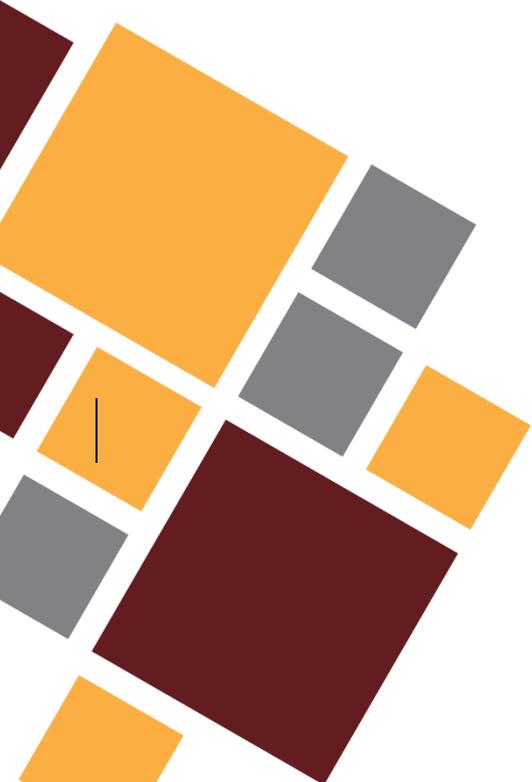


# UNIFIED DEVELOPMENT ORDINANCE



C O D I F Y  
CLAYTON



Adopted: 11.20.23  
Effective: 1.2.24  
Amended: ~~9.16.24~~12.16.24

## 1.1 APPLICABILITY

### 1.1.1 GENERALLY

The provisions of this Ordinance shall apply to the development of all land within the corporate limits and the Extraterritorial Jurisdiction (ETJ) of the Town of Clayton, as shown on the adopted Official Zoning Map, unless the development is located outside the corporate limits or ETJ and subject to a development agreement where these standards are applied.

### 1.1.2 APPLICATION TO GOVERNMENTAL UNITS

Except when stated elsewhere in applicable law, this Ordinance applies to the following units of government:

#### A. THE TOWN OF CLAYTON

Development by the Town or its agencies or departments.

#### B. COUNTY AND STATE GOVERNMENT

Development of buildings by State or County agencies or departments, public colleges or universities, or other political subdivisions of the State, in accordance with the standards in NCGS§160D-913.

#### C. THE FEDERAL GOVERNMENT

Development owned or held in tenancy by the government of the United States, its agencies, departments, or corporate services, to the full extent permitted by federal law. For those activities of the federal government exempted from these regulations, compliance is strongly encouraged.

### 1.1.3 JURISDICTION

#### A. GENERALLY

The standards in this Ordinance shall apply to all development where these standards are applicable unless the development is expressly exempted by a specific section of this Ordinance, other Town requirement, or by State law.

#### B. EXEMPTIONS FROM ZONING REQUIREMENTS<sup>1</sup>

1. The following forms of development and activities are exempted from the zoning-related requirements of this Ordinance:
  - a. Agricultural activities, agritourism, or forestry taking place on a property being used for bona fide farm purposes and located outside the City's corporate limits, in accordance with NCGS§160D-903; and
  - b. Forestry activities taking place on land being taxed at its present-use value as forestland or forestry activities taking place subject to a forestry management plan approved in accordance with NCGS§160D-921.
  - ~~a. Agricultural and agri-tourism related activities taking place on a bona fide farm in accordance with NCGS§160D-903;~~
  - ~~b. Agricultural and agri-tourism related activities taking place on land taxed under the present use value standard;~~
  - ~~c. Forestry activities taking place on a bona fide farm or on land taxed under the present use value standard; or~~

<sup>1</sup> See STN#59.



- ~~d. Forestry activities subject to a forestry management plan approved in accordance with NCGS§160D-921.~~
2. The phrase "bona fide farm purposes" shall refer to land subject to at least one of the following:
- a. A farm sales tax exemption certificate issued by the NC Department of Revenue;
  - b. A property tax listing showing the property is eligible for participation in the present-use value program in accordance with NCGS§105-277.3;
  - c. Listing on the farm owner's or farm operator's Schedule F from the owner's or operator's most recent federal income tax return;
  - d. A forest management plan; or
  - e. The production of a non-farm product that the North Carolina Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under NCGS§106-743.2.
3. Land or activities seeking exemption from the provisions of this Ordinance under sub-section (1) above shall maintain current documentation of one or more of the items in sub-section (2) above. Failure to provide evidence of active participation in bona fide farm purposes for a period of four years or more shall extinguish exempted status of agricultural, agritourism, or forestry activities under this Ordinance.
- 2.4. In no instance shall the forms of development and activities listed under sub-section (1) above be exempted from the following standards in this Ordinance:
- a. Standards associated with the subdivision of land;
  - b. The flood damage prevention standards in Section 3.7.2 FPOD Flood Protection Overlay District;
  - c. The water supply watershed protection standards in Section 3.7.5, WPOD Watershed Protection Overlay District;
  - d. The standards in Section 6.15, Stormwater; and
  - e. The standards in Section 6.14, Soil Erosion & Sedimentation Control.
5. Except for structures engaged in the storage of cotton, peanuts, or sweet potatoes, development activities incidental to farming, forestry, or agritourism must be located on the farm or forestry land in question in order to be exempted from the provisions of this Ordinance. In no instance shall ownership of land by an entity conducting farming, forestry, or agritourism, in and of itself, entitle land not on the farm or in the forestry area to exemption from the provisions of this Ordinance.
6. Non-farm, non-agritourism, or non-forestry-related development and activities shall be subject to the standards of this Ordinance even when taking place on land identified for bona fide farm purposes in sub-section (2) above. Goodness Grows in North Carolina non-farm products shall be considered farm or agricultural products when produced in accordance with NCGS§106-743.2.
- ~~e.7.~~ Except for forestry activities associated with a forestry management plan approved in accordance with NCGS §160D-921, any farm-related, agritourism, or agricultural development or activity taking place on land within the City's corporate limits shall be subject to the requirements of this Ordinance unless otherwise exempted by State law.

## C. ANNEXATION

Land annexed to the Town of Clayton in accordance with NCGS§§ 160A-31 or 160A-58 shall become subject to the standards of this Ordinance upon the effective date of the annexation approval by the Town.



## 2.3.8 CONVENTIONAL REZONING

### A. PURPOSE AND INTENT

This section provides a uniform means for reviewing and deciding proposed amendments to the Official Zoning Map to establish or revise a conventional zoning district or overlay zoning district boundary whenever the public necessity, general welfare, the Town's adopted policy guidance, or appropriate land use practices justify or require doing so.

### B. APPLICABILITY

This procedure is solely for the establishment of a conventional zoning district or overlay zoning district designation on land within the Town's planning jurisdiction.

### C. APPLICATION

1. Applications may be initiated by the Town Council, the Planning Board, the Planning Director, a landowner(s), or a contract purchaser(s) of the land in the proposed application. Conventional Rezoning applications shall only be processed in accordance with the Town's conventional rezoning application processing schedule, on file in the office of the Planning Department. **AMENDED 4.15.24 (UDOTA1-24)**
2. In no instance shall the Town accept third-party rezoning applications submitted by persons who are not owners or agents authorized to act on behalf of landowners.
3. Applications for a Conventional Rezoning shall not include a Concept Plan or any applicant-sponsored conditions.
4. ~~Applications shall include a Traffic Assessment when required by Section 2.3.27, Transportation Impact Analysis.<sup>2</sup>~~
- 5.4. In cases where a Conventional Rezoning application seeks to rezone only a portion of a lot or tract, the remainder of the lot or tract shall be of a size and location that make it possible to subdivide or develop that portion of the property in accordance with the requirements in this Ordinance.
- 6.5. Applications subject to a required neighborhood meeting shall include required information in accordance with Section 2.4.4, Neighborhood Meeting.

### D. PROCESS TYPE

Type IV (see Section 2.2.3, Process Diagrams).

### E. RECOMMENDATION

1. After conclusion of a public meeting, the Planning Board shall make a recommendation on the application based on its consistency with Section 2.4, Review Procedures.
2. In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the Town's adopted policy guidance.

### F. DECISION

1. After the conclusion of a legislative public hearing, the Town Council shall decide the application in accordance with the standards in Section 2.4, Review Procedures.
2. The decision shall be one of the following:
  - a. Approval of the application;
  - b. Denial of the application;
  - c. Approval of a revised application; or
  - d. Remand of the application to Town staff for further consideration.

<sup>2</sup> See STN Note # 64.

## 2.3.26 TEXT AMENDMENT

### A. APPLICABILITY

The standards and requirements of this section shall apply to applications to revise the text of this Ordinance.

### B. APPLICATION

Applications to amend the text of this Ordinance may be initiated ~~only~~ by the Town Council, the Planning Board, ~~or~~ Town staff, ~~or~~ Owners of land within the Town's planning jurisdiction, ~~and or by~~ residents of the Town of Clayton or its extraterritorial jurisdiction, ~~may request that the Town consider a text amendment, but the decision to pursue a text amendment shall be within the sole discretion of the Town Staff, Planning Board, or Town Council, as appropriate.~~

### C. TIMING OF REVIEW<sup>3</sup>

#### 1. TOWN-INITIATED AMENDMENT REQUESTS

Text amendment requests initiated by Town Council, the Planning Board, or Town staff shall be processed in accordance with a schedule established by the Town at the time of the amendment.

#### 2. ALL OTHERS

Text amendment requests submitted by landowners or residents of the Town's planning jurisdiction shall only be processed in accordance with the Town's adopted schedule for such amendments, which are generally limited to two times per calendar year.

### ~~C~~.D. PROCESS TYPE

Type IV (see Section 2.2.3, Process Diagrams).

### ~~D~~.E. RECOMMENDATION

1. After conclusion of a public meeting, the Planning Board shall make a recommendation on the application in accordance with Section 2.4, Review Procedures.
2. In making its recommendation, the Planning Board shall prepare a written statement regarding the application's consistency with the Town's Adopted Policy Guidance.

### ~~E~~.F. DECISION

1. The decision shall be based on the legislative discretion of the Town Council, taking into consideration any recommendation received from the Planning Director, prepared in consultation with other Town staff, the recommendation of the Planning Board, citizen comments, and the standards in Section 2.4, Review Procedures.
2. In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town's Adopted Policy Guidance in accordance with NCGS§160D-605.

### ~~F~~.G. CITIZEN COMMENT

In cases where a resident or landowner submits written comments to the Town at least two business days prior to the date a decision is being made on the application, the Town staff member processing the application shall deliver the statement(s) to the Town Council.

<sup>3</sup> See STN Note # 68.



## 2.3.27 TRANSPORTATION IMPACT ANALYSIS

### A. PURPOSE AND INTENT

This Transportation Impact Analysis (TIA) procedure allows an assessment of a proposed development's impact on the Town's transportation system. It identifies recommended transportation system improvements to be included by the proposed development as necessary to mitigate any negative impacts created by the proposed development.

### B. APPLICABILITY

A Transportation Impact Analysis, prepared in accordance with this section shall be required for any of the following:

1. A new development anticipated to generate 100 or more vehicle trips during any peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual; or
2. A new development that is part of a larger development that, when considered cumulatively, will generate 100 or more vehicle trips during the AM or PM peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual; or
3. The proposed development is located on a roadway that has a demonstrated transportation capacity issue, as determined by the Engineering Director; or
4. There are likely to be significant changes to adjacent development traffic patterns, as determined by the Engineering Director, as a result of the proposed development.

### C. TRAFFIC ASSESSMENT OPTION

1. In cases where the number of vehicle trips is not known (such as in the case of a Conventional Rezoning application), or in cases where the proposed uses will not result in 100 or more vehicle trips during any peak hour nor more than 1,000 vehicle trips per day, the Engineering Director ~~may~~ shall require a Traffic Assessment instead of a Transportation Impact Analysis. **AMENDED 4.15.24 (UDOTA1-24)**
2. A Traffic Assessment is a general investigation of anticipated traffic on adjacent roadway capacity and function as opposed to detailed estimates of the number of trips and steps necessary to maintain a minimum operating level of service.

### D. APPLICATION

1. The type, scope, and contents of a Transportation Impact Analysis shall be determined during the mandatory pre-application conference (see **Section 2.4.3, Pre-Application Conference**).
2. A Traffic Impact Analysis shall be prepared by a professional engineer licensed in the State of North Carolina, and shall include all of the following:
  - a. The impact area examined, including the points of access and key streets and intersections to be affected by development;
  - b. Existing traffic volumes;
  - c. Planned and pending street improvements;
  - d. The analysis methodology;
  - e. An inventory of the data used;
  - f. The findings of the analysis; and
  - g. Recommendations based on the results.



perimeter of a lot or tract excluding all areas that must be dedicated to the Town for use as rights-of-way; and

- b. A tree save area with a width of 50 feet as measured from all property boundaries that adjoin developed property or vacant property with an approved Site Plan and/or subdivision plat; and
  - c. A tree save area with a width of 25 feet as measured from all property boundaries that adjoin undeveloped property or vacant property without an approved Site Plan and/or subdivision plat; and
  - d. Any other areas necessary for the protection of existing vegetation within riparian buffers, jurisdictional wetlands, and resource conservation areas.
2. In situations where one or more tree save areas overlap on the same site, then the area with the wider required width shall apply.
  3. The total area of required tree save areas for any tract shall occupy at least 20% of the area of the tract, after subtracting required public street rights-of-way and any required conservation easements.

#### **G. NON-COMPLIANCE<sup>3</sup>**

1. Failure to retain existing trees in areas subject to tree protection in accordance with this section shall be a violation of this Ordinance.
2. ~~In cases where all trees or substantially all trees are removed from required tree save areas subject to these standards, the Town shall not grant Site Plan, Building Permit, or subdivision plat approval for the lot or tract for a period of three years following tree removal. For the purposes of this section, "all or substantially all" means 75% or more of the existing trees with a caliper of four inches or greater. Noncompliance shall be addressed in accordance with Section 2.3.28I, Limitation on Development Proposals Following Clear Cutting.~~
3. ~~The three-year waiting period may be waived if the Town Council by a 3/4 majority vote.~~

#### **H. INSPECTION**

1. Approval of a Tree Clearing Certificate shall permit an applicant to install any and all barriers necessary to protect existing trees within required tree save areas from damage during tree removal or land disturbing activities. Failure to protect required tree save areas is a violation of this Ordinance and shall be subject to the standards in Section 2.3.28G, Non-Compliance.
2. Once all barriers for the protection of existing trees have been installed, the applicant or their agent shall request inspection of such barriers for compliance with the requirements of this Ordinance.
3. Following a passing inspection of vegetation protection barriers, the Planning Director shall issue the Tree Clearing Certificate, and authorized vegetation clearing may commence.

#### **I. LIMITATION ON DEVELOPMENT PROPOSALS FOLLOWING CLEAR CUTTING**

##### **1. GENERALLY**

- a. ~~Clear cutting of a lot or tract subject to this Ordinance prior to approval of a development application or in a manner not consistent with the requirements of Section 2.3.28, Tree Clearing Certificate, or Section 6.18.5, Retention or Re-~~

<sup>3</sup> See STN Note # 44 & 45.



Establishment of Tree Canopy Required, is prohibited and shall be subject to the requirements of this subsection.

- b. For the purposes of these standards, “clear cutting” shall be defined as any activity that results in the removal of 80 percent or more of the tree canopy coverage over a lot or tract from existing trees that meet or exceed the minimum size at time of planting requirements in this Ordinance.

#### **2. DELAY FOLLOWING CLEAR CUTTING AS PART OF EXEMPTED FORESTRY ACTIVITY OR AFTER FAILURE TO FOLLOW A TREE CLEARING CERTIFICATE**

If 80 percent or more of a lot or site is cleared of trees that would have been protected by this section, no application for a Rezoning, Special Use Permit, Subdivision, or Site Plan shall be accepted for development of the land for a period of three years after the tree clearing activity.

#### **3. DELAY FOLLOWING CLEAR CUTTING THAT IS NOT EXEMPTED WITHOUT A TREE CLEARING CERTIFICATE**

If one of the exemptions from Section 6.18.3, Exemptions, is not met and 80 percent or more of the trees that would have been protected by this section are removed and the landowner failed to secure a Tree Clearing Certificate prior to clearing, no application for a Rezoning, Special Use Permit, Subdivision, or Site Plan shall be accepted for development of the land for a period of five years after completion of the tree removal.

#### **4. ABILITY TO DEVELOP FOLLOWING MITIGATION**

Delays on the acceptance of applications in accordance with subsections (B2) or (C3) above may be reduced or removed by the Town Council following reforestation of the land in accordance with Section 6.18.9A, Replacement Trees a 3/4 majority vote of the Town Council.

#### **I.J. SEQUENCE**

A Tree Clearing Certificate shall be approved prior to authorization for early grading associated with a Land Disturbance Permit.

#### **J.K. AMENDMENT**

Amendment of a Tree Clearing Certificate may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

#### **K.L. EXPIRATION**

An approved Tree Clearing Certificate shall be valid for a period of not more than one year from the date of issuance.

#### **L.M. VESTING**

In accordance with Section 1.11.4C, Statutory Vested Rights.

#### **M.N. APPEAL**

In accordance with NCGS§160D-405, and Section 2.3.2, Appeal.



#### 2.3.31 ZONING COMPLIANCE PERMIT

##### A. PURPOSE AND INTENT

The purpose of a Zoning Compliance Permit is to ensure no development occurs until there is assurance the development complies with the requirements of this Ordinance and all other applicable requirements.

##### B. APPLICABILITY

1. A Zoning Compliance Permit shall be required for development applications that are exempted from requirements to obtain a Building Permit, and the following:
  - a. Erection or modification of a fence or privacy wall over 24 inches in height;
  - b. Any change in principal use within an existing non-residential, multi-family, or mixed-use structure; or
  - c. Land disturbing activities;
  - ~~c.~~d. [Changes in utility customer accounts \(e.g., when a water or electricity customer account changes from one person or entity to a different person or entity\).](#)<sup>4</sup>
2. In cases where a Building Permit is required, review for zoning compliance shall take place as a part of the review for the Building Permit application, and as a result, no Zoning Compliance Permit shall be required for developments subject to a Building Permit.

##### C. APPLICATION

1. Applications for a Zoning Compliance Permit shall include a generalized sketch of the development that identifies the lot lines and the outer extents of all of the following features (if present):
  - a. Principal structure(s);
  - b. Secondary structures (including those there on a temporary basis);
  - c. Open-air uses of land;
  - d. Required setbacks and allowable encroachments, if applicable;
  - e. Existing potable water wells, septic tanks, drain fields, and reserve or back-up drain field locations;
  - f. Required tree save areas;
  - g. Required stormwater control measures;
  - h. Any other features identified by the Planning Director as necessary for determining compliance with the requirements of this Ordinance; and
  - i. Proposed uses, structures, or development activity associated with the Zoning Compliance Permit.
2. Sketches are not required to be professionally prepared, but must be drawn to scale.
3. Development activity associated with signage shall comply with the standards in [Section 2.3.20, Sign Permit](#).
4. Establishment of a temporary use, structure, or activity shall comply with the standards in [Section 2.3.25, Temporary Permit](#).
5. Applications for new development seeking to connect to public sewer shall include a wastewater allocation request completed in accordance with all Town requirements.

<sup>4</sup> See STN Note # 54.



#### D. FILING AND REVIEW SCHEDULE

Town policy documents shall contain the filing and review schedules for applications reviewed under this Ordinance. Copies of the application filing and review schedule shall be on file in the Planning Department.

#### E. APPLICATION FILING

1. An application shall not be considered submitted until it is determined to be complete in accordance with Section 2.4.5G, Determination of Application Completeness.
2. No application shall be reviewed or decided until after it is determined to be complete.
3. The provisions in Section 2.4.6, Permit Choice, shall only apply to applications that are complete.
4. Multiple concurrent applications may be filed and reviewed in accordance with Section 2.4.12, Simultaneous Processing.

#### F. BURDEN OF PRESENTING COMPLETE APPLICATION

The burden of presenting and maintaining a complete application shall be solely upon the applicant.

#### G. DETERMINATION OF APPLICATION COMPLETENESS

The Planning Director shall determine, within a reasonable period of time, whether an application is complete or incomplete. A complete application is one that:

1. Contains all information and materials identified in this Ordinance and all supporting documentation, as required for submittal of the particular type of application;
2. Is in the form and number of copies required by the Town;
3. Is legible and to scale, if including a plan or plat;
4. Is signed by the person(s) with the authority to file the application;
5. Includes information in sufficient detail to evaluate whether the application complies with the applicable review standards in this Ordinance;
6. Is accompanied by the required fee(s);
7. Occurs only after conduct of a pre-application conference if one is required;
8. Occurs only after conduct of a neighborhood information meeting if one is required; and
9. Is not subject to the limitations described in Section 2.4.15, Reconsideration of Denied Applications.

#### H. APPLICATION INCOMPLETE

1. If the application is incomplete, the Planning Director shall notify the applicant of the deficiencies in writing. The applicant may correct the deficiencies and resubmit the application for completeness determination in accordance with Section 2.4.5E, Application Filing.
2. Following receipt of a notice of application deficiency by the Planning Director, an applicant may revise and resubmit the application.
3. Failure of an applicant to submit missing or deficient portions of an application or file a written request to process the incomplete application within ~~60~~30 days of delivery of a written notice of application deficiency shall render the application abandoned. <sup>6</sup>
4. In no instance shall an application that is abandoned be considered a complete application subject to the protections described in Section 2.4.6, Permit Choice.

<sup>6</sup> See STN Note # 69.



**I. APPLICATION COMPLETE**

1. On determining that the application is complete, it shall be considered as submitted, and the Town shall notify the applicant and commence review in accordance with the procedures and standards of this Ordinance.
2. Nothing shall preclude the Planning Director or a review authority from re-evaluating an application for completeness in the event application inadequacies are revealed at a date subsequent to an application being declared complete. Such re-review shall not invalidate options or protections to a complete application extended under Section 2.4.6, Permit Choice.

**2.4.6 PERMIT CHOICE**

- A. In cases where the applicable provisions of this Ordinance are amended between the time that an application is declared complete (see Section 2.4.5G, Determination of Application Completeness) and when it is decided, the applicant may choose which version of this Ordinance shall apply to their application, in accordance with NCGS§143-755.
- B. The applicant's decision shall be final, and review under a different set of requirements may only be accomplished through a withdrawal and re-submittal of the application.
- C. The application shall be processed in accordance with the newest regulations unless the applicant requests, in writing, to have the application processed in accordance with the rules in place at the time of the application.
- D. In cases where an applicant has had an opportunity to exercise permit choice under this section, and subsequently places their application on hold for a period of six consecutive months or more, the application shall be reviewed in accordance with the requirements in effect at the time the applicant requests recommencement of review.<sup>7</sup>
- E. In cases where an applicant has had an opportunity to exercise permit choice under this section, receives comments on the application or a request from the Town to provide additional information and fails to respond for a period of six consecutive months or more, the application shall be considered abandoned in accordance with Section 2.4.14C, Abandonment.
- ~~D.F.~~ The right to permit choice is forfeited when an application is abandoned. review of the application shall be discontinued, and the requirements in effect at the time application review recommences shall apply.

**2.4.7 STAFF REVIEW AND ACTION****A. STAFF REVIEW**

1. Applications shall be reviewed during the review cycle in place when the application is determined to be complete. Application review cycles are described in Town policy documents.
2. When an application is determined complete, it shall be distributed to all appropriate staff and review agencies for review and comment, and submitted for preparation of a staff report, in accordance with Town policy.
3. If deficiencies in complying with applicable standards of this Ordinance are identified, the designated Town staff member responsible for processing the application **Planning Director** shall notify the applicant of such the deficiencies and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

<sup>7</sup> See STN # 69.

3.4. Failure of the applicant to respond to the notification of compliance deficiency within six months shall render the application abandoned in accordance with Section 2.4.14C, Abandonment.<sup>8</sup>

#### **B. STAFF REPORT AND RECOMMENDATION**

1. The ~~designated Town staff member responsible for reviewing the application~~ **Planning Director**<sup>9</sup> shall prepare a written staff report on any application to be reviewed or decided by the Town Council or the Board of Adjustment.
2. A staff report is not required for applications decided by a member of Town staff or the Technical Review Committee, though one may be prepared.
3. The staff report shall conclude whether the application complies with all applicable review standards of this Ordinance and adopted policy guidance, and recommend one of the decisions authorized for the particular type of application, based on the applicable review standards, in accordance with **Section 2.4.7D, Applications Subject to Decision by Town Staff**.
4. The staff report shall not include a recommendation from Town staff on Variance, Special Use Permit, or Appeal applications.
5. In cases where the staff finds an application does not comply with the provisions of this Ordinance, the staff report shall cite the specific code section(s) in question and the reasons why the application fails to comply.
6. The staff report may identify and recommend modifications to the development proposal that specify how compliance deficiencies might be corrected and how adverse effects of the development application (if any) might be mitigated.
7. Staff reports prepared for Conditional Rezoning, Special Use Permits, Variances, and Vested Rights Certificates may suggest conditions of approval for consideration by the review authority making the decision on the application.

#### **C. DISTRIBUTION OF APPLICATION AND STAFF REPORT**

The ~~designated Town staff member responsible for processing the application~~ **Planning Director**<sup>10</sup> shall take the following actions within a reasonable period of time before the application is scheduled for review:

1. Schedule and ensure any required public notice of the application is prepared in accordance with **Section 2.4.8, Public Notice**;
2. Transmit the application, related materials, and staff report to the appropriate review authority(ies);
3. Transmit a copy of the staff report and any related materials to the applicant and the landowner, if different from the applicant; and
4. Make the application, related materials, and staff report available for examination by the public.

#### **D. APPLICATIONS SUBJECT TO DECISION BY TOWN STAFF**

1. In cases where a development application is decided by the Technical Review Committee, the Planning Director, or another designated Town staff member, the appropriate Town staff member shall make one of the following decisions in writing, based on the review standards set forth in **Section 2.3, Application Types**:
  - a. Approve the application;

<sup>8</sup> See STN # 69.

<sup>9</sup> See STN # 69.

<sup>10</sup> See STN # 69.



2. If public notification of the pending public hearing has been provided in accordance with this Ordinance, the request for continuance shall be placed on the public hearing agenda and be considered by the review authority. Additional public notification may be required for a continued application.
3. A request for continuance may be approved in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, bring the application into closer alignment with the Town's adopted policy guidance or the requirements of this Ordinance, or for good cause, as determined by the review authority.

#### B. WITHDRAWAL

1. An applicant may withdraw an application at any time following submittal of a signed request to withdraw the application.
2. If an applicant withdraws an application for the same land after public notification two times within a single calendar year, the same application may not be resubmitted for a period of one year from the date of the second withdrawal.
3. Application fees for withdrawn applications shall not be refunded.

#### C. ABANDONMENT

1. In cases where Town staff has notified the applicant in writing of a deficiency or a need for additional information in order to review or process an application and ~~60 days~~ six consecutive months ~~has~~ have lapsed with no response from the applicant, the application shall be considered abandoned, and the review process shall be halted.
2. Abandoned applications are considered withdrawn and shall be subject to the standards in Section 2.4.15, Reconsideration of Denied Applications.
- ~~2.3.~~ In accordance with NCGS§143-755, permit choice rights are extinguished following a determination of application abandonment, and any subsequent re-applications shall be reviewed for compliance with the standards in effect at the time of application filing.<sup>8</sup>
- ~~3.4.~~ Abandoned applications are returned to the applicant and application fees shall not be refunded.

## 2.4.15 RECONSIDERATION OF DENIED APPLICATIONS

#### A. LEGISLATIVE DECISIONS

If a development application requiring a legislative public hearing is denied, no application proposing the same or similar development on all or part of the same site shall be submitted within one year after the date of denial unless the review authority approves a reduction in this time limit. For the purposes of this section, "the same or similar development" shall mean:

1. The same use type(s) in the same approximate location(s) as the denied application; or
2. The same use type(s) in the same approximate building configuration (e.g., building height, floor area, massing) as the denied application.

