

Town of Archer Lodge

AGENDA



Regular Council Meeting & Public Hearing on Amending the Code of Ordinances, Town of Archer Lodge, NC in accordance with State Law as referenced below:

1. Chapter 30, Article II, Division 3, Section 30-131-WSWOD, (e) Definitions

**Monday, May 3, 2021 @ 6:30 PM
Jeffrey D. Barnes Council Chambers**

NCGS § 143-318.17. Disruptions of official meetings.

A person who willfully interrupts, disturbs, or disrupts an official meeting and who, upon being directed to leave the meeting by the presiding officer, willfully refuses to leave the meeting is guilty of a Class 2 misdemeanor.

Page

1. WELCOME/CALL TO ORDER:

- 1.a. Invocation
- 1.b. Pledge of Allegiance

2. APPROVAL OF AGENDA:

3. OPEN FORUM/PUBLIC COMMENTS:

(Maximum of 30 minutes allowed; three minutes per person)

4. PRESENTATION:

- 4 - 335 4.a. Presentation of Unified Development Ordinance (UDO),
Town of Archer Lodge ~ Chad Meadows, CodeWright Planners, LLC
[Staff Report 5.3.21](#)
[UDO Draft 4-21-21](#)

5. PUBLIC HEARING, DISCUSSION AND POSSIBLE ACTION ITEMS:

- 336 - 337 5.a. Discussion and Consideration of Setting a Public Hearing at the Monday, June 7, 2021 Regular Town Council Meeting for Amending the *Code of Ordinances, Town of Archer Lodge, NC*, Unified Development Ordinance
[UDO Staff Report for Public Hearing](#)
- 338 - 343 5.b. PUBLIC HEARING - Text Amendments - *Code of Ordinances, Town of Archer Lodge, NC*, Chapter 30. Zoning and Subdivisions, Article II. Zoning, Division 3. Overlaying Zoning Districts, Section 30-131. - Water Supply Watershed Protection Overlay District (WSWOD),
(e) **Definitions**
1. Open Public Hearing
 2. Staff Report and Planning Board Recommendations
 3. Comments
 4. Close Public Hearing
 5. Governing Body
 - Discussion and Consideration of the Consistency Statement
 - Discussion and Consideration of Amending *Code of Ordinances, Town of Archer Lodge, NC*, Chapter 30. Zoning and Subdivisions, Article II. Zoning, Division 3. Overlaying Zoning Districts, Section 30-131. - Water Supply Watershed Protection Overlay District (WSWOD), (e) **Definitions**
- [Staff Report and Consistency Statement](#)
[AL2021-05-1 Ordinance Amending Water Supply Watershed Protection Overlay District \(WSWOD\) Definitions](#)
- 344 - 370 5.c. Discussion and Consideration of Adopting a Resolution Opposing Senate Bill 349 / House Bill 401
[AL2021-05-03 Resolution Opposing Senate Bill 349 House Bill 401 S349 3.24.21 H401 3.24.21](#)
- 5.d. Discussion and Consideration of Setting a Public Hearing at the Monday, June 7, 2021 Regular Town Council Meeting for the Proposed Annual Budget Ordinance for FY 2021-2022
- 5.e. Discussion and Consideration of Council's Desire to Pursue Sewer for Economic Development in the Town of Archer Lodge

6. TOWN ATTORNEY'S REPORT:

7. TOWN ADMINISTRATOR'S REPORT:

8. MAYOR'S REPORT:

9. COUNCIL MEMBERS' REMARKS:

(Town-related, non-agenda items)

10. ADJOURNMENT:



TOWN OF ARCHER LODGE
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Archer Lodge, NC 27527
Main: 919-359-9727
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Mayor:
Matthew B. Mulhollem

Council Members:
Clyde B. Castleberry
Mayor Pro Tem
Teresa M. Bruton
J. Mark Jackson
James (Jim) Purvis, III
Mark B. Wilson

To: Town Council

From: Julie Maybee, Town Planner

Date: April 29, 2021

Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney, Brough Law Firm, CodeWright Planners

Re: Agenda Item 4.a. – Presentation of Unified Development Ordinance, Town of Archer Lodge - Chad Meadows, CodeWright Planners, LLC

Overview:

For Council's review and consideration is the 4.21.21 draft of a new Unified Development Ordinance ("UDO") for the Town of Archer Lodge, NC.

A PowerPoint presentation highlighting/updating proposed UDO provisions will be given at the meeting by Chad Meadows, CodeWright Planners, LLC.

As best summarized on page 1 of the UDO draft, "A UDO is a modern, forward-looking set of development standards and rules for development application review that will be used by the Town to protect property values, preserve Archer Lodge's community character, and promote beneficial economic development. The new UDO will address all the recent changes to State laws for development regulation adopted by the North Carolina General Assembly in 2019 and 2020 (often referred to as the "160D changes") as well as other recent changes to federal laws, court rulings, and methods of best practice. The goal for the project is to develop a new UDO that is more predictable, easier to use, and more effective than the Town's current development regulations ...".

It should be noted that about one-half of the mandatory changes have already incorporated into amendments adopted by the Town Council.

As mandated by NCGS 160D, an ordinance complying with said provisions must be adopted by July 1, 2021.

As conveyed by Adam Lovelady, Associate Professor of Public Law and Government, UNC School of Government, in a Coates' Cannon Blog:

- "... Failure to adhere to the procedures, standards, and authorities of Chapter 160D will put the local government at risk of practical headaches and legal action.
- Some changes in the Chapter 160D trump local ordinances.
- Broadened conflict of interest standards, for example, will apply whether or not the local government adopts it. Failure to align the local rules with the state rules will cause confusion and frustration.
- Development decisions could be overturned for failure to comply with applicable procedures.
- This could cause frustration for board members and community members as well as wasted time and money for the applicant and local government.
- Notably, failure on the part of a local government to recognize clear legal limits could result in legal challenge and, potentially, attorneys' fees for the challenger ...".

On May 19, 2021, the Planning Board will consider a final UDO draft, and tentatively forward a recommendation to Council on June 7, 2021.

Town of
ARCHER LODGE

UNIFIED DEVELOPMENT ORDINANCE

(formerly Town Code Chapter 30 – Zoning and Subdivisions)

Staff Draft – April 21, 2021



ACKNOWLEDGEMENTS



TOWN COUNCIL

Matt Mulhollem, Mayor
Clyde Castleberry, Mayor Pro Tem
Teresa Bruton
J. Mark Jackson
James (Jim) Purvis, III
Mark Wilson

PLANNING BOARD

John Oglesby, Chair
Teresa Romano, Vice Chair
A. Terry Barnes
Hearbert Locklear
A. Neal Thompson

TOWN STAFF

Mike Gordon, Town Administrator
Kim P. Batten, Finance Officer/Town Clerk
Julie Maybee, Town Planner
Marcus Burrell, Town Attorney (Hewitt Law Group)
Joyce Lawhorn, Deputy Clerk

CONSULTANT

The Brough Law Firm PLLC

CodeWright Planners

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& Brough Law Firm, CodeWright Planners

USING THIS UNIFIED DEVELOPMENT ORDINANCE (UDO)¹

This document is the initial draft of a new Unified Development Ordinance (“UDO”) for the Town of Archer Lodge. A UDO is a modern, forward-looking set of development standards and rules for development application review that will be used by the Town to protect property values, preserve Archer Lodge’s community character, and promote beneficial economic development. The new UDO will address all the recent changes to State laws for development regulation adopted by the North Carolina General Assembly in 2019 and 2020 (often referred to as the “160D changes”) as well as other recent changes to federal laws, court rulings, and methods of best practice. The goal for the project is to develop a new UDO that is more predictable, easier to use, and more effective than the Town’s current development regulations.

The first step in the process of drafting a new UDO for Archer Lodge is to assemble a comprehensive “shell document” that consolidates all the current development standards from various sections of the Town Code of Ordinances (like Chapter 2, Administration, Chapter 14, Flood Damage Prevention, and others) into a new consolidated chapter of the Town Code – Chapter 30 – Unified Development Ordinance. This initial draft UDO is that “shell document”. It unifies all the Town’s current development regulations into one chapter under a common format, but with a new more intuitive structure. This document includes no substantive changes to any of the Town’s currently adopted development standards – it just puts them into a new sequence.

After assembly, this initial draft UDO will be further revised. The Town has already made several revisions to the current development regulations in late 2020, and these recent changes will be carried forward in the new UDO. Older portions of the Town’s development regulations not amended in 2020 will be revised as part of this process. In order to simplify review of these proposed changes, any revisions made to the text of this initial draft UDO after MARCH 2021 will be in ‘tracked changes’ format. New text will be shown as red underline. Deleted text will be ~~struck through~~. Relocated text is shown as green double underline. The new UDO will include additional summary tables, illustrations, an index, and other modern features though some of the features may not appear as tracked changes.

Several sections in the current zoning ordinance provisions include cross references to other sections in Chapter 30 or other parts of the Town Code. Some of these cross references have been carried forward here without revision pending update once the draft UDO is more complete. These cross references have been marked with grey highlight. Code users should disregard the listed cross references to the current / old code sections until they are updated.

This draft UDO also includes footnotes on the bottom of several pages (like on this page). These footnotes identify proposed changes, provide background information, or are provided as questions for consideration. The adopted version of the UDO will not include these footnotes.

The Table of Contents at the front of this draft UDO provides a listing of all the articles and main sections in Chapter 30. Users of the digital version of the document may use these table of content entries to “jump” to the desired portion of the document by moving the mouse over the desired article or section name in the table of contents and clicking their mouse.

¹ This section introduces the project and provides detail for code users. This section will not be included in the adopted version of the new UDO.

The following comparative table describes how the development regulations in the current Town Code of Ordinances are restructured in this draft Unified Development Ordinance. The first two columns list the section number and title of development regulations as found in the current Town Code of Ordinances. The last column in the table shows the corresponding article and division in this draft UDO where the regulations have been relocated. While the article and section numbers of relocated text differ in this initial draft UDO, the text in has not been substantively changed from the current language in the Code of Ordinances (though substantive revisions and updates will take place in later versions of this document).

DRAFT UDO COMPARATIVE TABLE		
CURRENT LOCATION IN CODE OF ORDINANCES (BY ARTICLE & SECTION)		LOCATION IN NEW UDO (CHAPTER 30 OF TOWN CODE OF ORDINANCES)
CHAPTER 2 - ADMINISTRATION		
ARTICLE II. BOARDS AND COMMISSIONS		
Division 1. Planning Board		
2-30	Appointment and terms	Article 2, Division 3
2-31	Board officers	
2-32	Powers and duties of board	
2-33	Meetings and quorum	
2-34	Voting	
2-35	Reserved	
Division 2. Board of Adjustment		
2-40	Appointment and terms	Article 2, Division 4
2-41	Board officers	
2-42	Powers and duties of board	
2-43	Meetings and quorum	
2-44	Reserved	
2-46	Appeals	Article 3, Division 3
2-47	Variance	
2-48	Interpretations of zoning map	
2-49	Conditional use permits	
2-50	Reserved	
2-51	Hearing required on BOA decisions (QJ)	Article 3, Division 2
2-52	Notice of hearing	
2-53	Standing	
2-54	Evidence and burden of proof	
2-55	Modification of application at hearing	
2-56	Voting	
2-57	Board action	
2-58	Record on appeals	
2-59	Appeals to Johnston County Superior Court	
2-60	Reserved	
CHAPTER 30 ZONING AND SUBDIVISIONS		
ARTICLE I. IN GENERAL		

DRAFT UDO COMPARATIVE TABLE		
CURRENT LOCATION IN CODE OF ORDINANCES (BY ARTICLE & SECTION)		LOCATION IN NEW UDO (CHAPTER 30 OF TOWN CODE OF ORDINANCES)
30-1	Reserved	
ARTICLE II. ZONING		
Division 1. Generally		
30-19	Short Title	Article 1, Division 1
30-20	Authority	
30-21	Jurisdiction	
30-22	Intent	
30-23	Required conformance to article provisions	
30-24	Definitions	Article 10, Division 3
30-25	Penalty	Article 9, Division 3
30-26	Existing lots of insufficient size	Article 8, Division 2
30-27	Exceptions to height regulations	Article 10, Division 2
30-28	Statutory zoning vested rights provisions; site specific development plan	Article 1, Division 3
30-29	Establishment of a vested right	
30-30	Approval procedures and approval authority	
30-31	Duration	
30-32	Termination	
30-33	Limitations	
30-34	Repeal	
30-35	Fees	Article 3, Division 2
30-36	Amendments	Article 3, Division 3
30-37	Nonconforming uses	Article 8, Division 5
Division 2. Zoning Districts		
30-63	Establishment of zoning districts	Article 4, Division 1
30-64	Zoning map	Article 4, Division 6
30-87	Intent	Article 4, Division 1
30-88	Establishment	
30-89	Applicability	Article 5, Division 1 & 4
30-90	Special uses	Article 3, Division 3
30-91	Agricultural residential district (AR)	Article 4, Division 2
30-92	Single-family residential district (SFR-1)	
30-93	Single-family residential district (SFR-2)	
30-94	Single-family residential district (SFR-3)	
30-95	Residential manufactured home park (R-MHP)	
30-96	Office and institutional district (OI)	Article 4, Division 3
30-97	Neighborhood business district (NB)	
30-98	Community business district (CB)	
30-99	Table of business and commercial uses	
30-100	Development standards for specific uses	Article 4, Division 1

DRAFT UDO COMPARATIVE TABLE		
CURRENT LOCATION IN CODE OF ORDINANCES (BY ARTICLE & SECTION)		LOCATION IN NEW UDO (CHAPTER 30 OF TOWN CODE OF ORDINANCES)
30-129	Intent	Article 4, Division 5
30-130	Environmentally sensitive area district (ES)	
30-131	Water supply watershed protection district (WSW) [NOTE: Language derived from AL2021-02-1]	
30-132	Amendments to overlay district boundaries	
ARTICLE III. SITE PLANS		
Division 1 Introduction, General Requirements		
30-163	Zoning compliance permit required	Article 3, Division 3
30-164	Applications to be complete	
Division 2. Zoning Compliance Permit Procedures		
30-166	Zoning compliance permit application submittal requirements/sketch or site plan review required	Article 3, Division 3
30-167	Staff consultation after application submitted	
30-168	Action on the application	
30-169	Actions subsequent to decision	
30-170	Appeal of decision	
30-171	Modification of zoning compliance permits	
30-172	Expiration and revocation of zoning compliance permit approvals	
Division 3. Site Plan Procedures		
30-173	Site plan application submittal requirements	Article 3, Division 3
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30-176	Appeal of decision	
30-177	Modification of site plan permits	
30-178	Expiration and revocation of site plan approvals	
ARTICLE IV. DESIGN STANDARDS		
30-194	Intent	Article 6, Division 2
30-195	Applicability	
30-196	General site arrangement and criteria	
30-198	Site design	
30-199	Site access and on-site circulation	Article 6, Division 1
30-200	Off-street parking and loading	Article 6, Division 6
30-201	Sec. 30-201 - Sedimentation, erosion control and stormwater management	Article 6, Division 10
30-202	Water and sewer	Article 7
30-203	Other utilities	
30-204	Collection of solid waste and recyclables	Article 6, Division 8
30-205	Landscaping	Article 6, Division 5
30-206	Outdoor lighting standards	Article 6, Division 3
30-207	Accessibility for the handicapped	Article 6, Division 1

DRAFT UDO COMPARATIVE TABLE		
CURRENT LOCATION IN CODE OF ORDINANCES (BY ARTICLE & SECTION)		LOCATION IN NEW UDO (CHAPTER 30 OF TOWN CODE OF ORDINANCES)
30-208	Transportation impact analysis	delete
30-209	Commercial building design standards	Article 6, Division 2 & Article 10, Division 3
30-210	Multi-family design standards	Article 6, Division 2 & Article 10, Division 3
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30-244	Traffic safety precautions	
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30-250	Unified sign plan; requirements; enforcement	Article 6, Division 7
30-251	Existing signs not conforming to unified sign plan	
30-252	Binding effect	
30-253	Penalty	
ARTICLE VI. SUBDIVISIONS		
Division 1. Generally		
30-285	Intent	Article 7
30-286	Authority and jurisdiction	
30-287	Applicability	
30-288	Definitions	Article 10, Division 3
30-289	Penalties for transferring lots in approved subdivisions	Article 7
Division 2. Procedures for Approval of Minor Subdivisions		
30-310	Application submittal requirements	Article 3, Division 3
30-311	Town Planner action	
30-112	Actions subsequent to decision	
30-313	Appeal of decision	
30-314	Exception for subdivision of land in single ownership established by NC General Statute, section 160D-802.	Article 3, Division 3
Division 3. Procedures for Approval of a Major/Commercial Subdivision		
30-345	Preliminary plat approval	Article 3, Division 3
30-346	Preliminary conference	
30-347	Application submittal requirements	
30-348	Traffic impact analysis (TIA) submittal requirement	Article 6, Division 9
30-349	Town Planner's report	Article 3, Division 3

DRAFT UDO COMPARATIVE TABLE		
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30-351	Expiration of preliminary plat approval	
30-352	Standards for design for lots in a subdivision	
30-353	Appeal of decision	
Division 4. Final Plat Approval		
30-380	Application requirements	Article 7
30-381	Town Planner 's action	Article 3, Division 3
30-382	Action subsequent to decision	
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30-385	Specifications for drawings	Article 3, Division 3
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30-411	Applicability of lot design standards	
30-412	Lot size standards	
30-413	Lot and block arrangement	
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30-415	Standards: Access, circulation and open space	
30-417	Reverse frontage residential lots	
30-418	Public water, fire hydrants, and sewer systems	
30-419	Other utilities	
30-420	Outdoor lighting	delete
30-421	Sedimentation, erosion control and stormwater management	
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30-A1	Official zoning map	Article 11, Division 1
30-A2	Environmental elements map	Article 11, Division 2
30-A3	List of recommended plants	Article 11, Division 3
30-A4	Plat certificates	Article 11, Division 4
30-A5	Model language for declaration of restrictive covenants	Article 11, Division 5
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ARTICLE 1. - GENERAL PROVISIONS**DIVISION 1. - PREFACE.****Sec. 30-1101 - Short title.**

This article shall be known as and may be cited as the "Archer Lodge Unified Development Ordinance, UDO."

Sec. 30-1102 - Effective date.**Sec. 30-1103 - Authority.**

This article is adopted pursuant to authority contained in G.S. Chapter 160D.

Sec. 30-1104 - Applicability and jurisdiction.

This Ordinance shall be effective throughout the town's planning jurisdiction.

Where applied. The standards in this Ordinance apply to all lands within the Town of Archer lodge, as identified on the Official Zoning Map.

(b) No Development Until Compliance with This Ordinance.

- (1) No Land Developed* Unless exempted, no land shall be developed without compliance with this Ordinance and all other applicable County, State, and federal regulations.
- (2) No Grading or Excavation* Unless exempted, no land shall be subjected to substantial clearing, grading, filling, or excavated without compliance with this Ordinance and all other applicable Town, County, State, and federal regulations.
- (3) No Use or Occupancy* No person shall use or occupy any land or buildings or authorize or permit the use or occupancy of land or buildings under their control, except in accordance with this Ordinance.
- (4) No Construction or Alteration* No building, or portion thereof, shall be erected, used, moved, or altered except in conformity with the regulations specified for the zoning district in which it is located and all other applicable provisions of this Ordinance.
- (5) No Improvement to Subdivided Land* Improvements to subdivided land shall not be undertaken until approval of a preliminary plat for all or the active phase of a major subdivision or a minor subdivision approval for all or the active phase of a minor subdivision.
- (6) No Sale or Transfer* Except for lots within an exempt subdivision, no lots in a subdivision may be sold or titles to land transferred as part of a transfer plat² until all the requirements of this Ordinance have been met, except as authorized by Section 160D-801, et seq. of the North Carolina General Statutes.

(c) Application to Governmental Units Except where otherwise stated, the provisions of this Ordinance shall apply to:

- (1)* Development by the Town or County or its agencies or departments;
- (2)* Development of buildings by the State, public colleges or universities, or other political subdivisions of the State; in accordance with the North Carolina General Statutes; and

² A procedure for transfer plats will be added in the next draft. AB March 11, 2021.

- (3) 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 law.

Sec. 30-1105 - Required conformance to article provisions.

Except as otherwise specifically provided in this article, no land or structure shall be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development, and no structure, or part of a structure, shall be constructed, erected, altered or moved, except in compliance with all of the applicable provisions of this article.

Sec. 30-1106 - Purpose and intent.

- (a) *Declaration of necessity.* In order to protect and promote the health, safety, and general welfare of the town and its planning jurisdiction, this article is adopted by the board of the town council to regulate and restrict by means of zoning regulations the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size and availability of yards, courts and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence and other purposes.
- (b) *Purpose.* The purpose of the regulations set forth in this article shall be to accomplish compatible development of the land within the planning jurisdiction of the town in a manner which will best promote the health, safety, and general welfare; to promote efficiency, energy conservation, and economy in development; to make adequate provisions for traffic; to secure safety from fire, flooding, panic, and other hazards; to provide for adequate light and air; to prevent overcrowding of land; to avoid inappropriate concentration of population; to facilitate the adequate provision of transportation, public water, sewerage, schools and other public requirements; to promote desirable living conditions and the stability of neighborhoods; and to achieve other purposes in accordance with the comprehensive plan and development policies for the town's planning jurisdiction.

Sec. 30-1107 - Severability.

The legislative intent of the Town Council in adopting this Ordinance is that all provisions shall regulate development in accordance with the existing and future needs of the Town as established in this Ordinance, and promote the public health, safety, and general welfare of the landowners and residents of the Town of Archer Lodge. If any section, subsection, sentence, boundary, or clause of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, the Town Council hereby declares that it would have passed this Ordinance and any section, subsection, sentence, boundary, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, boundaries, clauses, or phrases are declared invalid. The sections not declared invalid will continue to be used and enforced by the Town.

DIVISION 2. - OTHER LAWS AND PRIOR APPROVALS.**Sec. 30-1201 - Consistency with adopted plans.**

The administration, enforcement, and amendment of this Ordinance shall be accomplished in accordance with the Town's adopted Comprehensive Plan and any other adopted plan or policy guidance.

Sec. 30-1202 - Relationship to other laws.*(a) Conformance.**(1) Advisory Only.*

- a. Except for functional plans and documents, adopted policy guidance is advisory in nature and does not carry the effect of law.
- b. This Ordinance or any decisions made under this Ordinance may not be challenged on the basis of any alleged non-conformity with an adopted plan.

(2) Consistency Desired but not Required. This Ordinance seeks to ensure that all development within the Town is consistent with the goals, objectives, policies, strategies, and actions contained in the Town's adopted plans, but consistency between a decision made under this Ordinance and the adopted plan is not a legal requirement. Decisions on applications for amendments to the text of this Ordinance or the Official Zoning Map shall be accompanied by a statement of consistency recognizing if the proposed decision is or is not consistent with the Town's adopted policy guidance in accordance with Section 160D-605, Plan Consistency of the N. C. General Statutes.*(3) Amendment Upon Inconsistency.*

- a. To the extent this Ordinance or the Official Zoning Map (OZM) is or becomes inconsistent with the Town's adopted plans, the Town may amend this Ordinance to better achieve consistency, but such amendment is not legally required. Zoning map amendments inconsistent with an adopted land use plan automatically amend the land use plan. See Section 30-3330 Rezoning.
- b. In cases where the Town's adopted policy guidance is amended as part of an approval of a zoning map amendment, the approval shall indicate the simultaneous amendment of the applicable adopted plan.

*(b) Functional Plans and Documents.**(1)* The Town has adopted functional plans and documents relating to the provision of public infrastructure and services (e.g., the most recently- adopted Johnston County Comprehensive Transportation Plan, Archer Lodge, NC Bike and Pedestrian Plan, or the Johnston County Storm Water Management Ordinance, Johnston County Stormwater Design Manual, economic development, and tourism.*(2)* Compliance with standards in functional plans and documents is mandatory**Sec. 30-1203 - Conflicting provisions.***(a) Conflicts with Other Laws.* 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. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent*(b) Conflicts with State or Federal Laws.*

- (1) If a provision of this Ordinance is inconsistent with State or federal law, the more restrictive provision controls, to the extent permitted by law.
- (2) In cases where a State law related to an environmental issue is less restrictive than comparable

(c) Conflicts Between Standards in this Ordinance

- (1) When two or more standards in this Ordinance conflict with one another, the more restrictive standard shall control.

- (2) In cases where development is configured in accordance with an authorized incentive or other flexibility provision included in this Ordinance (such as an administrative adjustment), the standards related to the approved incentive or flexibility provision
- (3) The text of this Ordinance shall be interpreted in accordance with Section 30-3320, Determination and Interpretation. Nothing shall limit the Town Planner from preparing a written interpretation of how conflicting provisions are interpreted on a case-

Sec. 30-1204 - Transitional provisions.

The standards in this section address existing violations, non-conformities and applications in process at the time this ordinance is adopted.

(a) Violations continue.

- (1) 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 VVV, Statute of Limitations.
- (2) Any violation of the previous UDO that is no longer a violation under this Ordinance shall not be considered a violation.
- (3) Violations of this Ordinance that have not yet passed any applicable statutes of limitation shall be subject to the penalties set forth in Article 9, Enforcement, unless the development complies with the express terms of this Ordinance or other applicable ordinances, laws, or statutes

(b) Existing non-conformities. If any use, building, structure, lot, sign, or site feature legally existed on **ADOPTION DATE**, 2021, but does not fully comply with the standards of this Ordinance, the use, building, structure, lot, sign, or site feature is considered nonconforming under this Ordinance and shall comply with the requirements in Article 8, Nonconformities*(d) Approved applications.*

- (1) Any development approvals granted before **ADOPTION DATE**, 2021 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) Portions of developments, including subdivisions, reserved as future development sites where no lot lines are shown on a preliminary plat, site plan, PD master plan, or other plan of development shall comply with the provisions of this Ordinance.
- (4) 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.
- (5) An applicant shall be deemed to have initiated an approved development upon the subsequent application for and diligent pursuit of other required Town, County, State, or federal permits or approvals.
- (6) Timelines for the commencement or expiration of development in accordance with an approved application shall be suspended in the event of legal challenge.
- (7) 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 Article 8, Nonconformities.

*(e) Pending applications.**(1) Final action pending.*

- a. Any development application submitted and accepted as complete before **ADOPTION DATE**, **2021**, but still pending final action as of that date, 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.

ARTICLE 1. - GENERAL PROVISIONS

Sec. 30-1205 - Regulatory codes adopted by reference.

- b. To the extent an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 8, Nonconformities.
- c. If the development subject to an application approved under the prior zoning or subdivision ordinances fails to comply with the required time frames, it shall expire, and future development shall be subject to the requirements of this Ordinance

(2) *Complete applications.*

- a. Applications accepted as complete prior to **ADOPTION DATE 2021** 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.
- b. To the extent such an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 8, Nonconformities.
- c. If the development subject to an approved application fails to comply with the required time frames, it shall expire, and future development shall be subject to the requirements of this Ordinance.

(3) *Submitted, but incomplete applications.* Applications that have been submitted prior to **ADOPTION DATE 2021** but not determined to be complete by the Town Planner as of that date shall be reviewed and decided in accordance with this Ordinance

(f) *Pre-existing conditional use permits.*

- (1) Development subject to a conditional use permit issued prior to **ADOPTION DATE 2021** shall continue to be subject to the conditional use permit requirements and all conditions of approval.
- (2) Amendments to a conditional use permit established prior to **ADOPTION DATE 2021** shall be in accordance with the standards in Section 30-3332, Special Use Permit

(g) *Established uses without a special use permit.*

- (1) If a use was a lawfully-established permitted “by-right” use before **ADOPTION DATE 2021** and is subsequently made a special use in Article 5, Div. 1, Table aaa, Principal Use Table, the lawfully-established pre-existing permitted use shall be considered a nonconforming use in accordance with Section 30-8503, Nonconforming Uses, and may continue in operation.
- (2) Any changes to a lawfully-established pre-existing permitted use that now requires a special use permit after **ADOPTION DATE 2021** shall require a special use permit in accordance with Section 30-3332, Special Use Permit.

Sec. 30-1205 - Regulatory codes adopted by reference.

The following Codes and standards are hereby adopted and incorporated into this Ordinance by reference:

(a) Flood Insurance Rate Maps; and

(b) **List the Johnston County ordinances that apply to the Town by contract**

DIVISION 3. - VESTED RIGHTS.**Sec. 30-1301 - Statutory zoning vested right provisions; site specific development plan.**

This section is intended to implement the provisions of G.S. section 160D-108.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan approved after November 14, 2013. For the purpose of this section, a site specific development plan is defined as a plan of land development submitted to the town for purposes of obtaining a special use permit or zoning compliance permit. A variance, a sketch plan or any other document that fails to describe with reasonable certainty the type and intensity of use for a specific parcel or parcels of property shall not constitute a site-specific development plan. A zoning vested right is defined as a right pursuant to G.S. section 160D-108.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

Sec. 30-1302 - Establishment of a zoning vested right.

- (a) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the town council, planning board, board of adjustment, or Town Planner, as applicable, of a site specific development plan. A zoning vested right is defined as a right pursuant to section G.S. 160D-108.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.
- (b) The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.
- (c) Notwithstanding subsections (a) and (b) of this section, approval of a site specific development plan with a condition that a variance is obtained, shall not confer a zoning vested right unless the necessary variance has been obtained.
- (d) A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- (e) The establishment of a zoning vested right shall not preclude the application of any overlay zoning that imposes additional requirements but does not affect the allowable type or density 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 development plan upon the expiration or termination of the vested right in accordance with this section.
- (f) 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 development plan, all successors to the landowner that established the zoning vested right shall be entitled to exercise such right while applicable.

(Ord. of 11-14-2013, § 14-11)

Sec. 30-1303 - Approval procedures and approval authority.

- (a) Except as otherwise provided for in this section, an application for specific development 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 zoning compliance permit or approval for which application is made.
- (b) 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 board of commissioners following notice and a public hearing as provided in sections 30-3206 Public Notification and 30-3207 Public meetings and hearings.
- (c) In order for a zoning vested right to be established upon approval of a site specific development 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.

- (d) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation:
"Approval of this plan established a zoning vested right under G.S. § 160D-108.1 unless terminated at an earlier date, the zoning vested right shall be valid until two years from date of issuance."
- (e) Following approval or conditional approval of a site specific development plan, nothing in this article 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.
- (f) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

(Ord. of 11-14-2013, § 14-12)

Sec. 30-1304 - Duration.

- (a) A zoning right that has been vested as provided in sections 30-1313 et seq., shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to subsection (b) of this section. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the town council at the time the amendment or modification is approved.
- (b) Notwithstanding the provisions of subsection (a) of this section, the approval authority 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 of the development, the level of investment, the need for or desirability of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the town council at the time the site specific development plan is approved.
- (c) Upon issuance of a building permit, the expiration provisions of G.S. section 160D-1109 and the revocation provisions of G.S. section 160D-1113 shall apply, except that a building permit shall not expire or be revoked because of the running time while a zoning vested right under this section is outstanding.

Sec. 30-1305 - Termination.

A zoning right that has been vested as provided in section 30-1313, et seq. shall terminate:

- (a) At the end of the application vesting period with respect to buildings and uses for which no valid building permit application has been filed;
- (b) With the written consent of the affected landowner;
- (c) Upon finding by the town council, by ordinance after notice and a public hearing, that natural or manmade 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 as contemplated in the approved site specific development plan;
- (d) 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, engineering, planning, marketing, legal, and other consultant's fees incurred after approval by the town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
- (e) Upon findings by the town council, by ordinance after notice and a public hearing, that the landowner or his 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

- (f) 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 public hearing.

Sec. 30-1306 - Limitations.

Nothing in this article is intended or shall be deemed to create any zoning vested right other than those established pursuant to G.S. section 108.1.

ARTICLE 2. - AUTHORITIES³

DIVISION 1. - GENERAL REQUIREMENTS FOR ALL REVIEW AUTHORITIES.

Sec. 30-2101 - Oath of office required.

- (a) All members appointed to boards shall, before entering their duties, qualify by taking an oath of office administered by the Mayor or the Mayor Pro Tem.
- (b) Oaths shall be signed and filed with the Town Clerk.
- (c) The oath to be administered is prescribed in [Article VI, § 7 of the N.C. Constitution](#), as follows:
“I, ..., do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as, so help me God.”

Sec. 30-2102 - Open meetings.

Except as provided by N.C. Statute, each official meeting of the public bodies described in this Article shall be open to the public, and any person is entitled to attend such a meeting. Remote meetings conducted in accordance with [G.S. section 166A-19.24](#) shall comply with this subsection even if all members of the public body are participating remotely.

Sec. 30-2103 - Attendance.

Faithful attendance at scheduled meetings is required. The Town Council may remove any appointed member for absenteeism. Missing three or more meetings in a twelve-month period is prima facie evidence of absenteeism. The Secretary to each Board shall make a report on attendance to the Town Council in writing at least once in every calendar year.

Sec. 30-2104 - Minutes and rules of procedure.

- (a) Each Board shall draw up rules of procedure under which it will operate. The Town Council will adopt rules of procedure and any amendments that are consistent with the provisions of this UDO. In the absence of action by the Town Council, each board created under this Article is authorized to adopt its own rules of procedure that are consistent with the provisions of this Chapter. A copy of any adopted rules of procedure shall be maintained by the Town Clerk and posted on the local government Web site.
- (b) Each board shall keep minutes of its proceedings. The Secretary shall keep minutes of its proceedings, showing the vote of each member upon each question, and the absence or failure of any member to vote, and a copy of the minutes shall be maintained on file for public record in the office of the Town Clerk.

Sec. 30-2105 - Conflict of interest.

- (a) A Town Council or Planning Board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this UDO where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Town Council or Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

³ This article sets out the review authorities with review and decision-making responsibilities under this Chapter. It relocates the material from Division 2 of Chapter 2 of the Town Code, which has been revised in late 2020. This article is missing General Requirements for All Review Authorities (open meetings, minutes required, rules of procedure location, oath of office, conflict of interest, attendance policy, and removal), a section on the Town Council, and a section on the Town Planner (Floodplain Administrator, Stormwater Administrator).

- (b) *Quasi-Judicial Decisions.*--A member of the Board of Adjustment, Stormwater Review Board (or Town Council) 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. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. Quasi-judicial decisions include variances and special use permits

DIVISION 2. - TOWN COUNCIL.

Sec. 30-2201 - Powers and Duties.

The Town Council shall hear and decide the following applications or permits. In considering the applications, the Town Council shall follow the requirements of Article 3, Division 1 and the sections governing each specific action as listed below:

- (a) Development Agreements (See section 30-3320.)
- (b) Planned Development (See Section 30-3327)
- (c) Reasonable Accommodation (Fair Housing Act) (See Section 30-3328)
- (d) Rezoning or Map Amendment (See Section 30-3329)
- (e) Site Plan (See Section 30-3330)
- (f) Special Use Permit (See Section 30-3331)
- (g) Text Amendment (See Section 30-3333)
- (h) Vested Rights Certificate (See Section 30-3336[placeholder])

DIVISION 3. - PLANNING BOARD.

Sec. 30-2301 - Establishment.

Sec. 30-2302 - Appointment and terms.

- (a) The Planning Board has five members. The Planning Board shall also serve as the Board of Adjustment.
- (b) Members may be appointed to successive terms without limitation.
- (c) The Planning Board shall consist of five regular members, and two alternate members, each to be appointed for three-year terms, except as allowed otherwise below. In appointing the original members of such Board, the Town Council may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time. All regular members shall be citizens and residents of the Town of Archer Lodge.
- (d) Vacancies may be filled for the unexpired terms only by majority vote of the Town Council. Members will be appointed to complete the remainder of an unexpired term.
- (e) Alternate members shall participate in all deliberations. Alternate members shall only vote in the absence of a regular member.
- (f) All members shall be citizens and residents of the Town.

Sec. 30-2303 - Board officers.

- (a) At its first regular meeting of each calendar year, the Planning Board shall, by majority vote of its membership (excluding vacant seats), elect one of its members to serve as Chairperson and preside over the Board's meetings and one member to serve as Vice-Chairperson. All elected person shall serve in these capacities for terms of one year. A certified municipal clerk shall be appointed by the Town Council as Secretary to the Planning Board. Any appointed secretary shall serve at the pleasure of the Town Council. Vacancies among the appointed or elected officials may be filled for the unexpired terms only by majority vote of the Town Council.
- (b) The Chairperson and Vice-Chairperson may take part in all deliberations and vote on all issues.
- (c) The Board shall draw up and adopt rules of procedure under which it will operate. The Town Council will approve the rules of procedure and any amendments.

Sec. 30-2304 - Powers and duties of board.

The Planning Board shall hear and decide:

- (a) Subdivisions (See Section 30-3326 and 3328 and following),
- (b) Review and make a recommendation to the Town Council on any changes to this UD Ordinance and/or Zoning Map, per sections 30-3330 and 30-3334.
- (c) Review and make recommendations to the Town Council on any proposed Comprehensive Plan or any amendment to the Plan, or any other town plan as requested by the Town Council
- (d) Any of the duties listed in G.S. section 160D-301 that are assigned by the Town Council.

Sec. 30-2305 - Meetings and quorum.

- (a) The Planning Board shall meet every other month, unless meetings are cancelled for lack of business, emergency, or other valid reason. Special meetings may be called in accordance with G.S. 160A-71, Regular and special meetings; recessed and adjourned meetings; procedure.
- (b) All meetings of the Board shall be open to the public, and the agenda for each Board meeting shall be made available in advance of the meeting. A notice of the meeting shall be published in a local newspaper and be posted at Town Hall in accordance with G.S. 160A-71.
- (c) A quorum for the Planning Board shall consist of three or more members. A quorum is necessary for the Board to take any action.
- (d) A member who has withdrawn from the meeting without being excused, as provided in G.S. 160A-75 shall be counted as present for purposes of determining whether a quorum is present.

Sec. 30-2306 - Voting.

- (a) The concurring vote of a majority of the regular membership (excluding vacant seats and members who are disqualified) shall be necessary to make any decision.
- (b) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (c) of this section or has been allowed to withdraw from the meeting in accordance with subsection (d) of this section.
- (c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - (1) If the member has a conflict of interest as defined in section 30-2104 ;
 - (2) If the matter at issue involves the member's own official conduct;
- (d) Any Board member may make a motion to excuse a member from voting on a specific item or from the remainder of the meeting.

DIVISION 4. - BOARD OF ADJUSTMENT.**Sec. 30-2401 - Establishment.**

The Town Council hereby creates a Board of Adjustment to make such quasi-judicial decisions as are required by this UDO or General Statute.

Sec. 30-2402 - Appointment and terms.

- (a) The Board of Adjustment is comprised of five regular members, and two alternate members. All of the members also serve on the Planning Board. The alternate members shall have all the powers as regular members and may fill in for regular members as needed in meetings.
- (b) Members may be appointed to successive terms without limitation.
- (c) Each member is appointed for three-year terms, except as allowed otherwise below. In appointing the original members of such board, or in the filling of vacancies caused by the expiration of the terms of existing members, the council may appoint certain members for less than three years to the end; that thereafter the terms of all members shall not expire at the same time.

Sec. 30-2403 - Board officers.

- (a) At its first regular meeting of each calendar year, the board of adjustment shall, by majority vote of its membership (excluding vacant seats), elect one of its members to serve as chairperson and preside over the board's meetings and one member to serve as vice-chairperson. All elected person shall serve in these capacities for terms of one year. The town council shall appoint a certified municipal clerk to serve as secretary to the board of adjustment.
- (b) Vacancies among the appointed or elected officials may be filled for the unexpired terms only by majority vote of the town council.
- (c) The chairperson or any member temporarily acting as chairperson shall administer oaths to witnesses coming before the board.
- (d) The chairperson and vice-chairperson may take part in all deliberations and vote on all issues.

Sec. 30-2404 - Powers and duties of board.

The board of adjustment shall hear and decide:

- (a) Appeals from any order, decision, requirement, or interpretation made by the town, inclusive of *Chapter 14*, the flood prevention ordinance;
- (b) Applications for variances;
- (c) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines;
- (d) Any other matter the board is required to act upon by any other ordinance.

Sec. 30-2405 - Meetings and quorum.

- (a) The board of adjustment shall meet on an as needed basis until such time as the volume of applications requires the board to adopt an annual schedule of regular meetings.
- (b) The agenda for each board of adjustment meeting shall be made available in advance of the meeting.
- (c) A quorum for the board of adjustment is four members. A quorum is necessary for the board of adjustment to take official action.
- (d) A member who has withdrawn from the meeting without being excused, as provided in section 30-2406, shall be counted as present for purposes of determining whether a quorum is present.

Sec. 30-2406 - Voting.

- (a) Once a quorum is established, the concurring vote of a majority of those present (excluding members who are disqualified) shall be necessary to make any decision, except decisions on variances.

- (b) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection C. of this section or has been allowed to withdraw from the meeting in accordance with subsection D. of this section.
- (c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - (1) If the member has a conflict of interest as defined by section 30-2105 above; or
 - (2) If the matter at issue involves the member's own official conduct;
- (d) A motion to excuse a member from voting on a specific item, or from the remainder of the meeting may be made by any Board member.

DIVISION 5. - WATERSHED REVIEW BOARD.

[ADD A Cross ref to watershed overlay district]

DIVISION 6. - TECHNICAL REVIEW COMMITTEE.

Sec. 30-2601 - Establishment.

The Town Administrator shall appoint a committee of staff members have particular expertise in the development of real property as the Technical Review Committee (TRC). The Committee shall be chaired by the Town Planner . The TRC members shall consist of the Planning Board Chair, and the Fire Chief or their designees. Other members shall serve on the committee on an ad hoc basis, depending on the nature, size and complexity of the development project to be reviewed include, but are not limited to: Parks and Recreation, Legal, NCDOT, and the following Johnston County agencies: Public Utilities (including storm water, erosion control, infrastructure), Environmental Health, Health Department, Inspections, and Emergency Management Services

Sec. 30-2602 - Duties.

- (a) The TRC shall review and comment on all plans to be reviewed and/or approved by any other body listed in this Article, including the Town Council, Planning Board, and Board of Adjustment, and on all request for permits referred to the TRC by the Town Planner , both for conformity with the City Code and with City Council resolutions.
- (b) The TRC shall suggest rules of procedure and schedules to ensure that plans submitted shall be reviewed and comments returned to developers in a timely manner. The Town Council shall approve the rules of procedure.

Sec. 30-2603 - Conflicts of Interest

The members of the TRC shall follow and abide by section 30-2711 Conflicts of Interest.

DIVISION 7. - TOWN PLANNER.

Sec. 30-2701 - Powers and Duties

The Town Planner shall have the following powers and duties, to be carried out in accordance with the terms of this Unified Development Ordinance:

- (a) *General planning and permitting.*
 - (1) To review all applications for land development for compliance with the terms of this ordinance.
 - (2) To issue and maintain a record of all development related permits and approvals on file and to make copies available to interested parties.

- (3) To provide the Town Council, Planning Board, ~~Zoning~~ Board of Adjustment and Town Staff with reports and recommendations, as required by this ordinance, other laws or regulations or at the request of said bodies.
- (4) To enforce compliance with the terms of this ordinance, unless otherwise specified.
- (5) To revoke any permits provided therein
- (b) *Special use, variance, and map and text amendments.*
 - (1) To review all applications for Special Use, Variance and Amendments for completeness and compliance with the terms of this ordinance.
 - (2) To provide the Town Council, Planning Board, Board of Adjustment, and Town Staff with reports and recommendations, as required by this ordinance, other laws or regulations or at the request of said bodies.
 - (3) To enforce compliance with the terms of this ordinance, unless otherwise specified.
- (c) *Subdivision administration.*
 - (1) To review all applications for the subdivision of land for compliance with the terms of this ordinance.
 - (2) To approve final plats and minor plats, and to revoke any permits as provided by this UDO.
 - (3) To provide the Town Council and Planning Board, with reports and recommendations, as required by this ordinance, other laws or regulations or at the request of said bodies.
 - (4) To issue and maintain a record of all subdivisions and approvals on file and to make copies available to interested parties.
 - (5) To enforce compliance with the terms of this ordinance, unless otherwise specified.
 - (6) To revoke any permits provided therein
- (d) *Environmental protection.*
 - (1) To administer the Town's Watershed Protection Standards.
 - (2) To serve as the Floodplain Administrator in accordance with the Town Code of Ordinances Chapter 14 Flood Damage Prevention.
 - (3) To revoke any permits provided therein

Sec. 30-2702 - Conflict of Interest.

- (a) No Town staff member shall make a final decision on an administrative decision required by this UDO if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member 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 associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the UDO.
- (b) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

ARTICLE 3. - PROCEDURES

DIVISION 1. - SUMMARY PROCEDURES TABLE.

APPLICATION SUMMARY TABLE4								
Review Authority Actions: C = Comment; R= Recommendation; D = Decision; A = Appeal; M = Mandatory Type of Review: =Public Meeting; / \=Legislative Hearing; { }=Quasi-Judicial Hearing								
APPLICATION TYPE	UDO SECTION NUMBER	PRE-APPLICATION CONFERENCE /1/	REVIEW AUTHORITY /2/					
			TOWN PLANNER	TECH. REVIEW COMMITTEE	PLANNING BOARD	BOARD OF ADJUSTMENT	TOWN COUNCIL	SUPERIOR COURT
Administrative Adjustment	30-3301	M	D	•	•	{A}	•	•
Appeal	30-3302	N/A	•	•	•	{D}	•	A
Building Permit /4/	30-3303	N/A	C	•	•	•	•	•
Certificate of Occupancy /4/	30-3304	N/A	D	•	•	•	•	•
Comprehensive Plan	330-3305	M	C	C	R	•	D•	•
Conditional Rezoning	30-3316	M	R	/5/	R	•	/D\	A
Conventional or General Rezoning	30-3316	O	C	•	R	•	/D\	A
Determination and Interpretation	30-3306	O	R	•	•	{D}	•	•
Development Agreement	30-3307	M	C	•	R	•	/D\	A
Exempt Subdivision	30-3308	N/A	D	•	•	{A}	•	•
Expedited Subdivision	30-3309	N/A	D	/5/	•	{A}	•	A
Final Plat	30-3310	N/A	D	•	•	•	•	A
Floodplain Development Permit	30-3311	N/A	D	•	•	{A}	•	•
Major Subdivision	30-3312	O	R	/5/		•	D	•
Minor Subdivision	30-3313	O	D	/5/	•	{A}	•	•
Planned Development	30-3314	M	C	/5/	R	•	/D\	A
Reasonable Accommodation	30-3315		C	C			{D}	
Sign Permit	30-6714	N/A	D	•	•	{A}	•	•
Site Plan	30-3317	M	C	R	R	•	/D\	A

APPLICATION SUMMARY TABLE4								
Review Authority Actions: C = Comment; R= Recommendation; D = Decision; A = Appeal; M = Mandatory			Type of Review: =Public Meeting; /\=Legislative Hearing; { }=Quasi-Judicial Hearing					
APPLICATION TYPE	UDO SECTION NUMBER	PRE-APPLICATION CONFERENCE /1/	REVIEW AUTHORITY /2/					
			TOWN PLANNER	TECH. REVIEW COMMITTEE	PLANNING BOARD	BOARD OF ADJUSTMENT	TOWN COUNCIL	SUPERIOR COURT
Special Use Permit	30-3318	M	C	R	R	•	{D}	A
Flood Plain Dev. Permit See Chapter 14	<>	O	D	•	•	{A}	•	•
Temporary Use Permit	30-3319	N/A	D	•	•	{A}	•	•
Text Amendment	30-3320	O	C	•	R	•	/D\	A
Variance	30-3321	M	C	•	•	{D}	•	A
Vested Rights Certificate	30-3322	O	R	/5/	•	•	/D\	A
Watershed Permit	30-4514	O	D	•	•	{A}	•	•
Zoning Compliance Permit	30-3323	N/A	D	•	•	{A}	•	•
NOTES: /1/ See section 30-3201 /2/ Review authorities are defined in Art. 2, Authorities. /3/ /4/ Issued by Johnston County Building Inspections Dept.; Town Planner checks for zoning compliance. /5/ Optional comment								

DIVISION 2. - STANDARD REVIEW PROCEDURES.

Sec. 30-3201 - Pre-application conference.

(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) *Pre-Application Conference Required* A pre-application conference between the applicant and Town staff is required before submittal of the following applications;

- a. Development agreements;
- b. Major site plans;
- c. Planned developments;
- d. Preliminary plats;
- e. Special use permits;
- f. UDO text amendments;
- g. Variances (to include flood hazard area and watershed protection);
- h. Vested rights determinations; and
- i. Zoning map amendments.
- j. Floodplain development permits issued by the Floodplain Administrator

(2) *Pre-Application Conference Optional* A pre-application conference between the applicant and County staff is optional before submittal of the following applications:

- a. Appeals;
- b. Final plats;
- c. Interpretations;
- d. Minor site plans;
- e. Minor subdivisions;
- f. Temporary use permits;
- g. Exempt subdivision plats;
- h. Watershed protection permits and Johnston County Environmental Health Department Permits
- i. Zoning compliance permits .

(3) *Pre-Application Conference Not Conducted* A Town pre-application conference is not required or conducted as part of applications filed by the Town, or for applications made directly to Johnston County or for the following. Johnston County may require a pre application conference.

- a. Building permits*;
- b. Certificates of occupancy*;
- c. Exempt subdivisions;
- d. Expedited subdivisions;
- e. Sign permits.

“* Applications made directly to Johnston County

(c) *Scheduling* Applicants shall contact the Town Planner to schedule a pre-application conference.

(d) *Procedure*

- (1) Following receipt of a request for a pre-application conference, the Town Planner shall schedule the conference and notify the applicant of the time and location. During the conference, Town staff members will explain the application review process and any special issues or concerns regarding the subject proposal.
- (2) The applicant is encouraged to submit a sketch or conceptual plan, if appropriate, to Town staff during the pre-application conference.
- (3) In cases where a pre-application conference is required, the Town Planner shall forward a brief written summary of the issues discussed during the pre-application conference to the applicant for inclusion with the application materials.

(e) *Effect*

- (1) When required, a completed pre-application conference entitles an applicant to take the next step in the application process. Applications types requiring a pre-application conference will not be accepted until after the mandatory pre-application conference has been completed.
- (2) Discussions at a pre-application conference are not binding on the Town and do not constitute submittal for formal review of an application.

Sec. 30-3202 - Application filing and acceptance.

(a) *Authority to File Applications* Unless expressly stated otherwise in this Ordinance, development applications associated with a particular lot or site reviewed under this Ordinance shall be submitted by the landowner, contract purchaser, agent of the landowner, or other person having a recognized property interest in the land on which development is proposed. Agents may be asked to provide proof of agency.

(b) *Application Content* The Town Planner is authorized to establish the application content and forms, which shall be maintained in the offices of the Planning Department.

(c) *Application Fees.*

- (1) The Town Council shall establish application fees and may amend and update those fees, as necessary. Fees shall cover the costs of review, including public notification, as required.
- (2) No action shall be taken on an application and no application approval shall be issued until all required application fees are paid in full.

(d) *Submittal and Review Schedule.*

- (1) The Town Planner is authorized to and shall establish specific rules for submittal and review schedules (including time frames for review) for the various types of development applications, which shall be on file and available for inspection in the offices of the Planning Department during normal business hours.
- (2) Nothing shall require or prohibit the Town Planner from reducing the amount of time necessary for review of an application as workflow allows, but the timeframes for public notice in Section 30-3206, shall not be reduced.

(e) *Application Submittal.*

- (1) Applications shall be submitted to the Town Planner in the form established by the Town Planner, along with the appropriate application fee.
- (2) An application shall not be considered to be submitted until determined to be complete in accordance with Section 30-3203(c).
- (3) No application shall be reviewed or decided until after it is determined to be complete.

- (4) No application shall be accepted for development proposed on a lot or site until property taxes are paid in full, as determined by the Johnston County Tax Assessor.
- (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* On receiving a development application, the Town Planner shall determine, within seven days, whether the application is complete or incomplete. A complete application is one that:
- (1) Contains all information and materials identified in the appropriate Town documentation as required for submittal of the particular type of application;
 - (2) Is in the form and number of copies required by the appropriate Town documentation;
 - (3) Is legible and printed to scale (where appropriate);
 - (4) Is signed by the person with the authority to file the application;
 - (5) Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance;
 - (6) Is accompanied by the fee established for the particular type of application;
 - (7) Includes material associated with a pre-application conference if one is required; and
 - (8) Includes the written summary of a neighborhood meeting if one was conducted prior to application submittal.
- (h) *Application Incomplete*
- (1) If the application is incomplete, the Town Planner shall notify the applicant of the deficiencies in writing.
 - (2) The applicant may correct the deficiencies and resubmit the application for completeness determination.
 - (3) Application processing shall stop following delivery of a notice of incomplete application until all deficiencies are addressed and the application is determined to be complete, or the applicant declares the application to be complete in accordance with Section 30-3201(c).
- (i) *Application Complete*
- (1) On determining that the application is complete, it shall be considered as submitted, the Town shall notify the applicant and commence review in accordance with the procedures and standards of this Ordinance.
 - (2) Nothing shall preclude the Town Planner 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.
- (j) *Declaration of Completeness by Applicant*
- (1) If, upon receipt of notice of application deficiencies by the Town Planner, an applicant wishes to have the application processed without further amendment or revision, the applicant shall provide written notice to the Town Planner that they desire the application to be processed without further amendment or revision.
 - (2) Upon receipt of written notice to process the application without further amendment or revision, the Town Planner shall process the application in accordance with the standards in this Ordinance. In no instance shall additional materials or information be added to the application by the applicant. Nothing shall limit an applicant from withdrawing an application in accordance with Section 30-3213.

Sec. 30-3203 - Staff review and action.

(a) *Determination of Application Completeness* On receiving a development application, the Town Planner shall determine, within seven days, whether the application is complete or incomplete. A complete application is one that:

- (1) Contains all information and materials identified in the appropriate Town documentation as required for submittal of the particular type of application;
- (2) Is in the form and number of copies required by the appropriate Town documentation;
- (3) Is legible and printed to scale (where appropriate);
- (4) Is signed by the person with the authority to file the application;
- (5) Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance;
- (6) Is accompanied by the fee established for the particular type of application;
- (7) Includes material associated with a pre-application conference if one is required; and
- (8) Includes the written summary of a neighborhood meeting if one was conducted prior to application submittal.

(b) *Application Incomplete*

- (1) If the application is incomplete, the Town Planner shall notify the applicant of the deficiencies in writing.
- (2) The applicant may correct the deficiencies and resubmit the application for completeness determination.
- (3) Application processing shall stop following delivery of a notice of incomplete application until all deficiencies are addressed and the application is determined to be complete, or the applicant declares the application to be complete in accordance with (c) below.
- (4) On determining that the application is complete, it shall be considered as submitted, the Town shall notify the applicant and commence review in accordance with the procedures and standards of this Ordinance.
- (5) Nothing shall preclude the Town Planner 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.

(c) *Declaration of Completeness by Applicant*

- (1) If, upon receipt of notice of application deficiencies by the Town Planner, an applicant wishes to have the application processed without further amendment or revision, the applicant shall provide written notice to the Town Planner that they desire the application to be processed without further amendment or revision.
- (2) Upon receipt of written notice to process the application without further amendment or revision, the Town Planner shall process the application in accordance with the standards in this Ordinance. In no instance shall additional materials or information be added to the application by the applicant. Nothing shall limit an applicant from withdrawing an application in accordance with Section 30-3213.

Sec. 30-3204 - Public notification.

(a) *Public Notification Requirements*

- (1) *Applicable State Law* All development applications subject to public notification shall comply with standards in North Carolina General Statutes Sections 160D-601, 160D-602, 160D-405, 160D-406, 160D-702, 160D-705 and 160D-1405 of the (as appropriate) and the other provisions in this Ordinance related to public notice.

- (2) *Notice Type and Timing* The Town Planner shall ensure public notification (whether via published notice, mailed notice, or posted notice) is provided in accordance with the requirements in the following Table Public Notice Type and Scheduling, for the type of application and the type of notice. 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.

PUBLIC NOTICE AND SCHEDULING TABLE				
APPLICATION TYPE	REVIEW AUTHORITY [1]	TYPE OF NOTICE PROVIDED "X" = REQUIRED		
		PUBLISHED NOTICE [2]	MAILED NOTICE [3]	POSTED NOTICE [4]
Appeal	BOA	.	X [5]	X [5]
Development Agreement	TC	X	X	X
Comprehensive Plan	TC	X	X[7]	
Development Agreement	TC	X	X[7]	X
Site Plan	TC	.	X	X
Planned Development	TC	X	X	X
Major Subdivision Plat	TC	.		
Special Use Permit	TC	X	X	X
UDO Text Amendment [6]	TC	X	.	.
Variance	BOA	.	X	X
Vested Rights Determination	TC	X	X	.
Zoning Map Amendment [6]	TC	X	X [7]	X
NOTES: [1] "BOA" = Board of Adjustment; "PB" = Planning Board; "TC" = Town Council. [2] Published notice shall be provided once a week for 2 successive calendar weeks, with the first notice published between 10 and 25 days before the public hearing. [3] Mailed notice shall be provided to the applicant, affected landowners, and landowners of abutting land between 10 and 25 days before the public hearing. [4] Posted notice shall be provided between 10 and 25 days before the public hearing. [5] Mailed and posted notice shall only be required in cases where an appeal pertains to particular lot or site. [6] Review of text and map amendments (including planned developments) require consideration by the Planning Board, but these reviews are conducted during public meetings, not publicly-noticed hearings. [7] Mailed notice shall not be required when a zoning map amendment includes more than 50 lots or tracts owned by at least 50 different landowners, provided the County 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 2 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 2.2.6.B.4, Mailed Notice Requirements.				

(b) *Published Notice Requirements.*

- (1) When the provisions of this Ordinance require that public notice be published, the Town Planner shall publish a notice in a newspaper that is published weekly and that has general circulation in the community.

(2) The form and content of the notice shall comply with the applicable N.C. General Statute.

(3) A copy of the published notice shall also be published on the Town's website.

(c) Mailed Notice Requirements.

(1) Mailed notice specified in Table entitled Public Notice Type and Timing, shall be mailed to:

a. All landowners subject to the application;

b. The applicant, if different from the landowner; and

c. All landowners entitled to receive notice by the N. C. General Statutes (including landowners located outside the Town) whose address is known by reference to the latest County tax listing.

(2) Notice shall be deemed mailed by its deposit in the United States mail, first class or certified (as appropriate), properly addressed, postage paid, or other form of mailing authorized by N.C. Rule of Civil Procedure 4 .

(3) The content and form of the notice shall comply with the applicable requirements in the North Carolina General Statutes.

(4) A copy of the mailed notice shall be maintained in the Planning Department for public inspection during normal business hours.

(5) The Town may choose, in some cases, and in its sole discretion, to provide mailed public notice to parties beyond that required by the North Carolina General Statutes. Failure of the Town to provide mailed public notice beyond the minimum requirements specified in the General Statutes shall not invalidate the proceedings or subject the Town to claims of failure of due process.

(d) Posted Notice Requirements. Posted notice shall be made by the Town Planner or designee, and shall comply with the following:

(1) A sign shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion of the respective street. 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 with an attached notation generally indicating the direction and distance to the land subject to the application.

(2) The content and form of the notice shall comply with the applicable requirements in the North Carolina General Statutes.

(e) 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 in a legal description;

b. Errors or omissions in the tax listing provided by the County; or

c. 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. 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(ies) shall be strictly adhered to.

Sec. 30-3205 - Public meetings and hearings.

(a) Public Meetings. Applications subject to a recommendation by the Planning Board in the Summary Procedures Table, shall be heard by the Planning Board during a public meeting (not a public hearing noticed in accordance with Section 30-3206). The public meeting shall be open to the public and shall be conducted in accordance with the Planning Board's adopted rules of procedure for public meetings. There is no requirement to allow public comment or testimony during a public meeting.

(b) Legislative Public Hearings

- (1) Except for applications for reasonable accommodations, special use permits, applications decided by the Town Council listed in the Summary Procedures Table, shall be reviewed during a legislative public hearing subject to prior public notification in accordance with Section 30-3206,
- (2) 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. Attendees shall be afforded the opportunity to comment or provide testimony during a public hearing, as authorized in the adopted rules of procedure.
- (c) *Quasi-Judicial Public Hearings*. Some applications (e.g., special use permits, appeals, variances) in the Summary Procedures Table, are decided following a quasi-judicial public hearing, which shall be conducted in accordance with the review authority's rules of procedure and the following:
 - (1) *Opportunity to Present Testimony and Evidence* 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 the applicant, the applicant's witnesses, Town staff, and the Town staff's witnesses and any other witnesses. Only persons with standing, as defined in subsection (6) (next page) may cross-examine adverse witnesses, present witnesses and arguments to the board, make motions and objections and generally act as an advocate for their matter
 - (2) *Limitation on Evidence* The Chair or other presiding officer may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay, including the presentation of repetitive or irrelevant testimony. The Chair may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and ad hominem attacks.
 - (3) *Members Excused Under Certain Circumstances* A member may be excused from participation and voting on a particular issue by majority vote of the remaining members if the members participation or voting would violate section 30-2105. Ex parte communications, between an applicant or an affected party and a member of the review authority deciding the application are prohibited. If it occurs, it shall be disclosed during the quasi-judicial public hearing. Nothing shall limit communication between the applicant and Town staff regarding the application.
 - (4) *Subpoenas*.
 - a. The chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence.
 - b. To request issuance of a subpoena, persons with standing, as defined under section 30-3207 (c)(6) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled.
 - c. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive.
 - d. The chair shall rule on any motion to quash or modify a subpoena.
 - e. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment.
 - f. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the general court of justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.
 - (5) *Objections* Before witness testimony, the board shall hear and rule on any objections to documents in the record, or any town staff report provided to the board.
 - (6) *Standing*. The following persons shall have standing to file an appeal, request a variance, or participate as a party in an action before the board. Anyone who -
 - a. Has an ownership interest in the property that is the subject of the action, a leasehold interest in the property that is the subject of the action, or an interest created by easement, restriction, or covenant in the property that is the subject of the action.

- b. Has an option or contract to purchase the property that is the subject of the action.
 - c. Was an applicant for an administrative decision or map interpretation by the town staff.
 - d. Any other person who will suffer special damages as the result of the action before the board.
 - e. 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 bring or challenge action and the association was not created in response to the particular development or issue that is the before the board.
 - f. The Town of Archer Lodge by action of the town council.
- (7) *Conduct of a Quasi-Judicial Hearing* The Board of Adjustment, Watershed Review Board and Town Council will conduct all quasi-judicial hearings according to the following rules:
- a. *Evidence and burden of proof* All persons who intend to present evidence to the board shall be sworn by the chair or acting chair.
 - 1. All findings and conclusions necessary to the decision shall be based upon reliable, competent and material evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available.
 - 2. The term "competent evidence" shall not preclude reliance by the board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the North Carolina Courts (i) except for items noted in sub-subdivisions (1), (2) and (3) of this sub-section below that are conclusively incompetent, the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the board to rely upon it. The term "competent evidence," as used in this subsection, shall, regardless of the lack of a timely objection, not be deemed to include the opinion testimony of lay witnesses as to any of the following:
 - a. The use of property in a particular way would affect the value of other property
 - b. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety;
 - c. Matters about which only expert testimony would generally be admissible under the rules of evidence.
 - b. The burden of presenting evidence sufficient to allow the reviewing authority to reach the conclusions of law required for variances and special use permits, as well as the burden of persuasion on those issues remains with the applicant or proponent, except that in an appeal of a staff decision, the staff has the initial burden of presenting evidence to justify the staff's initial order or decision that is being appealed.
- (8) *Voting.*
- a. Variances shall be approved by a four-fifths majority of the Board.
 - b. All other decisions made by a board hearing a quasi-judicial matter require a simple majority.
- (9) *Board action.*
- a. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and conclusions of law and their application to the applicable ordinance standards.
 - b. The board shall make its decision in a reasonable time. The board may continue a hearing to another time. The board may conduct the public testimony phase of the hearing at one meeting and make findings of fact and conclusions of law at another meeting. The parties may agree to continuances, subject to board approval.

(10) *Appeals to Johnston County Superior Court.* Every quasi-judicial decision shall be subject to review by the Johnston County Superior Court by proceedings in the nature of certiorari. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with section 30-3209, written notice of decision. When first-class mail is used to deliver a notice, three days shall be added to the time to file the petition.

(d) *Other Public Hearings* Decisions by the Town Council on a site plan application shall be conducted as a public hearing following notification of the public in accordance with Section 30- 3206, Public Notice.

(e) *Record*

(1) A recording shall be made of all public hearings and the recordings shall be kept for at least two years.

(2) Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

(3) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be maintained by the County in accordance with its records retention policies.

Sec. 30-3206 - Conditions of approval.

(a) Conditions of approval may be applied to the approval of an application subject to a quasi-judicial procedure as identified in the Summary Procedures Table, as deemed necessary by a review authority.

(b) Conditions of approval shall be limited in both type and amount to those that address:

(1) The conformance of the development to this Ordinance or other applicable Town ordinances;

(2) The conformance of the development to the adopted policy guidance; and

(3) The impacts reasonably expected to be generated by the development on the public and surrounding land.

(c) All conditions of approval shall be expressly set forth in the development permit or approval and may be subject to appeal in accordance with Section 30-3302, Appeals.

(d) Conditions of approval on conditional district rezoning's must be consented to by both the deciding Board and the applicant.

Sec. 30-3207 - Written notice of decision.

(a) *Procedure* The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the board of adjustment secretary. *Content.* The notification of decision on an application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to: (i) The applicant, (ii) The landowner both to the address(es) identified in the application materials, and (iii) the other parties in interest (if any) and (iv) any persons who make a written request for a copy of the determination to the Town Planner. The notice shall identify the following:

(1) The land or matter subject to the application;

(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.

(5) Any order, finding or certificate approved and issued.

(c) *Timing* Except where otherwise stated in this Ordinance, the Town Planner shall provide the applicant written notification of a decision or action within 10 business days after a final decision on a development application. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail. The Town Planner shall certify that proper notice has been made if required.

- (d) *Copy of Decision* In addition to providing notification of a decision on an application to an applicant, the Town Planner shall make a copy of the decision available to the public in the offices of the Planning Department during normal business hours.

Sec. 30-3208 - Effect of development approval.

- (a) *Effect* Approval of a development application in accordance with this Ordinance authorizes only the particular use, plan for development, or other specific activity approved.
- (b) *Permit Prerequisite* 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), development may not take place until all prerequisite approvals are obtained. Approval of one development application does not guarantee approval of any subsequent development application.
- (c) *Transfer*
- (1) Except when otherwise specified, development approvals may be transferred from one owner to another, provided the land, structure, or use type continues to be used for the same purpose for which the approval was granted.
 - (2) The terms and requirements of the approval shall continue to apply to all subsequent owners or interests.

Sec. 30-3209 - Phased Development.

In the case of phased development, site plans and major subdivisions shall include:

- (a) An illustration of all of the phases or the development;
- (b) A schedule for completion of public and private infrastructure associated with the development; and
- (c) all necessary improvements within the phase as well as outside the phase, but necessary to serve the development withing the phase being proposed for construction first.

Sec. 30-3210 - Modification, continuance or withdrawal.

- (a) *Modification of Application.* An applicant may revise an application during a public hearing in response to recommendations or suggestions of the Board.
- (1) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the board, the applicant may agree to modify his application in writing, including the plans and specifications submitted. In the alternative, the board may continue the hearing so that the application and/or plans may be revised and submitted to the town.
 - (2) Unless such modifications are so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the board of adjustment secretary. The review authority may approve an application modified during a public hearing provided that a zoning compliance permit will not be issued until plans reflecting the agreed upon changes are submitted to and approved by the appropriate Town staff members.
- (b) *Continuances and withdrawals.*
- (1) The board may continue the hearing until a subsequent meeting to take additional information. No further notice of a continued hearing need be published unless a period of 60 days or more elapses between hearing dates
 - (2) An applicant may request that a review authority's consideration of an application at public meeting or hearing be continued by submitting a written request to the Town Planner .

- (3) *Town Planner Action* If public notice has not been provided in accordance with this Ordinance prior to the request for a continuance, the Town Planner shall consider and decide the request. A request for continuance shall be approved only in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, or bring the application into closer alignment with the adopted policy guidance or the requirements of this Ordinance.
- (4) *Review Authority Action*
- a. If public notice has been provided in accordance with this Ordinance prior to a request for a continuance, the request for continuance shall be placed on the agenda of the review authority on the date the application is to be considered. The review authority may approve the request for good cause.
 - b. The applicant shall be responsible for any additional public notification expenses.
- (c) *Continuance of Public Hearing*
- (1) The Board may continue a public hearing until a subsequent meeting and may keep the hearing open to receive additional information up to the point when a final decision is made.
 - (2) No further notice of a continued hearing is required unless a period of eight or more weeks lapse between hearing dates.
- (d) *Withdrawal*
- (1) An applicant may withdraw an application at any time.
 - (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. Application fees for withdrawn applications shall not be refunded.

Sec. 30-3211 - Reconsideration.

- (a) If a development application requiring a public hearing is denied, no application proposing the same or similar development on all or part of the same land shall be submitted within one year after the date of denial unless the review authority approves a reduction in this time limit in accordance with subsection (B) below. 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) 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 Town Planner, who shall transmit the request to the review authority. The review authority may grant the request only on a finding by a majority 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.

DIVISION 3. - SPECIFIC DEVELOPMENT APPLICATIONS.**Sec. 30-3301 - Administrative adjustment / modifications.**

- (a) *Purpose and Intent* This is a new procedure in 2020 that allows the Town Planner to administratively reduce a numeric standard by up to 10% as a “safety valve” to accommodate difficult sites without having to require a variance, or an amendment to an approved preliminary subdivision plat, site plan, conditional district rezoning or conditional use permit. There are specific criteria that clarify when this can be used, and for what purposes. Requests exceeding 10% would be required to obtain a variance or the applicant could choose to file an amendment to the original approval. *Applicability.* Administrative adjustments may not change:
- (1) the permitted uses,
 - (2) the permitted density of the overall development or any phase lines.
- (c) *Examples of adjustments that may be made by the Town Planner:*
- (1) Changes to the location of entrances or driveways, minor rearrangement of internal streets, turn lanes, drives, or access restrictions;
 - (2) Increases in or changes to the configuration of parking areas;
 - (3) Increases in or changes to the configuration or location of open space or placement of required amenities;
 - (4) Changes to the arrangement or location of buildings, provided there is no increase in number;
 - (5) Changes to the proposed building elevation or façade, including materials, provided that the change retains the same general architectural character and same building height;
 - (6) Changes to the configuration of landscape yards, including types of materials, provided the screening function is maintained;
 - (7) Decreases in residential density or non-residential gross floor area; and
 - (8) Minor changes to lot line locations, provided there is no increase in the total number of lots and provided all lots comply with the dimensional requirements for the zoning district where located
- (d) *Procedure.* The owner or owner’s agent shall request an adjustment in writing following the requirement of 30-3201(d), Pre-Application Conference.
- (1) *Pre-Application Conference* Mandatory (see Section 30-3201 Pre-Application Conference).
 - (2) *Application Submittal* Applicable (see Section 30-3203 Application Filing and Acceptance).
 - (3) *Staff Review and Action* Applicable (see Section 30-3205, Staff Review and Action
- (e) *Decision.* The Town Planner shall have ten (10) business days to issue a written decision and approve or deny the adjustment
- (f) *Review Criteria* The Town Planner shall review the application based on the standards of the adjustment requested. For example, a request for a variance shall be reviewed using the standards for a variance. An administrative adjustment shall be approved if the applicant demonstrates all of the following:
- (1) *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; or
 - b. Supports an objective or goal from the purpose and intent statements of the zoning district where it is located; or
 - c. Is necessary to allow for proper functioning of on-site wastewater or stormwater management devices; or
 - d. Saves healthy existing trees;

- e. The administrative adjustment does not exceed the maximum allowable threshold;
 - f. The administrative adjustment is consistent with the character of development on surrounding land, and is compatible with surrounding land uses
 - g. The administrative adjustment will not pose a danger to the public health or safety.
 - h. The administrative adjustment will not have a negative impact on the function or performance of onsite wastewater or stormwater management structures;
 - i. Adverse impacts resulting from the administrative adjustment will be fully mitigated; and
 - j. The development standard being adjusted is not the subject of a previously approved administrative adjustment on the same site.
- (g) *Amendment:* A second adjustment to the same standard, ordinance or approval is not available, except in cases where the cause of the second adjustment is not caused by the owner or owner's agents. In no case will the first and any subsequent adjustments be greater than a 10% deviation from the original.

EXAMPLE: Landowner seeks a 5% side yard setback for an accessory building. The setback is ten feet. The Town Planner grants an adjustment of six inches. Upon digging foundations the Landowner strikes bed rock. The landowner asks for a second adjustment. The Town Planner may grant a six inch adjustment.

- (h) *Expiration:* Adjustments expire at the same time as the permit being adjusted would have expired without the adjustment.
- (i) *Appeal:* The landowner or landowner's agent may apply for an amendment to the permit for which the adjustment was sought or bring an appeal under Section 30-3302.

Sec. 30-3302 - Appeals.

(a) *Introduction.*

- (1) The board shall determine contested facts. The decision of the board shall be based on competent, material and substantial evidence in the record. The board of adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall issue a written decision containing the boards decisions as to contested facts and the application of the facts to the standards of the zoning ordinance. To this end, the board of adjustment shall have all the powers of the town staff from whom the appeal is taken.
 - (2) An appeal from any final administrative order or decision of the town staff charged with enforcement of the UDO may be taken to the board of adjustment by any person with standing, as defined in section 30-3207(c)(6). An appeal is taken by filing a written notice of appeal specifying the grounds with the board of adjustment secretary. A notice of appeal shall be considered filed with the town and the board of adjustment when delivered to the Town Clerk.
- (b) *Time to Appeal.* The property owner, applicant or other party with standing shall have 30 days from the receipt of written notice to file an appeal. If delivery of the decision is by first class mail, the time to appeal shall be 33 days unless the appellant provides evidence of the date of delivery.
- (c) *Stay of Enforcement Actions.* An appeal stays all actions by the town enforcing the requirements of the zoning ordinance unless the town staff who made the decision files an affidavit with the board stating the facts of the case and how a stay of enforcement will cause imminent peril to life or property or that a stay would interfere with ordinance enforcement because the violation is transitory. If the enforcement action is not stayed by Johnston County Superior Court, the person appealing may file a request that the board hear the matter in 15 calendar days. The 15 day deadline is mandatory.
- (d) *Procedure.*
- (1) After receipt of notice of an appeal, the board of adjustment secretary shall schedule the time for a hearing which shall be at the next regular or special meeting, but in no case later than 60 days from the filing of notice of appeal.

- (2) Written notice of the appeal shall be sent to the appellant, property owner, applicant and all abutting property owners by the town staff following the procedures in section 30-3206, Public Notification.
- (3) The town staff who made the decision shall send all documents and exhibits constituting the record of the decision being appealed to the board of adjustment, the person who made the appeal and the owner of the property.
- (4) When an appeal is taken to the board of adjustment, the designated town staff shall have the initial burden of presenting to the board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
- (5) The staff who made the decision, or the current incumbent in that position, shall appear as a witness at the hearing.
- (6) The board shall hear the appeal following the procedural rules in section 30-3207, Public Meetings and Hearings.
- (7) The board shall make its decision in a reasonable time following the requirements of section 30-3207 Public Meetings and Hearings and 30-3209, Written Notice of Decision.

Sec. 30-3303 - Building permit.

Johnston County Building Inspections Dept issues building permits after receiving a zoning permit issued by the Town Planner or designee.

Sec. 30-3304 - Certificate of Occupancy.

Johnston County Building Inspections Dept. issues certificates of occupancy after the Town Planner checks the site for compliance with the zoning compliance permit (section 30-3322).

Sec. 30-3305 - Comprehensive Plan.

- (a) *Comprehensive Plan Required.* The Town Council shall adopt and reasonably maintain a comprehensive plan that sets forth goals, policies and programs intended to guide the present and future physical, social, and economic development of the Town. A Comprehensive Plan is required by General Statutes section 160D-501(a) in order to adopt and apply zoning ordinances.
 - (b) *Adoption and Effect.* Adoption and amendment of the Comprehensive Plan will follow the same procedure as zoning text amendments. The Planning Board shall provide a written recommendation to the Town Council on Plans and their amendments.
 - (c) *Effect of Zoning Map Amendments.* If a zoning map amendment is adopted that is deemed inconsistent with the adopted plan, the zoning amendment shall also amend any future land use plan map in the approved plan, and no additional request or application is required.
- (1) A plan amendment and a zoning map amendment may be considered concurrently.

- (d) *Comprehensive Plan Defined* . The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the Town Council's policies and intentions for coordinated, efficient and orderly development of the Town based on an analysis of present and future needs. The planning process shall include opportunities for citizen engagement in plan preparation and adoption. The comprehensive plan may include Issues and opportunities facing the Town, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development; The pattern of desired growth and development and civic design, including the location, distribution and characteristics of future land uses, urban form, utilities and transportation networks; Employment opportunities, economic development and community development; Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities and other public services, including plans and policies for provision of financing for public infrastructure; Housing with a range of types and affordability to accommodate persons and households of all types and incomes; Recreation and open spaces; Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands; Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality; Protection of significant architectural, scenic, cultural, historical, or archaeological resources; Analysis and evaluation of implementation measures, including regulations, public investments and educational programs.

Sec. 30-3306 - Determinations and Interpretations

- (a) *Purpose*: There are two distinct types of determinations. The first type is questions of interpretation of the Official Zoning Map (OZM). The board of adjustment interprets the zoning map and passes upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the town, they shall be handled as provided in section 30-3302. The second type is a process to allow an applicant to obtain a written interpretation of (i) the meaning of a word, phrase, clause section or division of the UDO, or (ii) the meaning of a permit issued pursuant to this UDO.
- (b) *Interpretation of the Official Zoning Map*
- (1) *Application*: An application for a map interpretation shall be submitted to the board of adjustment by filing a copy of the application with the board of adjustment secretary. The application shall contain sufficient information to enable the board to make the necessary interpretation.
 - (2) *Standards*: Where uncertainty exists as to the boundaries shown on the Town of Archer Lodge official zoning map, the following rules shall apply:
 - a. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
 - b. Boundaries indicated as approximately following lot lines, town limits, shall be construed as following such lines, limits or boundaries;
 - c. 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 shorelines; and
 - d. Where a district boundary divides a lot or where distances are not specifically indicated, the boundary shall be determined by measurements from the Town of Archer Lodge Zoning Map.
- (c) *Determinations of the Meaning of the UDO*
- (1) *Applicability* The Town Planner is responsible for written interpretations, including, but not limited to interpretations of:
 - a. The meaning of the text in this Ordinance;
 - b. Interpretations of whether an unlisted use is comparable to a use listed in Table 4.3.10: Principal Use Table;
 - c. Definitions of undefined terms; and
 - d. Compliance with conditions of approval.
 - (2) *Interpretations Distinguished*

- a. Only formal interpretations issued in accordance with this procedure are subject to appeal as an administrative decision.
- b. Any written or oral interpretations that do not meet the strict requirements of this section are advisory interpretations.
- c. Advisory interpretations have no binding effect and are not considered formal interpretations subject to appeal.

(3) *Interpretation Procedure*

- a. *Pre-Application Conference* Optional (see Section 2.2.2, Pre-Application Conference).
- b. *Application Submittal and Acceptance* Applicable (see Section 2.2.4, Application Submittal). Any person may request a formal interpretation of any provision of this Ordinance, the location of a zoning district boundary, how a proposed use may be treated, a definition, or a prior condition of approval, provided the request:
 - 1. Relates to a specific parcel of property, section of this UDO, or prior development approval;
 - 2. Is made in writing; and
 - 3. States all of the necessary facts to make the interpretation or enable research.
- c. If a request relates to a particular lot or site and the applicant is not the owner, agent or contract purchaser, the applicant must certify that a copy of the request has been provided to the landowner prior to submittal to the Town.
- d. *Staff Review and Action*
 - 1. Applicable (see Section 30-3205, Staff Review and Action).
 - 2. The Town Planner shall review the request and make interpretations in accordance with Section d. below, Interpretation Review Standards.
 - 3. The Town Planner may request additional information from an applicant as necessary to make an interpretation.
 - 4. Prior to rendering an interpretation, the Town Planner may consult with the Town Attorney or other County officials.

(4) *Interpretation Review Standards*

- a. *Unlisted Uses* Interpretation of whether an unlisted use is similar to a use identified in Table **zzz**: Principal Use Table, shall be based on consistency with the Town's adopted plan(s) and the following standards:
 - 1. The function, product, or physical characteristics of the use;
 - 2. The impact on adjacent lands created by the use;
 - 3. The type, size, and nature of buildings and structures associated with the use;
 - 4. The type of sales (retail, wholesale), and the size and type of items sold and displayed on the premises;
 - 5. The types of items stored (such as vehicles, inventory, merchandise, chemicals, construction materials, scrap and junk, and raw materials including liquids and powders).
 - 6. The volume and type of vehicle traffic generated by the use, and the parking demands of the use;
 - 7. Any processing associated with the use, including assembly, manufacturing, warehousing, shipping, distribution, and whether it occurs inside or outside a building;
 - 8. Any dangerous, hazardous, toxic, or explosive materials associated with the use;
 - 9. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes; and

10. Any prior applicable interpretations made by the Town Planner or decisions made by the BOA.
 - b. *Undefined Term* If a term in this Ordinance is undefined or the meaning is unclear, the Town Planner may interpret the term based upon appropriate definitions in any of the following sources:
 1. Planning-related definitions in publications prepared or offered by the American Planning Association or the Urban Land Institute;
 2. The Oxford Dictionary of Construction, Surveying, and Civil Engineering;
 3. The North Carolina General Statutes;
 4. The North Carolina Administrative Code;
 5. The State Building Code;
 6. Black's Law Dictionary; or
 7. Other professionally-accepted source.
 - c. *Text Provisions and Prior Approvals* Interpretation of this text and approved applications shall be based on the standards in Art. 10, Div. 1. Rules of Language Construction, and the following considerations:
 1. When the legislative intent of a provision is unclear, the Town Planner 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 30-10313, Defined Terms, and by the common and accepted usage of the term;
 2. The intended purpose 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;
 3. The general purposes served by this Ordinance, as set forth in Section 30-1106, Purpose and Intent; and
 4. Consistency with the Town's adopted plan(s).
- (5) *Effect.*
- a. A written interpretation shall be binding on subsequent decisions by the Town Planner or other administrative officials in applying the same provision of this Ordinance or the OZM in the same circumstance, unless the interpretation is modified in accordance with this section, the interpretation is later determined to have been made in error, or the text of this Ordinance is amended.
 - b. The Town Planner shall maintain a record of written interpretations that shall be available in the Planning Department for public inspection, on reasonable request, during normal business hours.
 - c. After the Town Planner determines the use category or use type in which the unlisted use is best classified, then the unlisted use shall be subject to all applicable requirements of that use category or use type.
 - d. After making an interpretation of an unlisted use, the Town Planner shall determine whether the unlisted use is likely to be common or recur frequently, and whether its omission is likely to lead to uncertainty and confusion. On determining that the unlisted use is likely to be common and would lead to confusion if unlisted, the Town Planner shall initiate an application for an amendment to the text of this Ordinance. Until final action is taken on the text amendment, the Town Planner's decision shall be binding.
 - e. If after making an interpretation of an unlisted use, the Town Planner determines that the unlisted use is of an unusual or transitory nature, and unlikely to recur frequently, the determination shall be binding without further action or amendment of this Ordinance.

- (6) *Appeal* Appeal of a decision on a floodplain development permit shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with Section 30-3302. Appeals of other interpretations made by the Town Planner shall also be made to the Board of Adjustment as provided in Section 30-3116.

Sec. 30-3307 - Development agreement.

- (a) *Introduction and Purpose* Development projects often occur in multiple phases over several years, requiring a long term commitment of public and private resources. Such developments may create community impacts and opportunities that are difficult to accommodate within traditional zoning processes. Because of their scale and duration, such projects require careful coordination of public capital facilities planning, financing and construction schedules and phasing of the private development. Such large projects involve substantial commitment of private capital, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development. Such developments often permit the Town and developers to experiment with different or non-traditional types of development standards and concepts while managing impacts on surrounding areas. To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, the Town needs flexibility to negotiate such developments.⁸ Therefore, the Town may enter into developments agreements subject to the requirements of this section.
- (b) *Powers Supplemental.* Development authorized by a development agreement shall comply with all applicable laws, including Town ordinances affecting the development of property. The section is supplemental to the powers conferred on the Town and does not preclude or supersede the other provisions of this zoning ordinance. When the Town Council approves rezoning of any property associated with an executed and recorded development agreement, the provisions of Section 30-3314 Rezoning / Map Amendment or 30-3318 Text Amendment apply.
- (c) *Town Council Approval Required.*
- (1) Development Agreements and major modifications of Development Agreements must be approved by the Town Council following notice and a public hearing. The notice and public hearing shall follow the requirements for a zoning text amendments in section of Section 30-3314 Rezoning/ Map Amendment or 30-3318 Text Amendment above. In addition, the notice must specify the property subject to the development agreement, the uses proposed for the property, and where a copy of the proposed development agreement may be obtained or inspected.
 - (2) The Town Council may adopt a Development Agreement as an ordinance, or as a part of this zoning ordinance. A Development Agreement may be considered concurrently with a zoning map or text amendment affecting the property subject to the Agreement, a preliminary subdivision plat, a site plan, other permit found in this zoning ordinance.
- (d) *Size and Duration.* The Development Agreement shall be of a reasonable term specified in the Agreement. A Development Agreement may include developable property of any size.
- (e) *Contents of Development Agreement* A Development Agreement shall contain at least all of the following:
- (1) A legal description of the property subject to the agreement and the names of its legal and equitable property owners.
 - (2) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.
 - (3) The development uses permitted on the property, including population densities, and building types, intensities, placement on the site, and design.

