards, a manufactured home park or subdivision is a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
MANUFACTURED HOME SPACE	A leasehold or designated area for the placement of a single manufactured home plus all associated secondary uses.
MANUFACTURED HOME, CLASS A	A manufactured home that is commonly referred to as a "double-wide" home, or one that is brought to its site in two or more separate parts of at least 10 feet in width and assembled on a single foundation.
MANUFACTURED HOME, CLASS B	A manufactured home that is commonly referred to as a "single-wide" home that is comprised of a single structure approximately 12 feet in width or less and placed on a single foundation.
MAP AMENDMENT	See "Conditional Rezoning," or "Conventional Rezoning."

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
MARKET VALUE	For the purposes of the Flood Protection Overlay District standards, the building value, not including the land value and that of any secondary structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.
MASS GRADING	Movement or redistribution of large quantities of soil or fill material on a development site.
MASTER PLAN	See "Plan, Master."
MATERIAL RETURN	The continuation of one or more exterior building materials on one building façade beyond an inside or outside building corner to a logical termination point on a different wall plane.
MATURE TREE	A tree that has reached more than one-third of its expected maximum size.
MAUSOLEUM	See "Cemetery or Mausoleum."
MAXIMUM EXTENT PRACTICABLE (POSSIBLE)	No feasible or practical alternative exists, as determined by the ~~City~~Town, and all possible efforts to comply with the standards or regulation to minimize potential harmful or adverse impacts have been undertaken by an applicant. Economic considerations may be taken into account but shall not be the overriding factor determining "maximum extent practicable."
MDC	For purposes of Stormwater Management, minimum design criteria as set forth by the Department for stormwater control devices in the Design Manual.
MEAN SEA LEVEL	The National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.
MECHANICAL EQUIPMENT	Equipment and fixtures used for HVAC, fabrication, assembly, or production purposes.
METAL FABRICATION	A commercial establishment engaged in the alteration or modification of metal goods, building supplies, tools, or other products comprised primarily of metal. Such uses may include welding, folding, shaping, assembly, coating, or other activity associated with raw forms of metal, but metal fabrication uses are not involved in the creation of metal products from raw materials.
METAL HALIDE	A method of providing illumination by a bulb filled with gas or vapor that provides illumination when an electrical current is passed through it.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
MICRO BREWERY OR MICRO DISTILLERY	An establishment engaged in the production and packaging of malt beverages, wine or spirits for distribution, retail, or wholesale both on and off-premises. A micro brewery is a facility that produces less than 15,000 barrels of beer per year and sells the majority of the beer it produces for off-site resale and consumption. A micro winery produces less than 100,000 gallons of wine per year. A micro distillery produces less than 15,000 gallons of alcoholic spirits per year. Secondary uses may include a taproom, seating areas, ancillary sales of related merchandise, event space, and warehouse space for stored product.
MICRO RETAIL	See "Retail, Micro."
MINOR MODIFICATION	An insignificant deviation in an application, proposed development, or portion of a development that does not impact the operation, appearance, function, value, or compatibility of proposed development.
MINOR SUBDIVISION	See "Subdivision, Minor."
MINOR UTILITY	See "Utility, Minor."
MINOR VARIANCE (WATERSHED)	A variance from the minimum statewide watershed protection rules that results in a relaxation by a factor of up to 10 percent of any management requirements.
MIXED-USE DEVELOPMENT	A format that includes some combination of integrated residential, commercial, industrial, or institutional use types in one single building or within one single development that is planned, built, themed, or operated in a unified manner. Mixed use development may include different use types within the same building or different use types within the same development that is comprised of multiple buildings.
MOBILE HOME	A detached residential dwelling unit constructed prior to July 15, 1976, that does not bear a certification of compliance with National Manufactured Housing Construction and Safety Standards Act of 1974. A mobile home is designed for transportation after fabrication on streets or highways on its own wheels or a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and similar features. Mobile homes are typically 16-feet-wide or less.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
MOBILE HOME PARK	A commercial use where land is divided into individual leaseholds but not individual lots owned in fee simple that are intended for occupation by individual mobile, manufactured, or modular homes. Mobile home parks may include shared or individual accessways, recreation facilities, and other shared secondary uses like laundries, storage, or refuse collection areas.
MOBILE RESTAURANT	A motorized vehicle that is designed to be readily moved and operated for the purpose of preparing and or selling food and or non-alcoholic beverages to the general public on a recurring basis.
MODIFICATION, MAJOR	See "Amendment."
MODIFICATION, MINOR	A change, revision, addition, or deletion to a development approval of a de minimum or small nature that does not impact the basic configuration or operation of development.
MOLDING	An ornamentally shaped outline as an architectural feature, especially in a cornice.
MONOPOLE TOWER	A communication tower consisting of a single pole, constructed without guy wires and ground anchors.
MONUMENT	A permanent marker, typically inserted into the ground, showing the location of a lot line, lot corner, or other demarcation associated with a lot or right-of-way.
MULTI-BUILDING DEVELOPMENT	See "Unified Development."
MULTI-FAMILY DWELLING	See "Dwelling, Multi-Family."
MULTI-PART APPLICATION	See "Application, Multi-Part."
MULTI-PHASE DEVELOPMENT	A development consisting of two or more different phases where each phase is reviewed and constructed at different times.
MULTI-PHASE DEVELOPMENT PLAN	See "Plan, Multi-Phase Development."
MULTI-TENANT DEVELOPMENT	A single building or a single development with two or more different non-residential uses located within it on one or more lots that is planned, developed, and operated as a single entity.
MULTI-USE PATH	A form of infrastructure that supports multiple recreation and transportation opportunities, such as walking, bicycling, inline skating, and people in wheelchairs. Paths re typically surfaced with asphalt or concrete and are located within public street rights-of-way.
MURAL	A painting or other work of art executed directly on a wall.
N	

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
NATIONAL FLOOD INSURANCE PROGRAM	A program operated by the Federal Emergency Management Agency that provides flood insurance for development within areas within a community that are susceptible to flooding and establishes a set of standards for development as a condition of participation in the program.
NATIVE TREE	See "Tree, Native."
NATIVE VEGETATION	Plants that are endemic or naturally occurring within a specified area.
NATURAL EROSION	For the purposes of Soil Erosion and Sedimentation, the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
NATURAL HERITAGE AREA	A site designated by the federal government to encourage historic preservation of the area and an appreciation of the history and heritage of the site.
NEIGHBORHOOD	A distinct area including two or more building lots that share some defining characteristics such as the type of development, the time of development, architecture, general location, socio-economic or demographic characteristics, or other feature that allows the area to be distinguished as a single unit from its surroundings.
NEIGHBORHOOD INFORMATION MEETING	A meeting conducted by the applicant of a proposed development with those in the area around the proposed development.
NEON LIGHTING	See "Luminous Tube Lighting."
NEW CONSTRUCTION	For the purposes of the Flood Protection Overlay District standards, structures for which the start of construction commenced on or after June 16, 1987, the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.
NIGHTCLUB OR DANCE HALL	Any establishment, whether public or a private club, serving a predominantly adult clientele, and whose primary business is the sale of alcoholic beverages, including beer and wine, for consumption on the premises in conjunction with dancing or live performances, and which sets a minimum age requirement for entrance. An establishment is not a nightclub if the establishment: (1) has a Class A restaurant license from the State of North Carolina; (2) maintains a full-service restaurant on its premises at all times when it is open to the public for business; or (3) provides facilities for seating not less than 40 persons simultaneously at tables for the service of meals. The establishment is also not a nightclub if the establishment allows entrance at all times to any person regardless of age.
NONCONFORMING LOT	See "Lot, Nonconforming."

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
NONCONFORMING SIGN	See "Sign, Nonconforming."
NONCONFORMING SITE OR SITE FEATURE	A site that was legally established, but that is not presently in full compliance with elements of this Ordinance pertaining to landscaping, lighting, access and on-site circulation, fences and walls, parking areas, and screening.
NONCONFORMING STRUCTURE	A structure that was lawful on the date on which it was established, but does not conform to current dimensional, elevation, location, or other requirements of this Ordinance.
NONCONFORMING USE	A use type which was lawful on the date on which it was established, but is now no longer a permitted use of that lot, building, or structure under this Ordinance. A use that when established did not require a special use permit, but now requires a special use permit shall be considered a nonconforming use until special use permit approval is obtained.
NONCONFORMITY	Any land use, development, structure, sign, or site, including any lot of record, that was legally established, but that is not presently in full compliance with the provisions of this Ordinance.
NON-CONVERSION AGREEMENT	For the purposes of the Flood Protection Overlay District standards, a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of this Ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.
NON-ENCROACHMENT AREA (NEA)	For the purposes of the Flood Protection Overlay District standards, the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.
NON-EROSIVE VELOCITY	For purposes of Stormwater Management, the flow rate of water, usually measured in feet per second, that does not exceed the maximum permissible shear stress for the condition and type of soil and groundcover over which the water is flowing. Erosion occurs when the maximum permissible shear stress is exceeded.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
NON-STRUCTURAL SCM	For the purposes of Stormwater Management, non-structural stormwater control measures (SCM) are preventive actions that involve management and source controls such as: (1) Policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space, provide buffers along sensitive water bodies, minimize impervious surfaces, and/or minimize disturbance of soils and vegetation; (2) Policies or ordinances that encourage infill development in higher density urban areas, and areas with existing storm sewer infrastructure; (3) Education programs for developers and the public about minimizing water quality impacts; and (4) Other measures such as minimizing the percentage of impervious area after development, use of measures to minimize directly connected impervious areas, and source control measures often thought of as good housekeeping, preventive maintenance, and spill prevention.
NORTH CAROLINA BUILDING CODE	The most-recently adopted construction code(s) for buildings adopted by the North Carolina Department of Insurance.
NOTICE OF APPEAL	The formal legal notification that an applicant or aggrieved party disagrees with a decision or action taken by the Town and seeks further consideration by an appellate authority like the Board of Adjustment.
NOTICE OF PUBLIC HEARING	The formal legal notification of a public hearing on a proposed development application. A "published notice" is one required to be printed in a newspaper of general circulation. A "mailed notice" is one delivered to specified individuals by US Mail. A “posted notice” is a sign posted on or near the property subject to the application.
NOTICE OF VIOLATION	A notice indicating a violation of this Ordinance.
O	
OATH	The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."
OBSOLETE SIGN	See “Sign, Obsolete.”
OCCUPANCY	The act, state, or condition of holding, possessing, residing, or otherwise using a premises, lot, site, building, or dwelling.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
OFFICE, HIGH INTENSITY	A use, typically involving two or more persons who are engaged in the provision of business, medical, professional, or other related services to customers or clients who come to the office to receive care or services. High intensity office uses typically serve two or more customers at once. Such uses may include a shared kitchen, lobby area, meeting rooms, and document production areas.
OFFICE, LOW INTENSITY	A use where one or more persons are engaged in the operation of a business or the provision of professional, clerical, administrative, research, or sales activities. Low intensity offices provide services and information only to a limited number of customers on the premises (seldom more than one at a time) and are engaged primarily in activities that do not require significant amounts of face-to-face interaction or significant amounts of in-person interactions with clients, suppliers, or the public. Such uses may include a shared kitchen, lobby area, meeting rooms, and document production areas.
OFFICIAL ZONING MAP	The Official Zoning Map upon which the boundaries of various zoning districts are drawn and which is an integral part of this Ordinance.
OFF-SITE VIEWS	Views of or into a development site from off-site locations such as other lots, rights-of-way, or locations within the public realm.
OFF-STREET LOADING SPACE	An area provided for the purpose of loading and unloading goods or materials for use.
OFF-STREET PARKING SPACE	An area designated for the temporary storage of one vehicle.
ON-CENTER SPACING	Placement of landscape material in a regularly-spaced pattern of equal distance between plants.
ON-SITE WASTEWATER SYSTEM	A wastewater treatment system serving an individual lot or site.
OPACITY	A measurement indicating the degree of obscuration of light or visibility.
OPAQUE	A building, structure, building material, vegetation, or other site feature that forms a solid visual barrier.
OPEN AIR USE	A use type that does not include any habitable buildings or structures.
OPEN SPACE SET-ASIDE	Land or water areas within the site designated for a particular development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development, but not including any lands occupied by streets, street rights-of-way or off-street parking.
ORDINANCE	A legislative enactment of the Town of Clayton, North Carolina.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
ORDINARY REPAIRS AND MAINTENANCE	Work done on a sign or structure to prevent deterioration or to replace any part thereof in order to correct any deterioration, decay or damage to any part thereof in order to restore same as nearly as practical to its condition prior to such deterioration, decay or damage.
OTHER SPECIAL EVENTS	Temporary activities or events conducted by civic, philanthropic, educational, or religious organizations, or activities of a business or organization that is not part of its daily activities and are open to the public. Such activities include, but are not limited to, closeout sales, grand openings, fundraising or membership drives, carnivals, fairs, circuses, and tent revivals.
OUTDOOR ADVERTISING	Billboards or other forms of signage as defined in NCGS§ 160D-912.
OUTDOOR COMMERCIAL RECREATION	A commercial establishment located entirely primarily outdoors that provides recreational, amusement, and entertainment opportunities for patrons, including activities such as: water parks, miniature golf, go cart racing, obstacle or ropes courses, zip lines, paintball, mechanical rides, and similar attractions. Outdoor commercial recreation uses may include buildings or structures that also provide indoor recreational activities
OUTDOOR DINING OR SEATING	An outdoor area used primarily for gathering, dining, seating, or entertainment that includes chairs or other forms of seating and may also include tables. The area may also be used for the consumption of food and beverages.
OUTDOOR DISPLAY/SALES	The keeping of any goods, merchandise, or vehicles, in an unroofed area for marketing or sales purposes.
OUTDOOR KITCHEN	An outdoor activity area used for the preparation of food for on-site consumption.
OUTDOOR RECREATION, PUBLIC	An institutional or public establishment located outdoors and engaged in the provision of land and facilities for the purposes of recreation and leisure for the members of the general public. Outdoor public recreation uses include numerous athletic fields, performance space, large courts, or similar features that draw or host large groups of visitors or spectators. These uses are generally more intense than park uses. Such uses may include secondary structures offering concessions, providing storage, restroom facilities, or other related purposes.
OUTDOOR SEASONAL SALES	The temporary and seasonal sale of produce, agricultural, and seasonal products such as pumpkins, Christmas trees, mums, fireworks, and temporary farmers' markets. Outdoor seasonal sales may take place on vacant or occupied land but may not render an existing development site nonconforming in terms of compliance with the standards in this Ordinance.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
OUTDOOR SHOOTING RANGE	A commercial establishment providing a location for patrons to discharge firearms in an outdoor setting in a safe manner that will not endanger nearby lands. Such uses may also include limited facilities for the repair of firearms or ammunition sales for on-site consumption.
OUTDOOR STORAGE	See "Storage, Outdoor (as a Principal Use)."
OUTPARCEL	A lot located within a multi-tenant development (e.g., a shopping center) which may or may not have access from a public road abutting the development. The lot is treated as part of the larger development with respect to applicable yard and dimensional requirements.
OUTPATIENT FACILITY	A small-scale facility where patients are admitted for examination and treatment by one or more physicians, dentists, or psychologists on a short-term basis. Patients may or may not receive care or lodging overnight, but the facility is not intended for long-term overnight care. Such facilities may include sleeping rooms for care workers and members of patient's families.
OVERHANG	The edge of a roof or upper building story projecting outwards.
OVERLAY ZONING DISTRICT	A zoning district designation that is applied over one or more previously established conventional or conditional zoning district designations. Overlay districts modify the existing zoning district provisions by either adding additional regulations or providing greater flexibility in deviations from the existing applicable standards. Typically, when overlay district standards conflict with the underlying conventional or conditional zoning district standards, the overlay zoning district standards control.
OWNER	The purposes of Stormwater Management, the legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. Owner shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of owner under another description in this definition, such as a management entity.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
OWNERS' ASSOCIATION	An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The owners' association is responsible for maintaining and enhancing the shared private infrastructure (e.g., stormwater, streets, and sidewalks) and common elements such as recreation areas.
P	
PACKAGING AND SHIPPING	A commercial establishment providing printing, faxing, copying, document binding, photographic processing, packing, mailbox, mailing, and related services. Printing, document production, and processing services may be provided either on- or off-site. Such uses may also provide computer terminals, copiers, and similar equipment for self-service use by customers.
PAD SITE	See "Outparcel."
PARAPET WALL	See "Wall, Parapet."
PARENT	For the purposes of Soil Erosion and Sedimentation, an affiliate that directly, or indirectly through one or more intermediaries, controls another person.
PARENT PARCEL	A tract of land further subdivided into one or more additional lots.
PARK AND RIDE FACILITY	Parking facilities close to or connected with public transport facilities that allow commuters and other transit users to leave their private vehicles and transfer to a bus, rail, ferry, or carpool for the remainder of the journey.
PARK LAND	Land intended for development as a public park or recreation area.
PARK OR PLAYGROUND (PUBLIC OR PRIVATE)	Land used for recreation, exercise, sports, education, rehabilitation, or similar activities, or a land area intended to enhance the enjoyment of natural features or natural beauty, specifically excluding commercially operated amusement parks.
PARKING LOT	The portion of a site or development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.
PARKING LOT CROSS-ACCESS	Vehicular access provided between the vehicular use areas of two or more development sites or parcels of land intended to allow travel between the sites without the use of a street.
PARKING LOT STEM LANE	A point of ingress into a parking lot from a street. A parking lot stem lane does not accommodate parking areas or access to drive aisles within its minimum length.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
PARKING OF HEAVY TRUCKS OR TRAILERS	The temporary storage of motor vehicles over 10,000 pounds of gross vehicle weight or that include three or more axles and associated trailers or equipment.
PARKING OF RECREATIONAL VEHICLES	The temporary storage of motorized or non-motorized recreational vehicles, campers, travel trailers, and 5th wheels, as well as trailers containing vehicles and equipment used for recreational purposes, such as are used for boats, personal watercraft, and off-road vehicles.
PARKING PLAN	A plan or diagram prepared by an applicant for development that depicts the required and provided number of parking spaces (if different from the required number of parking spaces. The plan also shows points of vehicular ingress and egress, drive aisles, the locations of parking lot landscaping islands, pedestrian circulation features, and off-street loading facilities.
PARKING RELATED USES	A use of land devoted to the temporary off-street parking of vehicles, including vehicular ingress and egress, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.
PARKING SPACE	A location where an automobile or passenger truck is temporarily stored, whether on-street or off-street.
PARKING SPACE, REVERSE ANGLE	On-street parking spaces configured at an angle to the direction of travel for the street where located. Vehicles back into reverse angle parking spaces.
PARKING STRUCTURE	A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages and deck parking.
PARKING STUDY	An analysis of the minimum number of off-street parking spaces necessary to serve a proposed use type.
PARKING, OFF-SITE	Off-street parking facilities located on a different lot or site than the use served.
PARKING, SHARED	Off-street parking spaces that are shared or used by two or more different use types with differing patterns of use through the day or the week.
PASSIVE OPEN SPACE SET ASIDE	Open space areas designated for passive recreation uses including trails, gazebos, greens, picnic areas, fountains, and similar areas. Such areas may also include undisturbed natural vegetation.
PATIO	An improved area, located at or below grade, with a paved or otherwise improved surface typically used for dining, gathering, recreation, or leisure activity. A patio may be covered or uncovered, but does not include walls that support a roof.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
PAWNSHOP	A commercial establishment operated by a pawnbroker, who provides short-term loans to customers who leave collateral items with the pawnbroker to secure the loan for the agreed-upon holding period. Collateral from unpaid loans is made available for purchase at retail to customers following the end of the holding period. Such uses may include indoor storage areas.
PEAFOWL	A peacock, peahen, or any species of Pavo pheasant.
PEAK ATTENUATION VOLUME	The purposes of Stormwater Management, stormwater runoff in excess of the design volume that is conveyed to an SCM where it is not treated in accordance with the applicable MDC, but is released by the SCM in a controlled manner to address potential downstream erosion and flooding impacts to meet federal, state, or local regulations beyond the requirements of this section.
PEDESTRIAN LIGHTING	Exterior lighting scaled to pedestrians.
PEDESTRIAN WALKWAY	An on-site pedestrian access way connecting building entrances, parking areas, and the larger sidewalk network around the site.
PEDIMENT	The triangular upper part of the front of a building in classical style, typically surmounting a portico of columns.
PENALTY	Punishment for violation of a law or rule.
PENNANT	A lightweight plastic, fabric, or other material, whether containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
PERENNIAL STREAM	Streams located on United States Geological Survey (USGS) maps shown as solid blue lines with a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year.
PERFORMANCE GUARANTEE	Cash or other guarantee provided by an applicant in-lieu of completion of public infrastructure or required private site feature prior to issuance of a building permit, final plat, or other development approval.
PERIMETER BUFFER	See "Buffer, Perimeter."
PERIMETER PARKING LOT LANDSCAPING	Required landscaping located around the perimeter of a parking lot.
PERMIT CHOICE	State laws that permit an applicant to choice which set of development rules to follow if the development rules change between the time an applicant's application form is determined to be complete and when a decision is made on the application by the Town.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
PERSON	An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity. For the purposes of Soil Erosion and Sedimentation, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
PERSON CONDUCTING THE LAND-DISTURBING ACTIVITY	Any person who may be held responsible for violation of any regulations governing land-disturbing activity, unless expressly provided otherwise. For the purposes of Soil Erosion and Sedimentation, any person who may be held responsible for violation unless expressly provided otherwise by this chapter, the Act, or any order adopted pursuant to this chapter or the Act.
PERSON WHO VIOLATES OR VIOLATOR	For the purposes of Soil Erosion and Sedimentation, as used in NCGS§ 113A-64, means: (1) Any landowner or other person who has financial or operational control over the land-disturbing activity; or (2) Who has directly or indirectly allowed the activity, and who has failed to comply with the provisions of the Act, the rules of this chapter, or any order or local ordinance adopted pursuant the Act, as it imposes a duty upon that person.
PERSONAL PROPERTY	All forms of property, except real property.
PERVIOUS SURFACE	A substance that allows water to pass through it.
PHARMACY	A commercial establishment engaged in the storage, preparation, and sale of drugs and other medications to customers at retail. Pharmacy uses may also offer a wide variety of food, household goods, or other personal products for sale. A pharmacy may also incorporate a medical technician who provides on-site medical assistance and counselling to patrons. Pharmacies that exceed the floor area thresholds for large format retail uses shall be considered as a large format retail use.
PHASE	The discrete portion of a proposed development.
PILASTER	A rectangular column with a capital and base that is attached or affixed to a wall as an ornamental design feature.
PLAN	For the purposes of Soil Erosion and Sedimentation, an erosion and sedimentation control plan.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
PLAN, ALTERNATIVE LANDSCAPE	A document prepared by an applicant's representative that proposes an alternative means of compliance with the standards in Section <>, Landscaping and Screening.
PLAN, ALTERNATIVE PARKING	A document prepared by an applicant's representative that proposes an alternative means of compliance with the standards in Section <>, Parking and Loading.
PLAN, CONCEPT	A plan for development intended solely for illustrative purposes to assist a review authority in its consideration of a proposed development (like a Type 3 Conditional Rezoning or a Special Use Permit). A concept plan may, but does not necessarily need to include, the detailed elements typically found in a site plan (for example, detailed locations of buildings, location of off-street parking, location of landscaping, etc.).
PLAN, EROSION CONTROL	A plan illustrating the extent of land disturbance and the steps taken to prevent erosion and off-site sedimentation.
PLAN, FORESTRY MANAGEMENT	A plan depicting the location and extents of forestry activities.
PLAN, LANDSCAPE	A plan illustrating the design and specifications for the preservation of existing vegetation; the placement of any live plant materials such as trees, shrubs, grasses, ground covers, etc.; and the location and design of built features such as berms, fencing, walls, etc.
PLAN, LIGHTING	A graphic deposition of proposed exterior lighting fixture locations, height, anticipated luminance, and cones of illumination.
PLAN, MULTI-PHASE DEVELOPMENT	A site plan that includes development proposed in two or more distinct phases.
PLAN, PARKING	A plan or diagram prepared by an applicant for development that depicts the required and provided number of parking spaces (if different from the required number of parking spaces. The plan also shows points of vehicular ingress and egress, drive aisles, the locations of parking lot landscaping islands, pedestrian circulation features, and off-street loading facilities.
PLAN, PLOT	A simple drawing or sketch depicting compliance with one or more requirements of this Ordinance.
PLAN, SITE	A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights–of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
PLAN, SITE-SPECIFIC VESTING PLAN	A plan that describes, with reasonable certainty, the type and intensity of use for a specific lot or lots. The plan may be in the form of a subdivision plat, a site plan, a special use permit, or a conditional district zoning plan. The plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.
PLAN, SKETCH	A simple drawing or schematic showing proposed site features or buildings in a conceptual fashion. Sketch plans may be, but are not required to be drawn to scale. In cases where the drawing is not to scale, accurate dimensions should be noted.
PLAN, VEGETATION PROTECTION	A plan identifying the location, type, and characteristics of existing vegetation to be preserved and protected during and after the development process. The plan also depicts proposed tree protection devices.
PLANNING BOARD	An advisory body responsible for making recommendations on certain applications for development approval to the Town Council. The Planning Board also makes special studies of land use and assists in the preparation and revision of the comprehensive plan.
PLANNING JURISDICTION	The geographic extents of where this Ordinance is applied that includes the Town's corporate limits, lands within the extraterritorial jurisdiction, and lands subject to annexation petitions or development agreements that require inclusion within the Town's corporate limits at some point in the future.
PLANT NURSERY (RETAIL OR WHOLESALE)	The cultivation and production of orchard, garden, or nursery crops on a small or large scale, for retail or wholesale sales to members of the public. Such uses may also include secondary sales of ground cover, soil, compost, and planting materials, along with tools, pots, and equipment needed for plant propagation. Such uses may also include a sales or display area, greenhouses, outdoor storage, secondary structures, and offices where consultation or training may take place as a secondary use.
PLANTING SEASON	The dormant time of the year for trees beginning with leaf drop and ending with bud break; generally late fall to early spring.
PLANTING STRIP	Required landscaping material configured in a linear strip.
PLAT, EASEMENT	A surveyed map or plan depicting one or more easements granted to a party other than the landowner.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
PLAT, FINAL	A map, plan, or survey document prepared by a licensed, registered land surveyor containing a drawing and description of the subdivided land with ties to permanent monuments (for the purposes of reproduction) prepared in a form that is suitable for recording with the register of deeds for Johnston County.
PLAT, PRELIMINARY	A drawing or plan prepared by a licensed professional showing the layout of a proposed subdivision including, but not restricted to, road and lot layout and approximate dimensions, topography and drainage, and all proposed facilities unsized and without profiles, at suitable scale and in such detail as required by this Ordinance.
PLAY EQUIPMENT	Secondary structures devoted to active recreation by children typically associated with residential and institutional uses. Such uses typically include swing sets, trampolines, jungle gyms, play structures, obstacle courses, tree houses, slides, zip lines. Facilities and features devoted to the playing of organized or unorganized sports are outdoor recreation facilities.
PLAY STRUCTURE	A non-habitable structure intended for recreational purposes.
PLAZA	An open space at the intersection of important streets or adjacent to important structures, set aside for civic purposes and commercial activity, which may include parking, consisting of durable pavement, and formal landscaping or tree plantings.
POCKET NEIGHBORHOOD	A master-planned development of small single-family detached dwellings, each on their own lot, located around a common open space and served by either on-street, on-site, or shared off-street parking. Each home fronts a shared common open space which can be configured as an open green, community garden, or recreation area.
PORCH	A covered or uncovered projection (can be glazed or screened) from the main wall of a building, located at or above grade, that provides ingress or egress to a building but is not used for livable space.
PORTABLE STORAGE CONTAINERS	A moveable container intended for storage of personal property, waste, or debris, that is brought to a site on a temporary basis.
PORTICO	A large porch usually with a pediment usually associated with an entrance, supported by columns.
POST OFFICE	An office or station of a government postal system at which mail is received and sorted, from which it is dispatched and distributed, and at which stamps are sold or other services rendered.
POST-FIRM	For the purposes of the Flood Protection Overlay District standards, construction or other development for which the "Start of Construction" occurred on or after April 1, 1982, the effective date of the initial Flood Insurance Rate Map.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
PRE-APPLICATION CONFERENCE	A meeting or conference conducted by a potential applicant for a permit or development approval and Town staff for the purposes of discussing a potential application or Town rules regarding development.
PRE-FIRM	For the purposes of the Flood Protection Overlay District standards, construction or other development for which the "Start of Construction" occurred before April 1, 1982, the effective date of the initial Flood Insurance Rate Map.
PRELIMINARY PLAT	See "Plat, Preliminary."
PRESENT USE VALUE	The value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income and assuming an average level of management.
PRESERVATION	The act or process of applying measures to sustain the existing form, integrity and material of a building or structure and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.
PRIMARY BUILDING FAÇADE OR WALL	See "Façade, Front."
PRIMARY CONSERVATION AREA	The portion of a conservation subdivision required to be included within the conservation or set-aside area where development will not take place.
PRIMARY CORPORATE LIMITS	The contiguous corporate limits of the Town of Clayton, North Carolina.
PRIMARY ENTRANCE	The place of ingress and egress to a building, parcel, or development used most frequently by the public.
PRIMARY FAÇADE PLANE	The largest uninterrupted exterior surface of a building wall from the grade to the underside of the eave or top of the parapet. The primary building façade excludes any offsets, projections, recesses, wings, bump-outs, or cornices.
PRIMARY ROOF RIDGELINE	The longest ridgeline on a building with a pitched roof.
PRIMARY SCM	The purposes of Stormwater Management, a wet pond, stormwater wetland, infiltration system, sand filter, bio-retention cell, permeable pavement, green roof, rainwater harvesting, or an approved new stormwater technology that is designed, constructed, and maintained in accordance with the MDC.
PRIMARY WALL PLANE	See "Wall Plane, Primary."
PRIME AGRICULTURAL LAND	Resource land best suited for agricultural activity.
PRINCIPAL BUILDING	See "Principal Structure."
PRINCIPAL STRUCTURE	A structure in which is conducted the principal use(s) of the lot on which it is located.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
PRINCIPAL USE	A primary or predominate use of a lot or parcel.
PRINCIPALLY ABOVE GROUND	For the purposes of the Flood Protection Overlay District standards, a situation where at least 51% of the actual cash value of the structure is above ground.
PRIVATE CLUB	See "Bar, Cocktail Lounge, or Private Club."
PRIVATE COMMON INFRASTRUCTURE	Infrastructure or facilities such as streets, water, sewer, stormwater management, open space, streetlights, or street signs that are owned and maintained by a private owners' association.
PRIVATE SITE FEATURE	Structure, feature, or aspect of a development site that is owned and operated by a private individual. Such features include buildings, structures, landscaping, accessways, and similar features outside public rights-of-way or land dedicated to the public.
PRIVATE STABLES	A building or structure devoted to the care and keeping of horses or other livestock not open to members of the general public. Such uses may include outdoor storage, exercise areas, paddocks, and similar facilities.
PRIVATE STREET	See "Street, Private."
PRODUCE STAND	A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs, or plants grown on the same parcel of land where the stand is located. Such use may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold.
PROFESSIONAL ENGINEER	A civil, structural, or traffic engineer licensed by the State of North Carolina.
PROFESSIONAL LAND SURVEYOR	An expert knowledgeable in the delineation and demarcation of lot lines, land ownership, grading, and similar aspects licensed by the State of North Carolina to provide design and construction services for development.
PROFESSIONAL LANDSCAPE ARCHITECT	An expert knowledgeable in plants, planting techniques stormwater management, outdoor structural design, and similar aspects licensed by the State of North Carolina to provide design and construction services for development.
PROGRAM ADMINISTRATOR	For the purposes of Soil Erosion and Sedimentation, ~~Town~~ Engineering Director, or ~~Town Engineer's~~a designee.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
PROJECT	The purposes of Stormwater Management, the proposed development activity for which an applicant is seeking a stormwater permit from the town in accordance with this section. Project shall exclude any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, state, or local stormwater regulation. Owners and developers of large developments consisting of many linked projects may consider developing a master plan that illustrates how each project fits into the design of the large development.
PROJECTION	Habitable space projecting outwards from the main wall of a building.
PROTECTED TREE	See "Tree, Protected."
PROTOTYPICAL ARCHITECTURE	Exterior building materials and architecture that is standardized for a particular use type or franchise operation.
PSYCHIATRIC SERVICES	Inpatient facility which provides care for persons with psychiatric problems and which may include outpatient follow-up care to the facility's patients. Such uses may include overnight stays for patrons. Facilities for the involuntary commitment of persons are not psychiatric service uses.
PUBLIC ART	Art, in any media, that has been planned and executed with the intention of being staged in the physical public domain, usually outside and accessible to all.
PUBLIC GATHERING AREA	See "Gathering Area."
PUBLIC HEARING, EVIDENTIARY	A public hearing involving the legal rights of specific parties conducted by the Board of Adjustment based on evidence and sworn testimony presented during the public hearing. Decisions made during such hearings are based upon and supported by the record developed at the hearing, and involve findings of fact and conclusions of law made by the review authority.
PUBLIC HEARING, LEGISLATIVE	A public hearing held for the purpose of soliciting public comments on a proposed development application. Reasonable time limits on speakers may be imposed and responsible decorum maintained. However, unlike evidentiary hearings, there is no requirement for oaths, no limits on expression of personal opinions, and no limit on discussing the matter outside the context of the hearing.
PUBLIC INFRASTRUCTURE	Development features consisting of streets and public alleys, bicycle infrastructure within a public right-of-way, curb and gutter, potable water lines, sanitary sewer lines, electrical service (where applicable), street drainage facilities, public stormwater control measures, and sidewalks or trails located within public rights-of-way.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
PUBLIC MEETING	A gathering of Town officials and interested members of the public to discuss an action of the Town or consider a development application. Unlike a public hearing, no prior public notification is required for a public meeting, and the acceptance of testimony from meeting attendees is at the discretion of the review authority conducting the public meeting.
PUBLIC REALM	Land, buildings, and structures owned by the government or a governmental entity that is made available for use by all persons.
PUBLIC RIGHT-OF-WAY	For the purposes of the communications use-specific standards, a right-of-way owned, leased, or operated by the ~~City~~Town, but not including any street or alley that is a part of the State highway system.
PUBLIC SAFETY AND/OR NUISANCE	For the purposes of the Flood Protection Overlay District standards, anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
PUBLIC STREET	See "Street, Public."
PUSH CART	Any non-motorized piece of equipment designed to be readily moved from which a vendor or itinerant merchant prepares and or sells food, non-alcoholic beverages, or other products to the general public.
Q	
QUADPLEX	See "Dwelling, Quadplex."
QUASI-JUDICIAL	See "Public Hearing, Evidentiary."
QUORUM	The minimum number of council, board, or commission members that must be present in order to conduct official business or take official action.
R	
RACETRACK	A track, whether paved or unpaved, for the competitive racing of automobiles, motorcycles, trucks, tractors, dogs, or horses. Such uses may also include seating for spectators, equipment and staging areas, and concessions areas.
RADII	Curves or bends in a street, sidewalk, greenway, or other travel route.
RAIL-RELATED USE	A commercial or industrial establishment engaged is the transportation, storage, and distribution of raw materials and products via railroad. Such uses may include storage of locomotives, rail cars, and loading facilities.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
RAIN GARDEN	See "Bio-retention Cell."
RAW OR SEMI-FINISHED MATERIALS	Products, materials, or components in an original or unrefined state that are altered through the manufacturing process.
REAL PROPERTY	All land, all buildings, all structures, and other fixtures firmly attached thereto.
REAR FACADE	See "Façade, Rear."
REASONABLE ACCOMMODATION	Any change or adjustment to a provision of this Ordinance or condition of approval that would allow an individual with a disability to enjoy equal access to a dwelling, structure or site that is available to other individuals.
RECESS	Habitable space that is recessed inwards from the main wall of a building.
RECOGNIZED PROPERTY INTEREST	A financial or other interest in real property.
RECOMBINATION	See "Combination / Recombination."
RECORD DRAWING	See "As-Built."

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
RECREATIONAL VEHICLE	A vehicle, which is: 1. Built on a single chassis; 2. 400 square feet or less when measured at the largest horizontal projection; 3. Designed to be self-propelled or permanently towable by a light duty truck; 4. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and 5. Is fully licensed and ready for highway use. A recreational vehicle shall also include a boat or personal water craft and its associated trailer, a travel trailer, a camper, and a 5th wheel, regardless of size or capacity. For the purposes of the Flood Protection Overlay District standards, a vehicle, which is: 1. Built on a single chassis; 2. 400 square feet or less when measured at the largest horizontal projection; 3. Designed to be self-propelled or permanently towable by a light duty truck; 4.Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and 5. Is fully licensed and ready for highway use. For the purpose of the Flood Protection Overlay District standards, "tiny homes/houses" and park models that do not meet the items listed above are not considered recreational vehicles and should meet the standards of and be permitted as residential structures.
RECREATIONAL VEHICLE PARK	A commercial establishment offering individual spaces or "sites" for short term rental to owners or operators of recreational vehicles. Such uses typically have shared or common restroom, showering, and laundry facilities, and may also include recreational features and incidental sale of food, travel supplies, and recreational vehicle equipment. Rental of an individual site for a period of more than three continuous months or uses that allow vehicles to be modified in ways that result in permanent, non-mobile structures are considered mobile home parks.
RECYCLING CENTER	A facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
REDEVELOPMENT	Installation of any improvements, new construction, or reconstruction on a lot or site that has pre-existing uses. The purposes of Stormwater Management, any development on previously developed land, other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.
REFERENCE LEVEL	For the purposes of the Flood Protection Overlay District standards, the reference level is the top of the lowest floor for structures within special flood hazard areas designated as Zones A, AE, AH, AO, A99.
REFORESTATION	The re-establishment of trees or tree canopy cover to land area that was cleared prior to or as part of the development process.
REFORESTATION AREA	The portion of a lot or site designated for the retention of or planting of trees in accordance with the reforestation requirements.
REFUSE COLLECTION CONTAINER	A metal or plastic container used for the collection and temporary storage of refuse or waste for pickup by the Town or a solid waste management contractor.
REGISTER OF DEEDS	A public officer designated by Johnston County to register documents, mainly related to real estate. The register of deeds verifies mortgage ownership and property ownership, such as houses and land, in official record books.
REGULATORY FLOOD PROTECTION ELEVATION	For the purposes of the Flood Protection Overlay District standards, the "Base Flood Elevation" plus the "Freeboard." In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.
RELIGIOUS INSTITUTION, HIGH INTENSITY	Any facility such as a church, temple, monastery, synagogues, or mosque used for worship by a non-profit organization and their customary related uses for education (pre-schools, religious education, etc.), recreation (gymnasiums, activity rooms, ball fields, etc.), housing (rectory, parsonage, elderly or disabled housing, etc.) and secondary uses such as cemeteries, mausoleums, offices, soup kitchens, and bookstores. High intensity religious institutions conduct two or more different worship services in any given 24-hour period, are configured with a seating capacity of 300 or more in any single sanctuary, or that include any customary related uses listed in this definition.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
RELIGIOUS INSTITUTION, LOW INTENSITY	Any facility such as a church, temple, monastery, synagogue, or mosque used for worship by a non-profit organization. Low intensity religious institutions conduct no more than one or more worship services in any given 24-hour period, are configured with a total seating capacity of less than 300 people in the sanctuary, and do not include related uses identified in the definition of high intensity religious institutions.
REMEDY	The manner in which a right or law is enforced or satisfied when a violation of the UDO or related law has occurred.
REMEDY A VIOLATION	For the purposes of the Flood Protection Overlay District standards, to bring the structure or other development into compliance with State and the Town's floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this Ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.
REMODELING	Development activity associated with an existing building, structure, or use of land that includes: - Replacement or upgrade of existing fixtures, fittings, or surfacing materials; - Refurbishment of internal systems or equipment; - Installation of new features such as doorways, windows, or habitable space within the existing footprint and floorplate; - Cosmetic changes to existing buildings or structures without any changes to existing footprint or floorplate; or - Enhancement of existing site features without the addition of new impervious surface area. For the purposes of this Ordinance, "renovation" or "expansion" includes the construction of new floor area (principal or accessory) that extends the building's footprint or floorplate.
REPAIR SHOP	An establishment primarily engaged in the provision of repair services for electronics, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment; including tailor; locksmith; and upholsterer. Repair establishments do not include outdoor storage of goods, materials, or equipment. Repair of cars, trucks, or similar heavy equipment is a vehicle-related establishment.
REQUIRED LANDSCAPE AREA	An area required to be planted with trees, shrubs, or ground cover as required by Section <>, Landscaping and Screening.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
RESEARCH AND DEVELOPMENT	A business that engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of prototypical devices as well as the creation and testing of drugs and compounds, vehicles, equipment, and industrial processes.
RESERVATION	An obligation, shown on a subdivision or site plan, to keep land free from development and available for public acquisition for a stated period of time.
RESERVE STRIPS	Strips of land that are not developed as a means of limiting or preventing vehicular access.
RESIDENTIAL DEVELOPMENT	Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, and their associated outbuildings such as garages, storage buildings, and gazebos and customary home occupations.
RESIDENTIAL TREATMENT FACILITY	Inpatient facility which provides care for persons with drug and/or alcohol dependency problems and which may include outpatient follow-up care to the facility's patients.
RESIDUALS	Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility permitted under the authority of the Environmental Management Commission.
RESOLUTION	The official written expression of the opinion or the will of the Town Council, Board of Adjustment, or Planning Board.
RESTAURANT	An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. Seating for patrons consuming products on site are located either indoors or outdoors, and the use does not provide drive-through service. Such uses may include a bar or cocktail lounge as a secondary use.
RESTAURANT, MOBILE	See "Mobile Restaurant."
RESTORATION	The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.
RETAIL, GENERAL (HIGH INTENSITY)	Commercial establishments of 10,000 square or more feet in size (including indoor and outdoor space) engaged in the retail sale of goods and services at high volumes or in large buildings with significant amounts of traffic to and from the use during operating hours. ~~High intensity retail includes home improvement stores, department stores, single tenant uses in buildings of 40,000 square feet in size or more or that generate 500 or more daily vehicle trips.~~

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
RETAIL, GENERAL (LOW INTENSITY)	Commercial establishments engaged in the retail sale of goods and services ~~at low or moderate volumes of customers generating fewer than 500 vehicle trips per day or in buildings less than 40,000 square feet in area~~with less than 10,000 square feet of area (including indoor and outdoor space) .
RETAIL, LARGE FORMAT	A retail establishment consisting of a single or multiple tenants in one or more buildings totaling 70,000 square feet or more ~~in~~ of indoor and outdoor area with 70 percent or more of the total floor area occupied by retail sales activities.
RETAIL, MICRO	Small-scale commercial operations employing two or fewer people on a shift in a~~n~~ building or individual tenant space of 1,000 square feet or less. A micro-retail use may share building floor area with other residential or non-residential uses.
RETAINING WALL	See "Wall, Retaining."
RETENTION POND (WET)	A stormwater control measure consisting of a depression in the land that is designed to capture runoff from a design storm and release it gradually over a specified period of time via a properly designed outlet structure.
REVEGETATION PLAN	A plan depicting the re-establishment or replanting of required vegetation or landscaping material on a lot or site where clearing has taken place in violation of this Ordinance or a condition of approval.
REVERSE FRONTAGE	A lot with two or more street frontages that includes a building or structure that is oriented in a manner that differs from other existing structures or from the development patterns indicated by adopted policy guidance or good planning practice.
REVIEW AUTHORITY	The Town Manager, Planning Board, Board of Adjustment, Town Council, Planning Director, Engineering Director, or Technical Review Committee, as appropriate.
REZONING	An amendment to a zoning regulation to change the zoning district that is applied to a specified property or properties. It does not include the initial adoption of a zoning map by Town Council or the repeal of a zoning map and re-adoption of a new zoning map for the Town's jurisdiction. It does not include updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district. It does include the initial application of zoning when land is added to the Town's jurisdiction that has previously adopted zoning regulations. It does include the application of an overlay zoning district or a conditional zoning district.
RIBS	See "Fins."

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
RIGHT-OF-WAY	Shall mean that property located within and adjoining the streets, roads and highways within the Town, which rights-of-way are owned by the Town or the State or are otherwise maintained by the Town or the State.
RIP RAP	The random or specific placement of rock or fieldstone along drainage channels, stormwater inlets or outfalls, streams, or other areas subject to accelerated erosion where vegetation or geotextile measures are insufficient to prevent erosion and sedimentation.
RIPARIAN BUFFER	A vegetated area proximate to and parallel with a stream that helps shade and partially protect the stream and water quality from the impact of adjacent land uses.
RIVERINE	For the purposes of the Flood Protection Overlay District standards, relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
ROADWAY	The paved portion of right-of-way over which vehicular traffic travels.
ROOF GARDEN	Landscaping material, whether in a formal or informal arrangement located on the roof of a building or structure.
ROOF OVERHANG	See "Eave."
ROOF PITCH	The amount of rise or the vertical increase in elevation over the run or the horizontal distance of a roof.
ROOF PLANES	Portions of a roof constructed at different angles to one another.
ROOF RAKE	The portion of a gabled roof that extends past the exterior wall of the building.
ROOM	Any floor space exceeding 40 square feet enclosed by partitions or walls having cased openings or doors but excluding areas devoted exclusively to kitchen and bath facilities.
ROPE LIGHTING	See "Luminous Tube Lighting."

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
ROUTINE MAINTENANCE	Simple, small-scale activities (usually requiring only minimal skills or training) associated with regular (daily, weekly, monthly, etc.), recurring, and preventative upkeep of a building, equipment, or machine against normal wear and tear. For the purposes of the telecommunications use-specific standards, routine maintenance includes cleaning, repair, and replacement of existing antennas, antenna support structures, wireless telecommunications equipment, equipment cabinets, equipment compounds, telecommunications towers, utility poles, or other vertical projections used to deliver wireless telecommunications services. Activities that result in larger, taller, more visible, more impactful, or additional wireless telecommunications equipment are not considered routine maintenance.
RURAL CHARACTER	Patterns of land use and development in which open space, the natural landscape, and vegetation predominate over the built environment.
S	
SALVAGE AND JUNKYARD	An establishment where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, and the like, are brought, sold, exchanged, baled, packed, disassembled, stored, or handled, including used lumber and building material yards, housewrecking yards, heavy equipment wrecking yards, and yards or places where salvaged house wrecking or structural steel materials are stored, handled, and sold. This definition includes automobile wrecking or automobile wrecking yards and establishments for the sale, purchase, or storage of second-hand cars, clothing, salvaged machinery, furniture, radios, stoves, refrigerators, or similar household goods and appliances, all of which shall be usable, nor shall it apply to the processing of used, discarded, or salvaged materials incident to manufacturing activity on the same site where such processing occurs. For the purposes of the Flood Protection Overlay District standards, any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances, and related machinery.
SATELLITE ANNEXATION	A lot or area of land located within the corporate limits of the Town but outside the contiguous portion of the Town.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
SCHOOL HIGH	A public or private school offering general, technical, or alternative instruction at the high school level that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.
SCHOOL, ELEMENTARY OR MIDDLE	A public or private school offering general, technical, or alternative instruction at the elementary through middle school levels (k-8) that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.
SCHOOL, VOCATIONAL	An educational institution providing secondary or post-secondary education designed to provide vocational education, or technical skills required to perform the tasks of a particular and specific job or trade.
SCREENING WALL	A wall, whether part of habitable space or not, that interrupts off-site views into a site.
SECONDARY BUILDING FAÇADE (WALL)	See "Wall, Secondary."
SECONDARY BUILDING OR STRUCTURE	A use or structure that is clearly incidental to and customarily found in connection with a principal building or use, is located on the same parcel and serves a principal building or use, and is subordinate in area, extent and purpose to the principal building or principal use served.
SECONDARY CONSERVATION AREA	The portion of a conservation subdivision containing resources to be retained as conservation land or open space after development that is not as imperative to retain as the primary conservation land.
SECONDARY ENTRANCE	An entrance into a building located on a side or rear building façade.
SECURITY LIGHTING	Exterior illumination of a building, parking area, or other site feature for the purposes of security.
SEDIMENT	For the purposes of Soil Erosion and Sedimentation, solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
SEDIMENTATION	For the purposes of Soil Erosion and Sedimentation, the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
SEMI-OPAQUE	A building, structure, building material, vegetation, or other site feature partially obscures visibility from one location to another.
SEMI-PERVIOUS	A material that allows some, but not all, stormwater to flow through it.
SEPTIC TANK	An on-site sewage treatment or storage device.
SETBACK	A required distance from a lot line or development boundary for a principal or accessory building and some required site features, as determined in accordance with Section <>, Setbacks.
SEVERE PRUNING	The pruning, cutting, or otherwise damaging of the natural form of a tree or shrub, whether existing or planted, such that a significant or noticeable portion of the crown system is removed (e.g., 25 percent of the crown removed from a tree, or the continued cutting/trimming of trees previously pruned illegally, or pruning of trees that must grow naturally to meet the landscaping requirements), and/or if more than 1/3 of the overall circumference of a tree is exposed by pruning cuts.
SEXUALLY-ORIENTED BUSINESS	Any place defined as an "adult establishment" by NCGS§ 14-202.10, except that the use type shall not include and adult bookstore, adult video store, adult cabaret, or adult motel as identified and defined in this Ordinance. Another adult use shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy use, or other similar health-related use provided the person rendering or receiving a massage does not exhibit or include "specified anatomical areas" as defined by NCGS§ 14-202.10.
SHADE TREE	See "Tree, Shade."
SHARED DRIVEWAY	See "Driveway, Shared."
SHIELDING (OR SHIELDED)	A light fixture constructed and installed in such a manner that all light emitted by it, either directly from the lamp (bulb) or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane of the fixture.
SHRUB	A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.
SHRUB, EVERGREEN	A shrub that retains the majority of its leaves or needles throughout the year.
SIDE FAÇADE	See "Façade, Side."

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
SIDEWALK	A paved area running parallel to the street for the purposes of pedestrian travel and to facilitate pedestrian access to adjacent streets and land.
SIGHT DISTANCE TRIANGLE	The triangular area formed by a diagonal line connecting two points located at designated locations on intersecting right-of-way lines or a right-of-way line and the curb or a driveway.
SIGN	Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, trade names or trademarks by which any message is made known, including any surface, fabric or other material or structure designed to carry such devices that are used to designate or attract attention to an individual, a firm, an event, an association, a corporation, a profession, a business or a commodity or product that are exposed to public view. The definition of a sign does not include flags, badges, or insignias of any governmental unit.
SIGN CABINET	A metal enclosure housing sign face displays and methods of internal illumination, when provided.
SIGN FACE AREA	The portion of sign that contains the message being conveyed, as determined in accordance with Section <>, Sign Measurement.
SIGN HEIGHT	The height to the tallest point of a sign structure, as determined in Section <>, Sign Measurement.
SIGN PERMIT	A development approval associated with the erection, alteration, continuation, or removal of signage or ancillary features associated with a sign.
SIGN SUPPORTING STRUCTURE	The framework and structural support for a sign.
SIGN, AWNING	See Section <>, Sign Standards by Sign Type.
SIGN, BANNER	See Section <>, Sign Standards by Sign Type.
SIGN, BILLBOARD	See "Sign, Outdoor Advertising."
SIGN, BOW	A feather flag sign with an elongated mounting post that curves at the top to form a circular shape within which the sign material is mounted.
SIGN, CHANGEABLE COPY	A sign with a portion of the face area that accommodates the regular or occasional manual modification to the message or copy.
SIGN, DILAPIDATED	A sign that is old or that has been poorly maintained that poses a public safety hazard or is difficult to read.
SIGN, ELECTION	See "Sign, Political."
SIGN, FEATHER FLAG	A sign made of fabric or similar material in a curvilinear shape that is mounted to a pole along the long edge of the sign.
SIGN, FENCE WRAP	A temporary sign affixed to fencing surrounding an active construction site.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
SIGN, FLASHING	A sign with a message that is intermittently on and off or supplemented with lights that turn on and off in rapid succession.
SIGN, GOVERNMENT	Any temporary or permanent sign erected and maintained for any government purposes.
SIGN, GROUND	See Section <>, Sign Standards by Sign Type.
SIGN, INCIDENTAL	See Section <>, Sign Standards by Sign Type.
SIGN, INFLATABLE	A hollow sign that is intended to expand as air is pumped inside of it. Inflatable signs are tethered to the ground or some other structure.
SIGN, MONUMENT	See Section <>, Sign Standards by Sign Type.
SIGN, MOVING	A sign that moves or has moving parts, including but not limited to the sign face area, the sign support structure, or some other element of the sign. Flags and banners are not considered moving signs.
SIGN, NONCONFORMING	Any sign that was lawfully established, but does not meet the standards of this Ordinance.
SIGN, OBSOLETE	A sign advertising a use or establishment that is no longer present.
SIGN, OUTDOOR ADVERTISING	A sign, configured for viewing primarily by persons travelling in an automobile on an interstate or primary commercial highway. Outdoor advertising directs attention to a business, commodity, service, or entertainment that is conducted, sold, or offered either on the premises or off the premises where the sign is located.
SIGN, PROJECTING	See Section <>, Sign Standards by Sign Type.
SIGN, SIDEWALK	See Section <>, Sign Standards by Sign Type.
SIGN, SUBDIVISION	See Section <>, Sign Standards by Sign Type.
SIGN, SUSPENDED	See Section <>, Sign Standards by Sign Type.
SIGN, TEMPORARY	See Section <>, Sign Standards by Sign Type.
SIGN, TRAFFIC WARNING	Signage devoted to warning motorists, pedestrians, or bicyclists of a potential traffic hazard or other danger.
SIGN, WALL	See Section <>, Sign Standards by Sign Type.
SIGN, WINDOW	See Section <>, Sign Standards by Sign Type.
SILL	A horizontal piece or structural member typically found below a window, door, or other opening.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
SILTATION	For the purposes of Soil Erosion and Sedimentation, sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.
SILVICULTURE	An agricultural use engaged in the production of trees, timber, and wood pulp.
SIMPLE MAJORITY	More than half of the voting members of a review authority deciding an application under this Ordinance.
SINGLE-FAMILY ATTACHED DWELLING	See "Dwelling, Single-Family Attached."
SINGLE-FAMILY DETACHED DWELLING	See "Dwelling, Single-Family Detached."
SITE AMENITIES	A utility or functional aspect of a site that is designed or configured in some way to be beneficial to pedestrians or aesthetically pleasing.
SITE FEATURES	Structures or elements (not including principal or accessory structures) required or authorized to accompany a development, such as off-street parking, landscaping, exterior lighting, or signage.
SITE PLAN	See "Plan, Site."
SITE SKETCH	See "Plan, Sketch."
SITE-SPECIFIC VESTING PLAN	See "Plan, Site-Specific Vesting."
SKETCH PLAN	See "Plan, Sketch."
SLATS, FENCE	Thin strips of wood, plastic, or other material woven between the components of a chain link-style fence or gate.
SMALL WIRELESS FACILITY	A wireless telecommunications facility consisting of an antenna and associated wireless telecommunications equipment installed on a utility pole, public utility pole, building, or other vertical projection not specifically intended for the accommodation of wireless telecommunications facilities (e.g., a traffic signal mast arm, a light standard, sign pole, etc.) that does not exceed the maximum size requirements for such facilities as listed in NCGS§ 160D-947.
SMOOTH-FACED CONCRETE BLOCK	Concrete blocks that do not include adornment or any surface relief.
~~SOFFITT~~SOFFIT	The exterior material mounted to the underside of the roof rafters that project past the edge of an exterior building wall.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
SOLAR ENERGY CONVERSION, LEVEL 1	A system consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in hot water heating or space heating and cooling, and/or that collects solar energy and converts it into electricity. Level 1 solar energy conversion uses are secondary uses serving a principal use on the same lot and is an energy system is designed to primarily meet on-site demands (but may include transfer of excess electricity to an electric utility grid) and components are typically mounted on the roof(s) of principal or secondary structures, but may also be mounted on the ground.
SOLAR ENERGY CONVERSION, LEVEL 2 OR 3	A system consisting of solar panels, modules, and related equipment that collects solar radiation and converts it into electricity for use on site and in other sites. Level 2 solar energy conversion uses are industrial-scale principal uses devoted to collecting solar energy scale for conversion to electricity, and subsequent use in another location. Level 2 solar energy conversion uses are located on lots or sites of less than 10 acres in area. Level 3 solar energy conversion uses are located on lots or sites of 10 acres or more in area.
SOLDIER COURSE	One or more courses of bricks or blocks that are installed within a masonry wall in a vertical instead of horizontal alignment. Soldier courses are often used to denote differing floors of a multi-story building.
SOLID WASTE DISPOSAL FACILITY	For the purposes of the Flood Protection Overlay District standards, any facility involved in the disposal of solid waste, as defined in NCGS§ 130A-290(a)(35).
SOLID WASTE DISPOSAL SITE	For the purposes of the Flood Protection Overlay District standards, as defined in NCGS§ 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.
SPECIAL EVENT	Temporary activities or events conducted by civic, philanthropic, educational, or religious organizations, or activities of a business or organization that is not part of its daily activities and are open to the public. Such activities include, but are not limited to, closeout sales, grand openings, fundraising or membership drives, carnivals, fairs, circuses, and tent revivals.
SPECIAL FLOOD HAZARD AREA (SFHA)	For the purposes of the Flood Protection Overlay District standards, the land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in Section <>, FPOD Flood Protection Overlay District.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
SPECIAL USE PERMIT	A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with any applicable specific standards.
SPECIFIED ANATOMICAL AREAS	Specified Anatomical Areas is defined in the North Carolina General Statutes as: Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
SPECIFIED SEXUAL ACTIVITIES	Specified Sexual Activities is defined in the North Carolina General Statutes as including, but are not limited to, the following: 1. Human genitals in a state of sexual stimulation, arousal, or tumescence; or 2. Sex acts, normal or perverted, actual or simulated, including human masturbation, sexual intercourse, sodomy, or oral copulation; or 3. Fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts.
SPIRE	A tapering, conical, or pyramidal structure on the top of a building, typically a church tower.
SPLASH PAD	An outdoor play area with sprinklers, fountains, nozzles, and other devices or structures that spray water into the air.
STABILIZATION	The process of restoring a site with ground cover or armor to resist soil erosion from the forces of air, wind, or water.
STACKING SPACE	A portion of the vehicular use area on a site that is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development.
STANDING	The legal right or authority to initiate or participate in legal proceedings based upon a sufficient level of connection or potential harm from a decision or activity.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
START OF CONSTRUCTION	For the purposes of the Flood Protection Overlay District standards, start of construction includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
STATE BUILDING CODE	A series of ordinances enacted by North Carolina that establish the minimum requirements that must be met in the construction and maintenance of buildings for the purpose of safety and sanitation.
STATEMENT OF CONSENT	A statement signed by the landowner of a single-family detached, attached, or duplex dwelling development that records the landowner's willingness to voluntarily comply with the single-family design guidelines in this Ordinance.
STEEPLE	See "Spire."
STEP BACK	A condition where a building is configured so that the tallest portions of the structure are located the farthest distance from a lot line or an adjacent shorter structure.
STOP WORK ORDER	An order issued by the Town to a landowner or developer to cease and desist all land-disturbing or development activity on a site pending resolution of a problem or conflict.
STOPPING SITE DISTANCE	The minimum amount of physical space necessary for a driver operating a vehicle at the street's design speed to bring the vehicle to a complete stop before colliding with a pedestrian, stopped vehicle, animal, or debris in the roadway.
STORAGE IN A CONTAINER	The temporary storage of goods, products, or materials within an enclosed container. Storage containers may be repurposed shipping containers or tractor trailers.
STORAGE SHED	See "Tool/Storage Shed."

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
STORAGE, INDOOR	A storage building or buildings that are divided into sections or compartments for the storage of business or personal items on a temporary or long-term basis only where all units are accessed by one or more shared entrances. Such uses may include a very limited amount of outdoor storage as a secondary use.
STORAGE, OUTDOOR (AS A PRINCIPAL USE)	The keeping, in an unroofed area, of any goods or materials, particularly goods and materials that have a large size, mass, or volume and are either not easily moved or carried or require a mechanical lifting device (e.g., non-bagged mulch and lumber). This use does not include a junkyard or recycling facility, or the display and storage of vehicles as part of an automobile sales or rental use. Storage of goods or materials within a shipping or other container is not outdoor storage.
~~STOREMWATER~~STORMWATER CONVEYANCE SYSTEM OR STRUCTURE	Any feature, natural or manmade, that collects and transports stormwater, including but not limited to roadways with collection systems, catch basins, manmade and natural channels, streams, pipes and culverts, and any other structure or system designed to transport runoff.
STORM DRAIN	A stormwater conveyance system that is integral to a street or sidewalk.
STORM DRAINAGE FACILITIES	For the purposes of Soil Erosion and Sedimentation, the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
STORMWATER CONTROL MEASURE (SCM)	A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Engineered stormwater controls includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. Stormwater control measure is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this Ordinance. For the purposes of Stormwater Management, stormwater control measure; also known as BMP or best management practice; means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.
STORMWATER RUNOFF	For the purposes of Soil Erosion and Sedimentation, the runoff of water resulting from precipitation in any form.
STREAM	A body of concentrated flowing water in a natural low area or natural channel on the land surface.
STREAMER	A long, narrow strip of material used as a decoration or symbol.
STREET	A paved or unpaved vehicular accessway of more than 20 feet in width intended for the movement of vehicles and bicycles that is maintained as a street by the Town, NCDOT, or is indicated as a private street on a recorded final plat.
STREET BULB OUT	A street intersection where one or more corners is rounded into a circle similar to a cul-de-sac turnaround.
STREET CENTER LINE	A line lying halfway between the two edges of a street right-of-way, or in some other location as determined by the Engineering Director.
STREET CONNECTION	A location where one or more planned or existing streets join together.
STREET CONNECTIVITY	A measure of the overall connectedness of the streets in a street network that is largely controlled by individual block length.
STREET DESIGN SPEED	A selected speed used by an engineer to determine the various geometric features of a street. The design speed should be a logical one with respect to the topography, anticipated operating speed, the adjacent land use, and the functional classification of the roadway.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
STREET FRONTAGE	A strip or extent of land abutting and extending along a street.
STREET GRADE	The magnitude of a street's incline or decline over a specified lateral distance.
STREET INTERSECTION APPROACH	The portion of a street proximate to an intersection.
STREET LIGHT	Exterior illumination located within or adjacent to a street right-of-way and intended to illuminate the street and sidewalk.
STREET STUB	A nonpermanent dead end street intended to be extended in conjunction with development on adjacent lots or sites.
STREET TREE	See "Tree, Street."
STREET WIDTH	The horizontal distance between parallel right-of-way lines of a street measured at right angles to such lines.
STREET, ALLEY	A local access street used for service access to the back or side of properties otherwise abutting on a street.
STREET, ARTERIAL (PRINCIPAL OR MINOR)	A street whose principal function is to carry large volumes of traffic at higher speeds through the county or from one part of the Town to another.
STREET, COLLECTOR (MAJOR OR MINOR)	A street whose principle function is to carry traffic between local streets and arterial streets but that may also provide direct access to abutting properties.
STREET, COMMERCIAL	Commercial streets provide access to abutting commercial property, circulate traffic in commercial areas and provide direct access to off-street parking facilities. Commercial streets have at least two traffic lanes with provisions for curb parking if desirable and feasible.
STREET, CUL-DE-SAC	A local access street having access from one end only and having a circular or other expanded surface for turning around at the closed end.
STREET, DEAD-END	A street that terminates with a street stub or vehicular turn around.
STREET, FRONTAGE	A local access street that parallels and is adjacent to expressways or arterial streets for the purposes of providing access to abutting properties and separation of traffic seeking such access from through-traffic.
STREET, HALF	A street right-of-way dedicated for a new street by a developer along the developer's perimeter property line in an amount equal to only one-half of the total right-of-way width required by this Ordinance. Dedication of a half street presumes future dedication of a corresponding amount of right-of-way from adjoining land on the other side of the right-of-way in order to provide the total right-of-way required for a proposed street.
STREET, INDUSTRIAL	Industrial streets provide access to abutting industrial development and are adequately designed to accommodate large trucks. At least two traffic lanes are provided.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
STREET, INTERSTATE	Those streets used or to be used primarily to carry traffic and having few points of access and no intersections at grade designated or to be designated as interstates or expressways on the Comprehensive Transportation Plan.
STREET, LOCAL	Streets which are used primarily for access to abutting properties.
STREET, PRIVATE	A vehicular travelway not dedicated or offered for dedication to the Town or the NCDOT as a public street.
STREET, RESIDENTIAL	Residential streets provide access to abutting residential property and discourage through-traffic movements by design as short loops, curvilinear streets or cul-de-sacs. These streets have two traffic lanes and may have on-street parking.
STREET, STATE-MAINTAINED	A street, its right-of-way, and all street-related infrastructure that is owned, operated, and maintained by the North Carolina Department of Transportation.
STREET, TOWN-MAINTAINED	A street, its right-of-way, and all street-related infrastructure that is owned, operated, and maintained by the Town of Clayton.
STREETSCAPE BUFFER	Landscaping provided on individual lots abutting arterial and collector streets, but located outside the street right-of-way.
STRUCTURAL SCM	For the purposes of Stormwater Management, a physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural SCMs includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. Structural SCM is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this Ordinance.
STRUCTURAL SOIL	A planting medium that can be compacted to pavement design and installation requirements while permitting root growth.
STRUCTURE	For the purposes of the Flood Protection Overlay District standards, a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
SUBDIVIDER	A person, firm, or corporation having a proprietary interest in land and acting to subdivide that land under the applicable provisions of this Ordinance.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
SUBDIVISION	As used in this Ordinance means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets or the rearrangement of an existing lot or lots so as to front on another street or streets from that on which they originally fronted regardless of the number of lots so involved; but the following shall not be included within this definition provided, however, that any subdivision document or plat to be recorded pursuant to such exclusions shall have the notation of "No Approval Required" and the signature of the Subdivision Administrator before filing in the office of the Register of Deeds. A "Subdivision" shall not include the following: 1. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in this Ordinance; 2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved; 3. The public acquisition by purchase of strips of land for the widening or opening of streets; 4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way or easement dedication is involved and where the resultant lots equal or exceed the standards set forth in this Ordinance; 5. The trading or exchanging of portions of previously platted and recorded properties that are contiguous and that necessitate the creation of parcels not conforming to the requirements of this Ordinance provided that a statement is placed on the plat to be recorded to the effect that such parcels are not created as individual building lots and are not approved as such and that no building permit shall be issued for construction on such parcels; or 6. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.
SUBDIVISION, CONSERVATION	The division of a tract of land into two or more lots, building sites, or other divisions along with additional land area set aside as private common open space for conservation and/or recreation purposes. Dwelling units and related secondary uses are configured to be obscured from view from off-site areas within a conservation subdivisions.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
SUBDIVISION, COURT-ORDERED	The division of land between two or more parties as ordered as part of a settlement imposed by the judicial system.
SUBDIVISION, EXEMPT	A division of land that is exempted from review and approval by the County in accordance with the North Carolina General Statutes.
SUBDIVISION, FAMILY	A division of land where lots are conveyed from one immediate family member to another immediate family member.
SUBDIVISION, LIMITED	A subdivision of three or fewer lots comprised of more than five acres in accordance with Section 160D-802 of the North Carolina General Statutes.
SUBDIVISION, MAJOR	A division of two or more lots involving the extension or installation of public infrastructure, or the division of land creating six or more lots with no extension or installation of public infrastructure.
SUBDIVISION, MINOR	A division of land creating more than one but fewer than six lots, with no extension or installation of public infrastructure.
SUBSIDIARY	For the purposes of Soil Erosion and Sedimentation, an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.
SUBSTANTIAL CHANGE	An amendment or deviation in a development, a development application, a use, or a site condition that is significant enough to alter the nature of the development or proposal, its function, or its impact on its surroundings. Substantial changes typically require re-review or additional consideration by an appropriate review authority.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
SUBSTANTIAL COMMENCEMENT[350]	The initiation of development or development-related activity subject to the requirements of this Ordinance. Each of the following activities must have taken place in order to achieve substantial commencement: - All required authorizations to begin the development (including a Building Permit) are secured; and - All application fees and applicable fines have been paid in full; and - Any required notice of commencement to all governmental entities or other identified parties has taken place; and - Performance of some form of site-related activity that requires prior approval from the Town has taken place. Initiation of site-related activity that does not require some form of approval from the Town, such as surveying, site investigation, plan or study preparation, minor clearing or grubbing of the site, full or partial demolition, or agricultural related activity associated with a bona fide farm, shall not be considered as substantial commencement. Substantial commencement does not require the start of construction on a principal structure or commencement of the anticipated operation of the approved use.
SUBSTANTIAL CONFORMITY	A condition where there is no variation from the preliminary plan or plat, other than minor changes in the size of lots, the location of lot lines, the locations or sizes of easements, or the width of streets. Change in types or numbers of land uses, any variance in residential density, or any change in location of a public right-of-way shall not be considered as being in substantial conformity with an initial approval. For the purposes of this definition, minor changes shall be changes in dimensional attributes of five feet or less or any variation of a dimensional standard of five percent or less.
SUBSTANTIAL DAMAGE	For the purposes of the Flood Protection Overlay District standards, damage of any origin sustained by a structure during anyone-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.
SUBSTANTIAL DETRIMENT	A condition resulting from revisions to an ordinance or development regulations that renders an existing or partially completed development to a status of being in violation of the standards or being otherwise unlawful.

[350] This definition differs from the Town's current parameters for substantial commencement from Sec. 155-718.8 which requires approval of erosion control and sedimentation, active grading without stop for more than 30 days, installation of on-site infrastructure, and receipt of a building permit.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
SUBSTANTIAL IMPROVEMENT	For the purposes of the Flood Protection Overlay District standards, any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the "Start of Construction" of the improvement. This term includes structures which have incurred "Substantial Damage," regardless of the actual repair work performed. The term does not, however, include either: 1. Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the Town's code enforcement official and which are the minimum necessary to assure safe living conditions; or 2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section <> Variance.
SUBSTANTIAL MODIFICATION	The collocation of antenna and related wireless telecommunications equipment on an existing telecommunications tower that necessitates replacement of the existing tower, structural additions to the existing tower that increase its height or the length of protrusions from the tower, or increases in the size of the equipment compound by an amount specified in Section 160D-931 of the North Carolina General Statutes. Collocations requiring structural modifications are reviewed and decided in accordance with the procedures for a major collocation. Collocations involving changes to an existing telecommunications tower or equipment compound beyond those identified as "substantial modifications" in Section 160D-931 in the North Carolina General Statutes are reviewed and decided in accordance with the procedures for a major telecommunications tower.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
SUBSTANTIAL PROGRESS	A condition where an applicant has commenced an activity, achieved a minimum threshold of completion, and maintained regular, continuous progress towards completion of the activity. Regular or frequent intermittent interruptions or discontinuance of activities shall not be considered as substantial progress. Examples of substantial progress include completion of required inspections before permit applications expire, meeting deadlines for affirmative acts such as recordation, payment of funds, or applying for subsequent, but required approvals. For the purposes of Stormwater Management, for the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. Substantial progress for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.
SUPER MAJORITY	A situation where an affirmative vote on a development application requires more positive or supportive votes than a simple majority. Typically, a super majority requires an affirmative vote of at least four-fifths of the review authority members present and voting.
SUPERIOR COURT	The Superior Court for Johnston County, North Carolina.
SURFACE WATERS	As used in the riparian buffer standards, all waters of the state as defined in Section 143-212 of the North Carolina General Statutes, except underground waters.
SUSTAINABLE DEVELOPMENT INCENTIVE	An incentive or reward, often in the form of additional allowable residential density or building height that is offered to an applicant proposing to include sustainable development practices.
SUSTAINABLE DEVELOPMENT PRACTICE	One or more development features voluntarily provided by an applicant or developer as a means of promoting sustainable development and/or taking advantage of available sustainable development practice incentives.
SWALE	A depression in the land that collects stormwater runoff and conveys it to another location.
SWIMMING POOL/HOT TUB	An above- or below-ground structure that is filled with water and used for swimming or relaxing.
SYNTHETIC STUCCO	A multi-layered application of polystyrene, fiberglass mesh, and atop coat of cement.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
T	
TANGENT	A straight line or plane that touches a curve or curved surface at a point, but if extended does not cross it at that point.
TANNING SALON	A commercial establishment where patrons expose themselves to ultraviolet light in order to increase the amount of pigment in their skin. Such uses may also include limited spa or exercise facilities.
TATTOO & PIERCING ESTABLISHMENT	An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: 1. Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; or 2. Performance of body modification including puncturing or cutting a part of the human body so as to create an opening in which jewelry may be worn.
TECHNICAL BULLETIN AND TECHNICAL FACT SHEET	For the purposes of the Flood Protection Overlay District standards, a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive state or local regulations apply to the building or site in question. All applicable standards of the state or local building code must also be met for any building in a flood hazard area.
TECHNICAL REVIEW COMMITTEE	A group of Town staff members and others associated with development review in the Town.
TELECOM-MUNICATIONS FACILITIES, COLLOCATION	The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on, under, or within an existing or replacement telecommunications tower, utility pole, building, or other vertical projection.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
TELECOM-MUNICATIONS FACILITIES, MAJOR	The construction or installation of a new telecommunications tower with a height of 30 feet or more above the adjacent pre-construction grade and associated equipment, including the equipment compound, access, electrical service, and other related facilities.
TELECOM-MUNICATIONS FACILITIES, MINOR	The construction or installation of a new telecommunications tower with a height of less than 30 feet above the adjacent pre-construction grade or that is configured to appear as a building or structure other than a telecommunications facility.
TELECOM-MUNICATIONS FACILITY, CONCEALED	A telecommunications tower and associated telecommunications equipment that is integrated as an architectural feature into an existing structure (such as a steeple, bell tower, clock tower, silo, etc.), or that is designed to conceal the presence of the tower, antennas, and related wireless telecommunications equipment in a manner so that the purpose of the tower is obscured.
TEMPERATURE CONTROLLED	For the purposes of the Flood Protection Overlay District standards, having the temperature regulated by a heating and/or cooling system, built-in or appliance.
TEMPORARY DISASTER DWELLING	See "Dwelling, Temporary Disaster."
TEMPORARY DWELLING	See "Dwelling, Temporary."
TEMPORARY OFFICE	A temporary commercial establishment, typically associated with a residential subdivision or building that serves as an office while a permanent structure is built or repaired on the same lot or site. A temporary office may also be used to provide office functions for a short duration and then is subsequently removed.
TEMPORARY USE PERMIT	A permit authorizing the operation of a temporary use or special event.
TEMPORARY WIRELESS COMMUNICATIONS FACILITY	A portable, self-contained wireless facility that provides wireless telecommunications services on a temporary or emergency basis. A temporary wireless facility may include a generator to provide power to the facility.
TEN-YEAR STORM OR Q10	For the purposes of Soil Erosion and Sedimentation, a rainfall of an intensity that, based on historical data, is predicted, by a method acceptable to the approving authority, to be equaled or exceeded, on the average, once in ten years, or the probability (10%) of a storm of this magnitude occurring in any given year and of a duration which will produce the maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.
TERRACE	A level, surfaced area or platform next to a building used as a gathering area.
TERTIARY BUILDING FAÇADE (WALL)	See "Wall, Tertiary."

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
TEXT AMENDMENT	An amendment to the language of this Ordinance.
THEATRE, INDOORS	A building, or part thereof, which contains an assembly hall with or without stage which may be equipped with curtains and permanent stage scenery or mechanical equipment adaptable to the showing of plays, operas, motion pictures, performances, spectacles, and similar forms of entertainment. Theatres that also serve meals at tables prior to or during a performance are specialty eating establishments.
THEATRE, OUTDOORS	An outdoor use consisting of a screen and projector along with facilities to accommodate private vehicles or outdoor seating for the viewing of films. Such uses may also include concessions and restroom facilities for patrons.
THIRD-PARTY APPLICATION	An application for development on a lot or site submitted by someone other than the landowner, the landowner's authorized agent, or the Town.
THROUGH LOT	See "lot, Through."
TILT-UP CONCRETE PANEL	A reinforced concrete panel used to form the exterior walls of a building.
TOOL/STORAGE SHED	A secondary structure with or without electricity used for the keeping of tools and equipment or general storage purposes on the same lot as the principal use it serves.
TOP OF BANK	The points in a cross-section where the stream channel makes a transition to flood plain. Top of bank can be identified by a change in the slope of the land, a transition from terrestrial to riparian vegetation, and/or changes in the composition of substrate materials.
TOWN	For the purposes of Soil Erosion and Sedimentation, the Town of Clayton, North Carolina; both town limits and extraterritorial jurisdiction (ETJ). For the purposes of Stormwater Management, Town of Clayton, NC.
TOXIC SUBSTANCE	Any substance or combination of substances (including disease-causing agents), that after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off-spring or other adverse health effects.
TRACT	For the purposes of Soil Erosion and Sedimentation, all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
TRAFFIC CONTROL SIGNAL	A mechanical device used to regulate the flow of vehicles, bicycles, or pedestrians along streets, sidewalks, and intersections.
TRANSFER STATION	The waste-related services use category includes use types that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. This use category also includes use types that receive wastes from others.
TRANSPORTATION IMPACT ANALYSIS	A study conducted to evaluate the capacity and safety impacts on the transportation system from a proposed development and identify necessary improvements or management strategies to mitigate negative impacts. Such studies shall be performed by a licensed professional engineer in accordance with this Ordinance.
TREE	For the purposes of Riparian Buffer protection, a woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.
TREE CANOPY	The layer of vegetation formed by the crowns of mature trees.
TREE CANOPY COVER	See "Tree Canopy."
TREE PIT	A depression in or adjacent to a sidewalk intended for the placement of a street tree and associated ground cover.
TREE PROTECTION AREA	See "Tree Save Area."
TREE PROTECTION FENCING	Fencing or other barrier provided to protect trees to be retained from damage or encroachment during the development process.
TREE RETENTION AREA	See "Tree Save Area."
TREE SAVE AREA	The portion of a lot or site with existing trees to be retained during and after development.
TREE TOPPING	The removal of the central leader and primary upper branches of a tree.
TREE, CANOPY	A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.
TREE, DROUGHT TOLERANT	A species of tree that is capable of surviving in an environment with no artificial irrigation and with only limited amounts of rain.
TREE, EVERGREEN	A woody plant with one or more stems that does not lose the majority of its leaves during winter or dormancy.
TREE, HARDWOOD	A deciduous tree with broad leaves that produces fruit or a nut and goes dormant during winter months.
TREE, NATIVE	Trees that have originated from or occur naturally without being introduced in a particular area.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
TREE, PROTECTED	A tree that is present prior to the commencement of development or land disturbance that is required or intended to remain after completion of development or land disturbing activities.
TREE, SHADE	A tree with a crown that provides shade to the surface area within a parking lot and associated parking spaces.
TREE, STREET	A canopy or understory tree planted or existing within or along either side of a street right-of-way. Understory trees are typically used in locations where there are overhead utilities, sidewalks, or underground utilities proximate to the tree planting area.
TREE, UNDERSTORY	A species of tree which normally grows to a mature height of 15 to 35 feet.
TRELLIS	A framework of light wooden or metal bars, chiefly used as a support for fruit trees or climbing plants.
TRIPLEX	See "Dwelling, Triplex."
TURRET	A cylindrical architectural feature typically located at the corner or near the primary entrance of a building.
TWENTY-FIVE YEAR STORM OR Q25	For the purposes of Soil Erosion and Sedimentation, a rainfall of an intensity that, based on historical data, is predicted, by a method acceptable to the approving authority, to be equaled or exceeded on the average, once in 25 years, or the probability (4%) of a storm of this magnitude occurring in any given year and of a duration which will produce the maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.
TWO-FAMILY DWELLING	See "Dwelling, Duplex."
U	
UNCOVERED	For the purposes of Soil Erosion and Sedimentation, the removal of ground cover from, on, or above the soil surface.
UNDERGROUND STORAGE TANK	A container used for the storage of gas, liquid, powder, or other substance that is all or partially below grade. Pipes, pumping equipment, and ventilation features are considered part of an underground storage tank.
UNDERSTORY TREE	See "Tree, Understory."
UNDERTAKEN	For the purposes of Soil Erosion and Sedimentation, the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.
UNIFIED DEVELOPMENT	A development consisting of two or more principal structures on one or more lots that is planned, organized, and operated as a single development for the purposes of the development standards.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
UNLICENSED VEHICLE	A motor vehicle, including a trailer, that does not have a valid and unexpired license plate.
UPPER STORY RESIDENTIAL	See 'Dwelling, Upper-Story Residential."
URBAN HEAT ISLAND	A portion of an urban or metropolitan area that is significantly warmer than its surroundings due to additional paving, building mass, and lack of shade. The temperature difference usually is larger at night than during the day, and is most apparent when winds are weak.
URGENT CARE	A walk-in clinic or medical facility focused on the delivery of ambulatory care for injuries or illnesses requiring immediate care, but not serious enough to require a hospital emergency department.
USABLE OPEN SPACE	A parcel or parcels of land or an area of water as a combination of both land and water and designed for the recreational use and enjoyment of residents of the proposed development, not including streets or off-street parking areas. Not more than one half of the required usable open space may be areas covered by water. Usable open space shall be substantially free of structures but may contain such improvements as are appropriate for the benefit of residents. A maximum of five percent of the area designated as usable open space may be covered by structures clearly ancillary to the recreational use of the space. Except for such structures, all usable open space shall be unobstructed except for plants, lawn furniture, swimming pools, terraces, walkways, play equipment, etc., so arranged to provide for the free movement of the people within the space. No portion of any such usable open space shall be located in any required yard area adjacent to a public street. Parking areas, vehicle drives and storage areas shall not be included in the calculation of usable open space.
USE	The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased.
USE STANDARD	The requirements in this Ordinance applied to a particular use type regardless of the zoning district where it is located.
USE TYPE	The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased.
USE, NONCONFORMING	See "Nonconforming Use."
USE, TEMPORARY	A land use on an individual parcel or site established for a limited and fixed period of time for a purpose which may not normally be permitted in a zoning district, or which does not meet all zoning requirements, but which is necessary in special situations.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
UTILITY POLE	For the purposes of the communications use-specific standards, a structure that is designed for and used to carry cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless telecommunication services that is located outside the public right-of-way.
UTILITY POLE, PUBLIC	For the purposes of the communications use-specific standards , a utility pole owned, leased, or operated by the Town that is located in the public right-of-way.
UTILITY, MAJOR	Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, natural gas citygates, and solid waste facilities. Facilities generating energy from solar radiation are solar energy conversion uses. Facilities generating energy from the wind are wind energy conversion uses.
UTILITY, MINOR	Infrastructure services that need to be located in or near the neighborhood or use type where the service is provided. Examples of minor utilities include water and sewage pump stations, storm water retention and detention facilities, telephone exchanges, electrical substations, and surface transportation stops such as bus stops and park-and-ride facilities.
V	
VARIANCE	A grant of relief from the requirements of this Ordinance. A variance may grant relief from water-related standards (stormwater, stream/riparian buffers, water supply watershed, or special flood hazard area) or relief from other zoning or subdivision standards in this Ordinance.
VEGETATION PROTECTION PLAN	See "Plan, Vegetation Protection."
VEGETATIVE COVER	The presence of vegetation (whether tree, shrubs, or ground cover) in a particular location.
VEHICLE PAINTING/ BODYWORK	Repair of automobiles, vehicles, or trailers, including bodywork, framework, welding, and major painting service.
VEHICLE PARTS AND ACCESSORY SALES	The on-site sale and subsequent installation of various automobile parts and accessories, including but not limited to bed liners, toolboxes, truck tops, or audio systems. Such uses do not include the sale of gasoline or other fuels.
VEHICLE REPAIR (NON-COMMERCIAL)	The non-commercial servicing or repair of a personal vehicle on private property.
VEHICLE REPAIR AND SERVICE (NO PAINTING/ BODYWORK)	General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major painting service provided as a principal use or a secondary use to a non-residential establishment.

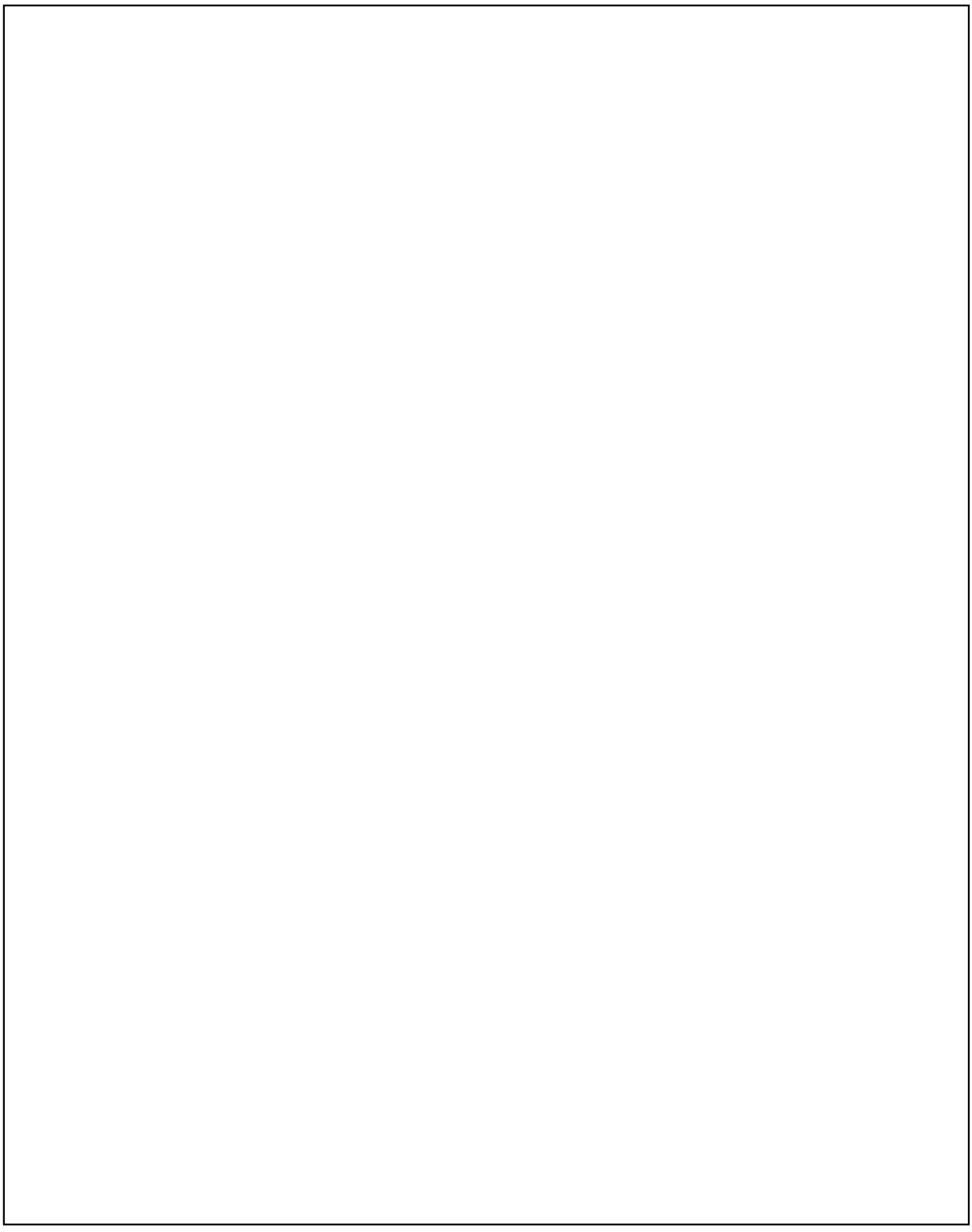
TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
VEHICLE SALES AND RENTAL	Premises on which new or used passenger automobiles, trailers, recreational vehicles, or light trucks in operating condition are displayed for sale, lease, or rental.
VEHICLE TOWING AND STORAGE	An establishment operated for the purpose of temporary storage on-site of operable or inoperable vehicles. If an establishment , stacks vehicles or portions of stored vehicles are dismantled or removed for sale, it shall be considered a salvage and junkyard.
VEHICLE TRIP	For the purposes of calculating transportation impacts, a vehicle trip is a one-way journey taken from an origin to a destination in an automobile or similar private vehicle.
VEHICLE WASHING OR DETAILING	An establishment providing the exterior washing of vehicles where vehicles are manually driven or pulled by a conveyor through a system of rollers and/or brushes. Interior cleaning and/or drying may be conducted manually by vehicle operator or on-site attendants. Incidental sales of automobile-related accessories may take place.
VEHICULAR USE AREA	An off-street parking space or parking lot along with associated drive aisles and means on ingress or egress.
VELOCITY	For the purposes of Soil Erosion and Sedimentation, the speed of flow through a cross section perpendicular to the direction of the main channel at the peak flow of the storm of interest but not exceeding bank full flows.
VENDOR	A person who hawks, peddles, sells, or offers products, including food or beverages for sale.
VERTICAL FAÇADE MODULATION	The organization of an individual building façade into a base, middle, and cap configuration where there are discernable differences in exterior materials, building wall planes, or architectural detailing along the façade from the grade to the top of the building.
VESTED RIGHT	The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS§ 160D-108, or under common law.
VESTED RIGHTS CERTIFICATE	An authorization granted by Town Council to an approved site-specific development plan that protects the development from the need to comply with some (but not all) regulatory changes that are adopted by the Town during the period which the development is vested.
VETERINARY SERVICES, LARGE ANIMAL	A facility for the care and treatment of large animals, including livestock, domesticated, and exotic animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.
VETERINARY SERVICES, SMALL ANIMAL	A facility for the care and treatment of small animals, including household pets and domesticated animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
VIOLATION	For the purposes of the Flood Protection Overlay District standards, the failure of a structure or other development to be fully compliant with the Town's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Ordinance is presumed to be in violation until such time as that documentation is provided.
VISUALLY TRANSPARENT	Glass or glazing that does not obstruct the view into a structure.
VITICULTURE	An agricultural facility engaged in the production and processing of grapes for wine.
W	
WALK-UP SERVICE	A commercial establishment or feature of a commercial establishment providing products or services to customers solely via a window or wall cavity where patrons approach on foot and do not enter the structure.
WALL OFFSET	A projection or recess located in or along a building wall.
WALL PACK	An exterior lighting device that is flush-mounted on a vertical wall surface.
WALL PLANE	The exterior surface of a building wall relative to the lot line it abuts.
WALL PLANE, PRIMARY	The largest portion of a building wall in terms of area on a single building façade that maintains a uniform distance from the abutting lot line.
WALL, BUILDING	The entire surface area, including windows and doors, of an exterior wall of a building.
WALL, GREEN	A building wall that is partially or completely covered with greenery that includes a growing medium, such as soil, water or a substrate and an integrated water delivery system.
WALL, PARAPET	A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.
WALL, PRIMARY	The architectural front façade of the building that faces the street from which the building is addressed. The primary wall may also be the building wall that contains the primary entrance, which may or may not face the street from the building is addressed. Only one building wall shall be considered as the primary wall.
WALL, RETAINING	A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill, or other similar material.
WALL, SECONDARY	Exterior building walls that correspond to the side or rear of a building that that are visible from public recreation lands or streets.

TABLE <>: TERMS DEFINED	
TERM	**DEFINITION(S)**
WALL, TERTIARY	Building walls that are not primary or secondary building walls.
WAREHOUSE, DISTRIBUTION AND STORAGE	A use engaged in long-term or short-term storage of manufactured products, supplies, and equipment excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.
WASTE	For the purposes of Soil Erosion and Sedimentation, Surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.
WATER DEPENDENT STRUCTURE	Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-dependent structures.
WATER DEPENDENT STRUCTURE	Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-dependent structures.
WATER SUPPLY WATERSHED	The entire land area contributing surface drainage to a designated water supply reservoir.
WATER SURFACE ELEVATION	The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.
WATER SURFACE ELEVATION (WSE)	For the purposes of the Flood Protection Overlay District standards, the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
WATERCOURSE	A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
WATERCOURSE	For the purposes of the Flood Protection Overlay District standards, a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
WATERSHED	The entire land area contributing surface drainage to a specific point.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
WATERSHED CRITICAL AREA	The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending one mile from the normal pool elevation of a water supply reservoir or to the ridge line of the watershed (whichever comes first); or one mile upstream from the intake located directly in the stream or river (run of the river), or the ridge line of the watershed (whichever comes first).
WELL HOUSE	An accessory structure located above a water well. A well house may be functional or only for aesthetic purposes.
WETLANDS (INCLUDING 404 WETLANDS)	Wetlands either with or without a surface or subsurface connection to a larger body of water under the permitting jurisdiction of the U.S. Army Corps of Engineers.
WHEEL STOP	Small projections or barriers extending from grade level within a parking space or in a vehicular use area designed to prevent the front or rear of vehicles from encroaching into pedestrian walkways, landscaping areas, fire zones, or storage areas.
WHOLESALE SALES, INDOOR AND OUTDOOR	Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. Wholesale establishment does not include contractor's materials, office, or retail sales to the general public. Establishments that require memberships and that make memberships available for purchase to members of the general public at the door are not wholesale sales uses.
WIND ENERGY CONVERSION	A power generating use that converts kinetic energy from the wind into mechanical energy through the use of a wind turbine. The mechanical energy can then be used to power on-site equipment or an electrical generator to create electricity for on-site or off-site use. Such uses may include batteries for the storage of electrical energy.
WINDOW SURROUND	An exterior material located around the perimeter of a window or opening that protects joints in exterior materials from the weather or provides architectural interest.
WORKING DAYS	For the purposes of Stormwater Management, days exclusive of Saturday and Sunday and federal and state holidays observed by the Town.
WRIT OF CERTIORARI	A writ of superior court to call up the records of an inferior court or a body acting in a quasi-judicial capacity.
X	
XERISCAPE	The use of plant materials and planting techniques that conserve water.

