Southern Pines Unified Development Ordinance

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Chapter 1. **Administration**

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1.1. Title

This Code shall be known as the "Unified Development Ordinance of Southern Pines" ("UDO") and may be so cited.

1.2. Purpose and Intent

1.2.1. Compliance with this Ordinance Required

The UDO intends that no Development shall occur on any public or private property within the jurisdiction of the Town of Southern Pines (Town) until and unless all applicable Development Approvals for the Development have been granted.

1.2.2. UDO to Implement the Comprehensive Plan

The UDO and all Development Approvals issued pursuant to the UDO are designed to implement and be consistent with the goals, objectives, policies, and strategies of the Comprehensive Plan through consistent and effective land Development regulation. The UDO shall implement goals as established by the Town Council, including but not limited to:

(A) Protect and enhance the commercial and civic vitality of Downtown, including its residential Neighborhoods;

(B) Protect and enhance the civic vitality and function and aesthetic characteristics of Southern Pines' Neighborhoods;

(C) Protect and enhance the aesthetic and functional characteristics of Horse Country throughout the extra-territorial jurisdiction (ETJ) of Southern Pines;

(D) Protect and enhance public parks, open-space areas and cultural landscapes;

(E) Contribute to a sustainable, balanced economy, providing community prosperity and fiscal health, improving the Town's economic resilience and self-reliance;

(F) Improve Southern Pines' interconnectivity with the regional and national transportation network, including rail, highways, and air-travel;

(G) Protect and enhance Southern Pines' natural environment for present and future generations;

(H) Maintain the Town's fiscal and physical health and quality of life as defined in the Comprehensive Plan through proactive, long-range planning and implementation;

(I) Maintain fiscal solvency while providing adequate levels of public services;

(J) Identify and provide for sufficient land area for future community needs;

(K) Involve the community in local government planning and decision-making; and

(L) Retain golf as an essential part of Southern Pines' economy, physical character and culture.

(Ord. #1714)

1.3. Consistency With Comprehensive Plan

The Town Council intends this UDO to implement the planning policies adopted by the Council for the Town and its extra-territorial planning area, as reflected in the Comprehensive Plan and all other area or corridor plans if it complies

with the goals, objectives and policies contained therein. While the Council reaffirms its commitment that this UDO and any amendment to it be in conformity with adopted planning policies, the Council hereby expresses its intent that neither this UDO nor any amendment to it may be challenged on the basis of any alleged non-conformity with any planning document. Any amendments to the UDO, including but not limited to Development Approvals, shall be consistent with the adopted Comprehensive Plan, as it may be amended from time to time, in effect at the time of the request for amendment; an adopted area or corridor plans; and the Capital Improvement Plan (CIP).

1.4. ORGANIZATION

This UDO consists of nine Chapters, which are listed below. The appendices include a variety of documents necessary to carry out the provisions of this UDO and are referred to as appendices throughout this document.

Chapter 1 establishes the purposes and applicability of the UDO, as well as providing guidance on its organization and interpretation.

Chapter 2 establishes procedures and criteria for approval of Development applications, as well as changes to this UDO and the Comprehensive Plan.

Chapter 3 establishes zoning districts, creates the official zoning district map and lists the uses allowed in each zoning district.

Chapter 4 establishes Development and design requirements for Buildings, sites and Subdivisions, which includes rules for infrastructure Development and environmental factors.

Chapter 5 establishes supplemental conditions for specific land uses.

Chapter 6 establishes a variety of Development Patterns that may be established in appropriate areas of the Town's jurisdiction.

Chapter 7 establishes the rules for non-conforming situations and vested rights.

Chapter 8 establishes the rules for administering the UDO, which includes the jurisdiction of the UDO, responsibilities for UDO administration and penalties for violations of the UDO.

Chapter 9 defines the terms used in this UDO

Appendices are administrative rules for the application and enforcement of the UDO that include applications, submittal requirements, landscape planting standards and design standards for infrastructure improvements.

1.5. INTERPRETING THE CODE

This UDO is intended to be administered with the flexibility to respond to unique circumstances of individual properties in ways that best achieve its purposes.

(A) This UDO establishes many, but not all, of the standards and procedures for Development. Other portions of the Municipal Code, as well as other standards, shall apply to Development, including, but not limited to, Building codes, fire codes, utility, street and drainage design and construction standards.

(B) The issuance of any Development Approval pursuant to this UDO shall not relieve the recipient from the responsibility to comply with all other Town, County, State or federal laws, ordinances, rules or regulations.

(C) References to other regulations or provisions of the UDO are for the convenience of the reader. The lack of a cross-reference does not exempt a land, Building, structure, or use from other regulations.

(D) The UDO contains numerous graphics, pictures, illustrations, and drawings to assist the reader in understanding and applying the UDO. However, to the extent that there is any inconsistency between the text of the UDO and any such graphic, picture, illustration, or drawing, the text controls unless otherwise provided in the specific section.

(E) Additional rules for interpreting language and the provisions are included in Chapter 9 of this UDO

1.6. APPLICABILITY

1.6.1. Generally

(A) The use of Buildings and land within the Town of Southern Pines is subject to all other regulations, as well as the UDO, whether or not such other provisions are specifically referenced in the UDO.

(B) Subject to provisions of this UDO regulating non-conformities, no person may use, occupy or subdivide any land or Buildings or authorize or permit the use, occupancy or sale of land or Buildings under his control except in accordance with all of the applicable provisions of this UDO.

(C) For purposes of this section, the "use" or "occupancy" of a Building or land relates to anything and everything that is done to, on or in a Building or land.

(D) Agricultural Exemption

(1) Agricultural land uses in the Town's ETJ are exempt from the Town land use regulations when the property is used for bona fide farm purposes and those uses are an integral part of the agricultural use.

(2) If bona fide agricultural uses occupy a portion of the property, then the agricultural uses on that portion of the property are exempt from the Town's land use regulations.

(3) If the primary use is for non-agricultural purposes, then the property is not exempt.

(4) If the property is subdivided so that all or portions of the property is no longer a bona fide farm, then such portions are not exempt.

(5) For purposes of this section, a bona fide farm use shall be established by the following evidence:

(a) A farm sales tax exemption issued by the State Department of Revenue.

(b) A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3

(c) A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.

(d) A forest management plan.

(Ord. #1919)

(E) This UDO does not apply to activities that are exempted by State or Federal law.

1.6.2. Use of Land

Except as herein specifically provided, no Building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any Building or land be used, except under the following circumstances:

(A) The use shall be permitted in the district in which the use is located, pursuant to chapter 3 of this UDO.

(B) No more than one Principal Building may be located on one Lot, unless otherwise authorized.

(C) No mobile home, camper, bus, tractor trailer, or other structure not specifically designed as a permanent residence may be used as an Accessory Structure in a residential district.

(D) No structure or land shall be occupied or used without first obtaining a Certificate of Occupancy**.**

(E) All uses shall comply with all applicable Building, life, safety, fire and health codes adopted by the Town and all applicable regulations adopted by the County, State or federal governments.

1.6.3. Subdivision of Land

No land shall be divided or subdivided, except in conformance with this UDO and subject to the following conditions:

(A) All divisions or Subdivisions of land into two (2) or more Tracts, Parcels or Lots that are located within the jurisdiction of the Town shall be subject to the procedures and requirements established herein.

(B) No Subdivision plat shall be filed for record, recorded, or modified until approved in conformance with this UDO.

(C) No grading, clearing, and grubbing, shall occur prior to the issuance of Engineering Plan, Land Disturbance Permit or Building Permit approval, except for Development of a Single-Family residence on a Lot that is not a part of a larger Common Plan of Development of 30,000 square feet or less in size, in which case an Erosion Compliance Permit shall be required. Minimal clearing of brush or sight lines for purpose of surveying sites shall be allowed.

(Ord. #1919)

1.6.4. Transfer of Land; Permits

No Parcel of land in a Subdivision created after the adoption date of this UDO shall be transferred or sold; nor shall a Building Permit or Certificate of Occupancy be issued for any use or structure thereon, until a final plat has been recorded with the Register of Deeds.
(Ord. #1714; Ord. #1919)

1.6.5. Fees

Any action on an application for Development shall be subject to payment of the required fee in the amount established by resolution of the Council. All required fees shall accompany an application, shall be made payable to the Town, and shall be submitted to the Planning Director. All fees are non-refundable.

1.7. UDO TO PROTECT AND PROMOTE HEALTH, SAFETY AND WELFARE

The UDO is designed to protect and promote the health, safety and general welfare of the present and future residents of the Town. The UDO is a police power, public nuisance, environmental and land use regulation designed to establish standards and procedures to promote positive impacts and prevent or mitigate negative impacts from Development on the quality of life in the Town.

1.8. COORDINATION WITH OTHER REGULATIONS

1.8.1. Higher Standards Prevail

Where a regulation contained within the UDO imposes higher standards than those required under another statute, ordinance or regulation, the regulation adopted under the UDO controls. If the other statute, ordinance or regulation imposes higher standards, that statute, ordinance, or regulation controls so long as it is consistent with the purposes, findings and intent of the UDO and with the goals, objectives, policies and strategies of the Comprehensive Plan.

(Ord. #1919)

1.8.2. Issuance of Rules and Regulations for Public Improvements

The Town may promulgate reasonable rules and regulations regarding the design and installation of improvements required pursuant to this UDO. The Planning Director shall prepare such rules for review and approval by the Town Council consistent with application and process requirements for a UDO Text Amendment.

(A) **Minimum Standard**. Any rule and regulation established shall meet the minimum Town and State standards, but nothing in this section shall prevent the Town from requiring compliance with higher requirements than the State regulations.

(B) **When Effective**. Rules and regulations issued by the Town shall be effective after approval by the Town Council.

1.8.3. Relationship to Private Agreements

This UDO is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided, however, that where the regulations of this UDO are more restrictive or impose higher standards or requirements than such easement, covenant or other private agreement, the regulations of this UDO shall govern.

1.8.4. Minimum Requirements

The requirements of this UDO are considered to be the minimum requirements for the promotion of the public health, safety and general welfare. The UDO also shall require that new Development:

(A) Express and reflect the unique sense of place and the desirable qualities of Southern Pines through innovative and sustainable design and architectural standards for Development;

(B) Promote the use of the best available technology at reasonable cost, using local, state and federal grants, loans, tax credits and deductions, for installation of energy and resource conservation measures, including green and sustainable Building and Neighborhood requirements for all public and private Buildings, structures and land uses;

(C) Ensure that Building projects are planned, designed, constructed, and managed to minimize adverse environmental impacts; to conserve natural

resources; to promote sustainable Development; and to enhance the quality of life in Southern Pines;

(D) Respect historical patterns, precedents, and boundaries in the Development Approval process for new Development and redevelopment;

(E) Reflect the transportation network of the region and provide within each Development a framework of transportation alternatives and inter-connectivity, including transit, pedestrian, and bicycle systems to maximize access and mobility throughout the region while reducing dependence upon the automobile; and

(F) Place high regard for the protection of individual property rights in appropriate balance with the community's need to implement the goals, objectives, policies and strategies of the Comprehensive Plan.

1.9. ADMINISTERING THIS UDO

This UDO is intended to be administered in an efficient manner that provides appropriate opportunities for public involvement and an efficient Development review process. The roles of the Town Council, Planning Board, Board of Adjustment, other boards and Town staff are established in chapter 8.

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Chapter 2. Development Processes

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PART I - GENERAL PROCEDURES

2.1. Purpose

The purpose of this chapter is to establish procedures for filing and processing applications for Development Approval. The format is designed to allow users to conveniently determine the steps involved to obtain Development Approval.

2.2. Procedural Requirements

No Development is permitted unless all applicable approvals are issued in accordance with this chapter. Development Approvals are required for all Development, unless otherwise exempted, to ensure compliance with adopted codes, standards, and laws, and to ensure consistency with the Comprehensive Plan. This part describes procedural elements common to all applications. The

specific procedures followed in reviewing various applications for Development Approval differ. Subsequent sections of this chapter address the procedures and requirements for particular applications. Generally, the procedures for all applications have five common elements:

(A) Submittal of a complete application, including required fee payments and appropriate information and studies;

(B) Review of the submittal by appropriate staff, agencies, and boards;

(C) A decision to approve, approve with conditions, or deny, together with the description of the actions authorized and the time period for exercising rights;

(D) Options to amend or appealing the decision; and

(E) Documenting the decision.

2.3. Approvals Required

Except as specifically exempted by State law, the use of property may not be substantially changed, substantial clearing, grading or excavation may not be commenced and Buildings or other substantial structures may not be constructed, erected, moved or substantially altered except in accordance with and pursuant to this UDO.

2.4. Authority to Condition Development Approvals

(A) The Planning Director, the Planning Board and the Town Council may impose conditions as are reasonably necessary to assure compliance with applicable general or specific standards identified in this UDO after review of the application and other pertinent documents and any evidence made part of the public record.

(B) Any conditions imposed by recommendation of the Planning Director or Planning Board may be modified subsequently by the Town Council.

2.5. Categories of Development Approvals

There are three basic categories of Development Approvals pursuant to this chapter: Legislative, Quasi-judicial, and Administrative Approvals. These are classified in Exhibit 2-1.

(Ord. #1919)

2.5.1. Legislative Development Approval

Legislative approvals involve a change in land-use policy. A public meeting is required, but the procedural requirements of an Evidentiary Hearing do not apply. Development regulations adopted or amended pursuant to this UDO shall be adopted by ordinance.

(Ord. # 1716; Ord #1703; Ord. #1919)

2.5.2. Quasi-judicial Development Approval

Quasi-judicial approvals involve the application of a discretionary standard required by this UDO to an application. It requires an Evidentiary Hearing and procedural due process requirements apply. When the Planning Board serves as a Recommending Body for an action requiring an Evidentiary Hearing by the Town Council, the Board may follow the rules for a Legislative Hearing to provide a preliminary forum for review, provided that no part of the forum or recommendation may be used as a basis for a decision by the Town Council.

(Ord. # 1716; Ord #1703; Ord. #1919)

2.5.3. Administrative Development Approval

(A) Administrative Development Approvals involve the application of the standards of the UDO to an application by an administrative official or agency (typically the Planning Director, Town Engineer or Town Manager). A public hearing is not required. Administrative approvals may be referred to as Administrative Decisions. Applications for administrative Development Approvals must be made by a person with an interest in the property, such as a landowner, lessee, a person holding an option or contract to purchase or lease or an authorized agent of the landowner. Administrative Development Approvals shall be in writing, in print or electronic form.

(B) No administrative official shall make an Administrative Decision when a conflict of interest exists, per G.S. 160D-109(c).

(Ord. # 1716; Ord #1703; Ord. #1919)

2.5.4. No Occupancy, Use or Sale of Lots until Requirements Fulfilled

All Development shall comply with such approved plans and applications, as well as the provisions of this UDO. Approvals authorize the Applicant to commence specified activities. However, the intended use may not be established, no Building may be occupied and in the case of Subdivisions no Lots may be sold until all of the requirements of this UDO and additional requirements imposed pursuant to approval have been met.

2.5.5. Authorizing Use or Occupancy before Completion of Development

(A) Subject to TRC comments, Planning Director may authorize the use or the occupancy of Developments prior to completion if:

(1) The Applicant provides security satisfactory to the Planning Director that is sufficient to ensure that all approval requirements will be fulfilled by a specified date not to exceed twelve (12) months as determined by the Planning Director; and

(2) The security shall be sufficient to ensure compliance and be approved by the Town Attorney prior to the Planning Director authorizing the intended use or occupancy.

(Ord. #1919)

(B) The authorization identified in this section is limited to the following:

(1) When, because of weather conditions or other factors beyond the control of the Applicant, exclusive of financial hardship, it would be unreasonable to require the Applicant to comply with all of the requirements of this UDO prior to commencing the intended use of the property or occupying any Buildings;

(2) The authorized use or occupancy is consistent with an approved phasing plan;

(3) When the Town Council imposes additional requirements pursuant to SUPs or the Applicant proposes to install amenities beyond those required by this UDO; or

(4) When the Developer is selling only undeveloped Lots after Final Plat approval and acceptance of surety or improvements.

Exhibit 2-1: Review Process Overview

Development Application	Public Review Process	Recommendation	Final Decision	Appeal	Section/Comments
Approvals Requiring a Public Hearing:					
Comprehensive Plan Amendment	Legislative Hearing	Planning Board	Town Council	Superior Court	2.16
UDO Text Amendment	Legislative Hearing	Planning Board	Town Council	Superior Court	2.17
UDO Map Amendment	Legislative Hearing	Planning Board	Town Council	Superior Court	2.17
Planned Development District:					2.18
Pre-Application Conference (required)	---	---	---	---	2.5.7 / Advisory
Neighborhood Meeting (required)	---	---	---	---	2.15 / Applicant responsibility
Conceptual Development Plan	Legislative Hearing	Planning Board	Town Council	Superior Court	2.18.4
Preliminary Development Plan (includes contingent zoning approval, preliminary plat approval is a Quasi-judicial Decision)	Evidentiary Hearing	Planning Board	Town Council	Superior Court	2.18.5

Development Application	Public Review Process	Recommendation	Final Decision	Appeal	Section/Comments
Development Agreement (optional)	Legislative Hearing	Town Manager	Town Council		2.20.7
Final Development Plan (includes final zoning approval and may include Final Plat approval)		Planning Director/TRC	Planning Director	Town Council	2.18.7
Major Subdivision:					2.20
Pre-Application Conference (required)	---	---	---	---	2.20.2 / Advisory
Neighborhood Meeting (recommended)	---	---	---	---	2.20.3 / Applicant responsibility
Preliminary Plat (includes SUP approval)	Evidentiary Hearing	Planning Board	Town Council	Superior Court	2.20.4
Development Agreement (optional)	Legislative Hearing	Town Manager	Town Council		2.20.7
Final Plat (includes final SUP approval)	---	Planning Director/TRC	Planning Director	Town Council	2.20.8
Special Use Permit	Evidentiary Hearing	Planning Board	Town Council	Superior Court	2.21
Variance	Evidentiary Hearing	Planning Director	Board of Adjustment	Superior Court	2.22
Appeals	Evidentiary Hearing	Planning Director	Board of Adjustment	Superior Court	2.23
Vested Rights Determination	Evidentiary Hearing	Planning Director	Town Council	Superior Court	2.24
Development Approval Revocation	Evidentiary Hearing	Planning Director	Planning Board	Town Council	2.25
Certificate of Appropriateness – Major Work	Evidentiary Hearing	Planning Director	Historic District Commission	Board of Adjustment	2.28
Vacations of Streets and Alleys	Legislative Hearing	Planning Director/TRC	City Council	Superior Court	2.29
Approvals NOT Requiring a Public Hearing:					
Architectural Compliance Permit (non-compliant with Section 4.10 and/or greater than or equal to 10,000 square feet Gross Floor Area)	---	Planning Director	Town Council	Superior Court	2.26
Architectural Compliance Permit (compliant with Section 4.10 and less than 10,000 square feet Gross Floor Area)	---		Planning Director	Town Council	2.26
Minor Subdivision (includes Lot splits, Lot consolidation, dedications, and conveyances to the public)	---	TRC	Planning Director	Town Council	2.32
Vacations of, Easements or Plats	---	Planning Director/TRC	Town Council	District Court	2.33

Development Application	Public Review Process	Recommendation	Final Decision	Appeal	Section/Comments
Plats, Amending	---	TRC	Planning Director	Town Council	2.34
Zoning Permit / Change of Use	---	TRC	Planning Director	Board of Adjustment	2.35
Land Disturbance Permit (Grading and Erosion Control Plan)	---	TRC	Planning Director	Board of Adjustment	2.36
Building Permit	---	TRC	Planning Director	Board of Adjustment	2.37 / TRC review not required for detached single - family Dwellings
Certificates of Occupancy	---	TRC	Planning Director	Board of Adjustment	2.39
Floodplain Development Permit	---	TRC	Planning Director	Board of Adjustment	2.40
Sign Permit	---	TRC	Planning Director	Board of Adjustment	2.41
Driveway Permit / Right-of-Way Permit	---	TRC	Planning Director	Board of Adjustment	2.42
Home Occupation Permit	---	TRC	Planning Director	Board of Adjustment	2.43
Temporary Use Permit	---	TRC	Planning Director	Town Council	2.44
Certificate of Appropriateness – Minor Work	---	Planning Director	Planning Director	Historic District Commission	2.45
Administrative Relief	---	TRC	Planning Director	Board of Adjustment	2.46
Watershed Protection Permit (inside of CB zoning district)	---	TRC	Planning Director	Town Council	2.47
Watershed Protection Permit (outside of CB zoning district)		Planning Director	Town Council	Superior Court	2.47
Site Plan (Engineering and Construction Plans)	---	Planning Director Town Engineer Fire Marshal	TRC	---	2.20.5 / 2.48
Improvement Guarantees (optional)	---	TRC	Town Manager	---	2.20.6

(Ord. #1714; Ord. #1716; Ord. #1703; Ord #1890; Ord. #1919; Ord. #2092)

2.5.6. Burden of Persuasion Regarding Approval

(A) The Applicant has the burden of producing sufficient substantial, competent and material evidence for the Hearing Body to conclude that the requirements of the applicable ordinance(s) have been met. If the Applicant shows they meet all the requirements of this UDO, the Applicant is entitled to approval. If the Applicant fails to produce sufficient evidence to show they meet all the criteria, then the Hearing Body may deny the application or impose conditions to ensure compliance with this UDO.

(B) Regarding appeals, neither party has the burden of proof or any right to any affirmative decision. An appeal of an Administrative Decision presents a question of law, which the Hearing Body considers de novo, meaning the Hearing Body is not bound by the ordinance interpretation of Town staff.

Instead, the Hearing Body must interpret the ordinance to reflect the Town Council's intent when it adopted the ordinance. The Hearing Body shall not reverse or modify an Administrative Decision unless it finds that the administrative officer erred in the application or interpretation of the terms of this UDO or related policies adopted by the Town.

2.5.7. Pre-Application Conference

Before any application is filed with the Planning Director, the Applicant is strongly encouraged to attend a pre-application meeting with the Planning Director. The purpose of the pre-application meeting is to discuss, in general, the procedures and substantive requirements for the application.

2.5.8. Application Requirements

(A) Appendix A of this UDO lists the detailed submittal requirements for each application listed in this chapter. Requests for any Development Approval required by this UDO shall be made on applications provided by the Planning Department, which may include submittal requirements, instructions for completing forms, internal procedures for filing of applications, and provisions for waiver by establishing administrative guidelines. All Applicants shall complete a written application containing the information established in Appendix A of this UDO.

(B) Applications for Development Approvals will be accepted only from the owners or lessees of property, persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this chapter, or the agents of such persons. The Planning Director shall require evidence of the Applicant's authority to submit the application when there is a reasonable basis for questioning this authority.

(C) Town Initiated Requests. The Town Manager, Mayor, Chair of the Planning Board or Town Council may initiate a request for any Development Approval or permit on behalf of the Town. Such requests shall not be subject to fees but shall otherwise follow the same procedures established herein.

(Ord. #2052)

2.5.9. Official Filing Date

The time for processing applications for Development Approval shall commence on the date that the Planning Director certifies that a completed application has been filed. Modification of any application by the Applicant following its filing and prior to action shall restart specified review times.

2.5.10. Application Processing

Following the Determination that an application is complete, the Planning Director shall review the application, forward the application for review to applicable advisory bodies, prepare all required reports, and schedule the matter for public hearing and/or decision within the time and in the manner required by this UDO.

2.5.11. Computation of Time

Unless otherwise specifically provided, time shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days intermediate Saturdays, Sundays and holidays shall be excluded. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

2.5.12. Streamlining the Review and Approval Process

(A) **Accelerated Review**. The Planning Director shall be authorized to shorten the time required to process applications, provided there is no conflict with notification requirements.

(B) **Concurrent Review**. For multi-step applications (e.g., Planned Developments and Subdivisions) and for Developments requiring multiple approvals, the Applicant may request concurrent review of multiple applications. The Decision-Making authority shall review such applications concurrently but take independent actions on each application. Approval of one application does not guarantee approval of others that are reviewed concurrently.

2.5.13. Applications to be Processed Expeditiously

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the Applicant, the Town shall process applications as expeditiously as possible, while ensuring compliance with this UDO. Maximum time frames for actions are established in subsequent sections.

2.5.14. Continuance

(A) Nothing in this section precludes an Applicant and the Planning Director from mutually agreeing to a continuance or extension of any time limit provided by this section.

(B) If the Planning Director receives the written request for a continuance at least seven (7) days prior to the public hearing at which the application is scheduled to be heard, the Applicant's request for a continuance will be automatically granted. An Applicant is not entitled to more than two (2) automatic continuances.

(C) If the Planning Director receives the written request for a continuance less than seven (7) days prior to the public hearing at which the application is scheduled to be heard, the Applicant is not entitled to an automatic continuance. The Hearing Body will consider the request for a continuance and shall only grant such request upon a demonstration by the Applicant of good cause for a continuance.

(D) If an Applicant receives a continuance, the Applicant shall reimburse the Town for all advertising costs associated with rescheduling the public hearing for the application. If the Applicant does not reimburse the Town for such costs by ten (10) days prior to the rescheduled hearing, the hearing will be cancelled and the application will be deemed withdrawn.

(Ord. # 1716; Ord. #1919)

2.5.15. Staff Consultation after Application Submitted

Upon receipt of a formal application, the Planning Director may confer with the Applicant to ensure that the Applicant understands the requirements of this UDO, to determine whether Applicant intends to submit additional information or to clarify that the application represents precisely and completely what the Applicant proposes to do.

2.5.16. Withdrawal of Pending Applications

(A) An Applicant may withdraw an application at any time prior to issuance of a Development Approval. The Applicant shall provide written notice of the withdrawal to the Planning Director.

(B) If the Planning Director receives an Applicant's written notice of withdrawal less than seven (7) days prior to the public hearing at which the application is scheduled to be heard, the Applicant shall be precluded from re-filing the same or substantially same application for the subject property for a period of three (3) months.

(C) If an application is withdrawn, fees and costs will neither be refunded nor credited to any subsequent application.

2.6. Completeness Review

2.6.1. Applications to Be Complete

(A) No application is considered to have been submitted under this ordinance unless it is complete, all the information required herein is included, and all filing fees have been paid. The Planning Director shall determine whether an application has been submitted by conducting a completeness review pursuant to this section.

(Ord. #1919)

(B) Additional information may be required by the Permit Issuing Authority to decide whether or not the Development, if completed as proposed, will comply with all of the requirements of this chapter. Failure to provide additional required information may result in application denial. The presumption established by this UDO is that all required application information is necessary.

(C) Review for completeness of application forms is solely for the purpose of determining whether preliminary information required for submission with the application is sufficient to allow further processing, and shall not constitute a decision as to whether application complies with the provisions of the UDO.

(D) The Planning Director may agree to process an application without all required information at the risk to the Applicant that the decision-making body may later require the information prior to acting on the application.

2.6.2. Time Limits for Completeness Determination

(A) Not later than five (5) business days after the Planning Director has received an application, the Planning Director shall determine in writing whether the application is complete and shall immediately transmit the Determination to the Applicant.

(B) If the application requires review by any other local or special district, or regional, state, or federal agency or entity, the Planning Director shall within five (5) business days transmit the application to such agency or entity requesting written comments within thirty (30) days. In such case, the Planning Director shall have forty-five (45) days to render a decision.

(C) If the written Determination is not made within the five (5) or forty-five (45) day period, whichever is applicable, after receipt of the application, the application shall be deemed complete for purposes of this chapter. Upon receipt of any re-submittal of the application, a new five (5) day period shall begin, during which period the Planning Director shall determine the completeness of the application.

(D) If the application, together with the submitted materials, is determined not to be complete:

(1) The Planning Director shall specify in writing the information required.

(2) The Applicant may resubmit the application with the information required by the Planning Director or may appeal that decision in writing to the Planning Board.

(3) The Planning Board shall render a final written Determination on the appeal not later than the next available meeting after receipt of the Applicant's written appeal.

2.7. Failure to Act

If a Reviewing Body has failed to convene a quorum or to make a recommendation approving or denying such action at two (2) consecutive meetings, such action, at the option of the Applicant, shall be deemed to be a negative recommendation. The Planning Director shall then submit the application to the Town Council for its consideration.

2.8. Development Approvals

2.8.1. Expiration of Development Approval

(A) Unless otherwise identified in this chapter or specified in the approval, a valid Development Approval shall not expire if work on the project has substantially commenced within twenty-four (24) months of the date of issuance of the approval. Substantial commencement of work shall be determined by the Planning Director to have occurred when there is substantial construction, erection, alteration, excavation, demolition or similar work authorized by such permits.

(B) Even if work has substantially commenced, a Development Approval expires if Development work is intentionally and voluntarily discontinued for a period of not less than twenty-four (24) consecutive months, as calculated and tolled pursuant to G.S. 160D-108.

(Ord. #1919)

2.8.2. Extension of Development Approval

(A) Except as specifically provided in this chapter, the Permit Issuing Authority may extend the approval for a period of up to twelve (12) months if it concludes:

(1) The approval has not yet expired;

(2) The approval recipient has proceeded with due diligence and in good faith; and

(3) Conditions have not changed so substantially as to warrant a new application.

(B) Successive extensions may be granted for periods up to twelve (12) months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(Ord. #1714; Ord. #1919)

2.8.3. Effect on Successors and Assigns

Development Approvals are transferable if the use of land or structures or any portion thereof subject to the approval continues to comply with all the terms and requirements of that approval.

2.8.4. Amendments to Development Approvals

(A) The Planning Director may authorize Minor Amendments to Development Approvals upon finding that the amendment has no discernible impact on neighboring properties, the general public or those intended to occupy or use the proposed Development.

(B) All other requests for changes in approved plans will be processed as a modification to the original application, and new conditions may be imposed only on the specific site or area requested to be modified. The Applicant retains the right to withdraw the request for an amendment and may then proceed in accordance with the previously issued permit.

(C) A vested right established in accordance with this UDO shall not be extended by any amendments or modifications to a Development Approval unless expressly provided for by the Town Council.

2.8.5. Permit Choice

If this ordinance is amended between the time a complete Development permit application is submitted and a Development permit decision is made, the Development permit Applicant may choose which adopted version of the ordinance will apply to the Development permit.

(A) If the Applicant chooses the version of the ordinance applicable at the time of the complete application, the Applicant shall not be required to await the outcome of the amendment to the ordinance prior to acting on the Development permit.

(B) If a Development permit application is placed on hold at the request of the Applicant for a period of six (6) consecutive months or more, or the Applicant fails to respond to comments or provide additional information reasonably requested by the Town or State government for a period of six (6) consecutive months or more, the application review is discontinued and the Development regulations in effect at the time permit processing is resumed apply to the application.

(C) When multiple Development permits are required to complete a Development project, the Development permit Applicant may choose the version of each of the local land Development regulations applicable to the project upon submittal of the application for the initial Development permit. This provision is applicable only for those subsequent Development permit applications filed within eighteen (18) months of the date following the approval of an initial permit.

(Ord. #1919)

2.8.6. Vested Rights

A vested right is a period of time within which amendments to this ordinance or other local Development regulations are not applicable or enforceable to a valid Development Approval. Once established, vested rights as described herein run with the land. An Applicant may seek an administrative Determination of vested rights pursuant to section 2.24. Types and durations of vested rights are as follows:

(A) **Development Permit**:

(1) A Development permit is any Development Approval that does not otherwise qualify for a longer period of vested rights as described below.

(2) A Development permit is vested for so long as the permit remains valid pursuant to this ordinance.

(B) **Site-Specific Vesting Plans**:

(1) Planned Developments, Special Use Permits, Major Subdivision Preliminary Plats and Conditional Zoning Districts are types of Development permits that may include a site-specific vesting plan.

(2) A site-specific vesting plan shall, at a minimum, contain the information required for the type of application as established in Appendix A of this UDO.

(3) An Applicant must specifically include a document identified as a site-specific vesting plan with an application for Development

Approval, and the Town Council shall specify the document that constitutes the approved site-specific vesting plan at the time of approval.

(4) A site-specific vesting plan is valid for twenty-four (24) months from the date of issuance of the Development permit.

(C) **Multi-Phased Development**:

(1) A multi-phased Development is any Development containing 25 acres or more that is both submitted for Development permit approval to occur in more than one phase and is subject to a master Development plan with committed elements showing the type and intensity of use of each phase.

(2) A multi-phased Development is vested for the entire Development in the land Development regulations in place at the time a Site Plan approval is granted for the initial phase of the multi-phased Development.

(3) A multi-phased Development is valid for seven (7) years from the date a Site Plan approval is granted for the initial phase of the multi-phased Development.

(D) **Development Agreement**: A Development agreement vests the Development project in the manner, and for the duration, specified in the agreement.

(E) **Common Law**: Common law vested rights may exist within a reasonable time and may be established following such time as determined pursuant to the criteria and process described in section 2.24.

(Ord. #1919)

2.9. PHASED DEVELOPMENT

An Applicant may submit plans that show multiple phases provided that:

(A) The requirements of this UDO will be satisfied with respect to each phase.

(B) A phasing plan shall be approved by the Town that designates a date or event by which substantial work on each phase will begin and be completed.

(C) If a Development that is to be built in phases includes improvements that benefit the entire Development, then the Applicant shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases.

(D) Once a schedule has been approved and made part of the approval by the Permit Issuing Authority, no land may be used, Buildings occupied or Subdivision Lots sold except in accordance with the approved schedule unless otherwise provided in this chapter.

2.10. NOTICE

2.10.1. Generally

(A) The notice requirements for each type of application are established in Exhibit 2-2 and as prescribed in the individual subsections of this chapter and/or the state statute. For any inconsistency between the provisions of this chapter and state statute, the state statute governs.

(B) Any defective notification of a required Town procedure, not otherwise required by State or Federal law, shall not invalidate the proceedings if the defect is determined to be harmless by the Decision-Making Authority.

(C) The Planning Director shall make every reasonable effort to comply with the notice provisions set forth in this chapter and shall document such notice.

2.10.2. Content

(A) Posted notices shall indicate the following information:

(1) The Development Approval requested; and

(2) Contact information for persons seeking additional information about the application.

(B) Published, mailed and internet notice shall include:

(1) A description of the property subject to the application that includes the street address or if the street address is unavailable the legal description and the real property tax assessment roll Parcel number;

(2) A brief description of the proposed Development, including, current and revised zoning classification (if any); and

(3) Notice that the full permit request application can be reviewed at the office of the Planning Director.

(Ord. #1746)

2.10.3. Format and Timing

(A) **Published Notice**. Notice shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date set for the Town Council hearing.

(B) **Mailed Notice**. Notice shall be mailed to the owners of all properties involved in the permit request as well as to the owners of all properties any portion of which is within two hundred (200) feet (not counting streets, railroads, or other transportation corridors) of the outermost boundaries of the property owned by the Applicant. Not fewer than the ten (10) closest property owners shall be notified by mail. Notice must be mailed at least ten (10) but not more than twenty-five (25) days prior to the hearing date

(C) **Posted Notice.** At least one (1) Sign shall be posted at least ten (10) but not more than twenty-five (25) days prior to the hearing in conspicuous places visible from each street along the frontage of the subject property. Signs shall be in a form approved by the Planning Director with words clearly describing the Development Approval (zoning decision or Subdivision decision) in six (6) inch tall lettering and the planning department phone number clearly legible from the street.

(D) **Internet Notice**. A copy of the notice shall be posted on the Town's website from at least ten (10) days prior to the initial hearing until the proceeding has been completed.

(Ord. #1746; Ord. #1919)

2.11. [RESERVED FOR FUTURE CODIFICATION PURPOSES]

(Ord. # 1716; Ord. #1919; Ord. #2052)

Exhibit 2-2: Notice Requirements

Development Application	Review Process	Publication	Mail	Signage	Internet
Comprehensive Plan Amendment	Legislative Hearing	✓			✓
UDO Text Amendment	Legislative Hearing	✓*			✓
UDO Map Amendment	Legislative Hearing	✓*	✓	✓	✓
Planned Development District					
Conceptual PD Plan	Legislative Hearing	✓	✓	✓	✓
Preliminary PD Plan	Evidentiary Hearing	✓	✓	✓	✓
Final PD Plan	Administrative				
Major Subdivision					
Preliminary Plat	Evidentiary Hearing		✓	✓	✓
Final Plat	Administrative				
Development Agreement	Legislative Hearing	✓	✓	✓	✓
Special Use Permit	Evidentiary Hearing		✓	✓	✓
Variances	Evidentiary Hearing		✓	✓	✓
Appeals	Evidentiary Hearing		✓	✓	✓
Vested Rights Determination	Evidentiary Hearing		✓	✓	✓
Development Approval Revocation	Evidentiary Hearing	✓	✓	✓	✓
Certificate of Appropriateness – Major Work	Evidentiary Hearing		✓	✓	✓
Vacations of Streets or Alleys	Legislative Hearing	✓*	✓	✓	✓
Vacations of Easements or Plats	Legislative Hearing	✓*			✓

* Additional notification requirements in applicable procedures section

(Ord. #1714; Ord. #1716; Ord. #1703; Ord. #1919)

PART II – APPROVALS REQUIRING A PUBLIC HEARING

2.12. GENERALLY

The following requirements apply to all public hearings:

2.12.1. Continuances and Deferrals

The Hearing Body shall consider requests for continuances and may grant continuances in its sole discretion. If, in the opinion of the Hearing Body, any testimony or documentary evidence or information presented at the hearing justifies allowing additional research or review to evaluate the issue presented, then the Hearing Body may continue the matter to a date and time certain to allow for such research or review.

2.12.2. Modification of Application at Hearing

(A) In response to questions or comments by person appearing at the hearing or to suggestions or recommendations by the Hearing Body, the Applicant may agree to modify the application, including the plans and specifications submitted.

(B) Unless such modifications are so substantial or extensive that the Hearing Body cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Hearing Body may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

(C) No modification may allow a more intensive zoning district or use than advertised for the public hearing.

(Ord. #1714)

2.12.3. Record of Proceedings

The Hearing Body shall record the minutes of the proceedings by any appropriate means as prescribed by rule and consistent with statute and case law. Such record shall be provided at the request of any person upon application to the Planning Director and payment of a fee set by the Town Council to cover the cost of duplication of the transcribed record.

2.13. LEGISLATIVE HEARING PROCEDURES

2.13.1. Purpose

The purposes of legislative public hearings are to:

(A) Obtain public input on decisions on matters of policy. Legislative public hearings are generally less formal than evidentiary public hearings. They typically affect numerous properties or the entire jurisdiction.

(B) To provide the public with an opportunity to be heard consistent with procedures provided by statute.

(C) To secure citizens' comments on a specific policy proposal.

(Ord. #1919)

2.13.2. Conduct of Hearing

(A) Any party may appear at any Legislative Hearing, in person, or by agent or attorney.

(B) Public hearings on legislative zoning decisions must be conducted in a fair and impartial manner, but the formalities of an Evidentiary Hearing (oaths, exhibits, cross-examinations, avoiding gathering evidence outside of the hearing, and the like) need not be observed.

(C) The deliberations of the Hearing Body shall be guided by Robert's Rules of Order (most current edition). The Town may adopt reasonable rules governing the conduct of the public hearing, including but not limited to rules:

(1) Fixing the maximum time allotted to each speaker;

(2) Providing for the designation of spokesmen for groups of persons supporting or opposing the same positions;

(3) Providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall; and

(4) Providing for the maintenance of order and decorum in the conduct of the hearing.

(D) The Hearing Body may question the Applicant, other parties, witnesses and Town staff at any time during the hearing.

(E) The Hearing Body may receive petitions, hear personal opinions or talk to members of the public about the issue prior to the hearing.

(F) Although no written findings of fact or explanation of the decision is required, the Chair may decide that the Hearing Body should make findings of fact and conclusions as to applicable standards and any conditions. The Chair may direct the Planning Director or Town Attorney to draft a written decision for approval by the Hearing Body at its next regularly scheduled meeting, which approval may be on a consent agenda.

(G) Members of the Hearing Body shall not vote on any Legislative Decision regarding a Development regulation where the outcome on the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member, nor where the Applicant is a person with whom the member has a close familial, business, or other associational relationship. If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

(Ord. #1919)

2.14. EVIDENTIARY HEARING PROCEDURES

2.14.1. Purpose

Quasi-judicial decisions made at evidentiary public hearings must be based upon and supported by the "record" developed at the hearing. Evidentiary hearings are subject to stricter procedural requirements than Legislative Hearings. Evidentiary hearings are a formal means of gathering evidence before a decision is made in the application of the UDO to an individual situation. These hearings are much like a court proceeding--witnesses present testimony, exhibits are submitted, detailed minutes are kept, and a formal written decision is rendered. In making Quasi-judicial Decisions, decision makers must investigate facts or ascertain the existence of facts; hold hearings; weigh evidence; and draw conclusions from them as a basis for their official action; and exercise discretion of a judicial nature. In the land use context, these Quasi-judicial Decisions involve the application of land-use policies to individual properties as opposed to the creation of policy. These decisions involve two key elements:

(A) The finding of facts regarding the specific proposal; and

(B) The exercise of discretion in applying the standards of the ordinance.

(Ord. #1919)

2.14.2. Due Process Required

Due process requirements for Quasi-judicial Decisions mandate that all fair trial standards be observed when these decisions are made. This includes an Evidentiary Hearing with the right of the parties to offer evidence; cross-examine adverse witnesses; inspect documents; have sworn testimony; and have written findings of fact supported by competent, substantial, and material evidence.

2.14.3. Responsibilities of the Chairperson

(A) The Chair shall:

(1) Preside over the hearing.

(2) Recognize speakers and members of the Hearing Body before they may be heard.

(3) Rule on any objections or requests from participants in the hearing regarding the procedure of the hearing, evidence presented, or jurisdictional issues. The chair’s rulings may be appealed to the full board.

(B) The Chair may:

(1) Rule on the competence (i.e. the admissibility) of evidence with or without an objection from a participant.

(2) Place reasonable and equitable limitations on the presentation of evidence, arguments, and cross-examination of witnesses so that the matter at hand is heard without undue delay. Adequate time shall be provided for presentation of all evidence as provided in section 2.14.7.

(3) Impose additional requirements and take actions as may be necessary or desirable to facilitate the fair and efficient conduct of the hearing and other agenda items. Additional requirements or actions may include requiring witnesses to sign up in advance of the hearing allocating reasonable time for each side to present their testimony and evidence, limiting the overall time for the hearing, and delaying a hearing to a later point in the agenda or continuing the hearing to a later meeting.

(Ord. #1919)

2.14.4. Responsibilities of the Hearing Body

(A) Members of the Hearing Body must make their decision solely on the written, graphic and oral evidence presented and cannot consider information obtained through independent research or undisclosed ex parte communications.

(B) Members may view the Premises at issue before the hearing so long as the members disclose the site visit and any facts or information gleaned from the site visit that are relevant to the case.

(C) Members must disclose any specialized knowledge they may have that is relevant to the case.

(D) Members of the Hearing Body shall not engage in ex parte communications about upcoming or ongoing cases with any parties or other members of the Hearing Body, and at the commencement of the hearing, members must disclose any intentional or inadvertent ex parte communications.

(E) Members may receive administrative materials containing applications, reports, and other general, technical information pertaining to the case from Town staff prior to the hearing, but the Town staff shall provide the information at the same time to the Applicant and to the landowner if that person is not the Applicant and to all during the hearing before the entire Hearing Body.

(Ord. #1919)

2.14.5. Responsibilities of Witnesses

(A) Witnesses shall observe time limits imposed on testifying unless the Chair grants additional time for good cause shown.

(B) Witnesses shall avoid all hearsay evidence.

(C) Witnesses shall focus their testimony on the applicable criteria. Unless they are a qualified expert or have knowledge of the preparation and implementation of the specific site's Development or use, witnesses are not competent to testify about matters that require special training or expertise. Non-expert witnesses are competent to testify about facts known to them and their opinion so long as it is not about matters that require special training or expertise.

2.14.6. Conduct of Hearing

(A) The hearing shall be conducted in accordance with the procedures set forth in this UDO, by statute and by case law. If a quorum of the Hearing Body is not present, the hearing shall be continued until the next regular meeting without further advertisement.

(B) The deliberations of the Hearing Body shall be guided by Robert's Rules of Order (most current edition). The Town may adopt reasonable rules governing the conduct of the public hearing, including but not limited to rules:

(1) Fixing the maximum time allotted to each speaker;

(2) Providing for the designation of spokesmen for groups of persons supporting or opposing the same positions;

(3) Providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall; and

(4) Providing for the maintenance of order and decorum in the conduct of the hearing.

(C) The Applicant(s), Town staff, and persons with standing shall have the right to participate as a party at the hearing. Any person or persons may appear

at a public hearing and submit competent, material, and substantial evidence, either individually or as a representative. Each person who appears at a public hearing shall state for the record his/ her name, address, and, if appearing on behalf of an organization or group, the name and mailing address of the organization or group.

(D) All testimony, including from Town staff, must be sworn testimony. All persons wishing to speak will be given a reasonable time in which to be heard; however, groups are encouraged to select a spokesperson to speak for the group in order to avoid repetitive testimony. Inflammatory, irrelevant, repetitive and incompetent testimony and hearsay is not permitted.

(E) At any point, members of the Hearing Body may ask questions of the Applicant, staff, or public, or of any witness, or require cross-examination to be conducted through questions submitted to the chair, who will direct the questions to the witness.

(F) The order of proceedings for each Evidentiary Hearing should be as follows:

(1) All persons, including Town staff, who intend to present evidence must be sworn in.

(2) Members of the Hearing Body should disclose the following:

(a) Any site visits,

(b) Ex parte communications,

(c) Specialized knowledge they have relevant to the case,

(d) Whether they have a fixed opinion that is not susceptible to change based on what they learn at the hearing;

(e) Whether they have a close familial, business or other relationship with the Applicant or other affected person;

(f) Whether they have a financial interest in the outcome of the case; and

(g) Any other information relevant to determining whether a conflict of interest exists.

(3) The Planning Director should present the staff report. Evidence and exhibits that were not provided by the deadline in advance of the hearing shall be given to the Applicant and any opposing party. If an exhibit is presented it becomes part of the record and will not be returned.

(4) The Applicant and a representative of an opposing party may present brief opening statements that shall only be considered as argument and not testimony.

(5) The Applicant shall present the arguments and evidence in support of the application, and address applicable approval criteria.

(a) Members of the Hearing Body or any attorney representing the Hearing Body or the Town may ask questions for clarification.

(b) If all parties are represented by attorneys, opposing parties may ask questions of (cross-examine) the Applicant (if the Applicant testifies) or supporting witnesses at this time.

(c) If those opposed to the Applicant are not represented by attorneys, the Chair may delay cross-examination until all sides present their arguments and evidence.

(6) Persons opposed to granting the application shall present the arguments and evidence against the application based on the applicable approval criteria.

(a) Members of the Hearing Body or any attorney representing the Hearing Body or the Town may ask questions for clarification.

(b) The Applicant may cross-examine the speaker or opposing witnesses at this time.

(7) If cross-examination was not done at the conclusion of each side's case, then both sides will be permitted to cross examine previous witnesses.

(a) Those who oppose the application should cross examine the Applicant (if the Applicant testified) and the Applicant's supporting witnesses first.

(b) Then the Applicant may cross examine those witnesses who spoke in opposition to the application.

(8) Both sides will be permitted to present rebuttals to opposing testimony. Both sides may, as necessary, object to incompetent evidence and testimony (such as improper lay opinion testimony and hearsay) offered by other witnesses. The Chair shall rule on such objection.

(9) Unless the Chair continues the public hearing to a publicly stated date, time and location, the Chair shall close the period for public discussion and the Hearing Body shall publicly discuss the case without further general input from the public. Members of the Hearing Body, however, may seek clarification or ask questions of persons previously sworn on any piece of evidence presented. Cross-examination and rebuttals may be made only on new evidence presented. The Hearing shall be closed after Hearing Body deliberations are complete.

(10) Unless the public hearing has been continued, the Hearing Body shall render a decision on the matter, or, if it so chooses, recess the case to a publicly stated date, time and location, which should generally be the next regular meeting of that body.

(11) A written decision must be approved for every Quasi-judicial application, either by entering the decision at the end of the hearing or at a subsequent meeting of the Hearing Body, which shall generally be the next scheduled meeting. As part of the written decision, the Hearing Body must make findings of fact and conclusions as to applicable standards and any conditions. The Chair may direct the Planning Director or Town Attorney to draft a written decision for approval by the Hearing Body at its next regularly scheduled meeting, which approval may be on a consent agenda.

(Ord. #1919)

2.14.7. Evidence

(A) The Hearing Body's decision must be based on substantial, competent, and material evidence. Substantial evidence is "that which a reasonable mind would regard as sufficiently supporting a specific result." Competent evidence is evidence that can be subjected to cross-examination, inspection, explanation and rebuttal. Material evidence is evidence that is relevant to the issue being considered by the Hearing Body.

(B) As a general rule, anyone with knowledge material to the case may provide factual information, but only experts may provide opinion testimony. Except as provided in G.S. 160D-1402(j)(3), lay witnesses may provide opinion testimony, but this testimony is generally deemed incompetent unless it is corroborated by competent evidence.

(C) Competent evidence shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

(1) The use of property in a particular way would affect the value of other property.

(2) The increase in vehicular traffic resulting from a proposed Development would pose a danger to the public safety.

(3) Matters about which only expert testimony would generally be admissible under the rules of evidence.

2.14.8. Findings of Fact

(A) To either approve or deny an application, the Hearing Body must make findings of facts. The findings of fact are a summation of the facts presented that the members of the Hearing Body think are relevant to the application.

(B) Hearing Bodies shall investigate facts or ascertain the existence of facts, weigh evidence and make final findings of fact applicable to the specific proposal as a basis for their official action.