#### B. QUASI-JUDICIAL DECISIONS

There is no time limit on resubmitting an application that is denied during an evidentiary public hearing provided that any subsequent application may not be similar or substantially similar to the application that was denied, in the sole discretion of the review authority responsible for the decision.

<sup>8</sup> See STN # 69.



### C. LIGHT INDUSTRIAL (LID) DISTRICT DIMENSIONAL STANDARDS<sup>5</sup>

	Max. Residential Density (du/ac) [1]	N/A	<b>E</b>	Min. Side Setback (ft) [4] [5]	20
<b>A</b>	Min. Lot Area (sf)	20,000	<b>F</b>	Min. Rear Setback (ft) [4] [5]	40
<b>B</b>	Min. Lot Width (ft)	100		Min. Spacing Between Buildings (ft) [6]	
	Max. Lot Coverage (% of lot area)	75	<b>G</b>	Principal	20
<b>C</b>	Min. Open Space Set-Aside (% of lot area) [2]	57	<b>H</b>	Secondary	0
	Max. Building Height (ft)	50	<b>I</b>	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [7]	50
<b>D</b>	Min. Street Setback (ft) [3] [4]	50			

**NOTES:**

[1] Live/work units are permitted at up to four units per acre.  
 [2] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.  
 [3] Applied from the edge of public street rights-of-way. Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if provided.  
 [4] Setbacks applied equally to principal and secondary buildings and open use areas.  
 [5] Buildings are not required to be setback from rail siding or other active rail facilities serving the use even if located within required setbacks.  
 [6] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.  
 [7] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



<sup>5</sup> See STN Note # 26.

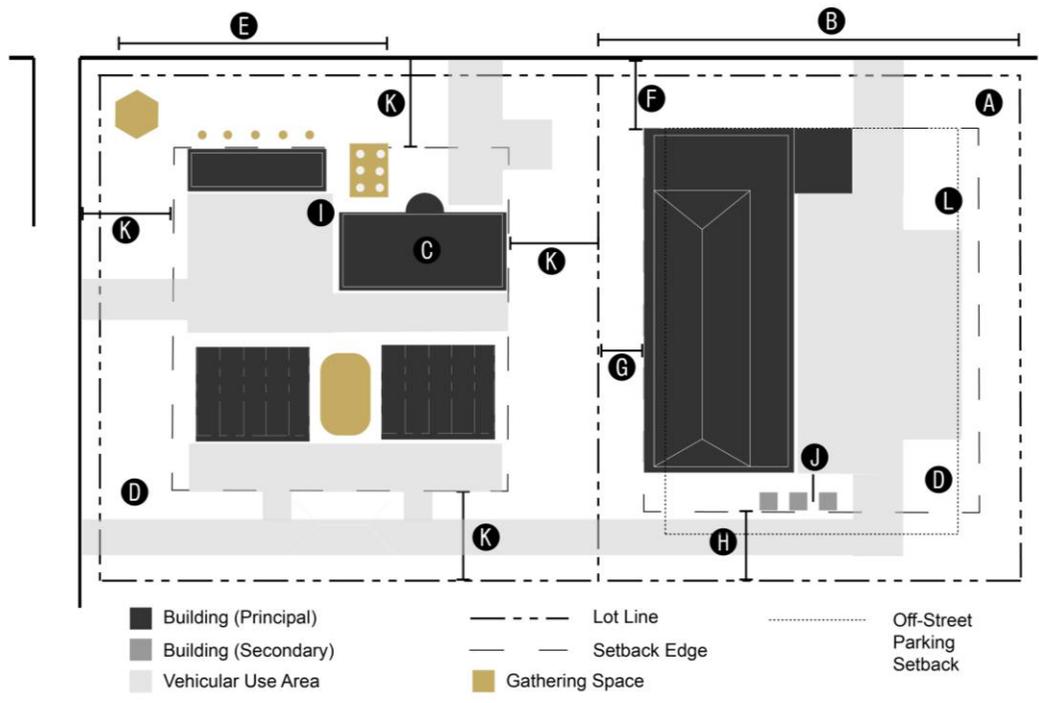


### C. MIXED-USE (MXD) DISTRICT DIMENSIONAL STANDARDS<sup>6</sup>

Max. Residential Density (du/ac)	12.0	<b>F</b> Max. Street Setback (ft) [10] [11] AMENDED 9.16.24 (UDOTA2-24)	20
<b>A</b> Min. Lot Area (sf) [1]	4,000	Min. Street Setback (ft) AMENDED 9.16.24 (UDOTA2-24)	None
<b>B</b> Min. Lot Width (ft) [2] [3] [4]	40	<b>G</b> Side Setback (ft) [12] [13] [14]	15
Max. Lot Coverage (% of lot area)	70	<b>H</b> Rear Setback (ft) [12] [13] [14]	25
<b>C</b> Max. Building Size (sf) [5] AMENDED 9.16.24 (UDOTA2-24)	50,000	Min. Spacing Between Buildings (ft) [12]	
<b>D</b> Min. Open Space Set-Aside (% of lot area) [6]	+6Z	<b>I</b> Between Principal Buildings	10
Min. Building Height (stories) [7]	2	<b>J</b> Between Secondary and any other Building	5
Max. Building Height (ft)	42	<b>K</b> Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [15]	30
<b>E</b> Min. Building Frontage (% of lot width) [8] [9]	60	<b>L</b> Min. Off-Street Parking Setback (ft) [16]	20

NOTES:

- [1] Plus an additional 500 sf per residential unit for developments in excess of two units.
- [2] Applied to the entire development site when buildings on individual lots have shared or party walls.
- [3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
- [4] New blocks of lots with lot widths of less than 50 feet require the provisions of alleys.
- [5] Applied to the non-residential portion of a building. Buildings on lots over five acres in area are exempt.
- [6] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
- [7] Only applied to buildings comprised of a single use type.
- [8] Measured at inner edge of the street setback adjacent to the primary building facade. Only applied to the lot edge adjacent to the primary building façade on corner or dual frontage lots.
- [9] Gathering areas abutting the street right-of-way are credited towards building frontage requirements.
- [10] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
- [11] Reduced by 50% for bungalow court and pocket neighborhood uses.
- [12] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
- [13] Not applied to lots lines adjacent to shared or party building walls.
- [14] Not applied to multi-building and unified developments.
- [15] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.
- [16] Applied to off-street parking areas including two or more rows of parking spaces.



<sup>6</sup> See STN Note # 26.

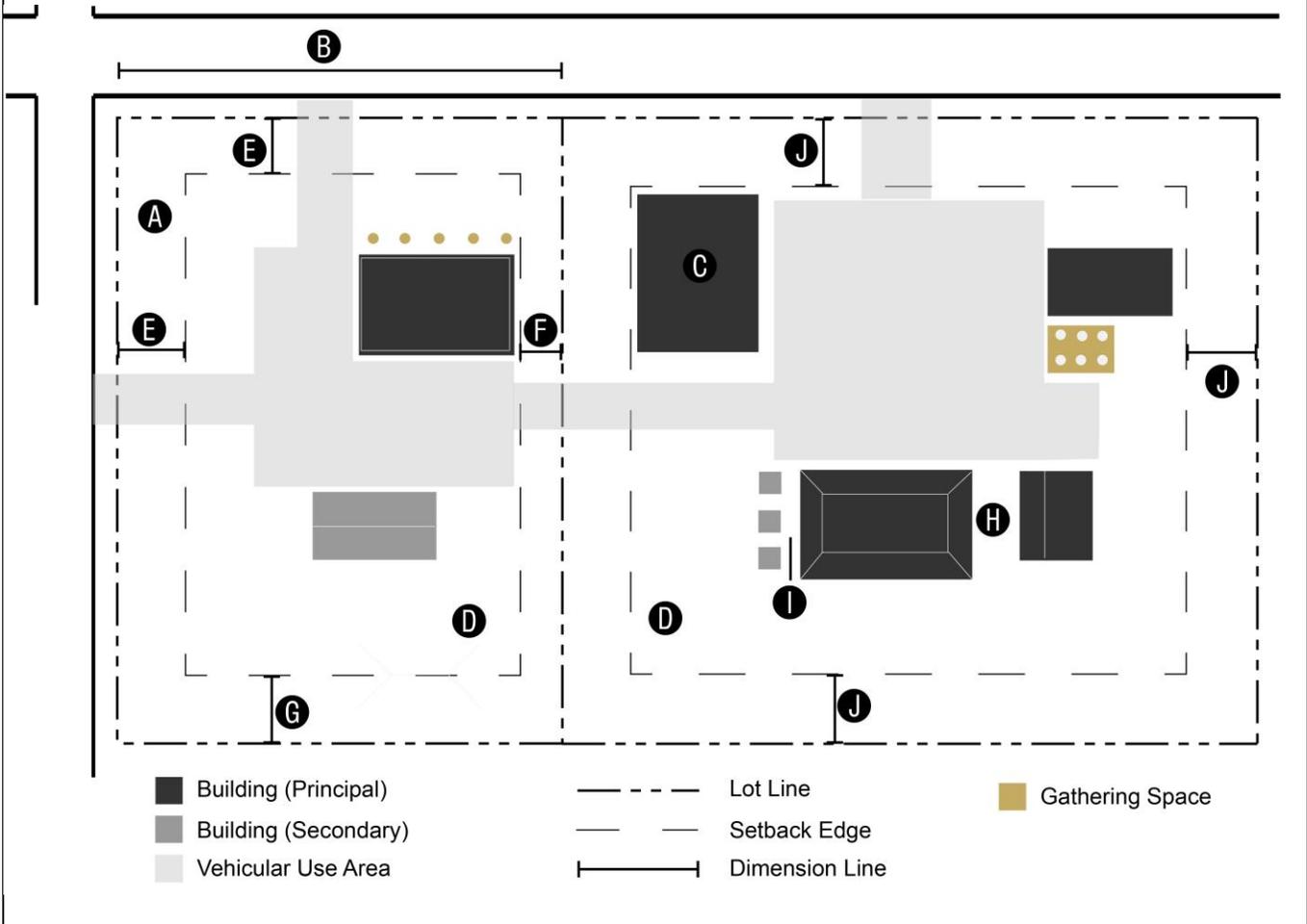


#### C. NEIGHBORHOOD COMMERCIAL (NCM) DISTRICT DIMENSIONAL STANDARDS<sup>7</sup>

Max. Residential Density (du/ac)	6.0	<b>F</b> Side Setback (ft) [8] [9] [10]	10
<b>A</b> Min. Lot Area (sf) [1]	6,000	<b>G</b> Rear Setback (ft) [8] [9] [10]	20
<b>B</b> Min. Lot Width (ft) [2] [3]	50	Min. Spacing Between Buildings (ft) [8]	
Max. Lot Coverage (% of lot area)	75	<b>H</b> Between Principal Buildings	10
<b>C</b> Max. Building Size (sf) [4]	5,000	<b>I</b> Between Secondary and any other Building	5
<b>D</b> Min. Open Space Set-Aside (% of lot area) [5]	105	<b>J</b> Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [11]	30
<b>E</b> Min. Street Setback (ft) [6] [7]	20	Max. Building Height (ft)	35

NOTES:

- [1] Plus an additional 500 sf per residential unit for developments in excess of two units.
- [2] Applied to the entire development site when buildings on individual lots have shared or party walls.
- [3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
- [4] Vertically-integrated buildings and buildings on lots over five acres in area are exempt.
- [5] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
- [6] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
- [7] Reduced by 50% for bungalow court and pocket neighborhood uses.
- [8] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
- [9] Not applied to lots lines adjacent to shared or party building walls.
- [10] Not applied to multi-building and unified developments.
- [11] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



<sup>7</sup> See STN Note # 26.

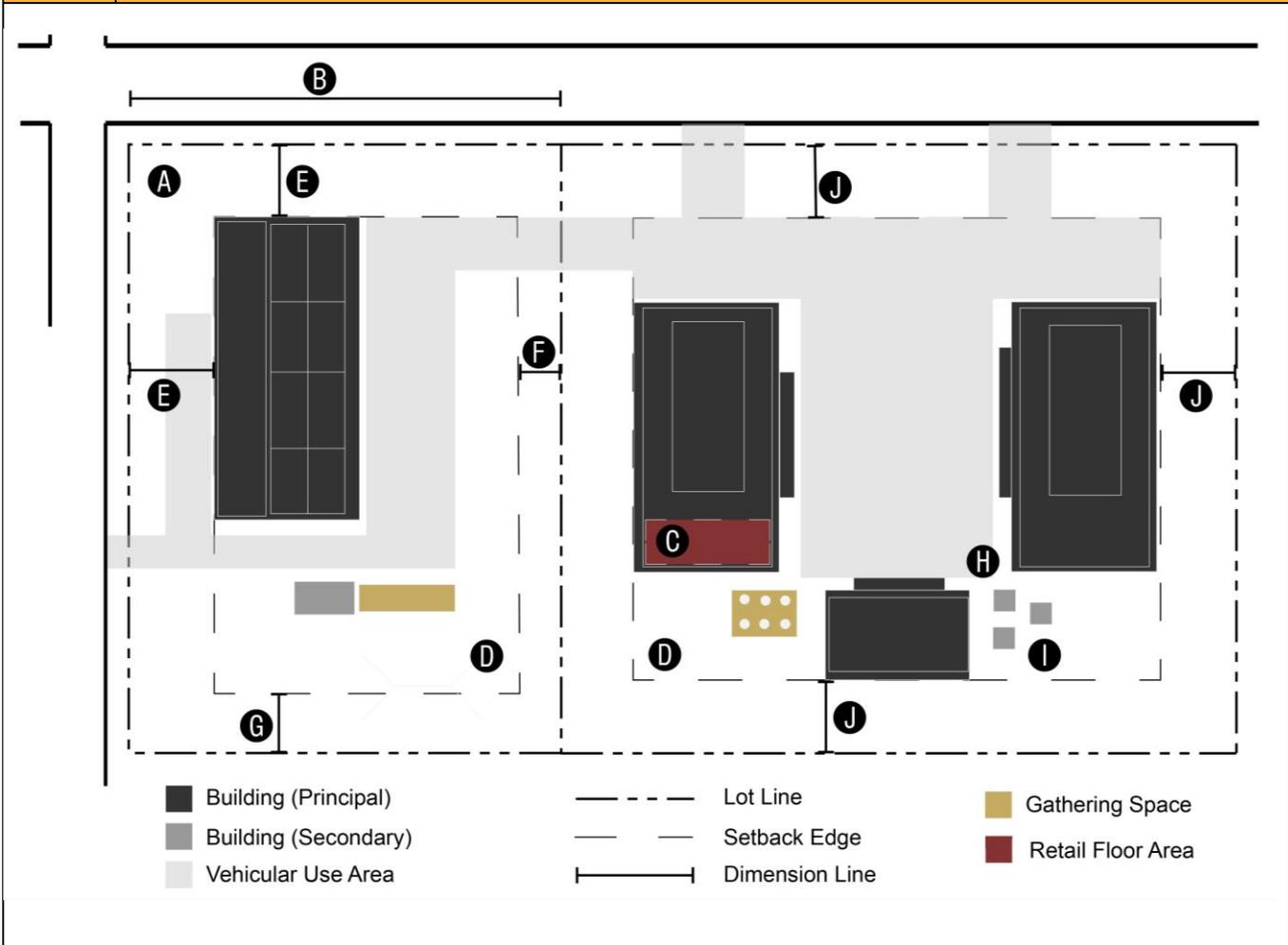


### C. OFFICE INSTITUTIONAL (OFI) DISTRICT DIMENSIONAL STANDARDS<sup>8</sup>

Max. Residential Density (du/ac)	5.0	<b>F</b> Side Setback (ft) [7] [8] [9]	10
<b>A</b> Min. Lot Area (sf) [1]	6,000	<b>G</b> Rear Setback (ft) [7] [8] [9]	20
<b>B</b> Min. Lot Width (ft) [2] [3]	60	Min. Spacing Between Buildings (ft) [7]	
Max. Lot Coverage (% of lot area)	75	<b>H</b> Between Principal Buildings	20
<b>C</b> Max. Retail Building Floor Area (% of building floor area) [4]	20	<b>I</b> Between Secondary and any other Building	10
<b>D</b> Min. Open Space Set-Aside (% of lot area) [5]	75	<b>J</b> Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [10]	30
<b>E</b> Min. Street Setback (ft) [6]	30	Max. Building Height (ft)	60

**NOTES:**

[1] Plus an additional 500 sf per residential unit for developments in excess of two units.  
 [2] Applied to the entire development site when buildings on individual lots have shared or party walls.  
 [3] Measured at the interior building setback line (not the "pole" portion of a flag lot).  
 [4] Retail uses engaged solely in sale of health-related and health care-related products are exempt from floor area limits.  
 [5] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.  
 [6] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.  
 [7] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.  
 [8] Not applied to lots lines adjacent to shared or party building walls.  
 [9] Not applied to multi-building and unified developments.  
 [10] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



<sup>8</sup> See STN Note # 26.



#### C. RESIDENTIAL HIGH DENSITY (RHD) DISTRICT DIMENSIONAL STANDARDS<sup>2</sup>

Dimensional Standard (see following pages for dimensional standard diagrams) AMENDED 4.15.24 (UDOTA1-24)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/Quadplex	Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	8.2 [2]	10.8	N/A	8.2 [3]	7.2 [4]	7.2 [4]	N/A	N/A	N/A	N/A
<b>A</b> Minimum Site Size	1 ac	5 ac	N/A	1 ac	12,000 sf [5]	N/A	N/A	N/A	N/A	N/A
<b>B</b> Minimum Lot Area (sf)	3,600	N/A	N/A	3,600	N/A	6,000	N/A	N/A	N/A	6,000
<b>C</b> Minimum Lot Width (lf) [6]	50 [7]	20	N/A	50 [7]	50 [7]	50	N/A	N/A	N/A	50
Maximum Lot Coverage (% of lot area) [8]	80	90	N/A	90	60 [7]	60	N/A	N/A	N/A	60
<b>D</b> Minimum Open Space Set Aside (% of lot or site size) [9]	7-10	50	N/A	10 [10]	10	10 [11]	N/A	N/A	N/A	5
<b>E</b> Minimum Street Setback (lf)	20	3 [12]	N/A	3 [12]	25 [13]	25	N/A	N/A	N/A	20
<b>F</b> Minimum Side Setback (lf)	3 [12]	3 [12]	N/A	3 [12]	6 [7]	6	N/A	N/A	N/A	6
<b>G</b> Minimum Rear Setback (lf)	3	3 [12]	N/A	3 [12]	20 [7]	20	N/A	N/A	N/A	20
<b>H</b> Minimum Spacing Between Principal Buildings on Same Lot (lf) [14]	N/A	N/A	N/A	20	20	N/A	N/A	N/A	N/A	20
<b>I</b> Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [14]	3	3	N/A	3	10	5	N/A	N/A	N/A	10
<b>J</b> Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	[15]	[16]	N/A	[15]	25	N/A	N/A	N/A	N/A	20
Maximum Building Height (lf) [17]	35	35	N/A	24	35	35	N/A	N/A	N/A	35

**NOTES:**

[1] Density bonuses may be granted for inclusion of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives.

[2] Must include at least three principal dwelling units.

[3] Must include at least four principal dwelling units but not more than 24 principal dwelling units.

[4] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines.

[5] 12,000 for the first two dwelling units plus an additional 500 sf for each unit beyond two.

[6] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.

[7] Applied to entire development, not individual lots.

[8] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.

[9] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.

[10] At least 300 sf of OSS per unit shall be configured as a central green or garden.

[11] Applied to subdivisions, not individual dwellings.

[12] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.

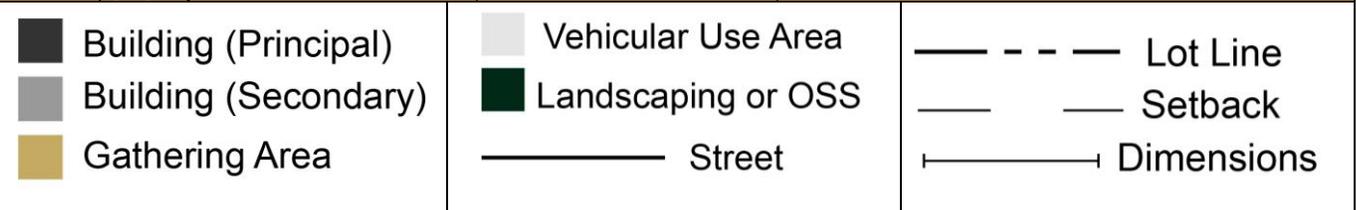
[13] May be reduced to three feet through provision of rear-loaded alleys and no curb cuts along streets abutting front building facades.

[14] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.

[15] Requires a Type C buffer along any portion of the development perimeter abutting a residential zoning district.

[16] As necessary to comply with visibility requirements in Section 2.3.7, Conservation Subdivision.

[17] May be increased in accordance provision of sustainable development incentives.



<sup>2</sup> See STN Note # 26.



#### C. RESIDENTIAL LARGE LOT (RLL) DISTRICT DIMENSIONAL STANDARDS<sup>10</sup>

Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	N/A	2.1 [2]	N/A	N/A	N/A	2.1 [2]	N/A	N/A	N/A	N/A
<b>A</b> Minimum Site Size	N/A	5 ac	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>B</b> Minimum Lot Area (sf)	N/A	N/A	N/A	N/A	N/A	20,000 [3]	N/A	N/A	N/A	20,000
<b>C</b> Minimum Lot Width (lf) [4]	N/A	20	N/A	N/A	N/A	80 [5]	N/A	N/A	N/A	80
Maximum Lot Coverage (% of lot area) [6]	N/A	90	N/A	N/A	N/A	50	N/A	N/A	N/A	50
<b>D</b> Minimum Open Space Set Aside (% of lot or site size) [7]	N/A	50	N/A	N/A	N/A	10 [8]	N/A	N/A	N/A	10 <del>5</del>
<b>E</b> Minimum Street Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	35	N/A	N/A	N/A	35
<b>F</b> Minimum Side Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	15	N/A	N/A	N/A	15
<b>G</b> Minimum Rear Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	30	N/A	N/A	N/A	30
Minimum Spacing Between Principal Buildings on Same Lot (lf) [10]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	20
<b>I</b> Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [10]	N/A	3	N/A	N/A	N/A	5	N/A	N/A	N/A	10
<b>J</b> Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	N/A	[11]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	35
Maximum Building Height (lf) [12]	N/A	35	N/A	N/A	N/A	35	N/A	N/A	N/A	35
NOTES:	<p>[1] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with <a href="#">Section 6.17, Sustainable Development Incentives</a>.</p> <p>[2] Maximum residential density for development with water but no sewer is 1.7 units per acre; for development with no public water or sewer 1.0 units per acre.</p> <p>[3] Minimum lot area of 25,000 square feet for lot with public water but no public sewer.</p> <p>[4] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.</p> <p>[5] Minimum lot width is 100 linear feet for lots with no public water or sewer.</p> <p>[6] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.</p> <p>[7] See <a href="#">Section 6.7, Open Space Set-Aside and Parkland</a>, for the type of open space required.</p> <p>[8] Applied to subdivisions, not individual dwellings.</p> <p>[9] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.</p> <p>[10] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.</p> <p>[11] As necessary to comply with visibility requirements in <a href="#">Section 2.3.7, Conservation Subdivision</a>.</p> <p>[12] May be increased in accordance provision of sustainable development incentives.</p>									

<sup>10</sup> See STN Note # 26.



#### C. RESIDENTIAL LOW DENSITY (RLD) DISTRICT DIMENSIONAL STANDARDS<sup>11</sup>

Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	N/A	4.0 [2]	N/A	N/A	N/A	4.0 [2]	N/A	N/A	N/A	N/A
<b>A</b> Minimum Site Size	N/A	5 ac	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>B</b> Minimum Lot Area (sf)	N/A	N/A	N/A	N/A	N/A	10,000 [3]	N/A	N/A	N/A	10,000
<b>C</b> Minimum Lot Width (lf) [4]	N/A	20	N/A	N/A	N/A	70 [5]	N/A	N/A	N/A	70
Maximum Lot Coverage (% of lot area) [6]	N/A	90	N/A	N/A	N/A	50	N/A	N/A	N/A	50
<b>D</b> Minimum Open Space Set Aside (% of lot or site size) [7]	N/A	50	N/A	N/A	N/A	25-10 [8]	N/A	N/A	N/A	25
<b>E</b> Minimum Street Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	30	N/A	N/A	N/A	30
<b>F</b> Minimum Side Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	10	N/A	N/A	N/A	10
<b>G</b> Minimum Rear Setback (lf)	N/A	3 [9]	N/A	N/A	N/A	25	N/A	N/A	N/A	25
Minimum Spacing Between Principal Buildings on Same Lot (lf) [10]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	20
<b>I</b> Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [10]	N/A	3	N/A	N/A	N/A	5	N/A	N/A	N/A	10
<b>J</b> Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	N/A	[11]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	30
Maximum Building Height (lf) [12]	N/A	35	N/A	N/A	N/A	35	N/A	N/A	N/A	35
NOTES:	<p>[1] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with <a href="#">Section 6.17, Sustainable Development Incentives</a>.</p> <p>[2] Maximum residential density for development with water but no sewer is 1.7 units per acre; for development with no public water or sewer 1.0 units per acre.</p> <p>[3] Minimum lot area of 25,000 square feet for lot with public water but no public sewer.</p> <p>[4] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.</p> <p>[5] Minimum lot width is 100 linear feet for lots with no public water or sewer.</p> <p>[6] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.</p> <p>[7] See <a href="#">Section 6.7, Open Space Set-Aside and Parkland</a>, for the type of open space required.</p> <p>[8] Applied to subdivisions, not individual dwellings.</p> <p>[9] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.</p> <p>[10] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.</p> <p>[11] As necessary to comply with visibility requirements in <a href="#">Section 2.3.7, Conservation Subdivision</a>.</p> <p>[12] May be increased in accordance provision of sustainable development incentives.</p>									

<sup>11</sup> See STN Note # 26.



#### C. RESIDENTIAL MEDIUM DENSITY (RMD) DISTRICT DIMENSIONAL STANDARDS<sup>12</sup>

Dimensional Standard (see following page for dimensional standard diagrams) AMENDED 4.15.24 (UDOTA1-24)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/Quadplex	Duplex	Upper-Story Residential	Non-Residential
Maximum Residential Density (du/ac) [1]	5.0	5.0	N/A	5.0	N/A	5.0	N/A	N/A	N/A	N/A
<b>A</b> Minimum Site Size	1 ac	5 ac	N/A	1 ac	N/A	N/A	N/A	N/A	N/A	N/A
<b>B</b> Minimum Lot Area (sf)	7,000	N/A	N/A	7,000	N/A	8,000	N/A	N/A	N/A	8,000
<b>C</b> Minimum Lot Width (lf) [2]	60 [3]	20	N/A	60 [3]	N/A	60	N/A	N/A	N/A	60
Maximum Lot Coverage (% of lot area) [4]	80	90	N/A	90	N/A	55	N/A	N/A	N/A	55
<b>D</b> Minimum Open Space Set Aside (% of lot or site size) [5]	<del>7</del> 10	50	N/A	10 [6]	N/A	<del>20</del> 10 [7]	N/A	N/A	N/A	<del>20</del> 5
<b>E</b> Minimum Street Setback (lf)	20	3 [8]	N/A	3 [8]	N/A	25	N/A	N/A	N/A	25
<b>F</b> Minimum Side Setback (lf)	3	3 [8]	N/A	3 [8]	N/A	10	N/A	N/A	N/A	10
<b>G</b> Minimum Rear Setback (lf)	3	3 [8]	N/A	3 [8]	N/A	25	N/A	N/A	N/A	25
Minimum Spacing Between Principal Buildings on Same Lot (lf) [9]	N/A	N/A	N/A	20	N/A	N/A	N/A	N/A	N/A	20
<b>I</b> Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [9]	3	3	N/A	3	N/A	5	N/A	N/A	N/A	10
<b>J</b> Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	[10]	[11]	N/A	[10]	N/A	N/A	N/A	N/A	N/A	25
Maximum Building Height (lf) [12]	35	35	N/A	24	N/A	35	N/A	N/A	N/A	35
NOTES:	<p>[1] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with <a href="#">Section 6.17, Sustainable Development Incentives</a>.</p> <p>[2] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.</p> <p>[3] Applied to subdivisions, not individual dwellings.</p> <p>[4] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.</p> <p>[5] See <a href="#">Section 6.7, Open Space Set-Aside and Parkland</a>, for the type of open space required.</p> <p>[6] At least 300 sf of OSS per unit shall be configured as a central green or garden.</p> <p>[7] Applied to subdivisions, not individual dwellings.</p> <p>[8] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.</p> <p>[9] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.</p> <p>[10] Requires a Type C buffer along any portion of the development perimeter abutting a residential zoning district.</p> <p>[11] As necessary to comply with visibility requirements in <a href="#">Section 2.3.7, Conservation Subdivision</a>.</p> <p>[12] May be increased in accordance provision of sustainable development incentives.</p>									

<sup>12</sup> See STN Note # 26.