TABLE <>: TERMS DEFINED	
TERM	DEFINITION(S)
Y	
YARD	An open space on the same lot with a building or group of buildings which open space lies between the building or group of buildings and the nearest lot line and is occupied and unobstructed from the ground upward by buildings or structures except by permitted accessory buildings or uses.
YARD OR GARAGE SALE	A temporary sale of used goods conducted by the resident of a dwelling. Yard or garage sales may include used goods from more than one family.
Z	
ZONING MAP	See "Official Zoning Map."



CHAPTER 9
APPENDICES

Appendix 9.1: Subdivision Plat Certifications and Declarations

Appendix 9.2: Information Required with Applications

9.1 SUBDIVISION PLAT CERTIFICATIONS AND DECLARATIONS

This appendix includes the required language and format for subdivision plat certifications and declarations required under this Ordinance. The exact wording of these statements may change from time to time as conditions warrant and/or agency policies change. Failure to include a required certification or declaration shall be cause for declaring an application to be incomplete.

TABLE <>: TABLE OF REQUIRED CERTIFICATES AND NOTES

Type of Certificate	Exempt Plat	Final Plat	Preliminary Plat	Construction Drawings
Certificate of Survey Accuracy signed by surveyor	X	X	X	
Plat Certification by Surveyor	X	X		
Certificate of Ownership		X		
Certificate of Ownership and Dedication	*	X		
Certificate of Approval		X	X	X
Certificate of Exemption	X			
Review Officer's Certificate	X	X		
Certificate of Floodway Information		X	X	
Certificate for Water Supply and Sewage Disposal Systems		X		
Design and Installation of Utilities and Other Required Improvements		X		
Certificate of Public Utilities		X		

9.1.1 CERTIFICATE OF OWNERSHIP

To be used when no easements, rights-of-way or other properties are to be dedicated.

CERTIFICATE OF OWNERSHIP

I (We) hereby certify that I am (we are) the owner(s) of the property described hereon, which property is within the subdivision regulation jurisdiction of the Town of Clayton, and that I (we) freely adopt this plan of subdivision.

_____ _____

Owner, Printed Name(s) Owner, Signature(s)

_____

Date

9.1.2 CERTIFICATE OF OWNERSHIP AND DEDICATION

To be used when plat includes the dedication of easements, rights-of-way or any other property or property interest.

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (We), _____, hereby certify that I am (we are) the owner(s) of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Clayton, that I (We) hereby freely adopt this plan of subdivision and dedicate to all areas shown on this plat as roads, alleys, walks, parks, open space, and easements to the public or for private use as specifically indicated, and that I (we) will maintain all such areas until the offer of dedication is accepted by the appropriate public authority or private entity. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Town of Clayton in the public interest.

_____ _____
Owner Date

9.1.3 CERTIFICATES OF APPROVAL

CERTIFICATE OF APPROVAL

I hereby certify that this plat has been found to comply with the Unified Development Ordinance of Clayton, North Carolina, and that this plat has been approved for recording in the Office of the Johnston County Register of Deeds.

_____ _____
Planning Director Date

TOWN OF CLAYTON ~~SUBDIVISION ADMINISTRATOR~~ CERTIFICATION FOR A FINAL PLAT

I hereby certify that the Town of Clayton, NC has approved this plat for recording in the Office of the Johnston County Register of Deeds, and accepts the dedication of streets, easements, rights-of-way, and public lands shown thereon, but assumes no responsibility to open or maintain the same until, in the opinion of the Clayton Town Council, it is in the public interest to do so.

_____ _____
~~Subdivision Administrator~~Town Manager Date

9.1.4 CERTIFICATE OF EXEMPTION

Plats deemed to be exempt from the provisions of this ordinance shall contain the following statement.

The plat is exempt from the provisions of the Town of Clayton Unified Development Ordinance and may be recorded with the Office of the Johnston County Register of Deeds.

_____ _____
Planning Director Date

9.1.5 REVIEW OFFICER'S CERTIFICATE

All plats to be recorded shall have the following certificate.

REVIEW OFFICER'S CERTIFICATE

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

I, _____ , Review Officer of Johnston County, certify that the plat to which this certification is affixed meets all statutory requirements for recording.

_____ _____
Review Officer Date

9.1.6 SURVEYOR CERTIFICATES

CERTIFICATE OF SURVEY AND ACCURACY

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page _____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, page _____; that the ratio of precision as calculated is 1:_____; that this plat was prepared in accordance with NCGS 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____, A.D., 20_____.

Seal or Stamp of Surveyor

_____
Surveyor

_____
Registration Number

PLAT CERTIFICATION BY SURVEYOR

I, _____, certify to one of the following:

A. This survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;

B. This survey is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;

C. Any one of the following:

1. This survey is of an existing parcel or parcels of land and does not create a new road or change an existing road;
2. This survey is of an existing building or other structure, or natural feature, such as a water course;
3. This survey is a control survey;

D. This survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision; or

E. The information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in (a) through (d) above.

Signed:

SEAL

_____
Surveyor

_____
Date

9.1.7 CERTIFICATE OF FLOODWAY INFORMATION

The property shown hereon is (is not) located in a FEMA designated flood zone.

FLOOD HAZARD PANEL NUMBER:

EFFECTIVE DATE:

_____
Surveyor

_____
Date

~~9.1.8 WATER AND SEWAGE CERTIFICATES~~

~~One or more of the following certificates may apply depending on the water and sewer systems serving the project.~~

~~CERTIFICATION FOR WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS~~

~~Certificate of preliminary approval of water supply and sewage disposal systems installed for installation in subdivision meet public health requirements as described in Appendix II Johnston County Subdivision Regulations. Final approval for individual lots within this subdivision will be based on detailed lot evaluation upon application and submission of plan for proposed use. This preliminary certification is advisory only and confers no guarantee.~~

_____
~~Health Representative~~

_____
~~Date~~

~~NOTE: Each lot shown hereon may require the use of sewage pumps, low pressure pipe systems, fill systems, innovative systems or any other alternative system type and site modifications specified in the North Carolina Laws and Rules for Sewage Treatment and Disposal Systems, 15A NCAC 18A Section 1900. The actual system type, design and site modifications will be determined at the time of permitting.~~

FOR DESIGN AND INSTALLATION OF UTILITIES AND OTHER REQUIRED IMPROVEMENTS

I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to town specifications and standards in the ~~_____~~Town's Engineering Specifications and Design Manual, or that a financial guarantee has been posted with the Town of Clayton to assure the completion of all required improvements in the case of default.

_____

~~Subdivision Administrator~~Engineering Director

_____

Date

CERTIFICATE OF PUBLIC UTILITIES

All obligations and requirements for the utilities to serve _____ Subdivision, Section _____ , lots _____ , as set forth by the Town of Clayton ~~Public Works~~Water Resources Department, have been met and are satisfactory for the purpose of recording the subdivision plat.

_____

~~Subdivision Administrator~~Engineering Director

_____

Date

NOTES:

A. No structures to be built inside any utility easement.

B. Homeowner is required to connect to public water (and sewer, where available) before a Certificate of Occupancy is issued for the principal structure.

~~9.1.9~~9.1.8 CERTIFICATES AND NOTES REGARDING NEW STREETS

One or more of the Certificates and related notes may be required depending on the status of the new streets within the development.

CERTIFICATE OF APPROVAL OF THE DESIGN AND INSTALLATION OF STREETS, UTILITIES, AND OTHER REQUIRED IMPROVEMENTS

I hereby certify that the Town of Clayton, NC has approved this plat for recording in the Office of the Johnston County Register of Deeds, and accepts the dedication of streets, easements, rights-of-way, and public lands shown thereon, but assumes no responsibility to open or maintain the same until, in the opinion of the Clayton Town Council, it is in the public interest to do so.

_____ _____

~~Subdivision Administrator~~Town Manager Date

DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS CERTIFICATE

PROPOSED SUBDIVISION ROAD CONSTRUCTION STANDARDS CERTIFICATION.

APPROVED:

_____
NCDOT District Engineer

_____
Date

NOTES:

A. Only North Carolina Department of Transportation approved structures are to be constructed on public right-of-way.

B. Site triangle takes precedent over any sign easement.

C. Owner, developer, or contractor shall set the centerline of the existing roadway ditch back to a minimum of 12 feet from the existing/proposed edge of pavement along all road front lots.

D. All drainage easements shall be dedicated as public and it shall be the responsibility of the property owners to maintain the drainage easements and any drainage structures therein, so as to maintain the integrity of the drainage system and insure positive drainage.

ROAD MAINTENANCE STATEMENT OF UNDERSTANDING

I, _____, developer/owner am responsible for the construction, maintenance and required road improvements of subdivision streets until:

Approved/taken over by North Carolina Department of Transportation for public roads,
Or

Approved/taken over by homeowners association for private roads maintenance,
Or

Private road maintenance agreement is signed and recorded by owners of each lot.

_____
Owner/Developer

_____
Date

9.2 INFORMATION REQUIRED WITH APPLICATIONS

9.2.1 APPLICATION MATERIALS

A. Submission of all applications filed under this Ordinance shall contain the following information, as appropriate.

B. An "X" in a cell in the table below indicates that the noted information is required on the particular type of plan or plat.

C. A "•" symbol in a cell in the table below indicates that the noted information is not required on the particular type of plan or plat.

D. Failure to include one or more required elements indicated with an "X" may result in the application being considered incomplete.

E. Additional materials may be required in order to determine if an application is complete.

F. The Planning Director may waive required items listed in the table below if they are determined to not be necessary to complete the review, in the sole discretion of the Planning Director.

TABLE <>: TABLE OF REQUIRED APPLICATION MATERIALS

"X" = Required
"•" = Not Required

Required Information	Concept Plan	Site Plan	Preliminary Plat	Construction Drawings	Final Plat
Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person	•	X	X	X	X
Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development and that all necessary easements have been provided	•	X	•	X	X
Detailed descriptions of recreational facilities to be provided	•	X	X	•	•
Legal documentation establishing owners' associations or other legal entities responsible for control over required common areas and private infrastructure	•	X	•	•	X
Bonds, letters of credit, or other performance guarantees	•	X	•	•	X
A transportation impact analysis performed and prepared by a qualified transportation or traffic engineer	X	X	X	•	•

TABLE <>: TABLE OF REQUIRED APPLICATION MATERIALS

"X" = Required
"•" = Not Required

Required Information	Concept Plan	Site Plan	Preliminary Plat	Construction Drawings	Final Plat
Time schedules for the completion of phases in staged development	•	X	•X	X	•
The environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion	X	X	X	•	X
If any road is proposed to intersect with a state-maintained road, a copy of the application for driveway approval as required by the Department of Transportation, Division of Highways Manual on Driveway Regulation	•	•X	•	•X	X
Proposed deed restrictions or covenants to be imposed upon newly created lots	•	X	X	•	X
Documentation of submission of an Erosion Control Plan, if disturbing more land area than the maximum permitted without such plan	•	X•	•	X	•
Documentation of approval of an Erosion Control Plan, if disturbing more land area than the maximum permitted without such plan	•	•	•	•X	•X
Evidence of notification to U.S. Army Corps of Engineers of earth-disturbing activities in jurisdictional wetlands, if applicable	•	X	X	X	•

9.2.2 REQUIRED INFORMATION FOR PLANS AND/OR PLATS

A. All plans and plats filed under this Ordinance shall contain the following information.
B. Failure to include one or more required elements may result in the application being considered incomplete.
C. An "X" in a cell in the table below indicates that the noted information is required on the particular type of plan or plat.
D. A "•" symbol in a cell in the table below indicates that the noted information is not required on the particular type of plan or plat.
E. Failure to include one or more required elements indicated with an "X" may result in the application being considered incomplete.
F. Additional materials may be required in order to determine if an application is complete.
G. The Planning Director may waive required items listed in the table below if they are determined to not be necessary to complete the review, in the sole discretion of the Planning Director.

9.2.3 PLAN OR PLAT SIZE

A. Construction plans and site plans shall not exceed 24" x 36" unless authorized by the Planning Director.

B. Plans and plats may be drawn on more than one sheet with appropriate match lines.

C. Plats to be recorded shall be of a size and material as required by the Office of the Johnston County Register of Deeds.

D. For plats to be recorded, preliminary plats, construction drawings and site plans, a scale of not less than 1" equal to 100' shall be used unless all lots are greater than 3 acres and then a scale of 1" = 200' may be used.

E. For concept plans, drawing shall be at a scale of not less than 1" equal to 40 feet.

TABLE <>: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information	Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Title Block						
Name of development/project	X	X	X	X	X	X
Recorded reference (plat book/page number and/or deed book/page number)	X	X	•	•	X	X
Tax map number	•	•	•X	•X	X	X
Type of development application	X	X	X	X	X	X
Owner's name with address	X	X	X	X	X	X
Developer's name, address, and phone number (if different from owner's)	•	X	X	X	X	X
Building contractor's name, address, and phone number	•	•	•	•X	•	X
Location (including township, county, state)	X	X	X	X	X	X
Street address	•	•	•	•X	X	X
Date(s) of map preparation	X	X	X	X	X	X
Scale of drawing in feet per inch (by text and bar graph)	X	X	X	X	X	X
Name, address, telephone # and registration number of preparer of map (licensed surveyor, engineer, or architect)	X	X	X	X	X	X
Vicinity Information						
Vicinity map showing location of site relative to surrounding area (typically drawn in upper right-hand corner)	X	X	X	•X	X	X
Zoning district(s) within the property and adjacent properties	X	X	X	X	X	X
Names of adjoining property owners (or subdivisions or developments of record with plat book reference)	•X	X	X	X	X	X

TABLE <>: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information		Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Corporate limits, county lines, and other jurisdiction lines, if any, on the tract		X	X	X	X	X	X
North arrow and orientation (north arrow should not be oriented towards bottom of map)		X	X	X	X	X	X
Site Features							
Source of property boundaries signed or sealed by registered land surveyor, architect, landscape architect, or engineer		•	•	•X	X	•	•X
Boundaries of the tract to be subdivided or developed:	Distinctly and accurately represented and showing all distances	X	X	X	X	X	X
	Tied to nearest street intersection (within 300') or USGS (within 2,000')						
	Showing locations of intersecting boundary lines or adjoining properties						
Location and descriptions of all monuments, markers, and control corners		X	X	X	X	•	•
Existing property lines on tract to be subdivided. If existing property lines are to be changed, label as 'old property lines' and show as dashed lines		X	X	X	X	•	•
Dimensions, location and use of all existing and proposed buildings; distances between buildings measured at the closest point; distance from buildings to the closest property lines; building setback lines. A dashed line should be shown on the plat outlining all known structures, ponds or lakes removed or filled		•	•	X	X	X	X
Proposed principal and secondary use(s)		•	•	X	•X	X	X
The name and location of any property or building on the National Register of Historic Places or locally designated historic property		•	•	X	X	X	X
Railroad lines and rights-of-way		X	X	X	X	X	X
Water courses, ponds, lakes or streams		X	X	X	X	X	X
Marshes, swamps, and other wetlands		X	X	X	X	X	X
Location of public water supply watershed boundaries		X	X	X	X	X	X
Vegetative cover (from trees meeting the minimum planting requirements)		•	•	X	X	X	X
Areas to be dedicated or reserved for the public or a local jurisdiction		•	X	X	X	X	X

TABLE <>: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information		Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Areas designated as common area or open space under control of an Owners' Association		•	X	X	X	X	X
Proposed building locations for zero lot-line developments		•	•	X	X	X	X
Location of manufactured dwelling spaces and whether they are designated for single or double wide dwellings		•	•	X	X	X	X
Typical diagram of manufactured dwelling space		•	•	X	X	X	X
Location of designated open space set-asides including type of recreation areas and facilities		•	•	X	X	X	X
Location of floodway and floodway fringe from Flood Hazard Boundary Maps and cross-section elevations		X	X	X	X	X	X
Existing and proposed topography of tract and 100' beyond property showing existing contour intervals of no greater than 5' (2' where available) and labeling at least two contours per map and all others at 10' intervals from sea level		•	•	X	X	X	•
Dimensional Aspects							
Proposed lot lines and dimensions		X	X	X	X	X	X
Square footage of all proposed lots under an acre in size and acreage for all lots over an acre in size		X	X	X	X	•	X
Lots sequenced or numbered consecutively		X	X	X	X	•	X
Site calculations, including:	Acreage in total tract	X	X	X	X	•	X
	Total number of proposed lots	X	X	X	X	•	X
	Linear feet in roads	•	X	X	X	•	
	Area in newly dedicated rights-of-way	•	X	X	X	•	X
Streets and Roads							
Addresses assigned by Johnston County for each lot		X	X	•	•	X	X
Existing and proposed rights-of-way lines within and adjacent to property (shown with a cross-hatch pattern)		X	X	X	X	X	X
Existing and proposed rights-of-way within and adjacent to property showing	Total right-of-way width dimension	•	•	X	X	•	X
	Right-of-way width dimension from centerline of existing public roads	•	X	X	X	•	X
	Pavement or curb lines	•	•	X	X	•	X

TABLE <>: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information		Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Existing and proposed roads showing	Pavement width dimension (face-to-face)	•	•	•X	X	•	X
	Cul-de-sac pavement radius	•	•	•X	X	•	X
	Existing and proposed road names	X	X	X	X	•	X
	Road profiles	•	•	•X	X	•	•X
Utilities							
Location, dimension and type of all easements, existing and proposed		X	X	X	X	X	X
Type of wastewater disposal (public sewer, septic, etc.)		•	X	X	X	X	X
Type of potable water supply (public water system, private well, etc.)		•	X	X	X	X	X
Utility Layout Plan showing connections to existing systems, line sizes, materials, fire hydrants, blowoffs, valves, manholes, catch basins, force mains, etc. for the following types of utilities:	Sanitary sewer	•	•	•X	X	X	X
	Water distribution	•	•	•X	X	X	X
	Natural gas, electric, cable, fiber optic, etc.	•	•	•X	X	X	X
Electric power provider		•	•	•X	X	X	X
Location of individual on-site septic system, if applicable		•	•	•X	•X	X	X
Location of off-site and multi-user septic systems, if applicable		•	•	•X	X	X	X
Stormwater Management Plans and Erosion Control							
Area to be disturbed with number of graded acres and percentage noted		•	X	X	X	X	X
Location of temporary erosion control devices		•	•	X	X	X	X
Maximum allowable built -upon area for each lot or tract (if applicable)		X	X	X	X	X	X
Total impervious surface area, including roads, roofs, patios, parking areas, sidewalks and driveways		•	•	X	X	X	X

TABLE <>: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information	Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Permanent watershed protection controls/ Stormwater Best Management Practices including wet detention ponds, maintenance and access easements and natural filtration and infiltration areas	•	X	X	X	X	X
Location and width of required riparian buffer areas	X	X	X	X	X	X
Stormwater network, including swales, culverts, inlet and outlet structures with grades, elevations, dimensions, and hydraulic calculations	•	•	X	X	X	X
Engineering certification statement, when required by this Ordinance	•	X	X	X	X	X
Documentation of maintenance of diffuse flow to the buffer	•	•	X	X	X	X
Off-Street Parking and Loading						
Location and dimensions of all parking areas, aisles, driveways, service areas, off-street loading facilities	•	•	X	X	X	X
Clearly indicate each parking space with angle and size including handicap spaces	•	•	X	X	X	X
Provide number of required and provided parking spaces	•	•	X	X	X	X
Pedestrian walkways and crosswalks within the site	•	•	X	X	X	X
Landscaping						
Location of all planting yards and/or parking lot plantings	•	•	X	X	X	X
Location and screening of features required to be screened	•	•	X	X	X	X
Location, species, size, number, spacing, height of trees and shrubs in required planting areas. (If existing vegetation is to be preserved, indicate approximate height and species mix)	•	•	X	X	X	X
Location and size of planting yard, walls, berms, and fences	•	•	X	X	X	X
Provisions for watering, soil stabilization, plant protection, and maintenance access	•	•	X	X	X	X
Location and description of barriers to protect any vegetation from damage both during and after construction	•	•	X	X	X	X
Building Location and Design						
Location of each principal building	•	•	X	X	X	X
Location, dimensions and details of proposed clubhouses, pools, tennis courts, tot lots or other common area recreation facilities	•	•	X	X	X	X

TABLE <>: TABLE OF REQUIRED PLAN/PLAT ELEMENTS

"X" = Required
"•" = Not Required

Required Information	Exempt Plats	Final Plats	Preliminary Plats	Construction Drawings	Concept Plans	Site Plans
Front, side, and rear elevations of proposed commercial, mixed-use, and multi-family buildings	•	•	X	X	X	X

INDEX

This document is an ERRATA sheet for the Clayton UDO. It includes a series of suggested revisions to the Adoption Draft version of the UDO posted to codifyclayton.com on September 11, 2023, and dated September 6, 2023. These changes are a result of the diagnostic testing process (Task 5) included in the project as well as a result of continued review by Town staff, the consulting team, and Town Council.

Recommendations for revisions to the draft UDO text take one of the following three forms:

1. Revisions suggested by the consulting team (CodeWright Planners or the Timmons Group) based on the initial testing exercises;
2. Revisions suggested by Town Council or Town staff as a part of the Work Session discussion conducted on October 2, 2023; and
3. Suggestions for further consideration provided by the Developer's Group representatives selected by the Chamber of Commerce and involved in the testing discussions associated with Task 5.

The following table summarizes each set of recommendations or suggestions with an individual number, description, source, and relevant UDO code section and page number reference. Revisions suggested by the consulting team, Town staff, or the Town Council are further supplemented with excerpts of the Adoption Draft UDO text as it would be modified if the recommendation is accepted by the Town Council. Suggestions from Developer's Group representatives are shown in orange rows at the end of the table and are supplemented with a short discussion of what sections of the UDO would require further modification should the Town Council decide to accept the recommendation.

In the event the Town Council does decide to adopt the draft UDO, the motion for adoption should also reference whatever recommendations in this ERRATA sheet are to be included in the adopted version of the UDO (this could be done by citing the various recommendation numbers in the following table).

Following adoption, the consulting team will revise the Adoption Draft of the UDO to incorporate the recommendations and suggestions accepted by the Town Council. The table of recommendations follows on the next pages.

TABLE OF RECOMMENDATIONS AND SUGGESTIONS FOR REVISION TO THE ADOPTION DRAFT VERSION OF THE CLAYTON UDO

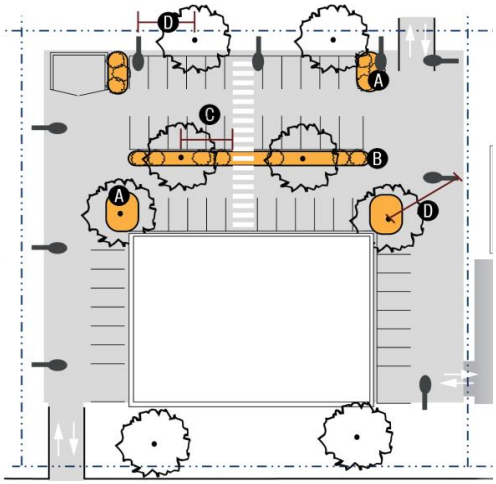
Rec. #	Description	Source	Draft UDO Section #	Draft UDO page #
1	**Add NC Invasive Plant Council and NC Agricultural Extension to language prohibiting invasive plants in Landscaping section**	**Consulting Team & Planning Board**	**6.6.7.E.5**	**535**
	4. A larger number of different species than specified may be utilized; and 5. In no instance shall invasive species, as determined by the North Carolina Forest Service, the NC Invasive Plant Council, or the NC Agricultural Extension Office be utilized as landscaping materials to meet the requirements of this Ordinance.			
2	**Adjust parking lot landscaping diagram to indicate 10' between tree and light post, not fixture head**	**Consulting Team & Planning Board**	**6.6.11.A**	**543**
	LEGEND Parking Lot Lot Line Interior Plantings A Landscaping Islands - Min. Dimension 9' Min. Area 162 sf B Landscaping Strip C Min. Separation Between Pedestrian Walkway and Tree Trunk 5' D Min. Separation Between Light Pole and Canopy Tree Trunk 10' 			
3	**Revise the Type A and Type B perimeter buffer diagrams to use understory tree symbols as used in the Type C perimeter buffer diagram**	**Consulting Team & Planning Board**	**6.6.12**	**547, 548**

TABLE OF RECOMMENDATIONS AND SUGGESTIONS FOR REVISION TO THE ADOPTION DRAFT VERSION OF THE CLAYTON UDO

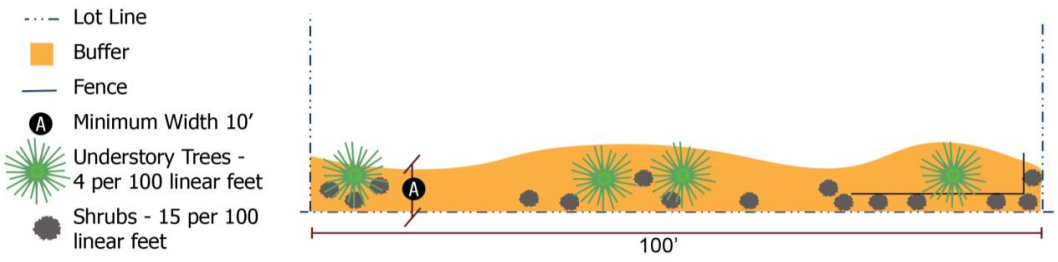
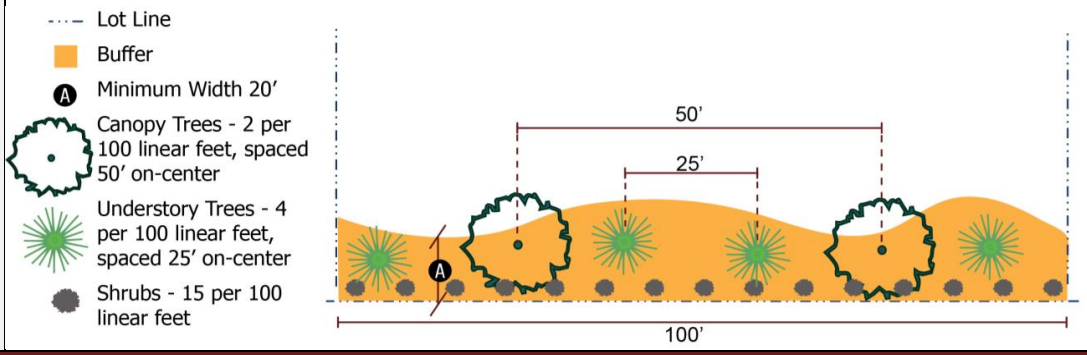
Rec. #	Description	Source	Draft UDO Section #	Draft UDO page #
	Type A Buffer  Type B Buffer  			
4	**Allow an RLA (in addition to a forester) to prepare a reforestation plan** **b. TREES REMOVED PRIOR TO ESTABLISHMENT OF A TREE SAVE AREA** **i.** In cases where irreparable damage to or removal of existing trees takes place on a site that is subject to these standards, but where a tree save area has not yet been established, a reforestation plan prepared by a North Carolina registered forester or registered landscape architect shall be prepared and provided to the Town. **ii.** The reforestation plan shall require new tree plantings throughout the area where existing trees were irreparably damaged or removed. The number and placement of replacement trees shall be as necessary to result in a comparable density of trees at maturity as were removed. **iii.** New vegetation identified in the reforestation plan shall be installed within six months of the tree removal or within a timeframe specified by a North Carolina registered forester or registered landscape architect and agreed to by the Planning Director.	**Consulting Team & Planning Board**	**6.18.9.A.1.b.i**	**694**

TABLE OF RECOMMENDATIONS AND SUGGESTIONS FOR REVISION TO THE ADOPTION DRAFT VERSION OF THE CLAYTON UDO				
Rec. #	**Description**	**Source**	**Draft UDO Section #**	**Draft UDO page #**
5	**Revise open space set-aside requirements to specify what kind of form the required open space should take (passive, active, gathering) by district type** **(note: this revision also resulted in replacing text in the notes portion of each zoning district dimensional standards table that now refers the reader to this section of the UDO for details about the required type of open space – for the sake of brevity, those redlines are not shown in this document)**	**Consulting Team & Planning Board**	**6.7.D.2**	**568, 569**

1. AMOUNT
   a. The minimum required amount of open-space set-aside, as a percentage of a development's size, shall be in accordance with the dimensional standards for the type of use in the zoning district where the development is located. Chapter 3, Districts, sets out the ~~dimensional~~ open space set-aside requirements~~standards~~ for each zoning district.
   b. Nothing shall limit the provision of ~~a greater minimum percentage or other type of~~more open space set-aside, provided the minimum requirements in this ~~section~~ Ordinance are met.
2. TYPE
   a. Table <>, Open Space Type, identifies the form(s) of open space set-aside required by this Ordinance.

TABLE <>: OPEN SPACE SET-ASIDE TYPE		
ZONING DISTRICT WHERE LOCATED [1]	TYPE OF OPEN SPACE SET-ASIDE REQUIRED [2]	
CRM, HID, LID, NCM, OFI, CZC, CZI	Passive Open Space [3]	
DTNC, DTNN, DTNT, CZD	Gathering Area [4]	
MXD, CZM	Active Open Space [5]	
PUB	Passive Open Space [5]	
RHD, RLL, RLD, RMD, RMF, RUR, CZR	Residential Development with 6 or more units	50% Active Open Space or Gathering Area [6]
	Residential Development with 5 or fewer units	N/A
	All Other Development	Passive Open Space [5]
NOTES:		

TABLE OF RECOMMENDATIONS AND SUGGESTIONS FOR REVISION TO THE ADOPTION DRAFT VERSION OF THE CLAYTON UDO

Rec. #	Description	Source	Draft UDO Section #	Draft UDO page #
	TABLE <>: OPEN SPACE SET-ASIDE TYPE ZONING DISTRICT WHERE LOCATED [1] | TYPE OF OPEN SPACE SET-ASIDE REQUIRED [2] [1] The type of open space set-aside provided may deviate from these requirements as part of a Type 3 Conditional Rezoning. [2] See Section <>, Open Space Configuration, on allowable forms of development and configuration. [3] Development may provide some or all of the required open space set-aside as active open space or gathering area, at the discretion of the applicant. [4] Development may provide some or all of the required open space set-aside as active open space. [5] Development may provide some or all of the required open space set-aside as gathering area. [6] The remainder of required open space set-aside may be configured as active open space, gathering area, or passive open space. ~~a. Unless otherwise indicated in the appropriate dimensional standards table in Chapter 3, Districts, open space set-aside shall be configured in accordance with the standards in Section <>, Passive Open Space Set-Aside.~~ **b.** In cases where development must configure open space set-aside with active recreation features, it shall be configured in accordance with Section <>, Active Open Space Set-Aside. **c.** In cases where open space set-aside shall be configured as gathering space, it shall be configured in accordance with Section <>, Gathering Space. ~~**d.** Except in instances where open space set-aside must be configured for active recreation, nothing shall limit development from configuring required open space set-aside in accordance with the standards in Section <>, Gathering Space.~~			
6	**Revise purpose and intent statements to remove the "e" from equality in purpose statement "C"**	**Consulting Team & Planning Board**	**1.8.C**	**29**
	avoid undue burdens on residential property owners; **C.** Ensure responsible development and redevelopment that is sustainable in terms environmental protection, resident and visitor health, and economic equality; D. Support mixed use development within the downtown, along key commercial corridors and in			

TABLE OF RECOMMENDATIONS AND SUGGESTIONS FOR REVISION TO THE ADOPTION DRAFT VERSION OF THE CLAYTON UDO

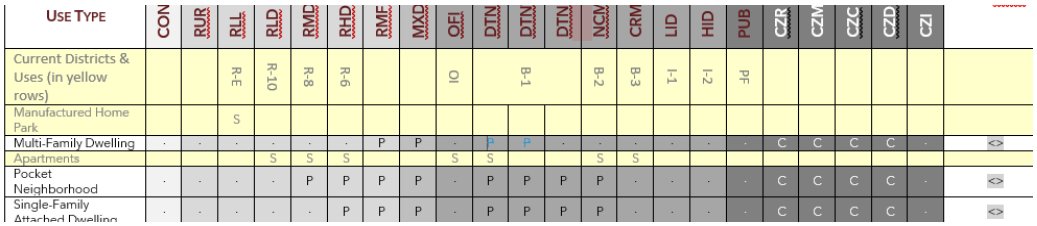
Rec. #	Description	Source	Draft UDO Section #	Draft UDO page #
7	**Revise stormwater treatment provisions to better recognize desired design storm and design storm duration thresholds**	**Town Staff**	**6.15.8.D.4**	**672**

stormwater flows from development or redevelopment shall not contribute to degradation of waters of the State.

4. At a minimum, the development and redevelopment shall not result in a net increase in peak flow leaving the site from pre-development conditions for the 1-year, 24-hour storm; 2-year, 24-hour storm; ~~and~~ 10-year, 24-hour storm; and 25-year 24-hour storm events.

E. PARTIAL OFFSET OF NUTRIENT CONTROL REQUIREMENTS

8	**Remove multi-family as a by-right use type in the DTNC and DTNT downtown sub-districts – must be conditional**	**Town Council**	**4.2.5.C**	**303**



Use Type	CON	RUR	RLL	RLD	RMD	RHD	RMF	MXD	OFI	DTN	DTN	DTN	NCM	CRM	LID	HID	PUB	CZR	CZM	CZC	CZD	CZI	
Current Districts & Uses (in yellow rows)			R-E	R-10	R-8	R-6			OI	B-1			B-2	B-3	I-1	I-2	PF						
Manufactured Home Park			S																				
Multi-Family Dwelling	·	·	·	·	·	·	P	P	·	P	P	·	·	·	·	·	·	C	C	C	C	·	<>
Apartments				S	S	S			S	S			S	S									
Pocket Neighborhood	·	·	·	·	P	P	P	P	·	P	P	P	P	·	·	·	·	C	C	C	C	·	<>
Single-Family Attached Dwelling	·	·	·	·	·	P	P	P	·	P	P	P	P	·	·	·	·	C	C	C	C	·	<>

9	**Require a balcony/outdoor component on all multi-family units.**	**Town Council**	**4.3.86.E**	**329**

D. OFF-STREET PARKING LOCATION

Except when proposed within the setback from a rear lot line, no off-street parking space shall be located in a required setback area.

E. OUTDOOR SPACE

Each dwelling unit within a multi-family development shall include a patio, deck, or balcony with a width or length dimension of no less than seven feet.

E.F. RECREATION FACILITIES

Any active recreation facilities shall be located at least 50 feet from any lot line shared with a single-family detached residential dwelling.

10	**Add a requirement for dedicated parallel on-street parking (outside of travel lane) for all lots that are rear-loaded. Parallel parking areas serving rear-loaded lots must incorporate landscape islands every three spaces**	**Town Council**	**6.9.4.I**	**584**

TABLE OF RECOMMENDATIONS AND SUGGESTIONS FOR REVISION TO THE ADOPTION DRAFT VERSION OF THE CLAYTON UDO

Rec. #	Description	Source	Draft UDO Section #	Draft UDO page #
	parking requirements in this section. **I. ON-STREET PARKING SERVING REAR-LOADED LOTS** 1. All development including residential lots served by vehicular access located to the rear of the lot shall include at least one dedicated parallel on-street parking space proximate to each lot served by rear access. 2. On-street parking spaces shall not be located within the travel lane of the street or alley they serve. 3. Development including dedicated on-street parallel parking spaces provided in accordance with this sub-section shall configure parallel parking areas to include a landscaping island in-line with the parallel parking spaces. 4. Landscaping islands required by this sub-section shall be at least nine feet in depth and six feet in width and be located at least every three parking spaces along the street they serve. ~~I.~~**J. MINIMUM OFF-STREET PARKING REQUIREMENTS TABLE** The following table sets out the minimum and applicable maximum off-street parking standards for development subject to these standards. Off-site and on-street parking may be			
11	**Remove the ability of vehicle sales to be permitted by-right throughout the Town's planning jurisdiction**	**Town Council**	**4.2.5.C**	**295**
	Vehicle Repair or Service: S P P Vehicle Sales and Rental: P C C C Vehicle Sales and Rental: S P P			
12	**Remove the ability to establish a flea market use type by-right throughout the Town's planning jurisdiction**	**Town Council**	**4.2.5.C**	**295**
	rows) Flea Market: P C C Gasoline Sales: P P P C C C General Retail, High Intensity: P P C C C C			

TABLE OF RECOMMENDATIONS AND SUGGESTIONS FOR REVISION TO THE ADOPTION DRAFT VERSION OF THE CLAYTON UDO				
Rec. #	**Description**	**Source**	**Draft UDO Section #**	**Draft UDO page #**
13	**Discussion about concerns that the base residential densities proposed for the new MXD and RMF districts (12 DU/AC) were too low. After more discussion, and the realization that a Type 3 Conditional Rezoning would permit higher densities in these districts, the concern was withdrawn.** **Staff Commentary: Staff recommend no changes to this section.**	**Development Community**	**3.2.8, 3.2.16**	**203, 226**
14	**Discussion about the proposal to not count one-car garages towards the off-street parking requirements for single-family detached, single-family attached, duplex, triplex, and quadplex dwellings. One-car garages may be credited towards parking requirements in bungalow courts or packet neighborhoods. Planning Board and Town Council both expressed concern about crediting one-car garages towards off-street parking requirements, and Town Council have directed the standards to remain as drafted in the adoption draft.** **Staff Commentary: Staff recommend leaving the standards as drafted to ensure parking issues associated within existing Townhome communities in Clayton do not continue to Townhome communities submitted in the future.**	**Development Community**	**6.9.4.H.1 & 2**	**583, 584**

TABLE OF RECOMMENDATIONS AND SUGGESTIONS FOR REVISION TO THE ADOPTION DRAFT VERSION OF THE CLAYTON UDO				
Rec. #	**Description**	**Source**	**Draft UDO Section #**	**Draft UDO page #**
15	**The open space set-aside requirements (10% for residential & mixed use, 5-7% for non-residential) are too high and should be reduced because they are higher than surrounding communities.** **Staff Commentary: The Open Space set-asides are consistent with the 2045 Comprehensive Growth Plan. Additionally, there are Town's within our neighboring communities that have similar, or higher open-space requirements (e.g. Holly Springs). Staff recommend leaving the requirements as drafted. Town Council should consider a revision to the 2045 Comprehensive Growth Plan if there is a desire to re-evaluate open space set-aside requirements in the future.**	**Development Community**	**3.2 (district tables)**	**184-231**
16	**The open space set-aside requirement of 10% for residential subdivisions with lots over 20,000 sf are too high and should be reduced since residents have large lots to meet their own recreational needs.** **Staff Commentary: As noted above, the Open Space set-asides are consistent with the 2045 Comprehensive Growth Plan. Additionally, there are Town's within our neighboring communities that have similar, or higher open-space requirements (e.g. Holly Springs). Staff recommend leaving the requirements as drafted. Town Council should consider a revision to the 2045 Comprehensive Growth Plan if there is a desire to re-evaluate open space set-aside requirements in the future.**	**Development Community**	**3.2.13.C (RLL), 3.2.17 (RUR)**	**216, 230**

TABLE OF RECOMMENDATIONS AND SUGGESTIONS FOR REVISION TO THE ADOPTION DRAFT VERSION OF THE CLAYTON UDO				
Rec. #	**Description**	**Source**	**Draft UDO Section #**	**Draft UDO page #**
17	**Question about how the Town will calculate active recreation area as a part of determining compliance. Staff Commentary: Staff have reviewed this section and found there is an opportunity to make it more specific. Staff recommends working with the consultant prior to the effective date to add additional language to strengthen this section and return with an appropriate Text Amendment.**	**Development Community**	**6.7.1.E.2**	**570**
18	**Question about how will the Town calculate fee-in-lieu for active open space. Staff Commentary: Fee-in-Lieu will be calculated for active open space as it is now which is outlined within Section 2.3.13.G.**	**Development Community**	**2.3.13.G**	**92**
19	**Sustainable Development Incentive Section should be supplemented to allow credits for provision of open space set-aside features that exceed basic requirements. Staff Commentary: This is a policy decision and necessitated further discussion with Town Council. Staff recommends working with Town Council to determine if this is an option which Staff should explore in a future text amendment.**	**Development Community**	**6.17.6**	**685**

TABLE OF RECOMMENDATIONS AND SUGGESTIONS FOR REVISION TO THE ADOPTION DRAFT VERSION OF THE CLAYTON UDO				
Rec. #	**Description**	**Source**	**Draft UDO Section #**	**Draft UDO page #**
20	**The UDO needs more clarity on how gathering spaces are defined and how they must be configured to ensure these spaces are useful, safe, and make sense.** **Staff Commentary: Staff agrees there could be more clarity but there is a balance to ensure each development is able to design and construct gathering spaces which are unique and useful to the specific development. Providing specific standards may pose the opposite effect and produce gathering space that is out of place and un-useful. Staff recommends further discussion with Council to determine if this is an option which Staff should explore in a future text amendment.**	**Development Community**	**6.7.1.E.3**	**671**
21	**The landscaping standards need to recognize areas where people drive or walk and should ensure that landscaping does not interfere with visibility of pedestrian or drivers.** **Staff Commentary: Staff recommend no changes to this section. There are other requirements that supersede this section such as easements and sight distance triangles, which prohibit landscaping within these areas.**	**Development Community**	**6.6.9**	**538**
22	**Clarify if required (planted) landscaping counts towards the tree protection/reforestation standards.** **Staff Commentary: Staff recommend no changes to this section. This section defines which trees can be credited.**	**Development Community**	**6.18.5.C.2**	**692**

CHAPTER 151: FLOOD DAMAGE PREVENTION CODE

Section

General Provisions

151.01 Statutory authorization; findings of fact

151.02 Statement of purpose

151.03 Objectives

151.04 Definitions

151.05 Lands to which this chapter applies

151.06 Basis for establishing the special flood hazard areas

151.07 Establishment of floodplain development permit

151.08 Compliance

151.09 Abrogation and greater restrictions

151.10 Interpretation

151.11 Warning and disclaimer of liability

Administration

151.20 Designation of Floodplain Administrator

151.21 Floodplain development application, permit and certification requirements

151.22 Duties and responsibilities of the Floodplain Administrator

151.23 Corrective procedures

151.24 Variance procedures

Provisions for Flood Hazard Reduction

151.40 General standards

151.41 Specific standards

151.42 Standards for floodplains without established base flood elevations

151.43 Standards for riverine floodplains with BFE but without established floodways or non-encroachment areas

151.44 Floodways and non-encroachment areas

Legal Status

151.60 Effect on rights and liabilities under the existing flood damage prevention code

151.61 Effect upon outstanding floodplain development permits

151.99 Penalty

GENERAL PROVISIONS

§ 151.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter l60A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Town Council does ordain as follows:

(A) The flood prone areas within the jurisdiction of the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05- 03, passed 6-6-22)

§ 151.02 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation

of floodwaters;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.03 OBJECTIVES.

The objectives of this chapter are:

(A) Protect human life, safety, and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business losses and interruptions;

(E) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

(F) Minimize damage to private and public property due to flooding;

(G) Make flood insurance available to the community through the National Flood Insurance Program;

(H) Maintain the natural and beneficial functions of floodplains;

(I) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(J) Ensure that potential buyers are aware that property is in a special flood hazard area.

(Ord. 2005-11-03, passed 11-21-05 Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05- 03, passed 6-6-22)

§ 151.04 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

ALTERATION OF A WATERCOURSE. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. See ***SPECIAL FLOOD HAZARD AREA (SFHA)***.

AREA OF FUTURE-CONDITIONS FLOOD HAZARD. The land area that would be inundated by the 1% annual chance (100-year) flood based on future-conditions hydrology.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a ***SPECIAL FLOOD HAZARD AREA***, it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the ***FREEBOARD***, establishes the ***REGULATORY FLOOD PROTECTION ELEVATION***.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BUILDING. See ***STRUCTURE***.

CERTIFIED LOCAL GOVERNMENT (CLG) PROGRAMS. Are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

CHEMICAL STORAGE FACILITY. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

CONDITIONAL LETTER OF MAP REVISION (CLOMR). A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

DESIGN FLOOD. See ***REGULATORY FLOOD PROTECTION ELEVATION***.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

DEVELOPMENT ACTIVITY. Any activity defined as development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

DISPOSAL. As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

ELEVATED BUILDING. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

EXISTING BUILDING AND EXISTING STRUCTURE. Any building and/or structure for which the ***START OF CONSTRUCTION*** commenced before April 1, 1982, the effective date of the initial Flood Insurance Rate Map.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed June 16, 1987, before the initial effective date of the floodplain management regulations adopted by the community.

FLOOD or ***FLOODING.*** A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map of a community, issued by the FEMA, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the FEMA, where the boundaries of the special flood hazard areas have been defined as Zone A.

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, issued by the FEMA, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated (see also DFIRM).

FLOOD INSURANCE STUDY (FIS). An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

FLOOD PRONE AREA. See ***FLOODPLAIN***.

FLOOD ZONE. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source.

FLOODPLAIN ADMINISTRATOR. Is the individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

FLOOD-RESISTANT MATERIAL. Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

FLOODWAY. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOODWAY ENCROACHMENT ANALYSIS. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

FREEBOARD. The height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the

height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the ***REGULATORY FLOOD PROTECTION ELEVATION***.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

HAZARDOUS WASTE MANAGEMENT FACILITY. As defined in G.S. § 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a local inventory of historic landmarks in communities with a***CERTIFIED LOCAL GOVERNMENT (CLG) PROGRAM***; or

(4) Certified as contributing to the historical significance of a historic district designated by a community with a***CERTIFIED LOCAL GOVERNMENT (CLG) PROGRAM***.

LETTER OF MAP CHANGE (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

LETTER OF MAP REVISION (LOMR). A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

LETTER OF MAP REVISION BASED ON FILL (LOMR-F). A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

LIGHT DUTY TRUCK. Any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 C.F.R. 86.082-2 and is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

LOWEST ADJACENT GRADE (LAG). The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term ***MANUFACTURED HOME*** does not include a ***RECREATIONAL VEHICLE***.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE. The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

NEW CONSTRUCTION. Structures for which the ***START OF CONSTRUCTION*** commenced on or after June 16, 1987, the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

NON-CONVERSION AGREEMENT. A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

NON-ENCROACHMENT AREA (NEA). The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

POST-FIRM. Construction or other development for which the ***START OF CONSTRUCTION*** occurred on or after April 1, 1982, the effective date of the initial Flood Insurance Rate Map.

PRE-FIRM. Construction or other development for which the ***START OF CONSTRUCTION*** occurred before April 1, 1982, the effective date of the initial Flood Insurance Rate Map.

PRINCIPALLY ABOVE GROUND. That at least 51% of the actual cash value of the structure is above ground.

PUBLIC SAFETY and/or ***NUISANCE.*** Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE (RV).

(1) A vehicle, which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and

(e) Is fully licensed and ready for highway use.

(2) For the purpose of this chapter, "tiny homes/houses" and park models that do not meet the items listed above are not considered recreational vehicles and should meet the standards of and be permitted as residential structures.

REFERENCE LEVEL. Is the top of the lowest floor for structures within special flood hazard areas designated as Zones A, AE, AH, AO, A99.

REGULATORY FLOOD PROTECTION ELEVATION. The ***BASE FLOOD ELEVATION*** plus the ***FREEBOARD***. In ***SPECIAL FLOOD HAZARD AREAS*** where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet freeboard. In ***SPECIAL FLOOD HAZARD AREAS*** where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SALVAGE YARD. Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

SOLID WASTE DISPOSAL FACILITY. Any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 151.06 of this chapter.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during anyone-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of ***SUBSTANTIAL IMPROVEMENT***.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the ***START OF CONSTRUCTION*** of the improvement. This term includes structures which have incurred***SUBSTANTIAL DAMAGE***, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to § 151.24 of this chapter.

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET. A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive state or local regulations apply to the building or site in question. All applicable standards of the state or local building code must also be met for any building in a flood hazard area.

TEMPERATURE CONTROLLED. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

VARIANCE. Is a grant of relief from the requirements of this chapter.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Administration and Provisions for Flood Hazard Reduction sections is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.05 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extraterritorial jurisdictions (ETJs), of the town.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.06 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated June 20, 2018 for Johnston County, January 19, 2022 for Wake County, and associated DFIRM panels and any revision thereto, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.07 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit, in the form or document established by the town, shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of § 151.06 of this chapter.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.08 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.09 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.10 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.11 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05- 03, passed 6-6-22)

ADMINISTRATION

§ 151.20 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Director of Engineering and Inspections or his designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this chapter. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this chapter, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this chapter.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2013-02-01, passed 2-4-13; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.21 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(A) *Application requirements.* Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in §151.06, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 151.06;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in §151.06;

(e) The base flood elevation (BFE) where provided as set forth in §151.06, § 151.22, or § 151.42;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; or

(g) The certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:

(a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to NAVD 1988 to which any non-residential structure in Zone E will be floodproofed;

(c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

(3) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

(4) A foundation plan drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter, are met. These details include but are not limited to:

(a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

(b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with §151.41(D)(4), when solid foundation perimeter walls are used in Zones A, E, AH, AO, A99.

(5) Usage details of any enclosed areas below the lowest floor.

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(7) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received including copies of the issued approvals.

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of § 151.41(F) and (G) are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

(1) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

(2) The special flood hazard area determination for the proposed development per available data specified in §151.06.

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(4) The regulatory flood protection elevation required for the protection of all public utilities.

(5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of § 151.44 have been met.

(7) The flood openings requirements, if in Zones A, E, AH, AO, A99.

(C) *Certification requirements.*

(1) *Elevation certificates.*

(a) An elevation certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Elevation certification shall be prepared by, or under direct supervision of, a registered land surveyor or professional engineer and certified by same. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven calendar days of

establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(c) A Final As-Built Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. Elevation certification shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(2) *Floodproofing Certificate.*

(a) If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

(3) If a manufactured home is placed within Zones A, E, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of § 151.41(C)(2).

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) *Certification exemptions.* The following structures, if located within Zones A, AB, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in divisions (C)(1) and (2) of this section:

(a) Recreational vehicles meeting requirements of § 151.41(F)(1);

(b) Temporary structures meeting requirements of § 151.41(G); and

(c) Accessory structures less than 150 square feet or less or valued at $3,000 or less and meeting requirements of § 151.41(H).

(6) *Determinations for existing buildings and structures.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this chapter is required.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2013-02-01, passed 2-4-13; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.22 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(A) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.

(B) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(C) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such

notification to the Federal Emergency Management Agency (FEMA).

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 151.44 are met.

(F) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of § 151.21(A)(1)(c).

(G) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of § 151.21(C).

(H) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of §151.21(C).

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with §§ 151.21(C) and 151.41(B).

(J) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.

(K) When base flood elevation (BFE) data has not been provided in accordance with §151.06, obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to § 151.42(B)(3), in order to administer the provisions of this chapter.

(L) When base flood elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with § 151.06, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.

(M) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the BFE, advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

(N) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(O) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(P) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(Q) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(R) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(S) Follow through with corrective procedures of §151.23.

(T) Review, provide input, and make recommendations for variance requests.

(U) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of § 151.06 of this chapter, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify state and FEMA of mapping needs.

(V) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.23 CORRECTIVE PROCEDURES.

(A) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to their property.

(B) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of the flood damage prevention ordinance;

(2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,

(3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the flood damage prevention ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to G.S. § 143-215.58 and shall be punished at the discretion of the court.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22) Penalty, see § 151.99

§ 151.24 VARIANCE PROCEDURES.

(A) The Board of Adjustment as established by the town hereinafter referred to as the "Appeal Board", shall hear and decide requests for variances from the requirements of this chapter.

(1) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(2) Variances may be issued for:

(a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

(b) Functionally dependent facilities if determined to meet the definition as stated in §151.04 of this chapter, provided provisions of § 151.24, § 151.06(A)(8)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(c) Any other type of development provided it meets the requirements of this section.

(3) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location as defined under §151.04 of this chapter as a functionally dependent facility, where applicable;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(4) A written report addressing each of the above factors shall be submitted with the application for a variance.

(5) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.

(6) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(7) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.

(8) *Conditions for variances.*

(a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued prior to development permit approval.

(e) Variances shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(9) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met:

(a) The use serves a critical need in the community.

(b) No feasible location exists for the use outside the special flood hazard area.

(c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.

(d) The use complies with all other applicable federal, state and local laws.

(e) The town has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 151.40 GENERAL STANDARDS.

In all special flood hazard areas the following provisions are required:

(A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(D) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, duct work, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.

(1) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

(2) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(I) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in § 151.24(A)(9). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of § 151.21(C).

(J) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(K) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(M) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(N) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(O) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.41 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in §151.06, or § 151.42, the following provisions, in addition to § 151.40, are required:

(A) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 151.04.

(B) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 151.04 of this chapter. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 151.21 (C), along with the operational plan and the inspection and maintenance plan.

(C) *Manufactured homes.*

(1) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 151.04.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of §151.41(D).

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local emergency management coordinator.

(D) *Elevated buildings.* Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation.

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;

(2) Shall not be temperature-controlled or conditioned;

(3) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(4) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the higher of the interior or exterior adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(E) *Additions/improvements.*

(1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(b) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

(2) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements

to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

(3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Where a fire wall or independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(5) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this chapter. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(F) *Recreational vehicles.* Recreational vehicles placed on sites within a special flood hazard area shall either:

(1) *Temporary placement.*

(a) Be on site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)

(2) *Permanent placement.* Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.

(G) *Temporary non-residential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, applicants must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

(2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation of a location outside the special flood hazard area, to which the temporary structure will be moved.

(H) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

(1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(2) Accessory structures shall not be temperature-controlled;

(3) Accessory structures shall be designed to have low flood damage potential;

(4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(5) Accessory structures shall be firmly anchored in accordance with §151.40(A);

(6) All service facilities such as electrical shall be installed in accordance with §151.40(D); and

(7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of § 151.41(D)(4).

(8) An accessory structure with a footprint less than 144 square feet or that is a minimal investment of $3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of § 151.41(B). Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 151.21(C).

(9) *Tanks.* When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

(a) *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(b) *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be elevated to or above the regulatory flood protection elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(c) *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of §151.41(B) of this section shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(d) *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:

1. At or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) *Other development.*

(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 151.44 of this chapter.

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 151.44 of this chapter.

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of § 151.44 of this chapter.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.42 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the special flood hazard areas designated as Approximate Zone A and established in §151.06, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of § 151.40, shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

(1) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with standards in §§ 151.40 and 151.41.

(2) When floodway or non-encroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of § 151.41 and § 151.44.

(3) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with § 151.06 and utilized in implementing this chapter.

(4) When BFE data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in § 151.04. All other applicable provisions of § 151.41 shall also apply.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.43 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(A) Standards outlined in §§ 151.40 and 151.41; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.44 FLOODWAYS AND NON- ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in §151.06. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in §§ 151.40 and 151.41, shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

(1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented

to the Floodplain Administrator prior to issuance of floodplain development permit; or

(2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

(B) If division (A) of this section is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

(C) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

(1) The anchoring and the elevation standards of §151.41(C); and

(2) The no encroachment standard of division (A) of this section are met.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

LEGAL STATUS

§ 151.60 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION CODE.

(A) This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted June 16, 1987, as amended, and it is not the intention to repeal but rather to reenact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Clayton enacted on June 16, 1987, as amended, which are not reenacted herein are repealed.

(B) The date of the initial Flood Damage Prevention Ordinance for Johnston County is September 30, 1983.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.61 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

§ 151.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to G.S. § 143-215.58. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Clayton from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2005-11-03, passed 11-21-05; Am. Ord. 2018-06-02, passed 6-4-18; Am. Ord. 2022-05-03, passed 6-6-22)

CHAPTER 155: UNIFIED DEVELOPMENT CODE

HOW TO USE THIS CODE IF YOU OWN PROPERTY AND WANT TO KNOW WHAT RULES APPLY:

STEP 1: Find your zoning district and any overlay districts by looking at the Zoning Map (found in the Planning Department).

STEP 2: Go to § 155.200, Districts Established, to review the intent of the district(s) applied to your property.

STEP 3: Go to § 155.202, Permitted Land Uses, for details on uses permitted on your property. Find the row that lists the group of uses or specific use you've identified. Match this row to your district (across the top of the table) to determine if the use you want to establish is permitted. To determine if the use you've identified is part of group of uses go to § 155.300, Use Interpretation.

STEP 4: If your use is permitted, before building the structure or establishing the use, you must get the appropriate permits approved (see §§ 155.700 through 155.721). For details on minimum lot size and required yards see §155.203. For specific use standards see §§155.300 through 155.307. The use may also be subject to the general standards in §§155.400 through 155.404 and §§ 155.500 through 155.502.

STEP 5: Don't forget that the overlay districts established in §155.200(C) may apply to your property.

These requirements are intended to help you and the Town ensure that your project is legally established and that it matches the development vision that Town of Clayton, as a community, desires. You should also review the Clayton General Design Guidelines for other applicable development information.

IF YOU WANT TO BUILD OR ESTABLISH A PARTICULAR USE:

Follow Steps 1 through 5 above, to identify your zoning district and the permitted uses. You can find the specific details for the permitted uses in your zoning district in either § 155.300 and § 155.802. You can also find the various development standards that apply to your property in §§ 155.400 through 155.404 and §§ 155.500 through 155.502.

IF YOU WANT TO CHANGE YOUR ZONING DISTRICT:

Only the Town Council, may rezone property – following public notice and hearings. See §155.704, Rezonings, for details on the procedure.

IF YOU WANT TO SUBDIVIDE YOUR PROPERTY:

Property can only be subdivided in accordance with §155.706, Subdivision Review.

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ARTICLE 1: GENERAL PROVISIONS

§ 155.100 TITLE.

This chapter shall be known and may be cited as the Unified Development Code of the Town of Clayton, North Carolina, and may be referred to as "this chapter", "this code", "this ordinance", "this UDC" or "the UDC."

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.101 AUTHORITY AND ENACTMENT.

The Town Council, pursuant to the authority conferred by the General Assembly of the State of North Carolina in G.S. Chapter 160D generally, and more specifically § 160D-702 and § 160D-103, does hereby ordain and enact into laws these articles and sections.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.102 PURPOSE.

(A) *General.* For the purpose of promoting the health, safety, morals, and general welfare, this chapter is adopted by the governing body to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location, general design, appearance and use of buildings, structures and land for trade, industry, residence, or other purposes.

(B) *Zoning.* The zoning regulations in this chapter are in accordance with a comprehensive plan and are designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to preserve and improve the character of development in the

town and its neighborhoods; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

(C) *Subdivision.* The purpose of this chapter is also to provide for the orderly development of the town and its environs through the regulation of the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for the future development of the town; to ensure the provision of adequate facilities for transportation, water, sewerage, and other public facilities in subdivisions; to ensure the proper legal description, monumentation, and recording of subdivided land; and to promote the public health, safety, and general welfare of the town.

(Ord. 2005-11-02, passed 11-21-05)

§ 155.103 EFFECTIVE DATE.

This Chapter was adopted on February 15, 2021, becoming effective on February 15, 2021. From time to time this chapter or sections herein may be amended by the Town Council.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.104 JURISDICTION.

(A) *Zoning Districts.* The boundaries of the zoning districts, including but not limited to Conventional Districts, Conditional Zoning Districts (some of which are formerly approved Special Use Districts), and Overlay Districts, are shown upon the map accompanying this chapter, and made a part hereof, entitled “Town of Clayton Official Zoning Map” (also known as “zoning map”), as amended from time to time. The zoning map and all the notations, references and all amendments thereto, and other information shown thereon is hereby made a part of this Chapter the same as if such information set forth on the map were all fully described and set out herein. The most current and updated version of the Official Zoning Map properly attested is maintained by the Planning Department, and is on file in the Planning Department and the Office of the Town Clerk, and is available for inspection by the public. When duly adopted by the Town Council, these regulations shall also govern each and every subdivision of land within the corporate limits of the Town, as now or hereafter established, and within the extraterritorial jurisdiction adopted by the Town.

(B) *Future Land Use Districts.* Certain Future Land Use Designations are established and incorporated by reference on the “Town of Clayton Future Land Use Map” (as part of the most current adopted comprehensive plan and also known as “future land use map”), which is hereby made a portion of this ordinance. The Future Land Use Map shall guide and govern changes to the Official Zoning Map and the districts therein. The most current and updated version of the Future Land Use Map properly attested is maintained by the Planning Department, and is on file in the Planning Department and the Office of the Town Clerk, and is available for inspection by the public.

(C) *Other Maps and Ordinances.* The most recent officially adopted version of other maps adopted by the state or federal government, including regulatory language, as necessary to accomplish the purpose of this UDC, are hereby incorporated by reference. This includes but is not limited to maps of floodplains, soils, watersheds, water supply protection areas, and United States Geological Survey (USGS) maps depicting streams or other water courses.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.105 LEGAL STATUS PROVISIONS.

(A) *Legal status provisions.*

(1) In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants are at variance with the requirements of this chapter, the most restrictive, or that imposing the highest standards, shall govern.

(2) This chapter and various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the chapter shall not be effected thereby. Whenever any condition or limitation is included in an order authorizing a special use permit, conditional zoning, variance, certificate of occupancy, or site plan approval or is offered by an applicant in an application or public hearing for such permit or approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this chapter or the requirements of some provisions hereof, and to protect the public health, safety, and welfare, and that the officer or body would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful. All conditions proposed to be attached to a Special Use Permit or a Conditional Zoning must be voluntarily agreed to in writing by all owners of the property to which those regulations may be applied.

(B) *Statute of limitations.* In accordance with G.S. § 160D-1405, a cause of action as to the validity of this chapter, or amendment thereto, shall accrue upon the adoption of this chapter or amendment thereto, and shall be brought within the time period specified therein.

(C) *Repeal of conflicting ordinance.* All ordinances or parts of ordinances of the town which are in conflict or inconsistent with this chapter are repealed and superseded to the extent necessary to give this chapter full force and effect.

(D) *Administrator.*

(1) The Planning Director is appointed to serve as administrator of this chapter. If this position should at any time be vacant, then the Town Manager shall designate another town official to act as administrator until the office is filled.

(2) Delegation of authority. The Planning Director may designate any staff member to represent the Planning Director in any function assigned by this chapter but shall remain responsible for any final action.

(E) *Examples and illustrations.* The examples, illustrations, and any other commentaries used in this chapter are for informational purposes only and are not intended for the purpose of construing the substantive or procedural provisions of this chapter or the town's intent in adopting specific provisions in this chapter. In instances with contradictions, the text always supersedes illustrations or graphics.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.106 APPLICATION OF REGULATIONS.

The regulations set forth in this Chapter shall affect all land, every structure, and every use of land or structure, and shall apply as follows:

(A) *Compliance Required.* No structure or land shall hereafter be used, occupied, or modified, and no structure or part thereof shall be erected, moved onto, or structurally altered, except in compliance with the regulations of this Chapter, for the district in which it is located. This definition shall include all forms of development as defined in GS § 160D-102(12).

(B) *Zoning Permit Required.* No building, sign, structure, or land-disturbing activities, or any part thereof shall be erected, structurally altered, moved, or changed in use until a zoning permit has been issued by the Planning Director, as set forth in § 155.709 “Zoning Permit”.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.107 INTERPRETATION OF REGULATIONS.

The regulations in this chapter shall be enforced and interpreted according to the following rules:

(A) *Minimum requirements.* Regulations set forth by this chapter shall be minimum regulations. If the requirements set forth in this chapter are inconsistent with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern, unless otherwise specified herein and in accordance with state law.

(B) *Restrictive covenants.* Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this chapter, nothing contained within this chapter shall be construed to render such covenants inoperative.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.108 COMPLIANCE WITH PLANS.

(A) *Approved Plans.* Permits or certificates issued on the basis of plans and applications shall authorize only the use, arrangement, and construction as set forth in such approved plans and applications and no other use, arrangement, or construction.

(B) *Adopted Plans and Policies.* All proposed subdivisions, structures, developments, and associated infrastructure shall be placed and designed in a manner consistent with the adopted plans and policies of the Town.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2017-04-06, passed 4-3-17)

§ 155.109 TRANSITIONAL PROVISIONS.

(A) *Conforming Uses and Structures.*

(1) Any use or structure existing prior to the effective date of this Chapter that conforms to the regulations of this Chapter for permitted uses, and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located, may be continued, provided any use, structural, or other changes shall comply with the provisions of this Chapter.

(2) Any use or structure existing prior to the effective date of this Chapter that would be permitted by this Chapter as a special use (or previously as a conditional use) in the district in which it is located, may be continued as if a special or conditional use permit had been issued, provided that any use, structural, or other changes shall comply with the provisions of this Chapter.

(B) *Effect of Amendment.* If subsequent amendments to this Chapter or the zoning map result in the creation of additional nonconformities or conformities, such nonconformities or conformities shall be governed by the provisions of this Chapter, unless otherwise stated in the amendment.

(C) *Applications and Prior Approvals.*

(1) *Projects Under Construction Prior to Effective Date.*

(a) Any building or development for which a permit was issued before the effective date of this Chapter may be completed in conformance with the issued permit and other applicable permits and conditions, even if such building or development does not fully comply with provisions of this Chapter.

(b) Nothing in this Chapter shall require a change to a phasing plan approved prior to the adoption of this Chapter, provided construction is consistent with the terms and conditions of the phasing plan and proceeds to completion in a timely manner. The applicant shall ensure that a period of no more than two years without an active building permit occurs in order to continue a project under a previous phasing plan.

(c) If construction is not completed according to the applicable permit terms, the Town Council may, for good cause shown, grant an extension of up to one year for such construction. If the building is not completed within the time allowed under the original permit or any extension granted, then the building may be constructed, completed or occupied only in compliance with this Chapter.

(2) *Applications Submitted Prior to Effective Date.*

(a) Pursuant to G.S. § 160D-108, any complete application submitted before the effective date of this Chapter or sections herein may be completed in conformance with applicable permits and conditions of the regulations in effect at the time of submission of the application, even if such application does not fully comply with provisions of this Chapter.

(b) If construction is not commenced or completed according to the applicable terms of the application, the Town Council may, for good cause shown, grant an extension of up to one year for such construction. If the building or improvements are not completed within the time allowed under the original application or any extension granted, then the building or improvements may be constructed, completed, or occupied only in compliance with this Chapter.

(3) *Prior Approvals.*

(a) Where a planned development, special use district, special use, or conditional use was approved prior to the effective date of this Chapter, the provisions of this Chapter shall apply to the extent that they do not conflict with the original conditions of approval.

(b) Pursuant to state law, any Conditional Use Permit approved prior to the adoption of this division that is valid and legal as of the effective date of this chapter is hereby transformed into an identical Special Use Permit immediately, subject to all established conditions and applicable standards of this Chapter.

(c) Pursuant to state law, any special use district, conditional use district or Planned Development districts (formerly identified as PD-R,

PD-C, PD-I, or PD-MU) that is valid and legal as of the effective date of this chapter hereby transformed into an identical Conditional Zoning District immediately, subject to all established conditions and applicable standards of this Chapter.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.110 NONCONFORMITIES.

(A) *Purpose and intent.* The purpose of this section is to establish regulations to address lots, structures, uses and site elements that were lawfully established before this chapter was adopted or amended, but do not conform to the terms and current requirements of this chapter, or were required as part of an approval but do not exist. It is the intent of this section to regulate and limit the continued existence of such nonconformities; and, where possible, bring them into conformance with this chapter.

(B) *Applicability.* This section applies to nonconforming lots, structures, uses and site elements. In determining whether such nonconformities will be regulated by the provisions of this section, the following shall apply:

(1) Nonconforming status shall not be provided for any lot, structure, use, or site element which was illegally created, commenced, constructed, or unlawfully continued.

(2) Nonconforming status shall only be authorized upon demonstration by the applicant that a lot, structure, use or site element was lawfully approved, created, commenced or constructed, and not merely contemplated.

(a) To obtain nonconforming status, the applicant must demonstrate that the use was in continuous operation during business hours and not an occasional use of the property.

(3) An accessory nonconforming use shall not become the principal use.

(C) *Nonconforming lot.* A nonconforming lot is a lot that was lawfully created before this chapter was adopted or amended, but does not conform to the minimum lot acreage and dimensional criteria as set forth in Article 2, Zoning Districts of this chapter.

(1) Where the owner of a residential lot that was lawfully created before this chapter was adopted or amended, or any successor in title does not own sufficient land to conform to the standards provided in § 155.203, District Standards, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the required standards are not more than 20% below the minimum specified in this chapter, or within 5% of the average deviation on lots adjacent to or within the same subdivision. The County Health Department's approval of the reduction is required if on-site water or wastewater facilities are involved. In cases where the criteria above cannot be met, the Board of Adjustment may grant a variance, subject to the required findings set forth in § 155.716, Variance.

(2) Nonconforming nonresidential substandard lots may be granted a variance for development, subject to approval by the Board of Adjustment and the required findings set forth in § 155.716, Variance.

(3) If two or more adjoining and vacant lots are in one ownership when this chapter is adopted, or at any time after the adoption of this chapter, and either or both lots do not meet the dimensional requirements of this chapter for the district in which such lots are located, then such group of lots shall be considered as a single lot.

(D) *Nonconforming use.* A nonconforming use is the use of land, buildings, or structures that was lawfully established on a property prior before this chapter was adopted or amended, but does not conform to the use regulations of this chapter.

(1) *Continuation.* No nonconforming use may be enlarged, expanded or extended, or moved to occupy a different or greater area of land, buildings or structures than was occupied by the use at the time it became nonconforming.

(2) *Change in use.* A nonconforming use shall not be changed to any other use, unless the new use conforms to this chapter. A nonconforming use physically replaced by a permitted use shall not be re-established.

(3) *Maintenance.* Maintenance and repair of a building occupied by a nonconforming use is permitted, provided it does not extend the nonconforming use.

(4) *Discontinuance or cessation.* A nonconforming use that is discontinued, abandoned, or changed to an accessory use for a period of more than 90 consecutive days, or for a total of 180 calendar days during any 12-month period, shall lose its nonconforming status and shall not be re-established or resumed. Any subsequent use in the same location shall be consistent with this chapter.

(E) *Nonconforming structure.* A nonconforming structure is a structure that was lawfully established on a property prior to this chapter being adopted or amended, but does not conform with the square footage, density, yard, dimensional, height, lot coverage or other structural provision of this chapter.

(1) The nonconforming features of a structure shall not be changed or increased in such a way as to intensify the nonconformity or increase the degree to which the structure is nonconforming. A nonconforming structure can be changed if the area of the improvement will reduce the nonconformity.

(2) Changes to or expansion of a nonconforming structure shall not result in the intensification or expansion of a nonconforming use.

(3) Substandard structures which are damaged or destroyed by fire, wind, flood or other natural causes may be reconstructed and shall comply with the applicable provisions of this chapter, unless the structure is situated on a substandard lot of record, in which case the provisions concerning nonconforming lots shall apply.

(F) *Nonconforming site element.* A nonconforming site element is a site improvement that is required as part of an approval but does not exist, or was existing or lawfully established prior to this chapter being adopted or amended. Site elements include, but are not limited to access, parking, landscaping, signage and lighting.

(1) No nonconforming site element shall be erected, replaced, or modified except to reduce or eliminate the nonconformity. Repair and maintenance of nonconforming site elements is permitted.

(2) When improvements or major external renovations are proposed to an existing conforming structure, the associated nonconforming site elements must also be improved to comply with the current requirements of this chapter.

(3) If all site elements cannot be brought into compliance with the current requirements of this chapter for reasons which include, but are not limited to site layout, space limitations, tree preservation or other natural features, the Planning Director may approve a deviation from site element requirements so long as the modifications to the elements are moving in the direction of conformity with the provisions of this chapter.

(G) *Nonconformities in the water protection overlay (WPO).* Nonconforming lots, buildings and structures located within the WPO may be continued and maintained. Expansions to nonconformities must meet the requirements of § 155.501.

(Ord. 2013-10-03, passed 10-7-13)

ARTICLE 2: ZONING DISTRICTS

§ 155.200 DISTRICTS ESTABLISHED.

To carry out the provisions of this Chapter, within the jurisdiction of the Town, the following zoning districts are established.

(A) *Interpretation of Zoning District Boundaries.*

(1) *Defined.* District boundaries are as shown upon the Official Zoning Map and Future Land Use Map as set forth in §155.104, and as adopted by Town Council. The provisions of this chapter are hereby established and declared to be in effect upon all land included within the boundaries as shown on the maps.

(2) *Rules for Interpretation.*

(a) The Planning Director shall be responsible for interpretations of the Official Zoning Map and Future Land Use Map in accordance with the standards set forth in this Section. Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, alleys, highways, streams or railroads shall be construed to follow such centerlines.

2. Boundaries indicated as approximately following lot lines, Town limits or extraterritorial jurisdiction boundary lines, shall be construed as following such lines, limits or boundaries; and

3. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such changed shorelines.

4. Where a district boundary divides a lot or where distances are not specifically indicated on the zoning map, the boundary shall be determined by measurement, using the scale of the zoning map.

5. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

(b) Any person or party aggrieved by the Planning Director's interpretation of the Official Zoning Map may file an Administrative Appeal application to the Board of Adjustment, as provided in § 155.717 of this chapter. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

(B) *Conventional Districts.*

(1) *Residential Districts.*

(a) R-E | Residential-Estate. The R-E district is comprised of low density, single-family dwellings, and other selected uses which are compatible with the open and rural character of the area. The established regulations for this district are designed to promote and encourage an environment for family life and agriculture. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted.

(b) R-10 | Single-Family Residential-10. The R-10 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at relatively low densities characterized predominantly by single-family detached units. The district requirements protect existing neighborhoods from undesirable or incompatible uses. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(c) R-8 | Single-Family Residential-8. The R-8 district is established to provide for orderly suburban residential development and redevelopment and is intended to maintain residential areas at suburban densities characterized predominantly by single-family detached units. To encourage higher quality development and to ensure greater environmental protection, open space (cluster) subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(d) R-6 | Single-Family Residential-6. The R-6 district is established to provide for orderly suburban residential development and redevelopment. Intended to protect, preserve and enhance existing residential areas of higher density which include multi-family dwellings mixed with other housing types. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(2) *Nonresidential Districts.*

(a) O-R | Office-Residential. The O-R district is intended to accommodate modest-scale professional occupations, along with single-family and multi-family residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses.

(b) O-I | Office-Institutional. The O-I district is intended to permit offices, institutions, and associated administrative, executive, professional and research uses in new and existing structures and limited retail uses. Such offices and institutional uses are generally located along or proximate to major roadways or adjacent to commercial uses and may act as a buffer between such areas and residential uses.

(c) B-1 | Central-Business. The B-1 district is intended to foster a vibrant, safe, central business district and town center by encouraging dense residential development while retaining and further developing a broad range of commercial, retail, service, office, institutional, public, cultural, and entertainment uses and activities. The district is intended to define and promote the town center as a desirable place to live, work, shop, and recreate.

(d) B-2 | Neighborhood-Business. The B-2 district provides opportunities for small-scale commercial uses offering primarily convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations are low intensity, unobtrusive, and conducted at a scale and density compatible with the surrounding neighborhood. There is a relatively low demand on public services, transportation, and utilities.

(e) B-3 | Highway-Business. The B-3 district provides opportunities for offices, service uses, and businesses retailing durable and convenience goods for the community as a whole. Located on major and minor thoroughfares, this district is accessible to and serves the entire community. Site design and buffering mitigate impacts of traffic, operations, and scale on adjacent businesses and residential neighborhoods.

(f) I-1 | Industrial-Light. The I-1 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Industries should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or business districts, warehousing and wholesaling activities, and research facilities. The regulations of this district are intended to prohibit the use of land for industries that by their nature may create very minor nuisance to surrounding properties.

(g) I-2 | Industrial-Heavy. The I-2 district fosters the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Intended for heavy industries that, by their nature, may create some nuisance, and which are not properly associated with or are compatible with nearby residential or business districts, warehousing and wholesaling activities, and research facilities.

(h) PF | Public Facilities. The PF district is established to provide a coordinated land planning approach to the sale, rent, lease, purchase, management, or alteration of publicly owned or operated lands. Notwithstanding those public uses permitted elsewhere in this Code, the PF district is primarily intended for, although not limited to, public parks and recreation areas, public buildings and facilities, and other capital improvements of a significant nature. (Ord. 2015-09-03, passed 09-28-15)

(C) *Conditional Zoning Districts.*

(1) Pursuant to G.S. § 160D-703(b), the Town Council may establish by ordinance conditional districts (§155.705) upon request by or on behalf of all owners. A conditional zoning is a legislative map amendment with site-specific conditions incorporated into the zoning map amendment. Conditional districts provide the opportunity for developments that do not fit easily into existing zoning district(s) even when divided into component parts, and that also demonstrate excellence in site design, circulation, use coordination, and compatibility with neighboring properties such that it is in the public interest to create a new and novel zoning district to accommodate them. Conditional districts shall be designated by adding "-CZ" followed by the ordinance or project number establishing the district. Novel conditional zoning districts shall be designated by adding "CZ" followed by the ordinance number creating the district.

(2) If for any reason a condition imposed pursuant to these regulations is found to be illegal or invalid, it is the intent of this chapter that the authorization of such conditional district shall be null and void and of no effect and that proceedings be instituted to rezone the property to its previous zoning classification. All conditions on conditional zonings must be voluntarily agreed to in writing by all owners of property to which the conditions apply.

(D) *Overlay Districts.*

(1) *Thoroughfare Overlay District (TOD).* The Thoroughfare Overlay District is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares, while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in § 155.204(A) shall be applied to properties which adjoin major thoroughfares, as designated on the Town's Overlay Zoning Map.

(2) *Watershed Protection Overlay (WPO).*

(a) The Watershed Protection Overlay (WPO), pursuant to G.S. § 143-214.5, is hereby established as a district that overlays the designated water supply watershed. The designated water supply watershed under this district is defined and established by the overlay district "Watershed Protection Overlay" on the zoning map. Land use and development within the WPO must comply with all the requirements of both the underlying zoning district and the watershed overlay.

(b) The designated water supply watershed within the Town is designated by the state as a Class IV watershed protected area (WS-IV PA) and is referred to as the Neuse River (Smithfield) watershed within the Neuse River basin. Only new development activities that require an erosion/sedimentation control plan under state law or approved local government program are required to meet the provisions of this program. See § 155.501 for watershed protection standards.

(3) *Downtown Overlay District (DOD).* The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the district's boundaries, as well as the aesthetics and character of the district as further described in this Article, specifically in § 155.204.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2015-06-02, passed 6-1-15; Am. Ord. 2015-09-03, passed 9-8-15; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2017-04-06, passed 4-3- 17; Am. Ord. 2018-05-05, passed 5-21-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.201 MEASUREMENTS AND EXCEPTIONS.

(A) *General.* No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements, and other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

(B) *Gross floor area.* The gross floor area of a building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings.

(C) *Height.*

(1) Height shall be determined by the vertical distance from the average of the finished ground level to the highest finished roof surface.

(2) No structure shall be erected or altered so as to exceed the height limit or density regulations of this article for the district in which it is located, except that in an Industrial district the maximum height may be exceeded by one vertical foot for every additional horizontal foot of setback provided for all sides, up to a maximum 100' of structure height. Structures may be stepped in order to meet this performance standard.

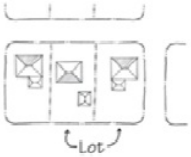
(3) The Board of Adjustment may grant a variance in accordance with §155.716 for structures exceeding the maximum height limits of any district.

(D) *Area.* Area shall be measured in gross square feet or acres.

(1) *Lot.*

(a) Lot area shall be that area included in a single, undivided piece of land.

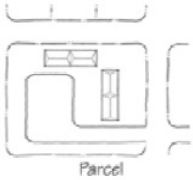
(b) Minimum lot areas shall be exclusive of existing or proposed public or private right-of-way, resource conservation areas (see § 155.500), and required recreation and open space (see § 155.203(H)).



(2) *Parcel.*

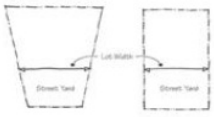
(a) A parcel may contain multiple buildings or uses.

(b) Parcel area shall be that area required for each individual building in a multi-building project. A parcel may include multiple lots.



(E) *Width.*

(1) *Building width.* Building width shall be measured by the distance along the front plane of any building (as determined by the location of an entrance fronting on a street).



(2) *Parcel or lot width.* Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the front setback (also commonly known as the street yard) along a straight line parallel to the front of the property line or if the front property line is not straight, parallel to the chord of the front property line.

(F) *Density.*

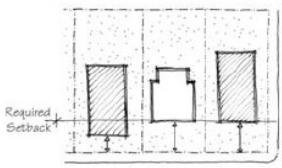
(1) The maximum possible density on any parcel of land shall be as follows:

(a) One hundred percent of the district density for the area outside of resource conservation areas; and

(b) Fifty percent of the district density for any resource conservation areas (see Article 5).

(2) Maximum allowable density for residential development shall be calculated by dividing the acreage of land (in square feet) by the minimum lot area (in square feet) for the district, and then rounding down to the nearest whole number.

(G) *Yards and setbacks.*



(1) *General.*

(a) All front yard and side street yard setbacks shall be measured from the edge of the right-of-way.

(b) The minimum front yard requirements of this article for residential dwellings shall not apply on any lot where the average front yard of existing dwellings located on either side of the lot in question within the same block and zoning district and fronting on the same side of the street is less than the minimum required front yard. In such cases, the front yard on such lots may be less than the required front yard, but not less than the adjacent dwelling with the greatest front yard depth.

(c) Every part of every required yard shall be open and unobstructed above the general ground level of the graded lot upward to the sky except as provided or as otherwise permitted in this section.

(d) No part of a yard or other open space required about any structure or use for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another structure or use.

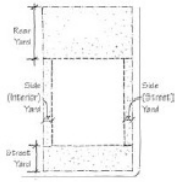
(2) *Types of yards.* There are four types of yards - front, side street (also commonly known as street side) side interior, and rear.

(3) *Measurement of yards.*



(a) Depth of a required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

(b) Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.



(c) Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

(4) *Yard encroachments.* The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

(a) Parking structures may extend into the rear yard of a dwelling unit.

(b) Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of four feet into a required yard.

(c) Building eave or roof overhang may extend up to 24 inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least seven and one-half feet above the ground elevation, and it is located at least five feet from any other building or eave.

(d) Sills and ornamental features may project up to 24 inches into any required yard.

(e) Fire escapes may project up to eight feet into any required yard, but must maintain at least seven and one-half feet above a sidewalk, greenway, or street.

(f) Signs may extend into required yards in conformance with standards found in §155.403.

(g) Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.

(h) Security gates and guard stations may be located within any required yard.

(i) Unenclosed patios, decks or terraces, including lighting structures, may extend up to four feet into any required side yard, or up to eight feet into any required rear yard.

(j) Covered porches may encroach a maximum of 20% of the required front yard setback depth.

(k) Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four feet from the property line.

(l) Bay windows, entrances, balconies, and similar features that are less than ten feet wide may extend up to 18 inches into any required yard, but shall remain at least six feet from the property line.

(m) Structures below and covered by the ground may extend into any required yard.

(n) Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than two feet from the property line.

(o) Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard subject to visibility restrictions.

(p) Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-03-01, passed 3-17-14; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2023-09-01, passed 9-5-23)

§ 155.202 LAND USE REGULATIONS.

(A) *Use Regulations Table.* The use regulations table is subject to the explanation as set forth below.

(1) *Key to Types of Use.*

(a) *Permitted.* A "P" indicates that a use is permitted in the respective district subject to the specific use standards in §§155.300 through 155.311. Such uses are also subject to all other applicable requirements of this chapter.

(b) *Special Use Review.* An "S" indicates a use that may be permitted in the respective general use district only where approved by the Town Council upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards, and in accordance with § 155.711. Special uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in §§ 155.300 through 155.311, except where such use standards are expressly modified by the Town Council as part of the special use approval.

(c) *Conditional Zoning District Required.* A “C” in a cell of the principal use table indicates that a specific use type is permitted as part of the approval of a conditional zoning district, provided the conditional zoning district request is accompanied by either a site plan or master plan and narrative in accordance with § 155.203(L) of this chapter.

(d) *Specific Use Section.* The "Specific Use Section" column on the table is a cross-reference to any specific use standard listed in §§ 155.300 through 155.311. Where no cross-reference is shown, no additional use standard shall apply.

(e) *Uses Not Permitted.* A blank cell in the use table indicates that a use is not permitted in the respective district. Except as pursuant to §§ 155.110 and 155.300, the following uses are entirely prohibited within the jurisdiction of the Town, although such enumeration shall not necessarily be deemed exclusive or all-inclusive:

1. Open dump;
2. Outdoor gun range;
3. Electronic gaming operations; and
4. Any use prohibited by an applicable overlay zoning district.

(2) Uses. Table 2-1 “Use Regulations” lists the principal uses regulated by this chapter for conventional districts. For conditional zoning districts see § 155.200(C), for overlay districts see § 155.200(D), and for accessory structures and uses see § 155.308. In all cases, additional clarification and/or restrictions may be found in the Specific Use Standards (Article 3 of this chapter).

Table 2-1 Use Regulations

Use Type	**Zoning Districts**													*Specific Use Section*
	Residential					***Nonresidential***								
	R-E	***R-10***	***R-8***	***R-6***	***C***	***O-R***	***O-I***	***B-1***	***B-2***	***B-3***	***I-1***	***I-2***	***PF***	
RESIDENTIAL USES														
Group Care Home (2 to 6 Residents)	P	P	P	P										§ 155.301(A)
Group Care Home (7 to 12 Residents)	S	S	S	S		S	S		S					§ 155.301(A)
Group Care Home (13+ Residents)							S		S					§ 155.301(A)
Apartments					C									§ 155.301(B)
Boarding House				S			S		S					§ 155.301(C)
Duplex					C									§ 155.301(G)
Manufactured Home	P													§ 155.301(D)
Manufactured Home Park	S													§ 155.301(E)
Nursing Home (Congregate Living Facility)	P						P		P	P				§ 155.301(F)
Townhouse					C									§ 155.301(H)
Security/Caretaker Quarters	P									S			S	§ 155.301(I)
Single Family House	P	P	P	P		P								§ 155.301(J)
Upper-story Residence						P	P	P	P	P				§ 155.301(K)
Zero Lot Line House		P	P	P										§ 155.301(L)
PUBLIC AND CIVIC USES														

Assembly	S						P	S	S	P			P	§ 155.302(A)
Cemetery	P									S			P	§ 155.302(B)
Church or Place of Worship	S	S	S	S			P		P	S				§ 155.302(C)
College or University							P						P	§ 155.302(D)
Day Care Facility	S	S	S	S		S	P		P	P				§ 155.302(E)
Government Service	S	S	S	S		P	P	P	P	P	P	P	P	§ 155.302(F)
Hospital or Medical Center							P			P			P	§ 155.302(G)
School (Elementary or Secondary)	S	S	S	S			P						P	§ 155.302(H)
School (Technical, Trade or Business)	S	S	S	S			P			P	P	P	P	§ 155.302(I)
RECREATIONAL USES														
Entertainment, Indoor							P	P	P	P	P		P	§ 155.303(A)
Entertainment, Outdoor										S	P		P	§ 155.303(B)
Fitness/Recreation Center							P	S	P	P	P		P	§ 155.303(C)
Golf Course	P	P	P	P									P	§ 155.303(D)
Gun Range								S		S	S	S	S	§ 155.303(E)
Park	P	P	P	P		P	P	S	P				P	§ 155.303(F)
Stable, Private	P													§ 155.303(G)
AGRICULTURAL USES														
Agriculture, Livestock	S													§ 155.304(A)
Agriculture, Sales and Service	P											S		§ 155.304(B)
Nursery	P						P	S	P	P			P	§ 155.304(C)
COMMERCIAL USES														
Adult-Oriented Business											S			§ 155.305(A)
Bed & Breakfast	P			S		S		S						§ 155.305(B)
Car Wash/Auto Detailing									P	P				§ 155.305(C)
Contractor Office							P			P	P	P		§ 155.305(D)
Convenience Store with Gas Sales									P	P	P			§ 155.305(E)
Creative Studio						P	P	P	P	P				§ 155.305(F)
Financial Institution							P	S	P	P				§ 155.305(G)
Funeral Home	S					P	P							§ 155.305(H)
Hotel, Motel							P	S	P	P				§ 155.305(I)
Kennel	S								P	P				§ 155.305(J)
Laundry Services									P	P	P	P		§ 155.305(K)
Lounge, Cocktail								P	S	S	S			§ 155.305(L)
Microbrewery								P	S	P	P	P		§ 155.305(M)
Publisher							P			P	P	P		§ 155.305(N)
Office, General						P	P	P	P	P	P		P	§ 155.305(O)
Office, Medical						P	P	P	P	P				§ 155.305(P)
Outdoor Seating/Sidewalk Café							P	P	P	P				§ 155.305(Q)
Parking Lot							S	S	S	S	S	S	S	§ 155.305(R)
Pawn Shop										P	P			§ 155.305(S)

Radio or Television Studio										P	P	P		§ 155.305(T)
Restaurant							P	P	P	P				§ 155.305(U)
Retail Sales								P	P	P	P			§ 155.305(V)
Self-storage Facility										S	P			§ 155.305(W)
Service						P	P	P	P	P				§ 155.305(X)
Tattoo Parlor										P				§ 155.305(Y)
Towing Service and Storage										S	S	P		§ 155.305(Z)
Vehicle Repair or Service										S	P	P		§ 155.305(AA)
Vehicle Sales and Rental										S	P	P		§ 155.305(BB)
Veterinary Clinic							P		P	P				§ 155.305(CC)
INDUSTRIAL USES														
Building Supplies, Wholesale											P	P		§ 155.306(A)
Crematorium											P	P		§ 155.306(B)
Gas and Fuel, Wholesale											P	P	P	§ 155.306(C)
Laboratory, Research							P				P	P		§ 155.306(D)
Manufacturing, Light											P	P		§ 155.306(E)
Manufacturing, Heavy												P		§ 155.306(F)
Research and Development							P				P	P		§ 155.306(G)
Warehouse, Freight Movement										S	P	P		§ 155.306(H)
UTILITIES														
Recycling Center											S	P	P	§ 155.307(A)
Renewable Energy Facility	S										S	S	S	§ 155.307(B)
Telecommunication Facility	S	S	S	S		S	S	S	S	S	S	S	S	§ 155.307(C)
Utility, Minor	P	P	P	P		P	P	P	P	P	P	P	P	§ 155.307(D)
Utility, Major											P	P	P	§ 155.307(E)
Waste Service											S	P	P	§ 155.307(F)
ACCESSORY USES														
Accessory Dwelling Unit	S	S	S	S										§ 155.308(C)(1)
Food Truck							P	P	P	P	P	P	P	§ 155.308(D)(2)
Day Care Facility	S	S	S	S			P		P	P	P	P	P	§ 155.308(D)(3)
In-Home Day Care	P	P	P	P		P								§ 155.308(C)(3)
Park										P			P	§ 155.308(D)(4)
Outdoor Display/Sales								P	P	P				§ 155.308(D)(5)
Outdoor Dining							P	P	P	P				§ 155.308(D)(6)
Outdoor Storage, Limited										S	P	P	P	§ 155.308(D)(7)

Outdoor Storage, General											P	P	P	§ 155.308(D)(8)
Key:														
P - Permitted														
S - Special Use permitted in the zoning district only if approved by the Town Council (TC) (§ 155.711)														
C - Conditional Zoning District required for this use (§§ 155.203(L) and 155.705)														

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-06-01, passed 6-19-06; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2009-06-06, passed 6-1-09; Am. Ord. 2009-08-03, passed 8-3-09; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-02, passed 4-2- 12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-12-02, passed 12-1-14; Am. Ord. 2015-09- 03, passed 9-8-15; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2019-07-04, passed 7-15-19; Am. Ord. 2020-02-06, passed 2-17-20; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2022-04-03, passed 4-18-22; Am. Ord. 2023-02-01, passed 2-20-23; Am. Ord. 2023-07-02, passed 7-17-23)

§ 155.203 CONVENTIONAL DISTRICT STANDARDS.

(A) *Intent*. The conventional district development standards establish lot sizes and certain restrictions for residential and nonresidential development. These standards allow for variety in housing types while maintaining the overall character of neighborhoods and commercial areas of the Town. Separate standards are established to regulate development in each conventional district. This approach to district development standards benefits the public by:

(1) Allowing for development that is more sensitive to the environment and encourages the preservation of open and natural areas.

(2) Promoting quality site design and energy-efficient development.

(3) Promoting affordable and life-cycle housing.

(4) Promoting development intensities that maximize existing and proposed infrastructure investments.

(B) *Resource conservation areas*. See Article 5 for restrictions on the use of resource conservation areas.

(C) *Clayton general design guidelines*. The town has established a manual to guide the future growth of development. The design guidelines provide a basis for making decisions about the appropriate treatment of new construction and land development. Property owners, real estate agents, developers, tenants, architects and decision makers shall use the guidelines contained in the document when considering a project. This will help establish an appropriate direction for its design. For any project subject to review, the applicant shall refer to the guidelines at the outset, to avoid planning efforts that later may prove to be inappropriate.

(D) *How to use this section*. This section is divided into the following:

Part 1. Residential Districts. This Part sets forth specific standards for development in residential districts.	§ 155.203(E) through § 155.203(J)
Part 2. Nonresidential Districts. This Part sets forth specific standards for development in nonresidential districts.	§ 155.203(K)
Part 3. Conditional Zoning Districts. This Part sets forth specific standards for development in conditional districts.	§ 155.203(L)

PART 1. RESIDENTIAL DISTRICTS

(E) *Purpose and intent*. The purpose and intent of the residential districts is to provide a safe and healthy living environment for residents, protect the town's existing neighborhoods from incompatible uses, maintain natural areas and open spaces within neighborhoods, encourage connectivity and interconnectivity for multiple modes of transportation, and ensure adequate public facilities and services are available to meet the needs of current and future residents.