(Ord. # 1716)

2.14.9. Conclusions of Law

(A) To either approve or deny an application, the Hearing Body also shall make conclusions of law. Conclusions of law are the application of specific standards and criteria in this UDO that are relevant to the application by the Hearing Body.

(B) Hearing Bodies shall exercise their discretion applying the standards and criteria of this UDO and draw conclusions from them as a basis for their official action.

(Ord. # 1716)

2.15. NEIGHBORHOOD INFORMATION MEETINGS

2.15.1. Purpose

(A) Encourage Applicants to pursue early and effective communication with the affected public in conjunction with applications, giving the Applicant an opportunity to understand and attempt to mitigate potential adverse impacts of the proposed project on the adjoining community and to educate and inform the public; and

(B) Provide citizens and property owners of affected areas with an opportunity to learn about applications.

2.15.2. Applicability

(A) The Town strongly encourages Applicants to meet with surrounding Neighborhoods prior to filing an application for a Development Approval requiring a public hearing.

(B) The Applicant should confer with the Planning Director during a pre-application meeting to determine the most effective means of communicating with neighboring property owners, which may include formal or informal meetings with individuals or groups.

(C) The Applicant shall hold a formal Neighborhood information meeting when Conceptual Development Plan approval for a PD or Conceptual Master Plan approval in the Morganton Road Overlay District is sought.

2.15.3. Notice, Meeting

The following provisions apply to any required Neighborhood information meeting. Compliance with this section is voluntary for Applicants who voluntarily meet to neighboring property owners

(A) The Applicant shall at a minimum, mail notice to all owners of property located within two hundred (200) feet of the boundaries of the property subject to the application and to the Planning Director. Mailed notice shall be sent to no fewer than the ten (10) nearest distinct property owners.

(B) Notice shall be mailed and posted on the site of the proposed Development in accordance with section 2.10.

(C) The Applicant shall be responsible for securing a location and conducting the informational meeting to discuss the proposed Development with affected property owners. Required information meetings shall be conducted at a location within the Town.

2.15.4. Record

(A) The Applicant shall provide a written report on the results of its citizen participation efforts to the Planning Director, which shall be forwarded to the applicable Hearing Body. The report shall include the following information:

(1) Copies of graphics presented at the meeting;

(2) A copy of the sign-in sheet showing attendees;

(3) Representations made by the Applicant regarding the proposed Development; and

(4) A summary of public comments and responses provided by the Applicant.

2.16. COMPREHENSIVE PLAN AMENDMENTS

This section applies to any amendment to the Comprehensive Plan or to the preparation or amendment of an area or corridor plan that is adopted as part of the Comprehensive Plan.

2.16.1. Approval Process Overview

The approval process and typical timing for Comprehensive Plan amendments are summarized in Exhibit 2-3 and 2.4. Actual timing may vary based on the date of submittal and scheduled hearing dates.

Exhibit 2-3: Approval Process Summary

Plan Amendment Process
Application, Review and Notice
Planning Board Public Hearing
Town Council Public Hearing

Exhibit 2-4: Typical Timing

Plan Amendment Timing	
Completeness Review	5 business days (from Application Submittal)
Planning Board Public Hearing	25 days (from Completeness Certification)
Planning Board Decision	30 days (from Planning Board Public Hearing)
Town Council Public Hearing	30 days (from Planning Board Decision)
Town Council Decision	30 days (from Town Council Public Hearing)

2.16.2. Initiation

(A) The Planning Board, the Town Council, the Town Manager, a property owner, a Neighborhood association, or the owner of any business located in the Town of Southern Pines may initiate a request for an amendment to the future land use map or text of the Comprehensive Plan.

(B) The application for amendment of the future land-use map may be accompanied by an application for a zoning district map amendment, which may be processed concurrently.

(C) By resolution, the Town of Southern Pines may establish a schedule prescribing when and how frequently Comprehensive Plan amendments will be considered.

(D) Before any application is made, the Applicant should schedule a pre-application conference with the Planning Director to discuss the procedures and requirements for a Comprehensive Plan amendment request pursuant to these regulations.

(E) The application shall be filed with the Planning Director, shall describe the proposed amendment and shall include a complete application in accordance with Appendix A of this UDO.

2.16.3. Completeness Review

The Planning Director shall review the Comprehensive Plan amendment application and shall determine if the application is complete pursuant to the provisions of section 2.6. Upon finding that the application is complete the Planning Director shall consult with the Technical Review Committee (TRC) and prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with section 2.10.

2.16.4. Planning Board Action

The Planning Board shall hold a legislative public hearing and shall render its recommendation in accordance with the procedures set forth in this chapter.

2.16.5. Town Council Action

Within thirty (30) days of the Planning Board recommendation, the application shall be submitted to the Town Council to review at a legislative public hearing. Following the hearing, the Council may approve, conditionally approve or deny the application. If the Application is denied, the Town Council shall advise the Applicant of the reason for denial.

2.16.6. Criteria

In determining whether the proposed amendment shall be approved, the Planning Board and Town Council shall consider the change is needed to address:

(A) Original Errors or Omissions: Whether there was error or omission in the adoption of the Comprehensive Plan, or in the supporting Premises and findings.

(B) Subsequent Events: Whether events subsequent to the Comprehensive Plan adoption have invalidated portions of the Plan, changed the character of the Town, or demonstrated new information, such that an amendment is acceptable.

2.16.7. Effect of Approval

The approval of an amendment to the Comprehensive Plan does not authorize the use, occupancy, or Development of property until the Applicant receives necessary Development Approvals, such as zoning changes, Subdivision and Site Plan approval.

2.17. UDO Text/Map Amendments (Rezonings)

2.17.1. Applicability

(A) The provisions of this section apply to any application to:

(1) Revise the text of the UDO (Text Amendment); or

(2) Reclassify a Tract, Parcel, or land area from one zoning district to another (Map Amendment).

(B) Conditional zoning district zoning requests shall be made in accordance with the provisions of this UDO.

2.17.2. Approval Process Overview

The approval process and typical timing for UDO amendments are summarized in Exhibits 2-5 and 2-6. Actual timing may vary based on the date of submittal and scheduled hearing dates.

Exhibit 2-5: Approval Process Summary

UDO Amendment Process
Application, Review and Notice
Planning Board Public Hearing
Town Council Public Hearing

Exhibit 2-6: Timing

UDO Amendment Timing	
Completeness Review	5 business days (from Application Submittal)
Planning Board Public Hearing Notice	25 days (from Completeness Certification)
Planning Board Decision	30 days (from Planning Board Public Hearing)
Town Council Public Hearing	30 days (from Planning Board Decision)
Town Council Decision	30 days (from Town Council Public Hearing)

2.17.3. Initiation

(A) The Planning Board, the Town Council, the Town Manager, a property owner, a Neighborhood association, or the owner of any business located in the Town of Southern Pines may initiate a request for an amendment to the UDO text or Official Zoning Map (rezoning). No amendment to the UDO text or Official Zoning Map that down-zones property shall be initiated without the written consent of all property owners whose property is the subject of the Down-zoning amendment, unless the Down-zoning amendment is initiated by the Town.

(B) When any amendment request is made by the Town Council, Planning Board or Town Manager, the Planning Director shall cause an appropriate ordinance to be drafted and shall set a date for a public hearing.

(C) When any other person requests an amendment, the application shall be filed with the Planning Director, shall describe the proposed amendment and shall include a complete application in accordance with Appendix A of this UDO.

(D) For Zoning Map Amendments, a pre-application conference with the Planning Director is strongly encouraged prior to submittal of a Zoning Map amendment application to the Planning Director.

(E) For UDO Text Amendments

(1) The Planning Director shall forward applications for text amendments to the Council with or without written comment for a Determination of whether an ordinance should be drafted and a public hearing set in accordance with the provisions of this UDO.

(2) Upon receipt of a petition for an ordinance amendment as provided herein, the Council may summarily deny the petition or set a date for a public hearing on the requested amendment and order the attorney, in consultation with the Planning Director, to draft an appropriate ordinance.

(Ord. #1919)

2.17.4. Completeness Review

The Planning Director shall review the application and shall determine if the application is complete pursuant to the provisions of section 2.6. Upon finding that the application is complete the Planning Director shall consult with the TRC and prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with section 2.10 and the following section.

2.17.5. Notice

(A) The Planning Director shall publish a notice of the public hearing on any ordinance that amends the provisions of this chapter once a week for two (2) successive weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not fewer than ten (10) days or more than twenty-five (25) days before the date fixed for the hearing before the Permit Issuing Authority. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.

(Ord. #1714)

(B) For Zoning Map amendments:

(1) The Planning Director shall mail written notice of the public hearing to the record owners for tax purposes of all properties whose zoning classification is changed by the proposed amendment as well as all property owners and property within two hundred (200) feet of the rezoning request (not counting streets, railroads, or other transportation corridors and within one hundred (100) feet of all other property contiguously owned by the property owner/Applicant or all pieces of land that were part of the property requesting rezoning prior to the requested rezoning.

(2) The Planning Director shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right of way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple Parcels are included within a proposed Zoning Map amendment, a posting on each individual Parcel is not required but the local government shall post sufficient notices to provide reasonable notice to interested persons.

(Ord. #1919)

2.17.6. Protests to Zoning District Changes

If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification or repeal to a zoning ordinance to the Town Clerk at least two business days prior to the proposed vote on such change, the Clerk shall deliver such written statement to the Town Council. If the proposed change is the subject of a Quasi-judicial proceeding under G.S. 160D-406, the Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Town Council shall not disqualify any member of the Council from voting.

(Ord. # 1716; Ord. #1919))

2.17.7. Planning Board Action

The Planning Board shall hold a legislative public hearing and shall advise the Town Council on whether the proposed amendment is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation to the Town Council that addresses consistency with the Comprehensive Plan and other applicable criteria as set forth in this chapter.

(Ord. #1919)

2.17.8. Town Council Action

(A) The Council shall allow thirty (30) days for the Planning Board to review and comment on a proposed amendment to the zoning regulation. If no written report is received from the Planning Board within thirty (30) days of referral to the Planning Board, the Town Council may act on the proposed amendment without a Planning Board report. The Town Council is not bound by any recommendations of the Planning Board that are before it at the time it takes action on a proposed amendment.

(B) The Council is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(C) At the conclusion of the public hearing on a proposed amendment, the Council may proceed to vote on the proposed ordinance, refer it to a committee for further study or take any other action consistent with its usual rules of procedure.

(D) Following the hearing, the Council may approve, conditionally approve or deny the application. The Council shall approve a statement describing the reasons for the decision that shall, at a minimum, describe the consistency or inconsistency of the proposed amendment with the adopted comprehensive plan and an analysis of the reasonableness of the proposed amendment based on the applicable criteria set forth herein.

(E) If an application for a Zoning Map amendment is approved and the action taken is inconsistent with the adopted comprehensive plan, the zoning amendment shall also have the effect of automatically amending any future land-use map in the adopted comprehensive plan.

(F) Voting on amendments to this chapter shall proceed in the same manner as other ordinances.

(Ord. # 1716; Ord. #1919)

2.17.9. Criteria for Zoning Map Amendments

In its review of an application for a Zoning Map amendment, the Hearing Bodies shall consider the following criteria. No single factor is controlling; instead, each must be weighed in relation to the other standards.
(Ord. # 1716)

(A) **Consistency**. Rezoning shall be consistent with the adopted Comprehensive Plan.

(B) **Adverse Impacts on Neighboring Lands**. The Hearing Body shall consider the nature and degree of an adverse impact upon neighboring lands. Lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive. The Town finds and determines that vast acreages of single-use zoning produces uniformity with adverse consequences, such as traffic congestion, air pollution, and social alienation. Accordingly, rezonings may promote mixed uses subject to a high degree of design control.

(C) **Suitability as Presently Zoned**. The Hearing Body shall consider the suitability or unsuitability of the Tract for its use as presently zoned. This factor, like the others, should be weighed in relation to the other standards, and instances can exist in which the land may be rezoned to meet public need, to reflect substantially changed conditions in the Neighborhood, or to effectuate important goals, objectives and policies of the Comprehensive Plan or UDO.

(D) **Health, Safety, and Welfare**. The amending ordinance must bear a substantial relationship to the public health, safety or general welfare, or protect and preserve historical and cultural places and areas. The rezoning may be justified, however, if a substantial public need or purpose exists, even if the private owner of the Tract will also benefit.

(E) **Public Policy**. Certain public policies in favor of the rezoning may be considered. Examples include a need for affordable housing, economic Development, mixed-use Development, or sustainable environmental features, which are consistent with Neighborhood, area, or specific plans.

(F) **Size of Tract**. The Hearing Body shall consider the size, shape, and characteristics of the Tract in relation to the affected neighboring lands. Amendatory ordinances shall not rezone a single Lot when there have

been no intervening changes or other saving characteristics. Proof that a small Tract is unsuitable for use as zoned, or that there have been substantial changes in the immediate area, may justify ordinance rezoning.

(G) **Other Factors**. The Hearing Body may consider any other factors relevant to a rezoning application under state law.

(H) **Applicant Representations**. Except for rezoning requests submitted in accordance with the provisions herein for Conditional Zoning districts, the Hearing Body shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Hearing Body shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

(Ord. # 1716; Ord. #1919)

2.17.10. Criteria for UDO Text Amendments

In its review of an application for a UDO text amendment, the Hearing Bodies shall consider the following criteria. No single factor is controlling; instead, each must be weighed in relation to the other standards.

(A) **Consistency.** The text amendment shall be consistent with the adopted Comprehensive Plan.

(B) **Health, Safety, and Welfare**. The amending ordinance must bear a substantial relationship to the public health, safety, or general welfare, or protect and preserve historical cultural places and areas.

(C) **Public Policy**. Certain public policies in favor of the text amendment may be considered. Examples include a need for affordable housing, economic Development, mixed-use Development, or sustainable environmental features, which are consistent with the Town, area, Neighborhood, or specific plans.

(D) **Other Factors**. The Hearing Body may consider any other factors relevant to a text amendment application under state law.

(E) **Impacts**. The Hearing Bodies shall not regard as controlling any advantages or disadvantages to the individual requesting the change but shall consider the impact of the proposed amendment on the public at large.

(Ord. # 1716)

2.17.11. Conditional Zoning Districts (Conditional Zoning)

(A) There are circumstances in which a conventional zoning district designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly developed, be appropriate for the property and consistent with the objectives of this ordinance and the adopted Land Development Plan. The review process established in this section provides for the accommodation of such uses by a reclassification of property into a Conditional Zoning district, subject to specific conditions that ensure Compatibility of the use with the use and enjoyment of neighboring properties.

(B) The Conditional Zoning district approval process allows the Council to approve a proposal for a specific use with reasonable conditions to mitigate the negative impacts of the proposed Development and assure the Compatibility of the use with surrounding properties. Any use permitted under this process must also conform to the regulations for the corresponding general zoning district.

(C) Conditional zoning is a voluntary procedure that is allowed only in response to a petition by all owners of the property to be included and is intended for specific Development proposals. It is not intended or suited for securing early zoning for tentative proposals, which may not be undertaken for some time.

(D) Uses that may be proposed and considered for a Conditional Zoning district shall be restricted to those uses permitted in the underlying conventional zoning district.

(E) Every petition for the reclassification of property to a Conditional Zoning district shall be accompanied by a Site Plan containing the requisite information specified in Appendix A. In the course of evaluating the proposed use, the Hearing Body may request additional information deemed appropriate to provide a complete analysis of the proposal.

(F) The Council may approve the reclassification of property to a Conditional Zoning district only upon determining that the proposed use will meet all standards and requirements in these regulations that are applicable to the proposed use.

(G) In approving a petition for the reclassification of property to a Conditional Zoning district, the petitioner, Planning Board and the Council may propose specific conditions to approval of the petition, but only those conditions approved by the Council and consented to by the petitioner in writing may be incorporated into the Conditional Zoning District.

(H) If a petition is approved under this section, the district that is established, the approved petition and all conditions that have been attached to the approval are binding on the property as an amendment to these regulations and to the Zoning Map. All subsequent Development and use of the property shall be in accordance with the standards for the approved Conditional Zoning district; the approved petition and all conditions attached to the approval. Only those uses and structures indicated in the approved petition and Site Plan shall be allowed on the subject property. Any Development in the district shall comply with all provisions of and conditions to the approved petition and Site Plan. Any uses and structures on the subject property also shall comply with all standards and requirements for Development in the underlying general zoning district.

(I) Following the approval of the application for a Conditional Zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation. A Conditional Zoning district shall be identified by the same designation as the underlying general zoning district followed by the letters "CD" (for example, RS-1 CD).

(J) Except as provided in paragraph (K), changes to the approved petition or to the conditions attached to the approval shall be treated the same as amendments to these regulations or to the Zoning Map and shall be processed in accordance with the procedures in this section.

(K) Minor changes in the detail of the approved petition or Site Plan that do not involve a change in uses permitted or the density of overall Development permitted and that will not alter the basic relationship of the proposed Development to surrounding properties or the standards and requirements of these regulations or to any conditions attached to the approval may be approved by the Planning Director without going through the amendment process or a public hearing. The Planning Director may forward any application for changes in detail to the Planning Board for its consideration as an amendment to these regulations or the Zoning Map. The Applicant may appeal the decision of the Planning Director to the Planning Board for review and decision as to whether an amendment to the approved district shall be required.

(L) The Planning Director shall periodically examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Director determines that construction has not commenced or is not in accordance with the approved petition and conditions, the Planning Director shall either initiate a reclassification of the property in accordance with the procedures established in this section or shall forward a report to the Council recommending that the property be classified to another district.

(Ord. #1775; Ord. #1919)

2.17.12. Effect of Approval

Approval of a map amendment entitles the property owner to use the property in accordance with the standards of the applicable zoning district. The approval of an amendment to the UDO text or Zoning Map does not authorize the use, occupancy, or Development of property until the Applicant receives necessary Development Approvals, such as Subdivision, Site Plan and Building permit approval.

2.17.13. Recording Procedures

When the amendment involves changes to the existing zoning district boundaries, the form of the amending ordinance shall contain a narrative description of the land to be reclassified or reference to an accompanying plat of such land showing the new zoning classifications and indicating their boundaries. The Planning Director shall refer to the attested ordinance as a record of the current zoning status until such time as the Zoning Map can be changed.

2.18. PLANNED DEVELOPMENT

2.18.1. Purpose

The purpose of this section is to establish procedures and review criteria for the establishment of Planned Development (PD) districts that comply with the purposes and standards established in section 3.5.14. Exempt or Minor Subdivision may be approved, but no Building permits shall be issued prior to Final Development Plan approval within a PD district, except for single-family detached Dwelling Units on a single Parcel.
(Ord. # 1716; Ord. #1703)

2.18.2. Approval Process Overview

The general approval process for the creation of a PD involves concurrent Zoning Map amendments and Subdivision of land. Because most PDs involve a mix of uses and the application of flexible development standards that deviate from the specific standards in other zoning districts, many applications will involve approval of Site Plans that must receive Architectural Compliance Permits. The process summarized in Exhibit 2-7 identifies the steps involved in a typical PD creation. Actual process may vary based on the complexity of the proposed Development.

Exhibit 2-7: Approval Process Summary

Planned Development Process
Pre-application Conference (required)
Neighborhood Meeting (required)
Conceptual Development Plan
Preliminary Development Plan (includes Preliminary Plat, conceptual Site Plan and contingent zoning approval)
Engineering Plans
Improvement Guarantees and Development Agreement (optional steps contingent on the Applicant's proposed phasing and improvements plans)
Final Development Plan (includes final zoning approval and may in include Final Plat approval)

(Ord. #1703; Ord. #1716)

2.18.3. Initiation

(A) **Pre-Application Conference Required**. Before any application is made, the Applicant shall schedule a pre-application conference with the Planning Director to discuss the procedures and requirements for a PD request pursuant to these regulations.

(B) **Application Filing**. The application shall be filed with the Planning Director, shall describe the proposed Development and shall include a complete application for the Conceptual Development Plan in accordance with Appendix A of this UDO.

(C) **Ownership and Division of Land**. No Tract of land may be considered for a Planned Development (PD) district unless such Tract is under single or unified ownership or control. If listed in several ownerships, the application for the creation or amendment of a PD shall be accompanied by each landowner's written consent. The holder of a written option to purchase or a Developer under contract shall be considered an owner for purposes of this section provided the landowner's (or landowners') written consent is included with the application.
(Ord. #2052)

(D) **Neighborhood Meeting Required**. The Applicant is required to conduct a Neighborhood information meeting in accordance with section 2.15 of this UDO. The meeting shall be conducted prior to submittal of the Conceptual Development Plan application.

(E) **Joint Work Session (Optional)**. At the Developer's request, or at the recommendation of the Planning Director, a Joint Work Session of the Town Council and Planning Board may be held by the Town to provide an opportunity for the Developer to present Conceptual Development Plans and respond to any initial questions that members of the Town Council and Planning Board might have regarding the proposed PD.
(Ord. #1703)

2.18.4. Conceptual Development Plan

(A) **Purpose**. The purposes of the Conceptual Development Plan are to demonstrate that:

(1) The mix and intensity of land uses are consistent with the Comprehensive Plan;

(2) The general street layout is consistent with mobility needs of the Town and the proposed Development;

(3) The phasing plan enables each phase to be developed in a way that it creates a sustainable Neighborhood that will be enhanced as each successive phase is developed; and

(4) The proposed arrangement of land uses and the phasing plan are Compatible with surrounding Neighborhoods.

(B) **Applicability**. A Conceptual Development Plan shall be required when an Applicant is planning to develop less than the entire, contiguous land area held in common ownership in a single phase or Subdivision plat. The Conceptual Development Plan shall illustrate future Development of the entire area under common ownership.

(C) **Conceptual Development Plan Process Overview**. The approval process and typical timing for Conceptual Development Plan approval are summarized in Exhibits 2-8 and 2-9. Actual timing may vary based on the date of submittal and scheduled hearing dates.

Exhibit 2-8: Conceptual Development Plan Approval Process Summary

Conceptual Development Plan Process
Application, Review and Notice
Planning Board Public Hearing
Town Council Public Hearing

Exhibit 2-9: Timing

Conceptual Development Plan Timing	
Completeness Review	5 business days (from Application Submittal)
Planning Board Public Hearing Notice	25 days (from Completeness Certification)
Planning Board Decision	30 days (from Planning Board Public Hearing)
Town Council Public Hearing	30 days (from Planning Board Decision)
Town Council Decision	30 days (from Town Council Public Hearing

(D) **Initiation**. The Conceptual Development Plan application shall be filed with the Planning Director. It may be submitted for concurrent review with Preliminary Development Plans for one or more of the planned phases of Development. The Conceptual Development Plan shall comply with the application requirements established in Appendix A. If a portion of an Applicant's landholdings is intended to remain in agricultural production for the foreseeable future, the Director may waive Conceptual Development Plan content requirements for those areas.

(E) **Completeness**. The Planning Director shall review the application and shall determine if the application has been submitted and is complete pursuant to the provisions of section 2.6. Upon finding that the application is complete and consulting with the TRC, the Planning Director shall prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with section 2.10.

(F) **Planning Board Action**. The Planning Board shall conduct a Legislative Hearing and advise the Town Council on whether the proposed Conceptual Development Plan is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation to the Town Council that addresses consistency with the Comprehensive Plan and other applicable criteria.

(G) **Town Council Action**. The Town Council shall conduct a Legislative Hearing and approve, conditionally approve or deny the Conceptual Development

Plan following the process for Town Council Action on zoning amendments, but only those conditions approved by the Council and consented to by the petitioner in writing may be incorporated into the Conditional Zoning District.

(H) **Criteria**

(1) The proposed PD satisfies the criteria for a Zoning Map amendment established in this chapter;

(2) The Conceptual Development Plan represents an overall development pattern that is consistent with the goals and policies of the Comprehensive Plan, Official Zoning Map, Capital Improvements Program, and any other applicable planning documents adopted by the Town;

(3) The proposed development is appropriate for the area of the Town in which it is located; and

(4) The proposed development will not generate the need for inefficient extensions and expansions of public facilities, utilities and services.

(Ord. #1775)

(I) **Effect of Approval**

(1) Approval of a Conceptual Development Plan constitutes acceptance that the proposed type, density and intensity of land use; the classification and arrangement of streets; the proposed phasing plan; and the nature of utility service proposed are consistent with the Comprehensive Plan.

(2) Approval of a Conceptual Development Plan shall constitute acceptance of the general land-use mix, range of Development types and intensities, street patterns, drainage patterns, Lot patterns, parks and open space, and pedestrian and bicycle trails.

(3) Action on the Conceptual Development Plan may include approval of a Conversion Schedule providing for the substitution of certain land uses for other land uses. The Conversion Schedule shall be based on relative peak hour trip generation, peak parking demand and other impacts affecting the function of on- and off-site infrastructure and land use Compatibility.

(4) Conceptual Development Plan approval does not ensure approval of a Preliminary Development Plan involving a substantially different concept, failing to meet specific requirements of these regulations, or failing to satisfy conditions of Conceptual Development Plan approval. Approval does not comprise any assurance that permits of any kind will be issued.

(Ord. #2052)

(J) **Denial and Appeal**. If the Town Council finds that the Conceptual Development Plan fails to meet the criteria established in the section, it shall deny the Conceptual Development Plan application. The Applicant may appeal such denial to the Superior Court.

(Ord. #1716; Ord. #1703; Ord. #1919)

2.18.5. Preliminary Development Plan

(A) **Purpose**. The purposes of the Preliminary Development Plan are to demonstrate that:

(1) The proposed land use mix and intensity are consistent with the Comprehensive Plan, the purposes of the PD and the approved Conceptual Development Plan, if applicable;

(2) Proposed system of streets, trails and greenways are consistent with this UDO, as well as the mobility needs of the Town and the proposed development;

(3) The proposed development is consistent with the ability to provide and maintain public facilities and services on which the development, area and Town depend;

(4) The proposed development is well integrated with the protection of natural features, including Watersheds, woodlands and other natural features; and

(5) The proposed development patterns and development products are Compatible with the character and vitality of the Neighborhood and community.

(B) **Applicability**. A Preliminary Development Plan is a mandatory step in the process for PD approval and shall be required to show all contiguous land holdings and the detailed Development Patterns for the portions that are proposed to be developed. Preliminary Development Plan and Conceptual Development Plan approval are not required if the property has a valid approval of a Conceptual Master Plan and zoning under the prior PD, PUD or MU Development process.

(C) **Preliminary Development Plan Process Overview**. The approval process and typical timing Preliminary Development Plan approval are summarized in Exhibits 2-10 and 2-11. Actual timing may vary based on the date of submittal and scheduled hearing dates.

(D) **Initiation**. The Preliminary Development Plan application shall be filed with the Planning Director. The Preliminary Development Plan shall comply with the application requirements established in Appendix A, which combine and supplement the requirements for Zoning Map amendments and Preliminary Plat approval. The application shall include renderings illustrating the proposed Development Patterns and architectural character of Development.

(E) **Completeness**. The Planning Director shall review the application and shall determine if the application has been submitted and is complete pursuant to the provisions of section 2.6. Upon finding that the application has been submitted and is complete and consulting with the TRC, the Planning Director shall prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with section 2.10.

Exhibit 2-10: Preliminary Development Plan Approval Process Summary

Preliminary Development Plan Process
Application, Review and Notice
Planning Board Preliminary Forum
Town Council Public Hearing

(Ord. #1959)

Exhibit 2-11: Timing

Preliminary Development Plan Timing	
Completeness Review	5 business days (from Application Submittal)
Planning Board Preliminary Forum Notice	25 days (from Completeness Certification)
Planning Board Decision	30 days (from Planning Board Preliminary Forum)
Town Council Public Hearing	30 days (from Planning Board Decision)
Town Council Decision	30 days (from Town Council Public Hearing)

(Ord. #1959)

(F) **Planning Board Action**. The Planning Board shall conduct a Preliminary Forum regarding the Preliminary Development Plan.

(Ord. #1959)

(G) **Town Council Action**. The Town Council shall conduct an Evidentiary Hearing and approve, conditionally approve or deny the Preliminary Development Plan based on the criteria in the following paragraphs. If the application is conditionally approved, the Town Council shall obtain written consent to conditions by the landowner or permit Applicant. Approval of the preliminary plat shall be subject to the approval criteria established in section 2.20.4(G).

(H) **Criteria**

(1) The application demonstrates that it will achieve the purposes of the PD and this section;

(2) The Preliminary Development Plan is consistent with the Conceptual Development Plan and conforms to all applicable provisions of this UDO;

(3) The proposed Development is located in an area of the Town that is appropriate; and

(4) The proposed Development will not cause the need for inefficient extensions and expansions of public facilities, utilities and services.

(Ord. #1775)

(I) **Effect of Approval**

(1) Approval of a Preliminary Development Plan shall constitute approval of the specific land-use mix, which shall include the development types and intensities and improvements to include but not limited to streets, drainage, utilities, parks and open space, and pedestrian and bicycle trails.

(2) Action on the Preliminary Development Plan may include approval of the Preliminary Plat for Subdivision of all or a portion of the proposed Planned Development. Special Use Permit approval is not required for a Preliminary Plat approved concurrently with a PDP application.

(3) If sufficient certainty and information exists during the Preliminary Development Plan phase, Applicant or the Planning Director may request Final Development Plan impact assessment requirements be considered.

(4) If Preliminary Development Plan approval is accompanied by Preliminary Plat approval, the Applicant may proceed with final plat approval pursuant to section 2.20.8.

(Ord. #1716; Ord. #1703; Ord. #1919)

2.18.6. Interim Actions

Prior to the submittal of the Final Development Plan for the PD application, the Applicant should secure approval of Engineering Plans In accordance with section 2.20.5 and, after approval of the Engineering Plans, may initiate construction of public improvements for the PD or coordinate with staff to enter into an improvements agreement in accordance with section 2.20.6 and/or a Development agreement in accordance with section 2.20.7.

2.18.7. Final Development Plan

(A) **Purpose.** The purpose of the Final Development Plan is to demonstrate that the proposed POD is consistent with the Preliminary Development Plan approval, purposes of the POD and other applicable requirements of the UDO. Final Development Plan approval may be accompanied by Final Plat approval for the phase of the Development being approved and may include sufficiently detailed Site Plans for Multi-Family and non-residential Development to receive Architectural Compliance Permit in conjunction with the approval.

(B) **Applicability.** A Final Development Plan is the mandatory final step in the process for PD approval. Final Development Plan approval is not required if the property has a valid approval of a Master Plan and zoning under the prior PD, PUD or MU Development process.

(C) **Final Development Plan Process Overview.** No hearing is required for Final Development Plan approval unless the Applicant chooses to appeal the staff decision to the Town Council or the Applicant proposes a major design modification from the approved Preliminary Development Plan. The Applicant may attend the TRC meeting to provide information pertinent to the application.

(D) **Initiation.** The Final Development Plan application shall be filed with the Planning Director. The Final Development Plan shall comply with the application requirements established in Appendix A, include and supplement the requirements for Final Plat approval. Restrictions, covenants, architectural standards and conceptual Site Plans shall be submitted in conjunction with the application. If the Applicant seeks Architectural Compliance Permit approval for any Building, detailed Site Plans and renderings shall be submitted.

(E) **Action by Planning Director.** The Planning Director shall review the application and shall determine if the application has been submitted and is complete pursuant to the provisions of Section 2.6. Upon finding that the application is complete and consulting with the TRC, the Planning Director shall:

(1) Determine if the Final Development Plan is in compliance with the Preliminary Development Plan approval, and, upon making such Determination, shall approve such plan, and:

(a) Transmit notice to the Planning Board and Town Council of the approval of the Final Development Plan together with a copy of the Final Development Plan; and,

(b) Notify the Applicant of the approval for the area included within the Final Development Plan.

(2) Should the Planning Director determine that the Final Development Plan submittal is not in compliance with the Preliminary Development Plan approval or the criteria) in paragraph (F) of this section, the Planning Director shall deny the Final Development Plan submittal. If denied, the Applicant may:

(a) Revise and resubmit such Final Development Plan;

(b) Elect to have the submittal forwarded to the Planning Board and Town Council for appeal; or

(c) If the Preliminary Development Plan constitutes a major design modification, forward the plan to the Planning Board and Town Council for a public hearing.

(3) Following approval of the Final Development Plan, the Planning Director shall secure necessary signatures to execute the Final Development Plan.

(F) **Criteria for Final Development Plan Approval**

(1) The application demonstrates that it will achieve the purposes of the PD and this section;

(2) The Final Development Plan application is consistent with the previously approved Conceptual Development Plan and Preliminary Development Plan approvals, and conforms to all applicable provisions of this UDO;

(3) The Final Plat satisfies the criteria established in this chapter;

(4) The Application and support documents satisfy the criteria for Architectural Compliance Permit approval established in Section 2.26, if applicable.

(G) **Effect of Approval**

Approval of a Final Development Plan that includes a Final Plat approval entitles the Applicant to record the plat.

2.18.8. Request for Amendment to a PD Approval

(A) **Administrative Approval**. The Planning Director may authorize the following Minor Amendments to a Conceptual or Preliminary Development Plan:

(1) Deviations arising from limited technical considerations which could not reasonably be anticipated during the approval process.

(2) Amendments required to bring the application into compliance with adopted technical codes.

(3) Any other change which has no material effect on the character of the approved Conceptual or Preliminary Development Plan, as determined by the Planning Director, such as:

(a) Driveway relocations;

(b) Facility design modifications for design, recreational or other amenities;

(c) Substitutions of landscaping materials within the same genus, so long as the substituted material is not of a type that is specifically prohibited per the UDO or approved PD landscape standards;

(d) Realignments of internal streets prior to final plat approval as long as the realignment does not result reduce the gross area of common areas or open spaces, reduce residential Lot sizes, eliminate required buffers or create street alignments that fail to conform with Town standards;

(e) Modifications to uses in accordance with an approved Conversion Schedule; and

(f) Expansions of buffers, open spaces and landscape areas.

(Ord. #2052)

(B) **Request for Amendments to a PD Approval.** – **Resubmittal and Rehearing**. Major Design Modifications to the Conceptual or Preliminary

Development Plan shall be resubmitted for review and approval, and include:

(1) Change in use, other than allowable changes specified in a Conversion Schedule that was approved during the initial PD approval;

(2) Designation of additional land uses;

(3) Change in the location of permitted use(s) from what is shown on the approved Conceptual or Preliminary Development Plan;

(4) An increase or decrease in project area other than surveyor base data corrections;

(5) Decrease in Open Space;

(6) Change in dimensional standards set forth in the Development Conditions that result in a decrease in minimum standards (e.g., reduction in minimum Setbacks or reductions in street widths) or increase in maximum standards (i.e. an increase in Building height and/or gross density or intensity of land uses);

(7) Change to proposed treatment of buffering, landscaping, land uses or Lot sizes along the perimeter of the PD;

(8) Addition or reduction of driveways or access points, especially those which negatively affect connectivity or street safety; or

(9) Other design modifications to the approved PD that the Planning Director determines to be major.

(Ord. #1716; Ord. #1703; Ord. #1919; Ord. #2052)

2.19. REGULATION OF SUBDIVISIONS, GENERALLY

2.19.1. No Subdivision without Plat Approval:

(A) As provided in G.S. 160D-807, no person may subdivide land except in accordance with all the provisions of this chapter. In particular, no person may subdivide land unless and until a Final Plat of the Subdivision has been approved in accordance with the provisions of this chapter and recorded in the Moore County Registry.

(B) As provided in G.S. 160D-803(d), the Moore County Register of Deeds may not record a plat of any Subdivision within the Town's Planning Jurisdiction unless the plat has been approved in accordance with the provisions of this chapter.

(C) The owner or proprietor of any Tract of land who desires to subdivide land (i.e., to create a “subdivision”) shall submit a plat of such Subdivision to the Planning Director.

(D) Unless such Subdivision was legally created prior to the adoption of this chapter or is full compliance with this UDO:

(1) No person shall sell or transfer ownership of any Lot or Parcel of land by reference to a plat of a Subdivision before such plat has been duly recorded with the register of deeds.

(2) No Development Approval or certificate of occupancy shall be issued for any Parcel, plat, map, or plan created prior to Subdivision approval.

(3) No excavation of land or construction of any public or private improvements shall be commenced.

(Ord. #1919)

2.19.2. Exemptions

A Subdivision plat is not required for any of the exemptions to the definition of Subdivision established in Chapter 9 of this ordinance.
(Ord. #1919)

2.19.3. Subdivision Classification

Certain Subdivisions shall qualify as Expedited Review Subdivisions. Major and Minor Subdivisions are subject to the criteria for approval of Subdivision plats unless a specific provision indicates that it does not apply to Minor Subdivisions. Different time limits are prescribed for the review and processing of Major and Minor Subdivisions to reflect the level of complexity involved in review of the applications. Subdivisions shall be classified as established in this UDO.

(A) Expedited Review Subdivisions that meet the following criteria require only a plat for recordation:

(1) The Tract or Parcel to be divided is not exempted under G.S. 160D-802(a)(2).

(2) No part of the Tract or Parcel to be divided has been divided as an Expedited Review Subdivision in the ten (10) years prior to division.

(3) The entire area of the Tract or Parcel to be divided is greater than five (5) acres.

(4) After division, no more than three Lots result from the division.

(5) After division, all resultant Lots comply with all of the following:

(a) All Lot dimension size requirements of the applicable land-use regulations.

(b) The use of the Lots is in conformity with the applicable zoning requirements.

(c) A permanent means of ingress and egress is recorded for each Lot.

(B) Minor Subdivisions shall include:

(1) Lot splits or resubdivision of one or more Parcels into not more than five (5) Lots that:

(a) Front on an existing street or share a common private driveway meeting the access standards of this ordinance;

(b) Do not require the dedication or construction of a public or private street, provided however that perimeter Right-of-Way dedication shall be allowed as part of a minor Subdivision;

(c) Do not involve the extension of municipal water or sewer lines by more than two hundred (200) feet from an existing line to the nearest boundary of the Subdivision;

(d) Do not adversely affect the remainder of the Parcel or adjoining the property;

(e) Are not in conflict with the Comprehensive Plan, official map, or zoning regulations;

(f) Do not result in the cumulative creation through one or more minor Subdivisions of more than five (5) Lots; and

(g) Do not result in the creation of additional driveway accesses along collector, arterial, freeway, expressway, or interstate roadways. If existing Lot(s) front on an existing street, then each existing Lot may have only one (1) driveway access if along a collector, arterial, freeway, expressway or interstate roadway.

(2) The consolidation of existing Parcels or Lots; or

(3) Modification of plats to reflect the dedication of rights-of-way or easements.

(C) Major Subdivision: Any Subdivision not exempted by the UDO or state law, other than a minor Subdivision.

(Ord. #1716; Ord. #1746; Ord. #1919)

2.19.4. Plat Procedures, Generally

(A) A Final Plat for a major Subdivision plat shall be approved by the Planning Director before the Subdivision of a Parcel may be recorded.

(B) Approval of a Final Plat for a minor Subdivision plat shall be approved by the Planning Director before the Subdivision of a Parcel may be recorded.

(C) The approval of the Sketch or Preliminary Plat shall not be deemed final acceptance of, but rather an expression of approval of the layout as submitted on the Sketch or Preliminary Plat; such approval shall be noted on the Sketch or Preliminary Plat.

(D) Where only a portion of an approved Preliminary Plat is submitted for final approval, a Final Plat of the remaining area may be submitted at any time within two (2) years of the Preliminary Plat, provided that the Final Plat for the additional area conforms substantially to the approved Preliminary Plat.

(Ord. #3024)

2.20. MAJOR SUBDIVISION

(A) Approval and Submittal Process. The Applicant for major Subdivision shall follow the procedures established in this section, which is summarized in

Exhibit 2-12. All major Subdivisions require approval of a Special Use Permit, which shall be reviewed and granted concurrently with the Subdivision process.

Exhibit 2-12: Major Subdivision Approval Process Summary

Major Subdivision Process
Pre-application Conference (recommended)
Neighborhood Meeting (only under specified conditions)
Preliminary Plat (includes preliminary SUP approval)
Engineering Plan
Improvement Guarantees and Development Agreement
Final Plat (CUP becomes effective upon recordation)

(Ord. # 1716; Ord. # 1919)

2.20.2. Pre-Application Conference

A pre-application conference is recommended.

2.20.3. Neighborhood Meeting

A Neighborhood Information Meeting is encouraged, but optional for Subdivisions.
(Ord. # 1919)

2.20.4. Preliminary Plat

(A) **Purpose**

(1) The Preliminary Plat serves as a guide to future density, intensity, land uses, pedestrian and bicycle ways, trails, parks and open space, as well as Lot, street and drainage patterns. It is intended to ensure that a landowner investigates the broad effects that Subdivision of property will have on the site itself as well as on adjacent properties and public infrastructure systems.

(2) Approval of a Preliminary Plat shall constitute acceptance of the land-use mix, Development intensity, general street patterns, drainage patterns, Lot patterns, parks and open space lands, and the general layout of pedestrian and bicycle trails, provided that these may be modified in conjunction with subsequent approvals if additional information reveals Development constraints that are not evident during Preliminary Plat review.

(3) The Preliminary Plat also provides feedback on the Special Use Permit (CUP) application from the Planning Board and Town Council.

(4) The Preliminary Plat, together with the attendant items required herein, is to provide a basis for the construction of the Subdivision and its improvements as well as a draft of the Final Plat of the Subdivision. To achieve this, the Applicant should consult with the Planning Director, Town Engineer and other agencies concerned with the Subdivision and the improvements.

(B) **Applicability**. Preliminary Plat approval is required prior to Final Plat approval for any major Subdivision.

(C) **Preliminary Plat Process Overview**. The approval process and typical timing Preliminary Plat approval are summarized in Exhibits 2-13 and 2-14. Actual timing may vary based on the date of submittal and scheduled hearing dates.

Exhibit 2-13: Preliminary Plat Approval Process Summary

Preliminary Plat Process
Application, Review and Notice
Planning Board Preliminary Forum
Town Council Public Hearing

(Ord. #1959)

Exhibit 2-14: Timing

Preliminary Plat Timing	
Completeness Review	5 business days (from Application Submittal)
Planning Board Preliminary Forum Notice	25 days (from Completeness Certification)
Planning Board Decision	30 days (from Planning Board Preliminary Forum)
Town Council Public Hearing	30 days (from Planning Board Decision)
Town Council Decision (includes SUP approval)	30 days (from Town Council Public Hearing)

(Ord. #1959)

(D) **Initiation**. The Applicant shall file the Preliminary Plat application with the Planning Director and shall comply with the requirements established in Appendix A.

(E) **Completeness**.

(1) The Planning Director shall review the application and shall determine if the application has been submitted and is complete pursuant to the provisions of Section 2.6.

(2) Reviewing agencies shall act on a plat within thirty (30) days after the date the Preliminary Plat is found to be complete. A plat is deemed approved by a reviewing agency unless the reviewing agency has provided reasons for disapproval within the thirty (30) day period.

(3) Upon finding that the application is complete and after consultation with the TRC, the Planning Director shall prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with Section 2.10.

(F) **Planning Board Action**. The Planning Board shall conduct a Preliminary Forum.

(Ord. #1959)

(G) **Criteria**

(1) The application is consistent with the Comprehensive Plan, as well as any other adopted plans for streets, alleys, parks, playgrounds, and public utility facilities;

(2) The proposed Subdivision complies with the UDO and applicable state and federal regulations;

(3) The proposed Subdivision, including its Lot sizes, density, access, and circulation, is Compatible with the existing and/or permissible zoning and future land use of adjacent property;

(4) The proposed Subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties; and

(5) The proposed public facilities are adequate to serve the normal and emergency demands of the proposed Development, and to provide for the efficient and timely extension to serve future Development.

(Ord. #2052)

(H) **Town Council Action**. The Town Council shall conduct an Evidentiary Hearing and shall approve, conditionally approve or deny the Preliminary Plat based on the preceding criteria. If the application is conditionally approved, the Town Council shall obtain written consent to conditions by the landowner or permit Applicant. The Town Council also shall approve, conditionally approve or deny the SUP based on the criteria established in the preceding paragraphs and in Section 2.21.6. The SUP shall not become effective until the Planning Director approves, and the Applicant records the Final Plat for the applicable area.

(Ord. #1959)

(I) **Amendments**. Amendments to a Preliminary Plat shall be approved in the following manners:

(1) Minor Amendments. Minor amendments may be approved by the Planning Director without filing a new Preliminary Plat. Minor amendments include the following:

(a) Changes in the internal alignment of streets that do not affect external properties or connectivity;

(b) Changes in internal Parcel boundaries that do not abut external property lines;

(c) Changes in Setbacks along internal property lines;

(d) Changes in the routing of trails and pedestrian ways;

(e) Adjustments in easements, utilities or drainage improvements identified as necessary during the preparation of Engineering Plans; or

(f) Changes in the orientation of Buildings on internal Parcels.

(2) Minor plat amendment shall not include any of the following:

(a) Change in permitted uses or the density of overall Development permitted;

(b) Increased intensity of use as measured by the number of Dwelling Units or square feet of nonresidential Building area;

(c) Increased trip generation or demand for public utilities;

(d) Decreased public or private open space area; or

(e) Increased volume or velocity of stormwater runoff from the Development.

(3) Major Amendments. Plat amendments not categorized as minor amendments in the above paragraph require the filing and approval of a new Preliminary Plat. Such amendments may be processed concurrently with a Final Plat application at the option and risk of the Applicant.

(J) **Effect of Approval**

(1) The Preliminary Plat governs the preparation of Engineering Plans and the final Subdivision plat, which must be submitted for approval and recordation upon fulfillment of the requirements of this chapter.

(2) The approval is valid so long as the Applicant receives and maintains a valid Development Approval per this ordinance.

(3) If a Final Plat is not submitted within the period of Development Approval validity, the Preliminary Plat approval shall be void.

(4) Approval of the Preliminary Plat by the Town Council shall not be deemed final approval of the overall Subdivision.

(K) **Recording Procedures**. A copy of the Preliminary Plat shall be kept on file in the planning department offices.

(Ord. #1718; Ord. #1919)

2.20.5. Engineering Plans (Site Plans)

(A) **Purpose**. To establish an efficient process to ensure that public improvements associated with private Developments are consistent with the Town's design standards and that improvements are documented in a way that facilitates the long-term management and enhancement of public infrastructure.

(B) **Applicability**. Following approval of the Preliminary Plat, the Applicant shall have prepared, by a professional engineer registered in the State of North Carolina, Engineering Plans consisting of complete construction drawings and specifications of all easements, streets, traffic control devices, street lights, sanitary sewers, stormwater facilities, water system facilities, sidewalks, and other improvements required by this chapter. Landscape plans shall be prepared by a Registered Landscape Architect.

(C) **Initiation**

(1) Submittals. Engineering Plans shall be submitted to the Planning Director for review and distribution. The application shall comply with the requirements established in Appendix A.

(2) Public Agency Reviews. The Applicant shall submit the Engineering Plans to all applicable local reviewing agencies and public utility companies that will service the Subdivision. The Planning Director shall forward comments from those agencies to the Applicant along with the Town's comments.

(3) Approval. Subject to comments from the TRC, the Town Engineer shall approve, conditionally approve or deny the Engineering Plans after considering comments from the TRC.

(D) **Construction**. All improvements required pursuant to these regulations shall be constructed in accordance with the applicable requirements herein and, where applicable, the requirements and authorization of the appropriate state agency, utility company or local franchisee.

(E) **Modification of Engineering Plans**. If the Applicant chooses to make minor modifications in design and/or specifications during construction, such changes shall be made at the Applicant's own risk, but only with the written approval of the Town Engineer. It shall be the responsibility of the Applicant to notify the Town Engineer in advance of any changes to be made from the approved drawings. In the event that actual construction work deviates from that shown on the approved Engineering Plans and such deviation was not approved in advance by the Town Engineer, the Applicant may be required to correct the installed improvements to conform to the approved Engineering Plans. In addition, the Town may take such other actions as may be deemed appropriate including, but not limited to, revocation of plat approval and/or permits already issued and/or withholding of future approvals and permits.

(F) **As-Built Drawings**

(1) Required Drawings. Prior to final inspection of the required improvements, the Applicant shall submit to the Planning Director one (1) digital copy and one (1) reproducible copy of as-built engineering drawings for each of the required improvements that have been completed. The reproducible drawings shall be certified by the Applicant's engineer indicating the date when the as-built survey was made. A landscape architect registered to practice in North Carolina may seal landscape plans and the designs of erosion control measures. Digital copies are for the Town’s infrastructure management purposes only and the engineer shall bear no liability for the use and modification of the digital files.

(2) Control Points. As-built drawings and digital files shall include all control points using state plane coordinates and monuments.

(G) **Completion of Improvements**

(1) Except as provided herein, improvements shall be completed or assured prior to recording the Final Plat, to the satisfaction of the Town Engineer. The required improvements shall be those specified in the approved Preliminary Plat and Engineering Plans. Unless otherwise approved and assured, sidewalks shall be completed at the time of street construction.

(2) As a condition of Final Plat approval, the Town Council may require the Applicant to deposit in escrow a deed describing by metes and bounds and conveying to the Town all street rights-of-way, easements and public land required by these regulations, pending acceptance of improvements by the Town and recordation of the Final Plat. In the event the Applicant is unable to complete the required improvements, and such improvements are deemed necessary for the preservation of the public health and safety, the Town may compel the delivery of the deed in order to complete the improvements as required.

(H) **Timing of Improvements**. Except upon the written approval of the Town Engineer, no grading, removal of trees or other vegetation, land filling, construction of improvements, or other material change, except for purposes of aiding in preparation of final engineering drawings or plans, shall commence on the subject property until the Applicant has:

(1) Entered into a Subdivision Performance Guarantee with the Town or otherwise arranged for completion of all required improvements;

(2) Received approval of the Engineering Plans and all necessary permits from the Planning Director; and

(3) Obtained necessary approvals and permits from other affected agencies.