#### C. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT DIMENSIONAL STANDARDS<sup>13</sup>

Dimensional Standard (see following pages for dimensional standard diagrams)	Type of Development										
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/ Quadplex	Duplex	Live/Work	Non-Residential [1]	
Maximum Residential Density (du/ac) [2]	12 [3]	12	12	12 [4]	12 [5]	12 [5]	12	12	6	6	
<b>A</b> Minimum Site Size	1 ac	5 ac	18,000 sf	1 ac	8,000 sf [6]	N/A	N/A	N/A	N/A	N/A	
<b>B</b> Minimum Lot Area (sf)	3,600	N/A	N/A	3,600	N/A	3,600	7,000 0,800	3,600 7,200	7,000	6,000	
<b>C</b> Minimum Lot Width (lf) [7]	50 [8]	20	50	50 [8]	50 [8]	50	50	50	50	50	
Maximum Lot Coverage (% of lot area) [9]	80	90	60	90	60	60	60	60	60	60	
<b>D</b> Minimum Open Space Set Aside (% of lot or site size) [10]	7-10	50	10	10 [11]	10	10	10	10	7	5	
<b>E</b> Minimum Street Setback (lf)	20	3 [12]	20	3 [12]	20 [12]	20	20	20	20	20	
<b>F</b> Minimum Side Setback (lf)	3 [12]	3 [12]	10	3 [12]	10 [12]	5	10	5	10	10	
<b>G</b> Minimum Rear Setback (lf)	3	3 [12]	15	3 [12]	15 [12]	15	15	15	15	15	
<b>H</b> Minimum Spacing Between Principal Buildings on Same Lot (lf) [13]	N/A	N/A	20	20	20	N/A	N/A	N/A	20	20	
<b>I</b> Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [13]	3	3	10	3	10	5	7	5	7	10	
<b>J</b> Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	[14]	[15]	20	[14]	20	N/A	20	20	20	20	
Maximum Building Height (lf) [16]	35	35	45	24	35	35	35	35	45	45	

NOTES:

[1] Includes upper-story residential.

[2] Density bonuses may be granted for inclusion of sustainable development features in accordance with [Section 6.17, Sustainable Development Incentives](#).

[3] Must include at least three principal dwelling units.

[4] Must include at least four principal dwelling units but not more than 24 principal dwelling units.

[5] Maximum density may be increased by up to one unit per acre for voluntary compliance with residential design guidelines.

[6] 8,000 for the first two dwelling units plus an additional 500 sf for each unit beyond two.

[7] Alleys are required to serve lots on blocks where one or more new lot is less than 50 feet in width. Conservation subdivisions exempted.

[8] Applied to entire development, not individual lots.

[9] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District.

[10] See [Section 6.7, Open Space Set-Aside and Parkland](#), for the type of open space required.

[11] At least 300 sf of OSS per unit shall be configured as a central green or garden.

[11] Applied to subdivisions, not individual dwellings.

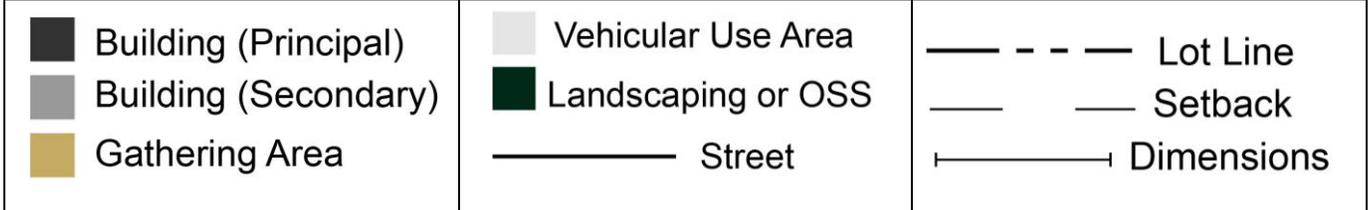
[12] In no instance shall off-street parking be located in ways in which parked vehicles extend beyond lot lines.

[13] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code.

[14] Requires a Type C buffer along any portion of the development perimeter abutting a residential zoning district.

[15] As necessary to comply with visibility requirements in [Section 2.3.7, Conservation Subdivision](#).

[16] May be increased in accordance provision of sustainable development incentives.



<sup>13</sup> See STN Note # 26 & STN Note # 50.



### C. RURAL (RUR) DISTRICT DIMENSIONAL STANDARDS<sup>14</sup>

Dimensional Standard (see following page for dimensional standard diagrams)	Type of Development									
	Bungalow Court	Conservation Subdivision	Multi-Family	Pocket Neigh-hood	Single-Family Attached	Single-Family Detached	Triplex/Quadplex	Duplex	Upper-Story Residential	Non-Residential [1]
Maximum Residential Density (du/ac)	N/A	N/A	N/A	N/A	N/A	1.0 [2]	N/A	N/A	N/A	1.0 [3]
<b>A</b> Minimum Site Size	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	43,560
<b>B</b> Minimum Lot Area (sf)	N/A	N/A	N/A	N/A	N/A	43,560	N/A	N/A	N/A	N/A
<b>C</b> Minimum Lot Width (lf)	N/A	N/A	N/A	N/A	N/A	100	N/A	N/A	N/A	100 [4]
Maximum Lot Coverage (% of lot area) [5]	N/A	N/A	N/A	N/A	N/A	40	N/A	N/A	N/A	40 [4]
<b>D</b> Minimum Open Space Set Aside (% of lot or site size) [6]	N/A	N/A	N/A	N/A	N/A	10	N/A	N/A	N/A	40 [4]
<b>E</b> Minimum Street Setback (lf)	N/A	N/A	N/A	N/A	N/A	50	N/A	N/A	N/A	50
<b>F</b> Minimum Side Setback (lf)	N/A	N/A	N/A	N/A	N/A	20	N/A	N/A	N/A	20
<b>G</b> Minimum Rear Setback (lf)	N/A	N/A	N/A	N/A	N/A	35	N/A	N/A	N/A	35
Minimum Spacing Between Principal Buildings on Same Lot (lf) [7]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	20
<b>I</b> Minimum Spacing Between Secondary Building and Any Other Building on Same Lot (lf) [7]	N/A	N/A	N/A	N/A	N/A	10	N/A	N/A	N/A	10
<b>J</b> Minimum Perimeter Setback for Multi-Building and Unified Developments (lf)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	50
Maximum Building Height (lf) [8]	N/A	N/A	N/A	N/A	N/A	35	N/A	N/A	N/A	N/A
NOTES:	[1] Includes manufactured home parks. [2] Maximum density may be increased by up to one-half unit per acre for voluntary compliance with residential design guidelines. Density bonuses may be granted for inclusion of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives. [3] Applied to manufactured home parks only. [4] Applied to entire manufactured home park, not individual home spaces. [5] Subject to applicable built-upon limits if located within the Watershed Protection Overlay District. [6] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required. [7] A larger distance may be required in accordance with the applicable NC Building Code or NC Fire Code. [8] May be increased in accordance provision of sustainable development incentives.									

<sup>14</sup> See STN Note # 26.



shall demonstrate how the proposed development with the requested deviations will result in a development that is in closer alignment with the Town's adopted policy guidance than would otherwise result from a strict application of the standards. **AMENDED 4.15.24 (UDOTA1-24)**

- b. Concept Plans shall clarify the degree to which the development depicted in the Concept Plan will or will not comply with all applicable standards in Chapter 6, Standards.
- c. In cases where the application seeks a deviation from the applicable standards, the Concept Plan shall clearly identify all deviations in both narrative and graphic forms.
- d. It is insufficient to simply prepare a plan that depicts a building or site configuration that deviates from the applicable standards. Deviations from standards must be clearly noted and described in terms of their scope. Language in the narrative must match or be consistent with visual representations and vice versa.

## 5. METHODS OF HIGHER QUALITY DEMONSTRATION

In cases where a Type 3 conditional rezoning seeks a deviation or reduction in accordance with sub-section (4) above, the following are optional ways for an applicant to mitigate the deviation or demonstrate development quality or alignment with adopted policy guidance: **AMENDED 9.16.24 (UDOTA2-24)**

### a. ENHANCED LANDSCAPING

While not required, enhanced landscaping is one technique that can be used by a development to exceed the development quality that would otherwise result from a strict application of the Ordinance requirements. Increasing the caliper size at time of planting of newly planted material by an amount 50 percent or greater beyond that required by Section 6.6.7, Plant Material Specifications, in combination with any of the following additional alternatives may be proposed as a means of demonstrating increased development quality:

- i. Use of planted berms (trees and shrubs) as a means of establishing increased visual and ~~acoustical~~acoustic separation between uses;
- ii. Establishment of a minimum number of new trees and shrubs that exceeds what would have been required for a typical development;
- iii. Exceed a minimum percentage requirement of evergreen planted materials or inclusion of evergreen plants where none are required;
- iv. Inclusion of a greater amount of species diversity than required in Section 6.6.7E, Species Diversity;
- v. Utilization of plants that create year-round visual interest, including winter flowering plants, plants that bloom more than once per year, or plants with unique leaf shapes, colors, or forms; or
- vi. Other alternative configuration for consideration by the Technical Review Committee. **AMENDED 9.16.24 (UDOTA2-24)**

### b. ENHANCED OFF-STREET PARKING

While not required, enhanced off-street parking that includes one or more level 2 or level 3 EV charging stations is one technique that can be used by a development to exceed the development quality that would otherwise result from a strict application of the Ordinance requirements. **AMENDED 9.16.24 (UDOTA2-24)**

### c. ENHANCED TRAFFIC CONTROL DEVICES

While not required, use of metal mast arm-style traffic control signal supports, in a flat black or other neutral finish, supplemented with the ability to accommodate street lights or traffic cameras, is one technique that can be used by a development to exceed the development quality that would otherwise result from a strict application of the Ordinance requirements. **AMENDED 9.16.24 (UDOTA2-24)**

#### 6. PRINCIPAL AND SECONDARY USES

- a. The Concept Plan shall include a list of proposed principal and secondary uses.
- b. It is insufficient to reference the table of common principal or secondary uses; Concept Plans shall list all potential allowable uses.
- c. Uses that are not listed in a Concept Plan and proposed after its approval shall be considered unlisted uses subject to the process identified in [Section 2.3.9, Determination](#).

#### 7. PHASING

If development in conditional zoning district is proposed to be phased, the Concept Plan shall include phasing details or a phasing plan that identifies the general sequence or phases in which the district is proposed to be developed, including how residential and non-residential development will be timed, how infrastructure (public and private) and open space will be provided and timed, and how development will be coordinated with the Town's capital improvements program.

#### 8. CONSISTENCY

All Subdivisions, Site Plans, and Zoning Compliance Permit applications shall be substantially consistent with the approved Concept Plan. A Concept Plan may only be modified in accordance with [Section 2.3.6O, Amendment](#).

#### 9. LIMITATIONS ON REDUCTIONS

In no instance shall any of the following standards in this Ordinance be waived or reduced as part of an application for a conditional rezoning:

- a. Any of the applicable overlay district standards in [Section 3.7, Overlay Zoning Districts](#);
- b. The maximum allowable residential density, unless the landowner complies with the applicable provisions in [Section 3.5, Incentives and Alternatives](#);
- c. Any applicable conservation subdivision standards in [Section 2.3.7, Conservation Subdivision](#);
- d. Any use-specific standards in [Section 4.3, Standards for Specific Principal Uses](#);
- e. Any of the standards applicable in [Section 4.4, Prohibited Uses](#);
- f. Any applicable standards in [Section 6.5, Infrastructure](#);
- g. [The requirements in Section 6.11.6, Conversion to Resource Conservation Areas, if applicable](#); and<sup>15</sup>
- h. Any applicable standards in [Section 6.15, Stormwater](#), and [Section 6.12, Riparian Buffers](#).

#### 10. COMPLIANCE WITH SUBDIVISION REQUIREMENTS

Divisions of land within a conditional zoning district shall be subject to all applicable subdivision requirements in [Section 2.3, Application Types](#).

#### 11. RELATIONSHIP TO OVERLAY DISTRICT STANDARDS

Regulations governing development in an overlay zoning district shall apply in addition to all other applicable conditional zoning district standards.

<sup>15</sup> See STN Note # 51.



- C. All barns, pens, enclosures, feeding troughs or mechanisms, storage, and any secondary structures shall be located at least 100 linear feet from lot lines and water bodies that flow into drinking water sources.
- D. A maximum of up to five large animals may be permitted for each acre. For the purposes of this section, "large animals" shall include horses, swine of any size, cattle, goats, llamas, and sheep.
- E. A maximum of up to 100 small animals may be permitted for each acre. For the purposes of this section, "small animals" shall include rabbits and fowl, excluding peafowl.
- F. In no instance shall exotic animals or animals not typically maintained as livestock be permitted as part of an animal husbandry use.
- G. Animals (excluding waterfowl) shall be maintained within pens, fenced areas, or other suitable enclosures.
- H. Pens, stalls, and grazing areas shall be maintained in a sanitary manner free from noxious odors.
- I. Manure stockpiles shall not exceed six feet in height.

#### 4.3.7 ANIMAL BOARDING, INDOOR ONLY

- A. All activities, including kennels, runs, ~~and~~ exercise areas, and pet relief areas shall take place within fully-enclosed and soundproofed structures;<sup>16</sup>
- B. Animal waste shall not be stored within 50 feet of any lot line; and
- C. Any animal suspected of showing symptoms of rabies infection shall be immediately segregated and reported to Animal Control.

#### 4.3.8 ANIMAL BOARDING, INDOOR AND OUTDOOR

- A. All structures shall be designed and maintained in a manner to prevent the development of unsanitary conditions;
- B. All activities associated with the use shall take place within enclosed and soundproofed structures, or the use shall comply with the following requirements:
  - 1. An outdoor activity area or run may be provided only for exercise/relief areas for the animals;
  - 2. All outdoor activity areas or runs shall be located to the side or rear of the principal building;
  - 3. No outdoor activity area or run shall be located within 50 feet of any lot line;
- C. Outdoor activity areas shall include areas protected from the weather and be enclosed by a fully opaque fence or wall at least six feet in height; and
- D. Any animal suspected of showing symptoms of rabies infection shall be immediately segregated and reported to Animal Control.

#### 4.3.9 ANIMAL SHELTER

- A. All activities associated with the use shall take place within enclosed and soundproofed structures, or the use shall be separated from land in an OFI or residential district by at least 1,000 feet.
- B. Outdoor areas used to house or exercise animals shall be protected from the weather and enclosed by a fence at least six feet in height.

#### 4.3.10 ANTENNA COLLOCATION, MAJOR

See Section 4.3.128, Telecommunications Facilities.

#### 4.3.11 ANTENNA COLLOCATION, MINOR

See Section 4.3.128, Telecommunications Facilities.

<sup>16</sup> See STN Note #55.



5. If a mobile home park which does not conform to current standards has been discontinued, or if 80 percent of the number of spaces are vacated for a period of 180 days, the mobile home park shall be subject to the standards in [Section 5.6.8, Abandonment](#).

#### 4.3.82 MANUFACTURING, HEAVY<sup>17</sup>

Heavy manufacturing uses shall comply with the following standards:

- A.** Outdoor processing ~~associated with a heavy manufacturing use~~[activities](#) shall be located at least 1,000 feet from a lot line shared with a residential zoning district.
- ~~A.~~B.** ~~Outdoor storage, including storage tanks, shall be located at least 500 feet from a lot line shared with a residential zoning district. Outdoor storage shall be fully screened in accordance with [Section 6.6.13, Screening](#).~~
- ~~B.~~C.** A Type D perimeter buffer configured in accordance with [Section 6.6.12, Perimeter Buffers](#), shall be provided along any lot line shared with another property not zoned for industrial uses.
- ~~C.~~D.** The use shall not require the use of residential neighborhood streets to gain ingress or egress.
- ~~D.~~E.** Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

#### 4.3.83 MANUFACTURING, LIGHT<sup>18</sup>

- A.** All manufacturing activity shall be conducted entirely within a fully enclosed building.
- B.** [Outdoor processing activities are prohibited.](#)
- C.** [Above-ground outdoor storage tanks shall be located at least 200 feet from any lot line shared with a lot in a residential zoning district.](#)
- ~~A.~~D.** ~~Except for above-ground storage tanks, A~~all structures, buildings, ~~or~~enclosed areas, ~~and other outdoor storage~~ used for the operation shall be a minimum of 100 feet from ~~any~~[a lot line shared with a residential zoning districts](#).
- E.** [Outdoor storage shall be fully screened in accordance with \[Section 6.6.13, Screening\]\(#\).](#)
- ~~B.~~F.** The use shall not generate excessive noise, discernable vibration, glare, fumes, odors, or electrical interference at the lot line.
- ~~C.~~** ~~Outdoor storage shall be fully screened in accordance with [Section 6.6.13, Screening](#).~~
- ~~D.~~A.** ~~Above-ground outdoor storage tanks shall be located at least 200 feet from any lot line.~~
- ~~E.~~G.** Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

#### 4.3.84 MANUFACTURING, MEDIUM<sup>19</sup>

[Medium manufacturing uses shall comply with the following standards:](#)

- A.** [All manufacturing activity shall take place within a fully enclosed building.](#)
- B.** [Outdoor processing activities shall be located at least 200 feet from a lot line shared with a residential zoning district.](#)

<sup>17</sup> See STN Note # 5.

<sup>18</sup> See STN Note # 5.

<sup>19</sup> See STN Note # 5.



- C. All structures, buildings, enclosed areas, outdoor storage tanks, and other outdoor storage used for the operation shall be a minimum of 100 feet from a lot line shared with a residential zoning district.
- D. Outdoor storage of raw materials is prohibited, and outdoor storage of equipment, partially-finished products, and finished products shall be fully screened in accordance with Section 6.6.13, Screening.
- E. The use shall not generate excessive noise, discernable vibration, glare, fumes, odors, or electrical interference at the lot line.
- F. Uses engaged in the storage or distribution of flammable materials shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the National Fire Protection Association standards, Flammable and Combustible Liquids Code, NFPA 30 and Standards for the Storage and Handling of Liquefied Petroleum Gases, NFPA 58, as applicable.

#### **4.3.844.3.85 METAL FABRICATION**

The use shall not generate noise, vibration, glare, fumes, or odors on adjacent residentially zoned or used property.

#### **4.3.854.3.86 MICRO BREWERY, MICRO DISTILLERY, OR MICRO WINERY**

A micro brewery, micro distillery, or micro winery use shall comply with the standards in Section 4.3.16, Bar, Cocktail Lounge, Private Club.

#### **4.3.864.3.87 MULTI-FAMILY DWELLING**

Multi-family development shall comply with the standards in this section. Residential development located above non-residential development in the same building is considered upper-story residential.

##### **A. BUILDING PLACEMENT**

1. Buildings shall be setback from one another in accordance with the district dimensional requirements unless a larger distance is required by the North Carolina Building Code.
2. Buildings shall be set back from private drives and parking lots a minimum of ten feet as measured from back-of-curb or from the edge of pavement if no curb is provided.
3. Buildings shall be setback from public streets in the development in accordance with the street setbacks for the zoning district where located.

##### **B. BUILDING LENGTH**

1. The maximum length of an individual multi-family building shall be 250 linear feet, except in the Downtown district, where no maximum length is applied.
2. No maximum building length shall be applied if the building includes facilities for dining, recreation, or gathering that occupy at least 10 percent of the building's total floor area.
3. In no instance shall the provision of a firewall between different building sections constitute two separate buildings for the purpose of meeting the building length requirement.

##### **C. DESIGN**

Multi-family development shall comply with the applicable design standards in Section 6.2.4, Multi-Family Design Standards.

##### **D. OFF-STREET PARKING LOCATION**

Except when proposed within the setback from a rear lot line, no off-street parking space shall be located in a required setback area.



- b. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA.
- c. Nighttime strobing or flashing lights are prohibited, unless required by the FAA.
- d. Lights serving equipment compounds or other service areas shall be configured so that the source of illumination is not visible from off-site areas.
- e. All exterior lighting shall comply with the lighting regulations of this Ordinance.

**9. SIGNAGE**

- a. Signage shall be limited to safety or informational signage identifying the party responsible for the operation and maintenance of the facility and any additional security or safety signs, as necessary, in the opinion of the Town.
- b. If the electrical service is in excess of 220 volts, the telecommunications facility shall include signs located at least every 20 feet around the perimeter that display the words "HIGH VOLTAGE - DANGER" in bold, high contrast letters with minimum height of four inches for each letter.
- c. No signage shall be posted higher than 15 feet above grade.
- d. Signage required by this section shall be considered to be safety or governmental signage that is not subject to 1<sup>st</sup> Amendment protection regarding the regulation of sign content.

**10. UNAUTHORIZED ACCESS PROHIBITED**

Telecommunications towers and vertical projections with telecommunications equipment with a height of 30 feet above grade or more shall be designed or configured to prevent unauthorized persons from climbing on the telecommunication facility whether through use of walls or fencing with a minimum height of six feet above adjacent grade and configured in accordance with the standards in Section 6.3, Fences and Walls, or anti-climbing devices.

**D. STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES**

Table 4.3.127.1, Standards for Specific Types of Telecommunication Facilities, sets out the standards that apply to the identified type of telecommunications facility, and shall apply in addition to the standards in Section 4.3.128C, General Standards Applicable to All Types of Telecommunications Facilities.

**TABLE 4.3. 127.1: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES**

**1. TELECOMMUNICATIONS TOWER, MAJOR**

New or replacement major telecommunications towers shall comply with the following standards:

Towers Distinguished	<ul style="list-style-type: none"> <li>a. <u>Except when configured as a concealed tower, A</u> new or replacement telecommunications tower with a height of 30 feet or more above grade is a major telecommunications tower subject to these standards.</li> <li>b. A new or replacement telecommunications tower with a height less than 30 feet above grade shall be considered a minor telecommunications tower and shall be subject to the standards for a <del>concealed or</del> minor telecommunications tower in this table.</li> <li>c. <u>A concealed telecommunications tower configured to appear as a structure other than a major or minor telecommunications towers and with a</u></li> </ul>
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**TABLE 4.3. 127.1: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES**

**1. TELECOMMUNICATIONS TOWER, MAJOR**

New or replacement major telecommunications towers shall comply with the following standards:

	<u>height of less than 80 feet shall be subject to the standards for a concealed tower.<sup>20</sup></u>
Type of Structure	a. Telecommunications towers shall be configured as a monopole, self-supporting tower, or be concealed in accordance with this table. b. Construction of new guyed telecommunications tower configurations are prohibited.
Setbacks	a. Towers and their associated antennas shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall telecommunications facility height. b. In cases where an existing telecommunication tower’s height is increased or where an existing telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement tower shall comply with the setback requirements, to the maximum extent practicable. c. Secondary structures, including equipment cabinets and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.
Maximum Height	a. The maximum height (including antenna and other appurtenances) for any new, replaced, or collocated wireless telecommunication tower is 199 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. b. In no instance shall the collocation of an eligible facility or a collocation that constitutes a substantial modification result in a telecommunication tower with a height that exceeds 199 feet above the adjacent pre-construction grade. c. In cases where a telecommunications tower is mounted to or on top of a building, the overall height of the building and the attached tower shall not exceed 199 feet from the adjacent preconstruction grade. The adjacent pre-construction grade shall be the grade at the base of the building closest to the tower.
Collocation Required	a. Telecommunications towers shall be designed to accommodate the present and future needs of the owner and as well as the collocation of additional equipment, in accordance with the following standards: i. Towers of 30 to 80 feet in height shall be configured to accommodate the collocation of at least two wireless telecommunications service provider’s equipment. ii. Towers of 81 to 130 feet in height shall be configured to accommodate the collocation of at least three wireless telecommunications service provider’s equipment. iii. Towers of 131 feet in height or higher shall be configured to accommodate the collocation of at least four wireless telecommunications service provider’s equipment. b. In no instance shall an existing telecommunications tower be permitted to remain in place for a period of more than 60 days following installation of a

<sup>20</sup> See STN Note # 49.



**TABLE 4.3.127.2: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES**

**2. TELECOMMUNICATIONS TOWER, CONCEALED AND MINOR**

New or replacement concealed, or minor telecommunications towers shall comply with the following standards:

	<p>b. A minor telecommunications tower is a use that is designed to appear as a traditional telecommunications facility except that the maximum height of the tower portion of the facility is less than 30 feet above grade.</p>
<p>Appearance of a Concealed Telecommunications Tower</p>	<p>a. A concealed telecommunications tower shall be configured to conceal the presence of the tower, antennas, antenna-support structures, and related telecommunications equipment in order to obscure its purpose as a telecommunications facility, to the maximum extent practicable.</p> <p>b. Allowable configurations include, but are not limited to: bell towers, clock towers, water towers, silos, chimneys, steeples, light poles, flag poles, or evergreen trees.</p> <p>c. Antennae, antenna support structures, cabling, and related appurtenances shall be enclosed, camouflaged, screened, or otherwise obscured so that they are not readily identifiable as telecommunications equipment to the casual observer.</p> <p>d. Equipment cabinets and related structures shall be designed, located, and camouflaged in a manner that is compatible with the tower portion of the facility.</p> <p>e. Placement of ground-based telecommunications equipment associated with a concealed telecommunications tower is strongly encouraged to be located indoors or underground.</p> <p><u>f. In no instance shall a concealed telecommunications tower have a height exceeding 80 feet. Any concealed telecommunications tower with a height exceeding 80 feet shall be reviewed in accordance with the standards and requirements for a major telecommunications tower.<sup>21</sup></u></p>
<p>Setbacks</p>	<p>a. Concealed and minor telecommunications towers and associated secondary structures, including equipment cabinets, shall comply with the applicable dimensional requirements for non-residential uses in the zoning district where located.</p> <p>b. In no instance shall a concealed or minor telecommunications tower be exempted from the minimum applicable setback requirements for non-residential uses.</p> <p>c. In cases where an existing concealed telecommunication tower’s height is increased or where an existing concealed telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement concealed telecommunications tower shall comply with the setback requirements in subsection (i) above, to the maximum extent practicable.</p>
<p>Maximum Height</p>	<p>a. The maximum height for any concealed telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower.</p> <p>b. In no instance shall a collocation of an eligible facility or work associated with a substantial modification result in a concealed telecommunication</p>

<sup>21</sup> See STN Note # 49.



**TABLE 4.3.127.2: STANDARDS FOR SPECIFIC TYPES OF TELECOMMUNICATION FACILITIES**

**2. TELECOMMUNICATIONS TOWER, CONCEALED AND MINOR**

New or replacement concealed, or minor telecommunications towers shall comply with the following standards:

	<p>tower with a height that exceeds <del>200</del> <u>80</u> feet above the adjacent pre-construction grade.</p> <p>c. The maximum height for a minor telecommunications tower is less than 30 feet from the adjacent pre-construction grade to the top of the highest appurtenance on the tower.</p>
Collocation	<p>a. Concealed and minor telecommunications towers are encouraged (but not required) to accommodate the collocation of other antennae.</p> <p>b. Collocations of equipment on a minor telecommunications tower (whether a major or minor collocation) shall not increase the overall height of the tower by more than 10 feet beyond the initially approved height of the minor telecommunications tower. Actions that result in an increase in tower height by more than 10 feet shall require the minor telecommunications tower to undergo review as a major telecommunications tower.</p> <p>c. Any collocated equipment on a concealed telecommunications tower must maintain the appearance of the facility as a concealed telecommunications tower.</p> <p>d. In no instance shall a concealed telecommunications tower be replaced with a telecommunications tower that is not concealed in order to accommodate a collocation.</p>
Screening	<p>a. Except when located in commercial or industrial zoning districts, all ground-based elements, such as an equipment compound or equipment cabinets, shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based elements.</p> <p>b. Screening is not required for ground-based equipment that is not visible from off-site areas.</p> <p>c. Landscaping material shall reach and maintain a minimum height of six feet above grade within four years of planting.</p> <p>d. Landscaping material is not required in front of access gates, provided the gates are fully opaque or are not visible from off-site areas.</p>
Example Images	<p>The following images depict potential concealed telecommunications tower configurations, and are provided for informational purposes only.</p>



9. Bulk storage of flammable or hazardous liquids;
10. Funeral homes and mortuaries; and
11. Animal hospitals, boarding of animals as a commercial enterprise, and kennels operated as a commercial enterprise.