(F) *Residential subdivision types*. Development within the residential districts allows a variety of housing types. To further the purpose of residential districts, two types of residential subdivisions are permitted, as follows.

(1) *Conventional residential subdivision*. A conventional residential subdivision is a pattern of residential development that provides a majority of property owners with substantial yards on their own property. A recreation and open space dedication or payment of a fee-in-lieu is required for conventional residential subdivisions.

(2) *Open space residential subdivision*. An open space residential subdivision trades conventional minimum lot size and dimensions for additional common recreation and open space. An open space residential subdivision shall be a sufficient size to ensure adequate common recreation and open space can be incorporated into the subdivision design. An open space residential subdivision may allow additional density provided certain enhancements are incorporated into the design of the subdivision.

(G) *Conventional subdivision standards*.

(1) *Applicability*. A conventional residential subdivision is permitted in all residential districts subject to the following standards.

(2) *Density*. In the R-10 and R-8 Districts, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of ten units per acre. In the R-6 District, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre.

(3) *Development standards*. Applicants utilizing the conventional residential subdivision option shall meet all applicable development standards as set forth in § 155.400 through § 155.404 and § 155.500 through § 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(4) *Lots not served by public water and sewer*. No permit to install a septic tank system shall be issued until the County Health Director has determined by a field investigation of the area that the site is acceptable for a septic tank system and that such a system can be installed

at the site in compliance with these rules and regulations. The field investigations shall include evaluation of such factors as size and shape of the lot or lots, character and porosity of soil, percolation rate, topography, depth of the water table, rock or other impervious formations, location or proposed location of any water supply wells, and the success or failure history of any other septic tank systems in the area. The County Health Director shall not issue a permit if he determines that the site is not acceptable for septic tank systems.

(5) *Dimensional standards.* Applicants utilizing the conventional residential subdivision option shall meet the dimensional standards provided in Table 2-2. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

Table 2-2 Conventional Subdivision Regulations

To view this table in PDF, please clickHERE

Conventional Subdivision Standards																
Zoning District	Unit type	Lot Standards						Density (dwelling units/ acre)	Minimum Setbacks (ft.)				Building Standards			
		Min. Site Area (acres)	Min. Parcel Size (sq. ft)	Min. lot area (sq. ft)	Min. lot width (ft.)	Max. lot coverage (%)	Max. imper-vious surface (%)		Front	Side Interior	Side Street	Rear	Max. height (ft.)	Min. dwelling unit Size (sq. ft)	Accessory structures	
Conventional Subdivision Standards																
Zoning District	Unit type	Lot Standards						Density (dwelling units/ acre)	Minimum Setbacks (ft.)				Building Standards			
		Min. Site Area (acres)	Min. Parcel Size (sq. ft)	Min. lot area (sq. ft)	Min. lot width (ft.)	Max. lot coverage (%)	Max. imper-vious surface (%)		Front	Side Interior	Side Street	Rear	Max. height (ft.)	Min. dwelling unit Size (sq. ft)	Accessory structures	
R-E	Single Family with public water and sewer	-	-	20,000	80	35	50	2.1	35	15	25	30	35	- -	See § 155.308	
	Single Family with public water and septic	-	-	25,000	80	35	50	1.7	35	15	25	30	35	- -		
	Single Family with well and septic	-	-	40,000	100	35	50	1.0	35	15	25	30	35	- -		
R-10	Single Family	-	-	10,000	70	35	50	4	30	10	20	25	35	- -	See § 155.308	
	Zero Lot Line	-	-	10,000	70	35	50	4	30	0	20	25	35	- -		
	Alley Loaded[9]	-	-	10,000	70	35	50	4	30	10	10	25	35	- -		
	Two Family		12,000	Set by Special Use Process												
	Townhouse (2 units)		12,000													
	Townhouse (3+units)		20,000													
	Apartments		20,000													
R-8	Single Family	-	-	8,000	60	35	55	5	25	10	15	25	35	- -	See § 155.308	
	Zero Lot Line	-	-	8,000	60	35	55	5	25	0	15	25	35	- -		
	Alley Loaded[9]	-	-	8,000	60	35	55	5	15	10	15	25	35	- -		
	Two Family		10,000	Set by Special Use Process												
	Townhouse (2 units)		10,000													
	Townhouse (3+units)		20,000													
	Apartments		20,000													
R-6	Single Family	-	-	6,000	50	35	60	7	25	6	10	20	35	- -	See § 155.308	
	Zero Lot Line	-	-	6,000	50	35	60	7	20	0	10	25	35	- -		
	Alley Loaded[9]	-	-	6,000	50	35	60	7	10	6	10	25	35	- -		
	Two Family		8,000	Set by Special Use Process												
	Townhouse (2 units)		8,000													
	Townhouse (3+ units)		20,000													
	Apartments		20,000													

Notes	
1	Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)
2	In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.
3	A minimum of 1,245 square feet of Recreation and Open Space is required per unit for Single Family, Zero Lot Line and Alley Loaded units.

4	Public water and sewer is required in the R-10, R-8, and R-6 Zoning Districts. Within Town limits, connection to public water and sewer is also required for lots contiguous to existing service.
5	Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.
6	In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.
7	In the R-6 Zoning District, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 12 dwelling units per acre.
8	When dwelling units are front-loaded or accessed from the front or side a minimum 25' setback is required from the right-of-way providing access.
9	Where lot width is less than 42' (except in existing in-fill lots), the lot must be alley-loaded or have parking accessed from the rear of the lot. Alley-loaded units are permitted only if at least 60% of the dwellings on that side of the block are also alley-loaded and formal on-street parking is required in the front of all alley-loaded units.

(H) *Open space subdivision standards*.

(1) *Intent*. The intent of an open space residential subdivision is to provide a development alternative to a conventional subdivision. An open space residential subdivision involves clustering home sites within a portion of the development site and allowing housing units on smaller lots than those permitted in a conventional residential subdivision. Open space subdivisions promote the preservation of environmentally sensitive land and allows for efficient use of the land to provide additional common open space. Open space subdivision development is encouraged by the town in the form of these flexible design and maximum density provisions. Other purposes of an open space residential subdivision include the following:

(a) To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.

(b) To preserve important historic and archaeological sites.

(c) To permit clustering of houses and structures in a manner that will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.

(d) To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.

(e) To promote interconnected greenways and corridors throughout the community.

(f) To create contiguous greenspace within and adjacent to the development site.

(g) To protect scenic views.

(h) To protect prime agricultural land and preserve farming as an economic activity.

(2) *Applicability*. An open space residential subdivision is permitted in the R-E, R-10, and R-8 Zoning Districts subject to the following standards.

(3) *Mix of housing types.* Two-family, townhouse, apartment, and upper-story residential units may comprise no more than 50% of the total dwelling units of a proposed open space residential subdivision. In no case shall the density allowance be exceeded for the overall site. In the R-10 and R-8 Districts, townhouse parcels, apartment parcels, and upper-story residential units shall not exceed a density of ten units per acre.

(4) *Development standards*. Applicants utilizing the open space residential subdivision option shall meet all applicable development standards as set forth in §§ 155.400 through 155.404 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(5) *Dimensional standards*. Applicants utilizing the open space residential subdivision option shall meet the dimensional standards provided in Table 2-3. Applicants shall comply with all other provisions this chapter and all other applicable laws.

Table 2-3 Open Space Subdivision Regulations

To view this table in PDF, please clickHERE

Open Space Subdivision Standards																
Zoning District	Unit Type	Lot Standards						Density (dwelling units/ acre)	Minimum Setbacks (ft.)				Building standards		
		Min. Site Area (Acres)	Min. Parcel Size (sq. ft.)	Min. Lot Area (sq. ft.)	Min. lot width (ft.)	Max lot coverage (%)	Max. impervious surface (%)		Front	Side interior	Side Street	Rear	Max. height (ft.)	Min. Dwelling unit size (sq. ft)	Accessory structures
Open Space Subdivision Standards																
Zoning District	**Unit Type**	**Lot Standards**						**Density (dwelling units/ acre)**	**Minimum Setbacks (ft.)**				**Building standards**		
		Min. Site Area (Acres)	**Min. Parcel Size (sq. ft.)**	**Min. Lot Area (sq. ft.)**	**Min. lot width (ft.)**	**Max lot coverage (%)**	**Max. impervious surface (%)**		**Front**	**Side interior**	**Side Street**	**Rear**	**Max. height (ft.)**	**Min. Dwelling unit size (sq. ft)**	**Accessory structures**
R-E	Single Family	10	- -	12,000	48	35	50	3.7	25	9	15	18	35	- -	See § 155.308
R-10	Single Family	10	- -	8,000	50	35	50	5	25	6	15	15	35	- -	See § 155.308
	Zero Lot Line	10	- -	8,000	50	35	50	5	25	0	15	15	35	- -	
	Alley Loaded[11]	10	- -	6,000	42	35	50	7	15	5	10	15	35	- -	
	Two Family	10	12,000	12,000	75	35	50	3	25	6	15	15	35	- -	

	Townhouse (2 units)	10	12,000	6,000	42	35	50	3	25	6	15	15	35	- -	See § 155.308
	Townhouse (3 + units)	10	20,000	4,000	25	35	50	10	25	15	15	15	35	- -	
	Apartments	10	20,000	--	--	35	50	10	25	15	15	15	35	--	
R-8	Single Family	10	--	6,000	42	35	55	7	25	6	10	15	35	- -	See § 155.308
	Zero Lot Line	10	--	6,000	42	35	55	7	25	0	10	15	35	- -	
	Alley Loaded	10	--	4,800	40	40	55	9	10	5	10	15	35	- -	
	Two Family	10	10,000	9,000	65	40	55	4	25	6	10	15	35	- -	
R-8	Townhouse (2 units)	10	10,000	4,800	40	40	55	9	25	6	10	15	35	- -	See § 155.308
	Townhouse (3 + units)	10	20,000	3,000	21	40	55	10	25	--	10	15	35	- -	
	Apartments	10	20,000	--	--	40	55	10	15	10	15	20	35		

Notes	
1	Minimum dwelling unit size for multi-family is a per unit minimum
2	Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)
3	In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.
4	A minimum of 1,245 square feet per unit of public Recreation and Open Space is required in the R-E Zoning District
5	A minimum of 12.5% of the total site acreage is required to be Recreation and Open Space in all Open Space Subdivisions.
6	Public water and sewer is required in all residential Zoning Districts.
7	Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.
8	In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.
9	The minimum building separation for townhouse parcels and apartment parcels is 20 feet.
10	When dwelling units are front-loaded or accessed from the front or side, a minimum 25' setback is required from the right-of-way providing access.
11	Where lot width is less than 42' (except in existing in-fill lots), the lot must be alley-loaded or have parking accessed from the rear of the lot. Alley-loaded units are permitted only if at least 60% of the dwellings on that side of the block are also alley-loaded and formal on-street parking is required in the front of all alley-loaded units.

(6) *Utilities*. To the maximum extent feasible, utilities in open space residential subdivisions shall be placed underground.

(7) *Project boundary buffer*.

(a) No buffer is required where the width of the project's perimeter lots is equal to or greater than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel.

(b) Where narrower lot widths are provided, a Class C buffer shall be provided (see §155.402) along all project boundaries of an open space subdivision.

(I) *Recreation and open space requirements*.

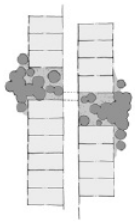
(1) *Applicability*. Recreation and open space is an integral part of both conventional and open space residential subdivisions. The minimum recreation and open space requirement for each subdivision type is set forth below. No additional recreation or open space shall be required on the site, except where otherwise required by state or federal law. In the case that a subdivision is being developed in phases, the amount of recreation and open space shall be computed separately for each phase, but may be combined with existing recreation and open space in earlier phases to create a larger uniform area.

(2) *All residential subdivisions*.

(a) All residential development shall be required to either dedicate a portion of the land in the subdivision, or land in another location if approved by Town Council for recreation or open space use, or make a payment-in-lieu of dedication at a rate as set forth in the town's Comprehensive List of Fees and Charges per lot or dwelling unit. If a development is approved which provides private recreation and open space, to be maintained by a homeowner or property management organization, and meeting the minimum standards of this section, the required fee-in-lieu payment shall be as set forth in the town's Comprehensive List of Fees and Charges per lot or dwelling unit. A combination of dedication and payment-in-lieu may be used to meet these requirements.

(b) At least 1,245 square feet of land shall be required for each proposed dwelling unit. Such land shall not include resource conservation areas (see § 155.500). The Town Council reserves the right to refuse to accept dedication of parcels for subdivisions, in which case the applicant shall pay the fee-in-lieu of dedication. The town shall use fee-in-lieu payments for the acquisition or development of recreation and open space sites.

(c) The location of the proposed recreation and open space areas, its suitability for recreational use, and any recreational plans adopted by the town shall be considered in determining whether to accept dedication or payment of fee-in-lieu of dedication. The decision shall be made by the Town Council as a component of preliminary subdivision plans or special use permits, or by the Planning Director as a component of site plans. Any decision of the Planning Director relative to this section may be appealed to the Town Council.



(3) *Open space residential subdivision.*

(a) All development utilizing the open space residential subdivision option shall provide recreation and open space equal to 12.5% of the net site area as public or private recreation and open space.

(b) Where the Town Council accepts dedication of a portion or all of this recreation and open space, the dedicated portion shall receive 100% credit toward the requirement for recreation and open space in (I)(2) of this section. The Town Council reserves the right to refuse to accept dedication. If dedication is not accepted by the Town Council, the development shall pay 100% of the required fee-in-lieu payment as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit.

(4) *Configuration of recreation and open space.*

(a) The minimum width for any required recreation and open space shall be 50 feet. Exceptions may be granted by the Town Council for items such as trail easements, mid-block crossings, linear parks/medians, when their purpose meets the intent of this section.

(b) At least 60% of the required recreation and open space shall be in a contiguous parcel. For the purposes of this section, contiguous shall include any recreation and open space bisected by a residential street (including a residential collector), provided that:

1. A pedestrian crosswalk is constructed to provide access to the recreation and open space on both sides of the street; and
2. The right-of-way area is not included in the calculation of minimum recreation and open space required.

(c) The recreation and open space shall adjoin any neighboring areas of recreation and open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected recreation and open space.

(d) The required recreation and open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space (i.e. mid-block connections in logical locations). No lot within the subdivision should be further than a one-quarter-mile radius from the required recreation and open space. This radius shall be measured in a straight line, without regard for street, sidewalk or trail connections to the open space.

(e) Access to the recreation and open space shall be provided either by an abutting street or easement. Such easement shall be not less than 30 feet wide.

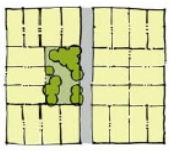
(f) At least 25% of the recreation and open space shall be improved. Trails may be developed in accordance with the Clayton General Design Guidelines. Other improved recreation and open space areas shall be developed as set forth below. The shape, topography, and subsoils shall be appropriate to the improvements proposed. Where recreation or open space consists of prime agricultural land, this improvement requirement shall not apply.

Tot Lot & Playgrounds (Private Only). Playgrounds provide play areas for children as well as open shelter and benches. Playgrounds may be built within squares, greens, mini-parks and neighborhood parks or may stand alone within a residential block.



Playgrounds shall be designed with commercial grade play equipment for two age groups: tot lot for children ages one to five; and separate play equipment for children ages six to ten. May include picnic units and shelters. Minimum requirements include two park benches and one trash receptacle. Must have shock absorbing surface with a maximum 2% slope. Playgrounds must meet all federal, state and local regulations and be compliant with the Americans with Disabilities Act. Due to the continuing maintenance obligations, the town does not accept dedication of tot lots and playgrounds.

Mini-Park (Private Only). The mini-park provides active recreational facilities for the use by the residents of the immediate surrounding neighborhood within the development.

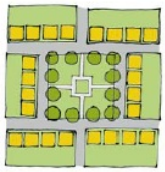


Size is from 2,500 sq. ft to one acre. May include: tennis courts, basketball courts, playgrounds and seating accommodations. Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. Rear facing lots are allowed. Mini-parks shall be attractively landscaped and be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences. Due to the continuing maintenance obligations, the town does not accept dedication of mini-parks.

Plaza. Plazas are for passive recreation use adjacent to a civic or commercial building. Plazas are paved in brick or another type of imperious surface. Plazas shall be level, stepped or gently sloping. At no time shall a plaza's horizontal length or width be greater than three times the height of surrounding buildings. Size is from 2,000 to 30,000 sq. ft.



Squares. Squares are formal areas for passive recreation use bound by streets or front facing lots.



Squares shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a square. Tree plantings are encouraged parallel to the street right-of-way. Geometrical tree planting layouts for internal plantings are encouraged. Minimum size is 500 sq. ft. to one acre.

Green. The green is an informal area for passive use bound by streets or front facing lots. A green shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a green. Tree plantings can be informal and the topography irregular. Greens may be used to preserve specimen trees. Size is 500 sq. ft. to one acre.

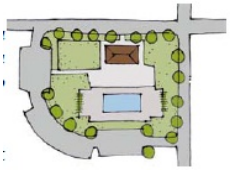


Neighborhood Park. Neighborhood parks are designed for active or passive recreation use. Maximum park size can exceed five acres if the neighborhood park creates an open space that services an entire neighborhood or a group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, or significant stands of trees).



Minimum size from one to five acres. Neighborhood parks shall be bound by streets on a minimum of 50% of their perimeter. Front facing lots are encouraged around the perimeter. Neighborhood parks shall include benches and walking paths. Neighborhood parks may include but are not limited to: tennis courts, racquet ball courts, basketball courts, volley ball courts, ball fields, swings, slides, playgrounds, dog parks, benches, restrooms, picnic units, shelters, walking paths and parking areas.

Clubhouse/Pool Amenity Area. Clubhouse/pool areas can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include: swimming pools, group activity room, gazebos, outdoor eating areas, and exercise stations.



Pools should be a minimum size of 1,000 sq. ft. Clubhouses and swimming pools must meet all applicable building and health codes for the Town and the state.

Greenway. Greenways typically follow natural or constructed features such as streams or roads and are designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods, and are used for transportation, recreation, and environmental protection. Greenways differ from parks; plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.



Design of the greenway should incorporate conservation of existing mature tree canopy and landscape, protection of existing natural drainage ways and creeks. Improvements shall include paved walks/trails and benches, and trash receptacles.

(5) *Adopted municipal and county plans.* Adopted municipal and county plans shall be taken into consideration when evaluating land proposals.

(6) *Permitted uses of recreation and open space.* Uses of recreation and open space may include the following:

(a) Conservation areas for natural, archeological or historical resources;

(b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;

(c) Pedestrian or multipurpose trails;

(d) Passive recreation areas;

(e) Active recreation areas, provided that impervious area is limited to no more than 50% of the total recreation and open space;

(f) Golf courses (excluding clubhouse areas and maintenance facilities), provided the area does not exceed 50% of the required recreation and open space, and further provided that impervious area is limited to no more than 10% of the total recreation and open space;

(g) Above-ground utility rights-of- way, provided the area does not exceed 50% of the required recreation and open space;

(h) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;

(i) Landscaped stormwater management facilities;

(j) Easements for drainage, access, and underground utility lines; and

(k) Other conservation-oriented uses compatible with the purposes of this chapter.

(7) *Prohibited uses of recreation and open space.* Recreation and open space shall not include the following:

(a) Community or individual wastewater disposal systems;

(b) Streets (except for street crossings as expressly provided above) and parking areas; and

(c) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

(8) *Ownership and management of recreation and open space.*

(a) *Ownership.* Recreation and open space shall be accepted and owned by one of the following entities:

1. Town of Clayton. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the Town.

2. Land conservancy or land trust. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by a land conservancy or land trust.

3. Homeowners association. A homeowners association representing residents of the subdivision shall own the recreation and open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the homeowner's association.

4. Private landowner. A private landowner may retain ownership of recreation and open space. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the private landowner.

(b) *Management.* Applicants shall submit a plan for the management of recreation and open space and other common facilities that:

1. Allocates responsibility and guidelines for the maintenance and operation of the recreation and open space, and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;

2. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the recreation and open space and outlines the means by which such funding will be obtained or provided;

3. Provides that any changes to the plan be approved by the town; and

4. Provides for enforcement of the plan.

(c) *Maintenance*.

1. Passive recreation and open space maintenance is limited to removal of litter, dead tree and plant materials (that is obstructing pedestrian movement), and brush; weeding and mowing. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.

2. No specific maintenance is required for agricultural uses.

3. Active recreation and open space areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances or unhealthy conditions.

(d) *Failure to maintain.* In the event the party responsible for maintenance of the recreation and open space fails to maintain all or any portion in reasonable order and condition, the town may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the homeowner's association, or to the individual property owners that make up the homeowner's association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

(9) *Legal instrument for permanent protection.*

(a) The recreation and open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

1. A permanent conservation easement in favor of either:

A. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The

organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions; or

B. A governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the town, then a third right of enforcement favoring the town shall be included in the easement.

2. A permanent restrictive covenant for conservation purposes in favor of a governmental entity.

3. An equivalent legal tool that provides permanent protection, if approved by the town.

(b) The instrument for permanent protection shall include clear restrictions on the use of the recreation and open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the recreation and open space. Where appropriate, the instrument shall allow for stream or habitat restoration within the easement area.

(J) *Nonresidential development in residential districts.* As set forth in the Use Regulation Table (Table 2-1 § 155.202) certain nonresidential uses are permitted in residential districts. Permitted nonresidential uses shall meet the dimensional standards provided in Table 2-4. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

Zoning District	Lot Standards			Minimum Setbacks				Building Standards		
	Min. Lot Area (sq. ft.)	Min. Lot Area (sq. ft.)	Public Water & Sewer	Street (Front)	Side Interior	Side Street	Rear	Max. Building Height (ft.)(1)	Building Coverage	Impervious Surface
R-E	20,000	80	Required	35	15	25	30	35	35%	50%
R-10	10,000	70	Required	30	10	20	25	35	35%	50%
R-8	8,000	60	Required	25	10	15	25	35	35%	55%
R-6	6,000	50	Required	20	6	10	20	35	35%	60%

PART 2. NONRESIDENTIAL DISTRICTS

(K) *Nonresidential district standards.*

(1) *Development standards.* Applicants shall meet all applicable development standards as set forth in §§ 155.400 through 155.404 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(2) *Nonresidential dimensional standards.*

(a) As set forth in the Use Regulations Table (Table 2-1 § 155.202) certain uses are allowed in nonresidential districts. Allowed uses shall meet the dimensional standards provided in Table 2-5. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

Zoning District	Lot Standards			Minimum Setbacks (ft.)				Building Standards(3)		
	Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Public Water & Sewer	Street/ Front (Max.)	Side Interior (abutting residential)	Side Street	Rear (abutting residential)	Max. building Height (ft.)(1)	Building Coverage	Impervious Surface
Zoning District	Lot Standards			Minimum Setbacks (ft.)				Building Standards(3)		
	Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Public Water & Sewer	Street/ Front (Max.)	Side Interior (abutting residential)	Side Street	Rear (abutting residential)	Max. building Height (ft.)(1)	Building Coverage	Impervious Surface
O-R	6,000	50	Required	20	6(6)	10	20(20)	35	50%	75%
O-I	6,000	60	Required	30	10(30)	20	20(30)	60	50%	75%
B-1(1)	None	None	Required	0(2)	0(30)	0	0(30)	50	--	--
B-2	6,000	50	Required	20	10(30)	10	20(30)	35	50%	75%
B-3	8,000	60	Required	25	15(30)	30	30(30)	60	50%	75%
I-1	20,000	100	Required	50	20(30)	30	40(40)	50	50%	75%
I-2	20,000	100	Required	50	20(30)	30	40(40)	50	50%	75%
PF	-	-	-	-	-	-	-	-	-	-

Notes:

(1)	No maximum building coverage or impervious surface limits in the B-1 Zoning District
(2)	Maximum 10 foot street yard setback in B-1 Zoning District
(3)	Minimum Building Separation in all Zoning Districts is 20 feet
(4)	The Town Council may grant a special use permit in accordance with §155.711 for structures exceeding the maximum height limits

(b) More than one building may be permitted be on a single lot.

(c) In the B-1 District, no rear yard shall be less than that of the nearest building facing on the same side of the street with the least rear yard depth. In no case shall the required rear yard setback exceed ten feet from the rear property line.

(d) The Town Council may grant a special use permit in accordance with §155.711, allowing specified nonresidential buildings to exceed the maximum height limits of the district.

(3) *Residential dimensional standards.*

(a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain residential uses are permitted in nonresidential districts. Dimensional standards for townhouses and apartments are established through the special use process (see § 155.711). Within the B-1 District, no townhouse or apartment shall be established on a parcel less than 20,000 square feet in area.

(b) Upper-story residential is permitted on the upper floors of a nonresidential building and shall conform to the lot, yard and bulk requirements of the principal building.

(c) Except in the B-1 District, townhouse and apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre in a standard residential district.

PART 3. CONDITIONAL ZONING DISTRICTS

(L) *Conditional zoning district standards.*

(1) General provisions for all conditional zoning districts.

(a) *Rezoning criteria*. In approving a rezoning for a conditional district, the Town Council shall find the district designation and site plan or master plan and narrative comply with the general standards of this section and the specific criteria of § 155.705.

(b) *Site plan or master plan and narrative*. The development proposed in the site plan or master plan and narrative is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties. The site plan or master plan and narrative shall be prepared by a professionally certified landscape architect, engineer or architect.

(c) *Design guidelines and dimensional standards*. Each site plan or master plan and narrative shall provide a comprehensive set of design guidelines that demonstrate the project will be appropriate within the context of the surrounding properties and the larger community. All bulk, area and dimensional standards shall be established by the Town Council at the time of approval.

(d) *General development standards.* Unless granted Variance by the Board of Adjustment, all standards specified in §§155.400 through 155.405 shall apply.

(e) *Specific use standards*. Unless modified standards are approved by the Town Council through one or more conditions, the specific use standards in Article 3 shall apply to all Conditional Zoning Districts.

(f) *Resource conservation areas*. See Article 5 for restrictions on the use of resource conservation areas.

(g) *Recreation and open space*. The site plan or master plan and narrative shall meet or exceed the recreation and open space requirements of an open space residential subdivision (see § 155.203(H)).

(h) *Stormwater management*. The site plan or master plan and narrative shall contain a comprehensive stormwater management plan prepared by a professional engineer licensed in the state.

(i) *Phasing*. If development is proposed to occur in phases, the site plan or master plan and narrative shall include a phasing plan for the development, and if appropriate, with specific build-out dates. Guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents and tenants of the project, or that are of benefit to the town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.

(j) *Landscaping, buffering, and screening.* As otherwise required by Article 4, with a minimum requirement of a 15 ft. wide buffer meeting Class "C"perimeter buffer planting requirements.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2015-09-03, passed 9-8-15; Am. Ord. 2017-08-05, passed 8-7-17; Am. Ord. 2019-06-05, passed 6-17-19; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2023-02-01, passed 2-20-23)

§ 155.204 OVERLAY DISTRICT STANDARDS.

(A) *Thoroughfare Overlay District.*

(1) *Established.* The Thoroughfare Overlay District (TOD) is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in this section shall be applied, at the discretion of the Town Council, to nonresidential properties which adjoin major thoroughfares.

(2) *Designation*. Properties subject to these regulations shall be adjacent to, or have immediate access to a major thoroughfare. The boundaries follow the major thoroughfares both within the corporate limits and extraterritorial jurisdiction, and in no case extend more than 150 feet from the outer edge of the right-of-way of a thoroughfare.

(3) *Permitted uses.* All permitted and special uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification and any standards listed herein.

(4) *Dimensional requirements*. The dimensional requirements of this overlay district shall be the same as the underlying zoning district.

(5) *Street yard requirements*.

(a) All new developments or major expansions of existing development (25% increase in building area, lot area, or parking requirement) shall provide a landscaped street yard as provided in Table 2-6.

Table 2-6 TOD Street Yard Requirements

	Street Yard Width (feet)		
	Average	***Minimum***	***Maximum***
TOD Commercial	20	10	40
TOD Industrial	40	20	80

(b) For purposes of this section, the street yard area is determined by multiplying the lot frontage, less driveways, times the average required width to determine the required street yard area. There shall be no structures allowed in this street yard, except as follows:

1. Landscaping;
2. Drainage features designed to mimic the natural environment;
3. Public utilities and facilities;
4. Driveways and streets;
5. Sidewalks, pedestrian ways, or bikeways;
6. Other than a Development Identification Sign described in §155.403, freestanding signs may not exceed six feet in height and 24 square feet per sign face.

(6) *Landscape requirements.*

(a) All required street yard areas shall be covered by lawn, ground cover, trees, shrubs, or mulch, except as noted above. Maintenance shall be the responsibility of the property owner. Landscaping shall be required according to Table 2-7 below.

Table 2-7 TOD Landscape Requirements

	Min. Landscape Requirements	
	Trees (per 1,000 sq. ft. of street yard)	***Shrubs (per 1,000 sq. ft. of street yard)***
TOD Commercial	1	5
TOD Industrial	2	10

(b) The preservation of existing trees shall be required when practical, utilizing recognized professional standards. The species and size of all plant material shall be specified on the site plan, and at least 50% of the total shall be evergreen. Trees shall have a minimum height of six feet and shrubs must have a minimum height of 18 inches at planting and reach 30 inches within two years. Additional trees may substitute for shrubs on a one-for-one basis. The requirements set forth in this section may be used to fulfill up to 67% (two-thirds) of the landscaping required under § 155.402(D), except that landscaping within all parking areas for vehicles, as set forth in §155.401(C)(3)(d)2., and buffers, as set forth in § 155.402(E)(2)(c) shall be provided completely, as required, in addition to these requirements.

(7) *Access regulations.* All driveways and public street intersections in a Thoroughfare Overlay District shall be subject to NCDOT and the town standards and permitting processes, whichever is applicable. Any parcel of land with less than 400 feet of frontage on a thoroughfare may have no more than one point of access to the thoroughfare. One additional driveway for each additional 400 feet of thoroughfare frontage shall be allowed, and one per 400 feet of additional frontage. Where medians are provided which prohibit turns into oncoming traffic, access points may be provided every 200 linear feet. No driveway shall be allowed within 300 feet of the intersection of two thoroughfares or within 200 feet of an intersection of any other public street on the thoroughfare. Driveways shall be a minimum of 200 feet apart (measured from center line to center line) on thoroughfares, and shall align with opposing drives, where possible. Shared driveways or parallel access roads shall be used when deemed necessary, and the appropriate legal documents may be required by the town prior to driveway permit issuance. If access to a lot or legally created parcel of land is physically unobtainable under these provisions, an access point may be approved which is located the greatest distance possible from an existing access point and in the safest possible location to be approved by NCDOT and/or the town. For the purpose of this section, adjacent lots in common ownership fronting on a thoroughfare in a Thoroughfare Overlay District shall be considered as one lot when determining permitted driveways.

(8) *Alternative means of compliance.* It is recognized that strict interpretation and application of these standards may create particular hardships in areas of unusual topographic condition, or in retrofitting existing developed properties which are expanded. The Board of Adjustment may grant a variance for any proposed development which proposes to meet any specific standard of this section via an alternate means of compliance, subject to making the following findings (in addition to those of a variance):

(a) The proposed development attempts to meet the intent of the Thoroughfare Overlay District.

(b) There are physical conditions, not only economic considerations, which prevent the proposed development from meeting the specific standards of this chapter.

(c) The proposed development will be designed to meet the standards of this section to the fullest extent possible.

(d) In determining alternative means of compliance, the Board may consider various features such as width in relation to opacity of landscaping in street yard, number of required parking spaces, and driveway locations and/or distances from nearby intersections.

(B) *Watershed Protection Overlay (-WP).* The use and development standards for the Watershed Protection Overlay (-WP) are found in § 155.501.

(C) *Downtown Overlay District.* The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the district's boundaries. It is recognized that an attractive and vibrant downtown promotes the economic development and stability of the entire community. The uses, character, and design of the public and private realm all contribute to the success of the downtown. The

standards established herein shall be applied to all properties which are located within the district's boundaries.

(1) *Designation of Downtown Overlay District.* This district shall be an overlay district and shall include all properties located wholly or partially (20% or more) within the Downtown Overlay District of the Town Zoning Map.

(2) *Permitted uses.*

(a) All permitted and special uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification, subject to site plan approval and the additional requirements of this section.

(b) All nonresidential tenants, businesses, uses, and activities on the ground (first) floor of a building which fronts on Main Street shall be responsive to and provide services, goods, or otherwise engage in business with pedestrians and the general public. More specifically, the following use types are prohibited on the first floor (street level) of Main Street:

1. Businesses which exclusively engage in "by appointment only" clientele or do not have active reception areas which accept walk-in customers;

2. Residential uses. This does not include ancillary facilities, such as lobbies which serve upper story residential uses;

3. Drive-thru facilities;

(3) *Sign regulations.* The following criteria modifies, but does not replace, the text of § 155.403 "Signs", and may be either more or less restrictive.

(a) All signs allowed in the Downtown Overlay District, with the exception of window/door signs, awning/marquee/canopy signs, and flags, shall have at least one distinguishing architectural or design feature, including but not limited to one of the following:

1. Exterior illumination with decorative lighting fixture;

2. Decorative or architectural mounting bracket;

3. Decorative border design that deviates from a standard rectangle;

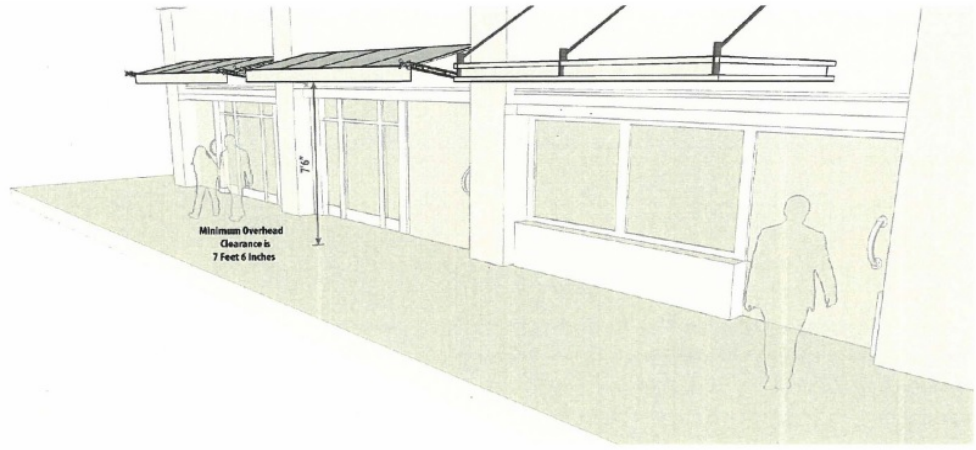
4. Or some other design feature or embellishment that distinguishes the sign as high quality and enhancing of the downtown streetscape.

(b) *Illumination.* Illumination of sign shall not be restricted based on proximity to residential uses, but rather by the business hours of the use.

(c) *Clearance.*

1. The minimum required clearance for any overhead sign, awning, or canopy is seven feet - six inches.

2. In order to ensure adequate pedestrian movement on the sidewalk (including the opening and closing of vehicular doors), no overhead sign, awning, or canopy shall be supported through the use of columns or other measure which requires it to be anchored to the ground



(d) *Prohibited signs.* Except for "Historic Signs", the following additional signs shall be prohibited in the Downtown Overlay District:

1. All signs designated in § 155.403(E) "Signs Prohibited";

2. Electronic changeable copy signs;

3. Freestanding signs that cannot meet the setback criteria;

4. Billboards;

5. Manual changeable copy signs, unless associated with a theater, assembly, or a church;

6. Drive-thru menu boards;

(e) *Promotional banners and seasonal displays.*

1. Small window posters advertising upcoming special events, sales events, or other such seasonal information are allowed on

ground-floor storefront windows without requirement for a sign permit. A maximum of one 24-inch by 36-inch poster, or two 18-inch by 24-inch posters are allowed per storefront, and these posters must be relevant and current.

(f) *Easels/sandwich boards/A-frame signs.*

1. Easels/sandwich boards/A-frame signs shall be permitted provided that there is a minimum of five feet of sidewalk clearance.

2. Easels/sandwich boards/A-frame signs shall be a maximum of six square feet in area (per side).

3. Easels/sandwich boards/A-frame signs shall only be displayed during business hours, and may not be attached to anything else.

4. Easels/sandwich boards/A-frame signs shall be constructed of quality frame materials, such as decorative metal or wood; plastic shall not be allowed.

(g) *Wall/fascia signs.*

1. All tenants not on the ground floor and located within the same building with units accessed internally may only utilize a tenant identification sign (§ 155.403(G)(9)).

2. A wall sign designed and functioning as a larger version of a tenant identification sign (advertising for some or all on-site tenants) may be permitted provided that it:

A. Adheres to the dimensional requirements of a wall sign, and

B. Each tenant may not be advertised more than once per facade, if they are included on the modified wall sign.

(h) *Flags.*

1. Angled- or horizontally-projecting flagpoles may encroach into the right-of-way with an approved sign permit, although they must remain three feet from the back of curb. Permission from NCDOT may be required, depending on ownership of the right-of-way.

2. Only one flagpole per building or site is allowed, with a minimum required frontage as follows:

A. One angled- or horizontally-projecting flagpole allowed for buildings with 25 feet of building frontage.

3. An exemption to the maximum number of flags and clearance requirements is that each ground floor entrance may have one small flag (two square feet per side) projecting from adjacent to the door.

(4) *Dimensional requirements.*

(a) The purpose of modified setbacks on Main Street in the Downtown Overlay District is to provide adequate room for outdoor seating and dining, display of wares, an enhanced pedestrian realm, and create space for an active street life, while also continuing a unified visual building frontage along the street. This is in addition to the standard purpose for enforcing setbacks in the town.

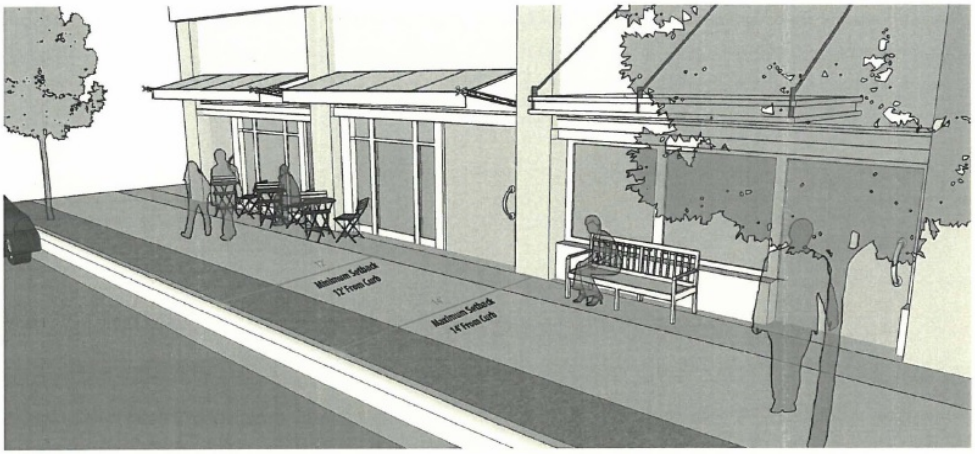
(b) Setbacks and build-to lines for nonresidential and mixed use zoning districts:

1. The dimensional requirements of this Overlay District are the same as the underlying zoning district, with the following modifications to setbacks and dimensional standards on that portion of Main Street that is within the Downtown Overlay District.

A. Minimum and maximum setbacks are established on properties that front on roads, sidewalks, or public rights-of-way:

i. A minimum setback line is established at 12 feet from back of curb.

ii. A maximum setback line is established at 14 feet from back of curb.



iii. The Board of Adjustment may grant a variance to allow an alternate building setback that pulls the building or a portion thereof closer to the street to provide consistency with adjacent properties and continue an established streetscape rhythm.

iv. The Board of Adjustment may gant a variance to vary the maximum setback requirement in order to preserve the historic character or landmark status of an existing building, to preserve the character of a park or public square, or to ensure the Americans with Disabilities Act (ADA) requirements are met.

v. Architectural, landscaping, or other site elements may still be required as part of the site plan to continue the appearance of a unified frontage with neighboring buildings.

B. The street-facing facades of a building are permitted to exceed the minimum and maximum setback lines established above to allow for decorative, recessed or projected entries, balconies, or window treatments that are in accordance with other parts of this section.

C. If a building is set back further than neighboring buildings, some design element shall be incorporated in front of the first floor facade, such as knee wall, first floor roof projection designating outdoor seating area, or other architectural element or design feature that continues the streetscape rhythm of neighboring buildings.

(5) *Development standards.* The following criteria modifies, but does not replace, the text of §155.400 “Access”, § 155.401 “Off-Street Parking and Loading”, § 155.402 “Landscaping, Screening, and Buffering”.

(a) Widths of access ways, as described in Table 4-1 “Dimensional Standards of Access Ways”, may be reduced to match the dimensions of existing streets in the Downtown Overlay District, with approval by the Planning Director, Engineering Director, and Fire Marshal as part of the standard review of individual development projects.

(b) *Parking requirements.*

1. *General.*

A. Cross access shall be provided between adjacent parking lots to minimize the number of access points along streets. The Board of Adjustment may grant a variance to this requirement if cross access is not feasible due to natural features or site layout restrictions. Cross access shall be accompanied by a cross access easement or agreement, recorded with the Clerk of Court. Single family residential and duplexes are exempt from this requirement.

B. Any new construction in the Downtown Overlay District with frontage on a public right-of-way shall be required to formalize on-street, parallel parking, along the frontage(s) of the property, including landscaped bumpouts at intersections. Adjacent on-street parking spaces may count toward meeting the parking requirement for a site.

C. All parking spaces within the Downtown Overlay District shall be paved. Permeable paving that is dustless and meeting the load-bearing standards required for its use and meeting any other engineering standards of the town may be allowed if approved by the Town Engineer. No grass, gravel, dirt, or other non-engineered surfaces are allowed.

D. *Multi-story parking structures/decks.*

i. If visible from the street, multi-story parking structures/decks shall place the shortest dimension along the street, if possible.

ii. On Main Street, multi-story parking structures/decks shall incorporate usable spaces for nonresidential uses (i.e., storefronts and/or tenant spaces) along the entirety of first floor facades that front on public rights-of-way, excepting entrances and exits.

iii. Multi-story parking structures/decks shall be architecturally consistent with surrounding buildings and shall meet all other criteria of this section.

2. *Residential off-street parking.*

A. Residential off-street parking requirements may be satisfied with offsite parking provided the following are met:

i. The off-site parking area is in proximity to the parcel on which the residential dwellings are located;

ii. The off-site parking spaces are designated as reserved for the residential units which they serve;

iii. Required handicap parking spaces are located as close as possible to the residential dwellings;

iv. Required guest spaces may utilize adjacent on-street parking, to the extent that it is feasible and that those spaces remain publicly accessible.

v. All other relevant conditions of §155.401(C)(3)(c), “Off-Site Parking”, are met.

3. *Nonresidential development and uses.*

A. All nonresidential and mixed use developments shall utilize alley loaded and/or parking to the rear of the building.

B. The Board of Adjustment may grant a variance to the parking and loading requirements of §155.401 for business or structure expansions provided that as much off-street parking and loading as can reasonably be provided is provided, and no foreseeable traffic congestion problems will be created.

C. New construction shall provide bicycle rack(s) on site or pay fee-in-lieu. The fee-in-lieu shall be calculated using an average purchase price for the bicycle rack(s) plus installation cost, and will be used to provide appropriate bicycle infrastructure and parking facilities in the public right-of-way or on public property in downtown.

(c) *Landscaping, screening, and buffering requirements.*

1. The Board of Adjustment may grant a variance to the landscaping, screening, and buffering requirements provided that as much landscaping, screening, and buffering as can be reasonably provided is provided.

2. All landscaping shall be designed to reduce unsafe areas of limited visibility.

3. Berms may not be used for required screening.

4. Landscape buffers or opaque visual screening, except that used for screening parking areas to a maximum height of three feet, shall not be required along any public right-of-way.

5. Fences or walls not used for required screening or for providing security for a parking area shall be limited to four feet in height. This requirement does not apply to single family residential, duplexes, or townhomes. Chain link fencing is prohibited.

6. Plastic, vinyl, and similar low quality materials are prohibited for planters and window boxes.

7. *Street trees.*

A. At the discretion of the Planning Director, street trees shall be required at appropriate, coordinated locations along all public rights-of-way at an interval that mimics the existing tree placement in that area.

8. The following are considered minor administrative modifications:

A. In zoning districts where the maximum allowed impervious area infringes on site area available for landscaping, the number of site interior landscaping materials may be reduced up to 25% as a minor administrative modification.

B. Understory tree species may be substituted for canopy trees. This includes trees required as part of overlay districts, site interior landscaping requirements, parking lot landscaping, street trees, and incompatibility buffers.

C. High-quality, raised landscaping planters may be substituted for required plantings provided that the planters match the existing streetscape materials and design palette if adjacent to a public right-of-way, or that of the primary structure. Plastic, vinyl, and similar low quality materials are prohibited.

(6) *Neighborhood character, appearance, and architectural design.*

(a) *General requirements applicable to all properties.*

1. Right-of-way shall be dedicated (if necessary) to allow for two-way traffic and on-street parking (both sides) along public streets.

2. In new construction, a minimum of eight feet of mostly-unobstructed walking surface (from back of curb) shall be provided for pedestrian traffic on Main Street. Some of this area may be used for public display of wares or outdoor seating, pursuant to the relevant portions of this chapter, so long as a minimum of five

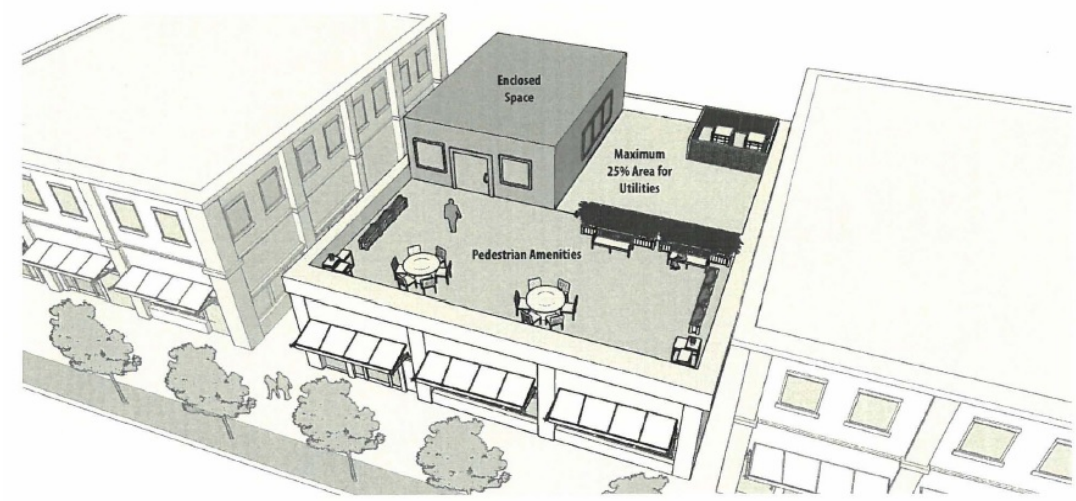
feet of fully unobstructed clearance remains for pedestrian traffic.

3. Structures shall be oriented so that their primary facade faces and is parallel with the principal street on which they are located.

4. Nonresidential and mixed use infill development shall occupy the full width of the lot width to create a continuous streetscape. Allowances may be made for required vehicular and pedestrian ingress/egress points, courtyards, or other pedestrian friendly points of interest.

5. The following shall apply to properties on Main Street:

A. New and infill development shall be a minimum of two stories, with the uppermost story being enclosed space, space for pedestrian amenities, or a combination thereof. A maximum of 25% of the uppermost story may be set aside to allow room for mechanical equipment.



B. Buildings shall not have a single tenant space which exceeds 10,000 square feet in area on the first floor, unless at least one external, storefront entrance is provided for every 5,000 square feet, and the internal space is designed to be able to be partitioned.

6. *Corner lots on Main Street.*

A. Corner buildings shall match or exceed the height of adjacent buildings, with a minimum height of two stories.

B. Facades shall be oriented so that they face and are parallel with adjoining streets.

C. Where practicable, vehicular access shall be located on the side street and as far as possible from the intersection.

7. *Materials.*

A. Quality building materials shall be used on the exterior facades of new construction, replacement, renovation, or covering of an existing facade. The following materials are prohibited from use: stucco; metal panels; corrugated metal; fiberglass; metal screening; horizontal lap siding made of plastic, vinyl, or aluminum; concrete block (flat or textured); and concrete panels.

8. *Windows.*

A. Opaque windows shall be limited to a maximum of 10% of the total window requirement of a building. In this instance, “opaque” is defined as any window material or glazing (glass block, frosted or smoked windows, wraps, etc.) that inhibits view from the outside to the inside of the building.

B. False windows or faux windows are not permitted on the first floor on any facade that is visible from a public right-of-way.

C. Security bars or similar theft prevention devices of high visual impact shall not be allowed on any window that is visible to the public. Any security measures shall be of low visual impact or seamlessly integrated into the design of the window, building, or facade.

D. *Nonresidential and mixed use zoning districts, and conforming nonresidential buildings in residential zoning districts.*

i. For the purpose of calculating the window percentages required below, a building floor shall be measured from two feet above finished floor to a height of ten feet.

ii. The ground floor of a building shall provide a minimum window coverage of 60% on the primary facade. Corner buildings may reduce the ground floor window coverage to 30% on the side street facade.

iii. Upper floors shall provide a minimum of 30% window coverage of the facade, and simple patterns shall be used to subdivide the windows to add character to the buildings. Horizontal massing of upper floor windows is prohibited.

iv. Buildings shall not be altered as to reduce the amount or area of first (ground) floor storefront windows to less than the amount specified in this section.

v. Ground floor windows and translucent doors within 20 feet of the back of curb along a road frontage shall not be covered or screened with window coverings, so as to obstruct visibility over more than 25% of the surface area, for more than one-half of business hours. Existing violations shall be removed no later than December 31, 2019.

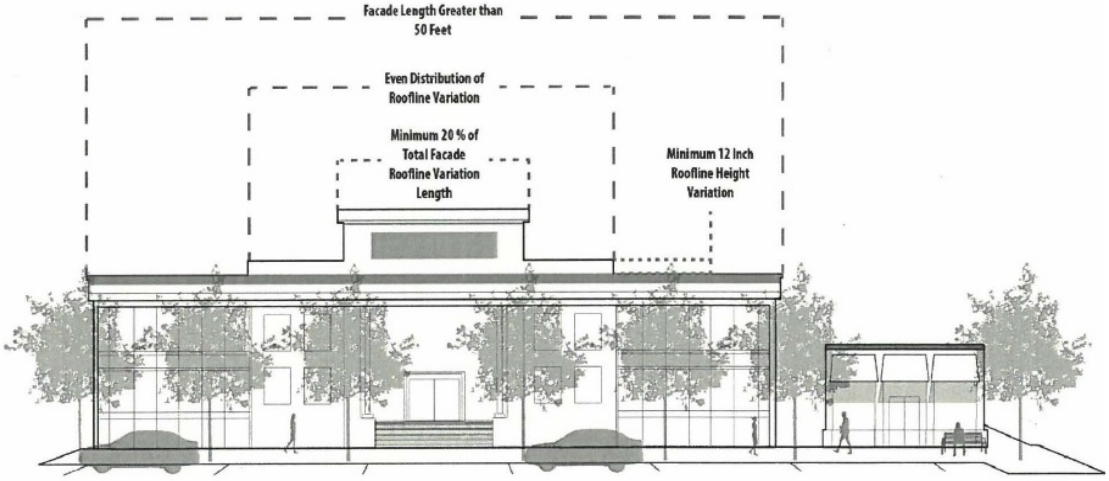
vi. Ground floor storefront windows shall incorporate at least one architectural design element to enhance the visual appeal of the district. Elements may include but are not limited to soldier courses, brick patterns, columns, knee walls, recessed entrances, peaked or arched windows, or decorative window frames. Large windows that open and provide a direct connection to the street, such as roll-up, accordion, or retracting windows are permitted, so long as they blend into the character of the street and district.

9. *Roofs.*

A. Parapet style roofs are required for all new development that is not single family residential or duplexes.

B. Peaked roofs are prohibited on new or infill development on of Main Street.

C. Facades with rooflines greater than 50 feet in length shall incorporate a change in height. This roofline variation shall be minimum 12 inches, for a minimum of 20% of the total length of the facade. Roofline variations shall be evenly distributed along the facade to balance the overall appearance of the building.



10. *Utilities.*

A. New or replacement of existing utilities shall be undergrounded where practicable.

B. New utilities shall be consolidated with existing utilities to reduce the proliferation of overhead wires and cables.

C. All mechanical equipment shall be completely screened from view and located on the roof, where practicable, or an alternate location (for instance underground) that achieves the same screening performance standard.

11. *Entrances.* The following shall apply to entrances in nonresidential and mixed use zoning

districts, and in conforming nonresidential buildings in residential zoning districts:

A. Existing entrances with features such as recessed or angled entries shall not be removed, except to restore the storefront to a more historically accurate design.

B. Entrance doors shall be a minimum of 25% translucent.

C. Shingled or plastic awnings are prohibited.

(7) *Incentives and disincentives.*

(a) The town encourages the use, re-use, renovation, and other creative endeavors that preserve historic structures, create new structures, or otherwise enhance the private or public realm, and which add value and enhance or promote the character of downtown Clayton. To that purpose, the following incentives and disincentives are established in the Downtown Overlay District:

(b) *Incentives.*

1. Outdoor seating and dining areas and outdoor display areas, on private property and in public rights-of-way, shall be allowed with approval of a zoning compliance permit and accompanying dimensioned site drawing complying with Table 2-1 (§ 155.202) and §§ 155.308(D)(5) and (6) "Outdoor Display and Sales" and "Outdoor Dining." In this instance and within this Overlay District, the zoning compliance permit expressly replaces any other requirement for a site plan application.

A. Outdoor seating and dining areas and site elements shall be constructed of high-quality materials. Plastic or unfinished wood are not allowed for tables, chairs, planters, window boxes, benches, or similar.

B. All outdoor seating and dining and site elements shall be kept in good working order and appearance and shall not fall into disrepair or they shall be removed immediately.

C. All accouterments associated with outdoor seating and dining (tables, chairs, benches, planters, bollards, dividers, umbrellas, space heaters, lighting, entrance menus, etc.) shall be maintained to a high standard which demonstrates appreciation of the special character of the district.

2. Properties in the Downtown Overlay District may be developed at densities and intensities that are consistent with the town's adopted Future Land Use Map, subject to the approval of a special use permit.

3. Downtown properties that meet other eligibility requirements may apply for:

A. The Facade and Site Element Improvement Grant;

B. The Clayton Downtown Redevelopment Incentive Grant (CDRIG).

(c) *Disincentives.*

1. Any demolition of a historically-contributing building or structure in the Downtown Overlay District shall result in a one-year waiting period between application for a demolition permit and the time that the demolition occurs, and a one-year moratorium (following demolition) of development applications and buildings permits upon that lot. The Town Council can waive the waiting period and the moratorium by a majority vote if the proposed new development is determined to be in the best interest of adjacent property owners and the town.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2012-12-04, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2017-09-03, passed 9-5-17; Am. Ord. 2018-05-05, passed 5-21-18; Am. Ord. 2019-02-02, passed 2-18-19; Am. Ord. 2021- 02-02, passed 2-15-21)

ARTICLE 3: SPECIFIC USE STANDARDS

§ 155.300 USE INTERPRETATION.

(A) *Uses.* The list of uses included in the Use Regulations Table (Table 2-1 in § 155.202) and defined in this subsection is intended to classify uses on the basis of common functional characteristics (activity, type of customers, goods or services) and land use compatibility. Other uses not specifically listed in the Use Table, but exhibiting similar characteristics to a listed use, shall be so classified by the interpretation of the Planning Director pursuant to the procedures and standards set forth in § 155.300(b) below.

(B) *Uses Not Specifically Listed.*

(1) Any use not specifically listed in this chapter is expressly prohibited, unless the Planning Director determines in accordance with § 155.715, that the use is similar to a use or uses listed in this chapter. Where an unlisted use is similar to a use listed in Table 2-1 (§ 155.202), the unlisted use shall also be subject to the similar uses standards and approval process. The Planning Director shall not amend this chapter by adding to or eliminating any use standard for the unlisted use.

(2) Where an unlisted use is found by the Planning Director not to be similar to any other use listed in Table 2-1 (§ 155.202), the use shall be permitted only following a text amendment in accordance with § 155.703. The decision of the Planning Director may not be appealed to the Board of Adjustment.

(3) When considering the appropriate districts for a use not listed in the Use Regulations Table, the district intent statements (see § 155.200) shall be taken into consideration.

(4) Determination of an appropriate category for a proposed use not currently listed shall be made by applying the following criteria.

(a) The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.

(b) The relative amount of site area or floor space and equipment devoted to the activity.

(c) Relative amounts of sales from each activity.

(d) The customer type for each activity.

(e) The relative number of employees in each activity.

(f) Hours of operation.

(g) Building and site arrangement.

(h) Types of vehicles used and their parking requirements.

(i) The relative number of vehicle trips generated.

(j) Signs.

(k) How the use is advertised.

(l) The likely impact on surrounding properties.

(m) Whether the activity is likely to be found independent of the other activities on the site.

(C) *Developments with Multiple Uses.*

(1) Nonresidential, townhouse, and apartment complexes may be established on a single unified parcel, provided that the following requirements are met. Except as set forth above, no more than one principal building or use may be erected on a single lot of record.

(2) Development with multiple uses shall meet all applicable development standards as set forth in §§155.200 through 155.204, §§ 155.400 through 155.404 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(3) When the principal uses of a development fall within different group of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.

(4) A development comprised of uses regulated by separate rows on the Use Regulations Table shall be reviewed using the most restrictive process from among the proposed uses. If a proposed development on a single parcel includes a special use review, then the entire development requires special use review.

(5) Where a use requiring approval as a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-06-01, passed 6-19-06; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.301 RESIDENTIAL USE STANDARDS.

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) *Group Care Home.*

(1) An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed group care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision.

(2) In the R-E District, a group care home shall provide at least 150 square feet of gross floor area per occupant.

(3) In the R-10 District, a group care home shall provide least 150 square feet of gross floor area per occupant.

(4) In the R-8 District, a group care home shall provide least 150 square feet of gross floor area per occupant.

(5) In the R-6 District, a group care home shall provide at least 150 square feet of gross floor area per occupant.

(6) Pursuant to G.S. § 168-22, a Group Care Home shall not be located within a ½ mile radius of an existing Group Care Home.

(B) *Apartments.* Three or more attached dwelling units in a single structure on a single lot, although individual units may be owned by a single or many different entities. Apartments are usually multi-story, and individual units can be mixed vertically and/or horizontally.

(1) No parking space shall be located in a required yard, except for the rear yard.

(2) No off-street parking space shall be located closer than ten feet to any residential building wall.

(3) For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median is required at the main entrance to the community.

(4) Sidewalks shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to: parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks or greenways and on-site amenities such as recreation areas.

(C) *Boarding House.* A building, other than a hotel/motel or bed and breakfast, containing not more than nine guest rooms. At least one meal is provided to guests. Individual guest rooms may not contain kitchens and personal services are not provided.

(1) Boarding houses shall meet the standards of §152.25 of the Town Code of Ordinances.

(2) Each boarding house shall have a full-time resident manager.

(3) Fifteen square feet of common living area other than kitchens, hallways and bathrooms shall be provided per occupant.

(4) A boarding house shall not be located within 1,000 feet, as measured in any direction from property line to property line, of another boarding house.

(D) *Manufactured Home.* A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. Manufactured home includes any structure that meets all of the requirements of this definition and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the manufactured home act. Except as set forth in division (F)(1)(a) of this section, all manufactured homes shall meet or exceed the following criteria:

(1) The manufactured home shall be set up and tied down in accordance with the standards set by the North Carolina Department of Insurance.

(2) The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.

(3) The manufactured home shall have a minimum of 960 square feet of enclosed and heated living area per dwelling area.

(4) Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall with a finished surface and constructed in accordance with North Carolina Building Code regulations. The foundation shall be unbroken except for required ventilation and access, and installed under the perimeter of the manufactured home.

(5) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, free standing or attached firmly to the primary structure and anchored securely to the ground.

(6) The exterior siding shall consist predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(7) The moving hitch, wheels and axles, and transporting lights shall be have been removed.

(8) At least two off-street parking spaces shall be provided.

(9) The lot shall be cleared of all excess growth and graded to provide adequate drainage.

(10) All areas not used for parking, manufactured homes, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.

(11) All standards must be met prior to issuance of a certificate of occupancy.

(E) *Manufactured Home Parks.* Any plat of ground upon which two or more manufactured homes, occupied for dwelling purposes, are located, regardless of whether a charge is made for such accommodations. Includes a recreation vehicle park.

(1) *General Requirements.*

(a) Notwithstanding the criteria set forth in division (F) above, manufactured homes located within manufactured home parks shall be in accordance with all of the requirements of division (F) above, except divisions (F)(2), (F)(3) and (F)(4) shall not apply to manufactured homes located in manufactured home parks. All new or replacement manufactured homes located in manufactured home parks shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home, and shall contain a minimum of 480 square feet of enclosed and heated living area. The foundation area of the manufactured home shall be at a minimum, completely screened with faux skirting panels constructed from durable vinyl, or panels simulating a faux brick, rock or stone finish. The skirting shall be completely framed including a bottom track. The foundation screening must be kept in a well maintained condition.

(b) All manufactured home parks shall be a minimum of three acres in size.

(c) No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be permitted if yard space requirements of this chapter are not violated, and if such addition complies with the North Carolina Building Code.

(d) Up to two manufactured home park identification signs may be utilized, but the sum of the areas of one side of these signs shall not exceed 40 square feet. Only external, nonflashing lighting shall be used for illumination. The top portion of any sign shall not exceed 12 feet in height.

(e) Within a manufactured home park, one manufactured home may be used as an administrative office.

(2) *Streets and Parking.*

(a) Each manufactured home shall abut upon an improved street or driveway, which shall have unobstructed access to a Town or state maintained road.

(b) Streets shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of 40 feet.

(c) Maintenance of such streets shall be provided by the owner or operator of the park.

(d) Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround of at least 70 feet in diameter.

(e) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Highway Commission shall apply.

(f) New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.

(g) A minimum of two paved parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any street in the park.

(h) No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.

(3) *Lot Size and Lot Width Requirements.*

(a) Lots served by community or public water and sewer shall have a minimum lot size of 6,000 square feet and have a minimum lot width of 50 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.

(b) Lots served by individual septic tank and individual well shall have a minimum lot size of 25,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.

(c) Lots served by community or public water and individual septic tank or public sewer and individual well shall have a minimum lot size of 15,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit shall not exceed 40% of the lot area.

(4) *Project Boundary Buffer.* A Class C buffer shall be provided (see §155.402) along all project boundaries of a manufactured home park.

(5) *Yard Requirements.*

(a) The following yard requirements shall pertain to every manufactured home in the manufactured home park:

1. Minimum depth of street yard, measured from front lot line: 20 feet.

2. Minimum width of side yard, measured from side lot line:

A. Ten feet.

B. Six feet, if served by public water and sewer.

(b) Minimum depth of rear yard, measured from rear lot line: 20 feet.

(c) Detached garages and accessory buildings may be erected on manufactured home lots as permitted in §155.308.

(6) *Utility Requirements.*

(a) *Water.* An accessible, adequate, safe supply of water shall be provided in each manufactured home park. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.

(b) *Sewer.* Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Environmental Quality and the County Health Department shall be provided.

(c) *Solid Waste.*

1. The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage, insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.

2. All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.

3. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.

4. No junked or abandoned vehicles shall be allowed in the park.

(7) *Street Lights.* All streets in the manufactured home park shall be adequately illuminated. The minimum size street light shall be a 175-watt mercury vapor, approximately 7,000 lumen class or its equivalent, spaced at intervals of not more than 400 feet. Equivalent illumination LED lights are also allowed. Street lights shall be at each intersection.

(8) *Telephone and Power Lines.* All telephone lines and power lines are to be located underground. Utility easements shall not be less than ten feet in width.

(9) *Recreation Areas and Facilities.*

(a) Adequate and suitable recreation areas to serve the anticipated population shall be provided and shall consist of at least 10,000 square feet for each 25 manufactured home lots. All manufactured home parks having five or more lots shall have a minimum size recreational area of 10,000 square feet. Manufactured home parks having more than 25 manufactured home lots shall provide 400 square feet of recreation space per lot in excess of 25.

(b) No recreational facilities shall be placed in an area utilized for septic tank filter fields.

(10) *Mobile Home Parks with Prior Approval.* All mobile home parks approved for development by the Town, County, or State prior to May 4, 1987 are hereby granted special use status under the terms of § 155.109(A)(2), and the number of units contained therein may be maintained and replaced with other units, provided that:

(a) A copy of the mobile home park plan bearing proof of approval by the responsible governmental agency shall be filed in the Planning Department no later than 90 days after the approval of this revision.

(b) All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.

(c) All replacement units shall meet the requirements of division (F) of this section.

(d) No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.

(e) Any expansion of a mobile home park shall be in full accordance with the current standards of this chapter.

(f) If a mobile home park which does not conform to current standards has been discontinued, or if 80% of the number of spaces are vacated for a period of 180 days, the mobile home park shall not be re-established, and all future use of the land therein shall comply fully with the provisions of this chapter.

(F) *Nursing Home (Congregate Living Facility).*

(1) This term includes assisted living facilities, extended congregate care facilities, transitional living facilities, rehabilitative home care services, or home for the aged or any other residential structure, whether or not operated for profit, which undertakes for a period exceeding 24 hours: care, housing, food service, and one or more personal services for persons not related to the owner or administrator by blood or marriage. In addition, this term shall include other residential uses such as dormitories, group homes with a central dining facility, and similar bed-based uses.

(2) A nursing home/congregate living facility located in the Residential-Estate (R-E) zoning district shall provide a Class "C" landscape buffer along all property lines in accordance with the standards of this chapter.

(G) *Duplex (also Known as "Two Family House").* Two attached dwelling units in a single structure on a single lot. The two units can be located on separate floors or side-by-side.

(H) *Townhouse (also Known as Townhome or Rowhouse).* Two or more attached dwelling units located on separately owned lots or on a single lot where the units are lined up in a row and share side walls, individual units can be mixed vertically. Each unit has direct access to the outside, with front and rear walls exposed, to be used for access, light, and/or ventilation.

(1) Side yards are not required for interior townhouses, but street and rear yards shall be provided for all townhouses, and building separation requirements shall be maintained for all townhouse structures.

(2) *Parking Options.*

(a) *Rear-Loaded Garage.*

1. Garage is placed entirely to the rear of the townhouse and is rear-accessed or alley loaded. Garage can be attached or detached.

2. Garage doors must face the alley or rear access drive.

(b) *Front-Loaded Garage.*

1. Garage doors may constitute no more than 50% of the width of the individual townhouse unit.

2. The driveway must be aligned with the garage and shall not exceed the width of the garage entrance/door.

3. Any parking in the front setback must have sufficient depth so that parked cars do not encroach on the adjacent sidewalk. The garage doors must be set back at least twenty-five feet (25') from the sidewalk.

4. Garage doors must be recessed at least one foot behind the front wall plane, or a second story element over the garage doors must be provided that extends at least one foot beyond the front wall plane.

5. Front-loaded garages shall be prohibited on one-story townhome units.

(c) *Shared Parking Area/Shared Parking Lot.*

1. The minimum parking requirement shall be calculated as for an apartment or multifamily development.

(3) The maximum number of units allowed in a single building is eight.

(4) The first floor shall be located from ground level to a maximum of three feet above grade.

(I) *Security or Caretaker Quarters.* A dwelling unit, which may be a mobile home, a manufactured home, or a modular home, located on a site for occupancy by a caretaker or security guard. If located on the same parcel as a primary dwelling, this use shall be considered an "Accessory Dwelling Unit" and shall be subject to the requirements outlined in § 155.308(C)(1).

(J) *Single Family House.* A detached dwelling unit located on a single lot with private yards on all four sides.

(1) For alley-loaded houses, an alley shall be provided to the rear of the house. All vehicular access shall take place from the alley. No parking shall be permitted in the required street yard.

(K) *Upper-Story Residential.* A dwelling unit located on a floor above a nonresidential use.

(1) An upper-story residential unit shall adhere to all dimensional standards of the nonresidential zoning district in which it is located.

(2) Where required by the North Carolina Accessibility Code due to the proposed number of upper story dwelling units located in a structure, one or more ground floor unit(s) shall be permitted in a mixed-use structure in order to meet Accessibility Code requirements.

(3) Any dwelling units located on the ground floor in order to meet requirements in the North Carolina Accessibility Code shall be serviced by an accessible route from adjacent rights-of-way or parking areas in accordance with Americans with Disabilities Act standards.

(L) *Zero Lot Line.* A detached dwelling unit located on a single lot with private yards on three sides. The unit has a single side yard on one side comprising the equivalent of two side yards of a single-family detached house.

(1) A single side yard shall be provided comprising the equivalent of two side yards of a conventional detached house. This reduction shall not be allowed on the street yard or to the side yard adjacent to lots that are not part of the zero lot line project.

(2) An easement between the two property owners to allow for maintenance or repair of the house shall be required when the roof overhang or side wall of the house are within four feet of the adjacent property line

(no roof overhang shall be permitted to extend across the property line). The easement on the adjacent property must provide at least five feet of unobstructed space. The easement shall be recorded on the subdivision plat.

(3) If the side wall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot shall not be allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, shall be allowed.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-06-02, passed 6-4-07; Am. Ord. 2012-01-05, passed 1-3-12; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2017-04-06, passed 4-3- 17; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2022-08-09, passed 8-15-22)

Editor's note:

G.S. 168-22 was repealed by S.L. 2020-25, Sec. 49(b)

§ 155.302 PUBLIC AND CIVIC USE STANDARDS.

The following standards shall apply to all permitted uses and special uses, as set forth in

the Use Regulations Table (Table 2-1 § 155.202). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) *Assembly.* A site or facility open to the public or membership groups for social, civic, political, educational, or recreational purposes. Typical uses include museums, cultural centers, recreational facilities, botanical gardens and community services such as after school care or tutorial services, medical services, employment services, and may also include uses such as cultural organizations and union halls.

(B) *Cemetery.* A place used or to be used and dedicated or designated for interments of human remains or pet animal remains. A

cemetery may include an office, chapel, mausoleum, columbarium or crematory.

(C) *Church or Place of Worship.* A sanctuary which may include a retreat, convent, seminary or other similar use, owned or operated by a tax-exempt religious group that is used periodically, primarily or exclusively for religious worship, activities and related services.

(1) Where a church or place of worship requires a Special Use Permit, following the initial approval of places of worship through the special use permit process (see § 155.710), expansions of up to 20% of the area originally approved through thespecial use permit process may be approved administratively. Any administrative approvals of expansion shall not waive any conditions of approval of the special use permit.

(2) Accessory uses standards for a place of worship are set forth in §155.308(E).

(D) *College or University.* An institution of higher learning offering undergraduate or graduate degrees, and including the buildings required for educational or support services, such as classrooms, laboratories, dormitories and the like.

(E) *Day Care Facility.* A non-residential day care facility licensed by the state, if applicable; providing care for children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. All daycares shall be subject to the following:

(1) An off-street passenger drop-off and passenger loading area shall be provided for any day care. Such area shall not be located in the street yard.

(2) Where abutting a residential use, a Class "C" landscape buffer shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property.

(F) *Government Service.* Buildings or facilities owned or operated by a government entity and providing services for the public, excluding utility and recreational services. Typical uses include administrative offices for government agencies, public libraries, police and fire stations, and resource centers.

(G) *Hospital or Medical Center.* A facility licensed by the State of North Carolina which maintains and operates organized facilities for medical or surgical diagnosis, overnight and outpatient care, and treatment of human illness. A hospital may include related support facilities such as a helipad, laboratories, out-patient departments, staff offices, food services, and a gift shop.

(H) *School (Elementary or Secondary).* A public or private institution offering a curriculum of education authorized by the state giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped. Included in this definition are preschool programs. However, this definition does not include day care facilities, individual instruction, or classes in a specialized subject.

(1) Following the initial approval of a school through the special use permit process (see §155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.

(2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

(I) *School (Technical, Trade or Business).* An institution offering instruction beyond high school level with a course of study in vocational, technical or other special subjects.

(1) Following the initial approval of a school through the special use permit process (see §155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.

(2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.303 RECREATIONAL USE STANDARDS.

The following standards shall apply to all permitted uses, conditional zoning district uses, and uses requiring a special use permit, as set forth in the Use Regulations Table (Table 2-1 § 155.202). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) *Indoor Entertainment.* Amusement activities carried on wholly within a building. Typical uses include bowling alleys, billiard parlors, theaters, escape rooms, video game arcades, laser tag, indoor paint ball, skating rink, and activities of a similar nature. This does not include an adult-oriented business or adult-oriented amusement center.

(B) *Outdoor Entertainment.* Amusement activities where any portion of the activity takes place outside or in the open, excluding recreation centers and parks. Typical uses include batting cages, golf driving ranges, go-cart tracks, outdoor paint ball, drive-in theater, outdoor skating rink, and miniature golf courses.

(C) *Fitness/Recreation Center.* A facility for conducting recreational activities, either indoors or outdoors, including but not limited to raquetball, handball, swimming, running, weight lifting, athletic fields, tennis courts, and aerobic exercises. This facility may also include classrooms, babysitting, and limited food service for the facility.

(D *Golf Course.* A facility providing a golf recreation area designed for executive or regulation play along with accessory support facilities, excluding miniature golf.

(E) *Gun Range.* An enclosed facility used for the discharge of firearms or projectiles at targets.

(F) *Park.* An outdoor recreation area relying on a natural resource base or man-made recreation amenity and developed with a low to medium intensity of impact on the land. Typical uses include greenway (non-equestrian multi-use trail) systems, community gardens, wildlife management, playground, dog park, other small-scale recreational amenities, such as sand volleyball, basketball, or tennis court, or other active recreational opportunities, as well as demonstration areas for historical, cultural, scientific, educational, or other purposes that relate to the natural qualities of the area, and support facilities for such activities. Commercial amusement facilities, such as water slides, miniature golf, or go-cart tracks, are not considered parks (see “outdoor entertainment”).

(G) *Stable, Private.* The breeding, boarding, training, or raising and care of horses owned by the occupants or owners of the premises. Property used for private stables shall be a minimum of five acres in size.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed

2-15-21)

§ 155.304 AGRICULTURAL USE STANDARDS.

The following standards shall apply to all permitted uses, conditional zoning district uses, and uses requiring a special use permit, as set forth in the Use Regulations Table (Table 2-1 § 155.202). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) *Agriculture, Livestock*. The breeding, raising and caring for domestic animals including horses (excluding private stables).

(1) Property used for livestock shall be a minimum of five acres in size.

(2) All accessory uses and structures, such as troughs, feed mechanisms and storage, shall be setback a minimum of 100 feet from any property line.

(3) The maximum number of large animals permitted for each acre shall not exceed five. Large animals shall include horses, swine, cattle, goats, and sheep. An enclosed structure with one stall for each large animal is required when the total number of large animals exceeds three per acre.

(4) The maximum number of small animals permitted for each acre shall not exceed 100. Small animals shall include rabbits and fowl, excluding peafowl. Small animals shall be permitted in addition to large animals.

(5) The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the applicant shall satisfactorily mitigate the incompatibility prior to receiving final approval.

(B) *Agriculture, Sales and Service*. An establishment primarily engaged in the sale or rental of farm tools, small implements and farming equipment such as pickers, mowers, livestock, feed, grain, tack, riding attire, animal care products, and farm supplies. Outdoor storage of materials shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(C) *Nursery*. The sale of horticultural specialties such as flowers, shrubs, sod, trees, mulch and accessory hardscape materials such as decorative stones intended for ornamental or landscaping purposes. Outdoor storage of materials shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.305 COMMERCIAL USE STANDARDS.

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) *Adult Oriented Business.* Any place defined as an "adult establishment" as defined by G.S. § 14-202.10, as such statute may be amended from time to time, including adult cabarets, and except the definition of "massage business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult-oriented business specifically includes, however, any massage business where massages are rendered by any person exhibiting "specified anatomical areas" and/or where massages are performed on any client's "specified anatomical areas." "Specified anatomical areas" are those defined by G.S. § 14-202.10 as such statute may be amended from time to time.

(1) No such use shall be located within 1,000 feet of a church, primary, elementary or secondary school, residence or residentially zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other adult-oriented business.

(2) There shall be no more than one such use on the same property or in the same building or structure.

(3) Except for permanent signage as permitted in §155.403, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of way.

(B) *Bed and Breakfast.* A building containing one or more guest rooms for an overnight stay which are rented at a daily rate and where breakfast is the only meal served to guests.

(1) An owner shall reside on site.

(2) There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety.

(3) Meals shall be served on the premises only for guests and employees. Rooms may not be equipped with cooking facilities.

(4) Parking shall not be allowed in any street yard.

(C) *Car Wash/Auto Detailing.* A permanent establishment engaged in washing or detailing motor vehicles which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Detailing includes hand washing and waxing, striping, and interior cleaning.

(D) *Contractor Office.* A facility for a building, heating, plumbing, electrical, landscape, janitorial or similar contractor.

(1) All activity shall be conducted entirely within a fully-enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.

(2) The overnight storage of fleet vehicles shall be considered an accessory use of "Limited Outdoor Storage" and shall be permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(E) *Convenience Store with Gas Sales.* A convenience store which includes accessory gasoline retail sales to the general public.

(1) *General Standards.*

(a) Vehicle repair or service shall not be permitted.

(b) The primary building, including any attached canopy, shall conform to all setback requirements.

(c) Gasoline pumps, tanks and pump islands shall be located no closer than 20 feet to any side or rear property line or right-of-way.

(d) No sign of any type or any gasoline pump or tank shall be located within 20 feet of a residential use.

(e) A Class C buffer (see §155.402) shall be established along any side of the property where the gas station abuts a residential use, provided such buffer shall not restrict clear sight at any intersection or driveway.

(f) Freestanding vents shall not be permitted.

(2) *Fuel Canopies.*

(a) The canopy shall be located no closer than 15 feet to any side or rear property line or right-of-way.

(b) The canopy shall not exceed the height of the principal building, but in no case shall the canopy height exceed 20 feet.

(3) *Single-Bay Automatic Car Wash.* An accessory single-bay automatic (not self-service) car wash completely enclosed except for openings necessary to allow entry and exit of vehicles shall be permitted subject to the following:

(a) The car wash structure shall be located no closer than 20 feet to any side or rear property line or right-of-way.

(b) The car wash structure shall not exceed a height of 20 feet or exceed an overall building dimension of 25 feet in width and 50 feet in length.

(c) The car wash structure shall be located behind the rear building line of the principal building.

(d) All car wash structures shall meet all applicable yard requirements.

(F) *Creative Studio.* A facility involved in the display and/or instruction of the arts, such as individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items; art classroom; music studio or classroom; dance studio or classroom; martial arts instruction; or similar use. This definition does not include any adult entertainment establishment.

(G) *Financial Institution.* An establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions, including outdoor automated teller machines and drive-thru only facilities.

(1) Freestanding automated teller machines require site plan approval.

(2) Drive-through service is only permitted as an accessory use in the B-3, O-I and B-2 zoning districts.In the O-I and B-2 zoning districts, drive-through lanes/services shall not be located along any residentially zoned property.

(H) *Funeral Home.* An establishment which arranges and manages funeral and prepares the human deceased for burial.

(1) A funeral home may include a crematorium located within the principal building.

(I) *Hotel/Motel.* A building containing one or more guest rooms, for overnight guests, and containing registration facilities, on-site management, cleaning services and combined utilities.

(1) All hotel and motel buildings and parking shall be located at least 50 feet from any property line adjoining a residential district or use.

(2) Any accessory commercial activities such as restaurants shall not be located along the side of the property adjacent to a residential district or use.

(3) Any outdoor recreation facilities, such as swimming pools, shall not be located along the side of the property adjacent to a residential district or use. If the outdoor recreation facility is a swimming pool, it shall meet the standards of § 155.308(D)(9) “Swimming Pools”.

(J) *Kennel.* Any building or land used, designed or arranged to facilitate the care of four or more domestic animals, such as dogs and cats.

(l) All animal boarding shall occur indoors. All kennels and runs shall be located in an enclosed structure.

(2) An outdoor pen may be provided only for exercise/relief areas for the animals. This area shall be

located to the side or rear of the building, and shall not be located closer than 50' from any residentially zoned properties. The area shall be securely fenced by a minimum six foot opaque fence.

(3) Animal waste shall not be stored within 50' of any adjacent property.

(4) Outdoor runs may be permitted subject to Town Council approval of a Special Use Permit (see §155.711)

(K) *Laundry Services.* An establishment that provides washing, drying, dry-cleaning, or ironing machines for hire to be used by customers on the premises, or that is engaged in providing laundry and dry cleaning services with customer drop-off and pick-up.

(L) *Lounge, Cocktail.* A use or facility engaged primarily in the preparation and retail sale of alcoholic beverages (with food sales an allowed accessory use) for consumption on the premises. This use is also known as tavern, bar, nightclub, or similar use other than restaurant or alcohol sales for off-premises consumption.

(1) Except in the B-1 zoning district, a cocktail lounge shall not be located within 250 feet of a residential district and shall be separated a minimum of 750 feet from another cocktail lounge.

(2) Outdoor seating and open lounge areas shall meet the criteria set forth in §155.305(R).

(M) *Microbrewery.* A facility for the production and packaging of beer and other malt beverages for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. Areas for demonstration, education, retail sale, or tasting are included in this definition as incidental to the primary use of producing beverages.

(N) *Publisher.* A building used for the production and distribution of newspapers, magazines, books, and other related materials.

(O) *Office, General.* A facility generally focusing on business, government, or professional services. General office shall include advertising offices; business management consulting, data processing, collection agency; real estate or insurance agents, and professional services such as lawyer, accountant, bookkeeper, engineer, or architect, sales office, travel agency or any similar use.

(P) *Office, Medical.* A facility in which a doctor, dentist, psychiatrist, physician's assistant, nurse practitioner, or similar medial provider treats or counsels patients.

(Q) *Outdoor Seating and Sidewalk Cafes.* A restaurant which provides as a primary component of its business, an open area outside of the

principal structure for seating including areas adjacent to sidewalks or pedestrian circulation areas.

(1) *Application.* Any restaurant or cocktail lounge seeking to operate a sidewalk café shall, in addition to acquiring all necessary health and sanitation permits and inspection and applicable ABC and other business licenses, prepare and file an application for outdoor seating with the Planning Director.

(2) *Site Plan Requirement.* A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk café, and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, barriers, and other furnishings on the sidewalk or pedestrian way.

(3) *Insurance and Indemnification.* Applicants must show proof of meeting minimum criteria for general liability insurance and must execute an indemnification statement in favor of the Town, each as approved by the Town Attorney.

(4) *Issuance of Permit.* No permit for outdoor seating may be issued unless the application is complete and unless the following requirements are met.

(a) The sidewalk café must be associated with an operating restaurant or business such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant and does not exceed 50% of the interior seating for the associated restaurant or business.

(b) The sidewalk café must be operated under the same name as the restaurant and may not be opened or operated at any time when the restaurant or business is not open for business.

(c) The operation of the sidewalk café must be clearly incidental to the associated restaurant business.

(d) The placement of tables, chairs and other furnishings, as shown in the site plan, must be done in such a manner not to extend more than five feet from the property line, provided that at least four feet of unobstructed space (as measured from the streetside edge of curb or sidewalk) remains for the passage of pedestrians. Trees, poles, signs, sandwich board signs, planters, benches, hydrants, trash receptacles, and the like are all considered obstructions.

(e) The restaurant seeking to operate the sidewalk café must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk café. The placement of tables, chairs, and other furnishings may not extend in front of other businesses or across other public rights-of-way.

(f) The tables, chairs, and other furnishings used in the sidewalk café shall be of a type that is easily removed from the public right-of-way. Tables, chairs, and other furnishings used in the operation of the sidewalk café must be removed within 24 hours' notice from the Town. If such items are not removed upon 24 hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in an emergency situation. The Town shall not be responsible for damage to the public sidewalk café barricades and furnishings under any circumstances.

(g) Except as elsewhere permitted, the operation or furnishing of the sidewalk café shall not involve any permanent alteration to or encroachment upon any street, sidewalk or pedestrian way or to the exterior of the associated restaurant. The owner of the sidewalk café shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk café.

(h) The sidewalk café shall only be open when the restaurant is open. No person shall consume alcoholic beverages in a sidewalk café after such hours.

(i) *Alcoholic Beverages.* Alcoholic beverages may be served and consumed at sidewalk cafes providing the following requirements are met:

1. The sidewalk café shall be part of a standard restaurant or business and shall otherwise be authorized, permitted or licensed under the state law and Town codes to serve and sell alcoholic beverages for on-premises consumption.

2. The portion of the sidewalk café where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two points of ingress or egress.

3. The sidewalk café must be included as part of the premises for which an ABC permit is issued pursuant to G.S. § 18B-1001 for the purposes of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.

4. Signs shall be posted, visible at all exit points from the sidewalk café, that it is unlawful to remove alcoholic beverages in open and unsealed containers from the premises.

5. The business operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five years preceding the commencement of the sale of alcoholic beverages at the sidewalk café.

(j) *Denial.* A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk café shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town Council within 30 working days after the date of the written denial and the Town Council may take such corrective action as it shall find necessary. The findings and determination of the Town Council shall be final.

(k) *Permit Revocation.* The Town Manager or his designee may revoke a permit issued pursuant to this section, if he finds that the restaurant operator has:

1. Deliberately misrepresented or provided false information in the permit application;

2. Violated any provision of this code;

3. Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;

4. Operate the sidewalk café in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare, specifically including failure to keep the sidewalk café area clean and free of refuse; and/or

5. Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business. Before the revocation of a permit, the Town Manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and

shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify permit holder in writing of the decision and the reasons therefor. A decision of the Town Manager to revoke permit may be appealed to the Town Council in accordance with the provision of this section.

(l) *Term, Transfer, Renewal, and the Like.* Permits issued in accordance with the provisions of this section shall:

1. Be renewed automatically on an annual basis unless notice is otherwise given to the applicant or business; and

2. Not be transferable or assignable.

(5) *Definitions.* For purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PEDESTRIAN WAY. An improved walk or passageway intended for use by pedestrians, but not adjacent to any Town street.

RESTAURANT. An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafeterias, cafes, lunch stands, grills, snack bars, fast food businesses and other establishments, such as drug stores, which have a lunch counter or other section where food is sold to be eaten on the premises. This definition does not include food vendors selling food as part of a festival or nonprofit event.

RESTAURANT OPERATOR OR BUSINESS OPERATOR. The person, firm or corporation operating a restaurant and associated sidewalk café. As used in this section, this definition includes the owner and manager, if different from the owner of the restaurant and associated sidewalk café.

SIDEWALK. That portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.

(R) *Parking Lot.* An area provided for self-parking or valet-parking of operable passenger automobiles or commercial vehicles by employees, visitors, and/or patrons of any office of government, public accommodations, commercial or industrial establishments, institutions, or any other business open to the general public. Parking lots may be further defined as being available for compensation, free, or as an accommodation to clients or customers, and are generally only utilized during regular business hours. For short-term or long-term vehicle storage, see “Self-Storage Facility”.

(S) *Pawn Shop.* Any establishment engaged in the loaning of money on the security of personal property pledged in the keeping of the pawnbroker, and the sale of such property. Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(T) *Radio or Television Studio.* An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services, broadcasting or telecommunication facilities.

(U) *Restaurant.* A use, facility, or establishment whose primary purpose is the preparation and sale of food for on- or off-premise consumption. This use may or may not include the accessory sale of alcoholic beverages.

(V) *Retail Sales.* A facility involved in the wholesale or retail sale, lease, or rental of new or used products. Retail shall include the selling, leasing or renting of the following goods: antiques; art; art supplies; bicycles; books; building supplies; cameras; carpet and floor coverings; crafts; clothing; computers; dry goods; electronic equipment; fabric; furniture; garden supplies; hardware; health and beauty products; household products; jewelry; medical supplies; musical instruments; music; pets; pet supplies; photo finishing; printed materials; crafts; flowers; gifts or souvenirs; groceries; plants; picture frames; produce; sporting goods; stationery; tobacco; videos, or any similar use. Also includes preparation and sale of baked goods, coffee, ice cream, fountain drinks, confections, and similar products whose preparation does not require installation of an exhaust hood. The retail sale of automobile parts is allowed provided that no on-site automobile service or repair is provided. This definition does not include any adult-oriented business or adult-entertainment establishment.

(1) Outdoor display and sales and outdoor seating and dining may be allowed subject to §155.308.

(2) Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(3) Uses that are strictly wholesale and not available to the general public shall not be allowed in the B-1, B-2 or B-3 zoning districts.

(W) *Self Storage Facility.* A facility consisting of individual, self-contained units that are leased for the storage of business or personal goods.

(1) All storage shall be contained within a fully-enclosed building. Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(2) A Class C buffer (see § 155.402) shall be established along any side of the property where the self-storage facility abuts or is across the street from a residential use or a public right-of-way.

(3) Where the end wall of the self-storage facility is visible from a public right-of-way, the wall shall be buffered by a hedge that has a mature height of at least four feet.

(4) The following activities shall be prohibited on the premises:

(a) Commercial, wholesale or retail sales, flea markets or peddling, or miscellaneous or garage sales. However, once a month, the management of the self-storage facility may conduct a one-day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with state regulations.

(b) Servicing, repair, or fabrication or motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.

(c) Operation of a transfer-and-storage business.

(d) Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment except when needed for maintenance of the use.

(e) Any activity that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.

(f) Storage of hazardous chemicals, flammable liquids, or combustible and explosive materials.

(g) Habitation of storage units by humans or animals.

(X) *Service.* A facility involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. General services shall include the following personal services: beauty, hair, nail, or tanning salon, massage therapy, pack-and-ship facility, animal grooming; photographic; photography, blueprint, quick-sign service; psychic or medium; security service; taxidermist; catering service or any similar use. General services shall also include the following repair services: bicycles; moped, canvas products; clocks; computers; jewelry; musical instruments; office equipment; radios; shoes; televisions; furniture; watches or any similar use. Also includes a tailor, milliner, upholsterer or locksmith. This definition does not include any adult-oriented business or adult entertainment establishment. All activity shall be conducted entirely within a fully-enclosed building, except for the following:

(1) Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(2) Outdoor display and sales shall be considered an accessory use and only permitted as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(Y) *Tattoo Parlor.* An establishment whose principal business activity is the practice of one or more of the following:

(1) Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.

(2) Piercing of the body of a person (other than the ear) for the purpose of inserting jewelry or other decoration.

(Z) *Towing Service and Storage.* The use of a lot for the temporary storage of operable or inoperable vehicles in conjunction with a commercial towing service, with no sales or repair or salvage activity occurring on the lot and subject to the following standards: Outdoor storage shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(AA) *Vehicle Repair or Service.* An establishment engaged in the repair of new or used motorized vehicles, equipment.

(1) No vehicle sales shall be permitted.

(2) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.

(3) If the facility has more than one service bay, the additional service bay doors shall not be oriented toward any residential use, or the service bays shall be screened from view from adjacent property using landscaping.

(4) All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. The term fully-enclosed building shall not be construed to limit open bay doors during hours of operation.

(5) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.

(6) Overnight outdoor storage of vehicles shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(7) There shall be no dismantling of vehicles for salvage.

(8) The storage of impounded vehicles shall not be permitted.

(BB) *Vehicle Sales and Rental.* An establishment engaged in the sale, rental, or lease of new or used motorized vehicles, equipment, or mobile homes as defined by the department of motor vehicles. Typical uses include auto and truck rental, lease and sales; boat rental and sales; mobile home and recreational vehicle sales; construction equipment rental yards; moving trailer rental, and large implement sales or rental.

(1) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.

(2) Operable vehicles for sale/rental may be parked on-site. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle for sale/rental encroach into the right-of-way or utilize required off-street parking spaces for the business.

(3) Overnight outdoor storage of inoperable vehicles or vehicles under repair shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(4) Vehicle sales displayed for rental or sale visible from the public right-of-way shall provide a parking buffer as set forth in § 155.402(E)(2)(b).

(CC) *Veterinary Clinic.* An establishment engaged in providing medical care, treatment and temporary boarding for animals.

(1) Animal boarding may be permitted but shall occur entirely indoors.

(2) An outdoor pen may be provided only for exercise/relief areas for the animals. This area shall be located to the side or rear of the building, and shall not be located closer than 50' from any residentially zoned properties. The area shall be securely fenced by a minimum six foot opaque fence.

(3) Animal waste shall not be stored within 50' of any adjacent property.

(4) Outdoor runs may be permitted subject to Town Council approval of a Special Use Permit (see § 155.711)

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.306 INDUSTRIAL USE STANDARDS.

The following standards shall apply to all permitted uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) *Building Supplies, wholesale.* An establishment engaged in the sale or fabrication and allied products to contractors for the construction, maintenance, repair and improvement of real property.

(1) Retail sales of lumber and allied products to the consumer may be conducted, but must be clearly accessory to the primary use.

(B) *Crematorium.* A place used and dedicated to the cremation of human remains or pet animal remains.

(C) *Gas And Fuel.* Wholesale. The use of land for bulk storage and wholesale distribution of 2,500 gallons or more of flammable liquid, or 2,000 gallons water capacity or more of flammable gas, excluding below-ground storage which is clearly accessory to the principal use on the site.