(I) **Inspection of Improvements**

(1) Inspection Required. All improvements required by these regulations shall be inspected by the Town Engineer, except for improvements made under the jurisdiction of other public agencies, in which case engineers or inspectors of such agency will make the

necessary inspections. Where inspections are made by other agencies, the Applicant shall provide the Town with written reports of each final inspection.

(2) Inspection Schedule. It shall be the responsibility of the Applicant to notify the Town Engineer of the commencement of construction of improvements twenty-four (24) hours prior thereto.

(3) Compliance with Standards. The Applicant or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these regulations and the standards and specifications of other public agencies.

(J) **Acceptance of Improvements**

(1) Approval of the installation and construction of improvements by the Town Council in accordance with General Statutes and section 100.20 et.seq. of the Town's Code of Ordinances shall constitute acceptance by the Town of the improvement for dedication purposes.

(2) The Town shall not have any responsibility with respect to any street, or other improvement, notwithstanding the use of the same by the public, unless the street or other improvements have been accepted by the Town Council.

(3) When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of the Town, and the Applicant has submitted as-built reproducible copies to the Town Engineer, the Town Manager shall recommend that the Town Council accept the dedications and improvements for maintenance by the Town. This shall not apply to improvements maintained by another entity.

(K) **Site Cleanup**. The Applicant shall be responsible for removal of all equipment, material, and general construction debris from the Subdivision and from any Lot, street, public way or property therein or adjacent thereto. Dumping of such debris into sewers, onto adjacent property or onto other land in the Town is prohibited.

(L) **Failure to Complete Improvements**. If no Subdivision Performance Guarantee has been executed and no security has been posted, the failure to complete all required public improvements within the period specified by the Town shall result in expiration of plat approvals. If a Subdivision Performance Guarantee has been executed and security has been posted and required public improvements are not installed pursuant to the terms of the Agreement, the Town may:

(1) Declare the Subdivision Performance Guarantee to be in default and require that Subdivision Performance Guarantee all public improvements be installed regardless of the extent of completion of the Development at the time the agreement is declared to be in default;

(2) Suspend Final Plat approval until the public improvements are completed and record a document to that effect with the Town Department of Records for the purpose of public notice;

(3) Obtain funds pursuant to the surety and complete the public improvements by itself or through a third party;

(4) Assign its right to receive funds pursuant to the surety in whole or in part to any third party, including a subsequent owner of the Subdivision or addition for whom the public improvements were not constructed, in exchange for the subsequent owner's Agreement to complete the required public improvements; and/or

(5) Exercise any other rights available under the law.

(Ord. # 1716; Ord. #1919)

2.20.6. Subdivision Performance Guarantee

(A) **Applicability**. The Town Manager may waive the requirement for the completion of required improvements prior to action on the Final Plat if the Applicant enters into a Subdivision Performance Guarantee by which the Applicant covenants and agrees to complete all required on- and off-site public improvements no later than one (1) year following the date upon which the Final Plat is recorded, unless the Developer determines that the scope of work for the required improvements necessitates a longer duration. Such period shall only be extended for a duration necessary to complete the improvements.

(B) **Dedication Required**. If the Applicant chooses to phase a Subdivision or enter into a Subdivision Performance Guarantee in lieu of completing all required improvements, the Town Council may require the Applicant to dedicate land or complete and dedicate some required public improvements prior to approval of the Final Plat.

(C) **Preparation of Agreement**. The Applicant shall bear the responsibility to prepare a Subdivision Performance Guarantee. The Town Attorney shall approve any Subdivision Performance Guarantee as to form.

(D) **Covenants to Run with the Land**. The Subdivision Performance Guarantee shall provide that the covenants contained therein shall run with the land and bind all successors, heirs, and assignees of the Applicant. The Subdivision Performance Guarantee shall be recorded with the register of deeds. All existing lien holders shall be required to subordinate their liens to the covenants contained in the Subdivision Performance Guarantee.

(E) **Performance Security**

(1) Whenever the Town Manager permits an Applicant to enter into a Subdivision Performance Guarantee, the Applicant shall be required to provide sufficient security to ensure completion of the required public improvements.

(2) The performance security shall be in an amount approved by the Engineering Official as reflecting one hundred and twenty-five (125) percent of the cost of the improvements in the approved Engineering Plan and shall be sufficient to cover all promises and conditions contained in the Subdivision Performance Guarantee.

(3) In addition to all other security, when the Town participates in the cost of an improvement, the Applicant shall provide a surety bond from the contractor, with the Town as a co-obligee.

(4) The Town Manager is authorized to sign the agreement on behalf of the Town after the Town Attorney has approved same as to form.

(Ord. #1871; Ord. #1919)

(F) **Type of Security**. The security shall be in the form of a surety bond, a letter of credit, cash, or cash escrow as follows:

(1) **Surety Bond**. A surety bond shall be executed by a surety company licensed to do business in the state in an amount equal to the cost estimate, as approved by the Town Engineer, of all uncompleted and unaccepted improvements required by these regulations (other than gas, telecommunications and electric lines), with the condition that the Applicant shall complete such improvements per the terms of the Subdivision Performance Guarantee. The Town Engineer may sign the bond instrument on behalf of the Town, and the Town Attorney shall approve same as to form.

(2) **Letter of Credit**. The Applicant shall provide an irrevocable letter of credit in an amount equal to the cost estimate, as approved by the Town Engineer, of all uncompleted and unaccepted site improvements (other than gas and electric lines) required by these regulations.

(3) **Cash or Cashier's Check**. The Applicant shall provide to the Town cash or a cashier's check in an amount equal to the cost estimate as approved by the Engineering Official of all uncompleted and unacceptable site improvements (other than gas and electric lines) required by these regulations. Upon completion of the required site improvements and their acceptance by the Town Engineer, the amount will be refunded to the Applicant by the Town.

(4) **Cash Escrow**. If security is provided in the form of a cash escrow, the Applicant shall deposit with the Planning Director a cash amount or certified check endorsed to the escrow agent for a face value in an amount of at least the amount specified by the Town Engineer. A surety bond or cash escrow account shall accrue to the Town for administering the construction, operation, and maintenance of the improvements.

(Ord. #1919)

(G) **Reduction of Guarantees**

(1) When an Applicant has given security in any of the forms provided herein, and when fifty (50) percent of the required site improvements have been completed and accepted by the Town Engineer, or whenever any segment or segments of the required site improvements have been completed and accepted by the Town

Engineer, the Applicant may substitute for the original guarantee a new guarantee in an amount equal to one hundred and twenty-five (125) percent of the cost of the remaining site improvements. The cost estimate shall be approved by the Town Engineer.

(2) Such new guarantee need not be in the same form as the original guarantee so long as such guarantee is one that is listed herein. However, in no event shall the substitution of one security for another in any way change or modify the terms and conditions of the performance agreement or the obligation of the Applicant as specified in the Subdivision Performance Guarantee.

(Ord. #1919)

(H) **Reimbursement**. Where oversized facilities are required, the Subdivision Performance Guarantee shall specify a reimbursement procedure.

(Ord. #1919)

(I) **Temporary Improvements**. The Applicant shall construct and pay for all costs of temporary improvements required by the Town Engineer and shall maintain said temporary improvements for the period specified.

(Ord. #1716; Ord. #1890, 1-6-21)

2.20.7. Development Agreements

(A) **Purpose**. This section promotes and facilitates orderly and planned growth and Development through the provision of certainty in the Development Approval process by the Town and through corresponding assurances by Developers in accordance with G.S. 160D, Article 10. The Development Agreement is intended to:

(1) Implement the CIP and the conditions of Development Approval

(2) Eliminate uncertainty in the Development Approval process;

(3) Assure Applicants that, upon approval of their project, they may proceed in accordance with the policies, rules, and regulations identified in the Development Agreement;

(4) Achieve the Town's goals and objectives through assurances that public facilities will be provided concurrent with Development;

(5) Provide a mechanism to allow regulatory flexibility for specific Development proposals that achieve the Town's goals and objectives;

(6) Consistently implement G.S. §160D, Article 10.

(Ord. #1919)

(B) **Applicability**. This section applies to any Development Agreement entered into between an Applicant and the Town to:

(1) Enforce a condition of Development Approval;

(2) Recognize the existence of vested rights;

(3) Facilitate the reasonable phasing of large-scale Developments requiring significant infrastructure investment;

(4) Provide for the provision of infrastructure, design amenities, or other conditions; and/or

(5) Resolve potential legal disputes.

(C) **Criteria for Entering into Development Agreements**. The Town Council may approve a Development Agreement pursuant to this section only if it finds that:

(1) The Development to which the Development agreement pertains is consistent with the Comprehensive Plan and capital improvements program, this UDO and other applicable requirements;

(2) The Development subject to the Agreement contains features that advance the Town's adopted goals, objectives and policies, in accordance with the criteria established herein;

(3) The property owner agrees to make contributions of capital improvements for community facilities for one or more types of public improvements, that advance provision of facilities needed to serve the community.

(D) **Initiation**

(1) **Initiation.** An application for a Development Agreement may be made to the Planning Director. Application may be made by any person having a legal or equitable interest in the subject real

property in accordance with State Law. If made by the holder of an equitable interest, the application shall be accompanied by a verified title report and by a notarized statement of consent to proceed with the proposed Development Agreement executed by the holder of the legal interest. An application for a Development Agreement may be concurrently considered with and incorporated by reference with a Development Approval required under this ordinance or by law.

(2) **Contents of the Application**. The application shall be on a form prescribed by the Planning Director and shall be accompanied by a proposed Development Agreement.

(Ord. # 1716; Ord. #1919)

(E) **Contents of Development Agreement**

(1) **Mandatory Provisions**. The Development Agreement shall include, at a minimum, provisions pertaining to the following:

(a) The land that is the subject of the agreement;

(b) The duration of the agreement;

(c) The permitted land use or uses and density/intensity for the proposed Development and any conditions attached thereto;

(d) Proposed infrastructure improvements and the timing of their installation;

(e) Provisions for the dedication of land for public use, whether by easement, Right-of-Way or fee simple conveyance;

(f) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare; and

(g) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(2) **Optional Provisions**. If agreed to by the Applicant and approved by the Town Council, the Development Agreement may include, without limitation, provisions pertaining to the following:

(a) The phasing of the proposed Development project in coordination with the provision of public facilities, including, but not limited to, roads, water, sewer, drainage, parks, municipal, and other facilities, required to accommodate the impacts of the proposed Development project on such facilities at the Town;

(b) The identification of public facilities to be dedicated, constructed, or financed by the Developer pursuant to the Development Agreement and the designation of such facilities as project improvements, system improvements, or subsystem improvements;

(c) The determination of the Development project's proportionate share of the total system and subsystem improvement costs required to be dedicated, constructed, or financed by the Developer of the Development project;

(d) The Town's share of the costs of system and subsystem improvements to be dedicated, constructed, or financed pursuant to the Development Agreement;

(e) Reimbursements, as applicable, to the owner of the subject property for the amount of any contributions for system or subsystem improvements in excess of the proportionate share of the benefit derived from such facility by the subject property;

(f) The rules, regulations, ordinances, laws, plans, and official policies of the Town governing Development applicable to the subject property; and

(g) If the property to which the Development Agreement relates is located outside the incorporated area of the Town, the period of time within which each property shall be annexed to the Town.

(F) **Completeness Review**. Upon submission of an application for a Development Agreement, the Town Manager shall coordinate the review of the application and accompanying documentation for legal sufficiency, compliance with technical requirements, consistency with the adopted Comprehensive Plan and applicable rules, regulations, and policies. Upon

satisfactory completion of such review, the Planning Director shall provide required notice and place the matter on the agenda of the Town Council for a Legislative Hearing at the Council's next regularly scheduled meeting. If the Town Manager determines that the application for Development Agreement is incomplete or legally insufficient, then for the purposes of this ordinance it shall be considered to have not been submitted, and the Planning Director shall notify the Applicant by certified U.S. mail, return receipt requested, within fourteen (14) days after the date of submission of such application. Said notifications shall detail the specific grounds for rejection of the application. The Applicant may resubmit at any time.

(Ord. #1919)

(G) **Decision**

(1) Town Council Public Hearing. Within thirty (30) days of the certification of completeness, the Application shall be submitted to the Town Council, which shall consider the proposed Development Agreement at the Legislative Hearing on the date set for said hearing or on the date or dates to which such hearing may be continued from time to time. The Town Council may:

(a) Approve the Development Agreement as recommended by the Town Manager;

(b) Approve the Development Agreement with modifications; or

(c) Reject the Development Agreement as recommended by the Town Manager, in whole or in part, and take such further action as it deems to be in the public interest. Any such action shall be taken by the affirmative vote of at least a majority of the voting members of the Town Council.

(2) Ordinance. The Town Council may approve such agreement by ordinance. The Town Council's action shall be final and conclusive.

(3) Execution of Development Agreement. If approved by the Town Council, the Development Agreement shall become effective upon execution by the Town Manager and any other parties to the Development Agreement.

(Ord. #1919)

(H) **Recordation**

(1) Notice. Within ten (10) days following rejection of a Development Agreement, the Town Clerk shall give notice of such action to the Applicant at the address shown on the application and to the Planning Director.

(2) Recordation of Agreement. Within ten (10) days following execution of a Development Agreement, the Town Clerk shall record with the recorder of deeds a fully executed copy of the Development Agreement and ordinance. The agreement shall be binding upon, and the benefits of the agreement shall inure to the parties and all successors in interest to, the parties of the Development Agreement.

(I) **Coordination of Development Agreement Application with Other Discretionary Approvals**. It is the intent of these regulations that the application for a Development Agreement will be made and be considered simultaneously with the review of other necessary applications, including, but not limited to: rezoning; Subdivision; PD and SUP. If combined with an application for Development, the application for a Development Agreement shall be submitted with said application and shall be processed, to the maximum extent possible, jointly to avoid duplication of hearings and repetition of information. A Development Agreement is not a substitute for, nor an alternative to, any other required Development Approval, and the Applicant must comply with all other required procedures for Development Approval.

(J) **Existing and Subsequently Adopted Rules, Regulations, Ordinances, Laws, and Policies**

(1) Unless otherwise provided by the Development Agreement, rules, regulations, ordinances, laws, general or specific plans, and official policies of the Town governing permitted uses, Development, density and intensity of use, permitted uses of the land, growth management, public facilities, environmental considerations, and governing design, improvement and construction standards and specifications applicable to the subject property shall be those in force and effect at the time of commencement of the term of the Development Agreement.

(2) The adoption of a Development Agreement, however, shall not prevent the Town, in subsequent actions applicable to the property or to the Town general, from applying such newer, modified rules, regulations, ordinances, laws and official policies that do not conflict with those applicable to the property at the time of the Development Agreement and that do not prevent the Development of the land as set forth in the Development Agreement. The existence of the Development Agreement shall not prevent the Town from denying or conditionally approving any subsequent Development not expressly addressed in said Agreement on the basis of such existing or new rules, regulations, and policies.

(3) Unless otherwise addressed in the Agreement, application, processing and inspection fees, utility fees and improvement standards that are revised during the term of a Development Agreement shall apply to the property, provided that:

(a) Such fees, standards, and specifications generally apply to public works within the Town; and

(b) Their application to the subject property is prospective only as to applications for Building and other Development Approvals not yet accepted for processing.

(K) Subsequently Adopted State and Federal Laws. In the event that state or federal laws or regulations are enacted following approval of a Development Agreement that prevent or preclude compliance with one or more provisions of the Development Agreement, the provisions of the Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations, and every such Development Agreement shall so provide.

(L) Periodic Review, Termination, or Modification. An adopted Development Agreement shall be reviewed at least every 12 months, at which time the owner or owners of the property subject to the Development Agreement shall be required to demonstrate good faith compliance with the terms of the Development Agreement. If, as a result of such review, the Mayor and Town Council finds and determines, on the basis of substantial evidence, that the owner or owners have not complied in good faith with the conditions of the Development Agreement, the Mayor and Town Council may unilaterally terminate or modify the Agreement. Such action shall be taken by the Town Council at a regular or special meeting, provided that the Developer is notified at least 10 days in advance of such meeting.

(Ord. #1871, 8-24-20)

(M) Amendment or Cancellation of Agreement. A Development Agreement may be amended or canceled, in whole or in part, by mutual consent of the parties to the Agreement or their successors in interest. The procedure for amendment or cancellation shall be the same as that for adoption as provided in this UDO.

(N) Enforcement. A Development Agreement shall be enforceable by any party to the Agreement. The remedies specified herein and in the Development agreement are not exclusive, and any party to the Agreement may pursue any other available remedies at law or in equity.

(Ord. #1714; Ord. #1716)

2.20.8. Final Plat

(A) **Purpose**. To establish a process and standards to create and document the rights and responsibilities associated with the Subdivision of land.

(B) **Applicability**. No final Subdivision plat shall be recorded until a Final Plat has been approved as provided in this section.

(C) **Final Plat Process Overview**. The approval process and typical timing for Final Plat approval are summarized in Exhibits 2-15 and 2-16. Actual timing may vary based on the date of submittal.

Exhibit 2-15: Final Plat Approval Process Summary

Final Plat Process
Application, Review and Notice
Planning Director Action

Exhibit 2-16: Timing

Final Plat Timing	
Completeness Review	5 business days (from Application Submittal)
Planning Director and TRC Review	25 days (from Completeness Certification)
Planning Director Decision	10 days (from TRC Review Completion)

(Ord. # 1716)

(D) **Initiation**. The Final Plat application shall be filed with the Planning Director in compliance with Appendix A.

(E) **Review and Action**

(1) The Planning Director shall review the application and shall determine if the application is complete pursuant to the provisions of section 2.6.

(2) Upon finding that the application is complete the Planning Director shall determine whether the Final Plat complies with the approved Preliminary Plat and other applicable standards of this UDO. The Applicant may submit a Final Plat for only that portion of the approved Preliminary Plat, if such portion conforms to all requirements of this chapter. Any deviation from the approved Preliminary Plat that does not constitute a minor amendment shall require resubmittal of the Preliminary Plat.

(3) Unless hearings are required pursuant to the previous paragraph, within thirty-five (35) days of the certification of a complete application submittal, the Planning Director shall approve the Final Plat if:.

(a) The application complies with this UDO and applicable state and federal rules and regulations, and

(b) The application is consistent with the conditions of prior PD, Preliminary Plat and SUP approvals.

(Ord. #1716; Ord. #1919)

(F) **Recording**. Following approval of the Final Plat, the Planning Director shall secure necessary Signatures to execute the plat. The action of the Town shall be noted on all copies of the Final Plat to be retained as required for records or further action of the department or other affected agencies of the Town or state. Within twelve (12) months of approval of the Final Plat, the Applicant shall record it with the register of deeds. The Planning Director may grant up to two extensions of Final Plat approval, each up to six (6) months. Failure to record the Final Plat within the time frame noted shall cause the Final Plat approval to be void.

(G) **Effect of Approval**

(1) Where only a portion of an approved Preliminary Plat is submitted for final approval, a Final Plat of the remaining area may be submitted within the period of Development Approval validity or the time frame consistent with the approved phasing plan.

(2) Upon approval of the Final Plat by the Planning Director, the plat shall be submitted for recording within sixty (60) days.

(Ord. # 1919)

(H) **Alternative to Completion of Improvements**. Except as provided as per the Subdivision Performance Guarantees section of this chapter, all Applicants shall complete all street, sanitary, and other public improvements of the Subdivision as required by the UDO before the Final Plat is recorded.

(Ord. # 1919)

(I) **Monuments**. The Applicant shall place reference monuments in the Subdivision as required by North Carolina law. At least two (2) monuments shall be set at locations where the plat establishes x,y coordinates pursuant to the Town's digital submittal requirements in Appendix A.

(J) **Amendments**. Amendments to a Final Plat shall be approved in the same manner as the original plat, except as otherwise provided for amending plats or replats herein.

(K) **Plat Approval Not Acceptance of Dedication Offer**. Approval of a plat does not constitute acceptance by the Town of the offer of dedication of any streets, sidewalks, parks or other public facilities shown on a plat.

However, the Town may accept any such offer of dedication by Resolution of the Council or by actually exercising control over and maintaining such facilities.

(L) **Protection Against Defects**

(1) Prior to Town Council acceptance of improvements, a licensed professional retained by the Applicant shall certify to the Town that all facilities and improvements to be dedicated to the Town have been constructed in accordance with the requirements of this chapter.

(2) Additionally, the Town Engineer will periodically inspect the installation of all facilities and improvements to be dedicated to the Town for compliance with all standards and specifications.

(M) **Maintenance of Dedicated Areas Until Acceptance**. All facilities and improvements with respect to which the Applicant makes an offer of dedication to public use shall be maintained by the Applicant until such offer of dedication is accepted.

(N) **Maintenance of Common Areas, Improvements and Facilities**. Applicant shall be responsible for maintaining all common areas, improvements or facilities required by this UDO except those areas, improvements or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority.

(Ord. # 1716)

2.21. Special Use Permit

2.21.1. Purpose

This section establishes a process and standards to approve certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right. These uses may be permitted through the issuance of a Special Use Permit (SUP) after ensuring that the use complies with the SUP approval criteria. No inherent right exists to receive a SUP. Such authorization must be approved under a specific set of circumstances and conditions. Each application and situation is unique and may be subject to specific requirements to mitigate the impacts of the proposed use.

(Ord. # 1919)

2.21.2. Applicability

The provisions of this section apply to any application for approval of a SUP. Only those uses that are authorized as Special Uses in a zoning district, as set forth in Exhibit 3-15 shall be authorized by the Planning Board.

(Ord. # 1919)

2.21.3. SUP Process Overview.

The approval process and typical timing for Special Use Permit approval are summarized in Exhibits 2-17 and 2-18. Actual timing may vary based on the date of submittal and scheduled hearing dates.

Exhibit 2-17: SUP Approval Process Summary

SUP Process
Planning Board Preliminary Forum
Town Council Public Hearing

(Ord. #1959)

Exhibit 2-18: Timing

SUP Timing	
Completeness Review	5 business days (from Application Submittal)
Planning Board Preliminary Forum Notice	25 days (from Completeness Certification)
Planning Board Decision	30 days (from Planning Board Preliminary Forum)
Town Council Public Hearing	25 days (from Planning Board Decision)
Town Council Decision	30 days (from Town Council Public Hearing)

(Ord. # 1919; Ord. #1959)

2.21.4. Initiation

The SUP application shall be filed with the Planning Director in compliance with Appendix A.

(Ord. # 1919)

2.21.5. Completeness

(A) The Planning Director shall review the application and shall determine if the application is complete pursuant to the provisions of section 2.6. No application is considered to have been submitted under this ordinance unless it is complete, unless all of the information required herein is included, and all filing fees have been paid.

(B) Upon finding that the application is complete and considering TRC comments, the Planning Director shall prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with section 2.10.

(Ord. #1716; Ord. #1919; Ord. #1959)

2.21.6. Criteria

A Special Use is permitted only if the Applicant demonstrates that:

(A) The proposed special use shall comply with all regulations of the applicable zoning district and any applicable supplemental use regulations;

(B) The proposed special use shall conform to the character of the Neighborhood in which it is located and not injure the use and enjoyment of property in the immediate vicinity for the purposes already permitted;

(C) Adequate public facilities shall be provided as set forth herein;

(D) The proposed use shall not impede the orderly Development and improvement of surrounding property for uses permitted within the zoning district or substantially diminish or impair the property values within the Neighborhood;

(E) The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, comfort or general welfare; and

(F) The public interest and welfare supporting the proposed use shall be sufficient to outweigh individual interests that are adversely affected by the establishment of the proposed use.

(Ord. # 1716; Ord.#1919)

2.21.7. Conditions

(A) In approving any SUP, the Town Council may impose such reasonable standards, conditions, or requirements as it may deem necessary to protect the public health, safety and welfare. Standards and conditions shall not include requirements for which the Town does not have authority under statute to regulate, as identified in G.S. 160D-705(c). Such additional standards may include, but need not be limited to:

(1) Adequate and reasonable mitigation of potentially adverse effects on adjacent properties. In making such a Determination, consideration shall be given to:

(a) The location, type, orientation, design and height of Buildings or structures;

(b) The type and extent of landscaping and screening on the site; and

(c) Whether the proposed use is consistent with any policy of the Comprehensive Plan that encourages mixed uses and/or densities;

(2) Provision of adequate public facilities or services;

(3) Dedication of easements or land in fee title;

(4) Funding for extraordinary costs associated with the Development through direct contribution or agreement to establish an acceptable funding mechanism;

(5) Creation of restrictive covenants;

(6) Development phasing;

(7) Standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, and similar characteristics;

(8) Adequate measures to provide ingress and egress designed to minimize traffic hazards and to minimize traffic congestion on the public roads;

(9) Provision of sustainable features, solar or other renewable energy source, rain water capture, storage and treatment or other sustainability requirement;

(10) Provision of performance guarantee to the same extent and with the same limitations as in section 2.20.6 of this UDO and as acceptable in form, content, and amount to the Town Attorney to ensure continued compliance with all conditions and requirements as may be specified; or

(11) Other conditions that the Town Council finds are necessary to achieve the purposes of this section and UDO.

(Ord. #1716; Ord. #1919; Ord. #1959)

(B) The Town Council may not attach conditions that provide regulatory relief from specific requirements set forth in this UDO unless the Development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(C) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this ordinance.

2.21.8. Planning Board Action

(A) The Planning Board shall conduct a Preliminary Forum on the application.

(B) In response to Planning Board discussion at the Prelimianary Forum, the Applicant may modify the application prior to submission to the Town Council and the Planning Director may likewise revise the staff report.

(Ord. #1716; Ord. #1919; Ord. #1959)

2.21.9. Town Council Action

(A) The Town Council shall take no final action on any matter before it without first obtaining a staff report from the Planning Director.

(B) Within thirty (30) days of the Planning Board Preliminary Forum, the Town Council shall conduct an Evidentiary Hearing and approve, conditionally approve or deny the Application. If the application is conditionally approved, the Town Council shall obtain written consent to conditions by the landowner or permit Applicant. If the Application is denied, the Town Council shall advise the Applicant of the reason for denial.

(Ord. #1919; Ord. #1959)

2.21.10. Withdrawal and Subsequent Applications

(A) An application for a SUP may be withdrawn at any time.

(B) If the application has been advertised in compliance with state law, an application requesting substantially the same use on all or part of the same described land shall not be reconsidered within one (1) year of withdrawal.

(C) No application for a SUP for any Lot or Parcel that requests the same use and same conditions shall be considered within one (1) year of a final decision denying the application.

(Ord. #1919)

2.21.11. Effect of Approval

(A) Once a SUP is granted, such use may be enlarged, extended, increased in intensity, or relocated following the same process as the initial application unless the initial approval specifically established alternative procedures for consideration of future expansion or enlargement.

(B) The provisions of this UDO relative to expansion of nonconforming uses, do not supersede this requirement unless the special permitted use for which the Development Approval was initially granted is no longer a use permitted as of right or as a special use in the zoning district in which it is located.

(Ord. #1919)

2.21.12. SUP Amendments

(A) **Major Amendments.** Except as allowed under Minor Modifications below, all changes to approved Special Use Permits are Major Amendments and shall follow the same process applicable for the original approval.

(B) **Minor Modifications.** The Planning Director is authorized to review and approve administratively a minor modification to an approved Special Use Permit, subject to the following limitations.

(1) **General Limitations**. The minor modification:

(a) Does not involve a change in uses permitted or the density of overall Development permitted;

(b) Does not increase the impacts generated by the Development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original Development Approval; and

(c) Meets all other requirements of this UDO and complies with all conditions of the Special Use Permit approval.

(Ord. #1703; Ord. #1919)

2.21.13. Revocation of Special Use Permits.

Any Special Use Permit granted under the authority of this chapter is subject to revocation for any or all of the following reasons:

(A) Non-compliance with any conditions or requirements imposed by the UDO or by the Town Council at the time of approval of the Special Use Permit.

(B) Violation of any provisions of the UDO pertaining to the use of the land, construction or uses of Buildings or structures or activities conducted on the Premises by the Applicant or agents of the Applicant.

(C) Violation of any other applicable UDO provisions or any state or federal law or regulation by the Applicant or agents of the Applicant, provided that such violations relate to the conduct or activity authorized by the Special Use Permit or the qualifications of the Applicant or its agents to engage in such conduct or activity.

(Ord. #1919)

2.21.14. Recording Procedures

Development Approvals for SUPs shall be recorded in the Moore County Registry. Nothing authorized by the SUP may be undertaken until the owner of record of the property Signs a written acknowledgment that the approval has been issued so that the permit may be recorded and indexed under the record owner's name as grantor.

(Ord. #1919)

2.22. VARIANCE

2.22.1. Purpose and Applicability

The Board of Adjustment shall have the power to vary the certain UDO regulations when the Applicant demonstrates that the criteria in this section justify relief from the strict application of the regulations in this UDO. No change in permitted uses may be authorized by variance.

2.22.2. Variance Process Overview

The approval process and typical timing for Variances are summarized in Exhibits 2-19 and 2-20. Actual timing may vary based on the date of submittal and scheduled hearing dates.

Exhibit 2-19: Variance Approval Process Summary

Variance Process
Application, Review and Notice
Board of Adjustment Public Hearing

Exhibit 2-20: Timing

Variance Timing	
Completeness Review	5 business days (from Application Submittal)
Board of Adjustment Public Hearing	30 days (from Completeness Certification)
Board of Adjustment Decision	30 days (from Board of Adjustment Public Hearing)

2.22.3. Initiation

The Variance application shall be filed with the Planning Director and shall comply with the requirements established in Appendix A. The application shall state fully the special conditions applying to the Building, other structure or land for which such variance is sought and how the application satisfies the criteria established herein.

2.22.4. Completeness

(A) The Planning Director shall review the application and shall determine if the application has been submitted and is complete pursuant to the provisions of section 2.6.

(B) Upon finding that the application is complete and considering TRC comments, the Planning Director shall prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with section 2.10.

(Ord. #1919)

2.22.5. Board of Adjustment Action

(A) The Board of Adjustment shall conduct an evidentiary public hearing and approve, conditionally approve or deny of the application based on the criteria in the following section.

(B) Before granting a variance, the Board of Adjustment must take a separate vote and vote affirmatively by a four-fifths (4/5) majority) on each of the required findings set forth as criteria in this UDO. In so far as practicable, a motion to make an affirmative finding on each of the requirements shall include a statement of the specific reasons or findings of fact supporting such motion.

(C) In granting variances, the Board of Adjustment may impose such appropriate conditions that are reasonably related to the variance.

(D) A motion to deny a variance may be made on the basis that any one or more of the criteria are not satisfied or that the application is incomplete. In so far as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion shall be adopted as the Board of Adjustment's decision if supported by more than one-fifth (1/5) of the Board's membership (excluding vacant seats).

(Ord. #1919)

2.22.6. Criteria

A variance may be granted by the Board of Adjustment if it finds that:

(A) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;

(B) The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the Neighborhood or the general public may not be the basis for granting a variance. . A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(C) The hardship did not result from actions taken by the Applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting a variance shall not be regarded as a self-created hardship.

(D) The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(Ord. #1919)

2.22.7. Effect of Approval

(A) Except when the Board specifies that the variance shall be issued for an indefinite duration or for a specified duration, the variance shall expire one (1) year after the approval unless the Applicant establishes the Building, structure or other improvement for which the variance was sought.

(B) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this chapter.

2.22.8. Variances from Flood Hazard Area, Airport Hazard Area, Watershed Protection Overlay Requirements

(A) In addition to the requirements of this section, a Variance from any of the requirements set forth in the Flood Hazard Regulations may be granted by

the Board of Adjustment only in accordance with the provisions of Section 4.13.7.

(B) In addition to the requirements of this section, a Variance from any of the Airport Hazard Overlay District Requirements may be granted by the Board of Adjustment only in accordance with the provisions of that district.

(C) In addition to the requirements of this section, a Variance from any of the requirements of the Watershed Protection Overlay District may be granted by the Board of Adjustment only in accordance with the provisions that district.

2.23. APPEALS

2.23.1. Purpose and Applicability

Any person, including any officer or agency of the Town, aggrieved by an Administrative Decision or Determination by the Planning Director or other member of the Town's administration, may appeal such decision or Determination to the Board of Adjustment in the manner provided in this section. Should any person be aggrieved by any decision of the Board of Adjustment, they shall have the right to appeal same to the Circuit Court of Moore County, North Carolina, in the manner prescribed by law.
(Ord. #1919)

2.23.2. Appeals Process Overview

The approval process and typical timing for Appeals are summarized in Exhibits 2-21 and 2-21. Actual timing may vary based on the date of submittal and scheduled hearing dates.

Exhibit 2-21: Appeals Approval Process Summary

Appeals Process
Application, Review and Notice
Board of Adjustment Public Hearing

Exhibit 2-22: Timing

Appeals Timing	
Completeness Review	5 business days (from Application Submittal)
Board of Adjustment Public Hearing	30 days (from Completeness Certification)
Board of Adjustment Decision	30 days (from Board of Adjustment Public Hearing)

2.23.3. Initiation

(A) The Appeals application shall be filed with the Planning Director and shall comply with the requirements established in Appendix A. The application shall state fully the decision or Determination being appealed and the reasons that the Applicant believes the decision or Determination was made in error.

(B) An application to appeal shall be filed within thirty (30) days of receiving written notice of the Administrative Decision or Determination for a landowner or other party requesting the decision or Determination, and within thirty (30) days of receipt of actual or constructive notice of the decision or Determination for any other person with standing to appeal. In the absence of evidence to the contrary, written notice sent via first-class mail is deemed received on the third business day following deposit of notice for mailing with the United States Post Office.

(C) After consulting with the TRC, the Planning Director shall prepare a report making findings and recommendations on the application and authorize notice to be provided in accordance with section 2.10.
(Ord. #1919)

2.23.4. Stay of Proceeding

An appeal stays all actions by the Planning Director seeking enforcement of or compliance with the order or decision appealed from, unless the Planning Director certifies to the Board of Adjustment that a stay would cause imminent peril to life or property. If enforcement is not stayed, then the Board of

Adjustment shall meet and hear the appeal within fifteen (15) days after such request is filed.
(Ord. #1919)

2.23.5. Board of Adjustment Action

(A) The Board of Adjustment shall conduct an evidentiary public hearing and may:

(1) Reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or Determination appealed;

(2) Make such order, requirement, decision, or Determination as ought to be made, providing a statement of the specific reasons or findings of fact; and

(3) Exercise all the powers of the officer or agency from whom the appeal is taken.

(B) A motion to reverse, affirm or modify the order, requirement, decision or Determination appealed from shall include, in so far as practicable, a statement of the specific reasons or findings of facts that support the motion.

(C) If a motion to reverse or modify is not made or fails to receive a majority vote necessary to overturn the action being appealed, then a motion to uphold the decision appealed from is deemed approved.
(Ord. #1919)

2.23.6. Burden of Proof in Appeals

When an appeal is taken to the Board of Adjustment in accordance with this UDO, the Planning Director or other member of the Town's administration who made the decision or Determination shall appear as a witness at the hearing and shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the final decision or Determination being appealed. The burden of presenting evidence and argument to the contrary then shifts to the Appellant, who also shall have the burden of persuasion.
(Ord. #1919)

2.23.7. Criteria

In evaluating an Appeal, the Board of Adjustment shall determine whether the action being appealed:

(A) Was made based on correct interpretation of the UDO and other applicable regulations; and

(B) Reflected the correct response to the application that was approved, denied or conditionally approved.

2.23.8. Exemption Based on Constitutional or Statutory Claims

(A) The Board of Adjustment may approve an exemption from the requirements of this UDO, to the extent necessary to comply with or conform to federal or state law, or to avoid or resolve any alleged violation federal or state law caused by the enforcement of any regulation imposed by this UDO.

(B) Any person desiring such an exemption shall file a written petition with the Planning Director, who shall forward the petition to the Board of Adjustment for purposes of conducting a public hearing on the petition and issuing a final Determination. The petition shall include separate statements that:

(1) Advise to which particular regulation of the Town the requested exemption relates;

(2) Explain how the regulation is not in conformance with federal or state law, or how it allegedly violates federal or state law;

(3) Describe how granting the exemption would be in the public interest and not be contrary to the public health, safety, and welfare; and

(4) Describe the intended use of land or activity for which the exemption is being sought.

2.24. VESTED RIGHTS DETERMINATION

2.24.1. Applicability

(A) This section applies to any application for Development Approval in which the Applicant claims an exemption from any provision of this chapter based on common law, statutory vested rights or Estoppel.

(B) Any Applicant may apply for a vested rights Determination, provided that the requirements of this section are satisfied.

(Ord. #1919)

2.24.2. Common Law Vested Rights

Common law vested rights shall be acknowledged by the Planning Director after consultation with the Town Attorney if the Applicant for common law vested rights does not demonstrate entitlement to statutory vested rights as provided in this section. The Applicant for common law vested rights must show compliance with the following criteria for the specific project to acquire such rights:

(A) In reliance upon lawfully issued Development Approval, the Applicant makes a substantial financial commitment or assumes substantial financial obligations within the purview of the activities authorized by said Development Approval;

(B) The Applicant has proceeded in good faith, has relied upon the issuance of the Development Approval, and such Development Approval has not lapsed or been revoked;

(C) The Applicant has established any other factor that may establish Estoppel under state or federal law; and

(D) The Applicant has not obtained a favorable statutory vested rights Determination.

(Ord. #1919)

2.25. DEVELOPMENT APPROVAL REVOCATION

2.25.1. Initiation

The Planning Director shall investigate alleged violations of the requirements of this UDO and conditions imposed upon Development Approvals. If the Planning Director determines that revocation of a Development Approval is appropriate, he or she shall notify the holder in writing stating the reasons(s) for the revocation. A recommendation, including the reason or reasons for their Determination, shall be made to the same Reviewing Body that granted the Development Approval after providing notice as required in section 2.10.

(Ord. #1714; Ord. #1919)

2.25.2. Reviewing Body Action

The Reviewing Body shall conduct an Evidentiary Hearing and shall approve, conditionally approve, or deny the Planning Director's recommendation regarding the revocation of the Development Approval.

The Reviewing Body's action shall contain findings that address the basis for the decision; shall state the condition or conditions that have been violated and the harm such violation has caused. In the case of a suspension of the use, the action shall state the length of time such violation can be cured. In the case of a termination, the action shall state the reason such violation cannot be cured.

(Ord. #1919)

2.25.3. Grounds for Revocation

The following are grounds for revocation of a Development Approval:

(A) The intentional provision of materially misleading information by the Applicant (the provision of information is considered "intentional" where the Applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence); and

(B) The failure to comply with any condition of a Development Approval.

2.25.4. Appeals

An aggrieved party may appeal the Reviewing Body's decision as depicted in Exhibit 2-1. The appeal shall be presented within thirty (30) days of action by the Reviewing Body.

(Ord. #1919)

2.25.5. Right Cumulative

The right to revoke a Development Approval, as provided in this section, is cumulative to any other remedy allowed by law.

2.26. ARCHITECTURAL COMPLIANCE PERMIT

2.26.1. Purpose

This section enables the Town Council and the Developer of a Multi-Family, institutional, commercial or mixed-use Development project to collaborate on the project design, thereby providing flexibility from the strict application of the Town's Commercial Design Standards.

(Ord. # 1716; Ord. #2092)

2.26.2. Applicability

(A) Town Council approval of an Architectural Compliance Permit is required for:

(1) New construction of any Multi-Family, institutional, commercial or mixed-use Building with ten thousand (10,000) square feet or more of Gross Floor Area;

(2) Significant modification of any Multi-Family, institutional, commercial or mixed-use Building resulting in a Building with a total of ten thousand (10,000) square feet of Gross Floor area; or

(3) Any new construction of modification of a Multi-Family, institutional, commercial, or mixed-use Building that, in the opinion of the Planning Director does not comply with the commercial Building design standards in section 4.10.

(B) All other Multi-Family, institutional, commercial and mixed-use Building permit applications shall be reviewed by the Planning Director for compliance with the standards established in this UDO.

(Ord. # 1716; Ord. #2092)

2.26.3. Architectural Compliance Permit Process Overview

(A) The approval process and typical timing for Town Council decision on Architectural Compliance Permits (if required per this section) are summarized in Exhibits 2-23 and 2-24. Actual timing may vary based on the date of submittal and scheduled hearing dates.

(B) **Subsequent Applications**. If the Architectural Compliance Permit is denied, a new application proposing the same architecture for the same property shall not be filed within six (6) months after a final decision.

(Ord. # 1716; Ord. #2092)

Exhibit 2-23: Approval Process Summary

Architectural Compliance Permit Process
Application, Review
Town Council Decision

Exhibit 2-24: Timing

Architectural Compliance Permit Timing	
Completeness Review	5 business days (from Application Submittal)
Town Council Meeting	30 days (from Completeness Certification)
Town Council Decision	30 days (from Meeting)

(Ord. #2092)

2.26.4. Initiation

The Architectural Compliance Permit application shall be filed with the Planning Director and shall comply with the requirements established in Appendix A. The application shall include a dimensioned Site Plan, elevation drawings, and color renderings in sufficient detail to enable the Council to evaluate compliance with the applicable Design Standards of the UDO.

(Ord. #2092)

2.26.5. Completeness

(A) The Planning Director shall review the application and shall determine if the application has been submitted and is complete pursuant to the provisions of section 2.6.

(B) Upon finding that the application is complete the Planning Director shall prepare a report making findings and recommendations on the application.

(Ord. #1919)

2.26.6. Town Council Action

If Town Council review is required per this section, the Town Council shall approve, conditionally approve, or deny the application based on the criteria in the following section.

(Ord. #2092)

2.26.7. Criteria

No Architectural Compliance Permit shall be approved unless:

(A) For Buildings with ten thousand (10,000) square feet or more of Gross Floor Area or that do not comply with the commercial Building design standards in Section 4.10, the application is consistent with the applicable Comprehensive Plan goals and policies;

(B) The application substantially conforms with the applicable Multi-Family or commercial design standards and other applicable provisions of the UDO; and

(C) The application is consistent with applicable conditions of prior Development Approvals.

(Ord. # 1716; Ord. #2092)

2.26.8. Effect of Approval

Development activities subject to this section shall conform to the approved application and any conditions or restrictions. Any deviation from the approved Architectural Compliance Permit, unless approved in advance and in writing by the Planning Director is deemed a violation of the UDO.

(Ord. #1919; Ord. #2092)

2.27. Designation of Historic Districts

2.27.1. Approval Criteria and Decision

The Town Council may designate from time to time one or more historic districts within the jurisdictional boundaries of the Town. No historic district(s) shall be designated until:

(A) The Southern Pines Historic District commission shall have made an investigation and report on the historic significance of the Buildings, structures, features, sites or surroundings included in any such proposed district and shall have prepared a description of boundaries of such district.

(B) The Southern Pines Historic District Commission shall have requested an analysis and recommendation based on the report required in (A) of this subsection from the NC Department of Cultural Resources, including the proposed boundaries of the district. If the department has not provided the requested analysis and recommendations within (30) thirty days after a written request for such analysis and recommendations have been mailed to it, the Town Council is relieved of any responsibility for securing such analysis and recommendations and may at any time thereafter take any necessary action to adopt or amend this UDO.

2.28. Certificate of Appropriateness – Major Work

2.28.1. Applicability

(A) A Certificate of Appropriateness issued by the Historic District Commission is required prior to any Major Work or the issuance of a Building permit or other permit for Major Work. A Certificate of Appropriateness shall be required whether or not a Building permit is required. Any Building permit or other permit not issued in conformity with this section shall be invalid.

(B) Major Work includes any of the activities defined as Major Work herein as interpreted by the Planning Director.

(C) Major Work excludes any activities defined as Minor Work or Ordinary Maintenance.

2.28.2. Application Submittal Requirements

(A) Applications for Certificates of Appropriateness shall be filed with the Planning Director.

(B) The Commission may specify criteria for situations in which the Planning Director may waive any of the application material requirements.

(C) No application shall be accepted by the Planning Director unless it complies with the requirements of Appendix A. Applications that are not complete, shall be returned forthwith to the Applicant, with a notation of the deficiencies in the application.

2.28.3. Notification of Affected Property Owners

Prior to an Evidentiary Hearing on an application for a Certificate of Appropriateness for Major Work, the Planning Director shall provide notice in accordance with section 2.10.

(Ord. #1919)

2.28.4. Evidentiary Hearing

(A) An Evidentiary Hearing shall be conducted by the Commission in accordance with section 2.14 of this UDO within sixty (60) days of the acceptance of a complete application, or within such further time consented to by written notice from the Applicant. The Commission shall approve, approve with conditions or deny the application based on the criteria established in section 2.28.10. If the application is conditionally approved, the Commission shall obtain written consent to conditions by the landowner or permit Applicant.

(B) Failure of the Commission to take final action on an application within the prescribed time limit, or extensions thereof shall result in approval of the application as submitted.

(Ord. #1919)

2.28.5. Relocation or Demolition

(A) An application for a Certificate of Appropriateness authorizing the relocation, demolition or destruction of a Building or structure within the Historic District may not be denied. However the effective date of such a certificate may be delayed for a period of up to three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use off or return from such property by virtue of the delay. During such period, the Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the Building. If the Commission finds that the Building has no particular Significance or value toward maintaining the character of the Historic District, it shall waive all or part of such period and authorize earlier demolition or removal.

(B) In every case, the record of the Commission's action shall include the reasons for its action.

2.28.6. Actions Subsequent to Decision

The Planning Director shall notify the Applicant of the Commission's decision in writing and shall file a copy of it with the Town's Planning Department. If the Applicant is denied, the notice shall include the reasons for such action.

2.28.7. Appeal of Decision

A decision by the Commission on an application for a Certificate of Appropriateness may be appealed to the Board of Adjustment following the same procedures and timelines described in this ordinance for appeals of Administrative Decisions and Determinations.

(Ord. #1890; Ord. #1919)

2.28.8. Submission of New Application

If the Commission denies an application for a Certificate of Appropriateness, a new application affecting the same property may be submitted only if substantive change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

2.28.9. Modifications to Applications

An approved or pending application for a Certificate of Appropriateness may be modified by a written request from the Applicant to the Commission. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans or sketches, where necessary. If the

Commission finds that the modification constitutes a substantial change which might affect surrounding property owners, it shall request the Applicant to notify affected property owners following the procedures set forth herein before taking action on the modification. The Commission shall thereupon treat the request in the same manner as another application as outlined in herein.

2.28.10. Criteria

(A) In considering an application for a Certificate of Appropriateness, the Commission shall take into account the historical and/or architectural Significance under consideration and the exterior form and appearance of any proposed additions or modifications to that structure that are visible from a public Right-of-Way. The Commission shall not consider interior arrangement or use.

(B) The Commission shall consider the following factors when determining whether the application is or is not congruous with the historic aspects of the Historic District:

(1) The height of the Building in relation to the average height of the nearest adjacent and opposite Buildings.

(2) The Setback and placement on Lot of the Building in relation to the average Setback and placement of the nearest adjacent and opposite Buildings.

(3) Exterior construction materials, including texture and pattern.

(4) Architectural detailing, such as lintels, cornices, brick bond and foundation materials.

(5) Roof shapes, forms and materials.

(6) Proportion, shape, positioning and location, pattern and size of any elements of fenestration.

(7) General form and proportions of Buildings and structures.

(8) Appurtenant fixtures and other features such as lighting.

(9) Structural conditions and soundness.

(10) Architectural scale.

(11) Secretary of the Interior Guidelines.

(C) Prior to approving the application, the Commission shall make the following findings:

(1) Work is Compatible and appropriate in preserving, retaining, repairing, or restoring the defining historic character of a property and the district. Specifically, the work is considered Compatible and appropriate in terms of material, design, dimensions, mass, scale, orientation, color and other applicable considerations;

(2) Work does not damage or remove significant character defining features of the Building and will not adversely affect its contribution to the larger historic district; and

(3) Work is consistent with the adopted design standards for the historic district.

(Ord. #1919)

2.28.11. Parking Waiver

Where the Historic District Commission, in considering an application for a Certificate of Appropriateness, shall find that the number of off-street parking spaces required by this ordinance for a Building or structure for which a Building permit is requested would render the Building and/or parking area incongruous with the historic aspects of the district, it shall recommend to the Planning Board a waiver, in part or in whole, of the off-street parking requirements. The Planning Board may authorize a lesser number of off-street parking spaces, provided that:

(A) The Planning Board finds that the lesser number of off-street parking spaces will not create problems due to increasing on-street parking; and

(B) Will not constitute a threat to the public safety.

2.28.12. Restoration or Reconstruction

(A) Where it is found by the Historic District Commission that an application for a Building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original configuration of a structure of historic and/or architectural significance to the historic district, such activity may be approved by the

Town Council, following approval by the Historic District Commission. This allows the waiver of zoning requirements which would otherwise prevent the authentic restoration or reconstruction of a structure so long as said improvement shall meet the requirements of the Commission.

(B) The Town Council shall not be authorized, in action undertaken by this section, to approve a use of property which is not a use permitted by right or as a special use within the district in which the property is located.

(C) In addition to any other conditions the Town Council may make regarding such authorization, any items restored, reconstructed or maintained on, over or within a public sidewalk, public alley area or other such public way shall be the responsibility of the owner, his heirs and assigns. The owner's restoration, reconstruction or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold the Town of Southern Pines harmless against any and all liability, costs, damage or expenses suffered by the Town of Southern Pines as a result of or growing out of the restoration, reconstruction or maintenance thereof. Such items, so approved, may be lawfully restored, reconstructed or maintained. Any such item projecting over the Right-of-Way of a street or alley shall be, at its lowest point, twelve (12) feet above the travel way.

(Ord. #1919)

2.29. VACATION OF STREETS OR ALLEYS

2.29.1. Purpose and Applicability

This section establishes the process for approving the elimination of a Street or Alley, in whole or in part.

2.29.2. Initiation

The process may be initiated by the Town Council or the owner of property abutting the street or alley. The Town Council shall adopt a resolution declaring its intent to close a street or alley and call for a public hearing.