## 4.5 SECONDARY USES

### 4.5.1 ESTABLISHMENT OF A SECONDARY USE

- A. Secondary uses or structures may be approved in conjunction with the approval of the principal use or subsequently following the establishment of the principal use. No secondary use or structure shall be approved, established, or constructed before the principal use is approved in accordance with this Ordinance.
- B. Except when indicated as a special use, or a conditional zoning district use, or exempted in Table 4.5.4, Listing of Common Secondary Uses, establishment of a secondary use or structure subsequent to an established principal use shall require approval of a Zoning Compliance Permit in accordance with Section 2.3.31, Zoning Compliance Permit. AMENDED 4.15.24 (UDOTA1-24)<sup>22</sup>
- C. In cases where a secondary use or structure is identified as a special use in Table 4.5.4, Listing of Common Secondary Uses, establishment of a secondary use or structure subsequent to an established principal use shall require approval of a Special Use Permit in accordance with Section 2.3.22, Special Use Permit.
- D. In cases where a secondary use or structure is identified as a conditional use in Table 4.5.4, Listing of Common Secondary Uses, establishment of a secondary use or structure subsequent to an established principal use shall require approval of a conditional rezoning in accordance with Section 2.3.6, Conditional Rezoning. Applications to establish a conditional zoning district shall include a written list of proposed secondary uses which shall be attached to the application approval along with other conditions of approval.
- E. Section 4.5.4, Listing of Common Secondary Uses, may not be inclusive of all possible secondary uses, and in the event a secondary use is proposed that is not listed in the table, the Planning Director shall consult Table 4.2.5, Listing of Common Principal Uses, to determine if the proposed secondary use corresponds to a listed principal use. Any listed principal use is permitted as a secondary use in any zoning district where the principal use is permitted. In no instance shall a secondary use be permitted in a zoning district where it is prohibited as a principal use.
- F. In the event a proposed secondary use is not listed in Table 4.5.4, Common Secondary Use Table, and there is no corresponding principal use, the Planning Director shall determine how to treat the secondary use in accordance with Section 4.7, Unlisted Uses.

### 4.5.2 INTENT OF THESE STANDARDS

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

### 4.5.3 GENERAL STANDARDS FOR ALL SECONDARY USES

Secondary structures may deviate from these general standards and the specific standards in Section 4.5.5, Standards for Specific Secondary Uses, only where expressly authorized by this Ordinance, as part of an approved Variance or Administrative Adjustment, are subject to conditions of approval

<sup>22</sup> See STN Note # 53.

associated with a type 3 Conditional Rezoning, or are configured in accordance with Section 3.5, Incentives and Alternatives.

#### A. CHARACTERISTICS OF SECONDARY USES AND STRUCTURES

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Permitted secondary uses and structures include those that the Planning Director determines:

1. Are clearly incidental to an allowed principal use or structure;
2. Are subordinate to and serving an allowed principal use or structure;
3. Are subordinate in extent and purpose to the principal use or structure;
4. Are smaller in terms of total floor area or square footage than the principal structure; or
5. Are shorter in height and smaller in mass than the principal structure.

#### B. LOCATION OF SECONDARY USES AND STRUCTURES

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##### 1. ON A LOT WITH AN ESTABLISHED PRINCIPAL USE

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- a. Except on special purpose lots, secondary uses may only be established on lots that contain a pre-existing principal use. Some secondary uses or structures may be located on a lot during construction of a principal use when expressly permitted by this Ordinance.
- b. Secondary uses may be located on a designated special purpose lot prior to a principal use.
- c. A secondary use and the principal use it serves shall be located within the same zoning district.

##### 2. WITHIN REQUIRED LANDSCAPING OR STREETScape BUFFERS

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Except for fences and walls contributing to the screening function of a buffer, no secondary structure shall be located within a required landscaping or streetscape buffer except where permitted in accordance with Section 6.6.14, Site Landscaping, or Section 6.6.13, Screening.

##### 3. WITHIN A REQUIRED SETBACK

---

No secondary use or structure shall ~~deviate from the setbacks applied to the zoning district where located~~ be closer to a side or rear lot line than 10 feet, except as authorized by Table 3.6.9, Allowable Encroachment into Setbacks. Secondary uses or structures shall comply with the street setbacks for the zoning district where located.

##### 4. WITHIN OTHER AREAS ON A SITE

---

No secondary use or structure shall:

- a. Be located within a designated fire lane;
- b. Obstruct required sight distance triangles;
- c. Impede ingress or egress to a lot, site, or principal structure;
- d. Be located within a public utility easement;
- e. Interfere with drainage or stormwater control measures;
- f. Be within an emergency access route designated on an approved site plan; or
- g. Create an unsafe condition, in the sole opinion of the Planning Director or Engineering Director.

##### 5. WITHIN AN EASEMENT (OTHER THAN A PUBLIC UTILITY EASEMENT)

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- a. No secondary uses or structures shall be located within a public utility easement.



- In cases where a use type identified in Table 4.2.5, Listing of Common Principal Uses, is proposed as a secondary use, the secondary use shall also comply with all applicable standards in Section 4.3, Standards for Specific Principal Uses.

## 4.5.4 LISTING OF COMMON SECONDARY USES

### A. TABLE AS GUIDE

Table 4.5.4, Listing of Common Secondary Uses, is established as a guide to identify the appropriateness of the more common secondary uses in each zoning district.

### B. LISTED SECONDARY USES

Table 4.5.4, Listing of Common Secondary Uses, lists what types of secondary uses, structures, and activities are allowed in each of the zoning districts.

- If a specific secondary use is allowed by-right, subject to issuance of a Zoning Compliance Permit, and any applicable secondary use-specific standards, the cell underneath the zoning district is marked with a "P".
- If a specific secondary use is allowed subject to a special use permit, subject to any applicable secondary use-specific standards the cell underneath the zoning district is marked with a "S".
- If the specific secondary use or structure is not allowed in a zoning district, the cell is blank (marked with a "•").
- In the case of conditional development districts, if a secondary use is allowable subject to any applicable secondary use-specific standards, it is marked with an "C", and the secondary use must be identified in the application or approved conditions.

**TABLE 4.5.4: LISTING OF COMMON SECONDARY USES**

"C" = Permitted, subject to [Section 2.3.6, Conditional Rezoning](#), applicable secondary use-specific standards, and conditions of approval

"P" = Permitted, subject to applicable secondary use-specific standards

"S" = Permitted subject to [Section 2.3.22, Special Use Permit](#), and applicable secondary use-specific standards

"•" (blank cell) = Not allowed or no additional secondary use-specific standards

[#] Table Note

Most secondary uses are subject to use standards in [Section 4.5.5, Standards for Specific Secondary Uses](#)

SECONDARY USE TYPE [1]	CONVENTIONAL RESIDENTIAL DISTRICTS						CONVENTIONAL NON-RESIDENTIAL DISTRICTS						SPECIAL DISTRICTS			CONDITIONAL DISTRICTS							
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNN	DTNT	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI	
Accessory Dwelling Unit, Detached	P	P	P	P	P	•	•	P	P	P	•	•	•	•	•	•	•	C	•	•	•	•	
Accessory Dwelling Unit, Internal	P	P	P	P	P	•	•	P	P	P	P	•	•	•	•	•	•	C	•	•	•	•	
Amateur Ham Radio [2]	P	P	P	P	P	P	P	P	P	P	P	P	P	•	•	P	•	C	C	C	C	C	
Art Installation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C	
Automated Teller Machine	•	•	•	•	•	•	P	P	P	P	P	P	P	•	•	P	•	•	C	C	C	C	•
Bus Shelter [2]	•	•	•	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C	
Canopy (Drive Through, Fuel, etc.)	•	•	•	P	P	P	P	•	•	•	P	P	P	P	•	P	P	C	C	C	C	C	
Child Care, Incidental	P	P	P	P	P	P	P	P	P	P	P	P	P	•	•	P	P	C	C	C	C	C	
Cluster Box Unit	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C	
Drive Through	•	•	•	•	•	•	P	•	•	•	P	P	P	P	•	S	P	C	C	C	•	C	



#### TABLE 4.5.4: LISTING OF COMMON SECONDARY USES

"C" = Permitted, subject to [Section 2.3.6, Conditional Rezoning](#), applicable secondary use-specific standards, and conditions of approval  
 "P" = Permitted, subject to applicable secondary use-specific standards  
 "S" = Permitted subject to [Section 2.3.22, Special Use Permit](#) and applicable secondary use-specific standards  
 "•" (blank cell) = Not allowed or no additional secondary use-specific standards

[#] Table Note

Most secondary uses are subject to use standards in [Section 4.5.5, Standards for Specific Secondary Uses](#)

SECONDARY USE TYPE [1]	CONVENTIONAL RESIDENTIAL DISTRICTS						CONVENTIONAL NON-RESIDENTIAL DISTRICTS						SPECIAL DISTRICTS			CONDITIONAL DISTRICTS						
	RUR	RLI	RLD	RMD	RHD	RMF	OFI	DTNC	DTNN	DTNT	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI
Electric Vehicle Charging Station	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Family Health Care Structure	P	P	P	P	P	P	P	P	P	P	•	•	•	•	•	P	•	C	C	•	C	•
Flagpole [2]	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Garage or Carport, Detached	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Guard House, Shelter, or Gatehouse	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Helistop	•	•	•	•	•	•	S	•	•	•	•	•	•	S	•	•	S	•	C	C	C	C
Home Occupation, Type 1	P	P	P	P	P	•	P	P	P	P	P	P	•	•	•	•	•	C	•	•	•	•
Home Occupation, Type 2 <sup>23</sup>	P	•	•	•	•	•	•	P	P	P	P	P	•	•	•	•	•	C	•	•	•	•
Mobile Restaurant or Push Cart AMENDED 9.16.24 (UDOTA2-24)	•	•	•	•	•	•	•	P	P	P	•	P	P	P	•	•	•	•	C	C	C	C
Outdoor Dining and Seating	•	•	•	•	•	P	P	P	P	P	P	P	P	P	•	P	•	C	C	C	C	C
Outdoor Display/Sales	•	•	•	•	•	•	•	P	P	P	P	P	P	P	•	S	P	•	C	C	C	•
Outdoor Storage	•	•	•	•	•	•	•	P	P	P	P	P	P	P	•	•	P	•	•	C	C	C
Parking of Heavy Trucks or Trailers	P	•	•	•	•	•	•	•	•	•	•	P	P	P	•	•	P	•	•	C	•	C
Parking of Recreational Vehicles AMENDED 9.16.24 (UDOTA2-24)	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•	C	•	•	•	•
Play Equipment [2]	P	P	P	P	P	P	P	P	P	P	P	•	•	•	P	P	P	C	C	C	C	•
Private Stables	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•	•	C	•	•	•	•
Produce Stand	P	P	P	P	P	•	P	P	P	P	P	P	•	•	•	•	•	C	•	C	C	•
Refuse or Recycling Container <sup>24</sup>	•	•	•	•	•	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Solar Energy Conversion, Level 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Swimming Pool/Hot Tub	P	P	P	P	P	P	P	P	P	P	P	P	•	•	•	P	•	C	C	C	C	•
Tool/Storage Shed	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Underground Storage Tank	•	•	•	•	•	•	•	•	•	•	P	P	P	P	•	•	P	•	•	C	•	C
Vehicle Repair (non-commercial)	P	P	P	P	•	•	P	•	•	•	P	P	P	•	•	•	•	C	•	C	•	•
Vehicle Towing or Storage AMENDED 9.16.24 (UDOTA2-24)	•	•	•	•	•	•	•	•	•	•	•	•	P	P	•	•	•	•	•	C	•	C

NOTES:

[1] Unlisted secondary uses may be permitted in accordance [Section 4.7, Unlisted Uses](#).

[2] Exempted from the requirement to obtain [Zoning Compliance Permit](#).

<sup>23</sup> See STN Note # 65.

<sup>24</sup> See STN Note # 61.



### AA. PRODUCE STAND

The sale of fresh vegetables and produce from curbside stands or in a similar fashion shall:

1. Be located on the same lot as a principal use;
2. Be limited to retail sale of agricultural or horticultural products grown on-site or in agricultural facilities under the same ownership as the produce stand;
3. Be located outside public street rights-of-way, sight distance triangles, or other areas that may result in visual obstructions to drivers;
4. Not exceed 1,000 square feet in area; and
5. Provide adequate ingress/egress and off-street parking.

### BB. REFUSE AND RECYCLING CONTAINERS<sup>25</sup>

Non-residential, mixed-use, and multi-family development that include refuse and recycling containers shall comply with the following standards:

#### 1. CENTRALIZED COLLECTION AREA(S)

- a. Refuse and recycling containers that are shared by two or more use types shall be located in a centralized location on the lot or site where located.
- b. Centralized collection areas may be detached from or attached to a principal or another accessory structure on the lot or site.
- c. Nothing shall prevent more than one centralized collection area on one lot or site.
- d. In no instance shall a site be configured with refuse or recycling collection containers located outside a building or enclosure.

#### 2. COLLECTION AREA SIZE

Collection areas containing refuse and recycling containers shall be of sufficient size to accommodate the trash and recycling generated by the uses being served.

#### 3. COLLECTION AREA LOCATION

- a. A detached collection area shall not be located within a required setback or between a building and an abutting public street. Collection areas abutting or within two feet of a principal or accessory building may be considered attached collection areas and may be located between a building and an abutting street.
- b. A collection area shall be setback from a residential zoning district boundary at least 50 feet.

#### 4. COLLECTION AREA CONFIGURATION

- a. Collection areas shall be surrounded by a fence, wall, or other enclosure for the purpose of security and preventing windblown debris from leaving the collection area.
- b. Collection areas shall be located on a concrete pad sized to accommodate all the anticipated containers. In cases where refuse or recycling is collected by a service vehicle, the pad shall be served by a concrete apron capable of supporting a service vehicle's operations.
- c. Collection areas configured to be served by vehicles shall be equipped with self-closing gates.
- d. Collection areas equipped with vehicular gates shall also include a person-gate or accessway intended for non-vehicular access.

<sup>25</sup> See STN Note # 61.



- e. In cases where a collection area enclosure is located within two feet of a principal or accessory building wall, the enclosure shall be comprised of the same or similar material as the primary exterior material used in the principal or accessory building.
- f. The collection area enclosure shall be of sufficient height to fully screen the refuse or recycling containers located within it.
- g. Developments seeking to incorporate Town-provided refuse collection shall be configured to allow access by collection vehicles in accordance with the minimum requirements in the Town's Engineering Specifications and Design Manual.

### 5. SCREENING REQUIRED

- a. In no instance shall a refuse or recycling container of 100 gallons in volume or more be located outside of a collection area.
- b. Collection areas shall comply with the screening requirements in Section 6.6.13, Screening.

### ~~BB~~.~~CC~~. SOLAR ENERGY CONVERSION, LEVEL 1

A level 1 solar energy conversion use shall comply with the following requirements:

1. The system may be roof-mounted, attached to a principle or secondary structure, be ground-mounted, or placed over a parking or other hard-surface area;
2. The footprint of a ground-mounted system shall not exceed 50 percent of the footprint of the principal structure, or one acre, whichever is less;
3. The system shall comply with the dimensional requirements for the district where located, as modified by Section 4.5.3, General Standards for All Secondary Uses;
4. The system shall not obscure required sight distance triangles;
5. Ground-mounted facilities are exempted from the screening requirements in Section 6.6.13, Screening; and
6. Ground-mounted facilities shall not exceed 20 feet in height above adjacent pre-construction grade.

### ~~CC~~.~~DD~~. SWIMMING POOLS/HOT TUBS

1. Swimming pools and hot tubs shall be configured in accordance with all applicable requirements of the North Carolina State Building Code and Chapter 154 of the Town Code of Ordinances.
2. All swimming pools, hot tubs, and ancillary facilities shall comply with the setback provisions applicable in the zoning district where located.
3. In-ground swimming pools built as secondary uses shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet and configured to prevent small children from gaining unsupervised access to the pool or hot tub.
4. Hot tubs shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet or include a cover with a lockable latch to prevent small children from gaining unsupervised access to the hot tub.
5. Gates or doors opening into the area around the in-ground swimming pool or hot tub from outside the dwelling shall have self-closing and self-latching devices for keeping the gate or door closed at all times when not in use.
6. Above ground swimming pools are not required to have a fence but shall have a locking ladder that prevents access to the surface of the water when raised or otherwise locked.

**TABLE 4.6.4: TABLE OF COMMON TEMPORARY USES AND DURATION**

TYPE OF TEMPORARY USE OR STRUCTURE	MAXIMUM DURATION [1]	MAXIMUM FREQUENCY PER CALENDAR YEAR
Temporary Office	Must be removed within 30 days after all units are sold or leased <u>or following issuance of a Certificate of Occupancy, if associated with construction</u> <sup>26</sup>	
Temporary Wireless Communications Facility	No more than <del>14 days</del> <u>two years</u> unless placed for emergency purposes	
	No more than 30 days when placed to serve emergency purposes	

**NOTES:**

[1] No temporary use shall remain in place more than 90 days if located on a lot within ~~the~~ within a Flood Protection Overlay District.

## 4.6.5 STANDARDS FOR SPECIFIC TEMPORARY USES

### A. ITINERANT MERCHANT SALES

Itinerant merchant sales, not including mobile restaurant vendors, are permitted on lots in non-residential and mixed-use zoning districts, subject to the following standards:

1. The sale of merchandise, products, or material must be a permitted principal or secondary use in the zoning district where the sales are temporarily located;
2. Itinerant merchants shall file an indemnification form with the Town when engaged in open air sales;
3. Itinerant merchant sales shall be located outside of street rights-of way, required sight distance triangles, required landscape areas, vehicular circulation areas, required off-street parking spaces, and areas where pedestrian access is needed to ensure safe movement through or across a site;
4. Signage shall comply with the applicable standards in **Section 6.13, Signage**;
5. All merchandise and related materials shall be removed from the site following the sale;
6. The maximum period of operation of itinerant merchant sales shall be from 8:00 AM to 11:00 PM; and
7. Permitted itinerant merchant sales shall be limited in duration to a maximum of 45 continuous days from the date the Temporary Permit is issued.

### B. OUTDOOR SEASONAL SALES

Outdoor seasonal sales are permitted on a lot in all zoning districts, except lots occupied by residential uses, subject to the following standards:

1. Seasonal sales shall be limited to seasonal agricultural products such as Christmas trees, pumpkins, and living plants;
2. The maximum hours of operation of an outdoor seasonal sales use shall be from 8:00 AM to 11:00 PM, except when located in a residential district, then the seasonal sales use shall cease by 9:00 PM;
3. Exterior lighting shall comply with the requirements in **Section 6.4, Exterior Lighting**;

<sup>26</sup> See STN Note # 63.



- f. The temporary use permit shall not be issued until a Site Plan is approved or a Building Permit is issued for the principal structure.

## 2. DURATION

- a. A temporary dwelling shall be removed within 30 days of issuance of a Certificate of Occupancy for the structure, or removed immediately if the Building Permit expires or is revoked.
- b. A temporary dwelling shall be limited in duration to a maximum of six months, except that the Temporary Use Permit may be renewed for good cause shown.

## G. TEMPORARY FENCING

Temporary fencing shall require approval of a Temporary Use Permit in accordance with Section 2.3.25, Temporary Permit, and shall be subject to the following standards:

1. Temporary fencing sections shall be adequately secured to the ground in order to prevent uplift, movement, or shifting;
2. Temporary fencing shall be located outside of rights-of-way unless subject to prior approval by the owner of the right-of-way;
3. Temporary fencing shall maintain a minimum height of at least four feet in accordance with OSHA regulations, but in no instance shall temporary fencing exceed a maximum height of six feet above grade;
4. Temporary fencing that includes screening cloth or other opaque material shall not be located within a required sight distance triangle; and
5. Temporary fencing may be comprised of chain link, wire, or plastic, but shall comply with the standards in Section 6.3.4D, Restricted Fence Materials.

## H. TEMPORARY OFFICE

A temporary office is permitted on a lot ~~in a non-residential zoning district~~, subject to the following standards:<sup>27</sup>

### 1. REAL ESTATE OFFICE/MODEL HOME

- ~~1.a.~~ The office is located on a lot that is part of the development being sold or leased;
- ~~a.b.~~ Signage complies with the standards of Section 6.13, ~~Signage~~ Signage;
- ~~c.~~ The office complies with the dimensional standards of the zoning district in which it is located;
- ~~2.d.~~ ~~The office complies with all applicable State laws;~~
- ~~3.e.~~ The temporary office is converted into a dwelling or removed within 30 days after all units are sold or leased; and
- ~~f.~~ In the event a temporary office is a trailer, it shall be removed within 30 days after all units are sold or leased.

### 2. CONSTRUCTION OFFICE

- ~~a.~~ A construction office shall be located on the same lot or site where the construction is taking place.
- ~~b.~~ A construction office shall not be located within required setbacks or easements.
- ~~4.c.~~ The construction office shall be removed from the site prior to issuance of a Certificate of Occupancy.

<sup>27</sup> See STN Note # 63.



#### J. TEMPORARY WIRELESS COMMUNICATIONS FACILITY

A temporary wireless telecommunications facility may be located within any zoning district, and shall comply with the following standards:<sup>28</sup>

1. A temporary wireless telecommunications facility may be allowed on a lot after a disaster or other emergency for a period not to exceed 30 days, except that the Temporary Permit may be renewed for good cause shown;
2. A temporary wireless telecommunications facility may be allowed on a lot to evaluate the technical feasibility of a site or to ensure continuity in wireless coverage during reconstruction of a telecommunications Facility for a period not to exceed 14 days 6 months, except that the Temporary Permit may be renewed for good cause shown up to four times;
- ~~3. A temporary wireless telecommunications facility may be allowed on a lot in association with an event where the anticipated demand cannot be handled by existing facilities for a period not to exceed 14 days;~~
- 4.3. A temporary wireless telecommunications facility may be allowed on a lot with an existing permanent wireless telecommunications facility where the permanent structure is undergoing reconstruction or maintenance, and the temporary facility is needed to maintain sufficient levels of service. The temporary facility shall be removed after reconstruction or maintenance is complete and service restored on the permanent structure; and
- 5.4. All temporary wireless telecommunications facilities, including all supporting cables and anchors, shall be contained on the lot.

## 4.7 UNLISTED USES

### 4.7.1 PROCEDURE FOR DETERMINATION

- A. In the event that a proposed principal, secondary, and temporary use type is not listed in this Ordinance, and such land use is not listed in Section 4.4, Prohibited Uses, or is not otherwise prohibited by law, the Planning Director shall determine whether a materially similar land use exists in this Ordinance.
- B. The Planning Director shall determine whether or not an unlisted use is similar to an existing use type based on the definitions in Section 8.3, Terms Defined, the standards for unlisted uses in Section 2.3.9, Determination, and the appropriate table in Section 4.7.2, Use Category Descriptions. Nothing shall limit the Planning Director from seeking input from Town staff, the Planning Board, or the Town Council in determining how to categorize an unlisted use.
- C. Should the Planning Director determine that a materially similar land use does exist, the regulations governing that land use shall apply to the unlisted use type and the Planning Director's determination shall be recorded in writing.
- D. In cases where a proposed unlisted use type is not found to be similar to an existing use type, the Planning Director may, but shall not be required to, initiate a text amendment application to revise the text of this Ordinance to add the use type in accordance with Section 2.3.26, Text Amendment.

### 4.7.2 USE CATEGORY DESCRIPTIONS

The following tables set out the range of use categories, use characteristics, and example use types by use classification listed in Section 4.2.5, Listing of Common Principal Uses.

<sup>28</sup> See STN Note # 58.



## 5.1 CHAPTER INTRODUCTION

### 5.1.1 PURPOSE AND INTENT

There are existing structures, uses of land, signs, and lots of record that were lawfully established before the effective date of this Ordinance or a subsequent amendment thereto, that now do not conform to standards and requirements of this Ordinance. Such uses, structures, signs, and lots are collectively referred to as “nonconformities” that are subject to the standards in this Chapter. The purpose of this Chapter is to establish the rules under which nonconformities may continue and how their continued existence may be affected by changing conditions. More specifically, these standards are intended to:

- A. Allow lawfully-established nonconformities to continue;
- B. Encourage routine maintenance and activities necessary to preserve or improve public safety associated with a lawful nonconformity;
- C. Foster compliance with development and design standards as part of redevelopment or expansion of a nonconforming site;
- D. Clarify how certain nonconformities may be continued or re-established following casualty damage;
- E. Limit the re-establishment of a nonconformity following its discontinuance; and
- F. Require removal of nonconforming signage following cessation of the use being advertised.

### 5.1.2 CESSATION AND ABANDONMENT

- A. Cessation of a nonconformity is the stoppage or pause of a lawful nonconforming use or activity. Cessation may be either temporary or permanent. Temporary cessation allows for the recommencement or continuation of a lawful nonconforming use or activity. Permanent cessation means the nonconforming use or activity is abandoned, and may not be recommenced or continued.
- B. Nonconforming uses or activities that are ceased for a period of time longer than specified in this Ordinance shall be considered abandoned, and may not be reestablish, recommenced, or continued unless conforming with the provisions of this Ordinance.

### 5.1.2.1.3 DETERMINATION OF NONCONFORMING STATUS

In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the owner of the land on which the nonconformity is located.

### 5.1.3 5.1.4 MAINTENANCE, MINOR REPAIRS, AND CONTINUATION ALLOWED

#### A. CONTINUATION

Nonconformities are allowed to continue in accordance with the requirements of this Chapter.

#### B. COMPLETION

1. Nonconforming projects incomplete as of January 2, 2024, shall only be completed in accordance with this Chapter and Section 1.10.2, Existing Nonconformities.
2. Nothing in these standards shall require a change in approved plans or uses for development upon which construction was lawfully commenced prior to January 2, 2024, even though the development is nonconforming.

## 5.3 NONCONFORMING SIGNS

### 5.3.1 APPLICABILITY

A sign that was legally in existence on January 2, 2024, and was constructed in accordance with the applicable laws and ordinances in effect, but by reason of its size, height, location, design, or construction is no longer in compliance with the requirements of this Ordinance, shall be deemed a nonconforming sign subject to the standards in this section.

### 5.3.2 MAINTENANCE OF NONCONFORMING SIGNAGE ALLOWED

A nonconforming sign may remain in place and be maintained, subject to the following standards:

#### A. MAINTENANCE ACTIONS

Routine maintenance of a nonconforming sign shall be allowed provided the cost of routine maintenance is less than 50 percent of the sign's replacement cost, and shall be limited to the following:

1. Nonstructural repairs, such as repainting or electrical repairs;
2. Incidental alterations which do not increase the degree or extent of the nonconformity; and
3. Changing of copy, as provided in this section.

#### B. CHANGE OF SIGN COPY

Nonconforming signs may change copy in the form of replacement panels or replacement lettering, provided such change does not impact or reduces the degree of nonconformity.

#### C. DIGITIZATION

In no instance shall a non-digital existing sign be replaced with a new digital sign. This prohibition includes digitization of existing outdoor advertising.

#### D. ENLARGEMENT OR ALTERATION EXTENSION

Structural ~~alteration~~, enlargement, or extension of a nonconforming sign or sign structure shall not be permitted; however, nothing shall limit the ability to modernize an existing and lawfully permitted outdoor advertising sign type in accordance with NCGS§136.131.2.