(D) *Laboratory, Research.* An establishment engaged in industrial, scientific or medical research, biomanufacturing, testing, and analysis, including support services and structures. Typical uses include natural science/manufacturing research facilities and product testing/quality control facilities.

(1) Outdoor manufacturing, processing or testing shall be limited to industrial districts only.

(E) *Manufacturing, Light.* A facility conducting medium and light manufacturing operations, primarily involving the creation of finished products or parts from previously prepared materials and the manufacturing of products and materials from extracted raw materials. The processing, fabrication, assembly, treatment, packaging, and storage of such products is also included. All activities shall occur within a fully enclosed building no manufacturing involved shall produce noise, vibration, air pollution, fire hazard, or noxious emission which may disturb or endanger neighboring properties.

(1) All manufacturing activity shall be conducted entirely within a fully-enclosed building.

(2) Overnight outdoor storage and display shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(3) Uses shall not emit smoke, odor, objectionable waste materials or excessive noise.

(4) No vibration shall be produced that is transmitted through the ground (and is discernible without the aid of instruments) at or beyond the lot line.

(5) No direct glare from high temperature processes such as combustion or welding visible from the street shall be permitted.

(F) *Manufacturing, Heavy.* A facility conducting assembly heavy manufacturing with operation conducted indoors and outdoors. Heavy manufacturing shall include the following: heavy factory production; industrial yards; any use that is potentially dangerous, noxious or offensive to neighboring uses or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause; animal processing, packing, treating, and storage; livestock or poultry slaughtering; citrus concentrate plant; processing of food and related products; production of chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing, sawmill; bulk storage of flammable liquids; commercial feed lot; concrete batching and asphalt processing and manufacture; wrecking, junk or salvage yard; bottling plant; or any similar use.

(G) *Research and Development.* A facility focused primarily on the research and development of new products. Research and development shall include: offices, and other facilities used for research and development by or for any individual, organization, or concern, whether public or private; prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product; pilot plants used to test manufacturing processes planned for use in production elsewhere; production facilities and operations with a high degree of scientific input; facilities and operations in which the input of science, technology, research, and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.

(H) *Warehouse and Freight Movement.* A facility involved in the storage or movement of goods for themselves or other firms. Goods are delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and freight movement shall include the following: bulk storage, including nonflammable liquids, feed and grain storage; cold storage plants, including frozen food lockers; household moving and general freight storage; separate warehouse used by retail store such as furniture or appliance store; bus barn; parcel services, mail order facility; stockpiling of sand, gravel, or other aggregate materials; transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred; or any similar use.

(Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.307 UTILITIES USE STANDARDS.

The following standards shall apply to all permitted uses, and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) *Recycling Center.* A permanent facility designed and used for receiving, separating, storing, converting, baling or processing of non-hazardous recyclable materials that are not intended for disposal. The use may include construction debris recycling or other intensive recycling processes such as chipping and mulching.

(1) To ensure compatibility with surrounding uses, screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed.

(B) *Renewable Energy Facility.* A facility that generates renewable energy from sources such as solar, wind, or other systems with a principal use of producing electric, thermal power, or mechanical power.

(C) *Telecommunication Facility.* Any tower, site, building, structure, or other facility whose principal use is to facilitate transmissions for AM/FM radio, television, microwave, and cellular telephone transmission towers, antennae, and accessory equipment and buildings. Specific standards for communication towers are set forth in § 155.310. Facilities in the B-1, B-2 or B-3 districts are only permitted if they are attached to a habitable structure and are completely screened or camouflaged from view. This does not apply to preexisting and unrelated utility structures, such as water towers.

(D) *Utility, Major.* A large-scale utility such as a water or wastewater treatment plant, water tower, electrical generation plant, or transmission facility or any similar use.

(E) *Utility, Minor.* All utility facilities not considered major, including, but not limited to neighborhood-serving facilities such as pump stations, telephone exchanges, lift stations, and stormwater detention facilities, or any similar use.

(F) *Waste Service.* A facility that generally receives solid or liquid wastes from others for transfer to another location, collects sanitary waste or manufactures a product from the composting of organic material. Wasterelated service shall include the following: animal waste processing; landfill, incinerator; manufacture and production of goods from composting organic material; outdoor recycle processing center;

outdoor storage of recyclable material, including construction material; transfer station; or any similar use.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.308 ACCESSORY STRUCTURES AND USES.

(A) *General.* Accessory structures and uses shall be consistent with all standards in the district for the principal use, except as expressly set forth below. Additional design considerations may be outlined in the Clayton General Design Guidelines.

(1) Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal uses. An accessory use shall only be allowed when a principal use exists.

(2) Accessory structures and uses shall be located on the same lot as the permitted use or structure, or on a contiguous lot in the same ownership.

(3) Accessory structures and uses shall not involve operations or structures not in keeping with the character of the primary use or principal structure served.

(4) Accessory structures and uses shall not be of a nature likely to attract visitors in larger numbers than would normally be expected, where applicable.

(5) An accessory use shall contribute to the comfort, convenience, or necessity of occupants of the primary use served.

(6) An accessory use shall be located within the same district as the principal use.

(7) Tractor trailers are prohibited as storage buildings or structures except as permitted on an active construction site.

(B) *Accessory Structures.* Accessory structures, not including accessory dwelling units (see (C)(1) of this section) or in-ground pools, shall be subject to the following requirements:

(1) *Zoning Permit Required.* It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of an accessory structure, until the Planning Department has issued a zoning permit for such work (see § 155.709).

(2) *Setbacks.*

(a) No accessory structure shall be located closer than ten feet to any other building or manufactured home.

(b) No accessory structure shall extend in front of the front line of the principal structure, except in the B-1 zoning district where the Board of Adjustment may approve a variance for an accessory use or structure to be placed in any yard other than the rear yard.

(c) No accessory structure may extend within five feet of any lot line in R-6 and R-8 Districts, and within ten feet in all other zoning districts. No accessory structure shall be located within 20 feet of any street right-of-way.

(3) *Height.* The height of an accessory structure shall not exceed the height of the principal structure or 25 feet, whichever is lesser, unless approved in accordance with the requirements outlined in § 155.201(C) Measurements and Exceptions.

(4) *Number.*

(a) Up to two accessory structures may be permitted on the same lot, subject to meeting the criteria elsewhere in this section.

(b) No more than one shed is permitted in the R-6 and R-8 zoning districts.

(c) Two or more accessory structures may not be joined together by adding a roofline, such as a breezeway or covered walkway, to give the appearance of a lesser number of structures.

(5) *Size.*

(a) An accessory structure may not exceed the gross floor area of the primary structure on the site. This restriction does not apply to in-ground pools.

(6) *Architectural consistency.*

(a) On non-residential or mixed use sites, the architecture of accessory structures shall be consistent with the primary structure.

(C) *Accessory Uses in Residential Districts.*

(1) *Accessory Dwelling Units.* One accessory dwelling may be permitted as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(a) The living area of the accessory dwelling shall not exceed the living area of the principal structure. In no case shall the total floor area of the accessory dwelling unit exceed 600 square feet.

(b) The accessory dwelling shall not have a separate electrical meter.

(c) The owner of the property shall occupy either the primary structure or the accessory dwelling.

(d) The principal dwelling and accessory dwelling unit together shall not exceed the maximum building coverage and impervious surface requirements for the district.

(e) All principal structure setbacks and yard requirements shall be met.

(f) One additional parking space on the same premises shall be required for the accessory dwelling unit.

(g) A subdivision with accessory dwelling units shall not exceed the maximum district density requirements, counting all principal dwelling units and any accessory dwelling units.

(h) An accessory dwelling shall either be located within the principal structure; or meet the following standards:

1. The accessory dwelling shall be located on the same lot as the principal structure.

2. The accessory dwelling shall be separated by at least ten feet from the principal structure.

3. The accessory dwelling shall be located in the rear or side yard of the principal structure. The rear and side setback shall be equal to those of all accessory structures.

4. Total building coverage and impervious surface area shall not exceed that permitted in the district.

5. The height of a principal structure shall not be exceeded by any accessory dwelling.

6. The accessory dwelling unit shall be architecturally consistent with the principal structure.

(2) *Home Occupations.*

(a) *Prohibited Home Occupations.* The following uses are not permitted as home occupations:

1. Vehicle and/or body and fender repair.

2. Outdoor repair or outdoor storage.

3. Commercial nursery or truck farming.

4. Food handling, processing or packing, other than services that utilize standard home kitchen equipment.

5. Medical or dental lab.

6. Restaurant.

7. Sale or repair of firearms.

8. Bulk storage of flammable liquids.

9. Funeral homes and mortuaries.

10. Animal hospitals and kennels.

(b) *Class A Home Occupations.* The intent of a Class A Home Occupation is to permit very limited activities in a residential dwelling, provided such activities do not impact or detract from the residential character of the neighborhood. A Class A Home Occupation shall be deemed an accessory use and no further approval shall be required, provided the use meets the standards of this chapter.

1. The use of the dwelling unit for Class A Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.

2. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.

3. No business, storage or warehousing of material, supplies or equipment shall be permitted outside of the primary dwelling unit.

4. No equipment or process shall be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.

5. No display of products shall be visible from the street.

6. A Class A Home Occupation shall be subject to all applicable licenses and business taxes.

7. No persons other than members of the family residing on the premises shall be engaged in the home occupation.

8. Storage space and the operation of the business inside the dwelling unit shall not exceed 25% of the first floor area of the residence.

9. Customers and employees coming to the residence to conduct business shall not be permitted.

10. No signage shall be permitted.

(c) *Class B Home Occupations.* A Class B Home Occupations is a business, profession, occupation or trade conducted for gain or support within a residential dwelling or its accessory buildings that requires employees, customers, clients or patrons to visit the home. This use does not include "In-Home Daycares" which are subject to separate requirements as outlined in this Chapter. A Class B Home Occupation may be permitted as a special use permit provided that the Town Council shall determine in its judgment that:

1. It is carried on by a person residing on the premises and employs no more than two employees not living on the premises.

2. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.

3. No more than two vehicles are used in the conduct of the home occupation, and such vehicles are parked off the street.

4. No merchandise or commodity is sold on the premises, except what is incidental to the home occupation.

5. No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.

6. No expansion shall be permitted outside the principal structure that houses the home occupation, except that which is necessary to house vehicles used in the conduct of home occupation.

7. It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

8. The use will not create undue traffic congestion or create a traffic hazard.

9. Advertising signs shall be limited to one unlighted wall sign no larger than three square feet in area, attached to the structure housing the home occupation, or one yard sign of the same size not to exceed three feet in height.

(3) *In-Home Day Care.* The operation of a day care within a residential dwelling unit by a person that is a resident of the dwelling. All in-home day cares shall obtain proper licensing from the State of North Carolina. In-home day cares shall be considered an accessory use and permitted only as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(a) A Zoning Compliance Permit shall be obtained from the Town to operate an in-home day care. A site layout and floor plan shall be submitted with the permit application to ensure the following requirements are met:

1. No more than five children may be supervised at a time. This includes any resident children that may be on the premises during hours of operation.

2. The day care shall be carried on by a person residing on the premises and employ no additional employees. If additional employees are proposed, the day care shall be subject to the requirements of a Class "B" Home Occupation.

3. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.

4. No expansion shall be permitted outside the principal structure that houses the home occupation.

5. An off-street drop off and passenger loading area shall be provided. This may be provided within a residential driveway.

6. Hours of operation shall be limited to Monday to Friday, 7:00 a.m. to 6:00 p.m.

7. Visual buffers shall be provided to shield all play areas and outdoor activity from abutting residentially zoned properties. This shall be done in the form of six foot tall opaque fencing and/or landscaping that is six feet in height at the time of planting.

(b) Advertising signs shalt be limited to one unlighted wall sign no larger than three (3) square feet in area, attached to the structure housing the in-home day care, or one yard sign of the same size not to exceed three feet in height. All signage is subject to review and approval of a Permanent Sign Permit application.

(4) *Swimming Pools.* When allowed, in-ground and above-ground swimming pools that have a water depth over 24 inches and or have a surface area of at least 100 square feet shall be subject to the following requirements (see Chapter 154, Swimming Pools, of the Town Code of Ordinances for additional standards).

(a) *Private Pools.* Private swimming pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) on single-family detached, zero lot lines, alley-loaded, and two-family lots shall not be located in the street yard and shall not be closer than five feet to any property line.

(b) *Outdoor Community Pools, Private Club Pools, or Pools in Multi-Family Complexes.*

1. Outdoor pools (including any associated decking, pool house, pool chemical storage shed, or equipment associated with the pool) shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.

2. When the pool is adjacent to off-site residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement is waived if a permit has been issued for a special event.

(5) *Vehicle Repair.* Up to two vehicles may be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

(6) *Vehicle Sales.* Vehicle sales shall be prohibited within a residential district or on property devoted to residential use, except that the sale of a private vehicle registered to the occupant of the residence shall be allowed. No more than one such vehicle shall be displayed at a time.

(D) *Accessory Uses in Nonresidential Districts.*

(1) *Drive-Thru (aka Drive-Through).* Drive-thru facilities shall be subject to the following requirements:

(a) A drive-thru shall only be permitted in conjunction with a permitted nonresidential use.

(b) Drive-thru windows and lanes shall be screened in accordance with §155.402(G).

(2) *Food Truck.*

(a) *Permits Required.*

1. Food truck vendors must provide documentation of approval from the Health Department of the County in which the food truck's associated restaurant or commissary is located.

2. The County Health Permit must be displayed during hours of operation.

(b) *Public Safety.*

1. Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.

2. Grease and wastewater must be contained and disposed of in an approved grease receptacle located at the associated restaurant or commissary.

3. If the food truck is operating after dark, the food truck vendor shall provide appropriate lighting.

4. A food truck vendor shall not operate the food truck as a drive-in window.

5. The Planning Director may engage in zoning enforcement or prohibit/suspend a food truck vendor's operations if are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or such use is otherwise creating a danger to the public health or safety.

(c) *General Location Requirements.*

1. Food trucks must be located on private property with written permission from property owner.

2. Food trucks shall be positioned at least 400 feet from the customer entrance of an existing restaurant during hours of operation, unless the vendor provides documentation that the restaurant owner supports a closer proximity.

3. Food trucks shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Food truck vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, and driveway entrances.

4. No more than two food trucks are permitted as an accessory use, unless at an approved special event, market, festival, or an active construction site.

(d) *Hours of Operation.* Food trucks must cease operations between the hours of 12:00 a.m. and 7:00 a.m., and are not permitted to remain on site overnight.

(e) *Signage.* No signage shall be allowed other than signs permanently attached to the motor vehicle. An easel sign no more than 12 square feet per sign face in display area may be placed within the customer waiting area.

(3) *Day Care Facility.*

(a) A non-residential accessory day care facility shall only be permitted as an accessory to the following uses:

1. Hospital or medical center (§155.302(G))
2. School (elementary or secondary) (§155.302(H))
3. School (technical, trade, or business) (§155.302(I))
4. Entertainment, indoor (§155.303(A))
5. Entertainment, outdoor (§155.303(B))
6. Fitness/recreation center (§155.303(C))
7. Creative studio, (§155.305(G))
8. Office, general, (§155.305(P))
9. Office, medical, (§155.305(Q))
10. Research and development, (§155.306(G))
11. Church or place of worship, (§155.302(C))

(b) All accessory daycare facilities shall be subject to the same requirements for day care facilities, outlined in §155.302(E). This shall not include in-home day cares which are governed by separate requirements outlined in Chapter 155.

(4) *Park.*

(a) An accessory park shall be permitted in the forms of community gardens, playgrounds, or other small-scale recreational amenities that are secondary in nature to the primary use of the property.

(b) Accessory park uses shall be subject to site plan review in accordance with §155.707, illustrating the proposed boundaries of the park, amenities, and any other applicable elements.

(c) Additional parking to accommodate the accessory park shall be required in accordance with §155.401.

(5) *Outdoor Display and Sales.*

(a) Outdoor display and sales shall be generally defined as the display and sales of goods, wares or merchandise outside of a permanent structure on property owned or leased by the person, firm or corporation. Outdoor display and sales must be secondary and incidental to the principal use or structure on the property, unless authorized pursuant to § 155.309, Temporary Use.

(b) Outdoor display and sale areas greater than 50 square feet shall only be permitted following review of a site plan in accordance with § 155.707, illustrating the extent of the permitted area for outdoor display and sales subject to the standards below. Outdoor display and sale areas 50 square feet or less do not require site plan approval, but are still subject to the standards below.

(c) The location of outdoor merchandise must be on the same property as the principal use, and not within the right-of-way, except that in the B-1 zoning district it may be displayed in the right-of-way, provided that clearance requirements are maintained for pedestrian passage.

(d) No outdoor merchandise displayed shall exceed five feet in height. Wholesale of materials and any display that exceeds this height limitation shall be considered accessory outdoor storage and shall be permitted only in districts as set forth in the Use Regulations Table (Table 2-1 § 155.202).

(e) Merchandise shall be displayed to allow pedestrians use of the adjacent sidewalk or parking areas, and shall meet ADA accessibility requirements.

1. Any merchant desiring to display and sell merchandise along a public sidewalk or right-of-way must also receive approval from the Town Manager or his designee, and agree to also comply with the following stipulations:

A. Merchandise must be removed from the sidewalk within 24 hours of notice from the Town. If such items are not removed following notice, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situation. The Town is not responsible for damage to the merchandise under any circumstances.

B. The owner of the business displaying or selling merchandise within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from the display of merchandise.

C. Merchandise must be removed from the sidewalk when the business is closed.

(6) *Outdoor Dining.*

(a) Outdoor dining shall be defined as the placement of tables and chairs for dining outside of a permanent structure.

(b) *General Requirements*.

1. Outdoor dining shall be permitted with a zoning compliance permit for eight or fewer seats. More than eight seats is subject to site plan approval illustrating the extent of the outdoor dining area, the maximum seating capacity, and subject to the standards below. The impact of outdoor dining areas on adjacent churches, hospitals, public schools, and residential uses shall be mitigated to minimize potential impacts

related to glare, light, loitering, and noise.

2. Patron tables and other outdoor dining area components shall be clearly defined and located on the same site as the other facilities of the restaurant or on the adjacent public right-of-way. Separation between the seating and vehicular or pedestrian traffic by a physical barrier may be required, with the design to be approved by the Planning Director.

3. Separation may be achieved through the use of materials which include, but are not limited to landscape planters, walls, railings or a combination thereof. Only barriers composed of landscape planters or masonry walls may be solid.

(c) The additional parking necessary to accommodate seating created in the outdoor dining area shall comply with the parking requirements set forth in § 155.401 of this chapter.

(d) Outdoor dining areas and associated structural elements, such as awnings, covers, umbrellas, or other physical elements shall be compatible with the overall design of the main structure and must maintain a height clearance of eight feet and meet ADA accessibility requirements. Dining equipment (including, but not limited to tables, chairs, space heaters, barriers) may remain in place.

(e) The Town may revoke the outdoor dining area if it is determined that its operation is causing litter problems either on or off the property where the dining is located or that such use is otherwise creating a danger to the public health or safety.

(f) In addition to the requirements set forth above, if any portion of the outdoor dining area is to be located within a public right-of-way (sidewalks only), the dining area must also receive approval from the Town Manager or his designee, and agree to comply with the following stipulations. Outdoor dining within right-of-way owned and operated by the State of North Carolina, must also meet the requirements of G.S. § 136-27.4 listed below.

1. Tables, chairs, and other furnishings shall be placed a minimum of six feet from any travel lane.

2. Tables, chairs, and other furnishings shall be placed in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.

3. Tables, chairs, and other furnishings shall not obstruct any driveway, alleyway, building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilations areas, or ramps necessary to meet accessibility requirements under the Americans with Disabilities Act.

4. The maximum posted speed permitted on the roadway adjacent to the right-of-way to be used for sidewalk dining activities shall not be greater than 45 miles per hour.

5. The restaurant operator shall provide evidence of adequate liability insurance specified by the Town under G.S. § 160A-485 as the limit of the Town's waiver of immunity or the amount of Tort Claim liability specified in G.S. § 143-299.2, whichever is greater. The insurance shall protect and name NCDOT and the Town as additional insured on any policies covering the business and the sidewalk activities.

6. The restaurant operator shall provide an agreement to indemnify and hold harmless NCDOT and the Town from any claim resulting from the operation of sidewalk dining activities.

7. The restaurant operator shall provide a copy of all permits and licenses issued by the state, county or Town, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the Town for exterior alterations or improvements to the restaurant.

8. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by NCDOT, the Town, its agents or employees, or by any other governmental entity or public utility.

9. Any other requirements deemed necessary by the NCDOT, either for a particular Town or a particular component of the state highway system.

(g) The Town reserves the right to terminate the use of outdoor dining within the public right-of-way at any time. Upon notice, all furnishings must be removed from the sidewalk within 24 hours of notice from the Town. If furnishings are not removed within the time specified, the Town has the right to remove and dispose of these items and may assess the property owner for the cost of removal and disposal. The Town has the right to remove such items immediately in emergency situations. The Town is not responsible for damage to the furnishings under any circumstances.

(h) The owner of the business utilizing a dining area within a public sidewalk is responsible for repairing any incidental damage to public sidewalk resulting from outdoor dining furnishings.

(7) *Accessory Limited Outdoor Storage.*

(a) Accessory limited outdoor storage shall be defined as the overnight outdoor storage of vehicles (not associated with outdoor sales and display including vehicle sales, vehicle repair or car rental), merchandise or material in boxes, crates, on pallets or other kinds of containers, shopping carts, or other similar merchandise, material or equipment.

(b) Limited outdoor storage shall only be considered as an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 § 155.202). Limited outdoor storage areas shall meet the standards below:

1. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen.

2. All limited outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residentially-zoned district.

3. Limited outdoor storage shall not be permitted in a street yard or otherwise forward of the front building line.

(8) *Accessory General Outdoor Storage.*

(a) General outdoor storage shall be defined as salvage yards, vehicle junk yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.

(b) General outdoor storage shall only be considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 § 155.202). General outdoor storage areas shall meet the standards below:

1. General outdoor storage shall be screened by 100% opaque, eight foot high visual barrier or screen. When located abutting or across the street from a residential use or residentially-zoned property, such screening shall be high enough to completely conceal all outdoor storage from view.

2. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.

3. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.

4. General outdoor storage may be located in the side or rear yard.

(9) *Swimming Pools.*

(a) Outdoor pools shall meet the standards of Chapter 154, Swimming Pools, of the Town Code of Ordinances.

(b) Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.

(c) When the pool is adjacent to residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

(E) *Accessory Uses for Places of Worship.* Accessory uses are permitted for a place of worship in accordance with the following standards.

(1) The following facilities may be considered accessory to a place of worship. Additional buffering may be required through the review and approval of a site plan to address the intensity of the proposed place of worship and the proposed accessory uses.

(a) Offices for the place of worship;

(b) Rooms for religious instruction or counseling;

(c) Meeting rooms for intermittent community meetings or instruction;

(d) Fellowship hall;

(e) Kitchen facilities;

(f) Senior center, neighborhood arts center or other community center;

(g) Temporary child care during religious services or events;

(h) Outdoor play area;

(i) Columbarium;

(j) “Meals on Wheels” or other similar programs using the kitchen in the place of worship but delivering food elsewhere; and

(k) Residence for clergy employed by the place of worship.

(2) The following accessory uses are subject to approval of a site plan (see §155.707).

(a) Gymnasium or similar indoor recreational facility;

(b) Cemetery;

(c) Overnight accommodation for visiting clergy and non-paying guests of clergy employed by the place of worship;

(d) Child care center;

(e) School;

(f) Soup kitchen or other social service facility; and

(g) Athletic field or similar facility.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2013-10-01, passed 10-7-13; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2019-07-04, passed 7-15-19; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.309 TEMPORARY USES.

(A) *General requirements.* Certain uses are temporary in character. They vary in type and degree, as well as length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present questions involving potential incompatibility of the temporary use with existing uses. Unless otherwise specified in this chapter, the following regulations shall govern temporary uses.

(B) *Temporary uses exempt from permit.* The following permitted temporary uses are exempt from these requirements.

(1) Christmas tree sales lots.

(2) Garage or yard sales are permitted only by the property owner on their property and are allowed once every four months at any given location. The sale may not exceed three consecutive days in length. Advertising signs may not be placed on any rights-of-way or off-site locations without the owners' permission.

(3) Storage pods for off-site storage of household or other goods located in any street yard are permitted for a maximum of seven consecutive days, and any side or rear yard for a maximum of 30 consecutive days.

(C) *Temporary use permit required.* The following temporary uses are allowed in the frequency stated below, except that no property shall have more than four of the events listed below in one calendar year.

(1) *Commercial circuses, carnivals or fairs.* Commercial circuses, carnivals or fairs, for not more than two consecutive weeks in any calendar year.

(2) *Temporary religious or revival activities.* Temporary religious or revival activities in tents in association with a place of worship, for not more than two consecutive weeks in any calendar year.

(3) *Non-profit special events.* Special events run by non-profit, charitable organizations occurring no longer than seven consecutive days once every three months.

(4) *Tent sales.* Tent sales by merchants occupying the premises on which the sale is conducted and having a valid certificate of occupancy, and occurring no longer than seven consecutive days once every six months.

(5) *Grand opening sales.* Grand opening sales, including outside food and beverage vending, for three consecutive days, once per certificate of occupancy.

(6) *Outdoor vehicle show or sale.* Outdoor motor vehicle or recreational vehicle show or sale, for three consecutive days, twice per calendar year.

(7) *Other temporary uses.* Other temporary uses similar in nature to the ones listed above, with corresponding limitations, as determined by the Planning Director.

(D) *Temporary outdoor display of merchandise.*

(1) Outdoor display of merchandise in nonresidential districts by merchants occupying the premises and having a valid certificate of occupancy, occurring no longer than nine consecutive days up to four times per year, is allowed subject to issuance of a temporary use permit and all of the following conditions.

(a) Merchandise shall only be displayed in front of the premises occupied by the merchant.

(b) Merchandise shall not be displayed closer than five feet to any entrance to the premises.

(c) Merchandise shall only be displayed in a manner that does not obstruct pedestrian or vehicular circulation or traffic.

(d) The display of merchandise shall not exceed eight feet in height.

(e) Merchandise shall only be displayed during the merchant's hours of operation, and must be taken inside the premises at closing.

(f) Merchandise shall only be displayed in an area not wider than 50% of the total linear foot frontage of the building occupied by the merchant.

(g) The required temporary use permit must be visibly displayed at the main entrance of the associated merchant.

(h) A violation of any conditions set out in this section shall constitute a violation of the temporary use permit and cause said temporary use permit to be revoked. Once revoked, a temporary use permit shall not be issued for the same temporary use for a period of one year.

(2) Any temporary use permit issued under (C)(1) through (7) of this section shall be counted in the maximum number of temporary use permits allowed for the temporary outdoor display of merchandise.

(3) The requirements of this section do not supersede the permanent outdoor storage or display requirements of § 155.308. Permanent outdoor display/sales of merchandise shall be considered an accessory use and permitted in districts as set forth in the Use Regulations Table (Table 2-1 § 155.202). This use shall be subject to site plan approval.

(E) *Manufactured Home or trailer for temporary use.* One Manufactured Home or trailer may be used as a temporary office, security shelter, or shelter for materials or tools (but not for residential purposes or sales offices) incident to construction on or development of the premises upon which the Manufactured Home or trailer is located. Such use shall be strictly limited to the time construction or development is actively underway. The temporary use may continue more than six months upon finding that actual construction is continuing.

(F) *Temporary use in conjunction with special event permit* Where a valid permit has been issued by the town for use of adjacent right-of-way that makes the street unavailable to vehicular traffic, a temporary use permit may be issued in accordance for events on the grounds or in the parking lot of any adjacent parcel during the period of the special event permit.

(G) *Real estate development projects.*

(1) A developer may request a temporary use permit for necessary commercial promotional, storage, or fabrication activities at the development site which occur during construction of that developer's project.

(2) When the request is for a temporary sales office, model home, or apartment, the application shall list the lots, apartment units, or dwelling units to be initially sold.

(3) The temporary use permit shall be restricted to only those activities and properties listed on the petition. Such activities shall not include any sale of properties outside the development site or any resale of properties.

(4) The following uses in connection with such a project require a temporary use permit:

(a) Offices for sale of real estate or for persons engaged in the development.

(b) Construction materials storage, general contractor's business office, processing, or fabrication.

(c) Equipment storage.

(d) Model homes or sample apartments.

(H) *Temporary uses on town-owned lands.*

(1) *Scope.* The provisions of this section shall only apply to lands under the Public Facilities (PF) zoning district. These provisions shall apply to all types of applications regardless of the review procedures by which they are approved, unless otherwise specified in this chapter. These standards may be modified by other applicable standards or requirements in this chapter.

(2) *Intent.* This section provides standards for temporary uses and structures in PF zoning districts. New projects and routine maintenance on town facilities often require the use of temporary structures and uses. This section outlines the permitting requirements and standards for such temporary uses and structures.

(3) *Temporary structures.* At the Planning Director's discretion, a permit may be granted for placement of mobile or modular structures in

the PF zoning district for up to one year subject to the standards below. All temporary structures shall:

(a) Not be placed within a public right-of-way.

(b) Meet all current zoning standards for building height, impervious surface, and setbacks.

(c) Have active building and zoning permits.

(d) Be shown on an approved site plan and construction drawings.

(e) Conform to structural strength and uplift requirements.

(f) Show the occupancy, means of egress, and occupant load for all temporary structures.

(g) Be provided with a portable fire extinguisher per Section 906.1 of the 2018 North Carolina Building Code.

(h) Not include permanent alterations to the site.

(i) Not interfere with the normal operations of any permanent use located on the property.

(4) *Temporary parking.* At the Planning Director's discretion, a permit for a temporary parking lot may be granted in PF zoning districts for up to one year. Parking areas may be unpaved and may be used regardless of whether a structure exists at the site. An approved site plan and zoning permit are required for a temporary parking area. Temporary parking areas are exempt from the vehicle use area landscaping standards under § 155.402(D)(2).

(5) *Permit renewal.* Upon expiration, a permit for a temporary structure or parking area may be renewed no more than twice, subject to standards (a) through (i) listed under division (3) above. Each renewal shall be valid for one year. The maximum total period a temporary use, structure, or parking area may be allowed is three years, which includes the initial one-year approval and two annual permit renewals. Permit renewals shall require approval by the Town Council.

(6) *Site restoration.* Upon expiration of a temporary use permit, applicants shall be required to either restore the site, structure, or parking area to its original condition, or construct a permanent site, structure, or parking area in accordance with plans and permits approved by the Town of Clayton.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2022-04-02, passed 4-18-22)

§ 155.310 TELECOMMUNICATION FACILITIES.

(A) *Purpose and legislative intent.* The purpose of this section is to establish general guidelines for the locating, collocating, modifying or upgrading of telecommunications towers, antenna, ground equipment and related accessory structures. It is the intent of this section to:

(1) Promote the health, safety, and general welfare of the public by regulating the locating of telecommunication facilities.

(2) Minimize the impacts of telecommunication facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility.

(3) Encourage the location and collocation of telecommunication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional towers.

(4) Accommodate the growing need and demand for new and upgraded telecommunication services.

(5) Encourage coordination between suppliers and providers of personal telecommunication services.

(6) Establish predictable and balanced codes governing the construction and location of telecommunications facilities within the confines of permissible local regulations.

(7) Establish review procedures to ensure that applications for telecommunications facilities are reviewed and acted upon within a reasonable period of time as required by applicable state and federal regulations.

(8) Respond to the policies embodied in the Telecommunications Act of 1996 so that no discrimination between providers of functionally equivalent personal wireless services occurs, or to prohibit or have the effect of prohibiting personal wireless services.

(9) Respond to the policies in Section 6409 of the Tax Relief and Job Creation Act of 2012 (47 USC § 1445(a)).

(10) Protect the character of the town while meeting the needs of its citizens to enjoy the benefits of telecommunication services.

(11) Encourage the use of public lands, buildings, and structures as locations for telecommunications infrastructure demonstrating concealed technologies and revenue generating methodologies.

(B) *Authority.* The provisions of this section are permitted under authority granted by the General Assembly of the State of North Carolina with particular reference to Article 6 of Chapter 153A of the North Carolina General Statues.

(C) *Specific telecommunication definitions.*

ALTERNATIVE STRUCTURE. A structure that is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted, including, but not limited to buildings, water tanks, pole signs, billboards, church steeples, and electric power transmission towers.

AMATEUR RADIO TOWER. Any tower used for amateur radio transmissions consistent with the "Complete FCC U.S. Amateur Part 97 Rules and Regulations" for amateur radio towers.

ANCILLARY STRUCTURE. Any form of development associated with a communications facility, including, but not limited to foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports, but excluding equipment cabinets.

ANTI-CLIMBING DEVICE. A piece or pieces of equipment designed to prevent people from climbing the structure.

ANTENNA. Any apparatus designed for the transmitting and/or receiving of communication signals, including, but not limited to telephonic, radio and television communications.

ANTENNA ARRAY. A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving communication signals.

ANTENNA ELEMENT. Any antenna or antenna array.

ANTENNA MODIFICATION. See ***COLLOCATION***.

ANTENNA UPGRADE. See ***COLLOCATION***.

ASR. The Antenna Structure Registration Number as required by the FAA and FCC.

BASE STATION. The electronic equipment utilized at the base of a tower for the transmission and reception of communication signals.

BREAKPOINT TECHNOLOGY. The engineering design of a tower wherein a specified point on the tower is designed to have stresses concentrated so that the point is at least 5% more susceptible to failure than any other point. In the event of a structural failure, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the tower.

BROADCAST FACILITIES. Towers, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission.

COLLOCATION. The practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same tower or attached communication facility using different and separate antenna, feed lines, and radio frequency generating equipment.

COMBINED ANTENNA. An antenna or an antenna array designed and utilized to provide services for more than one wireless provider, or a single wireless provider utilizing more than one frequency band or spectrum, for the same or similar type of services.

CONCEALED. A tower, ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with the natural environment or existing and proposed building(s) and uses on a site. There are two types of concealed facilities:

(a) ***ANTENNA ATTACHMENTS.*** These include painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure.

(b) ***FREESTANDING.*** Freestanding concealed tower's usually have a secondary, obvious function which may include church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree.

DEVELOPMENT AREA. The area occupied by a communications facility including areas inside or under an antenna-support structure's framework, equipment cabinets, ancillary structures, and/or access ways.

DISCONTINUED. Any tower without any mounted transmitting and/or receiving antennas in continued use for a period of 180 consecutive days.

DISTRIBUTED ANTENNA SYSTEM (DAS). A network of smaller, spatially separated antenna nodes and typically installed on either existing or new utility poles and connected to a communications network. A DAS network splits the transmitted signal among several smaller antennas to provide coverage and reliability over the same area as a single traditional tower/antenna.

EQUIPMENT COMPOUND. The fenced-in area surrounding the base station equipment including the areas inside or under a tower's framework and ancillary structures such as equipment necessary to operate the antenna on the structure that is above the base flood elevation including cabinets, shelters, pedestals, and other similar structures.

EQUIPMENT CABINET. Any structure above the base flood elevation including cabinets, shelters, pedestals, and other similar structures and used exclusively to contain radio or other equipment necessary for the transmission or reception of communication signals.

FAA. The Federal Aviation Administration.

FCC. The Federal Communications Commission.

FEED LINES. Cables used as the interconnecting media between the transmission/receiving base station and the antenna.

FLUSH-MOUNTED. Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

GEOGRAPHIC SEARCH RING. An area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

HANDOFF CANDIDATE. A wireless communication facility that receives call transference from another wireless facility.

LEAST VISUALLY OBTRUSIVE PROFILE. The design of a communication facility and its equipment to present a visual profile that is the minimum profile necessary for the facility to properly function.

NON-CONCEALED. A tower, ancillary structure, or equipment compound that is readily identifiable as such and can be either freestanding or attached.

PERSONAL WIRELESS SERVICE. Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996.

PUBLIC SAFETY COMMUNICATIONS EQUIPMENT. All communications equipment utilized by a public entity for the purpose of ensuring the safety its citizens and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

RADIO FREQUENCY EMISSIONS. Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, tower, building, or other vertical projection.

RADIO FREQUENCY PROPAGATION ANALYSIS. Computer modeling to show the level of signal saturation in a given geographical area.

SATELLITE EARTH STATION. A single or group of parabolic or dish antennas mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration, including the associated separate equipment cabinets necessary for the transmission or reception of communications signals with satellites.

STRUCTURE. Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

TOWER. Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, equipment cabinets, and may include a tower. The following developments shall be deemed a communications facility: new, mitigated, or existing towers, public towers, replacement towers, collocation on existing towers, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities. Towers do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than 20 feet. Types of support structures include the following:

(a) ***GUYED.*** A style of tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

(b) ***LATTICE.*** A tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support antennas.

(c) ***MONOPOLE.*** A style of freestanding tower consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

TOWER BASE. The foundation, usually concrete, on which the tower and other support equipment are situated. For measurement calculations, the tower base is that point on the foundation reached by dropping a perpendicular from the geometric center of the tower.

TOWER HEIGHT. The vertical distance measured from finished grade to the highest point of the tower, including any antenna, lighting or other equipment affixed thereto.

TOWER SITE. The land area that contains, or will contain, a proposed tower, support structures and other related buildings and improvements.

(D) *Exemptions*. The following items are exempt from the provisions of this section:

(1) Any amateur radio tower less than 50 feet in height or communications towers existing or permitted prior to the adoption of this section.

(2) Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential zoning districts and two meters or less in all other zoning districts.

(3) A government-owned communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the town designee; except that such facility must comply with all federal and state requirements. No communications facility shall be exempt from this section beyond the duration of the state of emergency.

(4) A government-owned communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.

(5) A temporary, commercial communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the town, except that such facility must comply with all federal and state requirements. Said communications facility may be exempt from this section for up to one week following the special event.

(E) *Applicability.* Unless specifically exempted above, this section applies to development activity involving the installation, construction, or modification of all antenna and tower facilities. This includes but is not limited to:

(1) Non-commercial, amateur radio station antennas.

(2) Existing towers.

(3) Proposed towers.

(4) Public towers.

(5) Replacement or consolidation of towers.

(6) Collocation on existing towers.

(7) Attached wireless communications facilities.

(8) Concealed wireless communications facilities.

(9) Non-concealed towers.

(10) Broadcast facilities.

(F) *Abandonment (discontinued use).*

(1) Towers, antennas, and the equipment compound shall be removed at the owner's expense should the facility/tower not have active antennas in use for a period of 180 days.

(2) An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The town may extend the time for removal or reactivation up to 60 additional days upon a showing of good cause. If the tower or antenna is not removed within this time, the town may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the town may cause removal of the tower with costs being borne by the owner.

(3) Upon removal of the tower, antenna, and equipment compound, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at

the time of removal, excluding the foundation, which does not have to be removed.

(G) *Conflict with other laws or regulations.* When the requirements of this section conflict with the requirements of other lawfully adopted rules, regulations, or ordinances of the town, state or federal government, or deeds restrictions imposed by the developer or subdivider, the more stringent requirements shall govern.

(H) *Interference with public safety communications.* In order to facilitate the regulation, placement, and construction of antenna, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of an antenna, antenna array or applicant for a collocation shall agree in a written statement to the following:

(1) Compliance with "Good Engineering Practices" as defined by the FCC in its rules and regulations.

(2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).

(3) In the case of an application for co-located telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the town's public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.

(4) Whenever the town has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:

(a) The town shall provide notification to all wireless service providers operating in the town of possible interference with the public safety communications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the town and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide," released by the FCC in February 2001, including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time.

(b) If any equipment owner fails to cooperate with the town in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the town public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the town for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the town to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within 24 hours of town's notification.

(I) *Building code requirements.* Towers shall be constructed and maintained in conformance with all applicable building code requirements.

(J) *Zoning process levels.* Table 3-1 below indicates the zoning process for the different types of tower projects.

Table 3-1 Process

Process Level	***Approval Authority***	***Process Type***[1]	***Use***
I	Planning Department	P	Amateur radio no greater than fifty (50) feet in height
II	Planning Department	TRC	DAS network equipment, concealed towers, collocation, attached antennas, base station equipment
III	Town Council	TC	New towers other than those defined as concealed
IV	Town Council	TC	Broadcast facilities

Notes:

1. P - Permitted by right

TRC - Subject to Technical Review Committee approval (staff level)

TC - Subject to Special Use Permit approval by Town Council

(1) *Process Level I.* The Zoning Compliance Permit issued by the Planning Department to an individual, corporation, partnership, or other entity to engage in the creation of amateur radio tower.

(2) *Process Level II.* The Zoning Compliance Permit issued by the Planning Department (after Technical Review Committee approval) to an individual, corporation, partnership, or other entity to engage in the installation of DAS network equipment or concealed towers and collocation, attached antennas, base station equipment or antenna element replacements.

(3) *Process Level III.* The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council) to an individual, corporation, partnership, or other entity to engage in the creation of new towers, excluding amateur radio towers.

(4) *Process Level IV.* The Special Use Permit issued by the Planning Department (after public hearing and approval by Town Council) to an individual, corporation, partnership, or other entity to engage in the creation of new towers, specifically broadcast facilities.

(K) *Locating alternatives order.*

(1) *Locating of new antenna array and new towers.* Locating of a new antenna array and new tower shall be in accordance with the preferred location hierarchy provided in Table 3-2 below.

Table 3-2 Preferred Location Hierarchy

Ranking	*Type*
1	Concealed or camouflaged attached antenna
2	Collocated/combined/DAS antenna on existing tower
3	Replacement of existing tower
4	Non-concealed attached antenna
5	Concealed freestanding tower
6	Non-concealed freestanding tower

(2) *Locating of attached, collocated, DAS, and combined antenna.* For attached, co-located, or combined antenna, the order of ranking preference, highest to lowest, shall follow the same ranking as provided in Table 3-2 above. Where a lower ranked alternative is proposed, the applicant must file relevant information as required including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed communications facility.

(3) *Replacement of existing tower.* For replacement of an existing tower, the order of ranking preference from highest to lowest shall follow the same ranking as provided in Table 3-2 above. Where a lower ranked alternative is proposed, the applicant must file relevant information as required including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed communications facility.

(4) *Freestanding towers.* Where a freestanding tower is permitted, the order of ranking preference from highest to lowest shall follow the same ranking as provided in Table 3-2 above. Where a lower ranked alternative is proposed, the applicant must file relevant information as required and demonstrate higher ranked options are not technically feasible, practical, or justified given the location of the proposed communications facility, and the existing land uses of the subject and surrounding properties within 300 feet of the subject property.

(L) *Application requirements.* All tower applications shall contain the following:

(1) Completion of the Town of Clayton's Site Plan and Tower Application.

(2) Proof that a property and/or tower owner's agent has appropriate authorization to act upon the owner's behalf, if applicable.

(3) Application fee.

(4) Site plan.

(5) Written statement indicating that the criteria set forth in §155.310(H) are met.

(6) Valid FCC license/approval, as applicable.

(M) *General development standards.*

(1) *Visibility.*

(a) New towers shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties.

(b) New freestanding towers shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.

(c) A balloon test shall be required subsequent to the receipt of the photo simulations in order to demonstrate the proposed height of the new tower. The applicant shall arrange to raise a colored balloon no less than three feet in diameter at the maximum height of the proposed tower, and within 50 horizontal feet of the center of the proposed tower.

(d) The applicant shall meet the following for the required balloon test:

1. Applicant must inform the Planning Department and abutting property owners in writing of the date and times, including alternative date and times, of the test at least 14 days in advance.

2. The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven but no more than 14 days in advance of the test date.

3. The balloon shall be flown for at least four consecutive hours during daylight hours on the date chosen. The applicant shall record the weather during the balloon test.

4. Re-advertisement will not be required if inclement weather occurs.

(e) New antenna mounts shall be flush-mounted or camouflaged, unless the applicant's engineer seals and signs an attestation that flush-mounted antennas are not technically feasible for the proposed tower.

(f) In residential zoning districts, new towers shall only be considered on lots whose principal use is not residential.

(2) *Construction.*

(a) Grading shall be minimized and limited only to the area necessary for the new tower and equipment.

(b) Towers shall be constructed to accommodate antenna arrays as follows:

1. All freestanding towers up to 120 feet in height shall be engineered and constructed to accommodate no less than four antenna arrays.

2. All towers between 121 feet and 150 feet shall be engineered and constructed to accommodate no less than five antenna arrays.

3. All towers between 151 feet and taller shall be engineered and constructed to accommodate no less than six antenna arrays.

(c) Freestanding non-concealed tower shall be limited to monopole type towers, unless the applicant demonstrates that such design is not feasible to accommodate the intended uses.

(3) *Setbacks.* Freestanding towers and equipment compounds shall be subject to the setbacks described below:

(a) If the tower has been constructed using breakpoint design technology (see “Definitions”), the minimum setback distance shall be equal to 110% of the distance from the top of the structure to the breakpoint level of the structure, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant. (For example, on a 100-foot tall monopole with a breakpoint at 80 feet, the minimum setback distance would be 22 feet (110% of 20 feet, the distance from the top of the monopole to the breakpoint) plus the minimum side or rear yard setback requirements for that zoning district.)

(b) If the tower is not constructed using breakpoint design technology, the minimum setback distance shall be equal to the height of the proposed tower.

(4) *Height.*

(a) Height calculations shall include above ground foundations, including lightning rods or lights required by the FAA that do not provide any support for antennas or communication operations. It is intended that all new non-broadcasting towers be 150 feet or less in height. However, should a tower be required in excess of 151 feet, under no circumstance shall any tower exceed 300 feet. All new towers in excess of 151 feet shall be subject to the following additional requirements:

1. Evidence that the antenna service area will be so substantially compromised that there would be a requirement of additional antenna array within a distance of two miles.

2. The tower shall be designed to allow for a future reduction of elevation to no more than 150 feet, or the replacement of the tower with a monopole type structure at such time as the wireless network had developed to the point that such heights can be justified.

(b) New concealed towers shall be limited to 150 feet or less in height. Height calculations shall include above ground foundations and include lightning rods or lights required by the FAA that do not provide any support for antennas.

(5) *Equipment compound.*

(a) Equipment compounds shall be completely screened from view and shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower equipment compound. The compound shall not be used as habitable space.

1. Equipment cabinets shall be screened in accordance with §155.402(G)(4). Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

(6) *Parking.* Parking shall be required in accordance § 155.401(C) of the UDC.

(7) *Fencing.* All equipment compounds shall be screened from view and enclosed with an opaque fence, masonry wall, landscaping, or combination thereof. Alternative equivalent screening may be approved through the site plan approval process described in § 155.402 of the UDC.

(8) *Buffer.* The equipment compound shall be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

(a) All plants and trees shall be indigenous to eastern North Carolina.

(b) Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping with approval from the Planning Department.

(c) One row of evergreen trees with a minimum two inch caliper, 25 foot on center.

(d) Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.

(e) Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of § 155.402 of the UDC.

(9) *Signage.* Commercial messages shall not be displayed on any tower. Required noncommercial signage shall be limited to the following:

(a) The only signage that is permitted upon a tower, equipment cabinets, or fence shall be informational, and for the purpose of identifying the tower (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, and any additional security and/or safety signs as applicable.

(b) If 220 volts or more is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high contrast letters, minimum height of each letter four inches, the following: "HIGH VOLTAGE - DANGER."

(c) Name plate signage shall be provided, in an easily visible location, including the address and telephone number of the contact to reach in the event of an emergency or equipment malfunction, including property manager signs as applicable.

(10) *Lighting.* Lighting on towers shall not exceed the Federal Aviation Administration (FAA) minimum standards. All other lighting shall be subject to the following:

(a) Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA.

(b) Lights shall be oriented so as not to project directly onto surrounding property or rights-of-way, consistent with FAA requirements.

(N) *Additional requirements for Level II and Level III facilities.*

(1) Requirements for all Level II facilities:

(a) Compliance with American National Standards Institute (ANSI) standards for electromagnetic radiation: In order to protect the public from excessive exposure to electromagnetic radiation, the facility applicant shall certify through a written statement that the facility meets or exceeds current ANSI standards as adopted by the FCC.

(b) Certification furnished by a registered professional engineer licensed in the State of North Carolina that the structure has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.

(c) One original and two copies of a survey of the property completed by a registered professional surveyor, licensed in the State of North Carolina showing all existing uses, structures, and improvements.

(d) Any applicant for facilities under this section shall certify that such proposed facility shall comply with all applicable federal regulations regarding interference protection, including but not limited to federal regulations regarding adjacent channel receiver (blanket) overload and intermodulation distortion.

(2) *Collocation and combination (Level II).* The town requires collocation and combining of antennas on existing communications towers as a first priority where collocation is possible. Collocations are subject to the following additional requirements:

(a) A collocated or combined antenna or antenna array shall not increase the height of an existing tower by more than 10% or 20 feet, whichever is greater.

(b) New antenna mounts shall be flush-mounted or camouflaged onto existing structures, unless the applicant's engineer seals and signs an attestation that flush-mounted antennas are not technically feasible for the proposed collocation.

(c) The equipment cabinet shall be subject to the setback requirements of the underlying zoning district.

(d) When a collocated or combined antenna is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.

(e) Collocation and eligible facilities requests of wireless support structures described in § 160A-400.53 North Carolina General Statutes, shall meet all the following requirements:

1. The additional antenna array, transmission lines, and related ancillary equipment including the base station do not exceed the number of same items previously approved for such tower when originally approved, and the collocated facility is in complete conformance with the original conditions imposed on the tower upon which it is being attached.

2. The proposed collocation shall not increase the overall height of the tower or support structure to which the proposed infrastructure is to be attached by the greater of (i) more than 10% or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.

3. The collocation shall not increase the ground space area approved in the communications tower site plan for equipment enclosures and ancillary facilities by more than 2,500 square feet.

4. The collocation shall not, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, add an appurtenance to the body of a communications tower that protrudes horizontally from the edge of the tower the greater of (i) more than 20 feet or (ii) more than the width of the tower at the level of the appurtenance increase.

5. The existing tower on which the collocation will attach shall comply with applicable regulations, restrictions, and/or conditions, if any, applied to the initial wireless facilities placed on the tower.

6. The proposed additional collocation and tower shall comply with all federal, state, and local safety requirements.

7. The proposed collocation and ancillary equipment shall not exceed the applicable weight limits for the tower.

(f) Applications for collocation entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC § 1445(a)) shall be approved provided they meet the following requirements:

1. A collocation on an existing antenna-supporting structure shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array more than 10% or 20 feet, whichever is greater, and shall not cause the width (girth) of the structure to be increased more than 20 feet or the existing girth of the structure, whichever is greater.

2. Any collocation on an existing antenna-supporting structure shall meet current building code requirements (including windloading).

3. A collocation shall not add more than four additional equipment cabinets or one additional equipment shelter.

4. A collocation shall not require excavation outside of existing leased or owned parcel or existing easements.

5. Proposed collocations that do not meet these standards shall be processed as a Level III application.

(g) Collocation approvals entitled to processing pursuant to Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 USC § 1445(a)) are subject to the following:

1. A collocation application shall be deemed complete unless the town notifies the applicant within 45 days of submission (or within some other mutually agreed upon timeframe) that the submission is incomplete. Notices of application incompleteness shall identify the deficiencies in the application which, if cured, would make the application complete. Approval or denial of a complete application shall be in writing and shall be postmarked to the applicant by the 45th day after the submission is deemed complete.

2. Upon resubmitting of the revised application the town shall follow the process identified in this section, above, until all deficiencies identified are deemed cured.

3. If the town does not respond in writing to the applicant within the specified timeframe detailed above, then the application shall be deemed approved.

4. Applications subject to this review process shall not be subject to design or placement requirement, or public hearing review. All applications shall be initially submitted to the Planning Department for review and processing.

(h) New concealed and non-concealed towers shall be reviewed and have a decision rendered within 150 days of receipt of the application.

(3) *Attachment: concealed and non-concealed (Level II).* Antennas may be mounted onto a structure which is not primarily constructed for the purpose of holding attachment antennas but on which one or more antennas may be mounted. Attached antenna shall be subject to the following:

(a) The top of the attached antenna shall not be more than 20 feet above the existing or proposed building or structure.

(b) Non-concealed attachments shall only be allowed on electrical transmission towers and existing light stanchions subject to approval by the Technical Review Committee and utility company.

(c) When an attached antenna is to be located on a nonconforming building or structure, the existing permitted nonconforming setback shall prevail.

(d) Except for non-concealed attached antennas, feed lines and antennas shall be designed to architecturally match the façade, roof, wall, and/or structure on which they are affixed so that they blend with the existing structural design, color, and texture.

(4) *Antenna element replacement (Level II).* For any replacement of an existing antenna element on an antenna, the applicant must, prior to making such modifications, submit the following:

(a) A written statement setting forth the reasons for the modification.

(b) A description of the proposed modifications to the antenna, including modifications to antenna element design, type and number, as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.

(c) A signed statement from a qualified person, together with their qualifications, shall be included representing the tower's owner or owner's agent that the radio frequency emissions comply with FCC standards for such emissions. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.

(d) A stamped or sealed structural analysis of the existing structure prepared by a registered professional engineer licensed by the State of North Carolina indicating that the existing tower as well as all existing and proposed appurtenances meets North Carolina Uniform Statewide Building Code (USBC) requirements, including wind loading, for the antenna support structure.

(5) *DAS equipment and Small Cell (as applicable) (Level II).*

(a) System Design Review. A DAS applicant, prior to its initial application for a DAS facility, shall furnish an overall system design application to the Planning Department for review and approval by the Technical Review Committee. The system design application shall include the following information:

1. A statement of the identity and number of wireless services providers that will utilize the DAS systems;

2. A statement that the DAS system will be capable of accommodating at least eight wireless service providers on the proposed system;

3. A graphic depiction of the conceptual plan for the proposed total area of service coverage by the DAS system;

4. A statement of the number of handoff facilities for the DAS system;

5. A proposed build-out timeline and graphic depiction of the build-out phases through completion.

(b) Equipment Design Review. A DAS applicant, prior to its initial application for a DAS facility, shall furnish an equipment design application to the Planning Department for review and approval by the Technical Review Committee. The equipment design application shall include the following information for each proposed design:

1. Elevation of the antenna and/or antenna support structure to include the following proposed dimensions: height, width and breadth. Height shall include the base, the antenna support structure, and lightning rod.

2. Elevation views of any security barrier or equipment compound, indicating architectural design, exterior appearance and materials, including color.

3. Mounting location on antenna support structure or building, including height above ground level (AGL).

4. Identification of all mounting frames, arms, brackets or other devices or equipment used to hold antennas and other equipment in place.

5. Equipment brochures or drawings for the proposed facility, shall be provided for antennas, support structures/mounts, equipment shelters, feed lines and security barrier, if any.

6. Photo-simulated post-construction renderings of a sampling of completed proposed DAS facilities, equipment compound and/or equipment cabinets, ancillary structures, and landscaping, if any, from locations determined at the pre-application conference. The views shall incorporate before and after scenarios, a scaled color image of the proposed type of facility, an aerial map with the location of the selected views, and a description of the technical approach used to create the photo simulations. The simulations shall include a minimum of four vantage points (north, south, east, and west).

7. Individual sample site plan (no larger than 24 inches by 36 inches with an 8½ inch by 11 inch reduced copy) prepared and certified by a North Carolina-licensed professional engineer shall include all information listed on the DAS application checklist, and including existing or proposed public rights-of-ways, private roads and/or access easements through, on, or adjacent to the subject property.

8. Applicants should submit the information required by divisions 1. through 7. above for each design, if multiple designs are proposed.

(c) Individual component application and approval. Following approval of the DAS system design and DAS equipment design by the Technical Review Committee, a DAS applicant shall submit applications for individual DAS installations to the Planning Department for administrative approval provided the individual application provides documentation certifying it is consistent with the system design and equipment design standards previously approved in divisions (a) and (b) above.

(6) *Replacement of existing towers.* For a replacement of an existing tower with a new structure, the applicant must submit the following items outlined in division (7) below for new towers, including items (c) through (h), (k) through (p) and (r).

(a) The height of a tower approved for replacement shall not exceed 115% of the height of the tallest tower that is being replaced or consolidated.

(b) Level III: The height of a tower may exceed 115% of the height of the tallest tower that is being replaced or consolidated with evidence that the new tower will eliminate the need for an additional antenna array within a distance of two miles. Under no circumstance shall any mitigated tower exceed a height of 300 feet.

1. Height and setbacks. A new tower approved for replacement of an existing tower shall not exceed 115% of the height of the existing tower and shall not be required to meet new setback standards so long as the new tower and its equipment compound are no closer to any property lines or dwelling units as the tower and equipment compound being replaced. The intent is to encourage the replacement process, not penalize the tower owner for the change out of the old facility.

2. Buffers. At the time of replacement, the tower equipment compound shall be brought into compliance with any applicable buffer requirements.

3. Visibility. Replacement towers shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots.

(7) New towers (Level III). All new towers shall submit the following additional information as a part of a complete application:

(a) A report and supporting technical data shall be submitted, demonstrating the following:

1. All antenna attachments and collocations, including all potentially useable cross country utility distribution towers and other elevated structures within the proposed service area and alternative antenna configurations have been examined, and found unacceptable.

2. Reasoning as to why existing facilities such as cross country utility distribution and other elevated structures are not acceptable alternatives to a new freestanding tower.

3. Reasoning as to why the adequacy of alternative existing facilities or the mitigation of existing facilities are not acceptable in meeting the applicant's need or the needs of service providers, indicating that no existing communications facility could accommodate the applicant's proposed facility shall consist of any of the following:

A. No existing towers located within the geographic area meet the applicant's engineering requirements, and why.

B. Existing towers are not of sufficient height to meet the applicant's engineering requirements, and cannot be mitigated to increase in height.

C. Existing towers do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.

D. Other limiting factors that render existing wireless communications facilities unsuitable.

(b) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively the replacement antenna complies with FCC standards.

(c) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.

(d) An affidavit by a radio frequency engineer demonstrating compliance with “Locating Alternatives Order” located in §155.310(K) above. If a lower ranking alternative is proposed the affidavit must address why higher ranked options are not technically feasible, practical, and/or justified given the location of the proposed communications facility.

(e) Statement as to the potential visual and aesthetic impacts of the proposed tower and equipment on all adjacent residential zoning districts.

(f) Written statement by a registered professional engineer licensed by the State of North Carolina specifying the design structural failure modes of the proposed facility.

(g) Statement certifying that sound levels shall not exceed 70 db at the related property line.

(h) A map showing the geographic search ring.

(i) Signed and sealed certification from the applicant's radio frequency (RF) engineer that the proposed facility cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, collocation, or new tower.

(j) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.

(k) Signed and sealed site plans shall include the following:

1. Name of project and date.

2. Deed Book and Page and Map Book and Page Reference.

3. Scale, north arrow, and vicinity map.

4. Subject property information including zoning, watershed classification, and percent coverage of lot to be impervious surface (if located in a designated watershed area).

5. Adjacent property information, including land owners, land uses, height of principal building, size of lots, zoning, and land use designation.

6. Tower elevations.

7. Landscape buffering plans.

8. Maximum height of the proposed tower and proposed and future mounting elevations of future antenna, including individual measurement of the base, the tower, and lightning rod.

9. Location, classification, and size of all major public or private streets and rights-of- way.

10. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features.

11. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities.

(l) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.

(m) List of adjacent property owners and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.

(n) Simulated photographic evidence of the proposed tower and antenna appearance from any and all residential areas within 1,500 feet and vantage points approved by the Planning Department including the facility types the applicant has considered and the impact on adjacent properties. The simulations shall include depictions of:

1. Overall height;

2. Configuration;

3. Physical location;

4. Mass and scale;

5. Materials and color;

6. Illumination;

7. Architectural design.

(o) All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this section.

(p) A pre-application conference will be required for any new tower. The applicant shall demonstrate that the following notice was mailed (via certified mail) to all other wireless service providers licensed to provide service within the town as indicated on the list of wireless service providers provided by the town:

"Pursuant to the requirements set forth in §155.310 of the Town of Clayton Unified Development Code, [TOWER PROVIDER] is hereby providing you with notice of our intent to meet with the town staff in a pre-application conference to discuss the location of a free-standing wireless communications facility that would be located at _____ (physical address, latitude and longitude (NAD-83)). In general, we plan to construct a tower of _____ feet in height for the purpose of providing _____ (type of wireless service) _____. Please inform the town staff if you have any desire for placing additional wireless facilities or equipment within two miles of our proposed tower. Please provide us with this information within 20 business days after the date of this letter. Your cooperation is sincerely appreciated.

Sincerely, (pre-application applicant, wireless provider)"

(q) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

(O) *Additional requirements for Level IV (broadcast) facilities*.

(1) *Broadcast facilities.* All new broadcast facilities shall submit the following additional information as a part of a complete application:

(a) Technical data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application.

(b) Signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.

(c) A stamped or sealed structural analysis of the proposed tower prepared by a registered professional engineer licensed by the State of North Carolina indicating the proposed and future loading capacity of the tower is compliant with EIA/TIA-222-G (as amended) for either Johnston or Wake County, North Carolina, as appropriate.

(d) Statement certifying that no unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency generators are permitted. Sound levels shall not exceed 70 db.

(e) One original and two copies of a survey of the property completed by a registered professional engineer, licensed in the State of North Carolina showing all existing uses, structures, and improvements.

(f) Six sets (24"×36") of signed and sealed site plans shall include the following:

1. Name of project and date;

2. Deed Book and Page and Map Book and Page Reference;

3. Scale, north arrow, and vicinity map;

4. Subject property information including zoning, watershed classification, percent coverage of lot to be impervious surface (if located in a designated watershed area);

5. Adjacent property information including land owners, land uses, height of principal building, size of lots, and existing zoning and

land use;

6. Landscape buffering plans;

7. Maximum height of the proposed tower and/or antenna, including individual measurements of the base, tower, and lightning rod;

8. Location, classification, and size of all major public or private streets and rights-of-way;

9. Identify adjacent features within 500 feet of property boundary including driveways, public parking areas, pedestrian ways, trails, and any other pertinent features;

10. Two reduced copies (8½"×11"), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities;

11. Structure elevations.

(g) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.

(h) List of property owners within 1,000 feet in residential zoning districts and 500 feet in all other zoning districts and keyed to the map. The list must be from the most current ownership information supplied by the appropriate County Tax Department, together with two sets of mailing labels for such property owners. Applicant will also provide a notarized Certification Letter stating the ownership list referenced herein is accurate to the best of the applicant's ability.

(i) A pre-application conference will be required for any new broadcast facility.

(j) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.

(2) *Supplemental requirements for broadcast facilities.* All new broadcast facilities shall meet the following supplemental requirements:

(a) Determination of need. No new broadcast facilities shall be permitted unless the applicant demonstrates that no existing broadcast tower can accommodate the applicant's proposed use.

(b) Height. Height for broadcast facilities shall be evaluated on a case by case basis. The determination of height contained in the applicant's FCC Form 351/352 Construction Permit or application for Construction Permit and an FAA Determination of No Hazard (FAA Form 7460/2) shall be considered prima facie evidence of the tower height required for such broadcast facilities.

(c) Setbacks. New broadcast facilities and anchors shall be subject to the setbacks described below:

1. Minimum of 500 feet from any single-family dwelling unit on same lot.

2. Minimum of one foot for every one feet of tower height from all adjacent lots of record.

(d) Equipment cabinets. Except for AM broadcast facilities, cabinets shall not be visible from pedestrian and right-of-way views.

(e) Fencing. All broadcast facility towers, AM antenna(s) towers, and guy anchors shall each be surrounded with an anti-climbing fence compliant with applicable FCC regulations.

(f) Buffer. Except for AM broadcast facilities, it is the intent that all pedestrian views from public rights-of-way and adjacent residential land uses be screened from proposed broadcast facilities using existing vegetation or be landscaped with a minimum 10 foot wide perimeter buffer containing the following planting standards:

1. All plants and trees shall be indigenous to this part of North Carolina.

2. Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping where approved by the Planning Department.

3. One row of evergreen trees with a minimum two inches caliper, 25 foot on center.

4. Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallon or 24 inches tall at the time of planting, five foot on center.

5. Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Planning Department, provided the proposed alternative maximizes screening as provided above, and is otherwise consistent with the requirements of this section.

(P) *Administration, enforcement, and penalties.*

(1) *Administration.* This section shall be administered and enforced by the Planning Director or designee. The town may, through contract, secure the professional services of telecommunications consultants to assist town staff in the implementation of this section. Such professional services include, but are not limited to, review and evaluation of permit applications, determination of compliance with existing and proposed federal regulations, minimization of the aesthetic impact, review of the technical data and expert testimony as needed.

(2) *Enforcement and penalties.* If the Planning Director or designee shall find that any of the provisions of this section are being violated, it shall notify in writing the person responsible for the violation, specifying the nature of the violation and what corrective measures must be taken. The Planning Director or designee shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by law to ensure compliance with or to prevent violation of the provisions of this section.

(3) *Penalties.* Any person failing to take corrective action within a reasonable time after receiving written notice from the Planning Department and any person operating a communications tower without a valid permit shall be guilty of a misdemeanor and subject to the enforcement provisions listed in § 155.720 of the Unified Development Code.

(4) *Fees.* The Town Council shall set a fee, payable to the town to cover the necessary processing cost of all communications tower permits. The set fee shall be posted in the town's comprehensive list of fees and charges.

(5) *Supplemental review.* The town reserves the right to require a supplemental review for any Process Level (I, II, III, or IV) subject to the following:

(a) Where due to the complexity of the methodology or analysis required to review an application for a Process Level (I, II, III or IV), the town may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees. Schedules of current fees are listed in the town fee schedule.

(b) Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.

(c) The supplemental review may address any or all of the following:

1. The accuracy and completeness of the application and any accompanying documentation.
2. The applicability of analysis techniques and methodologies.
3. The validity of conclusions reached.
4. Whether the proposed communication facility complies with the applicable approval criteria set forth in these codes.
5. Other items deemed by the town to be relevant to determining whether a proposed communications facility complies with the provisions of these codes.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2008-10-03, passed 10-6-08; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-04-03, passed 4-2-12; Am. Ord. 2012-12-03, passed 12-3-12; Am. Ord. 2013-12-02, passed 12-2-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2021-02-02, passed 2-15-21)

ARTICLE 4: GENERAL DEVELOPMENT STANDARDS

§ 155.400 ACCESS.

(A) *Purpose and intent.* It is the intent of this section to establish procedures and design standards for driveways and access points to promote efficiency and safety of the connecting street system, support operations of the surrounding pedestrian and bicycle network, ensure safe roadway access to all parcels and lots, and promote a vibrant and attractive streetscape character. These procedures and standards are intended to preserve and enhance the character of the community, and protect the health, safety and general welfare of Clayton's residents.

(B) *Access.* For the purposes of this section, access means the point or points of ingress and egress from a development or parcel to the existing right-of-way network.

(C) *Access required*.

(1) Except as provided in paragraph (C)(2) below, no principal building, structure, or use may be erected or established on any lot which does not abut at least 30 feet on a street that is publicly-dedicated and maintained by the town or the North Carolina Department of Transportation (NCDOT).

(2) The Board of Adjustment may authorize, as a variance, alternative driveway access when:

(a) The effect of such application would be to deprive the parcel of reasonable access; or

(b) The size, configuration, or lack of frontage makes alternatives infeasible.

(c) At a minimum, entrances and exits, except those associated with a single-family residential use, shall be subject to the dimensional standards provided in Table 4-1 below.

TABLE 4-1: DIMENSIONAL STANDARDS OF ACCESS WAYS

Min. Entrance/Exit Width	***Feet*** (1)
Min. Entrance/Exit Width	***Feet*** (1)
One-Way	15
Two-Way without median	25 (35 maximum)
Two-way with median	40 (2)
Right Turn Radius (3)	
Minimum	25
Maximum	30
Notes: 1. All entrances and exits are subject to approval by the town and/or NCDOT. Widths exceeding these standards by up to 20% may be approved by the Planning Director or Town Engineer, depending on the use. Elsewhere a variance is required. 2. Width excludes median. 20 foot unobstructed pavement required on both sides of median, excluding landscape islands. 3. Measured on side of driveway exposed to entry or exit by right turning vehicles.	

(D) *Compliance with local and state requirements.*

(1) Prior to beginning any construction, permits necessary to connect to the right-of-way network of the town or state shall be secured. Driveway connections to individual residences are generally excluded from this requirement, but may be necessary if a safety concern is identified.

(2) Failure to secure necessary permits prior to construction may result in the removal of the driveways and/or denial of access at that location.

(3) A certificate of occupancy shall not be issued until the access requirements of this chapter have been met.

(E) *Access to residential subdivisions.*

(1) When a residential subdivision borders on or contains a major thoroughfare, direct driveway access from lots within the subdivision onto the thoroughfare shall not be permitted.

(2) In order to accommodate emergency and service vehicles, the following standards shall apply:

(a) Any residential subdivision of greater than 30 lots shall include at least two separate and constructed access points.

(b) Residential subdivisions of 300 or more lots shall provide at least three separate and constructed access points.

(c) Street stub-outs to adjacent undeveloped properties shall be provided as deemed appropriate. Stub-outs to adjacent undeveloped properties shall not count towards the minimum number of required access points. All stub-outs shall be constructed to the property line.

(d) Street connections shall be made to existing stub-outs on adjacent developed properties. These street connections may count towards the minimum number of required access points.

(e) All required access points outlined in this section shall be constructed prior to plat recordation of the phase in which the access points are located.

(F) *Multi-family residential developments*. Multi-family projects having more than 100 dwelling units shall provide at least two separate and constructed access points. Required access points shall be constructed prior to issuance of the first certificate of occupancy for the phase in which they are located.

(G) *Residential driveway standards*. Residential driveway access to and from streets shall be constructed in accordance with town standards as outlined below:

(1) *Design.* The standard residential driveway access for the town shall be a “ramp” type driveway section. Ramp-type driveways shall be constructed in accordance with town standards and specifications as outlined in the town’s *Engineering Design Manual*.

(2) *Width.* The width of a residential driveway shall be no less than ten feet and no more than 24 feet. When two residential driveways coincide along a property line, the maximum width of both driveways combined shall not exceed 24 feet.

(3) *Number.* The number of driveway access points servicing a residential lot should be limited to one. In no instance shall there be more than two residential driveway access points servicing the lot.

(4) *Setbacks*.

(a) Residential driveways shall be spaced at least 20 feet from any other driveway on the same lot.

(b) Driveways shall be no closer than three and one-half feet to any lot line, except where two residential driveways coincide along the same lot line.

(c) The minimum corner clearance from the curb line or edge of pavement of intersecting streets shall be at least 20 feet from the point of tangency of the radius curvature, or 20 feet from the intersection of right-of-way lines, whichever is greater.

(d) The radius of the driveway shall not encroach on the minimum corner clearance.

(H) *Non-residential driveway standards.*

(1) *Design.* Non-residential driveway access to and from streets shall be constructed in accordance with the standards and specifications provided in the manual, *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by NCDOT.

(2) *Number.*

(a) For any development, the number of driveway access points may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common access points.

(b) Approval of driveway access between a lot and the right-of-way at an interval less than those specified by the *Policy on Street and Driveway Access to North Carolina Highways* manual, as adopted and amended by NCDOT, may be granted only by review and recommendation of the Town Engineer and NCDOT.

(3) *Outparcels.* Outparcels shall take access from within the development, where possible.

(I) *Cross access connections.*

(1) Internal driveway connections to adjacent existing or future development shall be provided for residential and commercial development, and clearly identified. All driveway connections shall be constructed and stubbed to the property line except in instances where natural features (slope, topography, streams) or similar circumstances preclude the stub to the property line, and future development of adjacent property shall complete a connection to any existing stub.

(2) Access easements may be required to ensure outparcels or adjacent developments have adequate access if ownership patterns change.

(J) *Shared access.* A shared access easement may be required between adjacent lots fronting on a thoroughfare in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.

(K) *Closure or relocation of existing access points.*

(1) The Planning Board or Town Council, in conjunction with NCDOT, shall have the authority to require the closure or relocation of existing access points where multiple access points to the site are available.

(2) The Planning Board or Town Council may approve the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

(L) *Visibility at intersections.*

(1) On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision

between a height of 30 inches and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect.

(2) Adequate sight distance should be provided at all driveway access points and shall be in accordance with the standards provided in the manual, *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by the NCDOT.

(M) *Thoroughfare Overlay District.* In addition to the standards set forth in this section, driveways to be constructed within a Thoroughfare Overlay District are subject to the additional standards set forth in § 155.204(A).

(N) *Sidewalks.*

(1) All sidewalks associated with a residential subdivision shall be required as outlined in Article 6 of this chapter.

(2) All residential and non-residential development projects not associated with a residential subdivision shall be required to install sidewalks and curb-and-gutter along all property lines with road frontage. If there is no existing sidewalk within 300 feet of the proposed development project, a fee-in-lieu of sidewalk may be accepted.

(3) If fee-in-lieu of sidewalk is made, an Engineer's estimate for fee-in-lieu shall be provided to the town's Engineering Department for review. Fee-in-lieu shall be paid for sidewalks prior to issuance of building permits.

(4) Sidewalks shall be installed prior to issuance of a certificate of occupancy for the development.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-09-03, passed 9-3-13; Am. Ord. 2020-06-01, passed 6-1-20; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.401 OFF-STREET PARKING AND LOADING.

(A) *Purpose and intent.* The purpose of this section is to ensure the provision of off-street parking, loading, queuing and on-site circulation is in proportion to the demand created by each use. By requiring such facilities, it is the intent of the town to ensure the provision of functional and safe off-street parking, loading, queuing, and on-site circulation.

(B) *Applicability.* The standards of this section shall apply to all new development or existing development that is modified to the extent that it includes uses or site design features that were not specifically shown on previously approved plans. All off-street parking areas shall be maintained in accordance with this section. No certificate of occupancy shall be issued until the requirements of this section are met.

(1) All required off-street parking shall be provided on the same lot as the principal use, except developments with common parking lots and as provided in § 155.401(C)(4)(d), Shared Parking. The location of required off-street parking spaces shall not interfere with normal vehicular, bicycle and pedestrian traffic flow or with the operation of queuing and backup areas. Loading areas shall not obstruct pedestrian pathways.

(2) With the exception of the restriping of a parking area or other vehicular use area which does not result in a reconfiguration of the parking spaces, any modification to existing off-street parking and loading facilities shall conform to the requirements of this section.

(3) No land shall be developed as a parking area or parking garage without an approved site plan issued in accordance with § 155.707 or a Zoning Permit in accordance with § 155.709.

(4) Buildings and uses lawfully existing as of the effective date of this chapter may be redeveloped, renovated or repaired without providing additional off-street parking and loading facilities, provided there is no increase in gross floor area or change in use of existing floor area that would increase parking demands.

(5) Where a vehicular use area existed as of the effective date of this chapter, and such building is enlarged in gross floor area or impervious area by less than 10% or 2,000 square feet, whichever is less, the off-street parking and loading requirements as specified in this section shall only be required for the enlarged area.

(6) A change in use of a building or of a use existing as of the effective date of this chapter shall require additional off-street parking and loading facilities to comply with the requirements of this section for the new use unless the new use has the same parking requirement or a lesser requirement than the previous use.

(7) Parking required within an overlay district is subject to the provisions of this section, except that regulations within § 155.204 (Overlay Districts) shall supersede and may be either more or less restrictive than the regulations for parking contained in this section.

(8) In the downtown overlay district, there shall be no off-street parking requirements for non-residential development as specified in this section.

PART 1. PARKING STANDARDS

(C) *Off-street parking requirements.*

(1) *Computing parking standards.*

(a) Developments containing more than one use shall provide parking spaces in an amount equal to the total of the requirements for all uses.

(b) Off-street parking requirements that are based on square footage shall be computed using gross floor area (GFA), unless another measurement is specifically called for in this section.

(c) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.

(d) The parking space requirements for a use not specifically listed in the Table 4-2 below shall be the same as for the listed use deemed most similar to the proposed use by the Planning Director.

(e) In residential districts in which garage space is provided, the garage space may be considered in determining whether required parking has been met.

(2) *Minimum parking requirements.* Off-street vehicular and bicycle parking spaces shall be provided in accordance with Table 4-2, Minimum Off-Street Parking Requirements. An alternative parking plan with data submitted in support of higher or lower ratios in accordance with § 155.401(C)(4) may be submitted to support variations to the requirements below. For bicycle parking, the minimum required parking shall be two bicycle parking spaces (or one rack) unless "no requirement" is listed in the table.

TABLE 4-2: MINIMUM OFF-STREET PARKING REQUIREMENTS

USE TYPE	*PARKING RATIO*	*BICYCLE PARKING RATIO*
USE TYPE	*PARKING RATIO*	*BICYCLE PARKING RATIO*
Residential Uses		
Accessory Dwelling	1 space per unit	None
Farm Residence	2 spaces per unit	None
Farm Worker Quarters	1 space per 4 units	None
Guest Cottage	1 space per cottage	None
Home Occupation	N/A	None
Multi-Family (including Apartments and Manufactured Home Parks)	1 space per studio or 1 bedroom unit; 2 spaces per unit (two bedrooms or more); plus 1 guest parking space per 4 units	1 rack per building or 1 per 50 units*
Nursing Home (Congregate Living Facility)	1 space per unit or 2 beds (whichever is greater) plus 1 space per 200 sq. ft. of office space	1 rack per building
Security or Caretaker Quarters	1 space per unit	No requirement
Senior Apartments	1.3 spaces per unit	1 rack per building
Single-family, Zero Lot Line, Alley Loaded, Two-Family, Townhouse, or Manufactured Home	2 spaces per unit	No requirement
Public and Civic Uses		
Assembly, Not For Profit	1 space per 3 seats or 200 sq. ft. for the principal place of assembly, whichever is greater	1 rack, or 1 rack per 100 auto spaces*
Cemetery	1 space per 200 sq. ft. of office space; plus 1 space per 500 sq. ft. of maintenance area; plus a minimum of 5 public spaces	No requirements
Church or Place of Worship	1 space per 3 seats or 200 sq. ft. for the principal place of worship, whichever is greater	1 rack, or 1 rack per 100 auto spaces*
Civic Club	1 space per 500 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
College or University	1 space per 2 students; plus 1 space per 5 seats in gymnasiums and auditoriums; plus 1 space per 200 sq. ft. of administrative and educational office space	1 rack per 40 students and employees
Day Care	1 space per 5 person plus drop off stall	No requirement
Government Services	1 space per 500 sq. ft.; or 1 space per 3 seats, whichever is greater	1 rack
Homeless Resource Centers	1 space per 200 sq. ft. of accessory service delivery areas	1 rack, or 1 rack per 100 auto spaces*
Hospital or Medical Center	1 space per 2 beds; plus 1 space per 200 sq. ft. of outpatient treatment area	1 rack per building, or 1 rack per 50,000 sf*
School: Elementary or Secondary	1 space per employee, 1 visitor space for every 50 students, 1 space for every 5.5 students in 10th through 12th grade; auditorium or stadium - 1 space per 3 seats	1 rack per 40 students above 2nd grade and all employees

School: Technical, Trade or Business	1 space per classroom; plus 1 space per 5 students; plus 1 space per 200 sq. ft. of administration, and assembly areas	1 rack per 40 students and employees
Recreational Uses		
Arena, Auditorium or Stadium	1 space per 3 seats	3 racks, or 1 rack per 50 auto spaces*
Bowling Alley	3 spaces per lane	3 racks, or 1 rack per 100 auto spaces*
Campground	1 space per campsite	1 rack
Community Clubhouse	1 space per 300 sq. ft.	3 racks, or 1 rack per 50 auto spaces*
Entertainment, Indoor (except Bowling Alley)	1 space per 200 sq. ft. or 1 space per 3 seats, whichever is greater	3 racks, or 1 rack per 100 auto spaces*
Entertainment, Outdoor	1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater	3 racks, or 1 rack per 100 auto spaces*
Fitness Center	1 space per 200 sq. ft.	3 racks, or 1 rack per 100 auto spaces*
Golf Course	4 spaces per hole; plus 1 space per 300 sq. ft. of clubhouse	3 racks, or 1 rack per 100 auto spaces*
Gun Club or Gun Range	1 space per target area	1 rack, or 1 rack per 100 auto spaces*
Park, Passive	2 spaces for the first acre plus 1 space for each additional 2 acres; accessory uses shall be parked as required	3 racks, or 1 rack per 50 auto spaces*
Special Event	1 space per 3 seats; or 10 spaces per acre occupied by amusements, whichever is greater	No requirement
Stable, Commercial or Private	1 space per 500 sq. ft.; plus 1 space per 4 animal stalls	1 rack, or 1 rack per 100 auto spaces*
Swimming Pool	1 space per 200 sq. ft. of pool area	3 racks, or 1 rack per 100 auto spaces*
Tennis and Basketball Courts	1.5 spaces per court	3 racks, or 1 rack per 100 auto spaces*
Agricultural Uses		
Agriculture Use (Unless Otherwise Specified)	1 space per 1,000 sq. ft. or 1 space per employee on maximum shift	No requirement
Agriculture, Sales and Service	1 space per 250 sq. ft.	No requirement
Agriculture, Storage	1 space per 1,000 sq. ft.	No requirement
Agriculture, Accessory Use	5 spaces or 1 space per employee, whichever is greater	No requirement
Community Garden	4 spaces per garden	3 racks, or 1 rack per 50 auto spaces*
Nursery, retail	1 space per 500 sq. ft. of indoor or covered retail and office areas plus 1 space per 4 acres if the nursery is 20 acres or less, or 1 space per 5 acres if the nursery is greater than 20 acres	No requirement
Nursery, wholesale	1 space per 4 acres if the nursery is 20 acres or less, or 1 space per 5 acres if the nursery is greater than 20 acres	No requirement
Produce Stand	1 space per 200 sq. ft. including outdoor sales display area	No requirement
Commercial Uses		

Adult Oriented Business	1 space per 200 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Bed and Breakfast	2 spaces for the primary dwelling unit plus 1 space per guest room	No requirement
Car Wash/Auto Detailing	1 space per 200 sq. ft. of office, retail, or indoor seating area	No requirement
Contractor Office	1 space per 200 sq. ft.	No requirement
Contractor Storage Yard	1 space per 5,000 sq. ft. of outdoor storage area	No requirement
Convenience Store, with or without Gas Sales	1 space per 200 sq. ft.	1 space per 20 auto spaces provided
Creative Studio	1 space per 400 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Dispatching Office	1 space per 250 sq. ft.	1 rack
Financial Institution	1 space per 250 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Funeral Home	1 space per 4 seats	1 rack
Hotel/Motel	1.25 spaces per room (convention areas, restaurants, etc. over 2,000 sq. ft. to be calculated separately)	1 space per 20 auto spaces provided
Kennel	1 space per employee; and, 1 space for each 200 sq. ft. of sale, grooming or office area	1 rack
Kiosk	N/A	No requirement
Laundry Services	1 space per 200 sq. ft.	1 rack
Lounge, Cocktail	1 space per 3 seats	1 rack, or 1 rack per 100 auto spaces*
Microbrewery	1 space per 1,000 sq. ft. (accessory uses calculated separately)	1 rack, or 1 rack per 100 auto spaces*
Newspaper Publisher	1 space per 1,000 sq. ft.	1 rack
Office, General	1 space per 300 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Office, Medical	1 space per 200 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Outdoor Seating/Sidewalk Cafe	1 space per 3 seats	1 rack, or 1 rack per 100 auto spaces*
Pawn Shop	1 space per 200 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Personal services	1 space per 200 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Radio or Television Studio	1 space per 300 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Restaurant	1 space per 3 seats including outdoor seating area	1 rack, or 1 rack per 100 auto spaces*
Retail Sales, General	1 space per 200 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Retail Sales, Neighborhood	1 space per 200 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Self-Service Storage	1 space per 100 storage bays; minimum of 5 customer spaces (security quarters calculated separately)	No requirement
Service, General	1 space per 200 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Service, Neighborhood	1 space per 200 sq. ft.	1 rack, or 1 rack per 100 auto spaces*
Theater, Indoor	1 space per 3 seats	1 space per 20 auto spaces provided
Vehicle Repair or Service	1 space per 250 sq. ft.	No requirement

Vehicle Sales or Rental	1 space per 250 sq. ft. of enclosed area; plus 1 space per 5,000 sq. ft. of outdoor sales, rental and display area; plus 2 spaces per service bay	1 rack
Veterinary Clinic	1 space per 250 sq. ft. of floor area	1 rack, or 1 rack per 100 auto spaces*
Video Sweepstakes Operation/Internet Cafe	1 space per 200 sq. ft. or 1 space per 3 seats, whichever is greater	1 rack, or 1 rack per 100 auto spaces*
Industrial Uses		
Building Supplies, Wholesale	1 space per 1,000 sq. ft.	No requirement
Crematorium	1 space per 4 seats or 100 sq. ft. of chapel area, whichever is greater	No requirement
Gas and Fuel, Wholesale	1 space per 250 sq. ft.	No requirement
Laboratory, Research	1.5 spaces per 1,000 sq. ft.	1 rack
Manufacturing and Processing	1.5 spaces per 1,000 sq. ft.	1 rack
Research and Development	1.5 spaces per 1,000 sq. ft.	1 rack
Salvage or Junk Yard	1 space per 200 sq. ft. of office space; plus 1 space per employee	No requirement
Transportation Facility	1 space per 200 sq. ft. of office space	1 rack
Warehouse	1 space per 1,000 sq. ft.; plus 1 space per 200 sq. ft. of office space	1 rack
Wholesaling, General	1 space per 1,000 sq. ft.	1 rack
Utilities		
Electric Power Facility	1 space per 200 sq. ft. of office space; plus 1 space per 10,000 sq. ft.	No requirement
Recycling Center	1 space per 200 sq. ft. of office space; plus 1 space per 250 sq. ft. of warehouse and maintenance area; plus 1 space per 10,000 sq. ft.	No requirement
Recycling Drop-Off Bin	1 space per bin	No requirement
Renewable Energy Facility	1 space per site and 1 space per 200 sq. ft. of office space	No requirement
Sanitary Landfill	1 space per 200 sq. ft. of office space; plus 1 space per employee	No requirement
Solid Waste Transfer Station	1 space per 1,000 sq. ft.	No requirement
Telecommunication Facility	Exempt from parking regulations except that standalone cell lowers require a minimum of 2 spaces and a turnaround	No requirement
Utility	1 space per 200 sq. ft. of office space plus 1 space per employee	No requirement

Notes:
1. The provision of parking spaces and passenger loading areas for persons who have disabilities shall be governed by the Americans with Disabilities Act (ADA) Standards for Accessible Design.
2. In addition to the parking requirements of Table 4.2, Minimum Off-Street Parking Requirements, uses with company vehicles shall provide 1 space per company vehicle.
3. The Planning Director may reduce the required number of parking spaces by up to 10% for reasons of topography, tree preservation, mixes of uses, ride sharing programs, availability of transit, or other conditions specific to the site, provided that the reduction in the required number of parking spaces satisfies the intent of this chapter.
4. Upon written request, the Planning Director shall reduce the required number of bike racks by 10% or one 2-bike rack (whichever is greater), provided that the reduction in the required number of spaces satisfies the intent of this chapter and that a minimum of one 2-bike rack is still provided.
* Whichever is greater

(3) *Design standards.*

(a) Landscaping.

1. Vehicular area landscaping, including interior, terminal and median islands, shall be designed in accordance with the requirements set forth in § 155.402(D)(2) of this chapter.

(b) Dimensions.

1. Parking space sizes shall be governed by the dimensions indicated in Table 4-3, Minimum Parking Dimensions For Nonresidential Uses and Residential Uses with Shared Parking Lots:

TABLE 4-3: MINIMUM PARKING DIMENSIONS FOR NONRESIDENTIAL USES AND RESIDENTIAL USES WITH SHARED PARKING LOTS

ANGLE	*TYPE*	*SPACE WIDTH (FEET)*	*SPACE DEPTH (FEET)*	*AISLE WIDTH (FEET)*
ANGLE	*TYPE*	*SPACE WIDTH (FEET)*	*SPACE DEPTH (FEET)*	*AISLE WIDTH (FEET)*
0	General	10.0	23	12.0
	Handicapped	10.0	23	12.0
45	General	9.0	19.0	13.0
	Handicapped	12.5	19.0	13.0
60	General	9.0	19.0	18.0
	Handicapped	12.5	19.0	18.0
70	General	9.0	19.0	18.0
	Handicapped	12.5	19.0	18.0
75	General	9.0	19.0	24.0
	Handicapped	12.5	19.0	24.0
80	General	9.0	19.0	24.0
	Handicapped	12.5	19.0	24.0
90	General	9.0	19.0	24.0
	Handicapped	12.5	19.0	24.0

Notes:
1. 0 angle parking represents parallel parking.
2. Angled parking with two-way traffic movement shall be a minimum of 24 feet wide.
3. The maximum grade permitted for any required parking shall not exceed 8%.
4. Parking spaces using geometric standards other than those specified above may be approved if developed and sealed by a registered engineer subject to a determination by the Town Engineer that the proposed facility will satisfy off-street parking requirements as adequately as would a facility using those specified above.
5. Handicap parking spaces are required to have a minimum five foot wide access aisle for loading and unloading. Access aisle may be shared between two spaces.

(c) Bicycle parking facilities. When required pursuant to Table 4-2, bicycle parking facilities shall meet the following requirements:

1. Each bicycle rack shall accommodate two bicycle parking spaces. Where a bike can be locked on both sides of a rack without conflict, each side can be counted as a required space.

2. Bicycle racks shall be securely anchored, easily usable with both U-locks and cable locks and support a bicycle at two points of contact to prevent damage to the bicycle wheels and frame.

3. Spacing of the racks shall provide clear and maneuverable access. Each required bicycle parking space must have at least two by six feet of clearance and be located no closer than three feet from a wall.

4. Bicycle racks may be placed on private property or within the public right-of-way. Facilities in the right-of-way must be approved by the Public Works Director or NCDOT, as applicable.

5. Bicycle rack location shall not impede pedestrian and vehicular traffic.

6. Bicycle racks must be publicly accessible and be located no more than 100 feet from the building entrance the bicycle rack is intended to serve.

7. Bicycle racks shall be separated from automobile parking by a physical barrier or by at least 6 feet where automobile parking is prohibited.

(d) Circulation standards.

1. A safe arrangement of pedestrian pathways, bikeways, roads, driveways, and off-street parking and loading spaces within parking areas shall be provided.

2. Streets, pedestrian walks, parking areas, and open space shall be designed as integral parts of an overall site design and shall be properly related to existing and proposed buildings, adjacent uses and landscaped areas.

3. Structures, vehicular circulation lanes, parking spaces, driveways, and open spaces shall be designed to provide logical, impediment free pedestrian movement. The site shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.

4. Where off-street parking directly abuts a walkway or sidewalk, the parking area shall be separated from the walkway or sidewalk

by concrete wheel stops or continuous curbing. Walkways or sidewalks shall be a minimum of five feet wide, exclusive of vehicle overhang. Single family residential uses are exempt from this requirement.

5. A continuous internal pedestrian walkway shall be provided from each adjacent perimeter public sidewalk to all customer entrances.

(e) Surfacing material.

1. Unless provided below, all off-street facilities provided for parking or any other vehicular use area shall be surfaced with asphalt or concrete and shall be maintained in a smooth, well-graded condition. Alternative surfaces may be reviewed and approved by the Town Engineer.

2. Grass parking.

A. Grass or other pervious parking surfaces may be permitted for specific uses as set forth below, subject to TRC approval. Where provided, such alternative parking surfaces shall be maintained in a smooth, well-graded condition. If parking demand is such that the grass is damaged or destroyed to the extent that it ceases to grow and is not repaired or replaced, then paving in accordance with this section will be required.

B. All driveways, access aisles and parking spaces (excluding handicapped) may be surfaced with grass for the following:

i. Uses which require parking on an average of less than five days per week during a month;

ii. Schools and churches; and

iii. Parks, trailheads, playgrounds, ballfields, football and baseball stadiums, fairgrounds, and other similar outdoor recreation areas.

(f) Pavement markings. All pavement markings shall be maintained to be distinguishable.

(g) Lighting. Where off-street facilities are provided for parking or any other vehicular use area adequate outdoor lighting shall be provided. Lighting shall be so arranged as to direct the light and glare away from streets and adjacent property in accordance with the requirements set forth in § 155.404.

(h) Drainage. Parking lots shall not drain onto or across public sidewalks or into adjacent property, except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the Town Engineer may exempt the applicant from this requirement, provided that provisions are made for drainage.

(i) Entrances and exits. Entrances and exits, except those associated with a single-family residential use, are subject to the dimensional standards provided in § 155.400, Table 4-1.

(4) *Alternative parking plans.*

(a) General. To modify the parking ratios set forth in Table 4-2 of this section where applicant-submitted parking data, prepared and sealed by a licensed professional engineer in the State of North Carolina, illustrates that the standards of this section do not accurately apply to a specific development, the applicant must apply for a variance. The variance request shall include:

1. The size and type of the proposed development;

2. The mix of uses;

3. The anticipated peak parking need;

4. The proposed parking rate; and

5. The data necessary to support the request.

(b) On-street parking. On-street parking spaces may count toward meeting off-street parking requirements. The on-street spaces shall be located immediately abutting the subject parcel, entirely within the extension of the side lot lines into the roadway, and not within any required clear sight triangle.

(c) Off-site parking. Required off-street parking spaces may be located on a separate lot from the lot on which the principal use is located if the off-site parking complies with the all of following standards.

1. Ineligible activities. Off-site parking may not be used to satisfy the off-street parking requirements for residential uses (except for guest parking), as well as convenience stores or other convenience-oriented uses. Required parking spaces reserved for persons with disabilities may not be located off-site.

2. Location. Off-site parking spaces shall be located within 750 feet from the primary entrance of the use served unless shuttle bus service is approved via a variance. Off-site parking may not be separated from the use that it serves by a street right-of-way with a width of more than 80 feet unless a grade-separated pedestrian walkway is provided, or other traffic control or variance-approved shuttle bus service is provided to the off-site parking area.