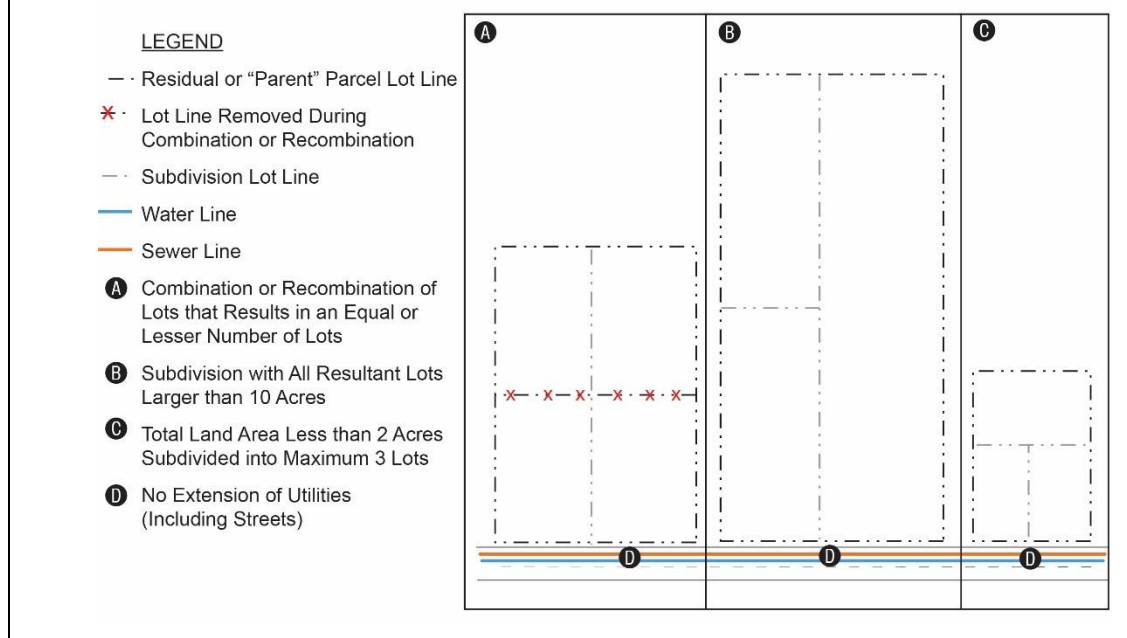
⁸ G.S. 160D-1001.

- (4) A description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. If the Development Agreement provides that the Town will provide certain public facilities the Agreement shall provide that the delivery date of the public facilities is tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.
- (5) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property.
- (6) A description of all Town development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing their permitting requirements, conditions, terms, or restrictions.
- (7) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the Town for the public health, safety, or welfare of its citizens.
- (8) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- (9) A development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to G.S. section 160D-1008 but must be judged based upon the totality of the circumstances.
- (10) A provision that the Town Planner periodically review the Development Agreement as which time the developer shall demonstrate good faith compliance with the terms of the Agreement.
- (11) A development agreement may provide some or all of the following"
 - a. A definition of what constitutes a "major modification".
 - b. A provision that the entire development or any phase be commenced or completed by a date certain.
 - c. Any other matter, including defined performance standards, mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by Town under G.S. section 160D-804 shall be expressly enumerated and provided that the agreement contain no tax or impact fee not authorized by law.
 - d. Performance guarantees in compliance with G.S. section 160D-804(d).
 - e. Penalties available for breach in lieu of termination of an Agreement, including but not limited to penalties allowed for violation of this zoning ordinance.
- (f) *Record Development Agreement* The developer shall record the Development Agreement at the Johnston County Register of Deeds within 14 days of execution of an Agreement. No permits may be issued until an Agreement is recorded. The burdens of a Development Agreement are binding upon, and the benefits of the Agreement shall inure to all successors in interest to the parties to the Agreement.
- (g) *Procedures to Approve Debt* If any obligation of the Town in a Development Agreement constitutes debt, the Town Council shall comply with the any applicable constitutional and statutory procedures for approval of the debt, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town.

- (h) *Breach and Cure* If the Town finds and determines that the developer has committed a material breach to a Development Agreement, the Town shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and evidence supporting the finding and providing the developer a reasonable time in which to cure the material breach.
- (1) If the developer fails to cure the material breach within the time given, then the Town may terminate or modify the Development Agreement, provided the notice of termination or modification may be appealed the Board of Adjustment in the matter provided by section 30-3302 Appeals .
 - (2) Any party to a Development Agreement may enforce the Agreement notwithstanding any changes to the Town's development regulations made subsequent to the date of the Agreement. Any party to the Agreement may file an action of injunctive relief to enforce the terms of a Development Agreement.
- (i) *Definitions* The following definitions apply to this section:
- (1) *Development*--The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. "Development", as designated in a law or development permit, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.
 - (2) *Public facilities*--Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational , parks and recreational, and health systems and facilities.

Sec. 30-3308 - Exempt subdivision certification.

- (a) *Purpose and Intent* The purpose for this exempt subdivision procedure is to establish a clear and predictable procedure for the Town to determine and document that a proposed division of land is exempted from the subdivision requirements of this Ordinance in accordance with Section 160D-802 of the N. C. General Statutes.
- (b) *Applicability*
- (1) The following forms of land division (see Figure : Exempt Subdivision) are exempt subdivisions exempted from the subdivision requirements of this Ordinance (but not from the provisions in this section):
 - a. A combination or recombination of portions of previously subdivided and recorded lots that does not increase the total number of lots, and the resultant lots are equal to or exceed the standards of this Ordinance;
 - b. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
 - c. Public acquisition involving the purchase of strips of land for the widening or opening of streets;
 - d. Division of a tract of land in single ownership, where the total area of all land in the land division is no greater than two acres, the division creates no more than three lots, where no street right-of-way dedication is involved, and the resultant lots are equal to or exceed the standards of this Ordinance; or
 - e. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with Chapter 29 of the North Carolina General Statutes.
 - f. Divisions of land that are not consistent with these criteria shall not be considered exempt subdivisions and shall be subject to the applicable review procedure and subdivision requirements of this UDO.

FIGURE 1: EXEMPT SUBDIVISION**(c) Subdivision Exemption Review Procedure**

(1) *Pre-Application Conference* Optional (see Section 30-3201 Pre-Application Conference).

(2) *Application Submittal* Applicable (see Section 30-3203, Application Filing and Acceptance).

- a. An application for exempt subdivision determination may be filed by the Town Planner, the Planning Board, the Board of Commissioners, a landowner, or a contract purchaser
- b. Except for subdivisions where all lots shall be served by a central wastewater system, applications for a subdivision exemption shall include an evaluation from Johnston County Environmental Health Department indicating that an on-site wastewater system may be used on each lot included in the subdivision.

(3) Staff Review and Action

- a. Applicable (see Section 30-3205, Staff Review and Action).
- b. The Town Planner shall review the application in accordance with sub-section (d) below Exempt Subdivision Review Standards, and certify that the land division qualifies as an exempt subdivision

(d) *Recordation* If an exempt subdivision plat or other document is prepared by the applicant, it shall be certified by the Town Planner, and shall be recorded in the office of the Johnston County Register of Deeds.

(e) *Exempt Subdivision Review Standards* A division of land shall be certified as an exempt subdivision if it:

- (1) Is excluded from the definition of a subdivision in accordance with Section 160D-802 Applicability of the N. C. General Statutes; and
- (2) Complies with all applicable standards in Article 4, Zoning Districts; and
- (3) Complies with all standards or conditions of any applicable permits and development approvals; and
- (4) Complies with all other applicable requirements in the Town Code of Ordinances.

(f) Effect

- (1) A division of land determined to be an exempt subdivision shall be exempted from the subdivision standards of this Ordinance, but development of land within an exempt subdivision shall remain subject to the requirements for an improvement permit from the Johnston County Health Department, as well as all applicable standards in this Ordinance.
- (2) In the event a division of land does not qualify as an exempt subdivision, it shall be reviewed in accordance with the applicable subdivision procedure and shall be subject to all applicable subdivision standards in this Ordinance.
- (g) *Appeal* Appeal of a decision on an exempt subdivision shall be reviewed and decided by the Board of Adjustment in accordance with section 30-3302, Appeals.

Sec. 30-3309 - Expedited subdivision.

- (a) *Exception for subdivision of land in single ownership established by NC General Statute, section 160D-802.* The Town Planner will review a final plat prior to recordation, and sign the required certificates, only if all the following conditions apply:
 - (1) The division will not create parcels greater than ten acres where no street right-of-way dedication is involved.
 - (2) No part of the tract or parcel to be divided has been divided under this subsection in the ten years prior to division.
 - (3) The entire area of the tract or parcel to be divided is greater than five acres.
 - (4) After division, no more than three lots result from the division.
 - (5) After division, all resultant lots comply with all of the following:
 - a. Any lot dimension size requirements of the applicable land-use regulations, if any.
 - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
 - c. A permanent means of ingress and egress is recorded for each lot.

Sec. 30-3310 - Final plat.

- (a) *Application requirements.* Applications for final plat approval of subdivisions shall be filed with the Town Planner. The Town Planner shall prescribe the form of application, as well as any other material he/she may reasonably require to determine compliance with this division,. Final plats shall comply with the mapping requirements of this section and Article 7 and the certification and endorsement requirements of Art 11, Div. 4 Plat Certificates. For major subdivisions, a preliminary plat for the lots shown on the proposed final plat must have been approved and not expired before a final plat approval application may be accepted. As part of the application for final plat approval, the applicant shall certify one of the following:
 - (1) That all required improvements (streets, utilities, storm drainage facilities, street signs, and facilities for common use, if any) approved as part of the preliminary plat approval and serving lots shown on the final plat have been completed, or
 - (2) That a performance guarantee has been posted and approved by the town.
 - (3) That the development requires only review of the final plat per this section.
- (b) *Town Planner 's Action.* When the Town Planner accepts an application for final plat approval of a subdivision, the Town Planner shall determine if the final plat conforms to all applicable regulations and to an approved valid preliminary plat if a major subdivision. He/she shall approve or deny the application.

- (c) *Actions subsequent to decision.* If an application for final plat approval of a subdivision is approved, the Town Planner shall endorse his/her approval on a minimum of two reproducible Mylar originals of the final plat. The applicant shall record the final plat in the office of the Johnston county register of deeds. Approval of any final plat is void if it is not properly recorded within 60 calendar days after the Town Planner's endorsement of the approval. The Town Planner may extend this deadline provided the applicant has demonstrated a good faith effort to comply with the deadline, but for reasons beyond his control, fails to meet the requirements of the register of deeds for recordation within that period. Such plat shall conform to the drawing specifications, certifications and endorsement requirements of this section, Art 7 Subdivisions and Art. 11 Div. 4 Plat Certifications.
- (d) *Appeal of decision.* The Town Planner's decision on a final plat approval application may be appealed to the board of adjustment under an appeal of administrative decision in 30-3302.
- (e) *Specifications for drawings.*
- (1) *Format.* The requirements of this section apply to the format of drawings.
 - (2) *Plat.* The plat shall be drawn to the standards of G.S. section 47-30 Plats and Subdivision; Mapping Requirements at a scale between 1:100 and 1:20. Under special circumstances, with the Town Planner's approval, a preliminary plat can be drawn to another scale which can clearly and accurately display the necessary information for review. The plat shall show the following:
 - (3) *Title data.* Name of the subdivision, the names and addresses of the owner or owners, name of designer of the plat, scale, date, approximate north point, and in large letters the words "Preliminary Plat."
 - (4) *Existing data.* Property lines, street lines and names, greenways, sidewalks, bicycle facilities, principal buildings, existing utility lines (water, sewer, electric, gas, etc.) watercourses (intermittent and perennial), wetlands, bridges, public/private easements, names of adjacent: subdivisions, property owners, zoning districts, land uses, distance to nearest street intersection, voluntary agricultural districts, corporate limits and/or planning district lines; and an inset sketch map showing the subdivision's location in relation to the town and general area.
 - (5) *Data relating to subdivision.* Names, locations and other dimensions and/or metes and bounds of proposed streets, lots, easements, building lines, gross acreage to be developed, development existing and proposed impervious surfaces, buffers, and recreational/open space areas, if appropriate. A statement describing the water supply and sanitary sewage disposal facilities proposed to be installed in the subdivision.
 - (6) *Floodway data.* The boundaries of both the floodway and floodplain, shown on maps entitled flood hazard boundary map, shall be shown clearly.
 - (7) *Dedications for future right-of-way.* Whenever land to be subdivided includes any part of a planned thoroughfare improvement shown on the official plan(s) adopted by the town, the applicant shall dedicate the right-of-way in the location and to the width specified in the comprehensive plan or roadway project to the DOT or HOA, whichever applies. Land reserved for future right-of-way shall not be counted in satisfying any yard, area, or dimensional requirements.
 - (8) Stormwater Management Statement as required in the Johnston County Storm Water Management Ordinance and/or Johnston County Stormwater Design Manual.
- (f) *Final plat.* The final plat shall show the following:
- (1) *Title and documentation data.* Name of subdivision, the township, the name of the licensed surveyor under whose supervision the plat was prepared; the date of the plat; the scale and north point; and all endorsements and certifications required by in Art 11, Div. 4 Plat Certificates .

- (2) *Data relating to the subdivision.* Lines and names of streets; lines of all lots, easements, areas devoted to common use, with notes stating clearly their proposed use, required landscape buffers, any limitations and the person or entity responsible for continued maintenance; corporate and/or other boundaries; lots numbered consecutively through the subdivision; building lines; metes and bounds survey information sufficient to determine readily on the ground the location of every street, lot line, boundary line, block line, easements line, and building line; the radius central angle, and tangent distance for both street lines of curved streets, the locations and types of all permanent monuments; the names of subdivisions, subdivision entrance sign easement, and streets adjoining the platted subdivision; if applicable, the location of mail kiosk; and designation of all streets and easements within the subdivision as public or private.
- (3) *State statute.* All data shown on the final plat shall be consistent with the provisions set out in G.S. section 47-30.
- (4) *Easements.* All easements and their function shall be shown on the final plat. Drainage easements shall comply with Johnston County's Storm Water Management Ordinance, Johnston County Stormwater Design Manual and NCDOT Subdivision Road Standards.
- (5) *Floodway data.* The boundaries of both the floodway and 100-year floodplain zone, as shown on the map entitled "Flood Boundary and Floodway Map," shall be shown. The FIRM panel and its adoption date shall be shown.
- (6) *Future streets.* All streets intended for future extension either within or beyond the boundaries of the subdivision shall clearly be indicated on the plat, by the words "Reserved for Future Public Access."
- (7) *Subdivision road disclosure statement.* The subdivision road disclosure statement shall be shown on the final plat. All roads shown on the final plat shall be designated in accordance with G.S. section 136-102.6 and designation as a public road shall be conclusively presumed an offer of dedication to the public. Where roads are dedicated to the public but not accepted into a municipal or the state system, before lots are sold, a statement explaining the status of the road shall be noted on the final plat.
- (8) *Plat certificates.* As required by Art. 11, Div. 4 Plat Certificates below.
- (9) *Certificates and endorsements on final plat.* The certificates and endorsements in the following table, where applicable, must be shown on all final plats of subdivisions. See Art 11, Div. 4 for examples of the certificates:

REQUIRED CERTIFICATES TABLE	
TYPE OF SUBDIVISION	REFERENCE NUMBERS (See Section <>, Certificates and Endorsements on Final Plat)
Exempt	(1) - (5), (7) (10), (11), (12)
Minor	(1) - (7), (10-12) As applicable (6) through (9), (13), (14)
Major	(1) - (13)

- (g) *Distribution of recorded plat and recorded covenants.* When approved by the Town Planner , he or she shall endorse his/her approval on a minimum of two reproducible Mylar originals of the final plat. The Town Planner may or approve a final plat with conditions. The applicant shall record such plats with the county register of deeds returning one to the Town Planner , along with a recorded copy of the required covenants in 30 days. The applicant shall provide a copy of the recorded plat to the Johnston County departments of environmental health and public utilities.

Sec. 30-3311 - Floodplain development permit.

See Code of Ordinances Chapter 14 Flood Damage Prevention

Sec. 30-3312 - Major subdivision.

- (a) *Preliminary plat approval.* All major subdivisions must have a preliminary plat approved by the planning board prior to any construction or final plat approval.
- (b) *Preliminary conference.* See Section 30-3201, Pre-Application Conference above .
- (c) *Application submittal requirements.* Applications for major preliminary plat approval shall be filed with the Town Planner . The Town Planner shall not accept an application unless it complies with all UDO requirements, including written confirmation that the applicant is the owner or agent having a valid ownership interest, or a valid enforceable contract or option for an ownership interest in the property involved. An incomplete application shall be returned to the applicant, with a notation of its deficiencies.
- (d) *Town Planner 's Report* The Town Planner shall forward to the planning board an analysis of an application for major preliminary plat approval with his/her recommendation.
- (e) *Planning board review and action.*
 - (1) After receiving the Town Planner 's report on an application for major subdivision preliminary plat approval, the planning board shall consider the application at its next regularly scheduled meeting. No formal public hearing will be held. The planning board may hear comments and questions. The planning board may place reasonable and fair limitations on comments, arguments, and questions to avoid undue delay. The applicant shall bear the burden of establishing that he/she is entitled to approval of the application.
 - (2) The planning board shall act on an application for major subdivision preliminary plat approval after reviewing the application, the Town Planner 's report and public comment on the application. It shall base its action on its findings as to conformity with all applicable UDO requirements of this article. Its action shall be one of the following: approval, approval subject to conditions, tabled to address deficiencies identified by the planning board, or denial. The planning board may impose reasonable conditions on its approval to ensure compliance with the UDO.
 - (3) The Town Planner shall notify the applicant in writing of the planning board's decision and shall file a copy of the decisions .
- (f) *Expiration of preliminary plat approval.* Preliminary plat approval, or re-approval, for a major or commercial subdivision shall be effective for three years from the date of approval with no extension allowed by the Town Planner or his/her delegee. An extension may be requested of the planning board for an additional three-year period. Otherwise the vesting provisions at Art. 1, Div. 3 apply.
- (g) *Appeal of Decision* The planning board's decision on an application for a preliminary plat approval for a major subdivision may be appealed to the Johnston County Superior Court within thirty days from receipt of written notice of the decision.

Sec. 30-3313 - Minor subdivision.

- (a) *Application Submittal Requirements.* Applications for minor subdivision approval, along with any required fees, shall be filed with the Town Planner . The Town Planner shall prescribe the form of applications, as well as any other material that may reasonably be required to determine compliance with this division. Minor subdivision plats shall comply with the mapping requirements of section 30-3310 Final Plat, Art 7, Subdivisions, and Art 11, Div. 4 Plat Certificates. The Town Planner shall not review an application unless it is complete and complies with the requirements of the UDO. An incomplete application shall be returned to the applicant, with a notation of its deficiencies.

- (b) *Town Planner 's Action.* When an application for minor subdivision approval is accepted, the Town Planner shall determine if the plat and application conform with all applicable regulations. The Town Planner shall act on an application based solely on the findings as to compliance with applicable regulations. The Planner shall approve, approve subject to conditions, deny, or refer to the major subdivision approval process if he/she finds it to be a major subdivision proposal or if requested by the applicant. If the Town Planner refers the request to a major subdivision review, an amended application shall be submitted as required in section 30-3312, Major Subdivisions. The Town Planner may impose reasonable conditions on his/her approval to ensure the subdivision complies with the intent and requirements of the UDO .
- (c) *Actions Subsequent to Decision.* The Town Planner shall notify the applicant of his/her decision on the applicant's application for a minor subdivision approval and shall file a copy of the decision in the office of the Town Planner . The Town Planner shall endorse his/her approval on a minimum of two reproducible Mylar originals of the final plat if he/she approves an application or approves it with conditions. The applicant shall record such plats with the county register of deeds returning one to the Town Planner and one copy to the Johnston county department of environmental health. Approval of any minor subdivision plat is void if it is not properly recorded within 60 days after the Town Planner 's approval. The Town Planner may extend this deadline provided the applicant has demonstrated a good faith effort to comply with the deadline, but for reasons beyond his/her control, fails to meet the requirements of the register of deeds for recordation within that period. Plats shall conform to the drawing specifications and certification requirements of Article 7, sections .
- (d) *Appeal of Decision.* Subdivisions not approved by the Town Planner are automatically referred to the Planning Board for reconsideration.

Sec. 30-3314 - Planned development.

- (a) *Purpose and Intent* The purpose for the planned development procedure is to provide a uniform means for amending the Official Zoning Map to establish a Planned Development (PD) zoning district. The planned development district creates opportunities for master planned development that is developed under unified control in accordance with flexible standards and procedures that are conducive to creating mixed-use, pedestrian-oriented development that makes efficient use of land while protecting natural resources. It is the intent of these standards to allow an applicant to propose a wide variety of allowable uses and the flexible application of some of the development standards in Art. 6, Development Standards, in return for a higher quality of development with more amenities than might otherwise result from a strict application of the standards in this Ordinance.
- (b) *Applicability* The standards in this section may be applied to any land of one acre in area or more and under unified control.
- (c) *Planned Development Procedure*
- (1) *Pre-Application Conference* Applicable (see Section 30- 3301, Pre-Application Conference).
 - (2) *Application Submittal*
 - a. Applicable (see Section 30-3203, Application filing and acceptance).
 - b. Planned development applications may not be initiated by anyone other than the landowner(s) of the land subject to the application or a contract purchaser with written approval to submit the application by the landowner(s).
 - c. The application shall include a master plan depicting the general configuration and relationship of the principal elements of the proposed development, including uses, general building types, density/intensity, resource protection, pedestrian and vehicular circulation, open space, public facilities, and phasing.
 - d. The application shall also include a terms and conditions document that identifies how the proposed development will meet or exceed the standards in Section 30-3313(d) Planned Development (PD) District Review Standards, how any required environmental mitigation will take place, and outline how public facilities will be provided to serve the planned development.
 - e. To ensure unified control, the application shall also include a copy of the title to all land that is part of the proposed PD zoning district classification.

- f. An applicant may file an application for a preliminary plat and/or a major or minor site plan concurrently with a planned development master plan and statement terms of conditions.

(3) *Staff Review and Action*

- a. Applicable (see Section 30-3205 Staff Review and Action).
- b. The Town Planner shall review the application, prepare a staff report, and provide a recommendation in accordance with section 30-3313(d) Planned Development Review Comments.

(4) *Review by Planning Board*

- a. Public Meetings is required per section 30-3207 Public Meetings and Hearings).
- b. The Planning Board, following review during a public meeting, shall make a recommendation on an application in accordance with Section 30-3313(d), Planned Development Review Standards.
- c. In cases where a planned development application includes a major site plan, the Planning Board shall review the site plan portion of the application and make a recommendation on the major site plan for consideration by the Town Council, who shall decide the major site plan portion with the other application materials.

(5) *Public Notice Applicable* (see section 30-3207 Public Meetings and Hearings).

(6) *Review and Decision by Town Council*

- a. *Applicable.* (See Section 30-3207, Public Meetings and Hearings).
- b. The Town Council, after the conclusion of a legislative public hearing, shall decide the application in accordance with Section 30-3313(d) Planned Development Review Standards.
- c. The decision shall be one of the following:
 - 1. Approval of the planned development subject to the PD master plan and PD terms and conditions statement in the application;
 - 2. Approval of the planned development subject to additional or revised conditions related to the planned development master plan or planned development terms and conditions statement;
 - 3. Denial of the planned development; or
 - 4. Remand of the planned development application back to the Planning Board for further consideration.
- d. In making its decision, the Town Council shall adopt a written statement including each of the following:
 - 1. Whether the planned development application (and associated zoning map amendment) is approved, denied, or remanded; and
 - 2. The degree to which the planned development application (and associated zoning map amendment) is or is not consistent with the Town's adopted plans and policies; and
 - 3. The ways in which the planned development application (and associated zoning map amendment) is or is not consistent with the Town's adopted plans and policies; and
 - 4. Whether approval of the planned development application also amends or does not amend the Town's adopted comprehensive land use plan; and
 - 5. If the adopted land use plan is amended as part of the application approval, a description of the change in conditions to meet the development needs of the Town that were taken into account as part of the approval; and
 - 6. An explanation of why the action taken by the Town Council is reasonable; and
 - 7. An explanation of why the action taken by the Town Council is in the public interest.

(d) *Planned Development Review Standards*

- (1) The advisability of amending the zoning map to establish a planned development district 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 planned development, the Town Council may consider the standards in Section 30-3316 Rezoning, and the standards for the proposed type of PD district in Art. 4, Div. 4, Planned Development (PD) District.
- (2) In the event an applicant files an application for a preliminary plat concurrently with a planned development application, the Town Council shall review and decide the preliminary plat portion of the application in accordance with the standards in Section 30-3310, Preliminary Plat Review Standards.
- (3) In the event an applicant files an application for a major or minor site plan concurrently with the planned development application, the Town Council shall review and decide the major or minor site plan portion of the application in accordance with the standards in Section 30-3316 Site Plan
- (e) *Designation on the Official Zoning Map* Designation of a PD zoning district on the Official Zoning Map shall note the ordinance number approving the PD zoning classification.
- (f) *Effect*
 - (1) Lands rezoned to a planned development (PD) district shall be subject to the approved PD master plan and the approved PD terms and conditions.
 - (2) The master plan and terms and conditions are binding on the land as an amendment to the Official Zoning Map.
 - (3) The applicant may apply for and obtain subsequent development permits and approvals necessary to implement the PD master plan in accordance with the appropriate procedures and standards set forth in this UDO.
- (g) *Amendment* Applicable (see Section 30-3319 Text Amendment and / or 30-30-3315 Rezoning).
- (h) *Expiration*
 - (1) If no application for approval of a preliminary plat or site plan for any part of the approved PD master plan is submitted within two years after approval of the planned development, the Town Planner shall initiate a zoning map amendment application to rezone the land back to its prior zoning classification or any other general zoning classification determined to be appropriate. Such time period shall not be extended with transfer of ownership.
 - (2) Upon written request submitted at least 30 days before expiration of the two-year period provided in subsection (1) above, and upon a showing of good cause, the Town Planner may grant one extension not to exceed one year for the applicant to submit required development applications.
- (i) *Appeal*
 - (1) Appeal of a decision on a planned development shall be subject to review by the Johnston County Superior Court.
 - (2) Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the Town Clerk 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 (Or section 30-3209 Written Notice of Decisions.)

Sec. 30-3315 - Reasonable Accommodation.

- (a) *Introduction.* The Town Council is authorized to grant reasonable accommodations under the Federal Fair Housing Act for the circumstances set forth in this section, except that the Board of Adjustment may provide a reasonable accommodation through a variance as provided in Section 30-3320. Where the request for a reasonable accommodation includes both a request that may be granted by a variance and a request that does not come under the definition of variance, then the entire request shall be heard by the Town Council. For example, variances may not be used to obtain a change of use.

- (b) *Persons Authorized to File Applications.* An application for a reasonable accommodation may be filed only by the owner of the land affected by the reasonable accommodation; an agent, lessee, or contract purchaser specifically authorized by the owner to file such application; or any unit of government that is not the owner of the lot but proposes to acquire the lot by purchase, gift, or condemnation.
- (c) *Pre-Application Conference.* Before filing an application for a reasonable accommodation, the applicant may request a pre-application conference with the Town Planner under Section 30-3201.
- (d) *Application Filing and Contents.* An application for a reasonable accommodation shall be filed with the Town Planner and contain: (i) the applicant's contact information (name, mailing address, phone number, fax number and email address); (ii) the contact information for the owner(s) of the property (if different from the applicant); (iii) the address of the property at which the reasonable accommodation is requested; (iv) a description of the reasonable accommodation requested; (v) a statement explaining how and why the request meets the "Approval Criteria" for a reasonable accommodation (see Section (F) Approval Criteria below); and (vi) notarized signature of the applicant and property owner(s) (if different from the applicant). No filing fee shall be required for the application.
- (e) *Action by the Town Council.* The Town Council (or the Board of Adjustment if accommodation is a request for a variance) shall hold a quasi-judicial hearing on the proposed reasonable accommodation. The Board shall decide the request upon a majority vote of the members. The quasi-judicial hearing shall be conducted in accordance with the hearing procedures of Section 30-3207(c) Public Meetings and Hearings. An appeal from a final decision of either Board shall be governed by Section 30-3207(c)(10).
- (f) *Approval Criteria.* The Town Council shall grant a reasonable accommodation to any provision of the Zoning Ordinance if the Council finds by the greater weight of the evidence that the proposed reasonable accommodation is both reasonable and necessary, in accordance with the following criteria
 - (1) *Reasonable.* An accommodation will be determined to be reasonable if it would not undermine the legitimate purposes and effects of existing zoning regulations, and if it will not impose significant financial and administrative burdens upon the Town and/or constitute a substantial or fundamental alteration of the Town's zoning ordinance provisions.
 - (2) *Necessary.* An accommodation will be determined to be necessary if it would provide direct or meaningful therapeutic amelioration of the effects of the particular disability, handicap, or institutionalized persons and would afford handicapped or disable persons' equal opportunity to enjoy and use housing in residential districts in the Town

Sec. 30-3316 - Rezoning.

- (a) *Introduction:* There are two types of map amendments- general and conditional. General rezonings are traditional map amendments where a property is moved from one zoning classification to another. Conditional map amendments create an individualized zoning district. Conditional districts are unique. Everything in this section applies to both general and conditional district map amendments except sub-section (h) which applies only to conditional districts.
- (b) *Who May Propose an Amendment;* This article, including the zoning map, may be amended only by the town council, according to the procedures of this section and in section 30-3320 for text amendments.. Proposed amendments may be initiated by the property owners or their agents, town council or planning board..
- (c) *Down-Zoning.*— No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment unless the down-zoning amendment is initiated by the Town Council. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
 - (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
 - (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

- (d) *Procedures.* Except for amendments initiated by the town council, planning board, staff or mayor, no proposed amendment to the zoning map shall be considered by the town council, nor a public hearing held until an application containing the following information is submitted by the applicant: A statement of the present zoning classification .
- (2) The name and signature of the applicant and owner if the owner is not the applicant.
 - (3) The tax parcel number of the lot proposed to be rezoned.
 - (4) The names and addresses of the owners of the lot in question.
 - (5) The names of the owners and use of each abutting property. Abutting properties include those separated from the parcel to be rezoned by a street, railroad or other transportation corridor.
 - (6) A completed application form with fee paid.
 - (7) The applicant shall provide any additional information related to the proposed amendment requested in writing by the Town Planner, planning board or town council. The Town Planner shall transmit the original application to the town council and the original application shall be filed in the office of the Town Planner town clerk after consideration by the town council.
- (e) *Planning board review.* After a complete application is submitted, the planning board shall issue a written recommendation with statements of consistency and reasonableness to the town council.
- (1) *Statements of Consistency and Reasonableness* In accordance with N. C. Gen. Stat. §§ 160D-604 and 160D-605, the planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan, as applicable. The planning board shall provide a written recommendation to the town council that addresses plan consistency and other matters deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with a comprehensive plan or any other officially adopted plan, as applicable, shall not preclude consideration or approval by the town council. The Planning Board shall also provide a statement analyzing the reasonableness of the proposed rezoning. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment
- (f) *Public hearing procedures.*
- (1) *Notifications.* Notice is required. Notice will be made as provided in section 30-3206 Public Notifications.
 - (2) No amendment shall be adopted by the town council until they have held a public hearing on the amendment. The public hearing may be held after the town council receives a recommendation from the planning board, or if no recommendation is forthcoming, the public hearing may be held after the planning board's 65 day deadline or the town council's extension, if provided, has elapsed.
 - (3) *Town council statement.* After the public hearing, and prior to adopting or rejecting any zoning amendment, the town council shall adopt a written statement(s) describing whether its action is consistent with an adopted comprehensive plan and is reasonable and in the public interest. The Town Council statements shall follow the requirements in 3. above.
- (g) *Limitation on down-zoning.* No amendment to zoning text or map that down-zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment unless the down-zoning amendment is initiated by the town. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways: By decreasing the development density of the land to be less dense than was allowed under its previous usage. By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage. No denied zoning application can be resubmitted within one year.

- (h) *Citizen comments.* If any resident or property owner in the town submits a written statement regarding a proposed zoning map or text amendment to the town clerk at least two business days prior to the proposed vote on such change, the town clerk shall deliver the written statement(s) to the town council with the meeting agenda or, if received later, to the town council before the meeting.
- (i) *Conditional District Map Amendments*
- (1) *Who may initiate:* All the **owners** of a property must sign the petition for conditional district rezoning
- (2) *Process :* The procedure is the same as general rezonings except for the following:
- Conditional district rezoning petitions are a separate process from general rezonings. Conditional district rezonings must begin with a unique petition. Once an application is accepted, it is not possible to switch from a general to a conditional rezoning and vice versa.
 - The applicant owners propose conditions on the rezoning in the application. All proposed conditions must be in writing signed by the applicant/owner.
 - The Town may propose condition, but only those agreed to by the applicant and Town Council may be approved by the Town Council
- (3) *Limitation on Conditions:*
- Unless consented to by the applicant in writing, in the exercise of the authority granted by this section, the Town Council may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of N.C. Gen. Stat. (G.S.) § 160D-702(b), driveway-related improvements in excess of those allowed in G.S. §136-18(29) and G.S. §160A-307, or other unauthorized limitations on the development or use of land.
 - Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. §160D-501, or the impacts reasonably expected to be generated by the development or use of the site.
- (4) *Amendments:* Except for Administrative Adjustment permitted under section 30-3301, any changes to conditions shall follow the same process for approval as a new application for a map amendment.

Sec. 30-3317 - Site Plan

(a) *Site plan application submittal requirements.*

- Site plans applications are required for all developments except detached single family. Site plan applications may be submitted in conjunction with other permit applications, or alone. For example, if a commercial subdivisions has already received zoning and subdivision approval, then a site plan application may be submitted by itself. In other cases, site plan applications are a requirements for a permit application. For example, site plan applications are required with special use permit applications. A pre-application conference is highly recommended (see section 30-3201, Pre-Application Conference). The Town Planner should be consulted for details on the procedural requirements.
 - Applications for a site plan permit shall be submitted to the Town Planner . The Planner shall prescribe the form on which applications are made. Applications shall include the information listed in Art. 11, Appendix 6, section 30-A6, Information required with applications. The Town Planner shall prescribe any other material that may reasonably be required to determine compliance with this article. Two copies of the application and attachments shall be submitted to the Town Planner . No application shall be accepted by the Planner unless it is complaint as required by section 30-3203.
- (b) *Action on the application.* On receipt of a completed application for a site plan, the Town Planner shall review as required in section 30-3205 Staff Review and Action. Site plans will be forwarded to the planning board for a written recommendation to the town council. The town council may impose such reasonable conditions as detailed in section 30-3208 Conditions of Approval.

- (c) *Actions subsequent to decision.* In the case of denial, approval or approval with conditions of a site plan application, the Town Planner shall notify the applicant as required in section 30-3209 Written Notice of Decisions. If approved, the Town Planner may issue the zoning compliance permit if no other permits or approvals are required. denial. Where a building permit, stormwater management permit, or sign permit is required, such permit shall not be issued prior to the issuance of the site plan permit and shall comply with the approved site plan, including all conditions of approval thereto (See section 32-3211 Effect of Development Approval).
- (d) *Appeal of decision.* A decision by the Town Planner in granting or denying site plan approval may be appealed to the board of adjustment in accordance with the provisions of section 30-3302 Appeals. A decision by the town council in granting or denying a site plan, may be appealed to the superior court within 30 days of the decision.
- (e) *Modification of site plan permits.* The Town Planner may approve a modification of a site plan (including site plans approved as a part of another permit application, such as a special use permit.) per section 30-3301 Administrative Adjustment / Modification. Except for minor modifications per section 30-3301, an application for modification of a site shall be reviewed in accordance with the procedures established in this article for a new site plan.
- (f) *Expiration and revocation of site plan approvals.*
- (1) *Starting time limit.* If the use, construction, or activity authorized by approval of an application for a site plan permit or modification of a site plan permit is not started within 24 months of the date of approval, the permit shall expire, and any town permit issued pursuant to the approval may be voidable. The Town Planner may grant an extension of the starting time limit for up to 12 months. The Town Planner shall determine whether the use, construction, or activity has started.
- (2) *Revocation of site plan permit.* If any conditions of a site plan permit or modification of a site plan permit, or requirements of this article applicable to the permit or modification are violated, the town council may revoke the permit or modification. The town council may reinstate a revoked site permit or modification of a zoning compliance permit if it determines that:
- a. The holder of the revoked permit or modification submitted a request for reinstatement within 90 days of the revocation;
 - b. The violations that were the cause of the revocation have been corrected; and
 - c. The development fully complies with all conditions of the permit or modification and all applicable requirements of this article.

Sec. 30-3318 - Special use permit

- (a) Permitted special uses provide for a more detailed review of applications for certain uses. Subject to the Art. 6 development standards, certain uses of property are allowed in specified districts where those uses would not otherwise be acceptable. Special uses, in some circumstances, may be compatible with and desirable in the districts in which they are designated, but they may also have characteristics which could have detrimental effects on adjacent properties, or even the entire town area, if not properly designed and controlled. By means of controls exercised through the special use permit procedures, uses of property which would otherwise be undesirable in certain districts can be developed to minimize any bad effects they might have on surrounding properties.
- (b) Special uses require a permit from the town council.
- (c) Special use permits shall only be granted after the town council has held a public hearing using the procedure set forth in section 30-3207 (c), Quasi-Judicial Public Hearings.
- (1) Pre-application conferences with the Town Planner per section 30-3201, Pre-Application Conference are highly recommended.
- (2) Applications for special use permits and a fee in accordance with the fee schedule adopted by the town council shall be received by the Town Planner per section 30-3203 Application filing and Acceptance.

- (3) The town council shall call for a public hearing. Public notice of the hearing shall be made in accordance with **section 30-3206, Public Notification**.
- (4) Public hearings by the town council for special use permits shall be conducted in the following section 30-3207 (c), Public Meetings and Hearings and the following:
- a. The mayor shall summarize the evidence that has been presented, giving the parties opportunity to make objections or corrections. The town council members, parties , or other persons with standing (**section 30-3207 (c) (6)**) shall be the only persons allowed to ask questions of a witness.
 - b. At a special meeting called for the purpose; the town council may view the premises.
 - c. The town council may continue the hearing until a certain date and time.
 - d. In order to issue a special use permit, the council shall consider each of the following conditions, and based on the evidence presented at the hearing, make findings in regard to each and must find that the issuance of the special use permit promotes the public health, safety and welfare and is in the best interest of the town:
 1. Will not materially endanger the public health, safety if located where proposed;
 2. Complies with all standards, conditions and specifications of the UDO, including Articles 5 Use Regulations and 6 Development Standards;
 3. Will not substantially injure the value of the abutting land, or the special use is a public necessity;
 4. Will be in harmony with the area in which it is to be located;
 5. Is in general conformity with the Town's adopted comprehensive and other plans; and
 6. Will not exceed the Town's ability to provide adequate public facilities (fire and rescue, utilities, and so on).
 - e. If the town council approves a special use permit, it may, as part of the terms of such approval, impose any additional reasonable conditions and safeguards as may be necessary to ensure that the criteria for the granting of such a permit will be followed per section 30-3208 Conditions of approval. . Where appropriate, such conditions may include requirements that streets and/or utility rights-of-way be dedicated to the public, and that provisions be made for recreational space and facilities. The town council may not impose conditions for which the town does not have statutory authority, including taxes, impact fees, building design elements for one or two family dwellings and driveway improvements in excess of those allowed by G.S. section 160D-702 (b) .
 - f. The town council's final decisions shall be shown in the order of the case as entered in the council's minutes and signed by the clerk and the mayor on approval of the minutes by the board. Such order shall show the reasons for the determinations, with a summary of the evidence introduced and the findings of fact made by the council. When a special use permit is granted, the order shall state the facts that support findings required to be made before such permit is issued. The order shall state in detail what, if any, conditions and safeguards the council imposes in connection with granting of a special use permit. The record shall be final when it is filed in the town clerk's office.
 - g. The order of the decision in each case shall be prepared, filed in the clerk's office, and furnished to any person as stipulated in section 30-3209, Written Notice of Decision.
 - h. A copy of the record shall be filed in the office of the Johnston County Register of Deeds.
- (d) *Effect*
- (1) Applicable (see Section 30-3211 Effect).
 - (2) A special use and the associated site plan approval are perpetually binding and run with the land, unless amended.

- (3) An action invalidating a special use condition of approval (such as exceeding maximum allowable intensity or hours of operation limitation) shall render the special use permit as well as the site plan approval null and void.
- (e) *Amendment Applicable* (see Except for Administrative Adjustments (section 30- 3315) a modification requires a new application and approval by the Town Council following a quasi-judicial hearing.)
- (f) *State and Federal Requirements* 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.
- (g) *Expiration*
- (1) *Replacement* If a special use is replaced by a use otherwise 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, but the site plan approval is unaffected, provided there are no physical changes to the building or the site.
- (2) *Failure to 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:
- The authorized use has not commenced;
 - No substantial construction activity has taken place; or
 - Construction activities have started but the value of all construction activity after two years is less than five percent of the estimated total cost of construction.
- (3) *Extension*
- An applicant may request an extension of a special use permit approval in writing to the Town Planner at least 30 days prior to expiration.
 - Extension requests shall be reviewed and decided by the Town Council.
 - Up to one extension for a maximum period of one year may be granted if:
 - The applicant has proceeded towards completion of construction in good faith and with due diligence; and
 - Conditions have not changed to the extent that a new application is warranted in the sole discretion of the Town Council.
- (h) *Appeal*
- (1) Appeal of a decision on a special use permit shall be subject to review by the District 1 Superior Court by proceedings in the nature of certiorari and in accordance with Section 160D-1402 of the N. C. General Statutes.
- (2) Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority 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
- (i) The special use permit may be reviewed by the town on a periodical basis.
- (j) No denied special use permit can be resubmitted for the same type of request unless conditions have so changed that a new application is warranted.

Sec. 30-3319 - Temporary use permit.

- (a) *Purpose and Intent* The purpose of this section is to establish a uniform mechanism for reviewing temporary uses, structures, special events, and temporary signage to ensure they comply with the standards in Art. 5, Div. 3, Temporary uses.
- (b) *Applicability* The provisions of this section shall apply to all proposed temporary uses, temporary structures, special events, and temporary signage set forth in Art. 5, Div. 3, Temporary uses.
- (c) *Temporary Use Permit Procedure*

- (1) *Application Submittal* Applicable (see Section 30-3203_Application filing and acceptance).
- (2) *Staff Review and Action*
 - a. Applicable (see Section 30-3205 Staff Review and Action).
 - b. The Town Planner shall review and decide the application in accordance with sub-section (d) Temporary Use Permit Review Standards.
- (d) *Temporary Use Permit Review Standards*
 - (1) A temporary use permit shall be approved if it complies with:
 - a. The standards in Art. 5, Div. 3, Temporary uses;
 - b. Any applicable standards in Art. 6, Div. 7 Signage;
 - c. The State Building Code;
 - d. The applicable requirements of Johnston County Health Department, including all improvement permit requirements;
 - e. All standards or conditions of any prior, applicable permits and development approvals; and
 - f. All other applicable requirements of this Ordinance, the Town Code of Ordinances, State law, and federal law.
- (e) *Effect* Applicable (see Section 30-3211, Effect of development Approval).
- (f) *Amendment* Applicable (see Section 30-3301 Administrative Approval / Modification. If the amendment is outside the parameters of section 30-3301 a new application for a Temporary Use Permit is required.).
- (g) *Expiration* Approval of a temporary use permit shall be effective beginning on the date of approval and shall remain effective for the period indicated in the permit.
- (h) *Appeal* Appeal of a decision on a temporary use permit shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 30-3116 Appeals.

Sec. 30-3320 - Text amendment.

- (a) *Purpose and Intent* This section provides a uniform means for amending the text of this Ordinance whenever the public necessity, changed conditions, convenience, general welfare, or appropriate land use practices justify or require doing so.
- (b) *Applicability*
 - (1) The standards and requirements of this section shall apply to applications to revise the text of this Ordinance.
 - (2) The requirements in this section shall not apply to amendments of the Comprehensive Plan or other functional plans and documents (see Section 30-3305 Comprehensive Plan).
- (c) *Text Amendment Procedure*
 - (1) *Pre-Application Conference Required* (see Section 30-3201, Pre-Application Conference).
 - (2) *Application Submittal*
 - a. Applicable (see Section 30-3203, Application Filing and Acceptance).
 - b. An application for a text amendment to this Ordinance may be filed by anyone. However, section 30-3315 (a)(1) Down Zoning applies to text amendments.
 - (3) *Staff Review and Action*
 - a. Applicable (see Section 30-3205, Staff Review and Action).
 - b. The Town Planner shall prepare a staff report and provide a recommendation in accordance with Section 30-3320 (e), Text Amendment Review Standards.
 - (4) *Review by Planning Board*
 - a. Applicable (see section 30-3207, Public Meetings and Hearings).

- b. The Planning Board, following review during a public meeting, shall make a recommendation on an application in accordance with Section 30-3320(e), Text Amendment Review Standards.
- c. The Planning Board shall comment on whether or not the text amendment is consistent with the Town's adopted plans and is reasonable and in the public interest in the same manner that the Board commented on map amendments. Refer to 30-3316 (c). Map Amendments.

(5) *Public Notice* Required (see Section 30-3206, Public Notification).

(d) *Review and Decision by Town Council*

(1) Applicable (see Section 30-3207, Public Meetings and Hearings).

(2) The Town Council, after the conclusion of a legislative public hearing, shall decide the application in accordance with Section 30- 3320(e), Text Amendment Review Standards.

(3) The decision shall be one of the following:

- a. Adoption of the text amendment as proposed;
- b. Adoption of a revised text amendment;
- c. Denial of the text amendment; or
- d. Remand of the text amendment application to the Planning Board for further consideration.

(4) In making its decision, the Town Council shall adopt a written statement including each of the following:

- a. Whether the text amendment application is approved, denied, or remanded; and
- b. The degree to which the text amendment application is or is not consistent with the Town's adopted plans; and
- c. Whether approval of the text amendment application also amends or does not amend the Town's plans; and
- d. If the adopted policy guidance is amended as part of the application approval, a description of the change in conditions to meet the development needs of the County that were taken into account as part of the approval; and an explanation of why the action taken by the Town Council is reasonable per section 30-3316 (c) Rezoning; and
- e. An explanation of why the action taken by the Town Council is in the public interest 30-3316 (c) Rezoning.

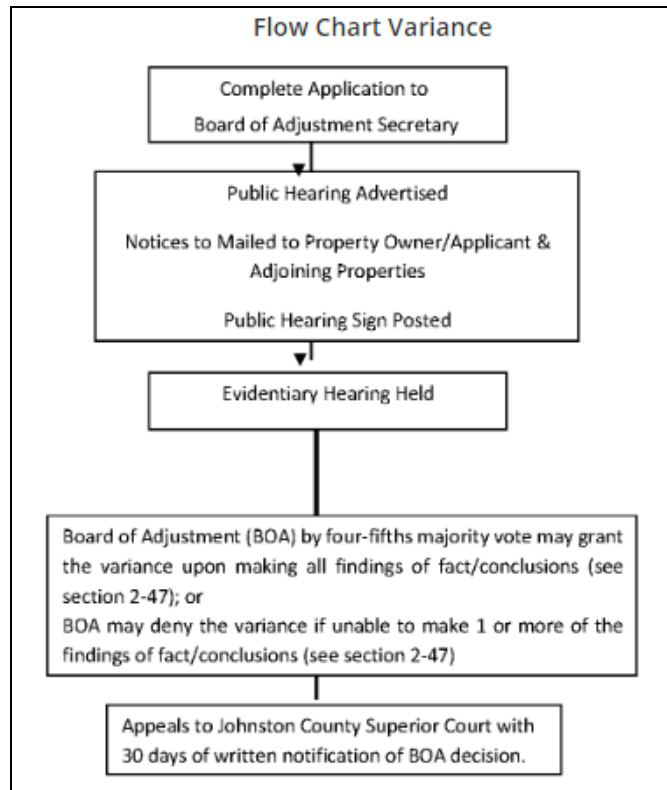
(e) *Text Amendment Review Standards* The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or deny the proposed UDO text amendment, the Town Council may, but is not required to consider whether and the extent to which the proposed text amendment:

- (1) Is consistent with the Town's adopted plans;
- (2) Is not in conflict with any provision of this Ordinance or the Town Code of Ordinances;
- (3) Is required by changed conditions;
- (4) Addresses a demonstrated community need;
- (5) Addresses an unforeseen matter or use of land not present when the Ordinance was adopted;
- (6) Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the Town;
- (7) Would result in a logical and orderly development pattern;
- (8) Addresses other factors determined to be relevant by the Town Council; and
- (9) Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, and the natural functioning of the environment.

- (f) *Effect* Applicable (see Section 30-3211 Effect).
- (g) *Amendment* Amendment of a text amendment approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
- (h) *Appeal*
 - (1) Appeal of a decision on a UDO text amendment shall be subject to review by the Johnston County Superior Court.
 - (2) Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority 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

Sec. 30-3321 - Variance

- (a) A complete application for a variance shall be submitted to the board of adjustment by filing a copy of the application with the Town Planner per section 30-3203, Application Filing and Acceptance..
- (b) The Town Planner shall advertise the hearing in accordance with the requirements of section 30-3206, Public Notification.
- (c) When presented to the board of adjustment at the hearing, the application for a variance shall be accompanied by a report as required by section 30-3205 Staff Review and Acton.
- (d) The board shall hold a hearing following the requirements of 30-3207(c) Public meetings and hearings.
- (e) No change in permitted uses may be authorized by variance
- (f) A variance may be granted by the board of adjustment if it concludes that strict enforcement of the ordinance would result in unnecessary hardships for the applicant upon a showing of all of the following:



- (1) 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; and
- (2) 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person(s) with a disability (see section 30-3314) Reasonable Accommodation). ; and
- (3) 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; and
- (4) 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.

- (g) If a motion to grant a variance is not made or fails to receive the four-fifths vote necessary for adoption, then a motion to deny the variance shall be in order. If the board finds that any one or more of the four criteria set forth in sub-section (6) above are not satisfied, the variance cannot be granted. A motion to deny may be adopted as the board's decision if supported by more than one-fifth of the board's membership.
- (h) Before granting a variance, the board must take a separate vote and vote affirmatively (by a four-fifths majority) on each of the four required findings stated in sub-section (6) above. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in sub-section (6) shall include a statement of the specific reasons or findings of fact supporting such motion.
- (i) In granting variances, the board of adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
- (j) A variance shall run with the land. The variance shall be recorded at the Johnston County Register of Deeds office.
- (k) The nature of the variance and any conditions attached to it, shall be entered on the face of the certificate of zoning compliance, or the certificate of zoning compliance may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this division. No change in permitted uses may be authorized by variance.

Sec. 30-3322 - Vested rights certificate.

- (a) *Introduction* This section is intended to implement the provisions of N. C. Gen. Stat.(G.S.) section 160D-108.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific vesting development plan approved after November 14, 2013. For the purpose of this section, a site specific vesting plan is defined as a plan of land development submitted to the town for purposes of obtaining a special use permit or zoning compliance permit. A variance or special use permit with a site plan that fails to describe with reasonable certainty the type and intensity of use for a specific parcel or parcels of property shall not constitute a valid application for a site-specific vesting plan. A zoning vested right is defined as a right pursuant to G.S. section 160D-108.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan
- (b) *Establishment of a Statutory Vested Right*
 - (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 Town Council 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 subsections (a) and (b) of this section, approval of a site specific vesting plan with a condition that a variance is obtained, shall not confer a zoning vested right unless the necessary variance has been obtained.
 - (4) A site specific vesting plan shall be deemed approved upon the effective date of the Town Council's approval authority's action or ordinance relating thereto.
 - (5) The establishment of a zoning vested right shall not preclude the application of any overlay zoning that imposes additional requirements but does not affect the allowable type or density 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 section.
 - (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 landowner that established the zoning vested right shall be entitled to exercise such right while applicable.

(c) Approval procedures and approval authority.

- (1) Except as otherwise provided for in this section, an application for 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 zoning compliance permit or approval for which application is made.
- (2) 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 following notice and a public hearing as provided section 30-3206 Public Notification and 30-3207 Public Meetings and Hearings. 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.
- (3) 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 N. C. Gen. Stat. section 160D-108.1 unless terminated at an earlier date, the zoning vested right shall be valid until two years from date of issuance."
- (4) Following approval or conditional approval of a site specific vesting plan, nothing in this section 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.
- (5) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

(d) Duration.

- (1) A zoning right that has been vested as provided in this section 30-3322 shall remain vested for a period of two years unless specifically and unambiguously provided by the Town Council as provided in this sub-section (c). This vesting shall not be extended by any amendments or modifications to a site specific vesting plan unless expressly provided by the town council at the time the amendment or modification is approved.
- (2) Notwithstanding the provisions of subsections (a) and (b) of this section, the Town Council 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 of the development, the level of investment, the need for or desirability of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the town council at the time the site specific vesting plan is approved.
- (3) Upon issuance of a building permit, the expiration provisions of N. C. Gen. Stat. sections 160D-1111 and 160D-1115 apply, except that a building permit shall not expire or be revoked because of the running time while a zoning vested right under this section is outstanding.

(e) Termination. A zoning right that has been vested as provided in section 30-3322 shall terminate:

- (1) At the end of the application vesting period with respect to buildings and uses for which no valid building permit application has been filed;
- (2) With the written consent of the affected landowner;
- (3) Upon finding by the town council, by ordinance after notice and a public hearing, that natural or manmade 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 as contemplated in the approved site specific development 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, engineering, planning, marketing, legal, and other consultant's fees incurred after approval by the town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action

- (5) Upon findings by the town council, by ordinance after notice and a public hearing, that the landowner or his 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 public hearing.
- (f) *Limitations.* Nothing in this article is intended or shall be deemed to create any zoning vested right other than those established pursuant to G.S. §160D-108.1.

Sec. 30-3323 - Zoning compliance permit.

- (a) *Zoning compliance permit required.* Except as otherwise specifically provided in this article, it shall be unlawful to begin any excavation, removal of soil, clearing of site, or placing any fill on lands contemplated for development, or to begin any construction, moving, alteration, or renovation, except for ordinary repairs, of any building or other structure, including accessory structures and signs, until the Town Planner has issued for such action a zoning compliance permit, certifying that such development complies with the applicable provisions of this article.
- (b) Zoning compliance permit application submittal requirements/sketch or site plan review required.
 - (1) All applications for a zoning compliance permit shall include either a site plan application or a sketch plan application.
 - (2) Site plans are required for applications for a variance, watershed development permit, subdivision plat, floodplain development permit, or special use permit. See section 30-3331 Site Plan and Art. 11, Div. 6, Information required with Applications for further details.
 - (3) Sketch plan review and approval by the Town Planner as appropriate, shall be required prior to the issuance of a zoning compliance permit for single family dwellings or duplexes, residential additions, accessory structures or accessory uses on a lot. The Town Planner shall prescribe the form on which applications are made.
 - (4) Sketch plan applications shall include a sketch plan drawn to scale. At a minimum, the sketch plan shall contain:
 - a. The name and address of the owner and applicant, if not the same person;
 - b. The approximate total acreage of the proposed development;
 - c. The locations of buildings, lot boundaries, impervious surfaces and square footage total, easements and building setback lines; and
 - d. Any other information the owner or applicant believes necessary to obtain the informal opinion of the planning staff as to proposed development's compliance with the requirements of this chapter. If the principal structure is less than ten feet from a lot boundary line, or if additional information is needed to evaluate compliance, the Town Planner may require a survey drawn, signed and sealed by a North Carolina licensed engineer, architect or professional surveyor.
 - e. If the property is located in a floodplain, the application requirements of Town Code of Ordinances chapter 14, article IV, section 14-46 must be met.
 - (5) Applications which are not complete shall be returned to the applicant in a reasonable time, not to exceed 60 days, depending on the complexity of the application, with a notation of the deficiencies in the application.
- (c) *Staff consultation after application submitted.*

- (1) Upon receipt of a formal application for a zoning compliance permit, variance, special use permit, watershed development permit, floodplain development permit, site plan, zoning map amendment or subdivision plat approval, the Town Planner shall review the application and, if the applicant wishes, confer with the applicant to ensure that he or she understands the Town Planner's interpretation of the applicable requirements of this article, that the developer has submitted all of the information that he or she intends to submit, and that the application represents precisely and completely what he or she proposes to do. If the Planner believes that the application is incomplete, he or she shall advise the applicant in writing about what is required to complete the application.
- (2) If the application is for a permit that requires planning board approval, the Town Planner shall place the application on the agenda of the planning board when the application is complete or the applicant states, in writing, that the application is complete.
- (d) *Action on the application.* On receipt of a completed application for a zoning compliance permit, the Town Planner shall cause an analysis to be made pursuant to section 30-3205, Staff Review and Action. The Town Planner shall determine if any applicable conditions of an approved special use permit or variance have been met. The Town Planner may impose such reasonable conditions on an approval as will ensure compliance with this UDO. No zoning compliance permit will be issued until all necessary NCDOT (curb cut or other applicable permits) and/or Johnston County Health Department (septic system and/or well) requirements for the proposed work and/or Johnston County Public Utilities (Stormwater) have issued permits that have been given to the Town Planner. Where a building permit, stormwater management permit, floodplain development permit or sign permit is required, such permit shall not be issued prior to the issuance of the zoning compliance permit required for the development. The aforementioned permits shall comply with the approved zoning compliance permit, including all conditions of approval thereto.
- (e) *Actions subsequent to decision.* In the case of approval or approval with conditions of an application for a zoning compliance permit, the Town Planner shall issue the zoning compliance permit. In case of denial on an application, the applicant shall be notified, in writing, of the reasons for such denial. No building or structure for which a zoning compliance permit has been issued shall be used or occupied until, after final zoning compliance inspection, a certificate of occupancy has been issued indicating compliance with the provisions of this article and all other state and local laws, including the conditions of the zoning compliance permit and all other required permits.
- (f) *Appeal of decision.* A decision by the Town Planner in granting or denying site plan approval may be appealed within 30 days to the board of adjustment in accordance with the provisions of section 30-3302, Appeals.
- (g) *Modification of zoning compliance permits.* The Town Planner may approve a modification of zoning compliance permit long as such changes continue to comply with the approving action (if any) and all other applicable requirements. An application for modification of a zoning compliance permit shall be reviewed in accordance with the procedures established in this article.
- (h) *Expiration and revocation of zoning compliance permit approvals.*
 - (1) *Starting time limit.* If the use, construction, or activity authorized by approval of an application for a zoning compliance permit or modification of a zoning compliance permit is not started within 24 months of the date of approval, the permit shall expire, and any town permit issued pursuant to the approval shall be void (except for permits issued as a result of quasi-judicial process). The Town Planner may grant an extension of the starting time limit for up to 12 months. The Town Planner shall determine whether the use, construction, or activity has started.
 - (2) *Revocation of zoning compliance permit.* If any conditions of a zoning compliance permit or modification of a zoning compliance permit, or requirements of this article applicable to the permit or modification are violated, the Town Planner may revoke the permit or modification. the Town Planner may reinstate a revoked zoning compliance permit or modification of a zoning compliance permit if he determines that:
 - a. The holder of the revoked permit or modification submitted a request for reinstatement within 90 days of the revocation;
 - b. The violations that were the cause of the revocation have been corrected; and

- c. The development fully complies with all conditions of the permit or modification and all applicable requirements of this article.

ARTICLE 4. - ZONING DISTRICTS**DIVISION 1. - GENERALLY.****Sec. 30-4101 - 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 planned development zoning districts identified in the Zoning Districts Established Table.
- (b) Land in any conventional or planned development zoning district may also be classified into one or more overlay zoning districts.
- (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 planned development zoning district.
- (d) Land in the Town's planning jurisdiction shall be classified or reclassified into a conventional, planned development, or overlay zoning district only in accordance with the procedures and requirements set forth in this Article, Section <>, Rezoning, or Section <>, Planned development, as appropriate.

Sec. 30-4102 - Districts established.

The Zoning Districts Established Table listed below sets out the conventional, planned development, and overlay zoning districts established by this Ordinance. All land in the Town's planning jurisdiction shall be included in at least one the available conventional or planned development zoning districts.

ZONING DISTRICTS ESTABLISHED			
CONVENTIONAL ZONING DISTRICTS			
ABBR.	DISTRICT NAME	ABBR.	DISTRICT NAME
Residential Districts		Non-Residential Districts	
AR	Agricultural Residential	OI	Office and Institutional
SFR-1	Single-Family Residential 1	NB	Neighborhood Business
SFR-2	Single-Family Residential 2	CB	Community Business
SFR-3	Single-Family Residential 3	LI	Light Industrial
R-MHP	Residential-Manufactured Home Park		
RMF	Residential Multi-Family		
PLANNED DEVELOPMENT DISTRICTS		OVERLAY ZONING DISTRICTS	
ABBR.	DISTRICT NAME	ABBR.	DISTRICT NAME
PD	Planned Development [1]	WSW	Water Supply Watershed
NOTES:			
[1] Planned Development districts are applied to individual lots or developments, each with its own unique planned development district designator.			

Sec. 30-4103 - Generally applicable dimensional standards.

- (a) *Developments of multiple buildings or structures.*

- (1) Developments that include multiple principal buildings as part of a single development, such as a multi-family, shopping center, or campus-style development, shall be subject to a perimeter setback from all boundary lot lines and are exempted from setbacks from lot lines internal to the development.
 - (2) Individual principal and accessory buildings and structures within a multi-building development shall be set back from one another in accordance with the building separation standards in the zoning district where located.
- (b) *Drainage and utility easements in subdivisions.*
- (1) Wherever possible, drainage and public or private utility easements shall be located within required setbacks, be ten feet in width, and be located along all lot lines adjacent to a street right-of-way as well as along interior lot lines.
 - (2) Stormwater conveyance features located outside a drainage easement shall be at least 20 feet in width and shall not include a habitable structure.
- (c) *Reductions prohibited.* Except where otherwise authorized by this Ordinance:
- (1) No lot shall be reduced in area below the minimum area requirements for the district where located.
 - (2) Lots created after *(insert the effective date of this Ordinance)*, shall meet the minimum dimensional requirements for the district where located.
- (d) *Required lot width.* All buildable lots established after *(insert the effective date of this Ordinance)* shall maintain the minimum required lot width on a street in accordance with the dimensional requirements for the zoning district where located.
- (e) *Required yards.*
- (1) The land area between a lot line and the boundary of a required setback is considered as a required yard.
 - (2) The location of street (front), side, or rear yards on irregularly shaped lots shall be determined by the Town Planner. Wherever possible, the Town Planner shall interpret these boundaries in ways that minimize nonconformities.
 - (3) Except for allowable encroachments, required yards shall not be subject to encroachment by a building, structure, or outdoor use area.
- (f) *Setback from streets.* No building shall be located closer to any street right-of-way or existing private street pavement edge than the minimum street setback line established by this Ordinance.
- (g) *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.

Sec. 30-4104 - Allowable encroachments.

The Allowable Encroachments into Setbacks Table listed below sets out the kinds of structures or building features that are permitted to encroach within a required setback, subject to the following:

- (a) Features identified in the table may encroach into a required setback or required yard, but may not cross a lot line into a lot under separate ownership or included as part of a separate development.
- (b) Regardless of the amount of permitted encroachment, features identified in the table shall not:
 - (1) Obstruct visibility for motorists, pedestrians, or bicyclists at any street, driveway, accessway, or intersection;
 - (2) Obstruct access for vehicles, pedestrians, or bicyclists along streets, sidewalks, trails, or internal circulation routes; and
 - (3) Interfere with the function of infrastructure facilities.
- (c) In the event a feature identified in the table encroaches into a right-of-way owned or operated by the Town or NCDOT, an encroachment agreement with the Town or NCDOT, as appropriate, shall be required.

- (d) Structures or building features not listed in the table may only encroach into a required setback following approval of a variance.

ALLOWABLE ENCROACHMENTS INTO SETBACKS	
SITE FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT INTO A REQUIRED SETBACK [1]
Awning	- May extend into any required setback, but shall be no closer than five feet from any lot line - Must maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access and shall not encroach into a planting required landscaping area or into a vehicular travel way
Balcony or Bay Window	- When attached to a principal structure, may extend up to four feet into any required setback, but shall be no closer than three feet from any lot line and shall not interfere with a required landscaping area or with pedestrian or vehicular movement - When attached to an accessory structure, may not encroach into a required setback
Canopy, Attached	- May extend into any required setback, but shall be located no closer than five feet to a lot line - Regardless of where located, shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access and shall not encroach into a required landscaping area or into a vehicular travel way
Canopy, Freestanding	May not encroach into any required setback
Chimneys, Fireplaces, Outdoor Kitchens	- May extend up to three feet into any required setback, but shall be no closer than ten feet from any lot line
Cornice, Beltcourse, Sill, Gutter, or Downspout	May extend up to two feet into any required setback
Decks, Covered	May not encroach into any required setback
Decks, Uncovered	- May extend into any required setback, but shall be located no closer than five feet to a lot line - When attached to an accessory structure, may not encroach into a required setback
Driveways	May cross any required setback, but shall be configured to avoid location within a setback, to the maximum extent practicable
Elevators and Similar Mechanical Devices	May be located in any required setback when proposed as part of a reasonable accommodation
Fences or Walls, excluding Retaining Walls	May be located in any required setback but shall not be located within a required sight distance triangle
Fire Escape	- May not encroach into any required front setback - May extend up to four feet into any required side or rear setback but shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access
Flagpoles, Mailboxes, Lamp and Address Posts	May be located in any required setback but flagpoles shall not be located within five feet of a street right-of-way
Detached Garage or Carport	May not encroach into any required setback
Gazebo or Garden Structure	May not encroach into any required setback
Handicap Ramps	May be located in any required setback provided it does not unduly obstruct pedestrian or vehicular access
Off-Street Parking Area	May not be located within a required setback

ALLOWABLE ENCROACHMENTS INTO SETBACKS	
SITE FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT INTO A REQUIRED SETBACK [1]
Outdoor Equipment (e.g., HVAC condenser, water heater, etc.)	May not encroach into any required setback
Outdoor Seating Areas Serving a Non-residential Use	- May extend into any required setback, but shall be located no closer than five feet to a lot line - Regardless of where located, shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access and shall not encroach into a required landscaping area or into the vehicular travel way
Outdoor Storage	May not encroach into a required setback
Outdoor Display and Sales	May not encroach into a required setback
Parking Area, Uncovered	May encroach into a required setback, but shall not be located within a required landscaping area
Patio, Covered	May not encroach into any required setback
Patio, Uncovered	- May extend into any required setback, but shall be located no closer than five feet to a lot line - Regardless of where located, shall not encroach into a required landscaping area or into the vehicular travel way - May not encroach into required setbacks when serving an accessory structure
Pet Shelters or Enclosures	Subject to the setbacks applied to accessory structures
Playground Equipment Accessory to a Residential Use	May not encroach into a required setback
Public Art	May encroach into a required setback but shall not be located within a required sight distance triangle
Retaining Walls	May encroach into a required setback but shall not be located within a required sight distance triangle
Roof Eaves, Rakes, and Overhangs	May extend up to two feet into any required setback
Signs	May encroach into a required setback, but shall not be located within a required landscaping area
Steps and Stairs	May encroach up to six feet into any required setback but no closer than ten feet to any lot line
Swimming Pool, (including all ancillary appurtenances)	May not encroach into any required setback
Underground Structures (including septic systems but excluding swimming pools)	May encroach into any required setback
Vegetation and Landscaping Features	May encroach into any required setback
Potable Water Well House (functional or aesthetic)	May be located in any required setback, but shall be no closer than fifteen feet to a right-of-way

DIVISION 2. - RESIDENTIAL ZONING DISTRICTS.⁹

⁹ This Division and Division 3 of the draft UDO replaces Sections 30-91 through 30-99 of the current code. There are numerous changes proposed in this draft:

- This draft UDO includes a new multi-family residential, a new light industrial, and a new planned development district. Each of these new districts includes new dimensional requirements and a new list of allowable uses.
- Each district is now organized as its own summary table with a new purpose and intent statement, a set of dimensional standards organized in tabular form, and a new set of images of common forms of development likely to be found in the district.
- The dimensional standards are largely carried forward, but include new minimum lot area, minimum lot width, maximum impervious surface, perimeter setback (for multi-building developments), and minimum building separation standards.
- The rote list of allowable use types listed in the residential districts has been replaced with a new Principal Use Table in Article 5 (similar to the one currently included for the non-residential districts). Special standards for individual use types are relocated to the use standards division of Article 5.
- Individual use types are organized into a more modern use classification system with some consolidation of similar current use types and the addition of new use types (see Article 5 for more details).
- The conditional uses listed in the districts are now treated as special use permits in accordance with 160D requirements.
- Accessory uses have been moved to their own section in Article 5 instead of being grouped with principal uses.
- There is essentially no difference between the current SFR-1, SFR-2, and SFR-3 districts in terms of dimensional standards or allowable uses. This draft proposes some distinctions between these districts by allowing slightly higher densities and a slightly broader array of allowable use types when moving from SFR-1 to SFR-3.
- The non-residential districts allow residential uses, but include no details on allowable densities or setbacks for residential uses.

Sec. 30-4201 - Agricultural-residential district (AR).

(a) District intent		(b) Typical development	
The AR district is established to accommodate agriculture, agriculturally-related uses, and limited forms residential development at low densities in rural portions of the Town's planning jurisdiction. The district is primarily intended to preserve and protect bona fide farms and resource lands for current or future agricultural use as well as to protect the rural character of the area. It is also intended to ensure that residential development maintains appropriate densities consistent with the suitability of land, availability of public services, accessibility to transportation systems, and that are compatible with surrounding development. The district also accommodates "agri-tourism" as well as service and support uses to the rural community, including day care, educational uses, public safety facilities, parks, and utility features.			
(c) Dimensional standards [1]			
Max. Density (units/ac)	1.0 [2]		
Min. Lot Area (sf)	43,560 [3] [4]		
Min. Lot Width (lf)	150		
Max. % Impervious Surface	30 [5]		
Min. Street Setback (lf)			
	From Arterial/Collector		70
	From Local Outside Subdivision		50
	From Local Inside Subdivision		25 [6]
Min. Access Easement Setback (lf)		15	
Min. Side Lot Line Setback (lf)		10 [7] [8]	
Min. Rear Lot Line Setback (lf)		10 [7]	
Min. Perimeter Setback (lf)		25	
Min. Building Separation (lf)		10	
Min. Accessory Structure Setback (lf)		10	
Min. Open Space Set-Aside (% of total site size)		15 [9]	
Max. Building Height		40	
NOTES:			
[1] "sf" = square feet; "lf" = linear feet.			
[2] May increase to 1.5 on lots served by a public water system.			
[3] Johnston County Public Health may require a larger minimum lot area based on soil conditions.			
[4] 29,040 sf for lots served by a public water system.			
[5] Development in a water supply watershed shall be subject to the built-upon limits in Sec. 30-4502.			
[6] May be reduced to 20 in a subdivision served by a public water system.			
[7] May be reduced to 5 in a subdivision with lots served by a public water system.			
[8] One side setback may be reduced to zero provided the opposing side setback is double the minimum.			
[9] Not applied to the development of an individual single-family detached dwelling on its own lot, a non-residential use, or a development of two acres in area or less.			

Sec. 30-4202 - Single-family residential district (SFR-1).

(a) District intent	(b) Typical development																															
The Single-Family Residential 1 (SFR-1) district is established to accommodate low density residential neighborhoods and supporting uses throughout the Town's planning jurisdiction in rural locations. The district is intended to accommodate residential development in ways that will not interfere with agricultural activity or negatively impact the surrounding rural character. The district accommodates single-family detached homes and associated accessory uses. It also allows supporting uses like public safety facilities, and utilities. District regulations discourage uses that interfere with the development of residential dwellings or that are detrimental to the low density residential nature of the district.																																
(c) Dimensional standards [1]																																
<table border="1"> <tr> <td>Max. Density (units/ac)</td><td>1.0 [2]</td></tr> <tr> <td>Min. Lot Area (sf)</td><td>43,560 [3] [4]</td></tr> <tr> <td>Min. Lot Width (lf)</td><td>150</td></tr> <tr> <td>Max. % Impervious Surface</td><td>35 [5]</td></tr> <tr> <td>Min. Street Setback (lf)</td><td></td></tr> <tr> <td> From Arterial/Collector</td><td>70</td></tr> <tr> <td> From Local Outside Subdivision</td><td>50</td></tr> <tr> <td> From Local Inside Subdivision</td><td>25 [6]</td></tr> <tr> <td>Min. Access Easement Setback (lf)</td><td>15</td></tr> <tr> <td>Min. Side Lot Line Setback (lf)</td><td>10 [7] [8]</td></tr> <tr> <td>Min. Rear Lot Line Setback (lf)</td><td>10 [7]</td></tr> <tr> <td>Min. Perimeter Setback (lf)</td><td>25</td></tr> <tr> <td>Min. Building Separation (lf)</td><td>10</td></tr> <tr> <td>Min. Accessory Structure Setback (lf)</td><td>10</td></tr> <tr> <td>Min. Open Space Set-Aside (% of total site size)</td><td>15 [9]</td></tr> <tr> <td>Max. Building Height</td><td>40</td></tr> </table>		Max. Density (units/ac)	1.0 [2]	Min. Lot Area (sf)	43,560 [3] [4]	Min. Lot Width (lf)	150	Max. % Impervious Surface	35 [5]	Min. Street Setback (lf)		From Arterial/Collector	70	From Local Outside Subdivision	50	From Local Inside Subdivision	25 [6]	Min. Access Easement Setback (lf)	15	Min. Side Lot Line Setback (lf)	10 [7] [8]	Min. Rear Lot Line Setback (lf)	10 [7]	Min. Perimeter Setback (lf)	25	Min. Building Separation (lf)	10	Min. Accessory Structure Setback (lf)	10	Min. Open Space Set-Aside (% of total site size)	15 [9]	Max. Building Height
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NOTES: [1] "sf" = square feet; "lf" = linear feet. [2] May increase to 1.5 on lots served by a public water system. [3] Johnston County Public Health may require a larger minimum lot area based on soil conditions. [4] 29,040 sf for lots served by a public water system. [5] Development in a water supply watershed shall be subject to the built-upon limits in Sec. 30-4502. [6] May be reduced to 20 in a subdivision served by a public water system. [7] May be reduced to 5 in a subdivision with lots served by a public water system. [8] One side setback may be reduced to zero provided the opposing side setback is double the minimum. [9] Not applied to the development of an individual single-family detached dwelling on its own lot, a non-residential use, or a development of two acres in area or less.																																

Sec. 30-4203 - Single-family residential district (SFR-2).

<i>(a) District intent</i>		<i>(b) Typical development</i>
The Single-Family Residential 2 (SFR-2) district is established to accommodate low-to-moderate density residential neighborhoods and supporting uses throughout the Town's planning jurisdiction in suburban locations. The district is intended to accommodate residential development on individual lots and in neighborhood settings. The district accommodates single-family detached homes and associated accessory uses as well as duplex dwellings with the approval of a special use permit. It also allows supporting uses like public safety facilities, parks, educational uses, and utilities. District regulations discourage uses that interfere with the development of residential neighborhoods or that are detrimental to the district's single-family neighborhood character.		
<i>(c) Dimensional standards [1]</i>		
Max. Density (units/ac)	1.5 [2]	
Min. Lot Area (sf)	29,040 [3] [4] [5]	
Min. Lot Width (lf)	125	
Max. % Impervious Surface	40 [6]	
Min. Street Setback (lf)		
From Arterial/Collector	70	
From Local Outside Subdivision	50	
From Local Inside Subdivision	25 [7]	
Min. Access Easement Setback (lf)	15	
Min. Side Lot Line Setback (lf)	10 [8] [9]	
Min. Rear Lot Line Setback (lf)	10 [8]	
Min. Perimeter Setback (lf)	20	
Min. Building Separation (lf)	10	
Min. Accessory Structure Setback (lf)	10	
Min. Open Space Set-Aside (% of total site size)	15 [10]	
Max. Building Height	40	
NOTES: [1] "sf" = square feet; "lf" = linear feet. [2] May increase to 2.0 on lots served by a public water system. [3] Johnston County Public Health may require a larger minimum lot area based on soil conditions. [4] 21,780 sf for lots served by a public water system. [5] Duplexes may only be established on lots of 43,560 sf or larger. [6] Development in a water supply watershed shall be subject to the built-upon limits in Sec. 30-4502. [7] May be reduced to 20 in a subdivision served by a public water system. [8] May be reduced to 5 in a subdivision with lots served by a public water system. [9] One side setback may be reduced to zero provided the opposing side setback is double the minimum. [10] Not applied to the development of an individual single-family detached dwelling on its own lot, a non-residential use, or a development of two acres in area or less.		

Sec. 30-4204 - Single-family residential district (SFR-3).

(a) District intent		(b) Typical development
The Single-Family Residential 3 (SFR-3) district is established to accommodate a wide range of residential dwelling types at moderate densities. Development patterns consist primarily of residential neighborhoods and supporting uses located suburban and urban contexts throughout the Town's planning jurisdiction. The district accommodates single-family detached homes and associated accessory uses as well as manufactured homes and duplex dwellings. It also allows supporting uses like public safety facilities, parks, educational uses, and utilities. District regulations discourage uses that interfere with the development of residential neighborhoods or that are detrimental to the district's neighborhood character.		
(c) Dimensional standards [1]		
Max. Density (units/ac)	1.75 [2]	
Min. Lot Area (sf)	24,890 [3] [4] [5]	
Min. Lot Width (lf)	125	
Max. % Impervious Surface	45 [6]	
Min. Street Setback (lf)		
	From Arterial/Collector	70
	From Local Outside Subdivision	50
	From Local Inside Subdivision	25 [7]
Min. Access Easement Setback (lf)	15	
Min. Side Lot Line Setback (lf)	10 [8] [9]	
Min. Rear Lot Line Setback (lf)	10 [8]	
Min. Perimeter Setback (lf)	20	
Min. Building Separation (lf)	10	
Min. Accessory Structure Setback (lf)	10	
Min. Open Space Set-Aside (% of total site size)	15 [10]	
Max. Building Height	40	
NOTES:		
[1] "sf" = square feet; "lf" = linear feet.		
[2] May increase to 2.0 on lots served by a public water system.		
[3] Johnston County Public Health may require a larger minimum lot area based on soil conditions.		
[4] 21,780 sf for lots served by a public water system.		
[5] Duplexes may only be established on lots of 43,560 sf or larger.		
[6] Development in a water supply watershed shall be subject to the built-upon limits in Sec. 30-4502.		
[7] [May be reduced to 20 in a subdivision served by a public water system.		
[8] May be reduced to 5 in a subdivision with lots served by a public water system.		
[9] One side setback may be reduced to zero provided the opposing side setback is double the minimum.		
[10] Not applied to the development of an individual single-family detached dwelling on its own lot, a non-residential use, or a development of two acres in area or less.		

Sec. 30-4205 - Residential-manufactured home park district (R-MHP).

(a) District intent	(b) Typical development
The Residential Manufactured Home Park (R-MHP) district is established as a means of providing reasonable opportunities for the placement of manufactured dwellings in the Town's planning jurisdiction. The district provides attainable housing opportunities for low and moderate-income residents while at the same time establishing minimum design requirements for manufactured home parks to ensure a minimum level of quality and safety. The standards are intended to protect property values and preserve the character and integrity of individual neighborhoods within the community. In addition to manufactured homes, the district also allows single-family detached residential development and a very limited range of supporting institutional uses. Manufactured home parks shall be served by a public water supply system or community well. As well as a public wastewater system or by individual septic systems.	
(c) Dimensional standards [1]	
Max. Density (units/ac)	3.0 [2]
Min. Lot Area (sf)	14,520 [3] [4]
Min. Lot Width (lf)	150 [5]
Max. % Impervious Surface	50 [5] [6]
Min. Street Setback (lf)	
From Arterial/Collector	60
From Local Outside Subdivision	50
From Local Inside Subdivision	20
Min. Access Easement Setback (lf)	15
Min. Side Lot Line Setback (lf)	10
Min. Rear Lot Line Setback (lf)	10
Min. Building Separation (lf)	20 [7]
Min. Accessory Structure Setback (lf)	10
Min. Open Space Set-Aside (% of total site size)	15 [8]
Max. Building Height	40
NOTES: [1] "sf" = square feet; "lf" = linear feet. [2] May increase to 4.0 on lots served by a public sewer system. [3] Johnston County Public Health may require a larger minimum lot area based on soil conditions. [4] 10,890 sf for lots served by a public sewer system. [5] Applied to the entire site size for manufactured home parks. [6] Development in a water supply watershed shall be subject to the built-upon limits in Sec. 30-4502. [7] Applied to dwellings located on manufactured home spaces rather than on individual lots. [8] Not applied to the development of an individual manufactured home on its own lot or a development of two acres in area or less.	



Sec. 30-4206 - Residential multi-family district (RMF).

(a) District intent

The Residential Multi-Family (RMF) district is established to accommodate a wide range of residential and institutional use types at medium densities. The district allows a wide range of housing types, including single-family detached homes, duplexes, townhouses, and multi-family development (apartments), but manufactured housing is not permitted. The district also allows a wide variety of institutional uses, including community centers, day care, schools, assisted living, churches, parks, and utilities. Lots served by public sewer may have reduced minimum lot sizes. District regulations are intended to support the Town's investment in infrastructure by encouraging the development of compact, vibrant neighborhoods with a variety of house sizes and types that are located in close proximity to complementary institutional uses. Multi-family development is typically more dense than its immediate surroundings, and can also serve as an effective transition between single-family detached development and adjacent commercial or employment uses. Buildings in the RMF district tend to have shared site access, shared building access, common site features (like recreation space) owned in common, and centralized service functions.

(b) Typical development



(c) Dimensional standards [1]

Requirement	SF Detached	Duplex	Townhouse	Multi-Family	All Other Uses
Max. Density (units/ac)	3.0 [2]	2.0 [2]	4.0 [3]	5.0 [4]	N/A
Min. Lot Area (sf) [5]	14,520 [6]	43,560 [7]	87,120 [8]	130,680 [8]	43,560
Min. Lot Width (lf)	125	150	175 [9]	200 [9]	150
Max. % Impervious Surface [10]	50	50	55 [9]	60 [9]	40
Min. Street Setback (lf)					
From Arterial/Collector	70	70	70	70	70
From Local Outside Subdivision	50	50	50	50	50
From Local Inside Subdivision	25 [11]	25 [11]	25 [11]	25 [11]	25 [11]
Min. Access Easement Setback (lf)	15	15	N/A	N/A	N/A
Min. Side Lot Line Setback (lf)	10 [12]	10 [12]	20	20	10
Min. Rear Lot Line Setback (lf)	10 [12]	10 [12]	20	20	10
Min. Perimeter Setback (lf)	N/A	N/A	20	20	20
Min. Building Separation (lf)	10	10	20	20	20
Min. Accessory Structure Setback (lf)	10	10	10	10	10
Min. Open Space Set-Aside (% of total site size) [13]	15	15	20	20	N/A
Max. Building Height	40	40	40	40	40

NOTES (for RMF district dimensional requirements):

- [1] "sf" = square feet; "lf" = linear feet.
- [2] May increase to 3.0 on lots served by a public sewer system.
- [3] May increase to 5.0 for developments served by a public sewer system.
- [4] May increase to 6.0 for developments served by a public sewer system.
- [5] Johnston County Public Health may require a larger minimum lot area based on soil conditions.
- [6] 10,890 sf for lots served by a public sewer system.
- [7] 21,780 sf per dwelling unit.
- [8] Minimum development size.
- [9] Applied to entire development site, not individual lots.
- [10] Development in a water supply watershed shall be subject to the built-upon limits in Sec. 30-4502.
- [11] May be reduced to 20 in a subdivision served by a public water system.
- [12] May be reduced to 5 in a subdivision with lots served by a public water system.
- [13] Not applied to the development of an individual single-family detached dwelling on its own lot, a non-residential use, or a development of two acres in area or less.

DIVISION 3. - NON-RESIDENTIAL ZONING DISTRICTS.**Sec. 30-4301 - Office and institutional district (OI).****(a) District intent**

The Office Institutional (OI) District is established to accommodate office uses, research and development facilities, and multi-family residential uses in high quality single-building and multi-building developments. The district also accommodates the ancillary service uses necessary to support the predominant office development, but is not intended as a retail district. Retail, personal service, and other commercial uses permitted as accessory to an office or institutional use should not occupy more than 10 percent of the floor area and should be configured to minimize visibility from off-site areas. The OI district also serves as a transition area between higher intensity commercial uses and nearby lower density single-family residential neighborhoods. Development in the OI district is subject to design standards to ensure it maintains compatibility with its surroundings.