### 5.3.3 REPLACEMENT OF NONCONFORMING SIGNAGE

#### A. REMOVAL<sup>29</sup>

A nonconforming sign that is damaged beyond 50 percent of the sign's replacement cost, or that is removed for any reason by the sign's owner shall only be replaced with a sign that complies with the provisions of this Ordinance.

#### B. RELOCATION

1. A nonconforming sign may be relocated on the same lot or within the same development provided:
  - a. The need for relocation results solely from right-of-way acquisition or roadway construction;
  - b. The sign's face area is not increased;
  - a.c. The sign complies with the provisions in place at the time of its initial approval;  
and

<sup>29</sup> See STN Note # 38.



- ~~b.a.~~ The relocation complies with the applicable requirements of this Ordinance, including Section 5.3.4, Amortization of Nonconforming Outdoor Advertising, and
- ~~c.d.~~ The amount of nonconformity is not increased.
2. In the case of relocation of a lawfully established outdoor advertising sign, the relocation shall comply with the applicable requirements of this Ordinance, including Section 5.3.4, Amortization of Nonconforming Outdoor Advertising; and
- 2.3. A lawfully established nonconforming outdoor advertising sign located on property that is annexed for development may be relocated through approval of a Development Agreement (see Section 2.3.10, Development Agreement) or Annexation Agreement, provided the outdoor advertising complies with the applicable requirements in Section 6.13.9, Sign Standards by Sign Type. In no instance shall a nonconforming outdoor advertising sign be relocated to a zoning district that prohibits such forms of signage.

#### C. DAMAGE

1. If repairing damage to a nonconforming sign from any cause is less than 50 percent of its replacement cost, the sign may be rebuilt or repaired to its original condition in its original location and may continue to be displayed as long as the use it serves remains in operation.
2. If repairing damage from any cause to a nonconforming sign equals or exceeds 50 percent of its replacement cost, the nonconforming sign, including sign supports and mounting hardware, may only be replaced with a sign that complies with the provisions of this Ordinance.
3. For the purposes of this section, "replacement cost" shall be a figure provided by the applicant. The Town may require review of the proposed replacement cost by a qualified third party. The Town staff may determine a reasonable replacement costs based upon this third-party review. Town decisions on the amount of a replacement cost may be appealed in accordance with Section 2.3.2, Appeal.

#### D. CESSATION OF USE BEING ADVERTISED

In cases where the principal use being advertised by a nonconforming sign is abandoned or ceases for a period of 180 days or more, then the nonconforming sign shall be removed or altered to make it conforming with respect to the applicable requirements in this Ordinance.

#### E. LOTS WITH NONCONFORMING SIGNAGE

In cases where development that includes nonconforming signage seeks to establish a new ground sign or electronic message board, the nonconforming signage shall be removed from the site prior to the establishment of the new ground signage or electronic message board.

### 5.3.4 AMORTIZATION OF NONCONFORMING OUTDOOR ADVERTISING

Outdoor advertising located on property that is annexed into Town limits, and properly relocated billboards as allowed by this section, shall be removed within the timeframe established within a Development Agreement or annexation agreement but not to exceed 15 years from the date of annexation.

#### 5.6.8 CESSATION/ABANDONMENT

- A. In the event a nonconforming use is discontinued or abandoned for a period of more than 180 consecutive days, the nonconforming use may only be replaced by a use permitted in the district where located.
- B. Any time a nonconforming use is converted to a conforming use, the conforming use shall not revert to the former nonconforming use or any other nonconforming use.

#### 5.6.9 LOSS OF BONA FIDE FARM PURPOSES EXEMPTION<sup>30</sup>

In the event land being used for bona fide farm purposes or agritourism on land being used for bona fide farm purposes that is exempted from the provisions of this Ordinance in accordance with Section 1.1.3B, Exemptions from Zoning Requirements, fails to maintain required documentation of its status as land used for bona fide farm purposes for a period of three consecutive years or more, the land in question shall lose its exempted status and shall come into compliance with the requirements of this Ordinance. Failure to comply with these requirements shall be a violation of this Ordinance and may subject the landowner to the procedures and requirements of Section 7.5, Enforcement Procedure.

#### 5.6.10 REZONING

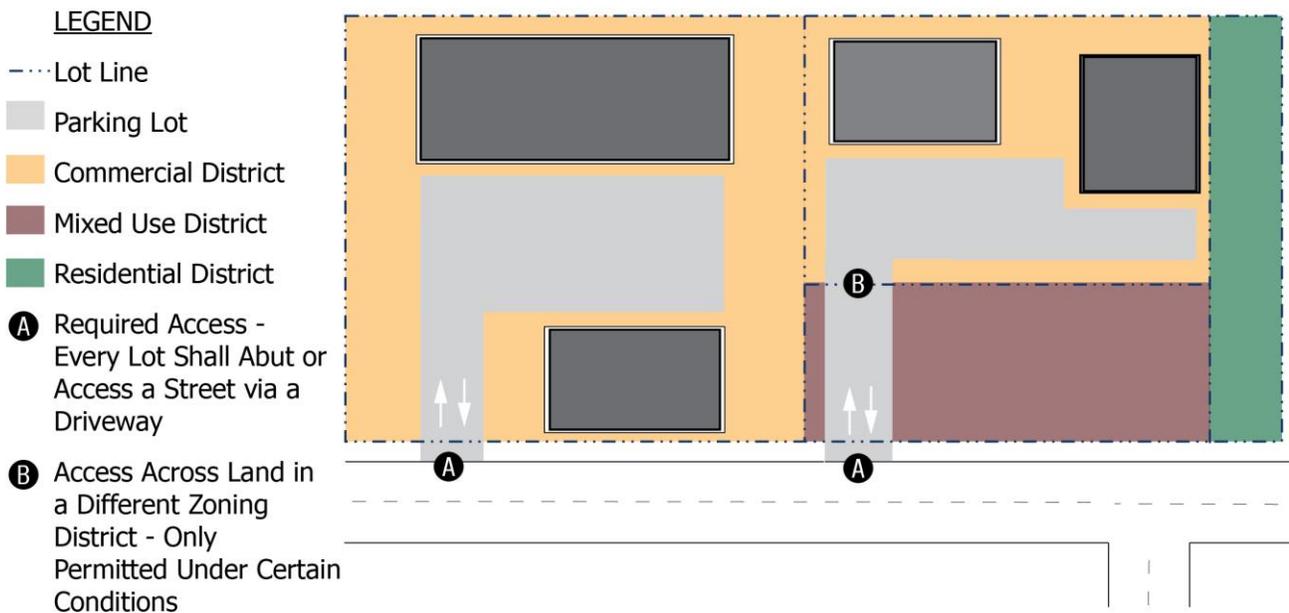
- A. Nonconforming uses located on land subject to an application for a Conventional or Conditional Rezoning shall either be permitted uses or special uses in the zoning district being requested in the application.
- B. In cases where an existing nonconforming use is not permitted within a zoning district being requested, the nonconforming use shall be eliminated prior to the effective date of the application seeking to rezone the land.
- C. In cases where an existing nonconforming use is permitted as a special use in a newly-approved conventional zoning district designation, an application for the special use permit (see Section 2.3.22, Special Use Permit) shall be filed within 30 days of the date the rezoning becomes effective or the nonconforming use shall be eliminated.

<sup>30</sup> See STN Note # 59.



6. Lots that do not abut a public or private street shall receive access via a driveway configured in accordance with Section 6.1.4, Driveways.
7. Driveways may be located exclusively on the same lot as the building they serve, or may cross a lot under separate ownership, in order to access a public or private street.
8. In cases where a driveway must cross a lot under separate ownership, the driveway shall be located within a recorded access easement and may not extend through or across land in a different zoning district than the lot being served by the driveway (see Figure 6.1.3, Lot Access via Driveway). This requirement is waived when the land in the different zoning district:
  - a. Is classified as a business or mixed-use district; or
  - b. Allows the use being served by the direct access; or
  - c. Provides the sole means of access for the lot.

**FIGURE 6.1.3: LOT ACCESS VIA DRIVEWAY**



## B. DIRECT ACCESS TO MAJOR THOROUGHFARES

Lots [Driveways](#) serving individual residential dwelling units should generally not have direct access to a major thoroughfare street [unless authorized by NCDOT](#). Direct access to a major thoroughfare shall be configured in accordance with the following standards.<sup>31</sup>

1. In cases where a vacant lot of record abuts a major thoroughfare and is proposed for development, access to the lot shall be obtained from a street other than the thoroughfare, or from a driveway that accesses a street other than the thoroughfare, to the maximum extent practicable.
2. In cases where a tract or site abutting a major thoroughfare is proposed for subdivision (whether residential or otherwise), then all lots created shall maintain sufficient frontage on

<sup>31</sup> See STN Note # 47.

#### 4. SPACING

- a. Except for developments of six or fewer single-family attached residential dwellings, residential driveways shall be spaced at least 20 feet from one another.
- b. Driveways serving six or fewer single-family attached residential units where driveways are located within commonly-owned land shall be at least three feet from one another.
- c. Driveways shall be no closer than 3 feet from any lot line, except where two driveways on abutting lots are intended to touch one another.
- d. The minimum corner clearance from the curb line or edge of pavement of intersecting streets shall be at least 20 feet from the point of tangency of the radius curvature, or 20 feet from the intersection of right-of-way lines, whichever is greater.
- e. The radius of the driveway shall not encroach on the minimum corner clearance.

#### 5. ALTERNATIVE ACCESS

As an alternative to compliance with the other standards in this section, single-family detached and duplex dwellings may comply with one of the following alternative lot access standards (see Figure 6.1.4.D.5, Alternative Lot Access):

##### a. MULTIPLE RESIDENTIAL LOT DEVELOPMENT

An individual residential lot configured with a single-family detached or duplex dwelling may establish access across one or more different lots via a single shared driveway, provided the shared driveway:

- i. Does not serve more than five single-family detached or duplex dwellings on the same or different lots;
- ii. Is located within a recorded access easement configured in accordance with [Section 6.1.4D.5.d, Access Easement](#); and
- iii. Connects to a publicly maintained or a private street built to public street standards.

##### b. SINGLE-FAMILY LOT OF RECORD

A vacant single-family lot of record established prior to January 2, 2024, that does not abut a publicly maintained street may establish access across another lot provided the driveway:

- i. Does not serve more than ~~five~~ four single-family or duplex dwellings on the same or different lots;<sup>32</sup>
- ii. Is located within a deeded access easement configured in accordance [Section 6.1.4D.5.d, Access Easement](#); and
- iii. Connects to a publicly maintained or a private street built to public street standard.

##### c. DRIVEWAYS SERVING MORE THAN FOUR LOTS

Driveways serving more than four single-family detached or duplex dwelling lots shall be configured as a public or private street in accordance with the applicable standards in this Ordinance.

##### d. ACCESS EASEMENT

- i. Driveways serving development utilizing these alternative access provisions shall be located within an access easement.
- ii. All new access easements shall be configured in accordance with the following:
  1. The easement shall maintain a minimum width of at least 50 feet;
  2. There shall be a minimum separation between the easement and any other platted access or right-of-way of at least 50 feet;
  3. The location of the easement shall be recorded on a plat;

<sup>32</sup> See STN Note # 57.

**TABLE 6.2.5.B.4: APPLICABILITY OF NON-RESIDENTIAL DESIGN STANDARDS TO EXISTING SITES**

TYPE OF STRUCTURE OR ACTIVITY	APPLICABILITY OF MIXED-USE DESIGN STANDARDS
d. Allows direct access between the existing structure and the addition or expansion without having to walk outside or through unconditioned space.	

**C. EXEMPTIONS**

The standards in this section shall not apply to the following forms of development:

1. Mixed-uses, which shall instead comply with the standards in [Section 6.2.3, Mixed-Use Design Standards](#);
2. Industrial use types identified in Table 4.2.5, Table of Common Principal Uses, when located in the LID or HID districts (standards may be applied in the CZI district); and
3. Routine maintenance and repairs, provided that such maintenance or repairs does not render a conforming use or building as nonconforming with respect to these standards.

**D. TIMING OF REVIEW**

Review for compliance with these standards shall take place during review of an associated rezoning, site plan, [planned development master conditional rezoning concept](#) plan, or special use permit, as appropriate.<sup>33</sup>

**E. NON-RESIDENTIAL BUILDING WALLS DISTINGUISHED**

1. Exterior building wall facades shall be distinguished as primary, secondary, or tertiary, in accordance with the following standards (see Figure: 6.2.5.E, Building Façade Walls Distinguished):
  - a. Primary walls are the architectural front façade of the building that faces the street from which the building is addressed. As an alternative, the primary wall is the building wall that includes the use’s primary entrance.
  - b. Secondary building walls are exterior building walls that are visible from a street or public recreation land such as a park, greenway, or other public recreation use but that are not the building’s primary wall.
  - c. Tertiary walls are all other exterior building walls that are not primary or secondary.
2. Different standards apply to building walls based on their designation as a primary, secondary, or tertiary building wall.
3. In cases where site conditions result in a situation where a building wall could be designated as either a primary or secondary wall by the Planning Director, the wall shall be treated as a primary wall. Nothing in these standards shall limit the number of primary walls on any individual building.
4. In cases where site conditions result in a situation where a building wall could be designated as either a secondary or tertiary wall by the Planning Director, the wall shall be treated as a secondary wall.

**FIGURE 6.2.5.E: BUILDING FAÇADE WALLS DISTINGUISHED**

<sup>33</sup> See STN Note # 13.



#### D. DEDICATION AND ACCEPTANCE

1. Each developer of land connected to a public potable water supply system shall be responsible for providing system-related equipment and appurtenances, including water tanks, water mains, pump stations, fire hydrants, gate valves, blow-offs, and valve covers between their property and the Town's water supply system.
2. Individual water service meters shall be installed by the Town at the expense of the applicant.
3. All potable water supply facilities installed in accordance with these standards shall become the sole property of the Town upon acceptance. A deed to the Town for such facilities, including easements pertaining to the right-of-way entrance for maintenance, shall be executed prior to connection to the Town system.

#### E. CONNECTION FEES

The applicant shall pay all applicable water system development fees for each lot or development to be served by a connection to the Town's public potable water supply system in accordance with the Comprehensive List of Fees and Charges in place at the time of Building Permit issuance or Construction Drawing approval, whichever is appropriate.

#### F. OVERSIZING

1. Where the Town Council deems it necessary in the interest of the health, safety, and general welfare, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's development.
2. Where oversized improvements are required, the Town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's development.
3. Such reimbursement shall be mutually agreed upon through a reimbursement agreement as authorized by NCGS§ 160A-499.

#### G. ON-SITE POTABLE WATER SUPPLY SERVICE

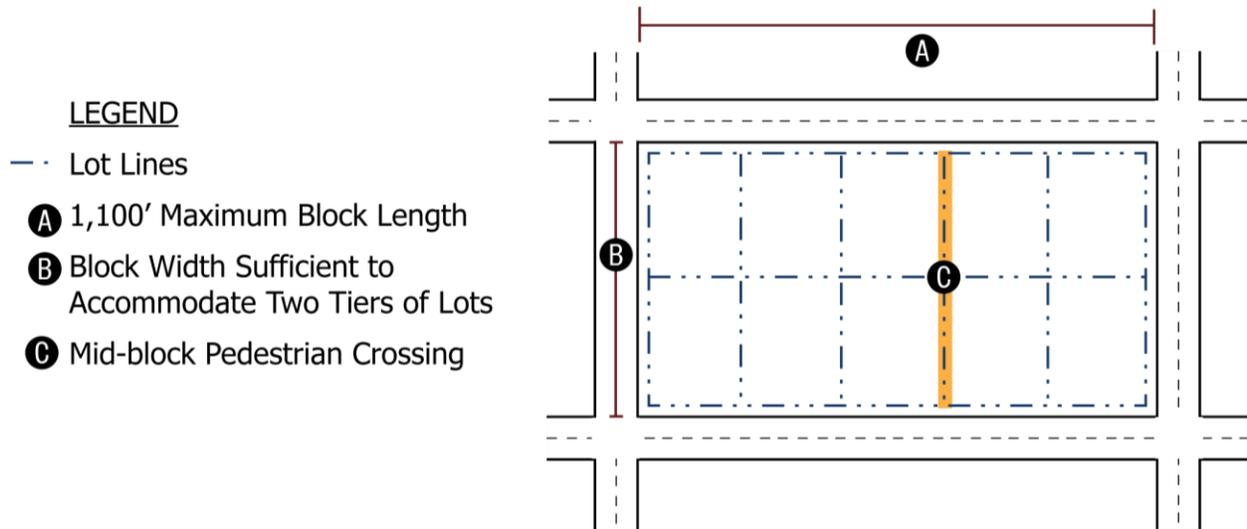
1. All on-site potable water supply systems shall be designed and installed in accordance with Johnston County Health Department requirements.
2. On-site potable water supply systems shall be located upon the same lot as the use they serve.
3. When proposing lots or units to be served by on-site potable water service, the lot shall be of sufficient size to accommodate all the proposed on-site utilities as well as to provide for adequate building area.
4. Every plat with lots served by on-site potable water service shall include the following disclosure statement:  
"Public potable water services are not available, as of the date of the recording of this deed. On-site potable water systems must be approved by the Johnston County Health Department."

#### 6.5.11-REFUSE COLLECTION

~~Developments seeking to incorporate Town-provided refuse collection shall be configured to allow access by collection vehicles in accordance with the minimum requirements in the Town's Engineering Specifications and Design Manual.~~



FIGURE 6.5.12.F.4: BLOCK CONFIGURATION



## 5. STREET CONTINUATION

- a. Whenever a street within a new subdivision or development continues an existing street that formerly terminated outside the development or it is expected that a new street will be continued beyond the subdivision or development boundaries at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the development.
- b. The arrangement of streets in a subdivision or development shall provide for the alignment and continuation of existing or proposed streets into adjoining undeveloped lands or in cases where adjoining lands are developed but include opportunities for such connections.
- c. Street rights-of-way shall be extended to or along adjoining property boundaries such that a roadway connection or street stub shall be provided for development where practicable and feasible in each direction (north, south, east, and west) for development which abuts vacant lands.
- d. In cases where a street stub cannot be continued to the property boundary because an adjacent landowner will not permit access onto the adjacent property to establish the street stub, the entity responsible for providing the street stub shall:
  - i. Ensure the street stub extends as close as possible to the property line, but in no instance farther than five feet from the property line;
  - ii. Dedicate an access easement from the termination of the street stub to the property boundary for use as a street at such time as the abutting land is developed; and
  - iii. Provide a fee-in-lieu in accordance with Section 2.3.13, Fee-in-Lieu, to be used by the Town for completing the street connection from the street stub to the new street on the abutting property. **AMENDED 4.15.24 (UDOTA1-24)**
- e. New development on a vacant lot shall provide street connections to street stubs or access easements on abutting developed properties. **AMENDED 4.15.24 (UDOTA1-24)**
- f. Major thoroughfare streets shall intersect with surrounding thoroughfare streets at safe and convenient locations, as determined by the Town and the NCDOT, as appropriate.

- b. Nothing in this section shall limit the total number of streets providing access to the street system outside a development, or exempt a development from meeting all applicable street connectivity standards.
- c. In cases where a development is required to provide three or more access points, one access point may be access-controlled and limited to emergency access by authorized vehicles only.
- d. Development shall be exempted from these standards if it is demonstrated the following conditions apply:
  - i. A transportation impact analysis allows a deviation;
  - ii. No other street access points can be located due to existing lot configurations, absence of connecting streets, environmental, or topographic constraints;
  - iii. NCDOT will not authorize the required number of entrances; or
  - iv. Alternative access can be provided in a manner acceptable to the Town that is supported by a transportation impact analysis.

## G. PRIVATE STREETS

### 1. COMPLY WITH STANDARDS FOR PUBLIC STREETS

New private streets proposed after January 2, 2024, shall be configured in accordance with applicable public street standards, [including curb and gutter requirements](#).<sup>35</sup>

### 2. LIMITED TO LOCAL STREETS

In no instance shall a street with a classification higher than a local street be configured as a private street.

### 3. MAINTENANCE

- a. Neither the Town of Clayton nor NCDOT shall be responsible for maintenance of private streets.
- b. Private streets may be marked with signage indicating where Town or State maintenance responsibility stops.

### 4. PRIVATE STREET DEED DISCLOSURE

Every deed created for a lot served by a private street subject to this Ordinance filed with the Johnston County Register of Deeds shall include the following disclosure:

"It is hereby acknowledged that a Subdivision Streets Disclosure Statement has been executed in accordance with Section 136-102.6 of the North Carolina General Statutes."

### 5. COMPLIANCE WITH EASEMENTS

All private streets shall be located within an access easement configured in accordance with the applicable requirements in [Section 6.5.7, Easements](#).

AMENDED 4.15.24 (UDOTA1-24)

## H. CURB AND GUTTER

- 1. All public streets, whether inside the corporate limits of the Town or outside the Town's corporate limits but abutting land served by public water or sewer, shall be constructed with curb and gutter.
- 2. Curb and gutter shall be configured in accordance with the Town's Engineering Specifications and Design Manual.

<sup>35</sup> See STN Note #11.

3. Rolled or valley-type curbs may be permitted for new residential streets at the discretion of the Engineering Director or as permitted by the Town's Engineering Specifications and Design Manual, but are prohibited on residential collector and other collector streets.<sup>36</sup>

#### I. STREET NAMES

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1. All street names, including names for private streets, shall be in accordance with the County's street naming ordinance, and shall require approval by Johnston County prior to recordation of a Final Plat.
2. Where proposed streets are extensions of existing streets, or are in obvious alignment with existing streets, the existing street names shall be used except where a new name can reasonably be used to avoid further street name duplication.
3. Proposed street names shall not duplicate or phonetically approximate the name of any street anywhere within Clayton or unincorporated Johnston County.

#### J. STREET SIGNS

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1. The subdivider or developer shall install street signs as part of new development.
2. All streets within a development shall be marked with a street name sign of a design specification and location in accordance with Town requirements.
3. Decorative street signs shall be approved as to form and configuration by the Town or NCDOT, as appropriate, prior to installation.
4. In cases where decorative street signs are proposed, the developer or subdivider shall be responsible for the cost of the decorative street signs.
5. Street signs shall be configured as break away signs in the event of collision with a vehicle.
6. All street name signs shall conform to Town and NCDOT standards.
7. Street name signs shall be installed free of visual obstruction.

#### K. TRAFFIC CONTROL DEVICES

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1. If deemed necessary by the Town or by NCDOT, signals shall be installed by the developer at each street intersection within the subdivision and at each intersection of a subdivision street and a state-maintained road or access road.
2. Signs and signals shall comply with NCDOT regulations with regards to size, shape, color, location, and information contained thereon.
3. At least two or more traffic-control signs shall be placed at each four-way street intersection and at least one at each "T" street intersection.
4. Signs and signals shall be installed free of visual obstruction.

#### L. VEHICULAR GATES

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1. In no instance shall vehicular gates be placed across public street rights-of-way.
2. Except for private driveways or site accessway serving a multi-family development, nothing shall prohibit the installation of vehicular gates across a private driveway or site accessway that is not a public street. **AMENDED 9.16.24 (UDOTA2-24)**
3. Gates on a non-residential or mixed-use, site shall: **AMENDED 9.16.24 (UDOTA2-24)**
  - a. Conform to Town requirements for emergency access;
  - b. Be located no closer than 50 feet to the street right-of-way;
  - c. Be served by a vehicular turnaround; and

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<sup>36</sup> See STN Note #12.



### 6.6.3 EXEMPTIONS

- A.** The following forms of development are exempted from these standards:
1. Routine maintenance of existing vegetation, such as watering and fertilizing;
  2. The removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, provided the screening function of the landscaping is maintained or re-established. Failure to maintain the screening function of a required landscaping area is a violation of this Ordinance;
  3. Pruning of vegetation, provided the screening function of the required landscaping is maintained. Severe pruning is a violation of this Ordinance, and shall require replacement of required vegetation; and
  4. Repaving or restriping of a parking lot, provided there is no increase in parking lot size or the number of parking spaces, which would impact landscaping requirements.
- B.** Development in the DTNC district shall be exempted from the off-street parking landscaping standards in Section 6.6.11, *Off-Street Parking Lot Landscaping*, the perimeter landscaping buffer standards in Section 6.6.12, *Perimeter Buffers*, and the foundation planting standards in Section 6.6.14, *Site Landscaping*, but shall be subject to the other standards in this section.

### 6.6.4 LANDSCAPING PLAN REQUIRED

Development subject to these standards shall include a landscape plan as part of the submittal for a Site Plan, Major or Minor Subdivision Plat, Concept Plan associated with a Special Use Permit, type 3 Conditional Rezoning Application, or other application type, as directed by the Planning Director.

#### **A. GENERALLY**

1. A landscape plan depicting how required landscaping will be planted in accordance with these standards shall be included with an application for site plan, preliminary plat, [planned development master conditional rezoning concept](#)-plan, special use permit, or building permit, as appropriate, to ensure compliance with this section.<sup>37</sup>
2. The landscape plan shall be approved prior to, or concurrent with an associated application.
3. A landscape plan shall be prepared or sealed by a registered landscape architect and contain, at a minimum, the following:
  - a. Location of required planting material;
  - b. Grouping or clusters of planting material, if proposed;
  - c. Identification of required plants, including their scientific names;
  - d. Minimum and maximum dimensions of all planting yard areas;
  - e. Calculations determining the number of canopy trees, understory trees, and shrubs required;
  - f. Locations, species, sizes, and methods of protection during construction for existing trees to be retained and counted towards minimum landscaping requirements; and
  - g. Existing topography, or proposed topography where site grading is proposed to occur.

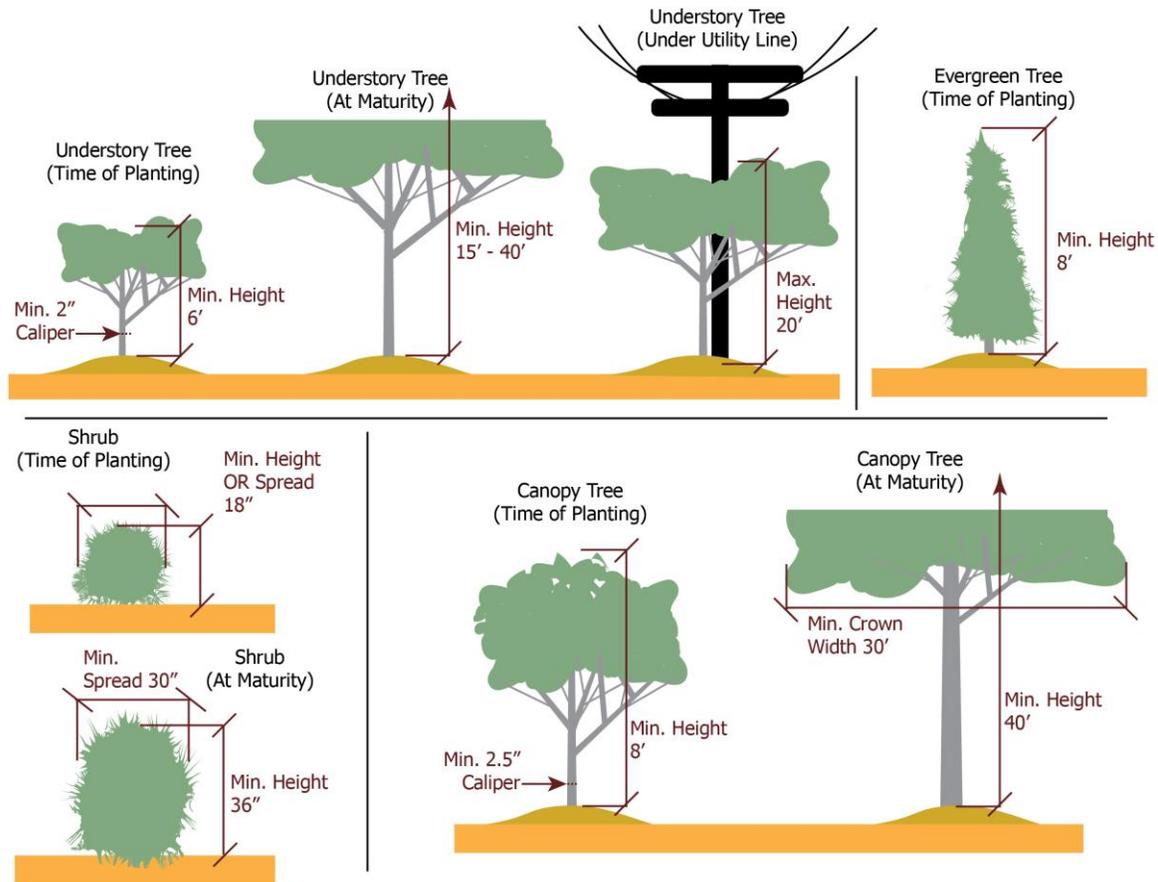
#### **B. LANDSCAPING IN A STORMWATER RETENTION POND**

If trees or shrubs are proposed on or within 20 feet of the embankment of a stormwater retention pond, a landscape plan showing the retention pond and surrounding landscaping shall be submitted for review to determine that the safety and functionality of the device will not be compromised by the trees or shrubs.