3. Zoning classification. Off-site parking areas serving non-residential uses shall be located in non-residential districts.

4. Agreement. Off-site parking shall be enforced by an off-site parking agreement, subject to review by, and in a form acceptable to the Town Attorney.

(d) Shared parking. The Planning Director may authorize up to a 20% reduction in the number of required parking spaces for multiple and mixed-use projects and for uses that are in close proximity to one another and which have different peak parking demands and operating hours. Shared parking shall be subject to the following standards:

1. Application. A shared parking study shall be submitted in writing to the Planning Director.

2. Location. All uses which participate in a shared parking plan shall be located on the same lot or on contiguous lots. The shared parking lot shall have access as though the uses were a single project.

3. Shared parking study. The shared parking study shall clearly establish the uses that will use the shared spaces at different times of the day, week, month or year. The study shall:

A. Be based on a generally accepted methodology for determining shared parking;

B. Define the size and type of activities, the composition of tenants, the rate of turnover for proposed shared spaces, and the anticipated peak parking and traffic demands; and

C. Provide for no reduction in the number of required handicapped spaces.

4. Shared parking agreement. A shared parking plan will be enforced through written agreement among all owners of record, subject to review by, and in a form acceptable to the Town Attorney.

5. Change in use. Should any of the uses in the shared parking study change, or if any of the conditions described in the approved shared parking study or agreement no longer exist, the owner of record shall have the option of submitting a revised shared parking study in accordance with the standards of this section or of providing the number of spaces required for each use as if computed separately.

(e) Valet parking. The Planning Director shall approve valet parking as a means of satisfying off-street parking requirements. Valet parking shall not cause customers or patrons who do not use the valet service to park off site or in the right-of-way or cause queuing in a street, driveway, or drive aisle. The following additional standards shall apply to valet parking:

1. Adequate assurance of the continued operation of the valet parking is provided, such as a contractual agreement for valet services or the tenant's affidavit agreeing to provide such services;

2. The maximum number of spaces reserved for valet parking shall not exceed 25% of the minimum number of required off-street parking spaces.

3. Valet parking area shall not be located within 200 feet of a public entrance to a building. Areas designated for valet parking shall not interfere with vehicular circulation or emergency access and shall not cause customers who do not use the valet service to park off-premise or cause queuing in the right-of-way.

PART 2. QUEUING STANDARDS

(D) *Off-street queuing requirements.* Queuing shall be provided for all drive-thru establishments. Each queuing space shall be a minimum of eight feet by 20 feet, clearly defined and designed so as not to conflict or interfere with other traffic using the site. Unless otherwise indicated below, queuing shall be measured from the front of the stopped vehicle located at the point of service to the rear of the queuing lane. One additional queuing space shall also be provided after the point of service for all uses.

(1) *Minimum number of spaces.* Queuing spaces shall be provided as indicated in Table 4-4 below.

TABLE 4-4: MINIMUM QUEUING STANDARDS

USE	***NUMBER OF SPACES***	***REQUIRED BY-PASS*** (1)
USE	***NUMBER OF SPACES***	***REQUIRED BY-PASS*** (1)
Drive-Thru Financial Institution		
Teller Lanes	5	Y
Automatic Teller Lanes	3	N
Drive-Thru Restaurant	6	
Minimum before Menu Board	4	Y
Drive-Thru Car Wash		
Automatic	5	N
Self-Service	3	Y
Drive-Thru Oil Change	4	Y
Gasoline Pump Island	20 feet of queuing at each end of pump island	N
Drive-Thru Dry Cleaning or Laundry	3	Y
Drive-Thru General Retail	4	Y

Notes:
1. All Uses: A by-pass lane shall be required if 5 or more queuing spaces are provided. A by-pass lane a minimum of ten feet wide shall be provided before or around the point of service.A by- pass lane is not required if the queuing lane is adjacent to a vehicular use area which functions as a by-pass lane. The by-pass lane shall be clearly designated and distinct from the queuing area.
2. Queuing spaces shall not impede traffic circulation or movements into or out of off-street parking spaces.

PART 3. LOADING STANDARDS

(E) *Off-street loading requirements.*

(1) *Loading facilities required.*

(a) Off-street loading facilities shall be required for uses that regularly handle large quantities of goods. Loading facilities shall be of sufficient quantity to adequately serve the proposed use.

(b) Any vehicle sales or rental facility or similar use requiring delivery of vehicles by truck shall demonstrate adequate on-site area exists for the loading and unloading of such trucks.

(c) Any convenience store or similar use requiring deliveries by truck shall demonstrate adequate on-site area exists for the loading and

unloading of such trucks.

(2) *Design and layout.*

(a) Loading and unloading activity be shall not be permitted in any public right-of-way. In no case shall loading and unloading activity encroach on or interfere with the public use of streets, sidewalks, and lanes by automotive vehicles or pedestrians. Adequate space shall be made available for the unloading and loading of goods, materials, items or stock for delivery and shipping.

(b) Where off-street loading facilities are provided, they shall be not less than 15 feet in width by 40 feet in length, with not less than 15 feet of vertical clearance.

(c) Hours of loading and unloading operation adjacent to ground floor residential uses shall be limited between the hours of 6:30 a.m. and 10:00 p.m. Loading docks shall be signed to indicate "no idling."

(3) *Screening.* All loading areas shall be screened in accordance with § 155.402(G).

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2013-09-04, passed 9-3-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2021-09-04, passed 9-7-21)

§ 155.402 LANDSCAPING, SCREENING AND BUFFERING.

(A) *Purpose and intent.* The purpose and intent of this section is to establish minimum standards for the design, layout, installation and continued maintenance of landscaping. It is the intent of this section to encourage creativity in landscape design while providing general direction and criteria for the evaluation of landscaping.

(B) *Applicability.*

(1) Unless specifically exempt, all development which requires site plan approval (see §155.707) shall meet the provisions of this section.

(2) Buildings and structures lawfully existing as of the effective date of this chapter may be redeveloped, renovated or repaired without providing or modifying landscaping, screening, and buffering in conformance with this section, provided there is no increase in gross floor area in such building or structure or impervious area on the site.

(3) The maintenance standards in division (G)(2) of this section shall apply as of the effective date of this chapter to all existing development and new construction.

(4) Where a building or structure existed as of the effective date of this chapter, and such building or structure is enlarged in gross floor area or impervious area by 10% or 2,000 square feet, whichever is less, landscaping, screenings, and buffering as specified in this section shall be provided.

(5) Landscaping required within an overlay district is subject to the provisions of this section, except that regulations within §155.204 (Overlay Districts) shall supersede and may be either more or less restrictive than the regulations for landscaping contained in this section. In the Downtown Overlay District, a permitted use may be established, even if all landscaping, screening, and buffering requirements cannot be met for the new use, provided that as much landscaping, screening and buffering as can reasonably be provided is provided by the use.

(C) *Landscape plan required.*

(1) A landscape plan shall be submitted in conjunction with a required site plan (see §155.707).

(2) A registered landscape architect shall prepare all landscape plans, except where expressly exempted by the Planning Director. The landscape treatment shall adequately detail the requirements of this section and any additional considerations set forth in the Clayton General Design Guidelines.

PART 1. SITE INTERIOR LANDSCAPE REQUIREMENTS

(D) *Site interior landscaping.* All site plans requiring landscaping in accordance with this section shall provide site interior landscaping. Perimeter buffer requirements set forth in Part 2 and street yard trees set forth in Part 3 of this section shall be provided completely, as required, in addition to these requirements.

(1) Interior landscaping.

(a) Twenty percent of the total lot area shall be landscaped.

(b) One canopy tree, one understory tree, and two shrubs shall be planted for each 1,000 square feet of landscape area required. Trees need to be evenly planted throughout the landscaped area, but may be staggered or clustered as necessary to maximize visual and screening objectives, and to meet the needs of the particular species of plants for root space, water, light, and air circulation.

1. Landscaping provided within vehicular use areas may be counted toward the site interior landscape requirement.

2. Resource conservation areas (see § 155.500) may be used to satisfy a maximum of 40% of the total required landscaped area.

(2) Vehicular use areas. All vehicular use areas shall observe a minimum front yard of not less than five feet, and a side yard on a corner lot of not less than five feet. Parking lots in residential districts shall have front yards of not less than 15 feet and side and rear yards of not less than five feet. Parking areas in excess of 1,500 square feet or five spaces shall provide landscaped areas in accordance with the requirements set forth in this section.

(a) Perimeter screening.

1. The perimeter of all parking areas and other vehicular use areas adjacent to residentially-zoned property shall provide a Class C buffer as set forth in this section.

2. The perimeter of all parking areas and other vehicular use areas with frontage on or visibility from any portion of a public right-of-way shall be screened to a height of three feet by either a berm, continuous landscaped hedge, decorative fence, decorative masonry wall, or any combination thereof.

3. Any vegetative screen shall be maintained at a minimum height of 36 inches within two years of planting.

(b) Landscaping islands.

1. Interior islands. An interior landscape island shall be provided every ten spaces. Each island shall contain a minimum of 150 square feet of landscaped area with a minimum width of eight feet inside the curb. Each island shall include a minimum of one tree with a minimum caliper of two and one-half inches. Interior islands may be consolidated or intervals may be expanded in order to preserve existing trees of greater than six inches diameter at breast height.

2. Terminal islands. All parking rows shall terminate in a curbed landscaped island. All terminal islands shall include a minimum of one tree with a minimum caliper of two and one-half inches.

3. Median islands. A median island with a minimum width of eight feet inside the curb shall be sited between every six single parking rows and along primary internal and external access drives. Median intervals may be expanded in order to preserve existing trees of greater than six inches diameter at breast height.

(c) Curbing.

1. All landscaping in or adjacent to a vehicular use area shall be protected from vehicular damage by a raised concrete curb six inches in height or equivalent barrier, however, the barrier need not be continuous.

2. Landscaped areas adjacent to parking areas shall be landscaped so that no plant material greater than 12 inches in height will be located within two feet of the curb or other protective barrier.

PART 2. PERIMETER BUFFERS

(E) *Buffers*.

(1) Buffer defined. A buffer is a specified land area, located parallel to and within the outer perimeter of a lot and extending to the lot line, together with the planting and landscaping required on the land. A buffer may also contain, or be required to contain, a barrier such as a berm or wall where such additional screening is necessary to achieve the desired level of buffering between various land use activities. A buffer is not intended to be commensurate with the term "yard" or "setback."

(2) Buffer types. There are four types of required buffers that may occur on any given parcel, as described further in this section.

(a) Street buffers.

1. All new development with frontage on a commercial street or designated minor thoroughfare shall provide a Class A buffer as set forth in division (E)(3) of this section.

2. Double frontage lots abutting a collector street or residential collector street shall provide a Class A buffer along the entire rear yard frontage.

(b) Parking buffers. Parking buffer requirements are set forth in Part 1 of this section.

(c) Compatibility buffers. Perimeter compatibility is required along the boundaries of all incompatible zoning districts or existing uses, whichever is more restrictive. If the existing use of an adjacent property is nonconforming then the required buffer shall be determined by zoning district instead of existing use. Table 4-5 shall be used to determine the required buffer classification between adjacent districts.

TABLE 4-5 COMPATIBILITY BUFFER REQUIREMENTS

Subject Property District	***Adjacent Property District***											
	R-E	***R-10***	***R-8***	***R-6***	***O-R***	***O-I***	***B-1***	***B-2***	***B-3***	***I-1***	***I-2***	***PF***
Subject Property District	***Adjacent Property District***											
	R-E	***R-10***	***R-8***	***R-6***	***O-R***	***O-I***	***B-1***	***B-2***	***B-3***	***I-1***	***I-2***	***PF***
R-E	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -
R-10	A	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -
R-8	B	A	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -
R-6	B	A	A	- -	- -	- -	- -	- -	- -	- -	- -	- -
O-R	B	A	A	A	- -	- -	- -	- -	- -	- -	- -	- -
O-I	B	B	B	B	A	- -	- -	- -	- -	- -	- -	- -
B-1	B	B	B	B	B	B	- -	B	- -	- -	- -	- -
B-2	B	B	B	B	B	B	- -	- -	- -	- -	- -	- -
B-3	C	C	C	C	C	B	B	B	- -	- -	- -	B
I-1	C	C	C	C	C	C	C	C	B	- -	- -	B
I-2	C	C	C	C	C	C	C	C	B	- -	- -	B
PF[1]	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -

[1] Where a use in a PF zoning district is generally found only in Industrial or Commercial districts, the use shall be buffered according to the more intensive buffer requirement found in that district.

(d) Project boundary buffers. Project boundary buffers are established to mitigate the effect of specific types of development on

adjacent properties. Where project boundaries coincide with district boundaries the following project boundary buffers shall apply.

1. Open space residential subdivision. A Class C buffer is required along all project boundaries of an open space subdivision (see § 155.203(H)(8)).

2. Conditional Zoning Districts.

a. A Class C buffer is required along all project boundaries of a Conditional Zoning District.

b. The continuous visual barrier of Class C buffers is not required for the street-side of non-residential Conditional Zoning Districts where they abut major or minor thoroughfares.

c. A Class B buffer may be used when a Conditional Zoning District - Commercial (CZ-C) abuts a non-residential district (see § 155.203(L)).

3. Manufactured home park. A Class C buffer is required along all project boundaries of a manufactured home park (see § 155.301(G)(4)).

3. Manufactured home park. A Class C buffer is required along all project boundaries of a manufactured home park (see § 155.301(G)(4)).

(3) Buffer classification. Figure 4-1 establishes the specific width and plant material for each buffer classification. The applicant may choose any alternative (1, 2, or 3) in the respective buffer classification. Buffers planted below overhead utility lines shall apply any of the allowed buffer alternatives, except that understory trees shall replace any canopy trees at a rate of two understory trees per required canopy tree.

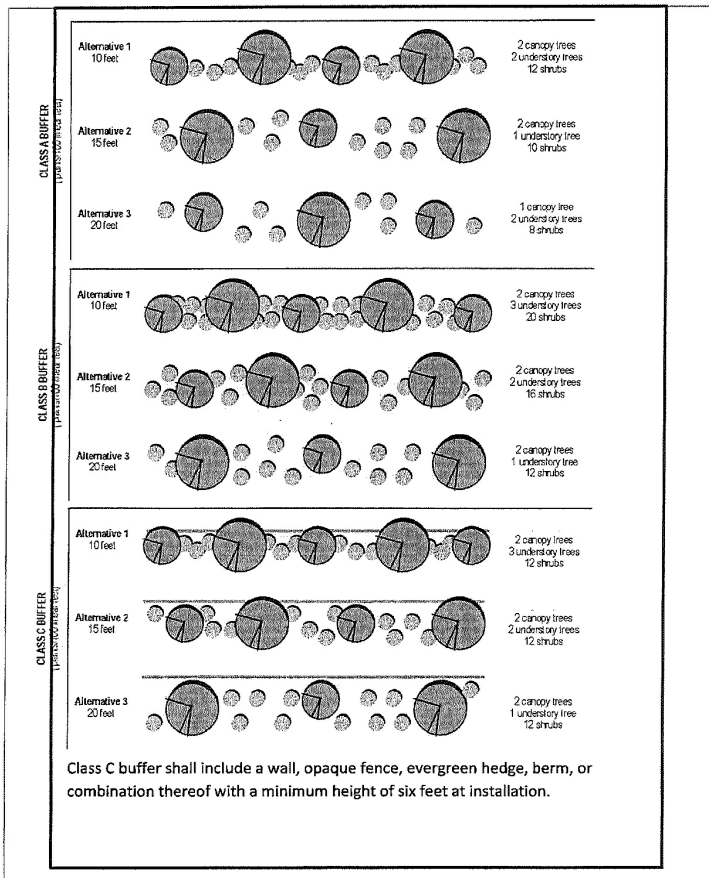


FIGURE 4-1 LANDSCAPE BUFFERS

(4) Location of buffer.

(a) Buffers shall be located along the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way.

(b) Except as provided below, the required buffer shall be provided along the entire frontage abutting the existing, dedicated or reserved public or private street or right-of-way, district boundary, or project boundary, as applicable.

(c) A buffer may be interrupted in order to provide access (pedestrian or vehicular) to adjacent parcels or public right-of-way.

(5) Plant and structure location within buffers. The placement of required plants and structures shall be the decision of the applicant, except that the following requirements shall be satisfied:

(a) Plant materials shall be located so as to achieve the maximum level of protection. Plant material shall meet the buffer requirements

every 100 feet.

(b) Canopy trees shall be located no closer than five feet from any structure. Understory trees shall be planted no closer than three feet from any structure.

(c) Buffer areas not retained in native habitat shall be seeded or sodded with lawn, established with ground cover, or mulched with organic mulch. No turf grass shall be planted under the drip line of trees. Inorganic ground cover shall not exceed 20% of the total required area of the buffer.

(6) Planting in easements.

(a) Buffers may not be planted in wet retention ponds or drainage easements.

(b) Trees and shrubs shall be installed no closer than five feet to the flow line of a swale.

(c) Existing trees may remain in dry retention ponds provided that the natural grade is undisturbed to the tree line, the species that are planted are adapted to seasonal flooding and the pond is adequately maintained.

(d) Trees may be planted within the boundaries of utility easements with Public Works Director approval, provided the root structure of the proposed tree is not anticipated

to extend more than three feet below the ground. Shrubs may be planted, provided they are only within the outer three feet of the easement. Where such trees and shrubs are planted, the property owner shall be responsible for replacement of such required vegetation if maintenance or other utility requirements require their temporary removal.

(e) A minimum buffer width of five feet or at least half the minimum required buffer width, whichever is greater, shall be provided outside of any required easements. The majority of buffer plantings and all structures shall be located outside the easements.

(7) Permitted structures in buffer areas.

(a) Walls. Where walls are placed within a required buffer area, they shall meet the following requirements:

1. Walls shall have a minimum height of three feet and a maximum height of six feet. Additional height may be approved by the Planning Director after taking into account site topography, existing and proposed vegetative screening, setbacks, or unique site conditions, such that an overall six foot visual barrier is achieved.

2. Walls shall be constructed of one or a combination of the following materials: stucco over concrete block, brick, stone, split-faced block or glass block in a structurally safe and attractive condition. No walls of exposed concrete block are permitted, whether painted or not.

3. No wall shall be located within any required drainage, utility or similar easement.

4. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall structure at the time of landscape plan approval.

5. Breaks in the wall may be provided for pedestrian connections to adjacent developments.

(b) Berms.

1. Berms shall have a minimum average height of 30 inches with side slopes not steeper than three feet horizontal for each one foot vertical.

2. Slopes steeper than three feet horizontal for each one floor vertical may be permitted if sufficient erosion control methods are taken and deemed by the Town Engineer to be maintainable.

(c) Fences.

1. Fences may be constructed in a required buffer.

2. Fences shall have a minimum height of three feet and a maximum height of six feet. Additional height may be approved by the Planning Director after taking into account elements including, but not limited to, site topography existing and proposed vegetative screening, setbacks, or unique site conditions, such that the maximum six foot height performance criteria is achieved.

3. Fences are subject to the requirements set forth in §155.402(G)(6) below.

4. Breaks in the fence may be provided for pedestrian connections to adjacent developments.

5. Fences shall be maintained in a structurally safe and attractive condition and with finished faces and required plantings located towards the adjacent property.

6. Any fence constructed in a buffer shall be capable of withstanding a 30 pound per square foot horizontal wind load from any direction.

(8) Permitted use of buffer area. A buffer area shall not be used for any principal building or use, accessory building or use, vehicle use area or storage area except as specifically permitted below.

(a) A buffer may be used for passive recreation and picnic facilities; and it may contain pedestrian or bike trails, provided that:

1. Trails may be incorporated provided that adequate width (minimum 15 feet) is added to the required buffer width to accommodate both the trail and the required buffer plantings. Buffers with trails may also count toward the provision of recreation and open space for the development.

2. Existing plant material other than nuisance exotics, shall be preserved to the greatest extent possible; and

3. All other requirements of this section shall be met.

(b) Other appurtenances which require high visibility and easy access, such as fire hydrants, mail boxes and bus shelters or benches, are also permitted in a buffer. No screening of such appurtenances shall be required.

(c) A buffer is encouraged to retain areas of native habitat and may incorporate water resources including stormwater detention or retention facilities. However a minimum 10-foot contiguous width of the buffer shall be preserved as a planting area without stormwater

facilities.

(9) Ownership of buffers. Buffers may remain in the ownership of the original applicant; they may be subjected to deed restrictions and subsequently be freely conveyed; or they may be transferred to any consenting grantees, such as the Town, a land conservancy or land trust, or homeowners association. Any such conveyance shall adequately guarantee the protection and maintenance of the buffer in perpetuity and in accordance with the provisions of this section.

(10) Alternative compliance.

(a) Buffer requirements may be modified by the Planning Director and Town Enginer upon finding that a modification would be consistent with the standards and purpose of this chapter, this section and the adopted plans and policies of the Town; that such modification would not adversely affect the land use compatibility or public interest; and that the subject parcel or modified buffer complies with one or more of the following criteria:

1. The buffer is parallel and adjacent to an existing utility or drainage easement of at least 100 feet in width;
2. The buffer is between uses that are to be developed under a common development plan or series of development plans;
3. The buffer is adjacent to a property that has a joint use agreement with the subject parcel under;
4. The buffer is parallel and adjacent to an existing railroad right-of- way; or
5. The topography of the parcel is such that buffering would not be effective.

(b) Financial hardship due to meeting the requirements of this section shall not be sufficient justification for alternative compliance.

PART 3. STREET YARD TREES

(F) *Street yard trees*.

(1) Street yard trees shall be required along all rights of way at the rate of one canopy tree per lot or one canopy tree for every 40 linear feet (spaced a maximum of 50 feet apart).

(2) All street yard trees shall be a minimum of two and one-half caliper inches at time of planting and shall be planted no less than five feet or more than 15 feet from the back ofthe sidewalk.

(3) Credit shall be given for any existing tree with a minimum dbh of six inches that is preserved within the planting strip at rate of one preserved tree for two required street yard trees.

(4) Double frontage lots abutting a collector street or residential collector street shall provide a Class A buffer along the entire rear yard frontage.

PART 4. SCREENING

(G) *Screening*.

(1) Drive-thru facilities. Drive-thru windows and lanes shall be designed to adhere to the following standards:

(a) Drive-thru windows and lanes placed between the right-of-way and the associated building shall require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way.

(b) Such screening shall be a compact evergreen hedge or other type of dense foliage. At the time of installation, such screening shall be at least 36 inches in height and be maintained at a minimum height of 48 inches within two years of planting.

(c) Drive-thru windows are not permitted on the side of a building adjacent to any residential district.

(2) Service areas.

(a) Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be effectively screened from view from adjacent properties or public rights-of-way.

(b) Screening material shall be promptly repaired if damaged in a manner that reduces the screening function.

(c) Service areas shall be fully enclosed by opaque walls, gates, and/or fences at least eight feet high but no taller than ten feet high, and shall be constructed of consistent materials and colors to those used on the primary building.

(d) Masonry walls may incorporate louvers or similar features, provided the screening function is maintained.

(e) All gates shall be comprised of a complimentary material and be opaque, excluding gaps for mounting hardware, latches, and hinges.

(f) Support columns may exceed the maximum height as necessary for wall construction.

(g) All service areas are limited to the area shown on an approved site plan.

(3) Loading areas. Loading areas shall be subject to the following screening requirements:

(a) A 100% year-round screen of all loading areas visible from residential properties or public rights-of-way is required.

(b) Screening shall consist of berms, walls, fences, plant material or combination thereof totaling eight feet in height at installation or completion of construction. Wall or fence materials shall be compatible with the primary structure.

(c) Loading docks not in an I-1 or I-2 District shall be located at the side or rear of buildings, and may not encroach into the building setback.

(4) Mechanical equipment.

(a) All roof, ground and wall mounted mechanical equipment including, but not limited to air handling equipment, vents, compressors, duct work, transformers and elevator equipment shall be screened from view.

(b) Roof-mounted mechanical equipment shall be shielded from view on all sides. Screening shall consist of materials consistent with

the primary building materials, and may include metal screening or louvers which are painted to blend with the primary structure.

(c) Wall or ground-mounted equipment screening shall be constructed of:

1. Planting screens;

2. Brick, stone, reinforced concrete, or other similar masonry materials; or

3. Redwood, cedar, preservative pressure treated wood, or other similar materials.

(5) Utilities. Above-ground utilities and appurtenances to underground utilities which require aboveground installation shall be screened by a continuous planting of shrubs, with a minimum mature height equal to that of the utility structure. Required access to these utilities is exempt from the screening provisions.

(6) Fencing and walls.

(a) A fence or wall not more than six feet in height may be installed along any side and rear lot line.

(b) A fence or wall in any required front yard shall not exceed four feet in height. Fences and walls shall be constructed of high-quality materials, such as decorative blocks, brick, stone, treated wood, wrought iron and black vinyl coated chain link fence. Black vinyl coated chain link fence is permitted subject to the following additional requirements:

1. Residential uses. Black vinyl coated chain link fencing is permitted for individual lots from the front façade of the house in the side and/or rear. It may not be used forward of the front façade. It may be used be used along a side street or between the house and the side property line if screened from view by landscape materials maintained at the same height as the fence or higher. Shrubs shall be at least 30 inches in height at planting. Chain link fencing is not permitted for use by a developer for buffering and screening. Black vinyl coated fencing may be used for recreational uses including, but not limited to parks, playgrounds, swimming pools, tennis courts and basketball courts.

2. Non-residential uses. Black vinyl coated chain link fencing is permitted for the accessory enclosures of day care facilities, kennels or veterinary clinics. Black vinyl coated chain link fencing is permitted for industrial uses. Vinyl coating is not required for fences when not visible from adjacent property or right-of-way.

3. Public utilities. Black vinyl coated chain link fencing is permitted for public utility purposes. Vinyl coating is not required for industrial fences when it is not visible from adjacent property or right-of-way. The use of black coated vinyl chain link fencing for uses not listed above is permitted if the use of such material is consistent with, and will not impact the aesthetic appearance of the surrounding area.

(c) Fences topped with razor, concertina, or barbed wire are limited to properties designated for industrial or utility use.

(d) Breaks in the fence or wall may be provided for pedestrian connections to adjacent developments.

(e) The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections and a change in material.

PART 5. GENERAL LANDSCAPING, SCREENING AND BUFFERING PROVISIONS

(H) *General provisions.*

(1) Design, installation and establishment.

(a) Plant material.

1. Except as otherwise specified in this article, landscaping materials shall conform to the following minimum specifications:

a. Canopy trees shall have a 2.5 inch caliper and be eight feet tall following installation.

b. Understory trees shall have a 2.0 inch caliper and be six feet tall following installation.

c. Shrubs not used for screening shall be a minimum height of 12 inches following installation.

d. Shrubs explicitly used for screening shall be a minimum height of 24 inches following installation.

2. Plant material shall be chosen from the lists of recommended plant species contained in the Clayton General Design Guidelines. Plant materials that vary from this list may be used provided they meet the general size requirements and growth habits of the existing list of recommended plant species.

3. Selected plants should be predominantly hardy species that are native to North Carolina.

(b) Cold hardy and drought tolerant plants. Plantings shall be cold hardy for the specific location where they are to be planted. Trees and shrubs shall be salt tolerant and drought tolerant and able to survive on natural rainfall once established with no loss of health.

(c) Soils. Planting areas shall have uncompacted coarse loam that is a minimum of 12 inches deep. Soils shall be appreciably free of gravel, stones, rubble or trash. All compacted soil, contaminated soil or road base fill shall be removed.

(d) Issuance of certificate of occupancy. The Code Enforcement Officer may not issue a permanent certificate of occupancy for an approved site plan or part thereof, until all seeding, trees, and plant material have been placed in accordance with the approved site plan and requirements of this section. A temporary certificate of occupancy may be issued for a period of 30 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon request to the Code Enforcement Officer.

(2) Requirements for maintaining planted areas.

(a) Responsibility. The responsibility for maintenance of a planted area shall remain with the owner, his or her successors, heirs, assignees or any consenting grantee. Maintenance is required in order to ensure the proper functioning of a planted area.

(b) Maintenance.

1. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to, watering, mulching, fertilizing and pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.

2. Necessary pruning and trimming shall be in accordance with the*American National Standards for Tree Care Operations: Tree*

Shrub and Other Woody Plant Maintenance - Standards Practices (Pruning), and shall not be interpreted to include topping of trees through removal of crown material or the central leader, or any other similarly severe procedures such as lollipopping or meatballing that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Any such activity shall be a violation of this chapter. Additional plant material shall be required to replace or supplement the damaged plant material.

3. Dead or diseased plantings shall be removed. Replacement plantings shall be provided for any required plants which die or are removed for any reason and shall meet all minimum standards and conform to these regulations.

4. Natural water courses shall be maintained in a natural condition.

5. A water source shall be supplied within 50 feet of any planting requiring continuing watering. Where non-native or non-drought tolerant native vegetation is incorporated an irrigation system shall be required. Irrigation systems shall meet the standards of the Town.

6. Landscape structural features such as walls, fences, berms or water features shall be maintained in a structurally safe and attractive condition.

7. Where other uses, including pedestrian, bike or other trails these uses shall be maintained to provide for their safe use.

(c) Failure to maintain. In the event that any owner of a planted area fails to maintain the planted area according to the standards of this section, the Town shall have the right to recover the cost of enforcement, including reasonable attorney fees. The Town may also, following a notice of violation and a demand that deficiency of maintenance be corrected, enter the planted area to take maintenance action. The cost of such maintenance shall be charged to the party having the primary responsibility for maintenance of the planted area.

(3) Credit for existing plant material.

(a) With the exception of street yard tree credit, credit for existing plant material shall be allocated on a one-for-one basis for canopy trees, understory trees or shrubs. The size of material shall not be taken into account, except where such material is below the required minimum planting size.

(b) Required planting areas shall incorporate existing natural vegetation to the maximum extent feasible. Prior to disturbance of a required planting area approval shall be obtained from the Town. Where existing vegetation is inadequate to meet the required planting standards, additional plant material shall be required.

(c) The retention of existing vegetation shall be maximized within proposed planting areas. Existing native habitat or vegetation located within planting area that meets the requirements of this section may be counted, provided such plant material meets the minimum standards of this section. If the existing vegetation has been credited and is subsequently removed or dies, it shall be replaced with the appropriate planting material.

(d) Credit may be permitted for existing plant material and walls on adjacent property, provided such items are in a permanently protected area, including, but not limited to:

1. A conservation easement or preserve area on adjacent property; or

2. An existing utility or drainage easement exceeding 100 feet in width.

(4) Tree protection during construction. Existing trees specified on the landscape plan to remain on the site as a function of fulfilling the purpose of this section shall be protected from vehicular movement and material storage over their root spaces during the following construction. An undisturbed area with a porous surface shall be reserved around a tree, based on dbh of the tree as provided in Table 4-7, and with no protective distance less than four feet from the base of the tree.

TABLE 4-7 TREE PROTECTION

Trunk Diameter dbh	***Area Required***
4-10 inches	80 sq. ft.
11-16 inches	180 sq. ft.
17-20 inches	320 sq. ft.
21 inches plus	340 sq. ft.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2013-06-01, passed 6-3-13; Am. Ord. 2013-08-02, passed 8-5-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2015-06-02, passed 6-1-15; Am. Ord. 2016-04-04, passed 4-4- 16; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2023-02-01, passed 2-20-23; Am. Ord. 2023-09-01, passed 9-5-23)

§ 155.403 SIGNS.

(A) *Purpose and intent*. Signs are herein regulated in the interest of promoting traffic safety, safeguarding the public health, facilitating police and fire protection, preventing adverse community appearance, over-crowding of the land, and protecting the character of the area in which they are located. This section is intended to establish requirements for the concentration, placement, height, bulk, and area of signs, while preserving community scenic, economic, and aesthetic values.

(B) *Permit required*. Except as exempted in this section and in accordance with §155.713, no sign may be erected, located, or altered in any manner until a sign permit (if necessary), and building permit if necessary, has been secured from the Planning Department.

(C) *Sign definitions*. A sign is described as any visual device or representation designed or used for the purpose of communicating a message or identifying a product, service, person, organization, business, or event, with the use of words or characters, visible from outside the premises on which such device is located. "Sign" is further defined in § 155.802. Specific sign types are described below in further detail.

(1) ***ABANDONED SIGN.*** A sign which has not identified or advertised a current business, service, owner, product, or activity for a period of at least 360 days.

(2) ***AWNING/MARQUEE/CANOPY SIGN.*** A sign which is attached flat to an awning, marquee, or canopy.

(3) ***BACKLIT SIGN.*** As it applies to awnings, marquees, and canopies, an awning, either fabric, plastic, or other material that is partially or wholly translucent, and allows lighting from behind to illuminate the part or whole of the awning, marquee, or canopy at night.

(4) ***BILLBOARD.*** A structure used for the permanent display of off-premise advertising.

(5) ***CABINET SIGN.*** A sign in which a removable sign face (usually with translucent sign graphics which are illuminated from behind) is enclosed on all edges by a cabinet.

(6) ***CLEARANCE.*** The distance above tire walkway, or other surface if specified, to the bottom edge of a structure or sign. The term can also refer to a horizontal distance between two objects.

(7) ***CHANGEABLE COPY SIGN - ELECTRONIC.*** A sign or portion thereof that displays non-pictorial, text information in which alphanumeric characters or symbols are defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. ***ELECTRONIC CHANGEABLE COPY SIGNS*** include computer programmable, microprocessor controlled electronic displays. ***ELECTRONIC CHANGEABLE COPY SIGNS*** include projected images or messages with these characteristics onto buildings or other objects.

(8) ***CHANGEABLE COPY SIGN - MANUAL.*** A sign or portion thereof designed to accommodate frequent message changes composed of letters, characters, or illustrations and that can be changed or rearranged manually, without altering the face or surface of the sign.

(9) ***CHANNEL LETTER SIGN.*** A sign consisting of fabricated or formed three-dimensional letters, individually applied to a wall or joined by a raceway. ***CHANNEL LETTER SIGNS*** are often internally illuminated. These signs may also include "bullets" or "taglines", which are smaller than and subordinate to the main sign letters, and function as small, irregularly shaped cabinets.

(10) ***DETERIORATED SIGN.*** Any sign which, together with its supports, braces, anchors, and other structural elements, is not maintained in accordance with the provisions of the North Carolina State Building Code, or where elements of the display area or panel are visibly cracked, broken, or discolored, or where the support structures or frame members are visibly corroded, bent, broken, torn, or dented, or where the message can no longer be read under normal viewing conditions.

(11) ***DEVELOPMENT IDENTIFICATION SIGN - NON-RESIDENTIAL.*** A sign that identifies a non-residential development with multiple buildings. The sign may contain the name of the development, names of the tenants, or a combination of these components.

(12) ***DEVELOPMENT IDENTIFICATION SIGN - RESIDENTIAL.*** A sign that identifies a residential development such as a single family residential subdivision, apartments, or multi-family development.

(13) ***DRIVE-THRU MENU BOARD.*** A sign displaying the bill of fare for a drive-thru restaurant.

(14) ***EASEL/SANDWICH BOARD/A-FRAME SIGN.*** An upright "A"-frame or "H"-frame structure used for displaying promotional information to the public.

(15) ***ELECTRONIC SIGN: ELECTRONIC GRAPHIC OR VIDEO DISPLAY.*** A sign or portion thereof that displays either static or moving pictorial images or graphics, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other electronic illumination devices within the display area. ***ELECTRONIC GRAPHIC OR VIDEO DISPLAY SIGNS*** include computer programmable, microprocessor controlled electronic or digital displays, not including electronic changeable copy signs. ***ELECTRONIC GRAPHIC OR VIDEO DISPLAY SIGNS*** include projected images or messages with these characteristics onto buildings or other objects.

(16) ***FAÇADE.*** Generally known as the face of a building, especially the principal face. More specifically, this is that portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves, and the entire width of the building elevation. The ***PRIMARY FAÇADE*** is the side that includes the storefront and main entrance, or main public facing portion of a building.

(17) ***FEATHER SIGN or FEATHER FLAG.*** A piece of cloth or similar material, typically elongated, oblong, and/or with a curved top or bottom edge, which is attached by two edges or one long, curving edge to a pole, and resembles a feather in shape. Generally, the sign is self-supporting (not attached to a building) and/or stuck into the ground in a temporary fashion, the flag is attached by a sleeve (and not by grommets or rope), and the entire sign is temporary in nature.

(18) ***FENCE WRAP.*** Fence wraps, as defined by G.S. § 160D-908, are exempt from this section as provided by G.S. § 160D-908.

(19) ***FLAG or FLAG SIGN.*** A piece of cloth or similar material, typically rectangular, square, or triangular, which is attached by one edge to a pole or pole-mounted rope. More often than not, a flag is attached at distinct points, and not sleeved over the pole.

(20) ***FLAG POLE.*** A straight pole used for flying a flag. A***FLAG POLE*** is a long, rigid structure, permanently mounted either vertically, horizontally, or angled, where one end is anchored and the other end displays one or more flags.

(21) ***FLASHING SIGN.*** Any sign whose artificial illumination is not kept constant in intensity at all times when in use and which exhibits changes in light, color, direction, or animation. This definition does not include changeable copy signs or electronic signs which meet the requirements set forth herein.

(22) ***FREESTANDING SIGN.*** A sign supported by a structure that is not itself part of a building.

(23) ***GAS BALLOON (or BALLOON SIGN).*** A lighter-than-air, gas-filled balloon, tethered in a fixed location, which may contain an advertisement message on its surface or attached to the balloon or its tether in any manner.

(24) ***HANGING SIGN.*** A sign that is hanging from an awning, marquee or canopy.

(25) ***HISTORIC SIGN.*** A sign that is 50 years or older; particularly unique in character, design, or history; or part of the historic character of a business or building.

(26) ***ILLUMINATION.*** A source of artificial or reflected light, either directly illuminating a partially or wholly translucent material from a source of light incorporated inside a structure or sign, or indirectly from an artificial source outside of a structure or sign..

(27) ***ILLUMINATION, HALO.*** A sign using a three-dimensional message, logo, and the like, which is lit in such a way as to produce a halo effect. For the purposes of regulating total sign face area, the entirety of the area covered by the sign and the halo illumination shall be considered.

(28) ***INFLATABLE SIGN.*** Signs that are inflated using air pressure.

(29) ***MONUMENT SIGN.*** A freestanding sign where the base of the sign is on the ground and is supported primarily by an internal

structural framework or solid structural features other than support posts.

(30) ***OBSOLETE SIGN.*** A sign whose message describes the availability of goods or services at a location where such goods and services are no longer available and have ceased to be available for a period of at least 60 days or, in the alternative, any sign whose content pertains to a time, event or purpose which has elapsed or expired.

(31) ***OFF-PREMISES SIGN.*** A sign which conveys information about a business, product, service, owner, or other activity not sold or offered on the premises on which the sign is located.

(32) ***ON-PREMISES SIGN.*** A sign which conveys information about a business, product, service, or other activity offered or sold at the premises on which the sign is located.

(33) ***PAN SIGN.*** A flat sign where vinyl or other adhesive graphics are applied to a metal sheet or some other type of flat backing plate. Often these signs are rectangular and used above storefronts, taking the place of areas that might otherwise be channel letter or cabinet signs. ***PAN SIGNS*** are not made of translucent materials and are externally illuminated, if they have illumination at all.

(34) ***PERSONAL EXPRESSION SIGN.*** An on-premises sign that expresses an opinion, interest, position, or other non-commercial message.

(35) ***POLE SIGN.*** A sign mounted on a freestanding pole attached to the ground by a support structure having a ratio of greater than four-to-one sign width to narrowest width of support structure.

(36) ***PORTABLE SIGN.*** A sign that is not directly attached to the ground and is designed to be easily transportable.

(37) ***POST SIGN.*** A freestanding sign permanently affixed to the ground by support posts and does not have a solid base.

(38) ***POST AND ARM SIGN.*** A sign supported by a single upright post, with a horizontal arm from which a sign is suspended.

(39) ***PRIMARY BUILDING IDENTIFICATION SIGN.*** A sign communicating the generic or specific name of an entire building without communicating or advertising for a specific business, service, owner, or product housed therein.

(40) ***PRIMARY SIDE (OF A BUILDING).*** The face or façade of a building that generally occurs in association with the main storefront entrance.

(41) ***PRIMARY SIGN.*** Any sign generally occurring on the primary building façade or above or in association with the main storefront entrance.

(42) ***PROJECTING SIGN.*** A sign fastened directly to and extending out from a building face or wall, so that the sign face is perpendicular to or at an angle to the building face or wall.

(43) ***ROOF SIGN.*** A sign that is mounted to a roof with an angle less than 75 degrees or a sign displayed above the highest point of the roofline on a pitched roof or the parapet wall on a flat roof.

(44) ***SECONDARY SIGN.*** Any sign not occurring on the primary side of a building.

(45) ***SNIPE SIGN.*** A sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, trash cans, streetlights, or other objects, or placed on any public property or in the public right of way or on any private property without the permission of the property owner. May also be known as a "bandit sign".

(46) ***DECORATIVE STRING LIGHTING.*** Lighting, either constant, flashing, or intermittent, arranged in a line, string, or rope, applied to the exterior of a building, or on the interior of a building attached to externally oriented architectural features such as windows or doors.

(47) ***TENANT IDENTIFICATION SIGN.*** An exterior sign that identifies tenants of a single building, such as a multi-family residential building or a multi-tenant, non-residential commercial building, where access to each tenant is provided internally, via a shared external entrance. The sign may contain the name of the development, names of the tenants, suite number or address of each tenant, or a combination of these components. ***TENANT IDENTIFICATION SIGNS*** are designed to the pedestrian scale, located on or to the side of the shared external entrance, and are generally readable at a distance of less than ten to 15 feet.

(48) ***TEMPORARY SIGNS.*** A sign that is not intended or designed for permanent display.

(49) ***WALL/FASCIA SIGN.*** A sign adhered to, attached to or mounted away from but parallel to the building wall.

(50) ***WINDBLOWN SIGN.*** Any sign composed of a banner, flag, pennant, or other objects, mounted and fastened in such a manner as to move upon being subjected to pressure by air pressure, wind, or breeze.

(51) ***WINDOW/DOOR SIGN.*** A sign attached to the inside or outside of a window or door, or displayed behind a window.

(D) *Exemptions*. The following signs (known as exempt signs) shall not be subject to a sign permit application per §155.713, with regulation hereunder. Exempt signs shall not count toward the total allowed sign face area on a site, unless otherwise noted below. Exempt signs shall still be governed by the general sign regulations and specific sign regulations, including dimensional standards of each individual sign type, except as otherwise noted below:

(1) Signs erected by, on behalf of, or pursuant to the authorization of a governmental body.

(2) Personal expression signs of any sign type, including flags, provided that they do not exceed four square feet in area per side, are non-commercial in nature, and are non-illuminated. The maximum number of personal expression signs per lot is two.

(3) Flags, pennants, or insignia of any governmental or non-governmental organization, when not displayed in connection with a commercial promotion or as an advertising device provided that the following criteria are met:

(a) Flags and flagpoles are not located within any public right-of-way, and must meet the setback requirements of the zoning district, as well as the setbacks described in division (G)(15) of this section;

(b) Flags and flagpoles do not extend more than 25 feet above the ground;

(c) No more than two flags per lot in residential districts, and no more than three flags per lot in all other districts;

(d) Maximum size per flag is 24 square feet in residential districts and 40 square feet in all other districts;

(e) Illumination is permitted so long as it is not brighter than the light produced by a 100 W incandescent bulb, and shines directly up at the flag;

(f) Only one exempt flag pole is permitted per lot; this counts toward the total number of permitted flag poles on a site;

(g) If the above criteria are not met, or if the flag contains commercial messaging, then the flag shall require a sign permit and shall be regulated according to the general sign regulations and specific sign regulations for that sign type.

(4) Miscellaneous informational signs. The following types of miscellaneous informational signs shall be exempt from sign permit requirements:

(a) Informational signs appearing on gasoline pumps, such as the names of grades of fuel and prices and conditions relating to prices (i.e., full or self-service).

(b) Signs appearing on vending boxes, provided they do not project more than 12 inches above or past the sides of the vending box, and no more than a total of 80 square feet of signage exists on each vending box. Vending boxes that stand apart from the primary structure on a site shall be considered as accessory structures, and shall require sign permits as regulated by general and specific sign regulations of this section.

(c) Directional signs less than four square feet appearing on or adjacent to entry doors such as PUSH, PULL, OPEN, and/or CLOSED, as regulated by division (G)(3) of this section, and a maximum of two signs are allowed per entry door.

(d) "Open" or "closed" signs that are turned on or displayed only during business hours, provided they are less than four square feet and only one may be displayed per storefront or façade.

(e) Signs appearing on display windows or doors denoting hours of operation, credit cards accepted, payment options, and similar information, provided they cover less than two square feet, only one sign is allowed per façade or entrance, and these signs are also in conformance with other applicable regulations from division (G)(3) of this section.

(f) Information pertaining to the operating instructions of vending machines and automatic teller machines, including bank logos on the face of ATM machines, provided they do not project more than 12 inches above or to the sides of the vending box or machine housing.

(g) Signs providing directions or guiding traffic on private property that do not exceed four square feet in size or four feet in height each, and do not contain a business name, logo, or an advertising message.

(h) Signs internal to a large campus or multi-building development that are not visible from the public right-of-way or public realm.

(5) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used for or strategically parked to be used as a sign.

(6) Signs not exceeding four square feet in size that are customarily associated with residential use and that are not of a commercial nature, such as signs giving names of occupants, signs on mailboxes and paper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(7) Yard sale signs displayed at the location of the yard sale, not exceeding four square feet in area, and not used in connection with any continuous commercial activity. Yard sale signs are further regulated in division (G)(16) of this section.

(8) Signs containing the message that the real estate on which the sign is located is for sale, lease, or rent, together with information identifying the owner or agent, provided that such signage meets the standards of Table 4-8 "Real Estate Sign Standards". Such signage may have a maximum of two sides, shall be non-illuminated, and shall be removed within 15 days after sale, lease, or rental. Only one sign on each street frontage may be erected, but on lots having a street frontage in excess of 400 feet, a second sign not exceeding nine square feet in size per side may be erected. Feather or windblown signs shall not be permitted as real estate signs, per division (E) of this section.

(9) Fence wraps as defined and regulated by G.S. § 160D-908.

TABLE 4-8: REAL ESTATE SIGN STANDARDS

NONRESIDENTIAL OR MIXED USE PROPERTY		
Acreage	***Maximum sign face area***	***Maximum height***
Less than 2 acres	16 square feet per side	6 feet
Greater than 2 acres	32 square feet per side	6 feet
RESIDENTIAL PROPERTY		
Acreage	***Maximum sign face area***	***Maximum height***
Less than 1 acre	6 square feet per side	6 feet
One to 5 acres	9 square feet per side	6 feet
5 to 20 acres	16 square feet per side	6 feet
Greater than 20 acres	32 square feet per side	6 feet

(10) Displays, including lighting, flags (less than 12 square feet total area), and inflatables, erected in connection with the observance of holidays that do not bear an advertising message. The holiday period above is defined as the period between November 1 and January 15 each year. Such displays shall be removed within ten days following the holiday period. Decorative string lighting may be used in connection with the observance of holidays in accordance with § 155.403(F)(9).

(11) Any lighting, including string or rope lighting, on the interior of a building and not attached to externally oriented architectural features, is not considered signage or decorative string lighting.

(12) Sign face plate changes, provided that it meets the applicable criteria of general and specific sign regulations and other applicable portions of this section.

(13) Window and door signs, provided that these signs conform to the specific sign regulations (§155.403(G)(3)), and such signage shall count toward the total allowed sign face area and number of signs on a site.

(14) Easel/Sandwich Boards/A-Frames, provided that these signs conform to the specific sign regulations (§155.403(G)(7)), and such signage shall count toward the total allowed sign face area and number of signs on a site.

(15) Menu displays. Restaurants and other food- or beverage-selling businesses where consumption occurs on-site may display a menu or list of daily specials on the wall adjacent to their main and secondary entrances provided that it is not larger than the actual printed menu available inside the establishment and is housed in a decorative frame.

(16) Legal notices.

(17) Historic signs, provided:

(a) The Planning Director determines the sign meets the following criteria:

1. The sign is 50 years or older; or

2. The sign is particularly unique in character, design, or history; or

3. The sign is a part of the historic character of a building, business, or district; and

4. The sign is kept in good, working order.

(b) Historic signs shall not count toward the total allowable sign face area for a site.

(18) Tenant identification signs, which shall count toward the total signage allowed on a site.

(E) *Signs prohibited.* The following signs are expressly prohibited within all zoning districts:

(1) Abandoned signs or obsolete signs.

(2) Backlit awnings, marquees, or canopies, unless part of an approved alternative sign plan.

(3) Portable signs, including any signs painted on or displayed on vehicles or trailers parked or located for the primary purpose of displaying that sign, except easel/sandwich board/A-frame signs located on the ground as regulated herein.

(4) Roof signs.

(5) Cabinet signs of any shape, attached to a building wall or roof, except that portion that is a federally or state registered trademark. State or federally registered trademarks used in this fashion require a sign permit (per § 155.713) and are allowed one per tenant per facade, up to a maximum size of 12 square feet.

(6) Inflatable signs, with the exception of those erected in connection with the observance of holidays and do not bear an advertising message as described in division (D)(8) of this section.

(7) Any sign or device set into motion by mechanical, electrical, or other means, except barber poles and those regulated in division (G)(11) of this section.

(8) Flashing signs, including but not limited to any sign or device displaying flashing or intermittent lights, lights of changing degrees or intensity, or animation. This includes electronic video display signs. However, electronic changeable copy signs/electronic signs are permitted, as regulated in division (G)(11) of this section.

(9) String lighting that is not explicitly associated with the traditional observance of a holiday and regulated by the conditions of division (D)(10) under "Exemptions" or permitted in § 155.403(F)(9).

(10) Any sign which is a copy or imitation of an official sign, or which purports to have official status.

(11) Off-premises signs not specifically regulated herein, including but not limited to billboards.

(12) Snipe signs.

(13) Temporary product/promotional advertisement signs that are hung on, attached to or placed over a permanent fixture including but not limited to a light pole, tree, fence or bollard, whether on- or off- premises, unless approved as part of a temporary sign permit.

(14) Pole signs.

(15) Signs mounted inside a window or on a wall directly behind a window, and/or otherwise visible from outside the building that are not accounted for or do not meet the criteria of division (G)(3).

(16) Signs displayed in secondary windows not located on the first floor or in secondary windows not located in the primary building façade or a storefront entrance, unless as part of an alternative sign plan.

(17) Signs or murals of a commercial nature painted directly onto a wall or other building surface or structure, unless as part of an alternative sign plan.

(18) Windblown signs, except those exempted in Exemptions (found in divisions (D)(2) and (3) of this section), part of an approved flag sign, division (G)(15) of this section, or those allowed as part of a temporary sign permit in accordance with § 155.713(F).

(19) Any sign, other than those described in division (D)(4)(g) of this section, that is stenciled, painted, projected, or otherwise displayed on the ground, sidewalk, or pavement, unless as part of an alternative sign plan.

(F) *General sign regulations.*

(1) *Signs located in Overlay Districts.* Signs located within an Overlay District are subject to the provisions of this section, except that regulations within § 155.204 "Overlay Districts" shall supersede and may be either more or less restrictive than the regulations for signs contained in this section, unless permitted as an alternative sign plan per division (K) of this section.

(2) *Signs located as part of a home occupation.* Signs erected in connection with a home occupation pursuant to §155.308(C)(2) are subject to the provisions of this section, except that regulations within § 155.308(C)(2) shall supersede and may be either more or less restrictive than the regulations for signs contained in this section, unless permitted as an alternative sign plan per division (K) of this section. Signs erected in connection with a home occupation shall not be illuminated.

(3) *Total allowable sign face area.*

(a) The total square footage of allowable sign face area permitted on any site shall be calculated by multiplying the amount of linear lot frontage or building frontage (in feet) by 1.25. The total allowable sign face area for any site shall not exceed this calculation (as shown below).

Total allowable sign face area (in square feet) - Linear frontage (feet) x 1.25

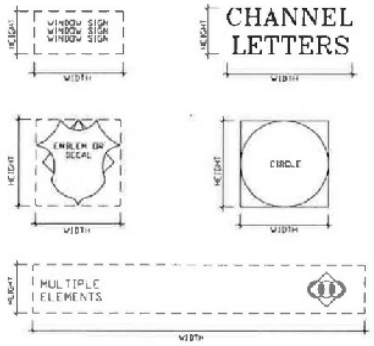
On lots with frontage on more than one street, the longest frontage may be used to calculate the total allowable sign face area.

(b) In addition, the total area and specific area of allowable sign face area permitted on a sign or site shall be governed by the sign type criteria for each specific sign type (as described below in division (G) of this section).

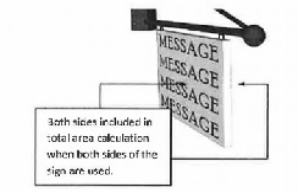
(4) *Computation of sign measurements.*

(a) *Computation of sign face area.*

1. The area of a sign, otherwise known as sign face area, is measured by finding the area of the minimum imaginary rectangle or square, aligned parallel to the horizon which fully encloses all sign words, symbol, copy, or message, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed. Sign face area does not include any supporting framework or bracing, unless it is part of the message or sign face, or otherwise functions as an attention-attracting device.



2. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, unless otherwise specified.



3. The sign face area of free-form or sculptural (non-planar) signs is calculated as 50% of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign.

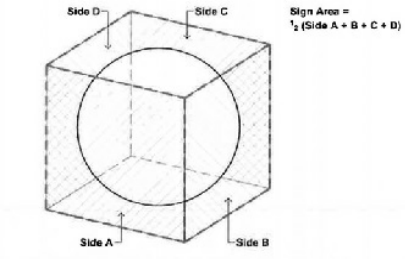


Illustration of sign area for sculptural non-planar signs.

(b) *Computation of sign height.*

1. *General.* Sign height is measured as described below. The height of a sign shall include the highest point of the sign face area, with the supporting structure and/or any decorative elements dedicated or attached exclusively to the sign limited to 125% of the allowed sign height, unless approved as part of an alternative sign plan per division (K) of this section.

2. *Height measurement.* The vertical distance from the average grade of the ground or walkway immediately surrounding the sign to the highest point of the sign face area, or from the level of the average crown of the nearest abutting public street, alley or highway (other than a structurally elevated roadway) to the highest point of the sign face area, whichever measurement permits the greater elevation.

(5) *Construction standards.*

(a) All signs shall comply with the appropriate provisions of the North Carolina Building Code, the National Electric Code, and this section.

(b) Signs shall be located in such a way that they maintain sufficient horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electric Code specifications, provided that no sign, except governmental signs, shall be installed closer than ten feet horizontally or vertically from any conductor or public utility guy wire.

(c) In no way shall a sign hinder or obstruct the visibility of the right-of-way, as defined by §155.400(K), either at intersections or points of ingress or egress from parking lots.

(d) Signs and any associated structures shall match or exceed in quality the materials of the primary structure on a site. Signs should be integrated into the architectural style of the building and design of the site, and should complement the overall architectural style.

1. All permanent signs shall be constructed of quality and permanent materials.

2. No permanent sign shall be allowed if the materials are of a nature that it is reasonable to expect that the sign will fall into disrepair within a period of five years or less through natural weathering.

3. Quality materials for permanent signs shall not include:

A. Unfinished wood, including unfinished posts or supports.

B. Coroplast or other similar rigid, pan, vinyl or plastic backing, for wall signs or tenant identification signs.

C. Painted signs.

4. Signs shall be constructed of a quality sign type.

A. For purposes of determining the quality of a sign type, the following shall apply for wall signs, in order of highest quality to lowest quality: channel letter sign or similar individually mounted lettering, raceway-mounted lettering, decorative pan sign, cabinet sign, painted sign or vinyl or other lettering adhered directly to the wall.

B. For purposes of determining the quality of a sign type, the following shall apply for freestanding and monument signs, in order of highest quality to lowest quality: monument sign, post sign, cabinet sign.

(e) Signs with a separate electric meter shall have the pedestal and meter completely screened from view, or be otherwise seamlessly hidden by or integrated into the design of the sign or structure. Approval of a sign plan or issuance of a sign permit for an illuminated sign does not necessarily constitute exemption from this criteria or screening requirements.

(6) *Illumination*.

(a) At a minimum, illumination of signs shall be limited to business hours when the business is open to the public and/or clients, or as otherwise restricted in this section. This does not apply to billboards.

(b) Illuminated signs shall have no movement, including but not limited to flashing, blinking, or animation, except as allowed for electronic changeable copy signs in division (G)(11) of this section, or as otherwise permitted as part of an alternative sign plan in division (K) of this section.

(c) At a minimum, illumination of signs in or within 50 feet of residential zoning districts is prohibited from the hours of 9:00 p.m. to 7:00 a.m., or as otherwise restricted in this section.

(d) Internal illumination of signs is prohibited in mixed use zoning districts with conforming residential uses, and in and within 50 feet of residential zoning districts, unless approved as part of an alternative sign plan, per division (K) of this section.

(e) Signs associated with a home occupation shall not be illuminated.

(f) All wires and non-decorative lighting structures shall be camouflaged or reasonably hidden from view.

(7) *Secondary signs*.

(a) Where signs are displayed on more than the primary side of a building, any secondary signs shall be no larger than the primary sign.

(b) Secondary signs shall be consistent with the primary sign in content, type, construction, illumination, and materials.

(c) A secondary sign shall only be allowed if a primary sign already exists.

(d) A secondary sign shall only be allowed if it is consistent with the content, user, tenant, business, or activity of the primary sign.

(8) *Windows and translucent doors*.

(a) Primary windows and translucent doors located in first floor, non-residential storefronts shall not be obstructed, covered, or otherwise blocked so as to prohibit visibility from the outside for more than half of regular business hours.

(b) Permanent coverings, which include but are not limited to signage, window tinting, reflective window treatments, window wraps, or window treatments, shall cover no more than 25% of the above surfaces.

(9) *Decorative string lighting*.

(a) Exposed decorative string lighting shall be limited to a maximum bulb rating of five watts or less.

(b) Decorative string lighting shall consist of single strands and run in any of the following configurations:

1. Following the architectural features of a building, including doors, windows, awnings, or rooflines;

2. Hung parallel or perpendicular to the architectural feature;

3. Wrapped around columns, posts, or pillars on a building;

4. Wrapped around existing on-site features such its landscaping, trees, or posts;

5. Strung overhead in activated public and private alleys;

6. Placed around, across, or as a way to define outdoor dining or outdoor seating areas.

(c) Decorative string lighting shall be designed to create a constant glow and prevent glare.

(d) The color of decorative string lighting shall be while light in the color temperature range of not less than 2,700 K and not exceeding 4,200 K, except as permitted during a holiday period as defined below:

1. Colors beyond white are permitted for decorative string lighting between November 1 and January 15 of each year.

2. Decorative string lighting of a different color than white must be removed, turned off, or changed back to an allowable shade of white no later than ten days following the end of the holiday period.

(e) All decorative string lighting must be maintained in proper working order, and must be replaced, turned off, or removed entirely if a portion of the string lighting is not in proper working order.

(f) Decorative string lighting can be left on at all times to enhance the beautification and lighting of downtown, even outside of business hours.

(g) Decorative string lighting must be securely and safely affixed to any structure or site feature.

(h) Suggestions of movement such as flashing, blinking, flickering, neon or scrolling string or rope lighting, or lighting that changes in intensity or color is prohibited.

(i) Lighting in shape of a sign, or spelling out the name or products of a business shall be prohibited.

(G) *Specific Sign Regulations.* Requirements additional to Section (F), “General Sign Regulations”, for sign area, dimensions, placement, illumination, and other standards as necessary are described below. All signs must be located on-premises unless otherwise explicitly indicated.

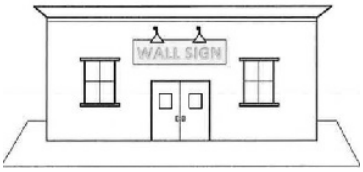
(1) Sign Color. The Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification shall be clearly indicated for each proposed sign when applying for a sign permit.

(2) Wall/Fascia Signs.

(a) Allowed Sign Face Area (max.).

1. Twenty-five percent of the surface area of each wall, facade, storefront, or fascia area (as applicable) exclusive of windows/doors.

2. Max. 75 square feet.



(b) Number (max.).

1. Each building face may have one Primary Building Identification Sign plus one sign per tenant, provided the cumulative area does not exceed the total allowable sign face area for that facade.

2. Only one sign per tenant per wall/facade is allowed.

(c) Positioning.

1. No portion of a wall/fascia sign may extend above the roof line of a building without a parapet wall.

2. No portion of a wall/fascia sign may extend above parapet walls.

3. No portion of wall/fascia sign may extend above the lower eave line of a building with a pitched roof with a vertical angle less than 75 degrees.

4. Signs may be placed in gables, provided they meet the conditions above.

5. No sign shall be allowed on a dormer.

(d) Projection (max.). Twelve inches from wall or surface to which the sign is attached.

(e) Clearance (min.). If the sign projects more than six inches from the wall it is attached to, the sign shall maintain a clearance of eight feet from the ground below.

(f) Construction.

1. All wall signs shall be fastened directly to the supporting wall.

2. All supporting brackets or raceways shall be painted to blend in with the building.

(g) Location.

1. Allowed in residential zoning districts as part of a permitted nonresidential use.

2. Allowed in all non-residential and mixed use zoning districts.

(h) Other Conditions.

1. In multi-tenant, non-residential or mixed use buildings.

a. Each tenant shall be allowed one color per wall sign with black also allowable as trim, background, or accent.

b. Pan or rectangular signs must incorporate decorative embellishments, borders, or features.

c. Federally and state registered trademarks may occupy a maximum of 12 square feet of sign face area per tenant and shall be counted toward the allowable sign face area.

d. Signs shall match or exceed the style of existing sign materials and style.

(3) Window/Door Signs.

(a) Allowed Sign Face Area (max.). Twenty-five percent of the area of the surface of each window/door area. The window/door area is counted as a continuous surface until divided by a solid architectural or structural element with a width greater than 12 inches. Stated alternatively, 75% transparency must be maintained for windows and transparent doors. Faux windows may be up to 100% opaque, but are restricted to the 25% sign face area maximum described above.

(b) Positioning.

1. Window/door signs are only allowed for businesses or tenants with an exterior entrance directly into their unit.



2. Window signs are not all owed on exterior windows above the first floor, unless part of an approved Alternative Sign Plan. Real estate-related signs, such as “For Rent” or “For Sale” are not subject to this provision (see (D)(8) of this section).

3. Window signs are attached to the inside or outside of a window or door, or displayed behind a window or transparent door.

(c) Illumination.

1. Illumination is prohibited, except for “Open” signs as described in Exempt Signs.

2. Illuminated window signs are prohibited in residential zoning districts. This prohibition includes the “Open” Signs described above under Exempt Signs.

(d) Location.

1. Allowed in residential zoning districts as part of a permitted nonresidential use.

2. Allowed in all nonresidential and mixed use zoning districts.

(4) Freestanding Signs (Monument Sign, Post Sign, Post and Arm Sign).

(a) Allowed Sign Face Area (max.) Per Sign Face.

1. Maximum size of 64 square feet, and further restricted by type:

A. Monument Signs: A total of 0.25 square feet per linear foot of lot frontage or building frontage along the street on which the sign is oriented.

B. Post Signs: A total of 0.20 square feet per linear foot of parcel street frontage or storefront street frontage along the street on which the sign is oriented.

C. Post-and-Arm Sign: Six square feet.



Monument Sign



Post Sign

(b) Height (max.). Eight feet.

(c) Minimum Frontage (either building frontage or lot frontage, both as measured parallel to the street on which the sign will be located or facing).

1. Monument and Post Signs. One hundred linear feet.

2. Post-and-Arm Signs. Fifty linear feet.

(d) Number (max.) Per Site.

1. 0 to 599 linear feet = 1 sign.

2. 600 to 1499 linear feet = 2 signs (min. 300 linear feet on two frontages = 2 signs).

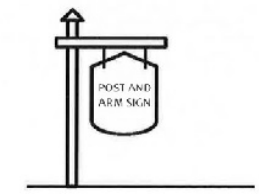
3. 1500+ linear feet = 3 signs (min. 300 linear feet on three frontages = 3 signs).

(e) Setback and Separation (min.).

1. Five feet from the public right-of-way.

2. Fifteen feet from any interior side lot line.

3. Fifty feet between signs.



(f) Location. Allowed in all nonresidential and mixed use zoning districts.

(g) Landscaping.

1. A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, with decorative landscape features or materials. The Planning Director may modify up to 20% of this requirement based on constraints specific to the site.

2. All planting areas are required to comply with this requirement no later than May 1, 2017 in order to comply with this section.

(5) Projecting Signs and Hanging Signs.

(a) Allowed Sign Face Area (max.) Per Sign Face.

1. Projecting signs. Ten square feet.

2. Hanging signs. Six square feet.

(b) Number (max.) Per Site. One of each sign (hanging and projecting) per ground floor business frontage. A corner business unit may have one per street frontage.

(c) Positioning and Clearance.

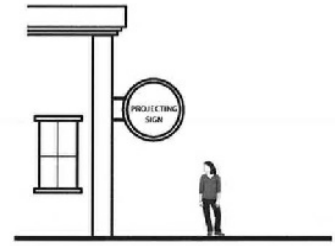
1. Minimum seven feet clearance from the ground level to the bottom of the sign.

2. Maximum 15 feet from ground level to the top of the sign.

3. Minimum three feet clearance from curb line.

4. May not extend above roof eaves or parapet walls.

5. A minimum of 10' clearance is required between hanging signs on the same business frontage.



(d) Projection (max.).

1. Projecting sign. Three feet from the building wall or one-half the width of the sidewalk.

2. Hanging Sign. No restriction provided the sign does not extend past the roof, marquee, or awning to which it is attached.

(e) Construction.

1. Projecting Signs. Signs shall be fastened directly to a building wall and shall intersect the building wall at right angles. When a building corner is at the intersection of two streets, one projecting sign at a 45 degree angle is allowed in lieu of one sign per street frontage.

2. Hanging Signs. Shall be fastened directly and securely to the awning, marquee, or canopy.



(f) Illumination.

1. Projecting signs may be illuminated internally or externally.

2. Hanging signs may only be illuminated externally.

(g) Location.

1. Allowed in residential zoning districts as part of a permitted nonresidential use.

2. Allowed in all non-residential and mixed use zoning districts.

(6) Awning, marquee, or canopy signs.

(a) Allowed Sign Face Area (max.). Seventy-five percent of the surface area of the face of the awning, marquee, or canopy to which it is attached.

(b) Number (max.) Per Site. One permitted on each side or face of awning, marquee, or canopy.

(c) Clearance. Minimum eight feet from ground level.

(d) Positioning. Lettering or graphics shall not project horizontally more than one inch from the surface to which it is attached.

(e) Construction. Shall be fastened or adhered directly and securely to the awning/marquee/canopy face.

(f) Illumination. Backlit illumination is prohibited.

(g) Location.

1. Allowed in residential zoning districts as part of a permitted nonresidential use.

2. Allowed in all nonresidential and mixed use zoning districts.

(7) Easel/Sandwich Boards/A-frame.

(a) Allowed Sign Face Area (max.) Per Sign Face. Eight square feet.

(b) Number (max.) Per Site. One per business unit or tenant, with an overall maximum of one sign per 20 linear feet of store frontage.

(c) Positioning.

1. Sign must be located within 20 feet of the business entrance.

2. No easel/sandwich board/A-frame sign shall be placed on the sidewalk so as to leave less than four feet of unobstructed clearance for pedestrians.

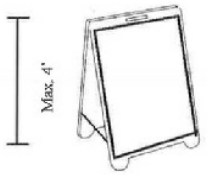
3. Prohibited within the public right-of-way.

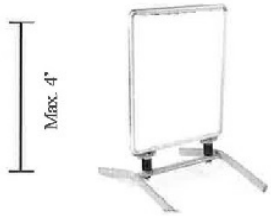
4. No easel/sandwich board/A-frame sign shall remain on the sidewalk adjacent to any premises at any time when the premises are closed to the public.

5. No easel/sandwich board/A-frame sign shall be tied, locked, chained, or otherwise attached to any other feature.

6. No easel/sandwich board/A-frame sign shall be displayed outside of business hours.

(d) Height (max.). Four feet.





(e) Width (max.). Three feet.

(f) Construction.

1. All A-frame/sandwich board/easel signs shall be adequately weighted or anchored to prevent accidental movement of the sign, including by wind gusts. Such weighting shall be integral to the design of the sign, and shall not consist of separate materials such as sandbags or concrete blocks.

2. No sign shall obstruct any public street.

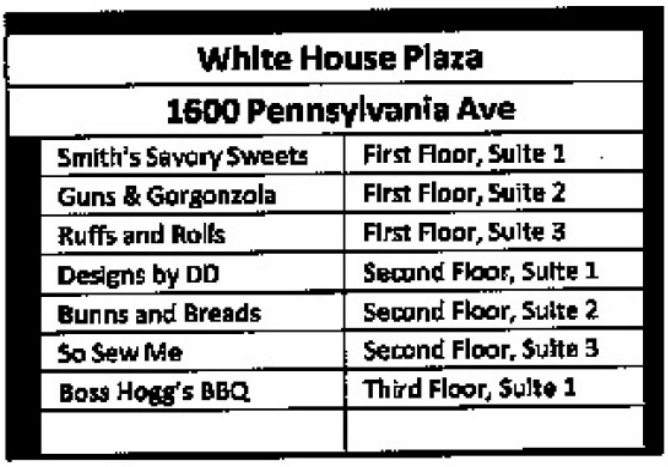
(g) Illumination. Illumination is prohibited.

(h) Location.

1. Allowed in residential zoning districts as part of a permitted nonresidential use.

2. Allowed in all nonresidential and mixed use zoning districts.

(8) Tenant Identification Signs.



White House Plaza	
1600 Pennsylvania Ave	
Smith's Savory Sweets	First Floor, Suite 1
Guns & Gorgonzola	First Floor, Suite 2
Ruffs and Rolls	First Floor, Suite 3
Designs by DD	Second Floor, Suite 1
Buns and Breads	Second Floor, Suite 2
So Sew Me	Second Floor, Suite 3
Boss Hogg's BBQ	Third Floor, Suite 1

(a) Allowed Sign Face Area (max.). Six square feet.

(b) Number (max.). One sign per external entrance.

(c) Positioning. Signs shall be located to the side of the external door which accesses the internal tenants described on the sign

(d) Projection (max.). Three inches from wall to which the sign is attached.

(e) Construction. All tenant identification signs shall be fastened directly to the supporting wall.

(f) Illumination. May be illuminated externally only. No backlighting.

(g) Location.

1. Allowed in residential zoning districts as part of a permitted non- residential use.

2. Allowed in all non-residential and mixed use zoning districts.

(h) Other Conditions.

1. Only tenant(s) accessed by the entrance adjacent to the sign may have their signage displayed.

2. Tenant and suite identification lettering shall not be taller than one inch, and main identification lettering shall not be taller than four inches.

3. Faceplates shall not be taller than two inches.

4. All faceplates shall utilize one color for lettering and one color for background. The colors shall be consistent among tenants on the sign.

(9) Drive-Thru Menu Boards.

(a) Number (max.). Two per drive-thru lane.

(b) Allowable Sign Face Area (max.). Thirty-six square feet allowed per drive-thru lane.

(c) Height (max.). Eight feet.

(d) Construction. Sign materials shall be consistent with the primary building construction or other signs on the site.

(e) Location. Drive-Thru Menu Boards shall be located within the minimum vehicle queuing spaces plus one queuing space, of the ordering window or pick-up window, per the use, as identified in Table 4-4: Minimum Queuing Standards (§ 155.401(D)(1)).

(f) Illumination. May be illuminated internally or externally.

(g) Other. Drive-Thru Menu Boards are only permitted as an accessory to a drive-thru business.

(10) *Changeable Copy Sign - Manual.*

(a) Location. Manual Changeable Copy Signs may be used as a part of a permitted freestanding sign for public, institutional, and not-for-profit uses only, unless expressly prohibited elsewhere in the Town's code.



(b) Number (max.) Per Site. One per parcel or site, whichever is more restrictive.

(c) Allowable Sign Face Area (max.) Per Sign Face.

1. The changeable copy area shall be limited to 40 percent of the total sign face area.

2. Sign face area shall be otherwise regulated per Freestanding Signs, in (5) of this Section.

(d) Construction.

1. Sign structure shall be constructed of high quality materials.

2. Materials shall be consistent with the primary building construction.

(e) Illumination. Internal illumination is prohibited.

(f) Landscaping. A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. The Planning Director may modify up to 20% of this requirement based on constraints specific to the site.

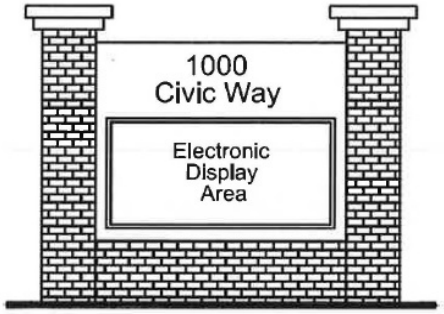
(g) Other Criteria. Manual Changeable Copy Signs shall otherwise conform to the regulations of Freestanding Signs (per (4) of this Section).

(11) Changeable Copy Sign - Electronic, and Electronic Sign.

(a) Location. Electronic changeable copy signs may be a part of any permitted freestanding sign.

(b) Number (max.) Per Site. One per parcel or site, whichever is more restrictive.

(c) Allowable Sign Face Area (max.). Sign face may be any part of the total allowable sign face area for a freestanding sign.



(d) Illumination. Electronic signs shall be equipped with dimming technology that automatically adjusts the display's brightness based on ambient light conditions at all times of day and night, and be set at a level no higher than .3 foot candles above ambient light conditions (measured from a distance as specified below) as to not cause glare, distraction, reduced visibility or safety concerns from adjacent roadways.

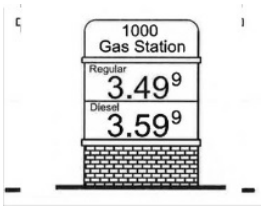
Sign Size	***Measurement Distance***
0-100 square feet	100 feet
101-350 square feet	150 feet
351-650 square feet	200 feet

(e) Permitted Colors.

1. Signs associated with uses other than gas station pricing: background must be black. Electronic display is limited to text/logo which may be one of the following: white or red.

2. Signs associated with gas station pricing: background must be black. Pricing may be white, red, and green.

(f) Copy/Text. Copy/text may consist of alphanumeric symbols only, except that pictorial imagery associated with the logo may be permitted.



(g) Construction.

1. Sign structure shall be constructed of high quality materials.

2. Materials shall be consistent with the primary building construction.



(h) Other.

1. Electronic changeable copy signs must be physically attached to the primary sign.

2. Sign display shall be static. No portion of the sign may flash, scroll, twirl, change color, blink, or in any manner imitate movement.

3. Copy may change once every 6 minutes.

4. A sign strictly displaying time and temperature may change on no less than a five second interval.

(i) Landscaping. A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. The Planning Director

may modify up to 20% of this requirement based on constraints specific to the site.

(12) Billboards.

(a) Allowable Sign Face Area (max.) Per Sign Face.

1. Two hundred square feet per sign face.

2. Maximum sign face height of 15 feet.

3. Maximum sign face width of 20 feet.

4. Maximum one advertising face per side.

(b) Spacing between billboards (min.). Two thousand feet, except as allowed by division (G)(12)(h) below.

(c) Setback (min.). Fifty feet from right-of-way.

(d) Height (max.) of structure. Twenty-five feet.

(e) Clearance (min.). Eight feet above the ground at the base of the sign or highway grade level, whichever is higher.

(f) Illumination.

1. May be externally illuminated only.

2. Internal illumination is prohibited.

(g) Location.

1. Prohibited within Town limits.

2. Limited to locations on U.S. 70 Bus. Hwy.

3. All billboards shall be primarily oriented toward the east-bound or west-bound lanes of U.S. 70 Business.

4. Billboards must be located off-premises.

(h) Annexation. Billboards located on property that is annexed into town limits, and properly relocated billboards as allowed by this section, shall be removed within the timeframe established within a developers agreement or annexation agreement but not to exceed 15 years from the date of annexation. A billboard located on property that is annexed for development may be relocated with the consent of the Town Council through approval of an economic development agreement, development agreement, or annexation agreement, if the billboard relocation site complies with all of the requirements of § 155.403(G)(12), excluding division (G)(12)(b) thereof. The amortization period for relocated billboards from annexed property shall not exceed 15 years from the date of the annexation.

(13) Development Identification Signs – Residential.



(a) Allowable Sign Face Area (max.) per sign face. 24 square feet.

(b) Number (max.) per site. Two per each major project/development entrance, or one in the median of an entrance driveway.

(c) Height (max.).

1. Eight feet.

2. If attached to an approved entrance feature, the sign face may not exceed eight feet in height. Entrance features shall comply with the provisions of this Chapter.

(d) Setbacks (min.) Five feet from the public right-of-way or property line and may not encroach into safe sight triangles.

(e) Construction.

1. Sign may take the form of a freestanding sign or wall style sign.

2. Freestanding signs shall be a monument style sign or post-and- arm style sign.

3. Sign may be attached to a decorative wall or fence, or to a building wall.

(f) Illumination. May be illuminated externally or backlit.

(g) Location.

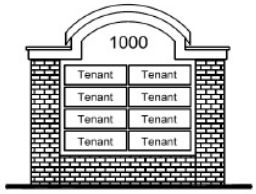
1. Shall be located on property contiguous to the development identified.

2. Shall be located on private property or within the median of the entrance driveway.

3. May be located on one or both sides of major entrances to the development, or one sign may be located in the median of the entrance driveway with a sign easement and permission from NCDOT or the Town as applicable.

(h) Landscaping. A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. The Planning Director may modify up to 20% of this requirement based on constraints specific to the site.

(14) Development Identification Signs – Nonresidential (Sites with Multiple Buildings). A Nonresidential Development Identification Sign may be used in association with a parcel with multiple buildings, or a grouping of parcels such as a medical park, business park, or a shopping center with outparcels where one or more tenants receive the benefit of common signage. A single building (either single or multi-story) with multiple tenants is not eligible for a Development Identification Sign.



Nonresidential Development Identification Signs are approved via Alternative Sign Plan. Applications shall clearly identify what businesses, buildings, or parcels are included. In addition to a Development Identification Sign, parcels within the development may have one monument style freestanding sign provided they meet the criteria for Freestanding Signs in (4) of this Section.

(a) Allowable Sign Face Area (max.). A total of 0.25 square feet per linear foot of lot frontage or building frontage along the street on which the sign is oriented, or 64 square feet, whichever is less.

(b) Number (max.) per roadway frontage. One sign along roadway at main entrance to the development.

(c) Height (max.)

1. Eight feet.

2. If attached to an approved entrance feature, the sign face may not exceed 8 feet in height. Entrance features shall comply with the provisions of this Chapter.

(d) Setbacks (min.) Five feet from the public right-of-way or property line and may not encroach into safe sight triangles.

(e) Construction.

1. Shall be a freestanding monument style sign, or attached to an entry feature.

2. Materials shall be consistent with or exceed the materials of the primary building.

(f) Illumination. May be illuminated internally or externally.

(g) Location.

1. Shall be located on property contiguous to the development identified.

2. Shall be located on private property or within the median of the entrance driveway.

3. May be located at the main entrance to the development, or within the median of the entrance driveway with a sign easement and permission from NCDOT or the Town as applicable.

(h) Landscaping. A planting bed area equal to at least one-half of the sign face area (for two-sided signs, use only one sign face area for the calculation) shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. The Planning Director may modify up to 20% of this requirement based on constraints specific to the site.

(i) Other Conditions.

1. In multi-tenant, non residential or mixed use buildings:

A. Each tenant or sign shall be allowed two colors for face plate lettering with black always allowed as trim or accent, and white required as the background.

(15) Flags.

(a) Allowable Sign Face Area. (max.) per sign face.

1. For vertically-projecting poles, 24 square feet per flag in residential zoning districts, and 40 square feet per flag in all other zoning districts.

2. Twelve square feet per flag on angled- or horizontally projecting poles.

(b) Number (max.) per site.

1. A maximum of up to three vertically-projecting flag poles or two angled- or horizontally-projecting flag poles are allowed per frontage, subject to satisfaction of all other criteria herein.

2. Only one type of flag pole - vertically-projecting or horizontally-projecting - is allowed on a site.

3. For vertically-projecting flag poles, as measured by lot frontage:

A. 0 to 199 linear feet = 1 flag pole.

B. 200 to 499 linear feet = 2 flag poles.

C. 500+ linear feet = 3 flag poles.

4. Angled- or horizontally-projecting flag pole, as measured by lot frontage:

A. 100 - 200 linear feet = 1 flag pole.

B. 200+ linear feet = 2 flag poles.

5. One flag is allowed as advertising for an on-site operator, tenant, or use, and all other flags shall conform to the exemption listed in (D)(3) of this Section.

6. Vertically-projecting flag poles shall be allowed a maximum of three flags, with one flag allowed per every 5' above 15' of pole height.

7. Angled- or horizontally-projecting flag poles shall have a maximum of one flag per pole.

8. Residential zoning districts are allowed a maximum of one flag pole and two flags.

(c) Height or length (max.).

1. Vertically-projecting flag poles may not be taller than the primary structure on the site, or 35', whichever is less.

2. Angled- or horizontally-projecting flag poles may not have a pole length greater than 8'.

(d) Minimum Required Frontage (either building frontage or lot frontage, as measured parallel to the street on which the flag pole(s) are located).

1. Vertically-projecting flag pole: 175 linear feet.

2. Angled- or horizontally-projecting flag pole: 100 linear feet.

(e) Clearance (min.).

1. On vertically-projecting flagpoles, under normal operation but including times during which a flag is raised at half-mast, no portion of any flag shall extend below the mid-point of the flagpole, with an absolute minimum clearance of seven feet required above the ground beneath the flag.

2. On angled- or horizontally-projecting flag poles, all flags and flagpoles shall maintain a minimum of seven feet of vertical clearance above the ground beneath the flagpole and flag.

3. All flags and flagpoles shall maintain minimum required safety clearances from electrical utilities at all times.

(f) Setbacks (min.) required for all parts of flagpole and other supporting or related structure.

1. For vertically-projecting flagpoles, must meet setback requirements of the zoning district, plus one foot setback for every one foot of height above 25 feet.

2. For angled- or horizontally-projecting flagpoles, may not extend past the property line and must be anchored at or behind the setback line.

(g) Construction.

1. Vertically-projecting flagpoles shall be anchored to a footing in the ground or attached to a wall or building and shall project vertically to the maximum allowed height.

2. Flagpoles may be attached to a structure or building wall, and may project vertically, horizontally, or at an angle to the wall.

3. Zoning Compliance Permits and building permits may be required.

(h) Illumination. May be illuminated externally only.

(i) Landscaping.

1. On vertically-, or angled-projecting flagpoles anchored in the ground, a planting bed area equal to at least one-half of the sign face area (use only one side of the largest flag for the calculation), shall be planted around the entire base of any freestanding sign, using shrubs, flowers, or ground cover. The Planning Director may modify up to 20% of this requirement based on constraints specific to the site.

2. On vertically-, angled-, or horizontally projecting flagpoles anchored directly to a building, no planting bed is required.

(16) Temporary Signs. The signs described below may be erected on a temporary basis only after a permit has been issued by the Planning Director. No sign shall be placed in a public right-of-way, nor attached to a utility pole or other utility-related structure.

(a) On-Premises Construction Sign.

1. The regulation of on-premises construction signs shall be in accordance with G.S. § 160D-908, or as otherwise regulated below.

2. Residential. One sign, not to exceed 20 square feet in size, may be erected in a residential zoning district.

3. Nonresidential. Up to two on-premises construction project signs may be erected in a business, industrial, or office and institutional zoning district, so long as the total sign face area does not exceed 32 square feet. If a sign is two-sided with faces positioned back to back, only one side of the sign face shall be included in this calculation.

4. Construction signs shall not be erected prior to site plan or plat approval or the issuance of a building permit, and shall be removed within 15 days after final inspection and approval of the project.

(b) Political Signs. The regulation of political signs shall be in accordance with G.S. § 136-32, Regulation of Signs.

(c) Special Event Signs (fair, carnival, festival, grand opening, sale, or similar non-permanent activity).

1. Limited to two feather signs, not exceeding 16 square feet each (per face), or one banner style sign, not exceeding 32 square feet (per face).

2. Signs may be erected, placed, or located for maximum of 10 consecutive days.

3. Limited to four times per calendar year (40 days in total).

4. Such signs shall be removed by the applicant by the permit expiration date.

5. Prohibited within public rights-of-way and shall not obstruct the view of oncoming traffic.

6. Upon written request, the Planning Director shallextend the timeframe up to a maximum of 60 days for new businesses or businesses undergoing exterior renovation.

(d) Yard Sale Signs.

1. Prohibited within public rights-of-way and shall not obstruct oncoming traffic.

2. Such signs may not exceed four square feet in size.

3. Signs shall not be erected more than seven days before the sale date and shall be removed within 48 hours of the sale date.

4. Signs shall not be affixed to any structure within public rights-of- way.

(e) Gas Balloons.

1. May be erected, placed, or located in connection with a special event, such as a fair, carnival, grand opening, sale, or similar non-permanent activity.

2. Balloons may be used for maximum of 10 consecutive days.

3. Limited to four times per calendar year (40 days in total).

4. Balloons shall be removed by the applicant within one day after the event has taken place.

(H) *Removal of Abandoned, Obsolete, or Deteriorated Signs.*

(1) Abandoned Signs.

(a) Removal. Obsolete signs shall be removed by the owner of the premises on which the sign is situated within 15 days of receipt of notification by the enforcement officer.

(2) Obsolete Signs.

(a) Removal. Obsolete signs shall be removed by the owner of the premises on which the sign is situated within 15 days of receipt of notification by the enforcement officer.

(3) Deteriorated Signs.

(a) Removal/Compliance. Deteriorated signs shall be removed or brought into compliance with all codes and ordinances within 15 days of notification by the enforcement officer.

(I) *Maintenance.*

(1) All signs shall be maintained in a state of good repair, and shall not be abandoned, made to be obsolete, or become deteriorated. The Planning Director or designee is authorized to inspect each sign periodically to determine that it meets the requirements set forth in this Section. Whenever a sign has been built or is being maintained in violation of this Section, such sign shall be made to conform to all regulations herein, or shall be removed at the expense of the owner within 15 days after written verification thereof by the Planning Director.

(2) To ensure that signs are erected and maintained in a safe and attractive manner, the following maintenance requirements shall apply to all signs visible from any right-of-way or public area:

(a) A sign shall have no more than 5% of its surface area covered with peeling paint, chipped corners, rust, mud, broken parts and pieces, or other unsightly conditions for a period of more than 15 successive days.

(b) A sign shall not stand with bent or broken sign facing, broken supports, loose appendages or struts, or leaning more than 15% from vertical for a period greater than 15 successive days.

(c) A sign shall not have weeds, trees, vines, or other vegetation growing upon it, that obscures the view of the sign from the street or right-of-way from which it is to be viewed, for a period greater than ten successive days.

(J) *Alternative Sign Plan.* The purpose and intent of an Alternative Sign Plan is to allow for creativity of sign design, providing an opportunity to demonstrate the intent of this Section can be exceeded, in whole or in part. Any sign application may include an Alternative Sign Plan as an alternative. The Alternative Sign Plan need not comply with the requirements of this Section, however in no case shall an Alternative Sign Plan allow a prohibited sign. The Alternative Sign Plan shall be prepared in accordance with the design principles set forth below.

(1) *Application.* The Alternative Sign Plan shall be submitted to the Planning Department for review following the process requirements of § 155.713 “Sign Permit”, with the decision made by Town Council.

(2) *Alternative Sign Plan Elements.* The Alternative Sign Plan shall include, at a minimum, criteria and specifications for the following:

(a) Justification statement which details project information, modifications being requested, specific code references proposed for the alternate sign plan, proposed alternatives, and explanation of how the alternative exceeds the requirements of this Section.

(b) Alternative Sign Plans submitted for a permanent sign shall include all information required for a Permanent Sign Permit application (per § 155.713), to be issued at a later date.

(c) Location of regulated properties.

(d) Allocation of permitted sign area among tenants and any other proposed signs. Total allowable sign face area for the project is determined using the total sign face area allowance calculation defined in (F)(3) of this Section.

(e) Sketches of generic sign design and appearance for each sign type provided in Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification. Permitted colors for each sign component shall be specific, including but not limited to sign face backgrounds, lettering, and sign structure.

(f) Map, site plan, or other graphical depiction showing where each particular sign type is permitted.

(g) Justification for the Alternative Sign Plan.

(3) *Approval Criteria.* To qualify for consideration, an Alternative Sign Plan shall demonstrate compliance with the following review criteria:

(a) Components of the Alternative Sign Plan shall be consistent with the Town of Clayton General Design Guidelines.

(b) The proposed sign design, size, color, illumination, and placement are compatible in style and character with any building to which the sign is to be attached, any surrounding structures, any adjoining signage on the site, and/or the district character or architectural character of the area in which it is located.

(c) Innovative use of materials and design techniques in response to unique characteristics of the specific site, if applicable.

(d) Sign design, scale, and placement.

(e) Integrates architectural features in a manner compatible with the surroundings and district in which the development is located.

(f) Consistent with approved neighborhood plans, studies, or area plans.

(g) The Alternative Sign Plan improves the safety and welfare of the general public by minimizing distractions, hazards, and obstructions from sign design or placement.

(4) *Conditions of Approval.* The Town Council may impose Conditions of Approval to carry out the intent of the Alternative Sign Plan while still permitting each sign user opportunities for effective identification and communication. These conditions may include, but are not limited to, specification of color(s), reductions in the allowable number of signs, total sign face area, location of signs, and types of signs allowed.

(5) *Amendment.* An Alternative Sign Plan may be amended by filing an updated application with the Planning Director. The amended Alternative Sign Plan shall include a schedule that requires bringing all signs not conforming to the proposed plan into conformance.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2008-03-02, passed 3-3-08; Am. Ord. 2008-04-02, passed 4-7-08; Am. Ord. 2012-01-04, passed 1-3-12; Am. Ord. 2012-12-04, passed 12-3-12; Am. Ord. 2013-09-05, passed 9-3-13; Am. Ord. 2014-06-11, passed 6-16-14; Am. Ord. 2017-01-01, passed 1-3- 17; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2023-05-04, passed 5-15-23; Am. Ord. 2023-05-05, passed 5-15-23)

§ 155.404 OUTDOOR LIGHTING.

(A) *Applicability.*

(1) Unless specifically exempt, all existing and proposed development for which site plan approval is required (see §155.707) shall meet the provisions of this section.

(2) Buildings and structures lawfully existing as of the effective date of this chapter, may be redeveloped, renovated or repaired without modifying outdoor lighting in conformance with this section, provided there is no increase in gross floor area in such building or structure or impervious area on the site.

(3) Where a building or structure existed as of the effective date of this chapter, and such building is enlarged in gross floor area or impervious area on the site by 10% or 2,000 square feet, whichever is less, outdoor lighting as specified in this section shall be provided.

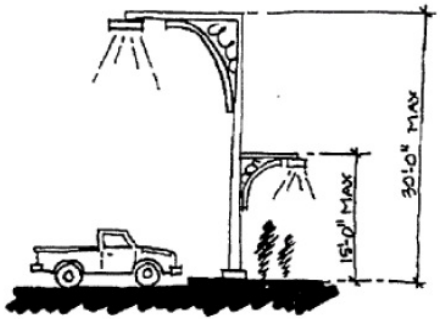
(B) *Prohibited light sources.* The following light fixtures and sources shall not be used within the town where the direct light emitted is visible from adjacent areas:

(1) Low-pressure sodium and mercury vapor light sources;

(2) Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources; and

(3) Searchlights and other high-intensity narrow-beam fixtures.

(C) *Design requirements.* Outdoor lighting shall primarily be used to provide safety while secondarily accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This may be accomplished through style, material or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:



(1) *Fixture (Luminaire).* The light source shall be concealed and shall not be visible from any street right-of-way or adjacent properties. In order to direct light downward and minimize the amount of light spillage into the night sky and onto adjacent properties, all lighting fixtures shall be cutoff fixtures.

(2) *Fixture height.* Lighting fixtures shall be a maximum of 30 feet in height within parking areas and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. All light fixtures located within 50 feet of any residential use or residential property boundary shall not exceed 15 feet in height.

(3) *Light source (lamp).* Only incandescent, fluorescent, metal halide, or color corrected high-pressure sodium may be used. The same light source type shall be used for the same or similar types of lighting on any one site throughout any development.

(4) *Mounting.* Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.

(5) *Limit lighting to periods of activity.* The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Planning Board to conserve energy, provide safety and promote compatibility between different land uses.

(D) *Specific lighting standards.*

(1) *Security lighting.*

(a) Building-mounted security light fixtures such as wall packs shall not project above the fascia or roof line of the building and shall be shielded.

(b) Security fixtures shall not face a residential property.

(c) Security fixtures shall not be substituted for parking area or walkway lighting and shall be restricted to loading, storage, service and similar locations.

(2) *Accent lighting.* Only lighting used to accent architectural features, landscaping or art may be directed upward, provided that the fixture shall be located, aimed or shielded to minimize light spill into the night sky.

(3) *Canopy area lighting.* All development that incorporates a canopy area over fuel sales, automated teller machines or similar installations shall use a recessed lens cover flush with the bottom surface of the canopy that provides a cutoff or shielded light distribution.