(Ord. # 1716)

2.29.3. Notice

The Town Manager shall cause the notice to be published once a week for four successive weeks prior to the hearing, mail a copy of the notice by registered or certified mail to all the owners of property adjoining the street or alley and post notice in at least two places along the street or alley. If the street or alley is under the authority and control of the Department of Transportation, a copy of the resolution shall be mailed to the Department of Transportation. No street or alley under the control of the Department of Transportation may be closed unless the Department of Transportation consents thereto. The cost of notice shall be borne by the Applicant for the vacation.

(Ord. # 1716)

2.29.4. Decision

At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual. If it appears to the satisfaction of the Town Council after the hearing that closing the street or alley is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the Subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the Council may adopt an order closing the street or alley. A certified copy of the order shall be filed in the office of the register of deeds.

2.29.5. Appeals

Any person aggrieved by the closing of any street or alley including the Department of Transportation if the street or alley is under its authority and control, may appeal the Council's order to the District Court within 30 days after its adoption.

2.29.6. Ownership

(A) Except as provided in paragraph (C) of this section, upon the closing of a street or alley in accordance with this section, all right, title, and interest in the Right-of-Way shall be conclusively presumed to be vested in those persons owning Lots or Parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

(B) The provisions of this subsection regarding division of Right-of-Way in street or alley closings may be altered as to a particular street or alley closing by the assent of all property owners taking title to a closed street or

alley by the filing of a plat which shows the street or alley closing and the portion of the closed street or alley to be taken by each such owner. The plat shall be signed by each property owner who, under this section, has an ownership right in the closed street or alley.

(C) The Town may reserve its right, title, and interest in any utility improvement or easement within a street closed pursuant to this section. Such reservation shall be stated in the order of closing. Such reservation also extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the Town. To retain such easements, the Town Council shall, after public hearing, approve a "declaration of retention of utility easements" specifically describing such easements.

2.29.7. Recording Procedures

The recorder of deeds shall write legibly on the vacated plat the word "vacated," and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

(Ord. #1714)

PART III – PERMITS AND APPROVALS NOT REQUIRING A PUBLIC HEARING

2.30. ADMINISTRATIVE DEVELOPMENT APPROVALS

2.30.1. Generally

(A) Administrative Development Approvals are routine, non-discretionary UDO implementation matters carried out by the staff, including issuance of permits for permitted uses. In general, the Planning Director is a purely administrative agent following the literal provisions of this UDO.

(B) The Planning Director may engage in some fact finding, to determine objective facts that do not involve an element of discretion. In contrast to evidentiary and Legislative Hearings, Administrative Decisions are made without a hearing at all, with the staff member reviewing an application to determine if it is complete and compliant with objective standards set forth in this UDO.

(C) No notice shall be required for an administrative permit issued pursuant to this UDO unless otherwise provided by this Ordinance or by law.

(Ord. #1919)

2.30.2. Application for Permit

Written application shall be made for all permits required by this chapter. Such application shall be made by the owner of the Building or structure affected or by his authorized agent or representative. The owner shall authorize any work for which a permit is required.

2.30.3. Records

The Planning Director shall maintain a record of all administrative Development Approvals. Copies shall be furnished, upon request, to any person upon the payment of a fee established by the Planning Director.

2.30.4. Plans and Specifications

Where plans and specifications are required, a copy of the same marked "approved" by the Permit Issuing Authority shall be available at the work site for all inspections.

2.30.5. Completeness Review

The Planning Director shall review all applications to determine if the application has been submitted and is complete pursuant to section 2.6.

(Ord. #1919)

2.30.6. Resubmittals Due to Incompleteness

(A) If a permit application it is not complete, it shall be returned to the Applicant with instructions for completion and resubmittal. The Applicant shall have thirty (30) days from the date of notification to revise and resubmit the application.

(B) There is no charge for a resubmittal within this period. If the Applicant fails to revise and resubmit the application within this period or to submit a complete application after two (2) submittals, the application shall be deemed withdrawn.

(C) Thereafter, a resubmittal of an application for the same site shall constitute a new application subject to the payment of fees and commencing a new timeline for action.

(D) Upon receipt of any resubmittal of the application, a new completeness review period shall begin.

2.30.7. Resubmittals Due to Non-Compliance

Upon Determination that a permit application does not comply with standards and regulations set forth in this UDO, or requires extensive revision in order to comply with said standards and regulations, the Permit Issuing Authority shall deny the application. Up to two (2) resubmittals of an application that was denied for non-compliance with the UDO may be made within sixty (60) days of the initial action. Subsequent submittals shall be considered new applications.

2.30.8. Limitations on Issuance of Permits

(A) No permit shall be issued for work on any new or existing structure unless the plans and specifications thereof contain information sufficient to indicate that the work proposed will conform to the provisions of this UDO.

(B) No permit shall be issued for new construction where Town water or sewer mains are not available without written approval by the Moore County Health Department of the required water supply or waste disposal systems.

(C) No permit shall be issued to any person who has failed after notice to remedy defective work, or has failed to pay a civil penalty assessed pursuant to this UDO which is due and for which no appeal is pending, or to otherwise comply with the Code of the Town, the regulations adopted therein, or the laws of the State of North Carolina.

(D) No licensed contractor shall secure a permit for any other person or persons not qualified in accordance with the provisions of the technical codes to do any work covered by the regulatory codes.

(E) No Building or flood permit shall be issued during the pendency of an application for the revision of a floodprone area boundary of such property unless the proposed construction or filling is permitted under the existing regulations and under the revision proposed for the property.

(F) No permit authorized by this UDO shall allow construction to begin on a site until the boundaries of any natural resource buffer yard, any open space area, any riparian surface water buffers, and any tree protection adjacent to or encompassing a work site are clearly and accurately demarked by a protective fence in the field. The location and extent of all authorized land-disturbing activities shall be similarly demarcated for so long as any land-disturbing activity continues.

(G) If the Historic Preservation Commission has voted to recommend designation of an area as an Historic Overlay District, or if the North Carolina Historic Commission has voted to recommend designation of a property as an historic landmark, the demolition or destruction of any Building, site, or structure located in the proposed district or on the property of the proposed historic landmark may be delayed by the commission with jurisdiction for a period of up to one hundred eighty (180) days or until the Town Council takes final action on the designation, whichever occurs first. Should the Council approve the designation prior to the expiration of the one hundred eighty (180) day delay period, an application for a certificate of appropriateness for demolition must then be requested.

2.30.9. Issuance of Development Approval

The Permit Issuing Authority shall review applications for conformance with this UDO, the appropriate regulatory and technical codes adopted herein, and the laws of the State. Unless review and approval is required by an external agency, the Permit Issuing Authority shall approve, approve with conditions, or deny applications within thirty (30) days of receipt of a complete application. Applications that are denied shall have the reasons for denial, in writing, attached to the application. The Applicant and the Town may agree to extend the response time contained in this section.

(Ord. #1919)

2.31. ADOPTION OF TECHNICAL CODES

2.31.1. Technical Codes

The term technical codes as used here shall mean the collective provisions of the North Carolina: Building, Accessibility, Plumbing, Electrical, Mechanical, Fire Prevention, Fuel Gas, Energy, Existing Buildings and Residential codes as adopted by the North Carolina Building Code Council, and the Rehabilitation Code established pursuant to 2001 Session Laws Chapter 372.

(A) The most recent edition, including all subsequent amendments, of the North Carolina Building Code, as adopted by the North Carolina Building Code Council is adopted by reference as fully as though set forth here to the extent such code is applicable for safe and stable design, methods of construction, minimum standards, and use of materials in Building or structures erected, enlarged, altered, repaired, or otherwise constructed or reconstructed after adoption of this chapter.

(B) In addition, Appendix D - Fire Districts, of the North Carolina Building Code is hereby adopted by reference as fully as though set forth here and shall be enforced as part of this UDO.

(C) The most recent edition, including all subsequent amendments, of the North Carolina Administrative and Enforcement Requirements Code as adopted by the North Carolina State Building Code Council is hereby adopted by reference as though fully set forth here.

(D) The 1999 edition, including all subsequent amendments, of Volume I-C, "Making Buildings and Facilities Accessible to and Usable by Persons with Disabilities," the Accessibility Code, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth here.

(E) The most recent edition, including all subsequent amendments, of "State of North Carolina Regulations for Manufactured/Mobile Homes" as adopted by the North Carolina Commissioner of Insurance is hereby adopted by reference as fully as though set forth here.

(F) The most recent edition, including all subsequent amendments, of North Carolina Fire Prevention Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.

(G) The June 1972 edition, including all subsequent amendments, of "Floodproofing Regulations" as prepared and published by the office of the Chief of engineers, U.S. Army, Washington, D.C. is hereby adopted by reference as fully as though set forth here to the extent said regulations are applicable for safe and stable design, methods of construction, minimum standards, and use of materials in Buildings or structures hereafter erected, enlarged, altered, repaired, or otherwise constructed or reconstructed in flood hazard areas.

(H) The 1995 edition, including all subsequent amendments, of the North Carolina State Building Code, Volume IX, Existing Buildings, as adopted by the North Carolina Building Code Council is hereby adopted by reference as fully as though set forth here.

(I) The most recent edition, including all subsequent amendments, of North Carolina Energy Code, as adopted by the North Carolina Building Code Council is hereby adopted by reference as fully as though set forth here.

(J) The most recent Edition, including all subsequent amendments, of the North Carolina Residential Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.

(K) The most recent edition, including all subsequent amendments, of the North Carolina Rehabilitation Code (NCRC) is hereby adopted by reference as fully as though set forth here.

(L) The most recent edition, including all subsequent amendments, of the North Carolina Plumbing Code, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth here.

(M) The most recent edition, including all subsequent amendments, of the North Carolina Mechanical Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.

(N) The most recent edition, including all subsequent amendments, of the North Carolina Electrical Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.

(O) The National Manufactured Home Construction and Safety Standards Act of 1974 U.S.C. §5401 et seq. and the regulations in 24 CFR Part 3280 adopted pursuant thereto, including all their subsequent amendments, are hereby adopted by reference as fully as though set forth here.

(P) The most recent edition, including all subsequent amendments, of the North Carolina Fuel Gas Code, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth here.

2.31.2. Compliance with Codes

(A) All Buildings or structures and connected appurtenances which are constructed, reconstructed, erected, altered, extended, enlarged, repaired, altered, occupied, used, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina Building Code, or the North Carolina Residential Code, whichever is applicable, or both if both are applicable. Where the provisions of this UDO conflict with any of the technical codes listed above, the more restrictive provisions shall apply.

(B) Every Building or structure intended for human habitation, occupancy, or use shall have plumbing, plumbing systems, or plumbing fixtures installed, constructed, altered, extended, repaired, or reconstructed in accordance with the minimum standards, requirements, and other provisions of the North Carolina Plumbing Code.

(C) All mechanical systems consisting of heating, ventilating, air conditioning or refrigeration systems, fuel-burning equipment, incinerators, and other energy-related systems, their fittings, appliances, fixtures, and appurtenances shall be installed, erected, altered, replaced, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina State Mechanical Code.

(D) All electrical wiring, installations and appurtenances shall be erected, altered, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Electrical Code.

(E) All construction, alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances made or installed to any Building or structure, other than Single- and Two-Family Dwellings and Townhouses, shall conform to the provisions of the North Carolina Accessibility Code.

(F) The installation of gas piping systems extending from the point of delivery to the inlet connections of equipment served, and the installation and operation of residential and commercial gas appliances and related accessories shall conform to the provisions of the North Carolina Fuel Gas Code.

(G) All manufactured housing shall be constructed, repaired, altered, installed, erected, replaced, or moved to another site in conformance with the provisions of the National Manufactured Housing Construction and Safety Standards Act and the State of North Carolina procedural and reference codes for mobile homes, modular Dwelling Units, and other factory Building structures, and all regulations adopted pursuant thereto.

(H) All construction, alterations, repairs, replacement, equipment, and maintenance hereinafter made or installed to any Building or structure, other than Single- and Two-Family Dwelling and Townhouses, shall conform to the provisions of the North Carolina Fire Prevention Code.

(I) The thermal envelope of the Building and installation of energy systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances, ventilation, cooling, air conditioning and refrigeration systems, incinerators, and other energy-related systems shall conform to the provisions of the North Carolina Energy Code.

(J) All alterations, repairs, replacement, rehabilitation or change of occupancy of any existing Building shall conform to applicable provisions of the North Carolina Building Code Volume IX - Existing Buildings or other applicable technical codes.

2.32. MINOR SUBDIVISION

2.32.1. Purpose and Applicability

The minor Subdivision process is intended to establish a administrative approval process to facilitate divisions of land that do not require public review due to their small scale and limited impact on adjacent Development or public facilities. Minor Subdivisions include:

(A) Lot splits or resubdivision of one or more Parcels into not more than five (5) Lots that:

(1) Front on an existing street or share a common private driveway meeting the access standards of this ordinance;

(2) Do not require the dedication or construction of a public or private street, provided however that perimeter Right-of-Way dedication shall be allowed as part of a minor Subdivision;

(3) Do not involve the extension of municipal water or sewer lines by more than two hundred (200) feet from an existing line to the nearest boundary of the Subdivision;

(4) Do not adversely affect the remainder of the Parcel or adjoining the property;

(5) Are not in conflict with the Comprehensive Plan, official map, or zoning regulations;

(6) Do not result in the cumulative creation through one or more minor Subdivisions of more than five (5) Lots; and

(7) Do not result in the creation of additional driveway accesses along collector, arterial, freeway, expressway or interstate roadways. If existing Lot(s) front on an existing street, then each existing Lot may have only one (1) driveway access if along a collector, arterial, freeway, expressway, or interstate roadway.

(Ord. #1714; Ord. #1890, 1-6-21)

(B) The consolidation of existing Parcels or Lots; and

(C) Modification of plats to reflect the dedication of rights-of-way or easements.

2.32.2. Minor Subdivision Process Overview

The approval process for Minor Subdivisions is summarized in Exhibit 2-25.

Exhibit 2-25: Minor Subdivision Approval Process Summary

Minor Subdivision Process
Sketch Plat
Final Plat

(A) For any minor Subdivision involving the creation of new additional Lots, Applicant for minor Subdivision shall submit a Sketch Plat application that complies with the requirements in Appendix A to the Planning Director for a Determination of whether the approval process authorized by this section can be and should be used prior to submitting the Final Plat. The intent of this step is to ensure that the Applicant understands the requirements prior to investing in Final Plat preparation.

(B) The Applicant shall submit a minor Subdivision Final Plat application that complies with Appendix A to the Planning Director, who shall approve or disapprove minor Subdivision Final Plat in accordance with the provisions of this section. However, either the Planning Director or the Applicant may at any time refer the application to the major Subdivision approval process.

(1) The Planning Director shall approve the proposed minor Subdivision unless the Subdivision fails to comply with any applicable requirement of this UDO.

(2) If the Subdivision is disapproved, the Planning Director shall furnish the Applicant with a written statement of the reasons for disapproval.

(C) Approval of a Minor Subdivision Final Plat is contingent upon the Plat being recorded within sixty (60) days after the date the Certificate of Approval is Signed by the Planning Director.

2.33. VACATION OF EASEMENTS OR PLATS

2.33.1. Purpose and Applicability

This section establishes the process for approving the elimination of an easement or a plat, in whole or in part. The record owners of the Tract covered by a plat may vacate the plat at any time before the ownership of separate Lots is divided by sale, lease or other contractual arrangement. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. If Lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of Lots in the plat with approval obtained in the manner prescribed for a Major Subdivision Final Plat established in section 2.20.8(F). See section 2.29 for abandonment of rights-of-way.

(Ord. #1714)

2.33.2. Initiation

The owner or owners of Lots in any approved Subdivision, including the Developer, shall initiate the proposed vacation by filing a petition and declaration with the Planning Director to vacate the easement or plat with respect to their properties. If the Applicant so desires, the vacating declaration and an application requesting resubdivision of the plat may be filed and processed simultaneously. If the application for vacation is filed and processed simultaneously with a resubdivision plat there shall be no fee for the vacation. Notice for vacations of streets shall comply with the provisions of RS160-299.

(Ord. # 1716)

2.33.3. Completeness Review

The Planning Director shall review an application to determine if the application has been submitted and is complete in accordance with section 2.6. The appellate agency for purposes of completeness review is the Town Council.

(Ord. #1919)

2.33.4. Decision

If no protests are received within fifteen (15) days of notice, the petition may be approved, conditionally approved, or disapproved by the Planning Director. The appellate agency for the Planning Director's decision is the Town Council. If any protests are received within fifteen (15) days of the posting of public notice, the decision shall be made by the Town Council following a public hearing.

2.33.5. Approval Criteria

The Planning Director shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety, and welfare. The Planning Director shall not approve a petition for vacation if:

(A) It will materially injure the rights of any non-consenting property owner or any public rights in public improvements, unless expressly agreed to by the agency with jurisdiction over the improvements; or

(B) The plat vacation would create Parcels or blocks that fail to comply with the requirements of this UDO.

2.33.6. Effect of Approval

The vacation shall be valid upon the recording of the approved documents in the Moore County Registry of Deeds.

2.33.7. Recording Procedures

The recorder of deeds shall write legibly on the vacated plat the word "vacated," and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

2.34. PLATS, AMENDING

This section provides a streamlined and efficient process for the combination of Parcels or the replat of Parcels. The Town does not require extensive platting for every division of land otherwise within the scope of the state Subdivision enabling legislation.

2.34.1. Applicability

A plat may be amended, and the Planning Director may issue an amending plat, if the amending plat is signed by the Applicants only and is solely for one or more of the following purposes:

(A) To correct an error in a course or distance shown on the preceding plat;

(B) To add a course or distance that was omitted on the preceding plat;

(C) To correct an error in a real property description shown on the preceding plat;

(D) To indicate monuments set after the death, disability, or retirement from practice of the professional engineer or surveyor responsible for setting monuments;

(E) To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(F) To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including Lot numbers, acreage, street names, and identification of adjacent recorded plats;

(G) To correct an error in courses and distances of Lot lines between two adjacent Lots if:

(1) Both Lot owners join in the application for amending the plat;

(2) Neither Lot is abolished;

(3) The amendment does not attempt to remove recorded covenants or restrictions; and

(4) The amendment does not have a material adverse effect on the property rights of the other owners in the plat;

(H) To relocate a Lot line to eliminate an inadvertent encroachment of a Building or other improvement on a Lot line or easement;

(I) To relocate one or more Lot lines between one or more adjacent Lots if:

(1) The owners of all those Lots join in the application for amending the plat;

(2) The amendment does not attempt to remove recorded covenants or restrictions; and

(3) The amendment does not increase the number of Lots.

2.34.2. Initiation

The Applicant shall submit an application in compliance with Appendix A to the Planning Director. The Planning Director will determine the extent to which the amending plat will require review by the various departments and agencies of the Town. The amending plat shall be approved unless it is inconsistent with any of the criteria set forth herein.

2.35. ZONING PERMIT

2.35.1. Purpose

The purpose of a Zoning Permit is to confirm that the proposed land use, Building and site Development are consistent with the applicable zoning district and any Development Approval applicable to the property.

2.35.2. Applicability

A Zoning Permit shall be required in conjunction with any Development application establishing a new use or Building, changing the use of a Building, modifying a site to establish a new use or subdividing land.

2.35.3. Initiation and Review

Upon submittal of any Development application, the Planning Director shall review the application and determine whether the proposed Development complies with the applicable zoning district use regulations established in chapter 3 of this UDO and applicable use, Building and site Development standards established in chapters 4, 5 and 6 of this UDO.

2.35.4. Action

If the application complies, the Planning Director shall issue a Zoning Permit concurrently with action on the application. If it does not comply, the application shall be denied or approved on the condition that the Development application be modified to remedy non-compliant use, structure or design.

2.36. LAND DISTURBANCE PERMIT

2.36.1. Purpose

A Land Disturbance Permit is required to ensure that the stormwater management and other applicable provisions of this UDO are met prior Significant grading or filling of land.

2.36.2. Applicability

Land Disturbance Permit approval is required for disturbances of land that:

(A) Involve clearing or grading of 30,000 square feet or more of land;

(B) Involve the Development of redevelopment of a commercial, institutional or industrial site; or

(C) Involve the placement or removal of soil or other fill prior to or independent of any other Development Approval established by this UDO that exceeds the thresholds established in Exhibit 26.

Exhibit 2-26: Thresholds for Land Disturbance Permits

Lot Area	Threshold Volumes to be Placed or Removed on Lot
Less than 10,000 sq.ft.	10 cubic yards
10,000 to 19,999 sq.ft.	20 cubic yards
20,000 to one 30,000 sq.ft.	40 cubic yards

2.36.3. Initiation and Review

The Applicant shall submit an application to the Town Engineer in accordance with Appendix A. The Town Engineer shall review the application for compliance with the provisions of section 4.14 within thirty (30) days of submittal of a complete application. The Town Engineer may authorize the use of a compliance permit for any project involving less than 30,000 square feet of land disturbance area upon finding the application to be consistent with the purposes of Chapter 154 of th30,000 square feet of land disturbance area upon finding the application to be consistent with the purposes of Chapter 154 of the Town Code

(Ord. # 1716)

2.36.4. Action

The Town Engineer shall issue a Land Disturbance Permit upon finding that the application complies with applicable provisions of this UDO,

2.37. Building Permit

2.37.1. Purpose

A Building Permit is required to ensure that new and modified structures comply with this UDO and applicable Development Approvals.

2.37.2. Applicability

A Building Permit shall be obtained from the Chief Building Inspector before any structure or Building is erected, moved, or structurally altered.

(Ord. #1919)

2.37.3. Initiation

The Applicant shall submit a complete application for a Building Permit to the Chief Building Inspector.

(Ord. #1919)

2.37.4. Action

(A) A Building Permit shall be issued by the Chief Building Inspector upon Determination that the application complies with all applicable codes, ordinances and Development Approvals.

(B) A Building permit shall expire by limitation six (6) months after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of twelve (12) months, the permit shall expire.

(Ord. #1919)

2.37.5. Enforcement

These regulations shall be enforced by the Chief Building Inspector. It shall be a violation of these regulations for any person to change or permit the change in the use of land or Buildings or structures or to erect, alter, move or improve any Building or structure until a Building permit has been obtained under the following conditions.

(Ord. #1919)

2.38. PUBLIC USE RESERVATION

2.38.1. Applicability

This provision shall apply to any Building permit for which a Site Plan is required and not otherwise subject to the approval of the Town Council where such a Building permit is requested within a planned Right-of-Way for public streets or utilities for which dedication or reservation is not otherwise required, or the planned site of public Buildings or facilities, including but not limited to fire stations, police stations, parks and greenways, schools, utilities treatment, storage, transmission, or collection facilities, and waste disposal facilities shown on the Comprehensive Plan.

2.38.2. Review and Action

The Planning Director shall forward the request to Town Council at its next regularly scheduled meeting. The Town Council shall decide at that meeting whether it wishes to require the reservation. If the Council does wish to require the reservation, it shall have a period of six (6) months in which to acquire the reserved area by purchase or eminent domain. If the Council has not purchased the reservation interest or begun condemnation proceedings within the seven (7) month period, the Building permit Applicant may treat the land as free of the reservation and the permit shall then be issued.

(Ord. # 1716)

2.39. CERTIFICATES OF OCCUPANCY

2.39.1. Purpose

A Certificate of Occupancy is required to ensure that all applicable requirements have been met prior to the occupancy of a structure or land.

2.39.2. Applicability

A Certificate of Occupancy shall be obtained prior to the occupancy or use of a structure subject to Building Permit requirements. No vacant land shall be occupied or used, except for agricultural uses, and no Building hereafter erected, reconstructed, altered, or enlarged shall be occupied or used until a certificate of occupancy has been issued. All of the requirements and conditions contained in any Development Approvals applicable to the property shall be required to have been met before the issuance of any Certificate of Occupancy.

2.39.3. Certificate of Occupancy for a Building

(A) A Certificate of Occupancy for a new Building or the alteration of an existing Building shall be applied for coincident with the application for a Building Permit.

(B) Said certificate shall be issued within three (3) days after written request to the Planning Director after the erection, reconstruction, alteration, or enlargement of such Building or part thereof has been completed and has been found to comply with applicable regulations.

(C) Pending the issuance of a regular certificate of occupancy, a temporary certificate of occupancy may be issued by the Planning Director for a period not exceeding six (6) months during the completion of alterations or during partial occupancy of a Building pending its completion. Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the Town relating to the use or occupancy of the Premises or any other matter covered by this UDO, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants.

(D) A request for a Certificate of Occupancy for any Change of Use of a Building shall be made in writing at least ten (10) days in advance of such change, and shall be issued within three (3) days after such request if the new use complies with the provision of this UDO.

2.39.4. Certificate of Occupancy for Land

A Certificate of Occupancy for use of vacant land or the change in the character of the use of land, as herein provided, shall be applied for before any such land is occupied or used. A Certificate of Occupancy shall be issued within three (3) days after the application has been made, provided such use complies with the provisions of these regulations.

2.39.5. Compliance

Certificate of Occupancy shall state that the Building or proposed use of a Building or land complies with all applicable Building and health laws and ordinances and with the provisions of this UDO. A record of all certificates shall be kept on file in the office of the Planning Director.

2.40. FLOODPLAIN DEVELOPMENT PERMIT

2.40.1. Purpose

Floodplain Development Permits shall be required prior to any Development within a Flood Hazard Area as defined in section 4.13 of this UDO.

2.40.2. Designation of Flood Damage Prevention Administrator

The Planning Director is hereby appointed to administer and enforce the provisions of this section and flood hazard regulations of section 4.13 of this UDO. The Planning Director is further authorized to render interpretations of the flood hazard area regulations that are consistent with its spirit and purpose.

2.40.3. Initiation and Action

Application for a Floodplain Development Permit involving any Flood Hazard Area shall be made to the Planning Director prior to any Development activities. The Planning shall issue a Floodplain Development Permit if the application demonstrates compliance with all applicable provisions of this UDO.

2.41. SIGN PERMIT

2.41.1. Purpose

This section documents the procedures for issuance of Sign Permits for Signs that comply with this section and section 4.6 of this UDO.

2.41.2. Applicability

Except as otherwise provided in the Sign regulations of this UDO, no Sign may be erected, moved, enlarged or substantially altered except in accordance with the provisions of this section. Mere repainting or changing the message of a Sign shall not be considered a substantial alteration. Changes to the location, height, width, thickness or structure of the Sign shall be considered substantial changes.

(A) Sign permit applications and Sign permits shall be governed by the same provisions of this chapter applicable to Zoning Permits.

(B) In the case of a Lot occupied or intended to be occupied by multiple business enterprises (e.g., a Shopping Center), Sign permits shall be issued in the name of the Lot owner or his agent rather than in the name of the individual business enterprise requesting a particular Sign. The Town may assist the owner by suggesting a formula whereby the maximum square footage of Sign area allowed on the Lot may be allocated equitably among all tenants, but the Town shall be responsible for enforcing only the provisions of this UDO and not the provisions of any allocation formula, lease or other private restriction.

2.41.3. Unified Sign Plan Required for Sites with Multiple Uses

A Unified Sign Plan is required where a Parcel or Development Project in a commercial, industrial or PD district contains more than one (1) Principal Use or establishment.

(A) The Unified Sign Plan shall apply to the Parcel or Development Project as a whole.

(B) The Unified Sign Plan shall allocate the allowed number and area of Signs among the individual uses or establishments.

(C) The Unified Sign Plan shall show the locations and maximum dimensions of all Signs proposed thereon and establish design standards to ensure that all Signs are of comparable design and proportionate scale.

2.41.4. Substitution of Noncommercial Speech for Commercial Speech

Notwithstanding anything contained in this section or Sign code to the contrary, any Sign erected pursuant to the provisions of this section or Sign code, or otherwise lawfully existing with a commercial message, may, at the option of the owner, contain a noncommercial message unrelated to the business located on the Premises where the Sign is erected. The noncommercial message may occupy the entire Sign face or any portion thereof. The Sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as

desired by the owner of the Sign, provided that the Sign is not a prohibited Sign or Sign type.

2.41.5. Content Neutrality as to Sign Message

Notwithstanding anything in this section or Sign code to the contrary, no Sign or Sign structure shall be subject to any limitation based on the content of the message contained on such Sign or displayed on such a Sign structure.

(Ord. # 1716)

2.41.6. Signs Excluded From Regulation

See section 4.6.13 for a listing of Signs that are exempt from the regulation.

2.41.7. Certain Temporary Signs

See section 4.6.14 for regulations applicable to certain Temporary Signs that do not require permits.

2.41.8. Submittal

An application for a Sign Permit shall be filed with the Planning Director in accordance with Appendix A of this UDO.

2.41.9. Signs Requiring Certification

If deemed necessary by the Planning Director, Landmark Signs and Signs with structural features that make the Sign more susceptible to wind damage, a North Carolina registered structural engineer or architect shall certify the structural integrity of the structure and foundation as compliant with all standards for wind loads as set forth by the Building codes.

(Ord. # 1716)

2.41.10. Approval

The Planning Director shall issue a Sign Permit for proposed Signs that comply with previous Development Approvals, this UDO and any other applicable ordinance of the Town. If the application is for an electrical Sign a separate electrical permit shall be required plus the fee therefore.

2.41.11. Timing

The work under a Sign permit must be begun within three (3) months of its issue date and must be completed no more than six (6) months after the permit issue date, otherwise the permit shall lapse.

2.41.12. Inspection

All billboards and freestanding, on-site Signs shall be subject to a footing inspection prior to erection of the Sign. All Signs shall be subject to a final inspection to ensure that they comply with the Sign permit and this ordinance. The Planning Director shall direct the Applicant to bring non-compliant Signs into compliance within a specified time upon determining that the Sign does not comply with the terms of the permit. Upon failure to do so, the permit shall be revoked and the Sign removed.

2.41.13. Non-Conforming Signs

Non-Conforming Signs are subject to the provisions of section 4.6.21 of this UDO.

2.41.14. Sign Removal

Any Temporary Sign erected in violation of the provisions of this section may be removed immediately by the Planning Director. Any Sign so removed shall be retained at a designated municipal facility until recovered by the Sign owner following payment to the Town of a $5.00 fee per Sign. Any Sign not recovered within 10 days will be destroyed.

2.41.15. Discontinued Signs

Upon the discontinuance of business occupancy of an establishment for a consecutive period of ninety (90) days, the administrator shall require the removal of the on-premises Sign(s) advertising or identifying the establishment. The administrator shall give thirty (30) days notice to the property owner to remove the Sign(s), including all of its attendant supports, frames and hardware unless such Sign is proposed to be used by a new establishment on the Premises in conformance with all current regulations of this section 4.6. Failure to remove the Sign(s) within the thirty (30) day period shall constitute a violation of this chapter and shall be remedied in accordance with the provisions of this UDO.

2.42. Driveway Permit / Right-of-Way Permit

2.42.1. Purpose

To ensure that any person or entity engaging in Development activities within the Town's Right-of-Way complies with applicable conditions to protect the public health, safety and welfare.

2.42.2. Applicability

Any person, firm or corporation, including utility companies, both private and public, desiring to use or cross any public Right-of-Way, street, alley, roadway, easement, or drainage way involving surface disturbance within the Town and under the jurisdiction of the Town shall first obtain a Driveway or Right-of-Way Permit from the Town Engineer.

2.42.3. Submittal

Every Applicant shall furnish the following information to the Town Engineer:

(A) A declaration of the intended purpose of such crossing or use.

(B) Date and time of the proposed crossing or use, and if related to vehicular traffic, plans for rerouting of such traffic if required.

(C) Two (2) sets of scale drawings related to such crossing or use. The drawings (or written plan) shall include the extent of disturbance of the Right-of-Way surface and the restoration of same. The drawing or plan must be approved by the Town Engineer and be in compliance with the state aid road construction standards as set forth in the state aid manual on utility facilities within rights-of-way.

2.42.4. Maintenance Bond; Duration

A maintenance bond of sufficient monies, as the Town Engineer shall determine, may be required to guarantee to the Town the reasonable estimated cost resulting from defective workmanship or material in repair of the Right-of-Way disturbance. Such bond shall be in full force and effect for a minimum period of one (1) year and shall be cancelled only by the Town Engineer.

2.42.5. Administrative Conditions

The following conditions shall be met prior to performing work subject to a Driveway or Right-of-Way Permit.

(A) The Applicant certifies that prior to filing this application that said Applicant has ascertained the location of all existing utilities both aerial and underground and the accurate locations are shown on the plans. The Applicant further certifies that each utility company, public and private within the rights-of-way has been contacted and a copy of its response is attached as part of this application.

(B) It is understood and agreed that the rights and privileges herein set out are granted to the extent of the Town's right, title and interest in the land to be entered upon and used by the Applicant. The Applicant will, at all times, assume all risk of and indemnify, defend and save harmless the Town from and against all loss, damage, cost or expense arising in any manner out of the exercise or attempted exercise of the aforesaid rights and privileges.

(C) All Town property and/or rights-of-way shall be restored to current standard or to original condition as far as approved by the Public Works Director.

(D) This permit is a license for permissive use only and that placing facilities upon public property pursuant to this permit shall not create or vest any property rights in said holder.

(E) Whenever necessary for the construction, repair, improvement, alteration or relocation of all, or any portion of a Town facility as determined by the Town Engineer, any or all poles, wires, pipes, cables or other facilities appurtenances authorized hereunder, shall be removed from said rights-of-way, or reset or relocated thereon as required by the Town Engineer, and shall be done at the expense of the Applicant.

(F) This permit may be terminated by the Town in the event that the Applicant violates any provision contained herein and/or fails to promptly correct such violation within forty-eight (48) hours of notice from the Town.

(G) If the permit is to allow the installation of improvements in the Right-of-Way, then the Property Owner must execute a Restrictive Covenant and Hold Harmless Agreement as part of the application process. The Restrictive Covenant and Hold Harmless Agreement must be recorded in the official records Moore County.

2.42.6. Conditions Minimizing the Impacts of Work in the Rights-of-Way and Public Easements

(A) **Protection of the Public Interest**. Work shall be conducted to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property.

(B) **Protection of Utilities**. No person shall fail to support and protect all infrastructure, including, without limitation, pipes, conduits, poles, wires or other apparatus, which may be affected by the work from damage during construction performance of the work, or settlement of trenches subsequent to construction.

(C) **Dust and Erosion**. No person shall fail to use appropriate measures, such as watering and Best Management environmental practices, to control dust and erosion at the construction site.

(D) **Deposit of Dirt and Material on Roadways**. No person shall fail to comply with the requirements to eliminate the tracking of mud or debris upon any street or sidewalk. Equipment and trucks used during construction, excavation or work activity shall be cleaned of mud and debris prior to leaving any work site.

(E) **Use of Street and Sidewalk within the Right-of-Way or Public Easement**. An Applicant for a Right-of-Way construction permit shall:

(1) Make provisions for employee and construction vehicle parking so that Neighborhood parking adjacent to a work site is not impacted;

(2) Obtain permission from the Town Manager to occupy public parking spaces and pay applicable parking reimbursement fees for any work activity that impacts the parking spaces;

(3) Maintain safe traffic operations along all public streets;

(4) Maintain an adequate and safe unobstructed public walkway through or around the working construction site or blocked sidewalk; and

(5) Secure all dangerous areas, such as trenches and excavations, with appropriate markers, barricades and/or fencing.

(F) **Protection of Trees and Landscaping**. No person shall fail to protect trees, landscape and landscape features as required by the Town. All protective measures shall be provided at the expense of the person performing work. Any damage to existing trees and landscaping shall be reported to the Town Manager for inspection. The person performing work shall be required to complete any remedial action necessary to repair and restore damaged trees and landscaping, as determined by the Town Manager. Any trees and landscape materials which are damaged beyond repair or restoration shall be replaced at an equivalent value to the damaged material at the expense of the person performing work.

(G) **Protection of Paved Surfaces from Damage**. The Applicant or any other person performing work shall be responsible for any damage caused to any pavement by any work activity. Upon order of the Town Engineer, said person shall repair all damage. Failure to repair such damage will result in the use of the Applicant's performance bond, financial guarantee or warranty by the Town to repair any damage. To protect against pavement damage, backhoe equipment outriggers shall be fitted with rubber pads when used on pavement surfaces, and tracked vehicles are not permitted on paved surface unless specific precautions approved by the Town Engineer are taken to protect the surface.

(H) **Protection of Property**. No person shall fail to protect from injury any adjoining property by providing adequate support and taking other necessary measures. Said person shall, at their expense, shore up and protect all Buildings, walls, fences or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public Right-of-Way and public easements.

(I) **Cleanup**. As the work progresses, all public rights-of-way, public easements and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock and other debris. All cleanup operations shall be done at the expense of the Applicant or any other person performing work.

(J) **Preservation of Monuments**. No person shall disturb any surface monuments or survey hubs and points found on the line of work unless approval is obtained from the Town Engineer. Any monuments, hubs and points disturbed shall be replaced by a North Carolina Registered Land

Surveyor at the expense of the Applicant or the person that is responsible for its removal.

(K) **Construction and Restoration Standards for Newly Constructed or Overlayed Streets**. For any excavation or opening in a public street or alley in the three (3) year period following new construction or overlay, trenches shall be filled with flowable fill backfill material, and the streets shall be repaired so as to not reduce the useful life of the pavement in accordance with design and construction standards adopted by the Town.

(L) **Emergency Procedures**. Any person maintaining facilities in the public Right-of-Way or public easement may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. Emergency work is defined to mean any work necessary to restore water, sewer, gas, phone, electric, and cable facilities. Repairs on other facilities in the public Right-of-Way may also be classified as emergency work by the Town Engineer. The person doing the work shall apply to the Town for a permit on the first working day after such work has commenced. No person performing emergency work shall fail to notify the Town police and fire departments prior to commencing such work.

(M) **Work in the Public Right of Way or Public Easement Exempt From Required Permit**. The following work activities do not require a permit under this chapter:

(1) Public Projects: Maintenance and construction of public infrastructure by an employee or official of the Town designated by the Town Engineer, or a person under contract with the Town.

(2) Private Projects: Maintenance and construction of non-Town-owned utilities by public utility companies, their employees or agents, in public utility easements less than fifteen (15) feet in width where no Town-operated utilities, transportation, or drainage system improvements are in place.

(3) Maintenance of Landscaping and Surface Improvements: Maintenance by the adjacent property owner of landscaping and surface improvements located within a public easement, or within the public Right-of-Way as it abuts a property outside of any street section, behind the curb and gutter or edge of pavement. "Maintenance" generally includes, without limitation, watering, mowing, raking, and weeding activities.

(Ord. #1959)

2.43. HOME OCCUPATION

2.43.1. Applicability

Except as exempted in this UDO, it shall be unlawful for any person to operate a home occupation without first obtaining a Home Occupation Permit.

(Ord. #1703)

2.43.2. Initiation

An application for a home occupation shall be filed with the Planning Director in accordance with Appendix A.

2.43.3. Action

The Planning Director shall issue the Home Occupation Permit if the Applicant demonstrates that the home occupation will comply with all applicable requirements of this UDO.

2.44. TEMPORARY USE PERMITS

A Temporary Use Permit shall be secured from the Planning Director prior to establishing any of the uses described in this section. The Planning Director shall issue the Temporary Use Permit upon finding that the proposed use will comply with all applicable laws and the provisions of this UDO.

2.44.1. Construction Dumpsters

In all districts, the following requirements shall apply:

(A) No construction dumpster may impede pedestrian or vehicular access to and from adjoining properties or otherwise create an unsafe condition for pedestrian and vehicular traffic;

(B) Every construction dumpster shall clearly identify the owner of such dumpster and telephone number and shall be clearly labeled for the purpose of containment of construction materials only; and

(C) Every construction dumpster shall be routinely emptied so it does not create an unsightly or dangerous condition on the property resulting from the deposit, existence, and accumulation of construction materials.

2.44.2. Construction-Related Uses

Temporary Buildings, structures, or construction dumpsters are permitted in any district in connection with and on the site of Building and land Development or redevelopment, including, but not limited to, grading, paving, installation of utilities, and Building construction, and such Buildings or structures may include offices, construction trailers or construction dumpsters, storage Buildings and Signs.

2.44.3. Public Assembly

Temporary Buildings, structures or tents, other than those used in conjunction with Town functions, those proposed to be used for a period of three (3) business days or less or those proposed to be used as Accessory Structures in areas zoned for commercial and industrial uses may be used for public assembly (including carnivals, circuses, and similar events) in any district subject to issuance of a Zoning Permit and Temporary Use Permit, provided that:

(A) No such Building, structure, or tent shall be permitted to remain on site for a consecutive period exceeding one (1) week;

(B) Sufficient space for parking shall be provided on the site to meet the anticipated needs;

(C) Adequate provision shall be made for utility services;

(D) Structures shall be inspected for compliance with applicable provisions of the Fire Code;

(E) Such facility shall not be used between the hours of 10:00 PM and 10:00 AM; and

(F) No exterior amplifiers, speakers, or other similar equipment shall be permitted outside of the temporary Building, structure, or tent.

2.44.4. Yard/Garage Sales

Limited temporary outdoor sales are permitted in residential zoning districts. Yard/garage sales are a permitted use in all residential zoning districts. Items purchased elsewhere expressly for resale at a yard/ garage sale are prohibited. Goods intended for sale shall not be stored or displayed in the Front or Side Yards of a Dwelling except on the day or days of the sale. Commercial outdoor sales activities are prohibited. For purposes of this section, a “yard/garage sale” means a public sale at a Dwelling at which personal items belonging to the residents of the Dwelling are sold.

2.44.5. Temporary Sales

A zoning permit may be authorized by the Planning Director for Christmas Tree, Pumpkin and related ornamental sales, collective retail merchant sales and shows provided that:

(A) All applicable Town and state permits and/or licenses have been obtained.

(B) No more than one ground or Wall Sign, not to exceed six (6) square feet in area is located on the Premises and no banners, pennants, streamers, strings of twirlers or propellers and similar devices are erected.

(C) The temporary use is operated only during the hours of 7 a.m. and midnight and is conducted for a period not to exceed thirty (30) consecutive days.

(D) No more than two (2) zoning permits are issued to the same person, household, firm or organization in any calendar year.

(E) Temporary uses of land must be approved as Special Events.

2.44.6. Special Events

(A) Special events may be conducted in those districts specified in Exhibit 3-15 only if the event has been granted a permit under the guidelines promulgated by the Permit Issuing Authority designated by the Town Manager.

(B) The guidelines shall ensure that the special event will not materially endanger the public health and safety, will be in harmony with the area in

which it is located, and will not unreasonably disrupt or interfere with the flow of traffic or the rights of adjacent or surrounding property owners.

(C) The permit may impose conditions limiting the hours and duration of the event, preventing disruption of adjacent uses, and assuring removal of litter caused by the event at no expense to the Town.

(D) If the event includes the consumption of any alcoholic beverages, the permit may be issued only if the Applicant demonstrates that any selling or distributing the beverages on public property is not for profit and has received any permit required by the State of North Carolina.
(Ord. # 1716)

(E) If the permit Applicant requests the Town to provide extraordinary services or equipment or if the Town Manager otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the Applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

2.45. CERTIFICATE OF APPROPRIATENESS – MINOR WORK

2.45.1. Applicability

The Planning Director may issue a Certificate of Appropriateness for any Minor Work in a Historic District. Minor Work includes any activity defined as Minor Work as interpreted by the Planning Director and shall not include Ordinary Maintenance or Major Work.

2.45.2. Initiation

(A) Applications for Certificates of Appropriateness shall be filed with the Planning Director.

(B) No application shall be accepted by the Planning Director unless it complies with the requirements of Appendix A.

(C) The Planning Director shall determine whether the application constitutes and Minor or Major Work. Minor Work shall be processed in accordance with this section. If, in the opinion of the Planning Director, the application constitutes Major Work, then the application shall be processed in accordance with section 2.28.
(Ord. #1714)

2.45.3. Action

The Planning Director shall approve, approve with conditions, or deny the application based on the criteria established in section 2.45.5. If the Applicant is denied, the notice shall include the reasons for such action.

2.45.4. Appeal of Decision

A decision by the Planning Director on an application for a Certificate of Appropriateness may be appealed to the HDC.

2.45.5. Criteria

In considering an application for a Certificate of Appropriateness for Minor Work, the Planning Director shall take into account the historical and/or architectural Significance under consideration and the exterior form and appearance of any proposed additions or modifications to that structure that are visible from a public Right-of-Way. The Planning Director shall not consider interior arrangement or use.

The Planning Director shall approve, conditionally approve or disapprove the application based on the application's compliance with this UDO and the Historic District Design Standards. The Planning Director's action may be appealed to the Historic District Commission.
(Ord. #1919)

2.46. ADMINISTRATIVE RELIEF

2.46.1. Purpose

Administrative relief provides for expeditious review of minor deviations from the provisions of the UDO under specified circumstances. The administrative relief process does not involve a public hearing unless a decision is appealed by the Applicant to the Board of Adjustment.

2.46.2. Initiation

The Town Council, Town Manager or property owner may initiate an application. The Applicant shall file a completed application with the Planning Director in conformance with the Appendix A.

2.46.3. Types of Administrative Relief

Administrative relief may be granted for any of the following situations:

(A) **Building Setback Reduction**: The side and rear Building Setbacks shall not be less than sixty (60) percent of the minimum Setback requirement. Front Building Setbacks shall not be less than seventy-five (75) percent of the minimum Setback requirement. All Setbacks shall be required to meet minimum requirements of the Fire Code.

(B) **Minimum Lot Area**: Minimum Lot Area may be reduced by up to ten (10) percent provided that not more than four (4) Lots are within the Subdivision and the Subdivision complies with applicable requirements of the WPO district.

(C) **Landscaping and Buffers:** Minimum buffer width and planting requirements may be reduced pursuant to section 4.3.8.

(D) **Parking Spaces:** The number of parking spaces may be reduced by not more than twenty (20) percent based on the proposed use, site conditions and availability of on-street parking.

(E) **Parking Dimensions**: The minimum Parking Aisle width may be reduced by up to one (1) foot per travel lane if parking space width is increased by at least one-half (1/2) foot.

(F) **Parking Surfaces:** Subject to the recommendation of the TRC, alternative dust-free parking lot surfaces may be allowed.

(G) **Minor Amendments**: Subject to specific conditions of approval, the Planning Director may approve minor amendments to a Final Development Plan or Architectural Compliance Permit.

2.46.4. Criteria

Administrative Relief may be granted when the Planning Director finds that the application meets the following criteria:

(A) The relief will not create a burden on adjacent property owners or conflict with the zoning district's purposes;

(B) The relief is necessary to allow efficient use of the property due to site conditions or circumstances that do not commonly affect properties in the district; and

(C) The relief does not convey a right or privilege that would be unavailable to similarly situated properties.

2.46.5. Action

After a review period of not more than fifteen (15) business days, the Director shall approve, conditionally approve, or disapprove any application for administrative relief and provide written documentation justifying the action.

2.47. WATERSHED PROTECTION PERMIT

2.47.1. Purpose

If, at the time of application for a zoning permit, it is determined that the property lies in a water supply Watershed, as shown on the Zoning Map, a Watershed Protection Permit will be required.

2.47.2. Initiation

The Town Council, Town Manager or property owner may initiate an application. The Applicant shall file a completed application with the Planning Director in conformance with the Appendix A.

2.47.3. Action

(A) If the proposed activity as set forth in the application is in conformance with the provisions of this ordinance and the Council has allocated Built-Upon Area pursuant to any Development Approval, the Planning Director shall issue a Watershed Protection Permit for the low-density option.

(B) If the Council has not allocated Built-Upon Area, the Planning Director shall forward the application to the Town Council at the next regular meeting.

(C) If any application for a Watershed Protection Permit is not approved, the Approval Authority shall state the cause for such disapproval.

(D) Issuance of a permit shall, in no case, be construed as waiving any provision of this or any other ordinance or regulation.

2.47.4. Exceptions to Applicability and Pre-Existing Lots

(A) A pre-existing Lot owned by an individual prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single Family residential purposes without being subject to any additional restrictions imposed by the Watershed Protection Overlay District. (All regulations stated in the Town of Southern Pines Unified Development Ordinance do apply.)

(B) Any Existing Development may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as Existing Development or Lots must meet the requirements of this ordinance, however, the Built-Upon Area of the Existing Development is not required to be included in the density calculations.

(C) Vacant Lots. This category consists of vacant Lots for which plats or deeds have been recorded in the office of the Register of Deeds of Moore County. Lots may be used for any of the uses allowed in the Watershed area in which it is located.

2.47.5. Reconstruction of Buildings or Built-Upon Areas

Any existing Building or Built-Upon Area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single Family residential Development, provided;

(A) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.

(B) The total amount of space devoted to Built-Upon Area may not be increased.

(C) This provision shall not prevent the restoration of a non-conforming use, which has been destroyed through no willful act of the owner, but only if the owner has applied for a Building permit for reconstruction within six (6) months of the date of its destruction.

2.48. Site Plan Review

2.48.1. Purpose

Site plan review is intended to ensure that the layout and general design of proposed Development in areas regulated by this UDO complies with all applicable standards in this ordinance and all other applicable Town of Southern Pines regulations. The purpose of this section is to establish the submittal requirements and review process for the approval of Site Plans. *(Ord. #1703)*

2.48.2. Applicability

(A) TRC approval of a Site Plan is required for:

(1) New commercial, industrial, institutional and Multi-Family Development;

(2) Modifications to existing commercial, industrial, institutional and multi- family Development that trigger compliance with the UDO. Examples may include (but are not limited to): modifications to utility plans such as stormwater management facilities, sewage disposal facilities or water supply systems; modifications to parking, internal circulation or site access; or modifications to required landscaping or lighting.

(B) The following Development is exempted from the requirements of this section:

(1) New single-family and Two-Family Development;

(2) Dwellings, uses and structures that are Accessory to single-family and two- family Development;

(3) Internal construction that does not change the use of a site in a manner that would trigger compliance with the UDO;

(4) Temporary uses permitted per Section 2.44.