<sup>37</sup> See STN Note # 13.



**FIGURE 6.6.7.A: PLANT MATERIAL SPECIFICATIONS**



**D. NATIVE OR LOCALLY-ADAPTED SPECIES**

1. Required landscaping materials shall be cold-hardy for the location where planted.
2. Plant species used in required landscaping areas shall be native species. Use of exotic or other invasive species is prohibited.

**E. SPECIES DIVERSITY**

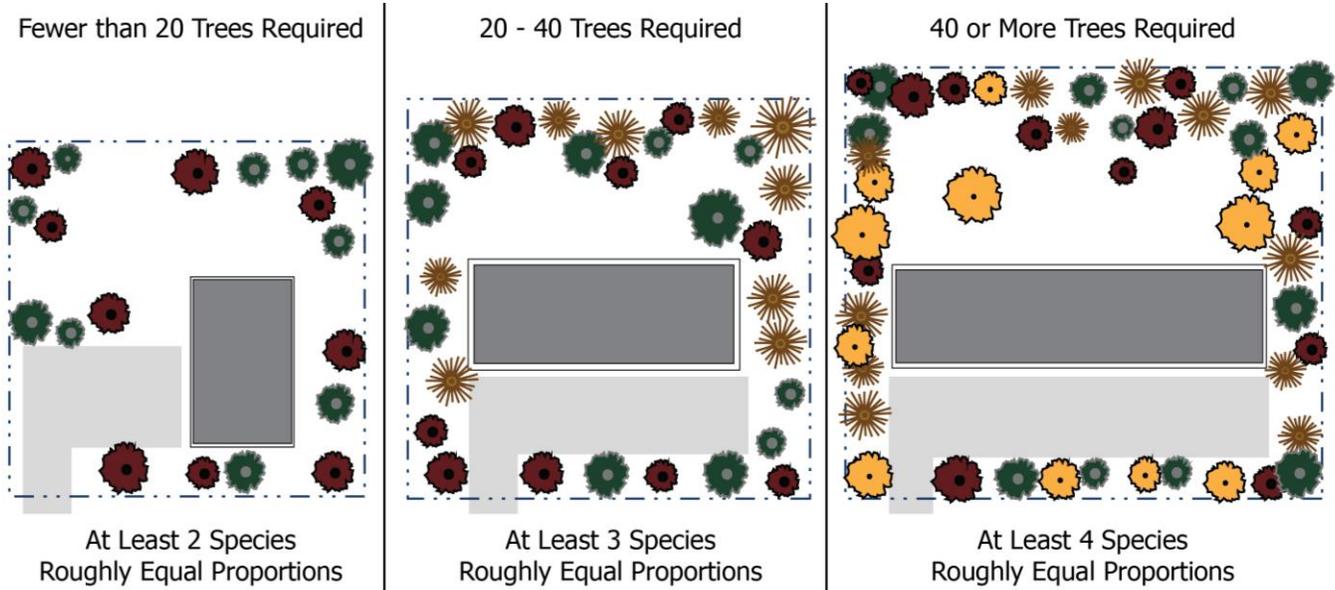
To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the following standards:

1. When fewer than 20 trees are required on a site, at least two different species shall be utilized, in roughly equal proportions (see Figure 6.6.7.E, Species Diversity);
2. When more than 20 but fewer than 40 trees are required to be planted on site, at least three different species shall be utilized, in roughly equal proportions;
3. When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions;
4. A larger number of different species than specified may be utilized; and
5. In no instance shall invasive species, as determined by the North Carolina Forest Service, the NC Invasive Plant Council, or the NC Agricultural Extension Office, or the US



[Department of Agriculture’s Invasive Species Information Center](#), be utilized as landscaping materials to meet the requirements of this Ordinance.<sup>38</sup>

**FIGURE 6.6.7.E: SPECIES DIVERSITY**



**F. SOIL STABILIZATION**

1. Planting areas shall have uncompacted coarse loam that is a minimum of 12 inches deep and free of large stones, rubble, trash, or other debris.
2. Required landscaping areas shall be stabilized and maintained with vegetative cover, mulch, decorative gravel, cinders, or other approved materials to prevent soil erosion and allow rainwater infiltration.
3. Gravel, decorative gravel, or cinders shall not be permitted as a ground cover or stabilization material within a required streetscape or perimeter buffers.
4. Required landscaping areas with slopes of 15 percent or more shall be stabilized with vegetative cover (not mulch or gravel) designed to minimize erosion. Required vegetative cover shall be established and functional prior to issuance of a Certificate of Occupancy.
5. Use of landscape fabric on slopes of 15 percent or more is discouraged.

**6.6.8 PLANT MEASUREMENT**

**A. DETERMINING TREE SIZE AT TIME OF PLANTING**

**1. TREES UNDER FOUR INCHES IN CALIPER**

The minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of six inches above the bole, or the location where tree trunk meets the soil it is planted in.

<sup>38</sup> See STN Note #19.



#### 2. TREES OVER FOUR, BUT LESS THAN TWELVE INCHES, IN CALIPER

The minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of 12 inches above the bole, or the location where tree trunk meets the soil it is planted in.

#### 3. TREES OF TWELVE INCHES, OR MORE, IN CALIPER

Existing tree size shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of four-and-one-half feet above the bole, or the location where tree trunk meets the soil it is planted in.

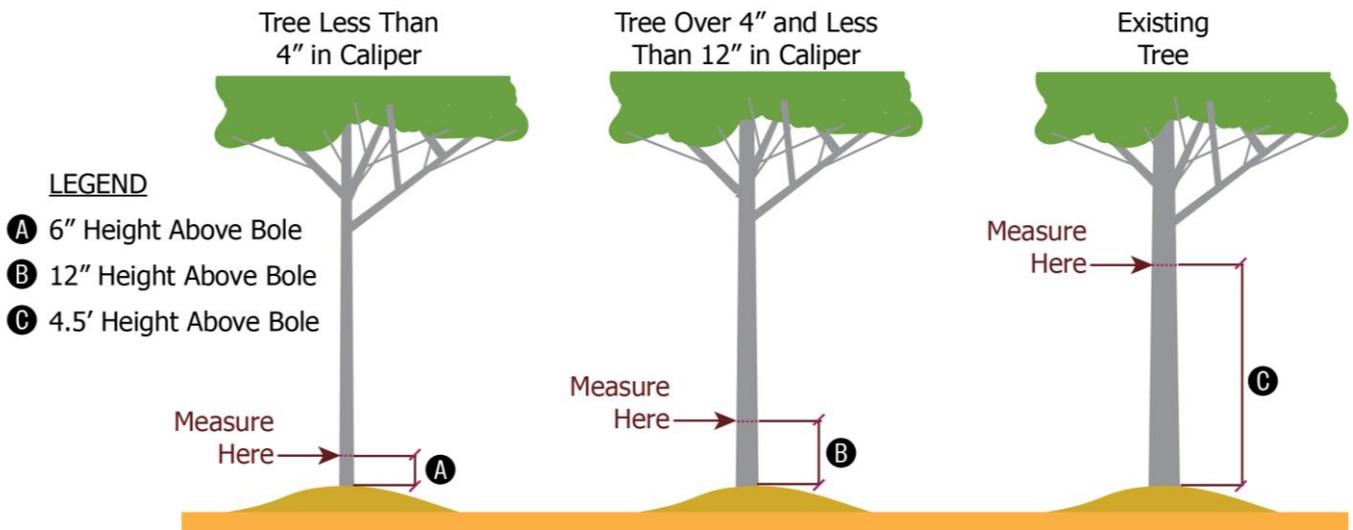
#### 4. EVERGREEN TREES AND MULTI-STEMMED TREES

Regardless of caliper size, evergreen and multi-stemmed trees shall be at least eight feet in height measured from the bole to the highest portion of the main leader. In the case of multi-stemmed trees, the main leader shall be the leader with the largest individual caliper size.<sup>39</sup>

### B. DETERMINING TREE SIZE OF EXISTING TREES

- Existing tree size shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of four-and-one-half feet above the bole, or the location where tree trunk meets the soil it is planted in.
- In the case of a multi-stemmed tree, the cumulative DBH shall be the square root of the sum of all the individual stem diameters squared. As an alternative, the tree's basal area is the sum of the diameters of all tree stems.

**FIGURE 6.6.8: PLANT SIZE DETERMINATION**



<sup>39</sup> See STN Note # 16.

#### C. ROUNDING

When computation of the amount of landscaping material to be provided results in a fraction, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

#### D. CALCULATION OF REQUIRED LANDSCAPING YARD OR AREA DISTANCES

1. In cases where a driveway, sidewalk, or greenway trail intersects a required landscaping area or yard, the width of these features shall be subtracted from the yard or area distance.
2. In cases where an easement that prohibits the placement of landscaping material intersects a required landscaping yard or area, the width of the easement shall not be subtracted from the required yard or area distance. Required plant material shall be located outside the easement but within the required landscaping area or yard.

### 6.6.9 PLANT PLACEMENT

#### A. OUTSIDE PUBLIC STREET RIGHTS-OF-WAY

1. Except for street trees, required landscaping material shall not be located within a street right-of-way.
2. Street trees ~~may~~ shall be located within a street right-of-way in accordance with Section 6.6.15, Street Trees, in the DTNC, DTNN, and DTNT districts as well as within the GTOD when specified by adopted policy guidance.<sup>40</sup>
3. Where provided, street trees shall be configured in accordance with Section 6.6.15, Street Trees.

#### B. GROUPING OF PLANT MATERIAL

1. Except for street trees, vegetation within a type A perimeter buffer, shrubs around a parking lot perimeter, or when vegetation is included as a screening device in accordance with Section 6.6.13, Screening, required plant material may generally be grouped or clustered, however, the overall screening intent must be adequately addressed.
2. Required plant material in a type A perimeter buffer may not be grouped, and shall be planted according to the required on-center spacing in Table 6.6.12.D, Perimeter Buffer Configuration.
3. Street trees shall maintain on-center spacing requirements in Section 6.6.15, Street Trees.
4. Shrubs intended to screen features in accordance with Section 6.6.13, Screening, may not be grouped if such grouping results in the failure to meet the minimum screening standards of this Ordinance.

#### C. MULTIPLE-LOT UNIFIED DEVELOPMENT

A multiple-lot unified development is not required to provide perimeter buffers along lot lines internal to the development, but the perimeter of the development shall be subject to the standards in Section 6.6.12, Perimeter Buffers.

#### D. EASEMENTS

1. Landscaping material may not be located within a public utility or drainage easement.
2. When authorized, trees and shrubs may be located within a required easement on a case-by-case basis with the permission of the easement holder.

<sup>40</sup> See STN Note # 20.



- c. Stormwater management facilities.

#### I. PROHIBITED FEATURES

The following features shall not be located within a required landscaping area:

1. A secondary structure or open-air use;
2. Off-street parking or loading areas; or
3. Outdoor storage or display of products for sale.

### 6.6.10 PLANTING FLEXIBILITY

#### A. CREDIT FOR EXISTING VEGETATION

1. In order to encourage the preservation of established, healthy vegetation, credit shall be given towards the landscaping requirements in this section for preservation of existing trees that are pre-existing within the boundaries of required landscaping areas and that meet the standards in this Ordinance at a rate of two times the amount of existing, healthy trees proposed to be retained during and after development. The Planning Director may require certification of a tree's health by a certified arborist or landscape architect at the applicant's expense.
- ~~1.2.~~ Tree save areas established for the purposes of retaining existing vegetation in accordance with this section shall be credited towards the passive recreation area requirements in Section 6.7, Open Space Set-Aside and Parkland.<sup>41</sup>
- ~~2.3.~~ Vegetation to be credited towards these requirements shall be protected in accordance with Section 6.18.7, Tree Protection During Construction, before and during development of the site and maintained thereafter in a healthy growing condition.
- ~~3.4.~~ In no instance shall credit be given for the retention of existing vegetation that is identified as an invasive species by the North Carolina Agricultural Extension, the North Carolina Forest Service, or the North Carolina Invasive Plant Council.

#### B. REVISIONS TO APPROVED LANDSCAPE PLANS

Due to seasonal planting problems and/or a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting plans may be approved by the Planning Director in accordance with Section 6.6.10C, Alternative Landscape Plans, if:<sup>42</sup>

1. There is no reduction in the quantity of plant material;
2. There is no significant change in size or location of plant materials; and
3. The new plants are of the same general category (i.e., canopy tree, understory tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread, etc.) as the materials being replaced.

#### C. ALTERNATIVE LANDSCAPE PLANS

An alternate landscape plan that allows modifications to the requirements of this section may be approved by the Planning Director in accordance with the following.

##### 1. CONDITIONS JUSTIFYING ALTERNATIVE LANDSCAPE PLAN

Any of the following natural physical conditions may be used as a justification for an alternative landscape plan:

- a. Wetland areas;

<sup>41</sup> See STN Note # 44 & 45.

<sup>42</sup> See STN Note # 21.



#### E. FENCES AND WALLS

1. Opaque fences or walls, a minimum of four feet in height, constructed within required landscaping areas, and configured in accordance with Section 6.3, Fences and Walls, may reduce the minimum and average perimeter buffer width requirement in accordance with Table 6.6.12.D, Perimeter Buffer Configuration.
2. If utilized, fences or walls shall be located within the required landscaping area and all required shrubs shall be planted between the fence or wall and the lot line.
3. Required trees may be planted either in front of or behind the fence or wall.

#### F. PLANTERS

1. Planters, if provided as part of compliance with landscaping requirements, shall be constructed of masonry, stone, or pressure treated lumber stamped for ground contact. Other materials may be approved, based upon their durability, by the Planning Director.<sup>43</sup>
2. Planters shall maintain a minimum height of 30 inches and have an effective planting area of seven feet (measured in any direction) if trees are to be planted and an effective planting area of four feet (measured in any direction) if no trees are to be included.
3. The minimum height of shrubs in the planter, except for ground cover, shall be six inches at the time of planting.

#### G. TREE PROTECTION DURING CONSTRUCTION<sup>44</sup>

##### 1. RESPONSIBILITY

During any development activity (including demolition or clearing activity), the property owner or developer shall be responsible for protecting existing or replacement trees within a tree save area in accordance with the standards in this section.

##### 2. PROTECTIVE FENCING AND SIGNAGE

###### a. PROTECTIVE FENCING

- i. Continuous fencing consisting of a bright orange plastic mesh at least four feet high shall be provided along the boundaries of tree save areas (see figure 6.18-76.10: Tree Fencing). The town shall consider existing site conditions and the species and size of the trees to be protected in determining the exact location of tree protective fencing and may require the fencing to be extended to include the critical root zones of trees. In no instance shall the area required to be located within protective fencing exceed the size of the required tree save area.
- ii. Tree save areas that are inaccessible to development activities or separated from development activities by a distance of at least 100 linear feet are exempted from the requirement for tree protection fencing.
- iii. Nothing shall prevent tree protection fencing and silt fencing from being consolidated.

###### b. WARNING SIGN

<sup>43</sup> See STN Note # 22.

<sup>44</sup> See STN Note # 44 & 45.

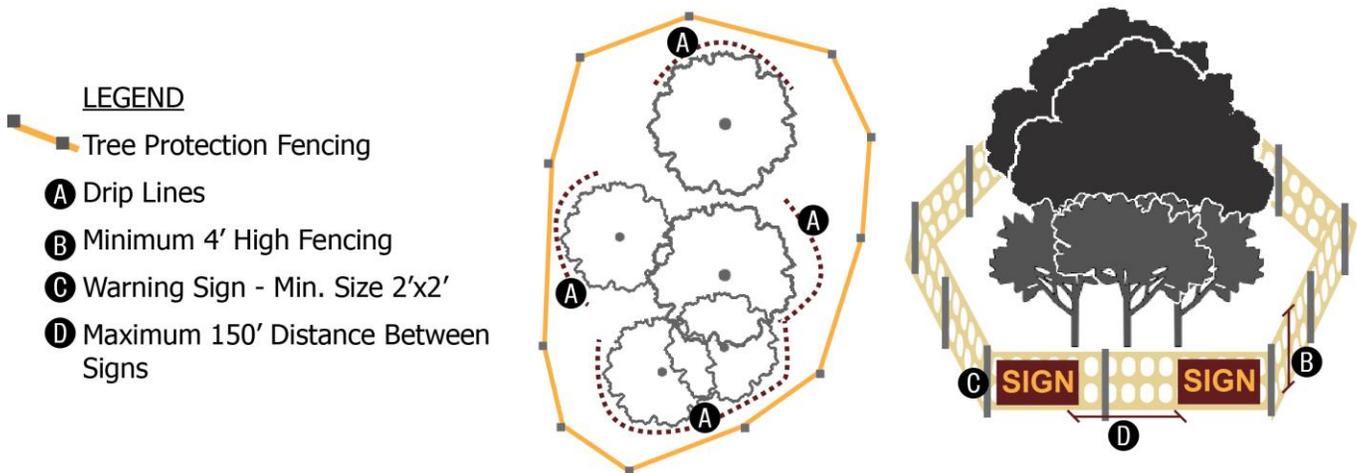


Warning signs shall be installed along any required tree protective fencing at points no more than 150 feet apart. The signs shall be clearly visible from all sides of the outside of the fenced-in area. The size of each sign must be a minimum of two feet by two feet. The sign message shall, in both English and Spanish, identify the fenced or marked area as a tree protection area and direct workers not to encroach into the area (e.g., "Tree Protection Area: Do Not Enter"). For the purposes of this Ordinance, these warning signs are considered government signs exempted from First Amendment protections regarding regulation of sign content.

#### **c. DURATION OF PROTECTIVE FENCING OR SIGNAGE**

Required protective fencing and signage shall be erected before any grading or other development activity begins and shall be maintained until issuance of a Certificate of Occupancy or other final approval.

**FIGURE 6.6.10+8.7: TREE FENCING**



### **3. TREE SAVE AREA REQUIREMENTS**

Except where agreed to by the Town, encroachments into a tree save area may occur only when no other alternative exists, and shall comply with landscaping best management practices and the following limitations and requirements:

- a.** No development activity—including grade changes, the operation or parking of heavy equipment, or the washing down of concrete or cement handling equipment, or the storage of fuel, chemicals, materials, supplies, or construction waste and debris—shall be allowed within the tree save area;
- b.** Any permitted clearing of vegetation within the tree save area shall be only by hand;
- c.** Retaining walls and drywells may be used to protect trees to be preserved from severe grade changes if venting, adequate to allow air and water to reach tree roots, is provided through any fill;
- d.** No structures or hard surfaces shall be located within a tree save area; and
- e.** Installation of fences and walls shall take into consideration the root systems of existing trees. Post-holes and trenches close to trees shall be dug by hand and adjusted as necessary to avoid damage to major roots. Continuous footers for masonry walls shall

end at the point where major large roots are encountered, and major roots shall be bridged.



FIGURE 6.6.14: SITE LANDSCAPING



## 6.6.15 STREET TREES

**A.** Development within the ~~downtown, residential, mixed-use~~ following ~~NCM, CZD, CZM, and CZR~~ districts shall provide street trees in accordance with the following standards:

1. ~~DTNC;~~
2. ~~DTNN;~~
3. ~~DTNT;~~
4. ~~NCM;~~
5. ~~CZD;~~
6. ~~CZM;~~ and
7. ~~CZR.~~

**B.** ~~Unless exempted by this ordinance, development not providing street trees shall provide a streetscape buffer in accordance with Section 6.6.16, Streetscape Buffers.~~<sup>45</sup>

### **A.C.** WHERE REQUIRED

Street trees shall be located within tree pits or planting strips within the street right-of-way (see Figure 6.6.15: Street Tree Configuration).

### **B.D.** LOCATION

#### 1. WITHIN TREE PITS

In cases where sidewalks, boardwalks, or paving is located in the right-of-way, street trees shall be located within tree pits, configured in accordance with the following standards:

- a. Tree pits shall have a minimum planting area of at least 36 square feet per tree pit;
- b. Tree pits shall be covered or configured with ground covering at the same general height as the pedestrian walkway to avoid being a tripping hazard; and
- c. Tree pits shall include structural soils or screened backfill to ensure appropriate drainage and backfill.

<sup>45</sup> See STN Note # 20.



## **G. TREE REMOVAL AND TOPPING ON PUBLIC PROPERTY<sup>46</sup>**

1. The removal or topping of trees shall be prohibited on public property and designated rights-of-way unless such activity is conducted by the Town or a public utility provider, and is necessary to protect public health, safety, or welfare.
2. Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this standard by the Planning Director.

<sup>46</sup> See STN Note # 44 & 45.



## 6.7 OPEN SPACE SET-ASIDE AND PARKLAND

### 6.7.1 OPEN SPACE SET-ASIDE

#### A. HOW TO USE THESE STANDARDS<sup>47</sup>

1. Developments subject to these open space set-aside standards (see Section 6.7.1C, Applicability) shall provide the minimum amount of open space set-aside required for the zoning district where located as identified in Chapter 3, Districts.
2. The physical amount of open space to be set aside within a particular development is a percentage of total development size. These percentage requirements are found in the dimensional standards tables for the zoning districts in Chapter 3, Districts. There is no limitation on the provision of additional open space set-aside beyond the minimum specified in Chapter 3, Districts.
3. Once the minimum amount of open space set-aside to be provided is determined, the type of open space set-aside, if specified, should also be determined in accordance with Section 6.7.1D.2, Type.
4. Applicants should consult Section 6.7.1E, Open Space Set-Aside Configuration, in order to determine any applicable design requirements or prohibited features.
5. ~~The required amount of open space set-aside may be reduced based on the provision of sustainable development features in accordance with Section 6.17, Sustainable Development Incentives, or other aspects of this Ordinance.~~

#### B. PURPOSE AND INTENT

The purpose of this section is to help ensure the provision and maintenance of open space resources that encourage recreation and the gathering of Town residents and visitors. These standards are further intended to:

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

#### C. APPLICABILITY

##### 1. GENERALLY

- a. Unless exempted in accordance with Section 6.7.1C.3, Exemptions, the standards in this section shall apply to all new development and redevelopment in the Town.
- b. Redevelopment conducted after January 2, 2024, 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.

##### 2. CONSERVATION SUBDIVISIONS

Open space set-asides associated with a conservation subdivision shall be subject to the standards in Section 2.3.7, Conservation Subdivision, in addition to these standards. In the event of a conflict, the standards in Section 2.3.7, Conservation Subdivision, shall control.

<sup>47</sup> See STN note # 25 & 43.

**TABLE 6.7.1.D: OPEN SPACE SET-ASIDE TYPE**

ZONING DISTRICT WHERE LOCATED [1]	TYPE OF OPEN SPACE SET-ASIDE REQUIRED [2]
<p>[1] The type of open space set-aside provided may deviate from these requirements as part of a Type 3 Conditional Rezoning.</p> <p>[2] See Section 6.7.1E, Open Space Set-Aside Configuration, on allowable forms of development and configuration.</p> <p>[3] Development may provide some or all of the required open space set-aside as active open space or gathering space, at the discretion of the applicant.</p> <p>[4] Development may provide some or all of the required open space set-aside as active open space.</p> <p>[5] Development may provide some or all of the required open space set-aside as gathering space.</p> <p>[6] The remainder of required open space set-aside may be configured as active open space, gathering space, or passive open space.</p>	

- b. In cases where development must configure open space set-aside with active recreation features, it shall be configured in accordance with Section 6.7.1E.2, Active Open Space Set-Aside.
- c. In cases where open space set-aside shall be configured as gathering space, it shall be configured in accordance with Section 6.7.1E.3, Gathering Spaces.

**E. OPEN SPACE SET-ASIDE CONFIGURATION**

Open space set-asides shall be configured in accordance with the following standards.

**1. PASSIVE OPEN SPACE SET-ASIDE**

Passive open space set-asides are intended to provide land area that is undeveloped, or that is developed with low-intensity recreational features (such as those for walking or sitting), landscaping, replacement trees, or stormwater control measures that are configured as a site amenity (see Figure 6.7.1.E.2, Types of Open Space).

**a. ALLOWABLE FEATURES**

The land area occupied by any of the following types of features is credited towards required passive open space set-aside: **AMENDED 9.16.24 (UDOTA2-24)**

- ~~i. Walking, bicycling, and equestrian trails outside of greenways;~~
- ~~ii. Boardwalks outside of greenways;~~
- ~~iii. Gardens;~~
- ~~iv. Benches and seating areas;~~
- ~~v. Tables, grills, and related picnicking facilities;~~
- vi.ii. Lawn areas and community greens;
- vii.iii. Lakes, ponds, wetlands, swamps, canals, and streams;
- viii.iv. Areas occupied by trees and undisturbed vegetation;
- ~~ix. Piers and docks for fishing or viewing wildlife;~~
- x.v. Easements for access, drainage, maintenance, or public utilities; and
- xi.vi. Undisturbed land subject to a deed restriction or conservation easement.

**b. SITE FEATURES CREDITED TOWARDS PASSIVE OPEN SPACE SET-ASIDE REQUIREMENTS**

- i. The following site features shall be credited towards passive open space set-aside requirements:



1. Lands dedicated for public parks or greenways, when not already credited towards active open space set-asides or gathering areas;
  2. Required landscaping areas;
  3. Permanent tree save areas;
  4. U.S. Army Corps of Engineers designated 404 wetlands;
  5. Riparian buffer areas;
  6. Natural heritage areas;
  7. Areas qualifying as resource conservation areas established prior to January 2, 2024 (land converted to resource conservation resource area in accordance with Section 6.11.6, Conversion to Resource Conservation Areas, shall not be credited as open space set-aside); and<sup>48</sup>
  8. Tree save areas associated with retention of existing vegetation in accordance with Section 6.6.10, Planting Flexibility.<sup>49</sup>
  9. 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; and
  - ~~8:10.~~ Areas configured in accordance with Section 6.7.1E.2, Active Open Space Set-Aside, and Section 6.7.1E.3, Gathering Spaces.<sup>50</sup>
- ii. In order to be considered a site amenity that is credited towards passive open space set-aside requirements, stormwater control measures shall include all the following:
1. Pedestrian access to the facility;
  2. Gentle slopes of three-to-one (3:1) or less;
  3. Pedestrian elements such as paths, benches, and similar aspects to and around the facility; and
  4. Vegetation, whether planted or retained.

#### c. CONFIGURATION

In no instance shall passive open space set-asides be retained, located, or configured in ways that reduce required street setbacks between the edge of a street right-of-way. Passive open space set aside areas that border a street shall maintain a minimum width at least as deep as the applicable street setback in the district where located.

## 2. ACTIVE OPEN SPACE SET-ASIDE

Active open space set-asides provide for active recreational needs of the residents or visitors they serve. Active features include fields and courts as well as built structures (see Figure 6.7.1.E.2, Types of Open Space). Active open space set-asides shall meet the following standards:

#### a. CONFIGURATION

- i. Lands set aside as active open space set-aside shall be compact and contiguous unless the land is used as a continuation of an existing trail, or specific natural or topographic features require a different configuration.
- ii. Active open space set-aside areas shall be located so as to be readily accessible and usable by residents and users of the development.
- iii. Where possible, a portion of the open space set-aside should provide focal points for the development.
- iv. Where the development site is adjacent to existing or planned trails, parks, or other public open area land, the open space set-aside shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other open area (see Figure 6.7.1.E.1, Open Space Continuation).