(4) *Entrances and exits in nonresidential and multi-family development.* All entrances and exits to buildings used for nonresidential purposes and open to the general public, along with all entrances and exits in multifamily residential buildings containing more than four units, shall be adequately lighted to ensure the safety of persons and the security of the building.

(5) *Commercial parking area lighting.* All commercial parking areas shall be required to provide lighting during nighttime hours of operation.

(E) *Excessive illumination.*

(1) Lighting within any lot that unnecessarily illuminates and substantially interferes

with the use or enjoyment of any other property shall be prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.

(2) Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers.

(Ord. 2005-11-02, passed 11-21-05)

§ 155.405 DESIGN STANDARDS – NON-RESIDENTIAL AND MULTI-FAMILY RESIDENTIAL.

(A) All existing and proposed non-residential and multi-family residential development, for which site plan approval is required, shall meet the provisions of this section. Townhomes that are developed to single-family residential building code standards shall be exempt from the requirements of this section.

(B) Any requirements within an overlay district shall supersede architectural standards noted within this section.

(C) *Building materials.*

(1) Any building visible from a right-of-way or adjacent property shall be architecturally consistent on all sides of the building.

(2) Metal is prohibited as the primary exterior building material or cladding in any zoning district except the I-1, I-2, and PF districts. Decorative metal or metal facade elements may be permitted as an accent feature but may not exceed more than 10% of any facade.

(Ord. 2019-06-06, passed 6-17-19; Am. Ord. 2021-02-02, passed 2-15-21)

ARTICLE 5: NATURAL RESOURCE PROTECTION

§ 155.500 RESOURCE CONSERVATION AREAS.

(A) *Determination of resource conservation areas.* The following are considered resource conservation areas and shall be unoccupied by buildings or other impervious surfaces unless permitted below.

(1) The 100-year floodplain;

(2) Stream buffer areas;

(3) Jurisdictional wetlands under federal law that meet the definition applied by the United States Army Corps of Engineers; and

(4) Natural steep slopes defined as slopes 25% (4:1) or greater that are directly connected to one of the above features, and at 5,000 square feet of contiguous area.

(B) *Defined.*

(1) Resource conservation areas shall be identified on plats as being permanently set aside from development, except passive uses pursuant to this chapter. No resource conservation area shall be counted towards lot area required by §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. § 143-214.23A. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements of §§ 155.200 through 155.204.

(2) No resource conservation area shall be counted towards the recreation and open space requirements as set forth in §§ 155.200 through 155.204, with the exceptions for stream buffers pursuant to G.S. § 143-214.23A; developed greenway, greenway-access or water-

access facilities may be counted provided they are developed to the standards of this chapter.

(C) *Resource conservation areas shown on plat.* All resource conservation areas shall be shown on any preliminary or final plat approved after January 1, 2006.

(D) *Permitted uses of resource conservation areas.* Uses of resource conversation areas may include the following:

(1) Conservation areas for natural, archeological or historical resources;

(2) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;

(3) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;

(4) Walking or bicycle trails;

(5) Easements for drainage, access, and underground utility lines;

(6) Other conservation-oriented uses compatible with the purposes of this chapter; or

(7) Public infrastructure projects and supporting facilities.

(E) *Prohibited uses of resource conservation areas.* Use of resource conservation areas may not include the following:

(1) Stormwater control measures;

(2) Roads, parking lots and impervious surfaces, except as specifically authorized through the appropriate governing body (DEQ, USACE, etc.); and

(3) Golf courses, agricultural and forestry activities not conducted according to accepted best management practices.

(F) *Ownership and maintenance.*

(1) *Ownership.* Resource conservation areas shall be accepted and owned by one of the following entities:

(a) *Land conservancy or land trust.* The responsibility for maintenance shall be borne by a land conservancy or land trust.

(b) *Homeowners' association.* A homeowners' association representing residents of the subdivision shall own the resource conservation areas. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance shall be borne by the homeowners' association.

(c) *Private landowner.* A private landowner may retain ownership of the resource conservation areas. The responsibility for maintenance shall be borne by the private landowner.

(2) *Maintenance.* Resource conservation area maintenance is limited to removal of litter, dead tree and plant materials and brush. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels. Unless otherwise specified by the Town Council, maintenance is limited to ensuring that there exist no hazards, nuisances or unhealthy conditions.

(3) *Legal instrument for permanent protection.*

(a) Resource conservation areas shall be protected in perpetuity by a binding legal instrument that is recorded with the deed.

(b) The instrument for permanent protection shall include clear restrictions on the use of the of resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2021-11-04, passed 11-15-21; Am. Ord. 2022-01-01, passed 1-18-22)

§ 155.501 WATERSHED PROTECTION.

(A) *Authority.* The State Legislature has, in G.S. §§ 143-214.5,§§ 160D-701, 160D-801, and 160D-926, delegated the responsibility and authority to local governmental units to establish water supply watershed protection programs, to regulate land use and development within water supply watersheds, and to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

(B) *Intent.* The intent of this section is to provide, in the designated watershed area, a higher level of control from activities and situations that could degrade the quality of the water entering the Neuse River which serves as a public water source for the town and other jurisdictions.

(1) Unless specifically exempt below, the provisions of this section shall apply to development within the Watershed Protection Overlay (-WP), G.S. § 143-214.5.

(2) These requirements shall not apply to development existing as of January 1, 2006 except as provided in§ 155.719, and shall not apply to a single-family detached, zero lot line, alley-loaded or accessory dwelling units developed on an existing lot.

(C) *Public health requirements.* No activity, situation, structure or land use shall be allowed within the -WP Overlay which poses a threat to water quality and the public health, safety, and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of storm water runoff, or any other situation found to pose a threat to water quality.

(D) *Permitted uses.* The following uses and activities are permitted provided such uses are also permitted in the underlying zoning district, and providing that the restrictions stated herein are met.

(1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

(2) Silviculture, using BMPs required to implement the provisions of the Forest Practices Guidelines Related to Water Quality.

(3) Residential development.

(4) Nonresidential uses, excluding discharging landfills and sludge application sites, mining and quarrying activities, and the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(E) *Density and impervious surface limitations.* For the purpose of calculating impervious surface area, total project area shall include total acreage in the parcel on which the project is to be developed.

(1) *Single family detached, zero lot line, alley-loaded.* Unless approved under the terms of division (E)(4) below, single-family detached, zero lot line and alley-loaded dwelling units shall not exceed two dwelling units per acre or 36% of impervious surface area as defined on a project-by-project basis. No residential lot shall be less than 1/3 acre, except within an approved open space residential subdivision, which meets the standards established in Article 2.

(2) *All other residential and nonresidential development.* Unless approved under the terms of division (E)(4) below, all other residential and nonresidential development shall not exceed 24% of impervious surface area on a project-by-project basis unless storm water quality mitigation structures are installed and maintained by the property owner.

(3) *Vegetative swales and vegetative swale outlets.*

(a) All residential development within the -WP Overlay requiring sediment and erosion control permits shall utilize a curb and gutter stormwater collection system when practicable. When a curb and gutter stormwater collection system is used, the system shall utilize vegetative swale outlets to mitigate point-source stormwater flow out of the system into downstream creeks, streams, and waterways when practicable. The following standards shall apply to the use of vegetative swale outlets:

1. The vegetative swale outlet shall be designed and constructed to accommodate the peak stormwater flow from the ten-year storm, and the velocity of the flow shall be non-erosive;

2. The side-slopes of the vegetative swale shall not be steeper than 5:1 (horizontal to vertical). When this is not practicable due to physical or topographic constraints, devices to slow the rate of stormwater flow and to encourage infiltration to reduce pollutant delivery shall be provided; and

3. The vegetative swale outlet shall be as wide and long as practicable under the circumstances to maximize the stormwater flow mitigation effect of the outlet.

(b) When the Town Engineer determines that a curb and gutter stormwater collection system is not the preferred means of controlling stormwater runoff, vegetative swales (with vegetative swale outlets) shall be utilized in lieu of a curb and gutter stormwater collection system when practicable. If site or development conditions do not favor the exclusive use of vegetative swales, hybrid stormwater drainage systems utilizing elements of vegetative swales and curb and gutter stormwater collection systems may be considered. The standards set out in division (a) above shall apply to the use of vegetative swale outlets, and the following standards shall apply to the use of vegetative swales in lieu of curb and gutter stormwater collection systems shall follow the requirements of 15A NCAC 02H.1061.

(c) For purposes of this section, the characteristics of the site and proposed development shall be considered in determining the practicability of utilizing vegetative swales and vegetative swale outlets and the design characteristics thereof, including soil types and compaction, topography, roadway and driveway design, lot sizes, front lot-line distances, and the need for and availability of sidewalks and pedestrian facilities in the development.

(d) Alternative stormwater control measures shall be considered by the town to satisfy the objectives of this section to provide safe and adequate pedestrian and road networks and facilities, control peak stormwater flow discharges, reduce total stormwater runoff volume, provide effective trapping and filtering of stormwater pollutants, and reduce the channelization and erosive velocity of stormwater runoff.

(4) *Industrial (I-1, I-2) or Business (B-1, B-2, B-3) Districts.* In addition to the development allowed under divisions (E)(1) and (E)(2) above, new development and expansions to existing developments may be approved on a project-by-project basis with impervious surfaces not exceeding 70% of the new project area within 10% of the total regulated watershed protection area, when approved by the Council as a special intensity allocation (SIA). The Planning Director shall be responsible for maintaining necessary records of SIA approvals as required. Projects developed under the terms of this division shall minimize impervious areas when feasible, give full consideration to dimension of proposed and required riparian buffers, direct storm water away from surface waters when possible, and follow best management practices in design of measures to minimize negative water quality impacts.

(F) *Open space subdivision.* Open space residential subdivisions (see §§ 155.200 through 155.204) are allowed in the -WP Overlay with the following requirements:

(1) Density or impervious surface limitations of the project shall not exceed division (E) above.

(2) All impervious surfaces shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated storm water flow.

(G) *Changes and amendments.* The Town Council may, on its own motion or on petition, after public notice and hearing, amend, supplement, change, or modify these requirements. All applications for changes, supplements, amendments, or modifications of this section shall follow the procedures outlined in § 155.703. Under no circumstances shall the Town Council adopt such amendments, supplements, or changes that would cause this section to violate the Water Supply Watershed Protection Rules as adopted by the state. All amendments must be approved and filed with the state.

(H) *Planning Director.*

(1) (a) The Planning Director shall monitor land use activities within the -WP Overlay.

(b) The Planning Director shall report all findings to any appropriate public agency or official and request recommendations and assistance.

(c) Where the Planning Director finds an apparent violation to water quality and the public health, safety, and welfare, the Town Engineer shall institute any appropriate action in accordance with the provisions of § 10.99 of the Town Code of Ordinances.

(2) The Planning Director shall keep records of all amendments to this section, and shall provide copies of all amendments upon adoption to the appropriate state agency.

(3) The Planning Director shall keep a record of variances to this section (see §155.716(G)). This record shall be submitted to the appropriate state agency on an annual basis on or before January 1, and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-02-02, passed 2-20-06; Am. Ord. 2007-05-04, passed 5-7-07; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.502 STREAM BUFFERS.

(A) *Stream buffer required.*

(1) All development is subject to stream buffers and associated requirements outlined in 15A NCAC 02B.0714.

(2) Applicants may request from NC DEQ an on-site determination pursuant to 15A NCAC 02B.0714(4).

(B) *Allowable and permitted uses.* Allowable and permitted uses within a stream buffer are specified in 15A NCAC 02B.0714(11).(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2021-02-02, passed 2-15-21)

ARTICLE 6: SUBDIVISION STANDARDS

§ 155.600 APPLICABILITY.

(A) This subchapter shall apply to all development within the town's planning jurisdiction, unless expressly exempted by the language of the sections below.

(B) Prior to approval of a final plat for the subdivision of land, the applicant shall have installed improvements specified in this subchapter or guaranteed their installation as provided.

(C) In accordance with section § 51.03(G), no water or sewer service shall be provided to any property outside of the municipal limits of the town, except upon compliance with one of the following:

(1) If the property is contiguous to the municipal limits of the town, the property owners shall immediately petition for and obtain annexation of the property into the municipal limits of the town.

(2) If the property is not then contiguous to the municipal limits of the town, the property owners shall enter into a written agreement with the town for the voluntary annexation thereof at such future date as said property desires to begin construction activities pursuant to any Town-approved development entitlement..

(3) The Town Council may negotiate terms for voluntary annexation of major industrial or commercial tracts which require water and/or sewer system extensions.

(D) The appropriate water and sewer system development fees in accordance with §50.02 of the Town Code of Ordinances, which addresses the water and sewer extension policy.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2019-04-03, passed 4-1-19; Am. Ord. 2019-05-01, passed 5-6-19; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.601 SEQUENCE OF IMPROVEMENTS.

Subdivision improvements shall be installed on the site in the following sequence:

(A) Street grading and installation of water distribution lines, sanitary sewers, storm sewers, gas, telephone, cable television, and electric service lines, with connections for each system extended beyond the curb line to preclude subsequent cutting of pavement.

(B) Street base material.

(C) Curb and gutter and sidewalks.

(D) Street paving.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2019-04-03, passed 4-1-19)

§ 155.602 STREETS.

(A) *General.*

(1) Streets within the town are intended for multi-purpose use, as follows:

(a) To carry motor vehicle traffic, and, in some cases, allow on-street parking;

(b) To provide a safe and convenient passageway for pedestrian traffic; and

(c) To serve as an important link in the town's drainage system.

(2) All public streets which serve properties connected to the town's utility system shall be constructed in conformance with town standards and specifications; however, if the roadway is maintained by NCDOT, then the roadway shall be constructed in conformance with either town or NCDOT standards and specifications, whichever is more stringent.

(3) If the final plat for a residential subdivision outside the town limits but within the town's extraterritorial jurisdiction has been approved and improvements have been guaranteed by the developer in accordance with § 155.607, the applicant shall provide the town and purchasers of land in the subdivision with an agreement providing for adequate maintenance of the newly constructed streets until such time that the streets are taken over by the NCDOT, as required by G.S. § 136-102.6.

(B) *Street improvements.*

(1) *Required improvements.*

(a) The applicant shall be responsible for the cost and installation of the applicable standard residential, residential collector, collector, or commercial street width and pavement design requirements. Paving shall be installed for roadways through and adjoining the development

in accordance with town standards and specifications (or NCDOT standards if applicable). The applicant shall also provide additional pavement surfaces for turning lanes in accordance with the town's Engineering Design Manual.

(b) The applicant shall be responsible for making improvements to thoroughfare rights-of- way, as designated on the town's Transportation Plan. The improvements to be installed are as follows: the thoroughfare sub-base and surface paving materials, thoroughfare grading, and the remaining standards of applicable minimum residential, residential collector, collector, or commercial streets shall be made to extend to the outer perimeter boundaries of a development for any development where any of the following conditions occur:

1. The thoroughfare improvements would provide necessary access to the development or adjoining properties.

2. The improvement would be an extension of an already existing section of thoroughfare roadway.

3. The traffic from the development is predominantly from nonresidential activities and the development would otherwise gain access through a residential area.

(2) *Fee-in-lieu.*

(a) The town may require a fee-in-lieu of installation payment (at 125% of estimated cost) to the town for minimum residential, residential collector, collector, or commercial streets for the length of the thoroughfare if any of the following criteria are met:

1. No direct access to the thoroughfare is proposed.

2. The minimum street improvement is one-half of an existing unimproved right-of-way, and improvements, if constructed, would not be used for traffic circulation.

3. Where the new thoroughfare right-of-way is only partially contained on the development site and therefore, construction of only a portion of the new street cross-section is possible.

(b) The Town may allow fee-in-lieu of minimum street construction payments to the town for residential, residential collector, collector, or commercial streets if any of the following criteria and their conditions are satisfied:

1. Where existing unimproved streets have:

A. Insufficient lineal footage to serve overall traffic circulation purposes or interrupts an existing swale/ditch storm drainage system with curb and gutter, which would disrupt the drainage system operation;

B. Curb and gutter improvements would not connect to existing curb and gutter, or there are no similar improvements on the same block;

C. There are no plans for town improvements on the same block; and

D. The area is sufficiently developed (75% of the block) such that few future subdivision or site plan submittals are anticipated.

2. Where construction of the streets by the town or other party is imminent.

3. Where construction of only a sidewalk is required without street improvements, and the new sidewalk is less than one block in length and would not connect to an existing sidewalk.

4. Where approved by the Planning Director for a new street that traverses a site when:

A. Street construction will not connect to an existing improved street;

B. There are no plans to construct an adjoining street in the near future; and

C. A letter of credit is not an appropriate financial security.

5. Where approved by the Town Engineer, when for reasons of topography, street construction is impractical due to:

A. The need for off-site construction or slope encroachment;

B. Proper street alignment should be determined with off-site development; or

C. Design of bridges or culverts are required and only a portion of the structure is on the development's property.

(c) Developments will not be responsible for the cost and installation of any paving construction requirements along existing or planned roadways, if any of the following conditions exist:

1. The roadway is a freeway, expressway or any other fully controlled access facility.

2. The roadway is in the town's Capital Improvement Program, final design plans have been initiated, and the project will fall under the assessment policy of the town.

3. The roadway is on NCDOT's Transportation Improvement Program, final design plans have been initiated, and there will be no town contribution or participation in funding the project. If the town funds a portion of the project, then a fee-in- lieu of installation will be required as a contribution towards town-funded improvements.

(C) *Street classification.* In all new subdivisions, streets that are dedicated to public use shall be classified as provided in division (D) of this section.

(1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day or during the peak hour of the day;

(2) The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive; and

(3) Whenever a subdivision street continues on an existing street or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

(D) *Street types.* See defined terms (§155.802) for description of each street type.

(1) Residences shall not front on a major thoroughfare.

(2) Where a parcel of land to be subdivided adjoins a major thoroughfare, the residential lots shall be provided access by a frontage road and no driveways shall be located within 150 feet of the intersection.

(E) *Thoroughfare dedication.*

(1) Whenever a parcel of land included within any proposed development plan embraces any part of a thoroughfare system roadway and is so designated in the town's Transportation Plan, after such part of it has been adopted by the proper authority, such part of such proposed public way shall be platted and dedicated in the location and width indicated on the plans. This requirement shall not require the applicant to dedicate rights-of-way unless indicated on the town's Transportation Plan. It is the responsibility of the applicant to take future roadway plans of the town and the NCDOT into account when laying out a development plan.

(2) Developments which embrace only one side of an existing or planned thoroughfare right-of- way will only be required to plat and dedicate additional right-of-way for that portion of roadway with which the development has frontage. Such improvements shall be in conformance with town standards and shall be measured from the right-of-way centerline.

(F) *Cross-sections.*

(1) Appropriate street cross-sections shall be approved by the town or NCDOT. Appendix A contains approved street cross-sections for the town. Alternative cross-sections may be approved by the Board of Adjustment pursuant to § 155.716, and when necessary in conjunction with NCDOT.

(2) Alternative designs must readily accommodate emergency vehicles and sanitation trucks.

(3) Subdivisions along existing streets of inadequate right-of-way shall provide additional right- of-way to meet the minimum widths specified in Appendix A. The entire right-of-way shall be provided where any part of a new subdivision is on both sides of an existing street, and one-half the required right-of-way, measured from the center line of the existing street, shall be provided where a new subdivision is located on one side of an existing street.

(4) A slope easement of 20 feet in width may be required adjoining each side of a street right-of-way. The town may reduce or increase the slope easement width, if due to terrain. If the applicant submits to the town sufficient information to show that improvements to be located in the slope easement do not interfere with the right of the public to construct within the adjoining right-of-way streets, sidewalks, or both, then the town shall allow the proposed improvement.

(G) *Cul-de-sac and stub-street lengths.*

(1) No residential street cul-de-sac serving lots of 20,000 square feet or greater in size shall exceed 1,000 feet in length. No residential street cul-de-sac serving lots less than 20,000 square feet in size shall exceed 750 feet in length.

(2) Stub-streets shall not exceed 750 feet in length without an approved turn-around for emergency services provided and installed. In the future, when an adjacent development connects to the stub-street and provides another point of ingress/egress, the developer may modify the approved subdivision through an amendment to remove the turn-around and convert it to recreational amenities, open space, or additional lots as permitted within this chapter.

(3) Stub-streets shall be provided as outlined in Article 4 of this chapter. See §155.400(I) Cross Access Connections.

(4) No commercial street cul-de-sac shall exceed 400 feet in length.

(5) Cul-de-sac medians may be permitted where the cul-de-sac radius is increased and it can be demonstrated that emergency vehicles and sanitation trucks can be accommodated. Unless specifically agreed upon with the town, landscaped medians are not to be maintained by the town, and a private maintenance agreement for the median shall be required to be approved by the Town Attorney.

(H) *Sidewalks.*

(1) In order to enhance pedestrian safety and mobility, except as set forth below, sidewalks shall be required on both sides of all streets (see Appendix A for approved street cross-sections).

(a) Sidewalks shall not be required on the following roadways:

1. In residential developments with minimum lot sizes one acre or greater, except where an existing school, park, open space, trail or greenway lies within one-quarter-mile of the boundaries of the proposed subdivision, in which case a safe pedestrian connection between the subdivision and the off-site facility is required.

2. Residential streets serving less than or equal to ten dwelling units. Corner lots that have frontage on both a connective or loop street shall not be included in determining the number of dwelling units served by the street. Street stubs temporarily serving ten lots or less shall provide sidewalks on both sides of the street.

3. Class "A" and Class "B" private streets.

4. Commercial street cul-de-sacs that are less than 150 feet in length.

(b) Sidewalks shall be required on only one side of a frontage road.

(2) Sidewalk access ramps, also commonly referred to as wheelchair ramps for the physically handicapped, shall be provided at all intersections where curb and gutter are provided (see division (I) of this section), and where sidewalks and/or greenway trails intersect any street.

(3) Pedestrian crosswalks are required on any residential street at each intersection and at any mid-block pedestrian or bicycle connections.

(4) The town may allow a fee-in-lieu for sidewalk construction as set forth in division (B)(2)(b) of this section.

(I) *Curb and gutter.* All public streets, inside the corporate limits of the town and outside the town when water or sewer is connected to the town utility system, shall be constructed with curb and gutter (see Appendix A for approved street cross- sections), except as part of a master plan approval and in accordance with Article 5. Curb and gutter shall be a combination curb and gutter or such other construction approved in the town's Engineering design manual. Rolled or valley-type curbs may be permitted for new collector, residential collector, and residential streets.

(J) *Relationship of streets to topography.*

(1) Streets shall be designed to relate appropriately to the topography of a site. In particular, streets shall be designed to facilitate the storm drainage requirements specified in § 155.604(E) and, subject to the design requirements relating to maximum grades set forth in division (J)(2) of this section, street grades shall conform as closely as practicable to the original topography.,

(2) The maximum grade for street construction shall meet design requirements of the town or NCDOT. However, in no case may streets be constructed with grades that, in the professional opinion of the Public Works Director, create a substantial danger to the public safety or cause any substantial degradation to the street or drainage system.

(K) *Street layout.*

(1) The street layout of any development should be consistent with the town's Transportation Plan and all other applicable adopted plans and policies of the town. Public streets shall be constructed to the boundary lines of the development submitted for approval when required to provide for efficient circulation of traffic within the community.

(2) Each side of a collector street, commercial street or residential street shall, within every 1,500 foot length of the street, be intersected by at least one connective street. The 1,500 foot length shall be measured from the origination point, if established, of the collector, commercial, residential or residential street.

(3) For developments that do not meet the above layout standards or would create a violation of these standards if constructed as proposed, the Board of Adjustment may hear an application for variance, subject to the typical standards for a variance as well as the considerations outlined below:

(a) Existing surrounding development prevents extending a street to any adjoining developments to meet this regulation.

(b) The adjoining existing street pattern or a planned "stub" street provides for an appropriate intersecting street beyond the 1,500-foot point, that would provide equivalent benefits as an intersecting street within 1,500 feet.

(c) Severe topography or other physical features warrant making a connection of an intersecting street at another location either inside or outside the development to provide equivalent benefits as an intersecting street within a distance of 1,500 feet, and this other alternate specific location is provided for at the time the development making the request for an alternate location is approved.

(4) Existing adjoining public streets, public platted streets, and publicly planned streets shall be continued and extended as public streets as part of the development. Streets that are not to be extended, as determined by the Transportation Plan, shall be terminated in a permanent cul-de-sac.

(5) Where a proposed development will extend a public street that is already stubbed out to the property line, such extension as a public street shall be required.

(6) Wherever there exists a dedicated or platted half street adjacent to the parcel to be developed, the other half shall be platted and, where required, constructed.

(7) Where a through street or a series of streets establishes a connection between two public streets and the connection is greater than 1,200 feet in length, or the connection may encourage through traffic not generated by the development, the street shall be a public street, except in instances where the Town Engineer determines that requiring such connection to be a public street will serve no purpose, due to the existing or proposed street pattern, traffic flow or traffic volumes.

(8) Where a proposed development utilizing private streets has an area of 20 or more acres, the Town Engineer may also require additional public through streets for the provision of emergency services, such as police and fire protection, or to provide alternate circulation at congested or critical intersections.

(L) *Construction standards and specifications.* All streets and sidewalks required by this section shall be constructed according to the specifications of the town's Engineering design manual, except that the Town Engineer may permit sidewalks to be constructed with other materials when they conclude that:

(1) Such sidewalks would serve the residents of the development as adequately as concrete sidewalks;

(2) Such sidewalks would be more environmentally desirable or more in keeping with the overall design of the development; or

(3) Such sidewalks could be maintained as adequately as concrete sidewalks.

(M) *Private streets.*

(1) *Intent.*

(a) Private streets serving single-family residential lots shall be permitted only within the Residential-Estate zoning district.

(b) The private street standards of this section establish private street design and construction standards that vary based upon the number of single-family lots such streets will serve. These standards are intended to ensure public safety and the long-term durability of private streets while keeping public improvement costs as low as possible for the smallest of subdivisions.

(c) The town requires the logical and safe extension of public streets throughout the town's jurisdiction. The town shall allow private streets as outlined below, so long as the private streets are designed to protect the health, safety, and welfare of the residents whose primary access is the private street.

(d) Private streets shall be designated on final plats as either "existing", "new", or "extended", in accordance with the standards of this section. Further, the initial purchasers of a newly created lot served by a private street shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the street, in accordance with the requirements set forth in G.S. § 136-102.6.

(e) In the event that private streets are later made public through dedication to the town, such streets shall be brought up to the current public construction and maintenance standards, prior to their acceptance by the town.

(2) *Existing private streets.*

(a) Private access easements or streets, the existence of which as of July 1, 2018, can be established by documentary evidence, aerial photograph, or judicial decree, will be considered existing private streets.

(b) All other private streets are considered new private streets or extensions of existing private streets, and must meet the standards set forth in divisions (M)(3) and (M)(4) below.

(3) *New or extended private streets.*

(a) New or extended private streets that serve as frontage for lots shall meet or exceed private street standards within this section.

(b) Where an extension of an existing private street is proposed, the connecting private street shall be upgraded to comply with the private street standards within this article.

(4) *Class "A" and "B" private streets.*

(a) Class "A" private streets shall be permitted only when the proposed street will provide a maximum of eight to ten single-family residential lots. Extensions of private streets that will result in the provision of more than ten lots shall be brought up to public street standards as set forth by the Town of Clayton.

(b) Class "B" private streets shall be permitted only when the proposed street will provide a maximum of seven single-family residential lots. No extension of a Class "B" private street beyond seven lots shall be permitted. Extensions of such roads that will result in the provision of more than seven lots shall be permitted only if the entire length of the road is brought up to Class "A" private or public street standards (based upon the number of lots to be served).

(c) Subdivisions proposing lots served by private streets shall record the following notation on the final plat: "Further subdivision of any lot shown on this plat may require upgrades to the private street or its conversion to a public street, based upon the number of lots to be served. All maintenance and repair of private streets shall be borne by the owners of the lots served by the private street".

(5) *Design standards for private streets.*

(a) These standards described herein are the minimum set forth by the Town of Clayton for Class "A" and Class "B" private street standards.

(b) Class "A" private streets shall be paved and designed in accordance with the requirements outlined in the Town of Clayton Engineering Design Guidelines Manual.

(c) Class "B" private streets may consist of alternative materials as permitted by the Town Engineer, and shall be designed in accordance with the requirements outlined in the Town of Clayton Engineering Design Guidelines Manual.

(d) Class "A" and Class "B" private streets shall maintain 20' travel-way width to provide access for emergency vehicles.

(e) The property owners are responsible for all maintenance of Class "A" and Class "B" private streets, and shall be required to enter into a road maintenance agreement prior to plat recordation.

(N) *Street names and signs.*

(1) Street names shall be subject to the approval of the Planning Department and Johnston County. New street names shall not duplicate or be similar to existing street names in Johnston County. Existing street names, however, shall be projected where appropriate.

(2) Street name signs shall be in place prior to approval of any certificate of occupancy for structures to be located on the street. Street name signs shall be clearly identified and be labeled as "private".

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2019-04-03, passed 4-1-19; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.603 LOTS AND BLOCKS.

(A) *Lots.*

(1) Every lot shall abut or front on a public or private street that complies with all applicable standards of this chapter.

(2) Lot sites, shapes, and locations shall be made with due regard to topographic conditions, contemplated uses, and the surrounding areas. All lots approved after January 6, 1997 shall contain the minimum required lot width of the applicable zoning district within 50 feet of the street right-of-way adjoining the front yard.

(3) Double frontage lots shall be avoided, except when lots adjoin a thoroughfare and access is desirable by a street of residential scale, and discouraged or prohibited on the thoroughfare.

(4) Side lot lines shall be substantially at right angles or radial to street lines.

(B) *Blocks.*

(1) Blocks shall be laid out with special consideration given to the type of land use proposed within the block.

(2) Blocks shall not exceed 1,500 feet in length.

(3) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic.

(4) In all districts except RE, I-1 and I-2, pedestrian connection not less than ten feet in width shall be required near the center and entirely across any block in excess of 900 feet in length to provide adequate access to schools, shopping centers, churches, or transportation facilities.

(5) A pedestrian connection not less than ten feet in width shall be required through a residential cul-de-sac when the cul-de-sac helps provide adequate access to schools, shopping centers, churches, or transportation facilities. For these purposes, this connection is required when another connection (per (B)(4) above) does not exist or the cul-de-sac terminates within 350' of either a public right-of-way, sidewalk, greenway, school, transportation facility, park, library or public community facility, or shopping center.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2019-04-03, passed 4-1-19; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.604 UTILITIES.

(A) *Easements.*

(1) Utility easements shall be at least 20 feet wide, and shall run alongside or rear lot lines. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the minimum 20-foot wide easement.

(2) Where a subdivision is traversed by a water-course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way, conforming substantially with the lines of such watercourses, and of such further width or construction, or both, as will be adequate for the purpose. Lakes, ponds, watercourses, and the land immediately adjacent thereto shall be considered for maintenance by the town only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. The town reserves the right to reject any intended dedications.

(B) *Ownership of utilities.* All water, sanitary sewerage, electrical (when in town's service area) and storm drainage facilities installed under the requirements of this chapter shall become the sole property of the town upon acceptance. A deed to the town for such facilities, including easements pertaining to right-of-way entrance for maintenance, shall be executed prior to connections to the respective municipal systems.

(C) *Required additional capacity.* Where the Town Council deems it necessary, in the interest of the health, safety and general welfare of the residents of the town and its extraterritorial jurisdiction, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's subdivision. Where oversized improvements are required, the town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's subdivision. Such reimbursement shall be mutually agreed upon through a reimbursement agreement as authorized by G.S. § 160A-499.

(D) *Water distribution lines and sanitary sewers.*

(1) Each lot in all subdivisions within the town's corporate limits, and each lot in all subdivisions in the extraterritorial jurisdiction within 300 feet of the town's water and/or sanitary sewer system shall be connected at the applicant's expense to the town's water and/or sewer system. In accordance with § 51.03(A) of the Town Code of Ordinances, each developer of land shall be responsible for providing water and sewer line connections and all necessary pump stations, lift stations, and fire hydrants between their property and the town systems. In accordance with § 50.02 of the Town Code of Ordinances, the applicant shall pay water and sewer system development fees for all property to be served by a connection to the town's water and/or sanitary sewer system.

(2) Where a subdivision, in the extraterritorial jurisdiction lies more than 300 feet from the municipal water and/or sewer system, the applicant may, at the applicant's expense, connect the subdivision lots to the town's water and/or sanitary sewer system. In accordance with section § 51.20(A) of the Town Code of Ordinances, any property owner or developer desiring to have water or sanitary sewer services extended to and along any public street or other area where no water or sanitary sewer main exists shall apply to the Town Manager, or designee, in writing requesting a specific daily allocation for such services. If the applicant provides a community water and/or sewer system, rather than connecting to the municipal system, or provides individual wells and/or septic tanks, the materials, design, and installation shall be made in accordance with all applicable state and Johnston County specifications and standards.

(3) In accordance with section § 51.03(D) of the Town Code of Ordinances, the minimum diameter of a water main shall be six inches and the minimum diameter for a sewer main shall be eight inches. All sewer mains shall be installed at a maximum depth to ensure service to as large an area as possible. Water distribution lines shall be no smaller in size than six inches nominal diameter, with the following exception: On cul-de-sacs which are served by fire hydrants at their intersection with a local street, and the hydrant is connected to a water line of six inches nominal diameter, or larger, water service may be provided with lines smaller than six inches if a blow-off valve is established at the end of such line, or the line is connected to another line within the subdivision to form a loop. This exception shall not apply where such line represents the interconnection between the subdivision and the municipal system. On streets which are "stubbed out" at property lines to permit future development, service must be provided by lines of at least six inches nominal diameter.

(4) In accordance with section § 155.301(F)(6)(a) and Title V of the Town Code of Ordinances, an accessible, adequate, safe supply of water and sewer shall be provided in each manufactured home park.

(5) For the purpose of this section, the term "water system" shall include all appurtenances and fixtures normally associated with such facilities, including fire hydrants, gate valves, blow-offs, manholes, and pumping apparatus, but shall not include individual service meters, which shall be installed by the town; the aforementioned appurtenances and fixtures shall comply with the specifications and standards of the town.

(E) *Storm drainage.*

(1) The applicant shall provide an adequate drainage system for the proper drainage of all surface water in order to protect the proposed development from water damage. The design of such system shall be subject to the approval of the Town Engineer.

(2) No surface water shall be channeled or directed into a sanitary sewer.

(3) Where feasible, the applicant shall connect to the municipal storm drainage system.

(4) Where the municipal storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to complement surface drainage systems to surrounding properties.

(5) Cross pipes under streets and driveways shall be concrete, reinforced concrete, or other pipe, as approved by the Town Engineer. All such cross pipes shall be a minimum of 15 inches in diameter.

(6) Surface drainage courses shall have side slopes of at least one foot of horizontal distance for each foot of vertical distance.

(7) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately one foot in each 300 feet of horizontal distance.

(F) *Electrical utilities.* Electrical improvements in accordance with town or progress energy standards, whichever is applicable, shall be required in all subdivisions.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2019-05-01, passed 5-6-19; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.605 PUBLIC FACILITIES.

(A) *School sites.*

(1) When a subdivision plat is submitted for approval, in which, according to the land use or land development plan, a school site should

be reserved, the Planning Director shall notify the County Board of Education that the subdivision has been submitted for approval, and that under this chapter, a school site may be reserved therein.

(2) In reviewing the subdivision and giving approval the Planning Director shall consult the Board of Education in determining the exact size and location of any school site to be reserved therein.

(3) Before the final plat of the subdivision is approved, the Board of Education shall determine whether or not it wishes to have a school site reserved in the subdivision. If the Board of Education does wish to have a school site reserved in the subdivision, the subdivision as finally approved shall reserve a school site of a size and location agreeable to the Board of Education and to the Planning Board. The Board of Education shall then have 18 months, beginning on the date of the final approval of the subdivision, within which to acquire the site. If the Board of Education has not purchased or begun proceedings to acquire the site within 18 months after the subdivision is finally approved, the applicant may proceed to dispose of it in accordance with the subdivision procedure and provisions of this chapter.

(B) *Recreation and open space.* The minimum recreation and open space requirements for conventional and open space residential subdivisions are set forth in § 155.203(H).

(Ord. 2005-11-02, passed 11-21-05)

§ 155.606 PERMANENT REFERENCE POINTS.

Prior to the approval of the final plat, iron stakes shall be installed on all corners of the subdivision and at additional points in the subdivision, so that no point within the subdivision lies more than 500 feet from a monument. In addition, two or more control points shall be designated on the final plat.

(Ord. 2005-11-02, passed 11-21-05)

§ 155.607 GUARANTEE OF IMPROVEMENTS.

(A) *General.*

(1) No final plat will be accepted for review by the Technical Review Committee unless accompanied by written notice by the Planning Director, acknowledging compliance with (B) and (C) of this section.

(2) If the subdivision is to be phased or developed in sections, the Planning Director shall withhold final plat approval for the most recent phase until improvements in prior stages have been completed or guaranteed.

(B) *Performance guarantees.* In lieu of prior construction of the improvements required by this subchapter, the town shall, for the purpose of approving a final plat, accept a guarantee from the applicant that such improvements will be carried out according to the town's specifications at the applicant’s expense. Such guarantee may be in the form of a surety bond, letter of credit, certified check drawn in favor of the town, cash deposited with the town, or other form of guarantee that provides equivalent security to a surety bond or letter of credit, at the election of the person required to give the performance guarantee. Such guarantee shall be 125% of the estimated cost of the construction of the required improvements. This amount shall be determined by the Town Engineer or designee. Performance guarantees shall run for a period of one year upon written approval of the Town Council. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete (see also G.S. § 160D-804(g)).

(C) *Surety bond.* The town shall require a bond guaranteeing: street improvements, curbs, gutters, drainage facilities, sidewalks, electrical facilities, water and sewer lines and taps and all other improvements against defects for one year from the date of final acceptance by the town. This bond shall be in the amount determined by the Town Engineer or designee, and shall be in such form as allowed by division (B) immediately above.

(D) *Town's right of inspection and acceptance.*

(1) Whether the required improvements are performed prior to or following approval of the final plat, the applicant shall grant to the town and its assignees authority to inspect all construction of the required improvements, and moreover, shall advise the town at least two days in advance of beginning work on any of the various improvements. However, such right of inspection shall not constitute duty to inspect, nor shall it guarantee final acceptance by the town of any required improvements.

(2) If improvements guaranteed as required by this articledo not meet the town's standards and the party responsible for constructing the improvements refuses to complete the improvements to the town's standards, the town, at its sole discretion, may call or execute on the performance guarantee in order to finance the necessary completion of the guaranteed improvements. The town will provide the applicant with a written notice of its intent to carry out this provision at least two weeks prior to such liquidations, and shall also provide the applicant during this period a hearing at a regularly scheduled meeting of the Town Council, provided that sufficient time of validity remains on the guarantee..

(3) The town's final acceptance of required improvements in the event of their construction following final plat approval shall be evidenced by a written letter from the Town Manager as specifically authorized by the Town Council.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2021-02-02, passed 2-15-21)

ARTICLE 7: ADMINISTRATION

§ 155.700 REVIEW BODIES.

(A) *Town Council.*

(1) *Establishment and composition.* The Town Council is established and composed pursuant to the Town Charter andChapter 30 of the town's Code of Ordinances.

(2) *Powers and duties.* In execution of the provisions of this chapter, the Town Council shall be responsible for final action per Table 7-1, Review and Approval Authority.

(B) *Planning Board.*

(1) *Establishment and composition.* The Planning Board is established and composed pursuant to G.S. § 160D-301 andChapter 32 of the town's Code of Ordinances. Per G.S. § 160D-307, residents of both the corporate limits and the ETJ shall serve on the Planning Board.

The ratio of residents of the corporate limits and residents of the ETJ shall be proportional to the number of residents of the corporate limits to the number of residents of the ETJ. At least one resident of the ETJ shall serve on the Planning Board. The populations shall be taken from the most recent decennial census

(2) *Powers and duties.* In execution of the provisions of this chapter, the Planning Board shall have the following power and duties:

(a) *General authority.*

1. The Planning Board may exercise additional powers as may be described elsewhere in this chapter and as permitted by North Carolina General Statutes.

2. The Planning Board shall perform related duties as directed by the Town Council.

(b) *Review authority.* The Planning Board shall make recommendations per Table 7-1, Review and Approval Authority.

(c) *Final authority.* The Planning Board shall be responsible for final action per Table 7-1, Review and Approval Authority.

(C) *Board of Adjustment.*

(1) *Establishment and composition.* Pursuant to G.S. § 160D-302, the town has established a Board of Adjustment as described in §§ 32.075 to 32.078.

(D) *Planning Director.*

(1) *Designation.* The Planning Director shall administer certain provisions of this chapter as may be required below.

(2) *Powers and duties.* In execution of the provisions of this chapter, the Planning Director shall have the following powers and duties:

(a) *General authority.*

1. The Planning Director may exercise additional powers as may be described elsewhere in this chapter and as permitted by North Carolina General Statutes.

2. The Planning Director shall perform related duties as directed by the Town Council.

(b) *Review authority.* The Planning Director shall make recommendations per Table 7-1, Review and Approval Authority.

(c) *Final authority.* The Planning Director shall be responsible for final action per Table 7-1. Review and Approval Authority.

(E) *Technical Review Committee.*

(1) *Establishment and composition.*

(a) Pursuant to G.S. § 160D-306, the Technical Review Committee (TRC) is established for the purpose of performing technical evaluations of land development activities, including but not limited to subdivisions, conditional rezonings, and site plan applications, per Table 7-1, Review and Approval Authority. The TRC is further authorized to complete appropriate analyses of land development activities pursuant to the town's Code of Ordinances. The Technical Review Committee shall be composed of the persons below, or their designee:

1. The Planning Director, chairman;

2. Planning department staff, designated with primary review responsibility for each application;

3. The Public Works Director and or state designated Officer in Responsible Charge of Utility Systems;

4. The Electric System Director;

5. The Town Engineer;

6. The Fire Chief;

7. The Parks and Recreation Director; and

8. The North Carolina Department of Transportation.

(b) The TRC may request input from other governmental agencies including, but not limited to, the School Board, the USPS Clayton Postmaster, Johnston County Department of Public Utilities, North Carolina Railroad and adjacent municipalities as needed.

(2) *Powers and duties.* The Technical Review Committee has the following duties and responsibilities regarding the review and consideration of applications that come before them:

(a) The TRC shall undertake technical evaluations of land development applications and activities to identify deficiencies and/or discrepancies from the provisions of the town's Unified Development Code and the town's Code of Ordinances. These review duties are outlined in Table 7-1, Review and Approval Authority.

(b) The TRC may approve, disapprove or postpone consideration of applications that require staff-level approval only. Actions by the TRC regarding

staff-level approvals shall be final unless appealed in accordance with §155.717 of the UDC. Applications which proceed to the Board of Adjustment, Planning Board, or Town Council will be scheduled for the next available agenda, once receiving certification to proceed.

(F) *Maintenance of the public trust.*

(1) *Oath of office.* Pursuant to G.S. § 160D-309, all members appointed to boards shall take the oath of office as required.

(2) *Conflict of interest.* Pursuant to G.S. § 160D-109, no elected or appointed board member or administrative staff shall make a final decision as required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on themselves or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associated relationship.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2008-09-01, passed 9-2-08; Am. Ord. 2011-12-02, passed 12-5-11; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-12-03, passed 12-5-16; Am.

Ord. 2017-01-01, passed 1-3-17; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.701 SUMMARY OF REVIEW AUTHORITY.

Table 7-1 below summarizes review and approval authority under this chapter.

Table 7-1: Review and Approval Authority

	Decision Type	Technical Review Committee TRC	Planning Director PD	Planning Board PB	Board of Adjustment BOA	Town Council TC	
	Decision Type	Technical Review Committee TRC	Planning Director PD	Planning Board PB	Board of Adjustment BOA	Town Council TC	
Text Amendment (aka Ordinance Amendment)	Legislative	Review, as needed	Review	Review		<DECISION>	§ 155.703
Rezoning	Legislative		Review	Review		<DECISION>	§ 155.704
Conditional Zoning District	Legislative	Review	Review	Review		<DECISION>	§ 155.705
Minor Subdivision Preliminary Plat (formerly Minor Subdivision)	Administrative	Review	<DECISION>				§ 155.706
Major Preliminary Plat (formerly Major Subdivision)	Administrative	Review	DECISION				§ 155.706
Final Plat	Administrative	Review	<DECISION>				§ 155.706
Administrative Amendment	Administrative	Review, as needed	<DECISION>				§ 155.707
Site Plan	Administrative	Review	<DECISION>				§ 155.707
Traffic Impact Analysis	Administrative	Review, as needed	<DECISION>				§ 155.708
Zoning Permit	Administrative		DECISION				§ 155.709
Special Use Permit	Quasi-judicial	Review	Review			<DECISION>	§ 155.711
Temporary Use Permit	Administrative	Review, as needed	DECISION				§ 155.712
Sign Permit	Administrative		DECISION				§ 155.713
Alternative Sign Plan	Legislative		Review			<DECISION>	§ 155.713
Written Interpretation (including determination of Zoning Vested Rights)	Administrative		<DECISION>				§ 155.715
Variance**	Quasi-judicial	Review, as needed	Review		<DECISION>		§ 155.716
Administrative Appeal	Quasi-judicial				<DECISION>		§ 155.717
Zoning Vested Right							
Tree Clearing Certificate	Administrative	Review, as needed	<DECISION>				§ 155.721

<Public Hearing Required>

*Site Plans that are associated with a Special Use Permit application shall be reviewed by Council during their hearing of the Special Use.

**Unless variance shall be issued by a state or federal agency for appropriate determinations.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2016-12-03, passed 12-5-16; Am. Ord. 2017-01-01, passed 1-3-17; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.702 COMMON REVIEW PROCEDURES.

(A) *Pre-application conference.*

(1) Before submitting an application for development approval, each applicant shall schedule a pre-application conference with the Planning Department to discuss the procedures, standards and regulations required for development approval in accordance with this

chapter. The pre-application meeting shall have been held no more than six months prior to application submittal

(2) Unless waived by the Planning Director, a pre-application conference with the Planning Department shall be required for all development approvals listed in Table 7-1, with the exception of Written Interpretations (§ 155.715), Administrative Appeals (§ 155.717), Zoning Permits (§ 155.709), and Sign Permits (§ 155.713).

(B) *Neighborhood meeting.*

(1) After the pre-application conference and at least ten days prior to the first public meeting or, if administrative, prior to final approval by the Technical Review Committee (TRC), the applicant shall hold a mandatory neighborhood meeting for the following:

(a) Rezonings (§ 155.704);

(b) Conditional Zoning (§ 155.705);

(c) Major Subdivision/Preliminary Plat Review (§ 155.706);

(d) Major Site Plan Review (only required for site plans including new structures or building additions greater than 10,000 SF in size), (§ 155.707);

(e) Special Use Review (§ 155.711); and

(f) Variance (§ 155.716).

(2) Only the initial application for Conditional Rezoning review shall require a neighborhood meeting. Subsequent applications for Minor Preliminary Plat or Site Plan review do not require further neighborhood meetings.

(3) The purpose of the neighborhood meeting shall be to inform the neighborhood of the nature of the proposed land use and development features, explain the site plan if any, and solicit comments.

(4) The applicant shall provide notification by mail to property owners as identified in division (D)(2)(c) of this section. The notice shall be mailed at least ten days but not more than 25 days prior to the date of the neighborhood meeting. Neighborhood meetings shall be held no earlier than 6:00 pm Monday through Friday to allow adequate time for attendees to get to the meeting.

(5) The applicant shall provide to the Planning Department a copy of all notice materials including the letter and addresses, and provide written certification of the mailing. Certification shall note the date of the mailing and be signed by the applicant.

(6) The applicant shall prepare and submit to the Planning Director a meeting summary that outlines attendance, major points discussed, and any agreements reached between the parties involved.

(7) The Planning Director may develop administrative rules pertaining to any additional requirements for the conduct of the meeting.

(C) *Application requirements.*

(1) *Forms.* Applications required under this chapter shall be submitted on forms and in such numbers as required by the Planning Director.

(2) *Fees.*

(a) All applications and associated fees shall be filed with the Planning Department.

(b) Filing fees shall be established from time to time to defray the actual cost of processing the application, as listed in the town's Comprehensive List of Fees and Charges.

(c) An applicant who has paid the appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application prior to its distribution for review shall be entitled to a refund of the total amount paid, less 10% for administrative costs, upon written request to the appropriate department. Once review has begun, no refund shall be available, except that unused notice surcharges shall be refunded less 10% for administrative purposes.

(3) *Application deadline.* Applications shall be submitted to the Planning Department in accordance with the published calendar schedule. Schedules indicating submittal dates shall be developed each year and made available to the public.

(4) *Applications sufficient for processing.*

(a) All applications shall be sufficient for processing before the Planning Department is required to review the application.

(b) An application shall be sufficient for processing when it contains all of the required information and materials have been submitted for review.

(c) The presumption shall be that all of the information required in the application materials is necessary to satisfy the requirements of this section. However, it is recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The applicant may rely on the recommendations of the appropriate department as to whether more or less information should be submitted.

(d) Once the application has been determined sufficient for processing, copies of the application shall be referred by the Planning Department to the appropriate reviewing entities.

(5) *Final determinations on sufficient applications.*

(a) Following review by appropriate entities, Planning Department staff shall review any updated application materials and confer with the applicant to ensure an understanding of the applicable requirements of this chapter; that the applicant has submitted all of the information they intend to submit; and that the application represents precisely and completely what the applicant proposes to do.

(b) Once the applicant indicates that the application is as complete as the applicant intends to make it, Planning Department staff will make a determination on the application, or as required by this chapter, the application shall be placed on the agenda of the appropriate review board in accordance with standard procedures.

(6) *Concurrent applications.*

(a) If approved by the Planning Director, applications for development approvals may be filed and reviewed concurrently. Any

application that also requires a variance shall not be eligible for final approval until the variance has been granted.

(b) Applications submitted concurrently are subject to approval of all other related applications; denial or disapproval of any concurrently submitted application shall stop consideration of any related applications until the denied or disapproved application is resolved.

(D) *Notice and public hearings.*

(1) *Summary of notice required.* Notice shall be required for applications for approval as shown in Table 7-2 below.

Table 7-2 - Public Notice Requirements

	Published	***Mailed***	***Posted***	
Text Amendment (aka Ordinance Amendment)	•			§ 155.703
Rezoning	•	•	•	§ 155.704
Conditional Zoning District Planned Development	•	•	•	§ 155.705
Special Use Review	•	•	•	§ 155.711
Variance	•	•	•	§ 155.716
Administrative Appeal		•	•	§ 155.717

(2) *Public notice requirements.*

(a) *Published notice.* Where published notice is required, a distinctive advertisement shall be placed by the Town in a local newspaper of general circulation once a week for two successive calendar weeks, the first notice being published not less than ten days nor more than 25 days before the date fixed for the public hearing.

(b) *Posted notice (sign).* Where posted notice is required, a sign shall be posted within the same time period specified for mailed notices of the hearing. The sign shall be posted on the property or at a point visible from the nearest public street. The sign shall indicate that a public hearing will be held and a phone number to contact the town.

(c) *Mailed notice.*

1. Where mailed notice is required, the applicant shall supply stamped addressed envelopes to the Planning Department. The notification shall be made by first-class mail by Planning Department staff (at the last addresses listed for such owners in the county tax records) to all property owners within 100 feet and immediately abutting the subject property. Pursuant to G.S. §160D-602, where the subject property immediately adjoins a street, railroad, other transportation corridor, public or private right-of-way, landscape or riparian buffer, commonly-owned private area, public property, or homeowners' association property, then letters of notification shall be sent to adjoining property owners as if they directly abut the subject property. The Planning Department shall certify to the Town Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.

2. Pursuant to G.S. § 160D-602(c) the notice shall be mailed at least ten but not more than 25 days prior to the date of the public hearing.

3. Mailed notice under this section shall not be required if a rezoning directly affects more than 50 properties owned by a total of at least 50 different property owners, and the town elects to use the following expanded notice requirements:

A. Published notice of the hearing shall be provided as set forth in division (D)(2)(a) of this section. The advertisement shall not be less than one-half of a newspaper page in size.

B. Mailed notice of the hearing shall be provided (as set forth in division (D)(2)(c)1. and 2. of this section) to all property owners who reside outside of the newspaper's circulation area.

(d) *Content of notice.* A published or mailed notice shall provide at least the following:

1. Parcel identification number;
2. The address of the subject property (if available);
3. The general location of the land that is the subject of the application, which may include, a location map;
4. A description of the action requested;
5. Where a rezoning is proposed, the current and proposed districts;
6. The time, date and location of the public hearing;
7. A phone number to contact the town; and
8. A statement that interested parties may appear at the public hearing.

(E) *Decisions.* Unless specifically provided elsewhere, all decisions on land use changes, including rezonings, shall require an affirmative vote. Tie votes shall be considered denials of any requested change.

(F) *Notice of decision.* Within 14 days after a decision is made, a copy of the decision shall be delivered to the applicant by personal delivery, electronic mail or first-class mail. The decision shall also be filed with the Planning Department and available for public inspection during regular office hours.

(G) *Withdrawal of application.*

(1) An applicant may withdraw an application at any time, by filing a statement of withdrawal with the Planning Director.

(2) The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by

the estate's lawful personal representative.

(3) The Planning Director shall withdraw applications due to failure of the applicant to submit required information within 90 days of the initial request.

(4) An applicant may postpone a scheduled public hearing once per application for up to 90 days after the date the first public hearing was scheduled to occur, after which the Planning Director shall withdraw the application per (G)(3) above.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2011-05-01, passed 5-2-11; Am. Ord. 2013-02-02, passed 2-4-13; Am. Ord. 2013-12-03, passed 12-2-13; Am. Ord. 2016-12-03, passed 12-5-16; Am. Ord. 2017-01-01, passed 1-3-17; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.703 TEXT AMENDMENT.

(A) *Applicability.* Amendments to the text ofthe town's Code of Ordinances or to this chapter shall be made in accordance with the provisions of this section.

(1) The Town Council shall consider amendments to the text of this chapter, as may be required from time to time.



(B) *Initiation of amendment.* A request to amend the text of this chapter may be initiated by the Town Council, Board of Adjustment, Planning Board, Planning Director, or the general public.

(C) *Application requirements.* Applications for a text amendment shall be submitted in accordance with §155.702(C).

(D) *Notice and public hearings.* The town shall hold all required public hearings and give notice in accordance with §155.702(D).

(E) *Action by Planning Director.*

(1) The Planning Director shall draft the appropriate amendment and prepare a staff report that reviews the proposed text amendment request.

(a) Following completion of technical review by staff, the Planning Director shall forward the completed request and any related materials to the Planning Board for a recommendation.

(F) *Action by Planning Board.*

(1) The Planning Board shall make a recommendation on the application to the Town Council. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.

(2) Following Planning Board review, the Planning Director shall forward the completed request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

(G) *Action by Town Council.*

(1) Before taking action on a text amendment, the Town Council shall consider the recommendations of the Planning Board and Planning Director.

(2) The Town Council may approve the amendment, deny the amendment, or send the amendment back to the Planning Board for additional consideration.

(H) *Approval criteria.*

(1) In evaluating any proposed amendment of the text of this chapter, the Planning Board and the Town Council shall consider the following:

(a) The extent to which the proposed text amendment is consistent with the remainder of the chapter, including, specifically, any purpose and intent statements, and must adopt a statement describing whether the action is consistent or inconsistent with approved plans;

(b) The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time;

(c) Whether or not the proposed text amendment corrects an error in the chapter;

(d) Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law; and

(e) Any adopted plans of the town.

(2) In deciding whether to adopt a proposed text amendment to this chapter, the central issue before the Town Council is whether the proposed amendment advances the public health, safety or welfare and is consistent with the adopted plans and policies of the town and the

specific intent of this chapter.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.704 REZONING.

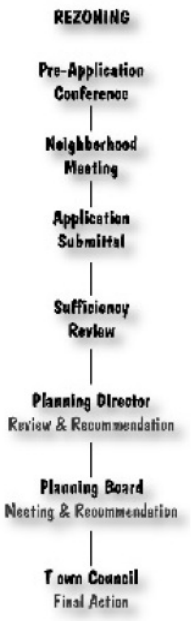
(A) *Applicability*.

(1) Amendments to the zoning map shall be made in accordance with the provisions of this section.

(2) The Town Council shall consider amendments to the zoning map, as may be required from time to time.

(3) Where appropriate, rezonings should correspond with the boundary lines of existing platted lots or parcels or the minimum area for an intended use, especially if that portion of the tract is to be subdivided. Where the boundaries of a rezoning request stop short of an exterior property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this chapter.

(4) All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.



(B) *Initiation of amendment*.

(1) A request for a rezoning may be initiated by the Town Council, the Planning Board, or the Planning Director.

(2) An owner of land within the jurisdiction of the town (or a duly authorized agent or representative) may petition the Town Council for a rezoning. Third-party downzoning petitions are specifically prohibited.

(C) *Pre-application conference*. All applicants petitioning for a rezoning shall schedule a pre-application conference with the Planning Director in accordance with § 155.702(A).

(D) *Neighborhood meeting*. All applicants petitioning for a rezoning shall hold a neighborhood meeting in accordance with §155.702(B).

(E) *Application requirements*. All applications for a rezoning shall be submitted in accordance with §155.702(C).

(F) *Notice and public hearings*. The town shall hold all required public hearings and give notice in accordance with §155.702(D).

(G) *Action by Planning Director*.

(1) The Planning Director shall prepare a staff report that reviews the rezoning request in light of the adopted plans and policies of the town and the general requirements of this chapter.

(2) Following completion of technical review by staff, the Planning Director shall forward the completed request and any related materials to the Planning Board.

(H) *Action by Planning Board*.

(1) The Planning Board shall make a recommendation on the application to the Town Council. The Planning Board's recommendation shall include a written statement to the Town Council describing whether its recommendation is consistent with the adopted plans and policies of the town. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.

(2) Following Planning Board review, the Planning Director shall forward the completed rezoning request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

(I) *Action by Town Council*.

(1) Before taking action on a rezoning, the Town Council shall consider the recommendations of the Planning Board and Planning

Director.

(2) The Town Council may approve the rezoning, deny the rezoning, or send the rezoning back to the Planning Board for additional consideration.

(3) Concurrently with adopting, denying, or remanding any rezoning, the Town Council shall adopt a statement describing whether its action is consistent with the adopted plans and polices of the town and explaining why the Town Council considers the action taken to be reasonable and in the public interest. If the Council adopts a rezoning which is not consistent with any adopted future land use map, there must be a note placed on the applicable map or maps that an amendment inconsistent with the map has been adopted, and the map or maps are deemed amended.

(J) *Approval criteria.* In connection with its legislative decision on a rezoning request, the Town Council may consider factors including, but not limited to, the following:

(1) Consistency with the adopted plans and policies of the town;

(2) Suitability of the subject property for uses permitted by the current versus the proposed district;

(3) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the town;

(4) The capacity of adequate public facilities and services including schools, transportation infrastructure, recreation facilities, wastewater treatment, water supply facilities and stormwater drainage facilities for the proposed use;

(5) It has been determined that the legal purposes for which zoning exists are not contravened;

(6) It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and

(7) It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

(K) *Modification of application.* An applicant in a zoning matter may reduce the geographic scope and or propose a district of lower density or intensity from that requested in the application by filing a statement of modification with the Planning Director.

(L) *Time lapse between similar applications.*

(1) In the event of a withdrawal of an application during Town Council review on the merits, no application may be filed requesting the rezoning of any parcel contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application. Where the application is withdrawn prior to the required public hearing, no expiration period shall be imposed on a new application.

(2) When the Town Council has voted on a zoning application and the proposed rezoning has either been denied or has failed to be adopted by the vote required in the event of a valid protest petition, then the application shall be deemed to have expired.

(3) No subsequent application requesting a zoning change for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.

(4) No subsequent application requesting the same zoning district for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.

(5) The Town Council, by a three-fourths majority vote, may waive the time-lapse requirements of this section if the Town Council deems it to be in the public interest to do so.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2009-03-04, passed 3-2-09; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.705 CONDITIONAL ZONING DISTRICT.



(A) *Applicability*.

(1) Conditional zoning district review (also known as conditional rezoning) shall occur in accordance with the provisions of this section.

(2) The Town Council shall consider conditional districts, as may be required from time to time.

(3) All requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.

(4) A conditional district is not appropriate for developments that could be substantially achieved through traditional subdivision and conventional district rezoning.

(5) A conditional zoning district of less than 20 acres in size and only proposing a single principal use shall require a site plan to be submitted with the rezoning request. A separate site plan application is not required.

(6) A conditional zoning district 20 acres in size or larger, or proposing multiple principal uses, shall require a master plan and narrative to be submitted with the rezoning request.

(B) *Initiation of amendment*. An owner of land within the jurisdiction of the town (or a duly authorized agent or representative) may petition the Town Council to establish a conditional zoning district.

(C) *Pre-application conference*. All applicants petitioning for a conditional district shall schedule a pre-application conference with the planning director in accordance with § 155.702(A).

(D) *Neighborhood meeting*. All applicants petitioning for a conditional district shall hold a neighborhood meeting in accordance with § 155.702(B).

(E) *Application requirements*.

(1) Concurrent with a request for establishment of a conditional district, an applicant shall submit a site plan (meeting the requirements in § 155.707) or master plan and narrative document, as detailed in this section, to govern the development and maintenance of the land within the conditional district. The master plan shall be prepared by a professional landscape architect, engineer, or architect properly licensed and in good standing in North Carolina.

(2) All applications for establishment of a conditional district shall be submitted in accordance with §155.702(C).

(3) A traffic impact analysis shall be required if the proposed master plan meets the thresholds established in §155.708.

(F) *Notice and public hearings*. The town shall hold all required public hearings and give notice in accordance with §155.702(D).

(G) *Action by Planning Director*.

(1) Upon submission of a completed application, the Planning Director shall schedule the conditional zoning district for review by the Technical Review Committee. The Technical Review Committee shall review the conditional zoning district for consistency with the requirements of this chapter.

(2) Upon completion of the technical review, the Planning Director may meet with the applicant to discuss any changes in development

design.

(3) The Planning Director shall prepare a staff report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the town, and the general requirements of this chapter. The report, conditional zoning district request and any related application materials shall be forwarded to the Planning Board Town Council.

(H) *Action by the Planning Board.*

(1) The Planning Board shall make a recommendation on the application to the Town Council. The Planning Board's recommendation shall include a written statement to the Town Council describing whether its recommendation is consistent with the adopted plans and policies of the town. If the Planning Board fails to make a recommendation, the Town Council may process the request without a recommendation.

(2) Following Planning Board review, the Planning Director shall forward the completed conditional district request and any related materials, including the Planning Board recommendation (if applicable), to the Town Council for final action.

(I) *Action by Town Council.*

(1) Before taking action on a conditional district proposal, the Town Council shall consider the recommendation of the Planning Board (if applicable) and the Planning Director.

(2) The Town Council shall approve, approve with conditions or disapprove the conditional district.Any conditions of approval must be signed (or declined) by the applicant prior to the Council rendering a decision.

(3) Concurrently with adopting, denying, or remanding any conditional district, the Town Council shall adopt a statement describing whether its action is consistent with the adopted plans and polices of the town and explaining why the Town Council considers the action taken to be reasonable and in the public interest. If the Council adopts a conditional district that is inconsistent with any adopted future land use map a note must be placed on the map or maps that an amendment inconsistent with the map has been adopted and that the map is deemed amended.

(J) *Conditional zoning district approval criteria.* In connection with its legislative decision on a conditional zoning district request, the Town Council may consider factors including, but not limited to, the following:

(1) Consistency with the adopted plans and policies of the town;

(2) Suitability of the subject property for uses permitted by the current versus the proposed conditional district;

(3) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the town;

(4) The capacity of adequate public facilities and services including schools, roads, recreation facilities wastewater treatment and water supply facilities and stormwater drainage facilities for the proposed conditional district;

(5) It has been determined that the legal purposes for which zoning exists are not contravened;

(6) It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and

(7) It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

(K) *Master plan and narrative contents.*

(1) At a minimum, the master plan shall designate:

(a) Where and which uses or groups of uses will occur.

(b) The proposed intensity/density of those uses.

(c) The general location of the internal and external network of public rights-of-way and public infrastructure.

(d) All required elements for establishment of a zoning district including but not limited to dimensional standards, open space network, natural resource preservation, and landscaping or buffering.

(e) Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax the existing public infrastructure systems.

(2) At a minimum, the narrative shall include:

(a) A description of the proposed development, including any phasing, development timeline and uses.

(b) A list of permitted and/or prohibited uses in the Conditional Zoning District.

(c) A description of how the proposed Conditional Zoning District will meet the approval criteria listed in division (J) above.

(d) Description of how the development will address stormwater requirements.

(e) Description of how the development will be served by water, sewer and electric providers.

(f) Dimensional standards for the development.

(g) Architectural standards and elevations (when possible) for residential and non-residential structures in the development.

(h) A list of proposed conditions for the development. At a minimum, the conditions should address permitted and/or prohibited uses, dimensional criteria, architectural standards, transportation improvements, water/sewer/electric infrastructure requirements, and any “Community Benefit Bonus Points” taken in a wastewater allocation request.

(L) *Site plan or master plan and narrative approval criteria*

(1) The site plan shall include and the applicant shall be responsible for successfully addressing the approval criteria listed in Article 7, § 155.707.

(2) The master plan and narrative shall include and the applicant shall be responsible for successfully addressing the following:

(a) Compliance with § 155.203(L) and all other applicable requirements of this chapter, or analysis and justification if it deviates from the requirements of this chapter;

(b) Consistency with the Clayton General Design Guidelines;

(c) Conformance of the proposal with the stated purpose of the requested Conditional Zoning District;

(d) Compatibility of the proposed development with the adjacent community;

(e) The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out;

(f) Compatible relationships between each component of the overall project;

(g) Self-sufficiency of each phase of the overall project;

(h) The fiscal impact of the proposal and the proposed financing of required improvements;

(i) The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community; and

(j) The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.

(M) *Action after approval.*

(1) Upon approval of a conditional zoning district by the Town Council, and on recordation of the approved master plan, the district is deemed established. Properly executed documents shall be returned to the office of the Town Clerk for recording no later than 90 days from the date of approval or the approval shall be null and void. All documents (including the approved site plan or master plan and narrative) shall be an integral part of the approved proposal.

(2) The approved conditional district and associated site plan or master plan and narrative shall run with the land and shall be binding on the original applicant as well as any successors, assigns and heirs. The approved site plan or master plan and narrative shall be recorded in the Johnston County Register of Deeds office and the Zoning Map amended.

(3) Approval of a conditional district rezoning and associated master plan docs not constitute site plan approval or subdivision approval (if the property is to be further subdivided), except where a site plan has been submitted in place of a master plan or the master plan meets the requirements for and is approved as a preliminary plat.

(4) Property to be further subdivided shall obtain approval in accordance with §155.706. Where a preliminary plat has been approved, the applicant may move forward to provide construction plans and a final plat.

(5) Property not to be further subdivided shall obtain site plan approval as set forth in §155.707, unless a site plan is approved in conjunction with the Conditional Zoning District.

(6) Uses which require special use review under conventional zoning shall be exempt from the provisions of § 155.711 Special Use Review if designated as permitted on the approved master plan.

(7) The site plan or master plan and narrative shall run with the land perpetually, or until a subsequent rezoning is approved.

(N) *Time lapse between similar application.*

(1) In the event of a withdrawal of an application prior to action by the Town Council, no application may be filed requesting the same or substantively similar conditional district contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application.

(2) When the Town Council has voted on a conditional district and the proposed rezoning has failed to be adopted, then the application shall be deemed to have expired.

(3) No subsequent application requesting a conditional district for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.

(4) No subsequent application requesting the same zoning category for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.

(5) The Town Council, by a three-fourths majority vote, may waive the time-lapse requirements of this section if the Town Council deems it to be in the public interest to do so.

(O) *Approved site plan or master plan and narrative modifications*

(1) Amendments or modifications to an approved site plan or master plan and narrative, if minor in scope, shall be approved administratively by the Planning Director. Minor modifications shall include up to 10% modifications (by area, intensity, or dwelling units) from the original approval to the approved mixture of uses (so long as the maximums stated are not exceeded), adjustments to phasing, and the realignment of internal transportation infrastructure provided connectivity is not reduced. Changes in boundaries between land uses are permitted so long as the boundary abutting outside zoning districts does not change and the boundary between areas within the conditional district does not shift more than 100 feet for master plans covering 20 acres or less, 200 feet for master plans of 20-100 acres, or 300 feet for master plans of greater than 100 acres. Minor modifications to the typical project details, which include but are not limited to signage, lighting, parking, amenities, and landscape requirements shall also be approved administratively by the Planning Director provided they conform to all other aspects of the approved site plan or master plan and narrative, this chapter, and other town policies and specifications, as appropriate. Site plan or master plan and narrative modifications that require the judgement of a licensed landscape architect, engineer, or architect are not minor modifications.

(2) Major modifications include anything not identified as minor. Major modifications shall require resubmittal and reconsideration by per this section. Major modifications shall also include any proposed revisions that are deemed by the Planning Director to be inconsistent with the adopted plans and policies of the town, or the conditions of the district, or that would otherwise negatively impact surrounding properties in any manner exceeding the originally approved site plan or master plan and narrative.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2008-06-01, passed 6-2-08; Am. Ord. 2009-03-04, passed 3-2-09; Am. Ord. 2015-02-01, passed 2-2-15; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord.

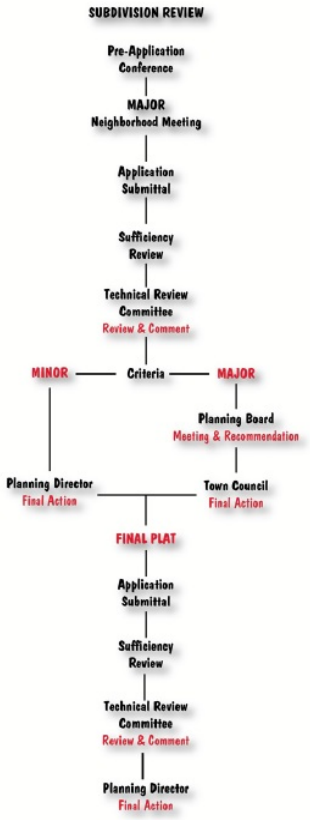
2021-02-02, passed 2-15-21; Am. Ord. 2022-08-09, passed 8-15-22; Am. Ord. 2023-02-01, passed 2-20-23)

§ 155.706 PRELIMINARY PLAT REVIEW.

(A) *Applicability*. Pursuant to and in accordance with G.S. Chapter 160D, Article 8, subdivision approval shall be required before the division of land (for any purpose) into two or more parcels, except as expressly exempted below.

(B) *Actions exempt from preliminary plat review.* For the purpose of this Article "subdivision" shall be as defined in G.S. § 160D-802, and subject to the restrictions therein. Any subdivisions expressly exempted from all or a portion of the standards of this chapter shall still be required to meet the standards of G.S. Chapter 160D, Article 8, including the filing of a Final Plat.

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resulting lots are equal to or exceed the standards of this chapter;



(2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for water or sewer infrastructure or the widening or opening of streets or for public transportation system corridors;

(4) The division of a site in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this chapter;

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under G.S. § 160D-29; and

(6) The division of a tract or parcel of land in single ownership when the following criteria are met (see G.S. § 160D-802(c):

(a) The tract or parcel to be divided is not exempted based on any of the criteria listed above in this division.

(b) No part of the tract or parcel to be divided has been divided under this division in the ten years prior to division.

(c) The entire area of the tract or parcel to be divided is greater than five acres.

(d) After division, no more than three lots result from the division.

(e) After division, all resultant lots comply with all of the following:

1. Any lot dimension size requirements of this chapter.
2. The use of the lots is in conformity with this chapter.
3. A permanent means of ingress and egress is recorded for each lot.

(C) *No subdivision without plat approval.*

(1) No person may subdivide land except in accordance with all of the provisions of this chapter. In particular, no subdivision may occur

unless and until a final plat of the subdivision has been approved in accordance with the provisions of this section and recorded in the Johnston County Registry.

(2) The County Register of Deeds shall not record a plat of any subdivision within the town's planning jurisdiction unless the plat has been approved in accordance with the provisions of this chapter.

(3) Not all divisions of land constitute subdivisions that are subject to regulation under this chapter. However, to ensure that such divisions are in fact exempt from the requirements of this chapter, all plats creating a division of land shall be presented to the Planning Director before recordation in the Johnston County Registry and the Planning Director shall indicate on the face of the plat that the division is exempt from the provisions of this chapter if that is the case.

(4) No street shall be maintained or accepted by the town, or shall any street lights, water, or sewer be extended to or connected with any subdivision of land, or shall any permit be issued by any administrative agent or department of the town for the construction of any building or other improvements requiring permit,

upon any land for which a plat is to be approved, unless and until the requirements set forth in this chapter are in compliance.

(5) There are a variety of requirements for differing levels of resource protection in Article 5, which must be met prior to the subdivision of land.

(D) *Delegation of authority.* The Town Council delegates review and approval authority for all preliminary plats and final plats to the Planning Director, with review by the Technical Review Committee.

(E) *Unlawful to record plat without final or preliminary plat approval* Except as described above, it shall be unlawful to offer and cause to be recorded any final plat within the town limits with the County Register of Deeds unless the plat bears the endorsement and approval of the Planning Director or Town Clerk.

(F) *Definitions*.

(1) ***MINOR SUBDIVISION***.

(a) A minor subdivision is a subdivision that does not involve any of the following:

1. Creation of a total of more than five lots;

2. Creation of any new public streets;

3. Extension of any water or sewer lines; or

4. Installation of drainage improvements through one or more lots to serve one or more other lots.

5. A traffic impact analysis as established in §155.708.

(b) Minor subdivisions require minor preliminary plat review and final plat review.

(2) ***MAJOR SUBDIVISION***.

(a) All other divisions of land not exempted in division (B) of this section or listed in division (F)(1) of this section shall be considered major subdivisions.

(b) Major subdivisions require major preliminary plat approval and final plat approval.

(G) *Pre-application conference and sketch plan.*

(1) All applicants seeking subdivision approval shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).

(2) At the time of the pre-application conference, applicants shall submit a sketch plan for review by the Planning Director. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions (see Planning Department for specific submittal requirements).

(3) The Planning Director shall make a determination as to which approval process authorized by this section can be used. The Planning Director may require the applicant to submit whatever supplemental information is necessary to make this determination.

(4) When a subdivision is to be developed in phases or stages, a master plan shall be submitted for the entire development and a preliminary plat shall be submitted for each individual stage. A final plat is submitted for individual stages as each stage is developed. Each new stage shall be developed adjacent to an earlier stage.

(H) *Minor preliminary plat review (for minor subdivisions).*

(1) *Applicability.*

(a) The procedure for approval of a minor preliminary plat is intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. The difference between the minor and major subdivision processes is that minor subdivisions do not require preliminary plat review.

(b) There shall be only one minor subdivision approved on any original tax parcel in any three-year period. This condition shall not apply to minor subdivisions for which the following conditions are met:

1. The owner and grantee certify that the grantee of each lot is the child or child and spouse, or grandchild and spouse of the owner;

2. The owner and grantee certify that no consideration shall be paid for any of the lots;

3. The owner and grantee certify that the purpose of the minor subdivision is not to circumvent the provisions of this chapter, and that none of the lots shall be conveyed to third parties for a period of not less than three years, and that the record plat shall indicate same.

4. Failure of any person to comply with the provisions of division (H)(1)(b)1., 2. and 3. of this section shall be in violation of this chapter, and all of the remedies available in G.S. § 160D-807 shall apply.

(2) *Application requirements.* All applications for minor plat review shall be submitted in accordance with §155.702(C).

(3) *Action by Planning Director.*

(a) Upon submission of a completed application, the Planning Director shall schedule the minor subdivision plat for review by the Technical Review Committee. The Technical Review Committee shall review the plat for consistency with the requirements of this chapter. The Planning Director shall, after review by the Technical Review Committee, determine whether the plat conforms to the standards of a minor subdivision.

(b) If the minor subdivision plat is determined not to be in conformance with the requirements of this chapter, the application shall be denied. If the Planning Director should disapprove the preliminary plat, the reasons for such action shall be given to the applicant.

(4) *Action following approval.* Upon minor preliminary plat approval, the applicant may begin preliminary site work. All site work shall be performed in compliance with the requirements of this chapter, and other applicable regulations of the town, the County, and the state. The final plat may be recorded in the County Record of Deeds.

(5) *Continuing validity of minor plats.* Within 24 months of the date of approval of the minor subdivision plat, the applicant shall submit application for final plat review otherwise the minor subdivision plat shall be null and void.

(6) *Minor plat approval criteria.* Minor subdivision plats shall be approved only when the Planning Director, after Technical Review Committee review, finds that all of the following conditions exist:

(a) Consistency with the adopted plans and of polices of the town;

(b) The plat complies with the standards of §§155.600 through 155.607, and any other applicable requirements of this chapter;

(c) The plat indicates that all subject lots will have frontage on existing approved streets;

(d) New or residual parcels conform to the requirements of this chapter and other applicable regulations;

(e) No new streets are required or are likely to be required for access to interior property;

(f) No drainage or utility easements will be required to serve interior property;

(g) No extension of public sewerage or water lines will be required; and

(h) The proposed subdivision will not adversely affect permissible development of the remainder of the parcel or of adjoining property.

(I) *Major preliminary plat review (for major subdivisions only).*

(1) *Applicability.* A preliminary plat shall be required for all subdivisions that do not meet the definition of a minor subdivision as set forth in division (F) of this section.

(2) *Application requirements.*

(a) All applications for preliminary plat review shall be submitted in accordance with §155.702(C).

(b) A traffic impact analysis may be required if the proposed subdivision meets the thresholds established in §155.708.

(3) *Notice and public hearings.* The town shall hold all required public hearings and give notice in accordance with §155.702(D).

(4) *Neighborhood meeting.* None required.

(5) *Action by Planning Director.*

(a) Upon submission of a completed application, the Planning Director shall schedule the preliminary plat for review by the Technical Review Committee. The Technical Review Committee shall review the preliminary plat for consistency with the requirements of this chapter. The Planning Director shall, after review by the Technical Review Committee, determine whether the plat conforms to the standards of this chapter.

(b) If the preliminary plat is determined not to be in conformance with the requirements of this chapter, the application shall be denied. If the Planning Director should disapprove the preliminary plat, the reasons for such action shall be given to the applicant.

(6) *Action following approval.*

(a) Upon preliminary plat approval, the applicant may initiate proceedings to begin site work and installation of improvements. All work shall be performed in compliance with the requirements of §§ 155.600 through 155.607, and other applicable regulations of the town, the County, and the state.

(b) Approval of a preliminary plat does not constitute approval of the final plat. Application for approval of the final (record) plat will be considered only after the requirements for final plat approval as specified in division (J) of this section have been fulfilled and after all other specified conditions have been met.

(7) *Continuing validity of preliminary plats.*

(a) Within 24 months of the date of approval of the preliminary plat, the applicant shall submit a final plat for at least one section of the subdivision otherwise the preliminary plat shall be null and void.

(b) For multi-phase developments greater than 25 acres, the preliminary plat shall expires seven years after approval and is subject to the requirements of G.S. § 160D-108(d)(4). As phases continue to receive development approvals or site specific vesting plans, the vesting period may extend past the initial seven year period according to the standards for those approvals.

(c) For preliminary plats also approved as master plans for Conditional Zoning Districts, the preliminary plat does not expire and runs with the land, or until a subsequent rezoning changes the district.

(d) Where more than one vested right may be in effect, the longer time period applies.

(J) *Final plat review (major and minor subdivisions).*

(1) *Applicability.* A final plat shall be required for all subdivision of land in the town and its extraterritorial jurisdiction.

(2) *Application requirements.* All applications for final plat review shall be submitted in accordance with §155.702(C).

(3) *Action by Planning Director.*

(a) Upon submission of a completed application, the Planning Director shall within 60 days schedule the final plat for review by the Technical Review Committee. The Technical Review Committee shall review the final plat for consistency with the with the approved minor subdivision plat or approved preliminary plat, as applicable, and the general requirements of this chapter.

(b) Upon completion of the technical review, the Planning Director may approve the final plat, deny the final plat, or send the plat back for additional consideration.

(c) If the final plat is disapproved by the Planning Director, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply.

(4) *Final plat approval criteria.* Final plats shall be approved when the following conditions exist:

(a) Consistency with the adopted plans and of polices of the town;

(b) The plat substantially complies with the approved minor plat or preliminary plat, as applicable;

(c) The plat complies with the standards of §§155.600 through 155.607 and the other applicable requirements of this chapter;

(d) New and residual parcels will conform to the requirements of this chapter and other applicable regulations;

(e) All necessary right-of-way has been offered for reservation or dedication; and

(f) All necessary drainage easements have been provided.

(5) *Endorsements on final plats.*

(a) *Minor plats.* All minor subdivision final plats shall contain the following certificates:

1. Certificate of ownership;

2. Certificate of survey and accuracy;

3. Certificate of approval by the Planning Director; and

4. County Plat Review Officer's Certificate.

(b) *Major plats.*

1. All major subdivision final plats shall contain the following certificates:

A. Certificate of ownership and dedication;

B. Certificate of survey and accuracy;

C. Certificate of approval of water supply and sewage and disposal systems (county);

D. Certificate of approval of the design and installation of streets, utilities, and other required improvements;

E. Certificate of approval by the Town Manager, as applicable; and

F. County Plat Review Officer's Certificate.

2. All final plats located outside the corporate limits of the town, but within the planning jurisdiction, shall contain the following certificates:

A. NCDOT Engineer Certificate; and

B. Certificate of approval of non-municipal water supply and sewage disposal systems.

3. When required by the federal government, all final plats shall contain a certificate for a federally funded project.

(6) *Action after approval.*

(a) The applicant shall file the approved final plat with the County Register of Deeds for recording within 60 days after the date of approval. The Planning Director, upon receipt of a written request, may extend this date an additional 30 days, if the request is received prior to the original expiration date and the final plat meets all applicable provisions of this chapter.

(b) The approval of a final plat shall not be deemed to constitute or affect the acceptance or affect the acceptance by the town of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the town may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance or dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the town shall not place on the town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

(K) *Dedication and improvements.*

(1) In the development of any subdivision requiring new or modified public infrastructure, the applicant shall be required to dedicate any additional right-of-way necessary to the width required by the town for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to town standards, and to install sidewalks in accordance with the policies and requirements of Article 6.

(2) The applicant shall bear the costs of the installation of all on-site improvements as required by this chapter, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off-site improvements pursuant to this section may, with the approval as a condition of subdivision approval, and upon a determination by the Planning Director that such improvements are not necessary or desirable at the time, but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of any such payment shall be an amount estimated by the town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements considered, and will preclude any further assessment of the property in the event that the town elects to install such

improvements at a later date.

(3) For all residential developments and master planned conditional zoning district involving a residential component approved after July 3, 1995, recreation and open space dedication, or payment of fee-in-lieu thereof in accordance with § 155.203(H) shall be required.

(L) *Guarantees of improvements*. Guarantee of improvements shall be made in accordance with §155.607.

(M) *Inspections of required improvements*. Inspections of improvements shall be made in accordance with §155.607(D).

(N) *Modifications to approved plat*.

(1) *Minor modifications.*

(a) *Preliminary plat*. Minor modifications to an approved preliminary plat shall be reviewed and approved by the Planning Director and TRC if the proposed changes are within the scope and intent of the original approval, meet all other standards of this chapter, and meet the criteria below. Such revisions may include but not be limited to:

1. Reducing the lot count or dwelling unit count up to 10%;

2. Modifying phase lines; and

3. Minor internal adjustments to lot or street locations of no more than 50' in any direction.

(b) *Final plat*. A final plat may be rerecorded to:

1. Revise or correct dimensions;

2. Change street names;

3. Add, delete or modify easements or private covenants; or

4. Change subdivision name.

(c) *Procedures.*

1. *Preliminary plat.*

A. When minor modifications are proposed to an approved preliminary plat, the applicant shall submit an Administrative Amendment application to the Planning Director with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.

B. The Planning Director shall notify the applicant whether the proposed revision qualifies for minor modification and the basis for the determination. If approved, the final plat may be submitted in accordance with the revisions.

C. The Planning Director shall distribute copies of the revised plat to the appropriate agencies.

2. *Final plat.*

A. When minor modifications are proposed to an approved final plat, the applicant shall submit a written request to the Planning Director with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.

B. If the plat has been recorded, the applicant shall submit the recorded plat with a statement describing the revisions made and title block for the Planning Director signature, and date of signing.

C. If the ownership of the subdivision has changed or if any lots have been sold since the previous recording, an owner's and notary's certificates shall be provided on the plat for each current owner.

D. In addition to the letter and the revised final plat, the applicant shall submit the required fees to the Planning Director for processing and rerecording the revised plat.

E. The Planning Director shall distribute copies of the recorded final plat to the appropriate agencies.

(2) *Major modifications.* Proposed modifications to an approved preliminary plat or final plat not considered minor revisions shall be submitted and processed as new applications in accordance with the provisions of this section.

(O) *Resubdivision and recombination procedures*. For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed for an original subdivision. Lot size and configuration may, however, be varied on an approved plat after recording, provided that:

(1) No lot or parcel of land shall be created or sold that does not conform to the minimum standards of the applicable zoning district;

(2) Easements or rights-of-way shall not be changed;

(3) Street alignment and block sizes shall not be changed;

(4) The character of the area shall be maintained;

(5) A recombination of existing parcels shall be approved by the Planning Director, subject to the following:

(a) The resultant lots are equal to the standards of this chapter or more closely conform to the minimum lot size standards in this chapter;

(b) The total number of lots is not increased;

(c) All the metes and bounds boundaries of the affected lots are shown;

(d) All lot boundaries changed or eliminated by requested combination are indicated by dashed lines;

(e) The title block contains the word "recombination";

(f) Structures on the affected lots are shown and the requested recombination does not violate setback requirements of the §§ 155.200 through 155.204;

(g) The recombination plat is signed by all property owners if either the number of lots is reduced or different owners for different lots are involved in the recombination;

(h) The recombination plat is signed and sealed by a registered surveyor;

(I) The recombination plat is certified by the Planning Director; and

(j) The recombination plat conforms to all laws and ordinances for the recordation of maps.

(P) *Appeal*. Final action on a final plat may be appealed to the Board of Adjustment in accordance with §155.717.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2008-08-04, passed 8-4-08; Am. Ord. 2011-05-02, passed 5-2-11; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.707 SITE PLAN REVIEW.



(A) *Applicability*.

(1) All proposed development, except for single-family detached, zero lot line, duplexes and alley-loaded dwelling units on individual lots, shall be subject to the site plan review process.

(2) Temporary uses may require site plan review (see §155.712).

(a) *Approval authority.* The Planning Director shall be responsible for approving site plans, following review and certification from the TRC.

(C) *Pre-application conference*.

(1) All applicants seeking site plan approval shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).

(D) *Site plan review.*

(1) *Application requirements.* An application for minor site plan approval shall be submitted accordance with §155.702(C).

(2) *Action by Planning Director.*

(a) Upon submission of a completed application, the Planning Director shall schedule the minor site plan for review by the Technical Review Committee. The Technical Review Committee shall review the site plan for consistency with the requirements of this chapter and other applicable town ordinances.

(b) After technical review, the Planning Director shall determine whether the minor site plan conforms to the requirements of this chapter.

(3) *Modifications to approved site plans.*

(a) *Minor modifications.* If a proposed amendment to a site plan represents only a minor modification to the approved site plan, the applicant shall submit an Administrative Amendment application to the Planning Director who shall act upon such application within ten business days of its receipt. Minor modifications shall include the following:

1. A less than 5% increase, or any decrease, in the floor area or number of dwelling units, provided that the district maximums of the subject property is not exceeded.

2. A less than 10% decrease in parking spaces, open space or livability space;

3. The minor relocation of any structure, dedicated street, easement or landscape screen in any direction from the location shown on the site plan unless deemed by the Planning Director to significantly alter the approved plan such that it would not meet the performance

standards of this UDC.

(4) *Substantial deviations.* If a proposed amendment to a site plan deviates substantially from the approved site plan, the approved site plan shall be amended in accordance with the procedure and standards which governed its approval. Such substantial deviations include the following, in addition to any modifications not identified as minor:

(a) A 5% or greater increase in floor area or number of dwelling units;

(b) A 10% or greater decrease in parking spaces or open space;

(c) The relocation of any structure, dedicated street or easement in any direction from the location shown on the major site plan for the distances specified below based on the size of the development:

1. Twenty-five feet or more for major site plans of two acres or less;
2. Fifty feet or more for major site plans of more than two acres but less than eight acres;
3. One hundred feet or more for major site plans of eight acres but less than 20 acres; and
4. One hundred fifty feet for major site plans of 20 acres or more.

(F) *Approval criteria.* In approving a site plan the following shall be considered:

(1) Consistency with the adopted plans and polices of the town;

(2) Compliance with all applicable requirements of this chapter;

(3) For nonresidential and multifamily projects, the site plan displays the location of trash handling, recycling, grease bins, and other waste-related facilities employed in the normal operation of the use;

(4) Adequacy and location of parking areas and pedestrian and vehicular access points;

(5) Compliance with site construction specifications;

(6) Adequacy of stormwater facilities, water supply, sanitary sewer service, fire protection, street signs, and street lighting as evidenced by conformance with department standards, specifications and guidelines;

(7) Compliance with requirements for easements or dedications;

(8) Compliance with any applicable subdivision improvements; and

(9) If applicable, compliance with an approved master plan.

(G) *Period of validity.* An approved site plan shall expire two years from the date of approval unless the proposed development is pursued as set forth below:

(1) A complete building permit application has been submitted and remains valid;

(2) Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within two years from the date that site plan approval is granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or

(3) If no building permit is required, a certificate of occupancy has been issued.

(H) *Building permit/certificate of occupancy.*

(1) No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the appropriate town officials.

(2) In order to secure a vested right for a site plan, the applicant must submit a site-specific vesting plan in accordance with § 155.718.

(I) *Dedication and improvements.*

(1) In the development of any property for which a site plan is required in this section, the applicant shall be required to dedicate any additional right-of-way necessary to the width required by the town for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to town standards, and to install sidewalks in accordance with the policies and requirements of Article 6.

(2) The applicant shall bear the costs of the installation of all on-site improvements as required by this chapter, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off- site improvements pursuant to this section may, with the approval of the town as a condition of site plan approval, and upon a determination by the Planning Director that such improvements are not necessary or desirable at the time, but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of any such payment shall be an amount estimated by the town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements considered, and will preclude any further assessment of the property in the event that the town elects to install such improvements at a later date. Full payment shall be made before any building permit or certificate of occupancy is issued for any use shown on the site plan.

(3) For all master planned conditional zoning districts involving a residential component approved after January 1, 2021, recreation and open space dedication, or payment of fee-in-lieu thereof in accordance with § 155.203(H) shall be required.

(J) *Guarantees of improvements.*

(1) Prior to the approval of any site plan, the applicant shall submit a cost estimate and time schedule for installation of each phase of the site improvements.

(2) The town shall require a performance guarantee for all required on-site and off-site improvements. This performance guarantee shall be in the amount of 125% of the estimated cost of improvements. The guarantee shall be a surety bond, a letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit, the form to be at the election of the person required to give the performance guarantee. This bond shall be in cash, certified check, or be made by a bonding/insurance company authorized to do business in North Carolina (see also G.S. § l60D-804(g)).

(3) As each phase of improvements is installed and inspected by the town, the guarantee shall be reduced to an amount equal to 125% of the reasonably estimated cost of completion of the remaining incomplete improvements.

(4) In the event that the applicant wishes to occupy any building or any portion of any building prior to the completion of the required site improvements, the bond guaranteeing improvements shall be retained by the town until the remaining required improvements are completed.

(K) *Inspections of required improvements*. Inspections during off-site improvements shall be made in accordance with §155.607(D).

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.708 TRAFFIC IMPACT ANALYSIS.

(A) *Applicability*.

(1) A traffic impact analysis may be required to be submitted in conjunction with an application for a Conditional Zoning District Master Plan, preliminary plat, site plan, or special use permit.

(2) Unless exempted in division (B) of this section, a traffic impact analysis shall be required for projects, which can be anticipated to generate at least 1,000 new vehicle trips per day or at least 100 new vehicle trips at peak hour from the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

Commentary: *100 peak hour vehicle trips equates to approximately 100 single-family units or 25,000 square feet of general commercial space.*

(B) *Exemptions*. The following projects shall not be required to submit a traffic impact analysis:

(1) Developments approved prior to the effective date of this chapter that have maintained valid conditional district master plans (formerly planned development master plans), preliminary plats, major site plans or special use permits.

(2) Redevelopment of any site on which the additional traffic at peak hour represents an increase of less than 100 trips from the previous development, where the redevelopment is initiated within 12 months of the completion of demolition of the previous project.

(3) Site plans that do not trigger the requirements for a Traffic Impact Analysis outlined in §155.708(A).

(C) *Pre-application conference*.

(1) All applicants required to submit a traffic impact analysis shall schedule a pre-application conference with the Planning Director, in accordance with § 155.702(A).

(2) The Planning Director and the town's consultant, if applicable, shall determine the type and scope of the study during the pre-application conference, which may also involve representatives from other agencies or departments.

(D) *Application requirements*. A traffic impact analysis prepared by a professional engineer licensed in the State of North Carolina shall be submitted in accordance with § 155.702(C). The traffic impact analysis must conform with the requirements of this section and the town's engineering design manual. The traffic impact analysis report must describe the study methodology, the data used, and the study findings and provide recommendations based on the results.