(Ord. #1703)

2.48.3. Initiation

(A) Applications for Site Plan review may be initiated by any party with an interest in developing property within areas regulated by tis UDO. Written approval from the current landowner shall be required as part of any application for Site Plan review.

(B) Except where otherwise required by this UDO, a licensed professional engineer is not required to certify a Site Plan. However, all Site Plans shall be prepared to scale and with sufficient detail and clarity to demonstrate compliance with applicable technical requirements for Development within the Town of Southern Pines' jurisdiction.

(Ord. #1703)

2.48.4. Submittal Requirements

(A) Site plan applications shall, at a minimum, contain the materials listed in the Site Plan Checklist in Appendix A.

(B) Incomplete Site Plan applications are not considered to have been submitted and may not be processed until they are made complete by the Applicant.

(Ord. #1703; Ord. #1919)

2.48.5. Site Plan Review Process

Site plan review shall occur as follows. A schedule of submittal deadlines and corresponding TRC meeting dates shall be made available by the Town Planning Office.

(A) **Pre-application meeting**.

(1) Prior to submitting an application for Site Plan review, the Applicant or an authorized agent of that Applicant shall participate in a pre-application meeting with the TRC to discuss the proposed Development.

(2) The purpose of the pre-application meeting is to have an introductory, concept-level discussion about the proposed Development. A pre-application discussion is not binding on the Applicant or the Town.

(3) A request for a pre-application meeting containing basic information about the location and nature of the proposed Development shall be submitted to the Town. The Town shall have five (5) business days to review and schedule pre-application requests.

(4) This pre-application meeting requirement may be waived for projects with minimal community impact at the discretion of the Planning Director.

(B) **Initial Site Plan Submittal**. The first Site Plan submittal for a proposed Development shall be known as the Initial Site Plan Submittal (see Appendix A) and shall be processed as follows:

(1) The Applicant or an authorized agent of the Applicant shall submit to the Town Planning Office a complete Initial Site Plan Submittal application. The Town shall have fifteen (15) business days to review the Initial Site Plan Submittal and schedule a TRC meeting at which the submittal will be discussed.

(2) Prior to the TRC meeting at which an Initial Site Plan Submittal is scheduled for discussion, Town staff shall send the Applicant or an authorized agent of the Applicant draft comments on the Initial Site Plan Submittal.

(3) A TRC meeting shall be held to discuss Town staff's draft comments on the Initial Site Plan Submittal. The Applicant, or an authorized agent of the Applicant, shall attend this meeting.

(4) After the TRC meeting at which Town staff's draft comments are discussed, Town staff shall send the Applicant, or an authorized agent of the Applicant, final comments on the Initial Site Plan Submittal.

(5) Final comments on an Initial Site Plan Submittal are valid for six (6) months from the date the final comments are sent to the Applicant. After six (6) months a resubmittal of a Site Plan shall be considered an Initial Site Plan Submittal.

(C) **Subsequent Site Plan Submittal**: A revised Site Plan that is submitted within six (6) months of the final comments on the Initial Site Plan Submittal shall be known as the Subsequent Site Plan Submittal (see

Appendix A). Subsequent Site Plan Submittals shall be processed the same as Initial Site Plan Submittals with the following differences:

(1) The Town shall have ten (10) business days to review the Subsequent Site Plan Submittal and schedule a TRC meeting at which the submittal will be discussed.

(2) Attendance at the TRC meeting at which the Subsequent Site Plan Submittal is discussed is at the discretion of the Applicant or the Applicant's authorized agent.

(D) **Final Site Plan Approval**:

(1) When all comments have been addressed and a Site Plan conforms to applicable Town regulations, Town staff shall contact the Applicant and request a Final Site Plan submittal (see Appendix A).

(2) Town staff may approve or conditionally approve the Final Site Plan.

(3) At least one original copy of the approved Final Site Plan shall be delivered back to the Applicant or an authorized agent of the Applicant.

(Ord. #1703)

2.48.6. Effect of Approval

(A) Final Site Plan approval shall expire or be extended pursuant to timeline set forth in section 2.8.

(B) Development activities shall conform to the approved Final Site Plan and any conditions of approval. Any deviation from the approved Final Site Plan, unless approved in advance and in writing by the Planning Director is deemed a violation of the UDO.

2.48.7. Amendments

A Final Site Plan may be modified only in accordance with the procedures and standards established herein, including the applicability section.

Chapter 3. **Zoning**

Chapter 3 Contents

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3.1. PURPOSE

It is the purpose of this chapter to establish and adopt zoning districts to govern the use of land and water in the Town.

3.2. OVERVIEW AND APPLICABILITY

This chapter of the UDO establishes conventional, conditional, and overlay zoning districts; the official Zoning Map, as well as the rules for its maintenance, amendment, interpretation and replacement; the use matrix, which identifies the land uses and the types of approvals required for each authorized land use; and the rules for interpretation of the use matrix.

(Ord. #1919)

3.3. ESTABLISHMENT OF ZONING DISTRICTS

The following zoning districts are declared to be in effect upon all land and water areas included within the boundaries of each district as shown on the Official Zoning Map (see rules for interpretation of boundaries in section 3.4 of the UDO). After adoption of the UDO, amendments to the Zoning Map shall be made by Plat, legal description or metes and bounds description, which shall be the best evidence of the boundaries, amended or created, and shall control unless a scriveners or other error in such plat or description is manifestly contrary to the intent of the amending ordinance.

3.3.1. Conventional Districts

The following conventional districts are established.

(A) **Residential**

(1) RE – Rural Estate

(2) RR – Rural Residential

(3) RS-1 – Residential Single-Family

(4) RS-2 – Residential Single-Family

(5) RS-3 – Residential Single-Family

(6) RM-1 – Residential Multi-Family Medium Density

(7) RM-2 – Residential Multi-Family Low Density

(B) **Non-Residential or Mixed Use**

(1) CB – Central Business

(2) GB – General Business

(3) NB – Neighborhood Business

(4) OS – Office/Service

(5) I – Industrial

(6) FRR – Facilities Resource and Recreation

(C) **PD - Planned Development District**

3.3.2. Conditional Districts

Where the Town Council finds that the application of conventional district rules may be contrary to the purposes of this UDO due to the conditions of a site or adjacent properties, and only in response to a petition by all owners of the property to be included, it may establish a conditional district and establish additional use and or design standards if consented to by the petitioner(s) in writing. Conditional districts shall be designated with the base conventional district designation and followed by the letters “CD”.

(Ord. #1919)

3.3.3. Overlay Districts

The following overlay districts are established. The uses allowable by the underlying zoning district shall apply, except as limited by the use requirements of the overlay district.

(A) AHO – Airport Hazard

(B) FHO - Flood Hazard

(C) HCO – Highway Corridor

(D) HDO – Historic District

(E) DTOZ – Downtown Transition Overlay Zone

(F) MRO (Morganton Road Overlay)

(G) RRO – Rural Residential Overlay (manufactured housing)

(H) WPO - Watershed Protection Overlay District

(I) WSPO - West Southern Pines Overlay District

3.4. ZONING MAP

3.4.1. Establishment, Amendment and Maintenance of the Official Zoning Map

(A) There shall be a map designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the Town's Planning Jurisdiction. This map shall be stored on the Town's geographic information system (GIS) and printed on durable material. Prints shall be dated and kept in the Department of Planning and Development and in the Town Clerk's office.

(B) The Official Zoning Map is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with the provisions of chapter 2 of this UDO.

(C) The Planning Director shall update the Official Zoning Map as soon as possible after amendments to it are adopted by the Town Council. Upon entering any such amendment on the map, the Planning Director shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued. The planning department shall keep copies of superseded prints of the Zoning Map for historical reference.

(D) No unauthorized person may alter or modify the Official Zoning Map.

(E) GIS records shall indicate the zoning designation, the number and date of the ordinance creating the designation and, where a Conditional Zoning district is established, the conditions of that rezoning. GIS records shall maintain the zoning history.

(F) Should the Official Zoning Map be lost, destroyed or damaged, the Planning Director may have a new map generated from the most reliable available data. No further Council authorization or action is required so long as no district boundaries are changed in this process.

3.4.2. Interpretation of Zoning District Boundaries

Where uncertainty exists as to the boundaries of districts shown on the Zoning Map or any other map incorporated in or referenced by the UDO, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of streets, alleys or other public rights-of-way shall be construed to follow such centerlines. Where the street, alley or Right-of-Way has been vacated through official action of the governing body, the boundary shall be construed to follow the centerline of the vacated Right-of-Way.

(B) Boundaries indicated as approximately following platted Lot lines, section lines or Tract lines shall be construed to follow such lines.

(C) Boundaries indicated as approximately following Town limit lines shall be construed to follow such Town limit lines.

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as following shorelines shall be construed to follow such shorelines and in the event of change in the shoreline shall be construed as moving with the actual shoreline.

(F) Boundaries indicated as approximately following the centerlines of canals, streams or other bodies of water shall be construed to follow such centerlines.

(G) Boundaries indicated as parallel to features described in paragraphs (A) through (F) above shall be construed as parallel to such features at the distance from the feature indicated on the Zoning Map. If a distance is not indicated on the Zoning Map, the distance shall be determined by the scale of the map.

(H) Where interpretation is needed as to the exact location of boundaries of any mapped area, the Planning Director shall make the necessary interpretation.

3.4.3. Parcels Divided by District Lines

(A) Whenever a single Parcel of two (2) acres or less in size is located within two (2) or more different zoning districts, the district regulations applicable to the district within which the larger portion of the Lot lies shall apply to the entire Lot.

(B) Whenever a single Lot greater than two (2) acres in size is located within two (2) or more different zoning districts, then:

(1) If each portion of the Lot located within a separate district is equal to or greater than the minimum Lot size for that district, then each portion of the Lot shall be subject to all regulations applicable to the district in which it is located.

(2) If any portion of the Lot located within a separate district is smaller than the minimum Lot size for that district, then such smaller portion shall be regarded as if it were in the same zoning district as the nearest larger portion to which it is attached.

3.5. Conventional Zoning Districts

3.5.1. RE – Rural Estate

(A) **Purpose**

The **RE** district is established as a district in which the Principal Use of land is for low-density residential purposes and for horse farms, horse stables and related activity purposes. The regulations of this district are intended to:

(1) Preserve the existing scale of the low-density residential and agricultural character of Development in the area referred to as "Horse Country";

(2) Discourage the conventional Subdivision of existing large Tracts into small Building Lots;

(3) Preserve existing horse farms and agricultural uses; and

(4) Discourage traditional urban Development uses that require major utility extensions and street improvements.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6.

(D) **District Development Standards**

Dimensional standards are summarized in Exhibit 3-1. Section cross-references identify the location of additional dimensional standards and rules for their application. Additional district Development standards are established in chapter 4 of this UDO.

Exhibit 3-1: Summary of RE Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	35’	4.2.1	Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	40’	4.2.2	
Minimum Front Setback from centerline (dimension B)	70’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	15’	4.2.2	
Minimum Rear Setback (dimension F)	15’	4.2.2	
Minimum Lot Width (dimension G)	100’	4.2.3	
Minimum Lot Size	5 acres	4.2.3	

3.5.2. RR – Rural Residential

(A) **Purpose**

The **RR** district is established as a district in which to allow a variety of Single-Family residential Building types at very low densities which are interspersed with large, undeveloped open areas. The regulations of this district are intended to:

(1) Preserve the existing scale and the low-density residential and agricultural character of Development on the fringe of the planning region;

(2) Discourage traditional urban-scale Development that requires major utility and street improvements; and

(3) Enable the Development of Single-Family detached residential Development in Class B Manufactured Homes on individual Lots.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6.

(D) **District Development Standards**

Dimensional standards are summarized in Exhibit 3-2. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO.

Exhibit 3-2: Summary of RR Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	35’	4.2.1	Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	40’	4.2.2	
Minimum Front Setback from centerline (dimension B)	70’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	15’	4.2.2	
Minimum Rear Setback (dimension F)	30’	4.2.2	
Minimum Lot Width (dimension G)	100’	4.2.3	
Minimum Lot Size	30,000 sq.ft.	4.2.3	

(Ord. #1871, 8-24-20)

3.5.3. RS-1 – Residential Single-Family (10,000 sf Lots)

(A) **Purpose**

The **RS-1** is established as a district in which to allow primarily medium density Single-Family residential land uses (approximately 4.3 Dwelling Units per acre). The regulations of this district are intended to:

(1) Preserve existing Single-Family residential Neighborhoods that have developed at a medium-density; and

(2) Encourage new residential Development that is Compatible with that in the existing Neighborhoods.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6.

(D) **District Development Standards**

Dimensional standards are summarized in Exhibit 3-3. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO.

Exhibit 3-3: Summary of RS-1 Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	35’	4.2.1	Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	30’	4.2.2	
Minimum Front Setback from centerline (dimension B)	60’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	10’	4.2.2	
Minimum Rear Setback (dimension F)	30’	4.2.2	
Minimum Lot Width (dimension G)	45’	4.2.3	
Minimum Lot Size	10,000 sq.ft.	4.2.3	

3.5.4. RS-2 – Residential Single-Family (20,000 sf Lots)

(A) **Purpose**

The **RS-2** district is established as a district in which to allow primarily low-density Single-Family residential land uses (approximately 2.1 Dwelling Units per acre). The regulations of this district are intended to:

(1) Preserve existing Single-Family residential Neighborhoods that have developed at a low-density; and

(2) Encourage new residential Development that is Compatible with that in the existing Neighborhoods.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6.

(D) **District Development Standards**

Dimensional standards are summarized in Exhibit 3-4. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO.

Exhibit 3-4: Summary of RS-2 Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	35’	4.2.1	Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	30’	4.2.2	
Minimum Front Setback from centerline (dimension B)	60’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	10’	4.2.2	
Minimum Rear Setback (dimension F)	30’	4.2.2	
Minimum Lot Width (dimension G)	45’	4.2.3	
Minimum Lot Size	20,000 sq.ft.	4.2.3	

3.5.5. RS-3 - Residential Single-Family (30,000 sf Lots)

(A) **Purpose**

The **RS-3** district is established as a district in which to allow primarily very low-density Single-Family residential land uses (approximately 1.4 Dwelling Units per acre). The regulations of this district are intended to:

(1) Preserve existing Single-Family residential Neighborhoods that have developed at a low-density; and

(2) Encourage new residential Development that is Compatible with that in the existing Neighborhoods.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6.

(D) **District Development Standards**

Dimensional standards are summarized in Exhibit 3-5. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO.

Exhibit 3-5: Summary of RS-3 Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	35’	4.2.1	Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	30’	4.2.2	
Minimum Front Setback from centerline (dimension B)	60’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	10’	4.2.2	
Minimum Rear Setback (dimension F)	30’	4.2.2	
Minimum Lot Width (dimension G)	45’	4.2.3	
Minimum Lot Size	30,000 sq.ft.	4.2.3	

3.5.6. RM-1 - Residential Mixed Housing (10-12 DU/ac)

(A) **Purpose**

The **RM-1** district is established as a district in which to allow primarily Single-Family and Multi-Family Residences at a medium-density (approximately 10-12 Dwelling Units per acre) in areas served by adequate public water and sewer systems. The regulations of this district are intended to:

(1) Encourage Single-Family and Multi-Family residences; and

(2) Encourage new residential Development that is Compatible with that in the existing Neighborhoods.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6.

(D) **District Development Standards**

Dimensional and density standards are summarized in Exhibit 3-6. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO and the **HCO** district design guidelines as applicable.

Exhibit 3-6: Summary of RM-1 Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	40’	4.2.1	Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	25’	4.2.2	
Minimum Front Setback from centerline (dimension B)	55’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	10’	4.2.2	
Minimum Rear Setback (dimension F)	30’	4.2.2	
Minimum Lot Width (dimension G) – not applicable to Townhouse Development	45’	4.2.3	
Minimum Lot Size for 1 Dwelling Unit	10,000 sq.ft.	4.2.3	
Additional Lot Area per Additional Dwelling Unit	3,600 sq.ft.	4.2.3	

(Ord. #1714; Ord. #1887, 11-23-20)

3.5.7. RM-2 - Residential Mixed Housing (5-7 DU/ac)

(A) **Purpose**

The **RM-2** district is established as a district in which to allow primarily Single-Family and Multi-Family Residences at a moderate-density (approximately 5-7 Dwelling Units per acre) in areas served by adequate public water and sewer systems. The regulations of this district are intended to:

(1) Encourage Single-Family and Multi-Family Residences; and

(2) Encourage new residential Development that is Compatible with that in the existing Neighborhoods.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6.

(D) **District Development Standards**

Dimensional and density standards are summarized in Exhibit 3-7. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO and the **HCO** district design guidelines as applicable.

Exhibit 3-7: Summary of RM-2 Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	40’	4.2.1	Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	25’	4.2.2	
Minimum Front Setback from centerline (dimension B)	55’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	10’	4.2.2	
Minimum Rear Setback (dimension F)	30’	4.2.2	
Minimum Lot Width (dimension G) – not applicable to Townhouse Development	45’	4.2.3	
Minimum Lot Size for 1 Dwelling Unit	10,000 sq.ft.	4.2.3	
Additional Lot Area per Additional Dwelling Unit	6,000 sq.ft.	4.2.3	

(Ord. #1714; Ord. #1887, 11-23-20)

3.5.8. CB – Central Business

(A) **Purpose**

The **CB** district is designed to accommodate a wide variety of commercial activities (particularly those that are pedestrian oriented) in an intensive Development Pattern in the Town's central business district. The regulations of this district are intended to:

(1) Preserve the general character and integrity of the current Development in the central business district;

(2) Encourage land uses that provide for a multi-purpose central business district including retail, offices, services, entertainment and living space;

(3) Encourage land uses that do not require large amounts of outdoor use areas; and

(4) Encourage common or shared off-street parking.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6. In addition, the following standards shall apply:

(1) Drive-through and drive-in uses are prohibited.

(2) Professional offices and businesses authorized in Exhibit 3-15 that fall in the 2200 (finance and insurance), 2300 (real estate rental and leasing), 2400 (business, professional, scientific and technical) functional codes shall be limited to not more than twenty (20) percent of the block frontage at the street level, for any block face along Broad Street between Vermont and Massachusetts or Pennsylvania Avenue between Ashe and Bennett Streets. This provision does not apply in the DTO district pursuant to section 3.6.3(C)(1)

(Ord. #1714; Ord. # 1716)

(3) Chain link fencing over (36) thirty-six inches high is prohibited. Allowed chain link fencing must be of a non-reflective color such as brown, black or dark green. Barbed or razor wire or any other type of wire designed to cut, puncture, etc., are also prohibited.

(4) Outdoor storage is prohibited.

(5) Outdoor operations and displays shall comply with the standards established in section 5.13.1.

(6) Religious institutions and other institutional uses shall not be allowed; however existing facilities shall be authorized in accordance with section 5.15.

(D) **District Development Standards**

Dimensional and density standards are summarized in Exhibit 3-8. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO. The following district Development standards shall apply unless modified by the Downtown Transition Overlay Zone standards and pursuant to a Certificate of Appropriateness for a property located within the Historic District Overlay.

(1) The Front Setback may be increased to establish courtyards and dining areas, provided that not more than twenty-five (25) percent of the total of any block face shall be set back more than the maximum established in Exhibit 3-8 and the Planning Director finds that:

(a) The Front Yard improves the visual quality and character of the Street, promotes pedestrian traffic and is ADA compliant;

(b) The Front Yard enhances access between outdoor and indoor spaces;

(c) Flooring and surfaces are constructed of durable, non-slip materials that complement sidewalk paving;

(d) Changes in colors are used to highlight steps;

(e) The shape and design (including landscaping) of the space provides visibility of the entire space from the sidewalk;

(f) The Front Yard is unenclosed except for decorative walls, posts with decorative ropes or chains or other decorative enclosures approved by the Planning Director**.** Decorative walls shall not be taller than thirty (30) inches.

(g) At least fifty (50) percent of the wall surface between two (2) and seven (7) feet above the average grade of the Front Yard shall be glazed and shall have a minimum transparency of seventy (70) percent.

(h) Other than furniture for dining areas, Front Yard improvements are limited to seating, decorative waste receptacles, fountains, water features and landscaping.

(2) All Setbacks are subject to compliance with adopted Fire Code.

(3) Buildings walls shall be finished predominantly with brick, stucco or other non-metal siding determined by the Planning Director to be of comparable appearance and durability.

(4) Building sides facing streets shall have parapets, mansard or false mansard roofs or shingled or standing seam roofs with a minimum pitch of 6:12 (vertical rise : horizontal run).

(5) All Buildings shall be designed to comply with the applicable design standards established in section 4.10, except as modified by **HDO** district standards.

(Ord. #1919)

Exhibit 3-8: Summary of CB Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	45’	4.2.1	Letters match dimension in design element column
Maximum Front Setback from Right-of-Way (dimension A)	5’	4.2.2	
Maximum Side Setback, Exterior from Right-of-Way (dimension B)	5’	4.2.2	
Minimum Side Setback, Interior (dimension C)	No minimum	4.2.2	
Minimum Rear Setback (dimension D)	No minimum	4.2.2	
Maximum Lot Width (dimension E)	50’	4.2.3	
Minimum Lot Size	No minimum	4.2.3	
Additional Lot Area per Additional Dwelling Unit	1,500 sq.ft.	4.2.3	

(Ord. #1714)

3.5.9. GB – General Business

(A) **Purpose**

The **GB** district is designed to accommodate highway-oriented retail, commercial service businesses and in some limited cases light manufacturing, which generally have as their market area the entire Town and surrounding area. The major objectives of this district are to:

(1) Encourage planned commercial, light manufacturing conducted within Buildings and office parks;

(2) Discourage small Lot Development on major highways;

(3) Encourage vehicular access from service drives and other local commercial streets rather than directly from arterial streets; and

(4) Provide a location for major shopping facilities and land uses requiring large outdoor spaces.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6. In addition, the following standards shall apply:

(1) Outdoor storage, display and operations shall comply with the standards in sections 5.12 and 5.13.

(2) Drive-in and drive-through uses shall comply with the standards established in section 5.8.

(3) For manufacturing uses (see structural codes 3000-3999 in Exhibit 3-15) allowed in the **GB** district:

(a) The maximum Building coverage shall be fifty (50) percent of total Lot Area.

(b) For existing or new Buildings five thousand (5,000) square feet or larger a Special Use Permit is required.

(Ord. #1919)

(D) **District Development Standards**

Dimensional and density standards are summarized in Exhibit 3-9. Section cross-references identify the location of additional dimensional standards. The following standards shall apply in addition to the district Development standards are established in chapter 4 of this UDO and the **HCO** district guidelines as applicable.

(1) Building walls facing streets shall be finished with brick, stucco, wood, or other non-metal siding determined by the Planning Director to be of comparable appearance and durability. Side and rear Building walls that do not face streets shall be finished with the same materials as the walls facing the streets for at least the lesser of twenty-five (25) percent or twenty-five (25) feet of the length of the wall extending from the nearest street facing walls.

(2) Building sides facing streets shall have parapets, mansard or false mansard roofs or shingled or standing seam roofs with a minimum pitch of 6:12 (vertical rise : horizontal run).

(3) All Buildings shall be designed to comply with the applicable design standards established in section 4.10.

Exhibit 3-9: Summary of GB Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	45’	4.2.1	Letters match Dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	No minimum	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension B)	No minimum	4.2.2	
Minimum Side Setback, Interior (dimension C)	No minimum	4.2.2	
Minimum Rear Setback (dimension D)	No minimum	4.2.2	
Minimum Lot Width (dimension E)	No minimum	4.2.3	
Minimum Lot Size	No minimum	4.2.3	
Minimum Lot Area per Dwelling Unit	3,600 sq.ft.	4.2.3	

3.5.10. NB – Neighborhood Business

(A) **Purpose**

The **NB** district is established as a mixed use district that allows small-scale, limited retail and service land uses that provide goods and services primarily to surrounding residential Neighborhoods, residential Buildings and mixed-use Buildings. The major objectives of this district are to:

(1) Encourage the location of convenience retail establishments, professional services and professional offices that are Compatible with surrounding residential uses;

(2) Preclude large-scale Buildings that are inconsistent with the Neighborhood character;

(3) Limit major traffic generators to thoroughfares;

(4) Promote safe and convenient pedestrian access from surrounding residences; and

(5) Allow for Single-Family Dwellings in business corridors to be used for business or residential purposes.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6. In addition, the following standards shall apply:

(1) Outdoor storage and outdoor display are prohibited.

(2) Outdoor operations are limited to outdoor dining and shall comply with section 5.13.

(3) Subject to Building code compliance Buildings may be used for authorized residential or non-residential purposes.

(4) Drive-through and drive-in uses are prohibited.

(D) **District Development Standards**

Dimensional and density standards are summarized in Exhibit 3-10. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO.

(1) Balconies and covered porches may extend up to five (5) feet into the Front Setback.

(2) Building walls facing streets and residential Lots shall be finished predominantly with brick, stucco, wood, or other non-metal siding determined by the Planning Director to be of comparable appearance and durability. Side and rear Building walls that do not face streets or residential Lots shall be finished with the same materials as the walls facing the streets for at least the lesser of twenty-five (25) percent or twenty-five (25) feet of the length of the wall extending from the nearest street facing walls.

(3) Building sides facing streets and residential Lots shall have parapets, mansard or false mansard roofs or shingled or standing seam roofs with a minimum pitch of 6:12 (vertical rise : horizontal run).

(4) All Buildings shall be designed to comply with the applicable design standards established in section 4.10.

Exhibit 3-10: Summary of NB Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	35’	4.2.1	Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	15’	4.2.2	
Minimum Front Setback from centerline (dimension B)	45’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	20’	4.2.2	
Minimum Rear Setback (dimension F)	20’	4.2.2	
Minimum Lot Width (dimension G)	No minimum	4.2.3	
Minimum Lot Area per Dwelling Unit	3,600 sq.ft.	4.2.3	
Minimum Lot Size for 1 Dwelling Unit	10,000 sq.ft.	4.2.3	
Additional Lot Area per Additional Dwelling Unit	3,600 sq.ft.	4.2.3	

(Ord. # 1716)

3.5.11. OS – Office/Service

(A) **Purpose**

The **OS** district is designed to accommodate office and service uses as well as medium-density residential uses. The major objectives of this district are to:

(1) Encourage land uses that buffer residential districts from intensive non-residential uses and arterial streets;

(2) Provide aesthetic controls and dimensional requirements to ensure Compatible office and service Development with surrounding residential uses;

(3) Encourage a mixture of medium-density residential uses with offices and services; and

(4) Allow for Single-Family Dwellings in business corridors to be used for business or residential purposes.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapter 5. In addition, the following standards shall apply:

(1) Outside storage, display and operations are each prohibited.

(2) Subject to Building code compliance, Buildings may be used for authorized residential or non-residential purposes.

(3) Drive-through and drive-in uses are prohibited.

(D) **District Development Standards**

(1) Dimensional and density standards are summarized in Exhibit 3-11. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO.

(2) Building walls facing streets and residential Lots shall be finished predominantly with brick, stucco, wood, or other non-metal siding determined by the Planning Director to be of comparable appearance and durability. Side and rear Building walls that do not face streets or residential Lots shall be finished with the same materials as the walls facing the streets for at least the lesser of twenty-five (25) percent or twenty-five (25) feet of the length of the wall extending from the nearest street facing walls.

(3) Building sides facing streets and residential Lots shall have parapets, mansard or false mansard roofs or shingled or standing seam roofs with a minimum pitch of 6:12 (vertical rise : horizontal run).

(4) All Buildings shall be designed to comply with the applicable design standards established in section 4.10, except as modified by **HCO** district guidelines.

Exhibit 3-11: Summary of OS Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	35’	4.2.1	Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	15’	4.2.2	
Minimum Front Setback from centerline (dimension B)	45’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	20’	4.2.2	
Minimum Rear Setback (dimension F)	20’	4.2.2	
Minimum Lot Width (dimension G)	No minimum	4.2.3	
Minimum Lot Area per Dwelling Unit	3,600 sq.ft.	4.2.3	
Minimum Lot Size for 1 Dwelling Unit	10,000 sq.ft.	4.2.3	
Additional Lot Area per Additional Dwelling Unit	3,600 sq.ft.	4.2.3	

(Ord. # 1716)

3.5.12. I – Industrial

(A) **Purpose**

The **I** district is established to allow primarily light manufacturing, assembly, research and intensive commercial uses. The regulations of this district are intended to:

(1) Encourage light manufacturing and intensive commercial uses that are Compatible with the tourist/resort character of the community, as well as accessory land uses incidental to and in support of authorized manufacturing uses;

(2) Exclude heavy industry, major retail and residential land uses; and

(3) Preserve locations that are best suited for industrial Development.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6. In addition, the following standards shall apply:

(1) Outdoor operations, other than moving, storing and displaying goods shall be prohibited.

(2) Outdoor storage and display shall be screened in compliance with sections 5.12 and 5.13.

(D) **District Development Standards**

Dimensional and density standards are summarized in Exhibit 3-12. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO.

Exhibit 3-12: Summary of I Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	50’	4.2.1	Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	40’	4.2.2	
Minimum Front Setback from centerline (dimension B)	70’	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15’	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45’	4.2.2	
Minimum Side Setback, Interior (dimension E)	10’	4.2.2	
Minimum Rear Setback (dimension F)	20’	4.2.2	
Minimum Lot Width (dimension G)	No minimum	4.2.3	
Minimum Lot Size	No minimum	4.2.3	

3.5.13. FRR – Facilities, Resource and Recreation District

(A) **Purpose**

The **FRR** is intended for open space, public facilities and privately owned and recreation areas. Publicly owned land uses include governmental, recreational, education, natural resource and utility facilities. Privately owned land uses include golf resorts and related facilities, land trusts established to preserve natural resources, schools and recreational facilities that typically include substantial open space. The objectives of the FRR district are to

(1) Provide land for publicly-owned governmental facilities and privately-owned natural and man-made resource and recreation areas; and

(2) Preclude major residential, retail office, institutional, and industrial uses that typically provide limited open space.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Existing uses within the **FRR** district that are not authorized by right may be allowed to continue as non-conforming uses or allowed to achieve conforming status subject to issuance of a Special Use Permit.

(Ord. # 1919; Ord. #3010)

(D) **District Development Standards**

Building heights and Setbacks shall conform to those of the abutting district. Required buffers shall be based on the use established in the FRR district and the abutting use or district, whichever requires the greater buffer.

3.5.14. PD - Planned Development District

(A) **Purpose**

The **PD** district is designed to accommodate mixed land uses, such as office, residential, service, commercial, public or private recreational Development, and where consistent with the future land use map, light manufacturing and assembly uses that comply with the employment center Development Patterns in section 6.5 of this UDO. This district is intended to allow mixed-use Developments in areas where sufficient public water and sewer service is available (or can be readily extended) and where the street system is adequate (or can be readily improved) to handle the projected traffic volumes generated by the Development. The regulations of this district are intended to:

(1) Encourage planned, large-tract Development, including service, office, commercial, residential, public or private recreational Development or light industrial uses;

(2) Exclude heavy commercial and heavy industrial land uses;

(3) Encourage Development in areas located on major thoroughfares and collector streets;

(4) Encourage vehicular access from service drive and other local streets;

(5) Provide performance standards to help ensure Compatible land uses;

(6) Encourage common or shared parking;

(7) Promote creativity and innovation in the design that leads to more appropriate relationships between land uses and features;

(8) Facilitate clustering of Development thereby increasing the amount of saved land;

(9) Foster Development of a network of open space to serve a variety of recreational and environmental purposes designed and located with respect to existing unique natural features and environmentally sensitive areas;

(10) Improve connectivity within and between Developments to promote mobility and enhance walkability;

(11) Integrate public spaces and amenities to promote community gatherings and activities;

(12) Establish coordinated land plan and consistent treatment of common design elements;

(13) Provide the flexibility to respond to market conditions over longer projected Development periods due to the scale of such Developments; and

(14) If residential land uses are proposed, provide a variety of Lot sizes and Dwelling types to expand the spectrum of housing choices for households of various type, size, income and age.

(Ord. #1714)

(B) **Applicability**

A **PD** district may be established to accommodate large-scale, master-planned, mixed-use Developments that cannot be accomplished through conventional zoning districts. Development within a PD district shall occur in accordance with unique conditions and standards established during the rezoning process that may vary from those contained within other sections of the UDO. Such conditions and standards shall be applicable only to the specific Parcel of land that comprises that PD District, and shall run with the land regardless of ownership.

(C) **Procedures**

PD districts shall be established and developed in accordance with the procedures established in chapter 2 of this UDO.

(D) **Land Use Mix**

Each PD district approval shall identify the authorized land uses, which may include a mix of residential, retail, office, recreational or light industrial uses. The type and location of any and all uses within the PD District must be

demonstrated to be appropriate for the project area and surrounding area. All land uses listed in the approved zoning application are permitted subject to the conditions established through the rezoning process.

(E) **Development Patterns**

The PD district approval may establish any of the Development Patterns described in chapter 6 or accommodate alternative Development Patterns that comply with PD district standards.

(F) **General Provisions**

(1) Minimum Size and Contiguity

The PD district shall encompass a sufficient area to accommodate the proposed mix of Uses and ensure Compatibility between both internal and external land uses.

(2) Ownership and Division of Land

No Tract of land may be considered for a PD District unless such Tract is under single or unified ownership or control. If listed in several ownerships, the application for zoning shall be accompanied by each landowner's written consent. The holder of a written option to purchase or a Developer under contract shall be considered an owner for purposes of this section provided the landowner's (or landowners') written consent is included with the application.

(3) Relationship to the UDO

Each proposal for development under the PD district is anticipated to be unique. Except as provided by this section and the PD approval, PD district Development shall be subject to all of the applicable standards, procedures, and regulations in other sections of this UDO. Development Conditions approved as part of the PD District zoning application shall supersede conflicting UDO regulations, unless otherwise prohibited by law. Alternative standards may be approved for Development within the PD district if they:

(a) Meet or exceed the general intent of the UDO standards for base zoning districts;

(b) Are appropriate given the specific mix of uses and character of the Development; and

(c) Achieve a more efficient, safe or economical land use without detracting from the quality of the Development or detrimentally impacting its surrounding Development or the community as a whole.

(4) Relationship to Other Regulations

Unless otherwise specified in the PD approval, all PDs shall be subject to all local, State and Federal regulations.

(G) **Open Space**

Unless otherwise authorized for a specific development pattern established in chapter 5, the following Open Space requirements apply within a PD district:

(1) Not less than twenty (20) percent of the gross land area of the PD shall be devoted to Open Space.

(2) Not less than fifty (50) percent of the required Open Space (ten (10) percent of gross land area) shall be Usable Open Space as defined in this UDO.

(3) The remaining Open Space may be comprised of, but is not limited to, any combination of the following: natural areas, wetlands, trails, boardwalks, parks, ball fields, equestrian fields or tracks, golf courses (not including clubhouse or other vertical structures), buffers (outside of a platted Lot), any water bodies including ponds and lakes, and/or innovative and accessible water quality ponds that are designed as an amenity.

(4) No more than fifty (50) percent of the required Open Space shall consist of ponds, lakes, and/or water quality ponds.

(5) The site's natural features and surroundings, unique features of the subject and surrounding property shall be considered by the Town when evaluating the configuration and uses of planned Open Space. Where practical, Open Space shall be configured to provide connectivity with other Open Space, both on- and off-site, and to allow for connectivity to and the extension of the existing Greenway Trail System.

(6) Unless dedicated to and accepted by the Town or a similar legal entity, the owner or property owners association is required to provide for the continuing maintenance of Open Space.

(H) **Landscaping, Screening, Buffers and Trees**

The standards for landscaping, screening, buffers and trees included in chapter 4 of this UDO shall apply to all Development within the PD District, with the following exceptions:

(1) Buffer requirements apply only to the perimeter of the PD unless otherwise specified in the PD District Conditions. The minimum required buffer for each sub-area shall be based on the most intensive use authorized within the sub-area that is adjacent to the property boundary and shall meet or exceed the standards established in chapter 4 of this UDO.

(2) Land uses internal to the PD shall be buffered in accordance with the provisions of chapter 4 unless approved as part of the PD Development Conditions.

(3) Other deviations from landscaping, buffer, street tree and screening standards of chapter 4 shall not be allowed unless approved as a PD Development Condition.

(4) If landscaping, buffer or other requirements are included in a platted Lot, they shall be protected by the PD's Covenants and Restrictions and shall not count as Open Space.

(I) **Common Sign Plan**

Signs within the development shall adhere to the standards set forth in section 4.6 of this UDO or set forth in the Conceptual Development Plan or an amendment thereto. The Applicant may include unique standards for signage with the Conceptual Development Plan that establish more specific design standards (size, height, color, materials, illumination) and Sign locations for the project to ensure a coordinated theme across the PD District. A Unified Sign Plan may then be submitted after the approval of the Conceptual Development Plan and may be approved by the Planning Director as an alternate to individual Sign permits. Any Unified Sign Plan that deviates from the standards set forth in section 4.6 of this UDO or set forth in the approved Conceptual Development Plan shall require approval by the Board of Adjustment pursuant to section 2.22.

(Ord. #2052)

(J) **Landmark Signs**

The Town Council may approve the establishment of one or more on-premises Landmark Signs as a condition of approval within a PD district subject to the requirements of section 4.12.

(Ord. #2052)

(K) **Storm Water Control**

Storm water management shall meet or exceed the State's minimum requirements for storm water management. A common master storm water management plan may be developed for the project as a whole and may employ Best Management Practices. This neither prohibits the Development of the PD district in phases nor the phased implementation of the storm water management system.

(L) **Street Design**

(1) Street design shall adhere to the Town's standards as set forth in chapter 4 of the UDO. The Applicant may submit alternative street design standards that vary in response to proposed function of the street, anticipated adjacent land uses, character of the Neighborhood, anticipated traffic volume (subject to Town and/or NCDOT approval), hierarchy within the street network, and need for traffic calming measures. At a minimum, turn lanes shall be studied and contemplated in relation to all intersections of Arterial streets within the site and shall be considered for appropriateness as part of the Traffic Impact Analysis (TIA), which must be approved by the Town.

(2) Streets within the PD may be private or may be dedicated to the Town of Southern Pines with the Town's consent. Dedicated streets may be maintained by the Town of Southern Pines or NCDOT according to rules of the applicable jurisdiction.

(M) **Parking and Loading**

The standards for parking and loading set forth in chapter 4 UDO shall apply to all Development within the PD, with the following exceptions:

(1) On-street parking shall be allowed if road widths are adequate. On-street parking may consist of parallel, perpendicular, angled, reverse angle or any combination of these types of parking spaces. If provided, on-street parking may be used to reduce the on-site parking requirement by up to fifty (50) percent.

(2) For uses having different parking requirements and occupying the same Building or Parcel, the minimum number of required spaces shall be the sum total requirement of all the individual uses. For Developments or portions of Developments within the same PD District designed as a single, coordinated project having at least 50,000 square feet of Gross Floor Area, the minimum number of required spaces shall be one space for every 250 square feet of Gross Floor Area designed for nonresidential use and occupancy.

(3) Shared parking in general accordance with chapter 4 of the UDO is allowed and encouraged in circumstances where the parking would be within 1,200 feet of each respective use. If shared parking is proposed as a means of satisfying off-street parking requirements, a shared parking analysis must be submitted to the Planning Director that clearly demonstrates the feasibility of shared parking. The study must address, at a minimum, the size and type of the proposed Development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

(4) There is no off-street loading requirement for a Building with less than 10,000 square feet of gross Building area. Otherwise, off-street loading shall comply with the requirements for off-street loading set forth in chapter 4 of the UDO.

(N) **Conversion Schedule**

The PD zoning application may include a Conversion Schedule that identifies proposed conversion rates between different types of uses within the PD District. The Conversion Schedule, if submitted, shall be provided in the Development Conditions and must be approved in conjunction with the PD District zoning application. Conversions from an approved land use to an alternative land use may occur within and between Development areas as minor amendments for purposes of this section if:

(1) The conversion from the approved use to the alternative use is consistent with the Conversion Schedule approved with the Development Conditions;

(2) The dimensional standards of the alternative use comply with the approved Development Conditions and Land Use Plan for the PD District;

(3) The maximum threshold for the PD District's permitted density, intensity or Development potential is not exceeded;

(4) The alternative use is not anticipated to significantly increase or adversely alter offsite traffic impacts; and

(5) The general character and mix of uses for the project are maintained.

(Ord. # 1716)

(O) **Additional Regulations for All PDs**

(1) Residential uses in commercial and office Buildings. A residential use may be located above a commercial or office use located on the lower Floors of the same Building.

(2) Building heights shall adhere to the limitations set forth in chapter 4 for the **RM-1** district. The Applicant may propose an alternative height that exceeds the established limits, provided the increased height does not negatively affect surrounding properties and is approved by the Town Council.

(3) Appurtenances. A step, stoop, open porch, balcony, awnings or other appurtenance may extend up to five (5) feet into the Front Setback, provided such features do not impede pedestrian circulation or extend more than twenty-five (25) percent into the Setback.

(4) Utility lines. All new utilities associated with the proposed Development shall be underground.

(P) **Accessory Uses**

Accessory Uses shall comply with the standards of sections 5.2 and 5.3 unless otherwise approved as part of the PD Development Conditions.

3.6. OVERLAY DISTRICTS

Special control overlay districts are intended to be superimposed over the underlying general zoning district and the land within each overlay district may be used in ways that achieve the objectives of each overlay district.

3.6.1. RRO – Rural Residential Overlay (manufactured housing)

(A) **Purpose**

The **RRO** district is established as an overlay district of the RR district only. The purpose of the **RRO** district is to allow, in additional to all of The uses permitted in the underlying RR district, Class C Manufactured Homes on individual Lots and Manufactured Home Parks.

(B) **District Use**

The additional regulations governing uses in the **RRO** are delineated in chapter 5, Supplementary Conditions for Specific uses. In addition to all of the uses allowed in a general **RR** district, Manufactured Home Parks and Class C Manufactured Homes on individual Lots are also permitted in a **RRO** district. Class C Manufactured Homes on individual Lots are permitted subject to the following standards being met:

(1) The tongue, axles, transporting lights and removable towing apparatus are removed after placement on the Lot and before occupancy.

(2) All entrances to a Manufactured Home are provided with permanent steps, deck, porch or similar suitable entry.

(3) A continuous, permanent masonry curtain wall, un-pierced except for required ventilation and access, is installed under the Manufactured Home.

(C) **Additional District Standards**

A RRO district shall be designated for a contiguous area of at least 2 acres in size.

3.6.2. HDO – Historic District Overlay

(A) **Purpose**

The **HDO** district is established as an overlay district for all general zoning districts that contain structures or other facilities of historic significance. The purpose of the **HDO** district is to protect and conserve the heritage and character of the Southern Pines community by providing for the conservation of designated historical areas within the Planning Jurisdiction.

(B) **Boundary Changes**

Neither new historic districts nor any change to the boundaries of an existing historic district shall be designated until the North Carolina Department of Cultural Resources 19, Part 3A of the N. C. General Statutes, makes recommendations with respect to the establishment of such new district or change in the boundaries of an existing district.

(C) **Certificate of Appropriateness Required**

A Certificate of Appropriateness shall be required prior to any activity or issuance of a permit for an activity that constitutes and Major or Minor Work in accordance with sections 2.28 or 2.45.

(D) **District Use and Development Standards**

The use and Development of any land or structure within the **HDO** district shall comply with the Use regulations and intensity regulations applicable to the underlying base zoning district except that:

(1) Building and site Development shall comply with applicable standards of the Historic District Overlay Standards.

(2) Minimum Lot Area requirements for residential Dwelling Units in the **CB** district shall not apply in the **HDO** district.

(Ord. # 1919)

3.6.3. DTO – Downtown Transition Overlay

(A) Purpose

The **DTO** district is established as an overlay in the areas located within and abutting the CB zoning district, and is intended to:

(1) Establish an area with greater land use flexibility than the CB and adjoining zoning districts;

(2) Foster Compatible land use transitions between the CB Development and abutting residential Neighborhoods;

(3) Promote Compatible design transitions in blocks facing or adjacent to the HDO; and

(4) Provide safe and convenient connectivity between the downtown and nearby Neighborhoods for bicyclists, pedestrians and motorists.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO for the underlying may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6. In addition, the following standards shall apply:

(1) Banks and professional offices are allowed on any Floor of a Building with CB base zoning subject to applicable DTO district design standards.

(2) Drive-through uses are permitted in areas with CB base zoning subject to the standards in section 5.8, except that no drive-through or drive-in service shall be allowed for any food or beverage service provider.

(3) Any non-residential use allowed in the OS district is allowed in areas with CB, RM-1 and RM-2 base zoning subject to the Downtown Overlay District Development Standards.

(Ord. #1745, 7-10-18)

(D) **District Development Standards**

Dimensional and density standards shall comply with the underlying conventional district except that:

(1) Minimum Front Setbacks shall be fifteen (15) feet from the front property line.

(2) Minimum Side Setbacks shall be five (5) feet from the property line in areas with **CB** base zoning.

(3) Minimum Rear Setbacks shall be ten (10) feet from the property line in areas with **CB** base zoning.

(4) Minimum Lot Areas per Dwelling Unit in areas with **RM** base zoning shall be 4,500 square feet for a single Dwelling Unit or office structure plus 1,800 square feet for each additional Dwelling Unit.

(5) Maximum Lot width provisions of the **CB** district do not apply within the **DTO** district.

(6) Non-residential and mixed-use Buildings shall comply with the design standards of section 4.10.

(7) Sign standards for any Parcel facing the **HDO** district and any Lot facing a street that extends outward from and is located within one block the **HDO** district shall comply with adopted Historic District Standards as interpreted by the Planning Director.

(Ord. #1714; Ord 1745; Ord. #1919)

3.6.4. WSPO - West Southern Pines Overlay

(A) **Purpose**

The **WSPO** district is established to facilitate greater land use flexibility for home occupations that more closely reflect historic land use patterns.

(B) **Authorized Uses**

The uses authorized by section 3.7 of this UDO for the underlying zoning districts may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) **District Use Standards**

Standards for specific uses and Development Patterns authorized in this district are established in chapters 5 and 6. In addition, the following standards shall apply except as provided below for home occupations.

(1) Home Occupations

Home occupations shall comply with the provisions of section 5.9, except that:

(a) Up to two non-resident employees may be allowed

(b) Incidental sales shall be allowed provided that they are products that are used in providing an authorized service and the display and storage area does not occupy more than ten (10) percent of the area used for the home occupation.

(c) Hair care, nail care, tailoring and sewing services are authorized in addition to the other Uses authorized by section 5.9.

(2) Small religious institutions shall be allowed in all districts subject to compliance with the provisions of section 5.15.

(3) The Council may approve other institutional and community service uses as Special Uses in all districts.

(Ord. # 1919)

(D) **Development Standards**

Underlying conventional district Development standards shall apply in the WSPO except that covered, but unenclosed porches and balconies may encroach into the Front Setback in areas subject to the RM zoning by up to five (5) feet.

(Ord. # 1919)

3.6.5. HCO – Highway Corridor Overlay

(A) **Purpose**

The **HCO** district is established to place special land Development controls on land adjacent to major highway corridors to protect the natural and environmental features that constitute important physical, aesthetic, recreational and economic assets to the community. This overlay district is established to

(1) Prevent unsightly conditions that may destroy or detract from the natural character, beauty and condition;

(2) Establish standards as may be necessary to accomplish the objective;

(3) Minimize potential safety hazards that may exist along the roadways in the Town; and

(4) Ensure that Development is consistent with the historic character of the Town's natural and built environments.

(B) **Findings**

The Town Council finds that:

(1) The natural environment and ecosystem in Southern Pines supports a unique diversity of vegetation, soils and wildlife. Such conditions are of economic, historical and aesthetic value to the Town and make it a desirable place for residents, businesses and visitors;

(2) The appearance of Southern Pines properties from the public roadways contributes to the economic prosperity of the Town;

(3) Trees and other natural landscape elements help to naturally control water quality and erosion; moderate noise, dust and other airborne pollutants; moderate the Town's climate; and provide habitat and food resources for its wildlife;

(4) Growth and economic Development attracted to the Town, at times necessitates the alteration of the natural conditions, vegetation and soils. Such Development may detract from the natural beauty by the placement and design of Signs, parking areas, landscaping and structures;

(5) The protection, re-establishment and enhancement of landscaping, as well as other enhancements to the appearance and quality of Building and site Development along the major public highways in the Town and its Extraterritorial Jurisdiction is essential for the fiscal and economic health of the Town;

(6) Development along the Town highway corridors provides convenient commercial and residential opportunities for citizens

and visitors, which contributes to the fiscal and economic health of the Town;

(7) Protection and management of these valuable assets is necessary to ensure the health, safety and welfare of the citizens in the Town and its Extraterritorial Jurisdiction.

(C) **Area of Applicability**

Major highway corridors affected by the **HCO** are U.S. #1, U.S. #15-501, Midland Road (NC2), Central Drive (NC22) and Morganton Road (SR 1205 and 1905) and Airport Road (SR 1843). To carry out the above purposes, the Town has designated two (2) overlay districts, the boundaries of which are shown on the official Zoning Map.

(1) **Urban Transition Highway Corridor Overlay District**, which shall be developed with a balance of residential, recreational and commercial uses. These sections are best suited for providing a balance of naturalized and manmade conditions. The visual quality of these sections depends on quality Site Planning, landscaping and preservation of natural features.

(2) **Urban/Village Highway Corridor Overlay District**, which shall allow for denser land use patterns for commercial and residential Development than the Urban Transition Highway Corridor Overlay District. However, the visual aspects of the Development along these corridors shall be defined by an emphasis on landscape elements.

(D) **Boundaries of Districts**

The above **HCO** districts shall be measured from the edge of the public right of way. The Urban Transition Corridor Overlay District shall be 400 feet from the edge of the right of way and run parallel to the right of way. The Urban/Village Corridor Overlay District shall be 300 feet from the edge of the right of way and run parallel to the right of way.