<sup>48</sup> See STN# Note 51.

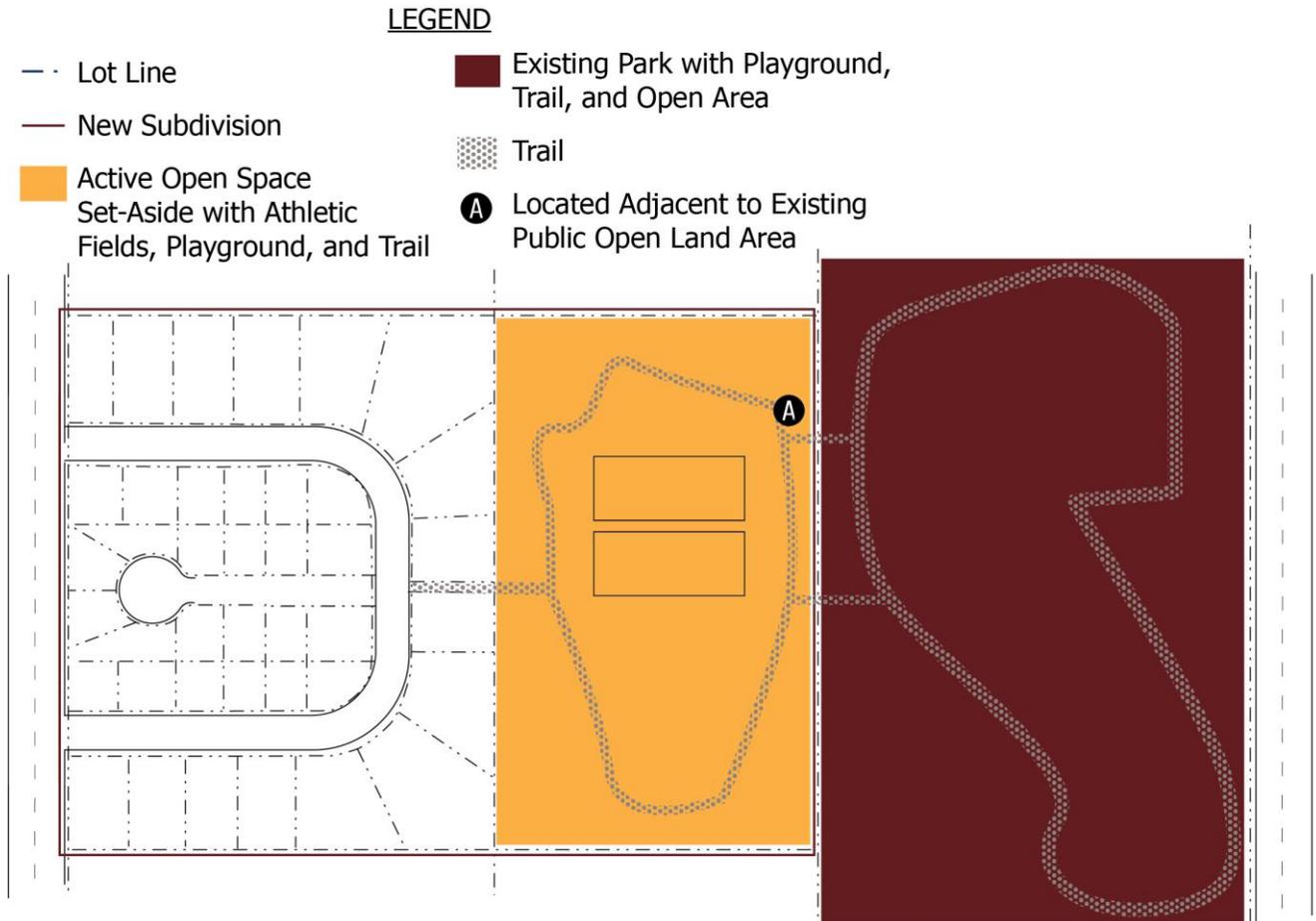
<sup>49</sup> See STN Note 44 & 45.

<sup>50</sup> See STN Note # 27.



iv.v. Land areas adjacent to and associated with the function of an active recreation space shall be credited towards open space set-aside for active recreation.<sup>51</sup>

**FIGURE 6.7.1.E.1: OPEN SPACE CONTINUATION**



**b. ALLOWABLE FEATURES<sup>52</sup>**

The following types of features are allowable in and credited towards active open space set-asides: **AMENDED 9.16.24 (UDOTA2-24)**

- i.** Lands dedicated for public parks or greenways;
- ii.** Walking, bicycling, and equestrian trails outside of greenways;
- iii.** Boardwalks outside of greenways;
- ii.iv.** Swimming pools, splash pads, and areas devoted to water play for children;
- iii.v.** Athletic fields and courts;
- vi.** Benches and seating areas;
- vii.** Tables, grills, and related picnicking facilities;
- viii.** Boat launches and swimming platforms;
- iv.ix.** Piers and docks for fishing or viewing wildlife;
- v.x.** Club houses and shelters;
- vi.xi.** Playgrounds and play structures for children;

<sup>51</sup> See STN Note # 27.

<sup>52</sup> See STN Note # 27.



- vii-xii. Obstacle courses and exercise trails; and
- xiii. Easements for access, drainage, maintenance, or public utilities; and
- viii-xiv. Gathering spaces configured in accordance with Section 6.7.1E.3, Gathering Spaces.

### 3. GATHERING SPACES

Gathering spaces are open space set-asides that provide formal or informal gathering areas for people or locations for vegetation or stormwater uptake within urbanized portions of the Town’s planning jurisdiction. Gathering spaces can include outdoor dining areas, outdoor seating areas, performance spaces, building atriums with plants and seating, or green roofs (see Figure 6.7.1.E.2, Types of Open Space).

#### a. ALLOWABLE FEATURES

The following types of features are allowable in gathering spaces:

- i. Lands dedicated for public parks or greenways;
- ii. Plazas and courtyards;
- iii. Public art installations;
- iv. Roof gardens;
- v. Indoor atriums with plantings and seating that are open to the general public;
- vi. Outdoor dining areas;
- vii. Fountains; and
- viii. Areas devoted to public gathering.

**FIGURE 6.7.1.E.2: TYPES OF OPEN SPACE**



- g. Mobile homes;
  - h. Single-family attached dwellings when located in developments of six or fewer dwellings (driveways may be located on land owned in common), or in cases where a single-family attached dwelling is served by a rear-loaded driveway;<sup>53</sup>
  - i. Single-family detached dwellings, including those in bungalow courts and pocket neighborhoods;
  - j. Secondary dwelling units;
  - k. Triplex/quadplex dwellings; and
  - l. Duplex dwellings.
2. Driveways shall be of sufficient size to accommodate all the off-street parking spaces required by Table 6.9.4, Table of Minimum Off-Street Parking Requirements, and comply with the applicable standards in Section 6.1.4, Driveways. In no instance shall accommodation of vehicle parking in accordance with this subsection result in parked vehicles protruding into or over street rights-of-way, sidewalks, greenways, required sight distance triangles, areas used for refuse collection, or required landscaping areas.

## H. GARAGES USED TO MEET PARKING REQUIREMENTS

On-site garages may be credited towards the off-street parking requirements only in accordance with the following:

### 1. SINGLE-FAMILY DETACHED DWELLINGS

- a. Except when configured as bungalow courts or pocket neighborhoods, single-family detached dwellings, whether occupied as a principal or secondary use, that include one one-car garage shall not receive credit from this garage parking space towards meeting the required number of off-street parking spaces. Lots with single-family detached dwellings that include two or more garage parking spaces shall receive credit towards off-street parking requirements for the second and each subsequent garage parking space on the lot.
- b. A one-car garage shall be credited towards off-street parking space requirements for a single-family detached dwelling when the dwelling is included as part of a bungalow court or pocket neighborhood.

### 2. SINGLE-FAMILY ATTACHED, DUPLEX, TRIPLEX, AND QUADPLEX DWELLINGS

- a. A one-car garage integral or attached to a single-family attached dwelling shall not receive credit towards off-street parking. Garages with two or more garage parking spaces shall receive credit towards off-street parking requirements for the second and each subsequent garage parking space on the lot.
- b. Garage parking spaces intended to serve three or more individual dwelling units and located within a single principal or secondary structure shall be credited towards the off-street parking spaces in this section.

### 3. STRUCTURED PARKING

Garage parking spaces located within structured parking and serving two or more separate residential dwellings or a non-residential use type shall be credited towards the off-street parking requirements in this section.

<sup>53</sup> See STN Note# 29.



**TABLE 6.9.4: MINIMUM OFF-STREET PARKING SPACES REQUIRED**

[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1][2]
Live/Work Dwelling	2 + 1 per every 500 sf of non-residential floor area
Manufactured Home	2 per dwelling unit
Manufactured Home Park	2 per each home site + 0.25 guest spaces per dwelling unit
Multi-Family Dwelling	1 per each one-bedroom unit; 1.25 per each unit with two or more bedrooms; 0.25 guest spaces per dwelling unit
Pocket Neighborhood	1 + 0.25 guest spaces per dwelling unit
Single-Family Attached Dwelling	2 per dwelling unit + 0.25 guest spaces per dwelling unit
Single-Family Detached Dwelling	2 per dwelling unit [6]
Triplex/Quadruplex	2 per dwelling unit
Duplex Dwelling	2 per dwelling unit
Upper-Story Dwelling	1 per dwelling unit

**NOTES:**

[1] See Section 6.9.10, Measurement, for details on how required parking spaces are computed.

[2] "sf" means the total gross square feet of all principal and buildings, the total square footage associated with all secondary buildings used for a use listed in this table, and outdoor use area only when specified in this table.<sup>54</sup>

[3] Excludes bona fide farms, raw land in agricultural production, and other non-habitable agricultural buildings.

[4] In the event seating associated with on-site consumption is permanently removed from the premises, the off-street parking standard shall convert to 2 + 1 per employee on the largest shift.

[5] Excludes long-term parking for travelers.

[6] Major subdivisions in the DTNN, RHD, and RMF districts shall include an additional 0.25 off-street parking space for every dwelling unit. These parking spaces shall be designated as guest parking, located in commonly-held off-street areas, and centrally-located or dispersed throughout the subdivision.

**6.9.5 BICYCLE SPACES**

Bicycle parking shall be provided in accordance with the following standards:

**A. APPLICABILITY**

1. Bicycle parking facilities shall be provided on all new commercial, mixed-use, multi-family, and institutional use types served by 20 or more required off-street parking spaces for vehicles.
2. The following use types are exempted from these providing bicycle parking space requirements:
  - a. Single-family detached dwellings, manufactured homes, or mobile homes;
  - b. Single-family attached dwellings;

<sup>54</sup> See STN Note # 30.



#### H. MARKINGS

1. All parking spaces and lanes in parking lots shall be clearly delineated with paint lines, curbs, or other treatment.
2. All pavement markings shall be maintained to be distinguishable. Failure to maintain required markings shall be a violation of this Ordinance.

#### I. MINIMUM PARKING LOT STEM LENGTH ACCESSWAY WIDTH AND DEPTH<sup>55</sup>

All vehicular accessways serving off-street parking lots shall comply with the standards in Section 6.1.4E, Non-residential Driveways.

#### J. PARKING SPACE ACCESS

1. All off-street parking spaces shall be accessed directly from drive aisles or private driveways and not directly from arterial or collector streets.
2. All off-street parking areas shall be designed with an appropriate means of vehicular access to a street or alley in a manner that allows for safe vehicular movements.

#### K. PEDESTRIAN WALKWAYS

Pedestrian walkways between the principal buildings on a development site and a sidewalk or other pedestrian way (like a greenway trail) shall be provided in accordance with Section 6.1, Access and Circulation.

#### L. SEPARATION FROM FIRE PROTECTION FACILITIES

1. No required off-street parking space shall be located within 15 feet of a fire hydrant or other fire protection facility.
2. Parking shall not take place within designated fire lanes or other areas demarcated for fire protection.

#### M. SURFACE MATERIALS

1. All off-street parking spaces, accessible parking spaces, drive aisles, and vehicular use areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights (see Figure 6.9.7.M, Parking Lot Surface Materials).
2. The use of pervious or semi-pervious materials may be approved as part of an alternative parking plan (see Section 6.9.8, Parking Flexibility), provided it is demonstrated that the materials will function in a similar fashion as required materials.
3. Gravel may be used as a surface material for off-street parking spaces following review and approval of a Site Plan in accordance with Section 2.3.21, Site Plan, subject to the following requirements: **AMENDED 9.16.24 (UDOTA2-24)**
  - a. The off-street parking space or lot is within or directly abutting a NCRR railroad corridor; and
  - b. The gravel portion of a parking lot is located behind the front building façade line; and
  - c. Except when proposed in the Public Facilities (PUB) district, a gravel parking lot or area shall not be located on a vacant lot; and
  - d. The parking lot includes a wheel stop for each designated parking space; and
  - e. Each side of each individual parking stall is visibly demarcated; and
  - f. The parking lot maintains positive drainage; and

<sup>55</sup> See STN Note # 31.



## 6.11 RESOURCE CONSERVATION AREAS<sup>58</sup>

### 6.11.1 DETERMINATION OF RESOURCE CONSERVATION AREAS

The following are considered resource conservation areas and shall be unoccupied by buildings or other impervious surfaces unless permitted in accordance with the standards in this section.

- A. The 100-year floodplain;
- B. Stream buffer areas;
- C. Jurisdictional wetlands under federal law that meet the definition applied by the United States Army Corps of Engineers; and
- D. Natural steep slopes defined as slopes 25 percent (4:1) or greater that are directly connected to one of the above features, and at least 5,000 square feet of contiguous area; and
- ~~D.E.~~ Land converted to a resource conservation area in accordance with Section 6.11.6, Conversion to Resource Conservation Areas.

### 6.11.2 GENERAL REQUIREMENTS

- A. Resource conservation areas shall be identified on Site Plans, Preliminary Plats, and Final Plats as being permanently set aside from development.
- B. No resource conservation area shall be counted towards the minimum lot area required in Chapter 3, Districts, with the exception of land occupied by a riparian buffer in accordance with NCGS §143-214.23A.
- C. Resource conservation areas may be included within a platted lot provided the area of the lot not identified as resource conservation area is sufficient to meet the lot area requirements for the zoning district where located.
- D. Except for the following, no resource conservation area shall be counted as open space set-aside required in Section 6.7, Open Space Set-Aside and Parkland:
  - 1. Resource conservation areas provided solely for the purposes of passive recreation configured in accordance with Section 6.7.1E.1, Passive Open Space Set-Aside, provided the resource conservation area is established prior to January 2, 2024;
  - ~~1.2.~~ Riparian buffers identified in accordance with NCGS §143-214.23A, and Section 6.12, Riparian Buffers; and
  - ~~2.3.~~ Greenways, greenway access, and water-access configured in accordance with the Town's adopted policy guidance and Section 6.10.1, Greenways and Trails.
- E. In cases where an appropriate State or federal agency issues permits for development in a stream buffer area or jurisdictional wetlands, the area may be developed as if it is not located within a resource conservation area, in the sole discretion of the Planning Director.

### 6.11.3 PERMITTED USES OF RESOURCE CONSERVATION AREAS

Uses in resource conversation areas may include the following:

- A. Conservation areas for natural, archeological, or historical resources;
- B. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- ~~B.C.~~ Areas occupied by existing trees and the critical root zone associated with them;
- D. Agriculture, horticulture, silviculture, or pasture uses, provided:
  - 1. That the use is permitted in the zoning district where located; or

<sup>58</sup> See STN Note# 34 & 51.

2. It is located on land outside the City's corporate limits and used for bona fide farm purposes in accordance with Section 1.1.3B, Exemptions from Zoning Requirements; and

3. ~~C.~~ All applicable best management practices are used to minimize environmental impacts;

~~D.~~ E. Walking or bicycle trails;

E. ~~F.~~ Easements for drainage, access, and underground utility lines;

F. ~~G.~~ Other conservation-oriented uses compatible with the purposes of this section; and

G. ~~H.~~ Public infrastructure projects and supporting facilities.

#### 6.11.4 PROHIBITED USES OF RESOURCE CONSERVATION AREAS

Use of resource conservation areas may not include the following:

**A.** Stormwater control measures;

**B.** Roads, parking lots and impervious surfaces, except as specifically authorized through the appropriate governing body (DEQ, USACE, etc.); ~~and~~

**C.** Golf courses or golf driving ranges;

**D.** ~~A.~~ Agriculture or agri-tourism activities when the land is located within the City's corporate limits; and

**E.** ~~a~~ and ~~F.~~ Forestry activities ~~not~~ conducted without a forestry management plan prepared in accordance with NCGS§160D-921 according to accepted best management practices.

#### 6.11.5 OWNERSHIP AND MAINTENANCE

##### A. OWNERSHIP

Resource conservation areas shall be accepted and owned by one of the following entities:

###### 1. LAND CONSERVANCY OR LAND TRUST

The responsibility for maintenance shall be borne by a land conservancy or land trust.

###### 2. OWNERS' ASSOCIATION

An owners association representing residents of the subdivision shall own the resource conservation areas. The owners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance of the resource conservation area shall be borne by the owner's association.

###### 3. PRIVATE LANDOWNER

A private landowner may retain ownership of the resource conservation areas and may be responsible for maintenance of the resource conservation area, subject to Section 6.11.5C, Legal Instrument for Permanent Protection.

##### B. MAINTENANCE REQUIREMENTS

1. Resource conservation area maintenance is limited to removal of litter, dead tree and plant materials, and invasive species~~brush.~~

2. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream and wetland restoration activities, conducted in accordance with best practices, are permitted.

3. Stream channels shall be maintained so as not to alter floodplain levels.

4. Unless otherwise specified by the Town Council, maintenance is limited to ensuring that ~~there exist~~ no hazards, nuisances, or unhealthy conditions are created or maintained.

#### C. LEGAL INSTRUMENT FOR PERMANENT PROTECTION

1. Resource conservation areas shall be protected in perpetuity by a binding legal instrument that is recorded with the Register of Deeds for Johnston County.
2. The instrument for permanent protection shall include clear restrictions on the use of the resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration.

#### 6.11.6 CONVERSION TO RESOURCE CONSERVATION AREAS

Lands proposed for conversion to resource conservation area shall comply with all the standards in Section 6.11, including the following:

##### A. REQUIRED AS PART OF DEVELOPMENT WITHIN A RESOURCE CONSERVATION AREA

A resource conservation area may be converted to development purposes only after other non-resource conservation land is converted in accordance with the following standards.

##### B. ADDITIONAL RESOURCE CONSERVATION AREA REQUIRED

Resource conservation area may be converted to development area provided the landowner mitigates the proposed conversion by providing additional resource conservation area on the same lot or site. The additional resource conservation area shall meet the following requirements:

###### 1. AMOUNT

For each square foot of existing resource conservation area proposed for conversion to development area, the landowner shall identify and preserve an additional three-square feet of land outside any existing resource conservation area as converted resource conservation area.

###### 2. CONFIGURATION

To be considered eligible for use as a converted resource conservation area, the land proposed for designation shall:

- a. Not be located within an existing resource conservation area;
- b. Shall remain in an undisturbed state free from grading or other land disturbance except as permitted in accordance with Section 6.11.5B, Maintenance Requirements; and
- c. Not be located within designated parkland or open space set-aside.

##### C. NOT COUNTED AS OPEN SPACE SET-ASIDE

1. In no instance shall land areas proposed for conversion to resource conservation area as part of the standards in this section be credited towards parkland or open space set-aside required by Section 6.7, Open Space Set-Aside and Parkland.
2. Nothing shall prevent resource conservation areas established prior to January 2, 2024 from being credited towards the passive open space set-aside standards in Section 6.7, Open Space Set-Aside and Parkland.

##### D. DESIGNATED ON CONCEPT PLAN, SUBDIVISION PLAT, AND SITE PLAN

Land proposed for conversion to resource conservation area in accordance with the standards in this section shall be clearly designated on all Concept Plans, subdivision plats, Site Plans, Construction Drawings, and As-Builts.



#### 6.13.6 PROHIBITED SIGN LOCATIONS

- A.** In no instance shall a sign or sign support structure be located within the following areas:
1. Within five feet of the street right-of-way, except as allowed in Section 6.13.7C.2, Signs Allowed in the Right-of-Way;
  2. Sight distance triangles, unless required by NCDOT;
  3. Required open space set-asides; or
  4. Within a public utility or drainage easement.
- B.** Nothing shall limit the placement of a sign or sign support structure within a required zoning district setback, provided it complies with the applicable standards in this section and does not interfere with landscaping materials required by Section 6.6, Landscaping and Screening.

#### 6.13.7 PROVISIONS APPLICABLE TO ALL SIGNS

##### A. SIGN PERMIT REQUIRED

1. Unless exempted by Section 6.13.3, Exemptions, or included in Section 6.13.7B, Signs Not Subject to Sign Permit, all signs shall require issuance of a sign permit in accordance with Section 2.3.20, Sign Permit, prior to construction, installation, revision, or display.
2. Some signs may also require building and electrical permits in accordance with the North Carolina Building Code.

##### B. SIGNS NOT SUBJECT TO SIGN PERMIT

1. The following sign types shall not be required to obtain a sign permit, but shall comply with all applicable requirements in this section and this Ordinance:
  - a. The placement of one or more incidental signs, subject to the applicable standards in Section 6.13.9, Sign Standards by Sign Type;
  - b. The placement of a temporary sign, subject to the applicable standards in Section 2.3.25, Temporary Permit, and Section 6.13.9, Sign Standards by Sign Type; and
  - c. Public art, subject to the standards in Section 4.5.5D, Art Installation.
2. Failure to comply with the standards for these sign types shall be a violation of this Ordinance subject to the provisions in Chapter 7, Violations.

##### C. SIGNS IN PUBLIC STREET RIGHTS-OF-WAY

###### 1. GENERALLY

No sign shall be permitted within a public street right-of-way except in accordance with Section 6.13.7C.2, Signs Allowed in the Right-of-Way.

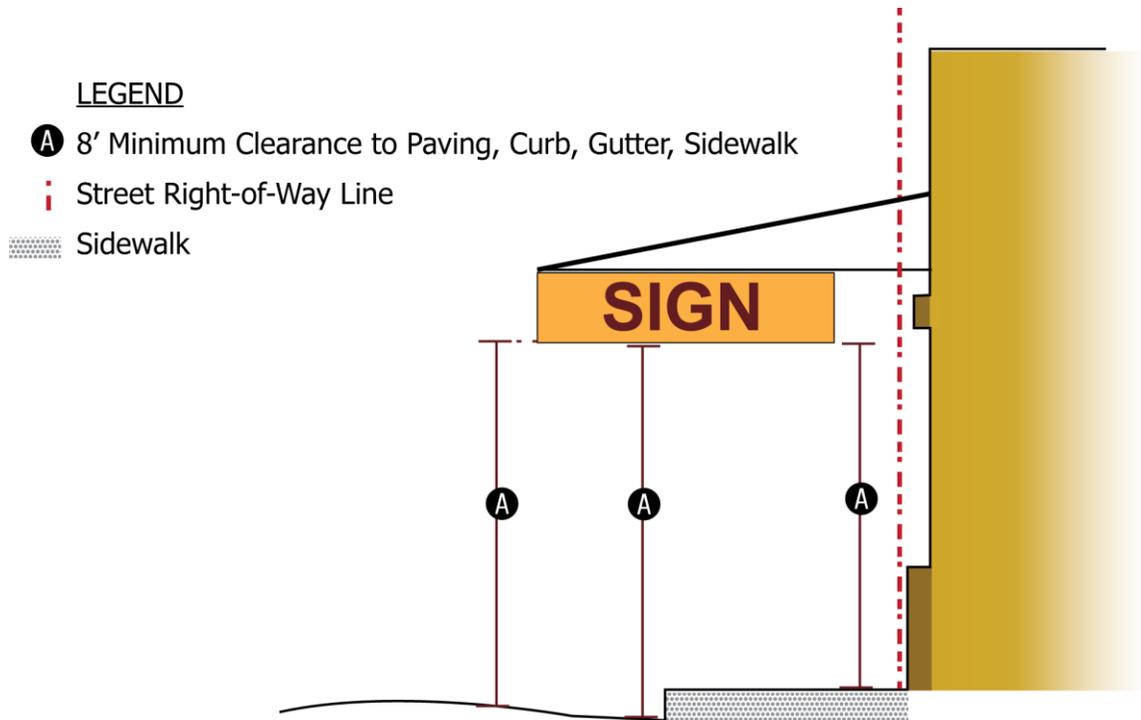
###### 2. SIGNS ALLOWED IN THE RIGHT-OF-WAY

- a. Only the following signs may be permitted in a public street right-of-way:
  - i. Governmental signage erected by the Town of Clayton;
  - ii. Signage erected by NCDOT;
  - iii. Emergency warning signage erected by a governmental agency, public utility, or contractor performing work within the right-of-way;
  - iv. Political signs;
  - v. Sidewalk Signs; and<sup>57</sup>
  - vi. Allowable farm signs.

<sup>57</sup> See STN Note # 39

- b. Except for sidewalks signs, signs permitted within a street right-of-way shall maintain a minimum vertical clearance of at least ~~nine~~**eight** feet above the paving, curb, gutter, sidewalk, or grade, as appropriate (see Figure 6.13.7, Minimum Vertical Clearance).<sup>58</sup>
- c. In the event the establishment or realignment of a street results in an existing sign becoming wholly or partially within the right-of-way in violation of these standards, the sign shall be removed at the expense of the person or agency establishing or realigning the street.

**FIGURE 6.13.7: MINIMUM VERTICAL CLEARANCE**



**3. REMOVAL OF ILLEGAL SIGNS IN RIGHT-OF-WAY AND ON PUBLIC PROPERTIES**

- a. The Planning Director or a designee may remove any sign placed on public property or within any public right-of-way in violation of this Ordinance.
- b. Signage determined to be in violation of this Ordinance and removed from public property or a public right-of-way shall be discarded.
- c. Penalties may be levied for each such illegal sign as prescribed in Chapter 7, Violations.

**D. CHANGEABLE COPY**

Areas devoted to changeable copy on a sign shall be subject to the following standards:

1. Changeable copy areas may only be located on ground or wall signs;
2. No more than 50 percent of the sign face area may be devoted to changeable copy area;
3. As a means of avoiding distractions for drivers, bicyclists, and pedestrians, the display of changeable copy shall not change more than once per minute;

<sup>58</sup> See STN Note # 40.

4. Outdoor advertising signs shall not include areas devoted to changeable copy;
5. Signage copy shall not be animated, and shall not blink, scroll, flash, or have other moving effects. This provision shall not restrict the copy from changing from one message to another.

### E. ILLUMINATION

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Where authorized, signs may only be illuminated in accordance with the following standards:

#### 1. GENERALLY

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- a. Internally illuminated signs shall obtain a building permit and be configured in accordance with North Carolina Building Code, applicable electric code, and the adopted fire code.<sup>59</sup>
- b. All wiring to ground, pole, or other freestanding signs erected after January 2, 2024, shall be located underground.

#### 2. INTERNAL ILLUMINATION

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- a. Internally illuminated signs are prohibited within all residential districts.
- b. Nothing shall require a pre-existing internally illuminated sign lawfully established prior to January 2, 2024, to be removed if the lot it faces becomes used solely for residential purposes.

#### 3. INDIRECT OR EXTERNAL ILLUMINATION

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- a. All external or indirectly illuminated signs shall illuminate only the face of the sign and shall not shine directly into or create glare on a right-of-way or residential use.
- b. Indirect or externally illuminated signs shall comply with the standards in Section 6.4.6E, Maximum Illumination Levels.

#### 4. FLASHING OR INTERMITTENT LIGHTS PROHIBITED

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- a. Flashing lights are prohibited.
- b. Sign illumination shall not vary in degrees of brightness or intensity.

### F. STRUCTURAL CONFIGURATION

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All signs and sign supporting structures shall be constructed and designed according to generally accepted engineering practices to withstand wind pressures and load distribution as specified in the current North Carolina Building Code.