(E) *Definition of impact area*. The Director shall determine the geographic area to be included in a traffic impact analysis. Identification of the points of access and key streets and intersections to be affected by development of the subject parcel shall be required. Traffic recorder and turning movement assessment locations may also have to be determined. The study area shall not extend beyond the point where the project traffic at build-out is less than 10% of the capacity of the roadway or intersection.

(F) *Consultants*. The Planning Director may require that an independent consultant be hired by the town to perform the required studies, or to review all or part of a study prepared by the applicant's consultant. The Planning Director is authorized to administer the contract for any such consultant.

(1) The town shall determine the scope of services to be performed by the independent consultant and receive a cost estimate of such services.

(2) The applicant shall provide an amount equal to the cost estimate to the town, which shall deposit the amount in an escrow or other special account set up for this purpose. Any funds not used shall be returned to the applicant in a timely manner, without interest. If the estimated or actual cost increases during the review from the town's initial cost estimate, the applicant immediately shall provide an amount equal to the increased cost to the town, which the town shall deposit in the escrow or special account. The final approval of any application requiring a traffic impact analysis by the town shall be contingent upon the full payment of all consultant costs incurred for the analysis.

(3) The town may require additional funds for independent review where a decision-making body expands the scope of the required review; the applicant substantially amends the application; additional meetings involving the consultant are requested by the applicant; or the consultant's appearance is requested at public or affected agency meetings beyond those anticipated in the original scope of services.

(G) *Desirable operating levels for streets and intersections*. Traffic on a residential local or collector street is operating at a desirable level if it does not exceed the following levels:

Pavement Width	***Vehicles Per Day***
Less than 30 feet	1,200
30 feet to less than 40 feet	1,800
40 feet or wider	4,000

(H) *Action on application*.

(1) The Planning Director shall deny an application if the applicant is unwilling or unable to successfully mitigate the proportional impact that the proposed development will have on the public transportation network.

(2) The Planning Director shall deny an application if the traffic impact analysis demonstrates that:

(a) The projected traffic generated by the project, combined with existing traffic, exceeds the desirable operating level established in division (G) of this section in the traffic impact analysis study area.

(I) *Application modification based on traffic analysis*. An applicant may modify an application to minimize the traffic-related effects identified in a traffic impact analysis. Modifications may include:

(1) A reduction in the projected vehicle trips per day;

(2) The dedication of additional right-of-way;

(3) The rerouting of traffic or modifications or additions of the internal street network or proposed access and egress points;

(4) Participation in the funding of a traffic signal, intersection improvement, or other off-site transportation improvement; and

(5) Other modification determined to be necessary.

(J) *Appeal of Planning Director's action*.

(1) An applicant may appeal the Planning Director's denial to the Town Council.

(2) The Town Council may approve the traffic impact analysis if the Council determines that the:

(a) Applicant has satisfactorily mitigated adverse traffic effects; or

(b) Additional traffic from the project has an insignificant effect on the town's streets.

(K) *Period of validity*. A traffic impact analysis shall be valid for a specific site for no more than the period for which the plan is vested, so long as no significant modifications to the development approved for the site are made.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.709 ZONING PERMIT.

(A) *Applicability*.

(1) It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of any building or other structure on a site including an accessory structure, until the Planning Department has issued a zoning permit for such work.

(2) It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use or any lot on which there is a nonconforming use, until the Planning Department has issued a zoning permit for such intended use, including a determination that the proposed use, in all respects, conforms to the provisions of this chapter.

(3) It shall be unlawful to undertake any land-disturbing activity until the Planning Department has issued a zoning permit for such work.

(4) No zoning permit is required for permitted temporary uses (see §155.712).

(B) *Timing of application*. In all cases where a building permit is required, application for a zoning permit shall be made concurrently with the application for a building permit. In all other cases, application shall be made before initiating any of the activities that trigger compliance with this section.

(C) *Application requirements*. All applications for a zoning permit shall be submitted in accordance with §155.702(C).

(D) *Action by Planning Director*.

(1) If the proposed application is in conformity with the provisions of this chapter, the Planning Department shall issue a zoning permit, provided that all of the following conditions shall apply:

(a) Issuance of a zoning permit shall in no case be construed as waiving any provisions of this chapter or other Town Ordinances or other governmental regulations;

(b) The Planning Director shall not grant any exceptions to the actual meaning of any clause, standards, or regulation contained in this chapter to any person making application to excavate, construct, move, alter or use buildings, structures or land;

(c) The Planning Director shall issue a permit when the imposed conditions of this chapter are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements (including, but not by way of limitation, restrictive covenants) among private parties; and

(d) The zoning permit shall include a determination that plans, specifications and the intended use of such structure and land do, in all respects, conform to the provisions of this chapter. Prior to the issuance of a zoning permit, the Planning Director shall consult with other applicable departments, as necessary.

(2) If the proposed application, is not in conformity with the provisions of this chapter, the Planning Director shall not issue the zoning permit and shall provide in writing the cause of such disapproval to the applicant.

(E) *Expiration*. Once a zoning permit has been issued, all activities pursuant to such permit shall be commenced within six months. If the proposed moving, constructing, altering, repairing, or use of land, as set forth in an application for a zoning permit, is discontinued for a period of one year or more, the zoning permit shall lapse and be of no further force and effect.

(F) *Appeal*. Final action on a zoning permit may be appealed to the board of adjustment in accordance with §155.717.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.710 RESERVED.

§ 155.711 SPECIAL USE PERMIT REVIEW.



(A) *Applicability.*

(1) Special uses within each general use district are uses that may be appropriate in a particular district, but because of the increased potential for incompatibility with adjacent uses requires individual review by the Town Council.

(2) A special use permit shall be required for all special uses as set forth in the Permitted Land Use Table (see §155.202). A development comprised of uses regulated by separate rows on the table shall be reviewed using the most restrictive process from among the proposed uses.

(3) Where a use requiring a approval as a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to special use review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

(4) Previously approved and valid Conditional Use Permits are subject to §155.109.

(B) *Pre-application conference.* All applicants seeking special use approval shall schedule a pre-application conference with the planning director, in accordance with § 155.702(A).

(C) *Neighborhood meeting.* All applicants seeking special use approval shall hold a neighborhood meeting in accordance with § 155.702(B).

(D) *Application requirements.*

(1) Concurrent with a request for a special use permit, an applicant shall submit a site plan application for review and approval.

(2) An application for a special use permit shall be submitted in accordance with §155.702(C).

(3) A traffic impact analysis may be required if the proposed development meets the thresholds established in §155.708.

(E) *Notice and public hearings.* The town shall hold all required public hearings and give notice in accordance with §155.702(D).

(F) *Action by Planning Director.*

(1) Upon submission of a completed application, the Planning Director shall schedule the associated site plan application for review by the Technical Review Committee. The Technical Review Committee shall review the site plan for consistency with the requirements of this chapter.

(2) Upon completion of the technical review, the Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the town, and the general requirements of this chapter. The report, site plan and any related application materials shall be forwarded to the Town Council.

(G) *Action by Town Council.*

(1) Before taking action on the special use request, the Town Council shall consider the recommendation of the Planning Director.

(2) The Town Council may approve the request, deny the request, or send the request back to the Technical Review Committee for additional consideration.

(H) *Findings of fact required.* No special use permit shall be approved unless the following findings are made concerning the application:

(1) That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved.

(2) That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the town Code of Ordinances or other applicable regulations.

(3) That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

(4) That the application will not adversely affect the adopted plans and policies of the town, or violate the character of existing standards for development of the adjacent properties.

(I) *Additional conditions.*

(1) In granting approval of a special use permit, the Town Council may impose reasonable conditions which serve to assure that the required findings are upheld. Such conditions may include, but are not limited to, right-of-way or easement dedication; recreation, open space, or buffer provision; limitation in scale, intensity, or hours of operation; and other reasonable restrictions.

(2) Any additional condition approved by the Town Council shall become a part of the permit and be of equal importance in the responsibility of the applicant or subsequent assigns to adhere to its terms.

(3) Prior to a decision by the Town Council, the applicant shall consent to these conditions in writing or decline consent to the conditions. Conditions and safeguards imposed under this section shall not include requirements for which the Town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by a local government.

(J) *Modifications to approved special use permits.*

(1) *Minor deviations.* The Planning Director shall approve minor deviations to a special use permit provided that such changes are not contrary to the approving action of the Town Council. The Planning Director shall not have the authority to approve substantial deviations as set forth below.

(2) *Substantial deviations.*

(a) Any deviation requiring evidentiary support in addition to that presented at a public hearing on applications for the original permit shall constitute a substantial deviation. Before making a determination as to whether a proposed action is a minor deviation or a substantial deviation, the Planning Director shall review the record of the proceedings on the original application. Substantial deviations shall include the following:

1. A change in the boundaries of the approved site;

2. A change from the approved use;

3. An increase of 5% or more in the approved floor area, unless proposed addition is 500 square feet of floor area or less, whether such addition is proposed at one time or over an extended period of time;

4. An increase of 5% or more in the number of approved parking spaces, unless the proposed addition is ten or fewer spaces, whether such addition is proposed at one time or over an extended period of time;

5. Substantial change in the location of principal or accessory structures;

6. Structural alterations significantly affecting the basic size, form; style, ornamentation, and appearance of principal or accessory structures as shown on the approved site plan;

7. Substantial changes in pedestrian or vehicular access or circulation; and

8. Substantial change in the amount or location of landscape screens.

(b) If a proposed amendment deviates substantially from the approved special use permit, the approved special use permit shall be amended in accordance with the procedure and standards which governed its approval.

(K) *Effect of decision.*

(1) If the Town Council votes to deny an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until 12 months have elapsed from the date of denial. If the Town Council votes to approve an application, the permit shall be recorded in the County Register of Deeds office.

(2) The special use permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs. Any decision by the Town Council may be appealed within 30 days of the decision in accordance with G.S. § 160D-406.

(L) *Period of validity.*

(1) An approved special use permit shall expire 12 months from the date of approval unless the proposed development is pursued as set forth below:

(a) A complete building permit application has been submitted and remains valid;

(b) Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within 12 months from the date approval was granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or

(c) If no building permit is required, a certificate of occupancy has been issued.

(2) Once the appropriate permit has been issued, the special use permit shall remain valid unless the use, construction, or activity ceases for a period of 12 consecutive months. In such instance the special use permit shall become void. If a special use is determined by the Planning Director to be void, such determination shall be transmitted in writing to the applicant.

(M) *Building permit/certificate of occupancy.*

(1) No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the appropriate review body.

(2) In order to secure a vested right for a site plan, the applicant must submit a site-specific development plan in accordance with § 155.718.

(N) *Revocation of a special use permit.*

(1) If any conditions of a special use permit, or other requirements of this chapter are violated, the Planning Director shall begin proceedings to revoke the permit.

(2) Revocation may occur after an evidentiary hearing is conducted by the Town Council.

(3) Upon a four-fifths vote, the Town Council shall revoke the permit, and notice of such revocation shall be recorded in the County Register of Deeds office.

(4) Violations of conditions of a special use permit shall be considered a violation of this chapter and thereby subject to the provisions of § 155.720.

(O) *Coordination with variances.* Applications for variances may be submitted concurrently with a request for a special use permit. The variance shall be considered first and any special use permit application shall be decided afterward.

(P) *Coordination with rezoning.* An application for a special use permit may be reviewed concurrently with a rezoning application. However, a decision shall be rendered first for any rezoning and then subsequently for any special use permit.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2018-07-02, passed 7-16-18; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.712 TEMPORARY USE PERMIT.

***Commentary**: Temporary outdoor uses should not be confused with permanent outdoor activities (for example, a car sales lot) that are only allowed in certain districts and require site plan approval, nor should they be confused with an outdoor display area (for example, a garden center that is part of a building supply store) that may be a part of a retail store and require site plan approval.*

(A) *Applicability.*

(1) Temporary uses occurring on property outside of the public right-of-way, including those operating for less than 30 days within a one-year time period, shall obtain a temporary use permit from the Planning Department that outlines conditions of operations to protect the public, health, safety and welfare subject to the standards of § 155.306.

(2) Temporary uses occurring within the public right-of-way require approval by the Town Council.

(B) *Application requirements.* An application for a temporary use permit shall be submitted in accordance with § 155.702(C).

(1) Each permit must, at the time of acquisition, state all dates that the temporary use will operate at a given site. Dates not initially specified shall be subject to acquisition an additional permit.

(2) During a one year period no single site may be utilized for more than 30 days total aggregate of all dates included on all temporary use permits issued for that given location

(3) An approved temporary use permit must be available on-site upon request by an authorized town representative.

(C) *Action by Planning Department.*

(1) After receiving a complete application, the Planning Department shall have up to 30 days to review the application.

(2) Following completion of the technical review period, the Planning Department shall approve the issuance of a temporary use permit subject to the following:

(a) No lighting or electrical service shall be provided without an electrical permit;

(b) No temporary use structure shall be erected without a building permit;

(c) No temporary use structure shall block fire lanes or pedestrian or vehicular access;

(d) The site of the temporary use shall be cleared of all debris at the end of the temporary use. All temporary structures shall be cleared from the site within five days after the use is terminated;

(e) Written permission of both the property owner and the principal tenant of the property for the temporary use shall be provided;

(f) Adequate parking shall be provided;

(g) Required parking for other uses shall remain available;

(h) Adequate traffic control measures shall be provided;

(i) Adequate provisions for trash disposal and sanitary facilities shall be provided; and

(j) When appropriate, adequate provisions for crowd control shall be provided.

(D) *Revocation of a temporary use permit.* A temporary use permit shall be revoked if the Planning Director finds that the terms of the permit have been violated or that there is a hazard to the public health, safety and welfare.

(E) *Exceptions.* Temporary uses conducted by bona fide nonprofit organizations, as defined by and registered with the North Carolina Office of the Secretary of State, shall be exempt from this section to the extent permitted by state law, except that a temporary use permit must be obtained prior to any scheduled event.

(F) *Appeal.* Final action on a temporary use permit may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2010-12-03, passed 12-6-10; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.713 SIGN PERMIT.

(A) *Applicability.*

(1) Except as otherwise provided in §155.403(D) Exemptions, no sign may be erected, located, or altered in any manner until a Sign Permit, and Building Permit if necessary, has been secured from the Planning Department. The change of copy on a legally constructed sign shall not require a Sign Permit.

(2) Any sign which does not comply with the appropriate regulations in §155.403 “Signs” and cannot produce a valid Sign Permit within one week of request shall be considered in violation and/or non-conforming, depending on the specifics of the sign.

(B) *Application Requirements.* An application for Sign Permit shall be submitted in accordance with § 155.702(C).

(C) *Action by Planning Director.* Following completion of the technical review period, the Planning Director shall review and take final action on the Sign Permit application, provided that all requirements of this chapter, and all other applicable electrical and North Carolina Building Code requirements are met.

(D) *Action by Town Council.* Following completion of the technical review period, the Town Council shall review and take final action on any Alternative Sign Plan application or billboard sign application provided that all requirements of this chapter, Chapter § 155.403 “Signs”, and all other applicable electrical and North Carolina Building Code requirements are met.

(E) *Inspection of Permanent Signs.*

(1) The applicant shall request an inspection by the appropriate inspector after installation of the signs.

(2) The Sign Permit shall be null and void if sign installation is not completed within six months or the signs are not in conformance with the approved application.

(3) Valid Sign Permits may be assigned to a successor as holder of a business license for the same premises.

(F) *Temporary Sign Permit.* A Temporary Sign Permit shall be issued in accordance with the criteria in § 155.403 “Signs”. An Alternative Sign Plan shall not be required for applications for Temporary Sign Permits.

(G) *Revocation of a Sign Permit.* The Sign Permit shall be revoked if a sign is found to be in violation of the requirements of this chapter, or other applicable electrical and North Carolina State Building Code requirements.

(H) *Appeal.* Final action on a Sign Permit may be appealed to the Board of Adjustment in accordance with § 155.717 “Administrative Appeals”.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-09-06, passed 9-3-13; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-01-01, passed 1-3-17; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.714 RESERVED.

§ 155.715 WRITTEN INTERPRETATION.

(A) *Applicability.* When uncertainty exists, the Planning Director, after consultation with other involved staff and Town Attorney, shall make interpretations concerning the provisions of this chapter.

(B) *Application requirements.* An application for a written interpretation shall be submitted in accordance with § 155.702(C).

(C) *Action by Planning Director.*

(1) The Planning Director shall review and evaluate the request in light of the text of this chapter, the zoning map, the adopted plans and policies of the town, state and federal law, and any other relevant information.

(2) Following completion of the technical review period, the Planning Director shall render an opinion.

(3) The interpretation shall be provided to the applicant in writing.

(D) *Official record.* The Planning Director shall maintain an official record of all interpretations. The record of interpretations shall be available for public inspection during normal business hours.

(E) *Appeal.* Final action on a written interpretation may be appealed to the Board of Adjustment in accordance with § 155.717.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.716 VARIANCE.

(A) *Applicability.*

(1) The Board of Adjustment may vary certain requirements of this chapter that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter, will, in an individual case, result in practical difficulty or unnecessary hardship. The Board of Adjustment shall ensure that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.

(2) The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance.

(B) *Application requirements.* An application for a variance shall be submitted in accordance with § 155.702(C).

(C) *Notice and public hearings.*

(1) The town shall hold all required public hearings and give notice in accordance with §155.702(D).

(2) A neighborhood meeting is required.

(D) *Evidentiary standards.* The applicant seeking the variance shall have the burden of producing competent, material, and substantial evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below as well as the burden of persuasion on those issues.

(E) *Action by Planning Director.* The Planning Director shall provide the Board of Adjustment with a copy of the application and all relevant

materials pertaining to the request.

(F) *Action by Board of Adjustment.*

(1) *Procedure.*

(a) The Board of Adjustment may approve the request, deny the request, or continue the request. A concurring vote of four-fifths of the Board is necessary to grant a variance.

(b) Each decision shall be accompanied by findings of fact that specify the reasons for the decision.

(c) In approving the variance, the Board of Adjustment may prescribe reasonable and appropriate conditions which will ensure that the use will be compatible with adjacent properties and will not alter the character of the neighborhood.

(d) Conditions may be imposed by the Board of Adjustment regarding the location, character, and other features of the proposed building or use as may be deemed by the Board of Adjustment to protect property values and general welfare of the neighborhood. Failure to comply with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(2) *Findings of fact.* No variance shall be approved by the Board of Adjustment unless all of the following findings are made:

(a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

(c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-04, passed 12-2-13; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2022-08-09, passed 8-15-22)

§ 155.717 ADMINISTRATIVE APPEALS.

(A) *Applicability.* Pursuant to G.S. § 160D-405, an appeal by any person aggrieved by a final order, interpretation or decision of the Planning Director or other administrator of this chapter in regard to the provisions of this chapter may be taken to the Board of Adjustment.

(B) *Application requirements.*

(1) An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Planning Director and the Board of Adjustment.

(2) An application for appeal of an administrative decision shall be submitted in accordance with §155.702(C).

(3) A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Planning Director. The date and time of filing shall be entered on the notice.

(4) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

(C) *Appeal deadline.*

(1) An appeal of an administrative decision may be filed by the town, the owner or other person affected by the decision, or by a person with standing under G.S. 160D-1402. An appeal request by an owner or other person affected by the decision must be received by the Town Clerk within 30 days of receipt of written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

(a) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.

(D) *Notice and public hearings.* The town shall hold all required public hearings and give notice in accordance with § 155.702(D).

(E) *Action by Planning Director.* The Planning Director or designee shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(F) *Action by Board of Adjustment.*

(1) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

(2) A motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(3) If a motion to reverse or modify is not made, or a motion fails to receive a majority vote from Board members eligible to vote, then the appeal shall be denied.

(4) Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

(G) *Effect of appeal.*

(1) An appeal shall stay all proceedings in furtherance of the action appealed, unless the administrative official from who the appeal is taken certifies in an affidavit to the Board of Adjustment that, because of facts stated in the affidavit, a stay would, in their opinion, cause imminent peril to life or property or that because the violation is transitory in nature a stay would seriously interfere with the effective enforcement of this chapter. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrative official.

(2) An appeal shall not stop action lawfully approved (including construction activities authorized by a building permit); only actions presumed in violation of this chapter are stayed.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-05, passed 12-2-13; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.718 ZONING VESTED RIGHT.

(A) *Applicability.* The purpose of this section is to implement the provisions of G.S. § 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.

(B) *Establishment.*

(1) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Town Council, of a site specific vesting plan.

(2) The approving authority may approve a site specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.

(3) Notwithstanding (B)(1) and (2) of this section, approval of a site specific vesting plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.

(4) A site specific vesting plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.

(5) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements, but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the town, including, but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise applicable, new or amended regulations shall become effective with respect to property that is subject to a site specific vesting plan upon the expiration or termination of the vested right in accordance with this chapter.

(6) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific vesting plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

(7) A site specific vesting plan, specifically includes preliminary plats, site plans, construction plans, conditional zoning master plans, and special use permits.

(8) Substantial commencement of a development, as determined by the Planning Director and as it relates to establishment of a vested right, shall specifically include consideration of the following:

(a) The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than 30 days;

(b) The development has installed substantial on-site infrastructure;

(c) The development has received and maintained a valid building permit for the construction and approval of a building foundation.

(9) Even if work has substantially commenced, a development approval still expires if development work is discontinued for a period of more than 24 consecutive months, pursuant to G.S. § 160D-108.

(C) *Approval procedures.*

(1) Except as otherwise provided in this section, an application for site specific vesting plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

(2) Notwithstanding the provisions of (C)(1) of this section, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Town Council or Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Town Council or Board of Adjustment, following notice and a public hearing as provided in G.S. §160D-601.

(3) In order for a zoning vested right to be established upon approval of a site specific vesting plan, the applicant must indicate at the time of application, on a form to be provided by the town, that a zoning vested right is being sought.

(4) Each map, plat, site plan or other document evidencing a site specific vesting plan shall contain the following notation: "Approval of this plan established a zoning vested right under G.S. § 160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."

(5) Following approval or conditional approval of a site specific vesting plan, nothing in this chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

(6) Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this chapter.

(D) *Duration.*

(1) A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to (D)(2) of this section. This vesting shall not be extended to any amendments or modifications to a site specific vesting plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(2) Notwithstanding the provisions of (D)(1) of this section, the approval authority may provide that rights shall be vested for a period exceeding two years by not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size

of the development, the level of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific vesting plan is approved.

(3) Notwithstanding the provisions of (D)(1) of this section, a multi-phased development as defined in G.S. 160D-108(d)(4) shall be vested for the entire development and the vesting shall be valid for a period of seven years from the time a site plan is approved for the initial phase of the multi-phase development.

(4) Upon issuance of a building permit, the expiration provisions of G.S. § 160D- 403(c) and the revocation provisions of G.S. § 160D-403(f) shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

(E) *Termination.* A zoning right that has been vested as provided in this chapter shall terminate:

(1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(2) With the written consent of the affected landowner;

(3) Upon findings by the Town Council, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed was contemplated in the site specific vesting plan;

(4) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the city, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is cause by such action;

(5) Upon findings by the Town Council, by ordinance after notice and an evidentiary hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or

(6) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

(F) *Voluntary annexation.* A petition for annexation filed with the town under G.S. § 160A-31 or G.S. § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. § 160D-108. A statement that declares that no zoning vested right has been established under G.S. § 160D-108, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(G) *Limitations.* Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160D-108 or common law.

(H) *Repealer.* In the event that G.S. § 160D-108 is repealed, this chapter shall be deemed repealed and the provisions hereof no longer effective.

(I) *Effective date.* This chapter shall be effective and shall only apply to site specific vesting plans approved on or after November 18, 1991.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.719 RESERVED.

§ 155.720 ENFORCEMENT.

(A) *Enforcement of provisions.* The Planning Director, or his or her designee is charged with the enforcement of the provisions of this chapter. If the Planning Director or a designee finds that any of the provisions of this chapter are being violated, he or she shall notify in writing the persons responsible for such violations, indicating the nature of violation and ordering the actions necessary to correct it. They shall also take any other action authorized by this chapter to ensure compliance with or to prevent the violation of its provisions.

(B) *Applicability.*

(1) In accordance with G.S. § 160A-175 and § 10.98 of the Town's Code of Ordinances, any person violating any provision of this chapter must remedy the violation. Violations are considered a civil penalty, and violators are required to pay a separate penalty for each violation until the provisions of this chapter are met. Each day that a violation fails to comply with a provision of this chapter is considered a separate and distinct violation.

(2) In case a building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or a building, structure, or land is used in violation of this chapter, the Planning Director, or his or her designees, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation.

(3) In accordance with G.S. § 160D-807, "Penalties for Transferring Lots in Unapproved Subdivisions", any person who, being the owner or agent of the owner of any land located within the jurisdiction of the town, subdivides his land in violation of the subdivision requirements set forth in the Town's Unified Development Code, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved in accordance with the UDC and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the UDC.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2013-12-06, passed 12-2-13; Am. Ord. 2021-02-02, passed 2-15-21)

§ 155.721 TREE CLEARING CERTIFICATE.

(A) *Purpose*. This section implements the enabling legislation granted to the town by the North Carolina General Assembly. The purposes of these regulations are to:

(1) Protect existing trees and shrubs located upon undeveloped sites for use as future buffers and streetscapes to meet site and/or subdivision plan requirements;

(2) Preserve existing tree and vegetative cover to protect the health safety and welfare of the public by preserving the visual and aesthetic qualities of the town; maintaining property values; controlling erosion; and reducing sediment and other pollutant run-off into streams and waterways in an effort to protect water quality; and

(3) Create a process whereby some properties are required to obtain a tree clearing certificate, recognize some properties are exempted from the requirement to obtain a tree clearing certificate prior to the removal of vegetation, and establish penalties for removal of all or substantially all of the required vegetation within required vegetation protection areas.

(B) *Applicability*. The requirements for obtaining a tree clearing certificate and penalties for non-compliance are applicable to all undeveloped properties that are zoned for residential or nonresidential use located within the town limits and/or extraterritorial jurisdiction (ETJ). For the purposes of the section, ***UNDEVELOPED PROPERTIES*** shall include any property within the town's jurisdiction that is not the subject of an approved site and/or subdivision plan.

(C) *Exemptions*. A tree clearing certificate shall not be required for the activities listed below.

(1) Forestry activities on property that is taxed on the basis of its present-use value as agricultural, horticultural, or forestland under G.S. Ch. 105, Article 12, and forestry activity that is conducted in accordance with a forestry management plan prepared or approved by a forester registered pursuant to G.S. Ch. 89B, and provided such activities are accomplished in compliance with this section. In cases where all trees or substantially all trees are removed from the perimeter buffers described in division (D) of this section, the town will not grant a building permit and site and/or subdivision plan approval for said property for a period of three years following the harvest of such trees. The three-year waiting period may be waived if the Town Council, by a 3/4 vote, determines a project to be desirable and grants the right to immediate development on recently timbered land where no perimeter buffer was kept. For the purposes of this section, the term ***ALL OR SUBSTANTIALLY ALL*** shall mean 75% or more of the existing trees with a caliper of four inches or greater.

(2) Properties with a town-approved site and/or subdivision plan, provided such plan has not expired and that any clearing or vegetation removal is performed in strict accordance with the approved site and/or subdivision plan.

(3) The removal of vegetation by public or private agencies within the lines of any public street rights-of-way, utility easements, or other town property, as may be necessary to ensure public safety, to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to preserve or enhance the symmetry and beauty of such town property.

(4) The town-initiated or approved removal of any vegetation which is in an unsafe condition, constitutes a nuisance or noxious weed, or which by its nature is injurious to sanitary sewers, electrical power lines, gas lines, water lines, stream or conveyance channels, or other public improvements, or vegetation which is infected with any injurious fungus, insect, or other pest.

(5) The removal of vegetation on property located within an approved residential subdivision that is zoned for single-family use, and provided such vegetation is not a portion of a required streetscape or other landscaping buffer.

(6) The removal of vegetation on a lot of two acres or less. Subdivision of property to circumvent these requirements is not permitted.

(D) *Required buffers and vegetation.* Other than that necessary to gain reasonable access to the property, clearing and/or removal of trees and other vegetation shall be prohibited in the areas listed below. In situations where one or more buffer zones or vegetation protection areas overlap on the same site, then the more restrictive requirement shall apply.

(1) A perimeter buffer zone having a width of 50 feet as measured from all ultimate property boundaries that adjoin existing public roadways. For the purposes of this section, the term ***ULTIMATE PROPERTY BOUNDARY*** of a parcel or tract shall mean the final demarcation line around the perimeter of a parcel excluding all areas that must be dedicated to the town for use as rights-of-way.

(2) A perimeter buffer zone having a width of 50 feet as measured from all property boundaries that adjoin developed property or vacant property with an approved site and/or subdivision plan.

(3) A perimeter buffer zone having a width of 25 feet as measured from all property boundaries that adjoin undeveloped property or vacant property without an approved site and/or subdivision plan.

(4) Any other areas necessary for the protection of existing vegetation as indicated within this section (such as riparian buffers).

(5) Notwithstanding any requirements of this section, the area of the required perimeter buffer zones for any tract shall not exceed 20% of the area of the tract, net of public road rights-of-way, and any required conservation easements.

(E) *Application requirements*.

(1) An application for a tree clearing certificate may be filed only by all the owners of the property or by such owners' authorized agent.

(2) An application for a tree clearing certificate shall be filed with the Planning Department. The application form shall be accompanied by a Vegetation Protection Plan that shall include, at a minimum, the following information on a sheet size no larger than 24 by 36 inches at a minimum scale of one inch equals 50 feet:

(a) Vicinity map showing the location of the tract at a readable scale.

(b) A map of the entire tract, including the property boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all on-site and adjacent off-site easements (such as drainage, utility, public access, aerial utility, conservation, permanent and temporary construction easements).

(c) General information about the tract, including but not limited to the owner of the tract; the current zoning of the tract, the area of the tract, and the conditional use zoning conditions, planned unit development master plan requirements, if applicable.

(d) The location and use(s) of all existing building(s) on the tract.

(e) The owner, current zoning and present use of all contiguous properties (including property on opposite side of adjoining streets).

(f) The general classification of all existing and proposed adjacent roadways (as depicted in the Clayton Transportation Plan) and the ultimate right-of-way boundaries associated with these roadways.

(g) The location and width of all future/existing buffers and associated vegetation protection areas, including riparian buffers, perimeter buffers and perimeter streetscapes.

(h) The proposed limits of timbering activities, including the location and extent of all tree protection areas as required under § 155.402(H)(4).

(i) A survey of individual trees is not required.

(3) The Planning Director may reduce or waive the requirements for a Vegetation Protection Plan in situations where it can be demonstrated that all vegetation removal will take place outside of required vegetation protection areas.

(F) *Procedure*. Prior to the commencement of any vegetation clearing or removal on any undeveloped property, the owner or the owner's agent must demonstrate exemption from the requirements of this section, or submit the required application materials and applicable fees for a tree clearing certificate.

(1) Upon receipt of documentation that a property is exempted from obtaining a tree clearing certificate, the Planning Director shall review all materials and make a determination if a property is exempted from the requirements or if the requirements apply. In situations where exemption status is claimed based on forestry use, this documentation shall include proof that the property is taxed under the present-use value standard or a copy of the valid forestry management plan prepared or approved by a North Carolina registered forester. The decision of the Planning Director may be appealed to the Zoning Board of Adjustment pursuant to § 155.717.

(2) If a property is not exempted from the provisions pertaining to a tree clearing certificate, then such application materials shall include a Vegetation Protection Plan consistent with the requirements listed in division (E)(2) above.

(3) The Vegetation Protection Plan shall be reviewed by the Planning Director. The Director shall disapprove the Vegetation Protection Plan if he or she has concerns about the plan's ability to meet the standards of this section. In the event the Director disapproves the plan, an Administrative Appeal may be filed.

(4) An applicant for a tree clearing certificate shall be notified upon approval of the Vegetation Protection Plan, and shall be free to erect or install any and all barriers necessary to protect existing vegetation within required buffer areas and vegetation protection areas from damage during tree clearing and/or removal activities. Failure to protect these areas shall result in penalties as indicated in division (G) below.

(5) Once all barriers for the protection of existing vegetation have been installed, a property owner or agent shall request inspection of such barriers for compliance with the requirements of this section.

(6) Upon a passing inspection of vegetation protection barriers, the Director shall issue a tree clearing certificate, and authorized vegetation clearing and/or removal may commence.

(7) An approved tree clearing certificate shall be valid for a period of not more than 12 months from the date of issuance.

(G) *Non-compliance*.

(1) Failure to comply with the provisions of this section shall constitute a violation of this section, and shall subject an offending party to a series of actions, including the payment of fines, delay in site and/or subdivision plan approval or building permit issuance, and the requirement to double the amount of required vegetation as would typically be required during the site and/or subdivision plan review and approval process. The following table summarizes the penalties for non-compliance with this section.

(2) An "X" in a particular cell indicates that the associated penalty applies:

Penalties for Non-Compliance				
Type of Violation	***Payment of Fines***	***Review of All Subsequent Site and/or Subdivision Plans by Town Council***	***Three-Year Delay in Approval of Building Permit or Site and/or Subdivision Plan***	***Landscaping Requirements Doubled During Site and/or Subdivision Plan Review***
Property is exempt from tree clearing certificate requirements, but all or substantially all vegetation within required buffers and/or vegetation protection areas is removed		X	X	X
Property owner obtains a tree clearing certificate, but removes some of the vegetation within a required buffer and/or tree protection area	X			X
Property is not exempt from tree clearing certificate requirements, but property owner obtains no certificate, and removes some of the vegetation within a required buffer and/or tree protection area	X	X		X

Property is not exempt from tree clearing certificate requirements, but property owner obtains no certificate and removes all or substantially all of the vegetation within a required buffer and/or tree protection area	X	X	X	X

(Ord. 2006-07-03, passed 7-17-06; Am. Ord. 2021-02-02, passed 2-15-21)

ARTICLE 8: DEFINITIONS

§ 155.800 GENERAL.

(A) Words used in the present tense include the future tense.

(B) Words used in the singular number include the plural, and words used in the plural include the singular.

(C) The word "shall" is always mandatory and not merely directory.

(D) The words "day" or "days" shall refer to calendar days and shall be computed by excluding the first day and including the last day, unless the last day is a Saturday or Sunday or a holiday declared by the United States Congress or the State of North Carolina, in which event it shall also be excluded.

(E) Any term not herein defined shall be as defined elsewhere in the Town Code of Ordinances or, if not defined elsewhere in the Town Code of Ordinances, as defined in Webster's New International Dictionary, most recent edition.

(F) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-05-01, passed 5-21-12)

§ 155.801 ABBREVIATIONS.

ANSI: American National Standards Institute

BMP: Best Management Practices

BOA: Board of Adjustment

DAS: Distributive Access System

dbh: Diameter at Breast Height

DDA: Downtown Development Association

DENR: Department of Environment and Natural Resources (now known as Department of Environmental Quality)

DEQ: North Carolina Department of Environmental Quality

ETJ: Extraterritorial Jurisdiction

FAA: Federal Aviation Administration

FAR: Floor Area Ratio

FCC: Federal Communications Commission

FEMA: Federal Emergency Management Agency

FIRM: Flood Insurance Rate Map

GFA: Gross Floor Area

NCDOT: North Carolina Department of Transportation

NIER: Non-Ionizing Electromagnetic Radiation

PAAB: Public Arts Advisory Board

PB: Planning Board

PD: Planning Director

PW: Public Works Director

RF: Radio Frequency

TIA: Traffic Impact Analysis

TC: Town Council

TOD: Thoroughfare Overlay District

TRC: Technical Review Committee

UDC: Unified Development Code

USDA: United States Department of Agriculture

USGS: United States Geologic Survey

WP: Watershed Protection Overlay.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-05-01, passed 5-21-12; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2018-05-05, passed 5-21-18)

§ 155.802 DEFINED TERMS.

ABUTTING. A property that directly touches another piece of property.

ACCESSORY STRUCTURE. A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. A subordinate dwelling unit, garage, carport or storage shed are all examples of accessory structures.

ACREAGE, GROSS. Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

ACREAGE, NET. Land area excluding streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

ADJACENT. Property abutting directly on the boundary of, touching, or sharing a common point.

ADMINISTRATIVE DECISION. Pursuant to G.S. § 160D-102, decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in G.S. Ch. 160D or local government development regulations. These are sometimes referred to as "administrative determinations."

ADMINISTRATIVE HEARING. Pursuant to G.S. § 160D-102, a proceeding to gather facts needed to make an administrative decision.

ALLEY. A public or private vehicular way providing service access along rear or side property lines of lots which are also served by one of the other listed street types.

ALTERATION. Any change, addition, or modification in construction or occupancy of an existing structure.

ANTENNA. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, internet, microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority.

APPLICANT. Any person, firm, or corporation requesting approval of any land-use, development, or improvement application, or similar entitlement regulated by the municipal code.

APPROVAL AUTHORITY. The Town Council, Planning Board, Board of Adjustment or other board or official designated by ordinance or this chapter as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

BUFFER. Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically and visually separate one use or property from another in order to mitigate the impacts of noise, light, or other nuisance.

BUFFER, STREAM. An area of natural or planted vegetation surrounding and running parallel to a stream or waterway specifically defined by 15A NCAC 02B.0714.

BUILDING. Pursuant to G.S. § 160D-102, any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING COVERAGE. The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings. Building coverage does not include paved areas such as driveways, uncovered porches or patios, decks, swimming pools or pool cages, or roof overhangs of less than three feet.

BUILDING SEPARATION. The required separation between any two buildings.

CALIPER. The diameter of plant material, measured at six inches above grade for calipers of up to four inches, and 12 inches above grade for larger calipers.

CLEARANCE. The shortest distance between two objects that must be maintained clear and free from obstructions or another specific identified object(s).

CO-LOCATION. The use of a wireless telecommunication support facilities by more than one wireless telecommunication provider for the provision of wireless services without increasing the height of the tower or structure.

CONDITIONAL ZONING. Pursuant to G.S. Ch. 160D, a legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

CONDOMINIUM. A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis. For the purposes of development and use regulation, condominiums are treated as apartments.

CONSTRUCTION. On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not restricted to, clearing of land, earthmoving, blasting and landscaping.

CROSSWALK. A public pedestrian right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

CUL-DE-SAC (COMMERCIAL, RESIDENTIAL). A short street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

DEDICATION. The transfer of ownership without payment or other interest in real property from a private entity to a public agency.

DENSITY. The number of dwelling units permitted per acre of land.

DEVELOPMENT. The construction, erection, alteration, enlargement. renovation, substantial repair, movement to another site, or

demolition of any structure. The excavation, grading and filling, clearing, or alteration of land. The subdivision of land as defined in G.S. § 160D-802. The initiation or substantial change in the use of land or the intensity of use of land.

DEVELOPMENT APPROVAL. An administrative or quasi-judicial approval made pursuant to G.S. Ch. 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to G.S. Ch. 160D including plat approvals, permits issued, development agreements entered into, and building permits issued.

DRIVEWAY. A private roadway located on a parcel or lot used for vehicle access.

DWELLING. Pursuant to G.S. § 160D-102, a building that contains one or more dwelling units used, intended, or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.

DWELLING UNIT. Pursuant to G.S. § 160D-102, a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

EASEMENT. A grant of one or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

ELECTRONIC GAMING OPERATION. Any business or enterprise where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, skill or sweepstakes, and where cash, merchandise or anything else of value is redeemed or otherwise distributed or placed on an account or other record, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. ***ELECTRONIC GAMING OPERATIONS*** may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations, cybercafes, business centers, or by whatever other terminology such establishment might be known. ***ELECTRONIC GAMING OPERATION*** does not include any lottery approved by the State of North Carolina. This definition does not include video arcade games as defined under § 155.303(A) Indoor Entertainment.

EVIDENTIARY HEARING. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation, pursuant to G.S. § 160D-102.

EXTRATERRITORIAL JURISDICTION (ETJ). An area outside the Town of Clayton's town limit delineated on the Official Zoning District Map. Pursuant to the North Carolina General Statues, the Town enforces the following regulations within the ETJ: zoning ordinance; subdivision regulations and the North Carolina State Building Code.

FENCE. An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth.

FLOOR AREA, GROSS. The sum of the gross horizontal area of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes basement floors, attic floor space, halls, closets, stairwells, space devoted to mechanical equipment, and enclosed porches. Gross Floor Area also includes all outside storage areas.

FLOOD FRINGE AREA. That area of the floodplain lying outside the floodway but still lying within the area of special flood hazard, that is, within the 100-year floodplain.

FLOODPLAIN. As defined in Town of Clayton Code of OrdinancesChapter 151.

FLOODWAY. The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the 100-year flood without a significant increase in the base flood elevation.

FOOD TRUCK. A food truck is a mobile food service establishment that prepares and serves food and/or beverages for sale to the general public on a recurring basis from a truck, vehicle-mounted, or vehicle-towed piece of equipment designed to be readily moved.

FRONTAGE, BUILDING. The straight-line length of any building or store which fronts upon a public street, a customer parking area, or pedestrian mall and which has one or more entrances to the main part of the building or store. If specified, this may also apply to the equivalent distance on another lot line, such as side.

FRONTAGE, LOT. The distance for which the front boundary line of the lot and the street line are coincident. If specified, this may also apply to the equivalent distance on another lot line, such as side.

FRONTAGE, STREET. See ***LOT FRONTAGE***. Not to be confused with "Frontage Road", which is a type of physical street occurring near a thoroughfare.

GREENWAY. A linear, multi-use (pedestrian, bicycle) trail, generally with a finished surface of asphalt or concrete, providing passive and active recreational opportunities. Greenways are built according to the Town of Clayton Manual of Specifications Standard and Design.

GROUND COVER. Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

HAZARDOUS MATERIAL. Any substance that, because of its 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 the environment.

HOME OCCUPATION. An occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

HOUSEHOLD. A domestic establishment including a member or members of a family or others living under the same roof.

IMPERVIOUS SURFACE. Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.

INFRASTRUCTURE. Streets, water lines, sewers lines and other public facilities necessary to the functioning of a community.

JUNK. Any scrap, waste, worn out, discarded material or debris collected or stored for destruction, disposal or some other use.

LAND DISTURBING ACTIVITY. Any use of land in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin, and is deposited elsewhere.

LANDSCAPE PLAN. A plan associated with a subdivision, land development, or parking facility plan indicating the placement of landscape materials, including specifications, species, quantities, and method of installation.

LANDSCAPING. The area within the boundaries of a given a lot that consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

LEGISLATIVE HEARING. Pursuant to G.S. § 160D-102, a hearing to solicit public comment on a proposed legislative decision.

LIVESTOCK. Grazing animals kept either in open fields or structures for training, boarding, home use, sales, or breeding and production, including but not limited to: cattle, riding and draft horses, hogs, sheep, goats, miniature horses, llamas, and alpacas.

LOADING, OFF-STREET. An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, materials and merchandise.

LOCAL STREET NETWORK. System of local streets that include commercial streets, collector streets, residential collectors, cul-de sacs, and alleys.

LOT. A portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development or both.

LOT AREA. The horizontal area within the exterior lines of the lot, exclusive of any area in a public or private way open to public uses.

LOT, CORNER. A lot having at least two adjacent sides that abut for their full length upon streets. Both such lot lines shall be considered front lot lines.

LOT, DOUBLE FRONTAGE. A continuous or through lot of the same depth as the width of a block, and which is accessible from both of the streets upon which it fronts.

LOT, FLAG. A lot that has access to a public right-of-way by means of a narrow strip of land.

LOT, NONCONFORMING. See ***NONCONFORMING LOT***.

LOT OF RECORD. A lot which is part of a subdivision recorded in the Office of the Register of Deeds of Johnston County or Wake County, as appropriate, or a lot described by metes and bounds, the description of which has been so recorded.

LOT WIDTH. Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the street yard along a straight line parallel to the front of the property line or along the chord of the front property line.

MULTI-FAMILY RESIDENTIAL. A building or portion thereof containing 3 or more dwelling units, including condominiums, apartments, and townhomes with shared parking, with varying arrangements of entrances and party walls.

NET ACREAGE, NET GROSS. Land area with streets, rights-of-way, driveways which serve as access to more than two units or uses, and major transmission lines not included in its measurement.

NONCONFORMITY. A condition that occurs when, on the effective date of adoption of this code or a previous ordinance or on the effective date of an ordinance text amendment or rezoning, an existing lot, structure, building, sign, development, or use of an existing lot or structure does not conform to one or more of the regulations currently applicable to the district.

NONCONFORMING LOT (OF RECORD). A recorded lot described by a plat or a deed that does not meet the minimum lot size or other development requirements.

NONCONFORMING SITE ELEMENT. A nonconforming site element is a feature of or on which existed or was lawfully established prior to this chapter being adopted or amended. Site elements include but are not limited to access, parking, pedestrian amenities, landscaping, signage, and lighting.

NONCONFORMING STRUCTURE. A nonconforming structure is a structure that was lawfully established on a property prior to this chapter being adopted or amended, but does not conform with the square footage, density, yard, dimensional, height, lot coverage, or other dimensional or structural provision of this chapter.

NONCONFORMING USE. A nonconforming use is the use of land, buildings, or structures that was lawfully established on a property prior before this chapter was adopted or amended, but does not conform to the use regulations of this chapter.

OUTDOOR STORAGE. The keeping of personal or business property or motor vehicles in a required open parking space or any other area outside of a building for a period of time exceeding 72 consecutive hours.

OUTPARCEL. An area located within a non-residential development that may share common parking and circulation areas with other buildings or parcels, but is usually situated as its own parcel and is separated from anchor buildings by parking and circulation areas.

OWNER. Any person having charge of any real property according to the records held by the Register of Deeds.

PARCEL. A continuous plot of recorded land in the possession of or owned by any individual or group of individuals.

PARKING LOT. An off-street area used for the storage of motor vehicles on a temporary, daily, or overnight basis.

PARKING SPACE. An off-street area designed to accommodate the parking of one vehicle.

PERVIOUS SURFACE COVERAGE. Ground treatments which will allow the infiltration of water, air and nutrients to root systems of adjacent plant material which lie directly under the ground treatment.

PLANTING AREA. The area within the boundaries of a given a lot consists of planting materials, including but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

PLAT. A map or plan of a parcel of land which is to be or which has been subdivided.

QUASI-JUDICIAL DECISION. Pursuant to G.S. § 160D-102, decision involving the findings of fact regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation.

RESOURCE CONSERVATION AREA. An area set aside for the conservation of natural, archeological or historic resources.

RIGHT-OF-WAY. An area or strip of land, either public or private, on which an irrevocable right-of- passage has been recorded for the use

of vehicles or pedestrians or both.

ROAD. See ***STREET***.

ROAD, FRONTAGE. A street, parallel and adjacent to a major or minor thoroughfare, which provides access to abutting properties, protection from through traffic, and control of access to the major or minor thoroughfare. Not to be confused with “Street Frontage”, which is a measurement of distance.

SCREENING. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

SETBACK. A line delineating the minimum allowable distance between the property line or right-of-way line and a building on a lot, within which no building, significant development, or other structure shall be placed except as otherwise provided. Wherever property lines and right-of-way lines both occur, the most restrictive setback distance on the lot shall prevail.

SEWER SYSTEM, PUBLIC. An off-site system for the treatment and disposal of sewage in which sewage is conveyed by interceptor to a publicly operated treatment plant.

SIGN. Exclusive of architectural features, any words, lettering, figures, numerals, emblems, devices, trademarks, or trade names, or any combination thereof, by which anything is made known and which is designed to attract attention or to convey a message.

SINGLE FAMILY RESIDENTIAL. A single detached dwelling unit located on a single lot with private yards on all four sides. See also “Single Family Detached House”, in § 155.301(D).

SITE. A continuous plot of land to be developed as a single project. A site may contain multiple parcel or lots.

SITE AREA. Site area shall be the total land area of the proposed development. A site may include multiple parcels or lots.

SITE AREA, NET. Net site area shall mean the total gross area of the parcel, minus any resource conservation areas.

SITE ELEMENT, NONCONFORMING. See ***NONCONFORMING SITE ELEMENT***.

SITE PLAN. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but not be limited to site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to project and site plan review.

SPECIAL USE. A use that meets the intent and purpose of the zoning district but which requires the review and approval by Town Council to ensure that any adverse impacts on adjacent uses, structures, or public services and facilities that may be generated are mitigated.

SPECIAL USE PERMIT. Pursuant to G.S. § 160D-102, a permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards.

STATE. The State of North Carolina.

STORMWATER CONTROL MEASURE (SCM). "Stormwater Control Measure" or "SCM," also known as "Best Management Practice" or "BMP," means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof as defined in 15A NCAC 02H.1002.

STREAM. A body of concentrated flowing water in a natural low area or natural channel on the land surface.

STREAM BUFFER. See ***BUFFER, STREAM***.

STREAM, INTERMITTENT. A watercourse that collects surface runoff and is shown as a dashed blue line on the most recent United States Geologic Survey (USGS) 7½-minute quadrangle topographic maps, is shown as an intermittent stream on the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as an intermittent stream on the Natural Resource Conservation Service (NRCS) maps.

STREAM, PERENNIAL. A watercourse that collects surface runoff and is shown as a solid blue line on the most recent USGS 7½-minute quadrangle topographic maps, is shown as a perennial stream on maps in the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as a perennial stream on the Natural Resource Conservation Service (NRCS) maps.

STREET, COLLECTOR . A street whose principal function is to carry traffic between residential collectors, residential streets, cul de-sacs and major and minor thoroughfares, but that may also provide direct access to abutting properties. It is designed to carry more than 3,500 but less than 6,000 trips per day. Typically, a collector is able to serve, directly or indirectly, between 350 and 600 dwelling units.

STREET, COMMERCIAL. A multi-lane, street connecting to major or minor thoroughfares designed to accommodate large volumes (in excess of 6,000 trips per day) of traffic at moderate speeds while also providing, as a major part of its function, direct access to nonresidential or mixed use high trip generating land uses.

STREET, PRIVATE. Any road or street that is not publicly owned and maintained and used for access by the occupants of the development, their guests, and the general public.

STREET, PUBLIC. A dedicated and accepted public right-of-way for vehicular traffic and access to abutting property.

STREET, RESIDENTIAL. A street whose principal function is to provide access to adjacent properties.

STREET, RESIDENTIAL COLLECTOR. A street which serves as a connector street between residential streets, cul-de-sacs and major and minor thoroughfares. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

STRUCTURE, NONCONFORMING. See ***NONCONFORMING STRUCTURE***.

THOROUGHFARE, MAJOR. Major streets, excluding freeways but not excluding limited access facilities that provide for the expeditious movement of large volumes of traffic within and through the urban area. A street serving the principal network for high volumes of traffic or high speed traffic as shown on the town's Transportation Plan. This street type consists of at least two travel lanes in each direction. A major thoroughfare shall be designated where the anticipated average daily volume exceeds 10,000 vehicles.

THOROUGHFARE, MINOR. Streets that perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Such streets may be used to supplement the major thoroughfare system by facilitating minor through movements and may also serve abutting property. A street designed primarily to collect and distribute traffic between the local street network and major thoroughfares as shown on the town's Transportation Plan. This street type generally consists of more than one travel lane in each direction. A minor thoroughfare shall be designated where the anticipated average daily volume ranges exceeds 6,000 vehicles.

TOWN. The Town of Clayton, North Carolina.

TRANSPORTATION PLAN. A map approved by the Town Council that indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation.

UNIFIED DEVELOPMENT CODE. Chapter 155 of the Town Code of Ordinances, as adopted by Town Council.

USE, NONCONFORMING. See ***NONCONFORMING USE***.

VARIANCE. Permission which is granted by the Board of Adjustment to deviate from zoning requirements when strict enforcement of certain provisions of the Unified Development Code would cause undue hardship because of circumstances unique to the individual property for which the variance is granted.

WATER SUPPLY, PUBLIC. A publically owned system of pipes, structures and facilities through which a water supply is obtained, treated, sold and distributed for human consumption or household use.

WATERSHED. All of the land area draining to a particular point on a water course or to a water body.

YARD, FRONT, (ALSO KNOWN AS STREET YARD). An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the front line of the lot and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the front line of the lot. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

YARD, REAR. An open space on the same lot with a main building, unoccupied except as hereinafter permitted, extending the full width of lot and situated between the rear line of lot and the rear line of the building.

YARD, SIDE (INTERIOR), (ALSO KNOWN AS INTERIOR YARD). A side yard located immediately adjacent to another zoning lot or to any alley separating such side yard from another zoning lot.

YARD, SIDE (STREET), (ALSO KNOWN AS STREET SIDE YARD). The area extending between the front yard and the rear yard or rear street yard and situated between the side street lot line and the face of the principal building which is parallel to, or most nearly parallel to, the side lot line.

ZONING DISTRICT. A part, zone, or geographic area within the Town or its Extraterritorial Jurisdiction (ETJ) where certain zoning and development regulations apply.

ZONING VESTED RIGHT. The right to undertake and complete development and use of property under the terms and conditions of an approval secured as specified in G.S. § 160D-108 or under common law.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2009-08-01, passed 8-3-09; Am. Ord. passed 5-21-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2016-04-04, passed 4-4-16; Am. Ord. 2017-01-01, passed 1-3-17; Am. Ord. 2017-04-06, passed 4-3-17; Am. Ord. 2021-02-02, passed 2-15-21; Am. Ord. 2022-04-03, passed 4-18-22)

APPENDIX A: TECHNICAL DRAWINGS

[Click here to view a PDF of the images]

APPENDIX B: PLAT CERTIFICATION FORMS

[Click here to view a PDF of the images]

CHAPTER 156: SOIL EROSION AND SEDIMENTATION CONTROL

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GENERAL PROVISIONS

§ 156.001 TITLE.

This chapter shall be known and may be cited as the Town of Clayton Soil Erosion and Sedimentation Control Ordinance.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.002 PURPOSE.

This chapter is adopted for the purposes of:

(A) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and

(B) Establishing procedures through which these purposes can be fulfilled.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.003 DEFINITIONS.

As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

ACCELERATED EROSION. Any increase over the rate of natural erosion as a result of land-disturbing activity.

ACT. The North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.

ADEQUATE EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE. One which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

AFFILIATE. A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

APPROVING AUTHORITY. The division or other state or local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provision of the Act.

BEING CONDUCTED. A land-disturbing activity has been initiated and not deemed complete by the approving authority.

BORROW. Fill material that is required for on-site construction that is obtained from other locations.

BUFFER ZONE. The strip of land adjacent to a lake or natural watercourse.

COMMISSION. The North Carolina Sedimentation Control Commission.

COMPLETION OF CONSTRUCTION OR DEVELOPMENT. No further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

DEPARTMENT. The North Carolina Department of Environmental Quality (DEQ).

DIRECTOR. The Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.

DISCHARGE POINT OR POINT OF DISCHARGE. That point where runoff leaves a tract of land where a land disturbing activity has occurred or enters a lake or natural watercourse.

ENERGY DISSIPATOR. A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

EROSION. The wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.

GROUND COVER. Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

LAKE OR NATURAL WATERCOURSE. Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond.

LAND-DISTURBING ACTIVITY. Any use of the land by any person in residential, industrial, education, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

LOCAL GOVERNMENT. Any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.

NATURAL EROSION. The wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

PARENT. An affiliate that directly, or indirectly through one or more intermediaries, controls another person.

PERSON. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

PERSON CONDUCTING THE LAND-DISTURBING ACTIVITY. Any person who may be held responsible for violation unless expressly provided otherwise by this chapter, the Act, or any order adopted pursuant to this chapter or the Act.

PERSON WHO VIOLATES OR VIOLATOR. As used in G.S. § 113A-64, means:

(1) Any landowner or other person who has financial or operational control over the land-disturbing activity; or

(2) Who has directly or indirectly allowed the activity, and who has failed to comply with the provisions of the Act, the rules of this chapter, or any order or local ordinance adopted pursuant the Act, as it imposes a duty upon that person.

PLAN. An erosion and sedimentation control plan.

PROGRAM ADMINISTRATOR. Town Engineer or Town Engineer's designee.

SEDIMENT. Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

SEDIMENTATION. The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

SILTATION. Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

STORM DRAINAGE FACILITIES. The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

STORMWATER RUNOFF. The runoff of water resulting from precipitation in any form.

SUBSIDIARY. An affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

TEN-YEAR STORM OR Q10. A rainfall of an intensity that, based on historical data, is predicted, by a method acceptable to the approving authority, to be equaled or exceeded, on the average, once in ten years, or the probability (10%) of a storm of this magnitude occurring in any given year and of a duration which will produce the maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.

TOWN. The Town of Clayton, NC; both town limits and extra territorial jurisdiction (ETJ).

TRACT. All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

TWENTY-FIVE YEAR STORM OR Q25. A rainfall of an intensity that, based on historical data, is predicted, by a method acceptable to the approving authority, to be equaled or exceeded on the average, once in 25 years, or the probability (4%) of a storm of this magnitude occurring in any given year and of a duration which will produce the maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.

UNCOVERED. The removal of ground cover from, on, or above the soil surface.

UNDERTAKEN. The initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

VELOCITY. The speed of flow through a cross section perpendicular to the direction of the main channel at the peak flow of the storm of interest but not exceeding bank full flows.

WASTE. Surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.004 SCOPE AND EXCLUSIONS.

(A) *Geographical scope of regulated land-disturbing activity.* This chapter shall apply to land-disturbing activity within the territorial jurisdiction of the town and to the extraterritorial

jurisdiction of the town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

(B) *Exclusions from regulated land-disturbing activity.* Notwithstanding the general applicability of this chapter to all land-disturbing activity, this chapter shall not apply to the following types of land-disturbing activity:

(1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

(a) Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.

(b) Dairy animals and dairy products.

(c) Poultry and poultry products.

(d) Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.

(e) Bees and apiary products.

(f) Fur producing animals.

(g) Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.

(2) An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this chapter shall apply to such activity and any related land-disturbing activity on the tract.

(3) An activity for which a permit is required under the Mining Act of 1971, G.S. Chapter 74, Article 7.

(4) A land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in § G.S. 113A-56(a).

(5) An activity which is essential to protect human life during an emergency.

(6) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.

(7) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2

(C) *Plan approval requirement for land-disturbing activity.* No person shall undertake any land-disturbing activity subject to this chapter without first obtaining a plan approval from the town.

(D) *Protection of property.* Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

(E) *More restrictive rules shall apply.* Whenever conflicts exists between federal, state, or local laws, ordinance, or rules, the more restrictive provision shall apply.

(F) *Plan approval exceptions.* Notwithstanding the general requirement to obtain a plan approval prior to undertaking land-disturbing activity, a plan approval shall not be required for land-disturbing activity that does not exceed one acre (43,560 square feet) in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.005 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY.

No land-disturbing activity subject to the control of this chapter shall be undertaken except in accordance with the following mandatory standards:

(A) *Buffer zone*; *standard buffer.* No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity.

(1) *Projects on, over or under water.* This standard shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

(2) *Buffer measurement.* Unless otherwise provided, the width of a buffer zone is measured horizontally from the top of bank to the nearest edge of the disturbed area, with the 25% of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

(B) *Graded slopes and fills.* The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 14 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

(C) *Fill material.* Unless a permit from the Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding 12 inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.

(D) *Ground cover.* Whenever land-disturbing activity is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Provisions for a ground cover sufficient to restrain erosion must be accomplished within 14 calendar days following completion of construction or development if an NCG01 permit is required. Unless where otherwise specified in the Act or the rules of this chapter, provisions for permanent ground cover sufficient to restrain erosion shall be accomplished within 90 calendar days following completion of construction or development.

(E) *Prior plan approval.* No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless, 30 or more days prior to initiating the activity, a plan for the activity is filed with and approved by the town. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved.

(F) *De-watering.* The town shall forward to the Director of the Division of Water Resources a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

(G) The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

(H) All individuals that obtain a state or locally-approved erosion and sedimentation control plan that disturb one acre or more of land are required by the U.S. Environmental Protection Agency to obtain coverage under the N.C. Department of Environmental Quality Construction General Permit No. NCG010000 (NCG01). The requirements in NCG01 for temporary or permanent ground cover may differ from the ground cover, or stabilization, requirements in this chapter. It is the responsibility of the person conducting the land-disturbing activity to ensure compliance with the NCG01.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.006 EFFECTIVE DATE.

This chapter becomes effective on January 1, 2021.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.007 SEVERABILITY.

If any section or section or sections of this chapter is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.008 INJUNCTIVE RELIEF.

(A) *Violation of local program.* Whenever the Program Administrator has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the town, or any term, condition, or provision of an approved plan, it may, either before or after the institution of any other action or proceeding authorized by this chapter, institute a civil action in the name of the town, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Johnston County Superior Court.

(B) *Abatement of violation.* Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this chapter.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.009 RESTORATION AFTER NON- COMPLIANCE.

The town, may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. § 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this chapter.

(Ord. 2020-09-07, passed 9-21-20)

EROSION AND SEDIMENTATION CONTROL PLANS

§ 156.020 PLAN SUBMISSIONS.

A plan shall be prepared for all land-disturbing activities subject to this chapter whenever the proposed activity will disturb more than one acre on a tract. Plans should be submitted per current town standard procedures and policies.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.021 FINANCIAL RESPONSIBILITY AND OWNERSHIP.

(A) Plans shall be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible; (2) the owner of the land; and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this chapter, or rules or orders adopted or issued pursuant to this chapter. Except as provided in § 156.022 and § 156.030, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

(B) Plans shall be disapproved unless accompanied by documentation of property ownership.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.022 UTILITIES.

If the applicant is not the owner of the land to be disturbed and the anticipated land- disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.023 SURETY.

A surety will be required in the form of a performance bond or a letter of credit. The surety will ensure that stabilization of the site is achieved throughout the disturbed area in the event the contractor is unable to complete the project and shall be paid to the town prior to the issuance of the land disturbance (grading) permit. The surety shall be equal to $1500/acre of land disturbance rounded to the nearest half acre. This surety will be released once a certificate of completion is issued by the town. A certificate of completion will be provided when the site is stabilized with a sufficient amount of ground cover to prevent erosion, or permanent mow-able planting with 100% coverage and 80% growth with no large bare patches. The town may cash the surety if the site is issued a continuing violation notice for ground stabilization.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.024 ENVIRONMENTAL POLICY ACT DOCUMENT.

Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (G.S. § 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The town shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to this chapter shall not begin until a complete environmental document is available for review.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.025 CONTENT.

The plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this chapter. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the town on request.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.026 TIMELINE FOR DECISIONS ON PLANS.

The town will review each complete plan submitted to them and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a complete plan within 30 days of receipt shall be deemed approval. The Town of Clayton will review each revised plan submitted to them and within 15 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a revised plan within 15 days of receipt shall be deemed approval.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.027 APPROVAL.

The town shall only approve a plan upon determining that it complies with all applicable state and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The town shall condition approval of plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. Plan approval is contingent on land-disturbing activity commencing within a year of permit issuance. If after a year no land disturbing activity has occurred, permit and plan approval shall be void. Once the land disturbance (grading) activity has commenced, the permit is valid for two years from the date of commencement. Permit renewal is required if the project has not been completed by the two-year expiration date and is valid for an additional year from original expiration date previously established with the commencement of the land disturbance. The permit renewal application must be submitted prior to expiration of the original permit, otherwise, a new plan submittal and permit shall be required. The permit renewal fee is listed in the town's fee schedule.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.028 DISAPPROVAL FOR CONTENT.

The town may disapprove a plan or draft plan based on its content. A disapproval based upon a plan's content must specifically state in writing the reasons for disapproval.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.029 OTHER DISAPPROVALS.

(A) The town shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The town may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under § 156.030 upon finding than an applicant or a parent, subsidiary, or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or the town pursuant to this subchapter and has not complied with the notice within the time specified in the notice.

(2) Has failed to pay a civil penalty assessed pursuant to this subchapter or a local chapter adopted pursuant to this subchapter by the time the payment is due.

(3) Has been convicted of a misdemeanor pursuant to G.S. § 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this subchapter.

(4) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to this subchapter.

(B) In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the town pursuant to §156.029, the local government shall so notify the Director of the Division of Energy, Mineral, and Land Resources within ten days of the disapproval. The town shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of § 156.030(A), the applicant may appeal the local government's disapproval of the plan directly to the Commission.

(C) For purposes of this section, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.030 PLAN APPEALS.

(A) The appeal of a disapproval or approval with modifications of a plan shall be governed by the following provisions:

(1) The disapproval or modification of any proposed plan by the town, shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing to the Town Clerk within 15 days after receipt of written notice of disapproval or modifications.

(2) A hearing held pursuant to this section shall be conducted by the Town Council, within 30 days after the date of the request for a hearing.

(3) The Town Council shall make recommendations to the Program Administrator, within 30 days after the date of the hearing on any plan.

(4) The Program Administrator, will render its final decision on any plan within 15 days of receipt of the recommendations from the Town Council.

(5) If the town upholds the disapproval or modification of a proposed plan following the hearing, the person submitting the plan shall then be entitled to appeal the town's decision to the Commission as provided in G.S. § 113A-61(c) and 15A NCAC 4B.0118(d).

(B) In the event that a plan is disapproved pursuant to §156.029, the applicant may appeal the town's disapproval of the plan directly to the Commission.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.031 TRANSFERS.

The town administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this section.

(A) The town may transfer a plan if all of the following conditions are met:

(1) The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.

(2) The town finds all of the following:

(a) The plan holder is one of the following:

1. A natural person who is deceased.
2. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
3. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
4. A person who has sold the property on which the permitted activity is occurring or will occur.

(b) The successor-owner holds title to the property on which the permitted activity is occurring or will occur.

(c) The successor-owner is the sole claimant of the right to engage in the permitted activity.

(d) There will be no substantial change in the permitted activity.

(B) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

(C) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

(D) Notwithstanding changes to law made after the original issuance of the plan, the town may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this section shall prevent the town from requiring a revised plan pursuant to G.S. § 113A-54.1(b).

(Ord. 2020-09-07, passed 9-21-20)

§ 156.032 NOTICE OF ACTIVITY INITIATION.

No person may initiate a land-disturbing activity before notifying the agency that issued the plan approval of the date that land-disturbing activity will begin.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.033 PRECONSTRUCTION CONFERENCE.

When deemed necessary by the town a preconstruction conference may be required and shall be noted on the approved plan.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.034 DISPLAY OF PLAN APPROVAL.

A plan approval issued under this subchapter shall be prominently displayed at either the primary entrance of the job site or at another location that is observable to the public and inspectors until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A paper copy of the approved plan shall be kept on file at the job site.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.035 REQUIRED REVISIONS.

After approving a plan, if the town, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the town shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved plan, the town determines that the plan is inadequate to meet the requirements of this chapter, the town may require any revision of the plan that is necessary to comply with this chapter.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.036 AMENDMENT TO A PLAN.

Applications for amendment of a plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the town, the land-disturbing activity shall not proceed except in accordance with the plan as originally approved.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.037 FAILURE TO FILE A PLAN.

Any person engaged in land-disturbing activity who fails to file a plan in accordance with this chapter, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this chapter.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.038 FEES.

Fees for review and approval of plans and permits are determined by the, town's current fee schedule.

(Ord. 2020-09-07, passed 9-21-20)

INSPECTIONS

§ 156.050 SELF INSPECTIONS.

(A) The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. § 113A-57(2). In addition, weekly and rain-event self-inspections are required by federal regulations that are implemented through the NPDES Construction General Permit No. NCG 010000. The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation; and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this section shall be in addition to inspections required by G.S. § 113A-61.1.

(B) Where inspections are required by division (A) of this section or G.S. § 113A-54.1(e), the following apply:

(1) The inspection shall be performed during or after each of the following phases of a plan:

(a) Installation of all erosion and sediment control measures;

(b) Clearing and grubbing of existing ground cover;

(c) Completion of any grading that requires ground cover;

(d) Completion of storm drainage facilities;

(e) Completion of all land-disturbing activities, construction, or development, including permanent ground cover establishment and removal of all temporary measures;

(f) Quarterly until the establishment of permanent ground cover sufficient to restrain erosion;

(g) Transfer of ownership or control of the tract of land where the erosion and sedimentation control plan has been approved and work has begun. The new owner or person in control shall conduct and document inspections until the project is permanently stabilized as set forth in division (B)(1)(c) above.

(2) Documentation of self-inspections shall include:

(a) Visual verification of ground stabilization and other erosion control measures and practices as called for in the approved plan;

(b) Verification by measurement of settling basins, temporary construction entrances, energy dissipators, and traps;

(c) The name, address, organization affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection shall be included, whether on a copy of the approved erosion and sedimentation control plan or an inspection report. A template for an example of an inspection and monitoring report is provided on the DEMLR website at: https://deq.nc.gov/about/divisions/energy-minera lland-resources/erosion-sediment-control/forms. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site.

(d) A record of any significant deviation from any erosion or sedimentation control measure from that on the approved plan. For the purpose of this rule, a "significant deviation" means an omission, alternation, or relocation of an erosion or sedimentation control measure that prevents it from performing as intended. The record shall include measures required to correct the significant deviation, along with documentation of when those measures were taken. Deviations from the approved plan may also be recommended to enhance the intended performance of the sedimentation and erosion control measures.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.051 OTHER INSPECTIONS AND INVESTIGATIONS.

(A) *Inspection.* Agents, officials, or other qualified persons authorized by the town, will periodically inspect land-disturbing activities to ensure compliance with the Act, this chapter, or rules or orders adopted or issued pursuant to this chapter, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan.

(B) *Willful resistance, delay or obstruction.* No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the town, while that person is inspecting or attempting to inspect a land-disturbing activity under this section.

(C) *Notice of violation.* If the town determines that a person engaged in land-disturbing activity has failed to comply with the Act, this chapter, or rules, or orders adopted or issued pursuant to this chapter, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. § 1A-1, Rule 4. The notice shall specify a date by which the person must comply with the Act, or this chapter, or rules, or orders adopted pursuant to this chapter, and inform the person of the actions that need to be taken to comply with the Act, this chapter, or rules or orders adopted pursuant to this chapter. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. § 113A-64 and this chapter. If the person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the town shall deliver the notice of violation in person and shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program in the Department, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents. If the town is unable to deliver the notice of violation in person within 15 days following discovery of the violation, the notice of violation may be served in the manner prescribed for service of process by G.S. § 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures.

(D) *Investigation.* The town, shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this chapter, and who presents appropriate credentials for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.

(E) *Statements and Reports.* The town shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

(Ord. 2020-09-07, passed 9-21-20)

BASIC CONTROL OBJECTIVES

§ 156.065 OBJECTIVES.

An erosion and sedimentation control plan may be disapproved if the plan fails to address the following control objectives:

(A) *Identify critical areas.* On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

(B) *Limit time of exposure.* Limit exposure to the shortest time specified in G.S. § 113A-57, the rules of this chapter, or as directed by the approving authority.

(C) *Limit exposed areas.* All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at anyone time.

(D) *Control surface water.* Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

(E) *Control sedimentation.* All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.

(F) *Manage stormwater runoff.* Plans shall be designed so that any increase in velocity of stormwater runoff resulting from a land-disturbing activity will not result in accelerated erosion of the receiving stormwater conveyance or at the point of discharge. Plans shall include measures to prevent accelerated erosion within the project boundary and at the point of discharge.

(Ord. 2020-09-07, passed 9-21-20)

DESIGN AND PERFORMANCE STANDARDS

§ 156.075 DESIGN AND PERFORMANCE STANDARDS.

(A) Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of a ten-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture, Natural Resources Conservation Service's "National Engineering Field Handbook 630 (Handbook 630)." This document is herein incorporated by reference including subsequent amendments and editions, and may be accessed at no cost at https://www.nrcs.usda.gov/wps/portal/nrcs/detail full/national/water/manage/hydrology/?cid=stelp rdb 1043063. Other methodologies may be used if based on generally accepted engineering standards that are shown to be equivalent to or improved over the procedures in Handbook 630. The approving authority shall determine acceptability of an alternative methodology based upon a showing that the runoff model used was based on observed data in agreement with the predictive model.

(B) The Sedimentation Control Commission and DEQ have created and adopted a *North Carolina Erosion and Sedimentation Control Planning and Design Manual* describing recommended sedimentation control techniques for construction activities. This is an acceptable resource for design of the erosion control plan.

(Ord. 2020-09-07, passed 9-21-20)

STORMWATER OUTLET PROTECTION

§ 156.085 INTENT.

Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.086 PERFORMANCE STANDARD.

(A) Persons shall conduct land-disturbing activity so that the post construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

(1) The velocity established by the Maximum Permissible Velocities Table set out within this section; or

(2) The velocity of the ten-year storm runoff in the receiving watercourse prior to development.

(B) If condition of division (A)(1) or (A)(2) of this section cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by 10%.

(C) Table 1 - Maximum Permissible Velocities**:

Material	***F.P.S. (feet per second)***	***M.P.S. (meters per second)***
Material	***F.P.S. (feet per second)***	***M.P.S. (meters per second)***
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8
** Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.		

(Ord. 2020-09-07, passed 9-21-20)

§ 156.087 ACCEPTABLE MANAGEMENT MEASURES.

Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The town recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

(A) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff

from areas rendered impervious;

(B) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections:

(C) Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;

(D) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and

(E) Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.088 EXCEPTIONS.

This rule shall not apply where it can be demonstrated to the town that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

(Ord. 2020-09-07, passed 9-21-20)

OTHER DISTURBED AREAS

§ 156.100 BORROW AND WASTE AREAS.

If the same person conducts the land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, G.S. Ch. 74, Article 7, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered by the approving authority as separate land-disturbing activities.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.101 ACCESS AND HAUL ROADS.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

(Ord. 2020-09-07, passed 9-21-20)

NATURAL FEATURES

§ 156.115 OPERATIONS IN LAKES AND NATURAL WATERCOURSES.

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize changes in the stream flow characteristics. Permits shall be obtained by other regulatory authorities, such as DEQ and USACE, when applicable and prior to issuance of grading permit from the town.

(Ord. 2020-09-07, passed 9-21-20)

MAINTENANCE

§ 156.125 RESPONSIBILITY FOR MAINTENANCE.

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this chapter, the Act, or any order adopted pursuant to this chapter or the Act. After site development, the landowner or person in possession or control of the land shall maintain all necessary permanent stormwater post-construction measures per the town's NPDES Phase 2 permit, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.126 ADDITIONAL MEASURES.

Whenever the town, determines that accelerated erosion and sedimentation continues despite the installation of protective practices, they shall direct the person conducting the land-disturbing activity to take additional protective action necessary to achieve compliance with the conditions specified in the Act or its rules.

(Ord. 2020-09-07, passed 9-21-20)

§ 156.999 PENALTY.

(A) *Civil penalties.*

(1) *Civil penalty for a violation.* Any person who violates any of the provisions of this chapter, or rule or order adopted or issued pursuant to this chapter, or who initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty amount that the town may assess per violation is $5,000. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this section for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this section for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is $25,000.

(2) *Environmental impacts.* In addition to the civil penalties provided with the town's fee schedule, the Plan Administrator may assess a one-time civil penalty of $5,000 on the day of the violation for off-site sedimentation damage especially in the case of damage to a body of water, wetlands or buffer. Moreover, any malicious or intentional destruction of silt fencing or other sedimentation and erosion control device will result in a one-time fine of up to $1,000.

(3) *Repeat offender.* An additional civil penalty of $1,000 per day shall be charged to any person assessed a civil penalty for any violation of this chapter within the prior two years. A person may be assessed a civil penalty from the date the violation is detected if the deadline stated is not met. Each day of a continuing violation shall constitute a separate violation.

(4) *Civil penalty assessment factors.* The Program Administrator shall determine the amount of the civil penalty based upon the following factors:

(a) The degree and extent of harm caused by the violation;

(b) The cost of rectifying the damage;

(c) The amount of money the violator saved by noncompliance;

(d) Whether the violation was committed willfully; and

(e) The prior record of the violator in complying of failing to comply with this chapter.

(5) *Notice of civil penalty assessment.* The Program Administrator shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. § IA-1, Rule 4. A notice of assessment by the town shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the town or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to G.S. Chapter 150B and a stipulation of the facts on which the assessment was based.

(6) *Final decision.* The final decision on contested assessments shall be made by the Town Council in accordance with this chapter.

(7) *Appeal of final decision.* Appeal of the final decision by Town Council shall be to the Superior Court of Johnston County. Such appeals must be made within 30 days of the final decision of the Town Council.

(8) *Remission of civil penalties.* A request for remission of a civil penalty imposed under G.S. § 113A-64 may be filed with the Town Council within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to G.S. § 150B-31 and a stipulation of the facts on which the assessment was based. The following factors shall be considered in determining whether a civil penalty remission request will be approved:

(a) Whether one or more of the civil penalty assessment factors in G.S. § 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.

(b) Whether the petitioner promptly abated continuing environmental damage resulting from the violation.

(c) Whether the violation was inadvertent or a result of an accident.

(d) Whether the petitioner had been assessed civil penalties for any previous violations.

(e) Whether payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship.

(f) The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

(9) *Collection.* If payment is not received within 60 days after it is due, the town may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Johnston County Superior Court, or the County Superior Court of the violator's residence or principal place of business. Such civil actions must be filed within three years of the date the assessment was due. An assessment that is not contested and a remission that is not requested is due when the violator is served with a notice of assessment. An assessment that is contested or a remission that is requested is due at the conclusion of the administrative and judicial review of the assessment.

(10) *Credit of civil penalties.* The clear proceeds of civil penalties collected by the town under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. § 115C-457.2. Penalties collected by the town may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs, by the town for the prior fiscal year.

(B) *Criminal penalties.* Any person who knowingly or willfully violates any provision of this chapter, or rule or order adopted or issued by the Commission or the town or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed $5,000 as provided in G.S. § 113A-64.

(Ord. 2020-09-07, passed 9-21-20)

CHAPTER 158: STORMWATER MANAGEMENT

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GENERAL PROVISIONS

§ 158.001 TITLE.

This chapter shall be officially known as "The Stormwater Management Ordinance." It is referred to herein as "this chapter."

(Ord. 2020-11-01, passed 11-16-20)

§ 158.002 AUTHORITY.

The town is authorized to adopt this chapter pursuant to North Carolina law, including but not limited to:

(A) Article 14, Section 5 of the Constitution of North Carolina; Town of Clayton Charter;

(B) G.S. § 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2006-246; § 160A-174 and § 160A-185.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.003 FINDINGS.

(A) It is hereby determined that:

(1) Development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

(2) These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

(3) These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from

development sites.

(4) Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this chapter.

(B) Therefore, the town establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.004 PURPOSE.

(A) *General.* The purpose of this chapter is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment. It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

(B) *Specific.* This chapter seeks to meet its general purpose through the following specific objectives and means:

(1) Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;

(2) Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

(3) Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(4) Establishing design and review criteria for the construction, function, and use of structural stormwater SCMs that may be used to meet the minimum post-development stormwater management standards;

(5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;

(6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater SCMs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

(7) Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance;

(8) Coordinating site design plans that include open space and natural areas with the UDO Chapter 56, Article 5: Natural Resource Protection; and

(9) Assigning responsibility and processes for approving the creation and maintenance of adequate drainage.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.005 APPLICABILITY AND JURISDICTION.

(A) *General.* Beginning with and subsequent to its effective date, this chapter shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to division (C) of this section.

(B) *Establishment of vested right* (G.S. § 160A-385.1; G.S. § 160D-l08).

(1) A vested right shall be deemed established with respect to any property upon the valid approval, or conditional approval, of a site specific development plan or a phased development plan, following notice and public hearing by the town with jurisdiction over the property. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan or the phased development plan including any amendments thereto. The town may approve a site specific development plan or a phased development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The town shall not require a landowner to waive his vested rights as a condition of developmental approval. A site specific development plan or a phase development plan shall be deemed approved upon the effective date of the town's action or ordinance relating thereto.

(2) *Duration and termination of vested right.*

(a) A right which has been vested as provided for in this section shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the town.

(b) The town may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the town.

(C) *Exemptions.*

(1) *Thresholds.*

(a) Residential, single family or duplex, development and recreational facilities less than one acre in size, with no increase in number of lots, and is not part of a larger common plan of development or sale, and non-residential development less than one-half acre in size and no more than 24% impervious and is not part of a larger common plan of development or sale is exempt from the provisions of this chapter.

(b) Redevelopment of residential structures that results in no net increase in built-upon area and provides equal or greater stormwater

control than the previous development is exempt from the provisions of this chapter.

(c) Redevelopment of non-residential structures on less than one-half acre that is not part of a larger common plan of development or sale, and that results in a cumulative built-upon area of less than 24% and provides equal or greater stormwater control than the previous development is exempt from the provisions of this chapter.

(d) Development and redevelopment that disturb less than a stated area threshold are not exempt if such activities are part of a larger common plan of development or sale that exceeds the area threshold, even though multiple, separate or distinct activities take place at different times on different schedules.

(2) *General exemption.* Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this chapter.

(3) *Existing impervious.* Existing impervious surfaces established prior to November 1, 2008, as determined through aerial photography, permits, plans, etc. are exempt from the provisions of this chapter; however, if the impervious area limits are reduced after November 1, 2008 and the previously impervious area is reestablished as pervious for a period of one year or more, the impervious area is no longer exempt.

(D) *No development or redevelopment until compliance and permit.* No development or redevelopment shall occur except in compliance with the provisions of this chapter or unless exempted. No development for which a permit is required pursuant to this chapter shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(E) *Map.*

(1) The provisions of this chapter shall apply within the areas designated on the map titled "Stormwater Map of Town of Clayton, North Carolina", which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this chapter.

(2) The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this chapter and the geographic location of all structural SCMs permitted under this chapter. In the event of a dispute, the applicability of this chapter to a particular area of land or SCM shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.006 INTERPRETATION.

(A) *Meaning and intent.* All provisions, terms, phrases, and expressions contained in this chapter shall be construed according to the general and specific purposes set forth in § 158.004. If a different or more specific meaning is given for a term defined elsewhere in Clayton North Carolina Code of Ordinances, the meaning and application of the term in this chapter shall control for purposes of application of this chapter.

(B) *Text controls in event of conflict.* In the event of a conflict or inconsistency between the text of this chapter and any heading, caption, figure, illustration, table, or map, the text shall control.

(C) *Authority for interpretation.* The Stormwater Administrator has authority to determine the interpretation of this chapter. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within 30 days. The Stormwater Administrator shall keep on file a record of all written interpretations of this chapter.

(D) *References to statutes, regulations, and documents.* Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the Design Manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

(E) *Computation of time.* The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the town. References to days are calendar days unless otherwise stated.

(F) *Delegation of authority.* Any act authorized by this chapter to be carried out by the Stormwater Administrator may be carried out by his or her designee.

(G) *Usage.*

(1) *Mandatory and discretionary terms.* The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

(2) *Conjunctions.* Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions and events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.

(3) *Tense, plurals, and gender.* Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(H) *Measurement and computation.* Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.007 DEFINITIONS.

When used in this chapter, the following words and terms shall have the meaning set forth in this section, unless other provisions of this chapter specifically indicate otherwise.

BUILT-UPON AREA (BUA). That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. ***BUILT-UPON AREA*** does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

COMMON PLAN OF DEVELOPMENT. A site where multiple separate and distinct development activities may be taking place at different times on different schedules but governed by a single development plan regardless of ownership of the parcels. Information that may be used to determine a ***COMMON PLAN OF DEVELOPMENT*** include plats, blueprints, marketing plans, contracts, building permits, public notices or hearings, zoning requests, and infrastructure development plans.

CURB OUTLET SYSTEM. Curb and gutter with breaks or other outlets used to convey stormwater runoff to vegetated conveyances or other vegetated areas.

DESIGN VOLUME. The amount of stormwater runoff that an SCM or series of SCMs is designed to treat.

DEPARTMENT. The North Carolina Department of Environmental Quality.

DESIGN MANUAL. The stormwater design manual approved for use in Phase II jurisdictions by the Department for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the Design Manual are to the latest published edition or revision.

DEVELOPMENT. Any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

DIVISION. The Division means the Division of Energy, Mineral, and Land Resources.

HIGH DENSITY. More than 24% BUA or more than two dwelling units per acre.

LOW DENSITY. No more than 24% BUA or no more than two dwelling units per acre.

MDC. Minimum design criteria as set forth by the Department for stormwater control devices in the Design Manual.

NON-EROSIVE VELOCITY. The flow rate of water, usually measured in feet per second, that does not exceed the maximum permissible shear stress for the condition and type of soil and groundcover over which the water is flowing. Erosion occurs when the maximum permissible shear stress is exceeded.

NON-STRUCTURAL SCM. Preserved open space, natural systems and existing landscape utilized to manage stormwater at its source.

ONE-YEAR, 24-HOUR STORM. The maximum amount of rainfall during a 24 consecutive hour period expected, on average, to occur once a year. One-year, 24-hour storm depths are estimated by the National Oceanic and Atmospheric Administration (NOAA) Precipitation Frequency Data Server (PFDS), which is herein incorporated by reference, including subsequent amendments and editions, and may be accessed at no cost at http://hdsc.nws.noaa.gov/hdsc/pfdsj.

OWNER. The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. ***OWNER*** shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of ***OWNER*** under another description in this definition, such as a management entity.

PEAK ATTENUATION VOLUME. Stormwater runoff in excess of the design volume that is conveyed to an SCM where it is not treated in accordance with the applicable MDC, but is released by the SCM in a controlled manner to address potential downstream erosion and flooding impacts to meet federal, state, or local regulations beyond the requirements of this section.

PRIMARY SCM. A wet pond, stormwater wetland, infiltration system, sand filter, bio-retention cell, permeable pavement, green roof, rainwater harvesting, or an approved new stormwater technology that is designed, constructed and maintained in accordance with the MDC.

PROJECT. The proposed development activity for which an applicant is seeking a stormwater permit from the town in accordance with this section. ***PROJECT*** shall exclude any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, state, or local stormwater regulation. Owners and developers of large developments consisting of many linked projects may consider developing a master plan that illustrates how each project fits into the design of the large development.

REDEVELOPMENT. Any development on previously developed land, other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.

RUNOFF TREATMENT. Means that the volume of stormwater runoff generated from all of the built-upon area of a project at build-out during a storm of one inch in depth that is treated in one or more primary SCMs or a combination of primary and secondary SCMs that provides equal or better treatment.

RUNOFF VOLUME MATCH. The annual runoff volume after development shall not be more than 10% higher than the annual runoff volume before development.

SCM. Stormwater control measure; also known as BMP or best management practice; means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

STRUCTURAL SCM. A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural SCMs includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. ***STRUCTURAL SCM*** is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this chapter.

SUBSTANTIAL PROGRESS. For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. ***SUBSTANTIAL PROGRESS*** for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

TOWN. Town of Clayton, NC.

WORKING DAYS. Days exclusive of Saturday and Sunday and federal and state holidays observed by the town.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.008 DESIGN MANUAL.

(A) *Reference to Design Manual.*

(1) The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Design Manual as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater SCMs.

(2) The Design Manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II and other applicable stormwater laws.

(B) *Relationship of Design Manual to other laws and regulations.* If the specifications or guidelines of the Design Manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Design Manual.

(C) *Changes to standards and specifications.* If the standards, specifications, guidelines, policies, criteria, or other information in the Design Manual are amended subsequent to the submittal of an application for approval pursuant to this chapter but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this chapter with regard to the application.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.009 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS.

(A) *Conflict of laws.* This chapter is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

(B) *Private agreements.* This chapter is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this chapter are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this chapter shall govern. Nothing in this chapter shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this chapter. In no case shall the town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.010 SEVERABILITY.

If the provisions of any section, subsection, paragraph, subdivision or clause of this chapter shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this chapter.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.011 EFFECTIVE DATE.

This chapter shall take effect on January 1, 2021.

(Ord. 2020-11-01, passed 11-16-20)

ADMINISTRATION AND PROCEDURES

§ 158.025 REVIEW AND DECISION- MAKING ENTITIES.

(A) *Stormwater Administrator designation.* A Stormwater Administrator shall be designated by the town to administer and enforce this chapter.

(B) *Stormwater Administrator powers and duties.* In addition to the powers and duties that may be conferred by other provisions of the town and other laws, the Stormwater Administrator shall have the following powers and duties under this chapter:

(1) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this chapter.

(2) To make determinations and render interpretations of this chapter.

(3) To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Planning Board on applications for development or redevelopment approvals.

(4) To enforce the provisions of this chapter in accordance with its enforcement provisions.

(5) To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this chapter.

(6) To provide expertise and technical assistance to the Planning Board, upon request.

(7) To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

(8) To take any other action necessary to administer the provisions of this chapter.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.026 REVIEW PROCEDURES.

(A) *Permit required.* A stormwater permit is required for all development and redevelopment unless exempt pursuant to this chapter. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

(B) *Effect of permit.*

(1) A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including structural SCMs and elements of site design for stormwater management other than structural SCMs.

(2) The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this chapter, whether the approach consists of structural SCMs or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this chapter.

(C) *Authority to file applications.* All applications required pursuant to this code shall be submitted to the Stormwater Administrator by the land owner or the land owner's duly authorized agent.

(D) *Establishment of application requirements, schedule, and fees.*

(1) *Application contents and form.* The Stormwater Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this chapter.

(2) *Submission schedule.* The Stormwater Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications and that the various stages in the review process are accommodated.

(3) *Permit review fees.* The town shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

(4) *Administrative manual.* For applications required under this code, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this chapter, and information on how and where to obtain the Design Manual in an Administrative Manual, which shall be made available to the public.

(E) *Submittal of complete application.*

(1) Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

(2) An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this chapter, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

(F) *Review.* Within 20 working days after a complete application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this chapter.

(1) *Approval.* If the Stormwater Administrator finds that the application complies with the standards of this chapter, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this chapter. The conditions shall be included as part of the approval.

(2) *Fails to comply.* If the Stormwater Administrator finds that the application fails to comply with the standards of this chapter, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

(3) *Revision and subsequent review.*

(a) A complete revised application shall be reviewed by the Stormwater Administrator within 15 working days after its re-submittal and shall be approved, approved with conditions or disapproved.

(b) If a revised application is not re-submitted within 30 calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

(c) One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal shall be accompanied by a permit review fee additional fee, as established pursuant to this chapter.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.027 APPLICATIONS FOR APPROVAL.

(A) *Concept plan and consultation meeting.* Before a stormwater management permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, *Natural Resource Protection*, and other relevant resource protection plans should be consulted in the discussion of the concept plan. To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

(1) *Existing conditions/proposed site plans.* Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys; boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(2) *Natural resources inventory.* A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.

(3) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

(B) *Stormwater management permit application.*

(1) The stormwater management permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this chapter, including §§ 158.040 through 158.046. All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the Design Manual, and that the designs and plans ensure compliance with this chapter.

(2) The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to § 158.026(E)(2).

(C) *As-built plans and final approval.*

(1) Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed.

(2) The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed.

(3) Storm pipe systems should be included with pipe sizes and inverts, as well as structure tops and inverts.

(4) The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this chapter.

(5) A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

(D) *Other permits.* No certificate of compliance or occupancy shall be issued by the Town Inspections Division without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the Town Inspections Division may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.028 APPROVALS.

(A) *Effect of approval.* Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(B) *Time limit/expiration.*

(1) An approved plan shall become null and void if the applicant fails to make substantial progress on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

(2) In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.029 APPEALS.

(A) *Right of appeal.* Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this chapter made by the Stormwater Administrator, may file an appeal to the Planning Board within 30 days.

(B) *Filing of appeal and procedures.*

(1) Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by the town.

(2) The Stormwater Administrator shall transmit to the Planning Board all documents constituting the record on which the decision appealed from was taken.

(3) The hearing conducted by the Planning Board shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

(C) *Review by Superior Court.* Every decision of the Planning Board shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the latter of the following:

(1) The decision of the Planning Board is filed; or

(2) A written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Chair of the Planning Board at the time of its hearing of the case.

(Ord. 2020-11-01, passed 11-16-20)

STANDARDS

§ 158.040 GENERAL STANDARDS.

All development and redevelopment to which this chapter applies shall comply with the standards of this subchapter.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.041 DENSITY.

(A) *Calculation of project density.* The following requirements shall apply to the calculation of project density:

(1) Project density shall be calculated as the total built-upon area divided by the total project area;

(2) A project with existing development shall calculate project density as the difference of total built-upon area minus existing built-upon area divided by the difference of total project area minus existing built-upon area;

(3) Total project area shall exclude areas below the Normal High Water Line (NHWL); and

(4) On a case-by-case basis as determined by the town during application review, projects may be considered to have both high and low density areas based on one or more of the following criteria:

(a) Natural drainage area boundaries;

(b) Variations in land use throughout the project; and

(c) Construction phasing.

(B) *Design requirements.*

(1) *Low density projects.* Low density projects shall meet the following minimum design criteria:

(a) *Dispersed flow.* Projects shall be designed to maximize dispersed flow through vegetated areas and minimize channelization of flow;

(b) *Vegetated conveyances.* Stormwater that cannot be released as dispersed flow shall be transported by vegetated conveyances. A minimal amount of non-vegetated conveyances for erosion protection or piping for driveways or culverts under a road shall be allowed by the town when it cannot be avoided. Vegetated conveyances shall meet the following requirements:

1. Side slopes shall be no steeper than 5:1 (horizontal to vertical) unless it is demonstrated to the town that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and

2. The conveyance shall be designed so that it does not erode during the peak flow from the ten-year storm as demonstrated by engineering calculations.

(c) *Curb outlet systems.* Low density projects may use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:

1. The curb outlets shall be designed such that the swale or vegetated area can carry the peak flow from the ten-year storm at a non-erosive velocity;

2. The longitudinal slope of the swale or vegetated area shall not exceed 5%, except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;

3. The swale's cross-section shall be trapezoidal with a minimum bottom width of two feet;

4. The side slopes of the swale or vegetated area shall be no steeper than 5:1 (horizontal to vertical);

5. The minimum length of the swale or vegetated area shall be 100 feet.

(2) *High density projects.* High density projects shall meet the following minimum design criteria:

(a) *Treatment requirements.* SCMs shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in § 158.007.