(E) **Authorized Uses**

The uses authorized by section 3.7 of this UDO for the underlying may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(F) **Development Standards**

The Development standards in Exhibit 3-13 shall apply to Development in the HCO districts except as noted in this paragraph. These standards shall supersede the standards established in the applicable underlying zoning districts and in chapter 4 of this UDO.

(1) Single-Family Lots may be developed according to the standards of the underlying zoning district and these Lots or the Single-Family homes built upon them shall not be considered non-conforming situations.

(2) The maximum built-upon surface limitations shall not apply to the reuse or redevelopment of properties developed prior to December 12, 1989.

(3) In the urban village highway corridor overlay district, the Exterior Side or Rear Setback for any non-residential structure shall be increased to accommodate a ten (10) foot wide buffer unless the side or rear of the Building complies with the Building façade standards of section 4.10.

(G) **Signs**

Section 4.6 establishes the Sign requirements for the HCO districts and authorizes the use of Signs that are intended to achieve the objective of the Highway Corridor Overlay District, while providing for the needs of businesses in the corridors.

(H) **Exterior Lighting Standards**

Outdoor lighting shall comply with the standards established in section 4.7(G).

Exhibit 3-13: Highway Corridor Overlay District Development Standards

Design Factor	Urban Transition Highway Corridor	Urban Village Highway Corridor
Corridor Width	Includes land within 400 feet of the corridor street's Right-of-Way	Includes land within 300 feet of the corridor street's Right-of-Way
Lot Dimensional Requirements:		
Minimum Lot Area	40,000 square feet	40,000 square feet
Minimum Lot Width	200 feet	200 feet
Yard/Buffer Dimensions, Roadways:		
Building Setback	75 feet	75 feet (40 feet for Lots with access to internal streets)
Parking Area Setback	50 feet	50 feet (40 feet for Lots with access to internal streets)
Landscape Buffer	50 feet	40 feet
Yard/Buffer Dimensions, Side and Rear Yards:		
From Residential Zones	50 feet	36 feet
From Non-Residential Zones	25 feet	5 feet
Bulk and Height Limitations:		
Maximum Building Height	35 feet	35 feet
Maximum Built Upon Surface	65%	70%
Maximum Building Footprint	30%	30%
Access Driveways:		
Maximum Driveway Width	36 feet	36 feet
Maximum Driveways per Lot	<400 ft. 1 400 ft. +2	<400 feet 1 400 feet +2
Minimum Distance from Intersection	150 feet	75 feet
Common Driveway Adjoining Lot	Recommended	Recommended
Parking Requirements:		
a. Minimum*	Minimum parking spaces from chapter 4 shall apply	Minimum parking spaces from chapter 4 shall apply
b. Maximum**	5 spaces/1,000 sq. ft. of Building	5 spaces/1,000 sq. ft. of Building
Vehicular Area Location:		
a. Highway Yard Maximum***	40% of total	20% of total
b. Access to Adjoining Lot(s)	Recommended	Recommended

*Yard/Buffer Dimensions can be reduced by 10% when minimum is used.
**Yard/Buffer Dimension cannot be reduced if the minimum and maximum are the same. For the purposes of the calculation, the term Building encompasses the entirety of the Building on an individual Parcel and not just the portion of the Building within the overlay.
*** For the purposes of the calculation, the percentage of the total is based on the total number of parking spaces on an individual Parcel and not just the parking spaces within the overlay.

(Ord. #1714; Ord. # 1716; Ord. #1703)

3.6.6. MRO - Morganton Road Overlay District

(A) **Purpose**

The purposes of the Morganton Road Overlay (**MRO**) district are to:

(1) To establish Development standards for the area adjacent to both sides of Morganton Road from approximately the intersection of Henley Street to Felton Capel Road. This area of predominately undeveloped property is well suited for relatively intense Development of mixed uses due to its location outside of the WS-III and HQW designated Little River Intake II Watershed.

(2) To promote mixed-use Development that reflects the Town's character and is Compatible with surrounding residential Neighborhoods. The area shall include parks, public facilities, civic uses, a commercial core with associated Multi-Family and Single-Family residential land uses. These patterns are intended to promote alternative traffic patterns, pedestrian friendly facilities and mixed land use.

(3) Avoid strip commercial Development and disconnected land use patterns.

(B) **Development Review**

(1) The underlying zoning for this area is intended to be the Planned Development district. Properties having received conceptual master plan approval under prior regulations shall be deemed to have received Preliminary Development Plan approval and may proceed with applications for approval of a Final Development Plan in accordance with section 2.17.7.

(2) All structures proposed within the area other than Single-Family homes shall be subject to the Architectural Compliance Permit process established in section 2.25.

(C) **Generally**

(1) Morganton Road is a high capacity urban boulevard that connects the Town to the Village of Pinehurst. Standards strictly limiting the curb-cuts along Morganton Road and thus ensuring continued flow of traffic shall be incorporated into any Development in that area.

(2) A modified urban grid system for the undeveloped portion of properties adjacent to Morganton Road should connect to Existing Development and provide alternative traffic flows within and between Development in this area and adjacent Neighborhoods. Design of this system shall recognize existing topographical challenges and accommodate the potential for Large Scale Retail, neither of which exists in the downtown area.

(3) Except where approved by the Council within Large Scale Retail Development, Buildings should be oriented to and located close to the street frontage with parking lots on the side or rear. On-street parking for both user convenience and traffic calming purposes may be made part of any Plan submittal, where appropriate.

(4) All Development shall designate twenty (20) percent of its land area for open space. Required buffers may be counted towards required open space. The specific location, arrangement and accessibility of required open space shall be subject to Council approval at the time of Architectural Compliance Permit review.

(5) All Development should provide for safe and convenient access for bicyclists and pedestrians.

(Ord. # 1716)

(D) **Authorized Uses**

The uses authorized by prior approval of a conceptual master plan or the future approval of a PD district Preliminary or Final Development Plan may be established in the **MRO** district subject to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(E) **Signage**

Approval of the location, number, and sizes of all Signs contained within the **MRO** district shall be subject to Council approval at the time of Architectural Compliance Permit review.

(F) **Parking Lots**

(1) Access to a Development's parking lot shall be from side streets or alleys with the exception that right in/right out access is permitted between median crossovers on Morganton Road if the driveways are separated by at least four hundred and fifty (450) feet measured between centerlines.

(2) Except for Large Scale Retail Development, parking Lots shall be located on the side or rear of the Building they are servicing when such Building fronts on any road.

(3) On-street parking directly fronting a Lot shall count toward fulfilling minimum parking requirements for Development on the Lot.

(4) The number of required parking spaces shall be a minimum of one (1) space per four hundred (400) square feet of Gross Floor Area with a maximum (exclusive of on-street spaces) of one (1) space per two hundred fifty (250) square feet of Gross Floor Area. If parking is created through vertical means (including grade decks), up to one (1) space per one hundred seventy-five (175) square feet of Gross Floor Area may be provided.

(5) Residential Development, excluding mixed-use structures, shall be subject to parking standards in section 4.5.

(6) Adjacent parking lots shall have internal vehicular connections.

(7) Service areas, loading areas and dumpsters shall be screened in accordance with section 4.3.5 and located to minimize interference with vehicular and pedestrian movement. The location and treatment of such areas shall be subject to Architectural Compliance Permit review.

(G) **Lots and Buildings**

Except as otherwise approved by the Council, commercial and mixed-use structures shall comply with the Commercial Building Design Standards established in section 4.10. Multi-Family residences, Townhouses and other specific uses or Development Patterns shall comply with the standards established in chapters 5 and 6, as applicable.

(H) **Streets/On–Street Parking/Pedestrian Use Facility Locations**

(1) Streets shall be installed by the Development fronting on such streets, except that the main connectors (Henley, Short, and Southern Streets) shall be constructed to provide interconnectivity of existing systems prior to (or as part of) any Development occurring on the south side of Morganton Road that creates the need for any of these roads.

(2) Traffic calming measures approved by the Town shall be used to reduce traffic speeds and enhance pedestrian safety (see Appendix D).

(3) Required sidewalks shall be installed along all streets at the time of street construction unless otherwise approved by the Town Council in conjunction with Final Plat approval.

(4) A pedestrian/ bicycle use path measuring eight (8) feet in width shall be installed along the north side of Morganton Road at the edge of a forty (40) foot buffer closest to the Buildings, and shall be installed at the time of initial Development. The land associated with this buffer and bike facility shall be credited toward open space requirements.

(5) Wherever practicable, streets shall be aligned in such a way that they provide terminal vistas of large Buildings, open space or parks.

(6) Street trees shall comply with section 4.3.3.

(7) Street design and construction shall comply with section 4.11.

(I) **Utilities**

Except as provided below, utilities, including water, sewer, gas, cable and electric (including distribution lines) shall be located underground. Traffic lights shall be pole mounted with all wire located underground. In the case of primary transmission lines, the poles shall be Core 10 metal poles with transmission lines at the top and distribution lines beneath them.

(J) **Large-scale Retail**

(1) Except as otherwise approved by the Council, Large Scale Retail Development shall not be located north of Morganton Road.

(2) Total retail square footage south of Morganton Road shall be capped at 750,000 aggregate square feet.

(3) Designs for Large Scale Retail Development shall comply with the standards in section 4.10.6 unless otherwise approved by the Town Council.

(K) **Residential Development**

(1) The maximum residential density shall be sixteen (16) Dwelling Units per acre for any Development.

(2) No more than thirty-five (35) percent of the one hundred and fifteen (115) acres north of Morganton Road shall be developed for residential uses.

(3) No more than thirty (30) percent of the property lying south of Morganton Road shall be developed for residential uses.

(4) Both the north and south sides are exempt from limitation on the number of residences located on the second and/or third Floors above the first and/or second Floor commercial Development. The site design and architectural standards for commercial Development will apply to these residences.

(5) Multi-Family Developments within the Morganton Road overlay shall be exempt from project size and separation requirements established in section 4.10.8.

3.6.7. AHO – Airport Hazard Overlay

(A) **Purpose**

The **AHO** district is established as an overlay district of all general zoning districts in the vicinity of the Moore County Airport. The purpose of the **AHO** is to protect the airport environs from encroachment of incompatible land used which present hazards to users of the airport as well as to persons residing or working in the airport vicinity. The additional regulations imposed in the **AHO** are designed to place additional height restrictions on Buildings and trees.

(B) **Approach Zone**

(1) The Airport Hazard Overlay (AHO) District shall encompass the approach zone at the runway 5 end of the Moore County Airport. The approach zone shall have a length of 10,000 feet beginning at a point 200 feet outward from the end of runway 5 and extending outward to a point 10,200 feet from the end of the runway on the extended centerline of the runway. The width of the approach zone shall be 1,000 feet at a distance of 200 feet from the end of the runway 5, uniformly widening thereafter to a width of 4,000 feet at a distance of 10,200 feet beyond the end of the runway. The upper surface of the approach zone shall be an inclined plane sloping one foot in height for each 34 feet in horizontal distance beginning at a point 200 feet from and at the elevation of the runway, extending to a distance of 10,200 feet from the end of the runway.

(2) No structure or tree shall be erected, altered, allow to grow, or maintained in the approach zone to a height, which projects above the upper surface of the approach zone.

(C) **Clear Zone**

(1) Within the approach zone defined in paragraph (B) is a clear zone. The clear zone shall have a length of 1,700 feet beginning at a point 200 feet outward from the end of runway 5 and extending outward to a point, 900 feet from the end of the runway on the extended centerline of the runway. The width of the clear zone shall be 1,000 feet at a distance of 200 feet from the end of runway 5, uniformly widening thereafter to a width of 1,500 feet at a distance of 1,900 feet beyond the end of the runway.

(2) Land uses permitted within the clear zone shall be as allowed in the underlying zoning district except that the following uses and activities are prohibited:

(a) Residential uses.

(b) Educational, cultural, religious, philanthropic uses.

(c) Recreation, amusement and entertainment uses.

(d) Institutional residences or care or confinement facilities.

(e) Restaurants, bars and nightclubs.

(f) Nursery schools and day care centers.

(g) Special events.

(h) The permanent aboveground storage of flammable liquids and gasses.

(D) **Interference Prohibited**

Notwithstanding any other provisions of these regulations, no use may be made of land or water within any zone established by this section in such a manner as to create electrical interference with navigational Signals or radio communication s between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

3.6.8. WPO - Watershed Protection Overlay District

(A) **Purpose**

(1) The purpose of this section is to describe the Watershed areas and regulations herein adopted. The Town of Southern Pines has within its jurisdiction, a portion of the Protected Area of the Cape Fear River Watershed, classified as a WS-III by the Environmental Management Commission. The Town Council has chosen the Low-Density option as a zoning permit for Development within the Watershed areas. These areas are displayed on the most recent officially adopted version of the North Carolina Dept. of Environmental Quality Water Supply Watershed map, and the following regulations apply to these areas in addition to the other standards established in this UDO. This amendment was adopted June 8, 1993, and was effective beginning July 1, 1993.

(Ord. # 1919)

(2) G.S. 143-214.5 provides for a cooperative program of water supply Watershed management and protection to be administered by local governments consistent with minimum statewide management requirements established by the Environmental Management Commission. To promote the public health, safety and welfare, the governing board of the Town of Southern Pines adopts these Watershed protection regulations effective for all areas designated Watershed Protection Overlay District on the Official Zoning Map.

(B) **Applicability and Procedures**

(1) All new Development created after December 15, 1993 is subject to the Water Supply Watershed protection regulations.

(2) If, at the time of application for a zoning permit, final Development plan or architectural compliance permit, it is determined that the property lies in a water supply Watershed, as shown on the Zoning Map, a Watershed Protection Permit will be required to be issued subject to the procedures established in chapter 2 of this UDO.

(3) The Planning Director shall serve as Watershed Administrator and shall issue Watershed Protection Permits as prescribed herein. A record of all permits shall be kept on file for public inspection.

(4) The Town Council for the Town of Southern Pines shall serve as Watershed Review Board and hereby delegates administrative review procedures to the Planning Director.

(5) The Town Council shall have the responsibility to grant Variances from these regulations in accordance with the provisions of chapter 2 of this UDO. A Variance is required for any allocation of Built-Upon Area that exceeds twenty-four (24) percent outside of the CB district.

(C) **Water Quality Areas**

The following Watershed protection areas are established:

(1) **Critical Area:** The area adjacent to a water supply intake where risk associated with pollution is greater than from the Watershed. The critical area is defined as extending one-half mile upstream from and draining to the Town of Carthage public water supply intake or the ridge line of the Watershed (whichever comes first). The Town of Southern Pines may extend the Critical Area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the Critical Area if these landmarks

are immediately adjacent to the appropriate outer boundary of one-half mile.

(2) **Protected Area**. The area adjoining and upstream of the Watershed Critical Area in which protection measures are required. Unless otherwise modified by the Town, this area corresponds with the State's high quality water (HQW) area. The boundaries of the protected area are defined as extending ten (10) miles upstream and draining to the Cape Fear, lower Little River #2 public water supply intake or the ridge line of the Watershed (whichever comes first). The Town may extend the Protected Area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the Protected Area if these landmarks are immediately adjacent to the appropriate outer boundary of ten miles.

(D) **Development Density and Intensity Requirements**

Development shall comply with the density and intensity standards established in Exhibit 3-14. For all calculations of "built upon land area", natural water bodies such as ponds or streams shall be deducted from the total area prior to calculation.

(E) **Cluster Development**

Clustering of Development is allowed subject to the conditions of section 6.1 and the following conditions:

(1) Minimum Lot sizes are not applicable to cluster Development projects; however the total number of Lots or Dwelling Units shall not exceed the number of Lots allowed for Developments in the applicable zoning district. Built-Upon Area of the project shall not exceed that allowed for the balance of Watershed.

(2) All Built-Upon Area shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow.

(3) The remainder of the Tract shall remain in a vegetated or natural state, not to be developed at any future date. Where the Development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management and maintenance. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds and individual property owners shall be responsible for maintenance.

(F) **Buffers Required**

(1) A minimum of thirty (30) foot vegetative buffer is required for Development activities along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.

(2) No new Development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water Best Management Practices.

Exhibit 3-14: WPO District Development Density and Intensity Requirements

Location	Maximum Density or Intensity
Critical Area	New Development shall be limited to either one (1) Dwelling Unit per acre or twelve (12) percent built upon land area.
High Quality Water (HQW) / Protected Area	New Development shall be limited to one (1) Dwelling Unit per acre or twelve (12) percent built upon land area unless (a) the Development disturbance area is less than one (1) acre or (b) BMPs or another approved stormwater management based practices are used. New Development with a Development disturbance area less than one (1) acre shall be limited to two (2) Dwelling Units per acre or twenty-four (24) percent built upon land area. New Development utilizing BMPs or another approved stormwater management based practices shall be limited to two (2) Dwelling Units per acre or twenty-four (24) percent built-upon land area in the Watershed outside of the Critical Area. • For Commercial Projects: New Development requires a state Stormwater Permit if the Development disturbance area exceeds one (1) acre. If the new Development exceeds the twenty-four (24) percent built upon area the project may apply for the 5/70 exemption*. • For Residential Projects: New Development requires a state Stormwater Permit if the Development disturbance area exceeds one (1) acre. If the new Development exceeds the twenty-four (24) percent built upon area the project may apply for the 5/70 exemption*.
Rest of Watershed (WS-III)	New Development shall be limited to two (2 Dwelling Units per acre or twenty-four (24) percent Built-Upon Area. If the new Development exceeds either of these thresholds the project may apply for the 5/70 exemption*.

Table Notes:

*** 5/70 Exemption Allocation for Non-Residential and High- Density Attached Residential Development:** New Development may be developed at up to seventy (70) percent built-upon land area as follows:

1. The total area subject to this provision shall not to exceed five (5) percent of Southern Pines' jurisdiction as of July 1, 1993 within the Watershed and outside of the Critical Area.
2. Development in the **CB** district shall qualify for this allocation on a first come, first serve basis until the five (5) percent is exhausted.
3. Development outside of the **CB** district requiring an allocation of Built-Upon Area shall require approval from the Town Council in conjunction with any Development Approval prior to Building Permit Approval. The allocation may be granted concurrently with Architectural Compliance Permit or Final Development Plan approval and shall be subject to the following criteria:
    a. The use and location of the use are consistent with the Comprehensive Plan;
    b. The design of the project is appropriate for the location and is consistent with the purposes of the WPO district;
    c. The allocation is minimum necessary to establish the use at a size, scale and design that serves the interests of the Neighborhood and the Town as a whole; and
    d. The allocation will not detract from the viability of similar uses in the area or other parts of the Town.
4. All allocations shall be deducted from the five (5) percent total area allocation and shall be monitored by the Planning Director.
5. If this exemption is granted, a State stormwater permit shall not be required.

Exemptions: Those areas bounded by a pre- existing natural or permanent obstruction which prevents surface storm water runoff from reaching any designated water supply as determined in writing by the North Carolina Division of Water Quality, and the exception would have only an insignificant impact on the available allocation as determined by the Town Council.

(G) **Public Health Regulations**

(1) Public health, in general. No activity, situation, structure or land use shall be allowed within the Watershed, which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and Hazardous Materials; the improper management of storm water runoff; or any other situation found to pose a threat to water quality.

(2) Abatement. The Planning Director shall monitor land use activities within the Watershed areas to identify situations that may pose a threat to water quality.

(3) Where the Planning Director finds a threat to water quality and the public health, safety and welfare the Planning Director shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

(4) Stormwater runoff from Development should be transported by vegetated conveyances to the maximum extent practicable

3.6.9. FHO - Flood Hazard Overlay

(A) Purpose
The **FHO** district is established as an overlay district of all general zoning districts for the purpose of protecting people and property from the hazards of flooding.

(B) Areas of Applicability
The flood hazard districts are further described in section 4.13 of this UDO.

(C) District Development Standards
All Development shall comply with the provisions of section 4.13 of this UDO.

3.7. Use Matrix and Interpretation

3.7.1. Table of Authorized Uses Established

Exhibit 3-15 lists the Principal Uses allowed by right within zoning districts as well as uses that may be authorized subject to approval of a Special Use Permit. Function codes of the Land Based Classification Standards (LBCS) of the American Planning Association (APA) correspond to the authorized uses and shall be used to define uses. All uses are subject to the standards and regulations within this UDO.

(A) ***LBCS Hierarchy***. The LBCS function codes establish a four-digit hierarchy of uses with digits to the right expressing greater specificity. Where no entry appears in the zoning district columns of Exhibit 3-15 (for example 1000, 1100 and 1110), the uses described more specifically in the rows below (1111 and 1112 in the above example) indicate whether or not a specific use is authorized. Where an entry appears in the zoning district columns of Exhibit 3-15 for a general use (for example 2520) and also for a more specific use (for example 2521) within the same classification, the more specific code and its entry shall govern.

(B) ***Zoning Permit Uses***. A "**Z**" indicates the listed use is allowed by right within the respective zoning district subject to issuance of a zoning permit in accordance with the procedures established in chapter 2. Note that some conditions may be established in the zoning district standards or elsewhere in this UDO.

(C) ***Supplemental Conditions***. A "**ZS**" indicates that the listed use is allowed by right, but subject to supplemental use regulations established in the zoning district regulations and in Articles 4 and/or 5 of this UDO.

(D) ***Special Uses***. A "**C**" indicates the listed use is allowed within the respective zoning district only after approval of a Special Use Permit by the Town Council in accordance with the procedures established in chapter 2. Specific conditions for some of these uses are established in chapter 6 of this UDO.

(E) **Combination Uses**

(1) The designation "**ZC**" is used for Combination Uses when one or more of the Principal Uses requires a Special Use Permit.

(2) Under some circumstances, a second Principal Use may be regarded as accessory to the first and thus a Combination Use is not established. [See section 5.3]

(3) When two or more separately owned or separately operated enterprises occupy the same Lot and all such enterprises fall within the same Principal Use Classification, or the Planning Director finds that the Principal Use Classification are substantially similar, this shall not constitute a Combination Use.

(F) ***Multi-Family Structures and Townhouses***. When used in connection with Multi-Family Residential structures, the designation "**ZC**" means that:

(1) Development of apartments with fewer than ten (10) Dwelling Units may be established pursuant to a zoning permit and Developments of (10) or more Dwelling Units shall be developed as part of a PD.

(2) Townhouses require a Special Use Permit when major Subdivision regulations apply and when six (6) or more Townhouse Lots are created.

(3) Condominium Developments shall be developed as part of a PD when ten (10) or more Dwelling Units are proposed in a Development Project.

(Ord. # 1919; Ord. #2000)

3.7.2. Interpretation of Exhibit 3-15

(A) ***Uses Not Specifically Listed***. In the case where a use is not listed in the use matrix, either as a specific LBCS classification or as an example, and such use is not otherwise prohibited by law, the Planning Director shall determine whether a substantially similar use exists in the use matrix. If the Planning Director determines that a substantially similar use exists, then the regulations governing that use shall apply to the particular use not listed. In making the Determination, the Planning Director shall endeavor to maintain the national standardization of the LBCS while addressing the Town's particular needs for zoning and land use classification, and shall refer to the following rules of construction:

(1) If a use is listed for a general classification while a more specific classification within the same industry classification is also listed, the specific classification shall govern.

(2) The presumption established by this chapter is that most uses of land are permissible within at least one zoning district in the Town's Planning Jurisdiction. Therefore, because the list of permissible uses set forth in Exhibit 3-15 cannot be all-inclusive; those uses that are listed shall be interpreted liberally by the Planning Director to include other uses that have similar impacts to the listed uses.

(3) If the Planning Director determines that the LBCS Tables do not address the use at the appropriate level of specificity, then he shall refer to the North American Industry Classification System (NAICS), United States, 2007 or latest edition for guidance.

(4) In referring to the NAICS, the Planning Director shall consider the industry description and illustrative examples of the most specific NAICS classification that may apply to the use, and shall compare uses across similar levels of specificity within the same NAICS classification and between NAICS and LBCS classifications.

(5) If a use cannot be interpreted by the Planning Director for inclusion in Exhibit 3-15, that use shall be prohibited. Exhibit 3-15 shall not be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

(6) If, when seeking periodic ratification of interpretations through text amendment to this UDO, the Planning Director's interpretation is reversed by action of the Board of Adjustment, then prior decisions regarding a Development application made in reliance on the Planning Director's interpretation shall be valid, except that nonconforming use regulations of this UDO shall apply.

(B) **Prohibited Uses**

The following uses are specifically prohibited in all districts:

(1) Any use that involves the manufacture, handling, sale, distribution or storage of any highly combustible or explosive materials in violation of the Town's fire prevention code.

(2) Stockyards, slaughterhouses, rendering plants.

(3) Use of a Travel Trailer as a temporary or permanent residence. Situations that do not comply with this paragraph on the effective date of this chapter are required to conform within one year.

(4) Use of a motor vehicle parked on a Lot as a structure in which, out of which or from which any goods are sold or stored, any services are performed, or other business is conducted. If the aforementioned motor vehicle existed on the current Lot prior March 13, 2002, the motor vehicle shall qualify for an exemption hereunder and shall not be subject to removal or penalty as set forth herein provided that appropriate screening be accomplished and approved by staff.

Exhibit 3-15: Table of Authorized Land Uses

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
RESIDENCE OR ACCOMMODATION FUNCTIONS	**1000**	Homes, apartments, housing for the elderly, and hotels													
Private Dwelling	**1100**	Single-Family homes, doubles, apartments, Condominiums, mobile homes, Townhouses; excludes households with special provisions													
Single-Family	**1110**														
Single-Family detached	**1111**	Typical Single-Family Dwelling	Z	Z	Z	Z	Z	Z	Z	ZS		Z	Z		
Single-Family attached (Townhouses) *(Ord. # 1716)*	**1112**	Each Dwelling Unit on a separate Lot; fire wall may protrude from roof or roofs may be staggered						ZS	ZS	ZS		ZS	ZS		
Class A Single-Family Manufactured Home	**1113**	modular homes and other structures that comply with the NC Residential Building Code as amended	Z	Z	Z	Z	Z	Z	Z	ZS					
Class B Single-Family Manufactured Home	**1114**	Manufactured Homes that comply with HUD standards and other local criteria		Z											
Class C Single-Family Manufactured Home	**1115**	Manufactured Homes that comply with HUD standards and do not meet the standards for Class A or Class B Manufactured Homes		C											
Manufactured Home Park	**1116**	a group of three or more spaces for sale or lease that are designed to accommodate Manufactured Homes		CS											
Two-Family (double or Duplex)	**1120**							Z	Z	ZS		Z	Z		
Accessory Dwelling	**S1130**		ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS		

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Multi-Family	**S1200**	Three or more Dwelling Units													
Multi-Family	**1151**	Three or more Dwelling Units						ZC	ZC	ZC		ZC	ZC		
Multi-Family Conversion	**1152**	Three or more Dwelling Units in a converted Single-Family home						ZC	ZC	ZC		ZC	ZC		
Multi-Family Condominium	**1153**	Three or more Dwelling Units that are individually owned and common elements owned by the unit owners as tenants-in-common						ZC	ZC	ZC		ZC	ZC		
Housing Services	**1200**	Housing and custodial services for those who cannot care for themselves													
Retirement housing services	**1210**	Offer minimal convenience services						ZS	ZS						
Congregate living services	**1220**	Provide convenience services such as housekeeping, transportation, recreational programs						ZS	ZS						
Assisted-living board and care and adult care group homes	**1230**	Adult care, group homes, board and care (excludes rehab uses in code #6520)	ZS	ZS	ZS	ZS	ZS	ZS	ZS		ZS	ZS	ZS		
Continuing care retirement center (PD zoning required)	**1240**	Continuing care retirement centers; includes some health care													
Nursing or convalescent home	**1250**	Nursing homes and convalescent hospitals						ZC	ZC		ZC				
Hotels, Motels, or Other Accommodation Services	**1300**	Lodging and short-term accommodation for travelers													
Bed and Breakfast Home	**1311**	Primarily in private homes and small Buildings	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS		
Bed and Breakfast Inn	**1312**	Primarily in private homes and small Buildings	Z	C	C	C	C	C	C	Z	Z	Z			
Tourist Home	**1313**	A Dwelling Unit used for periods of less than 30 days								ZS	ZS		ZS		
Rooming and boarding	**1320**	Dormitory, fraternity or sorority house or other specific group of members						Z	Z	ZS			ZS		
Hotel or motel	**1330**	Hotels or motels that do not have gambling services; includes extended-stay hotels								ZS	ZS		ZS		
GENERAL SALES OR SERVICES	**2000**	Comprises the vast majority of establishments associated with commercial land use													
Retail Sales or Service and Repair	**2100**	Establishments with displays of merchandise sold to the general public and other businesses, or after-sales services such as repair													

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Automobile sales or service establishment	**2110**	Motor vehicle and parts dealers including repair and maintenance													
car dealer	**2111**	New or used automobiles and light trucks such as SUV's									Z				
bus, truck, mobile homes, or large vehicles	**2112**	New or used larger vehicles such as buses, RV's, and trucks									Z				
motorcycle, atv	**2113a**	New or used motorcycles or motorbikes									Z				
bicycle sales and repair	**2113b**	New or used bicycles sales or repair								Z	Z	Z			
boat or marine craft dealer	**2114**	New or used boats and related repair services									Z				
parts, accessories, or tires	**2115**	Automotive parts and supply stores, automotive stereo stores, tire and tube shops									Z				
gasoline service	**2116**	Gas stations with or without convenience stores or food marts, includes truck stops									Z				
automotive repair and maintenance	**2117**	Repair garages, body and paint shops, oil change, car wash									Z				
Heavy consumer goods sales or service	**2120**	Heavy or durable goods sales or services													
furniture or home furnishings	**2121**	Furniture, flooring, bedding stores, window treatment								Z	Z				
hardware, home center	**2122**	Home building and repair supplies, lighting supply									Z				
lawn and garden supplies	**2123**	Nursery and garden products predominantly grown elsewhere, outdoor power equipment sales or services									Z				
department store, warehouse club, or superstore	**2124**	Large variety of goods									Z				
electronics and appliances	**2125**	Household-type appliances, tv's, stereos, including repair shops and cell phone stores									Z				
lumber yard and building materials	**2126**	Lumber yards and heavy building materials									Z				
heating and plumbing equipment	**2127**	Heating and plumbing equipment retailers; for heating and plumbing contractors who install or service, use the appropriate construction category									Z				
Durable consumer goods sales and service	**2130**	Wide range of product lines such as apparel, appliances, hardware, jewelry, etc.													

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
computer and software	**2131**	Computers and prepackaged software without other electronic equipment, including repair, support, and training								Z	Z				
camera and photographic supplies	**2132**	Primarily retail cameras and photographic supplies or retail with repair and film developing								Z	Z				
clothing, jewelry, luggage, shoes, clocks, sewing	**2133**	Including shoe repair and tailoring								Z	Z	Z			
sporting goods, toy and hobby, and musical instruments	**2134**									Z	Z				
books, magazines, music, videos, CDs, stationery, greeting cards, seasonal decorations, school and office supplies, etc,	**2135**									Z	Z				
Consumer goods, other	**2140**	Establishments that retail merchandise (except groceries or health items) not included in preceding codes													
florist	**2141**									Z	Z	Z			
art dealer, supplies, sales and service	**2142**	Including frame shops								Z	Z	Z			
tobacco or tobacconist establishment	**2143**									Z	Z	Z			
mail order or direct selling establishment	**2144**	Retailing other than in stores									Z			Z	
antique shop, flea market, thrift stores	**2145**									Z	Z	Z			
Grocery, food, beverage, dairy	**2150**	Retail food and beverage merchandise from fixed point-of-sale locations													
grocery store, supermarket, or bakery	**2151**	Included are meat and seafood markets and delicatessens								Z	Z				
convenience store	**2152**	Excludes those with fuel pumps								Z	Z	Z			
specialty food store	**2153**	Retail specialty food items such as coffee and gourmet foods								Z	Z	Z			
fruit and vegetable store	**2154**									Z	Z	Z			
beer, wine, and liquor store	**2155**									Z	Z	Z			

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Health and personal care	**2160**	Retail health and personal care merchandise from fixed point-of-sale locations													
pharmacy or drug store	**2161**	Primarily retail prescription or nonprescription drugs								Z	Z	Z			
cosmetic and beauty supplies and personal grooming products	**2162**	Primarily retail cosmetics, perfumes, toiletries,								Z	Z	Z			
optical and contact lenses	**2163**	Retail prescription or nonprescription eyeglasses								Z	Z	Z			
Markets for farm produce or crafts	**2199**			ZS						ZS	ZS	ZS			ZS
Finance and Insurance	**2200**	Use this category when difficult to differentiate an establishment into a subcategory													
Bank, credit union, or savings institution	**2210**	Central banking functions								ZS/Z	Z	Z	Z		
Credit and finance establishment	**2220**	Credit card, sales financing, unsecured consumer lending, real estate credit, international trade financing								ZS/Z	Z	Z	Z		
Investment banking, securities, and brokerages	**2230**	Securities underwriting, brokering, exchange services, managing portfolios								ZS/Z	Z	Z	Z		
Insurance-related establishment	**2240**	Insurance underwriting, selling insurance								ZS/Z	Z	Z	Z		
Fund, trust, or other financial establishment	**2250**	Pool assets on behalf of shareholders or beneficiaries								ZS/Z	Z	Z	Z		
Pawn shop	**2260**										Z				
Real Estate, and Rental and Leasing	**2300**	Rent or lease assets													
Real estate services	**2310**	Lease real estate (except Buildings) such as Manufactured Home sites and vacant Lots; includes real estate appraisers								ZS/Z	Z	Z	Z		
Property management services	**2320**	Manage real property for others													
commercial property-related, mini- or self-storage	**2321**	Lease Buildings not used as residences; includes mini-warehouses and self-storage Dwelling Units												Z	
rental housing-related	**2322**	Lease Buildings used as residences								ZS/Z	Z	Z	Z		

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Rental and leasing	**2330**	Rent tangible goods such as consumer goods and mechanical equipment to customers; excludes establishment primarily renting equipment with operators													
cars	**2331**	Lease passenger cars without drivers									Z				
leasing trucks, trailers, RVs, buses, aircraft, tugboats, etc.	**2332**	Drivers not provided									Z				
recreational goods rental	**2333**	Rent skis, canoes, bicycles, sailboats, motorcycles									Z				
leasing commercial, industrial machinery and equipment	**2334**	Rent or lease office machinery and equipment, heavy equipment used for construction, well-drilling, telecommunications, manufacturing, institutional furniture									Z			Z	
consumer goods rental	**2335**	Rent personal and household-type goods and a range of consumer, commercial, and industrial equipment geared toward consumers									Z				
intellectual property rental	**2336**	Establishments that assign patents, trademarks, brand names, and franchise agreements								ZS/Z	Z	Z	Z		
Business, Professional, Scientific, and Technical	**2400**	Perform professional, scientific, and technical services													
Professional services	**2410**	Services provided depend on worker skills and knowledge rather than equipment													
legal services	**2411**	Title abstract, lawyers, notaries								ZS/Z	Z	Z	Z		
accounting, tax, bookkeeping, payroll services	**2412**									ZS/Z	Z	Z	Z		
architectural, engineering, surveying and related services	**2413**	Architectural, engineering, Building inspection, surveying and mapping, and laboratory testing (except medical, veterinary, or auto emission)								ZS/Z	Z	Z	Z		
graphic, industrial, interior design services	**2414**	Interior, industrial, and graphic design								ZS/Z	Z	Z	Z		
consulting services (management, environmental technical)	**2415**	Advise and assist businesses on management, scientific, and technological issues								ZS/Z	Z	Z	Z		

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
scientific research and Development services	**2416**	Conduct research or analyze in the physical, engineering, cognitive, or life sciences									ZS			Z	
advertising, media, and photography services	**2417**	Advertising, public relations, media buying agencies, direct mail advertisers, market research, translation providers								ZS/Z	Z	Z	Z		
veterinary services	**2418**	Veterinary medicine, testing services for veterinary practitioners									ZS	ZS		Z	
Administrative services	**2420**	Typical office establishments in any business area. Use as a default category for most office Buildings (nursing staffing)													
office administrative services	**2421**	Office administration such as billing, record keeping, personnel, organizational planning								ZS/Z	Z	Z	Z		
facilities support services	**2422**	Provide operating staff for support services within a client's facilities, including janitorial, security, laundry services, etc.								ZS/Z	Z	Z	Z		
employment agency	**2423**	Provide employee placement, temporary help								ZS/Z	Z	Z	Z		
copy center, private mail center, other business support services	**2424**	Provide document preparation, telephone answering, telemarketing, court reporting, steno typing, FAX, etc.								ZS/Z	Z	Z	Z		
collection agency	**2425**	Collect payments, compile credit information, repossess tangible assets								ZS/Z	Z				
Travel arrangement and reservation services	**2430**	Promote or sell travel, includes convention and visitors' bureaus								ZS/Z	Z	Z	Z		
Investigation and security services	**2440**	Provide detective, guard and patrol services, picking up and delivery of money, selling of security systems, remote monitoring of security systems									Z				
Services to Buildings and Dwellings	**2450**	Provide pest control, janitorial services, landscaping, carpet cleaning, etc.													
extermination and pest control	**2451**													Z	
janitorial	**2452**													Z	
landscaping	**2453**										Z			Z	
carpet and upholstery cleaning	**2454**										Z			Z	
packing, crating, and convention and trade show	**2455**										Z				
Food Services	**2500**	Prepare meals, snacks, and beverages													

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Full-service restaurant	**2510**	Provide services to patrons who order and are served while seated or in combination with takeout								Z	Z	Z			
Cafeteria or limited service restaurant	**2520**	Provide services to patrons who order or select items and pay before eating; may be consumed on Premises, taken out, or delivered								Z	Z				
drive-through restaurants	**2521**	Provides drive-in, drive-through or drive-up service to patrons; includes most fast-food restaurants									Z				
Snack or nonalcoholic bar	**2530**	Prepare and serve specialty snacks, such as ice cream, frozen yogurt, cookies, coffee, juices for consumption on or near the Premises, snowball stand								Z	Z	Z			
Bar or drinking place	**2540**	Bars, taverns, nightclubs primarily serving alcoholic beverages; may provide limited food and entertainment								Z	Z				
Mobile food services	**2550**	Prepare and serve meals and snacks for immediate consumption from motorized vehicles									ZS/C	ZS		ZS	
Caterer	**2560**	Provide single event-based food services, including banquet halls with catering for wedding receptions, etc.								Z	Z	Z		Z	
Food service contractor	**2570**	Provide food services at institutional, governmental, commercial, or industrial locations based on contracts									Z			Z	
Vending machine operator	**2580**	Retail merchandise through vending machines that they service									Z			Z	
Personal Services	**2600**	Catch-all category for personal service establishments not classified elsewhere such as bail bonding, wedding planning, psychic services, etc.													
Personal care	**2610**	Hair, nail, and skin care and related personal care													
hair, nail, and cosmetic skin care	**2611**	Barber or beauty shop								Z	Z	Z			
dieting and weight reducing	**2612**									Z	Z	Z			
tanning salon	**2614**									Z	Z	Z			

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
electrolysis, ear piercing, and other personal care services	**2616**									Z	Z	Z			
Dry cleaning and laundry	**2620**														
coin-operated laundromat	**2621**									ZS/Z	Z	Z			
dry cleaning and laundry	**2622**									ZS/Z	Z	Z			
linen and uniform supply	**2623**										Z			Z	
Photofinishing	**2630**	Primarily engaged in developing film or making slides, etc.									Z			Z	
Parking Lot and parking garage	**2640**									Z	Z				
Special Services	**2650**														
massage therapist	**2651**									Z	Z				
tattoo parlor	**2652**									Z	Z				
adult establishment	**2653**										ZS				
adult cabaret	**2654**										ZS				
Pet and Animal Sales or Service (except Veterinary)	**2700**	Retails pets and other animals (except for farming purposes) and pet supplies, grooming, training, and care taking													
Pet or pet supply store	**2710**	Retail pets, pet foods, pet supplies								Z	Z	Z			
Animal and pet services and kennels	**2720**	Boarding, grooming, sitting, and training (except veterinary and horse boarding)													
animal services	**2721**	grooming and training	Z								Z	Z			
animal boarding	**2722**	sitting and boarding	Z	Z							Z			Z	
pet cemetery	**2723**										Z				
MANUFACTURING AND WHOLESALE TRADE	**3000**	When captive services such as accounting are provide by a separate establishment, they are classified in the appropriate function code and not in manufacturing													
Foods, Textiles, and Related Products	**3100**	Produce food, tobacco, textiles, and leather													
Food and beverages	**3110**	Includes bakery and candy establishments that produce for later consumption; ice manufacturing												Z	

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Tobacco manufacturing	**3120**													Z	
Textiles	**3130**	Textile mills, apparel manufacturers												Z	
Leather and leather substitute products	**3140**	Leather and leather substitutes such as rubber footwear												Z	
Wood, Paper, and Printing Products	**3200**														
Wood products	**3210**	Except furniture												Z	
Paper and printing materials	**3220**	Manufactures paper and offer printing-related products												Z	
printing and related support activities	**3221**	Establishments do not manufacture the stock that they print; for publishers and publishers that also print, use publishing or information codes									ZC			Z	
Furniture and related products	**3230**	Includes mattresses, window blinds, cabinets, fixtures												Z	
Chemicals, and Metals, Machinery, and Electronics Manufacturing	**3300**	Transform or refine chemicals or metals, and manufacture products from chemicals or metals													
Petroleum products	**3310**	Transform crude petroleum into usable products												C	
Chemicals, plastics, and rubber products	**3320**													C	
Nonmetallic mineral products	**3330**	Manufacture bricks, ceramics, glass, cement, concrete, statuary, stone products												C	
Primary metal manufacturing	**3340**	Manufacture basic metal products, such as bars, rods, wires, and castings or finished products												C	
Machinery manufacturing	**3350**	Make machinery for particular applications, such as construction, ventilation, heating and cooling												Z	
Electrical equipment, appliance, and components manufacturing	**3360**	Manufacture computers, communication equipment, lighting equipment, batteries, motors, appliances												C	
Transportation equipment	**3370**													Z	
Miscellaneous Manufacturing	**3400**	Use for manufacturing establishments not classified elsewhere													
Jewelry and silverware	**3410**										ZC			C	

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Dolls, toys, games, and musical instruments	**3420**										ZC			Z	
Office supplies, inks, etc.	**3430**	Except paper									ZC			Z	
Signs	**3440**										ZC			Z	
Wholesale Trade Establishment	**3500**	Normally operate from a warehouse or office, selling or arranging the purchase of goods to other businesses									ZC			Z	
Warehousing and Storage Services	**3600**	Operate warehouse and storage facilities for general merchandise, refrigerated goods													
Office and warehousing	**3610**										ZC			Z	
Warehousing	**3620**													Z	
Tankfarm	**3630**													C	
TRANSPORTATION, COMMUNICATION, INFORMATION, AND UTILITIES	**4000**														
Transportation Services	**4100**	Serve passengers and cargo movements													
Air transportation	**4110**	Provide transportation for passengers or cargo using aircraft, excludes air courier (see 4160)													
air passenger transportation	**4111**	Provide scheduled and nonscheduled air transportation for passengers													C
air freight transportation	**4112**	Provide scheduled and nonscheduled air transportation of cargo without transporting passengers													C
airport and support establishment	**4113**	Provide air traffic control, operate airports and support airport operations such as rental of hangar space													C
aircraft and accessories	**4114**	Aircraft maintenance and repair (except factory conversions)													C
other air transportation	**4115**	Hot air balloon rides, helicopter rides, aerial tram and cable cars													C

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Rail transportation	**4120**	Provide passenger and freight transportation and rail transportation support; use this category for establishments providing both transportation and support services, otherwise use the more specific subcategory													
rail passenger transportation	**4121**	For passengers only								Z					
rail freight transportation	**4122**	For freight systems only													
rail transportation support establishment	**4123**	Provide specialized services such as repair, maintenance, loading and unloading													
Road, ground passenger, and transit transportation	**4130**	Urban transit systems, charter and school bus transportation, taxis													
local transit systems--bus, special needs, and other motor vehicles	**4133**	Single-mode local transit systems other than rail									Z				
non-local and charter bus	**4134**	Non-local passenger buses for charter or for special needs transportation for elderly, infirm, or handicapped									Z			Z	
school and employee bus transportation	**4135**	Provide buses and other motor vehicles to transport pupils or employees												Z	
sightseeing	**4136**	Scenic or sightseeing land transportation								Z	Z				
taxi and limousine service	**4137**	Provide passenger transportation by automobile or van									Z			Z	
towing and other road and ground services	**4138**	Tow vehicles									Z			Z	
Truck and freight transportation services	**4140**	Provide over-the-road transportation of cargo using motor vehicles													
general freight trucking, local	**4141**	Provide local general freight trucking												Z	
general freight trucking, long-distance	**4142**	Provide long-distance freight trucking												Z	
Courier and messenger services	**4160**	Provide air, surface, or combined courier delivery services of Parcels and messages									Z			Z	C
Postal services	**4170**	Operate the national postal service, including establishments that sort, route, and deliver on a contract basis									Z			Z	
national post office	**4171**									Z	Z			Z	

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Pipeline transportation	**4180**	Use transmission pipelines to transport products, such as crude oil or natural gas													
Communications and Information	**4200**	Produce or distribute information													
Publishing	**4210**	Issue copies of works for which they usually posses copyright													
newspapers, books, periodicals, etc.	**4211**	Publish newspapers, magazines, books, databases, greeting cards, calendars, maps, and similar works								Z	Z		Z	Z	
software publisher	**4212**	Publish and reproduce computer software								Z	Z	Z	Z		
Motion pictures and sound recording	**4220**	Produce and distribute motion pictures and sound recordings													
motion picture and video production, publishing, and distribution	**4221**	Produce or distribute motion pictures, videos, television programs, or commercials									Z	Z	Z	Z	
motion picture viewing and exhibition services	**4222**	Operate movie theaters, drive-ins, film festival exhibitions								Z	Z				
sound recording, production, publishing, and	**4223**	Produce, distribute, or publish music and musical recordings or provide sound recording									Z			Z	
Tele-communications and broadcasting	**4230**	Provide point-to-point communications; if multiple services are shared between the same facilities, use this general category; if separate facilities are maintained for each type of service, then use a specific classification													
radio and television broadcasting	**4231**	Operate broadcasting studios and facilities for over the air or satellite delivery of radio and television programs								Z	Z			Z	
cable networks and distribution	**4232**	Operate studios and facilities or cable systems, direct-to-home satellite systems									Z			Z	
wireless telecommunications	**4233**	Operate, maintain or provide access to facilities for the transmission of voice, data, text, sound, or full motion picture video, cell towers									Z			Z	
towers and antennas 50ft tall or less	**4233a**		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
towers and antennas taller than 50 ft	**4233b**			C							C				C

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
telephone and other wired tele-communications	**4234**	Operate telephone networks	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Information services and data processing industries	**4240**	News syndicates and information data processing services													
online information services	**4241**	Internet access and service providers									Z	Z	Z	Z	
library or archive	**4242**	Provide library or archive services									Z	Z	Z	Z	
news syndicate	**4243**	Supply information such as news reports, articles, pictures and features to the news media									Z		Z	Z	
Utilities and Utility Services	**4300**	Provide utility services such as electric power, gas, water and sewage removal													
Electric power	**4310**	Provide electric power generation, transmission, control, and distribution													
service distribution lines	**4315**		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
electric substations	**4316**										Z			Z	Z
Natural gas, petroleum, fuels	**4320**	Operate gas distribution systems, gas marketers, gas brokers, transmit and distribute gas													
natural gas service	**4329**	Provide natural gas service distribution to retail customers (includes distribution lines and valves)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Water, steam, air conditioning supply	**4330**	Public and private utility establishments that offer drinking water, water treatment, water supply, or hot or cool air supply													
drinking water	**4331**	Operate water treatment plants, filtration plants, pumping stations												Z	Z
water service	**4339**	Provide water service distribution to retail customers (includes distribution lines pumps and valves)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
Sewer, solid waste, and related services	**4340**	Collect, treat, and dispose of waste materials													
hazardous waste collection	**4341**	Operate treatment and disposal facilities for hazardous waste, combine, collect, or haul hazardous waste materials												C	

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
hazardous waste treatment and disposal	**4342**	Remediate and clean contaminated Buildings, soil, or ground water, abate asbestos, lead paint and other toxic material												C	
solid waste collection	**4343**	Collect or haul hazardous waste, non-hazardous waste, or recyclable materials, operate waste transfer stations									C			C	Z
solid waste combustor or incinerator	**4344**	Operate combustors and incinerators for the disposal of non-hazardous solid waste, includes compost dumps												C	
solid waste landfill	**4345**	Operate landfills for the disposal of non-hazardous solid wastes												C	
waste treatment and disposal	**4346**	Operate facilities for separating and sorting recyclable materials from non-hazardous waste streams												C	Z
septic tank and related services	**4347**	Pump septic tanks and cesspools, rent or service portable toilets												C	
wastewater treatment plants	**4348**													Z	Z
wastewater service	**4349**	Provide wastewater service distribution to retail customers (includes collection lines and lift stations)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
ARTS, ENTERTAINMENT, AND RECREATION	**5000**														
Performing Arts or Supporting Establishments	**5100**	Produce or organize and promote live presentations, excludes nightclubs													
Theater, dance or music establishment	**5110**	Companies, groups, or theaters that produce theatrical presentations, dance, dinner theaters, and live musical entertainment								Z	Z				
Sports team or club	**5120**	Professional or semi-professional sports teams or clubs participating in live sporting events													
Racetrack establishment	**5130**	Operate racetracks for events													
horse track	**5131**		Z	Z											
dog track	**5132**														
automotive track	**5133**														
Promoter of sports, performing arts, similar events	**5140**	Organize, promote, and manage performances, events													