### G. MAINTENANCE REQUIRED

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1. All signs and sign supports shall be maintained in good repair.
2. In the event a sign or sign support is poorly maintained or becomes unsafe, the Planning Director shall notify the sign owner of the condition in writing, and the sign owner shall take whatever action is required to maintain public safety.
3. Failure to correct the unsafe condition is a violation of this Ordinance and shall be subject to the remedies in Section 7.6, Remedies.

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<sup>59</sup> See STN Note # 41.



- b. Making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that program.
  - c. Making offset payments to the Town of Clayton for equivalent nutrient credits at 80 percent of the rate calculated by the NC Ecosystem Enhancement Program for the Neuse-Falls Lake watershed.
  - d. A developer may propose to offset measures to the Town, including providing their own off-site offset.
2. All offsite measures shall meet the requirements of 15A NCAC 02B .0273 (2) through (4) and 15A NCAC 02B. 0240.
  3. Documentation and proof of purchase for offset credit options is required prior to construction plan approval.

## F. STANDARDS FOR STORMWATER CONTROL MEASURES

### 1. EVALUATION ACCORDING TO CONTENTS OF DESIGN MANUAL

- a. All stormwater control measures, stormwater systems, and stormwater treatment practices (also referred to as Best Management Practices, or BMP/SCMs) required by these standards shall be evaluated by the Stormwater Administrator according to the policies, criteria for each stormwater practice, in the most updated version of the Design Manual.
- b. The Stormwater Administrator shall determine whether proposed BMP/SCMs will be adequate to meet the requirements of this section.

### 2. DETERMINATION OF ADEQUACY; PRESUMPTIONS AND ALTERNATIVES

- a. Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Design Manual and the approved accounting tool will be presumed to meet the minimum water quality and quantity performance standards of these standards.
- b. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of these standards.
- c. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

### 3. SAFETY REQUIREMENTS

All SCM facilities subject to this [Ordinance](#) shall be designed with features to discourage access from unauthorized personnel to prevent injury and accidental loss of life.

### 4. ACCESS

[All private stormwater control measures must be served by an access easement from an adjacent street or vehicular travelway for the purpose of maintenance.<sup>60</sup>](#)

## G. COMPLETION OF STORMWATER BMPS AND SCMS

1. The developer of any non-residential development will be expected to have installed, ~~and~~ stabilized, ~~and a received a passing inspection from the Town of~~ the final stormwater BMP/SCMs supporting their development prior to issuance of a Certificate of Occupancy.

<sup>60</sup> See STN Note # 56.



## 6.18-TREE PROTECTION

### 6.18.1-PURPOSE AND INTENT

This section is proposed to ensure that the Town's planning jurisdiction includes areas of mature tree canopy cover during and after development. These standards are further intended to:

- A.–Promote sequestration of carbon dioxide through the retention of existing trees on lots or the re-establishment of new trees as part of the development process;
- B.–Protect species diversity and habitat through the establishment of connected or linked areas of tree canopy;
- C.–Encourage the retention of existing trees during the development process through accelerated credit towards Ordinance requirements; and
- D.–Establish tree protection requirements for trees voluntarily proposed for retention during the development process.

### 6.18.2-APPLICABILITY

Unless exempted in accordance with Section 6.18.3, Exemptions, the standards in this section shall apply to new development in the Town's planning jurisdiction.

### 6.18.3-EXEMPTIONS

The following activities are exempt from the standards of this section:

- A.–Activity on a bona fide farm;
- B.–Tree removal associated with normal forestry activity that is conducted:
  - 1.–On land taxed on the basis of its present-use value as forestland pursuant to Chapter 105, Article 12 of the North Carolina General Statutes; or
  - 2.–In accordance with a forest management plan prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes;
- C.–Tree removal associated with an approved Tree Clearing Certificate (see Section 2.3.28, Tree Clearing Certificate);
- D.–Development or redevelopment within Downtown zoning district;
- E.–Construction of an individual single family detached dwelling on its own lot;
- F.–Construction of an individual duplex dwelling on its own lot;
- G.–The removal of diseased trees posing a threat to adjacent healthy trees;
- H.–The removal of invasive species of trees, provided the removal results in the complete removal of the trees including roots;
- I.–The selective and limited removal of trees or vegetation necessary to obtain clear visibility within required sight distance triangles;
- J.–The removal of trees that the Engineering Director determines to be a hazard to traffic or that interfere with the provision of utility lines or public services; and
- K.–The removal of trees as necessary for rescue in an emergency or for clean-up following a natural disaster.

### ~~6.18.41.1.1-LIMITATION ON DEVELOPMENT PROPOSALS FOLLOWING CLEAR-CUTTING~~

#### ~~A.—GENERALLY~~

- ~~1.—Clear cutting of a lot or tract subject to this Ordinance in a manner not consistent with the requirements of Section 2.3.28, Tree Clearing Certificate, or Section 6.18.5, Retention or~~

~~Re-Establishment of Tree Canopy Required, is prohibited and shall be subject to the requirements of this subsection.~~

~~**2.1.** For the purposes of these standards, “clear cutting” shall be defined as any activity that results in the removal of 80 percent or more of the tree canopy coverage over a lot or tract from existing trees that meet or exceed the minimum size at time of planting requirements in this Ordinance.~~

~~**B.A. DELAY FOLLOWING CLEAR CUTTING AS PART OF EXEMPTED FORESTRY ACTIVITY OR A TREE CLEARING CERTIFICATE**~~

~~If 80 percent or more of a lot or site is cleared of trees that would have been protected by this section, no application for a Rezoning, Special Use Permit, Subdivision, or Site Plan shall be accepted for development of the land for a period of three years after the tree clearing activity.~~

~~**C.A. DELAY FOLLOWING CLEAR CUTTING THAT IS NOT EXEMPTED**~~

~~If one of the exemptions from Section 6.18.3, Exemptions, is not met and 80 percent or more of the trees that would have been protected by this section are removed, no application for a Rezoning, Special Use Permit, Subdivision, or Site Plan shall be accepted for development of the land for a period of five years after completion of the tree removal.~~

~~**D.A. ABILITY TO DEVELOP FOLLOWING MITIGATION**~~

~~Delays on the acceptance of applications in accordance with subsections (B) or (C) above may be reduced or removed by the Town Council following reforestation of the land in accordance with Section 6.18.9A, Replacement Trees.~~

**6.18.5 RETENTION OR RE-ESTABLISHMENT OF TREE CANOPY REQUIRED**

Development subject to the standards in this section shall comply with the following tree canopy retention or re-establishment requirements:

**A. MINIMUM PERCENTAGE OF EXISTING TREE CANOPY COVER TO BE RETAINED**

- ~~1.~~ Existing trees shall be retained on a lot or site at a rate sufficient to ensure that at least 15 percent of the lot or total site area is covered by existing tree canopy cover at the time of development approval.
- ~~2.~~ For the purposes of this section, “existing tree canopy cover” shall mean the percentage of a lot or tract’s total area located beneath the canopy (leaves or needles) of existing, healthy, non-invasive trees prior to development or land disturbing activity. The area to be occupied by required street rights-of-way, required public utility easements, and water surface areas are excluded from a lot or tract’s total area. Only those trees meeting or exceeding the minimum size at time of planting requirements in Section 6.6.7, Plant Material Specifications, shall be considered as part of the existing tree canopy cover.

**B. MINIMUM PERCENTAGE OF TREE CANOPY COVER TO BE RE-ESTABLISHED**

- ~~1.~~ As an alternative to compliance with the tree canopy cover retention requirements in subsection (A) above, an applicant for development subject to these standards may remove all or a portion of the existing trees on a lot or site, provided that the lot or site is replanted with replacement trees during the development process at a rate sufficient to ensure that at least 25 percent of the lot or total site area is covered by tree canopy cover at tree maturity.
- ~~2.~~ The area to be occupied by required street rights-of-way, required utility easements, and water surface areas are excluded from a lot or tract’s total area.
- ~~3.~~ Trees planted in accordance with these standards shall be at least three inches in caliper at time of planting.



- 4.—Except for trees located within parking lot landscaping islands, trees of three inches in caliper or greater that are provided in order to comply with the standards in Section 6.6, Landscaping and Screening, shall be credited towards these requirements:

#### C.—DETERMINATION OF TREE CANOPY COVER

##### 1.—EXISTING TREE CANOPY COVER TO BE RETAINED

Compliance with the standards in Section 6.18.5A, Minimum Percentage of Existing Tree Canopy Cover to be Retained, shall be determined in accordance with the following procedure:

- a.—The extent of the existing tree canopy to be retained shall be determined in accordance with Section 6.18.6, Tree Canopy Cover Determination:
- b.—The Planning Director may require an applicant to provide a square footage number associated with the tree canopy cover area in cases where aerial photography is used to identify the existing tree canopy coverage to be retained:
- c.—The total size of the lot or area (in square feet) minus street rights-of-way, required public utility easements, and water surface areas is then divided by the size of the retained tree canopy cover area:
- d.—The product of the calculation shall equal or exceed 15 percent of the lot or site area. In the event the product of the calculation does not equal or exceed 15 percent of the lot or site area, then the applicant shall also be required to plant additional trees in accordance with Section 6.18.5B, Minimum Percentage of Tree Canopy Cover to be Re-established, at the minimum rate necessary to equal or exceed 15 percent of the lot or site area:

##### 2.—TREE CANOPY COVER TO BE RE-ESTABLISHED

Compliance with the standards in Section 6.18.5B, Minimum Percentage of Tree Canopy Cover to be Re-established, shall be determined in accordance with the following procedure:

- a.—The applicant shall determine the total size of the lot or area (in square feet) minus street rights-of-way, required public utility easements, and water surface areas:
- b.—The total lot area shall be multiplied by 0.25 to determine the total square footage of the area to be covered by re-established tree canopy:
- c.—Canopy and understory trees shall be re-planted at the rate necessary to ensure that the total crown square footage of all newly planted trees at maturity meets or exceeds the total area required to be covered by re-established tree canopy:
- d.—The Site Plan, Subdivision Plat, or Concept Plan, as appropriate shall depict the designated area to be covered by re-established tree canopy and the approximate placement of the trees that will be utilized to establish the canopy, along with their species:
- e.—Each newly planted tree shall be credited towards the total re-established tree canopy cover in accordance with the following table:



**TABLE 6.18.5.C: RE-ESTABLISHED CANOPY COVER BY TREE TYPE**

TREE SIZE	TREE TYPE	TREE CROWN SIZE AT MATURITY (SQUARE FEET)
Canopy	Deciduous	900
	Evergreen	450
Understory	Deciduous	225
	Evergreen	100

**D. MAINTENANCE AND PROTECTION OF TREES COMPRISING THE TREE CANOPY COVER**

- 1.—Trees retained or replanted in accordance with these standards shall be protected during the development process in accordance with Section 6.18.7, Tree Protection During Construction.
- 2.—Damage or removal of trees required by this section shall be subject to Section 6.18.9, Remedies For Removal.

**6.18.6 TREE CANOPY COVER DETERMINATION**

**A. AERIAL PHOTOGRAPHY**

- 1.—The extent, location, and general characteristics of trees comprising a site’s existing tree canopy cover shall be determined based on the following:
  - a.—The most recent aerial photography of the site, as provided by The Town of Clayton, Johnston County, or other recognized source;
  - b.—Prior aerial photographs in cases where tree clearing has taken place prior to application submittal; and
  - c.—A diagram showing the site boundaries and the outer extent of the dripline of trees comprising the existing tree canopy cover prepared by an ISA-certified arborist, registered landscape architect, registered forester, professional land surveyor, or professional engineer.
- 2.—Nothing shall limit an applicant from preparing a tree survey in addition to or in lieu of aerial photography, provided the tree survey includes sufficient information for the determination of the extent, location, and general characteristics of the exiting tree canopy cover on a site.

**B. TREE SURVEY**

- 1.—A tree survey shall be provided in cases where an applicant seeks to receive credit towards the landscaping requirements in Section 6.6, Landscaping and Screening, from existing retained trees. A tree survey shall be prepared by an ISA-certified arborist, registered landscape architect, registered forester, professional land surveyor, or professional engineer, and shall identify all the following for each existing tree to be credited:
  - a.—The exact location of the tree;
  - b.—Species, by common name;
  - c.—Whether the tree is evergreen or deciduous;
  - d.—Whether the tree is an understory or canopy tree;
  - e.—Size of the tree in DBH or caliper, as appropriate;



- f.**—The approximate height of the tree;
  - g.**—The general health and approximate life stage (young, mature, or aged) of the tree; and
  - h.**—Any observations or special characteristics of the tree, as appropriate:
- 2.**—The tree survey will be used by the Planning Director to determine if the retained trees will meet the performance standards for the type of required landscaping. Supplemental plantings may be required in cases where the retention of trees is insufficient to meet landscaping performance objectives.
  - 3.**—Tree surveys may be limited to only those portions of the site being used to meet landscaping requirements, and in no instance shall existing trees located outside the boundaries of required landscaping areas be used to meet the standards in Section 7.4: Landscaping.

**~~6.18.71.1.1 TREE PROTECTION DURING CONSTRUCTION~~**

**~~A. RESPONSIBILITY~~**

~~During any development activity (including demolition or clearing activity), the property owner or developer shall be responsible for protecting existing or replacement trees within a tree save area in accordance with the standards in this section.~~

**~~B.A. PROTECTIVE FENCING AND SIGNAGE~~**

**~~1. PROTECTIVE FENCING~~**

- a.**—Continuous fencing consisting of a bright orange plastic mesh at least four feet high shall be provided along the boundaries of tree save areas (see Figure 6.18.7: Tree Fencing). The Town shall consider existing site conditions and the species and size of the trees to be protected in determining the exact location of tree protective fencing and may require the fencing to be extended to include the critical root zones of trees. In no instance shall the area required to be located within protective fencing exceed the size of the required tree save area.
- b.a.**—Tree save areas that are inaccessible to development activities or separated from development activities by a distance of at least 100 linear feet are exempted from the requirement for tree protection fencing.
- c.a.**—Nothing shall prevent tree protection fencing and silt fencing from being consolidated.

**~~2.1. WARNING SIGN~~**

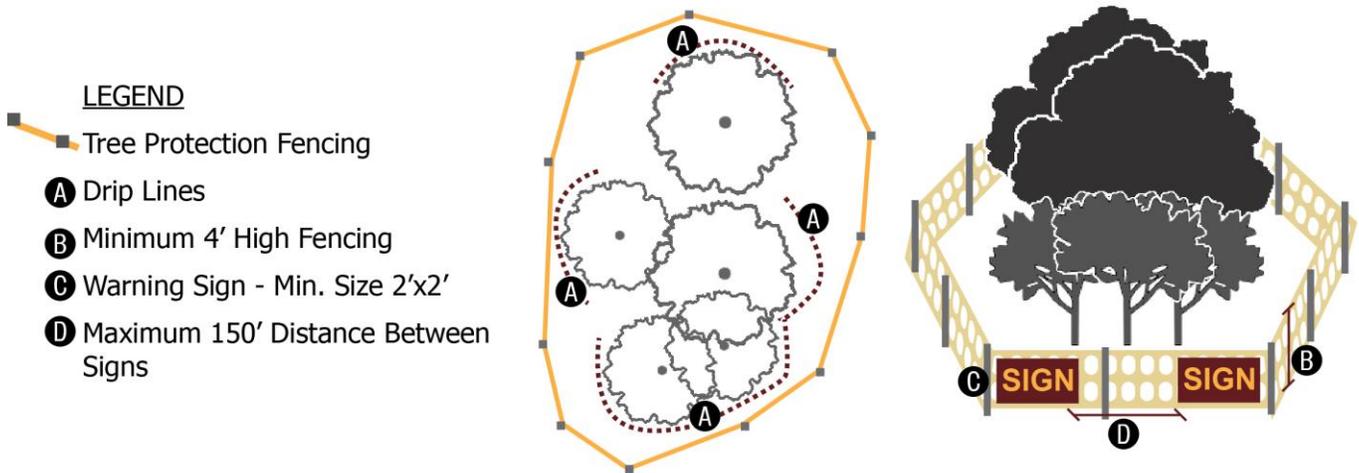
~~Warning signs shall be installed along any required tree protective fencing at points no more than 150 feet apart. The signs shall be clearly visible from all sides of the outside of the fenced-in area. The size of each sign must be a minimum of two feet by two feet. The sign message shall, in both English and Spanish, identify the fenced or marked area as a tree protection area and direct workers not to encroach into the area (e.g., "Tree Protection Area: Do Not Enter"). For the purposes of this Ordinance, these warning signs are considered government signs exempted from First Amendment protections regarding regulation of sign content.~~

**~~3.1. DURATION OF PROTECTIVE FENCING OR SIGNAGE~~**

~~Required protective fencing and signage shall be erected before any grading or other development activity begins and shall be maintained until issuance of a Certificate of Occupancy or other final approval.~~



**FIGURE 6.18.7: TREE FENCING**



**~~C.A. TREE SAVE AREA REQUIREMENTS~~**

~~Except where agreed to by the Town, encroachments into a tree save area may occur only when no other alternative exists, and shall comply with landscaping best management practices and the following limitations and requirements:~~

- ~~1. No development activity including grade changes, the operation or parking of heavy equipment, or the washing down of concrete or cement handling equipment, or the storage of fuel, chemicals, materials, supplies, or construction waste and debris shall be allowed within the tree save area;~~
- ~~2.1. Any permitted clearing of vegetation within the tree save area shall be only by hand;~~
- ~~3.1. Retaining walls and drywells may be used to protect trees to be preserved from severe grade changes if venting, adequate to allow air and water to reach tree roots, is provided through any fill;~~
- ~~4.1. No structures or hard surfaces shall be located within a tree save area, and~~
- ~~5.1. Installation of fences and walls shall take into consideration the root systems of existing trees. Post-holes and trenches close to trees shall be dug by hand and adjusted as necessary to avoid damage to major roots. Continuous footers for masonry walls shall end at the point where major large roots are encountered, and major roots shall be bridged.~~

**6.18.8 CREDIT TOWARDS LANDSCAPING AND OPEN SPACE STANDARDS**

- A.** Existing trees within a tree save area that coincides with a required landscaping area may be credited towards the landscaping requirements of this Ordinance in accordance with Section 6.6.10, Planting Flexibility.
- B.** Tree save areas shall be credited towards the passive recreation area requirements in Section 6.7, Open Space Set-Aside and Parkland.

**6.18.9 REMEDIES FOR REMOVAL**

Remedies for removal of existing trees required to be retained by these standards shall be in accordance with the following standards:



#### A.—REPLACEMENT TREES

##### 1.—RATE OF PROVISION

###### a.—TREES WITHIN A DESIGNATED TREE SAVE AREA

- i.—Each existing tree that is removed in violation of this Ordinance shall be replaced with one or more trees with a minimum DBH of four inches each and a cumulative DBH equal to the DBH of the removed tree(s).
- ii.—Required replacement tree(s) shall be planted and maintained in accordance with the planting standards in Section 6.6.9, Plant Placement, and shall comply with all the standards in this subsection.

###### b.—TREES REMOVED PRIOR TO ESTABLISHMENT OF A TREE SAVE AREA

- i.—In cases where irreparable damage to or removal of existing trees takes place on a site that is subject to these standards, but where a tree save area has not yet been established, a reforestation plan prepared by a North Carolina registered forester or registered landscape architect shall be prepared and provided to the Town.
- ii.—The reforestation plan shall require new tree plantings throughout the area where existing trees were irreparably damaged or removed. The number and placement of replacement trees shall be located as necessary to result in a comparable density of trees at maturity as were removed.
- iii.—New vegetation identified in the reforestation plan shall be installed within six months of the tree removal or within a timeframe specified by a North Carolina registered forester or registered landscape architect and agreed to by the Planning Director.

##### 2.—LOCATION OF REPLACEMENT TREES

###### a.—TREES WITHIN A DESIGNATED TREE SAVE AREA

Replacement trees shall be planted in the following planting areas, listed in priority order. Replacement trees shall maintain adequate spacing across an area as needed for proper growth and development and may be located in more than one priority location. However, to the maximum extent practicable, replacement trees shall first be planted in the highest priority location and may only be located in the next highest priority area when the area of higher priority can no longer accommodate additional replacement trees. Replacement tree planting areas in priority order are as follows:

- i.—Inside a designated tree save area;
- ii.—Outside a designated tree save area but within the area of development;
- iii.—Away from an area of development but upon the same lot;
- iv.—On a different lot within the Town's planning jurisdiction but under the same ownership as the area of development;
- v.—On land owned by the Town; or
- vi.—Within a public right-of-way, subject to approval of the right-of-way owner.

###### b.—TREES REMOVED PRIOR TO AN ESTABLISHED TREE SAVE AREA

Reforestation shall occur within the entire area where existing trees were irreparably damaged or removed.

##### 3.—GUARANTEED ESTABLISHMENT PERIOD

- a.—The applicant shall guarantee the survival and health of all replacement trees during an establishment period of at least three years and guarantee any associated replacement costs in accordance with Section 2.3.19, Performance Guarantee.
- b.—If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees and guarantee their survival and health for a new three-year establishment period.

**~~B. PAYMENT IN-LIEU OF PROVIDING REQUIRED REPLACEMENT TREES~~**

- ~~1. In-lieu of providing all or a portion of the replacement trees required by sub-section (A) above, the developer may, with the approval of the Town Council, and subject to the provisions in Section 2.3.13, Fee-in-Lieu, make a payment to the Town that approximates the cost of purchasing and installing the required replacement trees:~~
- ~~2. The applicant may propose an in-lieu payment option only upon determining that it is impractical to provide the replacement trees for which in-lieu payment is proposed on the development site:~~
- ~~3. The amount of the in-lieu payment shall be determined based upon an estimate provided by the applicant and accepted by the Planning Director. The Town may require an independent analysis of the estimate, the cost of which shall be the responsibility of the applicant:~~
- ~~4. The applicant shall make the in-lieu payment before recordation of any Subdivision Plat for the development or issuance of any Building Permit for the development (if no subdivision approval is required) provided, however, that the payment may be phased in accordance with an approved phasing plan for the development:~~
- ~~5. The Town shall deposit any in-lieu payment into a special Town fund that shall be used only for purchasing, installing, replacing, and/or maintaining trees in public parks, greenways, or other land owned or leased by the Town:~~

**~~6.18.101.1.1 TREE REMOVAL AND TOPPING ON PUBLIC PROPERTY~~**

- ~~**A.** The removal or topping of trees shall be prohibited on public property and designated rights-of-way unless such activity is conducted by the Town or a public utility provider, and is necessary to protect public health, safety, or welfare:~~
- ~~**B.A.** Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this standard by the Planning Director:~~



**TABLE 8.3: TERMS DEFINED**

TERM	DEFINITION(S)
<b>DEVELOPER</b>	A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.
<b>DEVELOPMENT</b>	<p>Development means any of the following:</p> <p>[1] The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;</p> <p>[2] Excavation, grading, filling, clearing, or alteration of land;</p> <p>[3] The subdivision of land, as defined in Section 160D-802 of the North Carolina General Statutes; or</p> <p>[4] The initiation or substantial change in the use of land or the intensity of the use of land.</p> <p>For the purposes of the Flood Protection Overlay District standards, any activity defined as development which necessitates a Floodplain Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.</p> <p>For the purposes of Stormwater Management, any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.</p>
<b>DEVELOPMENT ACTIVITY</b>	For the purposes of the Flood Protection Overlay District standards, any activity defined as development which necessitates a Floodplain Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.
<b>DEVELOPMENT AGREEMENT</b>	A written agreement between the Town and a developer or applicant that sets down the rights and responsibilities of each party as pertaining to a single development.
<b>DEVELOPMENT ENTRY POINT<sup>61</sup></b>	A vehicular access point providing <u>direct</u> ingress or egress to a <u>street located outside the perimeter of an</u> individual neighborhood or development. <u>A development entry point may take the form of a driveway serving a parking area, a private street, or a public street.</u>
<b>DIAMETER AT BREAST HEIGHT (DBH)</b>	Measurement for determining the size of existing trees to be credited towards landscaping requirements or for violations of this Ordinance. DBH is the measurement of the diameter of an existing tree trunk taken at a height of 4 ½ feet above the ground. Trees with multiple trunks should be treated as multiple trees and the DBH for each trunk added to aggregate diameter measurement.

<sup>61</sup> See STN Note # 10.



**TABLE 8.3: TERMS DEFINED**

TERM	DEFINITION(S)
PLAN, ALTERNATIVE PARKING	A document prepared by an applicant’s representative that proposes an alternative means of compliance with the standards in <a href="#">Section 6.9, Parking and Loading</a> .
PLAN, ALTERNATIVE SIGN	A document prepared by an applicant’s representative that proposes an alternative means of compliance with the standards in <a href="#">Section 6.13, Signage</a> .
PLAN, CONCEPT	A plan for development intended solely for illustrative purposes to assist a review authority in its consideration of a proposed development (like a Type 3 Conditional Rezoning or a Special Use Permit). A Concept Plan may, but does not necessarily need to include, the detailed elements typically found in a site plan (for example, detailed locations of buildings, location of off-street parking, location of landscaping, etc.).
PLAN, EROSION CONTROL	A plan illustrating the extent of land disturbance and the steps taken to prevent erosion and off-site sedimentation.
PLAN, FORESTRY MANAGEMENT	A plan depicting the location and extents of forestry activities.
PLAN, LANDSCAPE	A plan illustrating the design and specifications for the preservation of existing vegetation; the placement of any live plant materials such as trees, shrubs, grasses, ground covers, etc.; and the location and design of built features such as berms, fencing, walls, etc.
PLAN, LIGHTING	A graphic deposition of proposed exterior lighting fixture locations, height, anticipated luminance, and cones of illumination.
<u>PLAN, MASTER<sup>62</sup></u>	<u>The Downtown Master Plan, a summary planning document prepared for a major subdivision preliminary plat, or a plan describing the full extent of a Multi-Phase Development Plan associated with vested rights. A master plan is intended to be comprehensive guideline for the physical development of the downtown or of a particular community or development site.</u>
PLAN, MULTI-PHASE DEVELOPMENT	A site plan that includes development proposed in two or more distinct phases.
PLAN, PARKING	A plan or diagram prepared by an applicant for development that depicts the required and provided number of parking spaces (if different from the required number of parking spaces). The plan also shows points of vehicular ingress and egress, drive aisles, the locations of parking lot landscaping islands, pedestrian circulation features, and off-street loading facilities.
PLAN, PLOT	A simple drawing or sketch depicting compliance with one or more requirements of this Ordinance.

<sup>62</sup> See STN Note #13 & 52.



### 9.1.2 CERTIFICATE OF OWNERSHIP AND DEDICATION

To be used when plat includes the dedication of easements, rights-of-way or any other property or property interest.

#### CERTIFICATE OF OWNERSHIP AND DEDICATION

I (We), \_\_\_\_\_, hereby certify that I am (we are) the owner(s) of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Clayton, that I (We) hereby freely adopt this plan of subdivision and dedicate to all areas shown on this plat as roads, alleys, walks, parks, open space, and easements to the public or for private use as specifically indicated, and that I (we) will maintain all such areas until the offer of dedication is accepted by the appropriate public authority or private entity. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Town of Clayton in the public interest.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

### 9.1.3 CERTIFICATES OF APPROVAL<sup>63</sup>

#### CERTIFICATE OF APPROVAL WHERE STREETS OR UTILITIES ARE NOT PROVIDED BY THE TOWN

I hereby certify that this plat has been found to comply with the Unified Development Ordinance of Clayton, North Carolina, and that this plat has been approved for recording in the Office of the Johnston County Register of Deeds.

\_\_\_\_\_  
Planning Director

\_\_\_\_\_  
Date

#### TOWN OF CLAYTON CERTIFICATION FOR A FINAL PLATE OF APPROVAL WHERE STREETS OR UTILITIES ARE PROVIDED BY THE TOWN

I hereby certify that the Town of Clayton, NC has approved this plat for recording in the Office of the Johnston County Register of Deeds, and accepts the dedication of streets, easements, rights-of-way, and public lands shown thereon, but assumes no responsibility to open or maintain the same until, in the opinion of the Clayton Town Council, it is in the public interest to do so.

\_\_\_\_\_  
Town Manager

\_\_\_\_\_  
Date

<sup>63</sup> See STN Note # 67.