(b) *Off-site stormwater.* Stormwater runoff from off-site areas and existing development shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in the sizing of on-site SCMs at its full built-out potential.

(c) *Off-site SCM.*

1. A project that controls runoff through an off-site SCM shall be allowed on a case-by-case basis as determined by the town if the off-site SCM meets the MDC for the specific device.

2. Legal documents are required for clarification of ownership and maintenance responsibilities.

3. Adequate access and maintenance easements are required to be recorded to a public right-of-way.

(d) *Expansion or replacement of existing development.* When new built-upon area is added to existing development or existing development is replaced with new built-upon area, only the area of net increase shall be subject to this subchapter.

(e) *MDC for SCMS.* SCMs shall meet the relevant MDC set forth in the Design Manual.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.042 IMPERVIOUS SURFACE REQUIREMENTS.

(A) *Setback requirement.*

(1) All impervious surfaces, except for roads, paths, and water dependent structures, shall be located at least 30 feet landward of all perennial and intermittent surface waters.

(2) A perennial or intermittent surface water shall be deemed present if the feature is shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent complete version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B.0233 (3)(a) or similar site-specific determination made using Division-approved methodology.

(B) *Development in protected area of water supply watersheds.* See § 155.501, Watershed Protection.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.043 STRUCTURAL STORMWATER CONTROL REQUIREMENTS.

(A) Owners of property subject to this chapter and required to install structural stormwater control measures shall implement those measures in compliance with each of the following standards:

(1) The measures shall control and treat runoff from the first inch of rain.

(2) The design volume shall take into account the runoff at build out from all surfaces draining to the system.

(3) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H.1050-1062, as explained in the Design Manual.

(4) Vegetated side slopes shall be no steeper than 3:1.

(5) The measure shall discharge the storage volume at a rate equal or less than the pre-development discharge rate for the one-year, 24-hour storm.

(6) Overflow or bypass devices for inflow volumes in excess of the treatment volume or peak attenuation volume, if applicable, shall be included.

(7) Each point of discharge from the development must be evaluated for attenuation needs. The post development runoff rate for the one-year, two-year, ten-year and 25-year, 24-hour storm events must be equal or less than the pre-development rates for the equivalent storm events at each point of discharge.

(8) The approval of the stormwater permit shall require enforceable restrictions on property usage that runs with the land, including recorded deed restrictions and protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

(B) The project shall meet either a nitrogen loading rate target of 3.6 pounds/acre/year or "runoff volume match". Proposed development projects that would replace or expand existing structures and result in a net increase in built-upon area shall meet one of these options for the project less any existing built-upon area.

(C) Proposed development undertaken by a local government solely as a public road expansion or public sidewalk project, or proposed development subject to the jurisdiction of the Surface Transportation Board, may meet the loading rate target of this item entirely through use of permanent nutrient offset credit pursuant to 15A NCAC 02B.0703.

(D) Where in satisfying the on-site requirements of division (A) of this section, a project does not meet the loading rate target of this section, it may do so through use of permanent nutrient offset credit pursuant to 15A NCAC 02B.0703. Persons doing so shall provide proof of credit acquisition to the town prior to issuance of the stormwater permit.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.044 STANDARDS FOR STORMWATER CONTROL MEASURES.

(A) *Evaluation according to contents of Design Manual.* All stormwater control measures, also known as SCMs, required under this chapter shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the Design Manual. The Stormwater Administrator shall determine whether proposed SCMs will be adequate to meet the requirements of this chapter.

(B) *Determination of adequacy; presumptions and alternatives.* Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Design Manual will be presumed to meet the minimum water quality and quantity performance standards of this chapter. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this chapter. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

(C) *Separation from seasonal high water table.* For SCMs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.

(D) *Required storm depth.* For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve "runoff volume match" in lieu of "runoff treatment."

(E) *Stormwater outlets.* Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the ten-year storm event as shown by engineering calculations.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.045 VARIATIONS FROM THIS SECTION.

The town shall have the option to approve projects that do not comply with all of the provisions of this subchapter on a case-by-case basis as follows:

(A) If the variation pertains to an SCM design that does not meet all of the MDC, then the applicant shall provide technical justification based on engineering calculations and the results of research studies showing that the proposed design provides equal or better stormwater control and equal or better protection of waters of the state than the requirements of this subchapter and that it shall function in perpetuity. The town shall have the option to require compliance with the MDC in the event that the alternative SCM design fails.

(B) If the variation pertains to other aspects of the project, then the applicant shall demonstrate that the project provides equal or better stormwater control and equal or better protection of waters of the state than the requirements of this subchapter.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.046 VARIANCES.

(A) Any person may petition the Town Council for a variance granting permission to use the person's land in a manner otherwise prohibited by this chapter. To qualify for a variance, the petitioner must show all of the following:

(1) Unnecessary hardships would result from strict application of this chapter.

(2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

(3) The hardships did not result from actions taken by the petitioner.

(4) The requested variance is consistent with the spirit, purpose, and intent of this chapter; will secure public safety and welfare; and will preserve substantial justice.

(B) The town may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(C) *Statutory exceptions.* Notwithstanding division (A) of this section, exceptions from the 3D-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

(1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCMs.

(2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCMs.

(3) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

(Ord. 2020-11-01, passed 11-16-20)

MAINTENANCE

§ 158.060 GENERAL STANDARDS FOR MAINTENANCE.

(A) *Function of SCMs as intended.* The owner of each structural and non-structural SCM installed pursuant to this chapter shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural SCM was designed.

(B) *Annual maintenance inspection and report.*

(1) The person responsible for maintenance of any structural and non-structural SCM installed pursuant to this chapter shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

(a) The name and address of the land owner;

(b) The recorded book and page number of the lot of each structural and non-structural SCM;

(c) A statement that an inspection was made of all structural and nonstructural SCMs;

(d) The date the inspection was made;

(e) A statement that all inspected structural and non-structural SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this chapter; and

(f) The original signature and seal of the engineer, surveyor, or landscape architect.

(2) All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as built certification.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.061 OPERATION AND MAINTENANCE AGREEMENT.

(A) *In general.*

(1) Prior to the conveyance or transfer of any lot or building site to be served by a structural SCM pursuant to this chapter, and prior to issuance of any permit for development or redevelopment requiring a structural SCM pursuant to this chapter, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural SCM in a form acceptable to the Stormwater Administrator. Until the transference of all property, sites, or lots served by the structural SCM, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

(2) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural SCM, and shall state the terms, conditions, and schedule of maintenance for the structural SCM. In addition, it shall grant to the town a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural SCM; however, in no case shall the right of entry, of itself, confer an obligation of the town to assume responsibility for the structural SCM. In the event the town directs the correction, repair, replacement, or maintenance of the system or structure in writing and the actions are not satisfactorily performed within a reasonable time (but not greater than 120 days), the town (or its contractors) may, after reasonable notice, enter the land and perform all the necessary work and may assess the owner of the facility with the cost of the work performed or the town can seize all or part of the escrow or other fund set aside by the applicant or owner for perpetual maintenance. The owner served by the facility shall be jointly responsible to the town for the maintenance of the facility and liable for any costs incurred by the town pursuant to the operation and maintenance agreement. All properties are jointly subject to the imposition of the liens for such costs.

(3) The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within 14 days following its recordation.

(B) *Special requirement for homeowners' and other associations.* For all structural SCMs required pursuant to this chapter and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

(1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

(2) Establishment of an escrow account acceptable to the town, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural SCMs. If structural SCMs are not performing adequately or as intended or are not properly maintained, the town, in its sole discretion, may remedy the situation, and in such instances the town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural SCMs, provided that the town shall first consent to the expenditure.

(3) Granting to the town a right of entry to inspect, monitor, maintain, repair, and reconstruct structural SCMs.

(4) Allowing the town to recover from the association and its members any and all costs the town expends to maintain or repair the structural SCMs or to correct any operational deficiencies. Failure to pay the town all of its expended costs, after45 days written notice, shall constitute a breach of the agreement. In case of a deficiency, the town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.

(5) A statement that this agreement shall not obligate the town to maintain or repair any structural SCMs, and the town shall not be liable to any person for the condition or operation of structural SCMs.

(6) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the town to enforce any of its ordinances as authorized bylaw.

(7) A provision indemnifying and holding harmless the town for any costs and injuries arising from or related to the structural SCM, unless the town has agreed in writing to assume the maintenance responsibility for the SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.062 INSPECTION PROGRAM.

(A) Inspections and inspection programs by the town may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in SCMs; and evaluating the condition of SCMs.

(B) If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. § 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.063 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE.

(A) *Required.* The town requires the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the structural SCMs are installed by the permit holder as required by the approved stormwater management plan.

(B) *Amount.* The amount of an installation performance security shall be the total estimated construction cost of the SCMs approved under the permit, plus 25%.

(C) *Uses of performance security.*

(1) *Forfeiture provisions.* The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this chapter, approvals issued pursuant to this chapter, or an operation and maintenance agreement established pursuant to this chapter.

(2) *Default.* Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural SCM in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the

security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the town shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

(D) *Costs in excess of performance security.* If the town takes action upon such failure by the applicant or owner, the town may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

(E) *Refund.* Within 60 days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the SCMs covered by the security. Any such landscaping shall be inspected one year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.064 NOTICE TO OWNERS.

(A) *Deed recordation and indications on plat.* The applicable operations and maintenance agreement and conservation easement, pertaining to every structural and non-structural SCM shall be referenced on the final plat and shall be recorded with the County Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable shall be recorded with the County Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

(B) *Signage.* Where appropriate in the determination of the Stormwater Administrator to assure compliance with this chapter, structural SCMs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.065 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES.

The owner of each structural SCM shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.066 NUISANCE.

The owner of each stormwater SCM, whether structural or non-structural SCM, shall maintain it so as not to create or result in a nuisance condition.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.067 MAINTENANCE EASEMENT.

(A) Every structural SCM installed pursuant to this chapter shall be made accessible for adequate maintenance and repair by a maintenance easement accessible to a public right-of-way. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.

(B) Maintenance access easements shall not have lateral or incline slopes that exceed 3:1 (horizontal to vertical).

(Ord. 2020-11-01, passed 11-16-20)

ENFORCEMENT AND VIOLATIONS

§ 158.080 GENERAL.

(A) *Authority to enforce.* The provisions of this chapter shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of the town. Whenever this subchapter refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of the town.

(B) *Violation unlawful.* Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this chapter, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this chapter, is unlawful and shall constitute a violation of this chapter.

(C) *Each day a separate offense.* Each day that a violation continues shall constitute a separate and distinct violation or offense.

(D) *Responsible persons/entities.* Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, SCM, practice, or condition in violation of this chapter shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this chapter, or fails to take appropriate action, so that a violation of this chapter results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs. For the purposes of this subchapter, responsible person(s) shall include but not be limited to:

(1) *Person maintaining condition resulting in or constituting violation.* An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this chapter, or fails to take appropriate action, so that a violation of this chapter results or persists.

(2) *Responsibility for land or use of land.* The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.081 REMEDIES AND PENALTIES.

The remedies and penalties provided for violations of this chapter, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(A) *Remedies.*

(1) *Withholding of certificate of occupancy.* The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(2) *Disapproval of subsequent permits and development approvals.* As long as a violation of this chapter continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Town Planning Board may disapprove, any request for permit or development approval or authorization provided for by this chapter or the zoning, subdivision, and/or building regulations, as appropriate, for the land on which the violation occurs.

(3) *Injunction, abatements, etc.* The Stormwater Administrator, with the written authorization of the Town Manager, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this chapter. Any person violating this chapter shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

(4) *Correction as public health nuisance, costs as lien, etc.* If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by G.S. § 160A-193, the Stormwater Administrator, with the written authorization of the Town Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) *Stop work order.* The Stormwater Administrator may issue a stop work order to the person(s) violating this chapter. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

(B) *Civil penalties.* Violation of this chapter may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of penalty .allowed by law.

(C) *Criminal penalties.* Violation of this chapter may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

(Ord. 2020-11-01, passed 11-16-20)

§ 158.082 PROCEDURES.

(A) *Initiation/complaint.* Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

(B) *Inspection.* The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this chapter.

(C) *Notice of violation and order to correct.*

(1) When the Stormwater Administrator finds that any building, structure, or land is in violation of this chapter, the Stormwater Administrator shall notify, in writing, the property owner or other person violating this chapter. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

(2) The Stormwater Administrator may deliver the notice of violation and correction order personally, by the Town Police Department, by Town Code Enforcement Officer, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by G.S. § 1A-1, Rule 4.

(3) If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this chapter to correct and abate the violation and to ensure compliance with this chapter.

(D) *Extension of time.* A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 30 days. The Stormwater Administrator may grant 15-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this chapter. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(E) *Enforcement after time to correct.* After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this chapter.

(F) *Emergency enforcement.* If delay in correcting a violation would seriously threaten the effective enforcement of this chapter or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this subchapter.

(Ord. 2020-11-01, passed 11-16-20)

§ 51.03 GENERAL EXTENSION REQUIREMENTS.

(C) In accordance with G.S. § 160A-317, any property proposing to develop within the town limits and within the limits outlined in the Unified Development Ordinance~~300 linear feet~~ of any water line or sewer collection line owned, leased as lessee, or operated by the town or on behalf of the town shall extend and connect, unless it is determined by the town, in its sole discretion, that connection to the property is not feasible. The minimum distance for the extension of water mains or sewer mains shall be determined as outlined in the Unified Development Ordinance, but no less than 300 feet. ~~by the town.~~ In general, the minimum distance for extension shall be one platted block, or in the case of water mains, from main line valve to valve, and in the case of sanitary sewers, from manhole to manhole. However, in no case shall water and sewer lines be extended less than the entire length of the developer's property and to adjacent parcels.

Regular Town Council Meeting
Agenda Cover Sheet

Meeting Date	Agenda Location
October 16, 2023	OLD BUSINESS

Item Title

Amendment to Lumen (Copper District) Elevated Storage Tank Option to Purchase (PUT) Agreement and Acceptance of American Rescue Plan (ARP) Funds

Presenter(s)

Joshua Baird, PE, CFM - Engineering Director

Suggested Action

Approval of Agreement
Suggested Action (2): Adoption of Resolution - Acceptance of $4M ARPA

Strategic Priorities Alignment

☐ Think Clayton (Administrative)	☐ Think Arts & Culture	☐ Think Downtown	☐ Think Economic Development	☐ Think Land Use & Housing	☐ Think Mobility	☐ Think Parks, Recreation & Natural Resources	☒ Think Public Services & Infrastructure

Public Hearing: No

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

☐ Public Hearing (Required by GS)
☐ Public Hearing (Not Required by GS)
☐ Newspaper Notice (Required by GS)
☐ Newspaper Notice (Not Required by GS)
☐ Public Forum/Input Session
☐ Press Release
☐ E-News Distribution
☐ Website

☐ Social Media
☐ Special Mailing
☐ Survey
☐ None Required

Summary

In 2021, staff requested American Rescue Plan (ARP) funds for improvements to the Town's water storage infrastructure. The Town was allocated $4,000,000 via S.L. 2021-180. Staff originally anticipated constructing additional storage within the Town's North Water Distribution System (Riverwood area). With recent changes to the North Water System disinfection process, updated hydraulic modeling, and a plan to eventually combine water systems, staff recommend modifying the existing Lumen (Copper District) PUT agreement and utilizing the ARP funds towards the proposed 1,000,000 gallon elevated storage tank to be built on the Copper District site. To do so, the Town would need to manage the construction project internally instead of the developer managing the construction and the Town purchasing the tank as outlined in the existing agreement. Staff propose the developer pay a fee-in-lieu of $1.7 million for their projects share of the storage and then 100% of the cost of the upgrading lighting and architectural package. Staff request approval of the amendment and authorization for Town Manager or designee to execute the amendment in its substantial form pending final legal review of language. Additionally, staff request approval of the resolution to formally accept the $4,000,000 in ARP funds.

Funding Source

N/A

Corresponding Documentation

Water Tower Option and PUT Agreement, Nov 2021

Clayton_SRP-D-ARP-0342_Funding Offer_230808

Resolution (ARPA) 10-16-23 (TOC Updates)

1st Amendment EST (JPC v2 09262023)jbb

Submitted By: Joshua Baird, Engineering

Reviewed By:

Joshua Baird, Engineering Director	Approved - Oct 11 2023
Rich Cappola, Town Manager	Approved - Oct 11 2023
Heidi Holland, Town Clerk	Approved - Oct 11 2023

WATER TOWER OPTION AND PUT AGREEMENT

THIS WATER TOWER OPTION AND PUT AGREEMENT, dated as of November 16, 2021 (this "**Agreement**"), is by and among Davis Park Leasing, LLC, a North Carolina limited liability company ("**DPL**") and the Town of Clayton, North Carolina, a municipal corporation of the State of North Carolina (the "**Town**").

WHEREAS, DPL owns +/- 74 acres of land located in the Town of Clayton, Johnston County, North Carolina, as described on **Exhibit A** attached hereto and incorporated herein (the "Property"); and

WHEREAS, DPL has agreed to provide certain elements to the Town related to the Property and its development; and

WHEREAS, DPL and the Town wish to enter into this Agreement in order to effectuate those provisions and to otherwise set forth certain rights and obligations among the parties.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

Section 1. Water Tower Construction. DPL shall construct a water tower (the "**Tower**") to be located on the Property in the location depicted on **Exhibit B** attached hereto and incorporated herein (the "**Tower Site**"), and, prior to any subdivision of the Property, a metes and bounds description of the Tower Site shall be delivered to the Town. The Tower shall be constructed pursuant in all aspects to the plans and specifications as set forth on **Exhibit C** attached hereto and incorporated herein. DPL shall perform the construction in a professional and workman-like manner and in accordance with (i) all permits and approvals obtained in connection therewith, and (ii) all applicable laws, codes, ordinances, rules and regulations.

Section 2. Option. For a period of thirty-six (36) months following the Town's issuance of a certificate of occupancy for the Tower (the "**Option Period**") and upon not less than thirty (30) days' written notice to DPL (the "**Option Notice**"), the Town shall have the exclusive right and option (the "**Option**") to purchase the Tower and the Tower Land (as defined herein) from DPL. The exercise price for the Tower and the Tower Land shall be an amount in cash or other immediately available funds equal to the lesser of (i) the actual, documented hard and soft costs of design and construction of the Tower including all reasonable and customary

costs and expenses associated therewith, and (ii) $6,500,000.00 (the "**Purchase Price**"). The Town shall pay the Purchase Price to DPL on the closing date (the "**Option Closing**"), which shall be set forth in the Option Notice, and which Option Closing shall be no more than sixty (60) days following the exercise of the Option. During Option Period, DPL shall not transfer, sale, or otherwise dispose of the Tower or the Tower Land without the prior written consent of the Town.

Section 3. Put. Notwithstanding the Option set forth above, during the Option Period and upon not less than thirty (30) days' written notice to the Town (the "**Put Notice**"), DPL shall have the right and option, but not the obligation, to require the Town to purchase the Tower and the Tower Land (the "**Put Right**") at the Purchase Price. The Town shall pay the Purchase Price to DPL on the closing date (the "**Put Closing**"), which shall be set forth in the Put Notice, and which Put Closing shall be no more than sixty (60) days following the exercise of the Put Right.

Section 4. Conveyance Documents. Upon either of the Option Closing or Put Closing, the Tower along with the +/- 40,205 square feet situated immediately thereunder (the "**Tower Land**") shall be conveyed to the Town pursuant to a special warranty deed (the "**Deed**"), which Deed shall contain a restriction prohibiting any repainting of the Tower whatsoever for a period of ten (10) years following either of the Option Closing or Put Closing except as may be strictly necessary in connection with the Town's maintenance and repair of the Tower. Notwithstanding the foregoing, the Town shall not alter the color or design of the Tower in any aspect during the pendency of DPL's ownership of the Property. At Closing, the parties shall as applicable also record a form of easement agreement governing the dedication and acceptance of the Tower as well as access rights necessary to effectuate the Town's ongoing maintenance and repair of the Tower.

Section 5. Notices. All notices, requests, demands, claims and other communications required or permitted to be delivered, given or otherwise provided under this Agreement must be in writing and must be delivered, given or otherwise provided: (a) by hand (in which case, it will be effective upon delivery); (b) by facsimile (in which case, it will be effective upon receipt of confirmation of good transmission); (c) by registered or certified first-class mail, return receipt requested (in which case, it will be effective on the fifth (5th) business day after being so mailed); or (d) by overnight delivery by a nationally recognized courier service (in which case, it will be effective on the business day after being deposited with such courier service); in each case, to the address (or facsimile number) listed below:

If to DPL, to:

Davis Park Leasing, LLC
c/o Craig Davis Properties, Inc.
8000 Weston Parkway, Suite 360
Cary, NC 27513
Attn: Craig M. Davis

with a copy (which shall not constitute notice) to:

Morningstar Law Group
421 Fayetteville Street, Suite 530
Raleigh, NC 27601

Attention: Amanda S. Bambrick
abambrick@morningstarlawgroup.com

Each of the parties to this Agreement may specify different address or facsimile number by giving notice in accordance with this Section 6 to each of the other parties hereto.

Section 6. Succession and Assignment. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, each of which such successors and permitted assigns will be deemed to be a party hereto for all purposes hereof. The Town may not assign, delegate or otherwise transfer either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval DPL. DPL shall have the right to assign its rights under this Agreement to any person or entity.

Section 7. Amendments and Waivers. No amendment or waiver of any provision of this Agreement will be valid and binding unless it is in writing and signed by the parties hereto, or in the case of a waiver, by the party against whom the waiver is to be effective. No waiver by any party of any breach or violation or, default under any covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent breach, violation, default of any covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No delay or omission on the part of any party in exercising any right, power or remedy under this Agreement will operate as a waiver thereof.

Section 8. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute but one and the same instrument.

Section 9. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. In the event that any provision hereof would, under applicable law, be invalid or unenforceable in any respect, each party hereto intends that such provision will be construed by modifying or limiting it so as to be valid and enforceable to the maximum extent compatible with, and possible under, applicable law.

Section 10. Governing Law. This Agreement, the rights of the parties and all claims arising in whole or in part under or in connection herewith, will be governed by and construed in accordance with the domestic substantive laws of the State of North Carolina, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any other jurisdiction.

Section 11. Jurisdiction. Each party to this Agreement, by its execution hereof, (a) hereby irrevocably submits to the exclusive jurisdiction of the state courts of the State of North Carolina located in Raleigh or the United States District Court for the Eastern District of North Carolina for the purpose of any action between the parties arising in whole or in part under or in connection with this Agreement, (b) hereby waives to the extent not prohibited by applicable law, and agrees not to assert, by way of motion, as a defense or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts.

Section 12. Specific Performance. Each of the parties acknowledges and agrees that the other parties would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached or violated. Accordingly, each of the parties agrees that, without posting bond or other undertaking, the parties will be entitled to an injunction or injunctions to prevent breaches or violations of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof. This remedy shall be in addition to any other remedy to which it may be entitled, at law or in equity. Each party further agrees that, in the event of any action for specific performance in respect of such breach or violation, it will not assert that the defense that a remedy at law would be adequate.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the parties hereto as of the day and year first above written.

DPL

Davis Park Leasing, LLC,
a North Carolina limited liability company

By: Craig M. Davis
Name: Craig M. Davis
Title: MANAGER

TOWN

Town of Clayton, North Carolina,
a municipal corporation of the State of North Carolina

By:
Name: Jody L. McLeod
Title: Mayor - Town of Clayton

Exhibit A

The Property

Being the same property as the property described in Deed Book 3561 on Pages 948 and shown as "Tract 3" on Plat Book 72, Page 361 & Plat Book 76, Page 85 of the Johnston County Registry.
Clayton Township, Johnston County, North Carolina.

Being all that certain land more particularly described as follows:

BEGINNING at an Existing 2" Iron Pipe at the northwest corner of the property now or formerly owned by Joseph Christopher Johnson, et al (NC PIN# 164800-81-7856/ Book 4711, Page 595), also see Plat Book 82, Page 234, also being a common corner with Ezra Lee Penny, et al (NC PIN# 164800-72-2724 / Book 5585, Page 167), and Matthew R. Pooley, et al (NC PIN# 164800-82-6369 / Book 4421, Page 716), and having NC Grid Coordinates: Northing – 682,147.62', Easting – 2,148,063.54'; thence with the line of Joseph Christopher Johnson, et al South 01°03'08" West a distance of 471.66 feet to an Existing 1/2" Iron Pipe at the northern Right of Way of U.S. Highway 70 Bypass, a variable width, controlled access R/W; thence with the R/W of U.S. Highway 70 Bypass the following two (2) calls: North 86°09'16" West a distance of 54.42 feet to an Existing R/W Disk; thence along a curve turning to the right with an arc length of 622.65', with a radius of 5,383.69', with a chord bearing of North 81°48'05" West, with a chord length of 622.31', to an Existing R/W Disk at the corner of Ezra Lee Penny, et al; thence with the line of Ezra Lee Penny, et al the following two (2) calls: North 01°06'19" East a distance of 390.74 feet to an Existing 2" Iron Pipe; thence South 89°01'13" East a distance of 671.47 feet to the point of BEGINNING, containing an area of 294,639 square feet, or 6.76 acres, more or less.

Exhibit B

The Tower Location

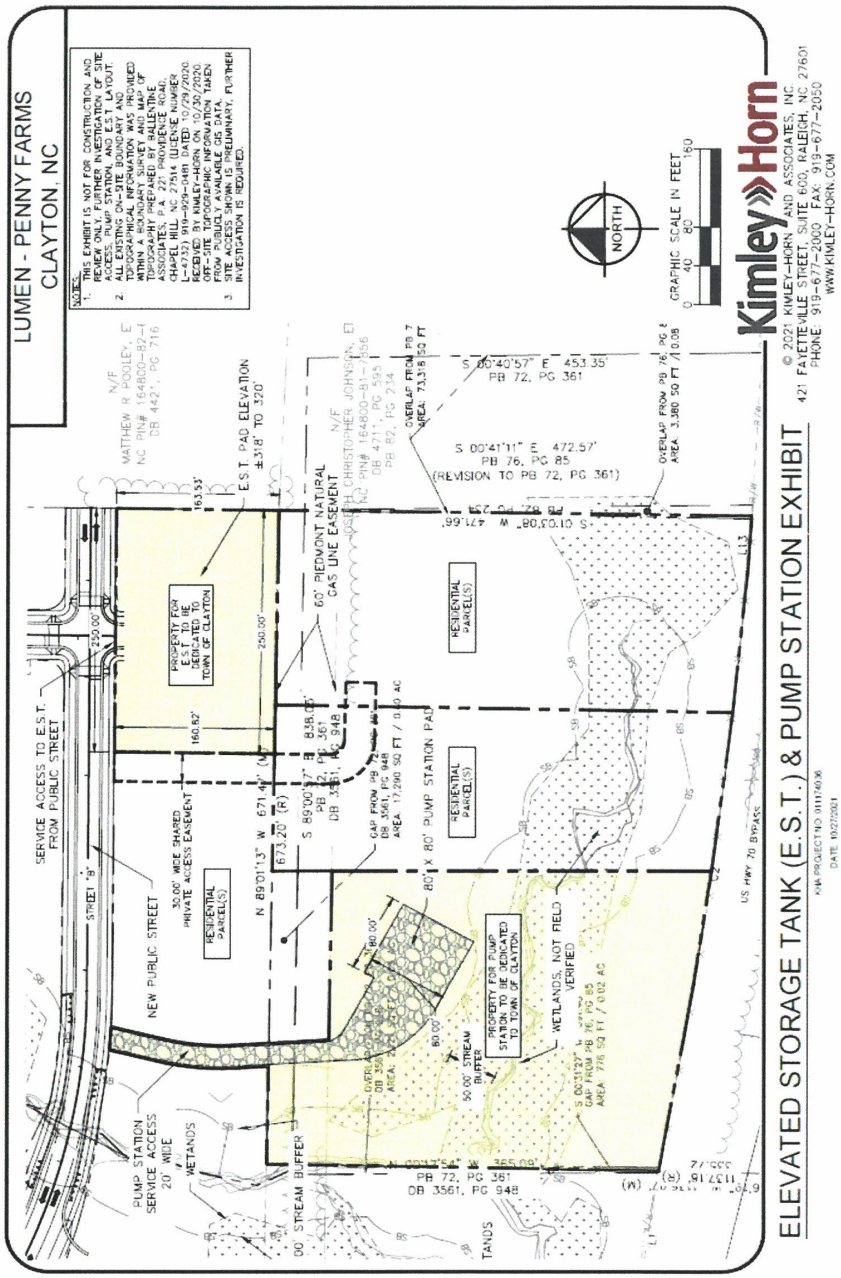


Exhibit C

The Plans and Specifications

The following is a Town of Clayton technical specification for composite elevated water storage tanks not specific to the proposed Lumen EST. The intent of this document is to set a standard for the design and construction of the proposed Lumen EST. It is understood by each party, this specification includes requirements for the EST contractor to follow including but not limited to: 'Submittals', 'Quality Assurance', 'Delivery, Storage, Handling', 'Project Conditions', 'Sequencing and Scheduling', etc. The Developer's Engineer will either design or provide construction requirements for the tank supplier to meet the intent of this specification. If necessary, the Engineer reserves the right to change specifications to meet industry standards or site specific design requirements. Deviations from this specification shall be provided to the Town of Clayton for review and approval prior to finalizing.

The Developer shall be responsible for the design and construction of the EST consistent with the following minimum requirements:

- One (1), one million gallon elevated water storage tank (EST)
    - High water elevation / overflow elevation of 492 feet mean sea level (based on the hydraulic grade line of the existing system per Johnston County)

- Primary components for the EST shall include:
    - In-line control valve vault (assume altitude valve) to control water level inside tank, and to provide bypass of the tank inlet
    - Fence and Security measures
    - The EST will be designed to have a pipe network to include:
        - One inlet pipe,
        - One outlet pipe,
        - One overflow pipe,
        - One drainage pipe
        - Overflow and drainage pipe will connect with a common discharge
        - Tank mixing and aeration devices (PAX, or equal)
        - Powered tank ventilation
- Any deviations from these specifications shall be approved by the Town of Clayton.
- Project must meet all applicable Town of Clayton Municipal Standards, Specifications and Details (MSSD).
- Prior to construction, the plans must be approved by Town of Clayton Engineering Department
- EST must meet the minimum requirements of NC DEQ - Public Water Supply Section and be approved by the NC DEQ - Water Supply Section.
- EST shall meet minimum following specifications:

COMPOSITE ELEVATED WATER STORAGE TANK

1.01 GENERAL

A. SUMMARY

1) Work Included
This Section includes the design, construction, testing and commissioning of a Composite Elevated Tank and related work including foundation, painting, electrical and appurtenances.

2) Related Documents
Drawings and the general provisions of this document, including General Conditions, Supplemental Conditions, Special Provisions and other Sections apply to work in this Section.

B. REFERENCES: The following Specifications, Codes and Standards may be referenced in this Section. All references are to the latest published edition.

1) American Concrete Institute (ACI)
- 117-10 Standard Tolerances for Concrete Construction and Materials
- 228.1R-03 In-Place Methods to Estimate Concrete Strength
- 301-05 Specification for Structural Concrete
- 304-00 Guide for Measuring, Mixing, Transporting and Placing Concrete
- 305-10 Hot Weather Concreting
- 306-10 Cold Weather Concreting
- 318-08 Building Code Requirements for Structural Concrete
- 347-04 Guide to Formwork for Concrete
- 371R-08 Guide for the Analysis, Design and Construction of Elevated Concrete and Composite Steel-Concrete Water Storage Tanks

2) American Institute of Steel Construction (AISC)
- S335 Specification for Structural Steel Buildings

3) American National Standards Institute (ANSI)
- B16.5 Pipe Flanges and Flanged Fittings

4) American Society of Civil Engineers (ASCE)
- ASCE 7 Minimum Design Loads for Buildings and Other Structures

5) American Society for Testing Materials (ASTM)
- A 123 Zinc Coatings on Iron and Steel Products
- A 240 Stainless Steel Plate, Sheet and Strip for Pressure Vessels
- A 285 Pressure Vessel Plates, Carbon Steel
- A 774 Welded Stainless Steel Fittings
- A 778 Welded Stainless Steel Tubular Products

6) American Water Works Association (AWWA)
- C652-11 Disinfection of Water-Storage Facilities

D100-11 Welded Steel Tanks for Water Storage
D102-11 Coating Steel Water Storage Tanks
D107-10 Composite Elevated Tanks for Water Storage

7) Federal Aviation Administration (FAA)
70/7460-1H Obstruction Marking and Lighting

8) National Association of Corrosion Engineers (NACE)
RP0178 Recommended Practice - Fabrication Details, Surface Finish Requirements and Proper Design Considerations for Tanks and Vessels to be Lined for Immersion Service

9) National Fire Protection Association (NFPA)
NEC National Electric Code
780 Standard for the Installation of Lightning Protection Systems

10) National Sanitation Foundation (NSF)
61 Standard for Drinking Water System Components

11) Occupational Safety and Health Administration (OSHA)
29 CFR Part 1926 Safety and Health Regulations for Construction

12) Steel Structures Painting Council (SSPC)
VIS-89 Visual Standard for Abrasive Blast Cleaned Steel

C. SYSTEM DESCRIPTION

1) Elevated Tank
The Composite Elevated Tank shall consist of the following: foundation, reinforced concrete support structure and a welded steel water tank. The support tower shall extend vertically from the foundation as a circular concrete support structure/wall. A structural concrete dome shall be provided as structural support for the contained water within the perimeter of the wall. A reinforced concrete ring beam shall be provided to connect the welded steel water tank, concrete dome and concrete support wall. The Composite Elevated Tank shall be in accordance with the shape, dimensions and details required by these Specifications and Drawings. Dimensions may be slightly adjusted to suit the Composite Elevated Tank Manufacturer's standard welded steel water tank shape.

2) Operating Parameters
Minimum capacity within operating range 1,000,000 gallons
Elevation - overflow/top capacity 492 ft.

3) General Design
Design Standards
The structural design of the Composite Elevated Water Storage Tank shall conform to AWWA D107 and the following design standards. In case of conflict between the Standard and the criteria listed below, the more stringent requirement shall apply.

Reinforced Concrete Foundation - ACI 318
Concrete Support Structure – AWWA D107 and ACI 318
Welded Steel Water Tank - AWWA D107

4) Foundation Design – AWWA D107
The foundation shall be designed by the Composite Elevated Water Storage Tank Contractor to safely support the structure based on the foundation recommendations within the geotechnical consultant's soil report (See also 1.7.2). Foundations shall be sized in accordance with load combinations defined by AWWA D-107, Sec. 4.3

D. SUBMITTALS

1) Proposal (Submit the following with the proposal):

a) Experience List - A completed contracts summary shall demonstrate a minimum of ten years experience in the design and construction of Composite Elevated Tanks. Contractor shall list a minimum of five completed Composite Elevated Tanks of similar capacity. Provide the location, capacity, Owner's name and contact information, Engineer's name and contact information and year completed. Failure to provide this information shall be cause for rejection of the bid (See also 1.5.1).

b) Tank Drawing - A preliminary section view drawing of each sized Composite Elevated Tank proposed for this project. The drawing shall include sufficient detail to illustrate tank geometry, materials of construction, primary dimensions, the high water level elevation, concrete support structure wall thickness and other information required to show compliance with this Specification. If the proposed design does not comply with this Specification, the bid shall be cause for rejection of the bid.

c) Foundation Drawing – A drawing of the preliminary design of the foundation for each sized Composite Elevated Tank proposed for this project. The drawing shall include sufficient detail to illustrate foundation geometry, materials of construction, preliminary dimensions and approximate quantities of concrete and reinforcing steel. Failure to provide this information shall be cause for rejection of the bid.

2) Construction Drawings

a) Provide elevation, plan and sectional view drawings of the foundation, concrete support structure, welded steel water tank and all appurtenant equipment and accessories. Show the location, dimensions, material specifications and finish requirements. The submission shall be sealed by a professional engineer registered in the State of North Carolina.

b) Reinforced concrete details shall include construction joints, openings and inserts. Reinforcement shall be clearly indicated on the structural drawings and identified by mark numbers that are used on the fabrication schedule. Location, spacing and splice dimensions shall also be shown. Placement and fabrication details shall conform to ACI 318.

c) Steel tank details shall include weld joints and a layout showing all primary and secondary shop and field welds.

3) Construction Procedures

a) Provide design, detail drawings and procedures for the support structure forming system. Details shall include location of form and construction joints, rustications and any form ties. The criteria and minimum elapsed time for adjacent concrete placement shall also be clearly stated in the construction procedures. Procedures shall yield a minimum of twenty-four (24) hours of cure time before form removal (See also 3.2.2).

b) Provide shop and field weld procedures for all structural joints on the steel tank.

4) Design Data

a) Provide a table showing capacity of the tank in gallons at all levels in one ft. increments.

5) Provide a summary of the design for the foundation, concrete support structure, welded steel water tank and other components. Include the design basis, the loads and load combinations and the results, including environmental loads (wind load, seismic load, and snow load.

6) Product Data

a) Provide separate concrete mix designs for each specified concrete compressive strength indicated on the drawings.

b) Provide technical data and manufacturer's standard color chart of all coating products to be used.

c) Provide manufacturer's descriptive information for appurtenant equipment and accessories that are not detailed on the construction drawings.

7) Reports/Certification

a) Provide documentation of all tests, inspections and certifications required by this Section.

b) Provide general qualifications of all welders.

8) Operation/Maintenance
Provide operating instructions and maintenance procedures for the Composite Elevated Tank and applicable appurtenant equipment, mechanical components and miscellaneous accessories.

E. QUALITY ASSURANCE

1) Qualification of Manufacturer

a) A turnkey Composite Elevated Tank Manufacturer/Contractor shall perform the work described in this Section. No part of the design or construction of the concrete support structure or welded steel water tank shall be subcontracted. The Contractor shall have designed, constructed and placed in service a minimum of five (5) Composite Elevated Tanks of similar capacity in the past ten (10) years.

b) The Contractor shall employ a full-time Professional Engineer with a minimum five (5) years cumulative experience in the design and construction of Composite Elevated Tanks. The engineer shall be registered in accordance with these specifications and shall be in responsible charge of the work.

c) The Contractor shall own and maintain all equipment necessary for the turnkey construction of the Composite Elevated Tank as specified herein. This includes the formwork for the concrete support structure construction as well as the fabrication and erection equipment required for the welded steel water tank construction. Neither the concrete support structure construction or the welded steel water tank fabrication and erection shall be subcontracted.

d) As providing a safe work environment is critical for this project, other contractors, and the community, to be approved to bid on this project, given the complexity, and risk associated with the work, all tank contractors are required to have an Experience Modification Rate (EMR) below 0.75 and a Total Recordable Incident Rate (TRIR) below 2.5 for the last three (3) years. Bidders are required to verify the above requirement by providing with their proposal a statement from their insurance carrier confirming the EMR requirement, and their last three (3) years of OSHA 300 Logs to confirm the TRIR requirement.

2) Regulatory Requirements

a) The Specifications, Codes and Standards referenced in paragraph 1.2 shall govern the work with regard to materials, design, construction, inspection and testing to the extent specified.

b) The Composite Elevated Tank shall be designed and constructed in compliance with applicable federal, state and local regulations.

c) Personnel safety equipment shall be provided in accordance with OSHA requirements and the manufacturers' documentation.

F. DELIVERY, STORAGE, & HANDLING

1) Handling and Shipping
The Contractor shall handle materials and fabricated components in a manner that will protect them from damage. Allow painted materials adequate cure time prior to stacking or shipping.

2) Storage and Protection
Protect delivered materials and equipment from damage. Store in well drained areas and provide blocking to minimize contact with the ground.

G. PROJECT CONDITIONS

1) Permits and Easements
The Developer (or its subcontractors) shall acquire permits necessary for construction of the project including but not limited to: airspace authority approval, site access agreements, high crossing permits, etc.

2) Existing Conditions
A geotechnical consultant has carried out a soils investigation at the site and a soil report has been incorporated within these specifications. The net allowable bearing pressure of shallow foundation and/or the allowable capacity of deep foundation elements have been defined in this report. The Contractor shall be responsible for securing any further geotechnical information required beyond that provided in this report. The Owner shall retain the services of the Geotechnical consultant to verify the adequacy of the bearing stratum after the Contractor has carried out the excavation and before any concrete or reinforcement is placed.

3) Access
The Contractor shall provide access from public roads to the tank site unless otherwise specified.

4) Working Conditions

a) Safety and Health - The Contractor shall comply with safe working practices and all health and safety regulations of OSHA, state and local health regulatory agencies and Material Safety Data Sheets (MSDS). Provide protective and lifesaving equipment for persons working at the site.

b) Times for Work - Times for work shall comply with local, state and federal regulations and laws.

H. SEQUENCING AND SCHEDULING

The Developer and engineer will provide sequencing and scheduling requirements for the contractor.

I. GUARANTEES

1) The Contractor shall guarantee the structure, appurtenant equipment and accessories provided under this Section against defective design, workmanship, or materials for a period of one year from the date of substantial completion. If notified within this period, the Contractor shall repair any defects caused by faulty design, workmanship, or material furnished under these specifications at no cost to the Owner. If Contractor is not advised of any defects within 30 days of the end of the guarantee period, then this guarantee shall be considered fulfilled and complete. Defects caused by damaging service conditions, such as electrolytic, chemical, or abrasive, are not covered by this guarantee.

2) All guarantees from any manufacturer or installer of paint, materials, equipment and accessories not manufactured by the Composite Elevated Tank manufacturer and that are provided under this Section, shall be obtained by the Contractor and submitted to the Owner.

2.01 PRODUCTS

A. MATERIALS

1) Reinforced Concrete
Concrete materials and reinforcement shall comply with ACI 318 and AWWA D107, except as modified in this Section.

2) Steel Tank
Welded steel water tank components, including steel plates, sheets, structural shapes and filler metals shall be in accordance with AWWA D107,.

B. CONCRETE FOUNDATION

The concrete foundation shall be designed in accordance with ACI 318. Minimum specified compressive strength shall be 4000 psi at 28 days. Reinforcing steel shall be ASTM A615 Grade 60. The service load reinforcement tension stress shall not exceed 30,000 psi under dead plus water load unless flexural cracking is otherwise controlled in accordance with ACI 318.

C. CONCRETE SUPPORT STRUCTURE

The concrete support structure shall be designed in accordance with ACI 318. The specified compressive strength of concrete shall be as required by design, but not less than 4000 psi at 28 days. The maximum specified compressive strength of concrete for the wall and dome shall be 6000 and 5000 psi respectively.

1) Support Wall
The support wall shall be reinforced concrete with a minimum thickness of 8 in. exclusive of any architectural relief. Wall thickness shall be provided such that the average compressive stress due to the weight of the structure and stored water is limited to 25% of specified compressive strength, but not greater than 1000 psi. A minimum total wall reinforcement of 0.15% vertically and 0.20% horizontally shall be distributed approximately equally to each face. A minimum of 0.75% vertical reinforcement shall be provided in the top 6 ft. of the wall extending into the concrete ring beam. Minimum concrete cover for interior/exterior faces shall be 1

in. and 1-1/2 in. respectively.

2) Tank Floor
The tank floor shall be a reinforced concrete dome not less than 8 in. thick. The average compressive stress due to the weight of the structure and stored water shall not exceed 15% of the specified compressive strength, nor greater than 600 psi. Minimum total reinforcement in orthogonal directions shall be 0.40% distributed approximately equally to each face. Additional reinforcement shall be provided for stress caused by edge restraint effects.

3) Openings

a) The effects of openings in the wall shall be considered in the design. Not less than 60% of the interrupted reinforcement in each direction shall be placed each side of the opening. Reinforcement shall extend past the opening not less than half the transverse opening dimension.

b) Openings 8 ft. 0 in. or wider used for vehicle access shall be strengthened against vehicle impact and local buckling by means of an internal buttress located on each side of the opening. The buttress shall consist of a thickened, reinforced concrete wall section that is integrally formed and placed with the concrete support structure.

D. CONCRETE SUPPORT STRUCTURE/STEEL TANK INTERFACE

1) Interface Region

a) The interface region includes those portions of the concrete support structure and steel tank affected by the transfer of forces from the tank cone and the tank floor to the concrete support structure. This includes a ring beam and connection details. The Contractor shall provide evidence that a thorough review of the interface region has been performed. Finite element and finite difference analyses are the required methods for examining such local stresses in detail.

b) The geometry of the interface shall provide for positive drainage and not allow either condensate or precipitation to accumulate at the top of the concrete wall or ring beam.

2) Ring Beam

a) The ring beam shall be reinforced concrete with a nominal width and height of at least two times the concrete support structure wall thickness. Minimum radial and circumferential reinforcement shall be 0.25%. For direct tension, reinforcement shall be provided such that the average service load stress in tension reinforcement due to the weight of the structure and stored water does not exceed 12,750 psi.

b) Ring beam design shall consider unbalanced forces from the welded steel tank cone and concrete dome, load conditions varying with water level, eccentricity of loads resulting from design geometry and

allowance for variations due to construction imperfection and tolerance.

E. WELDED STEEL TANK

1) General
The steel tank shall be all welded construction and shall be designed, fabricated and erected in accordance with applicable sections of AWWA D107. The required capacity and dimensions of the tank are noted on the drawings and in this Section of the specifications. All exposed lap joints shall be fully seal welded on both sides.

2) Plate Thickness
All members shall be designed to safely withstand the maximum stress to which they may be subjected during erection and normal operation. The minimum thickness of any steel plate in contact with water shall be 1/4 in. The minimum thickness of any steel plate not in contact with water shall be 3/16 in.

3) Roof Support
All structural members supporting the roof of the steel tank shall be flat bar or sealed square tubular sections. I-beams or other sections with horizontal projections may be used if the nominal depth is 10 in. or greater. Support beams shall be seal welded to the underside of the roof plate along the entire length of the beam.

4) Cone
Conical sections of the tank shall be designed using one of the 3 methods described in AWWA D107, Section 5.3.5. Inspections and reports shall be provided to the extent required by AWWA D107.

5) Bottom Liner
Liner plates shall be shop fabricated to conform to the shape of the concrete dome. They may be placed directly on the concrete. All liner plate seams shall be lap welded on the topside only with continuous fillet welds or continuous butt welds with backup bars. The minimum thickness for liner plates shall be 1/4 in.

F. APPURTENANCES AND ACCESSORIES

1) General
Accessories shall comply with the minimum requirements of the Specifications, Codes and Standards listed in paragraph 1.2, current applicable safety regulations and the operating requirements of the structure.

2) Ladder Access

a) Ladders shall be provided from the slab on grade inside the base of the concrete support structure to the upper walkway platform located below the tank floor. The tank floor manhole shall be provided with ladder access from the upper platform. A ladder shall extend from the upper platform, through the access tube interior to the roof. A ladder mounted on the access tube exterior shall be provided for access to

the tank interior, extending from the roof manhole to the tank floor.

b) Ladders that terminate at platforms or landings shall extend 48 in. above the platform elevations. A removable extension kit (Bilco Ladder-Up Safety Post or equal) shall be added to the fall protection system for all ladders not extending 48 in. above the platform elevations.

c) Ladders located in the concrete support structure shall be galvanized steel. Tank interior and access tube ladders shall be coated in accordance with the tank interior coating system.

d) Ladder side rails shall be a minimum 3/8 in. by 2 in. with a 16 in. clear spacing. Rungs shall be minimum 3/4 in. diameter, spaced at 12 in. centers and plug welded into holes drilled in the side rails. The surface of the rungs shall be knurled, dimpled, or otherwise treated to minimize slipping.

e) Ladders shall be secured to the adjacent structure by brackets located at intervals not exceeding 10 ft. Brackets shall be of sufficient length to provide a minimum distance of 7 in. from the center of the rung to the nearest permanent object behind the ladder. Ladder brackets located on the access tube exterior shall be reinforced at the access tube shell so that potential ice damage is confined to the ladder and bracket; and not the access tube shell.

3) Safe Climbing Device/Safety Equipment
OSHA compliant safe climbing system shall be provided on all ladders. Two sleeves with snap hooks shall be provided that are designed to be operated with the system. Two harnesses with shock resistant lanyards shall be provided with the system.

4) Rest Platforms
Rest platforms shall be provided at maximum 50 ft. intervals along the interior concrete support structure ladder. The platforms shall be nominal 5 ft. x 5 ft. and platform floor shall be grating. Openings shall be provided in the landings to accommodate the ladder that shall have a straight-run its full height. All platform components shall be galvanized steel and attachment hardware shall be zinc plated.

5) Platforms
A 4 ft. wide upper walkway platform shall be located at the top of the concrete support structure to provide access from the concrete support structure ladder to the roof access ladder located on the interior of the access tube. Platforms shall be provided with handrails, midrails and toe plates in accordance with OSHA requirements. Grating shall be used for the walking surface. All components shall be galvanized steel and attachment hardware shall be zinc plated.

6) Concrete Support Structure Doors

a) Personnel Door - Door frames shall be 16-gauge with concealed reinforcement at hardware locations. Expansion type anchors for

existing openings shall be installed near the top, bottom and intermediate point of each jamb to rigidly secure the frame. Doors shall be 1-3/4 in. thick insulated, reinforced, full, flush type with 18-gauge face sheets and concealed reinforcement at hardware locations. All edges shall be finished flush with watertight seams. Shop applied finish for the frame and door shall be baked on rust inhibitive primer. Field finish shall be compatible with the tank exterior. Standard hardware shall be stainless steel and include three 4-1/2 in. by 4-1/2 in. hinges, industrial duty closer and lockset. Quantity, location and size of personnel door(s) shall be as shown on the Project Drawings.

b) Overhead Vehicle Door

Provide a manually operated 10 ft x 10 ft (10 ft. x 10 ft. is standard) overhead steel rolling door located in the base of the tower. The door frame shall be fabricated of galvanized steel plate, fastened and reinforced on the interior face of the concrete support structure. The curtain shall be formed of 22-gauge steel interlocking slats designed for a wind loading of 20 psf. A 24-gauge steel hood shall be provided with a weather seal to protect the assembly. The curtain, bottom bar, brackets, guides, hood, pipe and chain shall be galvanized. Size and location of the overhead door shall be as indicated on the project drawings.

7) Tank Openings

a) Floor - Provide a 30 in. diameter manhole through the tank floor. The manhole shall be operable from a ladder located on the upper platform and shall be designed to withstand the pressure of the tank contents without leakage. The manhole assembly shall include a stainless steel hand wheel operator and threaded components.

b) Roof - Provide one 30 in. diameter weatherproof access hatch on the roof of the tank. The hatch will allow access from the roof to the interior tank ladder. The hatch opening shall have a minimum 4 in. curb. Hatch cover to be constructed of aluminum and shall have a 2 in. downward edge, stainless steel hardware and locking mechanism.

c) Roof – Provide one 24 in. diameter exhaust hatch located adjacent to the roof hatch. The exhaust hatch will be flanged with a bolted removable cover and designed such that an exhaust fan may be connected for ventilation during painting. The opening shall have a minimum 4 in. curb.

8) Access Tube

a) Provide a an appropriately sized, centrally located access tube through the welded steel water tank to provide access to the tank roof from the upper walkway platform. A 30 in. diameter access hatch shall allow egress from the access tube to the roof. The openings shall have a minimum 4 in. curb. Hatch cover to be constructed of aluminum and shall have a 2 in. downward edge, stainless steel hardware and locking

mechanism.

b) The area under the access tube shall be provided with a galvanized drip pan to prevent condensation from dripping onto the concrete floor slab below. The drip pan shall extend 3 in. beyond the drip line of the access tube. A 3/4 in. PVC drain pipe shall be provided to drain condensate to the overflow.

9) Roof Railing
A 42 in. high roof handrail shall be provided to enclose all centrally located roof accessories. The roof railing shall be a minimum of 15 ft. diameter.

10) Rigging Access
A removable access panel shall be located at the top of the concrete support structure accessible from a platform and shall provide access to the exterior rigging rails located near the welded steel tank/concrete support structure interface. This access panel shall be stainless steel or aluminum and have a minimum size of 24 in. by 36 in. In most cases, this removable access panel serves as one of the concrete support structure vents (See also 2.6.13.2).

11) Utility Rails
Provide permanently installed utility rails suitable for rolling trolleys on the interior of the welded steel tank at the wall/roof and access tube/roof connections. Provide an exterior utility rail at the base of the welded steel tank adjacent to the concrete support structure. Provide an interior concrete support structure utility rail at the top of the concrete support structure in order to assure access for maintenance of piping.

12) Piping

a) Inlet/Outlet Pipe - Provide an appropriately sized inlet/outlet pipe that extends from the base of the concrete support structure thru the floor elevation of the welded steel tank. Provide a minimum of 6 in. high removable silt stop where the inlet/outlet pipe enters the tank. The bottom capacity level of the tank's operating range shall be at or above the elevation of the top of the silt stop. Pipe material within the concrete support structure shall be minimum 10-gauge 304L stainless steel.

The inlet/outlet pipe shall be designed to support all related static and dynamic loads. Suitable galvanized brackets, guides and hangers shall be provided on the wall of the concrete support structure and welded steel water tank floor at intervals not exceeding 20 ft.

The inlet/outlet pipe shall be designed and constructed to accommodate any differential movement caused by settlement and by thermal expansion and contraction over the range of extreme temperature differences expected for the concrete support structure and pipe. The required flexibility shall be provided by an expansion joint located in the vertical section of pipe.

b) Overflow Pipe - Provide an appropriately sized overflow pipe. The top of the overflow shall be located within the welded steel water tank at the overflow elevation. The overflow pipe shall be routed beside or inside the central access tube and extend to grade inside the concrete support structure. A base elbow shall direct the overflow through the wall of the concrete support structure, where the pipe shall be terminated with a No. 4 mesh screen. Pipe material within the support structure shall be minimum 10-gauge 304L stainless steel. If the top of the overflow pipe is located above top capacity level, the tank shall be designed for the additional capacity provided by the difference.

The entrance to the overflow pipe shall be designed for the maximum inlet flow rate. The design shall be based on the water level cresting within 6 in. above the overflow elevation. A weir shall be provided if the entrance capacity of the overflow pipe diameter is not adequate. The Contractor's standard vortex prevention device shall also be used.

The overflow shall be designed to support all related static and dynamic loads. Suitable galvanized brackets, guides and hangers shall be provided on the wall of the concrete support structure and welded steel water tank floor at intervals not exceeding 20 ft. The overflow and weir section within the tank shall be coated carbon steel and supported by the central access tube.

The overflow pipe shall be designed and constructed to accommodate any differential movement caused by settlement and by thermal expansion and contraction over the range of extreme temperature differences expected for the concrete support structure and pipe. The required flexibility shall be provided by an expansion joint located in the vertical section of pipe.

c) Stainless Steel Requirements - Pipe and fittings shall be Type 304L stainless steel fabricated from material meeting the requirements of ASTM A240. Fabrication, inspection, testing, marking and certification of pipe and fittings shall be in accordance with ASTM A778 and A774, respectively. Backing flanges shall be in accordance with ASTM A285-C drilled to ANSI B16.5 Class 150.

Pipe, fittings and flange thickness shall be in accordance with the manufacturers certified pressure rating for the applicable service pressures.

13) Ventilation

a) Tank Ventilation - A tank vent shall be provided, located near the center on the tank roof above the maximum weir crest elevation. It shall consist of a support frame, screened area and cap. The support shall be fastened to a flanged opening in the tank roof. The vent cap shall be provided with sufficient overhang to prevent the entrance of wind driven debris and precipitation. A minimum of 4 in. shall be provided between the roof surface and the vent cap.

The tank vent shall have an intake and relief capacity sized to prevent excessive pressure differential during the maximum flow rate of water, either entering or leaving the tank. The overflow pipe will not be considered as a vent. The maximum flow rate of water exiting the tank shall be calculated assuming a break in the inlet/outlet at grade when the tank is full. The vent shall be provided with an insect screen. Vent capacity shall be determined based on open area provided by the screen.

b) Support Structure Ventilation - As a minimum, one louvered vent shall be provided at the top of the concrete support structure. This vent shall be accessible from the upper platform and may also be designed to provide access to the exterior rigging rails located at the welded steel tank/concrete support structure intersection. Vents shall be galvanized steel with stainless steel or aluminum insect screen.

14) Interior Floors

a) Slab on Grade - Provide a 6 in. thick, 3500 psi concrete floor slab in the base of the concrete support structure. The slab shall be supported on compacted granular fill and shall be reinforced with #5 reinforcing steel bars at 12 in. centers each way. Provide 1/2 in. expansion joint between floor slab and concrete support structure and at pipes and supports that extend through the floor. Place cap strip and sealant over the expansion joint. The slab shall be sloped at 0.5% toward the overhead door for drainage.

15) Lightning Protection

a) Provide a lightning protection system for the Composite Elevated Tank and any roof mounted equipment that may be damaged by lightning. Install the system in accordance with NFPA 780 with materials that meet UL96 and UL96a.

b) Minimum requirements include two 28 strand by 14-gauge copper conductors bonded to the steel tank 180 degrees apart. The conductors shall be fastened to the interior concrete support structure at 3 ft. minimum spacing and shall terminate with buried 5/8 in. diameter by 8 ft. long copper clad ground rods.

16) Identification Plate

a) A tank identification plate shall be mounted near the personnel door. The identification plate shall be corrosion resistant and contain the following information:

1. Tank Contractor
2. Contractor's project or file number
3. Tank capacity
4. Height to High Water Level

5. Date erected

G. ELECTRICAL AND LIGHTING

Electrical and Lighting must meet all applicable NC Building Code and FAA requirements.

H. STEEL TANK PAINTING

Project must meet NC DEQ and AWWA standards and requirements

I. SOURCE QUALITY CONTROL

1) Tests
Review mill test certifications of all steel plate, structural components and reinforcement to ensure compliance with specification requirements.

2) Quality Assurance
Provide quality assurance of shop fabricated components in accordance with AWWA D100.

3.01 EXECUTION

A. EXAMINATION

1) Foundation Excavation
The foundation bearing surface and excavation shall be inspected and verified by a geotechnical engineer retained by the Owner prior to construction of the foundation (See also 1.7.2).

2) Environmental Conditions
Prior to performing any work, verify the expected temperature, humidity and weather conditions are within the specified limitations for executing the work.

3) Elevated Tank Components
After completion of each major component and prior to proceeding with the next stage of construction, verify that tolerance inspections and material quality control tests conform to this specification.

B. REINFORCED CONCRETE CONSTRUCTION

1) Reinforcement

a) Fabrication, placement, development and splicing of reinforcement shall be in accordance with ACI 318 and ACI 117.

b) Concrete support structure reinforcement shall be installed with plastic supports. Maximum spacing of supports for welded wire fabric shall be 5 ft. centers, horizontal and vertically.

2) Architectural Concrete Construction (Concrete Support Structure or Pedestal Shaft)

a) The exposed exterior surface of the concrete support structure is designated as architectural concrete. The concrete and formwork requirements of this Section shall be strictly enforced to ensure concrete of the highest practicable structural and architectural standard. Concrete proportioning, placing and finishing shall be in accordance with the ACI 301, Chapter 18, except as modified by this Section. Formwork design, installation and removal shall comply with the minimum requirements of ACI 318 and ACI 117 and with the applicable requirements of ACI 347 and ACI 371R, except as modified by this Section.

b) Attention shall be given to ensure the same concrete design mix is used throughout the concrete support structure. The proportion, type and source of cement and aggregates shall not be changed. Uniform moisture content and placing consistency shall be maintained.

c) Drop chutes shall be used in all wall concreting operations where concrete placement is 5 ft. and greater in drop height. Concrete shall be placed directly between reinforcement layers to prevent aggregate segregation and form splatter with the resulting finish variations.

d) Forming systems not designed for lateral pressures associated with full height plastic concrete head shall be designed with the provision of ties and bracing such that concrete components conform to the correct dimensions, shape, alignment and elevation without leakage of mortar. Formwork systems shall be designed to safely support all loading conditions. Embedded items shall be properly positioned and secured. Form surfaces shall be cleaned of foreign materials and coated with a release agent prior to placing reinforcement. Do not allow excessive release agent to accumulate on the form. Steel forms shall be coated with non-staining, rust preventative form oil or otherwise protected.

e) The forming system for the concrete support structure wall shall be fully engineered and detailed with procedures to meet the increased demands of architectural concrete. The concrete support structure shall be constructed with a jump form process using form segments prefabricated to match the wall curvature. Concrete pour height shall be a minimum of 4 ft. and a maximum of 12 ft. Form panels shall extend the full height of the concrete pour using only vertical panel joints. Form systems that are designed to lap the previous wall pour shall be sealed to prevent grout leakage. Form system shall incorporate a positive means of adjustment to maintain dimensional tolerances specified herein. Panels shall be designed for lateral pressures associated with full height plastic concrete head; support and bracing shall be provided for construction related impact loads and wind loads. Working platforms that allow safe access for inspection and concrete placement shall be provided. Form facing material shall be metal, or plywood faced with plastic or fiberglass.

f) The form system shall incorporate a uniform pattern of vertical and horizontal rustications to provide architectural relief to the exterior wall surface. Rustication strips shall be attached to the form face to minimize potential grout leakage that results in broken corners, color variations and rock pockets. All construction joints and panel joints shall be located in rustications. Vertical panel joints shall be sealed using closures that combine with the form pattern to prevent grout leakage and panel joint lines. All joints shall be grout tight in order to prevent leakage during concrete placement. The vertical and horizontal rustications shall be proportioned and combined to impart a symmetrical architectural pattern to the completed structure. No architectural form treatment is required on the interior surface.

g) Support structure concreting shall be capable of segmented placement procedures only when required. Temporary vertical bulkheads shall divide the wall pour into segments corresponding to a single batch (truckload) of concrete. The bulkheads shall be located at rustications; braced rigid and tight to maintain vertical alignment under concrete load without grout leakage. Wall segment concrete shall be placed continuously to full form height from a single load. Placement from multiple batches is not permitted. Temporary bulkheads shall not be removed until adjacent concrete is placed.

h) Wall forms shall not be disturbed or removed for a minimum period of twenty four (24) hours after concrete placement. Additionally, in no instance shall the forms be removed before the concrete has attained sufficient strength to prevent forming operations or environmental loads from causing surface damage or excessive stress. Form removal shall be based on early age concrete strength testing. The minimum concrete strength shall be established by the Contractor, based on an analysis of stress at critical stages throughout the forming and concrete operations. Early age concrete testing shall be in accordance with ACI 228.1R-03.

i) The formwork system for the domed structural floor shall be designed to support all construction loads. Adequate shoring and bracing shall be provided to transfer loads without appreciable movements. Form surfaces shall be steel, plastic, or fiberglass coated material. Shoring and forms for the structural dome slab shall remain in place until the concrete has gained sufficient strength to carry the floor weight without damaging deflections.

3) Concrete

Concrete proportioning, production, placement, quality control and curing procedures shall comply with ACI 318 and ACI 117. Concrete shall satisfy the specific structural, durability and architectural requirements of the completed components.

a) Proportioning - The proportions of materials for concrete shall be established to provide adequate workability and proper consistency to permit concrete to be worked readily into the forms and around

reinforcement without excessive segregation or bleeding. If high range water reducer is used, concrete slump prior to addition shall be 3 to 4 in. The slump, after addition of high range water reducer, shall be a maximum of 9 in. Air shall be entrained to provide concrete with 3.5% to 6.5% air content.

b) Production - Concrete that arrives at the project with slump below that suitable for placing may have water added within the limits of the maximum permissible water-cement ratio. Maximum slump shall not be exceeded. The water shall be incorporated by additional mixing equal to at least half of the total mixing time required. For concrete with site-administered high range water reducer, the preplasticized minimum slump requirement shall be attained as permissible by addition of water and mixing prior to the addition of the water reducer.

c) Placement - Prior to concrete placement, all snow, ice, water, or other foreign material shall be removed from the spaces that the concrete will occupy. Concrete shall be deposited in its final position in accordance with ACI 318 or the applicable building code. Drop chutes or tremies shall be used in walls and columns to prevent free-fall of the concrete over 5 ft. and to allow the concrete to be placed through the cage of reinforcing steel. These shall be moved at short intervals to prevent stacking of concrete.

d) Vibration - All concrete shall be consolidated by vibration so that the concrete is thoroughly worked into the corners of forms and around the reinforcement and embedded items to eliminate all air or stone pockets which may cause honeycombing. Internal vibrators shall be the largest practical size that can be used in the work and shall be operated by competent workmen.

e) Wall Finish - Provide a smooth form finish for the interior and exterior concrete support structure. Tie holes shall be plugged using grout on the interior and manufactured plugs on the exterior that match the color of the cured concrete as closely as possible.

f) Dome Finish - Provide a smooth form finish for the interior dome slab. The unformed surface shall have a floated finish.

4) Weather

a) Concrete shall not be placed during precipitation or extreme temperatures unless protection is provided.

b) During cold weather the recommendations of ACI 306 shall be followed.

c) During hot weather the recommendations of ACI 305 shall be followed.

5) Concrete Support Structure Dimensional Tolerances
Support structure concrete construction shall conform to the following:

a) Variation in thickness
   Wall -3.0% to +5.0%
   Dome -6.0% to +10.0%

b) Concrete support structure variation from plumb:
   in any 10 ft. of height - 1 in.
   in any 50 ft. of height - 2 in.
   maximum in total height - 3 in.

c) Concrete support structure diameter variation - 0.4% (not to exceed 3 in.)

d) Dome floor radius variation - 1.0%

e) Level alignment variation:
   from specified elevation - 1 in.
   from horizontal plane - 1/2 in.

f) The offset between adjacent pieces of formwork facing material shall not exceed the following:
   Exterior exposed surfaces - 1/8 in.
   Interior exposed surfaces - 1/4 in.
   Unexposed surfaces - 1/2 in.

C. FOUNDATION

1) Excavation
After verification of the foundation bearing surface, a 2 in. thick concrete working slab within the lower excavation limits may be provided. Grade the site to prevent runoff from entering the excavation.

2) Finish
Formed surfaces shall have a smooth form finish when exposed and a rough form finish when not exposed.

D. FIELD QUALITY CONTROL

1) Concrete Testing and Inspection

a) The evaluation and acceptance of concrete shall be in accordance with Section 5.6 of ACI 318 and ACI 117, except as modified in this Section.

b) Three cylinders shall be made from each sample required. A 7-day compressive strength test shall be used to supplement the 28 day tests.

c) Slump, air, temperature and compressive cylinder testing shall be performed by an independent laboratory. The Contractor shall retain the independent laboratory and provide the Contractor with copies of all test results.

d) The concrete support structure radius, plumbness and thickness shall be verified for each concrete lift at 45 degree intervals. An inspection report by

the Contractor shall be provided to the Owner at project completion.

2) Welded Steel Water Tank Testing & Inspection

a) Inspection procedures for the welded steel tank shall be as required by AWWA D107, Section 9, "Inspection and Testing". Radiographic inspection of full penetration butt-welded joints shall be made by an independent inspection company retained by the Contractor.

b) Conical sections of the welded steel water tank designed using Method 2 or Method 3 of AWWA D107 shall be inspected in accordance with Section 9.4 of AWWA D107.

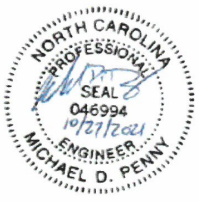
c) Weld joints of plate over the structural concrete floor shall be tested for leaks by vacuum box/soap solution testing, or equivalent method.

PROJECT LUMEN ELEVATED STORAGE TANK
BUDGETARY OPINION OF PROBABLE CONSTRUCTION COST

Executive Summary

Description	Select Architectural Features	Additional Architectural Features
1 MG EST Construction Cost	$ 6,400,000.00	$ 6,900,000.00
Easement Land Value	$ -	$ -
Engineering and Architectural Fees	$ 750,000.00	$ 750,000.00
Total	**$ 7,150,000.00**	**$ 7,650,000.00**

Kimley-Horn is responsible for design of water line from existing 16-inch water main to EST site.
Construction costs include a 30% estimating contingency.
Estimate being provided for budgetary purposes only and is subject to change pending scope of work, material and labor costs.
Additional architectural features are estimated to be $500,000.



PROJECT LUMEN ELEVATED STORAGE TANK
BUDGETARY OPINION OF PROBABLE CONSTRUCTION COST

LUMEN ELEVATED WATER STORAGE TANK OPTION - 1MG, ~192FT without Booster Pump Station

Item	Description	Quantity	Unit	Unit Cost	Total Cost
1	Line Work - Potable Water Main				
a	16" Slip Joint Ductile Iron Pipe, CL350 (Public Right-of-Way)	500	LF	$ 120.00	$ 60,000.00
T site.	30" Steel Encasement Pipe w/ 16" RJ DI Carrier Pipe, CL350 Installed by Bore & Jack at Roadway Crossing	0	LF	$ 960.00	$ -
c	Testing, Cleanup and Seeding for Water Mains	500	LF	$ 8.00	$ 4,000.00
d	Restrained Mechanical Joint Fittings	700	LBS	$ 10.00	$ 7,000.00
e	16" Gate Valve	1	EA	$ 16,000.00	$ 16,000.00
f	16X16 TS&V	1	EA	$ 26,000.00	$ 26,000.00
g	Erosion Control	500	LF	$ 5.00	$ 2,500.00
h	Traffic Control	500	LF	$ 2.00	$ 1,000.00
i	Miscellaneous Restoration	500	LF	$ 2.00	$ 1,000.00
j	Unknown SubSurface Conditions	500	LF	$ 8.00	$ 4,000.00
k	Utility Relocation Allowance	500	LF	$ 2.00	$ 1,000.00
l	Mobilization	1	LS	$ 3,700.00	$ 3,700.00
2	Elevated Storage Tank				
a	1,000,000 Gallon Elevated Tank, Custom Composite, 192FT Height	1	LS	$ 4,000,000.00	$ 4,000,000.00
b	Aerator	1	LS	$ 50,000.00	$ 50,000.00
c	Mixer	1	LS	$ 50,000.00	$ 50,000.00
d	Chemical Feed System	0	LS	$ 50,000.00	$ -
e	Site Work, Fencing, E&SC	1	LS	$ 75,000.00	$ 75,000.00
f	Yard Piping and Valve Vault	1	LS	$ 275,000.00	$ 275,000.00
g	Electrical	1	LS	$ 50,000.00	$ 50,000.00
h	Telemetry	1	LS	$ 25,000.00	$ 25,000.00
i	Unknown SubSurface Conditions	1	LS	$ 75,000.00	$ 75,000.00
j	Mobilization	1	LS	$ 138,000.00	$ 138,000.00
				SubTotal	**$ 4,864,200.00**
				Contingency (30%)	**$ 1,459,300.00**
				TOTAL	**$ 6,323,500.00**
				Budgetary Round Up	**$ 6,400,000.00**

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ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
SHADI ESKAF
Director

NORTH CAROLINA
Environmental Quality

August 8, 2023

Richard D. Cappola, Town Manager
Town of Clayton
PO Box 879
Clayton, North Carolina 27528

SUBJECT: Offer & Acceptance for ARP Funding
Project No. SRP-D-ARP-0342
Copper District Elevated Storage Tank
American Rescue Plan – Earmark
Clayton, NC

Dear Mr. Cappola:

The Town of Clayton has been approved for an American Rescue Plan (ARP) funding from the State Fiscal Recovery Fund in the amount of **$4,000,000**. Projects funded from the State Fiscal Recovery Funds established in S.L. 2021-180/S.L. 2022-74 must meet applicable federal law and guidance for the ARP funds. Accordingly, enclosed are two (2) copies of an offer-and-acceptance document, extending ARP funding in the amount of $4,000,000. This offer is made by the Division of Water Infrastructure (DWI), subject to the assurances and conditions set forth in the enclosed offer-and-acceptance document. Funds will not be disbursed unless this offer is accepted.

Upon your acceptance, please submit the following items to Pam Whitley, Division of Water Infrastructure (DWI), 1633 Mail Service Center, Raleigh, North Carolina 27699-1633 or via email at pam.whitley@deq.nc.gov:

1. A resolution (sample copy attached), adopted by the governing body, accepting the offer, and making the applicable assurances contained therein;

2. One (1) copy of the original offer-and-acceptance document, executed by the Authorized Representative for the project, along with the signed "Standard Conditions and Assurances" for ARP Projects. **Please retain the second copy for your files.**

3. Federal Identification Number and Unique Entity ID # of the Recipient (Memo attached)

4. Sales Tax Certification (attached)

North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

Once construction of the subject project has commenced, the enclosed "reimbursement request form" must be completed and submitted with all reimbursement requests. You are free to reproduce this form should additional copies be needed.

In addition, a memorandum requesting your federal identification number has been included with this offer of funding. You must complete and submit this form no later than the time when you choose to submit your first request for reimbursement. Reimbursement requests should be sent to DWI Finance Accountants at the address noted or emailed to dwi.businessoffice@deq.nc.gov.

On behalf of the Department of Environmental Quality, I am pleased to extend this offer of ARP funds, made available by the North Carolina Fiscal Recovery Fund. Should you have any questions concerning this offer of funding, or any of the stipulations outlined in this letter, please contact Mark Hubbard, DWI's Grant Management Unit Supervisor, at 919.707.9162.

Sincerely,

DocuSigned by:
Shadi Eskaf
5306A872077B4C5...

Shadi Eskaf, Director
Division of Water Infrastructure, NCDEQ

Enclosures: Offer-and-Acceptance Document (2 copies)
Resolution by Applicant's Governing Body to Accept an Offer of Funding
Fed ID/Unique Entity ID No. Request Memo
Sales-Tax Certification Form
Reimbursement Request Form

CC: Michael Penny, PE, McKim Creed, Raleigh (mpenny@mckimcreed.com)
Joshua Baird, PE, Town of Clayton, Clayton (jbaird@townofclaytonnc.org)
Rodolfo Giantaglia (DWI, via email)
Mark Hubbard (DWI, via email)
"DWI Administrative Unit"
Jennifer House (DWI, via email)
FILE: ARP Project File (**COM_LOX**)
Agreement ID: 2000069053

North Carolina Department of Environmental Quality | Division of Water Infrastructure
512 N. Salisbury Street | 1633 Mail Service Center | Raleigh, North Carolina 27699-1633
919.707.9160

DocuSign Envelope ID: 1940687A-E015-4C03-A411-4D55D3AE72E4

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

Town of Clayton
PO Box 879
Clayton, North Carolina 27528

Project Number: **SRP-D-ARP-0342**
Agreement ID: 2000069053
Assistance Listing Number: 21.027
Unique Entity ID Number: **ZFG6SS4UQWV6**

Funding Program

Drinking Water ☒ / **Wastewater** ☐		**Additional Amount for Funding Increases**	**Previous Total**	**Total Offered**
State Revolving Fund (SRF)	☐			
State Reserve Loan (SRP)	☐			
State Reserve Grant (SRP)	☐			
State Grant Appropriation (SAP)	☐			
American Rescue Plan Act (ARPA)	☒			$4,000,000

Project Description:

Copper District Elevated Storage Tank

Total Financial Assistance Offer: **$4,000,000**
Total Project Cost: **$10,610,000**
Estimated Closing Fee*: **$0.0**
For Loans
Principal Forgiveness: **$0**

**Estimated closing fee calculated based on grant and loan amount.*

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance,

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina: **Shadi Eskaf, Director, Division of Water Infrastructure**
North Carolina Department of Environmental Quality

DocuSigned by:
Shadi Eskaf
6300A872077B4C5...
Signature

8/8/2023
Date

On Behalf of: Town of Clayton
Name of Representative in Resolution:
Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the Assurances and the Standard Conditions.

Signature

Date

DocuSign Envelope ID: 1940687A-E015-4C03-A411-4D55D3AE72E4

APPLICABLE STANDARD CONDITIONS
Project Applicant: Town of Clayton **Project Numbers: SRP-D-ARP-0342**

1. Acceptance of this Funding Offer does not exempt the Recipient from complying with requirements stated in the U.S. Treasury's Final Rule for the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) and the SLFRF Compliance and Reporting Guidance not explicitly referred to in this document and any future requirements implemented by the U.S Treasury.

2. Acquisition of Real Property must comply with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 92-646), as amended. The applicant shall certify that it has or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project using a certification form provided by DEQ.

3. Specific MBE/WBE (DBE) forms and instructions are provided that are to be included in the contract specifications. These forms will assist with documenting positive efforts made by recipients, their consultants and contractors to utilize disadvantaged businesses enterprises. Such efforts should allow DBEs the maximum feasible opportunity to compete for subagreements and subcontracts to be performed. Documentation of efforts made to utilize DBE firms must be maintained by all recipients, and construction contractors, and made available upon request.

4. Subrecipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Subrecipients may access suspension and debarment information at: http://www.sam.gov. This system allows subrecipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.

5. Projects with a total cost of $10,000,000 or more must meet U.S. Treasury requirements for prevailing wage rates, project labor agreements, and related requirements. Recipients can either certify meeting the requirements or provide plans and reports as the SLFRF Compliance and Reporting Guidance specifies.

6. The Uniform Guidance 2 CFR 200.317 through 2 CFR 200.327 gives minimum requirements for procurement, with 2 CFR 200.319(b) addressing engineering services procurement guidelines. ARPA-funded projects must also adhere to North Carolina State law, specifically NC General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying (A/E) Services. NCGS 143-64.32 cannot be used to exempt funding recipients from a qualification-based selection for A/E. The State provides applicable certification forms that must be completed prior to receiving funds for any engineering services covered under this funding offer.

7. Local government units designated as distressed must complete associated requirements of statute §159G-45(b).

8. Funds made available by the ARPA that are not disbursed to the entity accepting the funds in this document by December 31st, 2026, will no longer be available for the project. Unused Federal funds will revert from the State of North Carolina to the U.S. Treasury.

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ASSURANCES
Project Applicant: Town of Clayton **Project Numbers: SRP-D-ARP-0342**

1. The Applicant intends to construct the project or cause it to be constructed to final completion in accordance with the Application approved for financial assistance by the Division. The recipient acknowledges that in the event a milestone contained in the Letter of Intent to Fund is missed, the Department of Environmental Quality will rescind this Funding Offer.

2. The Applicant is responsible for paying for the costs ineligible for ARPA funding.

3. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.

4. The Applicant will provide and maintain adequate engineering supervision and inspection.

5. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.

6. All ARPA funds shall be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.

7. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.

8. Funds must be fully spent (i.e., fully reimbursed to the recipient) by December 31, 2026.

9. The applicant acknowledges that loan funds contained in this Funding Offer require approval from the North Carolina Local Government Commission before they can be disbursed.

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FEDERAL ID & Unique Entity ID # REQUEST MEMO

TO: All Loan and Grant Recipients

SUBJECT: Federal Identification Number

Please be advised that all local government units receiving grant or loan funds from the State of North Carolina must supply their Federal Identification Number to this office upon acceptance of your loan/grant offer. Therefore, please provide the information below and return to:

Division of Water Infrastructure
1633 Mail Service Center
Raleigh, North Carolina 27699-1633

RECIPIENT:

PROJECT NUMBER:

FEDERAL IDENTIFICATION NUMBER:

UNIQUE ENTITY ID:

DocuSign Envelope ID: 1940687A-E015-4C03-A411-4D55D3AE72E4

(Suggested Format)

RESOLUTION BY GOVERNING BODY OF RECIPIENT

WHEREAS, the (unit of Government) has received an earmark for the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2022-74 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of $_____ to perform work detailed in the submitted application, and

WHEREAS, the (unit of government) intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE (GOVERNING BODY) OF THE (UNIT OF GOVERNMENT):

That (unit of government) does hereby accept the American Rescue Plan Grant offer of $_____.

That the (unit of government) does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

That (name and title of authorized representative), and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted this the (date adopted) at (place), North Carolina.

(Signature of Chief Executive Officer)

Date

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SALES-TAX REIMBURSEMENT CERTIFICATION FORM

(FOR FUNDING PROGRAMS IN THE DIVISION OF WATER INFRASTRUCTURE)

Applicant:_____

Project Number:_____

☐ Check If Applicant is not a unit of government under North Carolina law

If Applicant noted above is a Unit of Government in North Carolina, check the applicable box below.

Sales Tax **IS** deducted in this scenario. Please show this on the disbursement requests.

☐ The construction contract was bid with sales taxes and the unit of government will request reimbursement from the DOR.

Sales Tax **IS NOT** deducted in either of these scenarios.

☐ The construction contract was bid with sales taxes and the unit of government will not request reimbursement from the DOR.

☐ The construction contract was bid without sales taxes

_____
(Printed Name and Title of Authorized Representative)

_____
(Signature of Authorized Representative)

_____
(Date)

Submit to: NC Dept. of Environment & Natural Resources
Division of Water Infrastructure
Pam Whitley, Project Management Branch
1633 Mail Service Center
Raleigh, NC 27699-1633

REIMBURSEMENT REQUEST FORM

NC Division of Water Infrastructure

Funding Recipient:_____
DWI Project No._____

Payment No._____
Page No._____ **of** _____ *(Use more pages as needed)*

CONSTRUCTION *(Rename as appropriate)*	*Cumulative Cost to Date*	*Minus Ineligibles*	*Minus Overruns Not App'd By Change Order*	**Subtotal of Payable Cost**	*Minus Retainage on Payable Cost*	*Minus Cumulative Sales Tax*	*Other Adjustments (Other Funds e.g.)*	*Minus Previously Paid to Date*	**Requested For This Pay Request**
Contract 1	**$1,200,000**	**($100,000)**	**($100,000)**	**$1,000,000**	**($50,000)**	**($50,000)**	**($500,000)**	**($300,000)**	**$100,000**
Contract 2	**$505,000**		**($5,000)**	**$500,000**	**($25,000)**	**($10,000)**		**($400,000)**	**$65,000**
Contract 3									
Contract 4									
Contract 5									

ENGINEERING *(Rename as appropriate)*	*Cumulative Cost to Date*	*Other Adjustments (Other Funds e.g.)*	*Minus Previoulsy Paid to Date*	**Requested For This Pay Request**
Item 1	**$250,000**		**($250,000)**	**$0**
Item 2				
Item 3				
Item 4				

OTHER COSTS *(Rename as Appropriate)*	*Cumulative Cost to Date*	*Other Adjustments (Other Funds e.g.)*	*Minus Previously Paid to Date*	**Requested For This Pay Request**
Item 1				
Item 2				
Item 3				

PAY REQUEST TOTALS	*Cumulative Cost to Date*	*Minus Ineligibles*	*Minus Overruns Not App'd By Change Order*		*Minus Retainage on Payable Cost*	*Minus Cumulative Sales Tax*	*Other Adjustments (Other Funds e.g.)*	*Minus Previously Paid to Date*	**Total Requested For This Pay Request**
	$1,955,000	**($100,000)**	**($105,000)**		**($75,000)**	**($60,000)**	**($500,000)**	**($950,000)**	**$165,000**

Grant Percentage for SRP Projects: %

Certification

- I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with terms of the project and that this request represents the monies due which have not been previously received and that an inspection has been performed and all work is in accordance with the terms and conditions of the award.
- For applicable SRF projects, the project remains in compliance with Davis-Bacon and American Iron and Steel conditions or is the process of remediating noncompliance.

You must check ONE of the boxes below or your payment will not be processed:

The funds requested above have already been paid to the respective vendors, consultants & contractors by the funding recipient ☐

OR

The funds requested above have not been paid to the respective vendors, consultants & contractors.
Funds received from the State will be disbursed to these entities within three (3) banking days. ☐

Type or Print Name and Title | **Signature of Authorized Representative** | **Date**

DWI comments

Instructions and notes on how to use this form

- Complete guidance for preparing reimbursements can be found in section G.2. of the North Carolina SRF Program Overiew and Guidance that was included with your Funding offer (applicable to State grants and loans too) .
- **The form, as downloaded, is filled out with sample numbers. It is suggested that the sample be used as a reference (saved or printed).**
- Please submit ONE COPY of this form and backup documents when requesting funds.
- Only the Authorized Representive can sign this form, unless declared otherwise in a resolution.
- Construction contract line item overruns and engineering contract overruns must have approved change orders or engineering amendments before those costs will be paid.

Rev 12/13/16

Resolution # 2023-77

RESOLUTION BY GOVERNING BODY OF RECIPIENT

WHEREAS, the Town of Clayton has received an earmark for the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2022-74 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of $4,000,000.00 to perform work detailed in the submitted application, and

WHEREAS, the Town of Clayton intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE (GOVERNING BODY) OF THE (UNIT OF GOVERNMENT):

That the Town of Clayton does hereby accept the ARPA grant offer of $400.,000.00; and

That the Town of Clayton does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

That Jody McLeod, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the North Carolina Department of Environmental Quality, Division of Water Infrastructure.

Adopted this the 16th day of October 2023 at Clayton, North Carolina while in regular session.

_____
Jody L. McLeod
Mayor

ATTEST:

_____
Heidi L. Holland, CMC, NCCMC
Town Clerk

FIRST AMENDMENT TO WATER TOWER OPTION AND PUT AGREEMENT

THIS FIRST AMENDMENT AGREEMENT (the "First Amendment") is made and entered into on the last date executed below (the "Amendment Effective Date"), by and between the Town of Clayton, a North Carolina municipality, hereinafter referred to as the "Town" and Davis Park Leasing, LLC, a North Carolina limited liability company, hereinafter referred as the "DPL" and together with the Town, hereinafter referred as the "Parties".

RECITALS:

WHEREAS, the Town and DPL entered into a certain Option and Put Agreement dated November 16, 2021, attached hereto as Exhibit A and incorporated herein by reference (the "Original Agreement") for the development of a water tower (the "Tower") described in the Original Agreement, (the "Tower Site");

WHEREAS, DPL is to develop the Tower in a workmanlike manner and in accordance with the plans and specifications set forth in the Original Agreement;

WHEREAS, the Town has the option to purchase the Tower and Tower Site from DPL within thirty-six (36) months following the Town's issuance of a certificate of occupancy for the Tower;

WHEREAS, the Town has the option to purchase the Tower and Tower Site for $6,500,000.00;

WHEREAS, the parties desire to amend and modify the Original Agreement to provide for the Town to build the Tower and for DPL to provide a build-ready pad, improved access thereto and a water supply line;

WHEREAS, the Town and DPL now agree to amend and modify the Original Agreement to allow for the Town to build the Tower and to make the other changes to the Original Agreement as specifically set forth herein;

WHEREAS, DPL has expended funds ("Prior Expenditures") for the design and permitting of the EST in the amount of $ 146,376 as of August 31, 2023;

WHEREAS, DPL will be donating the Tower Site and access road for the EST to the town consisting of 0.93 acres, and valued at $150,000 / acre;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

(1) Recitals and Defined Terms. The recital paragraphs above are incorporated into this Amendment as if written below in their entirety. Any capitalized term used herein but not defined in this Amendment shall have the meaning ascribed in the Agreement.

(2) Reaffirmation; Intent to be Bound. Except as provided in this Amendment, each and every term and condition contained in the Original Agreement will remain in full force and effect. All capitalized terms have the same meaning as set forth in the Original Agreement except as stated herein. The Parties reaffirm that the representations and warranties made by each of the parties in the Original Agreement are true and accurate as of the date of this Amendment. The Parties executing this First Amendment, on behalf of themselves, their assigns and successors, acknowledge and reaffirm their intention to be bound by the terms and conditions of the Original Agreement except as specifically amended herein.

(3) Tower Site Donation and Access Road. DPL shall donate the Tower Site, suitable and ready in all respects for the Tower construction, together with an area to accommodate an access road thereto to the Town by no later than December 1, 2023. The Tower Site and access road shall be conveyed in fee simple by general warranty deed and without any encumbrances, except DPL's temporary rights of access to satisfy the requirements of paragraph (7) below. In addition to the general warranty deed, DPL shall execute such additional documents as Town may reasonably require in connection with the conveyance of the Tower Site and access road easement, and construction thereon, including without limitation, any documents required by the Town to satisfy any of its grant funding obligations. Subject to the terms of Section 8 hereof, no compensation shall be due to DPL for this conveyance.

(4) Management. The Town will oversee and manage the construction of the Tower, including procurement of the Contractor, using construction documents developed by DPL's Engineer of Record ("EoR") and approved by the Town.

(5) Access to Tower Site During Tower Construction Period. The Town and its contractors and agents shall have unhindered all-weather access to and from the Tower site via the easement for the access road identified herein.

(6) Amendments to Developer Contract. DPL shall, at its sole cost and expense, modify its contract with the engineer of record (EoR) as needed to accomplish its obligations under this First Amendment and shall provide the following to the Town by :

a) EoR shall, in coordination with Town, submit applications and respond to any comments as needed to ensure that initial grading and installation of erosion control measures will be installed and properly maintained in accordance with permits issued by the North Carolina Department of Environmental Quality ("NC DEQ") until conveyance of the Tower Site from DPL to the Town.
b) EoR shall be responsible to obtain a driveway permit from the NC Department of Transportation for use by the Town and its contractors throughout the duration of the Tower project.
c) EoR shall obtain and deliver to Town a public water supply permit from NC DEQ.

d) EoR shall update the bid package with front end documents supplied by the Town. The bid package shall comply with all and meeting federal and state ARPA requirements.

e) After review by the Town, EoR shall submit the complete bid package to the NC DEQ Division of Water Infrastructure for approval to bid and address any comments from NC DEQ.

f) EoR shall provide to Town a fully released for construction bid package.

g) EoR shall provide bid phase services, including scheduling and conducting the pre-bid meeting, reviewing scope of work, and issuing any required addenda, and provide recommendations of award to the Town.

h) EoR shall provide support to the Town as needed in obtaining authority from NC DEQ to award the bid for the Tower project.

i) All EoR pre-construction services described in this Section 6 shall be at the expense of DPL.

(7) DPL shall complete site grading for the access road and the build-ready Tower pad and installation of the 16" water supply line per approved plans with all geotechnical certifications and reports by June 1, 2024. The required plans and specifications are attached hereto as Exhibit B.

(8) Additional Payment Terms:

a) On or before January 1, 2024, DPL shall pay to the Town One Million Seven Hundred Thousand and No/100 Dollars ($1,700,000.00).

b) Within thirty (30) days of invoicing from the Town, DPL shall pay to the Town the full anticipated costs of DPL's desired Tower improvements architectural package, including lighting and painting and the parties shall enter into a maintenance agreement, which shall provide:

i. That the Town will install, maintain, repair, and replace lighting on the Tower and maintain- Tower painting for a period of 10 years, the costs of which shall be payable by DPL within thirty (30) days after each invoice by the Town as evidenced by copies of invoices reflecting all such expenses due to a third party.

ii. That the maintenance agreement may be renewed for an additional term of ten (10) years on mutual agreement by the parties.

c) Notwithstanding anything to the contrary herein, the parties agree that payment of the sum set forth in paragraph 8 a) above accounts for the Prior Expenditures and that (i) the Prior Expenditures shall not be credited against any amounts due hereunder from DPL to the Town, and (ii) any expenses incurred by the Town for any materials or services paid as part of the Prior Expenditures shall not be invoiced to DPL, nor shall any payment be due to the Town in connection with such expenses.

(9) Time of Payment. Any payments not received when due shall bear interest at the maximum legal rate until paid.

(10) Engineer for CA/CEI and Project Certification. The Town shall have the option to contract with a different engineer, other than EoR, to perform the CA/CEI and to certify project.

(11) Applicable Ordinances, Approvals, and Permits. All ordinances, approvals, and permits otherwise applicable to the Tower construction contemplated herein shall continue to apply.

(12) Notices. All notices, requests for payments, requests to modify the project, and other questions concerning this project should be addressed as follows:

If to the Town:
Town of Clayton
111 East 2nd Street
Clayton, NC 27520
Attention: Town Manager

With a copy to:
Town Attorney
Cauley Pridgen, PA
2500 Nash Street N, Suite C
Wilson, NC, 27896

If to the DPL:
Davis Park Leasing, LLC

c/o Craig Davis Properties Inc.
8000 Weston Parkway, Suite 360
Cary, NC 27513
Attn: Craig M. Davis

With a copy to:

Morningstar Law Group
421 Fayetteville Street, Suite 530
Raleigh, NC 27601
Attention: Molly Stuart
mstuart@morninglawgroup.com

(13) Time is of the Essence. Time is of the essence of this agreement. Upon failure of DPL to meet any deadline or milestone date provided for herein, or to timely deliver any of its obligations under this First Amendment, the Town shall have the right to provide the work, deliver the obligation and to obtain reimbursement in full from DPL.

(14) No Other Modifications. Except as specifically provided in this First Amendment, no other modifications or changes to the Original Agreement are intended by the parties.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Town and DPL have caused this First Amendment to be duly executed and sealed pursuant to proper authority as of the day and year first written above.

Davis Park Leasing, LLC

By: _____
Print Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public of _____County, State of North Carolina, do hereby certify that _____, the _____ of Davis Park Leasing, LLC, a North Carolina limited liability company, either being [ ] personally known to me or [ ] proven by satisfactory evidence (such evidence being_____), personally appeared before me this day and acknowledged the above execution of the foregoing instrument on behalf of Davis Park Leasing, LLC.

Witness my hand and seal, this _____ day of _____, 2023.

_____
Notary Public

My Commission Expires:

_____
[NOTARY SEAL]

THE TOWN OF CLAYTON

By: _____
Jody McLeod, Mayor

ATTEST:

_____
_____, Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of _____County, State of North Carolina, do hereby certify that _____, either being [ ] personally known to me or [ ] proven by satisfactory evidence (such evidence being_____), personally appeared before me this day and acknowledged that she is the Clerk of the TOWN OF CLAYTON, a North Carolina municipal corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was voluntarily signed in its name by the its Mayor, sealed with its municipal seal and voluntarily attested by her as its Clerk for the purposes stated herein on behalf of the TOWN OF CLAYTON.

Witness my hand and seal, this _____ day of _____, 2023.

_____
Notary Public

My Commission Expires:
_____
[NOTARY SEAL]

Exhibit A

Option and Put Agreement

Exhibit B

Plans and Specifications