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Agent for management services	**5150**	Agents representing artists, athletes, entertainers, etc.								Z	Z	Z	Z	Z	
Independent artist, writer, or performer	**5160**	Independent individuals engaged in art, productions								Z	Z	Z	Z	Z	
Museums and Other Special Purpose Recreational Institutions	**5200**	Public and private museums, historical sites, zoos, and similar establishments													
Museum	**5210**									Z	Z	Z	Z		
Historical or archeological institution	**5220**	Archeological sites, battlefields								Z	Z	Z	Z		Z
Zoos, botanical gardens, arboreta	**5230**													C	Z
Amusement, Sports, or Recreation Establishment	**5300**	Operate facilities offering activities and provide services													
Amusement or theme park establishment	**5310**	Operate a variety of attractions such as mechanical rides, water rides, games									C				
Games arcade establishment	**5320**	Operate arcades and parlors, except gambling, billiard, or pool								Z	Z	Z			
Casino or gambling establishment	**5330**	Except casino hotels, includes riverboat casinos, bingo halls, and video gaming terminals, or provide services such as Lotteries or off-track betting													
Miniature golf establishment	**5340**										Z				
Golf course	**5350**														
public golf course	**5351**	may include country club	Z	Z	Z	Z	Z	Z	Z						Z
private golf course	**5352**	may include country club			Z	Z	Z								Z
golf course resort	**5353**	may include club house, guest accommodations and/or residences that may be individually owned, but fall within the management of the resort													C
Marina or yachting club facility operators	**5360**	Operate docking and storage facilities for pleasure craft owners													
Fitness, recreational sports, gym, athletic club, multipurpose facility	**5370**	Includes archery and shooting ranges, horseback riding, ball parks and courts, fitness clubs, and more													
public facilities	**5371**		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z			Z

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
private facilities	**5372**									Z	Z	Z	Z	Z	
Horse Riding Stables	**5373**	not constructed pursuant to a residential Development Approval	Z	Z											Z
Bowling, billiards, pool	**5380**									Z	Z	Z			
Skating rink, roller skating	**5390**										Z				
Camps, Camping, and Related Establishments such as trailer parks	**5400**	Operate sites to accommodate campers and their equipment, provide overnight recreational camps, may provide cabins, food services, washrooms, trailer parks	C	C											
Natural and other Recreational Parks	**5500**	All parks without special economic functions	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
EDUCATION, PUBLIC ADMINISTRATION, HEALTH CARE, AND OTHER INSTITUTIONS	**6000**														
Educational Services	**6100**	Offer teaching and learning													
Nursery or preschool	**6110**			Z		Z	Z	Z	Z	Z	Z				
Grade school	**6120**	Comprises all public, private, and specialty schools between the preschool and university level													
elementary	**6121**		C	C	C	C	C				Z				C
middle or junior	**6122**										Z				C
senior or high	**6123**										Z				C
special needs education services	**6125**	Offer specialized services such as for the physically or mentally disabled									Z				
adult education services	**6126**										Z				
College or university	**6130**										Z				C
Technical, trade, or other specialty school	**6140**	Offer vocational and technical training													
beauty schools	**6141**										Z				
business management	**6142**	Offer courses in office procedures, secretarial skills, and basic office skills									Z				
computer training	**6143**	Except computer repair									Z				

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
driving education	**6144**										Z				
fine and performing arts education	**6145**	Dance, art, drama, and music schools									Z				
flight training	**6146**	Offer aviation and flight training									Z				
sports and recreation education	**6147**	Offer instruction in athletic activities									Z				
Public Administration	**6200**	All government functions, includes federal, state and local government agencies													
Legislative and executive functions	**6210**	Government and public administrative offices								Z	Z	Z	Z		
Judicial functions	**6220**	Civilian courts of law and correctional institutions								Z	Z	Z	Z		
court	**6221**									Z					
correctional institution or jail	**6222**	Facilities for the confinement, correction, and rehabilitation of offenders sentenced by a court												Z	
Other Government Functions	**6300**	Use this category for government owned establishments not classified elsewhere such as defense and national guard establishments								ZS	ZS			Z	
Public Safety	**6400**	Government-owned establishments providing fire and rescue, police, and emergency response services													
Fire and rescue	**6410**		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Police	**6420**	Includes combined police and fire departments	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Emergency response	**6430**	Provide ground or air transportation for medical relief purposes	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Health and Human Services	**6500**	Provide health care, social assistance, and associated services													
Ambulatory or outpatient care services	**6510**	Offer health care services directly to patients without providing inpatient services													
clinics and health spas (Ord. # 1716)	**6511**	Include physician offices, dentists, chiropractors, optometrists, licensed massage therapists, and other licensed or certified health care providers									Z	Z	Z		

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
family planning or outpatient care clinic	**6512**	Provide outpatient family planning services and outpatient care									Z	Z	Z		
medical or diagnostic laboratory	**6513**	Provide analytic or diagnostic services including medical imaging									Z				
blood or organ bank	**6514**										Z				
Nursing, supervision and other rehabilitative services, except	**6520**	Provide inpatient nursing and rehabilitative services and can accommodate patients for extended care, includes convalescent homes, nursing homes, inpatient care hospices, alcoholism or drug addiction rehabilitation, mental health Halfway Houses, group homes, and psychiatric convalescent homes	C	C	ZS						ZS				
Hospital	**6530**										C				
Health care facility	**6540**	Maximum of 25 beds for overnight care									Z	Z			
Social assistance, welfare, and charitable services	**6560**	Provide social assistance directly to individuals, does not offer residential or accommodation services except for Homeless Shelters													
child and youth services	**6561**	Offer services such as adoption, foster care, drug prevention services									Z	Z	Z		
child daycare	**6562**	Provide care for infants and preschool children, offer pre-kindergarten education programs									ZS	ZS	ZS		
community food services	**6563**	Collect, prepare, and deliver food for the needy, food banks, meal delivery programs and soup kitchens									Z	Z			
emergency and relief services	**6564**	Provide food, shelter, clothing, medical relief, resettlement to disaster victims									Z	Z			
other family services	**6565**	Hotline centers, suicide crisis centers, self-help organizations, etc.									Z	Z			
services for elderly and disabled	**6566**	Does not include housing for the elderly									Z	Z			
veterans affairs	**6567**										Z	Z			
vocational rehabilitation	**6568**	Provide job counseling, job training, and other vocational services									Z	Z			
homeless shelters	**6569**	Provide temporary residential or accommodation services									C				

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Religious Institutions	**6600**	Churches, temples, synagogues, mosques													
small institution		Up to 250 seats in largest seating area		ZS							ZS	ZS			
other institutions		More than 250 seats in largest seating area		ZS							ZS				
Death Care Services	**6700**	Funeral homes, crematories, cemeteries													
Funeral home and services	**6710**	Includes funeral homes combined with crematories									Z	Z			
Cemetery or cremation services	**6720**														
cemetery accessory to religious institution			ZS	ZS							ZS	ZS			
free-standing cemetery															Z
crematorium											C			Z	
Associations, Non-Profit Organizations, Clubs	**6800**	Includes grant making, civic, professional, and similar organizations													
Labor or political organization	**6810**	Labor unions, political groups, and political fund-raising groups								Z	Z	Z	Z		
Business association or professional membership	**6820**	Promote the business interests of their members organization or of their profession								Z	Z	Z	Z		
Civic, social, or fraternal organization	**6830**									Z	Z	Z	Z		
CONSTRUCTION-RELATED BUSINESSES	**7000**	Build or demolish Buildings, leveling, earthmoving, excavating, land drainage; should reflect the location of the establishment and not where it is performing its services													
Building, Developing, and General Contracting	**7100**	Custom builders, general contractors, Developers, land Applicants, and construction management firms									Z			Z	
Machinery Related	**7200**	Contractors that install or utilize specialized machinery not generally used by other contractors, machinery installation, excavation, wrecking and demolition, structural steel erection contractors												Z	
Special Trade Contractor	**7300**	Specialize in construction activities such as plumbing, painting and electrical work													

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Carpentry, floor, and tile contractor	**7310**										Z			Z	
Concrete contractor	**7320**													Z	
Electrical contractor	**7330**										Z			Z	
Glass and glazing contractor	**7340**	Excludes automotive glass establishments									Z			Z	
Masonry and drywall contractor	**7350**	Includes bricklaying, drywall, and plaster work									Z			Z	
Painting and wall covering	**7360**										Z			Z	
Plumbing, heating, and air conditioning	**7370**										Z			Z	
Roofing, siding, or sheet metal contractor	**7380**										Z			Z	
Heavy Construction	**7400**	Provide heavy non-Building construction												Z	
MINING AND EXTRACTION ESTABLISHMENTS	**8000**														
Oil and Natural Gas	**8100**	Operate and develop oil and gas field properties													
AGRICULTURE, FORESTRY, FISHING, AND HUNTING	**9000**	Grow crops, raise animals, harvest timber, and harvest fish and other animals, may be described as farms, greenhouses, nurseries, or hatcheries													
Crop Production	**9100**														
Outdoor Production	**9110**		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Greenhouse Production	**9140**														
Greenhouse - no on-premises sales	**9141**		Z	Z						Z	Z	Z			Z
Greenhouse - sales of products grown on Premises	**9142**			Z							Z	Z			
Greenhouse - sales of products and related accessory products	**9143**										Z	Z			
Support Functions for Agriculture	**9200**	Includes dusting, spraying, fertilizing												Z	
Animal Production	**9300**	Keep, graze, breed or feed animals in farms or feedlots													

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Cattle ranch	**9310**		Z	Z											
Dairy cattle	**9320**		Z	Z											
Hog farm	**9330**		Z	Z											
Poultry and egg production	**9340**	Commercial facilities	Z	Z											
Domestic backyard chickens	**9340a**	The keeping of up to 10 hens (no roosters) for personal use	Z	Z	Z	Z	Z	Z	Z						
Sheep and goats	**9350**		Z	Z											
Fish	**9360**		Z	Z											
All other animals	**9370**		Z	Z											
bees	**9371**		Z	Z	Z	Z	Z	Z	Z						
horses	**9372**	See Exhibit 4-1 regarding minimum Parcel size required for the keeping of horses. (Ord. # 1775)	Z	Z											
fur-bearing	**9373**		Z	Z											
Support functions	**9380**	Includes horse boarding and animal breeding	Z												
Forestry and Logging	**9400**		Z	Z											
Fishing, Hunting and Trapping	**9500**		Z	Z											
Unclassifiable or No Function	**9900**	Temporary placeholder until a code can be assigned													
Special Events	**9910**														
special home events (Ord. # 1716)	**9911**		ZS	ZS	ZS	ZS	ZS	ZS	ZS						C
Other (Ord. # 1716)	**9912**		ZS	ZS											ZS
Temporary Uses (Ord. # 1716)	**9920**	Temporary uses specifically authorized in applicable zoning districts by section 5.25 or 5.26	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
Subdivisions	**9930**														
major	**9931**		C	C	C	C	C	C	C	C	C	C	C	C	C
minor	**9932**		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z

Land Use	LBCS Code	Description	RE	RR	RS-1	RS-2	RS-3	RM-1	RM-2	CB/DTO	GB	NB	OS	I	FRR
Combination Uses	**9940**		ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC
Home Occupations	**9950**		ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS		
Development Patterns	**9960**														
Cluster Subdivisions (sec. 6.1)	**9961**				ZS	ZS	ZS	ZS	ZS						
Conservation Subdivision (sec. 6.2)	**9962**		ZS	ZS											
Reserved	**9963**														
Small Lot Patterns (sec. 6.4)	**9964**							ZS	ZS						
Traditional Neighborhood Development (sec. 6.5)	**9965**							ZS	ZS						
Morganton Road (sec. 6.6)	**9966**														

(Ord. #1714; Ord. #1717; Ord. #1604; Ord. #1820; Ord. #1871; Ord. #2096; Ord. #3024)

Chapter 4. Development and Design Standards

Chapter 4 Contents

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4.1. Generally

The standards in this section are intended to be minimum standards for Development of Buildings, sites and infrastructure. Stricter standards or relief from standards may be established through the procedures in chapter 2, the zoning district standards in chapter 3, the specific use standards in chapter 5 or the Development Patterns in chapter 6.

4.2. Lot Development Standards

Lot development standards are summarized in Exhibit 4-1. Guidance for applying these is included in sections 4.2.1 (height), 4.2.2 (Setbacks), and 4.2.3 (lot size, density and width).

4.2.1. Height

(A) Subject to the provisions of this section, Buildings and structures shall not exceed the maximum heights established in Exhibit 4-1.

(B) The height of a Building is the vertical distance measured from the mean elevation of the finished grade at the front of the Building to the highest point of the Building.

(Ord. #1959; Ord. #2040)

(C) A story includes any Floor above the mean elevation of finished grade at the front of the Building. Where Floor levels are staggered, the number of stories is the number of Floors counting vertically from the point of the mean elevation of finished grade at the Building Front.

(D) The base of any access door to a roof shall not be higher than six (6) inches above the lowest point of any parapet wall or six (6) inches above the lowest point of a roof's surface, whichever is greater. The top of a roof access point shall not be greater than nine (9) feet above the base of the door.

(E) Roofs with slopes greater than seventy-five (75) percent are regarded as walls.

(F) In the CB, GB and PD Districts, Buildings are limited to a maximum of three (3) stories with the ceiling of the top story not to exceed thirty-eight (38) feet in height. Buildings must have pitched or mansard roofs, or provide a parapet along any side facing a street.

(Ord. # 1716; Ord. #1959; Ord. #2040)

(G) In the **I** districts, Buildings are limited to a maximum of four (4) stories. Buildings must have pitched or mansard roofs, or provide a parapet

along any side facing a street. Buildings that are taller than thirty-five (35) feet shall not be located within two-hundred (200) feet of a residential zoning district.

(Ord. #1959; Ord. #2040)

(H) The following Buildings, where authorized by Exhibit 3-15, may be constructed to a Height of fifty (50) feet provided a sprinkler system and fire-resistant stairway enclosures shall be provided as required in the North Carolina State Building Code:

(1) Government Offices;

(2) Schools;

(3) Religious Institutions;

(4) Libraries, Museums, Art Galleries, Art Centers and Similar Uses;

(5) Golf Course Club House, provided that the Building shall be located no closer than 500 feet to any property line or public Right-of-Way; that there shall be no occupied Floor height above 28 feet; that the Building shall not be more than three (3) stories; and that no Living Quarters shall be in the golf course club house;

(6) Hospitals, Clinics and Other Medical Facilities in Excess of 10,000 square feet of Floor area; and

(7) Post Offices.

(I) Chimneys, church spires, water tanks, elevator shafts, scenery lofts and similar structural appendages not intended as places of occupancy are exempt from the height limitation set forth in this section, provided that not more than one-third (1/3) of the roof area is covered by such structures.

(J) Heating and air conditioning equipment, solar collectors and similar equipment, fixtures and devices are exempt from the height limitation set forth in this section, provided that they are set back from the edge of the roof a minimum distance of one (1) foot for every foot the feature extends above the roof surface. Screen or parapet walls shall be constructed to the height of any fixture taller than three (3) feet in height that would be visible from a street or residential property abutting the property.

(K) Towers and antennas are allowed in all zoning districts to the extent authorized in Exhibit 3-15 (table of authorized land uses), and subject to the provisions of section 5.23.

(L) Light standard heights shall not exceed the limits established in section 4.7(G).

(M) Flagpoles and similar devices shall be limited to thirty-five (35) feet in Height.

4.2.2. Setbacks

(A) **Setbacks Required**. Except as specifically provided in this section, authorized as part of a Variance, PD or Certificate of Appropriateness approval, or allowed for a Development Pattern authorized in a specific zoning district, no portion of any Building, excluding eaves, decks, patios, steps and uncovered porches may be located on any Lot closer to any Lot line or to the street Right-of-Way line or centerline than is authorized in Exhibit 4-1. All Setbacks are expressed in feet and are minimum Setbacks unless otherwise noted. Additional Setbacks may be required to meet parking, landscaping, buffers or other standards specified in this chapter, the specific use standards of chapter 5 or the Development Pattern standards in chapter 6 of this UDO.

(B) **Allowed Setback Encroachments**. A step, stoop, open porch, awnings or other appurtenances may extend up to five (5) feet into the Front Setback, provided such features do not impede pedestrian circulation or extend more than twenty-five (25) percent into the minimum Setback.

(C) **Setback Measurement**

(1) Setback distances shall be measured from the property line or street Right-of-Way line to a point on the Lot that is directly below the nearest extension of any part of the Building that is substantially a part of the Building itself and not a mere appendage to it (such as a flagpole, etc.).

(2) If the street Right-of-Way line is readily determinable (by reference to a recorded map, set irons, or other means), the Setback shall be measured at a right angle to such Right-of-Way line. If the Right-of-Way line is not so determinable, the Setback shall be measured from the street centerline.

(D) All Setbacks are subject to compliance with adopted Fire Code provisions.

(E) The following structures shall comply with all Setback requirements:

(1) Gas pumps and overhead canopies or roofs; and

(2) Substantially opaque fences or walls that exceed (6) six feet in height.

(F) Private roads or driveways that serve more than three (3) Lots, more than three (3) Dwelling Units or any non-residential use projected to generate traffic equivalent to three (3) or more Dwelling Units shall be treated as public streets for purposes of measuring front and exterior Side Setbacks.

4.2.3. Lot Size, Density and Lot Width

(A) **Minimum Lot Size Established**. Except as specifically provided in this section, authorized as part of a PD approval, or allowed for a Development Pattern authorized in a specific zoning district, minimum Lot size shall comply with Exhibit 4-1. Larger Lots may be required to meet parking, landscaping, buffers or other standards specified in this chapter or Chapter 5 of this UDO.

(B) **Adequate Facilities Required**. The minimum Lot sizes set forth in this section are permissible only if adequate public water and sewer facilities are or can be made available to serve every Lot in accordance with the provisions of this chapter of the UDO. [For example, in some areas zoned RS-1 that are not served by public sewer, Lots may have to exceed the 10,000 square feet minimum required below in order to accommodate septic tanks. In such cases and in cases where Lots of less than 15,000 square feet are proposed and such Lots do not have access to sewage treatment facility or county sewer lines, the Health Department-Environmental Health Division shall review and approve proposed plans as provided in sections 4.15.11 and 4.15.12.

(C) **Additional Area Required for Additional Dwelling Units**. The "Additional Area" in the third column applies to the area required for each Dwelling Unit in addition to the first Dwelling Unit. In districts permitting Two-Family or Multi-Family Dwellings, where the area of the property is such that a portion remains after full requirements have been met for other Dwelling Units on the same property, the following rules shall apply in determining density and no relaxation of these rules shall be permitted by a variance. If otherwise permitted by the regulations of a district:

(1) A total of two (2) Dwelling Units shall be permitted on a Lot containing area for one (1) Dwelling Unit and 95% of the area for the second.

(2) A total of three (3) Dwelling Units shall be permitted on a Lot containing area for two (2) Dwelling Units and 90% of the area required for a third.

(3) A total of four (4) Dwelling Units shall be permitted on a Lot containing area for three (3) Dwelling Units and 85% of the area for a fourth.

(4) One additional Dwelling Unit shall be permitted on a Lot containing area for four (4) or more Dwelling Units and 80% of the area required for the additional Dwelling Unit.

(D) **Core Area Exemption**. There shall be no minimum Lot Area requirement for determining density in the following areas:

(1) The portion of the CB district bounded by Connecticut Avenue, Massachusetts Avenue, Bennett Street and Ashe Street;

(2) The block bounded by new Hampshire Avenue, Page Street, Pennsylvania Avenue, and Bennett Street; and

(3) The block bounded by Broad Street, Wisconsin Avenue, Bennett Street and Illinois Avenue.

(E) **Combination Uses**. When a Combination Use consists of different residential Dwelling Unit types, the total number of Dwelling Units permissible on the entire Tract shall be determined by dividing the area of the Tract by the minimum square footage per Dwelling Unit. The mix of Dwelling Unit types and Setback requirements may limit the ability to achieve the theoretical maximum density.

(F) **Credit for Dedicated Lands**. If an Applicant agrees to dedicate and the Town agrees to accept a portion of a Tract that lies within an area designated on any officially adopted Town plan as part of a proposed public park, greenway or bikeway, then the total acreage of the dedicated area and the remaining area of the Tract intended to be used for residential purposes shall be used to calculate the maximum permissible density for the remainder of the Subdivision, subject to minimum Lot width requirements.

(G) **Minimum Lot Width**.

(1) Exhibit 4-1 establishes minimum Lot widths.

(2) Minimum Lot width is the shortest straight line connecting side Lot lines between the Front and Rear Setbacks.

(3) No Lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a Building that could be used for purposes that are permissible in that zoning district and could satisfy any applicable Setback requirements for that district. Lots specifically created for equestrian access purposes and only as permitted in RE and RR districts are exempt from this requirement.

(4) No Lot created after the effective date of this chapter that is less than the recommended width shall be entitled to a variance from any Building Setback requirement.

(Ord. #1871)

Exhibit 4-1: Building Height, Setbacks and Lot Dimensions

Zoning District	Maximum Height	Front Setback	Setback From Street Centerline	Exterior Side Setback	Interior Side Setback	Rear Setback	Minimum Lot Size	Additional Area Required Per Additional Dwelling Unit	Lot Width
RE	35’	40’	70’	15’	15’(1)	30’(1)	5 acres(4)		100’ min.
RR	35’	40’	70’	15’	15’(1)	30’(1)	30,000 sq.ft (5)		100’ min.
RS-1	35’	30’	60’	15’	10’(1)	30’(1)	10,000 sq.ft.		45’ min.
RS-2	35’	30’	60’	15’	10’(1)	30’(1)	20,000 sq.ft.		45’ min.
RS-3	35’	30’	60’	15’	10’(1)	30’(1)	30,000 sq.ft		45’ min.
RM-1	40’	25’	55’	15’	10’(1)	30’(1)	10,000 sq.ft.	3,600 sq.ft.	45’(8) min.
RM-2	40’	25’	55’	15’	10’(1)	30’(1)	10,000 sq.ft.	6,000 sq.ft.	45’(8) min.
CB (2)	45’	5’ maximum	Not applicable	5’ maximum	No minimum	No minimum	No Minimum	1,500 sq.ft.	50’ maximum
GB(3)	45’	No minimum	No minimum	No minimum	No minimum	No minimum	No Minimum(6,7)	3,600 sq.ft.	No minimum
NB(3)	35’	15’	45’	15’	20’	20’	No Minimum(7)	3,600 sq.ft.	No minimum
OS(3)	35’	15’	45’	15’	20’	20’	No Minimum(7)	3,600 sq.ft.	No minimum
I(3)	50’ (see §4.2.1(G)	40’	70’	15’	10’	20’	50,000 sq.ft.(4,5)		No minimum

Table Notes:

(1) Side and Rear Setbacks for Accessory Buildings and structures (excluding fences) that are twelve (12) feet or less in height measured from average grade of the footprint of the Building to the highest point of the roof shall have a minimum Setback of five (5) feet. The Setback shall be increased two (2) feet for every for every one (1) foot of height for Accessory Buildings exceeding twelve (12) feet in height.

(2) See CB district design standards for exceptions to maximum Setbacks.

(3) Whenever a Lot in a GB, NB, OS or I district has a common boundary line with a Lot in a Residential District, the Interior Side or Rear Setback requirement along the common boundary line for the property in the GB, NB, OS, or I district shall be the greater of the minimum Setbacks for the applicable districts. [For example, where the side boundary line of a Lot in an “I” district abuts a side boundary of a Lot in a “RR” district, the minimum Side Setback shall be 15 feet.]

(4) Minimum Parcel size for keeping horses is 10 acres, unless the Parcel was created by an instrument recorded at the Moore County Registry on or prior to December 12, 1989, in which case the minimum Parcel size for keeping horses is 4.59 acres. Parcels no more than 16 feet wide at any point and no less than 50 feet long may be created between existing Parcels for purpose of equestrian access.

(5) Minimum Parcel size for keeping horses is 10 acres, unless the Parcel was created by an instrument recorded at the Moore County Registry on or prior to June 11, 2002, in which case the minimum Parcel size for keeping horses is 4.59 acres. Parcels no more than 16 feet wide at any point and no less than 50 feet long may be created between existing Parcels for purpose of equestrian access.

(6) The minimum area for Lots with frontage directly on an arterial shall be 40,000 sq.ft.

(7) The minimum area for Lot for a single Dwelling Unit shall be 10,000 square feet.

(8) Minimum Lot width is not applicable to Townhouse Development.

(Ord. #1714; Ord. #1716; Ord #1775; Ord. #1871, 8-24-20; Ord. #1887, 11-23-20; Ord. #1890, 1-6-21)

4.3. LANDSCAPING

This section shall be known as the Town of Southern Pines Landscaping Code or Landscaping Code.

4.3.1. Findings and Purpose

The Council finds that:

(A) The natural conditions (topography, vegetation and wildlife) typify the North Carolina Sandhills and Longleaf Pine Ecosystems, which are unique within North Carolina. These elements are of economic value to the Town and make it a desirable place for both residents and visitors.

(B) The natural conditions are a strong aspect of the visual character of the Town and contribute to the economic prosperity.

(C) The purposes of the landscaping standards are, in part:

(1) To create an appearance in all zoning districts, where manmade Development is situated within an urban forest; or

(2) To create plantings that screen or buffer visual pollution within the Town.

(D) Development should preserve and/or create landscape conditions typical of the surrounding ecosystem and site conditions using native and culturally adapted plant materials in appropriate settings.

(E) Growth and Development necessitates removal of trees, shrubs and soils. The landscaping plans shall address preservation of existing vegetation and soils.

(F) The general goal is to improve property and community appearance, allow for the ecological benefits provided by plants, prevent the overcrowding of land and enhance the privacy and welfare of citizens by providing transition between differing land uses.

4.3.2. Applicability

(A) The landscaping and buffering standards of this section shall apply to the following Development, except as specifically provided in this section, authorized as part of a Variance, PD, Architectural Compliance Permit or Certificate of Appropriateness approval, or allowed for a Development Pattern authorized in a specific zoning district:

(1) All new Multi-Family, commercial, mixed-use and industrial Development;

(2) ReDevelopment that increases the number of required parking spaces by ten (10) or more spaces;

(3) Any expansion of a parking lot by ten (10) or more parking spaces.

(B) All requirements shall run with the land use and shall apply against any owner or subsequent owner.

(C) Land used toward achieving the requirements shall be on the same Lot or on property under the same permanent possession or control as the Lot on which the use is located.

(D) The Airport Hazard Overlay District (see section3.6.7) includes a tree restriction in the approach zone to a height that projects above the upper surface of the approach zone. Within the approach zone is a clear zone in which trees are prohibited.

4.3.3. Street Trees

(A) Street trees are an essential part of the Town streetscape. The Town seeks to maintain existing trees where possible and to encourage the planting and continuance of the established street tree patterns.

(B) To accomplish this objective the following shall apply:

(1) All Subdivisions, Development subject to Site Plan approval, and planned Developments shall provide street trees along their frontage with adjacent public streets.

(2) Street trees shall be selected from the list of large trees, or, where power lines are located, small trees included in section 4.3.9.

(3) Planting strips shall be a minimum of six (6) feet wide.

(4) Planting location shall take into consideration planned roadway widening, public safety, standard drainage requirements and maintenance of sight distances for traffic safety. Street trees may be planted within the Right-of-Way, within planting strip abutting the Right-of-Way or other location approved by the Permit Issuing Authority.

(C) Street trees, unless subject to overhead power lines, shall be planted at the rate of one (1) two-inch Caliper tree per thirty (30) feet of property line abutting a public street, excluding driveways and Traffic Visibility Zones. This rate may be varied based upon existing trees and the crowns of planted trees.

(Ord. #1890, 1-6-21)

(D) Trees used to meet buffer, 4.3.5 and Vehicle Use Area requirements in sections 4.3.4, 4.3.5 and 4.3.6, may be used to meet the street requirements to the extent that the trees are located within twenty-five (25) feet of a street.

4.3.4. Buffers

Buffers provide Compatible transitions between differing land uses, reduce the visual impacts of Development and retain existing plant materials.

(A) **Applicability**

These standards apply to all new Multi-Family, commercial, industrial and mixed-use Development; substantial modifications subject to Architectural Compliance Permit review; and all Development subject to Subdivision approval.

(1) Buffers are required along the common property lines between Developments in different zoning districts or between Developments of different uses as established in this section.

(2) Buffer requirements shall not apply when a public street or railroad Right-of-Way separates applicable zoning districts or uses.

(B) **Buffer Requirements**

(1) Exhibit 4-2 and 4-3 establish the minimum buffer widths for proposed Development. Chapters 5 and 6 establish buffer requirements for specific uses and Development Patterns.

(a) Buffers within and surrounding PDs shall be established during the PD approval process.

(b) Exhibit 4-3 establishes minimum buffer widths for the sides of properties abutting the highway corridor within HCO districts. These apply to Front Yard buffers, as well as for the Side and Rear Yards abutting properties of similar zoning. Exhibit 4-2 shall apply to the Side and Rear Yards of all Development on property in a HCO District that is adjacent to property zoned for residential use.

(2) Exhibit 4-4 establishes the minimum planting requirements within required buffers. Large trees, small trees and shrubs shall be dispersed along the entire length of the buffer. Species shall be planted in locations in which they are expected to thrive and should be dispersed in irregular patterns that reflect natural patterns rather than in formal rows or patterns.

(3) Buffers may have undulating boundaries provided that the narrowest point of the buffer is not narrower than eighty (80) percent of the minimum buffer width and the total area of the buffer is equal to or greater than the product of the length of the buffer times the minimum required buffer width.

Exhibit 4-2: Minimum Buffer Widths

Zoning District or Use of Proposed Development	Zoning/Use of Abutting Development					
	RE, RR, RS-1, RS-2, RS-3	RM-1, RM-2	NB, OS	GB	I	Single-Family Residence
RE, RR, RS-1, RS-2, RS-3	none	none	none	30’	80’	none
RM-1, RM-2	10’	10’	none	20’	80’	20’ if Multi-Family Building proposed
NB, OS	20’	20’	none	none	20’	20’
GB	50’	30’	none	none	20’	20’
I	80’	80’	20’	20'	10’	30’
Golf Course	10’	10’	10’	10’	30’	10’
Active Recreational Facilities	20’	20’	none	10’	30’	20’
Institutions (public, private or religious)	20’	20’	none	none	20’	20’
Shopping Centers	80’	80’	10’	10’	20’	80’

(Ord. # 1716)

Exhibit 4-3: Minimum Buffer Widths in Highway Corridor Overlay Districts

Planted Buffer	Urban Transition Corridor Overlay District	Urban/Village Corridor Overlay District
Highway Yard	50’	40’
Side and Rear Yard	15’	5’

Exhibit 4-4: Minimum Planting Required in Buffers

Plant Type	Minimum Planting Rate	Additional Conditions
Large Trees	One tree per 400 square feet	• At least 50 percent of large trees shall be evergreens • Longleaf pines shall be a minimum 2 inch Caliper and 8 feet tall • Other large trees shall be a minimum 2 inch Caliper
Small Trees	One tree per 400 square feet	• At least 20 percent and not more than 30 percent of small trees shall be deciduous • At least 50 percent of evergreen trees shall be species other than pines • Small trees shall be a minimum 1.5 inch Caliper
Shrubs	For buffers 20 feet or narrower – one shrub per 50 square feet	• Not more than 30 percent of shrubs shall be deciduous • Shrubs shall be at least 18 inches in height at time of planting and reach a height of at least 4 feet within five years of planting
	For buffers between 20 and 50 feet wide – one shrub per 75 square feet	
	For buffers 50 feet or wider – one shrub per 200 square feet	

(Ord. #1890, 1-6-21)

(4) The entire buffer shall be located on the property subject to the Development Approval requiring the buffer. However, if the affected property owners enter into an agreement to establish and maintain a buffer meeting the requirements for the most intensive zoning or use to be developed next to the less intensive use, the Planning Director may allow the buffer to be located on one or both of the affected properties.

(5) Buffers may be established in required Setback areas and may be counted towards required open space if located in a Common Area measuring at least twenty (20) feet in width.

(6) When an easement crosses a buffer or is located within a buffer area, the TRC shall recommend, and the Planning Director shall approve all plantings in the easement to ensure that the plantings do not interfere with the use of the easement. When an easement is located along a property line that requires a buffer, the portion of the buffer located outside the easement shall be at least half the width of the required buffer.

(7) The Planning Director, at time of Site Plan approval, may reduce buffer widths and required plantings by up to fifty (50) percent if the Site Plan indicates that existing condition or vegetation, alternate landscaping, walls, opaque fence or topographic

features will achieve the intent of this section and are designed to complement adjacent properties.

(C) **Permitted Uses Within Buffer Areas**:

(1) Buffers shall be left in an undisturbed natural vegetative state or provided with supplemental plantings.

(2) Selective thinning of vegetation under one and one-half (1.5) inch Caliper and removal of dead vegetation shall be permitted as long as the intent of the buffer requirement is maintained.

(3) All Longleaf Pines (Pinus Palustris), Loblolly Pine (Pinus Taeda) shall be maintained in a buffer area. The buffer shall be cleared of the following under story trees: Black Jack Oak (Quercus Marilandica), and Turkey Oak (Quercus Laveus)

(4) Driveways may cross a buffer at as near a perpendicular angle as practical. Walkways and paths may pass through a buffer.

(5) Grading in the designated buffer may be allowed subject to PD, Subdivision, Special Use or Architectural Compliance Permit approval, if the re-vegetation plan is determined to meet the intent of this section.

(6) When stormwater improvements are located within the buffer, the TRC shall recommend and the Director shall approve plantings to ensure that the vegetation does not interfere with the function of the stormwater improvement.

(Ord. # 1919)

(D) **Landscaping Design Requirements for Buffer Areas**:

(1) Existing Vegetation. Buffers require provision of both physical separation and landscape elements to meet the intent of this ordinance. Existing vegetation shall be used to meet all or part of the requirements of this section wherever possible, if it provides the same level of opacity, as the required buffer. Vegetation to be saved shall be identified on Site Plans along with protection measures to be used during grading and construction.

(2) Planted Vegetation. Exhibit 4-4 allows for a mix of large hardwood and/or pine trees, small trees/large shrubs and smaller shrubs to provide variable height screening and a naturalized planting typical of the ecosystem of the site or surroundings. Evergreen trees, other than pine, should be added to the wider buffers to provide a more opaque screen, as well as a more natural appearance to the buffer. A plant mix shall be designed to create a buffer that will give a satisfactory screen within five years of planting, under normal maintenance, while allowing room for the various plants to grow. In calculating buffer planting requirements, areas of driveways and sight distance triangles shall be excluded.

4.3.5. Landscape Screens

(A) The intent of a screen is to use plant materials and/or other landscape architectural elements to obscure views from adjacent properties. Breaks in screens shall be permitted to provide adequate ingress and egress as needed.

(B) The following uses shall be screened from unobstructed off-site views:

(1) Loading docks for semi-trailers and trucks over thirty-five (35) feet in length;

(2) Mini-warehouses;

(3) Correctional institutions:

(4) Service areas;

(5) Outside storage or operation areas;

(6) Dumpsters;

(7) HVAC units and other mechanical equipment;

(8) Dog runs and dog pens; and

(9) Fuel pumps.

(C) Required landscape screens shall provide a visual obstruction from adjacent properties in conformance with the following standards:

(1) The screen may be composed of view-obscuring vegetation, wall, or fence, which may be used individually or in combination.

(2) The minimum result shall be an opaque screen that obscures views from the ground to a height of the object being screened or a maximum height of fifteen (15) feet.

(3) Plant materials shall be at least five (5) feet tall at the time of installation and reach the desired height within five (5) years of planting.

(4) When a combination of features is proposed, one-third (1/3) of the surface area of all walls or fences that face off-site must be screened by plant material within three (3) years. Additionally, landscape screen areas shall be sufficient to allow for the mature growth of plant materials when used.

(Ord. #1696)

4.3.6. Landscaping for Vehicle Use Areas

(A) Purpose. To reduce reflected sunlight and headlight glare from parked vehicles, as well as to maintain a separation between vehicles and other uses and to reduce the effects on the environment of vehicle parking facilities, the following standards are provided.

(B) Applicability.

(1) The standards of this section apply to all new Development outside the CB district that requires Architectural Compliance Permit or **PD** approval and includes parking for five (5) or more vehicles, a drive-up window or gasoline pumps.

(2) Areas used for vehicle sales Lots and/or service, parking and business transactions such as areas adjacent to gasoline pumps (even if under a canopy) and areas for drive up service, shall be considered parking areas and shall comply with perimeter landscaping requirements.

(3) Internal parking Lot landscaping standards only apply to Vehicle Use Areas that encompass over 5,000 square feet, excluding areas under canopies, parking structures, loading and service areas and portions of drives with no parking on either side for a distance of twenty-five (25) feet or more.

(4) Landscape screens are required for parking lots with seventy-five (75) or more parking spaces.

(5) Parking Lot shading requirements are required for parking lots with fifteen (15) or more parking spaces.

(C) Required Plantings

(1) Exhibit 4-5 establishes the planting requirements for Vehicle Use Areas.

(2) At least 250 square feet of contiguous pervious growing area shall be required for each large tree and the area shall have a minimum dimension of ten (10) feet. At least 125 square feet of contiguous pervious growing area shall be required for each small tree and the area shall have a minimum dimension of ten (10) feet.

(3) This screen planting may be combined with other required parking Lot planting as necessary. (For example, internal shade trees may be interspersed with screening shrubs on landscape screens.)

(D) Islands and Medians

Minimum curb radii of five (5) feet are required on the corners of all tree islands and medians to allow for free movement of motor vehicles around planting materials. All islands shall have raised edging around them to

further protect plants from being run over by motor vehicles. Medians without raised edging shall be protected by devices to stop vehicles from driving into the planted areas.

Exhibit 4-5: Vehicle Use Area Planting Requirements

Area	Minimum Required Planting Rate	Additional Conditions
Perimeter Landscaping – between Vehicle Use Areas and property lines excluding driveways and traffic visibility triangles	• 1 large tree, excluding longleaf pines shall be planted per 30 feet. • 1 evergreen shrub shall be planted per 3 feet or a combination of a wall and landscaping may be used.	• Trees Compatible with power lines shall be substituted for large trees where overhead power lines are located. • Large trees shall be a minimum 2-inch Caliper when planted. • Shrubs shall be at least 18 inches tall at time of planting and shall grow to a minimum height of 36 inches and a minimum crown diameter of 30 inches within three years of planting. • Walls shall be stone or brick and shall be at least 36 inches in height and shall have shrubs planted between the wall and the property line so that at least one third of the surface of the wall is screened within three years.
Internal Parking Lot Landscaping	• At least 15 percent of the paved Vehicle Use Area shall be used for planting trees and or shrubs. • Large trees shall be planted so that at least 20 percent of the parking Lot shall be shaded at maturity. • At least 1 large tree shall be planted per 250 square feet of required landscape area. • At least one small tree shall be planted per 125 square feet of required landscape area. • At least one evergreen shrub shall be planted per 35 square feet of required landscape area.	• Parking areas shall be laid out to prevent cars from striking plants. • Large trees shall be a minimum 2-inch Caliper when planted. • No parking space shall be further than 75 feet from the trunk of a large tree • Landscape screens shall not be more than 120 feet apart, shall be parallel to Parking Aisles and shall be at least 6 feet in width. • Plants shall be at least 4 feet tall at time of planting. • Large trees shall be evenly distributed throughout the parking area. • For purposes of calculating the percent of the parking Lot shaded, each large tree is assumed to have a crown with a diameter of 30 feet. • Small trees may be substituted for up to 30 percent of the large tree requirement at a rate of two small trees for each large tree. • Large trees shall not be planted less than 20 feet apart and small trees shall not be planted less than 15 feet apart. • Evergreen trees, when used, shall be either pruned or located to facilitate safe sight distances within parking lots. • Shrubs must be located within five feet of the paved area and shall be located to facilitate safe sight distances.

Note: Trees shall be required at the following rates, either in combination of small and large trees or with large trees only to add up to the required landscape area.

4.3.7. Cleared Areas

(A) All areas cleared of existing vegetation shall be re-vegetated as soon as possible after being disturbed. Cleared areas for the purpose of this ordinance shall not include the Building footprint and the area within fifteen (15) feet of the Building footprint.

(B) Such disturbed areas shall be replanted with domesticated grass and trees of a species proven to thrive well in the area. Disturbed areas shall be replanted with one tree for each 700 square feet of disturbed area. Trees shall be a minimum two (2) inch Caliper at planting.

4.3.8. Variations

(A) The Planning Director may modify buffer and landscape standards where:

(1) There are special considerations of site design and/or topography.

(2) There is existing healthy vegetation that is sufficient to meet the requirements of this section in part or in whole.

(3) There exists a unique relationship to other properties.

(4) The plantings or planting area would conflict with utilities, easements, or overhead power lines, or encroach upon trees within the public Right-of-Way.

(5) Proposed street widening not provided by the Developer will consume the landscaping area.

(B) The Planning Director may require alternative or additional planted buffers or landscaping when a modification of the requirements of this part is warranted in order to meet the intent of the stated standards.

4.3.9. Plant Material and Installation Standards

(A) Lists of acceptable large trees, small trees and other plant materials are included in Appendix F. Other plants may be used based on sound horticultural practices. All plant material shall meet or exceed size and shape relationships specified in the latest edition of *The American Standard for Nursery Stock* published by the American Association of Nurserymen. All sizes specified refer to size at time of planting. Neither a Building permit shall be issued nor grading begun until a plan for buffers and landscaping has been approved.

(B) List plants and size standards on the landscape plan as specified in the latest edition of one of these two references: the *Manual of Landscape Plants*, Dir. or *Landscape Plants of the Southeast*, Halfacre.

(C) The landscape will be installed by a North Carolina licensed Landscape Contractor.

(D) The installation will meet or exceed the procedures and techniques referenced in the latest edition of the *North Carolina Landscape Contractor's Study Manual.*

(E) The Town will conduct inspections of the landscape installation to include:

(1) Site preparation - conditions of the site ready for landscape installation;

(2) Drainage and irrigation - inspect prior to back-filling trenches;

(3) Planting - inspect during installation of plants, other than grass or ground cover;

(4) Surface inspection - inspect turf, mulch, ground cover;

(5) Final inspection - final irrigation test for coverage and working order, quantify and qualify all plants according to plan and ordinance standards. This inspection must be completed prior to the Development receiving a Certificate of Occupancy.

(F) The Town will collect a fee for all inspections.

(G) Longleaf Pine Transplanting

(1) All Longleaf Pines shall be transplanted only during the times between December 1 and April 15. During non-planting times, a bond shall be posted to assure installation during the planting schedule.

(2) All Longleaf Pines shall be transplanted using a minimum 40-inch tree spade.

4.3.10. Drainage

Adequate soil drainage is required for all parking and landscape screen areas. Adequate soil drainage is defined as the natural movement of water to the subsoil. Any soil that has been disturbed by grading is considered compacted due to construction activity and will require drainage. Undisturbed areas shall not require drainage improvements.

4.3.11. Maintenance Responsibility

(A) **Maintenance Required**. Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the maintenance of all required materials and continued compliance with this section 4.3. Landscaped areas shall be kept in a proper, neat and orderly appearance and free from refuse and debris. The property owner shall replace all unhealthy or dead plant material. Failure to maintain the required landscape materials shall constitute a zoning violation and shall be remedied in accordance with the provisions in this UDO.

(B) **Irrigation**

(1) An automatic irrigation system shall be installed in accordance with landscaping plans approved at the time of Site Plan approval. Such system must have underground water supply lines with sprinkler heads and/or drip emitters and shall be operated during growing season.

(2) Applicants are encouraged to design creative landscaping that achieves the objectives of this Landscaping Code while minimizing the need for irrigation.

(C) **Landscape Management**. The management of preserved and installed plants shall include mulching, remediation of soils damaged during construction and weed control.

(1) Mulch: Trees A four-inch layer of organic mulch beneath the canopy shall be provided to reduce water loss, moderate temperatures and protect against compaction.

(2) Remediation of Soils Damaged During Construction: Two treatment options to reduce compaction and improve soil structure are:

(a) Holes and fractures can be created to increase air space by physically auguring openings.

(b) Organic mulch can be placed around the tree beneath the canopy.

(3) Weed Control: Weed control of unwanted woody and herbaceous vegetation is required necessary to maintain the desired character of landscaped areas.

(D) **Protection of Vegetation During Construction**

Undisturbed vegetated areas shall be protected during construction. No storage of materials, fill or equipment shall be allowed within the Protected Area and shall be so noted on the grading and erosion control plans and posted on the protection fence. A protection fence constructed of a material resistant to degradation by sun, wind and moisture for the duration of the construction shall be installed at the same time as the erosion control measures and shall remain in place until all construction in the vicinity of the trees is complete. Site plans and erosion control plans shall include a detail of the proposed tree protection fence and its location.

4.3.12. Request for Extension of Compliance

(A) The Town recognizes that land Development occurs continuously, and that vegetation used in landscaping or screening should be planted at certain times to insure the best chance of survival. To ensure compliance and to reduce the potential expense of replacing landscaping or screening materials that were installed at an inappropriate time or under unfavorable conditions for planting, an extension of compliance with landscaping requirements may be allowed for a period not longer than ninety (90) days.

(B) In the event of an extension, the Applicant shall provide a letter acknowledging a performance guarantee (letter of credit or performance bond) adequate to cover one hundred and fifty (150) percent of the installed landscaping costs.

(Ord. # 1716)

(C) The letter shall also acknowledge that the Applicant for the Building Permit is aware of all landscaping and screening requirements and will comply with those requirements within ninety (90) days or discontinue use of the property.

(D) If the initial letter of request for extension of compliance with landscaping requirements has expired and conditions are still deemed unsuitable for planting, the Applicant may request one additional extension of up to ninety (90) days. Failure to comply with the provisions of this section within the time noted in the letter of request for the extension of compliance with landscaping requirements shall be deemed a violation of this ordinance.

(E) The Applicant shall acknowledge that while a Conditional Certificate of Compliance may be issued, no Final Certificate of Compliance will be issued while there is an active (pending) letter of request for extension of compliance with landscaping requirements, unless a performance guarantee (such as a letter of credit or performance bond) sufficient to cover 125 percent of the installed landscaping costs has been posted with the Inspections or Planning Department.

4.3.13. Existing Vegetation Credits

(A) Existing healthy vegetation shall be preserved when possible and may be credited toward landscape requirements. Vegetation to be saved and protection measures to be used during grading and construction shall be specified on Site Plans. Protection measures maintain a radius of at least six (6) feet around existing plants or provide a radius of one (1) foot for each one (1) inch DBH of trees, whichever is greater.

(B) Credit given for protected trees shall be equal to the Diameter Breast Height (DBH) of the tree in inches, divided by two (2) inches, but no fraction thereof. Trees so credited must have a minimum DBH of two (2) inches and be shown on the grading, erosion control and landscape plans. Protection of natural groups of trees is encouraged, with each tree within the grouping being credited as if standing alone; however, the protected ground area or tree save area shall encompass all trees within the grouping.[1]

(Ord. #1959; Ord. #1981)

(C) The Site Plan shall:

(1) Indicate trunk locations, DBH and drip lines of all trees and/or tree stands to be preserved (Note: When stands of trees will be preserved well away from construction areas, it is not necessary to plot accurate trunk locations);

(2) Specify that the natural grade shall be maintained within the tree protection zone; and

[1] Single trees that have developed as individual specimens are the best candidates for retention. For the most part, trees that have developed as stands, particularly intermediate and suppressed trees will not function well as individuals. They are prone to failure and decline when their neighbors are removed. Not only are the trees unstable, but they contribute little to the appearance or landscape quality of the new project.

(3) Specify that no storage, dumping of materials, parking construction trailers, fires, etc., shall be allowed within the tree protection zone.

(D) At the start of grading involving the lowering of the existing grade around a tree or stripping of topsoil, a clean, sharp, vertical cut shall be made at the edge of the tree protection area defined in section 4.3.13(A) at the same time as other erosion control measures are installed. The tree protection fencing shall be installed on the side of this cut farthest away from the tree trunk. This procedure shall be incorporated as a note on the grading and erosion control plans.

(E) Additionally, all utility lines and drainage channels shall be minimized within the drip lines of trees to be saved and preferably located adjacent to driveways and in groupings as allowed by good engineering practices. If excavation or storage must occur within the tree protection zone, the landscape architect or consulting arborist will determine where tunneling, handwork and root pruning are required. Root pruning shall be completed before grading begins. When all such provisions are not fulfilled, existing trees will be considered unprotected and may not be used to satisfy landscape requirements of this section 4.3.

4.4. Tree and Ecosystem Protection

4.4.1. Purpose

Southern Pines supports an abundance of natural resources, including land, forests, streams, lakes, wildlife and natural beauty. Increasing urbanization threatens the quality of the natural resources that make it a special place to live and work. The natural environment affects the economic, historic and aesthetic value of the Town. Establishing standards for the protection of natural resources represents prudent stewardship of the land and good business. The purposes include:

(A) To preserve and enhance the quality of the water in rivers, streams, ponds and lakes that flow into and out of Southern Pines;

(B) To minimize future flooding problems by guiding Development away from flood prone areas;

(C) To preserve the water carrying capacity of watercourses and the natural water storage capacity of the flood plain;

(D) To protect land and watercourses from pollutants, sedimentation and erosion;

(E) To retain open spaces in order to protect their environmentally sensitive character;

(F) To protect and conserve Significant natural resources from degradation due to urbanization. Such natural resources include wildlife and plant life habitats, wetland areas and riparian areas;

(G) To minimize the impact of Development by controlling the location, intensity, pattern and design of Development and construction activities;

(H) To enhance the aesthetic appearance of Southern Pines as a means of improving quality of life and attracting new businesses and residents; and

(I) To protect environmentally sensitive lands while recognizing the legitimate expectations of property owners and Southern Pine's economic Development goals.