(b) Typical development**(c) Dimensional standards [1]**

Requirement	Non-Residential Development	Townhouse & Multi-Family	SF Detached & Duplex
Max. Density (units/ac)	N/A	5.0 [2]	2.0 [3]
Min. Lot Area (sf) [4]	40,000	130,680 [5]	43,560 [6]
Min. Lot Width (lf)	150 [7]	200 [7]	150
Max. % Impervious Surface [8]	50	60	50
Min. Street Setback (lf)			
From Arterial/Collector	40	40	40
From Local	20	20	20
Min. Access Easement Setback (lf)	N/A	N/A	15
Min. Side or Rear Lot Line Setback from a Non-Residential District (lf)	10	10	10
Min. Side or Rear Lot Line Setback from a Residential District (lf)	20	20	20
Min. Perimeter Setback (lf)	20	20	N/A
Min. Building Separation (lf)	20	20	10

OI District dimensional standards continued [1]			
Requirement	Non-Residential Development	Townhouse & Multi-Family	SF Detached& Duplex
Min. Open Space Set-Aside (% of total site size)	N/A	20	15 [9]
Max. Building Height	40 when abutting a residential district; otherwise 55		40
NOTES:			
[1] “sf” = square feet; “lf” = linear feet.			
[2] May increase to 6.0 for developments served by a public water system.			
[3] May increase to 3.0 on lots served by a public water system.			
[4] Johnston County Public Health may require a larger minimum lot area based on soil conditions.			
[5] Minimum development size.			
[6] 14,520 sf for lots served by a public water system.			
[7] Applied to entire development site, not individual lots.			
[8] Development in a water supply watershed shall be subject to the built-upon limits in Sec. 30-4502.			
[9] Not applied to the development of an individual single-family detached dwelling on its own lot or a development of two acres in area or less.			
(d) Additional OI District Standards			
[placeholder]			

Sec. 30-4302 - Neighborhood business district (NB).

(a) District intent

The Neighborhood Business (NB) district is intended for low intensity, neighborhood-serving commercial development around significant roadway intersections along the edges of neighborhoods. The district allows offices, personal services, and small-scale retail and a variety of institutional uses. As a means of providing additional housing options, the district allows multi-family residential uses on upper floors of non-residential uses. Industrial development and single-use multi-family residential uses are not permitted. New commercial development is built close to the street and subject to commercial design standards to raise the bar for development quality. District regulations discourage uses that are too intense or that draw the majority of their patrons from outside the immediate area.

(b) Typical development



(c) Dimensional standards [1]

Requirement	Non-Residential Development	Multi-Family (allowed on upper stories only)	SF Detached & Duplex
Max. Density (units/ac)	N/A	3.0	2.0 [2]
Min. Lot Area (sf) [3]	40,000	N/A	43,560 [4]
Min. Lot Width (lf)	150 [5]		150
Max. % Impervious Surface [6]	50	60 [7]	50
Max. Building Floor Area (sf)	20,000	5,000 [8]	N/A
Min. Street Setback (lf)			
From Arterial/Collector		40	40
From Local		30	30
Min. Access Easement Setback (lf)		N/A	15
Min. Side or Rear Lot Line Setback from a Non-Residential District (lf)		10	10
Min. Side or Rear Lot Line Setback from a Residential District (lf)		20	20
Min. Perimeter Setback (lf)		20	N/A

NB District dimensional standards continued [1]			
Requirement	Non-Residential Development	Multi-Family (allowed on upper stories only)	SF Detached& Duplex
Min. Building Separation (lf)		20	10
Min. Open Space Set-Aside (% of total site size)	N/A	20	15 [9]
Max. Building Height		40	40
NOTES: [1] "sf" = square feet; "lf" = linear feet. [2] May increase to 3.0 on lots served by a public water system. [3] Johnston County Public Health may require a larger minimum lot area based on soil conditions. [4] 14,520 sf for lots served by a public water system. [5] Applied to entire development site, not individual lots. [6] Development in a water supply watershed shall be subject to the built-upon limits in Sec. 30-4502. [7] Applied to sites with upper-story multi-family units only. [8] May be added to the maximum floor area for a non-residential use. [9] Not applied to the development of an individual single-family detached dwelling on its own lot or a development of two acres in area or less.			
(d) Additional NB District standards			
All non-residential use types permitted in the NB district shall be subject to the following standards: (1) No lot shall include non-residential building more than 20,000 square feet of gross floor area. (2) No more than five employees shall work at the same time in a retail trade use type. (3) Outdoor storage is prohibited. (4) Hours of operation for commercial uses shall be restricted to between 6:00 a.m. and midnight. (5) Drive-through or drive-up facilities are prohibited. (6) Except for street lighting, no exterior lighting shall be located higher than 15 feet above ground or pavement. (7) Off-street parking lots shall be located to the side or rear of buildings. (8) Where possible, access to off-street parking areas shall be via an alley or driveway located to the side or rear of a lot. (9) A maximum of three dwelling units may be provided on the upper levels of a building containing a first-floor non-residential use.			

Sec. 30-4303 - Community business district (CB).***(a) District intent***

The Community Business (CB) district is the primary district intended to serve retail, business, and service uses in the Town's planning jurisdiction and is found along major arterial streets and on lots surrounding the core of Town. Development in the CB district tends to be automobile oriented and comprised of a mix of individual buildings on individual sites and multi-tenant or multi-building developments located near major roadway intersections. In addition to commercial uses, the district also accommodates wholesale sales and a very wide range of institutional uses. Limited forms of residential use are allowed. Uses in the district are subject to standards intended to ensure development is compatible with adjacent residential neighborhoods, ensure that the traffic carrying capacity along the Town's major roadways is not impaired due to unsafe turning movements, and that development is well landscaped and aesthetically pleasing. In order to maintain compatibility with surrounding uses and ensure a high quality of development, all activities, including storage shall be indoors or be fully screened from view from the street or from lands in lower-intensity zoning districts.

(b) Typical development***(c) Dimensional standards [1]***

Requirement	Non-Residential Development	Residential Development
Max. Density (units/ac)	N/A	1.0 [2]
Min. Lot Area (sf) [3]	43,560	43,560 [4]
Min. Lot Width (lf)	150	150
Max. % Impervious Surface [5]	50	50
Min. Street Setback (lf)		
From Arterial/Collector	40	40
From Local	30	30
Min. Access Easement Setback (lf)	N/A	15
Min. Side or Rear Lot Line Setback from a Non-Residential District (lf)	10	10

ARTICLE 4. - ZONING DISTRICTS

DIVISION 3. - Non-residential zoning districts.

<i>CB District dimensional standards continued [1]</i>		
Requirement	Non-Residential Development	Residential Development
Min. Side or Rear Lot Line Setback from a Residential District (lf)	20	20
Min. Perimeter Setback (lf)	20	N/A
Min. Building Separation (lf)	20	10
Max. Building Height	40	40
NOTES: [1] "sf" = square feet; "lf" = linear feet. [2] May increase to 2.0 on lots served by a public water system. [3] Johnston County Public Health may require a larger minimum lot area based on soil conditions. [4] 21,780 sf for lots served by a public water system. [5] Development in a water supply watershed shall be subject to the built-upon limits in Sec. 30-4502.		
<i>(d) Additional CB District standards</i>		
[placeholder]		

Sec. 30-4304 - Light industrial district (LI).**(a) District intent**

The Light Industrial district is established to accommodate agricultural and light manufacturing uses, including assembly, fabrication, processing, distribution, storage, and wholesales sale of finished or semi-finished products from previously prepared materials. The district also allows commercial activities intended to serve the primary businesses in the district and their employees. 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. 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 lower intensity uses. Heavy industrial uses and uses with significant adverse impacts on adjoining lands, single-family detached homes, and other low-intensity uses are prohibited.

(b) Typical development**(c) Dimensional standards [1]**

Requirement	Industrial and Commercial Uses	All Other Uses
Max. Density (units/ac)	N/A	N/A
Min. Lot Area (sf) [2]	87,120	43,560
Min. Lot Width (lf)	200	150
Max. % Impervious Surface [3]	50	50
Min. Street Setback (lf)		
From Arterial/Collector	50	50
From Local	40	40
Min. Access Easement Setback (lf)	N/A	15
Min. Side or Rear Lot Line Setback from a Non-Residential District (lf)	20	20
Min. Side or Rear Lot Line Setback from a Residential District (lf)	40	40
Min. Perimeter Setback (lf)	40	
Min. Building Separation (lf)	20	10
Max. Building Height	40	40

NOTES:

[1] "sf" = square feet; "lf" = linear feet.

[2] Johnston County Public Health may require a larger minimum lot area based on soil conditions.

[3] Development in a water supply watershed shall be subject to the built-upon limits in Sec. 30-4502.

DIVISION 4. -

DIVISION 1. -

DIVISION 4. - PLANNED DEVELOPMENT DISTRICT (PD).

Sec. 30-4401 - Purpose and intent.

The Planned development (PD) district is established and intended to encourage innovative land planning and site design concepts that support a high quality of life and achieve a high quality of development, environmental sensitivity, energy efficiency, and other Town goals by:

- (a) Reducing or diminishing the inflexibility or uniform design that sometimes results from strict application of zoning and development standards designed primarily for individual lots;
- (b) Allowing greater freedom in selecting the means of providing access, open space, and design amenities;
- (c) Allowing greater freedom in providing a well-integrated mix of residential and non-residential land uses in the same development, including a mix of housing types, lot sizes, and densities;
- (d) Creating a system of incentives for redevelopment and infill in order to revitalize established areas;
- (e) Promoting a vibrant public realm by placing increased emphasis on active ground floor uses, pedestrian-oriented building façade design, intensive use of sidewalks, and establishment of public gathering areas;
- (f) Providing for efficient use of land resulting in smaller networks of utilities and streets and thereby lowering development and housing costs; and
- (g) Promoting quality design and environmentally sensitive development that respects surrounding established land use character and respects and takes advantage of a site's natural and man-made features, such as trees, ridgelines, special flood hazard area, and historic features.

Sec. 30-4402 - General standards for all planned developments.

- (a) *How established.* A planned development is established in accordance with the procedures and requirements in Section 30-3314, Planned Development.
- (b) *Establishment limited.*
 - (1) A planned development district may not be established on land that is designated as AR or SFR-1 at the time the planned development application is filed.
 - (2) Nothing shall limit land that is newly annexed and receiving its first zoning district designation from the Town to be designated as Planned Development provided an application for establishment of the district has been submitted in accordance with this Ordinance.
- (c) *Master plan required.* All development configured as a PD shall be subject to a master plan submitted and approved as part of the application to establish the district. The master plan shall:
 - (1) Include a statement of planning objectives for the district;
 - (2) Describe the specific ways in which any modifications to the generally applicable standards in this Ordinance will result in a development of higher quality than would have otherwise resulted if the development was established without any proposed modifications to the standards in this Ordinance;
 - (3) Identify the general location of individual development areas, identified by land use(s) and/or development density or intensity;
 - (4) Depict the general configuration and relationship of the principal elements of the proposed development, including general building types;
 - (5) 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;
 - (6) Identify the general location, amount, and type (whether designated for active or passive) of open space;

- (7) Identify the location of environmentally sensitive lands, wildlife habitat, and resource protection lands;
- (8) Identify the on-site transportation circulation system, including the general location of all public and private streets, existing or projected transit service, pedestrian and vehicular circulation features, and how they will connect with existing and planned systems;
- (9) Identify the general location of on-site potable water and wastewater facilities, and how they will connect to existing systems;
- (10) Identify the general location of on-site stormwater management facilities, and how they will connect to existing public systems; and
- (11) Identify 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.

Sec. 30-4403 - Compliance with subdivision standards.

Planned developments that include the division of land into two or more lots shall be subject to the subdivision standards in Article 7: Subdivisions, and shall be subject to the requirements of Section 30-3312, Major Subdivision, and Section 30-3310 Final Plat, prior to the issuance of a building permit.

Sec. 30-4404 - Site plan review.

- (1) The planned development master plan may take the form of a generalized concept plan for development that provides a general indication of building and site feature location, or it may be configured to the level of detail associated with site plans and construction drawings depicting exact building placement, location and profile of public infrastructure, and configuration of site features like parking, landscaping, and similar elements.
- (2) In cases where the master plan is more general or conceptual in nature, the development proposed in the planned development designation shall also undergo site plan review in accordance with Section 30-3317, Site Plan.
- (3) In cases where the master plan is detailed and meets the minimum requirements for a site plan in the opinion of the Town Council, the applicant shall request, and the Town Council may grant an exemption from subsequent site plan review.
- (4) If a site plan review exemption is granted by the Town Council, the proposed development shall fully comply with the development configuration depicted in the planned development master plan. Failure to comply with the approved master plan configuration shall require an amendment of the planned development application in accordance with this section.

Sec. 30-4405 - Densities/intensities.

The densities for residential development and the intensities for non-residential development applicable in each development area of a PD district shall be as established in the master plan, and shall be consistent with adopted policy guidance.

Sec. 30-4406 - Dimensional standards.

The dimensional standards applicable in each development area of a PD district shall be as established in the master plan. The master plan shall include at least the following types of dimensional standards:

- (a) Minimum lot area;
- (b) Minimum lot width;
- (c) Minimum and maximum setbacks;
- (d) Maximum lot coverage;
- (e) Maximum building height;
- (f) Maximum individual building size; and

(g) Minimum setbacks from adjoining residential development or residential zoning districts.

Sec. 30-4407 - Development standards.

- (a) All development in a PD district shall comply with the development standards of Article 6: Development Standards, unless modified in accordance with this section.
- (b) In no instance shall a planned development district seek to modify, waive, or reduce any of the standards in Section 30-4502, Water Supply Watershed Protection:
- (c) In cases where a planned development district is proposed as part of redevelopment of an existing site and the existing site does not comply with the standards of this Ordinance, the development contemplated in the planned development shall not be required to achieve full compliance, but shall not increase the degree to which the development fails to comply with the standards in this Ordinance.

Sec. 30-4408 - Consistency with adopted policy guidance.

The PD zoning district designation, the master plan, and the terms and conditions document should be consistent with the Comprehensive Plan, and any other adopted policy guidance.

Sec. 30-4409 - Compatibility with surrounding areas.

- (a) Development along the perimeter of a PD district shall be compatible with adjacent existing or proposed development outside the district. Where there are issues of compatibility, the master plan shall provide for transition areas at the edges of the PD district that provide for appropriate buffering and/or ensure a complementary character of uses.
- (b) Determination of complementary character shall be based on densities/intensities, lot size and dimensions, building height, building mass and scale, hours of operation, exterior lighting, siting of service areas, or other aspects identified by the Town Council.

Sec. 30-4410 - Development phasing plan.

If development in the PD district is proposed to be phased, the master plan shall include a development 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.

Sec. 30-4411 - Conversion schedule.

- (a) The planned development application may include a conversion schedule that identifies the extent to which one type of residential use may be converted to another type of residential use or one type of non-residential use may be converted to another type of non-residential use (i.e., residential to residential, or non-residential to non-residential). These conversions may occur within development areas and between development areas, as long as they occur within the same development phase, as identified by the approved development phasing plan, and are consistent with established extents of conversion set down in the conversion schedule.
- (b) In the event an applicant seeks to revise the development in accordance with an approved conversion schedule, the applicant shall provide a revised site plan depicting the proposed conversions to the Town Planner for review and approval prior to commencing any conversions.

Sec. 30-4412 - On-site public facilities.

- (a) *Design and construction.* The master plan shall establish the responsibility of the developer/landowner to design and construct or install required and proposed on-site public facilities in compliance with applicable Town, State, and federal regulations.
- (b) *Dedication.* The master plan shall establish the responsibility of the developer/landowner to dedicate to the public the right-of-way and easements necessary for the construction or installation of required and proposed on-site public facilities in compliance with applicable Town, State, and federal regulations.

(c) *Modifications to street standards.* In approving a master plan, the Town Council may approve modifications or reductions of street design standards—including those for right-of-way widths, pavement widths, required materials, provision of public transit amenities, and turning radii, with NCDOT approval, on finding that:

- (1) The master plan provides for adequate separation/integration of vehicular, pedestrian, and bicycle traffic;
- (2) Access for emergency service vehicles is not substantially impaired;
- (3) Adequate parking is provided for the uses proposed; and
- (4) Adequate space for public utilities is provided within the street right-of-way.

Sec. 30-4413 - Allowable uses.

- (a) The uses allowed in a PD district are identified in the Principal Use Table and Accessory Use Table, as allowed subject to a master plan.
- (b) Allowed uses shall be listed in the approved master plan or terms and conditions documents.
- (c) Allowed uses shall be consistent with adopted policy guidance, the purpose of the particular PD district, and subject to any additional use standards in this Ordinance.
- (d) Nothing shall limit an applicant from seeking to modify an otherwise applicable use standard in accordance with these standards.

Sec. 30-4414 - Planned development terms and conditions.

The terms and conditions document shall incorporate by reference or include, but not be limited to:

- (a) Conditions related to approval of the application for the PD zoning district classification;
- (b) The master plan, including any density/intensity standards, dimensional standards, and development standards established in the master plan;
- (c) Conditions related to the approval of the master plan, including any conditions related to the form and design of development shown in the master plan;
- (d) Provisions addressing how transportation, potable water, wastewater, stormwater management, and other infrastructure will be provided to accommodate the proposed development;
- (e) Provisions related to environmental protection and monitoring;
- (f) The range of allowable and accessory uses; and
- (g) Any other provisions the Town Council determines are relevant and necessary to the development of the PD in accordance with applicable standards and regulations.

Sec. 30-4415 - Amendments to approved master plan.

Amendments or modifications to a master plan shall only be considered in accordance with the standards in Section 30-3314, Planned Development.

DIVISION 5. - OVERLAY ZONING DISTRICTS.

Sec. 30-4501 - Intent.

It is the intent of this division to provide for various zoning districts which shall overlay the conventional and planned development zoning districts enumerated in this Article, and which shall provide for special review of development within such overlay districts in accordance with the intents, procedures and standards established for the overlay districts.

Sec. 30-4502 - Water supply watershed protection overlay district (WSWOD).¹⁰

- (a) *Authority.* The General Assembly has, in G.S. sections 143-214.5, 160A-174, 160D-801 and, 160D-702, 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.* The Water Supply Watershed Protection Overlay District (WSWOD) is to provide, in designated watershed areas, a higher level of control from activities and situations that could degrade the quality of the water entering the Neuse River, as identified in the state watershed protection management plan.
- (c) *Applicability.* The provisions of this article 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 "Water Supply Watershed Protection Overlay District of Archer Lodge, North Carolina," on the official zoning map of the Town. Land use and development within this district that requires an Erosion and Sedimentation Control Permit must comply with all the requirements of this article and the underlying zoning district.
- (d) *Exceptions to applicability.* The watershed protection requirements of this section shall not apply to:
 - (1) Development established prior to December 4, 2009, the first date of adoption of this ordinance.
 - (2) New or existing single-family detached dwelling unit.
 - (3) Development that does not require an Erosion and Sedimentation Control Permit.
 - (4) Existing development, unless it is expanded or replaced, in which case the rules at sub-section (f) below apply.
 - (5) In addition, the following exceptions also apply:
 - a. 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 regulations in effect in the Town at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.
 - b. 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.

¹⁰ This language comes from AL2021-02-1, which was adopted on Feb.1, 2021.

- (6) *Non-conforming lots.* If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purposes. If a non-conforming lot of record is contiguous to another lot owned by the same party, the lots shall be combined to make a conforming lot or one that is more conforming than each lot individually. Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.
- (e) *Definitions.* The terms used in this section are further defined in Article 10: Measurement and Definitions.
- (f) *Permits.*
- (1) *Zoning compliance permit / Watershed protection permit.*
- Except where either (i) a single family residence is constructed on a lot deeded prior to Dec. 4, 2009, or (ii) An Erosion and Sedimentation Control permit is not required, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any zoning compliance permit be issued nor shall any change in the use of any building or land be made until a the information required by this Section has been received by the Town Planner and a watershed protection permit has been issued. 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.
 - Watershed protection permit applications shall be filed with the Town Planner . The application shall include a completed application form and supporting documentation deemed necessary by the Town.
 - Prior to issuing a Watershed Protection Permit, the Town Planner may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.
- (2) *Building permit required.* Except where provided elsewhere in this article, no building permit required under the state building code shall be issued for any activity for which a watershed permit is required until such permit has been issued.
- (3) *Watershed occupancy permit.*
- Prior to the occupancy or use of a building erected, altered or moved and/or prior to the change of use of any building or land, the Town Planner shall issue a watershed protection occupancy permit certifying that all requirements of this article have been met.
 - If the watershed protection occupancy permit is denied, the Town Planner shall notify the applicant in writing stating the reasons for denial.
- (g) *Occupied lots.* This category consists of lots occupied for residential purposes at the time of the adoption of the ordinance from which this article is derived. These lots 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 Dec. 4, 2009, and such lots individually or together have less area than the minimum requirements for residential purposes specified in this article, such lots shall be combined to create lots which meet the minimum size requirements, or which minimize the degree of nonconformity. The undeveloped lot may not be developed unless and until it complies with this ordinance.
- (h) *Industrial use of land.* This category consists of 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. Such existing uses may be continued except as provided for in subsection (i)(1) a. 4 of this section.
- (i) *Permitted uses.* The following uses are permitted as principal uses in the watershed protection overlay district provided such uses are also permitted in the underlying zoning district and providing that the requirements stated in this section and this zoning and subdivision ordinances.

(1) *Protected area.*

- 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 11 .0101.0209).
- c. Residential development as permitted in the underlying zoning district provided that it meets the standards of the WSWOD.
- d. Nonresidential development as permitted in the underlying zoning district provided that it meets the standards of the WSWOD.

(2) *Density and Built-upon (impervious) limits in the protected area.*

- a. Where the maximum allowed built-upon area conflicts with another ordinance or standard, the stricter standard, or lower maximum allowed built-upon area applies. For example, where either (i) the Johnston County Stormwater Management Ordinance as adopted by reference by the Town, or (ii) Zoning Ordinance section 30-352 apply, then lower built-upon area requirements apply.
- b. Single family residential uses shall develop at a maximum of two (2) dwelling units per acre (2 du/ac) or 20,000 square feet per lot, excluding street rights-of-way. In the alternative, the maximum built upon area shall be 24%.
- c. All other residential and non-residential development shall not exceed twenty-four percent (24%) built-upon area. For projects without a curb and gutter street system, development shall not exceed thirty-six (36%) percent built-upon area.
- d. Cluster development is allowed on a project-by-project basis of all of the following conditions are met:
 1. Overall density shall meet the requirements of 1 or 2 above; and
 2. Buffers (vegetated setbacks) shall meet the requirements of (i)(1) c below; and
 3. Built-upon areas are designed and located to minimize stormwater runoff impacts to receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas and maximize the flow length through vegetated areas; and
 4. Areas of concentrated development shall be located in upland areas and away from surface waters and drainage ways. In determining whether these criteria have been met the approving body shall take into account site-specific factors such as topography, site layout and the protection of water quality; and
 5. The remainder of the tract shall remain in a vegetated or natural state; and
 6. The area in a vegetated state shall be conveyed to a homeowner's association, the Town for preservation as a park or greenway, a conservation organization, or placed in a permanent conservation or farmland preservation easement; and
 7. A maintenance agreement for the vegetated or natural area shall be recorded with the Johnston County Register of Deeds and incorporated into any restrictive covenants for the development; and
 8. Vegetated swales and/or "curb outlet systems" as described in sub- section (j) will be provided.
- e. *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 Archer Lodge water supply watershed.
 2. Overall project density meets applicable density or stormwater control requirements of this section.

3. Vegetated setbacks on both properties meet the minimum requirements in **section (j)** below.
 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 drainage ways.
 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 the Town or County as a park or greenway, or placed under a permanent conservation or farmland preservation 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 deed and shall be irrevocable.
 7. Development permitted under density averaging shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.
 8. A special use permit shall be obtained from the Town Council 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.
- f. Low-Density Option.* Sub-sections 1, 2 or 3 are collectively known as the “low density option”. No “high density option” is permitted.
- g. Calculation of Density.*
1. Project Density is calculated as the Total Built Upon Area divided by the Total Project Area;
 2. A project with “existing development” may calculate Project Density as in **6.a.** or as: $(\text{Total Built-Up-On Area} - \text{Existing Built-Up-On Area}) / (\text{Total Project Area} - \text{Existing Built-Up-On Area})$
 3. When there is a net increase of built-upon area, only the area of net increase is subject to the Water Supply Watershed Overlay District standards.
 4. Where existing development is replaced with a new built-upon area, and there is a net increase of built-upon area, only the area of net increase is subject to the Water Supply Watershed Overlay Standards.
- (j) Vegetated setback (Landscaped buffer area) required.*
- (1) Vegetated setback. (buffer)*
 - a. Vegetated setbacks or buffers are required along all perennial streams and waterbodies as indicated on either the most recent versions of the U.S. Geological Survey (USGS) 1:24,000 scale (7.5 minute) quadrangle topographic maps, which are incorporated herein by reference and are available online at no cost at <http://www.usgs.gov/pubprod>; or another map developed by the Town, County or N.C. DEQ and approved by the Environmental Management Commission.
 - b. 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. “Qualified Individual” is defined in section (e) definitions above.
 - c. *Width of vegetated setback / buffers.* The following minimum widths apply from both banks or sides of any surface waters, including perennial streams, lakes, ponds, reservoirs measured horizontally from the normal pool elevation of impoundments or the top of bank of streams: (i) Thirty (30) feet for all Low Density Option development: (ii) Ten (10) feet OR equivalent as determined under 15A NCAC 02B.0622 for agricultural activities.
 - (2) Uses of the vegetated setback/buffer.* The Vegetated Setbacks may be cleared or graded but shall be replanted and maintained in grass or other vegetation. No new built-upon area shall be allowed except for the following uses where it is not practical to locate them elsewhere:

- a. Publicly funded linear projects such as roads, green ways and sidewalks;
 - b. Water dependent structures such as docks;
 - c. Minimal footprint uses such as poles, signs, utility appurtenances and security lights. Built-upon area associated with these uses shall be minimized and the channelization of run-off shall be avoided.
 - d. Artificial stream bank and shoreline stabilization is not subject to the requirements of this sub-section.
 - e. Divisions of property into lots that are exempt from the Town's subdivision ordinance shall implement the requirements of this sub-section to the maximum extent practicable considering site-specific factors including technical and cost considerations as well as water-quality protection.
- (k) *Additional requirements for low density projects.* Low-density projects shall comply with all of the following:
- (1) *Vegetated Conveyances.* Stormwater runoff from any development 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 Planner shall take into account site specific factors such as topography and site layout as well as water-quality protection. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances meeting the following criteria satisfy the requirements of this sub-section:
 - a. Side slopes shall be no steeper than 3:1 (Horizontal to vertical) unless it is demonstrated to the Town Planner that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and
 - b. The conveyance is designed so that it does not erode during peak flow from the 10-year storm as demonstrated by engineering calculations submitted with the application for a Watershed Permit by a NC Registered Professional Engineer.
 - (2) *Curb outlet systems.* Instead of vegetated conveyances, low density projects have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. The requirements for curb outlet systems are as follows:
 - a. The curb outlets are located so that the swale or vegetated area can carry the peak. flow from the 10-year storm 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 to surface waters shall be provided.
 - c. The swale's cross-section shall be trapezoidal with a minimum bottom width of two feet.
 - d. The side slope of the swale or vegetated area shall be no steeped than 3:1 (horizontal: vertical).
 - e. Low density developments may use treatment swales designed in accordance with 15A N.C. Administrative Code 02H.1061.
- (l) *Establishment of the watershed review board.* The Board of Adjustment shall serve as the watershed review board as it is required in 15A N.C. Administrative Code 02B.0623 (5) (March 1, 2019).
- (1) Instead of the standards of **section 2-47 (e)** the Board of Adjustment shall use the following standards:
 - a. There are difficulties or hardships that prevent compliance with this **section (30-131)**; and
 - b. The variance is in accordance with the general purposes and intent of **Section 30-131**; and
 - c. If the variance is granted, the proposed development / project will ensure equal or better protection of the waters of the State than the requirements of this **section, 30-131** and that the stormwater controls will function in perpetuity.

(2) *Procedural changes to quasi-judicial hearing procedures.* In addition to the requirements of Chapter 2, Division 4, the following procedures will be followed:

- a. *Minor watershed variances.* A thirty-day comment period shall run following the submission of a completed variance application and before the Board of Adjustment hears the application. The Town Planner shall notify all other local governments having jurisdiction in the watershed and all entities using the water supply for consumption.
- b. *Major watershed variances.* A decision by the Board of Adjustment to approve a major watershed variance shall be preliminary only. The Town Planner shall within 30 days of the board's decision, forward a record of the hearing, findings, and conclusions of law to the state environmental management commission for review and final decision. The preliminary record of the hearing shall include:
 1. The variance application;
 2. The hearing notices;
 3. The evidence presented;
 4. Motions, offers of proof, objections to evidence, and rulings on them;
 5. Proposed findings and expectations;
 6. The proposed decision, including all conditions proposed to be added to the permit.
- c. If the Environmental Management Commission approves the decision of the Board of Adjustment or approves the decision with conditions, then the Commission shall prepare decision that authorizes the Board of Adjustment to issue a final decision including any conditions added by the Commission.
- d. If the Environmental Management Commission denies the major watershed variance, the Commission shall send the decision to the Board of Adjustment for final action in accord with the Commission's order.

(m) *Additional duties of the Town Planner .* The Town Planner shall maintain the following records and furnish a copy to the Water Resources Division upon request:

- (1) A copy of the records of all variance applications heard by the Board of Adjustment, including the record of decision; and
- (2) A description of all projects for which the Board of Adjustment has granted a variance; and
- (3) Records of inspections of Stormwater Control Measures.

(n) *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.

(Ord. of 02-01-2021, Ord. No. AL2021-02-1)

Sec. 30-4503 - Amendments to overlay district boundaries.

Amendments to the boundary of an overlay district shall be made consistent with section 30-36. Requests to expand an existing overlay district boundary shall only be considered where such request abuts, adjoins, or is contiguous to, the established overlay district boundary.

(Ord. of 11-14-2013, § 14-106; Ord. No. AL2020-05-3 , § 1, 5-18-2020)

DIVISION 6. - OFFICIAL ZONING MAP.

Sec. 30-4601 - Generally.

- (a) The paper version of the Official Zoning Map maintained in the offices of the Town of Archer Lodge 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 30-4604: Revision**.
- (b) The Official Zoning Map designates the location and boundaries of the conventional, overlay, and planned development zoning districts established in this Ordinance.
- (c) The Official Zoning Map shall be maintained in a digital format and paper copies shall be kept on file and are available for public inspection during normal business hours.
- (d) The Town Planner shall maintain paper copies of superseded versions of the Official Zoning Map for historical reference, as appropriate.
- (e) Copies of the Official Zoning Map may be purchased from the Town and paper copies of the map that are certified by the Town Planner in accordance with Section 160A-79 of the North Carolina General Statutes shall be admissible in evidence and have the same force of effect as the original map.

Sec. 30-4602 - Incorporated by reference.

- (a) The Town Archer Lodge Official Zoning Map, as amended, (hereinafter the "Official Zoning Map") is hereby incorporated by reference herein and made part of this Ordinance.
- (b) The Official Zoning Map shall bear the adoption date of this Ordinance and the signatures of the Mayor and Town Clerk
- (c) 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.

Sec. 30-4603 - Determination of boundaries.

When uncertainty exists with respect to the boundaries or districts as shown on the Official Zoning Map, the Board of Adjustment shall determine the boundaries in accordance with 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 10 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 corporate limits shall be interpreted as following the boundary of municipal incorporation.
- (g) 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.

- (h) Where the actual location of existing physical or natural features varies from that shown on the Official Zoning Map, or in other circumstances that are not covered by this subsection, the Board of Adjustment shall have the authority to determine the district boundaries.
- (i) In the case of flood hazard overlay district boundaries, the FEMA work maps, if available, shall be used for scaling.
- (j) 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.

Sec. 30-4604 - 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 30-3316, Rezoning, or Section 30-3314, Planned Development, as appropriate.
- (b) Changes to the Official Zoning Map approved by the Town Council shall be entered on the Official Zoning Map by the Town Planner 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 Town Planner 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 Town Planner shall also change the date of the map to indicate the date of its latest revision.

ARTICLE 5. - USE REGULATIONS

DIVISION 1. - USES DISTINGUISHED.

This article contains all the standards related to the use of land in the Town's planning jurisdiction, and is organized by the three kinds of land uses: principal, accessory, or temporary use.

Sec. 30-5101 - Generally.

- (a) Principal uses are the primary, permanent use types proposed on a lot (like a single-family home).
- (b) Accessory uses are subordinate to the principal use located on the same lot (like a detached garage serving a single-family home) and may be a structure or an activity.
- (c) Temporary uses are structures or activities allowed for a short duration of time (like a portable storage container used for the purposes of storing or moving a household's belongings).

Sec. 30-5102 - Use types.

- (a) Use types are the specific individual principal uses included within a particular use classification.
- (b) Individual use types are defined in [Article 10, Measurement and Definitions](#).

Sec. 30-5103 - Developments with multiple principal uses.

Developments with multiple principal uses, such as shopping centers, shall incorporate only those use types allowed in the applicable zoning district.

Sec. 30-5104 - Procedure for classification of unlisted uses.

- (a) In the event that a proposed principal or accessory use type is not listed in Principal Use Table, and such land use is not listed as a prohibited use, or is not otherwise prohibited by law, the Town Planner shall determine whether a materially similar use type exists in this Ordinance.
- (b) The Town Planner shall determine whether or not an unlisted use is similar to an existing use type set out in the Principal Use Table, based on the definitions in this Ordinance, and the standards for unlisted uses in [Section <>, Determinations and Interpretations](#). Nothing shall limit the Town Planner 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 Town Planner determine that a materially similar land use does exist, the regulations governing that land use shall apply to the unlisted use type and the Town Planner'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 Town Planner 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](#).

DIVISION 2. - PRINCIPAL USES.

Sec. 30-5201 - Generally.

The Principal Use Table lists the range of allowable principal uses, the zoning districts where they are permitted, and the procedure to be followed for their establishment. The table also includes cross references to any applicable use-specific standards that may apply to a principal use.

Sec. 30-5202 - Uses permitted by-right.

A "P" in a cell of the table indicates that the specific use type is permitted by-right in the corresponding zoning district, subject to compliance with any additional use-specific standards referenced in the principal use table, and any other applicable standards in this Ordinance.

Sec. 30-5203 - Uses permitted by special use permit.¹²

An “S” in a cell of the 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, any additional use-specific standards referenced in the principal use table, and any other applicable requirements of this Ordinance.

Sec. 30-5204 - Uses allowed in a planned development district.

- (a) An “A” in a cell of the table indicates that the specific use type is permitted in a planned development district, provided the specific use type is included in the list of potential use types in the master plan or terms and conditions document. If a use is not listed, then it is not permitted within the planned development.
- (b) Allowed uses are subject to any additional use-specific standards referenced in the principal use table.
- (c) If a use type is listed as not permitted in a planned development district in the table, it may not be included in a master plan or terms and conditions statement.

Sec. 30-5205 - Uses not permitted.

An “X” in a cell of the table indicates that the specific use type is not permitted in the corresponding zoning district.

Sec. 30-5206 - Use standards.

When a specific use type is permitted in a zoning district, there may be use standards that are applicable. Such additional standards are referenced in the table column titled “Use Standards.” These standards shall apply to a specific use type regardless of the zoning district, unless otherwise specified.

Sec. 30-5207 - Principal use table.¹³

The following table sets out the range of allowable principal uses by zoning district.

¹² NOTE TO STAFF: The current code allows a very broad range of commercial uses in the OI district, many without any sort of use standards. Typically, uses in OI are institutional and multi-family, with only very limited commercial uses (often limited to accessory status). This draft UDO calls for many of these commercial uses to be treated as special uses rather than being permitted by right.

¹³ NOTE: This is a new use table that builds on the current table for uses in the non-residential districts except that it also includes residential and agricultural principal uses. It includes a column identifying any applicable use standards (instead of listing them with the district standards or in the table itself). There are several new use types that are listed in bold type. In some cases, use types from the current ordinance are renamed to more modern or descriptive names. Uses with new names are not shown in bold type. All the use types listed in the table are defined, and each one has its own off-street parking standard. Accessory and temporary uses are identified and listed in separate divisions in this Article. Some of the letters within the table of the matrix are in boldface - these are instances where there is a proposed change from current practice – either the use type is proposed to be allowed, proposed to be prohibited, or established through a different procedure than is currently required. The bold text is included for the purposes of review only and will be removed from the adopted version of the document.

PRINCIPAL USE TABLE

"P" = Permitted with a Zoning Compliance Permit, subject to applicable use standards

"S" = Permitted with a Special Use Permit, subject to applicable use standards

"A" = Allowed provided the use is listed in the PD Terms and Conditions Statement, subject to applicable use stds.

"•" = Prohibited

[#] = Table Note

USE TYPE	ZONING DISTRICTS											USE STANDARDS
	AR	SFR-1	SFR-2	SFR-3	RM HP	RMF	OI	NB	CB	LI	PD	
Agricultural Use Classification												
Agri-tourism	P	•	•	•	•	•	•	•	•	•	A	<>
Agriculture and Horticulture	S	•	•	•	•	•	•	•	P	•	A	<>
Agriculture Support Service	S	•	•	•	•	•	•	•	P	P	A	<>
Farmers Market	P	•	•	•	•	•	P	P	P	•	A	
Riding Stable	P	S	•	•	•	•	•	P	P	•	A	
Residential Use Classification												
Assisted Living Facility	S	•	•	S	•	S	P	•	•	•	A	<>
Dormitory	S	•	•	•	•	•	•	•	•	•	•	
Duplex Dwelling	•	•	S	P	•	P	P	S	•	•	A	
Family Care Home	P	P	P	P	P	P	P	P	P	•	A	<>
Group Home	S	S	S	S	•	S	S	•	•	•	A	<>
Manufactured Dwelling, Class A (Double-wide)	P	•	•	P	P	•	•	•	•	•	A	<>
Manufactured Dwelling, Class B (Single-wide)	P	•	•	S	P	•	•	•	•	•	A	<>
Manufactured Dwelling, Class C	•	•	•	•	•	•	•	•	•	•	•	
Manufactured Home Park	•	•	•	•	P	•	•	•	•	•	•	<>
Multi-Family Dwelling	•	•	•	•	•	P	P	S [2]	•	•	A	
Nursing Home	S	•	•	•	•	•	P	•	P	•	A	<>
Single-Family Detached Dwelling [1]	P	P	P	P	P	P	P	P	P	•	A	
Townhouse	•	•	•	•	•	P	P	•	•	•	A	
Institutional Use Classification												
Antenna Collocation, Major	P	S	S	S	S	S	P	P	P	P	A	<>
Antenna Collocation, Minor	P	P	P	P	P	P	P	P	P	P	A	<>

ARTICLE 5. - USE REGULATIONS

DIVISION 2. - Principal uses.

PRINCIPAL USE TABLE												
"P" = Permitted with a Zoning Compliance Permit, subject to applicable use standards "S" = Permitted with a Special Use Permit, subject to applicable use standards "A" = Allowed provided the use is listed in the PD Terms and Conditions Statement, subject to applicable use stds. "•" = Prohibited [#] = Table Note												
USE TYPE	ZONING DISTRICTS											USE STANDARDS
	AR	SFR-1	SFR-2	SFR-3	RM HP	RMF	OI	NB	CB	LI	PD	
Broadcasting Tower, Radio or Television	S	•	•	•	•	•	S	•	•	P	A	
Cemetery, Columbarium, or Mausoleum	P	•	•	•	•	P	P	•	•	•	A	
Church ¹⁴	P	•	S	P	•	P	P	P	P	•	A	<>
Civic, Fraternal, & Social Organizations	P	•	S	P	•	P	P	P	P	•	A	
College or University	P	•	•	•	•	•	S	•	P	•	A	
Community Center	S	S	S	S	•	S	P	•	•	•	A	
Cultural Facility, Library, or Museum	P	•	•	S	•	•	P	S	P	•	A	
Day Care, Adult	S	S	S	S	•	S	P	•	P	•	A	<>
Day Care, Child	S	S	S	S	•	S	P	P	P	•	A	<>
Elementary or Secondary School	P	•	S	P	•	P	P	P	P	•	A	
Golf Course, Public	P	•	•	•	•	•	P	•	•	•	A	
Governmental Use (other than public safety facility or utility facility)	S	•	•	•	•	•	P	P	P	P	A	
Health Care Use	•	•	•	•	•	•	P	•	P	•	A	<>
Park or Playground	P	•	S	P	S	P	P	•	•	•	A	
Outdoor Recreation, Public [3]	P	•	S	S	S	P	P	•	•	•	A	
Public Safety Facility	P	P	P	P	•	P	P	•	•	P	A	
Small Wireless Facility	P	P	P	P	P	P	P	P	P	P	A	<>
Telecommunications Tower, Major	S	•	•	•	•	•	•	•	S	P	•	<>
Telecommunications Tower, Minor (or Concealed)	P	•	•	•	•	S	P	P	P	P	A	<>
Utility, Major	S	S	S	S	•	S	S	•	S	P	A	<>

¹⁴ NOTE: Federal RLUIPA rules require that churches, schools, and fraternal organizations be treated the same with respect to where allowed and the process for establishment. The Town may wish to reconsider how and where these uses are permitted.

ARTICLE 5. - USE REGULATIONS

DIVISION 2. - Principal uses.

PRINCIPAL USE TABLE												
"P" = Permitted with a Zoning Compliance Permit, subject to applicable use standards "S" = Permitted with a Special Use Permit, subject to applicable use standards "A" = Allowed provided the use is listed in the PD Terms and Conditions Statement, subject to applicable use stds. "•" = Prohibited [#] = Table Note												
USE TYPE	ZONING DISTRICTS											USE STANDARDS
	AR	SFR-1	SFR-2	SFR-3	RM HP	RMF	OI	NB	CB	LI	PD	
Utility, Minor	P	P	P	P	P	P	P	P	P	P	A	<>
Commercial Use Classification												
Animal Boarding or Grooming	S	•	•	•	•	•	•	S	S	•	A	
Automotive Painting/Body Shop	•	•	•	•	•	•	•	•	P	P	A	<>
Automotive Parts and Accessory Sales	•	•	•	•	•	•	•	•	P	•	A	<>
Automobile Repair and Servicing (without painting/bodywork)	•	•	•	•	•	•	•	S	P	P	A	<>
Automobile Sales or Rentals	•	•	•	•	•	•	•	P	P	•	A	<>
Automotive Towing and Storage Lot	•	•	•	•	•	•	•	•	S	P	A	<>
Bar, Cocktail Lounge, or Private Club	•	•	•	•	•	•	•	•	S	•	A	<>
Bed and Breakfast	P	•	•	•	•	P	P	P	P	•	A	<>
Bottle Shop (with on premise consumption)	•	•	•	•	•	•	•	•	S	•	A	<>
Bulky Items Sales	•	•	•	•	•	•	•	•	P	P	A	
Business Incubator	•	•	•	•	•	•	P	P	P	P	A	<>
Car Wash or Automobile Detailing	•	•	•	•	•	•	•	•	P	•	A	<>
Catering Establishment	S	•	•	•	•	•	•	•	P	P	A	
Coffee Shop / Bakery	•	•	•	•	•	•	•	P	P	•	A	<>
Computer-related Service	•	•	•	•	•	•	P	P	P	P	A	
Convenience Store	•	•	•	•	•	•	•	P	P	P	A	<>
Co-Working Space	•	•	•	•	•	S	P	P	P	P	A	<>
Electronic Gaming Operation	•	•	•	•	•	•	•	•	S	•	•	<>
Event Venue	S	•	•	•	•	•	•	S	P	•	A	<>
Financial Service	•	•	•	•	•	•	P	•	P	•	A	<>

ARTICLE 5. - USE REGULATIONS

DIVISION 2. - Principal uses.

PRINCIPAL USE TABLE												
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USE TYPE	ZONING DISTRICTS											USE STANDARDS
	AR	SFR-1	SFR-2	SFR-3	RM HP	RMF	OI	NB	CB	LI	PD	
Funeral-related Service	•	•	•	•	•	•	S	•	P	•	A	
Hair, Nails, Skin-related, and Tanning Service	•	•	•	•	•	•	S	P	P	•	A	<>
Heavy Equipment Sales, Rental, and Repair	•	•	•	•	•	•	•	•	S	P	A	<>
Hotel or Motel	•	•	•	•	•	•	•	•	P	•	A	
Indoor Commercial Recreation	•	•	•	•	•	•	S	P	P	•	A	<>
Microbrewery or Microdistillery	•	•	•	•	•	•	•	•	P	P	A	<>
Office, Medical	•	•	•	•	•	•	P	P	P	•	A	
Office, Professional	•	•	•	•	•	•	P	P	P	P	A	<>
Outdoor Commercial Recreation	S	•	•	•	•	•	•	P	P	•	A	
Outdoor Shooting Range	S	•	•	•	•	•	•	•	•	•	•	<>
Outdoor Storage (as a principal use)	•	•	•	•	•	•	•	•	S	S	A	<>
Packaging and Printing Service	•	•	•	•	•	•	S	P	P	•	A	<>
Parking Lot (as a principal use)	•	•	•	•	•	•	P	P	P	P	A	
Pharmacy	•	•	•	•	•	•	P	•	P	•	A	<>
Repair Shop	•	•	•	•	•	•	•	P	P	P	A	
Restaurant, Indoor/Outdoor Seating	•	•	•	•	•	•	S	P	P	P	A	
Restaurant with Drive-Through/Drive-up Service	•	•	•	•	•	•	•	S	P	S	A	
Retail Use	•	•	•	•	•	•	•	P	P	S	A	<>
Self Service Storage	•	•	•	•	•	•	•	•	P	P	A	<>
Sexually-Oriented Business	•	•	•	•	•	•	•	•	S	•	•	<>
Spa, Day or Medical	•	•	•	•	•	•	P	•	P	•	•	<>

ARTICLE 5. - USE REGULATIONS

DIVISION 2. - Principal uses.

PRINCIPAL USE TABLE												
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USE TYPE	ZONING DISTRICTS											USE STANDARDS
	AR	SFR-1	SFR-2	SFR-3	RM HP	RMF	OI	NB	CB	LI	PD	
Tattoo and Piercing Establishment	•	•	•	•	•	•	•	•	S	•	•	
Theatre	•	•	•	•	•	•	•	P	P	•	A	
Veterinary Clinic	•	•	•	•	•	•	•	•	S	•	A	<>
Industrial Use Classification												
Asphalt or Concrete Plant	•	•	•	•	•	•	•	•	•	S	•	<>
Contractor Services/Yard	•	•	•	•	•	•	•	•	•	P	A	
Electrical or Plumbing Fabrication	•	•	•	•	•	•	•	•	•	P	•	
Extractive Industry	•	•	•	•	•	•	•	•	•	S	•	<>
Flex Space	•	•	•	•	•	•	•	•	P	P	A	<>
Food Production (industrial scale)	P	•	•	•	•	•	•	•	P	P	A	
Fuel Oil/Bottled Gas Distributor	•	•	•	•	•	•	•	•	S	P	A	
General Industrial Services	•	•	•	•	•	•	•	•	•	P	A	
HVAC Contractor	•	•	•	•	•	•	•	•	P	P	A	
Makerspace	•	•	•	•	•	•	•	P	P	P	A	<>
Manufacturing, Light	•	•	•	•	•	•	•	•	•	P	A	<>
Metal Fabrication and Welding	P	•	•	•	•	•	•	•	•	P	A	
Public Convenience Center/Transfer Station	•	•	•	•	•	•	•	•	•	P	A	
Recycling Center	•	•	•	•	•	•	S	P	P	P	A	
Salvage or Junkyard	•	•	•	•	•	•	•	•	•	S	•	<>
Solar Energy Conversion, Major	S	•	•	•	•	•	S	S	S	S	A	<>
Truck or Freight Terminal	•	•	•	•	•	•	•	•	S	P	A	
Warehouse	•	•	•	•	•	•	•	S	P	P	A	
Wholesale Sales	•	•	•	•	•	•	•	P	P	P	A	
NOTES: [1] Includes modular homes.												

PRINCIPAL USE TABLE

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"A" = Allowed provided the use is listed in the PD Terms and Conditions Statement, subject to applicable use stds.

"•" = Prohibited

[#] = Table Note

USE TYPE	ZONING DISTRICTS										USE STANDARDS
	AR	SFR-1	SFR-2	SFR-3	RM HP	RMF	OI	NB	CB	LI	PD

[2] Only permitted on upper stories of non-residential buildings.

[3] Includes outdoor recreation facilities operated by a HOA, management company, or developer that are intended to serve only the residents within a particular development and their guests.

DIVISION 3. - USE STANDARDS.**Sec. 30-5301 - Agricultural uses.**

- (a) *Agri-tourism*. Agri-tourism shall be subject to the district dimensional requirements where located, and shall require approval of a site plan in accordance with Section 30-3317. Nothing shall limit the sale of concessions or products grown on site as part of an agri-tourism use.
- (b) *Agriculture and horticulture*. Agriculture and horticulture uses (structures and activities) taking place outside of a bona fide farm use shall be located at least 50 feet from any lot line shared with a residential zoning district and at least 100 feet from any existing residence on an adjacent lot.
- (c) *Agriculture support service*. Such uses shall be limited to a maximum of 6,500 gross square feet of floor area in the CB district.

Sec. 30-5302 - Residential uses.

- (a) *Assisted living facility*. Such uses shall not be primarily for the treatment of contagious diseases, mental illness, or addiction.
- (b) *Family Care Home*¹⁵
 - (1) Family care homes shall comply with the standards in Section 160D-907 of the North Carolina General Statutes.
 - (2) 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.
- (c) *Group home*. A group home shall comply with the following standards:¹⁶
 - (1) 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 or another group home;
 - (2) 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;
 - (3) 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;
 - (4) The use shall maintain a residential appearance compatible with its surroundings when proposed in a residential or mixed-use district; and
 - (5) The use shall meet all State requirements, as well as all applicable housing and building code requirements.
- (d) *Manufactured dwelling*. A manufactured dwelling shall comply with Section 160D-910 of the North Carolina General Statutes, and the following standards:¹⁷
 - (1) All class A and B manufactured homes, regardless of availability of public utilities, shall have a minimum lot size of one acre;
 - (2) Class A manufactured homes shall have a minimum 80-foot-wide front yard width and shall front on and the front door shall be parallel to the roadway and/or the access road;
 - (3) It shall be occupied only as a single-family dwelling;

¹⁵ This is a new use.

¹⁶ This is a new use.

¹⁷ These are new standards.

- (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;
 - (6) It shall be oriented with the longest axis parallel to the lot frontage, to the maximum extent practicable;
 - (7) The towing apparatus, wheels, axles, and transporting lights shall be removed;
 - (8) 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;
 - (9) 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;
 - (10) 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;
 - (11) It shall maintain a roof pitch with a minimum vertical rise of three feet for each 12 feet of horizontal run;
 - (12) It shall include a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;
 - (13) It shall provide an eave projection of no less than six inches, which may include a gutter; and
 - (14) In no instance shall a manufactured home be used solely for the purposes of storage.
- (e) *Manufactured home park.*
- (1) *Utility requirements.* All manufactured home parks shall conform to the following utility requirements:
 - a. An accessible adequate, safe supply of water shall be provided in each residential-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 all applicable State, County and Town agencies.
 - b. Adequate and safe sewage disposal facilities shall be provided in all residential-manufactured home parks. Collection systems and sewage treatment plants shall comply with the standards of all applicable State, County, and Town agencies. Individual septic tank systems can be considered, if soil, topography, and groundwater conditions are favorable and such systems are approved by the appropriate State, County, and local agencies.

- c. To protect the public health and monitor on-site wastewater systems, an environmental health authorization to relocate a manufactured/mobile home on a vacated or about to be vacated manufactured/mobile home space served by a septic tank within a manufactured home park is required. This authorization will be needed prior to issuing a building permit. The environmental authorization requirement is part of the laws and rules governing the operation of septic systems under provisions of 15A NCAC .1900 of G.S. 130A-337(c). Once a relocation application is received at the environmental health office, a member of the staff will make a visit to the lot in question to determine if the septic system appears to be in operating order. If the septic system appears to be functioning properly then an authorization to relocate a manufactured home on that lot will be issued. At that point, the owner of the manufactured home can secure a building permit.
 - d. All utilities, including piping, phone, electricity, and cable, shall be underground.
- (2) *Streets and parking.* All manufactured home parks shall conform to the following street and parking requirements:
- a. All streets in a manufactured home park shall meet the road construction standards as set forth in the latest edition of the NCDOT subdivision roads minimum construction standards.
 - b. Maintenance of such streets shall be provided by the owner or operator of the park.
 - c. Permanent dead-end streets or cul-de-sac shall not exceed 1,000 feet in length and shall be provided with a turnaround of at least 100 feet in diameter.
 - d. New street names or manufactured home park names shall not duplicate, or be similar to, existing street names or manufactured home park names in the Town.
 - e. The developer shall be required to provide and erect street name signs to State standards at all intersections within the -manufactured home park.
 - f. Sidewalks, or a paved pedestrian walkways, shall be provided along all streets within the manufactured home park.
 - g. A minimum of two off-street automobile parking spaces surfaced with an all-weather surface shall be provided adjacent to each manufactured home space but shall not be located within any public right-of-way or within any accessway in the park.
 - h. All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed in the front of the manufactured home on the driveway side with four-inch lettering.
 - i. All streets in the manufactured home park shall be adequately illuminated. The minimum street light shall be a 250-watt mercury vapor approximately 7,000 lumen classes, or its equivalent, spaced at intervals of not more than 300 feet and at each intersection.
- (3) *Sidewalks.*
- a. Sidewalks shall be located on at least one side of each street within the manufactured home park.
 - b. Sidewalks shall be five feet in width located fronting arterial, collector, local, and private streets or allow a fee in lieu of at a rate established by the Town Council.
- (4) *Residential-manufactured home park use/appearance requirements.* All uses within a manufactured home park shall conform to the following regulations:
- a. *Abandoned vehicle.* No junked or abandoned vehicles shall be allowed.
 - b. *Additions.* No living compartment or structure other than a "Florida-type" 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 article are not violated.
 - c. *Administrative office.* Within a manufactured home park, one manufactured home may be used as an administrative office.

- d. *Building proportion.* The main portion of the building, when viewed from the front lot line, shall have a building length not exceeding six times the building width.
 - e. *Dwelling configuration.* All manufactured homes shall comply with the standards for individual manufactured dwellings in **Section 30-5302(d)**.
 - f. *Evacuation plan.* Each manufactured home park in the flood damage prevention area shall have an evacuation plan indicating alternate vehicular access and escape routes. All manufactured homes to be placed in flood prone areas shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top ties at each of the four corners of the manufactured home with two additional ties per side at intermediate locations.
 - g. *Mailboxes.* When more than five rural mailboxes are used for mail delivery, the approval of the local post office department and the State department of transportation shall be required.
 - h. *Project identification sign.* Park identification signs shall comply with the standards in Division 7 of Article 6.
- (5) *Solid waste.* The residential-manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the county health department.
- (6) *Resident requirements.* All residential-manufactured home park residents must be required to comply with an established set of requirements through contracts, restrictive covenants, or other valid means. Failure to enforce such restrictions subjects the property to revocation of the manufacturing home park zoning.
- (7) *Landscape requirements.*
- a. All manufactured home parks shall be landscaped in accordance with Division 5 of Article 6.
 - b. A landscaped buffer strip shall be provided at all exterior property lines and shall consist of an approved wall, fence, or a planted strip at least eight feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than 20 feet apart and not less than one row of dense shrubs, spaced not more than five feet apart and five feet in height; after one growing season, which shall be planted and maintained in a healthy, growing condition by the property owner.
- (f) *Conformance with residential-manufactured home park standards.*
- (1) It shall be unlawful for any person to construct or engage in the construction of any manufactured home park or make any addition or alteration to an existing manufactured home park within the Town's planning jurisdiction unless a final plan of the manufactured home park has been approved in accordance with this section.
 - (2) No new manufactured home park or manufactured home park addition shall be occupied until a certificate of occupancy has been issued by the County inspections department.
 - (3) The owners, management, or occupants to whom a construction permit for a manufactured home park is issued shall operate the park in compliance with this section and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
 - (4) The County inspections department may, after due notice, subject to the right of appeal, suspend or revoke the certificate of occupancy for failure to maintain the park in compliance with the provisions of this section.
 - (5) The certificate of occupancy may be revoked for a specific section of a manufactured home park which is in violation and occupancy allowed to continue in portions of the park which are in conformity with the certificate of occupancy. The Town Planner and the County inspections and health departments may conduct as many inspections of manufactured home parks as are deemed necessary to ensure the compliance of applicable standards.
- (g) *Certificate of occupancy and compliance.*
- (1) The Town Council will authorize the Town Planner to issue a zoning compliance certificate prior to the issuance of a County inspections department certificate of occupancy and compliance.

- (2) A certificate of occupancy must be authorized and issued by the inspections department prior to occupancy of a manufactured home park. Construction must conform to the approved plan.
- (3) A certificate of occupancy may be issued if all required work, other than the completion of the foundation skirting, is completed, provided that a certificate of completion is issued by the Town Planner within 90 days of the issuance of the certificate of occupancy.
- (4) If no certificate of completion is issued within 90 days, the certificate of occupancy shall be void.

(h) *Nursing home.*

- (1) Such uses shall not be primarily for the treatment of contagious diseases, mental illness, or addiction.
- (2) Nursing homes in the CB district shall be limited to a maximum of 18 patients.

Sec. 30-5303 - Institutional uses.

(a) *Church.* All buildings shall be set back at least 20 feet from any lot line.

(b) *Day care, adult.* Such uses shall be limited to a maximum of 12 adults in the CB district.

(c) *Day care, child.*

- (1) Such uses shall be limited to a maximum of 2,500 gross square feet in the NB district and a maximum of 5,000 gross square feet in the CB district.
- (2) Day care uses taking place within a private dwelling are treated as an accessory use (see Division 4).

(d) *Health care use.* Medical clinics, outpatient treatment facilities, and urgent care uses shall be limited to a maximum of 12,500 gross square feet in the CB district.

(e) *Telecommunications facilities.*¹⁸

(1) *Purpose and intent.* This section establishes general standards for the siting of wireless 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 planning jurisdiction have reliable access to wireless communications services. More specifically, the provisions of this section are intended to:

- a. Ensure adequate protection of residential areas and uses from potential adverse impacts of wireless communications facilities, and to generally encourage the location of these facilities in areas where adverse impact on the community is minimal;
- b. Encourage the placement of wireless telecommunications facilities in non-residential areas;
- c. Minimize the number of new major telecommunications towers generally;
- d. Create conditions where wireless telecommunications service providers are able to provide wireless telecommunications services effectively and efficiently in accordance with State and federal law;
- e. Strongly encourage the joint use or collocation of new and existing wireless telecommunications facilities so as to minimize the number of new telecommunications towers throughout the Town;
- f. Establish collocation and concealed towers as the preferred options for the accommodation of wireless telecommunications equipment; and
- g. Ensure that wireless telecommunications facilities located within the public right of way do not obstruct sight distance triangles or create safety hazards for pedestrians or bicyclists.

¹⁸ These are new uses and new standards.

- (2) *Applicability.* The standards in this section shall apply to all wireless telecommunications facilities except for the following, which are exempted from these standards but remain subject to all other applicable standards in this Ordinance:
- Removal of antennas, antenna support structures, or wireless telecommunications equipment on an existing telecommunications tower, utility pole, vertical projection, or equipment compound that does not result in a substantial modification;
 - The operation of a small wireless facility solely within the interior of a structure, stadium, or athletic facility;
 - Routine maintenance on an existing wireless telecommunication facility;
 - Installation, modification, or operation of a micro-wireless facility, receive-only television antenna, or receive-only radio antenna for noncommercial use;
 - Installation, modification, or operation of FCC-licensed amateur ("ham") radio equipment; and
 - Dish antenna or earth stations.
- (3) *Retention of expert assistance and reimbursement by applicant.* The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating application for a wireless telecommunications facility, including the construction and modification of the site, in accordance with these standards.
- Upon filing an application, an applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of any application, including the construction and modification of the site, once permitted.
 - The initial deposit shall be in the amount set forth in the adopted fee schedule and shall be paid at the time the application is submitted. The Town will maintain a separate escrow account for all such funds.
 - The Town consultants/experts shall invoice the Town for its services in reviewing the application, including the construction and modification of the site, once permitted.
 - If at any time during the process this escrow account has a balance less than an amount set forth in the adopted fee schedule, the applicant shall immediately, upon notification by the Town, replenish the escrow account so that it maintains the minimum required balance. Any additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application.
 - In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.
- (4) *Wireless telecommunications facilities distinguished.* The following use types and configurations are considered to be wireless telecommunications facilities subject to these requirements:
- New and replacement major telecommunication towers of 50 feet in height or taller;
 - New and replacement minor telecommunication towers of up to 50 feet in height;
 - Stealth or concealed telecommunication towers, antennae, or wireless telecommunications equipment;
 - Major collocations of antennae and associated equipment on existing towers, buildings, or other vertical projections;
 - Minor collocations of antennae and associated equipment on existing towers, buildings, or other vertical projections; and
 - The installation of small wireless telecommunications facilities on land outside a public street right-of-way.

- (5) *General standards applicable to all types of wireless telecommunications facilities.* The following requirements shall apply to all new wireless telecommunications facilities and any modifications to an existing wireless telecommunications facility that exceeds the scope of routine maintenance, as defined in this section.
- a. *Building permit required.* Prior to installation or modification exceeding the scope of routine maintenance, all wireless telecommunications facilities shall receive a building permit in accordance with the requirements in this Ordinance.
 - b. *Compliance with federal and state regulations.* All wireless 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. In addition to federal requirements, all wireless telecommunication facilities shall comply with or exceed current standards and regulations of the State of North Carolina pertaining to wireless telecommunications facilities in G.S. §160D-930 through §160D-934.
 - c. *Interference.* No wireless communication facility shall disturb, diminish, or interfere with public safety, radio, television, or other wireless telecommunications signals in accordance with FCC requirements.
 - d. *Structurally sound.* All elements of a wireless 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.
 - e. *Sight distance at intersections.* All elements of a wireless telecommunication facility shall be located outside of, and shall in no way obstruct, required sight distance triangles. 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 or the State.
 - f. *Accessory equipment.* Accessory equipment, including any buildings, cabinets, or shelters, shall be used only for the purposes of housing wireless telecommunications equipment and other supplies in direct support of the operation of the wireless telecommunications facility. Any equipment or materials not used in direct support of such operation shall not be stored on the site.
 - g. *Obstruction lighting.* Lighting of a wireless telecommunications facility shall be limited to that required for compliance with FAA minimum standards. 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. Nighttime strobing or flashing lights are prohibited, unless required by the FAA.
 - h. *Signage.* 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 Planner.
 - i. *Unauthorized access prohibited.* Telecommunications towers and vertical projections with wireless 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 wireless telecommunication facility whether through use of walls or fencing with a minimum height of six feet above adjacent grade, or anti-climbing devices.
 - j. *Nonconforming wireless telecommunications facilities.*
 1. Lawfully established wireless telecommunications facilities in operation prior to (*insert the effective date of this Ordinance*), that do not comply with these standards may remain and operate as nonconforming uses.
 2. Ordinary and routine maintenance may be performed on a nonconforming wireless telecommunications facility.
 3. Minor collocation of antennae, antenna-support structures, and related wireless telecommunications equipment is allowed, provided that the overall height of the existing nonconforming wireless telecommunications facility remains unchanged or is reduced.

4. In no instance shall a collocation resulting in an increased overall height or a requiring substantial modification, as defined in this section and G.S. §160D-932, be permitted on a nonconforming wireless telecommunications facility.
 5. In the event a nonconforming telecommunications tower is removed, it shall not be replaced with another nonconforming wireless telecommunications tower.
- k. *Cessation.*
1. A wireless telecommunication facility shall be considered to have ceased operation if the Town receives written notice from a wireless services provider that it intends to cease operations at a particular wireless telecommunication facility, or a wireless telecommunications facility ceases to transmit a wireless telecommunications signal for a period of 30 consecutive days or longer.
 2. Upon receipt of a written notice from a wireless services provider or upon determination that a wireless communication facility has ceased operation, the Town shall forward written documentation of the cessation to the wireless services provider, or the owner of the land, if different.
- l. *Abandonment.*
1. The wireless telecommunications facility shall be deemed abandoned if wireless telecommunications signals do not resume for a period of 180 consecutive days or longer from the date the written documentation of cessation is filed.
 2. Upon making a determination that a wireless telecommunications facility has been abandoned, the Town shall forward written documentation of the abandonment to the wireless services provider, or the owner of the land, if different.
- m. *Removal.*
1. The Town may require the wireless services provider or the owner of the land, if different, to remove an abandoned wireless telecommunications facility within 30 days of the date it is deemed abandoned.
 2. Should the wireless 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 wireless telecommunications facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider, or the owner of the land, if different.
- (6) *Standards for specific types of wireless telecommunication facilities.*
- a. *Collocations distinguished.* All collocations shall be classified as either a major collocation or a minor collocation in accordance with Article 10, and the following:
1. A major collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on any of the following: a building's roof; a building's wall; 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 an existing or replacement telecommunications tower where the collocation requires a substantial modification, as defined in these standards and G.S. § 160D-931.
 2. 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 G.S. § 160D-931, is required. A minor collocation may also be referred to as an "eligible facility," as defined in these standards and G.S. § 160D-931.

3. In addition to the placement of antennas and antenna-support structures, collocations may also include the placement of wireless 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. 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.
 4. *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: 20 feet or 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: more than the width of the telecommunications tower at the height of the appurtenance; or more than 20 feet from the edge of the tower; or c) Increasing the square footage of an existing equipment compound by more than 2,500 square feet. 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.
 5. *Maximum height.* Antennae, antenna-support structures, or other wireless 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.
 6. *Method of attachment.* Antennae, antenna-support structures, or other wireless 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 wireless telecommunications equipment. The Town Planner 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.
 7. *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.
 8. *Setbacks.* 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 wireless telecommunications facility height, to the maximum extent practicable. Accessory structures, including equipment cabinets, guy wire anchors, and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.
- b. *Telecommunications tower, major.* A new or replacement telecommunications tower with a height of 50 feet or more above grade is a major telecommunications tower subject to these standards. A new or replacement telecommunications tower with a height less than 50 feet above grade shall be considered a minor telecommunications tower.
1. *Setbacks.* 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 wireless telecommunications facility height. 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.

2. *Maximum height.* The maximum height (including antenna and other appurtenances) for any new, replaced, or collocated wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. 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 feet above the adjacent pre-construction grade. 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 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.
 3. *Collocation required.* 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: a) Towers of 50 to 80 feet in height shall be configured to accommodate the collocation of at least two wireless telecommunications service provider's equipment; b) 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; c) 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.
- c. *Telecommunications tower, minor.* A concealed telecommunications tower is a telecommunications tower and associated equipment that is designed to appear as something other than a traditional wireless communications facility. A minor wireless telecommunications tower is a use that is designed to appear as a traditional wireless communications facility except that the maximum height of the tower portion of the facility is less than 30 feet above grade.
1. *Appearance of a concealed telecommunications tower.* A concealed telecommunications tower shall be configured to conceal the presence of the tower, antennas, antenna-support structures, and related wireless telecommunications equipment in order to obscure its purpose as a wireless telecommunications facility, to the maximum extent practicable. Allowable configurations include, but are not limited to: bell towers, clock towers, water towers, silos, chimneys, steeples, light poles, flag poles, or evergreen trees. Antennae, antenna support structures, cabling, and related appurtenances shall be enclosed, camouflaged, screened, or otherwise obscured so that they are not readily identifiable as wireless telecommunications equipment to the casual observer.
 2. *Setbacks.* Concealed and minor telecommunications towers and associated accessory structures, including equipment cabinets, shall comply with the applicable dimensional requirements for non-residential uses in the zoning district where located. In no instance shall a concealed or minor telecommunications tower be exempted from the minimum applicable setback requirements for non-residential uses. 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 above, to the maximum extent practicable.
 3. *Maximum height.* The maximum height for any concealed wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. 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. The maximum height for a minor telecommunications tower is less than 50 feet from the adjacent pre-construction grade to the top of the highest appurtenance on the tower.

4. *Collocation.* Concealed and minor telecommunications towers are encouraged (but not required) to accommodate the collocation of other antennae. 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. Any collocated equipment on a concealed telecommunications tower must maintain the appearance of the facility as a concealed telecommunications tower. In no instance shall a concealed telecommunications tower be replaced with a telecommunications tower that is not concealed in order to accommodate a collocation.
- d. *Wireless communications facilities, small.* 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.
 1. *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 all standards applicable to the right-of-way.
 2. *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.
 3. *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.
 4. *Maximum equipment size.* In no instance shall a small wireless facility exceed the following maximum size limitations; a small wireless facility that exceeds these maximum size limitations shall be reviewed in accordance with the standards for a collocation: a) Each antenna, and any exposed elements, shall be capable of fitting within an enclosure of six cubic feet, or less; b) 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.
 5. *Maximum height.* No new structure intended to support a small wireless facility shall be taller than 50 feet above the adjacent pre-construction grade. 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. 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. 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. In cases where a replacement structure intended to serve a small wireless exceeds the height of the original structure, the replacement structure shall be reviewed and decided in accordance with the standards for a collocation.
 6. *Placement.* A small wireless facility, including the support structure and all other equipment, shall not obstruct the safe passage of vehicles, pedestrians, or bicycles.

7. *Method of attachment.* Antennae, antenna-support structures, or other wireless communications 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. The Town Planner 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.
8. *Appearance.* 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. 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 wireless telecommunications services, the Town may require the small wireless facility to be configured or concealed to ensure compatibility with the structure.
9. *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.

(a) *Utilities, major and minor.*¹⁹

(1) *All utilities shall comply with the following standards:*

- a. Where possible, utilities should be located on lots interior to a development rather than on lots abutting streets;
- b. All dangerous apparatus shall be enclosed by a fence or wall at least eight feet in height;
- c. Major utilities may only be located on lots that meet the dimensional requirements for the zoning district where located. Minor utilities may be on lots, leaseholds, or easements that do not meet the minimum dimensional standards for lots in the district where located;
- d. The design of buildings, structures, and facilities located in residential neighborhoods shall conform as closely as possible to the character of development in the area to ensure compatibility. Utility placement and screening may also be used as a means of ensuring compatibility;
- e. No vehicles, trailers, or materials shall be stored outdoors on the premises;
- f. Portions of properties not used for facilities, off-street parking, or related services shall be maintained with natural ground cover; and
- g. Service and storage yards shall not be permitted within utility facilities located in residential or OI districts.

(2) Ground-based electrical substations and transformers shall be considered as minor utilities and shall also comply with the following additional standards:

- a. Ground-based electrical substations and transformers may only be located on a lot of one acre in area when located in a residential or OI district;
- b. Ground-based electrical substations and transformers shall include non-climbable fences or comparable safety devices to limit accessibility by the general public;
- c. Ground-based electrical substations and transformers shall include a durable masonry wall, fence, hedge, or other natural planting of comparable opacity shall be provided along the exterior lot lines abutting a lot in a residential or OI district;
- d. Walls, fences, or hedges required in this section shall be between five and seven feet in height measured from the ground along the lot line; and

¹⁹ These are new standards.

- e. Plantings shall maintain an initial height of at least three feet at time of planting and shall achieve an average height of six feet within two years of the time of planting.
- (3) Communications or relay towers associated with a utility use type shall comply with the following additional standards:
 - a. Communications or relay towers associated with a utility use type may only be located on a lot of one acre in area when located in a residential or OI district; and
 - b. The minimum distance from the base of any tower to the nearest property line shall be equal to the height of the tower.

Sec. 30-5304 - Commercial uses.

(a) *Automotive painting/body shop.* These uses shall comply with the following standards:

- (1) Buildings shall be limited to a gross floor area of up to 2,000 square feet within the CB district;
- (2) No more than eight vehicles may be stored outside overnight;
- (3) Any vehicles or materials stored overnight shall be located within a designated storage area; and
- (4) All storage areas shall be enclosed by a fully opaque fence or wall with a minimum height of six feet.

(b) *Automotive parts and accessory sales.* These uses are limited to a maximum of 6,500 square feet of floor area per lot.

(c) *Automobile repair and servicing (without painting/bodywork).* These uses shall comply with the following standards:

- (1) Buildings shall be limited to a gross floor area of up to 2,000 square feet within the CB district;
- (2) No more than eight vehicles may be stored outside overnight;
- (3) Any vehicles or materials stored overnight shall be located within a designated storage area; and
- (4) All storage areas shall be enclosed by a fully opaque fence or wall with a minimum height of six feet.

(d) *Automobile sales or rentals.* Uses primarily involving the sales or rental of automobiles, trucks, or recreational vehicles shall comply with the following standards:²⁰

- (1) Vehicle display areas shall be surfaced with concrete, asphalt, or other permanent surfacing material other than crushed stone;
- (2) No vehicles or other similar items shall be displayed on the top of a building;
- (3) All lights and lighting shall be designed and arranged so no source of light is directly visible from any abutting residential property; and
- (4) Repair and service functions are permitted as an accessory use provided all repair-related activities take place within an enclosed building.

(e) *Automotive towing and storage lot.* Automotive towing and storage lot uses shall comply with the following requirements:²¹

- (1) A maximum of no more than 50 vehicles at any one time shall be stored on the property.
- (2) All towed vehicles must be stored in an approved vehicle towing and storage area.
- (3) The minimum size of the fenced storage area shall be 3,000 square feet.

²⁰ These are new standards.

²¹ This is a new use and new standards.

- (4) A chain link fence, a minimum of six feet in height, shall be provided around all accessible sides of the storage area.
- (5) All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.
- (6) The storage area shall be paved with asphalt or concrete to minimize dust emissions and the buildup of dirt, mud, and other debris.
- (7) All lighting shall be shielded so as not to cast direct light upon any adjacent residential lot.
- (8) No storage area shall be permitted within 100 feet of any residentially-zoned property or within any required front yard.
- (9) All buildings used to protect stored motor vehicles shall be located on the same lot.
- (f) *Bar, cocktail lounge, or private club.* A bar, cocktail lounge, or private club shall comply with the following requirements:²²
 - (1) Such uses shall be separated from a church or school use type by at least 200 feet;
 - (2) The use shall not orient the primary entrance toward an abutting lot in a residential district;
 - (3) The use shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district;
 - (4) 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 following standards:
 - a. The outdoor seating area shall be located no closer than 100 feet from any single-family residential zoning district; and
 - b. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
- (g) *Bed and breakfast.* A bed and breakfast shall comply with the following standards:²³
 - (1) Be owner-occupied or have a manager who resides on the premises;
 - (2) Have no more than six sleeping rooms;
 - (3) Have only one kitchen;
 - (4) Limit meals served on the premises to overnight guests only; and
 - (5) Limit any signage to ground signage with a maximum sign face area of six square feet.
- (h) *Bottle shop.* A bottle shop use shall comply with the standards for a Bar, Cocktail Lounge, or Private Club.
- (i) *Business incubator.*²⁴
 - (1) A business incubator may be provided as a principal use in its own building, as a tenant in a multi-tenant building, or as an accessory use to an existing office, personal service, or industrial use.
 - (2) When proposed as an accessory use to an existing business or development, the floor area devoted to the business incubator shall not exceed 25 percent of the building's gross floor area.
 - (3) Business incubators shall meet the off-street parking requirement for this use type in the Table of Minimum Off-Street Parking Requirements, not the individual types of uses within the business incubator.

²² This is a new use and new standards.

²³ These are new standards.

²⁴ This is a new use and new standards.

- (4) Floor area within a building serving as a business incubator may be used for storage, but no outdoor activity or storage is permitted.
- (j) *Car wash or automobile detailing.* Such use types are limited to a maximum of four individual bays 4 bays or up to 2,500 sf detail service area.
- (k) *Coffee shop / bakery.* Coffee shops, bakeries, and other specialty eating establishments shall be limited to a maximum gross floor area of 3,500 square feet in the NB district and 4,000 square feet in the CB district. Outdoor seating area shall not be included within the maximum allowable gross floor area.
- (l) *Convenience store.*
- (1) In the NB district, such uses are limited to a maximum gross floor area of 3,500 square feet and a maximum of six fuel pumps.
- (2) In the CB district, such uses are limited to a maximum gross floor area of 5,000 square feet and a maximum of 12 fuel pumps.
- (m) *Co-working space.*²⁵
- (1) Use types and activities associated with a co-working space shall be limited to the range of activities typically associated with office uses.
- (2) Food or beverages produced or sold within the use shall be limited to patrons of co-working space not the general public.
- (3) 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.
- (4) Facilities for pets shall be indoors or fully screened from adjacent streets and other uses.
- (n) *Electronic gaming operations.*
- (1) Prior to the operation of an electronic gaming operation, a zoning compliance permit and privilege license for an electronic gaming operation must be issued. In addition, an annual gaming machine fee in the amount of \$500.00 per gaming machine or device shall be paid. This annual per gaming machine fee shall be due annually as the privilege license is scheduled.
- (2) Electronic gaming operations shall be regulated as to location in the following manner in addition to any other requirements of this article:
- a. Electronic gaming operations shall be located a minimum of 1,000 feet measured in any direction, from:
1. A place of worship or other religious institution;
 2. A day care center, public or private school;
 3. A public or private park, playground, public library, or cemetery;
 4. A skating rink, video arcade, or motion picture theater which shows G- or PG-rated movies to the general public on a regular basis;
 5. Electronic gaming operations, tattoo or body piercing establishments;
 6. Adult and sexually oriented businesses; or
 7. A residential zoned/residential used parcel.

²⁵ This is a new use and new standards.

- b. Applicants shall submit a current straight line drawing prepared within 30 days prior to the application by a registered surveyor, depicting the property lines and the structures containing any of the above uses and the straight line measurements to each. Straight line distance shall be measured from the property line of the existing or established use to the building of the proposed electronic gaming operation. A use in subsection (c)(2) of this section shall be considered to be existing or established if it is in place or actively under construction at the time the application is submitted. Residential zoning districts shall be based upon the most current official zoning map.
- c. Hours of operation shall be limited to 8:00 a.m. through 12:00 midnight seven days a week.
- d. No minor (17 years of age or younger) shall be allowed to operate a gaming machine subject to this article.
- e. All electronic gaming operations shall comply with requirements of G.S. Ch. 14, art. 37.
- f. The maximum number of gaming machines for any electronic gaming operation business is 15 and the minimum building square footage shall be up to 200 square feet per machine.
- g. Electronic gaming operations must be visible and open to the store front of the building or structure. Shading or tinting of store front windows shall not exceed 35 percent.
- h. Failure to obtain a privilege license for an electronic gaming operation or pay the privilege license fees upon initial issuance or renewal of a privilege license for an electronic gaming operation as required by the town shall result in a penalty equal to 100 percent of the fee that is due, in addition to the fee itself.
- i. Consciously and purposely hiding machines/terminals/computers, using switching devices to change screens in order to hide the true purpose and use of a computer, or any other ploy to hide the intended use of any computer within the establishment shall be considered as perpetrating a fraud upon the town and shall result in the immediate permanent revocation of the establishment's privilege license and shall result in a penalty equal to 100 percent of the fee that is due, in addition to the fee itself.
- j. There shall be an adult manager, 18 years of age or older, on the premises during the hours of operation.
- k. Each applicant for zoning compliance as required by this article shall be upon a form approved by the town council and shall be filed with the town clerk. Each applicant shall certify, under oath, the following information:
 - 1. The name, age and residence of all interested parties;
 - 2. The address of the premises where the business shall be located;
 - 3. The proposed hours of operation of the business;
 - 4. The dimensions of land owned or controlled by the applicant as premises for the electronic gaming operation;
 - 5. A description of any other business to be operated on the same premises or any adjoining premises owned or controlled by the applicant; and
 - 6. A statement of any prior revocations of a license of any interested party to operate an electronic gaming operation or similar business in any jurisdiction.
- l. The applicant shall provide the serial number of each and every computer in the establishment. The town clerk/Town Planner will issue a town decal including the serial number, town terminal number, and date of issuance, to be displayed visibly on the computer or gaming terminal at all times. The town terminal number will be assigned by the code enforcement officer at the time the application is submitted to development services. The serial numbers of computers or gaming terminals placed into service after the privilege license is granted (and the additional privilege license fees) shall be provided to the town clerk/Town Planner prior to any use of the machine.

1. Computers that are removed from the establishment shall be reported, with the serial number, to the town clerk/Town Planner ; any replacement computer shall be reported, with the serial numbers of the original and replacement machines, to the code enforcement officer. New computers or gaming terminals must be issued a town decal prior to operation.
2. Alteration or modification of any town issued decal shall be considered a zoning violation and subject to civil penalties per Article 9.
- m. No interested party shall operate an electronic gaming operation unless the party shall have first applied for and received the privilege license provided for by the town. It shall be unlawful to operate an electronic gaming operation within the town without a privilege license and zoning compliance permit as required by this section and the town.
- n. Electronic gaming operations that are operating at the time of the adoption of this section shall have applied for the privilege license provided for by the town. Any such establishment denied a license shall cease operations of machines within three days of notice of such denial by the town clerk/Town Planner .
- o. A change of any facts stated in an application filed under this article shall be reported immediately to the town clerk and Town Planner . Failure to report any change of the facts stated in the application shall be subject to civil penalties as outlined in section 30-25.
- p. A zoning compliance certificate issued pursuant to this article shall become void if the licensee moves or ceases to operate at the location required to be stated in the application for the license.
- q. Off-street parking requirements shall be as follows:
 1. One parking space per machine;
 2. One parking space per employee; and
 3. Two state department of insurance designed handicap parking spaces per first 25 parking spaces and one for every 25 parking spaces thereafter.
- r. There shall be no alcohol sales or alcohol consumption on the premises of an electronic gaming operation.
- (o) *Heavy equipment and tool rental.* Uses primarily involving the sales, rental, service, or storage of heavy equipment shall comply with the following standards:
 - (1) No heavy equipment or building displays shall be located within a required setback or perimeter buffer;
 - (2) No heavy equipment shall be displayed on the top of a building; and
 - (3) All lights and lighting shall be designed and arranged so no source of light is directly visible from any residential district or existing residential use.
- (p) *Event venue.* Event venues shall be operated in accordance with the following standards:
 - (1) 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.
 - (2) The maximum number of guests shall be in accordance with the maximum occupancy of the principal structure as determined by the fire marshal or fire chief.
 - (3) Outdoor activities shall not take place between the hours of midnight and 7:00 AM.
 - (4) Exterior lighting shall not project into adjoining residential lots. Use of stadium-style or other pole-mounted lighting is prohibited. Lighting of accessible paths may be provided, if necessary.
 - (5) In cases where off-site parking is employed, the event venue shall maintain an agreement with the owner of land where vehicles are parked.
 - (6) The venue shall ensure guests may access the venue safely from off-site parking areas.

- (7) In no instance shall vehicles be parked along streets in ways that block driveways, sight triangles, or emergency access.
- (8) 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.
- (9) 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.
- (10) Event venues shall ensure adequate ingress and egress from all buildings and structures to accommodate emergencies.
- (q) *Financial service.* Financial service uses shall comply with the following standards:
 - (1) Such uses shall be limited to a maximum gross floor area of 4,000 square feet in the CB district; and
 - (2) Uses with accessory features like automated teller machines and drive-throughs shall comply with the applicable accessory use standards in Division 4 of this Article.
- (r) *Hair, nails, and skin-related service.* Such uses shall be limited to a maximum of 500 square feet of floor area in the NB district and up to 2,000 square feet in the CB district.
- (s) *Indoor commercial recreation.* Such uses are limited to a maximum of 6,000 gross square feet in the NB district and a maximum of 12,500 gross square feet in the CB district.
- (t) *Microbrewery or microdistillery.* Such uses shall comply with the standards for a Bar, Cocktail Lounge, or Private Club.
- (u) *Office, professional.* Such uses shall be limited to a maximum of 3,500 gross square feet in the NB district and a maximum of 12,500 square feet in the CB district.
- (v) *Outdoor shooting range.* Outdoor shooting ranges may be permitted subject to the requirements of the district and provided that:²⁶
 - (1) Outdoor shooting ranges shall be located on a site or parcel with an area of at least ten acres.
 - (2) No part of a shooting range shall be located within 100 feet of any property line and less than 1,000 feet from any residential dwelling or school, as measured from the firing line in the direction of the line of fire.
 - (3) Shooting range facilities shall be constructed, at a minimum to include the following protective barriers:
 - a. Backstops with a minimum height of twenty feet;
 - b. Side berms or walls with a minimum height of eight feet;
 - c. Firing line covers of overhead safety baffles for rifle fire only;
 - d. The range shall be enclosed by a six-foot chain link fence with a lockable gate at the entrance; and
 - e. No trespassing – Danger – Shooting Range signs shall be posted along range fence lines every 150 feet.
 - (4) Weapons types are restricted to pistol, rifle, or shotgun.
 - (5) The use of explosives or any target that detonates is prohibited.
 - (6) At least one qualified individual in the sponsoring club or organization shall be certified for shooting range supervision. Each facility shall adopt safety rules and regulations as determined by the sponsoring club or organization.

²⁶ These are new standards.

- (7) No individuals under the age of 18 are permitted on the range during any practice or qualification of firearms unless such individual is participating in an organized and properly supervised onsite by law enforcement personnel.
- (8) The operators of the shooting range shall provide proof of accident and liability insurance coverage. A minimum coverage of \$1,000,000 per individual and \$2,000,000 in the aggregate shall be maintained.
- (w) *Outdoor storage (as a principal use).* The following standards shall apply to all outdoor storage areas:
 - (1) The extent of the outdoor storage area shall be clearly delineated on an application for establishment of the use;
 - (2) Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located;
 - (3) Outdoor storage areas are prohibited between the development's principal structure(s) and an arterial or collector street;
 - (4) No outdoor storage area shall be located within a required perimeter landscaping buffer;
 - (5) Flammable liquids or gas containers in excess of 1,000 gallons shall be stored underground;
 - (6) No materials shall be stored in areas intended for vehicular or pedestrian circulation;
 - (7) No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement; and
 - (8) All areas of outdoor storage shall be surrounded by an opaque fence or wall of a minimum height sufficient to conceal the material stored within from off-site views. In the event the fence or wall is located within a required setback, the fence or wall shall not exceed the maximum height for fences or walls specified in Division 4 of Article 6. Nothing shall limit the height of a screening fence or wall if it is located 20 feet or more from the edge of a required setback.
 - (9) In no instance shall materials, equipment, or other items located within a storage area be visible above the fence or wall surrounding them.
 - (10) In no instance shall a manufactured or mobile home be used for the purposes of storage.
- (x) *Packaging and Printing Service.* Such uses shall be limited to a maximum of 2,000 gross square feet in the NB district and a maximum of 5,000 square feet in the CB district.
- (y) *Pharmacy.* Pharmacies shall comply with the following standards:
 - (1) Such uses shall be limited to a maximum gross floor area of 6,500 square feet in the CB and OI districts; and
 - (2) Uses with accessory features like a drive-through shall comply with the applicable accessory use standards in Division 4 of this Article.
- (z) *Retail use.*
 - (1) Except for grocery stores, no individual retail use shall occupy more than 3,500 gross square feet in the NB district or more than 12,500 gross square feet in the CB district.
 - (2) Thrift stores, flea markets, and pawn shops shall be limited to a maximum gross floor area of 6,500 square feet in the CB district.
 - (3) Nothing shall limit the establishment of a shopping center or other use that includes more than one retail establishment, but in no instance shall a lot or site include more than 100,000 gross square feet of retail uses on any single lot or site.
 - (4) A grocery store shall have a maximum gross floor area of 15,000 square feet in the NB district.
- (aa) *Self-service storage.* Self-service storage facilities shall comply with the following standards:
 - (1) The use shall be located on a lot or site of at least two acres in area;
 - (2) No more than 50 percent of the total site may be occupied by buildings;

- (3) External-access only storage buildings shall not exceed 20 feet or one story in height;
- (4) No activity other than storage shall take place within a storage unit; and
- (5) Storage of hazardous, toxic, or explosive substances shall be prohibited.

(bb) Sexually oriented/adult business.

- (1) *Authority and jurisdiction.* The provisions of this article are adopted by the town council under authority granted by the general assembly of the state found in G.S. 14-202.10 et seq. From and after the effective date of the ordinance from which this article is derived, this article shall apply to every building, lot, tract, or parcel of land within the planning jurisdiction of the Town.
- (2) *Purpose.* For the purpose of promoting the health, safety, morals and general welfare of the citizenry of the Town, this article is adopted by the board of commissioners to regulate adult and sexually oriented businesses located in the Town. Further, the regulations of this article have been made with reasonable consideration among other things, as to the character of the Town and its areas and their peculiar suitability for these businesses.
- (3) *Abrogation.* The regulations of this article shall not repeal, impair, abrogate, or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, or regulations previously adopted pursuant to law in any established zoning district in the Town. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.
- (4) *Massage of private parts prohibited.* It shall be unlawful for any person to massage or offer to massage the private parts of another for hire in the Town. The term "massage" is defined as meaning the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device. The term "private parts" is defined as meaning the penis, scrotum, mons, veneris, vulva or vaginal area. The provisions of this article shall not apply to licensed medical practitioners, osteopaths, or chiropractors, or persons operating at their direction, in connection with the practice of medicine, chiropractic, or osteopathy.
- (5) *Scope and provisions of this section.*
 - a. *Sexually oriented/adult businesses.* No sexually oriented/adult business shall be permitted in any building located within 1,000 feet in any direction from:
 - 1. A building used as a dwelling.
 - 2. A building in which an adult business or a sexually oriented business is located.
 - 3. A building used as a church, synagogue, or other house of worship.
 - 4. A building used as a public school or as a state-licensed day care center.
 - 5. Any lot or parcel on which a public playground, public swimming pool, or public park is located.
- (6) *Nonconforming adult businesses and sexually oriented adult businesses.* Any adult business or sexually oriented business lawfully operating on the effective date of the ordinance from which this article is derived, that is in violation of this article shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two years. Such nonconforming uses shall not be increased, enlarged, extended, or altered.

State Law reference— Adult entertainment, G.S. 14-202.10 et seq.

(cc) Spa, Day or Medical. Such uses shall be limited to a maximum of 12,500 gross square feet of floor area in the OI and CB districts.

(dd) Veterinary clinic. Such uses are limited to a maximum of 12,000 gross square feet of floor area.

Sec. 30-5305 - Industrial uses.

(a) *Asphalt or concrete plant.* An asphalt or concrete plant shall comply with the following standards:²⁷

- (1) An asphalt plant shall be located at least 50 feet from a lot line.
- (2) A security fence, a minimum of six feet in height, shall be provided around the use.
- (3) 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.
- (4) 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.
- (5) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.
- (6) Access drives shall be located no closer than 15 feet from a lot line.
- (7) 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.

(b) *Extractive industry.* Quarries and other extractive industries shall comply with the following requirements:²⁸

- (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 five 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 principal arterials, collector streets, and lots in residential zoning districts.
- (5) No blasting operations shall be conducted during the hours from 6:00 p.m. to 7:00 a.m., 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, silt up or pollute any stream, undermine any public road or bridge, or promote flooding on adjacent land.
- (7) 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.
- (8) The rehabilitation plan shall identify the ways the site will be to 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.
- (9) 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.
- (10) A rehabilitation guarantee, payable to the Town, shall be required in an amount equal to the estimated cost of carrying out the rehabilitation plan.

²⁷ This is a new use and standards.

²⁸ This is a new use and new standards.

(11) 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.

(12) 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.

(c) *Flex space.* Flex space use shall comply with the following standards:²⁹

(1) Flex space uses shall meet the off-street parking requirement for this use type in Table 5.1.D.2, Minimum Off-Street Parking Spaces Required, not the individual types of uses within the flex space;

(2) The following activities shall not be included within a flex space use type:

- a. Residential dwellings;
- b. Churches;
- c. Sexually oriented/adult businesses;
- d. Restaurants; and
- e. Cocktail lounges, or private clubs;

(3) Outdoor storage or business-related activity is permitted as an accessory use, subject to all applicable standards in this Ordinance.

(d) *Makerspace.* Makerspace uses shall be configured in accordance with the following standards:³⁰

(1) No outdoor storage or activity shall be permitted;

(2) The use shall include adequate ventilation and equipment for the dispersal of vapors, dust, or airborne contaminants created within the structure;

(3) The use shall include a fire suppression system as required by the fire marshal;

(4) No operation between the hours of 11:00 PM and 7:00 AM; and

(5) Incidental sale of products created on site is permitted.

(e) *Manufacturing, light.* All light manufacturing uses shall comply with the following standards:³¹

(1) Buffer and setback areas in the side and rear may not be used for parking; and

(2) Finished products for display and sale shall not occupy more than 40 percent of the land area between the principal building and all adjacent streets.

(f) *Salvage or junkyard.* Junk yards, including junked automobile storage, shall be subject to the following regulations:³²

(1) Junk yards shall be located at least 200 linear feet, as measured from the required perimeter screening from any lot in a residential zoning district;

(2) An opaque screen eight feet in height shall be required around all boundaries;

(3) Any planted opaque screen shall be at least four feet in height when planted; and

(4) No required front or side yard shall be used for storage purposes.

²⁹ This is a new use and new standards.

³⁰ This is a new use and new standards.

³¹ This is a new use and new standards.

³² This is a new use and new standards.

(g) *Solar energy conversion, major.* Major solar energy conversion uses shall meet the following requirements:

- (1) *Setbacks.* Solar farms and their appurtenant components shall conform to the principal building setbacks of the underlying zoning district which they are located.
- (2) *Height requirements.* Individual modules/panels shall be a maximum of 25 feet in height as measured from the grade at the base of the structure to the apex of the structure.
- (3) *Site plan.* A site plan, drawn and stamped by a state-licensed surveyor or engineer, shall be submitted showing the following:
 - a. The location and dimensions of all proposed areas for the placement of solar panels, screening/fencing and related improvements;
 - b. Any preexisting structures on the same lot, and principal structures on other properties that would affect the placement of solar panels;
 - c. Parking and access areas;
 - d. Location of any proposed solar access easements;
 - e. Location where wiring is brought together for inter-connection to system components and/or the local utility power grid, and location of disconnect switch;
 - f. Any proposed new structures; and
 - g. Any other relevant elements as requested by the board of adjustment.
- (4) *Other requirements.*
 - a. Development of a farm will be subject to other overlay district regulations including watershed impervious surface limits.
 - b. Solar farms shall be fully screened from adjoining properties and adjacent roads by an evergreen buffer capable of reaching a height of ten feet within three years of planting, with at least 75 percent opacity at the time of planting.
 - c. All outdoor lighting shall be shielded to direct light and glare onto the system's premises and may be of sufficient intensity to ensure security.
 - d. Any electrical wiring used in the system shall be underground (trenched) except where wiring is brought together for inter-connection to system components and/or the local utility power grid.
 - e. Solar panels shall be mounted onto a pole, rack or suitable foundation, in accordance with manufacturer specifications, in order to ensure the safe operation and stability of the system. The mounting structure (fixed or tracking capable) shall be comprised of materials approved by the manufacturer, which are able to fully support the system components and withstand adverse weather conditions. Only the attachment of the pole, rack or suitable foundation at the ground contact shall be counted towards impervious calculations.
 - f. Multiple mounting structures shall be spaced apart at the distance recommended by the manufacturer to ensure safety and maximum efficiency.
 - g. No ground-mounted large solar energy systems shall be affixed to a block wall or fence.
 - h. With the exception of the manufactures, or installer's identification, appropriate warning signs, and owner identification sign, all other signs shall be prohibited. Not more than one manufacturer label bonded to or painted upon the solar energy system shall be permitted.
 - i. It is the responsibility of the owner to remove all obsolete or unused systems within 12 months of cessation of operations.
 - j. The Town Planner shall be provided copies of any lease agreement, solar access easement, and plan for removal of system/equipment. If the system is to be interconnected to the local utility power grid, a copy of the conditional approval from the local utility must also be provided before a special use permit will be granted.

- k. The farm and components shall meet all requirements of the state building code.
 - l. The farm and components shall comply with the current edition of the National Electrical Code, UL listed, and be designed with an anti-reflective coating.
 - m. The electrical disconnect switch shall be clearly identified and unobstructed and shall be noted clearly on the site plan.
 - n. The owner or future owner of a property onto which a solar farm is installed assumes all risk associated with diminished performance of said system caused by any present or future adjacent structure or landscaping that may interfere with the system's ability to produce power at its rated capacity, regardless of when that adjacent structure or landscaping is constructed or installed.
 - o. Inverter noise shall not exceed 40 dBA, measured at the property line.
- (5) *Decommissioning, abandonment, hazard abatement.* A signed and notarized decommissioning plan shall be submitted with the special use permit application and shall be in a form suitable to be recorded with the Register of Deeds. The decommissioning plan shall include, at a minimum, all the following provisions and requirements:
- a. Following a six-month period in which no electricity is generated, the permit holder will have six months to complete decommissioning of the system. Decommissioning includes removal of solar panels, support columns, buildings, cabling, electrical components, and any other associated facilities down to 72 inches below grade;
 - b. Identification of any other conditions or circumstances upon which decommissioning will be initiated (e.g., end of lease, condition of a potential public safety hazard, etc.);
 - c. Following removal, disturbed earth shall be graded and reseeded, unless the landowner requests in writing that access roads or other land surface areas are not to be restored;
 - d. Prompt repair or removal of any structures that no longer function, become damaged, or that constitute a safety hazard regardless of whether due to neglect, man-made, or natural causes;
 - e. The timeframe for completion of removal and decommissioning activities shall be from 180 days to 12 months unless otherwise extended following receipt of an application for extension; and
 - f. A signed statement from the party responsible for completing the decommissioning plan acknowledging their responsibility to execute the decommissioning plan in accordance with these standards.
- (6) *Decommissioning performance guarantee.* A performance guarantee for the potential decommissioning of a major solar energy conversion system shall be provided to the Town by an applicant in accordance with the following standards:
- a. The guarantee shall be posted with the Town prior to establishment of the facility;
 - b. The performance guarantee shall renew automatically and shall include a minimum 60-day notice to the Town prior to cancellation;
 - c. The guarantee shall be provided by a company on the U.S. Department of Treasury's Listing of Certified Companies;
 - d. A guarantee consisting of a bond certificate shall be submitted to the Town Planner each year verifying the bond has been properly renewed;
 - e. The amount of the guarantee shall be one and a quarter times the estimated decommissioning cost, or \$50,000, whichever is greater, and shall not be reduced by the salvage value;
 - f. Cost estimates for decommissioning shall be determined by a North Carolina licensed engineer or a licensed contractor and shall be provided by the applicant;
 - g. Compliance with these requirements shall be fulfilled upon deposit of a certified check deposited with the Finance Director;

- h.* Funds deposited with the Finance Director will only be returned when the facility is decommissioned, and any necessary site restoration is completed; and
- i.* The full amount of the bond or certified check shall remain in full effect until the facility is decommissioned and any necessary site restoration is complete.

DIVISION 4. - ACCESSORY USES.**Sec. 30-5401 - Purpose.**

This section authorizes the establishment of accessory uses and structures that are incidental and subordinate to principal uses. The purpose of this section is to allow a broad range of accessory uses and structures, provided they comply with the standards set forth in this section in order to reduce potentially adverse impacts on surrounding lands.

Sec. 30-5402 - Procedure for establishment.

- (a) Accessory 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 accessory use or structure shall be approved, established, or constructed before a principal use is approved in accordance with this Ordinance.
- (b) Applications to establish a planned development shall be supplemented with a written list of proposed accessory uses which shall be attached to the application approval along with other conditions of approval.
- (c) The Common Accessory Use Table may not be inclusive of all possible accessory uses, and in the event an accessory use is proposed that is not listed in the table, the Town Planner shall consult the Principal Use Table to determine if the proposed accessory use corresponds to a listed principal use. Any permitted principal use in a zoning district is also permitted as an accessory use. In no instance shall an accessory use be permitted in a zoning district where it is prohibited as a principal use.
- (d) In the event a proposed accessory use is not listed in the Common Accessory Use Table and there is no corresponding principal use, the Town Planner shall determine how to treat the accessory use in accordance with Section 30-5104, Procedure for Classification of Unlisted Uses.

Sec. 30-5403 - General standards for all accessory uses and structures.

- (a) *Permitted accessory uses and structures.* Permitted accessory uses and structures shall comply with the following:
 - (1) Are clearly incidental to an allowed principal use or structure;
 - (2) Are subordinate to and serve an allowed principal use or structure;
 - (3) Are subordinate in area, extent, and purpose to the principal use or structure; and
 - (4) Contribute to the comfort, convenience, or needs of occupants associated with the principal use or structure.
- (b) *Location of accessory uses and structures.*
 - (1) *Within required landscaping areas.* Except for fences and walls contributing to the screening function of a landscaping buffer, no accessory structure shall be located within a required landscaping buffer except where allowed by Division 5 of Article 6.
 - (2) *Within a required setback.* No accessory use or structure may be located in a required setback except as permitted in Section 30-4104, Allowable Encroachments.
 - (3) *Within other areas on a site.* No accessory use or structure shall:
 - a. Be within ten feet of a lot line, except as authorized by in Section 30-4104, Allowable Encroachments;
 - b. Be within 20 feet of the centerline of an alley except as authorized by in Section 30-4104, Allowable Encroachments;
 - c. Be located within a required front yard;
 - d. Be within a designated fire lane;
 - e. Obstruct required sight distance triangles;

- f.* Impede ingress or egress to a lot, site, or principal structure;
 - g.* Be located above or beneath public utilities (except for fences or walls);
 - h.* Interfere with drainage or stormwater control measures; or
 - i.* Be within an emergency access route designated on an approved site plan.
- (4) *Within an easement.* Except for authorized stormwater control measures within a drainage easement, no accessory use or structure shall be located within any platted or recorded easement without the prior written consent of the landowner.
- (5) *Structure height.* Accessory structures shall comply with the height requirements for the zoning district where located.
- (6) *Maximum size.*
- a.* In no instance shall the cumulative total square footage of all accessory uses or structures on a lot exceed more than 50 percent of the total square footage of the principal structure or structures on the same lot.
 - b.* In the case of an open air principal use, the cumulative total square footage of all accessory uses or structures on a lot shall not exceed more than 40 percent of the total square footage of the area devoted to the principal use.
- (7) *Compliance with ordinance requirements.* Accessory uses and structures shall conform to the applicable requirements of this Ordinance, including this section, the district standards in Article 4, the development standards in Article 6, and the subdivision standards in Article 7.
- (8) *Compliance with design standards.*
- a.* Accessory uses and structures serving principle uses that are subject to the design standards in Division 2 of Article 6, 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 to the principal use.
 - b.* The degree to which proposed exterior materials, colors, and architectural details are configured in a complimentary manner to a principal use shall be in the sole opinion of the review authority deciding the application.

Sec. 30-5404 - Common accessory use table. The Common Accessory Use Table, is established as a guide to identify the appropriateness of the more common accessory uses in each zoning district.

- (a) If a specific accessory use is allowed by-right, the cell underneath the zoning district is marked with a "P".
- (b) If a specific accessory use is allowed subject to a special use permit, the cell underneath the zoning district is marked with a "S".
- (c) If the accessory use or structure is not allowed in a zoning district, the cell is marked with an "X".
- (d) In the case of planned development districts, if an accessory use is allowable, it is marked with an "A", and the accessory use must be set out in the approved master plan or terms and conditions document.
- (e) If there is a reference contained in the column entitled "Acc. Use Standards," refer to the cited section(s) for additional standards that apply to the specific accessory use.
- (f) In the event a particular accessory use or structure is not listed in the table, the Town Planner shall determine if the proposed accessory use or structure can be allowed based on the range of allowable principal uses for the lot in accordance with the Principal Use Table. In no instance shall a use or activity that is prohibited as a principal use on a lot be authorized as an accessory use. If no corresponding or similar principal use can be determined, the Town Planner shall determine if the proposed accessory structure or activity may be permitted as a special use in the district where proposed.

COMMON ACCESSORY USE TABLE

"P" = Permitted with a Zoning Compliance Permit, subject to applicable accessory use standards

"S" = Permitted with a Special Use Permit, subject to applicable accessory use standards

"A" = Allowed provided the use is listed in the PD Terms and Conditions Statement, subject to applicable accessory use.

"•" = Prohibited

[#] = Table Note

ACCESSORY USE OR STRUCTURE TYPE	ZONING DISTRICTS											ACC. USE STANDARDS
	AR	SFR- 1	SFR- 2	SFR- 3	RM HP	RMF	OI	NB	CB	LI	PD	
Accessory Dwelling Unit	P	P	S	S	•	P	S	•	•	•	A	<>
Amateur Ham Radio	P	P	P	P	P	P	P	P	P	P	A	<>
Automated Teller Machine	•	•	•	•	•	•	S	P	P	P	A	<>
Child Care, Incidental	P	P	P	P	P	P	P	S	•	•	A	<>
Drive Through	•	•	•	•	•	•	•	S	P	S	A	<>
Electric Vehicle Charging Station	P	P	P	P	P	P	P	P	P	P	A	<>
Family Health Care Structure	P	P	P	P	P	P	P	•	•	•	A	<>
Guard House, Shelter, or Gatehouse	P	S	S	S	P	P	P	P	P	P	A	<>
Home Occupation	P	P	P	P	S	P	S	•	•	•	A	<>
Outdoor Dining and Seating	•	•	•	•	•	•	•	P	P	•	A	<>
Outdoor Display/Sales	S	•	•	•	•	•	•	P	P	P	A	<>
Outdoor Storage (as an accessory use)	•	•	•	•	•	•	•	S	P	P	A	<>
Parking of Commercial Vehicles	P	S	S	S	•	•	•	P	P	P	A	<>
Parking of Heavy Trucks or Trailers	•	•	•	•	•	•	•	•	P	P	A	<>
Parking of Recreational Vehicles	P	P	P	P	•	•	•	•	•	•	A	
Play Equipment	P	P	P	P	P	P	•	•	•	•	A	
Produce Stand	P	•	•	•	•	•	P	P	•	•	A	<>
Solar Energy System (small scale)	P	P	P	P	P	P	P	P	P	P	A	<>
Stable (horses)	P	P	P	P	•	•	•	•	•	•	A	<>
Storage of Unlicensed or Inoperable Vehicles or Trailers	P	P	P	P	P	•	•	•	•	•	A	<>
Swimming Pool/Hot Tub	P	P	P	P	P	P	•	•	•	•	A	<>
Tool/Storage Shed	P	P	P	P	•	P	•	P	•	P	A	
Underground Storage Tank	P	•	•	•	•	•	•	P	P	P	A	

Sec. 30-5405 - Specific standards for common accessory uses.³³

Standards for a specific accessory use or structure shall apply to the particular individual accessory use or structure regardless of the zoning district in which it is located or the review procedure by which it is approved, unless otherwise specified in this Ordinance. This section sets forth and consolidates the standards for all accessory uses and structures for which a reference to this section is provided in the "Acc. Use Standards" column of the Common Accessory Use Table. These standards may be modified by other applicable standards or requirements in this Ordinance.

- (a) *Accessory dwelling unit (ADU).* An accessory dwelling unit (ADU) is permitted as accessory to a single-family detached dwelling, and shall comply with the following standards:
 - (1) No more than one ADU shall be located on a lot with a single-family detached dwelling;
 - (2) An ADU shall not exceed 35 percent of the total amount of finished floor area in the principal structure;
 - (3) An ADU shall not exceed one story in height, but nothing shall limit an ADU from being located on a second or third story provided the structure complies with the applicable maximum height limitations in the district where located;
 - (4) An ADU and the principal dwelling shall have the same street address and mailbox;
 - (5) An ADU shall not be subdivided or otherwise separated in ownership from the principal dwelling unit;
 - (6) An ADU 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); and
 - (7) An ADU may be served by separate or shared water, sanitary sewer, gas, and electrical utilities.
- (b) *Amateur ham radio.* Amateur radio antennas shall comply with Section 160D-905 of the North Carolina General Statutes 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.
- (c) *Automated teller machine (ATM)*
 - (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 accessory use standards (including districts where permitted) for a 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.
- (d) *Child care, incidental.* An incidental child care or home day care for up to five unrelated children is permitted as an accessory use to an occupied residential dwelling unit if 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 prepared by the NC Department of Health and Human Services.
- (e) *Drive through.* Drive-through facilities shall comply with the following standards:

³³ All of these accessory use standards are new.

- (1) Outdoor speakers associated with a drive-through shall be at least 50 feet from any lot with a residential zoning district designation;
 - (2) Drive-through windows, menus, or order boxes shall not be located on the front façade of the building they serve;
 - (3) 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; and
 - (4) Canopies or other features installed over a drive through window shall maintain common roof lines and materials with the principal structure.
- (f) *Electric vehicle (EV) charging station.*
- (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.
 - (4) Transformers and similar equipment shall be screened from off-site views with landscaping, fences or walls, or other method that obscures the transformer and related equipment.
- (g) *Family health care structure.* One family health care structure is permitted on a lot with a single-family detached dwelling, in accordance with the standards in Section 160D-915 of the North Carolina General Statutes, and the following standards:
- (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 (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.

(h) *Guard house, shelter, or gatehouse.* Such uses shall be subject to the following standards:

- (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;
- (4) Maintain a minimum distance of five feet from a public street right-of-way; and
- (5) Nothing shall limit the placement of a guard house, guard shelter, or gatehouse within a required yard or setback.

(i) *Home occupation.* Customary home occupations such as home offices, beauty parlors, dressmaking, laundering, music teaching, tutoring, etc., shall comply with the following standards:

- (1) Home occupation accessory uses shall be clearly incidental and subordinate to a dwelling's use for residential purposes by its occupants;
- (2) Home occupations shall be engaged in only by a resident on the premises, and not more than one employee may be a nonresident;
- (3) No more than 25 percent of the first-floor area of a dwelling shall be used for home occupations;
- (4) No more than 50 percent of the first-floor floorplate of a detached accessory structure shall be used for home occupations;
- (5) No display of goods or signage shall be visible;

- (6) No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors or electrical interferences detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used that creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises;
- (7) Only one commercial vehicle with up to one attached trailer associated with the home occupation may be parked or stored on the lot; and
- (8) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (j) *Outdoor dining and seating.* Restaurant and similar entertainment uses may provide outdoor dining and seating only in accordance with the following standards:
 - (1) Outdoor seating and dining shall be located to the front or side of the principal use served;
 - (2) Outdoor dining and seating shall be located outside the public right-of-way, and shall not obstruct pedestrian or vehicular access;
 - (3) All State requirements must be obtained prior to serving alcohol; and
 - (4) The outdoor dining or seating area must be at least 100 feet from any residential zoning district boundary.
- (k) *Outdoor display/sales.* The outdoor display and sale of goods shall be limited to a commercial or mixed-use development and shall comply with the following standards:
 - (1) Except in the NB district, an outdoor display/sales area shall not be located within a required front yard or street setback;
 - (2) In the NB district, outdoor display/sales areas may be located on or adjacent to the sidewalk provided the display is attached to or located immediately adjacent to a building's front façade wall;
 - (3) Outdoor display/sales areas shall not be located any closer than five feet from any lot line;
 - (4) Outdoor display/sales areas shall not be located within any local or State site easement; and
 - (5) Outdoor display areas shall maintain at least five feet of space along the side of the display free of obstruction to allow for pedestrian and handicap movement, such that pedestrians do not have to step off the sidewalk or enter the drive aisle to see the merchandise.
- (l) *Outdoor storage (as an accessory use).*
 - (1) *General standards.* The following standards shall apply to all outdoor storage areas other than uses where outdoor storage is the principal use of land:
 - a. The extent of the outdoor storage area shall be clearly delineated on a site plan;
 - b. Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located;
 - c. Outdoor storage areas are prohibited between the development's principal structure(s) and an arterial or collector street;
 - d. All areas of outdoor storage shall be surrounded by an opaque fence or wall of a minimum height sufficient to conceal the material stored within from off-site views. In the event the fence or wall is located within a required setback, the fence or wall shall not exceed the maximum height for fences or walls specified in Division 4 of Article 6. Nothing shall limit the height of a screening fence or wall if it is located 20 feet or more from the edge of a required setback.
 - e. No outdoor storage area shall be located within a required landscaping area;
 - f. Stored goods, materials, and equipment shall be limited to those goods, materials, and equipment associated with the principal use or uses of the lot;

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- (3) 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.
- (r) *Storage of unlicensed or inoperable vehicles or trailers.*
- (1) In the districts where permitted as an accessory use, a maximum of two unlicensed (lacking a valid license plate) or inoperable vehicles or trailers may be permitted per lot.
- (2) Unlicensed or inoperable vehicles or trailers shall be located within an enclosed building or within an opaque fence or wall behind the principal structure.
- (s) *Swimming pool/hot tub.*
- (1) 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.
- (2) Swimming pools built as accessory 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.
- (3) Gates or doors opening into the area around the swimming pool 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.
- (4) 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.
- (5) Swimming pools and hot tubs included as an accessory use to a single-family subdivision shall include one off-street parking space for every four persons of design capacity.
- (t) *Underground storage tank.* 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.

DIVISION 5. - TEMPORARY USES.³⁴

Sec. 30-5501 - Purpose.

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.

Sec. 30-5502 - Applicability.

The standards in this section apply to non-permanent uses that take place on a temporary basis whether on the same site or in different locations in the jurisdiction. The activities listed in this section require the issuance of a temporary use permit, except as exempted, and compliance with the general standards for all temporary uses and structures, and the applicable standards for specific temporary uses.

Sec. 30-5503 - General standards for temporary uses and structures.

All temporary uses and structures shall comply with the following general standards, unless otherwise specified in this Ordinance:

- (a) *General standards.* 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 requirements for temporary signs in Division 8 of Article 6, if signage is proposed;
 - (4) Meet public utility and Town 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 10:00 pm.
- (b) *General conditions.* In approving a temporary use permit, the Town Planner 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.
- (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;

³⁴ These are new standards.

- (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 to ensure that any temporary use will be removed from the lot or site within a reasonable time and the lot or site will be restored to its former condition.

(c) *Standards for specific temporary uses.*

- (1) *Food truck and pushcart vendors.* Food truck operations and pushcart vendors shall comply with the following:

a. *Location.* Food trucks and push carts may only be operated in the following zoning districts:

- 1. The Neighborhood Business (NB) district, subject to the additional standards in subsection (iii) below;
- 2. The Community Business (CB) district;
- 3. The Light Industrial (LI) district; and
- 4. Within a PD district provided the temporary use is listed in the associated master plan or terms and conditions statement.

b. *Placement during and after food sales.*

- 1. Food trucks and push carts 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 in the NB district, or the street has been closed for a special event.
- 2. A food truck or push cart shall be removed after operating hours or a special event and be stored in a legally permissible location.

c. *Additional standards for food trucks and push carts within the neighborhood business district.*

- 1. Food trucks 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.
- 2. The customer access for food sales shall be from the side of the food truck facing the sidewalk not the street.
- 3. Food sales shall not impede pedestrian traffic along the sidewalk.
- 4. Push carts operating in the NB district shall not operate or sell food upon any sidewalk.

d. *Minimum distance from certain use types.*

- 1. No food truck or pushcart vendors shall operate within 100 feet of any school, religious institution, or cemetery.
- 2. No food truck shall operate within 75 feet from the main entrance of any restaurant during business hours, unless authorized by a restaurant.

e. *Operation.*

- 1. The food truck or pushcart owner or their designee shall be present at all times except in case of an emergency.
- 2. The hours of operation shall be between the hours of 7:00 a.m. and 2:00 a.m. except for special events.

3. A food truck shall either sell food or beverage that is exempt from health department regulation, or obtain approval from the county health department where food sales take place.
 4. Food truck operators and push cart vendors 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 and vendors 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.
 5. The vendor shall keep all areas within ten feet of the truck or cart 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 a sanitary sewer system.
- f. Associated features.*
1. There shall be no audio amplifier or similar device to attract the attention of the public.
 2. No tables, chairs, or other structures shall be allowed outside of the food truck or around a push cart.
 3. Advertising consisting of business name, logo, and items available for sale may be displayed on the food truck or push cart. No other form of advertising shall be permitted.
- (2) *Itinerant merchant sales.* Itinerant merchant sales, not including food truck vendors, are permitted on lots in non-residential and planned development districts, subject to the following standards:
- a. The sale of merchandise, products, or material must be a permitted principal use in the zoning district where the sales are temporarily located;
 - b. Itinerant merchants shall file an indemnification form with the Town when engaged in open air sales;
 - c. Itinerant merchant sales shall be located outside of street rights-of way, required sight distance triangles, required landscape areas, vehicular circulation areas, and areas where pedestrian access is needed to ensure safe movement through or across a site;
 - d. Signage shall comply with the standards for temporary signage in Division 8 of Article 6;
 - e. All merchandise and related materials shall be removed from the site following the sale;
 - f. The maximum period of operation of itinerant merchant sales shall be from 8:00 AM to 11:00 PM; and
 - g. Permitted itinerant merchant sales shall be limited in duration to a maximum of 45 continuous days from the date the temporary use permit is issued.
- (3) *Outdoor seasonal sales.* Outdoor seasonal sales are permitted on a lot in all zoning districts, subject to the following standards:
- a. Seasonal sales shall be limited to seasonal agricultural products such as Christmas trees, pumpkins, and living plants;
 - b. 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;
 - c. Exterior lighting shall comply with the requirements in Division 3 of Article 6;
 - d. 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 for a temporary dwelling, and is removed at the end of the sales;
 - e. The on-site accessory 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

- f. Outdoor seasonal sales shall be limited in duration to a maximum of 45 continuous days from the date the temporary use permit is issued.
- (4) *Portable storage container.* Portable storage containers may be permitted as a temporary use to a single-family detached, duplex, or townhouse dwelling unit, subject to the following standards.
- a. *Types distinguished.* Portable storage containers shall take one of the following three forms:
1. A container used for the purposes of storage of personal property such as household items being temporarily stored or relocated;
 2. A roll-off box, bin, or construction dumpster used for the collection and hauling of waste or debris; or
 3. 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 portable storage container, but a temporary use permit is required.
- c. *Exemptions.* The standards in this section shall not apply to portable 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.*
1. No more than two portable storage containers shall be located on a single lot or parcel of land.
 2. No other type of container or shipping container shall be located on the same lot or parcel of land when one or two portable shipping containers are in place.
- f. *Hazardous substances.* Portable 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.*
1. A portable storage container may be located in a driveway, a designated parking area, or behind a dwelling.
 2. If site conditions make placement of the portable storage container behind a dwelling, on a driveway, or in a designated parking area impossible, then the portable storage container may be located immediately adjacent to the driveway or designated parking area.
 3. A portable 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.
 4. In no instance shall a portable 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.*
1. Portable storage containers may be located on a site for a maximum of up to 90 days per calendar year.
 2. In no instance shall these standards be construed to allow placement of one or more portable storage containers on a single site for more than 90 days in any single calendar year.
- (5) *Special events.*

- a. *Exempt events.* A special event is not subject to these requirements if the event lasts two or fewer days within a 180-day period on a lot with an established principal use, or the event is sponsored by the Town, a county, or the State.
 - b. *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 or planned development district, subject to the following standards:
 - 1. A special event includes, but is not be limited to arts and crafts shows, cultural events, musical events, concerts and stage shows, celebrations, festivals, fairs, carnivals, circuses, or outdoor religious events;
 - 2. Circuses, carnivals and similar amusements may be subject to the applicable provisions of the Town Code of Ordinances; and
 - 3. Temporary dwelling(s) are allowed in association with the special event provided they meet the standards for temporary dwellings and are removed at the end of the event.
- (6) *Temporary dwelling.* A temporary dwelling is permitted on a lot subject to the following 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 a lot and meet the dimensional standards of the zoning district, to the maximum extent practicable.
 - c. 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.
 - d. One temporary dwelling may be used to house occupants of the principal dwelling under construction or subject to repair or casualty damage.
 - e. Temporary dwellings may be used on a construction site and occupied by persons having construction or security responsibilities over such construction site.
 - f. Temporary dwellings shall be located on the same lot as the structure under construction.
 - g. The temporary use permit shall not be issued until a site plan approved or a building permit is issued for a principal structure.
 - h. 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.
 - i. 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.
- (7) *Temporary real estate office.* A temporary real estate office is permitted on a lot in a residential, business, special, or conditional zoning district, subject to the following standards:
- a. The office is located on a lot that is part of the real estate development being sold or leased;
 - b. Signage complies with the standards in Division 8 of Article 6;
 - c. The office complies with the dimensional standards of the zoning district in which it is located;
 - d. The temporary office is converted into a dwelling or removed within 30 days after all units are sold or leased; and
 - e. In the event a temporary real estate office is a trailer, it shall be removed within 30 days after all units are sold or leased.
- (8) *Temporary wireless telecommunications facility.* A temporary wireless telecommunications facility shall comply with the following standards: 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 use permit may be renewed for good cause shown;

- b.* 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 use permit may be renewed for good cause shown;
- c.* 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;
- d.* 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
- e.* All temporary wireless telecommunications facilities, including all supporting cables and anchors, shall be contained on the lot.

DIVISION 6. - PROHIBITED USES.**Sec. 30-5601 - Prohibited everywhere.**

- (a) The following use types are not listed in the Principal Use Table, 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 transitional provisions in Article 1.
- (1) *Agricultural uses.*
- Concentrated animal feeding operations; and
 - Slaughterhouses.
- (2) *Commercial uses.* Outdoor advertising or billboards, except where prohibition is preempted by State or federal law. Outdoor advertising lawfully established prior to *(insert the effective date of this Ordinance)*, may be permitted to continue as a nonconforming use only in accordance with Sections 136-126 through 136-140.1 of the North Carolina General Statutes.
- (3) *Industrial uses.*
- Acetylene gas manufacture;
 - Acid manufacture;
 - Ammonia, bleaching powder, or chlorine manufacture;
 - Brick, tile, or terra cotta manufacture;
 - Cellophane manufacture;
 - Creosote manufacture or treatment plants;
 - Distillation of bones, coal, petroleum, refuse, tar, or wood;
 - Explosives, ammunition, fireworks, or gunpowder manufacture;
 - Fat rendering, or production of fats and oils from animal or vegetable products by boiling or distillation;
 - Garbage, offal, or animal reduction and processing;
 - Glue and size manufacture;
 - Hazardous materials handling or storage;
 - Leather and leather products manufacturing involving tanning;
 - Linseed oil, shellac, turpentine manufacture or refining;
 - Nitrogenous tankage, fish meal or manufacture of any fertilizer materials carrying an objectionable odor;
 - Oilcloth or linoleum manufacture;
 - Ore reduction;
 - Pulp mills; and
 - Vinegar manufacturing.
- (4) *Institutional uses.*
- Package treatment plant wastewater disposal systems that discharge to surface waters; and
 - Storage or processing of radioactive or infectious waste.
- (5) *Residential uses.*
- 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); and

- b.* Use of a recreational vehicle as a permanent residence.

Sec. 30-5602 - Prohibited by overlay district standards.

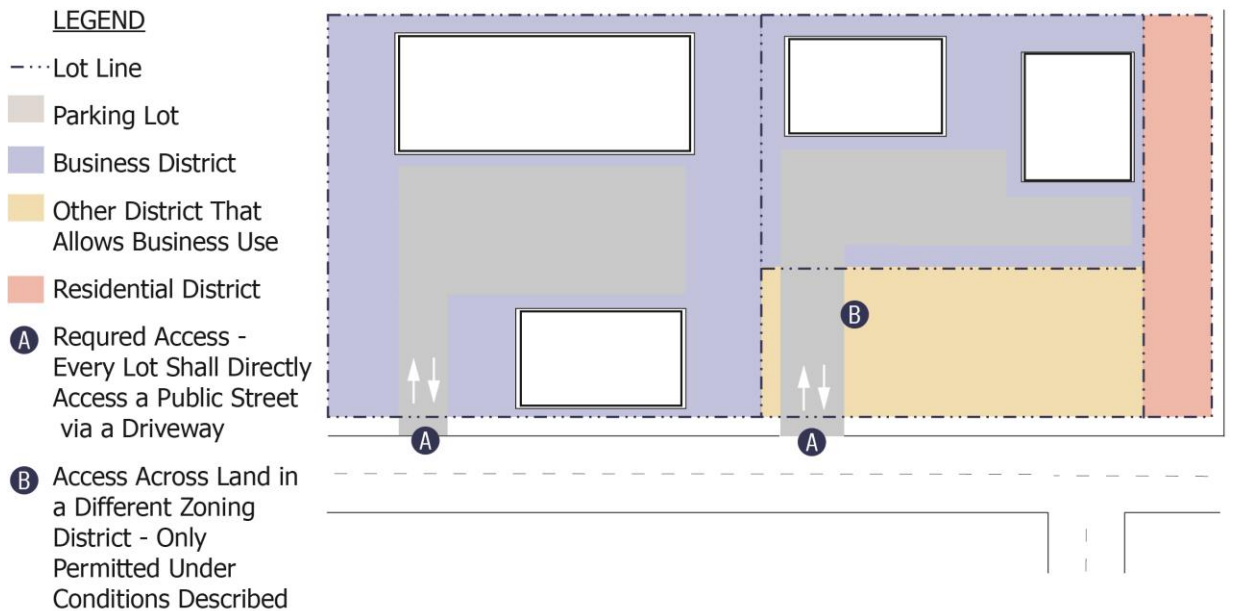
Regardless of how a use type is permitted or prohibited in the Principal Use Table, if a lot or tract is located within one or more overlay zoning districts, any use type limitations in the overlay district standards shall control.

ARTICLE 6. - DEVELOPMENT STANDARDS

DIVISION 1. - ACCESS AND CIRCULATION.

Sec. 30-6101 - Site access and on-site circulation.

- (a) *Purpose and intent.* The purpose of this section is to ensure the safe and efficient movement of vehicles, bicyclists, pedestrians, and deliveries on development sites in the town's planning jurisdiction. More specifically, these standards are intended to:
- (1) Protect the health and safety of town residents and visitors;
 - (2) Ensure pedestrian accessibility is included in site planning;
 - (3) Protect the safety of motorists, pedestrians, and bicyclists from traffic entering or exiting the street system; and
 - (4) Encourage alternative forms of transportation.
- (b) *Applicability.*
- (1) *General.* Except where otherwise expressly stated, the standards in this section apply to all new development in the town's planning jurisdiction.
 - (2) *Existing development.* Compliance with these standards shall also apply to redevelopment of an existing structure, building, or use when it is expanded, enlarged, or otherwise increased in intensity in an amount equivalent to or beyond 50 percent.
 - (3) *Conflict.* In the event of conflict or overlap with the standards in this section and the standards in article VI, Development Standards the standards in article VII, Subdivisions, shall control.
- (c) *Timing of review.* Development subject to these standards shall be reviewed for compliance at the time of site plan, or special use permit review, as appropriate. In cases where a development application is considered by more than one review authority, the decision regarding compliance with these standards shall be made by the review authority making the final decision on the application under review.
- (d) *Site access and circulation standards.*
- (1) *Access to lots.*
 - a. Every lot shall abut or have direct access, via a driveway, to a public street.
 - b. No building or structure shall be constructed or placed on a lot that does not abut or have direct access to a public street.
 - c. Direct access to a publicly-maintained street shall not extend through or across land in a different zoning district than the lot being served by the access (see Figure 1 Lot Access). This requirement is waived when the land in the different zoning district is classified as a business district, allows the use being served by the direct access, or provides the sole means of access for the use.

FIGURE 1: LOT ACCESS

d. Vacant lots of record established prior to November 2, 2020, that do not abut a publicly-maintained street may establish access through a permanent access easement, provided the lot is used for one single-family detached dwelling and its allowable accessory uses, and provided the easement complies with the following:

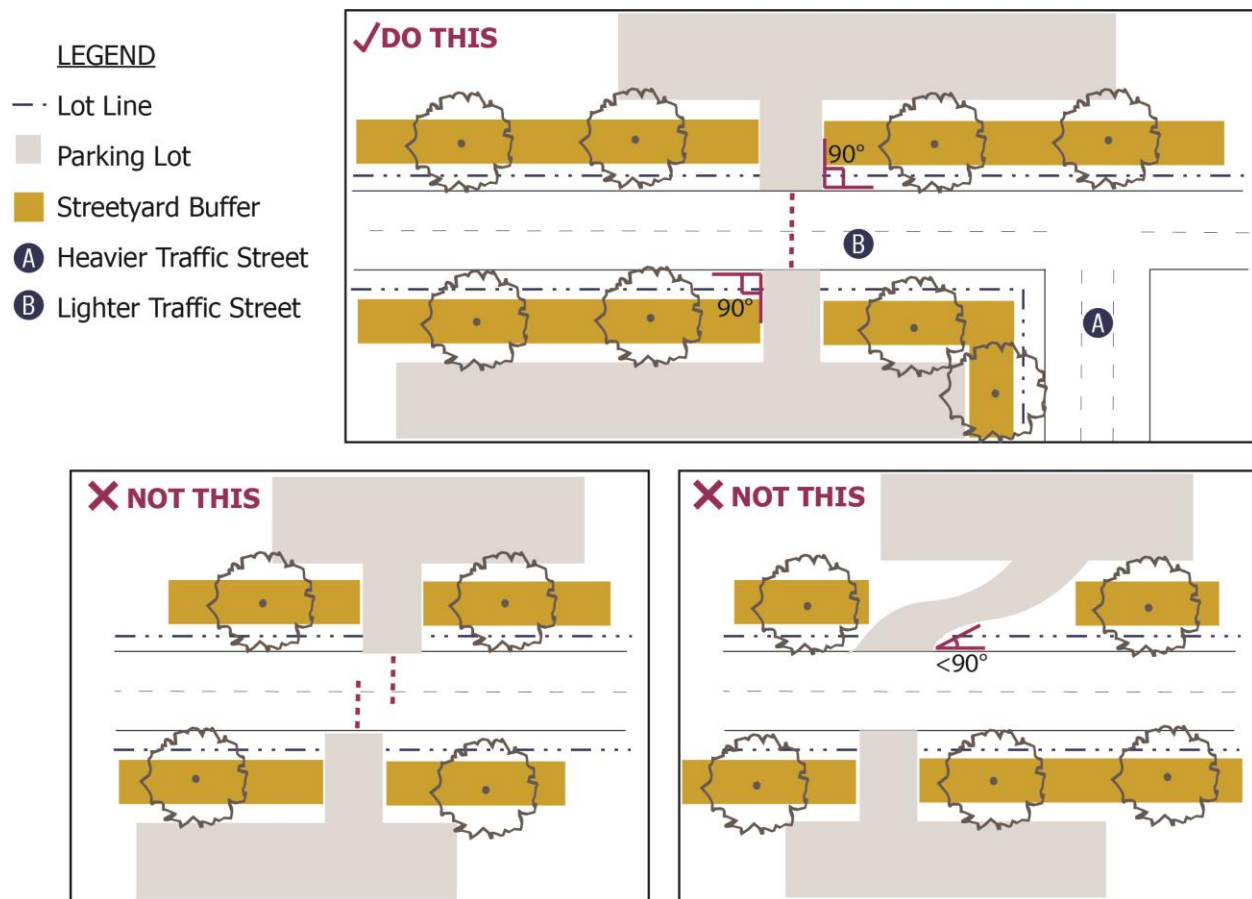
1. The easement is recorded in the offices of the register of deeds;
2. The minimum easement width is 20 feet;
3. The minimum separation between the easement and any other platted access or right-of-way is at least 150 feet;
4. The location of the easement is recorded on a plat; and
5. The easement permits ingress, egress, regress, and necessary utilities to serve the lot.

(2) *Compliance with street requirements.* Development subject to the standards in this section that includes construction activity affecting streets or street rights-of-way shall also comply with the standards in section 30-415, Standards: Access, circulation and open space.

(3) *Driveways.*

- a. Driveways providing ingress or egress to a state-maintained or private 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. All new driveways connecting to State-maintained streets shall obtain a driveway permit from NCDOT prior to the construction.
- c. Driveway configuration.
 1. Vehicles can enter and exit from a lot without posing any substantial danger to themselves, pedestrians, bicycles, or vehicles traveling on abutting streets.
 2. Interference with the free and convenient flow of traffic on abutting or surrounding streets is minimized.

3. Driveway radii shall be designed in accordance with the NCDOT's or the town's specifications and shall not extend beyond side lot lines.
4. 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.
5. Driveways shall be as nearly perpendicular to the street right-of-way as possible (see Figure 2 Driveway Configuration).
6. Driveways shall line up with other driveways/streets across the street, where practicable.
7. Driveways on corner lots shall provide access from the street with less traffic, to the maximum extent practicable.

FIGURE 2: DRIVEWAY CONFIGURATION

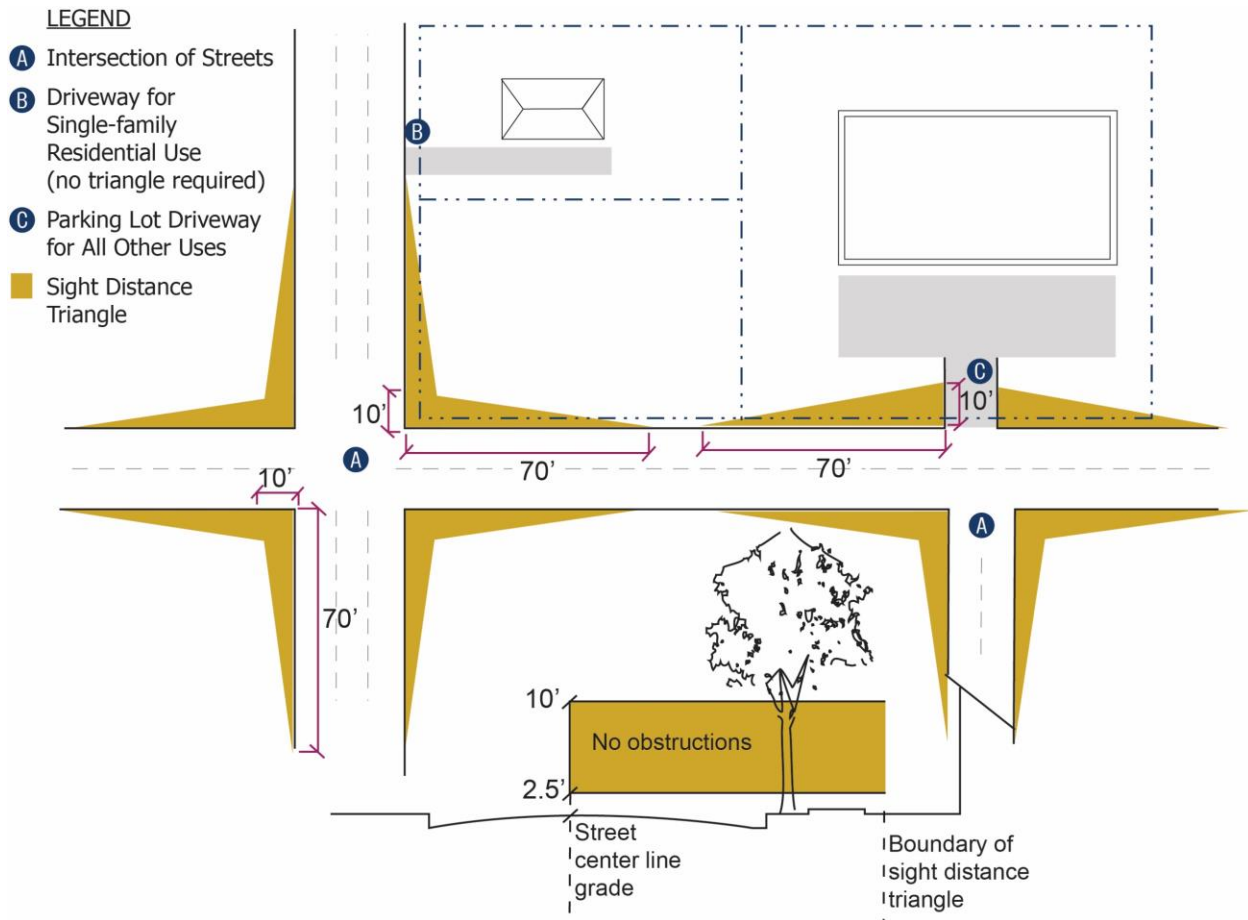
d. Driveway spacing.

1. No portion of any driveway leading from a street shall be closer than 100 feet to the corner of any adjacent street intersection measured from the edge of the right-of-way.
2. On lots with less than 100 feet of lot width, the driveway shall be located as far as practicable from the adjacent street intersection.

3. Except when configured as paired driveways, driveways serving individual single-family detached dwellings, individual single-family attached dwellings, duplex, triplex, or quadruplex buildings shall be located at least 20 linear feet from any other driveway on the same or different lot. For the purposes of this section, paired driveways are up to two driveways, whether on the same or different lots, where one side of a driveway is within five feet of the side of the other driveway.
 4. Except as provided in [subsection] 3 above, no two driveway access points, whether on the same or different lots, shall be located within 50 feet of each other, to the maximum extent practicable.
 - e. *Driveway surfacing.* New driveways established the effective date of these standards that abut a paved street shall be surfaced with asphalt or six inches of concrete for a distance of at least five feet from the edge of the right-of-way or the driveway radius point, whichever is greater.
- (4) *Sight distance triangles.*
- a. 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 the sight distance triangle requirements table below.

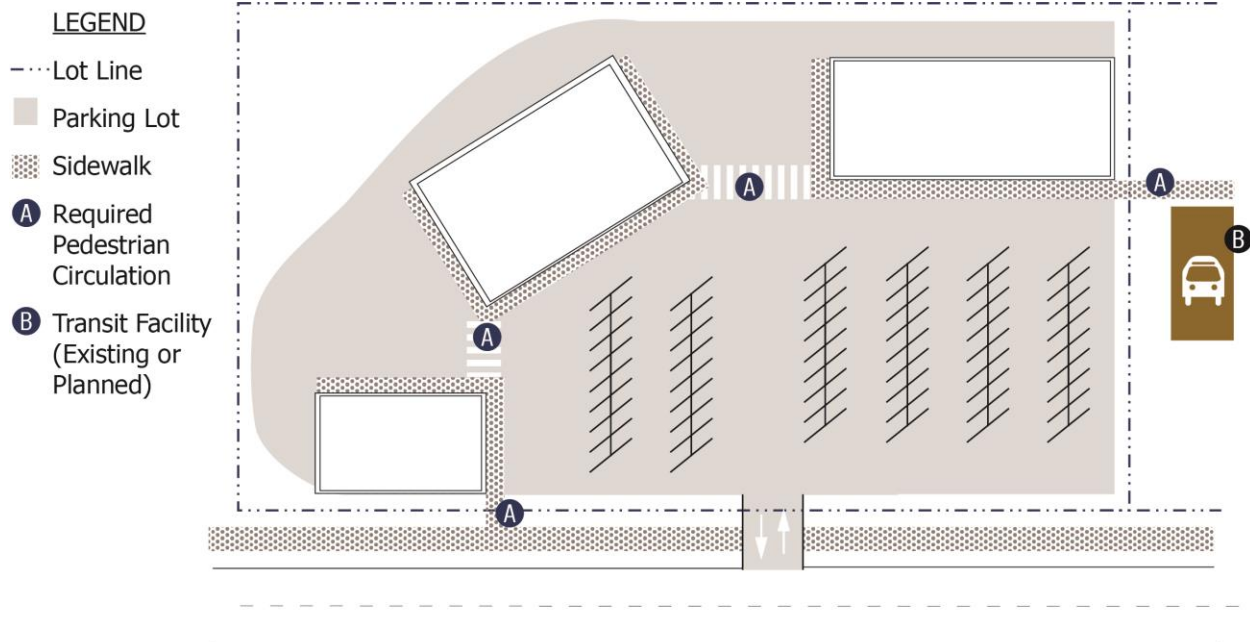
SIGHT DISTANCE REQUIREMENTS TABLE		
TYPE OF INTERSECTION		MINIMUM SIGHT DISTANCE TRIANGLE REQUIRED [1] [2]
Intersection between 2 streets (public or private)		10/70 from all approaches
Driveways serving parking lots		10/70 from the street approaches
Driveways serving individual land uses without parking lots	Single-family detached and attached dwellings (including duplexes)	None
	All other uses of land	10/70 from street approaches, wherever possible
NOTES: [1] Sight distance triangles shall be an area between a point at the edge of a street right-of-way located 70 linear feet from the intersection and a second point at the edge of the opposing street right-of-way located ten feet from the intersection. [2] The NCDOT may require an alternative configuration.		

- b. No planting, structure, fence, wall, slope, embankment, parked vehicle, or other obstruction to vision between the heights of two-and-one-half feet and ten feet above the centerline grades of intersecting streets or accessways may be located within a required sight distance triangle (see Figure 3 Sight Distance Triangles).

FIGURE 3: SIGHT DISTANCE TRIANGLE

(5) *On-site pedestrian walkways.* On-site pedestrian walkways that minimize conflict between pedestrians and vehicles shall be provided on all non-residential, mixed-use, and multi-family development sites, and shall be configured in accordance with the following standards.

- a. On-site pedestrian walkways shall connect building entrances to off-street parking areas and to other building entrances on the same site (see [Figure 4 On-Site 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. In cases where existing or planned sidewalks do not exist, at least one on-site pedestrian connection shall continue to the right-of-way edge.
- c. Connections shall be made to all existing or planned adjacent transit facilities, to the maximum extent practicable.
- d. On-site pedestrian walkways shall be paved with asphalt, concrete, or other all-weather material, and shall be of contrasting color or materials when crossing parking lot drive aisles.
- e. On-site pedestrian walkways shall be positively drained and configured to avoid areas of pooling water.
- f. On-site pedestrian walkways shall be in compliance with applicable state and federal requirements, including ADA requirements.

FIGURE 4: ON-SITE PEDESTRIAN WALKWAYS

(6) *Compliance with requirements for sidewalks.* Development subject to the standards in this section shall comply with all applicable standards in section, 30-415(1)g, Subdivision Road Standards, and section 30-415(2), Sidewalks.

(Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

Sec. 30-6102 - Accessibility for the handicapped.

Except for single-family dwellings, all buildings and facilities used by the general public shall be accessible to and usable by the physically handicapped in accordance with the building code provisions as established by the state.

(Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

DIVISION 2. - DESIGN STANDARDS**Sec. 30-6201 - Commercial building design standards.**

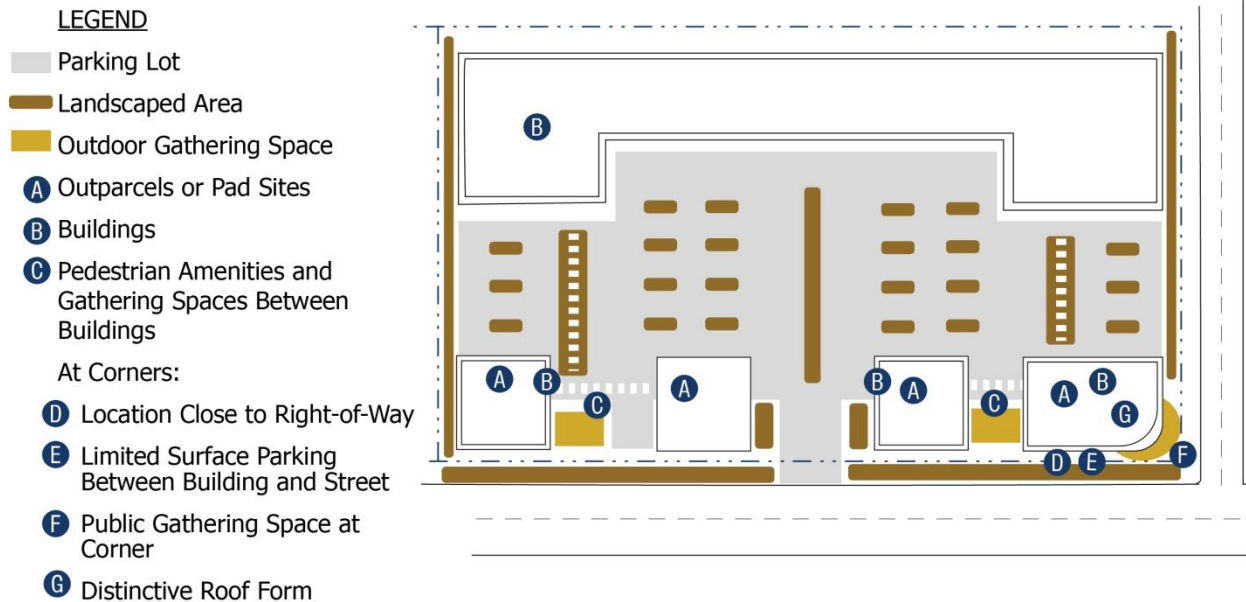
- (a) *Purpose and intent.* These commercial design standards supplement the applicable zoning district and use-specific standards of this article and provide minimum requirements for the design of commercial development. These standards are intended to provide clarity on the town's expectations for new commercial development quality and appearance. More specifically, the purpose of these standards is to:
- (1) Implement the policy guidance from the comprehensive plan regarding protection of the desired small-town community character;
 - (2) Assure a fair and consistent application of the commercial design standards to new development and redevelopment;
 - (3) Foster increased compatibility between commercial development and nearby residences;
 - (4) Encourage the maintenance of a village atmosphere; and
 - (5) Promote property values and protect existing public and private investment.
- (b) *Applicability.* The standards in this section shall be applied to the following forms of development and land use activities:
- (1) *New commercial development.* The establishment of new principal structures containing or intended for a commercial, office, personal service, retail, restaurant, or light industrial use type, as identified in the principal table of uses found in this article.
 - (2) *Changes in use.* Changes in use of an existing principal building or development site where the new use is subject to these commercial design standards, but no additions or expansions are proposed shall comply with the requirements in **section 30-209(e), Commercial Site Configuration Standards**, but are not required to comply with the standards in **section 30-209(f), Building Configuration Standards**.
 - (3) *Additions and expansions to existing development.* Increases in an existing commercial building's floor area or a commercial site's impervious surface by 51 percent or more beyond that in existence on the effective date of these standards shall require full compliance with these provisions.
 - (4) *Reconstruction of existing buildings.* Reconstruction of an existing commercial building shall be treated as new development for the purposes of these standards.
- (c) *Exemptions.*
- (1) The standards in this section shall not apply to the following forms of development:
 - a. Commercial development existing prior to effective date of these standards unless subject to a change in use, reconstruction, addition, or expansion;
 - b. Commercial development taking place as part of a bona fide farm;
 - c. Commercial development subject to a historic landmark designation or subject to standards applicable in a local historic district; and
 - d. Development of civic, religious, or fraternal organization use types.
 - e. Adult uses and gaming establishments shall be exempted from the transparency standards in **section 30-209(f)(8), Transparency**.
 - (d) *Timing of review.* Development subject to these standards shall be reviewed for compliance at the time of site plan, special use permit, or conditional rezoning application review, as appropriate. In cases where a development application is considered by more than one review authority, the decision regarding compliance with these standards shall be made by the review authority making the final decision on the application under review.
 - (e) *Commercial site configuration standards.* Development subject to these commercial design standards shall comply with the following:

(1) *Building placement.*

- a. All principal and accessory buildings shall be set back at least 20 linear feet from the ultimate right-of-way boundary of any adjacent street. The ultimate right-of-way boundary location shall be as indicated in the town's adopted policy guidance, the applicable comprehensive transportation plan adopted by NC CAMPO, or as indicated by the NCDOT. In cases where the ultimate right-of-way boundary is not identified, the building setback shall be measured from the centerline of the existing right-of-way outwards for a minimum distance corresponding to one-half of the currently specified right-of-way width plus 20 feet.
- b. All development subject to these standards shall have a maximum setback of 50 feet from the ultimate right-of-way boundary of any adjacent street.

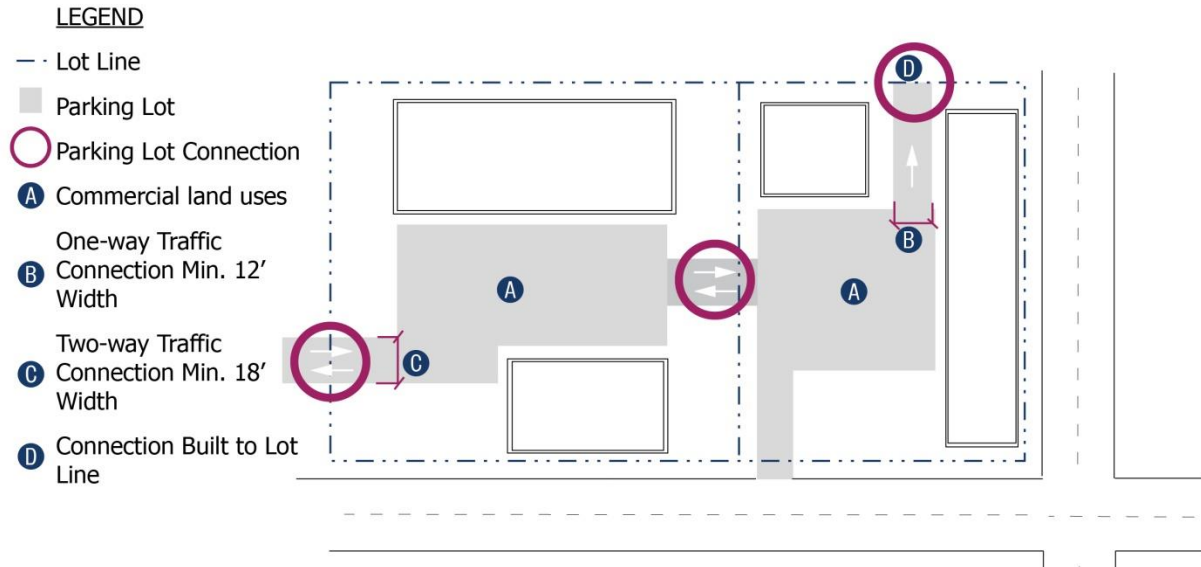
(2) *Outparcel development.* Development on outparcels or pad sites associated with a commercial development shall comply with the following requirements (see **Figure 5 Outparcel Development**):

- a. 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.
- b. Outparcel buildings on lots at street corners shall be located and configured to define the corner through a combination of:
 1. Locating the building as close to the rights-of-way as is practicable;
 2. Limiting surface parking between the building and the streets;
 3. Providing a public gathering space adjacent to the corner; and
 4. Distinctive roof form or other pedestrian features such as porches, canopies, or arcades.

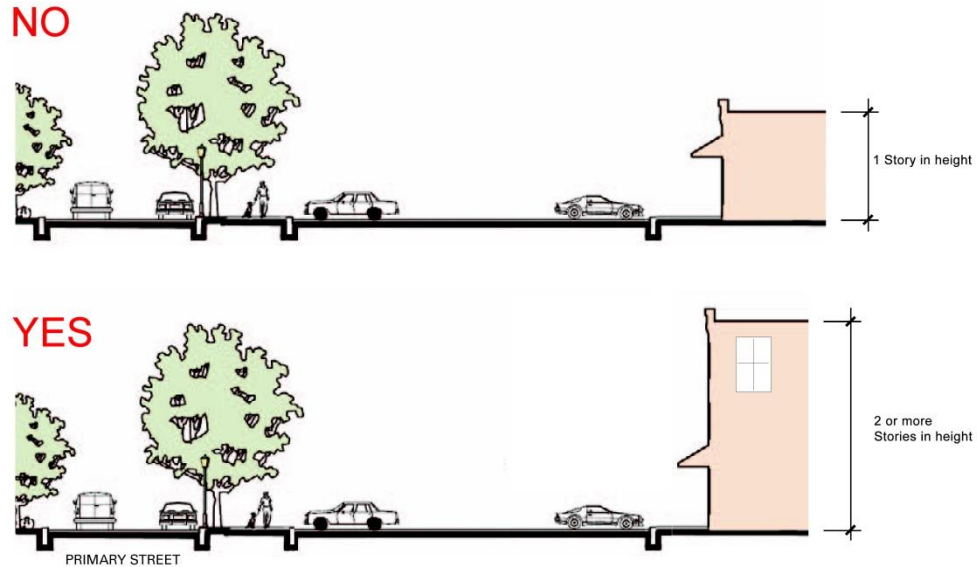
FIGURE 5: OUTPARCEL DEVELOPMENT(3) *On-site circulation.*

- a. All driveways shall be constructed so that vehicles can enter and exit from a lot without posing any substantial danger to themselves, pedestrians, bicycles, or vehicles traveling on abutting streets and that any interference with the free and convenient flow of traffic on abutting or surrounding streets is minimized. In no instance shall a driveway be configured so that a vehicle must back onto an arterial, collector, or thoroughfare street.

- b. Driveways shall be as nearly perpendicular to the street right-of-way as possible.
- c. In cases where two or more commercial uses are located on adjacent lots along a street, the off-street parking lots serving the uses shall be connected to one another so that a vehicle may travel from one establishment to another without use of the street network (see [Figure 6 Parking Lot Connection](#)). Where a required parking lot connection eliminates a required landscape planting area or required off-street parking space, the landscaping and off-street parking requirements shall be reduced to accommodate the parking lot connection. Compliance with this standard shall be waived in cases where a parking lot connection would create unsafe turning movements or pedestrian conflicts.

FIGURE 6: PARKING LOT CONNECTION**(4) Off-street parking location.**

- a. The placement of all off-street parking to the side or rear of the building it serves is strongly encouraged. Buildings of one story in height may have up to one single-loaded row of off-street parking spaces between the front façade of a building and the street it faces.
- b. Buildings of two stories in height may have up to two rows of parking spaces between the front façade of a building and the street it faces (see [Figure 7 Parking Placement](#)).
- c. Multi-building developments shall be configured so that off-street parking areas are internal to the site and located behind the buildings located adjacent to streets.

FIGURE 7: PARKING PLACEMENT**(5) Signage.**

- a. No flashing, moving, or portable signs shall be permitted.
- b. In no instance shall a window sign or signage placed on or in a window or transparent door obscure more than two square feet of the window or door's total area.

(6) Service areas.

- a. Off-street loading areas, service areas, refuse/recycling collection areas, and outdoor storage of equipment or raw materials shall be located to the side or rear of a principal building. In addition, such features shall be screened through the use of an opaque fence or wall of a minimum height necessary to obscure views from on-site and off-site locations.
- b. Outdoor display of products available for sale may be located in front of a principal building and are not required to be screened provided these areas are physically accessible to patrons. Areas utilized for the display of products for sale that are not physically accessible to patrons shall be considered areas of outdoor storage and shall be located and screened in accordance with these standards.

(7) Equipment screening.

- a. All ground-based and roof-mounted equipment shall be fully screened from view from adjacent streets, parks, open space, and residentially-used lots (see [Figure 8 Rooftop Screening](#)).
- b. Wall-mounted mechanical equipment mounted at heights over 36 inches from grade and measuring 16 inches or more in any dimension shall be fully screened, concealed, or camouflaged to minimize its appearance from adjacent streets, parks, open space, and residentially-used lots.

FIGURE 8: ROOFTOP SCREENING**(8) Stormwater control measures.**

- a. Stormwater control measures, including, but not limited to, retention ponds and detention basins, shall either be configured as site amenities or be fully screened from view on all sides by evergreen opaque vegetation reaching a minimum height of six feet above grade within three years of planting.
- b. Stormwater control measures (SCMs) shall be considered as site amenities when all of the following are present:
 1. They are not surrounded by a fence intended to exclude pedestrians;
 2. Finished grades around the SCM do not inhibit walking;
 3. They include landscaping features such as trees and shrubs;
 4. There is some form of central feature or focal point such as a fountain; and
 5. Seating or a walking path is provided adjacent to the SCM.

(9) Utilities. New utility service, including electricity, required to serve development subject to these standards shall be located underground. Nothing in these standards shall be construed to require existing above-ground utilities to be placed underground as part of new development.**(f) Building configuration standards.** Buildings subject to these commercial design standards shall comply with the following:**(1) Maximum building size.** Individual principal buildings subject to these standards shall maintain a maximum total floor area in accordance with the following:

- a. Lots that front and are accessed by an arterial or thoroughfare street may include up to one principal building with a maximum total floor area of 40,000 square feet.
- b. Lots that front and are accessed by a collector street may include up to one principal building with a maximum total floor area of 25,000 square feet.
- c. Lots that front and are accessed by a local street may include up to one principal building with a maximum total floor area of 10,000 square feet.
- d. Nothing shall limit the cumulative total amount of floor area within a multiple building development, provided that the largest principal building does not exceed the applicable maximum set forth in this section, and provided that each additional building within the multi-building development is no larger than 50 percent of the applicable maximum building size.

(2) Orientation.

- a. The primary entrance shall be architecturally and functionally designed on the front façade facing the primary street (see Figure 9 Building Orientation).

- b. Except for multi-building developments such as shopping centers or campus-style developments, the front façade of the principal structure shall be parallel to the front lot line and street.
- c. Nothing shall limit a secondary entrance from facing an off-street parking lot.

FIGURE 9: BUILDING ORIENTATION

- LEGEND**
- A** Primary Entrance On Front Facade Facing Primary Street
 - B** Front Facade Parallel to Front Lot Line and Street

**(3) Primary entrance.**

- 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 10 Primary Building Entrances](#)):
 1. Changes in building material or color;
 2. Changes in paving or walking surface materials;
 3. A significant architectural feature that extends above the primary roof height;
 4. A projection or recess of at least five feet beyond the adjacent wall plane;
 5. Outdoor pedestrian gathering or seating areas capable of serving at least five people at the same time;
 6. A canopy, awning, portico, archway, arcade, or other covering that extends outwards from the building wall by at least five feet;
 7. Glazing that extends upwards for at least 75 percent of the building's height proximate to the entrance door(s);
 8. Architectural detailing around the entryway such as tilework, entablature, or integrated moldings; or
 9. Fountains, artwork, or landscaping plantings in raised planters immediately adjacent to the entrance door(s).

FIGURE 10: PRIMARY BUILDING ENTRANCES**LEGEND**

A Change in Building Material or Color	E Canopy, Gallery or Arcade
B Change in Paving Material	F Architectural Detail Such as Tile Work
C Significant Architectural Feature	G Landscaping Planter
D Projections or Recesses	H Outdoor Pedestrian Gathering Area

(4) Exterior materials.**a. Configuration.**

- 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 (stucco).
- Heavier details may be permitted as details on corners or around doors and windows.
- 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.
- 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 11 Commercial Building Materials](#)).

b. Prohibited materials. The following materials shall be prohibited on any primary or secondary building façade walls:

- Untextured tilt-up concrete panels;
- Pre-fabricated steel panels;
- Corrugated sheet metal;
- Smooth-face concrete blocks;
- Vinyl siding, soffit, or fascia;
- Synthetic stucco within two feet of the grade;
- Asphalt shingles or siding; or
- Mirrored glass.

FIGURE 11: COMMERCIAL BUILDING MATERIALS**LEGEND**

- A** Heavier Materials
Below Lighter Materials
- B** Heavier Materials
around Doors and
Windows
- C** Material Changes at
Logical Locations

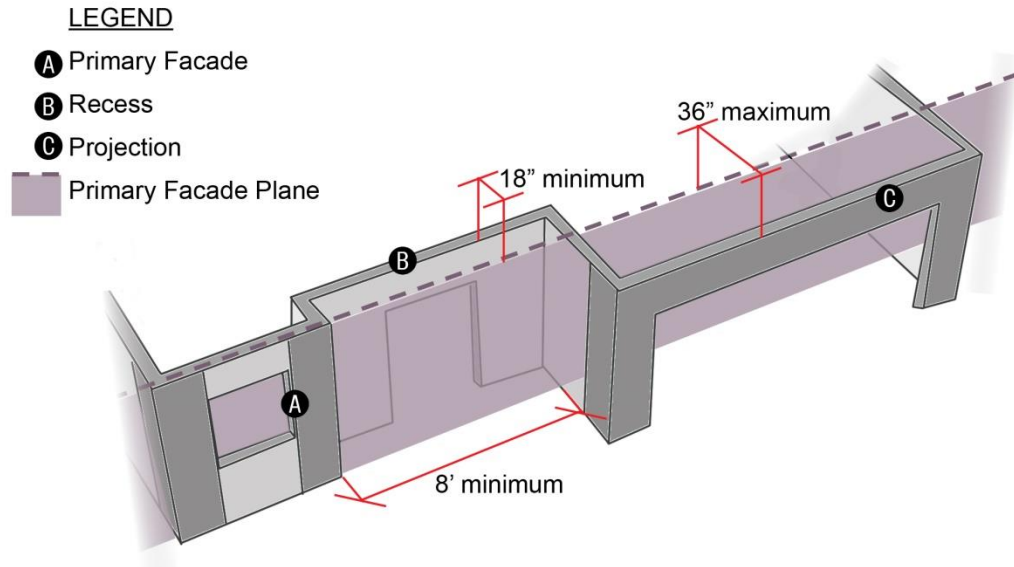
*c. Color.*

1. *Primary colors.* Overly bright, neon, or "day-glow" colors shall not be used as primary exterior building colors. Nothing shall limit traditional community material colors.
2. *Accent colors.* Building trim and accent areas may feature brighter colors, including primary colors, but these colors may not comprise more than 15 percent of any building façade.

- d. Compatibility in multi-building developments.* 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.

- (5) *Building articulation.* Buildings subject to these standards shall be configured so that no single façade visible from a street shall extend for longer than 35 linear feet without inclusion of one or more of the following features:

- a. The use of projections or recesses in the building façade wall with a depth of between 18 inches and 36 inches from the primary façade plane and a minimum span of eight feet (see [Figure 12 Commercial Building Articulation](#));
- 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 materials or colors from grade to the roof; or
- d. A single vertical accent or focal point extending well above the primary roofline, such as a tower feature, located on a prominent building corner.

FIGURE 12: COMMERCIAL BUILDING ARTICULATION**(6) Roof form.**

- a. Roof pitches less than 3:12 and flat roofs shall require a parapet wall on all building sides visible from a street.
- b. Parapet walls, when provided, shall fully screen all roof-top mechanical equipment from view from the street and shall include decorative cornices or caps.
- c. A pitched roof shall have eaves that extend a minimum of 12 inches beyond the building face.
- d. Gable roofs shall incorporate roof rakes that project outwards a minimum of at least 12 inches from the building face.

(7) Canopies. Except for canopies associated with fuel sales, overhead canopies intended to cover the vehicles of patrons shall be configured in accordance with the following standards:

- a. The total number of canopies shall be limited to one per building;
- b. The canopy shall be physically connected to the principal structure;
- c. The canopy shall be located to the side or rear of the structure, or configured so that it has the appearance of being enclosed by building walls on at least two sides;
- d. The canopy shall be configured of consistent or complimentary materials and colors as the primary exterior materials, including canopy supports;
- e. The canopy shall be subject to maximum height standards for buildings in the zoning district where located; and
- f. Any exterior lighting from under the canopy shall be configured so that the source of illumination (the bulb) is recessed into the canopy and is not visible from off-site areas.

(8) Transparency.

- a. Buildings subject to these standards shall be configured so that building façades visible from streets shall include a window or functional general access doorway at least every 20 feet along the façade (see Figure 13 Commercial Transparency). False windows or display casements are an allowable alternative, as approved by the Town Planner .
- b. At least 25 percent of the first ten feet in height of a façade facing a street shall be transparent.
- c. Ventilation grates or emergency exit doors located at the first floor level oriented toward a street shall be decorative.

FIGURE 13: COMMERCIAL TRANSPARENCY**EXAMPLE**

First Floor Facade: 10' x 20' = 200 sf

Transparency:

2 Windows at 28 sf Each = 56 sf

Glass Door & Transom = 27 sf

First Floor Facade Transparency:

$$83' \div 200' = 41.5\%$$

(Minimum First Floor Facade Transparency Requirement: 25%)



(9) *Lighting.*

- a. Buildings subject to these standards shall not include neon lighting that is visible from off-site areas.
- b. In no instance shall any exterior lighting flash, blink, or give the appearance of movement.
- c. LED lighting strips around windows or doors are prohibited on the building exterior or within the interior if the lighting strip is visible from off-site areas.

Sec. 30-6202 - Multi-family design standards.

(a) *Purpose and intent.* These multi-family residential design standards supplement the applicable zoning district and use-specific standards of this article by providing the minimum requirements for design and configuration of multi-family development within the town's 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.

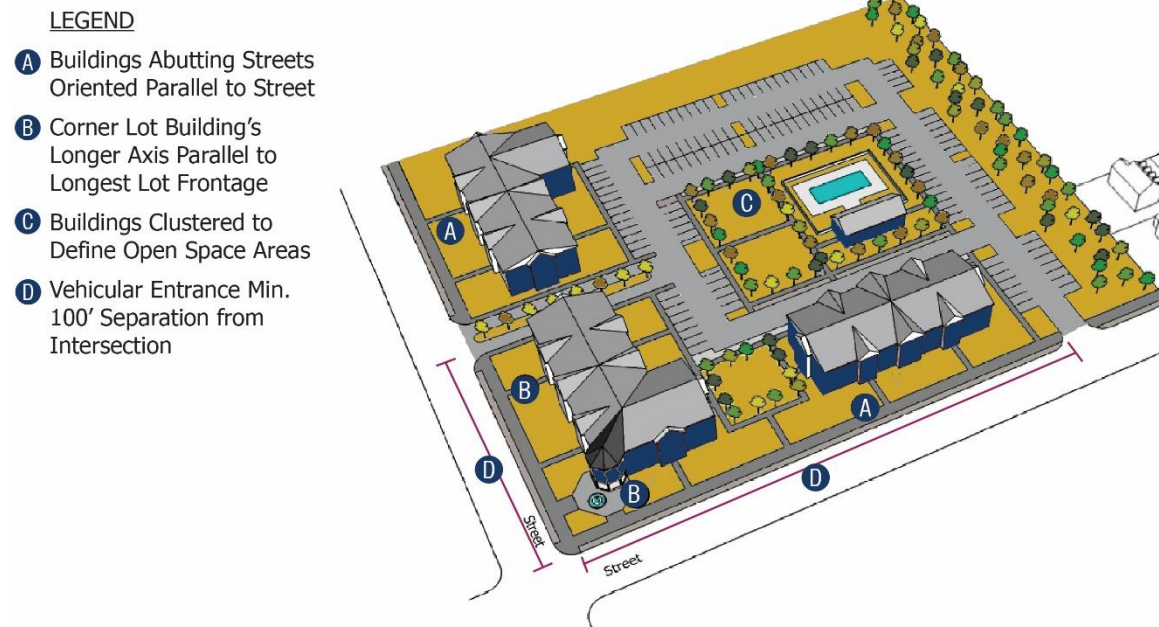
(b) *Applicability.* Except where expressly exempted in writing in this article, the standards in this section shall apply to the following forms of development:

- (1) New multi-family dwellings;
- (2) New triplex and quadplex dwellings;
- (3) New multi-unit residential structures within a continuing care retirement community use type; and
- (4) New assisted living facilities and nursing homes.

(c) *Exemptions.* The following forms of development shall be exempted from these standards:

- (1) Single-family attached development, unless subject to voluntary consent by the landowner;
- (2) Duplex dwellings, unless subject to voluntary consent by the landowner;

- (3) Renovation or redevelopment of existing multi-family structures; and
- (4) Routine maintenance and repairs.
- (d) *Timing of review.* Development subject to these standards shall be reviewed for compliance at the time of site plan, or special use permit review, as appropriate. In cases where a development application is considered by more than one review authority, the decision regarding compliance with these standards shall be made by the review authority making the final decision on the application under review.
- (e) *Site design requirements.*
 - (1) *Street network.*
 - a. On sites including new streets, 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 ten 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) *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 14 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 14: MULTI-FAMILY BUILDING ORIENTATION

- (3) *Accessory structures.* Accessory 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 accessory structures (such as garages, carports, storage areas, etc.) shall be provided from alleys or secondary streets, to the maximum extent practicable.
- c. Accessory buildings shall include exterior materials, colors, and roof form designed to be consistent with the principal structure.
- d. Accessory structures shall not physically obstruct pedestrian entrances.
- e. Centralized refuse collection containers, if provided, shall be located in an enclosed area located to the rear of principal buildings.

(4) *Site features.*

- a. Except for nursing homes, development subject to these standards shall not include a gate or obstruction that blocks access to the site for vehicles, bicycles, or pedestrians.
- b. Off-street parking serving guests shall be evenly distributed throughout the development.
- c. Shared solid waste facilities shall be evenly distributed throughout the development or be centrally located and fully screened from all on-site and off-site views.
- d. Detached garages or carports shall not be located between a principal building and the street it faces.
- e. New utilities shall be provided underground, and utility vaults shall be clustered in areas outside of required landscaping.

(f) *Building design requirements.*

(1) *Building entrances.*

- a. The façades 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:
 - 1. Recessing the entrance at least three feet to the inside of the primary ground floor façade plane; or
 - 2. Inclusion of an overhead architectural treatment that extends outward at least three feet from the primary façade plane.

(2) *Building façades.*

- 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 façades facing streets shall provide a minimum of three of the following architectural elements (see **Figure 15 Multi-family Building Façades**):
 - 1. A covered porch or terrace;
 - 2. One or more dormer windows or cupolas;
 - 3. Eyebrow windows;
 - 4. Awnings or overhangs;
 - 5. Decorative moldings;
 - 6. Shutters;
 - 7. Pillars, posts, or pilasters;
 - 8. One or more bay windows with a minimum 12-inch projection from the façade plane;
 - 9. Multiple windows with a minimum of four-inch-wide trim;

10. Corniced parapets;
11. Eaves with a minimum of four-inch-wide trim; or
12. Integral planters that incorporate landscaped areas and/or places for sitting.
13. 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.
14. 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.
15. Developments with three or more principal buildings shall provide variation in building size, shape, height, color, and roofline in a manner that allows different buildings to be distinguished from one another.

FIGURE 15: MULTI-FAMILY BUILDING FACADESLEGEND

- 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. 4" Wide Trim
- L Integral Planters or Seating Areas

**(3) 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 (see Figure 16 Multi-Family Building Massing).

FIGURE 16: MULTI-FAMILY BUILDING MASSING

LEGEND

- A** Upper Story Facade May Only Project Beyond Ground Floor Footprint With Window Bump-Outs

Two Story Building Options:

- B** Second Story In Line With Facade of First Story

- C** Second Story Setback from First Story Facade

Three or More Story Buildings:

- D** Upper Story Facades Setback from Second or First Floor Facades

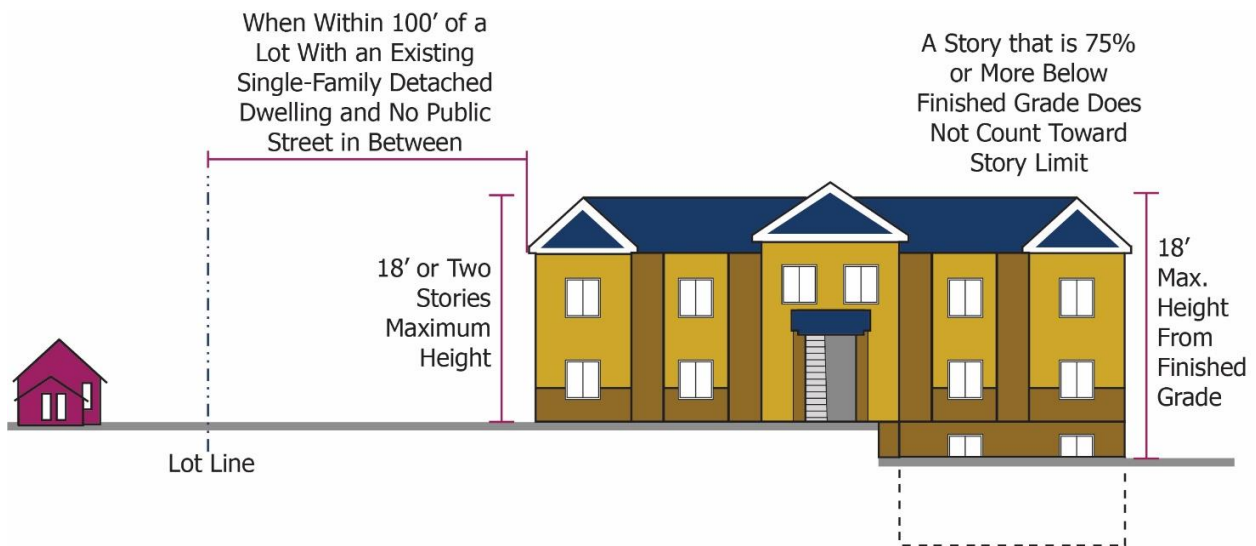


(4) Building articulation.

- a. Street-facing building façades 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 façade frontage (see Figure 17 Multi-family Façade Articulation).
- b. Where provided, projections or recesses shall extend from the grade to the top of the highest story in line with the ground-floor footprint.

FIGURE 17: MULTI-FAMILY FAÇADE ARTICULATION**(5) 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 (see Figure 18 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 18: MULTI-FAMILY BUILDING HEIGHT**(6) 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, and articulation feature.
 - d. Buildings with overhanging eaves and roof rakes shall extend at least six inches past supporting walls.
- (7) *Building materials and colors.*
- a. *Configuration.*
 - 1. Buildings subject to these standards shall include at least two primary exterior materials on any single building.
 - 2. 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 19 Multi-family Building Materials). In no instance shall exterior materials or colors change at outside corners.
 - 3. 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:
 - 1. Smooth-faced concrete block;
 - 2. Corrugated metal siding; or
 - 3. Synthetic stucco within two feet of the grade.

FIGURE 19: MULTI-FAMILY BUILDING MATERIALSLEGEND

- A** Minimum Two Primary Exterior Materials on Each Building
- B** Material Changes at Logical Locations (Internal Corners, Wings, Bays, Bump-outs, or Recesses)
- C** Heavier Materials Below Lighter Materials



(Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

Sec. 30-6203 - Site design standards

- (a) *Intent.* It is the intent of this article to provide performance standards to ensure that development within the town planning jurisdiction will be designed, arranged, and constructed in a safe, orderly, and visually harmonious manner, and will reflect the basic character of the development site and its immediate surroundings as well as the nature of the proposed uses of the site.

(Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

- (b) *Applicability.* Except where otherwise specifically provided in this article, no land or structure shall be used or occupied, and no grading excavation, removal of soil, clearing a site or placing fill shall take place on land contemplated for development, and no structure, or part of a structure, shall be constructed, erected, altered, renovated or moved except in compliance with the standards specified in this article and as shown on a sketch or site plan approved by the town.

(Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

- (c) *General site arrangement and criteria.*

- (1) Developments shall be arranged so as to be visually harmonious both within the development site and in relation to adjacent developments. Site design elements of the development shall be integrated to the degree of their compatibility with each other and shall be separated to the degree of their incompatibility.
- (2) All site plans shall demonstrate a high quality of overall site design and in the design and construction of site elements, including appropriate consideration of the relationship and balance among site elements, the relationship of the development to natural features, neighboring developments, and access and circulation systems, retention of natural vegetation, minimal alteration of natural topography, mitigation of erosion and sedimentation, mitigation of stormwater drainage and flooding, arrangements and orientation of buildings and amenities in relation to each other and to neighboring streets, landscaping, preservation or enhancement of vistas, and mitigation of traffic impacts. Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support, the creation of hazard, nuisance, danger or inconvenience, unreasonable loss of light and air, or unreasonable loss of privacy or views. Where standards contradict, the stricter standard shall apply.

(Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

- (d) *Site design.* All site designs shall address design elements that include landscape preservation, location of buildings, drives, parking and circulation, pedestrian and bicycles facilities, and site drainage within the physical constraints of a particular site. The site design shall adequately address the following key site design objectives:

- (1) Preserves natural land contours and natural drainage-ways, whenever possible;
- (2) Is compatible with the positive character of the surrounding area in terms of both existing character and desired future character;
- (3) Where possible, incorporates significant tree masses and/or specimen trees as an integral design factor;
- (4) Minimizes harm and disruption to existing plant and animal life;
- (5) Sets aside areas whose physical conditions make them unsuitable for development as conservation areas or as open space; and
- (6) Utilize the adopted town bicycle and pedestrian plan and the North Carolina Department of Transportation Complete Streets Policy (latest edition). Reference: <https://www.ncdot.gov/divisions/bike-ped/Documents/2019-08-28-complete-streets-policy.pdf>
- (7) Follow the town's adopted plans, including, but not limited to, the comprehensive plan.

(Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

DIVISION 3. - EXTERIOR LIGHTING**Sec. 30-6301 - Outdoor lighting standards.**

- (a) In developments contemplating the use of outdoor lighting to ensure the security of property and the safety of persons using such development, streets, sidewalks and facilities, all principal entrances to the development, and internal areas as appropriate, should be sufficiently lighted to ensure the safety of residents and the security of the building. Refer to appendix, **Section 30-A7, Information Required on Lighting Plans**.
- (b) All streets within a major subdivision shall incorporate a street lighting system to ensure the security of property and the safety of persons using such development, streets, driveways and facilities.
- (c) Down lighting shall be provided where possible. Overflow lighting shall be prohibited, and all light pollution shall be minimized to the maximum extent practical.
- (d) All development shall incorporate street lighting and signs per the standards of appendix, **Section 30-A7**, which are adopted by reference as if incorporated fully herein to ensure the security of property and the safety of persons using such development, streets, driveways and facilities.

Sec. 30-6302 - Street lights.

- (a) *Street lighting service levels.*
 - (1) It is the Town's objective to provide street lighting in accordance with the Illumination Engineering Society (IES) standards for various classes of streets. These nationally recognized standards acknowledge such key variables as use of streets, prevalence of entering and exiting right-of-way, parking and existing physical conditions on or near the streets. Standards relate to amount of light, noted in terms of foot-candles, and uniformity of light, stated as a ratio of average to minimum foot-candles along a given distance. These standards result in service levels that increase according to use. Higher levels of lighting correspond to higher usage by motorists and/or pedestrians.
 - (2) Allowances are made for differences in the intensity of use and safety needs. Selective reduction of service levels for certain classes of streets, primarily those classed as residential, is necessary because of high costs involved with conversion to full IES standards.
- (b) *Street classifications.* IES's "Illumination Guide" groups streets into different classes—expressway, commercial, intermediate and residential. These area classes are further subdivided into major, collector and local categories with standards established for each. These categories correspond to Archer Lodge street classifications with the IES "major" category corresponding to our "arterial" classification.
- (c) *Street lighting guidelines.* Provision of lighting along streets in town enhances the safe movement of motorists, pedestrians and other users of public right-of-way. The town's street light system is designed to support the following guidelines:
 - (1) IES standards should be used town wide as the basis for establishment of lighting levels for new lighting installation along non-residential streets. These streets should be lighted to 100 percent of IES standards. Residential streets should be lighted at 220-foot intervals, with amendments as needed to consider local conditions such as topography, traffic volumes, number of intersections, crime rates and other factors. Town streets are being classified based on operational definitions of lighting by IES and consistent with street classifications as referenced in this section. Conversion to IES standards for existing non-residential streets and to spacing at 220-foot intervals for residential streets town wide will be phased over several years. Priority for implementation will be based on use, with commercial, intermediate and residential area classes being converted in that order.

- (2) High-pressure sodium luminaries should be installed on all streets, with lamps suggested by IES according to classification. The Town standard for residential street lighting is a typical 9,500 lumen economical traditional luminaries, mounted on a 12-foot fiberglass pole or a 9,500-lumen cut-off cobra luminary, mounted on a 25-foot wood pole. Exceptions to this standard may be approved by the Town Planner when a duly authorized officer of a neighborhood group requests another configuration of hardware, provided any additional hardware costs are paid by the developer or representative prior to installation of the lights; and provided the alternative configuration results in the same operational costs to the Town as the Town standard fixtures.
- (3) Underground wiring should be provided for all new fixture installations.
- (4) The Town Planner will determine the circumstances in which implementation guidelines may be waived. Examples include, but are not limited to: adjustments for areas with particularly high incidence of crime; significant public demand for additional services; and physical conditions associated with conversion of existing lighting. If there are permanent overhead utility lines, the Town Planner may waive the requirement for underground lines for new lights.
- (d) *Street lighting standards.* The following standards and specifications are to assist developers in the placement and selection of street lights for use on streets classified as residential only. For information on lighting for streets with higher classifications, contact the Town Planner. Where appropriate, a street lighting plan should be prepared as a part of a development application for approval by the Town Planner.
 - (1) *Placement.*
 - a. Street lights should be located an average of 220 feet apart. A minimum of one street light should be located at every intersection and at the end of every cul-de-sac.
 - b. Where possible any street light not located at an intersection should be located on a property line.
 - c. On streets with a width of 44 feet or greater (back of curb to back of curb), street lights should be staggered on either side of the street.
 - d. On streets with a lesser width, street lights should be located on the side with a sidewalk if only one sidewalk exists. They should be staggered if sidewalks do not exist or if there are sidewalks on both sides of the street.
 - e. Street lights should be located within the road right-of-way a minimum of three feet from the back of curb or edge of road pavement.
 - f. Street lights should be located a minimum of three feet from the edge of any paved sidewalk.
 - (2) *Fixture selection.*
 - a. The Town's standard residential lighting fixture is the 9,500 lumen "economical traditional" luminaire provided by Duke Energy Progress Company. The luminaire should be mounted on a 12 feet black fiberglass pole.
 - b. A 9,500-lumen cut-off lens cobra fixture can also be used when mounted on a 25 feet wooden pole.
 - c. Other ornamental fixtures may be selected if they provide a comparable lighting level and are approved by the Town. If there are any additional costs for installation and maintenance, the developer will pay "up front" such costs.

Sec. 30-6303 - Outdoor lighting.

All non-residential, mixed-use, and multi-family development shall be designed to provide safe, convenient, and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site. The lighting and lighting fixtures shall be integrated and designed to enhance the visual impact of the project on the community and, where practicable, should be designed to blend into the surrounding landscape. Lighting design and installation shall ensure that lighting accomplishes onsite lighting needs without intrusion on adjoining properties.

- (a) *Lighting plan.* A site lighting plan shall be required as part of the application and site plan review for all non-residential, mixed-use, and multi-family developments exceeding four dwelling units.
- (b) *Site lighting design requirements.* Lighting shall be used to provide safety while 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 can be accomplished through style, material, or color. All lighting fixtures designed or placed to illuminate any portion of a site shall meet the following requirements:
- (1) *Fixture (luminaire).* The light source shall be completely concealed behind an opaque surface and recessed within an opaque housing and shall not be visible from any street right-of-way or adjoining land. Overhead lighting fixtures shall be designed to prevent light from emitting upwards toward the sky. Under-canopy lighting fixtures should be completely recessed within the canopy.
 - (2) *Fixture height.* Lighting fixtures shall be a maximum of 30 feet in height within the parking lot and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. Pedestrian scale lighting at a height not exceeding 12 feet is encouraged. All light fixtures located within 50 feet of any adjacent residential use or residentially zoned property boundary shall not exceed 15 feet in height.
 - (3) *Light source (lamp).* Incandescent, florescent, metal halide, or color corrected high-pressure sodium are preferred. The Town Planner shall have the authority to approve other lamp types (including light emitting diodes [LEDs] and fiber optics) provided the color emitted is similar to the preferred types. Non-color corrected high pressure sodium lamps are prohibited. The same light source type must 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 onsite and does not cross any lot line of the site.
 - (5) *Limit lighting to periods of activity.* Where practicable, the use of sensor technologies, timers, or other means to activate lighting during times when it will be needed may be required by the Town Planner to conserve energy, provide safety, and promote compatibility between different land uses.
- (c) *Illumination levels.* All site lighting shall be designed so that the level of illumination as measured in footcandles (fc) at any one point meets the standards in the table below, with minimum and maximum levels measured on the pavement within the lighted area and average level (the overall generalized ambient light level) measured as a not-to-exceed value calculated using only the area of the site intended to receive illumination.

LIGHT LEVEL TABLE (IN FOOTCANDLES) [1]			
TYPE OF LIGHTING	MINIMUM	AVERAGE	MAXIMUM
Parking Lots	0.2	1.0	8.0
Building Entrances	1.0	5.0	15.0
Storage Areas (Security Lighting)	0.2	1.0	10.0
Walkways, Landscape, or Decorative Lighting	0.2	0.8	5.0
NOTES:			
[1] The maximum level of illumination at the outer perimeter lot lines of the site or project shall be 0.5 footcandles when abutting a residential zoning district and 5.0 footcandles when abutting all other districts and/or streets.			

- (d) *Excessive illumination.* Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property is prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this subsection.
- (1) Lighting shall not be oriented to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.

- (2) Fixtures used to accent landscaping or art shall be located, aimed, or shielded to minimize light spill into the night sky.
- (3) Blinking or flashing lights shall be prohibited unless the lights are required as a safety feature.
- (e) *Illuminated tubing.* Any exterior illuminated tubing or strings of lights, including, but not limited to, those outlining property lines, building, structures, open sales areas, rooflines, doors, window, or the edges of walls except holiday lights are prohibited.
- (f) *Nonconforming lighting.* Lighting fixtures existing as of the date of adoption of the ordinance from which this section is derived, may remain, and shall be considered lawful nonconforming structures. Modifications, replacement, or expansions shall conform to the standards of this section.

(Ord. No. AL2020-11-1 , § 1.7, 11-2-2020)

DIVISION 4. - FENCES AND WALLS.**Sec. 30-6401 - Purpose and intent.**

These standards provide development standards for permanent fences and privacy 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; and
- (d) Ensure fencing and walls are consistent with the Town's requirements.

Sec. 30-6402 - Applicability.

- (a) *Generally.* The provisions of this section shall apply to all construction or replacement of all fences, screening walls, or retaining walls. A fence or wall may only be erected in accordance with the standards in this section.
- (b) *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 Article 8: Nonconformities.

Sec. 30-6403 - Exemptions.

The following are exempted from the standards in this section:

- (a) Bona fide farms and agricultural use types on lots subject to present-use value taxation;
- (b) Fences under two feet in height; and
- (c) Temporary fences for construction sites, including but not limited to: fencing necessary for soil erosion and sedimentation control and tree protection.

Sec. 30-6404 - 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);
 - (2) Impede visibility of the required property address number; or
 - (3) Block pedestrian access from doors or windows.
- (b) *Easements.*
 - (1) In cases where a fence or wall is proposed within an easement, the applicant shall provide evidence of the easement owner's consent regarding placement of the fence or wall.
 - (2) 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) *Obstructions at intersections.* Except for necessary retaining walls, no fence or wall shall be located within a required sight distance triangle.
- (e) *Required setbacks.* Fences or walls may be located within required setbacks, but shall not encroach onto a separate lot.

- (f) *Required landscaping areas.* Fences or walls may be located in required landscaping areas provided the screening function of the landscaping area is maintained.

Sec. 30-6405 - Maximum height.

(a) *Residential zoning districts.*

- (1) Fences and walls not over four feet high may project into or may enclose any front yard.
- (2) Side and rear yards may be enclosed by fences or walls up to six feet in height.
- (3) In cases where a fence or wall is outside a required setback or required landscaping area, it may exceed the maximum height in this section but in no case shall it exceed the height of the principal building on the lot.

(b) *Non-residential and agricultural districts.*

- (1) A solid or open fence or wall may be erected to a maximum height of ten feet within in any setback area.
- (2) In cases where a fence or wall is outside a required setback or required landscaping area, it may exceed the maximum height in this section but in no case shall it exceed the height of the principal building on the lot.

Sec. 30-6406 - Wind loading.

All fencing and walls subject to the standards of this section shall be constructed in accordance with the North Carolina Building Code, and shall be designed and constructed in order to meet the minimum applicable wind loading standards in the Archer Lodge.

Sec. 30-6407 - Materials.

- (a) Fences and walls shall be designed, constructed, and maintained to ensure a minimum useful life of at least ten years.
- (b) The following materials shall be prohibited for use as a part of a fence or wall: wooden pallets, tires, debris, junk, rolled 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).
- (c) In no instance shall tarps or silt fencing remain on a lot or site after completion of construction.

Sec. 30-6408 - 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 Article.
- (b) When a fence or wall is in violation of this Article, the Town Planner 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 Article.

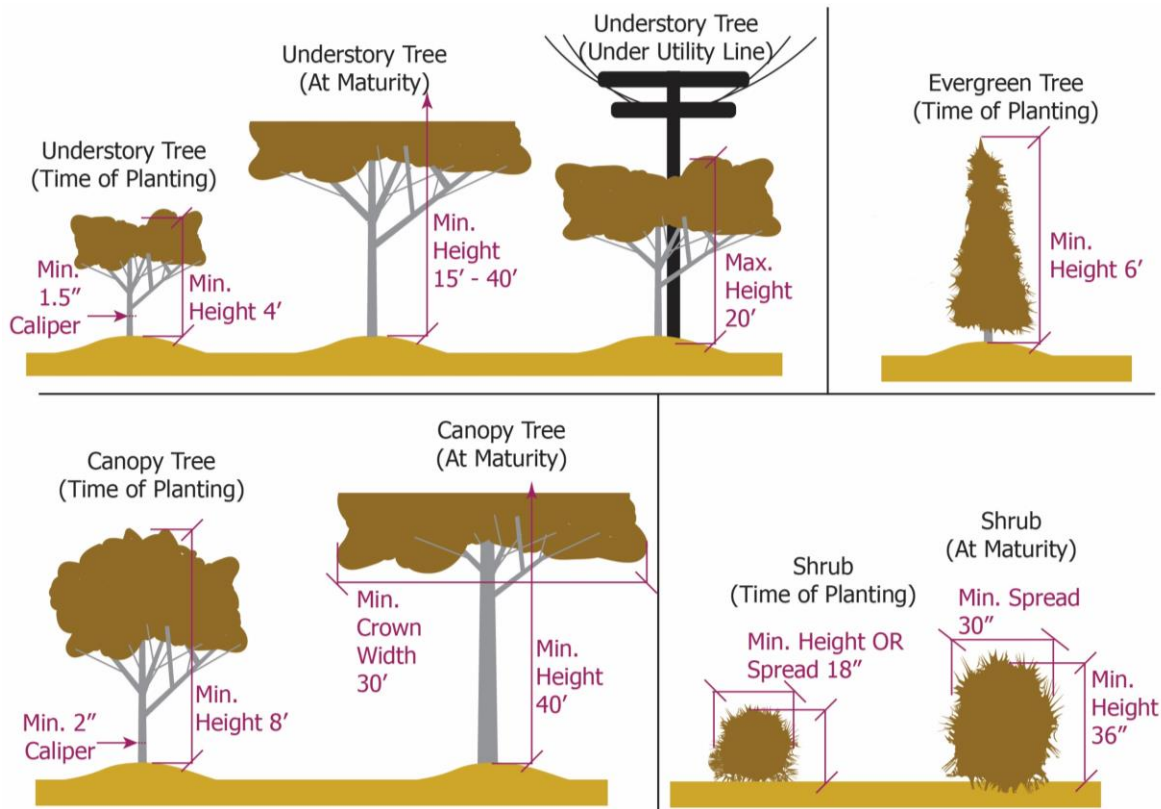
DIVISION 5. - LANDSCAPING AND SCREENING

Sec. 30-6501 - Landscaping.

- (a) *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, site features, and off-street parking areas. These standards are intended to:
- (1) Promote and increase design compatibility between different land uses, while ensuring attractive views from streets and adjacent properties;
 - (2) Assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites; and
 - (3) Shield adjacent properties from potentially adverse external impacts of adjacent land uses and activities.
- (b) *Applicability.* The standards in this section apply to the following forms of development:
- (1) *New principal buildings or uses.* New principal buildings or open uses of land, including publicly-owned buildings or sites, constructed, reconstructed, or established after the effective date of these standards.
 - (2) *Improvements and expansions.* Improvements and expansions of principal buildings, parking areas, or open uses of land by 20 percent or more shall require the development to fully comply with these standards prior to occupancy.
 - (3) *Multi-phase development.* Multi-family, non-residential, and mixed-use 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 Town Planner . An active phase of a development is the one that is subject to permitted and on-going development activity.
- (c) *Exemptions.* The following forms of development are exempted from these standards.
- (1) Changes to an existing or development of a new proposed single-family detached or duplex dwelling on a residentially-zoned lot.
 - (2) Routine maintenance of existing vegetation, such as watering and fertilizing.
 - (3) 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 article.
 - (4) Pruning of vegetation, provided the screening function of the required landscaping is maintained. Severe pruning is a violation of this article and shall require replacement of required vegetation.
 - (5) Repaving or restriping of a parking lot provided there is no increase in parking lot size or the number of parking spaces.
- (d) *Timing of review.* Development subject to these standards shall be reviewed for compliance at the time of site plan, or special use permit, application review, as appropriate. In cases where a development application is considered by more than one review authority, the decision regarding compliance with these standards shall be made by the review authority making the final decision on the application under review.
- (e) *Landscape plan required.*
- (1) *Generally.*
 - a. 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, or zoning compliance, as appropriate, to ensure compliance with this section.

- a. 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 20 Plant Material Specifications**).
- b. Shrubs shall reach a minimum height of 36 inches and a spread of 30 inches within three years of planting.
- c. Decorative grasses may be proposed as a substitute for shrubs, provided the grasses meet the height and spread requirements and are approved by the Town Planner .

FIGURE 20: PLANT MATERIAL SPECIFICATIONS



(4) *Species.*

- Plant materials shall be selected in accordance with the Archer Lodge Plant List (see [appendix section 30-A3](#)).
- Required landscaping materials shall be cold-hardy for the location where planted.
- Plant species used in required landscaping areas must be native species or species of a locally-adapted nature. Other species require approval by the Town Planner .

(5) *Stabilization.*

- 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.
- 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.
- Use of landscape fabric on slopes of 15 percent or more is discouraged.

(g) *Landscaping placement.*

- Outside public street rights-of-way.* Required landscaping material shall not be located within a street right-of-way.

- Grouping of plant material.*

- Except for street trees, vegetation within a Type A perimeter buffer, shrubs around a parking lot, or when vegetation is included as a screening device, required plant material may generally be grouped or clustered, however, the overall screening intent must be adequately addressed.

- a. The following features may be located entirely within required landscaping areas, provided the screening function of the landscaping is maintained:
 1. Principal buildings, provided the minimum setbacks of the zoning district where located are maintained;
 2. Fences and walls;
 3. Berms with a maximum height of 12 feet or less;
 4. Landscaping features such as, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;
 5. Pet shelters, well houses, and mechanical enclosures;
 6. On-grade patios, steps, benches, outdoor fireplaces, playground equipment serving an individual dwelling unit, accessibility ramps, roof overhangs, and fire escapes;
 7. Ornamental entry columns, gates, fences, walls, and retaining walls;
 8. Flagpoles of 30 feet in height or less;
 9. Lamp and address posts;
 10. Utility cabinets of four feet in height or less;
 11. Mailboxes; and
 12. Signage.
- b. The following features may cross a required landscaping area in a manner that minimizes the impact to the required landscaping:
 1. Driveways, sidewalks, pedestrian walkways, greenways, or multi-use trails;
 2. Utilities; and

3. Stormwater management facilities.

(8) *Prohibited features.* The following features shall not be located within a required landscaping area:

- a. An accessory structure or open air use;
- b. Off-street parking or loading areas; or
- c. Outdoor storage or display of products for sale.

(h) *Time of installation.*

(1) A certificate of occupancy shall not be issued, until all required plant materials have been placed in accordance with the approved site plan and requirements of this section.

(2) In cases where a certificate of occupancy is requested but all required plant materials have not yet been installed or approved by the town due to limitations of the planting season or commercial unavailability of acceptable plant species, the applicant shall furnish the following:

- a. A signed contract for the installation of all required landscape materials specifying the types of plant materials yet to be installed and the anticipated date of installation; and
- b. A performance guarantee for the amount of the contract configured in accordance with the applicable requirements of this article.

(i) *Maintenance and replacement.*

(1) *Responsibility.*

- a. The responsibility for maintenance of required landscaping areas shall remain with the owner of the property, their successors, heirs, or assignees.
- b. Maintenance is required in order to ensure the proper functioning of the plantings as a landscaped area which reduces or eliminates nuisance and/or conflict.
- c. Damaging or failing to adequately maintain required landscaping material is a violation of this article.

(2) *Maintenance.*

- a. 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.
- b. 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:
 - 1. The topping of trees;
 - 2. Removal of 30 percent or more of the crown material in one calendar year; or
 - 3. Any other similarly severe procedures that may cause irreparable harm to the natural form of the tree.
- c. *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 of this article or maintain the screening objective of the landscaping material.
 - 1. Landscape structural features such as walls, fences, berms, or water features shall be maintained in a structurally safe and attractive condition.
 - 2. 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.

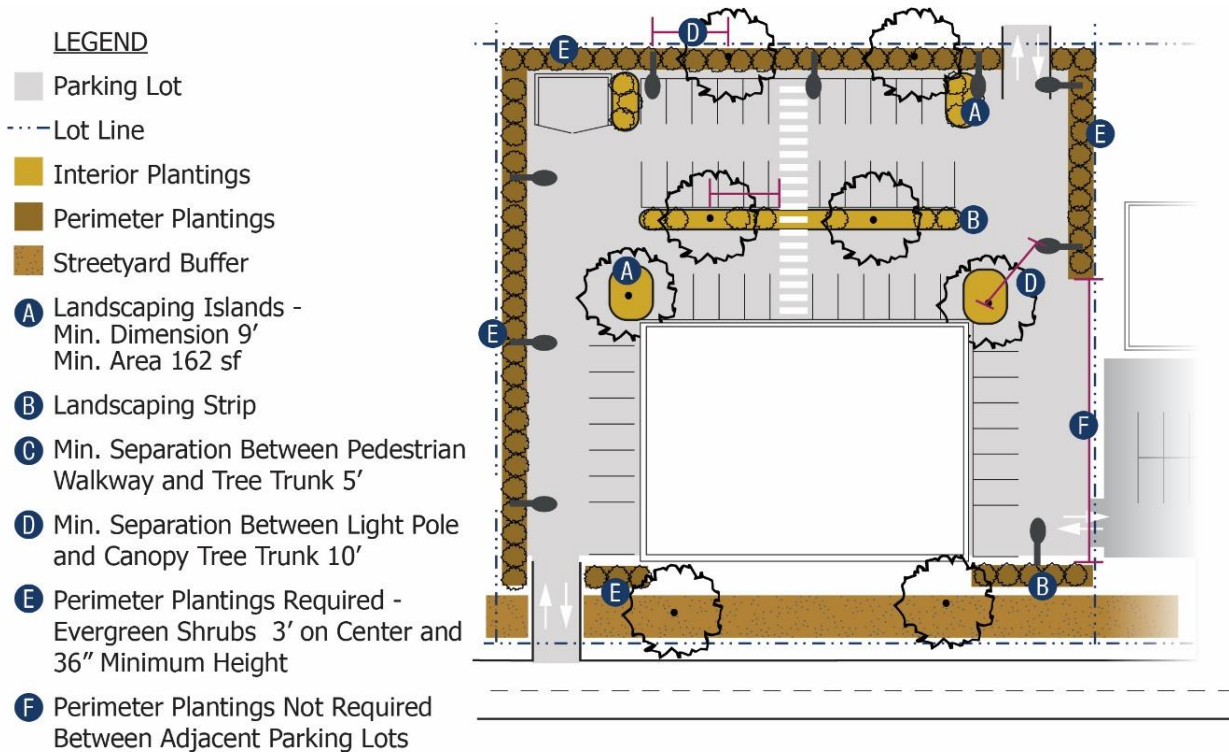
(3) *Excessive pruning or trimming prohibited.* Pruning or trimming exceeding the TCIA standards or activities exceeding necessary pruning or trimming identified in this subsection shall be a violation of this article and shall require replacement of damaged vegetation.

(4) *Replacement required.*

- a. 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.
 - b. Trees or vegetation that die within one year of construction completion shall be removed and replaced with new vegetation of equal or greater size.
 - c. Replacement trees and/or shrubs shall be planted within 180 days of removal of required vegetation.
- (5) *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 Town Planner , in accordance with the following standards:
- a. 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 two and one-half inches and a cumulative caliper equal to or greater than the original tree.
 - b. Trees damaged or destroyed less than eight inches in diameter shall be replaced to satisfy the performance criteria of this section.
 - c. Shrubs may also be required to restore the landscaping performance criteria for the disturbed area.
- (6) *Location of replacement trees and vegetation.*
- a. Replanting shall be located within the vicinity of the violation.
 - b. If the area is too small for sufficient growth, a more suitable location on the site may be selected, as permitted by the Town Planner .
- (j) *Parking lot landscaping.* All parking lots serving multi-family, mixed-use, and non-residential developments shall comply with the following parking lot landscaping standards.
- (1) *Interior plantings.*
- a. *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 8 Parking Lot Landscaping).
 - b. *Landscaping islands and strips.* A parking aisle with more than 12 vehicle spaces in a single row shall provide and maintain landscaping islands at each end or provide landscaping strips along the full length of the row, in accordance with the following standards.
 - 1. Islands shall have a minimum dimension of nine feet and a minimum area of 162 square feet, including the curb (if curbing is provided).
 - 2. Landscape islands that do not contain canopy trees shall contain three or more shrubs and also may contain understory trees.
 - 3. Landscaping islands intended for the placement of canopy or understory trees shall maintain a minimum width of nine feet.
 - 4. Landscape strips between adjoining rows of parking spaces or serving as driveway medians shall have a minimum dimension of nine feet, including the curb (if provided). Landscape strips that do not have canopy trees shall include shrubs planted no more than five feet on-center.
 - 5. Landscaping strips running the full length of a row of parking spaces shall be provided so that no more than six rows of parking spaces are provided without a landscaping strip.
 - c. *Separation of light poles and trees.* In order to prevent the need to excessively trim required trees within landscape areas and to maintain the effectiveness of parking area exterior lighting, light poles shall be spaced at least ten linear feet from a canopy tree trunk, to the maximum extent practicable.

- d. *Protection of landscape islands.*
 - 1. Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods.
 - 2. 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.
 - e. *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.
 - f. *Stormwater management.* A landscape island may be designed to function as a stormwater management device, provided its landscaping performance function is maintained.
 - g. *Structural soil required.* Landscaping islands and strips located within a parking lot shall be comprised of properly-prepared structural soil that has been properly amended and cultivated to support healthy vegetation.
- (2) *Perimeter plantings.*
- a. *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.
 - b. *Location.* Required plant material shall be placed adjacent to the perimeter of the parking lot (see [Figure 21 Parking Lot Landscaping](#)).
 - c. *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.
 - d. *Size of plant material.*
 - 1. 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.
 - 2. 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.
 - 3. It shall be a violation of this article to remove or severely prune shrubs required as parking lot perimeter vegetation to a height of less than 36 inches.
 - e. *Alternatives.* Perimeter parking lot plantings may be supplemented or replaced through use of a vegetated berm or an opaque fence or wall that meets the screening objective of this section.
 - f. *Exemptions.*
 - 1. 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.
 - 2. 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.

FIGURE 21: PARKING LOT LANDSCAPING



(k) *Perimeter buffers.*

- (1) *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.
- (2) *Applicability.*
 - a. All development shall comply with the perimeter buffer standards in this section.
 - b. Development shall provide perimeter buffers along the side and rear lot lines in accordance with the table of buffer application.
 - c. Lot lines abutting street rights-of-way shall comply with the standards in [section 30-205\(l\), Streetscape Buffers](#).
- (3) *Buffers distinguished.* The perimeter buffer configuration table establishes the standards for four perimeter buffers, including the minimum requirements for each of the following buffer types:
 - a. Type A, Separation Buffer;
 - b. Type B, Intermittent Buffer;
 - c. Type C, Semi-Opaque Buffer; and
 - d. Type D, Opaque Buffer.
- (4) *Buffer determination.*
 - a. 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.
 - b. 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 buffer application table).

(5) *Buffer configuration.*

- a. Perimeter buffers required by this section shall be located along the outer perimeter of the lot and shall extend to the connecting lot lines.
- b. 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.
- c. A perimeter buffer may be located along shared access easements between parcels in nonresidential developments.

(6) *Buffer application.* The buffer application table below 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 the perimeter buffer configuration table.

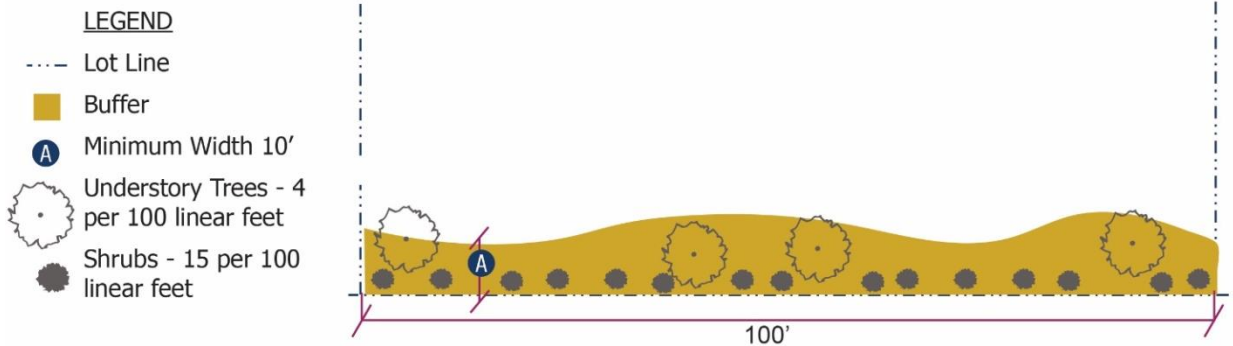
BUFFER APPLICATION TABLE				
ZONING DISTRICT OF DEVELOPING LAND	ZONING DISTRICT OF LAND ADJACENT TO PROPOSED DEVELOPMENT			
	AR, SFR-1	SFR-2, SFR-3	R-MHP, OI, NB	CB
AR, SFR-1	A	C	B	B
SFR-2, SFR-3	C	A	B	B
R-MHP, OI, NB	D	C	A	None
CB	D	D	C	None

(7) *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.

PERIMETER BUFFER CONFIGURATION TABLE

Type A: Separation Buffer

The Type A Separation perimeter buffer serves as a visual break between land ownership or zoning district designations. It is not intended to provide substantial visual or acoustic buffering. The image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet)	10
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	None
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	4 / None [1]
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) [2]	15 / None [1]
Minimum evergreen shrub percentage (%)	50

NOTES:

[1] Grouping of trees or shrubs is permitted provided there is no un-vegetated portion of the buffer exceeding 30 feet in length.

[2] In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.

PERIMETER BUFFER CONFIGURATION TABLE

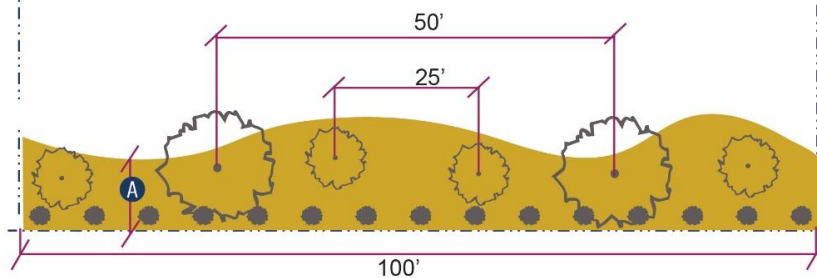
Type B: Intermittent Buffer

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.



LEGEND

- Lot Line
- Buffer
- Ⓐ Minimum Width 20'
- ☉ Canopy Trees - 2 per 100 linear feet, spaced 50' on-center
- ☉ Understory Trees - 4 per 100 linear feet, spaced 25' on-center
- Shrubs - 15 per 100 linear feet

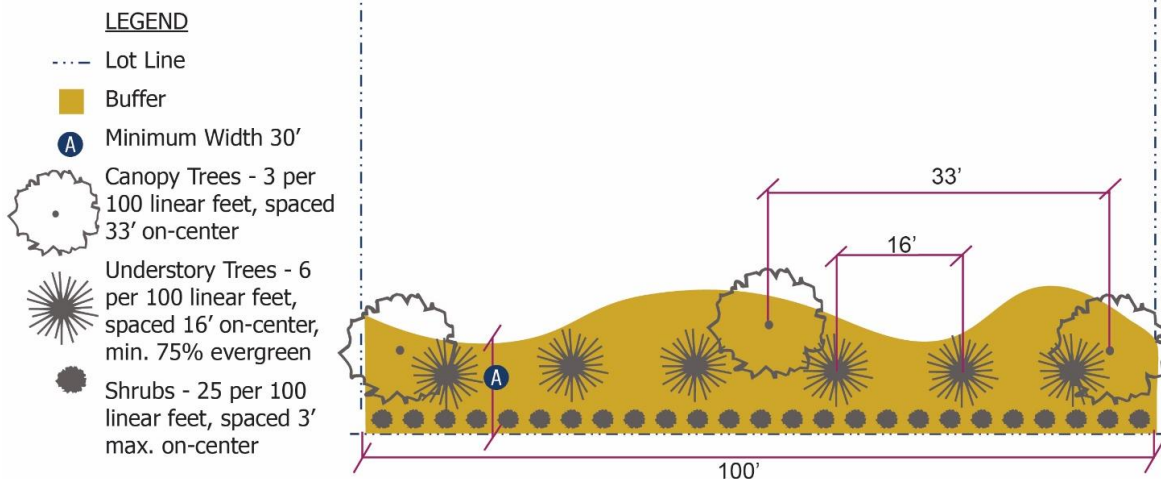


BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet)	20
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	2 / 50
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	4 / 25 [1]
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) [2]	15 / None [1]
Minimum evergreen shrub percentage (%)	60
NOTES:	
[1] Grouping of trees or shrubs is permitted provided there is no un-vegetated portion of the buffer exceeding 20 feet in length.	
[2] In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.	

PERIMETER BUFFER CONFIGURATION TABLE

Type C: Semi-Opaque Buffer

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)	30
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	3 / 33
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (ft)	6 / 16 [3]
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) [2]	25 / 4 [3]
Minimum evergreen shrub percentage (%)	75

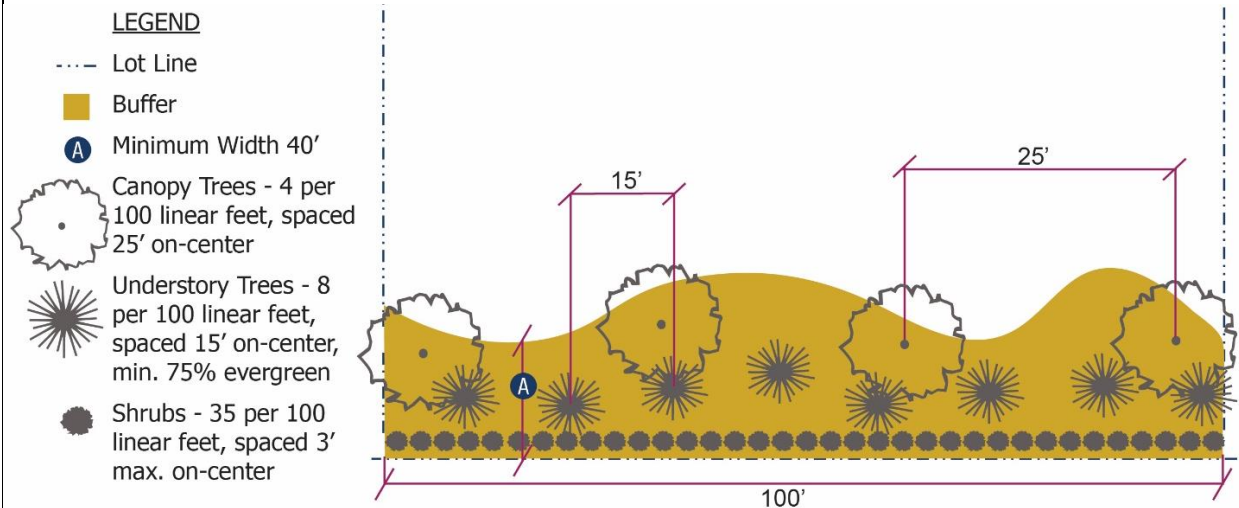
NOTES:

- [1] Provision of a semi-opaque fence or wall allows the buffer width to be reduced by 5 feet.
- [2] Provision of a fully-opaque fence, wall, or berm allows the buffer width to be reduced by 10 feet.
- [3] Grouping of trees or shrubs is permitted within 20 feet of the edge of a street right-of-way provided there is no un-vegetated portion of the buffer exceeding 10 feet in length.
- [4] In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.

PERIMETER BUFFER CONFIGURATION TABLE

Type D: Opaque Buffer

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 image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet)	40
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	4 / 25
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	8 / 15
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) [2]	35 / 3
Minimum evergreen shrub percentage (%)	100

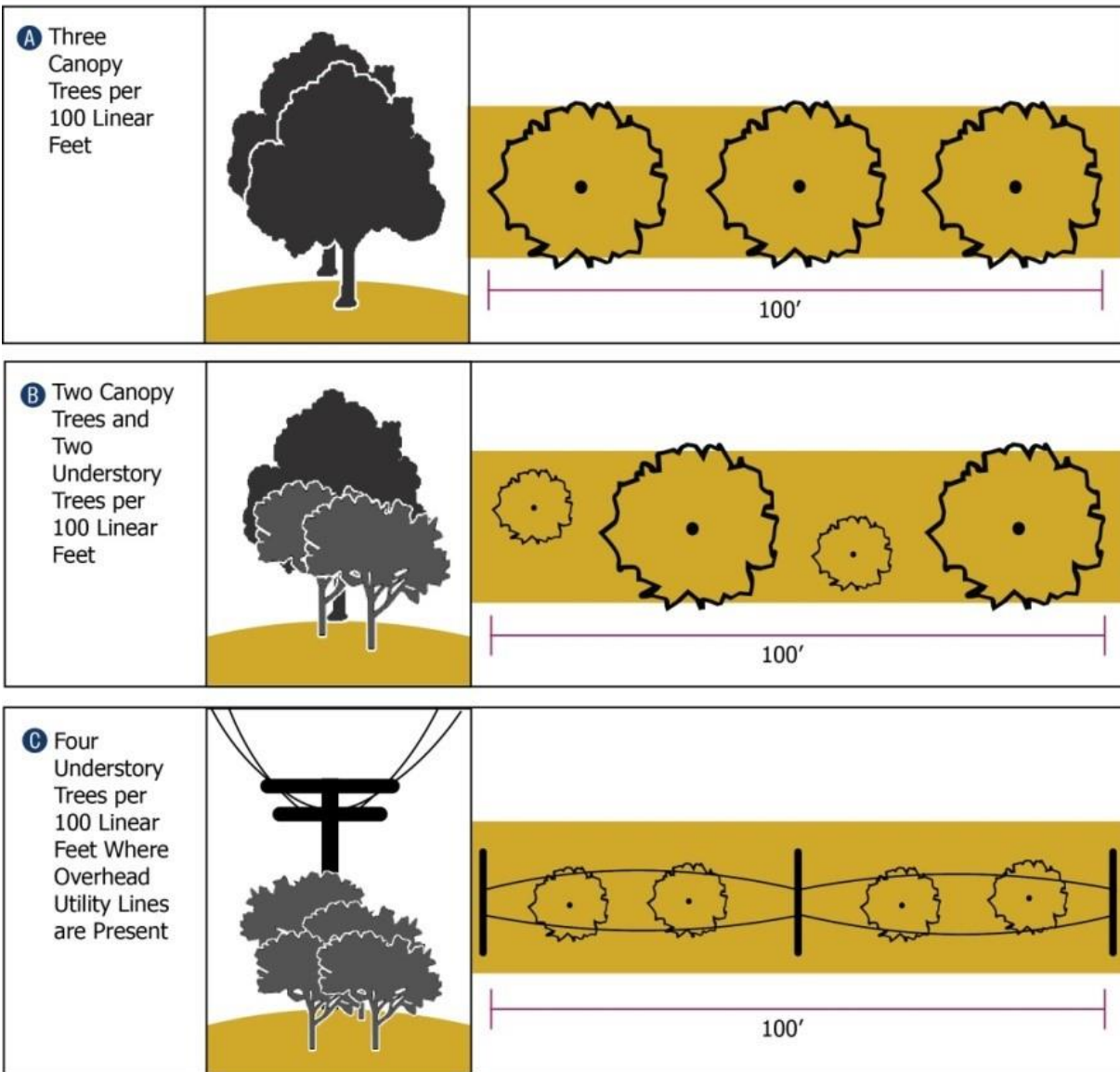
NOTES:

- [1] Provision of a semi-opaque fence or wall allows the buffer width to be reduced by 5 feet.
- [2] Provision of a fully-opaque fence, wall, or berm allows the buffer width to be reduced by 10 feet.
- [3] In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.

(l) *Streetscape buffers.*

- (1) *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:
 - a. Enhance pedestrian orientation and encourage pedestrian travel;
 - b. Address urban heat islands by providing shade for streets and sidewalks;
 - c. Provide shade on sidewalks;
 - d. Promote the town's "sense of place";
 - e. Support property values by enhancing the aesthetic character of the town's streets; and
 - f. Provide habitat for flora and fauna.
- (2) *Applicability.*
 - a. 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.
 1. Local streets;
 2. Collector streets; and
 3. Arterial streets.
 - b. 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) *Exemption.* Streetscape buffers are not required along lot lines abutting the following features:
 - a. Driveways, private drives, or alleys;
 - b. Lot lines abutting platted street rights-of-way that are or have remained unopened for at least 15 years;
 - c. Lot frontages where the entirety of the lot frontage is within a required sight distance triangle.
- (4) *Required plant material.* Streetscape buffers shall be configured in one of the following three ways (see **Figure 22 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.
- (5) *Placement.*
 - a. Vegetation required as part of a streetscape buffer shall be located outside the street right-of-way.
 - b. Canopy trees shall be located within ten feet of the right-of-way edge.
 - c. Understory trees shall be located within five feet of the right-of-way edge.
 - d. An alternative location may be approved by the Town Planner in cases where underground utilities, drainage easements, topography, or other obstructions make placement of streetscape buffer vegetation in accordance with these standards impractical.
- (6) *Prohibited features.* Off-street parking, off-street loading, merchandise display, or outdoor storage shall not take place within a required streetscape buffer.

FIGURE 22: STREETSCAPE BUFFER CONFIGURATION

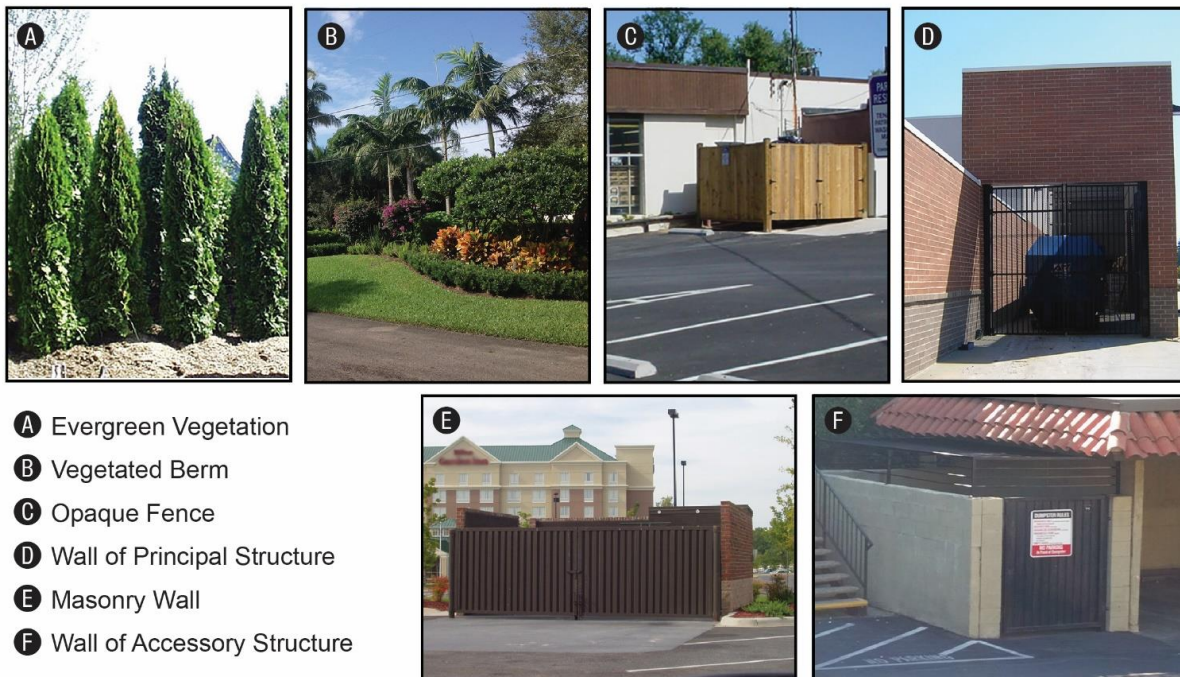


Sec. 30-6502 - Screening.

- (a) *Purpose and intent.* These standards are intended to reduce the visual impact of solid waste collection structures, service areas, and mechanical equipment upon the public realm and adjacent lots as well as to enhance the aesthetics of development in the town.
- (b) *Applicability.* Unless exempted in accordance with section 30-205(c), Exemptions, the standards in this section apply to the following:
- (1) Principal buildings constructed or open uses of land established after the effective date of these standards;
 - (2) Changes in use;
 - (3) Expansions of principal building floor area 1,000 or more square feet or expansions of off-street parking of 2,000 or more square feet;

- (4) Solid waste collection dumpsters, bins, and compactors;
 - (5) Recycling facilities (including cardboard recycling);
 - (6) Ground-based climate control equipment;
 - (7) Ground-based mechanical equipment (including electrical generators);
 - (8) Above ground storage tanks; and
 - (9) Loading equipment.
- (c) *Exemptions.* Solid waste collection facilities and mechanical equipment serving single-family detached and duplex dwellings shall be exempted from these standards, but these standards shall apply within manufactured home parks.
- (d) *General standards.*
- (1) *Location.* No site features subject to these standards shall be located between the principal structure and the street it fronts.
 - (2) *Screening required.* Site features subject to these standards shall be screened from view from streets, public parks, urban open space set-asides, single-family detached residential dwellings, and duplex dwellings.
- (e) *Screening methods.*
- (1) Site features subject to these standards shall be screened by any of the following methods, in single use or in combination (see [Figure 23 Screening Methods](#)):
 - a. Evergreen vegetation configured to provide a fully-opaque screen to a minimum height of six feet within four years of planting;
 - b. Vegetated berms supplemented with plantings as necessary to provide a fully-opaque screen to a minimum height of six feet within three years of planting;
 - c. An opaque fence constructed of treated wood, rot-resistant wood (such as cypress or redwood), plastic, or vinyl;
 - d. A masonry wall constructed of brick, textured concrete masonry units, or stuccoed block; or
 - e. Walls of a principal or accessory structure.
 - (2) In no instance shall a chain link fence with plastic slats or attached fabric meet the opacity requirements for screening in this article.
 - (3) Screening techniques shall be of sufficient height and design to effectively screen the facility from the view from adjacent properties and streets.
- (f) *Specific standards for solid waste and recycling facilities exceeding 100 gallons of capacity.*
- (1) Solid waste and recycling receptacles shall be so located so as to be convenient for collection and shall be appropriate to the type and size of the development or use being served.
 - (2) All trash and recycling receptacles shall meet the minimum setback requirements of the underlying zoning district.
 - (3) All required dumpster, recycling, and trash handling facilities shall be designed with appropriate means of access to a street or alley in a manner that will least interfere with traffic movement and will most facilitate the service of the facilities.
 - (4) Space allocated to any trash handling facilities shall not be used to satisfy the space requirements for off-street parking or loading facilities, nor shall any parking or loading spaces be used to satisfy the space requirements for any dumpster or trash handling facility.

FIGURE 23: SCREENING METHODS



Sec. 30-6503 - 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 and shrubs that are pre-existing within required landscaping areas at a rate of 1.25 times the amount of existing, healthy vegetation to be retained.
- (2) Vegetation to be credited towards these requirements shall be protected with tree protection devices approved by the Town Planner before and during development of the site and maintained thereafter in a healthy growing condition.

(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 Town Planner 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.
- (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 Town Planner 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, access, drainage, or maintenance easements;
 - f. A desire to retain existing on-site vegetation;
 - g. Natural rock formations;
 - h. Required landscaping areas that are in permanent shade resulting from a building or structure; 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 yard(s) and the purpose and intent of the landscaping standards of this section.
- (3) *Allowable modifications.* The following landscape standards may be modified by an alternate landscape plan.
- a. The location of required plant materials;
 - b. The width of required planting areas;
 - c. The configuration of required plant materials; and
 - d. The number of required plant materials.
- (4) *Justification required.* The alternative landscape plan shall include justification for the modifications requested, based upon, but not limited to, the following:
- a. The presence or planned location of public utilities, infrastructure, or easements;
 - b. The location of existing healthy vegetation or other beneficial site features to be retained after development;
 - c. The size, shape, or topographic elevation of the site relative to the street(s) it abuts; and
 - d. The need to protect solar access or avoid permanently shaded areas on the site.
- (Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

DIVISION 6. - OPEN SPACE SET-ASIDE³⁶**Sec. 30-6601 - 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:

- (a) Establish the standards under which residential, mixed-use, and non-residential development shall set aside a portion of the development area as open space;
- (b) Distinguish between the characteristics, requirements, and appropriate locations for open space set-asides, based on the zoning district designation; and
- (c) Establish minimum ownership and maintenance standards for homeowner and property owner associations related to open space set-asides.

Sec. 30-6602 - Applicability.

- (a) Unless exempted by this section, the standards in this section shall apply to all new single-family detached residential subdivisions, duplex development, multi-family development, and mixed-use development.
- (b) Redevelopment of the use types listed in (a) above 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.

Sec. 30-6603 - Exemptions.

The following forms of development shall be exempted from the standards in this section:

- (1) Development of an individual single-family detached dwelling (including manufactured homes) on its own lot;
- (2) Subdivisions comprised solely of four or fewer lots where all lots intended for single-family detached residential dwellings; and
- (3) Developments of two acres or less in total area.

Sec. 30-6604 - Minimum open space set-aside requirements.**(a) Amount.**

- (1) All development subject to these standards shall set aside 15 percent of the development's total area for use as open space set-aside.
- (2) 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.
- (3) Land dedicated for parkland and for shared use paths or trails shall be credited toward open space set-aside requirements.

(b) Type.

- (1) Development subject to these standards shall configure at least 65 percent of the open space set-aside for active recreation in accordance with Section 30-6605(A). The balance of the open space set-aside shall be configured for passive recreation in accordance with Section 30-6605(B).
- (2) Nothing shall prevent more than 65 percent of the open space set-aside from being configured for active recreational uses.

³⁶ New division that consolidates the open space requirements from the district-related material and replaces the open space material in the subdivision section.

Sec. 30-6605 - Open space set-aside configuration.

Open space set-asides shall be configured in accordance with the following standards (see **Figure 24** Open Space Set-Aside Configuration).

- (a) *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. Active open space set-asides shall meet the following standards:

(1) *Configuration.*

- a. 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.
- b. Active open space set-aside areas shall be located so as to be readily accessible and useable by residents and users of the development.
- c. Where possible, a portion of the open space set-aside should provide focal points for the development.
- d. 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.

(2) *Allowable features.* The following types of features are allowable in and credited towards active open space set-asides:

- a. Lands dedicated for public parks or greenways when not already credited towards urban open space set-asides;
- b. Swimming pools, splash pads, and areas devoted to water play for children;
- c. Athletic fields and courts;
- d. Boat launches and swimming platforms;
- e. Club houses;
- f. Playgrounds and play structures for children; and
- g. Obstacle courses and exercise trails.

- (b) *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.

(1) *Allowable features.* The land area occupied by any of the following types of features is credited towards required passive open space set-aside:

- a. Walking, bicycling, and equestrian trails;
- b. Boardwalks;
- c. Gardens and greenway trails;
- d. Benches and seating areas;
- e. Tables, shelters, grills, and related picnicking facilities;
- f. Lawn areas and community greens;
- g. Lakes, ponds, wetlands, swamps, canals, and streams;
- h. Piers and docks for fishing or viewing wildlife; and
- i. Undisturbed land subject to a deed restriction or conservation easement.

(2) *Site features credited towards passive open space set-aside requirements.*

- a. 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 or urban open space set-asides;
 2. Required landscaping areas;
 3. Tree save areas;
 4. U.S. Army Corps of Engineers designated 404 wetlands;
 5. Riparian buffer areas;
 6. Natural heritage areas; and
 7. 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.
- b. 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.

FIGURE 24: OPEN SPACE SET-ASIDE CONFIGURATION

- (c) *Access to open space.* All open space must be pedestrian accessible. Open space not contiguous to a proposed subdivision street must have a minimum of a 20-foot fee-simple access.

Sec. 30-6606 - Ownership of open space set-asides

Open space set-asides are intended to remain under private ownership while being available for use by 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:

- (a) *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 30-7109 Owners' Associations.
- (b) *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.
- (c) *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.

Sec. 30-6607 - Maintenance of open space set-asides.

- (a) 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.
- (b) Failure to maintain open space set-aside areas is a violation of this Ordinance subject to the remedies and penalties in Chapter 9: Violations.

Sec. 30-6608 - Payments in lieu of provision or dedication.

- (1) *Payments in lieu of provision or dedication.* In lieu of providing or dedicating open space set-aside required pursuant to this section, an applicant/developer may choose to make a payment to the Town. If the required open space to be provided is less than one acre, then fee-in-lieu shall be required.
- (2) *Use of fees-in-lieu.* The Town shall use such fees only for the acquisition or development of open space, recreation, or park sites to serve residents of the Town.
- (3) *Amount.* The amount of the fee-in-lieu shall be the product of the total number of proposed dwelling units proposed multiplied by the fee established in the Town's current fee schedule. The applicant/developer shall make the payment before occupancy or approval of a final plat, as appropriate. The Town Planner may allow phasing of payments consistent with the approved phasing of the development..

DIVISION 7. - OFF-STREET PARKING AND LOADING

Sec. 30-6701 - Off-street parking and loading.

- (a) *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 article. The standards are further intended to:
- (1) Provide for adequate off-street parking, off-street loading, and safe movement of vehicles into, out of, and through parking areas;
 - (2) 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;
 - (3) Reduce the aesthetic impact of surface parking lots in business areas and lands proximate to residential neighborhoods through standards addressing on-site parking lot locations;
 - (4) Avoid excessive paved surface areas and the resulting problems associated with stormwater runoff and urban heat islands; and
 - (5) Protecting compatibility between adjacent uses of land.
- (b) *Applicability.* The standards in this section shall apply to all development in the town's planning jurisdiction, unless exempted in accordance with [section 30-200\(c\)](#), [Exemptions](#).
- (1) *Generally.* Whenever a building is constructed, an open-air use of land is conducted, or a principal or accessory use is established, the development shall meet the requirements of this section.
 - (2) *Additions and expansions.* Whenever a building, open air use of land, or principal or accessory use is enlarged or increased in capacity by 20 percent or more, the entire development shall comply with these requirements.
 - (3) *Changes in use.*
 - a. 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 parking spaces, or less than two additional parking spaces, no additional parking spaces are required.
 - b. In cases where an existing 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.
- (c) *Exemptions.* The standards in this section shall not apply to the following forms of development:
- (1) Lawfully-established lots of record existing prior to November 2, 2020, that contain a single-family detached residential structure and are not served by an alley;
 - (2) Re-striping an existing parking lot which does not create a deficient number of parking spaces or a nonconforming situation;
 - (3) Establishment of a single-family detached home is exempted from the standards in this section but shall comply with the table of minimum off-street parking requirements.
- (d) *Timing of review.* Development subject to these standards shall be reviewed for compliance at the time of site plan, or special use permit review, as appropriate. In cases where a development application is considered by more than one review authority, the decision regarding compliance with these standards shall be made by the review authority making the final decision on the application under review.
- (e) *Off-street parking requirements.*
- (1) *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 article.

- (2) *Minimum off-street parking spaces required.* The minimum number of off-street parking spaces required for development shall be in accordance with the applicable use type listed in the table of minimum off-street parking requirements.
- (3) *Use of on-street parking.* Off-street parking required by this section shall be provided without the use of streets.
- (4) *Off-street parking space maximum.* Commercial use types shall limit the total number of off-street parking spaces provided to not more than 150 percent of the minimum parking spaces required in the table of minimum off-street parking requirements.
- (5) *Use type not listed.* For use types that do not correspond to the use types listed in the, 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 the town's zoning regulations;
 - c. The applicant may request a formal determination of these off-street parking standards by the Town Planner (which may be appealed to the board of adjustment); or
 - d. The Town Planner may determine the minimum parking space requirement based on a similar use in accordance with the standards of this article.
- (6) *Developments with multiple use types or lots.*
 - a. 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.
 - b. 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.
- (7) *Use of required off-street parking spaces.*
 - a. Off-street parking areas used for any of the following vehicles are not credited towards the minimum number of required off-street parking spaces and such vehicles shall be located outside required off-street parking spaces and any street rights-of-way:
 1. Vehicles for sale or lease;
 2. Vehicles being stored, serviced, or repaired; or
 3. Vehicles belonging to the use, such as company vehicles.
 - b. Required off-street parking spaces shall not be used for any purpose other than the temporary parking of operable vehicles.
 - c. 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.
- (8) *Driveways used to meet parking requirements.* Driveways of sufficient size may be used to accommodate required off-street parking spaces only for the following uses:
 - a. Boarding/rooming houses;
 - b. Duplex, triplex, and quadplex dwellings;
 - c. Cemeteries;
 - d. Family care and group homes;
 - e. Single-family attached dwellings in developments of six or fewer dwellings; and
 - f. Single-family detached dwellings (including manufactured and mobile homes).

(9) *Minimum off-street parking requirements table.*

TABLE OF MINIMUM OFF-STREET PARKING REQUIREMENTS	
USE TYPE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES
Residential Uses	
Assisted Living Facility	1 per employee on the largest shift + 0.25 per bed
Dormitory	1 per employee on largest shift + 0.25 per bed
Duplex Dwelling	2 per every dwelling unit
Family Care Home	2 + 1 per bedroom
Group Home	2 + 1 per bedroom
Manufactured Dwelling (A, B, or C)	2 per dwelling unit
Manufactured Dwelling Park	2 per every home site
Mobile Home	2 per dwelling unit
Mobile Home Park	2 per every mobile home site
Multi-Family Dwelling	1.5 per every dwelling unit + 0.25 guest spaces per unit
Nursing Home	1 per employee on largest shift + 0.25 per bed
Single-Family Detached Dwelling	2 per dwelling unit
Townhouse	2 per every dwelling unit + 0.25 guest spaces per unit
Institutional Uses	
Cemetery, Columbarium, or Mausoleum	1 per employee on the largest shift
Church	Greater of: 1 per every 6 seats or 1 per every 50 sf of floor area in main assembly room
Civic, Fraternal, or Social Organization	1 per every 300 sf
College or University	5 per every classroom + 5 per every office
Community Center	1 per every 300 sf
Cultural Facility, Library, or Museum	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Day Care, Adult	1 per every employee on largest shift + 2
Day Care, Child	1 per every employee + 1 per every 10 children
Elementary or Secondary School	Elementary: 1 per employee + 1 Secondary: 5 per every classroom and office
Golf Course, Public	1 per every 4 persons of design capacity
Governmental Use	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Health Care Use	1 per every 200 sf
Outdoor Recreation, Public	1 per every 900 sf of activity area (including building sf)
Park or playground	1 per employee on largest shift + 1 per acre
Public Safety Facility	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Small Wireless Facility	None
Telecommunications Tower	Two
Utility, Major	1 per every 1,500 sf
Commercial Uses	
Animal Boarding or Grooming	1 per every 200 sf used by public + 1 per every 600 sf not used by the public

TABLE OF MINIMUM OFF-STREET PARKING REQUIREMENTS	
USE TYPE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES
Automotive Painting/Body Shop	2 + 1 per every service bay
Automotive Parts and Accessory Sales	1 per every 200 sf
Automobile Repair and Servicing (without painting/bodywork)	2 + 1 per every service bay
Automobile Sales or Rentals	1 per every 200 sf
Automotive Towing and Storage Lot	1 per employee on the largest shift
Bar, Cocktail Lounge, or Private Club	1 per every 150 sf
Bed and Breakfast	2 + 1 per every rental unit
Bottle Shop (with on-premises consumption)	1 per every 4 seats
Bulky Items Sales	1 per every 600 sf
Business Incubator	1 per every 450 sf
Campground	1 + 1 per every camping space
Car Wash or Automobile Detailing	2 per every washing bay
Catering Establishment	1 per every 300 sf
Coffee Shop / Bakery	1 per every 150 sf
Computer-related Service	1 per every 600 sf
Convenience Store	1 per every 200 sf
Co-Working Space	1 per every 250 sf
Electronic Gaming Operation	1 per every 200 sf
Event Venue	1 per every 150 sf
Financial Service	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Funeral-related Service	Greater of: 1 per every 200 sf used by public, or 1 per every 4 seats in chapel
Hair, Nails, Skin-related, and Tanning Service	1 per every 200 sf
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
Microbrewery or Microdistillery	1 per every 150 sf
Office, Medical	4 per every doctor/practitioner
Office, Professional	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)
Outdoor Shooting Range	1 per every 200 sf
Outdoor Storage	1 + 1 per employee on largest shift
Packaging and Printing Service	1 per every 200 sf
Parking Lot	1 per employee on largest shift
Pharmacy	1 per every 200 sf
Repair Shop	1 per every 600 sf

TABLE OF MINIMUM OFF-STREET PARKING REQUIREMENTS	
USE TYPE	MINIMUM NUMBER OF OFF-STREET PARKING SPACES
Restaurant, Indoor/Outdoor Seating	1 per every 4 seats
Restaurant with Drive-Through/Drive-up Service	1 per every 4 seats
Retail Use	1 per every 200 sf
Self Service Storage	1 + 1 per employee on largest shift
Sexually-Oriented Business	1 per every 150 sf
Spa, Day or Medical	1 per every 200 sf
Tattoo and Piercing Establishment	1 per every 600 sf
Theatre	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating
Veterinary Clinic	4 per every doctor
Industrial Uses	
Asphalt or Concrete Plant	2 per every 3 employees on major shift
Contractor Services/Yard	Greater of: 1 per every 300 sf or 1 per every 1,000 sf of outdoor area
Electrical or Plumbing Fabrication	2 per every 3 employees on major shift
Extractive Industry	1 + 1 per employee on largest shift
Flex Space	1 per every 200 sf
Food Production (industrial scale)	2 + 1 per employee on largest shift
Fuel Oil/Bottled Gas Distributor	1 per every 200 sf used by public + 1 per employee on largest shift
General Industrial Services	2 per every 3 employees on major shift
HVAC Contractor	Greater of: 1 per every 300 sf or 1 per every 1,000 sf of outdoor area
Makerspace	1 per every 400 sf
Manufacturing, Light	2 per every 3 employees on largest shift
Metal Fabrication and Welding	2 per every 3 employees on major shift
Public Convenience Center/Transfer Station	10 + 1 per employee on the largest shift
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
Solar Energy Conversion, Major	None
Truck or Freight Terminal	2 per every 3 employees on largest shift
Warehouse	2 per every 3 employees on largest shift
Wholesale Sales	1 per every 900 sf
Accessory Uses	
Home Occupation	2 + minimum requirement for principal use
Seasonal Retail Standards	1 per every 200 sf of use area + minimum requirement for principal use

(10) Bicycle parking.

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 off-street parking spaces for vehicles.
2. Bicycle parking shall not be required for industrial use types.

b. Rate of provision. Bicycle parking spaces shall be provided at a rate of one bicycle parking space for every 20 off-street parking spaces for automobiles. Nothing shall limit the provision of more bicycle parking spaces than are otherwise required.

c. Configuration.

1. Bicycle parking should be accessible to the primary entrances of the development and located in a visible, well-lit area (see [Figure 25 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.

FIGURE 25: BICYCLE PARKING



d. *Shared bicycle 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.

(f) *Parking lot configuration.*

(1) *General.*

- a. All required off-street parking spaces shall be located on the same lot as the principal use they serve, except as allowed in section 30-200(g), Alternatives.
- b. 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.
- c. Except where allowed by this article, off-street parking spaces shall not be located in any required landscaping or stormwater management area.
- d. Off-street parking spaces shall not protrude into any street, fire lane, drive aisle, sidewalk, greenway, or pedestrian connection.

- (2) *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 the table of dimensional standards for off-street parking lots.

TABLE OF DIMENSIONAL STANDARDS FOR OFF-STREET PARKING LOTS				
TYPE OF PARKING SPACE	MINIMUM WIDTH (FEET)	MINIMUM DEPTH (FEET)	MINIMUM AISLE WIDTH (FEET) [1]	
			ONE-WAY TRAFFIC	TWO-WAY TRAFFIC
Parallel (0°)	9	22	12	24
Angled (45°)	10	20	12	24
Perpendicular (90°)	10	20	20	24
NOTES:				
[1] Minimum aisle width shall be measured from edge-of-pavement to edge-of-pavement and shall not include gutters or curbing.				

- (3) *Compact parking spaces.*
- Compact car off-street parking spaces with a minimum width of eight and one-half feet and a minimum depth of 18 feet may be provided for up to 30 percent of the minimum parking requirements in the table of minimum off-street parking requirements.
 - In no instance shall the minimum size of a compact parking space be further reduced.
- (4) *Parking space access.*
- All off-street parking spaces shall be accessed directly from drive aisles or private driveways and not directly from arterial or collector streets.
 - 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.
- (5) *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) *Surface materials.* 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.
- (7) *Grading and drainage.* The parking lot shall be graded, properly drained, stabilized, and maintained to minimize dust and erosion. Parking lots shall not impound stormwater unless surface impoundment is required as a method of stormwater management. However, in no instance shall surface impoundment result in a fewer number of off-street parking spaces than required in the table of minimum off-street parking requirements.
- (8) *Markings.* All parking spaces and lanes in parking lots shall be clearly delineated with paint lines, curbs, or other treatment.
- (9) *Curbs and wheel stops.* All off-street parking spaces 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.
- (10) *Separation from fire protection facilities.* No required off-street parking space take place within designated fire lanes or be located within 15 feet of a fire hydrant or other fire protection facility.
- (11) *Exterior lighting.* Exterior lighting in parking lots shall be designed to provide illumination of parking lot areas for the purposes of safe vehicle and pedestrian circulation.
- (12) *Landscaping.* Parking lot landscaping shall be provided in accordance with section 30-205, Landscaping.
- (13) *Accessible parking spaces.*

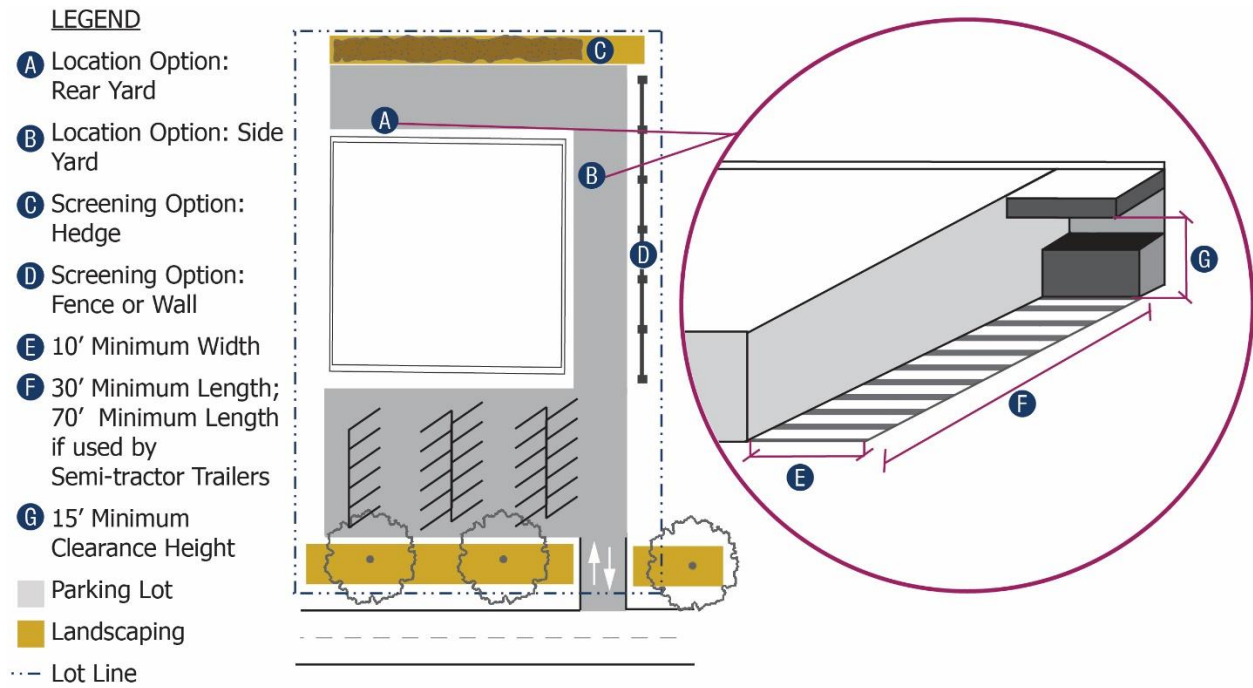
- a. Accessible parking spaces for the disabled are required for all forms of development except single-family detached dwellings.
 - b. Accessible parking spaces shall be in accordance with the regulations set forth by the Americans with Disabilities Act and the North Carolina Building Code.
 - c. Accessible (handicapped) parking spaces shall be provided in accordance with the North Carolina Building Code requirements.
- (g) *Alternatives.* Development may deviate from the off-street parking requirements in this section through approval of an alternative parking plan accepted by the Town Planner and configured in accordance with the following:
- (1) *Deviation from required minimum.* An applicant may propose a reduced rate of provision for off-street parking less than that specified in the 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.
 - (2) *Provision over the maximum allowed.* An applicant proposing development subject to the standards in section 30-200(e)(4), 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.
 - (3) *Off-site parking.* Up to 50 percent of off-street parking space requirements for an existing building may be met by locating required parking in an off-site location, in accordance with the following standards:
 - a. 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.
 - b. A sidewalk or paved pedestrian walkway is provided to the off-site parking area from the use.
 - c. 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 Town Planner prior to the use of off-site parking facilities. The agreement shall guarantee the long-term availability of the off-site parking in question.
 - d. Should an off-site parking agreement cease, then the use shall be considered a nonconformity, unless the use is brought into compliance with the minimum off-street parking requirements of this section.
 - (4) *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:
 - a. 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 Town Planner, and recorded in the office of the Register of Deeds for Johnston County where the development is located.
 - b. 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.
 - c. The shared parking is located within 1,000 feet, as measured from the entrance of the use to the nearest shared parking space.
 - d. A sidewalk or paved pedestrian walkway is provided to the shared parking area from the use.
 - e. 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.

- f.* Should the shared parking agreement cease, then the use(s) formerly served by shared parking shall be considered a nonconformity, unless the use(s) is brought into compliance with the minimum off-street parking requirements of this section.

(h) Off-street loading.

- (1) 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.
- (2) Minimum off-street loading space requirements.*
 - a.* 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.
 - b.* Failure to provide or maintain off-street loading spaces when they are necessary to serve the development is a violation of this article.
 - c.* In no instance shall an off-street loading space occupy a required off-street parking space or interrupt the safe operation of vehicles or circulation of pedestrian or bicycles.
 - d.* 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.
- (3) Location.* No off-street loading space shall be located within a required setback or within 30 feet of a street intersection.
- (4) Dimensional standards for loading spaces.* When off-street loading spaces are provided, they shall comply with the following minimum requirements (see **Figure 26 Off-Street Loading Spaces**):
 - a.* Except for loading spaces used by semi-tractor trailers, off-street loading spaces shall be at least ten feet wide and at least 30 feet long.
 - b.* Off-street loading spaces used by semi-tractor trailers shall be at least 70 feet long.
 - c.* Overhead clearance for an off-street loading space shall be at least 15 feet.
 - d.* Off-street loading spaces shall be designed so that no backing onto or from a public street is necessary.

FIGURE 26: OFF-STREET LOADING



(Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

DIVISION 8. - SIGNAGE**Sec. 30-6801 - Intent.**

This section provides guidance and standards for signage across the Town's planning 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, protection of free speech, 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.

Sec. 30-6802 - Applicability.

Sec. 30-6803 - Except for the sign types exempted from these standards identified in Section 7.8.3: Exclusions, all signs shall be constructed, erected, affixed, placed, posted, painted, repainted, hung, or otherwise established only in accordance with the standards in this section. Signs exempt from permit requirements.

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 Section 160D-908 of the North Carolina General Statutes;
- (b) Legal notices required by governmental bodies, public utilities, or civic associations;
- (c) Governmental signage, including 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) Historic markers;
- (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.

Sec. 30-6804 - Prohibited sign types.

The following signs, sign construction, and displays are prohibited throughout the Town's jurisdiction:

- (a) Outdoor advertising, 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 only in accordance with Article 8, Nonconformities, and Section 160D-912 of the North Carolina General Statutes;
- (b) Off-premise signage;
- (c) Moving signs, excluding flags, banners, and clocks;
- (d) Flashing, scrolling, twirling, or blinking signs;
- (e) Gas- or air-filled balloons, figures, and other inflatable signs;
- (f) Signs on the roof or above the parapet of a building;
- (g) Any sign which the Town Planner 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;
- (h) Signs, lights, rotating features, words, and other devices, which resemble or may be erroneously construed as traffic signals, traffic signs, or emergency vehicle lights;
- (i) Illuminated or highly reflective signs that law enforcement determines hampers the vision of motorists, pedestrians, or bicyclists;
- (j) 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;
- (k) 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;
- (l) Signs with speakers intended for audio playback; and
- (m) Use of vinyl or fabric material over or around a cabinet sign frame.

Sec. 30-6805 - General requirements for all signage.

- (a) *Permit required.* Unless exempted by or prohibited by these standards, all signage shall obtain approval of a zoning compliance permit prior to establishment or modification.
- (b) *Dimensions and measurement.* All sign heights, maximum face area, and related dimensional requirements shall be determined in accordance with Section 30-10209, Signage Measurement.
- (c) *Location and placement.* All signs shall conform to these standards:
 - (1) Permitted signs shall be located outside of the street right-of-way, behind sidewalk areas and outside of required sight distance triangles, except where encroachments are specifically permitted by the provisions of this Ordinance.
 - (2) All attached signs shall be mounted and attached to buildings in a secure manner and shall be maintained in good repair for safety and appearance.
 - (3) No person other than persons authorized by the Town shall damage, trim, destroy, or remove trees, shrubs, or other vegetation located within the public right-of-way of any street or road for the purpose of placing a sign or increasing or enhancing the visibility of a sign; nor shall such work be performed on property that is not under the ownership or control of the person performing or responsible for such work, unless done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.
- (d) *Signs in the right-of-way.* No sign shall be permitted within a street right-of-way except in accordance with the standards in this section.
 - (1) Only the following signs may be permitted in a street right-of-way:

- a. Governmental signage erected by the Town of Archer Lodge or Johnston County;
 - b. Signage erected by NCDOT;
 - c. Emergency warning signage erected by a governmental agency, public utility, or contractor performing work within the right-of-way; or
 - d. Political signs.
- (2) In cases where signs permitted within a street right-of-way are located above a sidewalk or vehicular travelway, the sign shall maintain a minimum vertical clearance of at least nine feet above the sidewalk and twelve feet above the paving, curb, gutter, or grade, as appropriate.
- (3) 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.
- (4) *Removal of illegal signs in right-of-way and public properties.*
- a. The Town Planner 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 Article 9: Enforcement.
- (e) *Material and structural requirements.* All signs shall conform to these standards:
- (1) All signs, except those protected by glass or other transparent cover, shall be constructed of materials that are permanent in nature and that will not rapidly deteriorate, fade, fall apart, or in any way become a hazard to the public health, safety, and general welfare.
 - (2) All permanently installed signs shall be able to resist normal loads from positive and negative wind pressure, snow, and other conditions as required by the State Building Code.
 - (3) The Town Planner may require sign load calculations and attachment design from a professional engineer licensed by the State, and require the same engineer to certify the sign's installation in accordance with all applicable specifications.
- (f) *Sign illumination.* Signs may be externally or internally lit in full compliance with all applicable lighting standards in this Ordinance and the State building code. The following forms of illumination shall be prohibited:
- (1) Neon signage, excluding "Open" signs;
 - (2) Flashing or intermittent illumination; and.
 - (3) No indirect or internally illuminated sign shall have only partial illumination for a period of more than 30 successive days.
- (g) *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 monument 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; and
 - (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.
- (h) *Sign maintenance.*
- (1) All signs shall be kept free from defective or missing parts or peeling paint.

- (2) The Town Planner may require the painting, repair, or alteration of a sign, at the owner's expense, if such sign constitutes a hazard to the public health, safety, or general welfare by reason of inadequate maintenance, dilapidation, or obsolescence.
- (3) Written notice of such repair shall be given to the owner in accordance with the procedures in Article 9: Enforcement.

(i) *Inspections*

- (1) All signs for which a permit is required shall be subject to inspection by the Town.
- (2) The Town Planner or a designee shall be authorized to enter at all reasonable times upon any property or premises to ascertain whether the provisions of this Ordinance are being obeyed.

(j) *Damaged signs prohibited.*

- (1) *Surface appearance.* No sign shall have more than 20 percent of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 consecutive days.
- (2) *Broken displays.* No sign shall remain with a bent or broken display area, broken supports, loose appendages or struts or stand more than 15 degrees from the perpendicular for a period of more than 30 consecutive days.
- (3) *Destroyed and damaged signs.*
 - a. Signs established prior to (insert the effective date of this Ordinance) that are either damaged beyond repair or destroyed shall be replaced within 60 days of being damaged or destroyed.
 - b. The replacement sign shall be built to the same or smaller size and specifications as the damaged or destroyed sign.

(k) *Sign removal.* The following signs may be removed by the Town:

- (1) *Substandard signs.* The owners of any sign judged to be substandard by a Building Inspector shall be notified in writing and shall have 30 days in which to make repairs. Failure to comply with such notification within 30 days is a violation of this Ordinance and the Town may remove such sign at the expense of the owner or lessee thereof plus administrative fees.
- (2) *Signs on public property.* Any non-governmental sign installed or placed on public property or within a public right-of-way is subject to confiscation and disposal. The Town shall have the right to recover the full costs of removal and disposal from the person placing such a sign.
- (3) *Illegal temporary signs.* Any illegal temporary is subject to confiscation and disposal. The Town shall have the right to recover the full costs of removal and disposal from the person placing such a temporary sign.

(Ord. of 11-14-2013, § 17-357)

Sec. 30-6806 - Signs in residential districts.

Signs located on a lot in a residential district shall comply with the standards in the table below:

TABLE OF SIGN STANDARDS FOR LOTS IN RESIDENTIAL DISTRICTS					
TYPE OF SIGN		MAX. NUMBER PER LOT (#)	MAX. SIGN HEIGHT (LF) [1]	MAX. SIGN FACE AREA (SF) [2]	ADDITIONAL STANDARDS [3]
Wall Sign					
	Residential Principal Structure	1	5	4	- Shall not be on an accessory structure - Shall not be illuminated [5]

TABLE OF SIGN STANDARDS FOR LOTS IN RESIDENTIAL DISTRICTS					
TYPE OF SIGN		MAX. NUMBER PER LOT (#)	MAX. SIGN HEIGHT (LF) [1]	MAX. SIGN FACE AREA (SF) [2]	ADDITIONAL STANDARDS [3]
	All Other Principal Structures	1/non-residential tenant	7	Max. of 16 for entire development	- Shall not be on an accessory structure - Shall not be internally illuminated
Projecting Sign		N/A	N/A	N/A	N/A
Monument Sign					
	Single-Family Detached Dwelling & Duplex	[4]	[4]	[4]	[4] [5]
	All Other Principal Structures	1 per street frontage	6	30 per side	- Shall be setback at least 20 feet from street ROW and at least 10 feet from lot lines - Shall not be internally illuminated
Pylon (Freestanding) Sign					
	Single-Family Detached Dwelling & Duplex	1	6	4	- Shall be setback at least 20 feet from street ROW and at least 10 feet from lot lines - Shall not be illuminated [5]
	All Other Principal Structures	1	6	16 per side	- Shall be setback at least 20 feet from street ROW and at least 10 feet from lot lines - Shall not be internally illuminated
Portable Sign					
	Residential Principal Structure	N/A	N/A	N/A	N/A
	All Other Principal Structures	1/non-residential tenant	3	24" x 36" max	- Shall be located at least five feet from a lot line and at least ten feet from the street right-of-way - Shall not be illuminated
Window Sign		N/A	N/A	N/A	N/A
NOTES:					
[1] LF = linear feet.					
[2] SF = square feet.					
[3] All signs shall also comply with the general requirements for all signage in Section 30-6805.					
[4] Up to one monument sign allowed on commonly-owned land adjacent to each entrance to a residential development or subdivision, subject to the standards applicable to all other principal structures.					
[5] Changeable copy prohibited.					

Sec. 30-6807 - Signs in non-residential and planned development districts.

Signs located on a lot in a non-residential or planned development district shall comply with the standards in the table below:

TABLE OF SIGN STANDARDS FOR LOTS IN NON-RESIDENTIAL & PLANNED DEVELOPMENT DISTRICTS						
TYPE OF SIGN			MAX. NUMBER PER LOT (#)	MAX. SIGN HEIGHT (LF) [1]	MAX. SIGN FACE AREA (SF) [2]	ADDITIONAL STANDARDS [3]
Wall Sign						
Non-residential and Mixed-Use Development						
		Primary Facade	1/ non-residential tenant	Below the top of the roof, soffit, eave, or parapet, whichever is highest	25% of façade; up to a maximum of 200 for entire façade [4]	- Shall not project more than 12” outwards from the wall
		Side or Rear Façade Facing a Street	1		100	
All Other Development						
		Single-Family Detached and Duplex	1	5	4	- Shall not be on an accessory structure - Shall not be illuminated [9]
		All Others	1/tenant	7	Max. of 16 for entire development	- Shall not be on an accessory structure - Shall not be internally illuminated [9]
Projecting Sign [5]						
		Non-residential and Mixed-Use Development	1/non-residential tenant	Below the top of the roof, soffit, eave, or parapet, whichever is highest [6]	12 per side	- No portion of the sign may be located within three feet of the street paving
		All Other Development	N/A	N/A	N/A	N/A
Monument Sign						
		Non-residential and Mixed-Use Development	1/street frontage [7]	6	30 per side	- Shall be setback at least 5 feet from a street right-of-way and 15 from a side or rear lot line - Shrubs, flowers, or ground cover shall be planted around the entire base the sign
		All Other Development				

TABLE OF SIGN STANDARDS FOR LOTS IN NON-RESIDENTIAL & PLANNED DEVELOPMENT DISTRICTS						
TYPE OF SIGN			MAX. NUMBER PER LOT (#)	MAX. SIGN HEIGHT (LF) [1]	MAX. SIGN FACE AREA (SF) [2]	ADDITIONAL STANDARDS [3]
		Single-Family Detached and Duplex	[8]	[8]	[8]	[8] [9]
		All Others	1 per street frontage	6	30 per side	- Shall be setback at least 5 feet from street ROW and at least 15 feet side or rear lot lines - Shrubs, flowers, or ground cover shall be planted around the entire base the sign - Shall not be internally illuminated
Pylon (Freestanding) Sign						
		Non-residential and Mixed-Use Development	1/street frontage [7]	6	30 per side	- Shall be setback at least 20 feet from street ROW and at least 10 feet from lot lines - Shrubs, flowers, or ground cover shall be planted around the entire base the sign
		All Other Development	1	6	4	- Shall be setback at least 20 feet from street ROW and at least 10 feet from lot lines - Shall not be illuminated [9]
Portable Sign						
		Non-residential and Mixed-Use Development	1/non-residential tenant	3	24" x 36" max	- Shall be located at least five feet from a lot line and at least ten feet from the street right-of-way - Shall not be illuminated
		All Other Development				
		Single-Family Detached and Duplex	N/A	N/A	N/A	N/A
		All Others	1	3	24" x 36" max	- Shall be located at least five feet from a lot line and at least ten feet from the street right-of-way - Shall not be illuminated
Window Sign						
		Non-residential and Mixed-Use Development	1 per window or glass door	Top of window or door	25% of the window or door [10]	- Shall not be illuminated [9]

TABLE OF SIGN STANDARDS FOR LOTS IN NON-RESIDENTIAL & PLANNED DEVELOPMENT DISTRICTS

TYPE OF SIGN	MAX. NUMBER	MAX. SIGN HEIGHT	MAX. SIGN FACE AREA	ADDITIONAL STANDARDS [3]
	PER LOT (#)	(LF) [1]	(SF) [2]	
All Other Development	N/A	N/A	N/A	N/A
NOTES: [1] LF = Linear feet. [2] SF = Square feet. [3] All signs shall also comply with the general requirements for all signage in Section 30-6805. [4] In the case of multi-tenant buildings, each tenant wall sign shall not exceed 25% of their individual store front. [5] Includes signs on awnings. [6] Projecting signs shall maintain a minimum clearance of at least 9 feet above the grade or a sidewalk. [7] May be increased to two signs along any one lot frontage of more than 600 linear feet. [8] Up to one monument sign allowed on commonly-owned land adjacent to each entrance to a residential development or subdivision, subject to the standards applicable to all other principal structures. [9] Changeable copy prohibited. [10] Multi-pane windows or door shall be treated as one window or door.				

Sec. 30-6808 - Unified sign plan; requirements; enforcement.

- (a) The owners or developers of two or more contiguous lots or any multi-tenant use of a commercial property, including, but not limited to, shopping centers, convenience centers, or office complexes, shall submit a unified sign plan for approval as part of their site plan application, or at a later date. No sign permit application will be accepted for such property or use until a unified sign plan is approved by the Town Planner.
- (b) The application for a unified sign plan shall indicate the following:
 - (1) Colors;
 - (2) Letter/graphics style;
 - (3) Location of each sign;
 - (4) Materials to be used in construction;
 - (5) Maximum dimensions and proportions; and
 - (6) Other standards imposed by the applicant.
- (c) A copy of the approved unified sign plan, including any amendments, must be kept on file with the Town.
- (d) It shall be the responsibility of the applicant and/or property owner to enforce the terms of the approved unified sign plan.
- (e) After approval of a unified sign plan, no sign shall be erected, placed, painted, or maintained except in conformance with the approved plan.

Sec. 30-6809 - Existing signs not conforming to unified sign plan.

If any new or amended unified sign plan is filed for a property on which existing signs are located, the amended plan shall include a schedule for bringing into conformance, within three years, all signs not conforming to the proposed amended plan or to the requirements of this article in effect on the date of submission.

Sec. 30-6810 - Temporary signs.

Temporary signage is permitted on a lot or site in accordance with the following standards:

- (a) Up to one temporary sign shall be permitted on a lot or development site.
- (b) A temporary sign may have a maximum sign face area of four square feet per side.
- (c) In no instance shall a temporary sign be located within a right-of-way or have a height exceeding four feet above the grade at the base of the sign.
- (d) Temporary signs shall not be located within required sight distance triangles, but are permitted within required landscaping areas, provided they do not impact the performance objectives of required landscaping.
- (e) Temporary signs shall not be internally or externally illuminated.
- (f) There shall be no maximum duration for the placement of a temporary sign, and nothing shall prohibit the replacement of one temporary sign with another temporary sign.

Sec. 30-6811 - Political signs.

Political signs shall comply with the following standards:

- (a) May not be illuminated;
- (b) Shall not be located on any trees, utility poles, publicly-owned property, or within a public street right-of-way, except NCDOT right-of-way in accordance with Section 136-32 of the North Carolina General Statutes;
- (c) May not exceed four square feet in area and four feet in height, if freestanding; and
- (d) May be displayed during a period beginning with the established filing date for an election and concluding five days after the election. In the event of a runoff election, political signs for the candidates involved may remain on display until five days after the runoff election.

DIVISION 9. - SOLID WASTE AND RECYCLING COLLECTION**Sec. 30-6901 - Collection of solid waste and recyclables.**

All multifamily, mobile home park, office, commercial, institutional and industrial developments should provide secure, safe, and sanitary facilities for the storage and pickup of solid waste and recyclables. Such facilities shall be convenient to collection and shall be appropriate to the type and size of the development or use being served. All solid waste and recyclable storage facilities shall be screened by a solid wall, fence, tight evergreen hedge, or combination of a wall, fence, or hedge in accordance with article provisions. Such screening shall be of sufficient height and design to effectively screen the facility from the view from adjacent properties and streets.

FIGURE 27: SOLID WASTE DUMPSTER ENCLOSURES



(Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

DIVISION 10. - TRANSPORTATION IMPACT ANALYSIS

Sec. 30-61001 - Traffic impact analysis (TIA) submittal requirement.

- (a) *Purpose:* Archer Lodge is committed to maintaining and improving the quality of life for current and future citizens. A major factor affecting the quality of life has become traffic congestion along the major thoroughfares and local streets within urbanizing areas. By requiring a traffic impact analysis (TIA), the town can evaluate the effect proposed development will have on the town's existing traffic system and enable the town to require specific improvements. The intent of this section is to provide developers with a clear policy as to the town's TIA expectations and to ensure that all developments are treated equally through the establishment of specific guidelines and improvement requirements.
- (b) *Requirement thresholds.*
- (1) Residential subdivision proposing 100 lots/units or more, no matter how many phases are proposed.
 - (2) Proposed nonresidential subdivision which generates an average daily traffic count of 1,000+ vehicles per day or 100+ trips during peak hour of generator. This traffic count must be based on the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
 - (3) Any residential or nonresidential development requiring a special use permit or site plan approval which generates an average daily traffic count of 1,000+ vehicles per day or 100+ trips during peak hour of generator. This traffic count must be based on the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
 - (4) Note #1: The count is cumulative; as a proposed development reaches the threshold, a TIA will be required for the entire development. As new phases are proposed and once a development has reached the threshold, an additional TIA will be conducted for each additional phase.
 - (5) Note #2: Failure to meet all requirements listed within this section may constitute disapproval of the development request.
- (c) *Retention of expert assistance and reimbursement by applicant.*
- (1) The town shall identify consultants and/or experts who are able to prepare, review and evaluate the traffic impact of the proposed development.
 - (2) The town will present a list of the consultants identified in (a) to the applicant. The applicant shall select one firm from the list to conduct a TIA for the applicant's proposed development at the applicant's expense.
 - (3) The town, applicant and consultant shall agree in writing to the scope of work and costs of the TIA. The selected consultant shall provide draft and final versions of the TIA directly to the town.
 - (4) The town may retain a consultant to review and evaluate the applicant's TIA. Any cost associated with the town's review shall be paid by the applicant. The applicant will provide funds for the review at step (2) above. The town will hold the funds in escrow until either used for a TIA review or returned to the applicant.
- (d) *Traffic impact analysis guidelines.* All traffic impact analyses shall be completed in accordance with the guidelines listed in section 3 of the Johnston County Land Design Manual.
- (e) *Improvement requirements.*
- (1) *Left turn lane, right turn lane, and/or right turn taper.* Based on requirements of the NCDOT Driveway Manual or other NCDOT standards.
 - (2) *Additional right-of-way.* If a subject development falls along a road projected to be widened by NCDOT or an adopted town or Johnston County plan, additional right-of-way along the development's road frontage shall be dedicated as deemed acceptable by NCDOT.

- (3) *Offsite improvements.* If a road segment or intersection is currently performing at level of service (LOS) D or better and is projected to perform at LOS E or F at the time of build-out, improvements to maintain the road segment or intersection at LOS D must be included. If a road segment or intersection is currently performing at level of service (LOS) E or F and is projected to continue to perform at LOS E or F at the time of build-out, the TIA shall demonstrate how an LOS D could be achieved and also specify what improvements must be made to ensure that the road segment or intersection is not degraded any further than the current levels.
- (4) *Other necessary improvements.* Additional improvements may be required based on the TIA recommendations related to topographic/environmental conditions, sight distance, street offsets, conflicting movements, existing traffic accident counts, circulation, and other potential traffic issues resulting from the proposed development. Additionally, the planning board may determine that additional improvements are necessary to ensure the safety and welfare of the town's citizens and travelers.

(Ord. No. AL2020-06-1 , § 1, 6-15-2020; Ord. No. AL2020-08-1 , § 1, 8-3-2020)

DIVISION 11. - SOIL EROSION, SEDIMENTATION CONTROL, AND STORMWATER MANAGEMENT

Sec. 30-61101 - Sedimentation, erosion control and stormwater management.

All subdivisions and site-planned developments shall meet the following requirements:

- (a) The Johnston County Stormwater Management Ordinance (Johnston County Land Development Ordinance, Art. VII) and the Stormwater Design Manual, which were adopted by reference on October 12, 2012 as if set out fully in this article;
- (b) The Johnston County Erosion and Sedimentation Control Ordinance, which was adopted by reference by the Town on September 8, 2014; Approved by the Johnston County Commissioners of Oct. 6, 2014 and subsequently approved by the N.C. Sedimentation Control Commission on Nov. 20, 2014;
- (c) Code of Ordinances **Section 30-131**, Water Supply Watershed Protection District;
- (d) Code of Ordinances Chapter 14, Flood Damage Prevention.

(Ord. No. AL2020-11-1 , § 1.3, 11-2-2020)

SUBDIVISIONS

DIVISION 1. - INTRODUCTORY PROVISIONS.

Sec. 30-7101 - Intent.

It is the intent of this article to provide an orderly process for division of land into lots or parcels for the purpose of sale and/or building development by property owners. It is also this article's intent to ensure that subdivided lots or parcels can be used safely to build on without danger to the health, safety, and general welfare of both the prospective or future owners in the town's community, and that subdivisions are provided with and provide for adequate and efficient access and coordination of streets, water and/or sewage, parks, schools, playgrounds and other public requirements and facilities where appropriate.

Sec. 30-7102 - Authority.

- (a) The regulations of this article are adopted under the authority of G.S. section 160D-801 which authorizes the Town to regulate the subdivision of land.
- (b) The regulations of this article shall govern each and every subdivision of land within the Town's planning jurisdiction as now or hereafter established.

Sec. 30-7103 - Applicability.

No land shall be subdivided, platted, or recorded, nor shall subdivided lots or parcels be sold, offered for sale, used, or occupied unless and until a final plat of the subdivision has been approved under this article and has been recorded by the county register of deeds. No lot or parcel resulting from a division of land excluded from the definition of subdivision in section 30-288 shall be sold, offered for sale, used, or occupied until the Town Planner certifies that such division of land falls within one of the exclusions listed in the definition of subdivision. No plat of any division of land within the town's corporate limits shall be filed or recorded by the county register of deeds unless it contains the Town Planner's certification that the division of land has been approved under, or is not subject to, this article.

Sec. 30-7104 - Penalties for transferring lots in unapproved subdivisions.

- (a) Any owner or agent of the owner of any land located within the town's corporate limits who subdivides their land in violation of this article 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 under this article and recorded in the office of the county register of deeds, shall be guilty of a Class 1 misdemeanor; and civil penalties described in section 30-25.
- (b) 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.
- (c) 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 this article.
- (d) Building permits required may be denied for lots that have been illegally subdivided.
- (e) In addition to other remedies, the town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

Sec. 30-7105 - Subdivisions distinguished.

- (a) *Minor subdivision.* A minor subdivision shall include a division of land of four or fewer lots, including any remaining residual parcel. Minor subdivisions shall be reviewed in accordance with the standards in this Article as well as Section 30-3313.

- (b) *Major subdivision.* A major subdivision shall include a division of land resulting in five or more lots, including any residual parcel. Major subdivisions shall be reviewed in accordance with the standards in this Article as well as Section 30-3312.
- (c) *Expedited subdivision.* An expedited subdivision is neither a major nor a minor subdivision, but shall fully comply with all applicable standards for the zoning district where it is located as well as the standards in Section 30-3309. Approval of an expedited subdivision requires the recordation of a subdivision plat in accordance with all applicable provisions in this Ordinance.

DIVISION 2. - SUBDIVISION DESIGN STANDARDS.

Sec. 30-7201 - Intent.

Subdivisions shall be designed with a street and pedestrian network which provides safe, adequate access to all lots within the subdivision. Extension of a public access to an adjoining property should be considered in the subdivision design where a compelling public need is deemed necessary for orderly development of these adjoining properties. However, the design of the local street network in a subdivision should not encourage large amounts of through traffic, the origins and destination of which are external to the subdivision, to use local roads in the subdivision. Due consideration should be given to preserving important natural features, such as trees, ponds, streams, lakes, as well as historical sites which are of value to the town as a whole. Consideration shall also be given to grading to ensure the adequate flow of stormwater on the site, and the retention of stormwater as required by Johnston County Public Utilities Department.

Sec. 30-7202 - Applicability of lot design standards.

Each lot in a subdivision shall comply with the lot design standards contained in this division and in article IV, Design Standards. Newly created or revised lots shall be designed so that any existing structures continue to meet the requirements of this division or so that any existing nonconformity is not increased, enlarged, or extended. The standards of this section, however, do not apply to recreation areas.

Sec. 30-7203 - Lot size standards.

- (a) Every subdivided lot shall comply with the minimum lot size, lot width, and street frontage standard as stipulated in this article, as well as the standards of the Johnston County health department for lots not served by a public water and/or sanitary sewer system.
- (b) Lots laid out for commercial or industrial purposes shall be of a size that is adequate to provide for the structure to be located on the site; off-street parking facilities required by the type and use of the development; and any required landscape buffer or screening areas. Lots for residential use shall comply with the provisions of this division.

Sec. 30-7204 - Lot and block arrangement.

- (a) *Lots.* The arrangement of lots in a subdivision shall comply with the provisions of this division and the regulations of the town and shall provide vehicular access to buildings on the lot from an approved street.
- (b) *Blocks.* Blocks shall be arranged with special consideration given to the type of land use proposed within the block.
 - (1) Blocks shall not exceed 1,500 feet in length.
 - (2) 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.
 - (3) A pedestrian access easement not less than ten feet in width may be required near the center and entirely across any block greater than 900 feet in length to provide adequate access to schools, parks, churches, civic facilities, open space, trails, or greenways.
 - (4) A pedestrian access easement not less than ten feet in width may be required from a cul-de-sac to help provide adequate access to schools, parks, churches, civic facilities, open space, trails, or greenways.

Sec. 30-7205 - Flag lots.

- (a) Flag lots and easement access lots shall be permitted only if it can be demonstrated by the applicant that the subdivision cannot be physically designed, that no reasonable alternative exists, or it would create an unreasonable hardship without a corresponding public benefit to prohibit flagpole lots. Hardships shall include the following:
- (1) Topographic constraints or irregularly shaped land in which no alternative exists;
 - (2) Natural features such as ponds, streams, wetlands, or buffers exist which would limit street construction and/or lot design;
 - (3) A long narrow parent parcel which would limit alternative designs;
 - (4) A parent parcel that has limited or no direct road frontage which would require the use of a flagpole or easement with no alternative design available;
 - (5) No alternative access is available or feasible such as a paved subdivision street or cul-de-sac street constructed to NCDOT standards.
- (b) It is the responsibility of the applicant to present evidence to the Town Planner that one or more of the hardships listed in subsection (a) of this section exist.
- (c) Any decision of the waiver described in subsection (a) of this section may be appealed to the board of adjustment as described in section 2-46.
- (d) All flag lots or easement access lots within a major subdivision shall meet the following requirements:
- (1) A flag lot shall serve only one single-family dwelling and its uninhabited accessory structures;
 - (2) The minimum flagpole width shall be 30 feet;
 - (3) The minimum separation between the flagpole portion of the lot and that of another flag lot shall be 100 feet;
 - (4) Where public water is available, the occupied building on the flag lot shall be within 500 feet of a fire hydrant. The hydrant shall not be across a street from a proposed flag lot. This distance shall be measured along the street, then along the flagpole, then from the end of the flagpole in a straight line to the building thereon;
 - (5) Where public sewer is available, the occupied building on the lot shall have a gravity service line, or the sewer pump requirements shall be noted on the recorded plat;
 - (6) Use of a single driveway to serve the flag lot and an adjoining lot is permitted and encouraged. In the case of a shared driveway, the location of the driveway shall be on the flagpole portion of the flag lot, with the conventional lot granted an access easement over the flagpole; and
 - (7) Designate the building footprint and orientation of the house on the preliminary plat.
- (e) The flagpole portion of a lot shall not be used to calculate the area, width, or setbacks of the lot for the zoning district in which the lot is located.

Sec. 30-7206 - Reverse frontage residential lots.

For residential developments designed to have the dwelling units face an internal subdivision street and the rear of the dwelling units partially or completely facing an arterial or collector road, the following shall be required:

- (a) Landscape area "A" with the use of an eight-foot landscape berm, decorative wall, or opaque fence; excluding a wooden fence (see article IV of this chapter) is required for lots abutting a collector or arterial street.
- (b) Landscape area "B" with the use of only plant material (see article IV of this chapter) is required for lots abutting all other streets.
- (c) The natural existing vegetation may be used if the density meets or exceeds the landscape area "B" requirements and remains undisturbed.

DIVISION 3. - STREETS AND SIDEWALKS.

The type and arrangement of streets within a development under this article shall comply with and coordinate with the town's adopted transportation plan(s); or the decision of the Town Planner. Principal vehicular access points to the subdivision shall be designed to encourage smooth traffic flow and minimize hazard to vehicular traffic, pedestrian and bicycle traffic. Accommodation for controlled turning movements into and out of the subdivision and improvement of the approach street should be considered where existing or anticipated heavy traffic flows indicate need. Safe and convenient vehicular access shall be provided for emergency, service and school bus vehicles.

Sec. 30-7301 - Roads.

The arrangement, character, extent, width, grade, and location of all roads should be designed in relation to existing and proposed transportation patterns, topographical and other natural features, public convenience and safety, and proposed uses of lands to be served by such roads and existing and potential land uses in adjoining areas.

- (a) *Minimum construction standards.* All roads shall meet the road construction standards as set forth in the latest edition of the NCDOT subdivision roads minimum construction standards, and shall:
 - (1) Be dedicated for public use and meet the design and construction standards as required by the NCDOT for the functional classification and projected traffic volumes;
 - (2) For all roads not maintained by NCDOT and/or not dedicated for public use, be ensured proper maintenance through the establishment of a homeowners' association or a road maintenance agreement.
- (b) *Other road requirements.*
 - (1) *Permits for connecting to state roads.* An approved permit is required to connect any subdivision street to an existing state road. This permit is required prior to constructing the road. The application is available at the office of the nearest district engineer of the division of highways.
 - (2) *Offsets to utility poles.* Overhead utility poles shall be break-away or located outside the roadway clear zone.
 - (3) *Wheelchair ramps and curb cuts for disabled persons.* All roads, sidewalks, curbing, crosswalks, and other road improvements shall conform to the requirements of G.S. 136-44.14 and the Americans with Disabilities Act.
 - (4) *Mail box kiosks.* All mail box kiosks shall meet the USPS Cluster Box Units Concrete Pad Installation - Interim Pad Policy (2/19/2017 or most recent edition) and the NCDOT Policy for Placement of Mail Cluster Box Units (9/1/2015 or most recent edition) and be subject to approval by the North Carolina Department of Transportation.
- (c) *Relationship to adjoining properties.* New streets or roads shall be appropriately related to, and coordinated with, adjoining properties and existing and proposed roadways. Roadways within a proposed subdivision may be required to connect with adjoining properties where necessary to permit the convenient, efficient and safe movement of traffic. All roads that extend to adjacent properties shall be designated as public roads.
- (d) *Cul-de-sac length.* No residential street terminating in a cul-de-sac shall exceed 1,500 feet in length.
- (e) *Access to streets.* Every subdivided lot shall front on, or have direct driveway access or dedicated easement to, a public street meeting the standards of the latest edition of the NCDOT subdivision roads minimum construction standards.
- (f) *Direct residential driveway connections.* Subdivisions located on an arterial or collector road shall be designed such that no new subdivided lot shall have a direct driveway connection onto the arterial or collector road, unless it can be demonstrated that the proposed subdivision cannot be feasibly designed, or that no reasonable alternative exists, to prohibit driveway access onto the collector street.

- (1) Major subdivisions to be located on a local road shall be so designed that there shall be no more than one direct residential driveway connection per 500 feet along the same side of the local road, unless it can be demonstrated that the proposed subdivision cannot be physically designed, that no reasonable alternative exists, or it would create an unreasonable hardship without a corresponding public benefit to prohibit individual driveway access onto a local road.
- (2) *Subdivision access.* A second full-service access built to the standards of the Johnston County Design manual (as adopted by town) for the purpose of ingress and egress, or emergency access easement will be required when meeting or exceeding the following thresholds:
 - a. For subdivisions proposing between 100 and 200 lots, the developer has the option of providing a second full-service access built to the standards of the Johnston County Design Standards for the purpose of ingress and egress or a dedicated "emergency vehicle access." This "emergency vehicle access" is to be constructed of any all-weather surface and kept cleared at all times in case the main entrance is blocked, and emergency vehicles need to access the development.
 - b. For subdivisions proposing 201 lots or more, a second full-service access built to Johnston County Design Standards for the purpose of ingress and egress will be required. In lieu of installation of a second full service access, a dedicated emergency vehicle access must be approved by the planning board and constructed as described above with a full service access approved by the planning board planned within the subdivision proposal for future development.
 - c. Note: For determining when a second access is required, the count will be cumulative.

(g) *Subdivision road standards.*

- (1) The applicant/developer shall be responsible for ensuring that all dedicated public subdivision streets are successfully accepted by NCDOT for maintenance. The applicant/developer shall be responsible for maintenance of all streets and protection of rights-of-way until such streets are accepted into the state road system.
- (2) Where streets are dedicated to the public but not accepted into the state system at the time the plat is recorded, a statement explaining the status of the street shall be included on the final plat. Said statements shall explain that the applicant/developer is ultimately responsible for the upkeep and maintenance of all streets until such time that the streets are included in the state system.
- (3) *Stub out streets.* All stub out streets shall be posted with a sign at least 24 inches by 36 inches in area but no greater than 36 inches by 48 inches with a minimum height of three feet and a maximum height of five feet stating the following: Road subject to future extension for additional lots.

Sec. 30-7302 - Curb and gutter standards.

When provided or required by either the planning board or town council, curb and gutters shall be constructed in accordance with plans and profiles meeting NCDOT specifications for curb and gutters.

Sec. 30-7303 - Sidewalks.

Specifications.

- (1) Sidewalks or shared use paths (or greenways) will be provided along both sides of new collector and arterial streets as stated in the adopted Bicycle and Pedestrian Plan, Town of Archer Lodge, NC (2020).
- (2) Sidewalks or shared use paths shall be provided along one side of local streets inside major subdivisions of seven or more lots.
- (3) Sidewalks and/or greenways will be provided to all required open spaces and public parks, greenways and schools.
- (4) Sidewalks shall be constructed to a minimum width of five feet and in accordance with NCDOT specifications and construction standards.

- (5) All sidewalks shall be located behind curb and gutter or beyond the clear zone behind a swale or ditch.
- (6) All sidewalks shall be placed in the street right-of-way or within a public access easement.
- (7) A shared use path or greenway trail that is constructed in accordance with NCDOT specifications and construction standards (complete streets) and the most recent edition of the Town's bike and pedestrian plan may be credited towards required sidewalks on a case-by-case basis based on a determination by the Town Planner.
- (b) *Protection of significant trees.* Sidewalks and shared use paths (or greenways) shall be meandered as to protect and preserve existing significant trees. "Significant trees" depend on the species and health of the trees. Generally healthy overstory trees of eight inches or more in diameter at breast height (DBH) and understory trees of two inches or greater DBH are "significant." For that purpose, sidewalks and shared use paths (or greenways) may be placed within a minimum 15-foot-wide public access easement located outside the public right-of-way. In no case shall more than 30 percent of a tree's roots be disturbed.³⁷

DIVISION 4. - OPEN SPACE.

Sec. 30-7401 - Open space.

- (a) *Open space requirements.* Residential subdivisions and multi-family development shall provide open space set-aside in accordance with Division 6 of Article 6.

Sec. 30-7402 - Dedication of public land.

Subdivisions of land for 10 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 10 or more lots shall dedicate 500 square feet of land per residential lot 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) *Procedure for dedication or payment of fee-in-lieu.*

- (1) The developer shall identify land proposed for dedication or propose payment of a fee-in-lieu as part of the application for approval.
- (2) The Town 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

³⁷ NOTE TO STAFF: This section is overly vague. It infers that any 'significant' tree located within the typical alignment of a sidewalk shall be preserved, and in order to do so, the sidewalk may be located outside the public right-of-way within a public access easement. Is this accurate? How to handle the issue of tree preservation during greenway construction is not sufficiently described. Also, the standards indicate that no more than 30% of the tree's roots may be disturbed...what does this mean?

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- 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.
- (e) *Credit for greenways and trails.* Land or easements dedicated to the Town for use as greenways, trails, or shared paths shall be credited towards the public park dedication standards in this section.

Sec. 30-7403 - Trails and shared use paths.*(a) Required dedication and construction.*

- (1) Whenever a tract of land included within any proposed major subdivision or subject to a site plan application includes any part of a trail or shared use path designated in the Town's adopted policy guidance, the trail or shared use path shall be platted and dedicated to the Town.
- (2) Trails and shared use paths shall be constructed as part of the required infrastructure serving a site or a subdivision.

(b) Trail/path configuration. A trail or shared use path shall be constructed in accordance with NCDOT specifications and construction standards (complete streets), the most recent edition of the Town's bike and pedestrian plan, and the following:

- (1) The trail or shared path access way shall be at least 40 feet wide, to the maximum extent practicable.
- (2) The trail or shared use path shall include an all-weather surface trail of at least ten feet in width, paved with asphalt or concrete that meets ADA guidelines for accessibility.
- (3) The trail or path shall be edged with gravel shoulders of at least one foot in width on each side.
- (4) Positive drainage shall be established in areas adjacent to the paved trail or path
- (5) In cases where a trail or path crosses a street, the pedestrian crossing area shall be demarcated and supplemented with signage that alerts drivers to the presence of pedestrians.

(c) Density credits.

- (1) Land that is dedicated in fee-simple interest to and accepted by the Town in accordance with this section shall be credited toward the donating parcel's lot or tract area for the purpose of calculating the density of development and area coverage calculations though no longer part of the parcel.
- (2) Dedicated land credits shall be transferred to subsequent holders if properly noted in transfer deeds.

(d) Open space set-aside credits. Land associated with a trail or shared use path that is dedicated to the Town shall be credited towards any open space set-aside requirements.*(e) Park land dedication credits.* Land associated with a trail or shared use path that is dedicated to the Town shall be credited towards any public parkland dedication requirements.*(f) Payment in-lieu of providing required trails or paths.* Provision for payment of a fee-in-lieu of providing a required trail or shared use path shall be in accordance with the following:

- (1) 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.
- (2) The fee-in-lieu shall be calculated based upon the total acreage of land required for dedication.
- (3) 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.
- (4) Decisions regarding acceptance of payment of fee-in-lieu shall be made by the Town Council in accordance with the following:
 - a. Alternative open space or transportation resources provided on the subject site will be available for public use and will mitigate trail or path needs created by the proposed development;

- b. Collected funds could be utilized to further develop or extend a trail or shared use path in a proximate location;
 - c. The topography or other natural conditions of the site do not provide adequate opportunities for the trail or path;
 - d. The amount of land to be dedicated is too small to provide adequate trail or path facilities or to be efficiently maintained; or
 - e. The proposed path or trail segment is not likely to connect with other trail or shared use paths in the foreseeable future, as determined by the Town Planner;
 - f. Adequate access is not available to the proposed path or trail.
- (5) 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.
 - (6) The Town Planner 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.
 - (7) 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.

DIVISION 5. - UTILITIES AND INFRASTRUCTURE.

Sec. 30-7501 - Water and sewer.

- (a) *Service by public systems.* All developments shall be served by a public/private water supply and a public/private sanitary sewer system wherever practicable. Fire hydrants of sufficient water pressure to provide adequate fire protection shall be provided where necessary. All proposed public water and sanitary sewer installations shall be approved by the appropriate public utilities department. Certification of such approval shall be submitted to the Town Planner prior to issuance of any zoning compliance permit for the development being served. No certificate of occupancy for a structure shall be issued until the following documents have been submitted to the Town Planner :
 - (1) Certification that all water/sewer facilities necessary to serve such structure have been completed to the appropriate approving authority standards; and
 - (2) As-built construction drawings of those completed water and/or sewer facilities as required by the utility provider(s).
- (b) *Service by individual systems.* Individual water supply/sewer treatment systems intended to provide potable water/sewer treatment, and/or individual subsurface sewage disposal systems, may be permitted on a parcel/lot, subject to approval by the Johnston County health department. Certification of such county health department approval shall be submitted to the Town Planner prior to issuance of any zoning compliance permit for the development being served.
- (c) *Public water, fire hydrants, and sewer systems.* Subdivisions that incorporate a public water distributions system and/or a public sewage collection system shall require that all future homeowners connect to the public water and/or sewer system prior to the issuance of a certificate of occupancy for their principal structure. All subdivisions incorporating a public water distribution system and/or a public sewage collection system shall comply with the standards of the State of North Carolina, Johnston County, and any other public utility providers.

Sec. 30-7502 - Other utilities. For all new developments, except residential subdivisions of four lots or less, all utility lines, other than lines used only to transmit electricity between generating stations or substations and three-phase electric power distribution lines, shall be placed underground, and all surface disruptions required for installation shall be rehabilitated to the original or an improved condition.

- (b) For all new developments, except residential subdivisions of four lots or less, all utility lines, other than lines used only to transmit electricity between generating stations or substations and three-phase electric power distribution lines, shall be placed underground, and all surface disruptions required for installation shall be rehabilitated to the original or an improved condition.

Sec. 30-7503 - Stormwater.

All subdivisions subject to this Article shall comply with the Johnston County Stormwater Management Ordinance (Johnston County Land Development Ordinance, Art. VII) and the Stormwater Design Manual, which were adopted by reference on October 12, 2012.

DIVISION 6. - PERFORMANCE GUARANTEES.

For major subdivisions, a preliminary plat for the lots shown on the proposed final plat must have been approved and not expired before a final plat approval application may be accepted. As part of the application for final plat approval, the applicant shall certify one of the following:

Sec. 30-7601 - Generally.

- (a) That all required improvements (streets, utilities, storm drainage facilities, street signs, and facilities for common use, if any) approved as part of the preliminary plat approval and serving lots shown on the final plat have been completed, or sufficient performance guarantee has been posted;
- (b) That a performance guarantee at a rate of 1.25 of the estimated cost and description thereof, including sufficient means and procedures, to ensure satisfactory completion of any uncompleted improvements have been posted at the time the plat is recorded, or in the case of phased subdivisions at the time a subsequent plat is recorded, provided that the Town Planner shall specify which subsequent final plat requires the performance guarantee.

Sec. 30-7602 - Duration.

The duration of the performance guarantee shall initially be one year, unless the applicant/developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the applicant/developer determines that the scope of work for the required improvements necessitates a longer duration.

Sec. 30-7603 - Extension.

- (a) An applicant/developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension.
- (b) If the improvements are not completed to the specifications of the Town or county, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements.
- (c) If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision d of this subsection and shall include the total cost of all incomplete improvements.

Sec. 30-7604 - Release.

- (a) The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the Town that the improvements for which the performance guarantee is being required are complete.
- (b) The Town shall return letters of credit or escrowed funds upon completion of the required improvements to the specifications of the Town, or upon acceptance of the required improvements, if the required improvements are subject to Town acceptance.

- (c) When required improvements that are secured by a bond are completed to the specifications of the town, or are accepted by the Town, if subject to Town acceptance, upon request by the applicant/developer, the Town shall timely provide written acknowledgement that the required improvements have been completed.

Sec. 30-7605 - Amount.

- (a) The amount of the performance guarantee shall not exceed 125 percent 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/developer. The reasonably estimated cost of completion shall include 100 percent of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing.
- (c) The additional 25 percent allowed under this section includes inflation and all costs of administration regardless of how such fees or charges are denominated.
- (d) 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 percent of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

DIVISION 7. - OWNERS' ASSOCIATIONS.

Sec. 30-7701 - Required restrictive covenants and review by Town.

- (a) Prior to the approval of any final subdivision plat the applicant/developer shall create a homeowner's association to be responsible for the at least the items listed in this section. The restrictive covenants will contain the model language found in appendix section 30-A5. The proposed restrictive covenants will be reviewed and approved by the town attorney. The model language need not be followed, if substantial similar covenants accomplishing the goals of this section are proposed and then approved by the town attorney. A copy of the recorded covenants will be provided to the Town Planner before the final plat is recorded. If a development is built in phases the covenants will be reviewed and approved before the final plat is issued for the first phase.
- (b) Prior to final approval of any residential major subdivision submitted after the effective date of the ordinance from which this section is derived, the applicant/developer shall include in the restrictive covenants a provision that mandates the discharge of firearms is strictly prohibited anywhere in the subdivision or on any adjoining property owned by the developer or homeowner association (HOA). Discharging of air guns, air pistols and air rifles, not to exceed a caliber of 0.177, is permitted, as they are not considered firearms within the meaning of this section.
- (c) Prior to the final approval of any major subdivision submitted after August 3, 2020, the applicant/developer will meet the following goals regarding ownership, maintenance and repair of the subdivision's rights-of-way, roads, sidewalks, greenways and related stormwater drainage infrastructure:
 - (1) A homeowner's association will be created by the applicant/developer, known in this sub-section as the declarant.
 - (2) Membership in the HOA is mandatory for all current and future property owners for the purpose of maintaining the streets, sidewalks, greenways and related stormwater drainage infrastructure.
 - (3) The declarant will own and maintain the roads, sidewalks, greenways and associated stormwater drainage infrastructure until such time as the ownership interest is transferred to the HOA or to NCDOT.
 - (4) The HOA is responsible for the maintenance and repair of the streets, sidewalks and related stormwater drainage infrastructure to NCDOT Standards in the current edition of the "Subdivision Roads Minimum Construction Standards."

- (5) Each member of the HOA will be assessed annually their pro rata share of the costs of road, sidewalks and greenway maintenance and related stormwater drainage infrastructure but in no case less than \$100.00.
- (6) The association shall deposit all assessments for the purpose of maintenance, repair, and upkeep of the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision into a separate account with an accredited, FDIC backed banking institution in the name of the association. The association shall file with the town, by the first day of the calendar year, an annual accounting of said maintenance account.
- (7) The HOA or declarant, whichever the case may be, shall either (i) Petition the NCDOT to assume ownership and maintenance of the rights-of-way, roads, sidewalks greenways and related stormwater drainage infrastructure or (ii) Provide that the rights-of-way, roads, sidewalks, greenways and related stormwater drainage infrastructure be privately owned and maintained to NCDOT standards in perpetuity.
- (8) To the extent permitted by law, in the event that the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the rights-of-way thereto have not been previously dedicated to the NCDOT, in the event the association should dissolve, the association shall transfer any and all ownership interest in the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the rights-of-way thereto, as well as the associated maintenance account as described in paragraph (6) above, to another legal entity for the purpose of maintenance, repair, and upkeep.

ARTICLE 8. - NONCONFORMITIES

DIVISION 1. - GENERAL REQUIREMENTS.

Sec. 30-8101 - Nonconformities, Generally.

- (a) *Purpose and intent.* There are existing structures, uses of land, 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, and lots are collectively referred to as “nonconformities.” The purpose and intent of this article is to allow nonconformities to continue to exist, but to regulate and limit their continued existence and expansion so as to bring them into conformity with the provisions, to the extent that is reasonably practicable.
- (b) *Determination of nonconformity status.* In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the landowner of the land on which the alleged nonconformity is located.
- (c) *Continuation, minor repairs, and maintenance allowed.*
 - (1) *Continuation.* Nonconformities are allowed to continue in accordance with the requirements of this article.
 - (2) *Completion.* Nonconforming projects incomplete as of **ADOPTION DATE 2021** shall only be completed in accordance with this article and Section 30-1211, Transitional Provisions.
 - (3) *Maintenance Allowed.* Nonconformities are allowed and encouraged to receive minor repairs and routine maintenance that are necessary to maintain the nonconformity and its surroundings in a safe condition and to protect against health hazards.
 - (4) *Strengthening Allowed.* 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.
- (d) *Change of tenancy or ownership.* No change in tenancy or ownership shall limit the continuance of a lawfully established non-conformity.

DIVISION 2. - NONCONFORMING LOTS OF RECORD.

Sec. 30-8201 - Existing lots of insufficient size.

Any lot of record existing before the adopted date of the ordinance from which this article is derived, which has an area or width which is less than required by this article, shall be subject to the following exceptions and modifications:

- (a) *Adjoining lots.* When two or more adjoining lots with continuous frontage are in one ownership at any time after the adoption of the ordinance, and such lots individually are less than the minimum square footage and/or have less than the minimum width required in the district in which they are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted width and area for the district in which located. This does not apply to lots of record or to any lot in a subdivision which has received final approval from the town council. However, such lots must be at least one acre in area, unless served by a public water system, and must meet all state, county and local health department requirements.
- (b) *Lot not meeting minimum lot size requirements.* Except as set forth in subsection (a) of this section, in any district in which single-family dwellings are permitted, any lot of record existing at the time of the adoption of these regulations which has an area or width which is less than required by these regulations may be used as a building site for a single-family dwelling.
- (c) *Side yard requirements.* Except as set forth in subsection (a) of this section, where a lot has a width less than the width required in the district in which it is located, then the Town Planner shall be authorized to reduce the side yard requirements for such lot; provided, however, no side yard shall be less than five feet wide.

DIVISION 3. - NONCONFORMING SIGNS.

Sec. 30-8301 - Nonconforming signs.

- (a) *Repairs and maintenance.* A legal nonconforming sign may be maintained and repaired even though such repair will not bring the sign into compliance with this article. Nonconforming signs which have been damaged, destroyed, demolished or removed either by accident or natural causes may be reconstructed and used as before only if the cost of such reconstruction does not exceed 50 percent of the cost of erecting a new sign of the same type that conforms to the requirements of this article. The permit required for such reconstruction must be applied for within one year of the date of the damage. Evidence of the cost of such reconstruction and the cost of erection of a new conforming sign shall be submitted to Town Planner at the time of application for the required permit but such evidence shall not be conclusive of the Town Planner 's decision in issuing or not issuing the required permit.
- (b) *Change of sign face.* The sign face or copy on a legal nonconforming sign may be changed to reflect a change in a company/individual logo, company/individual signage, or company/individual marketing policy only if the following criteria below are met:
 - (1) The sign may not be reconstructed or relocated.
 - (2) There shall no increase in the size of the sign.
- (c) *Permit required.* The change of sign face or repairs on a legal nonconforming sign requires a sign permit and payment of the requisite fee.

DIVISION 4. - NONCONFORMING STRUCTURES.

Sec. 30-8401 - Applicability.

Nonconforming principal and accessory structures shall be subject to the standards in this section.

Sec. 30-8402 - Continuation and replacement.

(a) *Continuation* A nonconforming structure may be continued in accordance with Section 30- , Continuation, Minor Repairs, and Maintenance Allowed.

(b) *Replacement.*

(1) *Residential Development.*

- a. Nonconforming single-family detached dwellings and nonconforming manufactured or mobile homes may be reconstructed in accordance with the standards in Section 30-Extension or Expansion.
- b. Nonconforming residential structures, other than single-family detached dwellings and manufactured or mobile homes, subject to damage by fire, explosion, flood, or other calamity may be reconstructed in the same location and with the same footprint as existed prior to damage. In no instance shall replacement of a nonconforming residential structure increase the nonconformity.
- c. Nothing shall limit activities that increase habitable space of a nonconforming residential structure to a height above the regulatory flood elevation.

(2) *Nonresidential Development.*

- a. *After damage in excess of 50 percent of assessed value.* In the event of damage by fire, explosion, flood, calamity, or other causes to an extent exceeding 50 percent of its assessed value prior to such damage, of a nonconforming nonresidential structure shall be permitted only in compliance with the applicable requirements of this Ordinance.
- b. *After damage less than 50 percent of assessed value.* In the event of damage by fire, explosion, flood, calamity, or other causes to an extent less than 50 percent of its assessed value prior to such damage, reconstruction of a nonconforming nonresidential structure shall be allowed, provided it is constructed:
 1. In accordance with an approved site plan or building permit, as applicable;
 2. In the same location and up to the same dimensions as originally existed;
 3. In compliance with the current dimensional requirements; and
 4. In accordance with State Building Code requirements.

(3) *Relocation* A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless the relocation reduces or removes the nonconformity.

Sec. 30-8403 - Alteration and expansion.

(a) *Alteration* 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. Nothing shall limit the elevation of a residential structure as necessary to ensure habitable floor area is outside the regulatory flood elevation.

(b) *Enlargement* Any enlargement of a nonconforming structure shall be configured so as to not increase the degree of nonconformity.

Sec. 30-8404 - Cessation.

A non-conforming structure may be re-occupied by a conforming use following discontinuance of a prior use.

DIVISION 5. - NONCONFORMING USES.

Sec. 30-8501 - Nonconforming uses.

- (a) *Intent.* Within the districts established by this ordinance, there may exist lots, structures or land uses which were lawful before the ordinance from which this article is derived, for that reason considered grandfathered, and was passed but which would be prohibited or restricted under the terms of this article. It is the intent of this division to permit those nonconforming uses to continue until they are removed, but not to encourage their continuation. Such lots, structures, and uses of land shall be termed nonconforming, and shall be subject to the provisions set forth in this division.
- (b) *Vacant lots.* This category of nonconformance consists of vacant lots for which plats or descriptions have been recorded in the office of the register of deeds, which at the time of adoption or amendment of the ordinance, fail to comply with the dimensional requirements for the districts in which they are located. Any such nonconforming lot may be used for any of the minimum uses permitted by this division for the district in which it is located, provided that it meets the yard requirements of that district.
- (c) *Structures.* This category of nonconformance consists of structures existing at the time of adoption or amendment of the ordinance, whose size or location does not conform with the yard, height, lot area, lot coverage, or other dimensional provisions of this article or any amendment thereto. Such structures may remain, and their conforming use may continue, provided that any enlargement to such structures must conform to all applicable requirements of this division. If such structures are damaged or destroyed by fire, explosion, or other calamity, they may be reconstructed, provided that when reconstructed they comply with all applicable requirements of this article. If a nonconforming structure is moved from its location, it can only be replaced with a structure which conforms to the district regulations.
- (d) *Uses of land.* This category of nonconformance consists of lots used for storage and salvage yards, used car lots, auto wrecking, and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use is not permitted to be established hereafter under this ordinance in the district in which it is located.
- (1) No such nonconforming use shall be enlarged or increased, nor extend to occupy a greater area of land than was occupied at the effective date of the ordinance from which this article is derived.
 - (2) No nonconforming use may be changed to another nonconforming use.
 - (3) Where any nonconforming use of land, in part or whole, is made to conform to the regulations for the district in which it is located, the part or whole which has been made to conform may not thereafter be changed in such a manner as would be nonconforming.
 - (4) Nonconforming uses shall not be reestablished after discontinuance for a period of 180 days, except in conformance with this article.
- (e) *Uses of buildings or structures.* This category of nonconformance consists of buildings or structures used at the time of enactment of the ordinance from which this article is derived or amendment thereto for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:
- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this article.
 - (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this article.
 - (3) No nonconforming use may be changed to another nonconforming use, except that the town council may permit as a special use a change in the nonconforming use if the board finds that such new use would be more in character with the uses permitted in the district than the previous use, provided that once the town board has permitted such substitution, the new use shall not lose its status as a legal nonconforming use and become subject to any conditions required by the town board. Once such change has been made, use of the structure may not revert to the previous nonconforming use.

- (4) Where any nonconforming structure or use in part or whole is made to conform to the regulations for the district in which it is located, the part or whole which has been made to conform may not thereafter be changed in such a manner as would be nonconforming.
- (5) If a nonconforming use is discontinued for a period of 180 consecutive days, the future use of the building or land must be a conforming use.
- (6) Maintenance and repairs necessary to keep a structure housing a nonconforming use in sound condition shall be permitted.
- (7) Should a nonconforming structure be destroyed by any means to an extent of more than 50 percent of its replacement value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this article, or until a special use permit has been granted by the board of commissioners. The special use permit must be applied for within 180 days after the structure has been destroyed.

ARTICLE 9. - ENFORCEMENT

DIVISION 1. - GENERALLY.

Sec. 30-9101 - Purpose.

This section establishes procedures to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this section are intended to encourage the voluntary correction of violations, where possible.

Sec. 30-9102 - Compliance Required.

Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the Town.

Sec. 30-9103 - Statutes of Limitation

Enforcement of violations of this Ordinance shall be in accordance with Sections 1-49(3) and 1-51(5) of the North Carolina General Statutes

DESCRIPTION OF VIOLATIONS.

Sec. 30-9201 - Violations Identified

Any violation of this Ordinance shall be subject to the remedies and penalties provided by this Ordinance and by State law. Violations of this Ordinance shall include, but not be limited to, any of the following:

- (a) Disturbance, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required plans, permits, certificates, or other forms of authorization as set forth in this Ordinance;
- (b) *Development Inconsistent With Authorization* Engaging in any development, use, construction, land disturbance, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity;;
- (c) *Violation by an act or omission:* Any term, variance, modification, adjustment, condition, or qualification placed upon any required plan, permit, certificate, or other form of authorization for the development, use, construction, land disturbance, or other activity upon land or improvements thereon. *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;
- (e) *Subdivide 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 Johnston County Register of Deeds;
- (f) *Continue Operation Following Permit Revocation:* Continuing with construction or operation of a use, building, structure, or activity following permit revocation conducted in accordance with the standards of this section; and
- (g) *Violation of Environmental Regulations.* Failing to follow or violating the rules or regulations of the Johnston County stormwater control ordinances adopted and enforceable in the Town through an interlocal agreement dated Oct. 8, 2012; Code of Ordinances Chapter 14 Flood Damage Prevention, Special Flood Hazard Area Overlay (SFHA), **Section 30-3414**, Watershed Protection Overlay (WPO), or Johnston County, Sedimentation and Erosion Control ordinances (applied to Town of Archer Lodge through an Inter-Local Agreement adopted on Oct. 6, 2014).

ENFORCEMENT PROCEDURE.**Sec. 30-9301 - Responsible Persons**

- (a) *General:* The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any such situation that is contrary to the requirements of the above mentioned chapters, may be held responsible for the violation and be subject to the penalties and remedies provided in *Divisions 4 and 5 below.*
- (b) *Failure by Town Does Not Relieve Individuals:* Failure of a Town official charged with enforcement responsibility to observe or recognize conditions which violate the intent and purpose of this section of the Ordinance, or to deny the issuance of a development permit, shall not relieve the 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.

Sec. 30-9302 - Enforcement Responsibilities

- (a) *Investigations.* As appropriate, any of the reviewing authorities listed in this Ordinance have the power to conduct such investigation as may be deemed necessary to carry out their duties as prescribed in the UDO or other Town ordinances.
- (b) *Inspections.*
- (1) As appropriate, any of the reviewing authorities listed in this section have the right, upon receipt of permission from a responsible person, to enter on any premises within the jurisdiction 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 UDO or other Town Ordinance.
 - (2) If any person charged with enforcing this Ordinance cannot obtain permission to enter from a responsible person, the Town shall obtain an administrative search warrant prior to entering the property.
- (c) *Supporting Documentation:* As appropriate, any of the review authorities listed in this section have the power to compel a person responsible for an alleged violation to provide written statements, certificates, certifications, or reports relating to complaints or alleged violations of this UDO or other Town ordinance.

Sec. 30-9303 - Enforcement Procedures

(a) *Complaints*

- (1) Whenever the Town Planner receives a written and signed complaint alleging a violation of this Ordinance, the Town Planner, Code Enforcement Officer, or other Town official or agent shall investigate the violation allegation in accordance with the standards in this section.
 - (2) The Town Planner, Code Enforcement Officer, or other Town official or agent as appropriate, shall inform the complainant as to whether or not a violation of this Town 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.
 - (3) Nothing shall limit the Town Planner, Code Enforcement Officer, or other Town official or agent from investigating possible violations of this Ordinance without receipt of a written complaint.
- (b) *Violation Discovered:* When the Town Planner, Code Enforcement Officer or other Town official or agent finds a violation of this Ordinance, they shall take following actions:
- (1) *Preparation of Written Notice of Violation* A written notice of violation shall be prepared, in writing, and delivered to the person(s) responsible for the violation. The notice shall include all of following:
 - a. *Violation Exists.* That the land, building, structure, sign, use, or activity is in violation of this Ordinance;

- b. Nature of the Violation.* The nature of the violation, and citation of the section(s) of this Ordinance violated;
 - c. Remedy.* The measures necessary to remedy the violation;
 - d. Allowable Time Period.* The time period in which the violation must be corrected;
 - e. Penalties that May be Assessed.* That penalties or remedies may be assessed; and
 - f. Appeal.* That the party cited has the right to appeal the notice in accordance with Section 30-3116, Appeals.
 - (2) *Delivery of Written Notice.* Written notice of violation shall be provided to the landowner, occupant, or any other responsible person by any of the following means:
 - a.* Certified mail;
 - b.* Registered mail to their last known address;
 - c.* Personal service;
 - d.* Federal- Express or other similar delivery service permitted by N.C. Rule of Civil Procedure 4.
 - e.* Optional: Posting notice conspicuously on the property.
 - (3) *Initial Notice Shall Constitute Final Notice* The initial written notice of a violation may constitute final notice regarding a violation though additional written notice may be provided, in the sole discretion of the Town Planner. Code Enforcement Officer or other Town staff or agent.
 - (4) *Remedy Required upon Notice* Upon delivery of a written notice of a violation, the landowner or any other responsible person shall remedy the violation within the allowable time period.
 - (5) *Emergency Situations* In cases where the delay resulting from the notification process would pose a danger to the public health, safety, or welfare, the Town Planner, Code Enforcement officer, or other Town staff or agent may seek enforcement of this Ordinance without prior written notification and may invoke any of the remedies available in Art. 9, Div. 4 Remedies.
 - (6) *Failure to Comply with Order* If the landowner, occupant, or any other responsible person fails to comply with a notice of violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the landowner, occupant, or other responsible party shall be subject to such remedies and penalties as may be provided for by State law or Art. 9, Div. 4, Remedies.
 - (7) *Each Day a Separate Violation* Each day a violation continues following notice or failure to comply is considered a separate and distinct
- (c) *Failure to Take Corrective Action for Violations in the Floodway or Special Flood Hazard Area (SFHA)*
- (1) In cases where a responsible party has received a notice of violation for development or activity in violation of the standards of Code of Ordinances Chapter 14, Flood Damage Prevention, in the SFHA, and failed to take the required corrective action in the time limit provided, the Town Planner / Floodplain Administrator shall provide written notice of the failure via certified or registered mail to the responsible person's last known address indicating that the property in question is in violation of this Ordinance and that a hearing on the matter will be conducted by the Floodplain Administrator not less than ten days after the date of the notice of failure to take corrective action.
 - (2) At the hearing, the responsible person shall be entitled to present arguments and evidence pertaining to the matter. If, after completion of the hearing, the Floodplain Administrator finds that the property remains in violation of the SFHA standards, the Floodplain Administrator shall issue an order for correction within a specified time period of not less than 60 days from the close of the hearing. The order of the Floodplain Administrator may be appealed to the BOA within ten days in accordance with the standards in Section 30-3116, Appeals.
 - (3) If no appeal is filed and the responsible party fails to take the corrective action identified in the Floodplain Administrator's order, the responsible party shall be guilty of a misdemeanor, and shall be punished in a manner under the discretion of the N.C. courts in Johnston County, N.C.

(d) Violations in the Water Supply Watershed Overlay District (WSWOD).

- (1) Any person violating any provisions of Section 30-4514, WSWOD shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with Section 14-4 of the North Carolina General Statutes.
- (2) The maximum fine for each offense shall not exceed \$500.
- (3) Each day that the violation continues shall constitute a separate offense.

(e) Civil Penalty

- (1) If any subdivision, development, or land use is found to be in violation of Section 30-4514, WSWOD, the Town Council may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of up to \$500, or institute an action to:
 - a. Restrain, correct, or abate the violation;
 - b. Prevent occupancy of the building, structure, or land; or
 - c. Prevent any illegal act, conduct, business, or use in or about the premises.
- (2) In addition, the NC Environmental Management Commission may assess civil penalties in accordance with Section 143-215.6A) of the North Carolina General Statutes. Each day that the violation continues shall constitute a separate offense.

DIVISION 4. - REMEDIES.

Any of the following remedies may be applied by the Town, whether individually or in combination, in response to a violation of this UDO:

Sec. 30-9401 - Civil Penalties.

Any responsible person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty under the procedures provided in Div. 5., Assessment of Civil Penalties.

Sec. 30-9402 - Denial of Permit or Certificate.

The Town Planner may withhold or deny a permit, certificate, or other authorization for the same land, subdivision, building, structure, sign, use, or development activity in which there is an uncorrected violation of this UDO.

Sec. 30-9403 - Conditional Approval.

- (a) The Town Planner or other Town staff or agent, as appropriate, may condition a permit, certificate, or other authorization for land, subdivision, building, structure, sign, use, or development activity with a violation in order to compel:
 - (1) Correction of the violation;
 - (2) Payment of civil penalties; and
 - (3) Posting of a compliance security, as approved by the appropriate governmental authority.
- (b) In no instance shall a permit, certificate, or approval for one property be conditioned in order to address a violation on a different property

Sec. 30-9404 - Stop Work Orders.

- (a) *General.* Whenever the Town Planner, or other Town Staff or agent, as appropriate determines that a person is engaged in doing work that constitutes, creates, or results in a violation of this UDO and that irreparable injury will occur if the violation is not terminated immediately, the Town Planner, other Town staff or agent, as appropriate, may order 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* The stop work order shall be in writing and directed to the landowner, and the occupant or person doing the work. 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.
- (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 30-3116 Appeals. An appeal shall stay the stop work order unless the Town Planner submits an affidavit to the Board of Adjustment as provide in section 30-3116 (c).
- (d) *Compliance Required.* Neither the responsible person 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 subsection

Sec. 30-9405 - Revocation of Permits.

- (a) The Town may, in its sole discretion, initiate a process to revoke a prior development approval or permit in response to a violation of this Ordinance.
- (b) The Town Planner or the Building Inspector, as appropriate, may initiate the revocation process by notifying the permit holder in writing, at least ten days prior to the commencement of revocation proceedings, stating the reason for the proposed revocation.
- (c) Permits or certificates may be revoked, in accordance with Sections 160D-403(f) of the N. C. General Statutes, 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.
- (d) Any permit or certificate mistakenly issued in violation of an applicable State or County law may also be revoked by the appropriate authority

Sec. 30-1103 - Criminal Penalties.

- (e) *Violation of Erosion and Sedimentation Control* Any person who knowingly or willfully violates any soil erosion and sedimentation control provision of this Ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which a soil erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars (\$5,000).
- (f) *All Other Violations* Any violation of this Ordinance may be enforced as a Class 3 misdemeanor as provided for by Sections 14-4 and 160A-175 of the N. C. General Statutes, subject to a maximum fine of \$500 or a maximum of 30 days imprisonment

Sec. 30-9406 - 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 UDO, or any rule or order adopted or issued pursuant to this UDO, or any term, condition, or provision of an approved development 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 Johnston County Superior Court. Upon determination by the 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 a party in violation of this UDO from any applicable civil or criminal penalty

Sec. 30-9407 - Order of Abatement

In addition to an injunction, the Town 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 UDO.

Sec. 30-9408 - Equitable Remedy

The Town may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this UDO. The fact that other remedies are provided under general law or this UDO shall not be used by a violator as a defense to the Town's application for equitable relief.

Sec. 30-9409 - State and Common Law Remedies

In addition to other enforcement provisions contained in this section, the Town Council may exercise any and all enforcement powers granted to it by State or common

Sec. 30-9410 - Enforcement of Specific Environmental Regulations

In the event of conflict between the enforcement provisions of this article and any of the following, the Johnston County or Town ordinances located outside of the UDO shall apply:

- (a) The Johnston County soil erosion and sedimentation control (applicable to the Town by an interlocal agreement dated Oct. 6, 2014); or
- (b) The Johnston County stormwater ordinances applicable to the Town by an inter-local agreement dated Oct. 8, 2012; or
- (c) Town Code of Ordinances Chapter 14 Flood Damage Prevention. See Chap 14 in the Town Code of Ordinances.

DIVISION 5. - ASSESSMENT OF CIVIL PENALTIES.

Sec. 30-9501 - Amount of Civil Penalties

The minimum civil penalties for violation of this article shall be as follows:

- (a) First offense: \$150.00.
- (b) Second offense: \$200.00.
- (c) Subsequent offenses: \$300.00.

- (d) In addition to any civil remedies set out in this section the town, in its sole discretion, may seek, as an alternative and/or additional relief the recovery of its actual investigative cost where those administrative costs are determined to be greater than \$500.00

Sec. 30-9502 - Procedure Generally.

- (a) *Written Notification Required* Civil penalties may not be assessed until the responsible person in violation has been notified in accordance with Section 30-9303, Enforcement Procedures. Nothing shall prevent the notice of violation from serving as the written notice of penalty assessment of civil penalties.
- (b) *Notice of Penalty Assessment* Notice of the civil penalty assessment shall be served in the same manner as a notice of violation.
- (c) *Assessment Contents* The assessment notice shall state the nature of the violation, the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 10 days of the date of the notice of penalty assessment.
- (d) *Assessment Until Compliance* Civil penalties may be assessed until compliance is achieved

Sec. 30-9503 - Continuing Violation.

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

Sec. 30-9504 - Demand for Payment.

If compliance is not achieved, then the Town Planner, Code Enforcement Officer, or other Town staff or agent, as appropriate, shall make written demand for payment of penalties that have accrued while the property has been in violation. The demand for payment shall be sent to the responsible person in violation and must include a description of the violation for which the civil penalties have been imposed

Sec. 30-9505 - Nonpayment.

If payment is not received or equitable settlement reached within 10 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.

ARTICLE 10. - MEASUREMENT & DEFINITIONS

DIVISION 1. - RULES OF LANGUAGE CONSTRUCTION.

For the purpose of this article, certain terms or words used in this article shall be interpreted as follows:

- (1) The terms "used" and "occupied" include the term "intended, designed, and arranged to be used as occupied."
- (2) Terms not defined in this article shall have the meanings customarily assigned to them.
- (3) Definitions specific to a specialized area, such as stormwater management, flood control and other technical and engineering definitions, are contained within that specific article.

DIVISION 2. - RULES OF MEASUREMENT.**Sec. 30-10201 - Measurement Generally.****Sec. 30-10202 - Lot Dimensions.****Sec. 30-10203 - Density.****Sec. 30-10204 - Setbacks.****Sec. 30-10205 - Lot Coverage.****Sec. 30-10206 - Height.**

The height regulations stipulated elsewhere in this article may be exceeded only where such structures are not intended for human occupancy, such as church spires, belfries, cupolas, domes, monuments, public water towers, observation towers and transmission towers, chimneys, smokestacks, conveyors, flagpoles, radio towers, masts, aerials, grain elevators, and similar structures which exceed the height limitations of this article.³⁸

(Ord. of 11-14-2013, § 14-9)

Sec. 30-10207 - Slope and Elevation.**Sec. 30-10208 - Parking Space Computation.****Sec. 30-10209 - Signage Measurement.**

- (a) The area of a display surface of a sign shall be computed as including the entire area visible from any one point, within a regular geometric form or combination of forms, comprising all of the display area of the surface and including all of the elements within the display area and the sign frame. Structural members not bearing a sign message shall not be included in the computation of sign area.
- (b) For the purpose of determining the number of signs, a sign shall be considered to be a single display device containing elements organized, related, and composed to form a unit. Where elements are displayed in a random manner without organized relationship, each element shall be considered a single sign.
- (c) The height of any freestanding sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground to the topmost element of the sign, including any architectural features, antennas, or other attachments. A freestanding sign on a manmade base shall be measured from the original grade of that base, the original grade of the graded earth mound, or the nearest street, drive, or parking area, whichever is lowest.
- (d) All sign setbacks shall be measured from the public right-of-way, street easement (if there is no right-of-way), or pavement edge (if there is no right-of-way or street easement), unless otherwise stated in this article.

Sec. 30-10210 - Landscaping Size Computation.**Sec. 30-10211 - Fence and Wall Height.****Sec. 30-10212 - Exterior Lighting Measurement.**

³⁸ Carries forward Section 30-27 from the current Town Code.

DIVISION 3. - DEFINITIONS³⁹

Sec. 30-10301 - Defined terms. The words, terms, and phrases in the following table shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(add note clarifying location of WSW and flood damage definitions)

- (1) Automobile, abandoned, junked, nuisance.
- (2) Dwelling, manufactured home.
- (3) Dwelling, mobile home.
- (4) Manufactured home lot.
- (5) Manufactured home space.
- (6) Manufactured home stand or pad.
- (7) Modular or prefabricated construction.
- (8) Operator.
- (9) Parking bay.
- (10) Public or community sewer system.
- (11) Public or community water supply system.
- (12) Rental manufactured/mobile homes.
- (13) Residential-manufactured home park.
- (14) Residential-manufactured home park major collector street.
- (15) Residential-manufactured home park minor collector street.
- (16) Travel trailer.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
A	
ACCENT	means the use of an alternate material or color to a detail that is emphasized by contrasting with its surroundings.
ACCESS EASEMENT	means an easement which grants the right to cross land.
ACCESSIBLE PARKING SPACE	means an off-street parking space provided for the exclusive use of vehicles serving disabled persons.
ACCESSORY BUILDING	See "accessory structure."

³⁹ This section carries forward and consolidates current Section 30-24, Section

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
ACCESSORY DWELLING UNIT	means a dwelling that exists either as part of a principal dwelling or as an accessory building that is secondary and incidental to the use of the property as single-family residential.
ACCESSORY STRUCTURE	means a detached subordinate or incidental structure, the use of which is incidental to the principal structure and which is located on the same lot as the principal structure.
ACCESSWAY	means a paved or unpaved travel way intended to serve vehicles for the purposes of obtaining ingress, egress, or circulation around a lot or site.
ADDITION OR EXPANSION	means an extension or increase in the floor area or height of a building or structure.
ADJACENT	means 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.
ADJOINING	means when one property adjoins another, shares a common property line or is immediately adjacent to, or abutting it.
ADOPTED POLICY GUIDANCE	means the combined future land-use policy guidance provided by the adopted comprehensive plan, area or corridor plans prepared for specific parts of the town, and system plans related to the town's infrastructure systems.
ADULT ARCADE	means an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by all emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
ADULT BOOKSTORE	means an establishment that has as a substantial portion, over 25 percent of total retail space, of its stock-in-trade and offers for rent or sale, for any consideration, any one or more of the following: (1) Books, magazines, periodicals, or other printed matter; or photographs, films, motion pictures, videocassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
ADULT BUSINESS	means any business activity, club or other establishment which permits its employees, members, patrons or guests on its premises to exhibit any specified anatomical areas before any other person or persons.
ADULT CARE HOME	means a home with support and supervisory personnel licensed with the state that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities and defined in G.S. 168-21. There shall be a minimum one-half-mile separation measured in a straight line between family care homes, also known as "group home" or "family care home."
ADULT DAY CARE FACILITY	means a use of land and buildings licensed by the state that provides care to seven or more aging, disabled or handicapped adults away from their homes, and by persons other than family members, guardians, or custodians. The term "adult day care facility" shall not be construed to include a group care facility.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
ADULT ESTABLISHMENT	means any business by its nature or use that is intended to serve patrons of age 18 years or older which may or may not be limited to those businesses regulated under section 30-5102
ADULT MOTION PICTURE THEATER	means an establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion, 25 percent, of the total presentation time is devoted to the showing of material characterized by all emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
ADULT THEATER	means a theater, concert hall, auditorium or similar establishment characterized by activities featuring the exposure of specified anatomical areas or by specified sexual activities.
AGRICULTURAL LAND	means land consisting of ten acres or more that are in actual production and having gross income from the sale of agricultural products produced thereon (together with payments received under a soil conservation or land retirement program) averaging \$1,000.00 per year for the immediately preceding three years. Reference Farmland Taxation Act, G.S. 105-277.3.
AGRICULTURE FARM, BONA FIDE	means an agricultural land use that includes the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, fish, and all other forms of agricultural products having a domestic or foreign market, meeting the requirements of agricultural land, and having a farm service agency U.S.D.A. farm number.
AGRICULTURE FARM, LIVESTOCK	means the use of land for the keeping, grazing, feeding or breeding of livestock, including cattle, hogs, sheep, goats, and poultry, and also animal specialties such as horses, rabbits, bees, and fish and fur-bearing animals in captivity.
AGRICULTURE FARM, NON-LIVESTOCK	means the use of land for the production of cash grains, field crops, vegetables, fruits, and nuts, and for non-horticulture and floriculture.
AGRI-TOURISM	means the act of visiting a working farm or any agricultural, horticultural or agri-business operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation.
ALTERNATIVE LANDSCAPE PLAN	means a document prepared by an applicant that proposes an alternative means of compliance with the standards in section 30-205, Landscaping .
ALTERNATIVE PARKING PLAN	means a document prepared by an applicant that proposes an alternative means of compliance with the standards in section 30-200, Off-Street Parking and Loading .
ALZO	means the Archer Lodge Zoning Ordinance.
APARTMENT	means a room or unit of one or more rooms, with kitchen facilities, and are designated or intended to be used, as an independent unit.
APPLICANT	means any person who submits to the town a request or plans for the purpose of obtaining approval thereof under this article.
ARBOR	means a structure with an open roof system providing partial shading and which may also have non-opaque fencing on the outside perimeter.
ARCADE	means 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	means a curved, semicircular opening in a wall.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
ARTERIAL STREET	means a street designated as an arterial street in the town's adopted policy guidance, the applicable comprehensive transportation plan, or by the NCDOT.
ARTICULATION	means the presence or projections, recesses, or other architectural features along a building façade.
AUTOMOBILE CAR WASH	means a lot on which motor vehicles are washed or waxed, either by the patron or by others.
AUTOMOTIVE DISPLAY AND SALES	means a lot where three or more vehicles are displayed for the purpose of sale. For the purpose of automotive display and sales a dealer's license must be obtained from the state DMV, if five or more vehicles are displayed or sold within 12 consecutive months, in accordance with G.S. Ch. 20, art. 12.
AUTOMOTIVE PARTS SALES	mean an establishment which sales vehicle parts and accessories. Not to be considered automotive repair.
AUTOMOTIVE REPAIR, MECHANICAL	means the repair, rebuilding, or reconditioning of motor vehicles or parts of motor vehicles.
AUTOMOTIVE REPAIR, PAINT/BODY	means the repair of collisions to include mechanical, body/fender work, painting and steam cleaning of vehicles.
AUTOMOTIVE SERVICE STATION	means a facility where gasoline, diesel fuel, oil, grease, and automotive accessories are supplied and dispensed to a motor vehicle trade. In addition, sales of automotive parts, tires and other automotive supplies may be rendered as well as minor repairs to vehicles and replacement of parts which are made on site. The term "automotive service station" does not include those uses allowed under the definition of "automotive repair, paint/body."
AUTOMOTIVE, MOTOR HOME, FARM IMPLEMENT SALES OR RENTAL	means the sale or rental of new and/or used motor vehicles, motor homes, trailers, or farm implements to be displayed and sold on the premises.
AWNING	means a plastic, canvas, or metal porch or shade supported by a frame and often foldable that is placed over a storefront, doorway, or window.
AWNING OR CANOPY SIGN	means a sign that is attached to, or made a part of, an awning, canopy, or other fabric, plastic, or structural protective cover, such as over a door, window, or other opening to a building or over a gas pump. An awning or canopy sign is a type of wall sign when calculating wall sign area.
B	
BALCONY	means a platform on the outside of a building that is accessible from an upper-story door or window and bounded by a building wall on at least one side, with its open sides surrounded by a railing.
BANK/CREDIT UNION	means financial institutions engaged in deposit banking and closely related functions such as extensions of credit by means of loans and investments, and fiduciary services.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
BANNER SIGN	means any non-rigid linear or rope-like sign (usually made of cloth, plastic, or canvas and has no enclosing framework) that is mounted or attached to a building, object, or the ground. A pennant is a triangular-shaped banner that might be blank or might display images or words. A ribbon is a rectangular-shaped banner [that] might be blank or might display images or words. A streamer may have multiple banners, pennants, and/or ribbons attached and is stretched or hung between two or more points. National or state flags or the official flag of any institution shall not be considered banners.
BAR	means an establishment, public or private, in which alcoholic beverages are sold as the principle product, which may or may not have an environmental health restaurant permit. Not intended to mean restaurant; also known as saloon, tavern, etc.
BASEMENT	means any area of a building having its floor subgrade (below ground level) on all sides.
BAY WINDOW	means a window, typically with two or more sides that is built to project outward from an outside wall.
BED AND BREAKFAST INN	means a lodging facility in which the operator resides, and which is established for the purpose of providing temporary overnight accommodations for tourists, vacationers and other similar transients.
BERM	means an elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses or site features.
BEST MANAGEMENT PRACTICES	As used in the water supply watershed protection overlay district, a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
BICYCLE PARKING SPACE	means land and facilities used for the parking of bicycles, including a mechanism for securing a parked bicycle.
BILLBOARD SIGN	means an off-site sign with a total surface area greater than 32 square feet that advertises an establishment, merchandise, service, or entertainment that is not sold, produced, manufactured, or furnished at the property on which said sign is located. Billboard signs are not permitted anywhere in the town.
BOARD OF ADJUSTMENT	means the quasi-judicial body composed of appointed representatives from the town which are given certain powers under and relative to ordinances of the town.
BOARDINGHOUSE	means a structure which contains four or more rooms, which may have no kitchen facilities, and are designed or intended to be used for residential occupancy on a rental basis.
BUFFER	means a strip of land with natural or planted vegetation located between a use or structure and the street, side and rear property lines intended to separate and partially obstruct the view of adjacent land uses or properties.
BUFFER	As used in the water supply watershed protection overlay district, an area of natural or planted vegetation through which stormwater runoff flows in a diffused manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impoundments and from the bank of each side of streams or rivers.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
BUFFER STREETScape	See "streetscape buffer."
BUFFER, PERIMETER	means vegetative material and structures (i.e., walls, fences) that are used to separate uses from each other as required by this article, including the Type A Separation, Type B Intermittent, Type C Semi-Opaque, and Type D, Opaque.
BUILDABLE LOT	means a lot of record created under the requirements of this article, or under the standards of previous requirements, containing sufficient area, exclusive of easements, flood hazards, water bodies, well and wastewater disposal tank fields; sufficient total dimensions; sufficient means wastewater disposal system; and sufficient access to permit construction thereon of a principal building together with its required parking and buffer yards.
BUILDING	means any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property.
BUILDING AXIS	means 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 FAÇADE	means 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. Façades may be on the front, side, or rear elevation of the building.
BUILDING FOOTPRINT	means the area occupied by the perimeter of a principal building. Accessory structures and non-building facilities are not included in the building footprint.
BUILDING MARKER	means a cornerstone, a historical marker, or similar sign with letters, words, or insignia cut into the building surface, or otherwise permanently mounted on the building, which convey a memorial, the name of the building, address or date of construction, or similar noncommercial message.
BUILDING PROJECTION	means an extension of a building wall or building façade projecting outwards from the primary building façade plane typically used to provide visual interest, contain an entrance, or conceal or screen a service element of site feature like a refuse collection container.
BUILDING RECESS	means an inset or indentation of a building wall or building façade from the primary building façade plane typically used to accommodate windows, walk-up service features, doorways, or pass-throughs.
BUILDING WALL PROJECTION	means 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 WING	means 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.
BUILDING, ACCESSORY	means a subordinate building detached from, but located on the same lot as, the principal building, the use of which is incidental and accessory to that of the principal building.
BUILDING, DETACHED	means a building having no common wall with the principal building.
BUILDING, PRINCIPAL	means a building or, a group of buildings, in which the principal use of the lot is conducted.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
BUILT-UPON AREA (IMPERVIOUS SURFACE)	As used in the water supply watershed protection overlay district, impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail (a linear corridor on land or water protected from motor vehicles, providing public access for recreation or transportation) that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle.
BUMP OUT	See "building projection."
BUSINESS IDENTIFICATION SIGN	means a freestanding or wall sign that is intended to announce or promote the use, activity, service, or business on the premises of any retail or service business, shopping center, manufacturing establishment, industrial park, or similar. Such a sign may include a directory of occupants. This does not include any sign that includes any additional information such as an arrow, map, phone number, for sale or for rent, or development amenities.
BUSINESS, CONVENIENCE STORE	means commercial establishments that generally serve day-to-day commercial needs of an area, including gasoline, diesel fuel, food stores other than supermarkets, and restaurants/grill establishments as an accessory.
BUSINESS, WHOLESALE	means commercial establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers or other wholesale establishments with a wholesale or retail license for resale.
C	
CALIPER	means 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 above the ground.
CANOPY	means 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	means 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.
CEMETERY	means land used or intended to be used for burial of the human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.
CENTRAL LEADER	means the dominant upright branch (or trunk) of a tree.
CERTIFICATE OF OCCUPANCY	means a document issued by the building inspector certifying compliance with all applicable state and local construction codes, including all terms of an approved zoning compliance permit or special use permit, and authorizing occupancy of a building or structure.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
CHANGE OF USE	means 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 SIGN	means a freestanding or wall sign or portion of a sign that permits computer-driven or manually-changeable copy that provides non-moving messages and does not change messages more than four times per day.
CHILD DAY CARE FACILITY	means any establishment that provides regular care, activity, and supervision, with or without academic instruction, for five or more children under the age of 16 years and operates more than four hours per day but not more than 18 hours per day. A commercial or nonprofit child care center establishment is not operated as a small or large day care home. The term "child care center" includes infant centers, preschools, and extended day care facilities. These may be operated in conjunction with a business, school, or religious facility, or as an independent land use. A child care center must meet applicable requirements of the state building code and must have a fence of at least four feet in height surrounding any play area provided for the children. The operation of the center shall comply with all federal, state and local codes.
CHILD DAY CARE HOME	means a home or facility wherein at least two, but not more than five, children receive care away from their own home by persons other than their own parents, legal guardians or relatives within the fourth degree of kinship, on a regular basis more than once per week for more than four hours per day. The facility must operate 12 hours per day or less. All children other than the children of the operator must be counted. Child day care homes shall be considered home occupations. The operator of the home must reside on the premises. The home must meet applicable requirements of the state building code and must have a fence of at least four feet in height surrounding any play area provided for the children. One freestanding sign not exceeding four square feet in size advertising the day care home shall be permitted. The operation of the home shall comply with all federal, state and local codes and shall be permitted by right in all residential districts as a home occupation and shall comply with section 30-4312.
CLINIC	means an establishment used for the care, diagnosis, therapy, or counseling of sick, ailing, infirmed, or injured persons or nonmedical therapy and counseling on an out-patient basis.
CLUB, PUBLIC OR PRIVATE	means an establishment operated by a corporation or association of persons for social, literary, political, educational, fraternal, or charitable purposes, that may or may not be operated for profit. Not to be considered an adult business or sexually oriented businesses as intended in section 30-99.
CLUSTER DEVELOPMENT	means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. The term "cluster development" includes nonresidential development as well as single-family residential and multifamily developments.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
CLUSTER DEVELOPMENT	As used in the water supply watershed protection overlay district, cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this ordinance, planned unit developments and mixed-use development are considered as cluster development.
CLUSTER MAILBOX UNIT	means a centralized grouping of individually locked and keyed mailboxes meeting the specifications of the United States Postal Service.
COLLECTOR STREET	means a street designated as an collector street in the town's adopted policy guidance, the applicable comprehensive transportation plan, or by the NCDOT.
COLUMN	means an upright pillar, typically cylindrical and made of stone or concrete, supporting an entablature, arch, or other structure or standing alone as a monument.
COMMERCIAL VEHICLES	means a commercial, industrial or construction truck or vehicle and is defined as having a manufacturer's rating of more than one ton or a payload capacity of 10,001 pounds or more, whichever is greater. For purposes of clarification, but without limitation, the term "commercial vehicles" includes dump trucks, tractor-trailers, tankers, tank trucks, buses, large panel vans, trailers and construction equipment or any part thereof. Farm equipment and farm vehicles of more than one ton or payload capacity of 10,001 pounds or more, whichever is greater are excluded.
COMMISSION	As used in the water supply watershed protection overlay district, the N.C. Environmental Management Commission (EMC).
COMMUNITY CHARACTER	means 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.
COMPREHENSIVE PLAN	means the comprehensive plan for the Town of Archer Lodge, as adopted and amended by the Archer Lodge Town Council.
CONDITIONAL USE	means the use of land, buildings, or structures that is identified in this article as a use that because of its inherent nature, extent, and external effects, requires distinctive care in the control of its location, design, and methods of operation in order to ensure protection of the neighborhood public health, safety and welfare in the proximity to the subject parcel.
CONDITIONAL USE PERMIT	means a permit issued by the board of adjustment authorizing the development of a parcel/lot for a conditional use.
CONSTRUCTION PLAT	means a plan with supporting data for a proposed subdivision, developed for the purpose of establishing the layout and provision of roads and utilities.
CONSTRUCTION PLAT	means a plan with supporting data for a proposed subdivision, developed for the purpose of establishing the layout and provision of roads and utilities.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
CONSTRUCTION SITE SIGN	means a temporary sign identifying the name of a subdivision, building, and/or public works project or facility and/or an architect, engineer, contractor, developer, subcontractor, material supplier, and/or similar occupations participating during the time of construction. Also known as a project construction site sign.
CONTAINERIZED STOCK	means trees or other vegetation delivered for planting or establishment in individual or group containers.
COPING	means a finishing or protective course of masonry or cap of metal located at the top of a brick, stone, or masonry wall.
CORNICE	means 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.
COUNTY	means Johnston County, North Carolina.
CREMATORIUM FACILITY	means a facility in which human remains are cremated. A facility may consist of one or more cremator furnaces and provide crematory services to funeral homes.
CRITICAL AREA	As used in the water supply watershed protection overlay district, 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 either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half 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). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile. At the adoption of the ordinance from which this article is derived, there are no known critical areas in the planning area of the Town.
CURB	means a constructed element used to stabilize paving, gutter, planting areas, or sidewalks.
CURB OUTLET SYSTEM	As used in the water supply watershed protection overlay district, a curb and gutter with breaks or other outlets used to convey stormwater runoff to vegetated conveyances or other vegetated areas."
D	
DBH	is the measurement of the diameter of an existing tree trunk taken at a height of four and one-half 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.
DECORATIVE GLASS	means glass located on an exterior wall of a building that may be transparent, semi-transparent, or opaque.
DENSITY	means the average number of families, persons, or housing units per acre of land.
DEVELOPING LAND	means a parcel/lot on which surveying for development is currently taking place or for which an application is currently being reviewed for development by the Town Planner or for which development activities have been approved.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
DEVELOPMENT	means any manmade change to improved or unimproved real estate, including, but not limited to, the construction, erection, structural alteration, or enlargement of any building or other structure; mining; dredging; filling; grading; paving; excavation or drilling operations; clearing of vegetation; and any division of land into two or more parcels of land.
DEVELOPMENT	As used in the water supply watershed protection overlay district, any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the subsoil.
DIAMETER AT BREAST HEIGHT (DBH)	means measurement for determining the size of existing trees to be credited towards landscaping requirements or for violations of this article.
DIRECTIONAL SIGN	means a sign located at or near the public right-of-way, private street, or public road easement that directs or guides traffic and parking from the street onto a property.
DIRECTORY SIGN	means a freestanding or wall sign that lists the tenants of a business property or lists informational items for an institutional land use.
DISPERSED FLOW	As used in the water supply watershed protection overlay district, uniform shallow flow that is conveyed to a vegetated filter strip, another vegetated area, or stormwater control measure (SCM). The purpose of dispersed flow is to remove pollutants through infiltration and settling, as well as to reduce erosion prior to stormwater reaching surface waters.
DORMER WINDOW	means a window that projects vertically from a sloping roof.
DOT OR NCDOT	means the state department of transportation.
DRAINAGEWAY	means any stream, watercourse, channel, ditch or similar physiographic feature draining water from the land.
DRIVE AISLE	means a vehicular accessway within a surface parking lot or a parking structure.
DRIVE THROUGH	means a facility designed to enable a person to transact business while remaining in a motor vehicle.
DRIVE-IN RESTAURANT	means an establishment that provides employee curbside service or accommodations through special equipment or facilities for the ordering of food or beverage from a vehicle.
DRIVEWAY	means a vehicular way, other than a street or alley, that provides vehicular access from a street.
DRIVEWAY	means 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 MEDIAN	means 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.
DWELLING	means any building or structure that is wholly or partly used or intended to be used for living and/or sleeping by one or more human occupants.
DWELLING UNIT	means a group of rooms within a dwelling forming a single independent habitable unit used for or intended to be used for living, sleeping, sanitation, cooking and eating purposes by one family only.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
DWELLING, MANUFACTURED HOME, CLASS A (DOUBLEWIDE)	means a manufactured home of at least 320 square feet and constructed after June 15, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction. Class A manufactured homes do not include any size recreational vehicle, camper trailer or A.N.S.I. park model homes. Class A manufactured homes also satisfy the following additional criteria: (1) Each manufactured home must have exterior siding that is either painted or stained wood such as board and batten, or board-on-board, Masonite, simulated stucco, residential grade aluminum, or vinyl lap siding. All siding shall be in good condition, complete, not damaged or loose; (2) Each manufactured home shall have either faux brick or faux stone panels, or a permanent masonry brick foundation installed around the perimeter of the home. Skirting shall be installed pursuant to current building codes; (3) Each manufactured home having a painted exterior, shall have the exterior paint in good condition, not peeling or any rust showing through; (4) Each manufactured home shall have all windows and doors intact and in working condition; (5) Each manufactured home shall have in place permanent steps, meeting the state building code; (6) All repairs made to the exterior of the manufactured home shall be made to be consistent with the original intent or integrity of the manufactured home when that manufactured home was built. For example, if repairs are made to the siding, material as close to, or consistent with, the original siding shall be used; (7) Each class A manufactured home shall have the wheels and axels, tongue hitch and running lights removed prior to receiving a certificate of occupancy; (8) All conditions listed in subsections (1) through (7) of this definition shall be complied with before a certificate of occupancy and compliance is issued for the class A manufactured home; and (9) All class A manufactured homes, regardless of availability of public utilities, shall have a minimum lot size of one acre.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
DWELLING, MANUFACTURED HOME, CLASS B (SINGLEWIDE)	means a manufactured home of at least 320 square feet constructed after June 15, 1976, that meets or exceeds the standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, but which does not meet the definition of a class A (doublewide) manufactured home. Class B manufactured homes do not include any size recreational vehicle, camper trailer or A.N.S.I. park model homes. Class B manufactured homes also satisfy the following additional criteria: (1) Each manufactured home must have exterior siding that is either painted or stained wood such as board and batten, or board-on-board, Masonite, simulated stucco, residential grade aluminum, or vinyl lap siding. All siding shall be in good condition, complete, not damaged or loose; (2) Each manufactured home shall have a permanent masonry brick foundation installed around the perimeter of the home; (3) Each manufactured home having a painted exterior, shall have the exterior paint in good condition, not peeling or any rust showing through; (4) Each manufactured home shall have all windows and doors intact and in working condition; (5) Each manufactured home shall have in place permanent steps, meeting the state building code; (6) All repairs made to the exterior of the manufactured home shall be made to be consistent with the original intent or integrity of the manufactured home when that manufactured home was built. For example, if repairs are made to the siding, material as close to, or consistent with, the original siding shall be used; and (7) Each class B manufactured home shall have the wheels and axels, tongue hitch and running lights removed prior to receiving a certificate of occupancy. All conditions listed in subsections (1) through (7) of this definition shall be complied with before a certificate of occupancy and compliance is issued for the class A manufactured home. All class B manufactured homes, regardless of availability of public utilities, shall have a minimum lot size of one acre. (8) Singlewide manufactured homes that are ten or more years old are not permitted to relocate within the town or be brought into the jurisdictional limits of the town.
DWELLING, MOBILE HOME, CLASS C	means a mobile home constructed prior to June 15, 1976, and/or does not meet the definition of either a class A or a class B manufactured home. Class C manufactured homes shall not be permitted in any zoning district within the planning jurisdiction and not used for any type of accessory use in any zoning district in the planning jurisdiction.
DWELLING, MODULAR HOME	means a manufactured building designed to be used as a one-family dwelling which has been constructed and labeled indicating compliance with the state residential building code.
DWELLING, MULTIFAMILY	means a dwelling or combination of dwellings on a single lot consisting of three or more dwelling units.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
DWELLING, SINGLE-FAMILY	means a detached building designed for or occupied exclusively by one family.
DWELLING, TOWNHOUSE	means a single-family dwelling unit constructed in a row of attached units separated by property lines and which exterior walls on at least two sides. For the purpose of density calculations, townhouses shall be counted as individual units.
DWELLING, TWO-FAMILY (DUPLEX)	means a building either designed for or occupied by two families living independently of each other. For the purpose of density calculations, a duplex building shall be counted as one dwelling unit.
E	
EASEMENT	means 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.
EAVE	means the projecting lower edges of a roof that overhangs the wall of a building.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
ELECTRONIC GAMING OPERATIONS	means a location where a mechanically, electrically or electronically operated gaming machine or device, that is owned, leased or otherwise possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes sponsor's or promoter's partners, affiliates, subsidiaries or contractors, that is intended to be used by a sweepstakes entrant, that uses energy, and that is capable of displaying information on a screen or other mechanism. The term "electronic gaming operations" is applicable to an electronic gaming machine or device whether or not: (1) It is server-based. (2) It uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries. (3) It utilizes software such that the simulated game influences or determines the winning or value of the prize. (4) It selects prizes from a predetermined finite pool of entries. (5) It utilizes a mechanism that reveals the content of a predetermined sweepstakes entry. (6) It predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed. (7) It utilizes software to create a game result. (8) It requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device. (9) It requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device. (10) It requires purchase of a related product. (11) The related product, if any, has legitimate value. (12) It reveals the prize incrementally, even though it may not influence if a prize is awarded, or the value of any prize awarded. (13) It determines and associates the prize with an entry or entries at the time the sweepstakes is entered. (14) It is a slot machine or other form of electrical, mechanical, or computer game. State Law reference— Lotteries, gaming, bingo and raffles, G.S. Ch. 14, art. 37.
ENTRANCE, PRIMARY	See "primary entrance."
EROSION AND SEDIMENTATION CONTROL PLAN	As used in the water supply watershed protection overlay district, any plan submitted to the Division of Energy, Mineral and Land Resources or a delegated authority in accordance with G.S. section 113A-57.
EVERGREEN TREE	See "tree, evergreen."
EXISTING DEVELOPMENT	As used in the water supply watershed protection overlay district, those projects that are built or those projects that have established a vested right under N.C. law as of Dec. 4, 2009.
EXISTING LOT (LOT OF RECORD)	As used in the water supply watershed protection overlay district, a lot which is part of a subdivision, a plat of which has been recorded in the Office of the Johnston County Register of Deeds prior to the adoption of this ordinance (Dec. 4, 2009), or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
EXISTING TREE(S)	means trees or other woody vegetation that exist and are retained on a development site.
EXPANSION	means an increase in the floor area of an existing structure or building, or the increase of area of a use.
EXTRACTION OF EARTH PRODUCTS	means the process of removal of natural deposits of mineral ores, soils, stone and gravel, or other solid matter from their original location, not including any processing of such material beyond incidental mechanical consolidation or sorting to facilitate transportation off site.
F	
FABRICATION	means the processing and/or assemblage of various components into a complete or partially completed commodity, fabrication related to stamping, cutting, or otherwise shaping the processed materials into useful objects, and the refining aspects of manufacturing and other initial processing of basic raw materials such as metal, ore, lumber, and rubber, etc., are also included.
FAÇADE	See "building façade."
FAÇADE WALL	means 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. Façades may be on the front, side, or rear elevation of the building.
FAÇADE, FRONT	means 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, REAR	means the exterior façade of a building that is opposite the front façade.
FAÇADE, SIDE	means the exterior façade of a building perpendicular to the front façade.
FALSE (OR OPAQUE) WINDOWS	means an exterior building material provided to replace or approximate a window.
FALSE WINDOW OR DISPLAY CASEMENT	means an exterior building material provided to replace or approximate a window, or a glass-fronted niche within a building wall used to display products available for sale.
FAMILY CARE HOME	means a home with support and supervisory personnel licensed with the state that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities and defined in G.S. 168-21. There shall be a minimum one-half-mile separation measured in a straight line between family care homes, also known as "group care home" or "adult care home."

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
FAMILY EXCEPTION/EXEMPTION	Family exception regulations allow family members to subdivide property without having to comply with the approval process of article VI, division 2 of this chapter. Approval is provided by the Town Planner at a fee as stated in the fee schedule. Linear family members consist of parents, their children, their grandchildren, their brothers and sisters. The term "family exception/exemption" does not include aunts, uncles, and cousins. The subdivision must meet the current subdivision and zoning regulations, with the exception of the road standards. Lots created off a state maintained road must meet the following requirements: (1) Ten lots or less; must meet the minimum design and construction criteria for subdivision roads as set forth in the latest edition of the state DOT subdivision roads minimum construction standards. (2) With the exception of pavement surfacing, road standards must meet minimum design and construction criteria for subdivision roads as set forth in the latest edition of the state DOT subdivision roads minimum construction standards. (3) All family exceptions shall be required to have a family exception certificate. The following certificate shall be placed on the plat: We hereby certify that the grantee of each lot shown hereon is the parent, child, grandchild or brother or sister of the owner of said land; that no consideration shall be paid for any of the lots, that the purpose of this family exception is not to circumvent the provisions of the town ordinances and that none of the lots shown here on shall be conveyed to third parties for a period of not less than six years. (4) The owner and grantee certify that no consideration shall be paid for any of the lots. (5) The owner and grantee certify that the purpose of the exception is not to circumvent the provisions of the town subdivision ordinance, and that none of the lots shall be conveyed to third parties for a period of not less than six years, and that the recorded plat shall indicate same. The grantee for all subdivided parcels shall present proper identification in the form of a social security card, driver's license, birth certificate or passport to the Town Planner for verification prior to recordation. (6) All roads must have a recorded road maintenance agreement signed by all property owners.
FARMERS MARKET	means a market at which locally and regionally grown agricultural or horticultural products are sold on a retail basis.
FASCIA	means 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.
FENCE OR WALL	means 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	means the arrangement of windows and doors on a building's façade.
FINANCIAL GUARANTEE	See "performance guarantee."
FIRE LANE	means 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.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
FITNESS CENTER, ALSO KNOWN AS A "HEALTH CLUB" OR "GYM"	means a place which houses exercises equipment for the purpose of physical exercise.
FLAG	means the colors and/or emblem of a government body, association, group, business, or corporation. A string of flags is a streamer and is not included in this definition.
FLAG LOT	means an irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm, or flagpole, of the lot.
FLAG LOT	means an irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm, or flagpole, of the lot.
FLAGPOLE	means a freestanding structure or structure attached to the wall or roof of a building that is used to display flags.
FLEA MARKET	means an outdoor or indoor market where individual sellers offer secondhand and/or new goods for sale to the public.
FLOOD AND FLOODING	mean 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 of runoff of surface waters from any sources.
FLOOD HAZARD BOUNDARY MAP	means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk management zones applicable to the town.
FLOOD HAZARD BOUNDARY MAP	means the official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk management zones applicable to the town.
FLOOR	means 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.
FOOTPRINT	See "building footprint."
FORESTED LAND	means land consisting of 20 acres or more of wooded land that are in actual production and have a forestry plan. State Law reference — Farmland Taxation Act, G.S. 105-277.3.
FREESTANDING SIGN	means a sign that is permanently embedded and/or anchored in the ground, in concrete, or similar. This includes a sign that has a decorative foundation or base, such as brick and/or stone. A freestanding sign is also known as a ground sign, ground-mounted sign, or monument sign. Pole signs are not permitted.
FRONT FAÇADE	See "façade, front."
FULL SERVICE ACCESS OR NO CONTROL OF ACCESS	means connections between streets or streets and driveways where no physical or other restrictions to movement exist. For example, a connection from a residential subdivision
FUNERAL HOME	means an establishment engaging in the care or disposition of human remains, or in the practice of preparing by embalming or cremation of human remains for the funeral service, transportation, burial or cremation, or in the practice of funeral directing. A funeral home may have a crematorium for the sole use of the funeral home. Also see Crematorium facility.
G	
G.S.	means General Statutes of the State of North Carolina.
GABLE	means a triangular area of an exterior wall formed by two sloping roofs.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
GALLERY	means a balcony or platform on an upper floor that projects from the primary wall plane of the building that is open underneath.
GAMING MACHINE OR DEVICE	means one that is adapted, or may be readily converted into one that is adapted, for use in such a way that, as a result of the payment of any piece of money or coin or token or any credit card, debit card, prepaid card, or any other method that requires payment to activate play, whether directly into the slot machine or device or resulting in remote activation, such machine or device is caused to operate or may be operated in such manner that the user may receive or become entitled to receive any piece of money, credit, allowance or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, or which may be exchanged for any money, credit, allowance or anything of value, or which may be given in trade, or the user may secure additional chances or rights to use such machine, apparatus or device; or any other machine or device designed and manufactured primarily for use in connection with gambling and which machine or device is classified by the United States as requiring a federal gaming device tax stamp under applicable provisions of the Internal Revenue Code. State Law reference— Lotteries, gaming, bingo and raffles, G.S. Ch. 14, art. 37.
GATHERING SPACE OR AREA	means a formal or informal area intended for or used by the general public to gather or congregate together for interaction or recreation.
GLAZING	means the portion of an exterior building surface occupied by glass or windows.
GOVERNMENT USE FACILITY	means a facility federal, state, or local government use. Such facilities may include police, fire, EMS stations; general offices; civil defense centers. Any facility that may be considered noxious, hazardous, dangerous, or offensive shall not be included in this definition.
GOVERNMENTAL SIGN	means a sign posted by various local, state and federal agencies, such as regulatory signs, welcome signs and traffic control signs.
GRAVEYARD	means any place set aside for long-term burial of the human dead, with or without monuments such as headstones and is usually located near and administered by a church.
GREENWAY	means public open space under the control and maintenance of the 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.
GROSS FLOOR AREA	means the sum of the gross horizontal areas of each floor of the principal building, and any accessory building or structures measured from outside of the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawlspace.
GROUND COVER	means low growing plants such as grasses, ivy, creeping bushes and similar decorative plantings as well as mulch, pine straw, or other similar materials used to cover the ground within required landscaping areas.
GROUND SIGN	means a sign that is attached to two or more poles that are permanently embedded and/or anchored in a decorative foundation or base, such as brick and/or stone. A ground sign is also known as a ground-mounted sign.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
GROUND-BASED MECHANICAL EQUIPMENT	means utility or other equipment of a mechanical nature that is mounted on or below grade on the site it serves.
GROUP CARE FACILITY	means an establishment qualified for a license by the state for the provision of resident services of seven or more individuals of whom one or more are unrelated, and who are handicapped, aged, disabled, or who are runaway, disturbed, or emotionally deprived children and who are undergoing rehabilitation or extended care, and who are provided services to meet their needs. Included in this definition are group homes for all ages, halfway houses, boarding homes for children, and convalescent and nursing homes.
GROUP CARE HOME	means a home with support and supervisory personnel licensed with the state that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities and defined in G.S. 168-21. There shall be a minimum one-half-mile separation measured in a straight line between group care homes. Also known as family care home or adult care home.
H	
HAIR SALON	means a business establishment that primarily offers haircuts and styling. Hair salons may offer nail care services but shall not be construed to mean day spa. Also known as beauty/barber shops.
HAZARDOUS MATERIALS	means those materials that are listed in the most current consolidated list of chemicals covered by the Superfund Amendments and Reauthorization Act of 1986, title III.
HEIGHT (OF A STRUCTURE OR PART OF A STRUCTURE)	means the vertical distance from the mean natural grade at the foundation to the highest portion of the structure, or part of a structure.

means an occupation customarily conducted for profit within a dwelling unit by the occupant of the dwelling unit. Examples of permitted home occupations include, but are not limited to, home offices, sewing/tailoring, artistic painting, sculpting, crafting, tutoring, catering, and barber/beauty shops.

(1) Home occupations are subject to the following provisions:

a. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants.

1. Not more than 500 square feet or 25 percent of the dwelling unit floor area, whichever is greater, shall be used to conduct the home occupation; and

2. If an accessory building is solely used or used in combination with the dwelling unit for the home occupation, the maximum area allowed shall not exceed the limitation above.

b. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding four square feet in area, non-illuminated, and mounted flat against the wall of the building;

c. Only one person other than the occupants of the dwelling unit may be engaged in such occupation;

d. Only one vehicle designed or used for the home occupation shall be permitted in the operation of the home occupation. The vehicle shall not exceed 14 feet in height. Cargo area/work platform shall not exceed 14 feet in length. Dump trucks, tractor-trailers, tankers, and wreckers shall not be permitted;

e. No traffic, parking, sewage, or water use shall be generated by such home occupation in greater volumes than would normally be expected in a residential use;

f. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, or electrical interference detectable to the normal senses off the lot, or that otherwise creates a hazard or nuisance;

g. No display of products shall be visible from the street;

h. The selling of merchandise or the manufacture of merchandise for sale (except baking, sewing, and/or crafts normally made in the home) shall not be the primary function of the home occupation;

i. Instruction in music, dancing, or tutoring of academic subjects shall be limited to four students at a time;

j. No home occupation due to type of use, equipment, or machinery shall be permitted that involve a change in the fire rating of the structure or portion of the structure; and

k. If it is determined that the proposed home occupation does not meet the above provision, the applicant may apply for a conditional permit from the board of adjustment.

(2) The following are prohibited as home occupations:

a. Animal hospitals/clinic;

b. Automotive repair, mechanic;

c. Automotive repair, paint/body;

d. Child day care facilities;

e. Mortuaries;

f. Physicians/dentists/chiropractors offices;

HOME OCCUPATION

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
	g. Kennels; h. Food sales to exclude catering.
HORIZONTAL FAÇADE MODULATION	means projections, recesses, ribs, fins, or building wings distributed evenly across the façade of a building.
HORTICULTURAL LAND	means land consisting of five acres or more that are in actual production and having gross income from the sale of horticultural products produced thereon (together with payments received under a soil conservation or land retirement program) averaging \$1,000.00 per year for the immediately preceding three years. Reference Farmland Taxation Act, G.S. 105-277.3.
I	
ILLUMINATED SIGN	means a sign with an artificial light source for the purpose of illuminating the sign. An externally-illuminated sign is illuminated by an external source that reflects light off the surface of a sign face. An internally-illuminated sign has internal light source that emits light through the sign face, i.e., LED, fluorescent, etc.
IMPERVIOUS SURFACE	means any material that reduces and prevents absorption of stormwater runoff into previously undeveloped land.
INERT DEBRIS	means solid waste consisting solely of material that is virtually inert, that is likely to retain its physical and chemical structure under expected conditions of disposal, and that will not pose a threat to groundwater standards. Inert debris includes material such as concrete, brick, concrete block, uncontaminated soil, rock and gravel.
INFILTRATION	As used in the water supply watershed protection overlay district, the movement of storm water runoff into the soil's pore spaces.
INSTRUCTIONAL SIGN	means a sign whose purpose is secondary to the use on the lot and is intended to instruct employees, customers, and/or users as to specific parking requirements, the location or regulations pertaining to specific activities on the site or in the building, specific services offered, and/or methods of payments accepted.
INTERMITTENT STREAM	As used in the water supply watershed protection overlay district, a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the perched of seasonal high-water table. The flow may be supplemented by stormwater runoff.
J	
JUNK	means debris or refuse such as metals, plastics, appliances, paper, trash, tires, and other waste; pre-used or unusable; that are worn, deteriorated, or obsolete making them unusable in their existing condition, to include junked, dismantled or wrecked automobiles, machinery, or parts thereof.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
JUNKED, ABANDONED AND NUISANCE MOTOR VEHICLES	The term "junked motor vehicle" means an abandoned motor vehicle that also: (1) Is partially dismantled or wrecked; (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; (3) Is more than five years old and worth less than \$500.00 as provided by the municipality in an ordinance adopted under this section; or (4) Does not display a current license plate.
	Abandoned vehicle, motor vehicle or vehicles means as defined in G.S. 160A-303(b1). An abandoned motor vehicle is one that: (1) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking; (2) Is left on property owned or operated by the city for longer than 24 hours; (3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or (4) Is left on any public street or highway for longer than seven days. Junked motor vehicle means as defined in G.S. 160A-303(b2).
	Nuisance vehicle means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be: (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height; (3) A point of collection of pools or ponds of water; (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor; (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.; (6) So situated or located that there is a danger of it falling or turning over; (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; (8) One which has sharp parts which are jagged or contain sharp edges of metal or glass; or (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the town board of commissioners.
JUNKYARD FACILITY	means: (1) A facility that stores more than six junk and inoperable motor vehicles; (2) A facility that uses more than 600 square feet of any lot for the storage of junk.
K	

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
KENNEL	means a facility operated for the purpose of boarding animals not owned by the kennel operator or owner; or for the purpose of breeding animals for sale.
L	
LAND CLEARING AND INERT DEBRIS LANDFILL (LCID)	means a facility for the land disposal of inert debris, land clearing debris, yard trash and untreated and unpainted wood. The facility is designed to meet minimum standards of the state by utilizing acceptable landfill engineering technology.
LAND CLEARING DEBRIS	means solid waste generated solely from land clearing activities such as stumps, trees, limbs, brush, grass and other naturally occurring vegetative material.
LANDSCAPE FABRIC	means a geotextile material used to control weeds by inhibiting their exposure to sunlight.
LANDSCAPE ISLAND	means the portion of a parking lot intended for landscaping material and pervious surfaces.
LANDSCAPE STRIP	means linear landscape islands located between two parallel rows of off-street parking spaces.
LANDSCAPING	means 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.
LED LIGHTING	means a strip or connected string of semiconductor diodes that emit visible light when electric voltage is applied.
LOADING SPACE (FACILITY)	means 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.
LOCAL STREET	means a street designated as a local street in the town's adopted policy guidance, the applicable comprehensive transportation plan, or by the NCDOT.
LOT LINE	means a line that marks the boundary of a lot.
LOT LINE, INTERIOR	means any lot line that is not a street lot line; a lot line separating a lot from another lot.
LOT LINE, STREET	means any lot line separating a lot from a street right-of-way or easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent of the lot shall be considered the street lot line.
LOT LINE, ZERO	means any interior lot line along which a structure is allowed with no setback.
LOT OF RECORD	means a lot which has been recorded in the office of the register of deeds or a lot described by metes and bounds, the description of which has been recorded in the office of the register of deeds.
LOT WIDTH	means the horizontal distance measured along a straight line connecting the points at which a line demarcating the minimum street setback required from a street lot line intersects with interior lot lines and/or other street lot lines.
LOT/PARCEL	means land bounded by lines legally established for the purpose of property division.
M	

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
MAJOR WATERSHED VARIANCE	As used in the water supply watershed protection overlay district, a variance that is not a "minor watershed variance" as it is defined here.
MANUFACTURED HOME LOT	means a piece of land within a residential-manufactured home park whose boundaries are delineated in accordance with the requirements of the article and that is designed and improved in accordance with the requirements of the article to accommodate one manufactured home.
MANUFACTURED HOME SPACE MEANS	a plot of land within a residential-manufactured home park designed for the accommodation of a single manufactured home in accordance with the requirements set forth in this article.
MANUFACTURED HOME STAND OR PAD	means that portion of the manufactured home space designed for and used as the area occupied by the manufactured home proper.
MANUFACTURING, HEAVY	, means the assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards, or that otherwise do not constitute "light manufacturing."
MANUFACTURING, LIGHT	means the assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place.
MASSAGE	means any manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping by hand or mechanical device.
MASSAGE BUSINESS	means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors.
MASTER PLAN	means a conceptual plan that illustrates and defines land use areas for residential, office, commercial, open spaces, and special facilities or other land uses. General circulation patterns, both vehicular and pedestrian, are identified and indicated on the conceptual plan.
MATERIAL RETURN	means 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	means a tree that has reached more than one-third of its expected maximum size.
MAXIMUM EXTENT PRACTICABLE	means no feasible or practical alternative exists, as determined by the 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."
MENU BOARD	means a sign whose purpose is to show menu selections and prices to drive-through window customers and is usually associated with the remote order-taking system. A preorder board is a variation of a menu board and is usually located prior to the remote order-taking system.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
MINOR WATERSHED VARIANCE	As used in the water supply watershed protection overlay district, a variance from the minimum standards of this ordinance that results in the relaxation of up to ten per cent of any buffer (vegetated setback), or density requirement applicable to low density development, or the relaxation of up to five per cent of any buffer or density applicable to high density development. For variances to a buffer, the per cent variation shall be calculated using the footprint of the built upon area proposed to encroach within the vegetated setback divided by the total area of the vegetated setback within the project. When the Town's ordinances are more stringent than the State's minimum watershed protection requirements, a variance to the Town's ordinance is a minor watershed variance provided that the result of the variance is not less stringent than the State's Rules.
MODULAR OR PREFABRICATED CONSTRUCTION	means construction of prefabricated units which are fabricated prior to erection or installation in a building or structure and may be shipped to their final on-site location.
MONUMENT SIGN	means a sign that is not attached to poles and uses decorative materials, such as brick and/or stone, to frame or to hold the sign.
MULTI-BUILDING DEVELOPMENT	means developments that include two or more buildings on one or more lots that is planned, organized, and managed as a single development for the purposes of the development standards.
MULTI-FAMILY DEVELOPMENT	means a development that includes three or more dwelling units configured in on or more buildings on the same lot or development site. The development includes shared parking areas, shared open spaces around the development, active recreation features, and centralized waste/refuse collection facilities.
MULTIPLE LOT DEVELOPMENT	means developments that include two or more buildings on two or more lots that is planned, organized, and managed as a single development for the purposes of the development standards.
MULTI-USE PATH	means 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, concrete, or firmly packed crushed aggregate.
N	
NAIL SALON	means a beauty service establish that primarily offers nail care such as manicures, pedicures, and nail enhancements.
NAMEPLATE	means a sign on the building that indicates only the name and/or address of the person, business, home occupation and profession located in such building. A separate nameplate is allowed for each such entity. Such signs shall comply to location, height and area regulations of this article.
NATIVE TREE	See "tree, native."
NEON LIGHTING	means 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.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
NONCONFORMING FEATURE	means a physical feature, characteristic or a use, building structure or other development of land that was lawfully established prior to the effective date of the ordinance from which this article is derived or a subsequent chapter thereto, but does not conform to the intensity regulations of this article, or the design standards of article IV of this chapter, applicable to such use, building, structure, or development of land, including, but not limited to, nonconforming structures, or other nonconformities.
NONCONFORMING LOT	means a lot that was lawfully created prior to the effective date of the ordinance from which this article is derived or a subsequent amendment thereto but does not conform to the requirements of this article.
NONCONFORMING LOT OF RECORD	As used in the water supply watershed protection overlay district, a lot described by a plat or deed that was recorded prior to Dec. 4, 2009 that does not meet the minimum lot size or other development requirements of this ordinance.
NONCONFORMING SIGN	means a sign that was erected legally but does not comply with these sign regulations.
NONCONFORMING USE	means a use of land, buildings, or structures that was lawfully established prior to the effective date of the ordinance from which this article is derived or a subsequent amendment thereto but does not conform to the use regulations of this article for the zoning district in which it is located.
NORMAL WATER LEVEL OR POOL ELEVATION	As used in the water supply watershed protection overlay district, the water level within a pond, lake, or other impoundment natural or man-made (including beaver ponds). At the elevation of the outlet structure or spillway(i.e., the elevation of the permanent pool). The normal water level is typically identified by the lowest edge of terrestrial vegetation.
NURSING HOME	means a structure designed or used for residential occupancy and providing limited medical or nursing care on the premises for occupants, but not including a hospital or mental health center.
O	
OFFICE	means a use in which business, administrative, or professional services are conducted; or where professional or clerical duties are conducted.
OFFICIAL PLANS	mean any plans officially adopted by the town council as a guide for the development of the town consisting of maps, charts, and texts.
OFFICIAL PLANS	mean any plans officially adopted by the town council as a guide for the development of the town consisting of maps, charts, and texts.
OPACITY	means a measurement indicating the degree of obscuration of light or visibility.
OPAQUE	means a building, structure, building material, vegetation, or other site feature that forms a solid visual barrier.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
OPEN SPACE AND COMMON OPEN SPACE AND RECREATION AREA	mean any space or area characterized by great natural scenic beauty or whose openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding development, or would maintain or enhance the conservation of natural or scenic resources; or any undeveloped or predominately undeveloped land that has value for one or more of the following purposes: (1) Park and recreational uses; (2) Conservation of land and other natural resources, including floodplains and wetlands, including protected wetlands, flood plains, water supply watershed stream or water body buffers, but not floodways; or (3) Historic or scenic purposes. Passive open space or recreation areas include scenic resources, any undeveloped or predominately undeveloped land used for informal walking trails, picnic areas or similar uses. The following land uses, or land areas cannot be used to meet open space requirements of this article: (1) Roads, road rights-of-way, driveways, or parking areas. (2) Open areas within individual subdivision lots. (3) Small, narrow strips of land, or other unusual land configurations that are not consistent with the objectives of this article.
OPEN SPACE, COMMON OPEN SPACE OR RECREATION AREA	means any space or area characterized by great natural scenic beauty or whose openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding development, or would maintain or enhance the conservation of natural or scenic resources; or any undeveloped or predominately undeveloped land that has value for one or more of the following purposes: (1) Park and recreational uses; (2) Conservation of land and other natural resources; or (3) Historic or scenic purposes.
OPERATOR	means the person responsible for the operation of a residential-manufactured home park.
OUTDOOR DISPLAY	means an area used for the display of goods or products available for sale to customers that is accessible to customers of the establishment.
OUTDOOR LIGHTING	means any lighting source designed to illuminate or aesthetically enhance a building, parking, sign, or storage area. Lighting shall be engineered as to be non-glaring on adjacent properties or uses and to be "dark sky," focused as not to exceed the building parapet.
OUTDOOR STORAGE	means an area used for the long or short-term storage of goods, products, materials, or inventory (whether for sale or otherwise) that is not accessible to customers of the establishment and is subject to the screening requirements for outdoor storage.
OUTPARCEL OR PAD SITE	means 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.
OVERHANG	means the edge of a roof or upper building story projecting outwards.
P	

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
PARAPET	means a building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.
PARCEL/LOT	means land bounded by lines legally established for the purpose of property division.
PARKING BAY	means two off-street parking spaces per manufactured home space.
PARKING DECK	means a multilevel building used for the purpose of parking or storing automobiles.
PARKING PLAN	means 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 SPACE	means a location where an automobile or passenger truck is temporarily stored.
PARKING STUDY	means an analysis of the minimum number of off-street parking spaces necessary to serve a proposed use type.
PASSIVE OPEN SPACE OR RECREATION AREAS	include scenic resources, any undeveloped or predominately undeveloped land used for informal walking trails, picnic areas or similar uses. Active recreation areas include playfields, tot lots, tennis courts, swimming pools and similar active play uses. The following land uses, or land areas cannot be used to meet open space requirements of this article: (1) Roads, road rights-of-way, driveways, or parking areas. (2) Open areas within individual subdivision lots. (3) Small, narrow strips of land, or other unusual land configurations that are not consistent with the objectives of this article.
PERENNIAL STREAM	As used in the water supply watershed protection overlay district, a well-defined channel that contains water year-round during a year of normal rainfall with the aquatic bed located below the perched or seasonal high-water table for most of the year. Groundwater is the primary source of water for a perennial stream. But it also carries stormwater.
PERFORMANCE GUARANTEE	means cash or other guarantee provided by an applicant in-lieu of completion of public infrastructure or required public site feature prior to issuance of a building permit or other development approval.
PERFORMANCE GUARANTEE SHALL	mean any of the following forms of guarantee: (1) Surety bond issued by any company authorized to do business in this state. (2) Letter of credit issued by any financial institution licensed to do business in this state. (3) Other form of guarantee that provides equivalent security to a surety bond or letter of credit. The developer/applicant shall select the form of the performance guarantee from the list above.
PERIMETER BUFFER	See "buffer, perimeter."
PERIMETER PARKING LOT LANDSCAPING	means required landscaping located around the perimeter of a parking lot.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
PERSON WITH DISABILITIES	means a person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, mental retardation, 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 G.S. 122C-3(11)(b).
PILASTER	means a rectangular column with a capital and base that is attached or affixed to a wall as an ornamental design feature.
PLACE OF WORSHIP	means a structure in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.
PLANNED DEVELOPMENT	means a residential, commercial, or combination of residential and commercial projects located on land under unified control, planned as a whole, and developed as a single development or in a definitely programmed series of units or stages of development according to comprehensive and detailed plans, with a program for the provision, operation, and maintenance of any areas, improvements, and facilities provided for the common use of the occupants or users of the development.
PLANNING BOARD	means the body appointed by the town council to develop and recommend long range development plans and policies, and to advise the town council in matters pertaining to current physical development and zoning for the town's planning jurisdiction.
PLANTING SEASON	means 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	means required landscaping material configured in a linear strip.
PLAT	means a map, generally of a development, showing the location, boundaries, and ownership of individual properties. A plat may simply be the device for officially recording ownership changes or lot divisions.
PLOT PLAN	means a simple drawing or sketch depicting compliance with one or more requirements of this article.
POLE SIGN	means a sign that is attached to one or two poles that are permanently embedded and/or anchored in the ground, in concrete, or similar. A pole sign does not have a decorative foundation or base, such as brick and/or stone. Pole signs are not permitted.
POLITICAL SIGN	(1) The term "political sign" means: a. A sign advertising candidates or issues; and b. Any sign that advocates for political action. (2) The term "political sign" does not include a commercial sign.
PORTICO	means a large porch usually with a pediment usually associated with an entrance, supported by columns.
PRELIMINARY PLAT MEANS	a map showing data for a proposed subdivision, developed for the purpose of showing the general layout of lots and roads.
PRIMARY ENTRANCE	means the place of ingress and egress to a building, parcel, or development used most frequently by the public.
PRIMARY FAÇADE PLANE	means 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.
PRIMARY STREET	means the street that provides the street or property address for a lot or building.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
PRINCIPAL STRUCTURE OR BUILDING	means a structure in which is conducted the principal use(s) of the lot on which it is located.
PRINCIPAL USE	means the primary purpose or function that a lot serves, or is intended to serve, according to its zoning classification.
PROFESSIONAL ENGINEER	means a civil, structural, or traffic engineer licensed by the State of North Carolina.
PROJECT CONSTRUCTION SIGN	means a temporary sign identifying the name of a subdivision, building, and/or public works project or facility and/or an architect, engineer, contractor, developer, subcontractor, material supplier, and/or similar occupations participating during the time of construction. Also known as a construction site sign.
PROJECTING SIGN	means a sign attached to a wall or facade where the exposed face of the sign is perpendicular to the plane of that wall or facade or forms a V angle of 45 degrees or more. A projecting sign extends more than 12 inches from the wall or facade and does not project above the roofline.
PROJECTION	means habitable space projecting outwards from the main wall of a building.
PROTECTED AREA	As used in the water supply watershed protection overlay district, "Protected area" means the area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundary of a protected area is defined as: (a) extending either five miles in an as-the-river-runs manner upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir; (b) extending either 10 miles in an as-the-river-runs manner upstream from and draining to the intake located directly in the stream or river run-of-the-river or to the ridge line of the watershed, whichever is nearest the intake. In some cases, the protected area shall encompass the entire watershed; or (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter. "
PROTOTYPICAL ARCHITECTURE	means exterior building materials and architecture that is standardized for a particular use type or franchise operation.
PUBLIC OR COMMUNITY SEWER SYSTEM	means a single system of sewage collection, treatment, and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a town or municipality, or a public utility in accordance with G.S. Ch. 130A, art. 11.
PUBLIC OR COMMUNITY WATER SUPPLY SYSTEM	means a water system serving three or more manufactured homes, thereby requiring approval by the state division of health services.
PUBLIC PURPOSE OR SAFETY SIGN	means a sign erected by a public authority, utility, public service organization, or private industry upon the public right-of-way or easement or, when required by law, on private property that is intended to control traffic; to direct, identify or inform the public; or to provide a needed public service, as determined by the rules and regulations of governmental agencies or through public policy. Such signs include "no parking" or "fire lane" signs.
PUBLIC SEWER SYSTEM	means any sewer system whether owned and operated publicly or privately unless the sewer source is located on a lot and serves only that lot in accordance with G.S. 130A-343 Approval of on-site subsurface wastewater systems.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
PUBLIC WATER SYSTEM	means a system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or which regularly serves 25 or more individuals' year round in accordance with G.S. Ch. 130A, art. 10.
PUBLIC WATER SYSTEM	means any water system whether owned and operated publicly or privately unless that water source is located on a lot and serves only that lot in accordance with G.S. 130A-343.
PUBLIC/PRIVATE UTILITY FACILITIES	include water and wastewater treatment plants; sludge treatment, handling, and disposal facilities; ground and elevated water tanks; power generating plants; electrical transformer and switching stations; electrical transmission lines; and solid waste collection and transfer stations.
PUBLIC/PRIVATE UTILITY STATIONS	include telephone utility facilities including transformer and switching stations, telephone exchanges; public utilities (water and sewer stations) including water, wastewater, and reclaimed water meter vaults (above and below ground); water and reclaimed water booster pump stations; water and reclaimed water regulatory valve stations; wastewater pump stations; chemical feed stations; and supporting equipment including standby power facilities, electrical equipment, and SCADA equipment including antennas.
Q	
QUALIFIED INDIVIDUAL	As used in the water supply watershed protection overlay district, a person certified to perform stream determinations by completing and passing the Surface Water Identification Training and Certification (SWITC) course offered by the N.C. Div. of Water Resources at N.C. State University.
R	
RECESS	means habitable space that is recessed inwards from the main wall of a building.
RECONSTRUCTION	means rebuilding structures on a site with a pre-existing use that was demolished or removed.
RECREATION AREAS, ACTIVE	include playfields, tot lots, tennis courts, swimming pools and similar active play uses.
RECREATION FACILITY	means a nonprofit or for-profit facility providing recreational activities indoors or outdoors.
RECREATIONAL VEHICLES AND CAMPER TRAILERS	means a vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use, and including, but not limited to, travel trailers, truck campers, camping trailers, A.N.S.I. park model homes and self-propelled motor homes, sail and motor boats. All recreation vehicles must be classified mobile and bear a current license plate; and be able to evacuate in a timely manner in case of emergency. Parking or storage of recreational vehicles shall not be used for living, sleeping, housekeeping, storage or business purposes. Recreation vehicles are permitted in accordance with the use of accessory uses in the zoning district so located.
REDEVELOPMENT	means installation of any improvements, new construction, or reconstruction on a lot or site that has pre-existing uses.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
REDEVELOPMENT	As used in the water supply watershed protection overlay district, any land-disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control to that of the previous development.
REFUSE COLLECTION CONTAINER	means 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	means the county register of deeds.
RENTAL MANUFACTURED/MOBILE HOMES	mean manufactured/mobile homes that are available on a rental or lease basis.
REQUIRED LANDSCAPE AREA	means an area required to be planted with trees, shrubs, or ground cover as required by <u>section 30-205, Landscaping</u> .
RESIDENTIAL DEVELOPMENT	As used in the water supply watershed protection overlay district, buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.
RESIDENTIAL DEVELOPMENT IDENTIFICATION SIGN	means a freestanding or wall sign identifying the only the name and/or address of a residential subdivision or multifamily development. The term "residential development identification sign" does not include any sign that includes any additional information, such as an arrow, map, phone number, home prices or apartment rents, or development amenities.
RESIDENTIAL DISTRICT	means any zoning district primarily intended for residential land uses, currently including agricultural-residential (A-R); single-family residential (SFR-1), (SFR-2), and (SFR-3); residential-mobile home park (R-MPH); plus any of these that are associated with a special use permit (SUP) or a watershed protection district (WSPD).
RESIDENTIAL-MANUFACTURED HOME PARK	means any lot or part of a lot, or any parcel of land which is used or offered as a location for three or more manufactured homes, regardless of whether or not a charge is made for such accommodations.
RESIDENTIAL-MANUFACTURED HOME PARK MAJOR COLLECTOR STREET	means any manufactured home park street or road intersecting or providing direct access to a state-maintained road, or a street that regularly serves 40 percent of the residents of the park.
RESIDENTIAL-MANUFACTURED HOME PARK MINOR COLLECTOR STREET	means any residential-manufactured home park street or road serving only to provide access to the individual spaces.
REST HOME/CONVALESCENT HOME	means a facility established legally for profit or nonprofit, licensed by appropriate federal and state agencies when applicable, which provides nursing care and related medical services on a 24-hour-per-day basis to two or more individuals because of illness, disease, or physical or mental infirmity. Provides care for those persons not in need of hospital care.
RETAIL CENTER	means an integrated group of commercial establishments that is planned, developed, owned and managed as a unit and provides on-site parking facilities sufficient to serve its own parking demands. For the purpose of this article, a retail center shall contain at least two commercial establishments.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
RETAINING WALL	means a structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill, or other similar material.
RETENTION POND	means a stormwater control measure consisting of a depression in the land that retains stormwater flow for gradual release into the surrounding soil.
REVEGETATION PLAN	means 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 article or a condition of approval.
REVIEW AUTHORITY	means a town official, appointed board, or elected body charged with review and decision-making responsibilities for certain types of development applications required by this article.
ROOF FORM	means the configuration of the top of a building, including its pitch, amount of overhang, shape, surfacing materials, and colors.
ROOF PITCH	means the amount of rise or the vertical increase in elevation over the run or the horizontal distance of a roof.
ROOF PLANES	means portions of a roof constructed at different angles to one another.
ROOF RAKE	means the portion of a gabled roof that extends past the exterior wall of the building.
ROOF SIGN	means a sign erected on or over the roof of a building or a sign that is affixed to a wall or facade where any part of the sign extends above that wall or facade.
S	
SALES FLOOR AREA	means the gross floor area used for display and sale of merchandise, sales office and other areas available to the public/patron.
SALVAGE OPERATION	means the reclamation, dismantling, or storage of pre-used commodities, junk, and similar material for the purpose of resale, processing, distribution, or deposition.
SCHOOL	means a primary or secondary facility providing a curriculum of academic instruction.
SCREENING WALL	means a wall, whether part of habitable space or not, that interrupts off-site views into a site.
SECONDARY ENTRANCE	means an entrance into a building located on a side or rear building façade.
SERVICE	area means off-street loading, storage, mechanical, equipment, or processing areas associated with a principal building.
SETBACK, INTERIOR	means the horizontal distance between the interior lot line or parcel/lot line and any structure on such lot, measured perpendicular to the lot line.
SETBACK, STREET	means the horizontal distance between the street right-of-way and any structure on such lot, measured perpendicular to the street lot line.
SEVERE PRUNING	means 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 one-third of the overall circumference of a tree is exposed by pruning cuts.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
SEXUALLY ORIENTED BUSINESS	means any business activity, club or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to, adult arcades, adult bookstores, adult motion picture theaters, adult theaters, and massage parlors.
SHADE TREE	See "tree, shade."
SHARED USE PATH ALSO KNOWN AS A MULTI-USE TRAIL OR A GREENWAY	a facility designed to meet ADA standards, which may be used by bicyclists, pedestrians, and other non-motorized users. The path is separated from the roadway by an open-space or a physical barrier or within an independent right-of-way. A rail trail, built within the right-of-way of a former railroad, is a shared use path. (From Bicycle and Pedestrian Plan [2020]).
SHOPPING CENTER	means an integrated group of commercial establishments that is planned, developed, owned and managed as a unit and provides on-site parking facilities sufficient to serve its own parking demands. For the purpose of this article, a shopping center shall contain at least two commercial establishments within a minimum of 30,000 square feet of gross floor area.
SHRUB	means 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.
SIDEWALK	means a paved area running parallel to the street for the purposes of pedestrian travel and to facilitate pedestrian access to adjacent streets and land.
SIDEWALK SIGN	means a pedestrian-oriented movable sign that sits on the grade located proximate to the primary entrance of the nonresidential 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 than a top or are equipped with supports to ensure they remain stable in normal wind conditions.
SIGHT DISTANCE TRIANGLE	means 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	means and includes any device that is intended and/or designed to announce, inform, direct, and/or advertise and may be represented by words or letters, figures, symbols or characterizations, and/or other graphics.
SIGN	shall include any device that is intended and/or designed to announce, inform, direct, and/or advertise and may be represented by words or letters, figures, symbols or characterizations, and/or other graphics.
SIGNIFICANT TREE(S)	overstory trees of eight inches or more in diameter at breast height (DBH) and understory trees of two inches or greater DBH are "significant."
SINGLE-FAMILY RESIDENTIAL	As used in the water supply watershed protection overlay district, any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
SITE PLAN REVIEW	means the process whereby the town review agents review plans, of a development proposal which is a permitted use, to ensure that it complies with applicable development regulations. Review agents may include building inspections, environmental health, fire marshal, state DOT, planning and zoning, public utilities, and stormwater administration.
SITE SPECIFIC DEVELOPMENT PLAN	may be in the form of, but not be limited to, any of the following approved: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a conditional or special use permit, a conditional or special use district zoning plan, or any other land use approval designation as may be utilized by the town. Unless otherwise expressly provided by this article such a plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting 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, bicycle facilities and pedestrian walkways.
SLATS, FENCE	means thin strips of wood, plastic, or other material woven between the components of a chain link-style fence or gate.
SMALL-TOWN CHARACTER	means 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.
SMOOTH-FACED CONCRETE BLOCK	means concrete blocks that do not include adornment or any surface relief.
SOFFIT	means the exterior material mounted to the underside of the roof rafters that project past the edge of an exterior building wall.
SOLAR COLLECTOR	means a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The device may be roof-mounted or ground-mounted as an accessory use in all zoning districts and in order to qualify as an accessory use the solar collector(s) shall be designed to produce no more than 150 percent of the on-site use's energy consumption per billing period. Solar collectors are permitted by right in all zoning districts as an accessory use and shall meet the following requirements: (1) Setbacks. All solar energy collectors whether ground mounted or mounted on an existing structure shall be located in the side or rear yard and shall meet all appropriate accessory structure setbacks for that zoning category. (2) Height. The height of solar collectors shall not be taller than the allowed height of a structure in the zoning district in which it is located. Ground or pole mounted solar energy collectors shall not exceed 25 feet in height when oriented at maximum tilt. Solar collection devices shall not be included in computing accessory structure lot coverage.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
SOLAR FARMS	means a solar collection system that generates electricity from sunlight to a wholesale electricity market through a regional transmission organization and an inter-connection with the local utility power grid and/or for direct distribution to more than one property or consumer as a commercial venture. Solar farms shall consist of a minimum of three individual photovoltaic modules (solar panels), which are an assembly of solar cells to generate electricity. Solar facilities constructed only for the production of electricity dedicated to another facility collocated at the same site, or a solar facility which is clearly a subordinate accessory land use, shall not be subject to the special use permit requirements.
SOLID WASTE	means any debris or refuse, including, but not limited to, metals, plastics, appliances, construction debris, paper, household trash, tires, land clearing debris, inert debris, junk and inoperable vehicles, and other waste.
SPA, DAY	means a business establishment which people visit for professionally administered personal care treatments, including, but not limited to, massages, facials, waxing, skin exfoliations, manicures, pedicures, and other body treatments
SPA, MEDICAL	means any retail cosmetic medical business that operates under the supervision of a licensed health care professional and offers nonsurgical cosmetic "medical" treatments, including, but not limited to, laser hair removal, medical microdermabrasion's, Botox and restylane injections, and medical peels.
SPECIAL USE	means a use of land, buildings, or structures that is identified in this article as a use that because of its inherent nature, extent, and external effects, requires special care in the control of its location, design, and methods of operation in order to ensure protection of the community wide public health, safety and welfare.
SPECIAL USE PERMIT	means a permit issued by the town council authorizing the development of a parcel/lot for a special use.
SPECIFIED ANATOMICAL AREAS	means less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.
SPECIFIED SEXUAL ACTIVITIES	means: (1) Human genitals in a state of sexual stimulation or arousal; (2) Acts of human masturbation, sexual intercourse, sodomy; or (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.
STATE	means the State of North Carolina.
STOPPING SITE DISTANCE	means 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	means the keeping of commodities or items for the purpose of future use or safekeeping for longer than three days.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
<i>STORMWATER CONTROL MEASURE</i>	means a physical device, site feature, or construction technique intended to eliminate or reduce contact or exposure of pollutants to stormwater or remove pollutants from stormwater prior to discharge from the measure.
<i>STORMWATER CONTROL MEASURE (SCM) (ALSO KNOWN AS BEST MANAGEMENT PRACTICE (BMP))</i>	As used in the water supply watershed protection overlay district, 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 filtering discharge, reuse of stormwater or a combination thereof.
<i>STREAMER</i>	means a length of material that contains multiple banners, pennants, and/or ribbons attached and is stretched or hung between two or more points.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
STREET	The term "street" has the following classifications: (1) Alley means a public 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. (2) Clear zone means the unobstructed, relatively flat area bordering the edge of payment that allows a driver to stop safely or regain control of a vehicle that leaves the roadway. The clear zone may consist of a shoulder, recoverable slope, or a clear run-out area. The desired minimum width of a clear zone is dependent upon traffic volumes and speeds and on the roadside geometry. (3) Collector means a street whose principal function is to carry traffic between 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. (4) Cul-de-sac means a short street having one end open to traffic and the other permanently terminated by a vehicular turnaround. (5) Frontage means a street that is 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. (6) Local means a street whose principal function is provide access to adjacent properties. They are intended to accommodate land parcel ingress and egress. Through-traffic movement is difficult and discouraged by traffic controls and street design. Examples of local roads include streets internal to subdivisions and sparsely-developed rural areas. (7) Private means a street or road that is not dedicated as a public right-of-way, which is privately maintained by a homeowners' association or a road maintenance agreement and is not taken over for maintenance by NCDOT and requires a Subdivision Streets Disclosure Statement in accordance with G.S. 136-102.6. (8) Public means a street or road that is dedicated as a public right-of-way, which is accepted and taken over for maintenance by NCDOT. (9) Thoroughfare, major, means a street serving the principal network for high volumes of traffic or high speed traffic. 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. Residences shall not have access to a major thoroughfare. (10) Thoroughfare, minor, means a street designed primarily to collect and distribute traffic between the local street network and major thoroughfares. 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 but is less than 10,000 vehicles. Residences should not have access to a minor thoroughfare.
STREET (ROAD)	As used in the water supply watershed protection overlay district, a right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
STREET CLASSIFICATIONS	The five street classifications for the town are: (1) Arterial: Arterial streets function primarily to serve through-traffic movement. Limited land-access service may be accommodated. Traffic controls and street design are intended to provide efficient through-traffic movement. All U.S. and some North Carolina numbered highways are examples of arterial streets. (2) Collector: Collector streets penetrate areas, neighborhoods, public service areas, and districts. They are intended to provide both through-traffic and land-access services in relatively equal proportions, often linking the local street system to the arterial street system. Examples of a collector street include some N.C. and S.R. numbered streets. (3) Local: Local streets primarily serve land-access functions. They are intended to accommodate land parcel ingress and egress. Through-traffic movement is difficult and discouraged by traffic controls and street design. Examples of a local street include streets internal to subdivisions and rural areas. (4) Public: A street owned by the North Carolina Department of Transportation or another government. (5) Private: A street owned by a non-governmental person, including, but not limited to, corporations, partnerships, individuals, and homeowner's associations.
STREET INTERSECTION APPROACH	means the portion of a street proximate to an intersection.
STREET TO A COLLECTOR STREET	means a street intersection that is not restricted to emergency vehicles only and allows full turning movements.
STREETSCAPE BUFFER	means landscaping provided on individual lots abutting arterial and collector streets but located outside the street right-of-way.
STRUCTURAL ALTERATION	means any change, except for regular repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders. Structure means anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including, but not limited to, principal and accessory buildings, signs, fences, walls, monuments, bridges, flagpoles, antennas and towers. Structure, accessory, means a subordinate structure detached from, but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.
STRUCTURAL SOIL	means a planting medium that can be compacted to pavement design and installation requirements while permitting root growth.
STRUCTURE	As used in the water supply watershed protection overlay district, anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.
STRUCTURE, PRINCIPAL	means a structure, or where the context so indicates, a group of structures in or which is conducted the principal use of the lot on which such structure is located.
SUBDIVIDER	means any person who subdivides or develops any land deemed to be a subdivision as defined in this article.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
<i>SUBDIVIDER</i>	means any person who subdivides or develops any land deemed to be a subdivision as defined in this section.
<i>SUBDIVISION</i>	means any division 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. It includes any division of land involving the dedication of a new street or change in existing streets. The following divisions of land are not included in this definition and are not subject to the requirements of article VI of this chapter: (1) The combination or recombination of portions of previously subdivided and recorded lots, where the total number of lots is not increased and the resultant lots are equal to or exceed the standards set forth in article VI of this chapter, and the minimum gross lot size, minimum lot width and minimum street frontage standards of this article; (2) The division of land into parcels greater than ten acres in area, where no public street right-of-way dedication or opening of streets is involved; (3) The public acquisition, by purchase, of strips of land for the purpose of widening or opening of streets; or (4) The division of a tract in single ownership whose entire land area is no greater than two acres into 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 set forth in article VI of this chapter and this article.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
SUBDIVISION	means any division 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. It includes any division of land involving the dedication of a new street or change in existing streets. The following divisions of land are not included in this definition and are not subject to this article: (1) The combination or recombination of portions of previously subdivided and recorded lots, where the total number of lots is not increased and the resultant lots are equal to or exceed the standards set forth in this article, and the minimum gross lot size, minimum lot width and minimum street frontage standards of this article; (2) The division of land into parcels greater than ten acres in area, where no public street right-of-way dedication or opening of streets is involved; (3) The public acquisition, by purchase, of strips of land for the purpose of widening or opening of streets; or (4) The division of a tract in single ownership whose entire land 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 set forth in this article. (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. Ch. 29. In subsection (1) of this definition, the phrase "previously subdivided and recorded" means under a recorded plat or other instrument of transfer containing a metes and bounds description if lots were created prior to the existence of applicable subdivision regulations, or under a validly approved and recorded plat if such lots were created after the existence of applicable subdivision regulations. In subsection (2) of this definition, the phrase "where no street right-of-way dedication is involved" means that adequate access to such lot is provided by an approved existing street (public or private).
SUBDIVISION, COMMERCIAL	means the subdivision of an existing development on a parcel/lot or recorded parcel that consists of commercial and/or office uses. Such a subdivision would create two or more individual lots plus land developed and designated for the common use and benefit of the occupants/owners of the individual commercial subdivided lots.
SUBDIVISION, COMMERCIAL	means the subdivision of an existing development on a parcel/lot or recorded parcel that consists of institutional, industrial, commercial and/or office uses. Such a subdivision would create two or more individual lots plus land developed and designated for the common use and benefit of the occupants/owners of the individual commercial subdivision lots provided: (1) That an entity is designated to be legally responsible for maintenance and control of the common land areas; (2) That the property has an approved site plan, valid for the development, prior to application for commercial subdivision; (3) That all parking areas, drive aisles, and open space if applicable, shall be the common land area; and (4) The individual lots within a commercial subdivision shall meet the lot design standards of this article.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
SUBDIVISION, MAJOR	means any subdivision creating five or more lots since the adoption of the ordinance from which this article is derived.
SUBDIVISION, MAJOR	means any subdivision creating five or more lots.
SUBDIVISION, MINOR	means a subdivision, of a parent parcel, creating four lots or less since the adoption of the ordinance from which this article is derived.
SUBDIVISION, MINOR	means a subdivision of a parent parcel, creating four lots or less, that: (1) Does not involve any new dedication of public right-of-way to give access to interior lots or parcels; (2) Does not involve the extension of public water or sanitary sewage lines; (3) Will not adversely affect the development of the remainder of the parcel or of adjoining property; and (4) Will not create any new or residual parcels which do not satisfy the requirements of this article or other applicable local and state controls.
SWEEPSTAKES	means any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance. State Law reference— Lotteries, gaming, bingo and raffles, G.S. Ch. 14, art. 37.
T	
TEMPORARY	means an event, structure, or use that exists for a limited period of time, but no longer than 90 days.
TEMPORARY COMMERCIAL SIGN	means a temporary sign that is designed to be used for a time period of 90 days or less and is renewable for one more 90-day period or less in a 12-month period. The intention of such sign is for commercial use or expression; and is not permanently attached to a structure of the ground. Such signs include corrugated and plastic core signs on metal or plastic legs or spikes, "daily special" signs, sales signs for merchandise such as a Presidents' Day sale, trailer signs, A-frame and sandwich board signs, air-activated attraction devices such as balloons and inflated figures, and frame signs as are used in residential real estate. Temporary commercial signs are only allowed on the premises where the use or expression is located.
TEMPORARY COMMERCIAL SIGN	means a temporary sign that is designed to be used for a time period of 90 days or less and is renewable for one more 90-day period or less in a 12-month period. The intention of such sign is for commercial use or expression; and is not permanently attached to a structure of the ground. Such signs include corrugated and plastic core signs on metal or plastic legs or spikes, "daily special" signs, sales signs for merchandise such as a Presidents' Day sale, trailer signs, A-frame and sandwich board signs, air-activated attraction devices such as balloons and inflated figures, and frame signs as are used in residential real estate. Temporary commercial signs are only allowed on the premises where the use or expression is located.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
TEN (10) YEAR STORM OR TEN-YEAR STORM INTENSITY	As used in the water supply watershed protection overlay district, the maximum rate of rainfall of a duration equivalent to the time of concentration expected, on the average, once in every ten years. Ten-year storm intensities are estimated by the National Oceanic and Atmospheric Administration Precipitation Frequency Data Server (PFDS), which is incorporated herein by reference, including subsequent amendments and additions. It may be accessed at no cost at http://hdsc.nws.noaa.gov/hdsc/pfds/ .
THOROUGHFARE STREET	means a street designated as a thoroughfare street in the town's adopted policy guidance, the applicable comprehensive transportation plan, or by the NCDOT.
TOURIST HOME	means any building occupied by the owner or operator in which rooms are rented for lodging of transients and travelers for compensation.
TOWN	means the Town of Archer Lodge, North Carolina.
TOWN PLANNER	means the administrative head of the town planning department. All references in this article to Town Planner shall mean the Town Planner or the town council appointee.
TOWN PLANNER	means the employee designated by the town administrator in charge of the town's planning, zoning and subdivision functions.
TOXIC SUBSTANCE	As used in the water supply watershed protection overlay district, any substance or combination of substances (including disease causing agents), which 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.
TRANSMITTING TOWERS AND FACILITIES	means the use of land, buildings or structures for above-ground transmission and/or reception of airborne radio, television or microwave signals, including all transmitting and receiving towers, dishes, and antennas.
TRAVEL TRAILER	means any vehicle, house car, camp car, or any portable or moveable vehicle on wheels, skids, rollers, or blocks either self-propelled or propelled by any other means which is used or designed to be used for residential living, sleeping, commercial, or utility purposes, but not including those vehicles primarily designed for the transportation of goods.
TREE CANOPY	means the layer of vegetation formed by the crowns of mature trees.
TREE PROTECTION AREA	means the portion of a lot or site with existing trees located inside tree protection fencing.
TREE PROTECTION FENCING	means fencing or other barrier provided to protect trees to be retained from damage or encroachment during the development process.
TREE TOPPING	means the removal of the central leader and primary upper branches of a tree.
TREE, CANOPY	means 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, EVERGREEN	means a woody plant with one or more stems that does not lose the majority of its leaves during winter or dormancy.

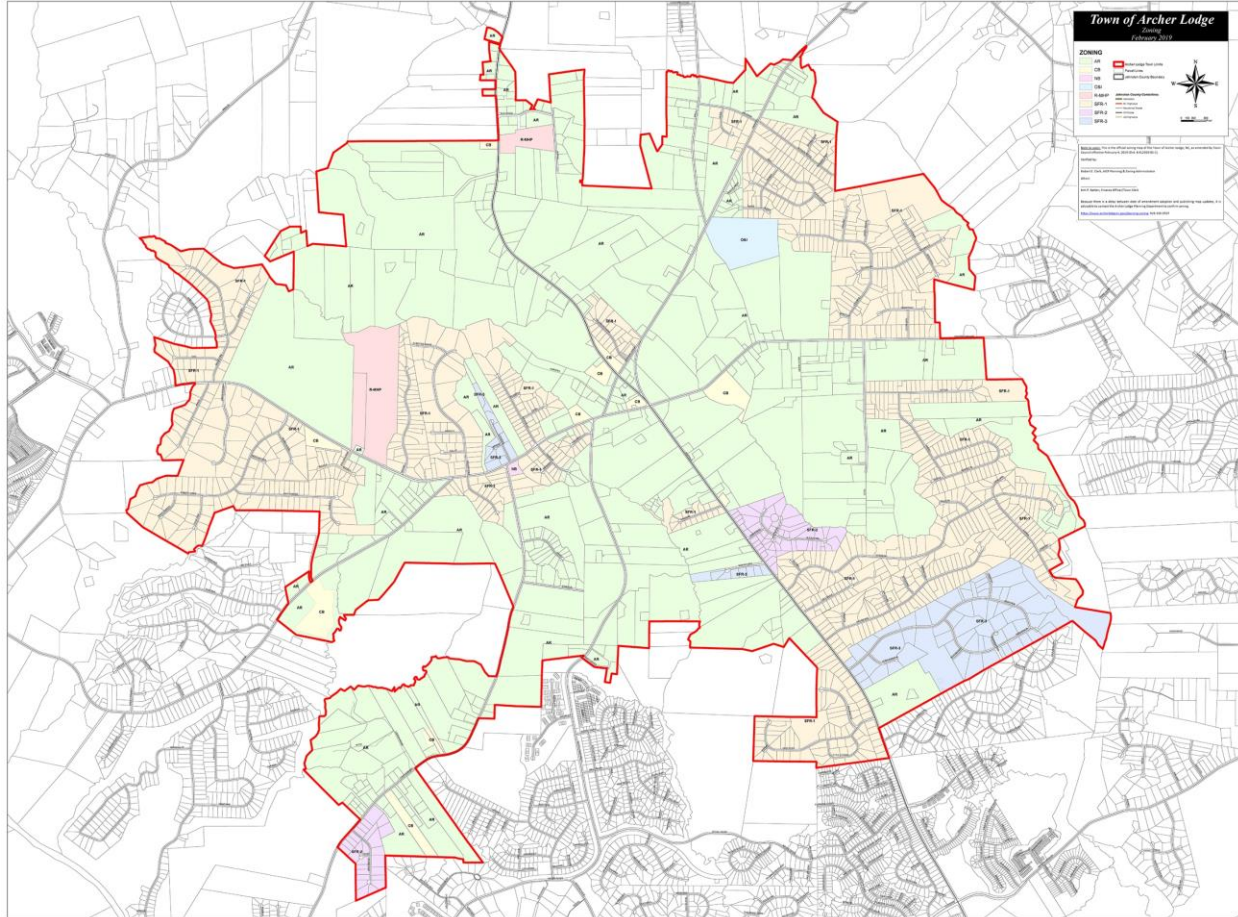
TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
TREE, HARDWOOD	means a deciduous tree with broad leaves that produces fruit or a nut and goes dormant during winter months.
TREE, PROTECTED	means a tree that is present prior to the commencement of development or land disturbance that is required or intended to remain after completion of development or land disturbing activities.
TREE, SHADE	means a tree with a crown that provides shade to the surface area within a parking lot and associated parking spaces.
TREE, UNDERSTORY	means a species of tree which normally grows to a mature height of 15 to 35 feet.
TRELLIS	means a framework of light wooden or metal bars, chiefly used as a support for fruit trees or climbing plants.
U	
UNDER-CANOPY SIGN	means a sign suspended beneath an awning, canopy, ceiling, roof, or marquee and is intended to be viewed by pedestrians from the sidewalk.
UNDERSTORY TREE	See "tree, understory."
UNDEVELOPED LAND	means a parcel/lot on which no residential, commercial, office or industrial activity is taking place.
URBAN HEAT ISLAND	means 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.
USE	means the specific activity or function for which land, a building, or a structure is designated, arranged, intended, occupied, or maintained.
USE, CONDITIONAL	means a use permitted on a parcel/lot only after a conditional use permit has been issued by the board of adjustment, or the planning board, where appropriate.
V	
VARIANCE	means a relaxation of the strict terms of a specific provision of this article authorized by the board of adjustment in accordance with the provisions of the ordinance establishing the board of adjustment, adopted March 14, 2011.
VEGETATED CONVEYANCE	As used in the water supply watershed protection overlay district, a permanent designed waterway lined with vegetation that is used to convey stormwater runoff at a non-erosive velocity within or away from a developed area.
VEGETATED FILTER STRIP	As used in the water supply watershed protection overlay district, a vegetated conveyance that (i) is graded with a uniform transverse slope of 8% or less; (ii) the pH, compaction and other attributes of the first 12 inches of soil shall be adjusted as necessary to promote the establishment and growth of plants.; and (iii) the vegetated conveyance is planted with non-clumping, deep-rooted grass sod; and (iv) has soils that are stabilized with temporary means such as straw or matting until the permanent vegetation has taken root of the runoff is directed elsewhere until vegetation is established.
VEGETATED SETBACK (BUFFER).	As used in the water supply watershed protection overlay district, an area of natural or established vegetation adjacent to surface waters through which stormwater runoff flows in a diffuse manner to protect surface waters from degradation due to development activities.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
VEGETATIVE COVER	means the presence of vegetation (whether tree, shrubs, or ground cover) in a particular location.
VEHICULAR USE AREA	means an off-street parking space or parking lot along with associated drive aisles and means on ingress or egress.
VENDOR SALES	mean the sale of goods on a temporary basis. Vendors may set up displays for the sale of household goods, home crafts, apparel, and food items on commercially zoned property. Vendor sales shall be limited to Thursday through Sunday. Vendors shall be limited to no more than two nonconsecutive weeks at a single site, within a calendar month, excluding concession sales at community and athletic events. Written permission shall be obtained from the property owner where such vendor sets up.
VERTICAL FAÇADE MODULATION	means 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.
VETERINARY HOSPITAL OR CLINIC	means an establishment used for the care, grooming, diagnosis, and treatment of sick, ailing, or injured animals in need of medical or surgical attention.
VISUALLY TRANSPARENT	means glass or glazing that does not obstruct the view into a structure.
W	
WALL OFFSET	means a projection or recess located in or along a building wall.
WALL PLANE	means the exterior surface of a building wall relative to the lot line it abuts.
WALL PLANE, PRIMARY	means 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 SIGN	means a sign attached to, or painted on, a building face, with the exposed face of the sign being in a plane parallel to the plane of the wall or forms a V angle of less than 45 degrees. Also included is a sign that is a part of, attached to, or painted on an awning or canopy. A wall sign does not extend more than 12 inches from building face and does not project above the roofline or beyond any corner of the building. A ghost sign, the remaining image of a previous sign that is still visible, is considered to be a wall sign.
WALL, BUILDING	means the entire surface area, including windows and doors, of an exterior wall of a building.
WAREHOUSE	means a building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his own goods at wholesale, and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade to be again removed and reshipped.
WATER DEPENDENT STRUCTURE	As used in the water supply watershed protection overlay district, 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.

TABLE OF DEFINED TERMS	
TERM	DEFINITION(S)
WATERSHED	As used in the water supply watershed protection overlay district, the entire land area contributing surface drainage to a specific point (e.g., the water supply intake.)
WATERSHED ADMINISTRATOR	As used in the water supply watershed protection overlay district, the Town Planner of the Town who is the official responsible for administration and enforcement of this ordinance.
WINDOW SIGN	means 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 mounted to a building's exterior wall are "wall" signs.
WINDOW SIGN	means a sign that is physically affixed to, or painted on, the glass or other structural component of the window or is placed behind the glass and can be read by people outside of the building. By definition, a sign includes a poster, graphics, symbols, or other identification.
WIRELESS TELECOMMUNICATIONS TOWER/FACILITY	means a structure on which there are electronic facilities for receiving or transmitting communication signals. Those less than 15 feet above the roof line, when secured to a building, are exempt. Telephone poles, power poles carrying telephone and cable television lines are also exempt from this definition.
X	
Y	
YARD SIGN	means a temporary sign intended for non-commercial use or expression. Such signs include baby and birthday celebration signs, garage or yard sale signs, and political signs.
Z	
ZONING COMPLIANCE PERMIT	means a permit issued by the town authorizing the recipient to make use of property in accordance with the requirements of this article.

ARTICLE 11. - APPENDIX

DIVISION 1. - ZONING MAP⁴⁰



(Ord. No. AL2019-02-1 , 2-4-2019)

⁴⁰ NOTE TO STAFF: Suggest this map not be included within the UDO – maintaining consistency with the official map is complex and there is a large potential for error.

**Town of Archer Lodge, N.C.
Environmental Elements Map**

Legend

- Archer Lodge Town Limits
- Big Arm Creek (Perennial Stream)
- Buffalo Creek (Perennial Stream)
- Mill Creek- (Perennial Stream)
- hy-Intermittent Stream
- Neuse River Watershed WS-IV

Flood Hazard Areas - Verify Information By Town Adopted Flood Maps

- A - Special Flood Hazard Area Inundated by 100-Year Flood
- AE - Special Flood Hazard Area Inundated by 100-Year Flood
- AEFW - Floodway Area - Special Flood Hazard Area Inundated by 100-Year Flood
- SHADED X - Areas determined to be 500-year floodplain
- Wetlands
- Voluntary Agricultural District- In Acres

Map data is believed to be accurate and should be verified by user.
Data received from most current GIS data from Johnston County, NC and NC One Map

Map Prepared by Z.L.Nichols
NC Community Planning Division
Central Regional Office
6-21-2012

0 1,375 2,750 5,500 Feet

DIVISION 3. - RECOMMENDED PLANTS LIST

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS					
PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
LARGE VARIETY TREES (MATURE HEIGHT: 35 FEET OR GREATER)					
Native Evergreen					
Ilex opaca American Holly	40—60'	20—30'	S	S-SH	Tolerates a variety of conditions, male and female plants needed for fruit, pyramidal form
Juniperus virginiana Eastern Red Cedar	40—50'	15—25'	M	S-PS	Tolerates a variety of conditions, pyramidal form, male and female plants needed for fruit
Magnolia grandiflora Southern Magnolia	60—80'	30—40'	R	S-PS	Less shade tolerant with age, attracts wildlife, fragrant spring and summer flowers
Pinus taeda Loblolly Pine	90— 120'	30—40'	R	S	Tolerates flooding and drought, critical to Brown-headed Nuthatch
Quercus laurifolia or hemisphaerica Laurel Oak	60—80'	30—40'	R	S-SH	Shade tolerant, good for moist sites
Native Deciduous					
Acer barbatum or floridanum Southern Sugar Maple	50—60'	20—35'	M	S-PS	Heat tolerant, dislikes dry, compact soil
Acer rubrum Red Maple	60—90'	30—50'	R-M	S-SH	Tolerates a variety of conditions, including wet soil, fall color
Acer saccharum Sugar Maple	90— 120'	40—60'	S	S-PS	Extensive root system, fall color, shade tolerant
Betula nigra River Birch	60—80'	30—50'	R	S-PS	Lacy texture, tolerates a variety of conditions, including wet soil, tends to drop small limbs, cultivars available
Celtis laevigata Southern Hackberry or Sugarberry	70—80'	30—50'	R	S-PS	Tolerates a variety of conditions
Cladrastis kentukea Yellow-wood	40—50'	40—45'	M	S	Tolerates a variety of conditions, fragrant white blooms in alternate years

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Diospyros virginiana American Persimmon	30—60'	20—25'	S-M	S-PS	Tolerates dry soil, good fall color, fruit attracts wildlife. Separate male and female plants.
Fraxinus pennsylvanica Green Ash	50—120'	40—50'	R	S-PS	Tolerates a variety of conditions. Separate male and female plants. Many cultivars available.
Gymnocladus dioica Kentucky Coffee-tree	60—75'	40—50'		S	Tolerant of air pollution and drought, fall color
Liriodendron tulipifera Tulip-Tree or Yellow Poplar	90—120'	60—80'	R	S	Tolerates a variety of conditions, drops limbs, best in natural areas, host for N.C. State butterfly
Nyssa sylvatica Black Gum	50—80'	30—50'	M	S-PS	Fall color, pyramidal when young
Platanus occidentalis Sycamore	80—120'	40—60'	R	S-PS	Showy bark, tolerates a variety of conditions but needs water, best in natural areas
Prunus serotina Wild Black Cherry	60—80'	30—50'	R	S-PS	Tolerates a variety of conditions, seeds heavily, best in natural areas
Quercus alba White Oak	80—100'	40—60'	S-M	S-PS	Sensitive to construction damage, good fall color
Quercus bicolor Swamp White Oak	50—60'	50—60'	M-R	S	Needs acidic soil, drought resistant, intolerant of salt and air pollution
Quercus coccinea Scarlet Oak	50—80'	40—50'	R	S	Good fall color, tolerates dry, sandy soil
Quercus falcata Southern Red Oak	70—80'	30—40'	R	S-PS	Tolerates drought
Quercus imbricaria Shingle Oak	50—60'	50—60'	S-M	S	Tolerates a variety of conditions
Quercus lyrata Overcup Oak	35—45'	35—40'	M	S	Tolerates a variety of conditions
Quercus macrocarpa Bur Oak	60—80'	60—80'	S	S	Tolerant of Town conditions
Quercus nigra Water Oak	70—90'	30—50'	R	S	May retain some leaves through the winter, tolerates a variety of conditions

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Quercus palustris Pin Oak	60—80'	40—50'	R	S	Tolerates a variety of conditions, pyramidal form, good fall color
Quercus phellos Willow Oak	80— 100'	40—50'	R	S-PS	Tolerates a variety of conditions, golden fall color
Quercus rubra Red Oak	80—90'	30—50'	R-M	S-PS	Needs moist soils, good fall color
Quercus shumardii Shumard Oak	90— 100'	40—50'	R-M	S	Tolerates a variety of conditions
Quercus texana or nuttallii Nuttall Oak	60—80'	30—40'	R	S-PS	Tolerates poorly drained soils, drought tolerant
Taxodium distichum Bald-cypress	100— 120'	30—40'	R	S	Pyramidal when young, tolerates wet and dry soils, fall color, attractive trunk
Tilia americana Southern Basswood or American Linden	50—70'	30—45'	M	S-PS	Tolerates drought and clay soil, intolerant of air pollution, consider 'Redmond' cultivar
Non-Native Evergreen					
Cedrus deodara Deodar Cedar	40—70'	30—40'	M	S-PS	Tolerates drought and hot, dry summers, likes acidic soil
Cryptomeria japonica Japanese Cryptomeria	50—60'	25—30'	M	S-PS	Tolerates a variety of conditions, pyramidal shape, many cultivars available
Thuja 'Green Giant' Green Giant Arborvitae	40—50'	15—20'	R	S-PS	Tolerates a variety of conditions, may need some wind protection, bronzes in winter
Non-Native Deciduous					
Acer × freemanii Freeman Maple	Gen. 40—70'	Gen. 15—40'	M	S-PS	A hybrid of red maple and silver maple, cultivars vary in size and characteristics
Cercidiphyllum japonicum Katsura Tree	40—60'	20—40'	M-R	S	Intolerant of hot, dry sites, fall color

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Ginkgo biloba Ginkgo	50—80'	30—40'	S	S	Plant male trees to avoid messy, smelly fruit, tolerates a variety of conditions, bright yellow fall color
Metasequoia glyptostroboides Dawn Redwood	70— 100'	15—25'	R	S	Tolerates a variety of conditions, tolerates wet soils, attractive trunk
Platanus × acerifolia London Planetree	65—80'	75—100'	M	S-PS	Good street tree, light brown exfoliating bark
Quercus robur 'Fastigata' Upright English Oak	50—60'	10—20'	S	S	Tolerates drought and air pollution, narrow, upright form
Sophora japonica or Styphnolobium japonicum Japanese Scholartree or Japanese Pagodatree	50—70'	50'	M-R	S-PS	Resistant to air pollution and drought, but marginally heat hardy in Piedmont N.C.
Tilia cordata 'Greenspire' Greenspire Littleleaf Linden	30—40'	25—35'	S-M	S	Piedmont N.C. is at southern extreme of range, air pollution tolerant, cultivars available
Tilia tomentosa Silver Linden	40—70'	25—45'	R	S-PS	Tolerates drought and air pollution and a variety of soil conditions
Ulmus parvifolia Lacebark or Chinese Elm	40—50'	40—50'	M-R	S	Tolerates a variety of conditions, attractive bark, a tough and durable tree
Ulmus hybrida Hybrid Elm	75— 125'	60—120'	M-R	S-PS	Tolerates a variety of conditions; Dutch Elm disease resistant varieties available
Zelkova serrata Japanese Zelkova	50—80'	40—50'	M	S-PS	Good street tree; tolerates urban conditions well, cultivars available
MEDIUM VARIETY TREES (MATURE HEIGHT: 25 TO 35 FEET)					
Native Evergreen					

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Ilex × attenuata 'Fosteri' Foster's Holly	20—30'	10—20'	R	S-PS	Red fruits, male plants not needed for fruiting, best berry production in full sun
Magnolia virginiana Sweet Bay Magnolia	20—30'	10—15'	M	S-PS	Tolerates some shade, good for wet sites, cultivars provide evergreen and deciduous options
Pinus virginiana 'Wate's Golden' Wate's Golden Virginia Pine	15—30'	10—20'	S-M	S	Grows in poor soils, turns golden in winter, seeds eaten by birds, especially Brown-headed Nuthatch
Prunus caroliniana Carolina Laurel Cherry	20—40'	15—20'	M-R	S-PS	Tolerates a variety of conditions, colonizes
Native Deciduous					
Carpinus caroliniana American Hornbeam or Ironwood	20—30'	20—30'	S	S-PS	Does well in moist to wet soil, attractive trunk, interesting fruit
Cercis canadensis Eastern Redbud	20—30'	25—35'	M	S-PS	Tolerates a variety of conditions, many cultivars available, early spring purple/pink blooms
Cornus florida Flowering Dogwood	15—30'	15—20'	S-M	PS	Best in part shade, many cultivars available, flowers in spring, fall color and red fruit
Gleditsia triacanthos var. inermis Thornless Honeylocust	30—70'	30—40'	R	S	Range of soil types, drought tolerant;
Halesia tetraptera Common Silverbell	20—40'	20—35'	M	S-PS	Tolerates a variety of conditions, showy white blooms in spring, cultivars available
Ostrya virginiana Eastern Hop- hornbeam	20—30'	20—30'	S	S-PS	Tolerates a variety of conditions, interesting fruit
Oxydendrum arboreum Sourwood	20—30'	10—15'	S	S-PS	Tolerates a variety of conditions, white summer flowers, fall color, source of sourwood honey
Non-Native Evergreen					

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Ilex × 'Nellie R. Stevens' Nellie Stevens Holly	30—40'	10—15'	R	S-PS	Red fruit, drought and heat tolerant, male and female plants (I. cornuta) needed for best fruiting, also used as a large shrub
Pinus thunbergii Japanese Black Pine	20'	20'	S-M	S	Select small tree cultivar from among dwarf cultivars, heat and drought tolerant
Non-Native Deciduous					
Acer buergerianum Trident Maple	25—35'	20—30'	M	S-PS	Tolerates a variety of conditions; good fall color
Acer campestre Hedge Maple	25—35'	25—35'	S	S	Tolerates drought and air pollution; shallow root system
Carpinus betulus 'Fastigata' Pyramidal European Hornbeam	30—40'	20—30'	S-M	S-PS	Pyramidal when young, tolerates a range of conditions
Koelreuteria paniculata Goldenrain Tree	20—40'	15—35'	M-R	S-PS	Tolerates drought and air pollution, yellow flowers in June
Magnolia × soulangeana or soulangeana Saucer Magnolia	15—25'	15—25'	M	S-PS	Late flowering cultivars avoid frost damage to blooms
Pistacia chinensis Chinese Pistachio	25—35'	20—30'	M-R	S	Drought tolerant, male and female plants needed for fruit, fall color
Prunus 'Kwanzan' Kwanzan Cherry	20—30'	15—25'	M	S-PS	Pink blooms in April, may be short-lived, good fall color, no fruit
Prunus 'Okame' Okame Cherry	15—30'	20—30'	M-R	S	Tolerates a variety of conditions, pink blooms in late winter lasting longer than most cherries
Prunus subhirtella 'Autumnalis' Fall Blooming Cherry	20—30'	15—25'	R	S-PS	Flowers best in full sun, flowers both in fall and late winter, may be short lived
Prunus subhirtella 'Pendula' Weeping Cherry	20—40'	15—30'	M	S	Tolerant of heat and clay soil; white to pinkish flowers in early spring; relatively long lived

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Prunus × yedoensis Yoshino Cherry	30—40'	30—50'	R	S	Tolerates a variety of conditions, pale pink to white flowers in early spring, many cultivars available
SMALL VARIETY TREES (MATURE HEIGHT: LESS THAN 25 FEET)					
Native Evergreen					
Ilex vomitoria Yaupon Holly	15—20'	10—20'	S-M	S-SH	Tolerates a variety of conditions, male and female plants needed for fruit, many cultivars available in many sizes
Magnolia grandiflora 'Little Gem' Little Gem Magnolia	15—20'	8—10'	R	S-PS	Dwarf cultivar of Magnolia grandiflora
Morella or Myrica cerifera Wax-myrtle	10—15'	8—10'	R	S-PS	Tolerates wet to dry soils, can colonize, many cultivars available, male and female plants needed for fruit, also can be used in shrub form
Native Deciduous					
Aesculus pavia Red Buckeye	10—20'	10—20'	M	S-PS	Especially attracts hummingbirds and pollinators, red flowers in spring, leaf scorch may develop in dry soils
Amelanchier × 'Autumn Brilliance' Autumn Brilliance Serviceberry	25—40'	20—30'	S	S-PS	Tolerates a variety of conditions, rust fungus can attack fruit, early spring white blooms, fall color, other cultivars available
Chionanthus virginicus Fringe-tree or Old Man's Beard	12—20'	12—20'	S-M	S-PS	Tolerates a variety of conditions, male and female plants needed for fruit, fragrant white flowers in spring
Crataegus viridis 'Winter King' Winter King Green Hawthorn	15—30'	10—20'	S	S-PS	Drought tolerant, has thorns, other native species available, white flowers in spring, fall color, interesting bark
Non-Native Deciduous					

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Acer palmatum Japanese Maple	15—25'	10—25'	S-M	S-PS	Avoid hot, dry and windy sites; many cultivars available
Chionanthus retusus Chinese Fringe-tree	15—25'	10—25'	M	S-PS	Tolerates a variety of conditions, showy white flowers in spring
Cornus kousa Kousa Dogwood	15—30'	15—30'	S	S-PS	Resistant to anthracnose, white flowers in May, fall color
Lagerstroemia indica cvs. Crapemyrtle	15—30'	6—15'	R	S	Summer blooms, attractive bark, overused, many cultivars (including dwarfs) available, do not top
Magnolia stellata Star Magnolia	10—15'	6—10'	S-M	S-PS	Blooms best in full sun, late winter white flowers
Malus hybrida Hybrid Crabapple	15—25'	10—20'	M	S	Plant only disease resistant cultivars, many cultivars available, showy spring flowers and fall fruit
Prunus sargentii Sargent Cherry	20—40'	20—40'	R	S	One of the hardiest cherries; pink flowers; sensitive to air pollution; reddish bark
Prunus serrulata 'Snowgoose' Snowgoose Japanese Cherry	15—25'	15—20'	M	S-PS	White sprung flowers; reddish bark; may be short-lived
Syringa reticulata Japanese Tree Lilac	20—30'	15—20'	M	S	Tolerates a variety of conditions; creamy white flowers in mid-summer

EVERGREEN SHRUBS AND SCREENING PLANTS

Native

Ilex opaca American Holly	40—60'	20—30'	S	S-SH	Tolerates a variety of conditions, male and female plants needed for fruit, pyramidal form, cultivars available
Ilex × attenuata 'Fosteri' Foster's Holly	20—30'	10—20'	R	S-PS	Red fruits, male plants not needed for fruiting, best berry production in full sun

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Juniperus virginiana Eastern Red Cedar	40—50'	15—25'	S	S-PS	Tolerates a variety of conditions, pyramidal form, male and female plants needed for fruit
Morella or Myrica cerifera Wax-myrtle	10—15'	8—10'	R	S-PS	Tolerates wet to dry soils, can colonize, many cultivars available, male and female plants needed for fruit, can reach small tree size
Prunus caroliniana Carolina Laurel Cherry	20—40'	15—20'	M-R	S-PS	Tolerates a variety of conditions, colonizes
Thuja occidentalis American Arborvitae	Var.	Var.	Gen. S	S	Many cultivars in countless shapes and sizes, some tolerate part shade, some reach small tree size
Non-Native					
Ilex × 'Nellie R. Stevens' Nellie Stevens Holly	30—40'	10—15'	R	S-PS	Red fruit, drought and heat tolerant, male cultivar (I. cornuta) needed for best fruiting, also used as a large shrub
Pinus thunbergii Japanese Black Pine	20'	20'	S-M	S	Select small tree cultivar from among dwarf cultivars, heat and drought tolerant
LANDSCAPING SHRUBS {MATURE HEIGHT 36 INCHES OR MORE}					
Native Evergreen					
Agarista populifolia Florida Leucothoe or Agarista	8—12'	8—12'	R	PS	Tolerates a variety of conditions, but prefers moist soil
Ilex glabra Inkberry Holly	5—9'	5—10'	S-M	S-PS	Drought tolerant but prefers moist soil, many cultivars available, male and female plants needed for fruit
Ilex vomitoria Yaupon Holly	10—20'	8—12'	M-R	S-PS	Tolerates wet to dry soils, male and female plants needed for fruit, dwarf and other cultivars available

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Illicium floridanum Florida Star-anise	5—8'	6—8'	M	PS-SH	Prefers moist, well-drained soil high in organic matter, many cultivars available, showy spring flowers
Illicium parviflorum Yellow Anise-tree	7—10'	8—10'	M	S-PS	Tolerates a variety of conditions, drought tolerant, can colonize, some cultivars available
Morella or Myrica cerifera Wax-myrtle	10—15'	8—10'	R	S-PS	Tolerates wet to dry soils, can colonize, many cultivars available, male and female plants needed for fruit, can reach small tree size
Rhododendron catawbiense Catawba Rhododendron	6—12'	6—10'	M	PS	Showy flowers, needs excellent drainage and organic soil, many cultivars available
Thuja occidentalis 'Emerald' Emerald American Arborvitae	6—10'	3—6'	M	S-PS	Tolerates a range of soils and conditions; good screening plant
Native Deciduous					
Calycanthus floridus Sweet-shrub or Carolina Allspice	6—9'	6—12'	S-M	S-PS	Tolerates a range of conditions, drought tolerant, fragrant maroon flowers in early spring, fall color, cultivars available
Callicarpa americana American Beautyberry	3—4'	4—5'	R	S-PS	Prefers moist soil, showy purplish berries in fall
Ceanothus americanus New Jersey Tea	3—4'	3—5'	S-M	S-PS	Easy to grow in a wide range of conditions, drought tolerant, early summer flowers
Clethra alnifolia Sweet-pepperbush	4—8'	4—6'	S-M	S-PS	Needs moist soil, fragrant white summer flowers, may colonize, fall color
Fothergilla gardenii Witch-alder or Fothergilla	3—5'	3—4'	S	S-PS	Drought tolerant, fall color, may colonize, fragrant white spring flowers

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Fothergilla major Large Witch-alder	6—10'	5—9'	S	PS	Drought tolerant, cultivars include 'Mt. Airy,' white spring flowers
Hamamelis virginiana Witch-hazel	15—30'	15—25'	S-M	S-PS	Multi-stemmed, yellow fall flowers and leaf color, tolerates heavy clay soil
Hydrangea arborescens Smooth Hydrangea	3—5'	3—5'	R	PS	Suffers in full sun and with drought, likes moist well-drained soil, attracts bees, prune in early spring, cultivars available, including 'Annabelle,' long bloom period
Hydrangea quercifolia Oakleaf Hydrangea	4—8'	3—8'	R	PS-S	Somewhat drought tolerant, attractive bark, needs mulch to keep roots cool, long bloom period in spring and summer, fall color, dwarf cultivars available
Ilex decidua Possum-haw	6—7'	6'	M	PS	Prefers moist, well-drained soil, male and female plants needed for fruit
Ilex verticillata Winterberry	6—15'	6—10'	S-M	S-PS	Tolerates a range of conditions, but prefers moist soil, male and female plants needed for fruit, dwarf cultivars available
Itea virginica Sweetspire	3—6'	4—6'	M	S-PS	Tolerates wide range of moisture, excellent fall color, fragrant white spring flowers
Lindera benzoin Spicebush	6—12'	6—12'	S-M	S-PS	Prefers moist, well-drained soil, male and female plants needed for fruit, fall color, early spring yellowish flowers
Physocarpus opulifolius Eastern Ninebark	5—8'	6—10'	M-R	S-PS	Drought tolerant, tough and durable, white spring flowers, attractive bark, dwarf cultivars available

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Rhododendron calendulaceum Flame Azalea	4—8'	8—10'	S	PS	Good for naturalistic landscape, needs some direct sun, orange/yellow flowers in late spring, needs well-drained organic soil
Rhododendron periclymenoides Pinxterbloom Azalea	3—6'	4—7'	S	S-PS	Drought tolerant, needs some sun, pink spring flowers, needs well- drained organic soil
Rhododendron viscosum Swamp Azalea	2—8'	3—8'	M	PS	Likes moist organic soil, but tolerates some drought, fragrant white flowers in early summer
Sambucus canadensis American Elderberry	5—12'	5—12'	R	S	Likes moist soil, may colonize, white summer flowers and dark fruit
Vaccinium arboreum Sparkleberry	10—20'	10—15'	M	S-SH	Tolerates drought, needs multiple genetic strains for fruit set, fall color
Vaccinium stamineum Deerberry	3—5'	3—5'	M	S-PS	Drought tolerant, needs acidic soil, needs multiple genetic strains for fruit set
Vaccinium virgatum or ashei Rabbiteve Blueberry	8—12'	6—10'	M	S-PS	Drought tolerant, needs acidic soil, needs multiple genetic strains for fruit set, fall color, grown for fruit production
Viburnum acerifolium Mapleleaf Viburnum	4—6'	4—6'	M	S-SH	Tolerates drought, may colonize, needs multiple genetic strains for fruit set, white spring flowers, fall color
Viburnum dentatum Arrow-wood Viburnum	6—10'	6—15'	M	S-PS	Tolerates drought but prefers moist soil, may colonize, needs multiple genetic strains for fruit set, white spring flowers, fall color, cultivars available
Viburnum nudum Possumhaw or Southern Wild Raisin	6—10'	6—10'	M	S-PS	Prefers moist to wet soil, needs multiple genetic strains for fruit set, white spring flowers, fall color, cultivars available

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Viburnum prunifolium Blackhaw Viburnum	12—15'	8—12'	S-M	S-SH	Drought tolerant, needs multiple genetic strains for fruit set, white spring flowers, fall color
Viburnum rafinesqueanum Downy Arrow-wood Viburnum	4—6'	4—6'	M	S-PS	Drought tolerant, needs multiple genetic strains for fruit set, white spring flowers, fall color
Viburnum rufidulum Southern Black Haw Viburnum	10—20'	10—15'	M	PS	Needs multiple genetic strains for fruit set, white spring flowers, fall color
Non-Native Evergreen					
Abelia × grandiflora Glossy Abelia	5—8'	5—8'	M-R	S-PS	Tolerates a variety of conditions, drought tolerant, summer flowers, many dwarf cultivars available
Aucuba japonica Aucuba	6—10'	4—6'	S	PS-S	Needs winter shade, drought tolerant, many cultivars available
Berberis julianae Wintergreen Barberry	4—8'	6—8'	S	S-PS	Tolerates a variety of conditions, drought tolerant, has spines, good barrier plant
Berberis verruculosa Warty Barberry	3—6'	3—4'	S	S-PS	Tolerant of drought and urban conditions, tolerates a variety of soils
Buxus microphylla Littleleaf Boxwood	2—8'	2—8'	S	S-PS	Many shapes and sizes, var. japonica is often used, generally densely branched, leaves may bronze in winter
Buxus sempervirens Common Boxwood	15—20'	10—15'	S	S-PS	Drought tolerant, protect from wind, many cultivars available
Camellia japonica Camellia	8—15'	5—10'	S-M	PS	Excess sun, cold or shade can reduce flowering, many cultivars available, blooms in early spring
Camellia sasanqua Sasanqua Camellia	6—10'	5—7'	M-R	S-PS	Drought tolerant, many cultivars available, blooms in the fall

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS

PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Euonymus japonicus Japanese Euonymus	10—15'	5—6'	R	S-SH	Tolerates drought and variety of soil types, subject to scale insects
Ilex crenata cvs. Japanese Holly (i.e., Compacta Holly)	4—10'	3—5'	S-M	S-PS	Many cultivars available in varying shapes and sizes, black fruit when present, generally hardy, male and female plants needed for fruit
Loropetalum chinensis Loropetalum	6—10'	6—10'	R	S-PS	Tolerates a variety of conditions, drought tolerant, long spring bloom period, dwarf cultivars available
Osmanthus heterophyllus Tea Olive	8—10'	5—10'	S-M	S-PS	Drought and heat tolerant, a good plant for screening, many cultivars available, fragrant fall flowers
Osmanthus × fortunei Fortune's Osmanthus	15—20'	15—20'	M	S-SH	Drought tolerant, good for screening and barriers, fragrant fall flowers
Pinus mugo Mugo Pine	15—20'	25—30'	S	S-PS	Varies greatly in size; tolerates clay soil, cultivars available
Prunus laurocerasus Cherrylaurel	4—8'	5—8'	M	S-SH	Favorite cultivars are Zabel, Otto Luyken and Schip laurel, need well-drained soil, some disease problems and scale insects
Raphiolepis cvs. Indian Hawthorn	4—10'	4—10'	S	S-PS	Tolerates a variety of conditions, drought tolerant, many cultivars available
Rhododendron hybrida Evergreen Azalea	2—8'	2—10'	M	PS	Many hybrids and cultivars available, needs well drained soil
Sarcococca confusa Sweetbox	3—5'	3—5'	S-M	PS-SH	Drought tolerant, fragrant flowers in late winter
Sarcococca Viburnum awabuki 'Chindo' Chindo Viburnum	10—15'	6—8'	R	S-PS	Pyramidal form, drought tolerant

SUGGESTED PLANT MATERIALS LIST – TREES & SHRUBS					
PLANT NAME/ COMMON NAME	HEIGHT	SPREAD	GROWTH RATE S = Slow; M = Moderate; R = Rapid	LIGHT NEEDS S = Sun; SH = Shade; PS = Partial Sun	COMMENTS
Viburnum rhytidophyllum Leatherleaf Viburnum	10—15'	10—15'	M	PS-SH	Protect from winter wind and sun
Non-Native Deciduous					
Chaenomeles speciosa or japonica Japanese Flowering Quince	5—8'	4—8'	R	S-PS	Varied flower colors, flowers best in full sun, tolerates a variety of conditions, many cultivars available, stems often have spines
Cotinus coggygria Smoketree or Smokebush	10—15'	8—12'	M-R	S	Tolerates a range of soil types, drought tolerant, showy summer flowers, many cultivars available
Forsythia × intermedia Border Forsythia	8—10'	10—12'	R	S-PS	Tolerates a variety of conditions, blooms in early spring, best in full sun, many cultivars to choose from
Hydrangea macrophylla Bigleaf Hydrangea	3—4'	4—6'	R	PSH	Moist well drained soil, wilts in drought, long bloom period, needs pruning after blooming
Hydrangea paniculata Panicle Hydrangea	6—20'	6—8'	R	S-PS	Drought tolerant, white flowers in summer, long bloom period, many cultivars available
Kerria japonica Japanese Kerria	3—6'	6—9'	M	PS-SH	Drought tolerant, early spring yellow flowers, interesting green stems, cultivars available
Rosa hybrida Hybrid Landscape Rose (i.e., Knock Out Rose)	3—4'	3—4'	M	S-PS	Drought and disease resistant, blooms all summer, has thorns, many cultivars available
Spiraea cvs. Spirea (excl. Spiraea japonica)	Var.	Var.	Gen. R	S	Spring or summer flowering shrubs, many cultivars available, Spiraea japonica species is considered an invasive exotic in N.C.

Editor's note— Ord. No. AL2020-11-1 , § 1.5, adopted Nov. 2, 2020, repealed the former App. § 30-A3, and enacted a new App. § 30-A3 as set out herein. The former App. § 30-A3 pertained to recommended large trees, small trees and shrubs.

DIVISION 4. - PLAT CERTIFICATES

(1) 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 or positional accuracy as calculated is _____; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, license number and seal this day of _____, A.D., .
Seal or Stamp

Professional Land Surveyor
License Number # _____

(2) Professional Land Surveyor's Certification:

- As denoted by an "X" below, I, _____, certify as to the following:
- 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 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) 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. For the purposes of this subsection, an "existing parcel" or "existing easement" is an area of land described in a single, legal description or legally recorded subdivision that has been or may be legally conveyed to a new owner by deed in its existing configuration.
 - (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. For the purposes of this subsection, a "control survey" is a survey that provides horizontal or vertical position data for support or control of other surveys or for mapping. A control survey, by itself, cannot be used to define or convey rights or ownership.
 - (4) That the survey is of a proposed easement for a public utility as defined in G.S. 62-3.
 - 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 determine to the best of the surveyor's professional ability as to provisions contained in (a) through (d) above.

(3) Certificate of Floodway Information:

Property shown hereon _____ is/ is not located in a FEMA designated flood zone. FEMA Flood Hazard Panel: _____; Effective Date: _____.

Professional Land Surveyor
License Number # _____

(4) Certificate of Ownership, Maintenance and Dedication:

I hereby certify that I am the owner (or corporate officer) of the property shown and described hereon, which is located in the zoning and subdivision jurisdiction of Archer Lodge and that I hereby adopt this subdivision plan with my free consent, establish minimum setback lines, and dedicate all streets, alleys, parks and other sites and easements to the public or private as noted. I understand that I am responsible for maintenance of public property shown hereon until it is accepted by the appropriate government entity.

Date Owner/Officer or Corporation

(5) Notice to Homeowners to Connect to Public Utility System:

Homeowner is required to connect to public water and/or sewer (where available) before a Certificate of Occupancy is issued for the principle structure and/or any structure served by water and/or sewer.

(6) Certificate of Approval by Public Utilities:

The Director of Public Utilities for County of Johnston, North Carolina, hereby certifies that this plat meets all Johnston County standards and requirements for public utilities required by the Johnston County ordinances. Upon recordation of this plat, Johnston County accepts the owner's offer of dedication for public water and/or sanitary sewer purposes all easements, common areas, and/or rights-of-way shown and delineated on this plat as dedicated for public utility purposes. No structures or fences shall be placed within the public utility easements. Access to the dedicated areas shall not be blocked or obstructed by any fence or structures unless pre-approved access is provided with a 12' minimum opening gate. The County shall have the right to clear and/or remove any vegetation within the public utility easements. Furthermore, the County will not replace any landscaping (other than grass, which will be replaced with seed) within the public utility easement area disturbed for maintenance of the utilities.

THIS THE DAY OF _____, 20_____.
COUNTY OF JOHNSTON

By: _____
Director of Public Utilities

(7) Certification of Approval of Water Supply and Sewage Disposal System:

Certificate of preliminary approval of water supply and sewage disposal systems installed for installation in _____ subdivision meet public health requirements as described in Archer Lodge Subdivision regulations. Final approval for individual lots with 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.

Date Health Representative

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.

(8) North Carolina Department of Transportation Division of Highways Certification:

Proposed Subdivision Road Construction Standards Certification

Approved: _____
Date District Engineer

Note: Only North Carolina Department of Transportation approved structures are to be constructed on public right-of-way.

Note: Site triangle takes precedent over any sign easement.

Note: 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.

Note: 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 there in, so as to maintain the integrity of the drainage system and ensure positive drainage.

Note: All lots shall be served by the internal street system.

(9) Road Maintenance Statement of Understanding:

I, _____ am responsible for the construction, maintenance and required road improvements of the subdivision streets on this plat until the earlier of the follow occurs:
(a) Approved and accepted for permanent maintenance by the North Carolina Department of Transportation as public roads; or
(b) Approved and taken over by the Homeowners Association for private roads permanent maintenance; or
(c) Private road maintenance agreement is signed and recorded by owners of each lot.
Name of Corporation or Owner

Date Developer/Owner/Officer of Corporation

(10) Town Planner 's Certification:

Certificate of Approval for Recording - Subdivision Plat

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Archer Lodge, North Carolina, and that this plat has been approved for recording in the Office of the Register of Deeds of Johnston County. This plat is null and void if not recorded at the Johnston County Deed Registry within sixty (60) days of the date written below.

Date Town Planner

Certificate of Approval for Recording - Exempt Plat

I hereby certify that this plat is exempt from the Subdivision Regulations with the Town of Archer Lodge, North Carolina, and that this plat has been approved for recording in the Office of the Register of Deeds of Johnston County.

Date Town Planner

(11) Review Officer's Certification:

State of North Carolina

County of _____

I, _____, Review Officer of _____ County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Date Review Officer

(12) Register of Deed Certification:

State of North Carolina, Johnston County

This instrument was presented for registration and recording this _____ day of _____,

20_____ at _____.

_____ by _____
Register of Deeds Asst. Reg of Deeds
Recorded in PB _____ PG _____

(13) Acceptance of Offer of Dedication

NOTE: To be used only if Town Council accepts an offer of dedication.

I hereby certify that all parks and greenways as shown on this plat were accepted, as specified, by the Town Council by a resolution adopted at the meeting held on _____, 2_____.

Date Town Clerk

(14) Subdivision Road Disclosure Statement:

Developers are required to give lot purchases a subdivision street disclosure statement pursuant to NC General Statutes section 136-102.6(F)

(15) Additional Certifications, Statements, or Notations necessary.

Notations:

1. Maximum Impervious Surface Per Lot.
2. Designate whether lot is within a protected watershed.

(Ord. No. AL2020-06-1 , § 1, 6-15-2020)

Editor's note— Ord. No. AL2020-06-1 , § 1, adopted June 15, 2020, repealed the former App. § 30-A4, and enacted a new App. § 30-A4 as set out herein. The former App. § 30-A4 pertained to fourth degree of kinship.

DIVISION 5. - MODEL LANGUAGE FOR DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION AND AGREEMENT is entered into this the _____ day of _____, 20_____, between (Developer) (hereinafter "Declarant") and all parties hereafter acquiring any of the described property.

WITNESSETH:

WHEREAS, Declarant is the owner and developer of all lots within a subdivision of the Town of Archer Lodge, Johnston County, NC, known as _____ and being that certain tract or parcel more particularly described by map and survey in Plat Book _____, Page _____, of the Johnston County Registry; and

WHEREAS, it is in the best interest of the Declarant and to the benefit, interest, and advantage of every party hereinafter acquiring any of the described property that certain covenants, conditions, easements, assessments, liens, and restrictions governing and regulating the use of the property be established; and

WHEREAS, Declarant desires to provide for the continued ownership, maintenance, and repair of all streets, roads, sidewalks, and greenways together with the associated stormwater drainage infrastructure located in the above-named subdivision; and

WHEREAS, Declarant has caused or will cause to be incorporated under the laws of the State of North Carolina, a non-profit corporation known as "_____" (hereinafter referred to as "Association") for the purpose of exercising the functions aforesaid, and which are hereinafter fully set forth.

NOW, THEREFORE, in consideration of the premises, the Declarant agrees with all parties hereafter acquiring any of the property herein described, that it shall be and is hereby subject to the following restrictions, covenants, conditions, easements, assessments, and liens relating to the use thereof, which shall be construed as covenants running with the land, which shall be binding on all parties acquiring any right, title, or interest in any of the properties and which shall inure to the benefit of each owner thereof.

- (1) **MEMBERSHIP:** Every person who is a record owner of a fee or undivided fee interest in any lot which is subject to assessment by the Association, including contract sellers, but excluding persons who hold an interest merely as security for the performance of any obligations, shall be a member of the Association. Ownership of such interest shall be the sole qualification for such membership. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. Membership in the Association is mandatory and may not be waived by the Association for any such owner.
- (2) **OWNERSHIP OF STREETS, ROADS, SIDEWALKS, AND GREENWAYS:** The Declarant shall own and maintain the streets, roads, sidewalks, and greenways together with the associated stormwater drainage infrastructure of the subdivision until such a time that the ownership interest in the above shall be transferred to the Association or to NCDOT.
- (3) **MAINTENANCE, REPAIR, AND UPKEEP OF STREETS AND ROADS:** Until such a time that the ownership interest in the streets and roads of the subdivision shall be transferred to the Association or NCDOT, the Declarant shall maintain, and repair said streets and roads in the subdivision at a minimum of NCDOT standards as set forth in the most current edition of the "Subdivision Roads Minimum Construction Standards." In the event that, and after such a time that, the ownership interest in the streets and roads of the subdivision has been transferred to the Association, the Association shall maintain, and repair said streets and roads in the subdivision at a minimum of NCDOT standards as set forth in the most current edition of the "Subdivision Roads Minimum Construction Standards."
- (4) **ASSESSMENTS FOR MAINTENANCE, REPAIR, AND UPKEEP OF STREETS, ROADS, SIDEWALKS, AND GREENWAYS:** Each member of the Association shall be required to pay an annual assessment for their pro rata share of the costs of maintenance, repair, and upkeep of the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision, with a minimum annual payment of \$_____.

- (5) **MAINTENANCE ACCOUNT:** The Association shall deposit all assessments for the purpose of maintenance, repair, and upkeep of the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision into a separate account with an accredited, FDIC backed banking institution in the name of the Association. The Association shall file with the Town, by the first day of the calendar year, an annual accounting of said maintenance account.
- (6) **CONTINUED STREET, ROAD, SIDEWALK, AND GREENWAY MAINTENANCE:** Either the Declarant or the Association, whichever shall possess the ownership interest in the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure, shall either (i) Petition the NCDOT to assume ownership and maintenance of the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the rights-of-way thereto, or (ii) Provide that the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the rights-of-way thereto shall be privately owned and maintained to NCDOT standards as set forth in the most current edition of the "Subdivision Roads Minimum Construction Standards" by the Association, its successors or assigns, in perpetuity.
- (7) **TRANSFER OF OWNERSHIP INTEREST UPON DISSOLUTION OF ASSOCIATION:** To the extent permitted by law, in the event that the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the rights-of-way thereto have not been previously dedicated to the NCDOT, in the event the Association should dissolve, the Association shall transfer any and all ownership interest in the streets, roads, sidewalks, and greenways together with associated stormwater drainage infrastructure of the subdivision and the rights-of-way thereto, as well as the associated Maintenance Account as described in Paragraph (5) above, to another legal entity for the purpose of maintenance, repair, and upkeep.
- (8) **FIREARMS:** The discharge of firearms of any kind is strictly prohibited anywhere in the subdivision or on any adjoining land owned by the Association, a member of the Association, or the Declarant. Discharging of air guns, air pistols, and air rifles, not to exceed a caliber of 0.177, is permitted, as they are not considered firearms within the meaning of this section.

(Ord. No. AL2020-08-2 , § 1, 8-3-2020)

DIVISION 6. - INFORMATION REQUIRED WITH APPLICATIONS

Prior to the issuance of a zoning compliance permit, special use permit, or a building permit for any use developer shall submit a site specific development plan for review by the Town Planner and, where specified in the section, by other town boards, including, but not limited to, the planning board and the town council.

The site plan may also be the "preliminary plat" for subdivisions if it contains all the information required chapter 30, article VI, division 4, section 385.

All site plans and subdivision plats shall be prepared by a North Carolina registered engineer, architect or professional land surveyor, signed and be sealed by the same, and shall include the following information:

(a) Information required for both site plans and subdivision plats.

- (1) Site plans shall include a location map that shows the location of the project in the broad context of the town or planning jurisdiction.
- (2) Development site plans shall be drawn to scale, using such a scale that all features required to be shown on the plans are readily discernible. Large developments may require that plans show the development in sections. The objective may be accomplished by using different plans or plans drawn to different scales to illustrate different features. Also, an applicant may use a narrative or master plan to describe and define those site plan elements that cannot be readily depicted in a graphic format.
- (3) Development site plans shall show on the first page the following information:
 - a. Name of applicant.
 - b. Name of development (if any).
 - c. North arrow.
 - d. Legend.
 - e. Scale.
- (4) Existing natural, man-made and legal features:
 - a. Tree line of wooded areas.
 - b. Streams, ponds, drainage ditches, swamps, boundaries of flood ways and flood plains.
 - c. Existing storm drainage patterns.
- (5) Existing man-made features:
 - a. Public streets, sidewalks and other walkways, all designated by the type of surface material.
 - b. Curbs and gutters, curb inlets and curb cuts and drainage grates.
 - c. Stormwater and drainage facilities.
 - d. Underground utility lines, including water, sewer, electric, telephone, gas and cable.
 - e. Above-ground utility lines and other utility facilities.
 - f. Fire hydrants.
 - g. Buildings, structures (including dimensions).
 - h. The location of any areas previously used for landfill or other waste disposal purposes that are known or reasonably should be known to the applicant.
- (6) Existing legal features:
 - a. Zoning of the subject property and surrounding properties.
 - b. Property lines of the tract to be developed (with dimensions identified).
 - c. Street right-of-way lines.

- d. Utility or other easement lines.
 - e. Deed book and page reference demonstrating ownership of property. If the applicant does not yet own the property, the applicant shall include a written statement describing the applicant's legal authority to make application for the requested permit or conditional zoning.
- (7) Show all proposed changes in existing natural, man-made and legal features, including, but not limited to, the following:
- a. Lot dimensions.
 - b. The location, dimensions, and footprints of all buildings on the property, including the distances of all buildings from property lines, streets or street right-of-way lines; (subdivisions may show building setback lines).
 - c. The location and dimensions of all recreational areas.
 - d. The location and dimensions of all areas intended to remain as usable open space. The plans shall clearly indicate whether such open space areas are intended to be offered for dedication to public use or to remain privately owned.
 - e. Street names (labeled by classification) showing linear feet, street paving widths and typical street cross-sections.
 - f. Curbs and gutters (constructed using the same specifications as used by the North Carolina Department of Transportation), curb cuts and drainage grates as required by town policy.
 - g. If required, a stormwater management plan, as approved by the State of North Carolina, or Town in the Water Supply Watershed Overlay District and drainage facilities.
 - h. All new proposed storm drainage patterns.
 - i. Sidewalks and walkways, showing widths and surface material.
 - j. Bridges.
 - k. Underground utility lines or easement areas for said lines, including water, sewer, electric, telephone, gas, and cable.
 - l. Above-ground utility lines and other facilities.
 - m. Fire hydrants.
 - n. Vehicle accommodation areas including parking areas, loading areas and circulation areas, all designated by the type of surface material and dimensions of proposed parking spaces. The total number of parking spaces and the total number of parking spaces for disabled persons (i.e. handicapped spaces) shall be indicated;
 - o. For properties in the Water Supply Watershed Overlay District provide the proposed total impervious surface area and the calculations showing how the impervious surface area was found.
 - p. The location and description of all yards, buffers, screening, landscaping and plantings or devices (i.e. fences, berms, etc.) proposed for compliance. Plans shall label trees and shrubbery by common or scientific name, show the distance between plants and indicate the height at the time of planting and expected mature height and width.
 - q. Proposed phasing, if any. Phasing plans shall provide a description of the facilities to be built in each phase.
 - r. 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, such as a deed book and page reference demonstrating ownership of property. If the applicant does not yet own the property, the applicant shall include a written statement describing the applicant's legal authority to make application for the requested permit or conditional zoning.

- s. Certifications from the appropriate agencies that all necessary easements have been provided; and
- t. If any street or driveway 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 Driveways Regulation.

(b) *Additional information required for site plans.*

- (1) Existing topography at ten foot or other appropriate contour intervals, as approved by the Town Planner.
- (2) Individual trees eight inches in diameter or more, identified by common or scientific name.
- (3) Other individual trees the applicants intend to preserve.
- (4) Location of exterior light fixtures, with type and intensity of lighting fixtures sufficiently identified.
- (5) The proposed use or uses of all land within the subject property.
- (6) The scale of buildings relative to abutting property.
- (7) The total number of residential units and the total square footage of any nonresidential development.
- (8) Building elevations for all accessory structures, except for accessory structures to single family residences, duplexes and townhouses approved under the North Carolina Single Family Building Code.
- (9) All refuse facilities (including dumpsters and their screens), mechanical equipment and utility equipment.
- (10) Vehicle accommodation areas including parking areas, loading areas and circulation areas, all designated by the type of surface material and dimensions of proposed parking spaces. The total number of parking spaces and the total number of parking spaces for disabled persons (i.e. handicapped spaces) shall be indicated. SITE and SUBDIVISIONS in the Water Supply Watershed Overlay District.
- (11) Building elevations for typical units of new buildings or exterior remodeling of existing buildings showing building heights, widths and materials (except single family, duplex or townhouse buildings approved under the NC Residential Building Code for One- and Two-Family Dwellings).
- (12) The location and dimensions, including height, of all signs, including the distances of all signs from property lines, streets or street right-of-way lines. If applicable, this information may be included as part of a sign plan.
- (13) Any other facilities to be constructed or otherwise provided as part of the development.

(c) *Additional information required only for subdivision plats.* The number of square feet in every lot created by a new subdivision and the total number of lots created.

(d) *Number of copies of plans and documents.*

- (1) With respect to all site plans submitted pursuant to this appendix, the applicant shall submit a minimum of two copies of full size plans (i.e. 24 inches by 36 inches) and two copies of plans drawn on ledger size paper (11 inches by 17 inches). Other documents required by this appendix shall be submitted on letter size paper (eight and one-half inches by 11 inches) or legal size paper (eight and one-half inches by 14 inches).
- (2) The applicant shall submit a minimum of two copies of all other documents required by this appendix.
- (3) The applicant shall submit all documents in Adobe format or other software approved by the Town Planner .

(Ord. No. AL2020-11-1 , § 1.6, 11-2-2020)

INDEX



TOWN OF ARCHER LODGE
14094 Buffalo Road
Archer Lodge, NC 27527
Main: 919-359-9727
Fax: 919-359-3333

Mayor:
Matthew B. Mulhollem

Council Members:
Clyde B. Castleberry
Mayor Pro Tem
Teresa M. Bruton
J. Mark Jackson
James (Jim) Purvis, III
Mark B. Wilson

To: Town Council

From: Julie Maybee, Town Planner

Date: April 29, 2021

Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney, Brough Law Firm, CodeWright Planners

Re: Agenda Item 5.a. – Set Public Hearing: Unified Development Ordinance, Town of Archer Lodge

Requested Action:

Staff respectfully requests that the Town Council set a public hearing date of June 7, 2021 to receive public comment on a new Unified Development Ordinance for the Town of Archer Lodge, NC. The ordinance is compliant with NCGS 160D provisions.

An ordinance complying state mandated NCGS 160D provisions must be adopted by July 1, 2021.

As conveyed by Adam Lovelady, Associate Professor of Public Law and Government, UNC School of Government, in a Coates' Cannon Blog:

- "... Failure to adhere to the procedures, standards, and authorities of Chapter 160D will put the local government at risk of practical headaches and legal action.
- Some changes in the Chapter 160D trump local ordinances.

- Broadened conflict of interest standards, for example, will apply whether or not the local government adopts it. Failure to align the local rules with the state rules will cause confusion and frustration.
- Development decisions could be overturned for failure to comply with applicable procedures.
- This could cause frustration for board members and community members as well as wasted time and money for the applicant and local government.
- Notably, failure on the part of a local government to recognize clear legal limits could result in legal challenge and, potentially, attorneys' fees for the challenger ...".



TOWN OF ARCHER LODGE
 14094 Buffalo Road
 Archer Lodge, NC 27527
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Mayor:

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Council Members:

Clyde B. Castleberry

Mayor Pro Tem

Teresa M. Bruton

J. Mark Jackson

James (Jim) Purvis, III

Mark B. Wilson

To: Town Council

From: Julie Maybee, Town Planner

Date: April 29, 2021

Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney, Brough Law Firm, CodeWright Planners

Re: Agenda Item 5.b. – Text Amendments to the Code of Ordinances, Archer Lodge, NC, Chapter 30. Zoning and Subdivisions, Article II. Zoning, Division 3. Overlaying Zoning Districts, Section 30-131. – Water Supply Watershed Protection Overlay District (WSWOD), Section (e) *Definitions*

Summary:

The Town is required to adopt ordinances limiting development in drinking water watersheds to protect the drinking water supply of downstream communities. These ordinances must be approved by the State. The basis of this regulation is that streams and rivers will naturally clean themselves of certain pollutants after about ten miles of flow. Thus, local governments are required to control certain types of polluting land uses and discharges within defined watershed upstream from drinking water intakes.

NC Environmental Management Commission (EMC) amended the NC Administrative Code (NCAC) in 2019 which required counties and towns to amend their Water Supply Water Ordinance (WSWO) by 2020.

Revisions to local watershed supply watershed protection ordinances and watershed maps must be submitted to the EMC or its designee for approval in accordance the NC Administrative Code 15A NCAC 02b.0623 (4) as referenced below:

"REVISIONS TO ORDINANCES AND MAPS. Revisions to local watershed supply watershed protection ordinances and watershed maps shall be submitted to the Commission or its designee for approval. The submission requirements set forth in Item (2) of this Rule shall apply to all subject revisions. In addition, revisions to ordinances shall be submitted in a format that identifies the changes adopted or being proposed, as applicable ..."

Draft revisions, complying with 2019 amendments, were submitted for review, and were tentatively approved in early November 2020 by the Water Supply Program Coordinator (designated approval authority) with the Division of Energy, Mineral, and Land Resources, NC Department of Environmental Quality.

On January 20, 2021, the Planning Board deliberated, made consistency statement findings, and recommended approval of the new water supply watershed overlay protection provisions.

On February 1, 2021, the Archer Lodge Town Council adopted Ordinance #AL-2021-02-1 that incorporated the new water supply watershed overlay protection provisions.

As required by law, the adopted ordinance was submitted to and reviewed by the Water Supply Watershed Protection Coordinator with the Division of Energy, Mineral, and Land Resources, NC Department of Environmental Quality, on February 24, 2021

Upon review, it was requested that the Town amend/replace the definition of *protected area* in Chapter 30 - Zoning and Subdivisions, Article II, Division 3, Section 30-131 - Water Supply Watershed Protection Overlay District (WSWOD), Section (e) *Definitions*. The definition to read as follows:

"Protected area means the area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundary of a protected area is defined as: (a) extending either five miles in an as-the-river-runs manner upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir; (b) extending either 10 miles in an as-the-river-runs manner upstream from and draining to the intake located directly in the stream or river run-of-the-river or to the ridge line of the watershed, whichever is nearest the intake. In some cases, the protected area shall encompass the entire watershed; or (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter."

On March 17, 2021, the Planning Board deliberated on the proposed amendment referenced above (in **blue text**); and considered applicable consistency statement findings:

2030 Archer Lodge Comprehensive Land Use Plan (Plan Excerpts)

"Vision Statement: Today and into the future the Town of Archer Lodge, will be a peaceful, family oriented, active community that looks to retain our small-town, agricultural character meeting the needs of current and future residents and business."

"Mission Statement: The Town of Archer Lodge is a community that honors and embraces its rich cultural heritage and past, pursues healthy living in the present and looksfor opportunity of mold future growth into the town's core values. Archer Lodge ishome to many natural resources and open-agricultural land. With an eye toward planning future growth the Town will protect these resources."

Planning Board Recommendations – March 17, 2021, Planning Board Meeting:

Consistency Statement Findings:

The Planning Board finds that the proposed amendments to Chapter 30, Article II, Division 3, Section 30-131 – Water Supply Watershed Protection Overlay District (WSWOD), Section (e) ***Definitions*** are reasonable and in the public interest. The proposed revisions clarify/streamline the process/procedures pertaining to protection of natural resources/development of lands within the Town's WSIV water supply watershed protection program in accordance with NC State laws.

Furthermore, the proposed amendments are in compliance with the Town of Archer Lodge 2030 Comprehensive Land Use Plan, aka "Comprehensive Plan", vision and mission statements and other adopted Town plans having bearing on the matter.

Text Amendment Recommendation:

The Planning Board recommends approval of the proposed text amendments (see **blue text** above) pertaining to Water Supply Watershed Protection Overlay District (WSWOD), as presented, to the Code of Ordinances, Archer Lodge, NC - Chapter 30, Article II, Division 3, Section 30-131, Section (e) ***Definitions***, Protected Area.

Town Council Requested Procedure/Action:

Staff respectfully requests that the Town Council:

1. Open Public Hearing
2. Staff Report and Planning Board Recommendation
3. Comments
4. Close Public Hearing
5. Town Council:
 - Discuss and Consider Consistency Statement
 - Discuss and Consider:

“An Ordinance Amending the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30. Zoning and Subdivisions, Article II. Zoning, Division 3. Overlaying Zoning Districts, Section 30-131. – Water Supply Watershed Protection Overlay District (WSWOD), Section (e) ***Definitions***, Code of Ordinances, Archer Lodge, NC”

Draft Town Council Consistency Statement:

The Archer Lodge Town Council finds that the proposed amendments to Chapter 30, Article II, Division 3, Section 30-131 – Water Supply Watershed Protection Overlay District (WSWOD), Section (e) *Definitions* are reasonable and in the public interest. The proposed revisions clarify/streamline the process/procedures pertaining to protection of natural resources/development of lands within the Town’s WSIV water supply watershed protection program in accordance with NC State laws.

Furthermore, the proposed amendments are in compliance with the Town of Archer Lodge 2030 Comprehensive Land Use Plan, aka “Comprehensive Plan”, vision and mission statements and other adopted Town plans having bearing on the matter.

Draft Town Council Motion on Ordinance Adoption:

Town Council Member _____ moves to approve Ordinance# AL2021-05-1 entitled “An Ordinance Amending the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30. Zoning and Subdivisions, Article II. Zoning, Division 3. Overlaying Zoning Districts, Section 30-131. – Water Supply Watershed Protection Overlay District (WSWOD), Section (e) *Definitions*.”

The motion was second by _____ and approved by a ____ to ____ vote.

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES,
TOWN OF ARCHER LODGE, NORTH CAROLINA,
CHAPTER 30 - ZONING AND SUBDIVISIONS, ARTICLE II, DIVISION 3,
SECTION 30-131 - WATER SUPPLY WATERSHED
PROTECTION OVERLAY DISTRICT (WSWOD)**

Section 1. Pursuant to authority granted by N.C. Gen. Stat. § 143 - 214.5, 160A - 174, 160D - 801, and 160D - 702, the Town of Archer Lodge hereby amends the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30 – Zoning and Subdivisions, Article II, Division 3, Section 30 - 131 – Water Supply Watershed Protection Overlay District (WSWOD), Section (e) *Definitions* as follows:

Delete the existing definition of "**Protected Area**" in its entirety and replace with the following definition:

"Protected area" means the area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundary of a protected area is defined as: (a) extending either five miles in an as-the-river-runs manner upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir; (b) extending either 10 miles in an as-the-river-runs manner upstream from and draining to the intake located directly in the stream or river run-of-the-river or to the ridge line of the watershed, whichever is nearest the intake. In some cases, the protected area shall encompass the entire watershed; or (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter.

Section 2. This ordinance shall become effective on May 3, 2021.

DULY ADOPTED, THIS THE 3RD DAY OF MAY 2021, WHILE IN REGULAR SESSION.

TOWN OF ARCHER LODGE:

(SEAL)

Matthew B. Mulhollem, Mayor

ATTEST:

Kim P. Batten, Town Clerk

TOWN OF ARCHER LODGE
RESOLUTION OPPOSING SENATE BILL 349 / HOUSE BILL 401

WHEREAS, the legislation proposed in SB 349/HB 401 is of great concern to the Town of Archer Lodge and other municipalities within North Carolina; and

WHEREAS, this legislation would severely inhibit and in some instances, even eliminate the ability of local government to determine what is best for its citizens or allow community input or involvement in the decision-making process; and

WHEREAS, development would become uncontrolled with little to no regard for property-owners rights, would add unnecessary stress and unneeded demand on a municipality's infrastructure, leading to declining real property values; and

WHEREAS, town officials were elected by their citizens to protect and preserve the quality of life in their municipality; and

WHEREAS, local residential zoning ordinances provide town residents with safe, secure, clean, and well-kept neighborhoods; and

WHEREAS, this legislation promotes a one-size fits all approach to land use, which is not in the best interest of the Town of Archer Lodge or its citizens; and

WHEREAS, having a one-size fits all approach to land use for all cities and towns under one statewide zoning mandate would eliminate the single-family zoning, effectively allowing multi-family and low-income housing in all neighborhoods throughout the State; and

WHEREAS, the Town of Archer Lodge strongly believes in the ability of each municipality to effectively regulate residential growth and provide affordable housing options for their citizens through local, individualized zoning regulations adopted by the town councils of each municipality.

NOW, THEREFORE, BE IT RESOLVED that copies of this resolution are hereby sent to our local legislative representatives and to the leadership of the North Carolina General Assembly urging each of them to vote against SB 349/HB 401 in an effort to prevent this bill from becoming law and to work together to find real ways to advance affordable housing opportunities.

DULY ADOPTED ON THIS 3RD DAY OF MAY 2021, WHILE IN REGULAR SESSION.

_____(SEAL)
Matthew B. Mulhollem
Mayor

ATTEST:

_____(SEAL)
Kim P. Batten
Town Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

S

1

SENATE BILL 349

Short Title: Increase Housing Opportunities. (Public)

Sponsors: Senators Edwards, Newton, and Fitch (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 25, 2021

A BILL TO BE ENTITLED
AN ACT TO PROVIDE REFORMS TO LOCAL GOVERNMENT ZONING AUTHORITY TO
INCREASE HOUSING OPPORTUNITIES AND TO MAKE VARIOUS CHANGES AND
CLARIFICATIONS TO THE ZONING STATUTES.

The General Assembly of North Carolina enacts:

PART I. AFFORDABLE HOUSING OPTIONS

SECTION 1.1.(a) Article 7 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-707. Middle housing use in residential zones.

(a) Definitions. – As used in this section, the term "middle housing" means a residential dwelling that is one of the following, as defined by the North Carolina Building Code Council:

(1) A duplex.

(2) A triplex.

(3) A quadplex.

(4) A townhouse.

(b) Middle Housing in Residential Zones. – A local government shall allow all middle housing types in areas zoned for residential use, including those that allow for the development of detached single-family dwellings.

(c) Regulation and Scope. – A local government may regulate middle housing pursuant to the provisions of this Chapter, provided that the regulations do not act to discourage development of middle housing types through unreasonable costs or delay. In permitting middle housing types, nothing in this section shall be construed to prohibit a local government from permitting single-family dwellings in areas zoned to allow for single-family dwellings. Nothing in this section affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to dwelling type restrictions. Any regulation adopted pursuant to this section shall not apply to an area designated as a local historic district (i) pursuant to Part 4 of Article 9 of this Chapter or (ii) on the National Register of Historic Places. This section shall only apply to areas that are served, or through extension may be served, by one or more of the following:

(1) A local government water system.

(2) A local government sewer system.

(3) A public water system.

(4) A wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which



a permit is issued under Part 1 of Article 21 of Chapter 143 of the General Statutes."

SECTION 1.1.(b) G.S. 160D-102 is amended by adding a new subdivision to read:
"(28a) Single-family dwelling. – The term shall include all of the types of middle housing as defined in G.S. 160D-707(a)."

SECTION 1.1.(c) This section becomes effective October 1, 2021.

SECTION 1.2. The North Carolina Building Code Council (Council) shall adopt amendments to the North Carolina Residential Code for One- and Two-Family Dwellings (Code) to define and include regulation of triplex dwelling units and quadplex dwelling units in order to facilitate regulation of those units in areas zoned for residential use, including those that allow for the development of detached single-family dwellings. Upon adoption of the amendments, the Council and local governments enforcing the Code shall regulate triplex dwelling units and quadplex dwelling units being sited pursuant to G.S. 160D-707, as enacted in this act, under the new amendments to the Code.

SECTION 1.3.(a) Part 1 of Article 9 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-917. Accessory dwelling units.

(a) A local government shall allow the development of at least one accessory dwelling unit which conforms to the North Carolina Residential Code for One- and Two-Family Dwellings, including applicable provisions from State fire prevention code, for each detached single-family dwelling in areas zoned for residential use that allow for development of detached single-family dwellings. For the purposes of this section, the term "accessory dwelling unit" means an attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

(b) Development and permitting of an accessory dwelling unit shall not be subject to any of the following requirements:

- (1) Owner-occupancy of any dwelling unit, including an accessory unit.
- (2) Minimum parking requirements or other parking restrictions.
- (3) Conditional use zoning.

(c) In permitting accessory dwelling units under this section, a local government shall not do any of the following:

- (1) Prohibit the connection of the accessory dwelling unit to existing utilities serving the primary dwelling unit.
- (2) Charge any fee other than a building permit that does not exceed the amount charged for any single-family dwelling unit similar in nature.
- (3) Establish development setbacks that differ from the development setbacks applicable for a similarly situated lot in the same zoning classification."

SECTION 1.3.(b) This section becomes effective October 1, 2021.

SECTION 1.4.(a) G.S. 42A-3 reads as rewritten:

"§ 42A-3. Application; exemptions.

(a) The provisions of this Chapter shall apply to any person, partnership, corporation, limited liability company, association, or other business entity who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in this Chapter. The provisions of G.S. 160A-424 and G.S. 153A-364 shall apply to properties covered under this Chapter.

(b) The provisions of this Chapter shall not apply to:

- (1) Lodging provided by hotels, motels, tourist camps, and other places subject to regulation under Chapter 72 of the General Statutes.
- (2) Rentals to persons temporarily renting a dwelling unit when traveling away from their primary residence for business or employment purposes.
- (3) Rentals to persons having no other place of primary residence.

(4) Rentals for which no more than nominal consideration is given.

(5) Accessory dwelling units permitted pursuant to G.S. 160D-917."

SECTION 1.4.(b) This section becomes effective October 1, 2021.

SECTION 1.5. Local governments shall adopt land use ordinances and regulations or amend their comprehensive plans to implement the provisions in this Part no later than October 1, 2021.

SECTION 1.6. Except as otherwise provided, this Part is effective when it becomes law.

PART II. VARIOUS CHANGES AND CLARIFICATIONS TO THE ZONING STATUTES FOR MORE HOUSING OPPORTUNITIES

SECTION 2.1. G.S. 160D-108 reads as rewritten:

"§ 160D-108. Permit choice and vested rights.

(a) Findings. – The General Assembly recognizes that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation. The provisions of this section and G.S. 160D-108.1 strike an appropriate balance between private expectations and the public interest.

(b) Permit Choice. – If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(b1) Substantial Compliance. – A development permit application that substantially complies with the provision of information required by ordinance or regulation shall be sufficient to accept and process a request for a local or State development permit. Minor omissions in the application shall not be a sufficient basis to make an application ineligible for vesting. A local development regulation shall not condition the acceptance or processing of a development permit application upon the application for or issuance of a State permit, nor shall a State development regulation condition the acceptance or processing of a development permit application upon a local permit, unless specifically authorized by statute.

(c) Vested Rights. – Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

(2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.

(3) A site-specific vesting plan pursuant to G.S. 160D-108.1.

(4) A multi-phased development pursuant to subsection (f) of this section.

(5) A vested right established by the terms of a development agreement authorized by Article 10 of this Chapter.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the

applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

(d) Duration of Vesting. – Upon issuance of a development permit, the statutory vesting granted by subsection (c) of this section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this ~~section~~, section or common law vesting, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section or common law vesting for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

(e) Multiple Permits for Development Project. – Subject to subsection (d) of this section, where multiple ~~local~~-development permits are required to complete a development project, the development permit applicant may choose the version of each of the ~~local~~-land development regulations applicable to the project upon submittal of the application for the initial development permit. ~~This~~ Except as provided in subsection (f) of this section, this provision is not applicable only for those subsequent development permit applications filed within after 18 months of the latter of (i) the date following the approval of an initial of cessation of work related to the uncompleted development project or (ii) the date of issuance of the immediately preceding local development permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

(f) Multi-Phased Development. – A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(g) Continuing Review. – Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.

(h) Process to Claim Vested Right. – A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

(i) Miscellaneous Provisions. – The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and

G.S. 136-131.2 in which case the rights granted by this section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(j) Definitions. – As used in this section, the following definitions apply:

(1) Development. – As defined in G.S. 143-755(e)(1).

(2) Development permit. – As defined in G.S. 143-755(e)(2).

(3) Land development regulation. – As defined in G.S. 143-755(e)(3).

(4) Multi-phased development. – A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase."

SECTION 2.2. G.S. 160D-702 reads as rewritten:

"§ 160D-702. Grant of power.

(a) A local government may adopt zoning regulations. Except as provided in subsections (b) ~~and (c) through (e)~~ of this section, a zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land. A local government may regulate development, including floating homes, over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and utility rights-of-way be dedicated to the public, that provision be made of recreational space and facilities, and that performance guarantees be provided, all to the same extent and with the same limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

(b) Any regulation relating to building design elements adopted under this Chapter may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

(1) The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.

(2) The structures are located in an area designated as a historic district on the National Register of Historic Places.

(3) The structures are individually designated as local, State, or national historic landmarks.

(4) The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.

(5) Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.

(6) Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604

or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.

For the purposes of this subsection, the phrase "building design elements" means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

Nothing in this subsection affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

(c) A zoning regulation shall not set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) A local government shall not adopt or enforce an ordinance downzoning property, as defined in G.S. 160D-601(d), that has access to public water or public sewer, unless the local government can show a change in circumstances that substantially affects the public health, safety, or welfare.

(e) A local government shall not adopt or enforce an ordinance that establishes a ban or has the effect of establishing a ban on a use of land that is not an industrial use, a nuisance per se, or that does not otherwise pose a serious threat to the public health, safety, or welfare.

(f) Nothing in this section shall be construed to limit the authority of a local government to regulate adult establishments or other facilities as defined in Article 26A of Chapter 14 of the General Statutes."

SECTION 2.3. G.S. 160D-703 reads as rewritten:

"§ 160D-703. Zoning districts.

(a) Types of Zoning Districts. – A local government may divide its territorial jurisdiction into zoning districts of any number, shape, and area deemed best suited to carry out the purposes of this Article. Within those districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. Zoning districts may include, but are not be limited to, the following:

- (1) Conventional districts, in which a variety of uses are allowed as permitted uses or uses by right and that may also include uses permitted only with a special use permit.
- (2) Conditional districts, in which site plans or individualized development conditions are imposed.
- (3) Form-based districts, or development form controls, that address the physical form, mass, and density of structures, public spaces, and streetscapes.
- (4) Overlay districts, in which different requirements are imposed on certain properties within one or more underlying conventional, conditional, or form-based districts.
- (5) Districts allowed by charter.

(b) Conditional Districts. – Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the local government and consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, a local government may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise

applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site. The zoning regulation may provide that defined minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

(c) **Uniformity Within Districts.** – Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district but the regulations in one district may differ from those in other districts.

(d) **Standards Applicable Regardless of District.** – A zoning regulation or unified development ordinance may also include development standards that apply uniformly jurisdiction-wide rather than being applicable only in particular zoning districts.

(e) **Limitations.** – A local government shall not engage in any of the following practices:

- (1) The adoption or enforcement of an ordinance that downzones property in order to evade voluntary consent of landowners or petitioners or any other requirements contained in subsection (b) of this section.
- (2) Allow a particular land use only through conditional zoning.
- (3) Establishing a threshold on square footage or the number of dwelling units, where to exceed the threshold would require conditional zoning."

SECTION 2.4. Article 7 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-703.1. Remedies for violations.

(a) If a court finds that a local government has acted in violation of G.S. 160D-702 or G.S. 160D-703(e), the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the actions of the local government.

(b) In the event that a court invalidates a regulation pursuant to this section, a permit applicant may choose which zoning designation will apply to the permit and use of the building, structure, or land indicated on the permit application from the following options:

- (1) The zoning development regulation that existed most recently prior to the invalidated regulation.
- (2) The least restrictive development standards contained within the zoning designation for the jurisdiction that is the most similar zoning designation to the class of property use identified in the permit application.

(c) For the purposes of this section, the term "class of property use" means one of the following major land-use groups:

- (1) Commercial.
- (2) Governmental.
- (3) Industrial.
- (4) Institutional.
- (5) Residential."

SECTION 2.5. G.S. 160D-706 reads as rewritten:

"§ 160D-706. Zoning conflicts with other development standards.

(a) When regulations made under authority of this Article require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left ~~unoccupied, or impose other higher standards unoccupied~~ than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Article govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left ~~unoccupied, or impose other higher standards unoccupied~~ than are required by the regulations made under authority of this Article, the provisions of that statute or local ordinance or regulation govern.

(b) When adopting regulations under this Article, a local government may not use a definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is inconsistent with any definition of those terms in another statute or in a rule adopted by a State agency, including the State Building Code Council.

(c) Except as provided in subsection (a) of this section, a local government shall not adopt or enforce development regulations that alter the principle that ambiguities in land development regulations are to be construed in favor of the free use of land, including any development regulations that assert that a more restrictive rule or regulation is controlling.

(d) Subject to the provisions of Article 33 of Chapter 143 of the General Statutes, a local government, through its governing board, is authorized to settle any litigation related to the enforcement of or compliance with development regulations for a development or a development permit applicant, including any quasi-judicial development permit."

SECTION 2.6. G.S. 160D-1402 reads as rewritten:

"§ 160D-1402. Appeals in the nature of certiorari.

(a) Applicability. – This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

(b) Filing the Petition. – An appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the superior court. The petition shall do all of the following:

- (1) State the facts that demonstrate that the petitioner has standing to seek review.
- (2) Set forth allegations sufficient to give the court and parties notice of the grounds upon which the petitioner contends that an error was made.
- (3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of an impermissible conflict as described in G.S. 160D-109, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.
- (4) Set forth the relief the petitioner seeks.

(c) Standing. – A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons have standing to file a petition under this section:

- (1) Any person possessing any of the following criteria:
 - a. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.
 - b. An option or contract to purchase the property that is the subject of the decision being appealed.
 - c. An applicant before the decision-making board whose decision is being appealed.
- (2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) 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 being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A local government whose decision-making board has made a decision that the governing board believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the governing board.

(d) Respondent. – The respondent named in the petition shall be the local government whose decision-making board made the decision that is being appealed, except that if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(e) Writ of Certiorari. – Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of the county in which the matter arose. The writ shall direct the respondent local government or the respondent decision-making board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct the petitioner to serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure applies in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

(f) Response to the Petition. – The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.

(g) Intervention. – Rule 24 of the Rules of Civil Procedure governs motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:

(1) Any person described in subdivision (1) of subsection (c) of this section has standing to intervene and shall be allowed to intervene as a matter of right.

(2) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a petitioner must demonstrate that the

- 1 person would have had standing to challenge the decision being appealed in
2 accordance with subdivisions (2) through (4) of subsection (c) of this section.
3 (3) Any person, other than one described in subdivision (1) of subsection (c) of
4 this section, who seeks to intervene as a respondent must demonstrate that the
5 person would have had standing to file a petition in accordance with
6 subdivisions (2) through (4) of subsection (c) of this section if the
7 decision-making board had made a decision that is consistent with the relief
8 sought by the petitioner.

9 For intervention under subdivisions (2) and (3) of this subsection, a motion to intervene is
10 untimely and shall not be allowed if filed after the court has rendered a final judgment on the
11 underlying appeal.

12 (h) The Record. – The record shall consist of the decision and all documents and exhibits
13 submitted to the decision-making board whose decision is being appealed, together with the
14 minutes of the meeting or meetings at which the decision being appealed was considered. Upon
15 request of any party, the record shall also contain an audio or videotape of the meeting or
16 meetings at which the decision being appealed was considered if such a recording was made.
17 Any party may also include in the record a transcript of the proceedings, which shall be prepared
18 at the cost of the party choosing to include it. The parties may agree that matters unnecessary to
19 the court's decision be deleted from the record or that matters other than those specified herein
20 be included. The record shall be bound and paginated or otherwise organized for the convenience
21 of the parties and the court. A copy of the record shall be served by the local government
22 respondent, or the respondent decision-making board, upon all petitioners within three days after
23 it is filed with the court.

24 (i) Hearing on the Record. – The court shall hear and decide all issues raised by the
25 petition by reviewing the record submitted in accordance with subsection (h) of this section. The
26 court shall allow the record to be supplemented with affidavits, testimony of witnesses, or
27 documentary or other evidence if, and to the extent that, the petition raises any of the following
28 issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil
29 Procedure apply to the supplementation of the record of these issues:

- 30 (1) Whether ~~a petitioner or an~~ intervenor has standing.
31 (2) Whether, as a result of impermissible conflict as described in G.S. 160D-109
32 or locally adopted conflict rules, the decision-making body was not
33 sufficiently impartial to comply with due process principles. A failure to
34 object at a hearing by a person with standing under subsection (c) of this
35 section shall not constitute a waiver of a right to assert impermissible conflict
36 involving any member of the quasi-judicial decision-making body.
37 (3) Whether the decision-making body erred for the reasons set forth in
38 sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

39 (j) Scope of Review. –

- 40 (1) When reviewing the decision under the provisions of this section, the court
41 shall ensure that the rights of petitioners have not been prejudiced because the
42 decision-making body's findings, inferences, conclusions, or decisions were:
43 a. In violation of constitutional provisions, including those protecting
44 procedural due process rights.
45 b. In excess of the statutory authority conferred upon the local
46 government, including preemption, or the authority conferred upon the
47 decision-making board by ordinance.
48 c. Inconsistent with applicable procedures specified by statute or
49 ordinance.
50 d. Affected by other error of law.

- 1 e. Unsupported by competent, material, and substantial evidence in view
2 of the entire record.
- 3 f. Arbitrary or capricious.
- 4 (2) When the issue before the court is one set forth in sub-subdivisions a. through
5 d. of subdivision (1) of this subsection, including whether the decision-making
6 board erred in interpreting an ordinance, the court shall review that issue de
7 novo. The court shall consider the interpretation of the decision-making board,
8 but is not bound by that interpretation, and may freely substitute its judgment
9 as appropriate. Whether the record contains competent, material, and
10 substantial evidence is a conclusion of law, reviewable de novo.
- 11 (3) The term "competent evidence," as used in this subsection, does not preclude
12 reliance by the decision-making board on evidence that would not be
13 admissible under the rules of evidence as applied in the trial division of the
14 General Court of Justice if (i) except for the items noted in sub-subdivisions
15 a., b., and c. of this subdivision that are conclusively incompetent, the
16 evidence was admitted without objection or (ii) the evidence appears to be
17 sufficiently trustworthy and was admitted under such circumstances that it
18 was reasonable for the decision-making board to rely upon it. The term
19 "competent evidence," as used in this subsection, shall, regardless of the lack
20 of a timely objection, not be deemed to include the opinion testimony of lay
21 witnesses as to any of the following:
- 22 a. The use of property in a particular way affects the value of other
23 property.
- 24 b. The increase in vehicular traffic resulting from a proposed
25 development poses a danger to the public safety. An approval by the
26 North Carolina Department of Transportation of a traffic impact
27 analysis for a development project shall be conclusive evidence that
28 the traffic related to the project will not pose a danger to the public
29 safety and will otherwise preclude using traffic as a basis for denying
30 a development permit.
- 31 c. Matters about which only expert testimony would generally be
32 admissible under the rules of evidence.
- 33 (j1) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the
34 State and federal constitutions and State and federal case law, an action filed under this section
35 is not rendered moot, if during the pendency of the action, the aggrieved person loses the
36 applicable property interest as a result of the local government action being challenged and
37 exhaustion of an appeal described herein is required for purposes of preserving a claim for
38 damages under G.S. 160D-1403.1.
- 39 (k) Decision of the Court. – Following its review of the decision-making board in
40 accordance with subsection (j) of this section, the court may affirm the decision, reverse the
41 decision and remand the case with appropriate instructions, or remand the case for further
42 proceedings. If the court does not affirm the decision below in its entirety, then the court shall
43 determine what relief should be granted to the petitioners:
- 44 (1) If the court concludes that the error committed by the decision-making board
45 is procedural only, the court may remand the case for further proceedings to
46 correct the procedural error.
- 47 (2) If the court concludes that the decision-making board has erred by failing to
48 make findings of fact such that the court cannot properly perform its function,
49 then the court may remand the case with appropriate instructions so long as
50 the record contains substantial competent evidence that could support the
51 decision below with appropriate findings of fact. However, findings of fact

are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by competent, material, and substantial evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

- a. If the court concludes that a permit was wrongfully denied because the denial was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court shall remand with instructions that the permit be issued, subject to any conditions expressly consented to by the permit applicant as part of the application or during the board of adjustment appeal or writ of certiorari appeal.
- b. If the court concludes that a permit was wrongfully issued because the issuance was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.
- c. If the court concludes that a zoning board decision upholding a zoning enforcement action was not supported by substantial competent evidence or was otherwise based on an error of law, the court shall reverse the decision.

(l) ~~Effect of Appeal and Ancillary Injunctive Relief. — of Administrative Decision on a Permitted Use. —~~

- ~~(1) If a development approval is ~~appealed~~, appealed on the basis of a use not being permitted by a development regulation, the applicant shall have the right to commence work while the appeal is pending. However, if ~~the development approval is reversed by a final decision of any court of competent jurisdiction~~, jurisdiction determines that the use is not allowed, the applicant shall not be deemed to have gained any vested rights on the basis of actions taken prior to or during the pendency of the appeal and must proceed as if no development approval had been granted.~~
- ~~(2) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal.~~

(l1) Effect of Appeal of Quasi-Judicial Relief. —

- (1) An appeal by a party with standing under subsection (c) of this section from the granting of a special use permit by a local board or other development permit issued pursuant to quasi-judicial proceedings shall be rendered moot if development authorized by the approved permit substantially commences prior to the issuance of an injunction by a court under subsection (o) of this section or under Rule 65 of the Rules of Civil Procedure with appropriate security.
- (2) If a special use permit is issued by the applicable local board after remand from a decision of a court of competent jurisdiction and no injunction is otherwise in place to prevent the issuance of a permit, any appeal related to the subject matter of the permit is rendered moot.

(m) Joinder. – A declaratory judgment brought under G.S. 160D-1401 or other civil action relating to the decision at issue may be joined with the petition for writ of certiorari and decided in the same proceeding.

(n) Stays. – An appeal under this section is stayed as provided in G.S. 160D-405.

(o) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal. The court shall require the moving party to post an appropriate bond set by the judge or clerk issuing the stay. A local government shall not be required to post a bond under this subsection."

PART III. LOCAL GOVERNMENT REPORTING ON GROWTH HAMPERING DENIALS

SECTION 3.1. Beginning October 1, 2021, every local government engaged in development permitting review shall submit a semiannual report to the Joint Legislative Committee on Local Government and the Fiscal Research Division. The report shall contain at least all of the following:

- (1) The number of development permit applications received.
- (2) The number of development permit applications denied and the reason for denial.
- (3) The number of down-zoning ordinances enacted.

PART IV. EFFECTIVE DATE

SECTION 4.1. Except as otherwise provided, this act is effective when it becomes law. Sections 2.1, 2.5, and 2.6 of this act clarify and restate the intent of existing law and apply to permit applications filed and appeals taken before, on, and after the effective date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 401
Mar 24, 2021
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10179-MQ-32B

Short Title: Increase Housing Opportunities.

(Public)

Sponsors: Representative D. Hall.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO PROVIDE REFORMS TO LOCAL GOVERNMENT ZONING AUTHORITY TO
INCREASE HOUSING OPPORTUNITIES AND TO MAKE VARIOUS CHANGES AND
CLARIFICATIONS TO THE ZONING STATUTES.

The General Assembly of North Carolina enacts:

PART I. AFFORDABLE HOUSING OPTIONS

SECTION 1.1.(a) Article 7 of Chapter 160D of the General Statutes is amended by
adding a new section to read:

"§ 160D-707. Middle housing use in residential zones.

(a) Definitions. – As used in this section, the term "middle housing" means a residential
dwelling that is one of the following, as defined by the North Carolina Building Code Council:

(1) A duplex.

(2) A triplex.

(3) A quadplex.

(4) A townhouse.

(b) Middle Housing in Residential Zones. – A local government shall allow all middle
housing types in areas zoned for residential use, including those that allow for the development
of detached single-family dwellings.

(c) Regulation and Scope. – A local government may regulate middle housing pursuant
to the provisions of this Chapter, provided that the regulations do not act to discourage
development of middle housing types through unreasonable costs or delay. In permitting middle
housing types, nothing in this section shall be construed to prohibit a local government from
permitting single-family dwellings in areas zoned to allow for single-family dwellings. Nothing
in this section affects the validity or enforceability of private covenants or other contractual
agreements among property owners relating to dwelling type restrictions. Any regulation adopted
pursuant to this section shall not apply to an area designated as a local historic district (i) pursuant
to Part 4 of Article 9 of this Chapter or (ii) on the National Register of Historic Places. This
section shall only apply to areas that are served, or through extension may be served, by one or
more of the following:

(1) A local government water system.

(2) A local government sewer system.

(3) A public water system.

(4) A wastewater collection or treatment works, the operation of which is
primarily to collect or treat municipal or domestic wastewater and for which



a permit is issued under Part 1 of Article 21 of Chapter 143 of the General Statutes."

SECTION 1.1.(b) G.S. 160D-102 is amended by adding a new subdivision to read:
"(28a) Single-family dwelling. – The term shall include all of the types of middle housing as defined in G.S. 160D-707(a)."

SECTION 1.1.(c) This section becomes effective October 1, 2021.

SECTION 1.2. The North Carolina Building Code Council (Council) shall adopt amendments to the North Carolina Residential Code for One- and Two-Family Dwellings (Code) to define and include regulation of triplex dwelling units and quadplex dwelling units in order to facilitate regulation of those units in areas zoned for residential use, including those that allow for the development of detached single-family dwellings. Upon adoption of the amendments, the Council and local governments enforcing the Code shall regulate triplex dwelling units and quadplex dwelling units being sited pursuant to G.S. 160D-707, as enacted in this act, under the new amendments to the Code.

SECTION 1.3.(a) Part 1 of Article 9 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-917. Accessory dwelling units.

(a) A local government shall allow the development of at least one accessory dwelling unit which conforms to the North Carolina Residential Code for One- and Two-Family Dwellings, including applicable provisions from State fire prevention code, for each detached single-family dwelling in areas zoned for residential use that allow for development of detached single-family dwellings. For the purposes of this section, the term "accessory dwelling unit" means an attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

(b) Development and permitting of an accessory dwelling unit shall not be subject to any of the following requirements:

- (1) Owner-occupancy of any dwelling unit, including an accessory unit.
- (2) Minimum parking requirements or other parking restrictions.
- (3) Conditional use zoning.

(c) In permitting accessory dwelling units under this section, a local government shall not do any of the following:

- (1) Prohibit the connection of the accessory dwelling unit to existing utilities serving the primary dwelling unit.
- (2) Charge any fee other than a building permit that does not exceed the amount charged for any single-family dwelling unit similar in nature.
- (3) Establish development setbacks that differ from the development setbacks applicable for a similarly situated lot in the same zoning classification."

SECTION 1.3.(b) This section becomes effective October 1, 2021.

SECTION 1.4.(a) G.S. 42A-3 reads as rewritten:

"§ 42A-3. Application; exemptions.

(a) The provisions of this Chapter shall apply to any person, partnership, corporation, limited liability company, association, or other business entity who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in this Chapter. The provisions of G.S. 160A-424 and G.S. 153A-364 shall apply to properties covered under this Chapter.

(b) The provisions of this Chapter shall not apply to:

- (1) Lodging provided by hotels, motels, tourist camps, and other places subject to regulation under Chapter 72 of the General Statutes.
- (2) Rentals to persons temporarily renting a dwelling unit when traveling away from their primary residence for business or employment purposes.
- (3) Rentals to persons having no other place of primary residence.

(4) Rentals for which no more than nominal consideration is given.

(5) Accessory dwelling units permitted pursuant to G.S. 160D-917."

SECTION 1.4.(b) This section becomes effective October 1, 2021.

SECTION 1.5. Local governments shall adopt land use ordinances and regulations or amend their comprehensive plans to implement the provisions in this Part no later than October 1, 2021.

SECTION 1.6. Except as otherwise provided, this Part is effective when it becomes law.

PART II. VARIOUS CHANGES AND CLARIFICATIONS TO THE ZONING STATUTES FOR MORE HOUSING OPPORTUNITIES

SECTION 2.1. G.S. 160D-108 reads as rewritten:

"§ 160D-108. Permit choice and vested rights.

(a) Findings. – The General Assembly recognizes that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation. The provisions of this section and G.S. 160D-108.1 strike an appropriate balance between private expectations and the public interest.

(b) Permit Choice. – If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(b1) Substantial Compliance. – A development permit application that substantially complies with the provision of information required by ordinance or regulation shall be sufficient to accept and process a request for a local or State development permit. Minor omissions in the application shall not be a sufficient basis to make an application ineligible for vesting. A local development regulation shall not condition the acceptance or processing of a development permit application upon the application for or issuance of a State permit, nor shall a State development regulation condition the acceptance or processing of a development permit application upon a local permit, unless specifically authorized by statute.

(c) Vested Rights. – Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

(2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.

(3) A site-specific vesting plan pursuant to G.S. 160D-108.1.

(4) A multi-phased development pursuant to subsection (f) of this section.

(5) A vested right established by the terms of a development agreement authorized by Article 10 of this Chapter.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the

1 applicable land development regulation or regulations, except where a change in State or federal
2 law mandating local government enforcement occurs after the development application is
3 submitted that has a fundamental and retroactive effect on the development or use.

4 (d) Duration of Vesting. – Upon issuance of a development permit, the statutory vesting
5 granted by subsection (c) of this section for a development project is effective upon filing of the
6 application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to
7 law. Unless otherwise specified by this section or other statute, local development permits expire
8 one year after issuance unless work authorized by the permit has substantially commenced. A
9 local land development regulation may provide for a longer permit expiration period. For the
10 purposes of this section, a permit is issued either in the ordinary course of business of the
11 applicable governmental agency or by the applicable governmental agency as a court directive.

12 Except where a longer vesting period is provided by statute or land development regulation,
13 the statutory vesting granted by this ~~section~~, section or common law vesting, once established,
14 expires for an uncompleted development project if development work is intentionally and
15 voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory
16 vesting period granted by this section or common law vesting for a nonconforming use of
17 property expires if the use is intentionally and voluntarily discontinued for a period of not less
18 than 24 consecutive months. The 24-month discontinuance period is automatically tolled during
19 the pendency of any board of adjustment proceeding or civil action in a State or federal trial or
20 appellate court regarding the validity of a development permit, the use of the property, or the
21 existence of the statutory vesting period granted by this section. The 24-month discontinuance
22 period is also tolled during the pendency of any litigation involving the development project or
23 property that is the subject of the vesting.

24 (e) Multiple Permits for Development Project. – Subject to subsection (d) of this section,
25 where multiple ~~local~~-development permits are required to complete a development project, the
26 development permit applicant may choose the version of each of the ~~local~~-land development
27 regulations applicable to the project upon submittal of the application for the initial development
28 permit. ~~This~~ Except as provided in subsection (f) of this section, this provision is not applicable
29 only ~~for those subsequent development permit applications filed within~~ after 18 months of the
30 latter of (i) the date following the approval of an initial ~~of~~ cessation of work related to the
31 uncompleted development project or (ii) the date of issuance of the immediately preceding local
32 development permit. For purposes of the vesting protections of this subsection, an erosion and
33 sedimentation control permit or a sign permit is not an initial development permit.

34 (f) Multi-Phased Development. – A multi-phased development is vested for the entire
35 development with the land development regulations then in place at the time a site plan approval
36 is granted for the initial phase of the multi-phased development. A right which has been vested
37 as provided for in this subsection remains vested for a period of seven years from the time a site
38 plan approval is granted for the initial phase of the multi-phased development.

39 (g) Continuing Review. – Following issuance of a development permit, a local
40 government may make subsequent inspections and reviews to ensure compliance with the
41 applicable land development regulations in effect at the time of the original application.

42 (h) Process to Claim Vested Right. – A person claiming a statutory or common law vested
43 right may submit information to substantiate that claim to the zoning administrator or other
44 officer designated by a land development regulation, who shall make an initial determination as
45 to the existence of the vested right. The decision of the zoning administrator or officer may be
46 appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de
47 novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a
48 person claiming a vested right may bring an original civil action as provided by
49 G.S. 160D-1403.1.

50 (i) Miscellaneous Provisions. – The vested rights granted by this section run with the
51 land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and

G.S. 136-131.2 in which case the rights granted by this section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(j) Definitions. – As used in this section, the following definitions apply:

(1) Development. – As defined in G.S. 143-755(e)(1).

(2) Development permit. – As defined in G.S. 143-755(e)(2).

(3) Land development regulation. – As defined in G.S. 143-755(e)(3).

(4) Multi-phased development. – A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase."

SECTION 2.2. G.S. 160D-702 reads as rewritten:

"§ 160D-702. Grant of power.

(a) A local government may adopt zoning regulations. Except as provided in subsections (b) and (c) through (e) of this section, a zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land. A local government may regulate development, including floating homes, over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and utility rights-of-way be dedicated to the public, that provision be made of recreational space and facilities, and that performance guarantees be provided, all to the same extent and with the same limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

(b) Any regulation relating to building design elements adopted under this Chapter may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

(1) The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.

(2) The structures are located in an area designated as a historic district on the National Register of Historic Places.

(3) The structures are individually designated as local, State, or national historic landmarks.

(4) The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.

(5) Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.

(6) Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604

or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.

For the purposes of this subsection, the phrase "building design elements" means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

Nothing in this subsection affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

(c) A zoning regulation shall not set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) A local government shall not adopt or enforce an ordinance downzoning property, as defined in G.S. 160D-601(d), that has access to public water or public sewer, unless the local government can show a change in circumstances that substantially affects the public health, safety, or welfare.

(e) A local government shall not adopt or enforce an ordinance that establishes a ban or has the effect of establishing a ban on a use of land that is not an industrial use, a nuisance per se, or that does not otherwise pose a serious threat to the public health, safety, or welfare.

(f) Nothing in this section shall be construed to limit the authority of a local government to regulate adult establishments or other facilities as defined in Article 26A of Chapter 14 of the General Statutes."

SECTION 2.3. G.S. 160D-703 reads as rewritten:

"§ 160D-703. Zoning districts.

(a) Types of Zoning Districts. – A local government may divide its territorial jurisdiction into zoning districts of any number, shape, and area deemed best suited to carry out the purposes of this Article. Within those districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. Zoning districts may include, but are not be limited to, the following:

- (1) Conventional districts, in which a variety of uses are allowed as permitted uses or uses by right and that may also include uses permitted only with a special use permit.
- (2) Conditional districts, in which site plans or individualized development conditions are imposed.
- (3) Form-based districts, or development form controls, that address the physical form, mass, and density of structures, public spaces, and streetscapes.
- (4) Overlay districts, in which different requirements are imposed on certain properties within one or more underlying conventional, conditional, or form-based districts.
- (5) Districts allowed by charter.

(b) Conditional Districts. – Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the local government and consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, a local government may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise

applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site. The zoning regulation may provide that defined minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

(c) **Uniformity Within Districts.** – Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district but the regulations in one district may differ from those in other districts.

(d) **Standards Applicable Regardless of District.** – A zoning regulation or unified development ordinance may also include development standards that apply uniformly jurisdiction-wide rather than being applicable only in particular zoning districts.

(e) **Limitations.** – A local government shall not engage in any of the following practices:

- (1) The adoption or enforcement of an ordinance that downzones property in order to evade voluntary consent of landowners or petitioners or any other requirements contained in subsection (b) of this section.
- (2) Allow a particular land use only through conditional zoning.
- (3) Establishing a threshold on square footage or the number of dwelling units, where to exceed the threshold would require conditional zoning."

SECTION 2.4. Article 7 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-703.1. Remedies for violations.

(a) If a court finds that a local government has acted in violation of G.S. 160D-702 or G.S. 160D-703(e), the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the actions of the local government.

(b) In the event that a court invalidates a regulation pursuant to this section, a permit applicant may choose which zoning designation will apply to the permit and use of the building, structure, or land indicated on the permit application from the following options:

- (1) The zoning development regulation that existed most recently prior to the invalidated regulation.
- (2) The least restrictive development standards contained within the zoning designation for the jurisdiction that is the most similar zoning designation to the class of property use identified in the permit application.

(c) For the purposes of this section, the term "class of property use" means one of the following major land-use groups:

- (1) Commercial.
- (2) Governmental.
- (3) Industrial.
- (4) Institutional.
- (5) Residential."

SECTION 2.5. G.S. 160D-706 reads as rewritten:

"§ 160D-706. Zoning conflicts with other development standards.

(a) When regulations made under authority of this Article require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left ~~unoccupied, or impose other higher standards unoccupied~~ than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Article govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left ~~unoccupied, or impose other higher standards unoccupied~~ than are required by the regulations made under authority of this Article, the provisions of that statute or local ordinance or regulation govern.

(b) When adopting regulations under this Article, a local government may not use a definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is inconsistent with any definition of those terms in another statute or in a rule adopted by a State agency, including the State Building Code Council.

(c) Except as provided in subsection (a) of this section, a local government shall not adopt or enforce development regulations that alter the principle that ambiguities in land development regulations are to be construed in favor of the free use of land, including any development regulations that assert that a more restrictive rule or regulation is controlling.

(d) Subject to the provisions of Article 33 of Chapter 143 of the General Statutes, a local government, through its governing board, is authorized to settle any litigation related to the enforcement of or compliance with development regulations for a development or a development permit applicant, including any quasi-judicial development permit."

SECTION 2.6. G.S. 160D-1402 reads as rewritten:

"§ 160D-1402. Appeals in the nature of certiorari.

(a) Applicability. – This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

(b) Filing the Petition. – An appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the superior court. The petition shall do all of the following:

- (1) State the facts that demonstrate that the petitioner has standing to seek review.
- (2) Set forth allegations sufficient to give the court and parties notice of the grounds upon which the petitioner contends that an error was made.
- (3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of an impermissible conflict as described in G.S. 160D-109, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.
- (4) Set forth the relief the petitioner seeks.

(c) Standing. – A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons have standing to file a petition under this section:

- (1) Any person possessing any of the following criteria:
 - a. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.
 - b. An option or contract to purchase the property that is the subject of the decision being appealed.
 - c. An applicant before the decision-making board whose decision is being appealed.
- (2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) 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 being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A local government whose decision-making board has made a decision that the governing board believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the governing board.

(d) Respondent. – The respondent named in the petition shall be the local government whose decision-making board made the decision that is being appealed, except that if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(e) Writ of Certiorari. – Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of the county in which the matter arose. The writ shall direct the respondent local government or the respondent decision-making board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct the petitioner to serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure applies in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

(f) Response to the Petition. – The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.

(g) Intervention. – Rule 24 of the Rules of Civil Procedure governs motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:

(1) Any person described in subdivision (1) of subsection (c) of this section has standing to intervene and shall be allowed to intervene as a matter of right.

(2) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a petitioner must demonstrate that the

- 1 person would have had standing to challenge the decision being appealed in
2 accordance with subdivisions (2) through (4) of subsection (c) of this section.
3 (3) Any person, other than one described in subdivision (1) of subsection (c) of
4 this section, who seeks to intervene as a respondent must demonstrate that the
5 person would have had standing to file a petition in accordance with
6 subdivisions (2) through (4) of subsection (c) of this section if the
7 decision-making board had made a decision that is consistent with the relief
8 sought by the petitioner.

9 For intervention under subdivisions (2) and (3) of this subsection, a motion to intervene is
10 untimely and shall not be allowed if filed after the court has rendered a final judgment on the
11 underlying appeal.

12 (h) The Record. – The record shall consist of the decision and all documents and exhibits
13 submitted to the decision-making board whose decision is being appealed, together with the
14 minutes of the meeting or meetings at which the decision being appealed was considered. Upon
15 request of any party, the record shall also contain an audio or videotape of the meeting or
16 meetings at which the decision being appealed was considered if such a recording was made.
17 Any party may also include in the record a transcript of the proceedings, which shall be prepared
18 at the cost of the party choosing to include it. The parties may agree that matters unnecessary to
19 the court's decision be deleted from the record or that matters other than those specified herein
20 be included. The record shall be bound and paginated or otherwise organized for the convenience
21 of the parties and the court. A copy of the record shall be served by the local government
22 respondent, or the respondent decision-making board, upon all petitioners within three days after
23 it is filed with the court.

24 (i) Hearing on the Record. – The court shall hear and decide all issues raised by the
25 petition by reviewing the record submitted in accordance with subsection (h) of this section. The
26 court shall allow the record to be supplemented with affidavits, testimony of witnesses, or
27 documentary or other evidence if, and to the extent that, the petition raises any of the following
28 issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil
29 Procedure apply to the supplementation of the record of these issues:

- 30 (1) Whether ~~a petitioner or an~~ intervenor has standing.
31 (2) Whether, as a result of impermissible conflict as described in G.S. 160D-109
32 or locally adopted conflict rules, the decision-making body was not
33 sufficiently impartial to comply with due process principles. A failure to
34 object at a hearing by a person with standing under subsection (c) of this
35 section shall not constitute a waiver of a right to assert impermissible conflict
36 involving any member of the quasi-judicial decision-making body.
37 (3) Whether the decision-making body erred for the reasons set forth in
38 sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

39 (j) Scope of Review. –

- 40 (1) When reviewing the decision under the provisions of this section, the court
41 shall ensure that the rights of petitioners have not been prejudiced because the
42 decision-making body's findings, inferences, conclusions, or decisions were:
43 a. In violation of constitutional provisions, including those protecting
44 procedural due process rights.
45 b. In excess of the statutory authority conferred upon the local
46 government, including preemption, or the authority conferred upon the
47 decision-making board by ordinance.
48 c. Inconsistent with applicable procedures specified by statute or
49 ordinance.
50 d. Affected by other error of law.

- 1 e. Unsupported by competent, material, and substantial evidence in view
2 of the entire record.
- 3 f. Arbitrary or capricious.
- 4 (2) When the issue before the court is one set forth in sub-subdivisions a. through
5 d. of subdivision (1) of this subsection, including whether the decision-making
6 board erred in interpreting an ordinance, the court shall review that issue de
7 novo. The court shall consider the interpretation of the decision-making board,
8 but is not bound by that interpretation, and may freely substitute its judgment
9 as appropriate. Whether the record contains competent, material, and
10 substantial evidence is a conclusion of law, reviewable de novo.
- 11 (3) The term "competent evidence," as used in this subsection, does not preclude
12 reliance by the decision-making board on evidence that would not be
13 admissible under the rules of evidence as applied in the trial division of the
14 General Court of Justice if (i) except for the items noted in sub-subdivisions
15 a., b., and c. of this subdivision that are conclusively incompetent, the
16 evidence was admitted without objection or (ii) the evidence appears to be
17 sufficiently trustworthy and was admitted under such circumstances that it
18 was reasonable for the decision-making board to rely upon it. The term
19 "competent evidence," as used in this subsection, shall, regardless of the lack
20 of a timely objection, not be deemed to include the opinion testimony of lay
21 witnesses as to any of the following:
- 22 a. The use of property in a particular way affects the value of other
23 property.
- 24 b. The increase in vehicular traffic resulting from a proposed
25 development poses a danger to the public safety. An approval by the
26 North Carolina Department of Transportation of a traffic impact
27 analysis for a development project shall be conclusive evidence that
28 the traffic related to the project will not pose a danger to the public
29 safety and will otherwise preclude using traffic as a basis for denying
30 a development permit.
- 31 c. Matters about which only expert testimony would generally be
32 admissible under the rules of evidence.
- 33 (j1) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the
34 State and federal constitutions and State and federal case law, an action filed under this section
35 is not rendered moot, if during the pendency of the action, the aggrieved person loses the
36 applicable property interest as a result of the local government action being challenged and
37 exhaustion of an appeal described herein is required for purposes of preserving a claim for
38 damages under G.S. 160D-1403.1.
- 39 (k) Decision of the Court. – Following its review of the decision-making board in
40 accordance with subsection (j) of this section, the court may affirm the decision, reverse the
41 decision and remand the case with appropriate instructions, or remand the case for further
42 proceedings. If the court does not affirm the decision below in its entirety, then the court shall
43 determine what relief should be granted to the petitioners:
- 44 (1) If the court concludes that the error committed by the decision-making board
45 is procedural only, the court may remand the case for further proceedings to
46 correct the procedural error.
- 47 (2) If the court concludes that the decision-making board has erred by failing to
48 make findings of fact such that the court cannot properly perform its function,
49 then the court may remand the case with appropriate instructions so long as
50 the record contains substantial competent evidence that could support the
51 decision below with appropriate findings of fact. However, findings of fact

are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by competent, material, and substantial evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

- a. If the court concludes that a permit was wrongfully denied because the denial was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court shall remand with instructions that the permit be issued, subject to any conditions expressly consented to by the permit applicant as part of the application or during the board of adjustment appeal or writ of certiorari appeal.
- b. If the court concludes that a permit was wrongfully issued because the issuance was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.
- c. If the court concludes that a zoning board decision upholding a zoning enforcement action was not supported by substantial competent evidence or was otherwise based on an error of law, the court shall reverse the decision.

(l) Effect of Appeal and Ancillary Injunctive Relief. — of Administrative Decision on a Permitted Use. —

- ~~(1)~~ If a development approval is ~~appealed~~, appealed on the basis of a use not being permitted by a development regulation, the applicant shall have the right to commence work while the appeal is pending. However, if ~~the development approval is reversed by a final decision of any court of competent jurisdiction~~, jurisdiction determines that the use is not allowed, the applicant shall not be deemed to have gained any vested rights on the basis of actions taken prior to or during the pendency of the appeal and must proceed as if no development approval had been granted.
- ~~(2)~~ Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal.

(l1) Effect of Appeal of Quasi-Judicial Relief. —

- (1) An appeal by a party with standing under subsection (c) of this section from the granting of a special use permit by a local board or other development permit issued pursuant to quasi-judicial proceedings shall be rendered moot if development authorized by the approved permit substantially commences prior to the issuance of an injunction by a court under subsection (o) of this section or under Rule 65 of the Rules of Civil Procedure with appropriate security.
- (2) If a special use permit is issued by the applicable local board after remand from a decision of a court of competent jurisdiction and no injunction is otherwise in place to prevent the issuance of a permit, any appeal related to the subject matter of the permit is rendered moot.

(m) Joinder. – A declaratory judgment brought under G.S. 160D-1401 or other civil action relating to the decision at issue may be joined with the petition for writ of certiorari and decided in the same proceeding.

(n) Stays. – An appeal under this section is stayed as provided in G.S. 160D-405.

(o) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal. The court shall require the moving party to post an appropriate bond set by the judge or clerk issuing the stay. A local government shall not be required to post a bond under this subsection."

PART III. LOCAL GOVERNMENT REPORTING ON GROWTH HAMPERING DENIALS

SECTION 3.1. Beginning October 1, 2021, every local government engaged in development permitting review shall submit a semiannual report to the Joint Legislative Committee on Local Government and the Fiscal Research Division. The report shall contain at least all of the following:

- (1) The number of development permit applications received.
- (2) The number of development permit applications denied and the reason for denial.
- (3) The number of down-zoning ordinances enacted.

PART IV. EFFECTIVE DATE

SECTION 4.1. Except as otherwise provided, this act is effective when it becomes law. Sections 2.1, 2.5, and 2.6 of this act clarify and restate the intent of existing law and apply to permit applications filed and appeals taken before, on, and after the effective date.