4.4.2. Applicability

Except as herein exempted, all public rights-of-way within the Town and its Extraterritorial Jurisdiction are hereby protected. The provisions of this section 4.4 shall not apply to:

(A) Trees, vegetation and land disturbing activity normally associated with the landscaping construction or modification on any non-public land, unless the property owner voluntarily registers a specimen tree or group of trees.

(B) Routine maintenance of existing vegetation outside the public Right-of-Way, such as pruning, watering and fertilizing.

(C) The removal of dead trees and/or trees and other plants that have been diagnosed and determined to be diseased beyond treatment.

4.4.3. Permitted Uses

A plan showing protection measures shall be required from any person or property owner for the following activities on undeveloped land.

(A) Construction of any kind on public rights-of-way

(B) No person shall remove, cut above ground or otherwise disturb the vegetation or the soil within the critical root zone of any specimen tree on public rights-of-way without first obtaining approval of a Landscape Protection Plan, Site Plan, PD Concept Plan or Preliminary Subdivision Plat showing protection measures.

(C) All Development activities on a site, including installation of public and private utilities, shall conform to the provisions of an approved plan showing tree protection measures.

4.4.4. Ecosystems

There are three basic ecosystems, which occur within the Town's jurisdiction.

(A) **Piedmont Transition:** Areas with these conditions generally have silty loam surface soils and silty clay subsoil, hardwood-loblolly pine vegetation association and slopes of 5-12%. The overall appearance is much like North Carolina piedmont forests and farmlands.

(B) **Lowland/Wetland:** Areas fitting these conditions generally occur at the base of slope, flat alluvial or adjoining creeks and streams. The vegetation and soils are typical of low, wet sites. Such areas are not well suited for Development but serve as natural resources. The overall appearance is typical of emergency of perennial streams and headwaters with lowland vegetation.

(C) **Sandhills:** Areas exhibiting these conditions generally have sandy surface soils with sandy or loam-clay subsoil, longleaf pine vegetation association and 2-12% slopes. The overall appearance is dominated by longleaf pine forest conditions.

4.4.5. Specimen Trees

(A) Specimen trees include all of the following: A specimen tree is any healthy living tree that:

(1) Has a DBH of twenty-four (24) inches or more; or

(2) A DBH of twelve (12) inches or more in the case of the following species: Ilex species (Holly), Magnolia species, or Pine species

(B) Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association; or

(C) Provides unique habitat for any endangered or threatened wildlife species protected by Federal law.

4.4.6. Construction Activity on or Adjacent to Public Rights-of-Way

A permit for Right-of-Way Encroachment and Construction shall be required for:
(Ord. # 1716)

(A) Any excavation of trenches or tunnels for the installation or repair of utilities taking place within the critical root zone of any specimen tree on public land.

(B) Protection of trees in construction area:

(1) All trees to be saved on public Right-of-Ways near any excavation or construction of any Building, structure, or new streets shall be guarded with protective fencing or other equally effective measures. All construction material, dirt or other debris shall be kept outside the Protected Area.

(2) No person shall deposit, place, store or maintain upon any street Right-of-Way, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein.

4.4.7. Preservation and Removal on Private Property

The following provisions apply to Specimen Trees on private land:

(A) Specimen trees shall be shown on all Preliminary Development Plans and located by survey on required Site Plans. The Planning Director may visit the site to determine the accuracy of identification. The location and identification of specimen trees shall be required if such trees are within one hundred (100) feet of areas of a Development site where soil disturbance or construction activity is proposed.

(B) Proposed Development should be designed to maximize the preservation of specimen trees. Where specimen trees exist, flexible approaches such as adjustments to Lot layout, placement of Buildings and paved surfaces and location of utilities should be pursued in order to save them.

(C) Saving a specimen tree shall constitute sufficient evidence that the requirements have been met for a variance application.

(D) No soil disturbance from construction, trenching or grading, or paving, or storage of equipment or materials shall take place within the critical root zone of any specimen tree to be preserved unless during Development application review it is determined there is no reasonable way the property can be developed without such disturbance.

4.5. Off-Street Parking and Loading

4.5.1. Generally

This section 4.5 establishes the minimum requirements for the number of spaces and the design of parking areas. This section provides administrative flexibility for the Planning Director to adjust the number of required spaces and the design of spaces to provide for adequate parking, accommodate unique site conditions and capitalize on the benefits of parking opportunities on-street or in shared parking areas.

4.5.2. Applicability

The requirements of this section shall be applicable to all new Development and changes of use that create the need for parking or increase existing parking demands, except as specifically provided in this section, authorized as part of a Variance, PD or Certificate of Appropriateness approval, or allowed for a Development Pattern authorized in a specific zoning district.

4.5.3. Parking Space Requirements

(A) All Developments in all zoning districts other than in portions of the central business area as established herein shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the Development in question. No off-street parking shall be required in the area bounded by Connecticut Avenue, Massachusetts Avenue, Bennett Street and Ashe Street.

(B) Exhibit 4-6 establishes the minimum number of required off-street parking spaces that shall be provided for specified land uses. When determining the number of parking spaces, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

(C) The number and design of parking spaces for the disabled shall comply with the North Carolina State Building Code requirements for handicapped parking. Bicycle parking shall be designed and located in a manner that is consistent with the Town's Bicycle Transportation Plan.

(D) The Town Council recognizes that Exhibit 4-6 does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Planning Director is authorized to determine the parking requirements using this table as a guide.

Exhibit 4-6: Minimum Number of Required Parking Spaces

Land Uses	Minimum Vehicle Parking Spaces	Minimum Bicycle Parking Spaces
RESIDENTIAL AND GUEST ACCOMMODATIONS		
1 and 2 Family residences	2 spaces per Dwelling Unit	
Single-Family, attached, including Townhouses and Condominiums	2 spaces per Dwelling Unit	
Multi-Family 0-1 bedrooms 2-3 bedrooms 4 or more bedrooms	 1 space per Dwelling Unit plus 1 space per 5 Dwelling Units for visitors 2 spaces per Dwelling Unit plus 1 space per 5 Dwelling Units for visitors 2.5 spaces per Dwelling Unit plus 1 space per 5 Dwelling Units for visitors	1 space per 10 Dwelling Units
Multi-Family, assisted or subsidized	Multi-Family Dwelling Units developed or sponsored by a public or nonprofit agency for limited income families or the elderly require only 1 space per Dwelling Unit	
Congregate living, including nursing homes and Intermediate Care Facilities Adults and families Children under age 16	 3 spaces for every five beds 1 space for every 3 beds plus 1 space for 400 square feet of administrative area	
Rooming house, bed and breakfast, and Tourist Home	1 space for each guest room plus 2 additional spaces for the resident owner or manager.	
Hotels and motels	1 space for each room to be rented plus additional spaces (in accordance with other sections of this table) for restaurant or other facilities.	
RETAIL, SALES AND SERVICE		
Vehicle and boat sales	1 space per 200 square feet of Gross Floor Area.	

Land Uses	Minimum Vehicle Parking Spaces	Minimum Bicycle Parking Spaces
Gasoline and vehicle fuel sales	1 space per 200 square feet of Gross Floor Area of Building devoted primarily to gas sales operation, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces	
Automotive repair	1 space per 200 square feet of Gross Floor Area	
Car wash	Conveyor type-1 space for every three employees on the maximum shift plus reserve capacity equal to five times the capacity of the washing operation. Self-service type-2 spaces for drying and cleaning purposes per stall plus 2 reservoir spaces in front of each stall.	
Heavy consumer goods	1 space per 400 square feet of Gross Floor Area	
Other retail sales	1 space per 200 square feet of Gross Floor Area	1 space per 5,000 square feet
Open air markets	1 space per 1,000 square feet of Lot Area used for storage, display or sales.	1 space per 5,000 square feet
Banks and credit unions	1 space per 200 square feet of Gross Floor Area	1 space per 5,000 square feet of floor area
Financial, real estate, travel and legal services	1 space per 300 square feet of Gross Floor Area	1 space per 5,000 square feet of floor area
Other professional offices	1 space per 400 square feet of Gross Floor Area	1 space per 5,000 square feet of floor area
Animal services	1 space per 200 square feet of Gross Floor Area	
Restaurants *(Ord. # 1716)*	1 space per 100 square feet of Gross Floor Area plus one space per 100 square feet of outdoor seating area	1 space per 5,000 square feet of floor area
Personal care and other consumer services	1 space per 200 square feet of Gross Floor Area	1 space per 5,000 square feet of floor area
Laundromats and dry cleaners	1 space per 200 square feet of Gross Floor Area	
MANUFACTURING, WAREHOUSING AND WHOLESALE		
Manufacturing with on-site sales	1 space per 200 square feet of sales and administrative area plus one space per 600 square feet of production area	
Manufacturing with no on-site sales	1 space for every two employees on the maximum shift except that, if permissible in the commercial districts, such uses may provide 1 space per 200 square feet of Gross Floor Area	

Land Uses	Minimum Vehicle Parking Spaces	Minimum Bicycle Parking Spaces
Warehouse and outdoor storage facilities	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside).	
Self-service storage	1 space per 50 storage units	
Wholesale	1 space per 400 square feet of Gross Floor Area.	
TRANSPORTATION, COMMUNICATION AND UTILITIES		
Transportation services	1 space per 200 square feet of administrative floor area	
Curriers, package delivery and postal services	1 space per 200 square feet of Gross Floor Area	1 space per 5,000 square feet of floor area
Recycling centers	1 space for every employee on maximum shift.	
ARTS, ENTERTAINMENT AND RECREATION		
Theaters and stadiums	1 space for every four seats	1 space per 5,000 square feet of floor area
Libraries/museums	1 space per 300 square feet of Gross Floor Area	1 space per 2,500 square feet of floor area
Indoor recreation	1 space for every 3 persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion-example tennis courts or bowling alleys) plus 1 space per 200 square feet of Gross Floor Area used in a manner not susceptible to such calculation.	1 space per 5,000 square feet of floor area
Country clubs	1 space per 200 square feet of area within enclosed Buildings, plus	
Public recreation, outdoor	1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.	1 space per 10,000 square feet of recreation area
Commercial recreation parks	Miniature golf course, skateboard park, water slide and similar uses-1 space per 300 square feet of Lot Area devoted to the activity plus 1 space per 200 square feet of Building Gross Floor Area; Driving range-1 space per tee plus 1 space per 200 square feet in Building Gross Floor Area; Par Three Course-2 spaces per golf hole plus 1 space per 200 square feet of Building Gross Floor Area.	1 space per 10,000 square feet of recreation area
Stables	1 space per horse that could be kept at the stable when occupied to maximum capacity.	

Land Uses	Minimum Vehicle Parking Spaces	Minimum Bicycle Parking Spaces
Golf resort	1 space for every two employees on maximum shift plus additional spaces (in accordance with other sections of this table) for restaurants, golf and country clubs and Dwellings.	
EDUCATION, PUBLIC ADMINISTRATION, HEALTH CARE AND OTHER INSTITUTIONS		
Nursery schools/day care	1 space per employee plus 1 space per 200 square feet of Gross Floor Area	
Elementary and middle schools	1.175 spaces per classroom in elementary schools,	3 spaces per classroom
High schools	5 spaces per classroom	3 spaces per classroom
Colleges and universities	1 space per 150 square feet of Gross Floor Area	1 space per 2,400 square feet of academic space
Trade Schools	1 space per 100 square feet of Gross Floor Area	
Hospitals and clinics	2 spaces per bed or 1 space per 150 square feet of Gross Floor Area, whichever is greater.	
Medical and dental offices	1 space per 150 square feet of Gross Floor Area. May be reduced to 1 space per 300 square feet for single practitioners	
Emergency services	1 space per 200 square feet of Gross Floor Area	
Religious institutions	1 space for every four seats in the portion of the church Building to be used for services plus spaces for any residential use as determined in accordance with the parking requirements set forth above for residential uses, plus 1 space for every 200 square feet of Gross Floor Area designed to be used neither for services nor residential purposes.	
Death care services	1 space per 100 square feet of area open to the public plus 1 space per 200 square feet of other areas.	
Associations, non-profit organizations and private clubs	1 space per 100 square feet of meeting area plus 1 space per 200 square feet of administrative area	
CONSTRUCTION RELATED BUSINESSES		
Contracting offices	1 space for every 400 square feet of office space plus 1 space for every 1000 feet of storage area. Equipment and employee parking shall be located in a screened area behind the Principal Structure.	
AGRICULTURE AND FORESTRY		
Agricultural uses	1 space for every two employees on maximum shift	

Land Uses	Minimum Vehicle Parking Spaces	Minimum Bicycle Parking Spaces
Greenhouses with retail sales	1 space per 200 square feet of Gross Floor Area	
OTHER USES		
Home Occupations	2 spaces plus 1 space for each non-resident employee	

4.5.4. Flexibility in Administration Required

The Town Council recognizes that, due to the particularities of any given Development, the inflexible application of the parking standards set forth in Exhibit 4-6 may result in a Development either with inadequate or excess parking space. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private Lots. The latter situation results in a waste of money as well as a waste of space that could more desirably be used for Development or environmentally useful open space. Therefore, the Planning Director may permit reductions in the number of spaces or require more parking if the Planning Director finds in writing and notes on the Building permit or zoning permit approval that such deviations are more likely to satisfy actual parking needs in accordance with this section.

(A) The Planning Director may reduce the required number of spaces when:

(1) The Applicant agrees that the reduction for a project serving the elderly shall apply only as long as a residential Development is oriented toward the elderly;

(2) A business is primarily oriented to walk-in trade;

(3) The site is a reuse of a constrained site in a CB, NB or OS district and the Planning Director finds that at least ninety (90) percent of the required parking can be provided on-site, off-site or through a shared parking agreement;

(4) The Applicant has entered into an irrevocable agreement secure off-site parking;

(5) The Applicant has entered into an agreement for shared parking pursuant to section 4.5.10; or

(6) The Applicant has submitted and the Director concurs with a parking study, prepared by qualified professional.

(a) Such a study must illustrate that the parking requirements do not accurately apply to the specific Development proposal.

(b) The data submitted must include, at a minimum, the size and type of the proposed Development, the mix of uses, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses.

(c) The data must be obtained either from relevant studies published in refereed journals or other secondary source of comparable authority; or from primary studies of no fewer than three comparable Developments within the regional market.

(B) The Planning Director may require an increase in the number of parking spaces when:

(1) The proposed use is located near a concentration of similar uses and there is a record of citizen complaints about a lack of sufficient parking; or

(2) The Planning Director finds that the proposed use differs operationally from the typical parking generation for a comparable use shown in Exhibit 4-6.

(C) The Planning Director may allow aisle widths to be reduced by up to one (1) foot per lane from the minimums established in Exhibit 4-7 for constrained infill and redevelopment sites if the parking spaces accessed from such aisles are increased in width by at least one-half (1/2) foot.

(Ord. #1714)

4.5.5. Parking Space and Aisle Dimensions

(A) Except as otherwise provided in this section, parking spaces and aisles shall comply with the minimum dimensions established in Exhibit 4-7.

(B) In parking areas containing ten (10) or more parking spaces:

(1) Up to twenty (20) percent of the parking spaces may contain a rectangular area of only eight (8) feet in width by sixteen (16) feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.

(2) Up to five (5) percent of the required parking spaces may be designated for motorcycle or motor scooter parking in spaces measuring at least four (4) feet wide by (8) feet long.

(C) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-two (22) feet by eight (8) feet.

(D) Driveways that are not Parking Aisles shall be not less than ten (10) feet in width for one-way traffic and twenty (20) feet in width for two-way traffic, except that ten (10) feet wide driveways are permissible for two-way traffic when:

(1) The driveway is no longer than fifty (50) feet;

(2) It provides access to not more than six (6) spaces; and

(3) Sufficient turning space is provided so that vehicles need not back into a public street.

(Ord. # 1716)

Exhibit 4-7: Parking Space Design Standards

A Parking Angle (degrees)	B Standard Stall Width (feet)	C Stall Depth from Curb (feet)	D Aisle Width 1-way/2-way (feet)	E Curb Length (feet)	Minimum Lot Width (feet) (2 rows plus aisle)
0	8	8	10/22	22	28
30	9	15	10/22	18	40
37.5	9	16	11/22	15.1	43
45	9	17	13/22	12.7	47
52.5	9	18	15/22	11.4	51
60	9	19	18/22	10.4	56
90	9	19	24/24	9	62

Table Note: Letters A-E in the first 5 columns correspond with the angles and dimensions shown to right.

4.5.6. Parking Lot Locations

(A) In the CB zoning districts parking lots shall be located on the rear or interior side of any Building. There shall be no parking between the front elevation of the Building and street Right-of-Way. The CB areas falling within the DTO district are exempt from this requirement and can have a maximum of two (2) rows (one aisle with parking on both sides) of parking between the Building and street.

(B) In the NB zoning district a maximum of one row (an aisle with parking on one side) of parking is permitted between the Building and street.

(C) The standards in paragraphs (A) and (B) shall not apply to any back Building where there is an intervening Building between the back Building and any street in the CB and NB districts.

(D) In the GB zoning district, a Development with seventy-five (75) or fewer parking spaces shall have a maximum of two (2) rows of parking spaces between any street and the front elevation of a Building. All other parking must be located on the side or rear of the Building. Developments with more than seventy-five (75) parking spaces must have parking on at least (3) three sides of the Building with not more than thirty (30) percent of the parking spaces located in the front of the Building.

4.5.7. General Design Requirements

(A) Except for Single-Family and Duplex driveways and authorized head-in parking within the public Right-of-Way, parking spaces shall be designed to prohibit backing and driving forward directly into a public

Right-of-Way. All other parking spaces shall be designed so that vehicles do not have to back across a sidewalk.

(B) Except for spaces serving single-family residences, parking spaces shall be designed to prohibit any space from being inaccessible when any other space is occupied.

(C) At the end of any dead-end Parking Aisle, a vehicle maneuvering area measuring at least twenty-four (24) feet wide by six (6) feet deep shall be provided.

(D) The placement of barrier curbs is required to:

(1) Protect all landscaped areas from vehicular damage;

(2) Ensure that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way;

(3) Ensure that vehicles do not extend over sidewalks;

(4) Protect Building walls or other structures from damage.

(E) Non-continuous curbs or wheel stops shall be used where stormwater drains into landscaping, detention or Retention areas.

(F) Vehicle Use Areas of all Developments shall be designed so that sanitation, emergency and other public service vehicles can serve such Developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

(G) Circulation Areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

4.5.8. Vehicle Use Area Surfaces

(A) Vehicle Use Areas that (i) include lanes for drive-in windows or (ii) contain parking areas that are required to have more than ten (10) parking spaces and that are used regularly at least five (5) days per week shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion and dust. Specifications for surfaces meeting the standard set forth in this section are contained in Appendix E.

(B) Vehicle Use Areas that are not provided with the type of surface specified in paragraph (A) shall be graded and surfaced with crushed stone, gravel or other suitable material (as provided in the specifications set forth in Appendix E) to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties or other similar devices. In addition, whenever such a Vehicle Use Area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the Vehicle Use Area that opens onto such streets), shall be paved as provided in paragraph (A) for a distance of fifteen feet back from the edge of the paved street. This paragraph shall not apply to Single-Family or Two-Family Residences or other used that are required to have only one (1) or two (2) parking spaces.

(C) Parking spaces in areas surfaced in accordance with paragraph (A) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with paragraph (B) shall be demarcated whenever practicable.

(D) Vehicle Use Areas shall be properly maintained in all respects and kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

4.5.9. Access between Parking Lots

The Town Council encourages property owners to provide access between parking lots that abut one another to facilitate traffic circulation from one parking Lot to another. Access points between parking lots shall be at least ten (10) feet in width for one-way traffic and twenty (20) feet in width for two-way traffic.

4.5.10. Shared Parking

(A) One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.

(B) The Planning Director may approve the joint use of parking spaces for uses generating parking demands at different times subject to the Applicant's demonstration that the available parking will be sufficient for both uses and the provision of a shared parking agreement pursuant to paragraph (D) of this section. For example, if a parking Lot is used in connection with an office Building on Monday through Friday but is generally 90% vacant on weekends, another Development that operated only on weekends could be credited with 90% of the spaces on that Lot. Or, if a church parking Lot is generally occupied only to 50% of capacity on days other than Sunday, another Development could make use of 50% of the church Lot's spaces on those other days.

(C) If the joint use of the same parking spaces by two (2) or more Principal Uses involves satellite-parking spaces, then the provisions of section 4.5.11 are also applicable.

(D) Shared parking is permitted by agreement only. The agreement must:

(1) Be in writing and executed by all owners of the properties affected;

(2) Specify the parking being shared and the hours of operation by the uses involved;

(3) Be enforceable by the Town and approved by the Planning Director and the Town Attorney;

(4) Be recorded in the office of the clerk of court by the owner(s) of the property affected and a copy furnished to the Planning Director.

(E) An affidavit stating that the shared parking agreement is valid and no change in use or hours of operation of the affected properties has occurred shall be submitted annually to the Planning Director.

(F) A violation shall occur if a use is operated at a time other than during the hours of operation specified in the shared parking agreement. The Planning Director may revoke the certificate of use or occupancy for any use operated in violation of a shared parking agreement.

(G) Reserved parking spaces may not be shared.

4.5.11. Satellite Parking

(A) If the number of off-street parking spaces required by this chapter cannot reasonably be provided on the same Lot where the Principal Use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby Lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as "satellite" parking spaces.

(B) All such satellite parking spaces (except spaces intended for employee use) must be located within 600 feet of a public entrance of a Principal Building housing the use associated with such parking, or within 600 feet of the Lot on which the use associated with such parking is located if the use is not housed within any Principal Building. Satellite parking in the CB district shall be located within 1,200 feet of the public entrance to the Principal Building. Satellite parking spaces intended for employee use may be located within 1,200 feet of the Use. Satellite parking spaces must be located in a zoning district that permits parking lots for the applicable Use. All distances in this paragraph refer to the walking distance along sidewalks.

(C) The Applicant wishing to take advantage of the provisions of this section must present an agreement that complies with the provisions of 4.5.10(D). The Applicant also must Sign an acknowledgment that the continuing validity of his permit depends upon his continuing ability to provide the requisite number of parking spaces.

4.5.12. Special Provisions for Parking for Existing Buildings

The Planning Director may authorize the reuse of a Building in reliance on reasonably available on-site, on-street and satellite parking when:

(A) There exists a Lot with one or more structures on it constructed before the effective date of this chapter;

(B) A change in use that does not involve any enlargement of a structure is proposed for such Lot;

(C) The parking requirements of Exhibit 4-6 that would be applicable as a result of the proposed change cannot be satisfied on such Lot because there is not sufficient area available on the Lot that can practicably be used for parking; and

(D) It is a continuing condition of the permit authorizing the Use that the Applicant will secure satellite parking when it does become available.

4.5.13. Loading and Unloading Areas

(A) Except within the Historic Overlay District, whenever the normal operation of any Development requires that goods, merchandise or equipment be routinely delivered to or shipped from that Development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate such uses in a safe and convenient manner.

(Ord. #1714)

(B) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the Development in question. Loading spaces shall be at least twelve (12) feet wide by fifty-five (55) feet long and have an overhead clearance of at least fourteen (14) feet.

(C) Exhibit 4-8 lists the number of spaces required to comply with this section. However, the Planning Director may require up to ten (10) percent fewer or more loading spaces if the resulting number reasonably satisfies the use's loading requirements.

Exhibit 4-8: Required Loading Spaces

Gross Leasable Floor Area of Building	Number of Required Spaces
1,000 - 19,999	1
20,000 - 79,000	2
80,000 - 127,999	3
128,000 - 191,000	4
192,000 - 255,000	5
256,000 - 319,000	6
320,000 - 391,999	7
Plus one (1) for each additional 72,000 square feet or fraction thereof.	

(D) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can:

(1) Maneuver safely and conveniently to and from a public Right-of-Way; and

(2) Complete the loading and unloading operations without obstruction or interfering with any public Right-of-Way or any parking space or parking Lot aisle.

(E) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off street parking area be used to satisfy the area requirements for loading and unloading facilities.

(F) The Planning Director may authorize the reuse of a Building in reliance on reasonably available loading spaces when:

(1) There exists a Lot with one or more structures on it constructed before the effective date of this chapter;

(2) A change in use that does not involve any enlargement of a structure is proposed for such Lot; and

(3) The loading area requirements of this section cannot be satisfied because there is not sufficient area available on the Lot that can practicably be used for loading and unloading.

4.6. SIGNS

This section shall be known as the Town of Southern Pines Sign Code and may be referred to as the Sign code throughout this UDO.

4.6.1. Purposes

This Sign Code is intended to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory Sign standards. The Sign regulations are intended to:

(A) Encourage the effective use of Signs as a means of communications in the Town;

(B) Maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic Development and growth;

(C) Improve pedestrian and traffic safety;

(D) Minimize the possible adverse affect of Signs on nearby public and private property;

(E) Foster the integration of Signage with architectural and landscape designs;

(F) Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height and excessive size (area) of Signs that compete for the attention of pedestrian and vehicular traffic;

(G) Allow Signs that are Compatible with their surroundings and aid orientation, while precluding the placement of Signs that contribute to Sign clutter or that conceal or obstruct adjacent land uses or Signs;

(H) Encourage and allow Signs that are appropriate to the zoning district in which they are located and consistent with the category of use, activity and function to which they pertain;

(I) Curtail the size and number of Signs and Sign messages to the minimum reasonably necessary to identify a residential or business location and the nature of any such business;

(J) Establish Sign size in relationship to the scale of the Lot and Building on which the Sign is to be placed or to which it pertains;

(K) Categorize Signs based upon the function that they serve, and tailor the regulation of Signs based upon their function;

(L) Preclude Signs from conflicting with the Principal Permitted Use of the site and adjoining sites;

(M) Regulate Signs in a manner so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians;

(N) Except to the extent expressly preempted by state or federal law, ensure that Signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe Signs;

(O) Preserve, conserve, protect and enhance the aesthetic quality and scenic beauty of all districts of the Town;

(P) Allow for traffic control devices consistent with national standards and whose purpose is to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and that notify road users of regulations and provide warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream;

(Q) Protect property values by precluding, to the maximum extent possible, Sign types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness or movement;

(R) Protect property values by ensuring that Sign types, as well as the number of Signs, are in harmony with Buildings, Neighborhoods and conforming Signs in the area;

(S) Regulate the appearance and design of Signs in a manner that promotes and enhances the beautification of the Town, and that complements the natural surroundings in recognition of the Town's reliance on its natural surroundings and beautification efforts in retaining economic advantage for the community; and

(T) Enable the fair and consistent enforcement of these Sign regulations.

4.6.2. Applicability

The provisions of this Sign Code are applicable to all Signs, except as specifically provided in this section, authorized as part of a Variance, PD or Certificate of Appropriateness approval, or allowed for a Development Pattern authorized in a specific zoning district.

4.6.3. Substitution of Noncommercial Speech for Commercial Speech

Any Sign erected pursuant to this Sign Ordinance, or otherwise lawfully existing with a commercial message, may, at the option of the owner, contain a noncommercial message unrelated to the business located on the Premises where the Sign is erected. The noncommercial message may occupy the entire Sign face or any portion thereof. The Sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the owner of the Sign, provided that the Sign is not a prohibited Sign or Sign type.

(Ord. # 1716)

4.6.4. Severability clause.

If any provision of the Sign Code is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the Sign Code or this UDO regulating Signs, and all of such provisions shall remain in full force and effect.

(Ord. # 1716)

4.6.5. Determining the Number of Signs

(A) For the purpose of determining the number of Signs, a Sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single Sign.

(B) A multi-sided Sign shall be regarded as one Sign.

(C) One (1) Logo Emblem Sign is allowed in addition to the permitted number of Wall Signs.

4.6.6. Computation of Sign Area

(A) The surface area of a Sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight (8) straight lines or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem or other display together with any material or color forming an integral part of the background of the display or used to differentiate the Sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.

(B) If the Sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the Sign area. The area between a Wall Sign and a Logo Emblem Sign is exempt from the computation of Sign area. In the instance an establishment has a Wall Sign and Logo Emblem Sign on the same frontage, the area between the Wall Sign and the Logo Emblem Sign will not count towards the computation of the Sign area; only the surface area of the Sign shall be included in the computation of the Sign area.

(C) With respect to two-sided, multi-sided or three dimensional Signs, the surface area shall be computed by including the total of all sides designed either to attract attention or communicate information that can be seen at one time by any person from any vantage point. For example, with respect to a typical two-sided Sign where a message is printed on both sides of a flat surface, the Sign area of one side (rather than the sum total of both sides) shall be regarded as the total Sign area of that Sign, since one can see only one side of the Sign from any vantage point.

(D) With respect to V-shaped Signs, the surface area shall be calculated as in paragraph (C) above provided that the angle of the intersecting Sign planes does not exceed ninety (90) degrees. If the angle of the intersecting Sign planes exceeds ninety (90) degrees, Sign area shall be computed as it would for a one-sided Sign.

(E) In computing items of information, letters less than three (3) inches in height, if contained in a Wall Sign, shall not be counted.

4.6.7. Total Sign Area

(A) **Total Sign Area Limited**. Unless otherwise provided in this section 4.6, the total surface area devoted to all Signs on any Lot shall not exceed the limitations set forth in this section, and all Signs except Temporary Signs shall be included in this calculation.

(B) **Residential Districts**. Unless otherwise provided in this article or chapter 5, the maximum Sign area permitted on any Lot in any residential district is four (4) square feet.

(C) **GB and I Districts**. Subject to the other provisions of this section, the maximum total Sign area on any Lot in the GB or I district shall be determined by multiplying the number of feet of street frontage of the Lot by one (1) foot. However, in no case may the total Sign area exceed five-hundred (500) square feet.

(D) **Other Commercial Districts**. Subject to the other provisions of this section, the maximum Sign area permitted on any Lot in a commercial district other than the GB district or I district shall be determined by multiplying the number of feet of street frontage of the Lot by one-half (0.5) feet. However, in no case may the total Sign area exceed one-hundred (100) square feet.

(E) **Multiple Frontage Lots**. If a Lot has frontage on more than one (1) street, then the total Sign area permitted on that Lot shall be the sum of the Sign area allotments related to each street on which the Lot has frontage. However, the total Sign area that is oriented toward a particular street may not exceed the portion of the Lot's total Sign area allocation that is derived from frontage on that street.

(F) **Lots with No Frontage**. Whenever a Lot has no street frontage on any Lot boundary and an Applicant desires to install on such a Lot a Sign that is oriented toward a street, then the total Sign area permitted on that Lot shall be the Sign area that would be allowed if the Lot boundary closest to the street toward which such Sign is to be oriented fronted on such street.

(G) **Wall Signs**. The area of any Sign located on a wall of a structure may not exceed fifty (50) percent of the total surface area of the wall on which the Sign is located.

(H) **Signs within the Historic District Overlay**. Subject to other provisions of this section, the maximum total Sign area permitted for Signs for commercial entities located within the Historic District Overlay is fifteen (15) square feet for establishments with frontage on one street and twenty-five (25) square feet for establishments with frontage on two streets. Residential properties and Dwellings located within the Historic District Overlay are limited to a maximum total Sign area of four (4) square feet.

(Ord. #1775)

4.6.8. Freestanding Sign Area

(A) For purposes of this section, a side of a Freestanding Sign is any plane or surface included in the calculation of the total Sign area as provided in section 4.6.6. For example, Wall Signs typically have one side. Freestanding Signs typically have two sides (back-to-back), although four-sided and other multi-sided Signs are also common.

(B) A single side of a Freestanding Sign may not exceed thirty-five (35) square feet on Lots with less than four-hundred (400) feet of frontage and fifty (50) square feet on Lots with four-hundred (400) or more feet of frontage on the street toward which the Sign is primarily oriented.

(C) With respect to Freestanding Signs that have no discernible "sides", such as spheres or other shapes not composed of flat planes, no such Freestanding Sign may exceed the maximum total surface area allowed under paragraph (B) of this section for a single side of a Freestanding Sign.

4.6.9. Number of Signs Allowed

(A) **Freestanding Signs**

(1) Except as authorized by this section, no Development shall have more than one (1) Freestanding Sign.

(2) If a Development is located on a corner Lot that has at least one-hundred (100) feet of frontage on each of the two (2) intersecting public streets, then the Development may have not more than one (1) Freestanding Sign along each side of the Development bordered by such streets.

(3) If a Development is located on a Lot that is bordered by two public streets that do not intersect at the Lot's boundaries (double front Lot), then the Development may have not more than one (1) Freestanding Sign on each side of the Development bordered by such streets.

(4) For property with no less than nine-hundred (900) feet of frontage that abuts the US Highway 1 corridor that has topography substantially or completely blocking the view of a business Sign by passerby motorists from each direction, the positioning of one (1) additional Sign (no more than (2) two frontage Signs in total), one at each end of the property will be permitted. This is intended to provide the business with reasonable highway motorist exposure as other businesses have located on either side of the highway corridor. The additional Sign must conform to the requirements as specified in this section 4.6 of the UDO, and shall not to exceed sixteen (16) square feet in size.

(5) All Freestanding Signs shall be of a shape that the ratio between the maximum and minimum dimensions shall not exceed 2 to 1.

(B) **Wall and Logo Emblem Signs**

(1) Only one (1) Wall Sign and one (1) Logo Emblem Sign per establishment are permissible except as authorized in this section.

(2) A second Wall Sign may be established if the business has frontage on more than one street.

(3) A secondary Wall Sign may be placed between the business establishment and its principal parking area if there is no parking between the business establishment and a street. The area of the secondary Wall Sign shall not exceed the lesser of thirty-five (35) square feet or the maximum size allowed for the street facing Wall Sign.

(4) A Plaque-inset Sign that does not exceed 3.5 square feet is not considered a Wall Sign.

4.6.10. Sign Location and Height Requirements

(A) No Sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this section, roof surfaces constructed at an angle of seventy-five (75) degrees or more from horizontal shall be regarded as wall space. This provision shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.

(B) No Wall Sign attached flat to a Building may project more than twelve (12) inches from the Building wall. Projecting Signs may, however, exceed the twelve (12) inch limit. One Projecting Sign not to exceed four (4) square feet in Sign area, may be allowed per establishment in the CB zoning district. The bottom edge of such Projecting Signs must be located at least eight (8) feet above the sidewalk.

(C) No Sign or supporting structure may be located in or over the traveled portion of any public Right-of-Way unless the Sign is attached to a structural element of a Building and an encroachment permit has been obtained from the Town.

(D) No part of a Freestanding Sign may exceed a height, measured at average grade at the base of the Sign, established in Exhibit 4-9.

Exhibit 4-9: Maximum Sign Height

District	Height
All residential districts and uses	7 feet
All non-residential districts and uses	10 feet

(E) Additional Sign height restrictions for Lots located within an airport hazard overlay district are established section 3.6.7.

4.6.11. Sign Illumination and Signs Containing Lights

Unless otherwise prohibited by this section 4.6, Signs may be illuminated only if such illumination is in accordance with this section.

(A) No Sign within one-hundred-fifty (150) feet of a Residential Zone may be illuminated between the hours of 12 midnight and 6:00 a.m., unless the impact of such lighting beyond the boundaries of the Lot where it is located is entirely inconsequential.

(B) Lighting directed toward a Sign shall be shielded so that it illuminates only the face of the Sign and does not shine directly into a public Right-of-Way or residential Premises.

(C) Subject to paragraph (E) of this section, illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows or similar areas are prohibited.

(D) Subject to paragraph (E) of this section, any illuminated Sign shall be lighted with non-flashing and motionless illumination. Signs shall not include or have the appearance of animation or electronic changeable message(s).

(E) Exceptions to these Sign illumination requirements as follows:

(1) Paragraphs (C) and (D) of this section do not apply to Temporary Signs erected in connection with the observance of holidays.

(2) Paragraph (C) does not apply to:

(a) Strings of miniature white lights in the **CB** District;

(b) Lights used on theater marquees in the Central Business District;

(c) A single lighted Window Sign measuring no larger than one square foot in area; and

(d) Architectural accent lights for which the source is completely screened from view from all streets, sidewalks and abutting property lines. Such accent lights shall be downlit, shall not illuminate more than thirty (30) percent

of the length of any wall and shall be subject to approval through the Architectural Compliance Permit process.

4.6.12. Subdivision and Multi-Family Development Entrance Signs

(A) At any entrance to a residential Subdivision or Multi-Family Development, there may be either one double faced identification Sign not to exceed thirty-two (32) square feet in size or two (2) single faced identification Signs not to exceed thirty-two (32) square feet per face. Such Signs must be of a Monument style and shall not exceed six (6) feet in height.

(B) In addition to any entrance Signs, Subdivisions may have Signs within the Development identifying specific sections within the Subdivision. A section may have two (2) single face Signs not to exceed sixteen (16) square feet in size per face. The Subdivision may have one (1) section Sign (up to two (2) Sign faces) for each thirty (30) Lots, Townhouses or Condominium Dwelling Units. Section Signs shall be available to PD districts and shall not be visible from the main thoroughfare or any other street from which the Subdivision obtains access. Such Signs must be of a Monument style and shall not exceed six (6) feet in height.

(C) At any entrance to an office/commercial/industrial Development there may be one double-faced Sign not to exceed one-hundred (100) square feet in size. Such Signs must be of a Monument style. Maximum height of such Sign(s) is ten (10) feet. To qualify for such Signage the Development must be a minimum of fifty (50) acres in size; the Development is limited to two (2) Signed entrances with a minimum one-thousand (1,000) feet of separation between Signs on the same street. Such Signs shall be located parallel to the entrance road outside of any Traffic Visibility Triangle.

(D) At any entrance to an office-subdivision there may be one (1) double-faced Sign not to exceed thirty-two (32) square feet in size. Such Signs must be of Monument style. Maximum height of such Sign(s) is seven (7) feet. To qualify for such a Signage the Development must be a minimum of ten (10) acres in size. The Development is limited to two (2) Signed entrances with a minimum one-thousand (1,000) feet of separation between Signs on the same street. Such Signs shall be parallel to the entrance road outside of any Traffic Visibility Triangle.

4.6.13. Shopping Center Signs

(A) Shopping Centers are required to maintain a Unified Sign Plan.

(B) Signs in Shopping Center Developments are restricted to Monument Signs, Wall Signs, Projecting Signs, Canopy Signs and certain Temporary Signs delineated in section4.6.16.

(C) One (1) Monument Sign per Shopping Center is permitted. However, for Developments having multiple arterial street frontages one additional Monument Sign may be approved for each arterial street frontage. Monument Sign area is calculated at one (1) square foot of Sign area for each linear foot of street frontage or one-hundred (100) square feet of Sign area, whichever is less. Monument Signs shall not exceed a height of ten feet. Additional Monument Signs may be permitted for outParcel Buildings within a Shopping Center Development provided that:

(1) There is only one (1) Freestanding Sign per out-Parcel;

(2) The maximum Sign area for the Monument Sign is thirty-two (32) square feet;

(3) The maximum height of the Monument Sign is ten (10) feet; and

(4) The Sign is not located within one hundred (100) feet of any other Freestanding Sign.

(D) One Wall Sign per separate business establishment is permitted. A second Wall Sign may be established if the business establishment has

frontage on more than one street or if the business establishment's parking is not located between the establishment and street. Allowable Wall Sign area is determined as follows:

(1) Establishments with a Building Frontage of fifty (50) feet or less shall have no Sign greater than thirty-five (35) square feet.

(2) Establishments with a Building Frontage greater than fifty (50) feet shall have a maximum Wall Sign area of one (1) square foot of Sign area for each l foot of Building Frontage or two-hundred (200) square feet of Sign area, whichever is less.

(E) One (1) Projecting Sign per separate business establishment is permitted. Projecting Signs may exceed the twelve (12) inch limit for Signs attached to a wall. Projecting Signs are not to exceed four (4) square feet in Sign area. The bottom edge of such Projecting Signs must be located at least eight (8) feet above the sidewalk.

4.6.14. Landmark Signs

(A) Landmark Signs are monument structures identifying the name of a specific sub-area or major mixed-use Development. Landmark Signs shall only display the name of the sub-area or overall Development and shall not depict the name of any businesses or Subdivisions within the project area.

(B) Landmark Signs are only permitted in the PD (Planned Development) zoning classification.

(C) The location and number of Landmark Signs permitted within a Development will be determined during the Planned Development application process for the entire Development. For Existing Developments eligible for Landmark Signs, the location and number of Landmark Signs will be determined by the Town of Southern Pines Planning Staff.

(D) No Landmark Sign shall be located within one thousand two hundred (1,200) feet of another Landmark Sign.

(E) If a Landmark Sign is used as part of commercial Development project, the Sign shall be counted as an authorized Monument Sign.

(F) The Town Council will approve the architectural design of Landmark Signs through the Architectural Compliance Permit process. Landmark Signs must compliment the character and architectural design of the Development. Landmark Signs must also be consistent with other permitted signage to create a unified signage character for the entire Development.

(G) Landmark Signs shall not exceed the following dimensional restrictions:

(1) The maximum height for a Landmark Sign is twenty-five (25) feet;

(2) The base of the structure shall not exceed one hundred square feet; and

(3) The maximum profile area of the Landmark Sign shall not exceed one-hundred and fifty (150) square feet. Profile area is the area within the maximum height and width extent of the Sign as viewed horizontally from any side.

(H) Illumination of Landmark Signs must be internal to the Sign monument or lit from above in a downward fashion. No up-lighting of these Signs will be permitted.

4.6.15. Signs Exempt from These Regulations

The following Signs are exempt from regulation under this chapter except for those stated in sections 4.6.17(D) through 4.6.17(G).

(A) Signs not exceeding four square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as (i) Signs giving property identification names or numbers or names of occupants, (ii) Signs on mailboxes or paper tubes, and (iii) Signs posted on private property relating to private parking or warning the public against trespassing or danger from

animals. In the HCO district, such Signs shall not exceed two (2) Signs per zoning Lot nor two (2) square feet in area per display surface and shall not be taller than three (3) feet in height

(B) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational Signs and traffic, directional or regulatory Signs.

(C) Official Signs of a non-commercial nature erected by public utilities.

(D) Flags, pennants or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising device. However, the number of such flags, pennants or insignia shall be limited to three (3) per Premises.

(E) Legal notices, identification and informational Signs and traffic directional or regulatory Signs erected by or on behalf of a governmental body.

(F) Memorial Signs or tablets and names and construction dates of Buildings when cut into any masonry surface or mounted bronze Plaque.

(G) Integral decorative or architectural features of Buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts or lights.

(H) Signs directing and guiding traffic and parking on private property that do not exceed four (4) square feet each and that bear no advertising matter visible from public Right-of-Way.

(I) Church bulletin boards and church identification Signs that do not exceed one (1) per abutting street and sixteen (16) square feet in area. A maximum of two (2) off-premises church identification Signs may be permitted provided that each Sign does not exceed two square feet in area.

(J) Devices, depictions, letterings, or symbols painted on or otherwise affixed to currently licensed motor vehicles and not used in violation of this chapter.

(K) School identification Signs that do not exceed one per abutting street and sixteen (16) square feet in area. The Development in which the school is located cannot exceed (1) one Sign per street frontage per section 4.6.9.

4.6.16. Certain Temporary Signs Not Requiring Permits

The following Temporary Signs are permitted without a zoning special use or Sign permit. However, such Signs shall conform to the requirements set forth below as well as all other applicable requirements of this chapter except those contained in sections 4.6.7 (Total Sign Area) and 4.6.9 (Number of Signs Allowed). Other Temporary Signs not listed above shall be regarded and treated in all respects as permanent Signs, except that (as provided for the Historic Overlay District) Temporary Signs shall not be included in calculating the total amount of permitted Sign area.

(Ord. # 1919)

(A) Signs containing the message that the real estate on which the Sign is located (including Buildings) is for sale, lease or rent, together with information identifying the owner or agent.

(1) Such Signs may not exceed six (6) square feet in area and shall be removed immediately after sale, lease or rental.

(2) For Lots of less than five (5) acres, a single Sign on each street frontage may be erected. For Lots of five (5) acres or more in area and having a street frontage in excess of four hundred (400) feet, a second Sign not exceeding six (6) square feet in area may be erected.

(3) Each Sign shall be located no closer than ten feet to the paved portion of a road (street) or ten (10) feet from the edge of the travel portion of a non-paved road (street).

(4) In the HCO districts such Signs may include up to sixteen (16) square feet per display surface for property zoned non-residential or located within an approved planned Development

(5) All such Signs shall be removed not more than seven (7) days after sale, rental or lease of the Premises.

(B) Construction site/opening soon identification Signs. Construction Signs may identify the project, the owner or Developer, architect, engineer, contractor and subcontractor, funding sources and related information. Not more than one such Sign may be erected per site and it shall not exceed four (4) square feet in area per display surface for Single-Family or Duplex construction or thirty-two (32) square feet in area for Multi-Family or non-residential construction. Such Signs shall not be erected prior to the issuance of a Building permit and shall be removed within ten (10) days after the issuance of a Certificate of Occupancy. One "Opening Soon" Sign may be permitted per Building site provided such Sign does not exceed thirty-two square feet in area and is erected for a period not to exceed sixty (60) days.

(C) Signs attached temporarily to the interior of a Building window or glass door, such Signs, individually or collectively, may not cover more than fifty percent of the surface area of the transparent portion of the window or door to which they are attached.

(D) Displays, including lighting, erected in connection with the observance of holidays. Such Signs shall be removed within ten (10) days following the holidays.

(E) Signs erected in connection with elections or political campaigns. The maximum allowable Sign area of any such Sign shall be six (6) square feet. Each Sign shall be located no closer than ten (10) feet to the paved portion of a road or ten (10) feet from the edge of the travel portion of a non-paved road and may not be attached to a tree or other living plant material. No more than one Sign per candidate shall be permitted for each street frontage per Lot. Such Signs may only be erected within two (2) weeks of the date of the primary, general or special election and must be removed within two (2) days following the primary, general or special election voting day for which the Signs are intended to serve. If the period of time between a primary and a general or special election for which the primary is serving is less than four (4) weeks, measured from the date of the primary voting day to the date of the general or special election voting day, the Signs shall be allowed to remain in place. Such Signs may be erected at officially designated polling places on the day of the election and shall be limited to one (1) Sign per candidate.

(F) Banners and other Signs indicating that a special event such as a fair, carnival, circus, or festival is to take place on the Lot where the Sign is located. Such Signs may be erected up to one (1) week before the event and must be removed not later than three (3) days after the event.

(G) Temporary Signs announcing the openings of new businesses, provided such Signs are on the Premises in which the business is located do not exceed thirty-two (32) square feet of display area per business site and are displayed for a period not to exceed thirty (30) days.

(H) Yard, auction or garage sale Signs announcing yard or garage sales, provided such Signs do not exceed one (1) Sign per site of such sale nor four (4) square feet in area per display surface and are removed within twenty (24) hours of erection.

(I) Temporary Off-Premises directional and instructional Signs concerning an annual public event may be allowed on private property and public street rights-of-way provided that the following conditions are met:

(1) A $100.00 fee is paid to the Planning Department. A maximum of $75.00 of the fee is refundable at such time as the administrator is assured that all such Signs erected have been removed.

(2) The Signs contain only directional and instructional information solely for the purpose of directing pedestrian and/or vehicular traffic to an annual non-profit and non-commercial activity or function.

(3) The public event or function for which the Signs are proposed is undertaken by a bona-fide non-profit, civic, religious, charitable or fraternal organization. The Signs not exceed four (4) square feet in area and not exceed a height of three (3) feet.

(4) The Signs shall be independently free-standing ground Signs (not attached to a tree or other living plant material, utility poles or Building) and be located so as not to infringe on a sight distance triangle.

(5) The Signs shall be erected for no more than one day prior to the start of the event and removed one day after the completion of the event but in no case shall such Signs be erected for a total period to exceed seven (7) days.

(J) Signs or banners indicating the following Special Events: Rockingham NASCAR races, Stoneybrook Steeplechase, professional golf tournaments, Springfest/Tour de Moore, Autumnfest, Elk's National Golf Tournament or other Special Events recognized by resolution of the Town Council, public service messages by the Police or Fire Departments. Such Signs or banners may be erected up to one (1) week before the event and must be removed not later than the first business day after the event. Maximum size of temporary banners shall be forty (40) square feet. Not more than one (1) Sign or banner shall be allowed per business. Such Signs or banners must be produced by a commercial Sign company.

(K) Banners indicating the 50th, 75th and 100th year celebration for churches. Such banners shall be a maximum size of forty (40) square feet and shall be permitted for one (1) year.

(L) Banner flags displayed on any theater in the Central Business (CB) District when they are used to call attention to a forth coming or current performance or event at the theater. Banner flags shall not exceed thirty (30) square feet in size. Banners shall be erected no more than ten (10) days prior to an event and must be removed within two (2) days after the event.

(M) In the C.B. district, Signs placed by the occupant of the Premises within twelve (12) feet of the Premises if:

(1) The Sign does not interfere with vehicular or pedestrian traffic;

(2) The Sign's area is no greater than six square feet;

The Sign is removed when the Premises are not open for business.

(Ord. #1703)

4.6.17. Miscellaneous Restrictions and Prohibitions

(A) No Off-Premises Signs (except those exempted from regulation or from permit requirements under sections 4.6.13 and 4.6.14) may be located in any district. Off-Premises Signs are prohibited in all HCO Districts, except those which existed on March 1, 1995 in, the Town of Southern Pines that:

(1) Are located along federal aid primary highways for which Sign compensation is regulated by state and federal law; and

(2) Were erected and are permitted and maintained in compliance with state regulations.

(B) All Signs, including the supports, frames and embellishments thereto, shall be located outside of any public Right-of-Way.

(C) No Sign shall be attached, affixed or painted on any utility pole, light standard, telecommunications pole, any tree or other natural object.

(D) No Sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

(E) Signs shall not include or have the appearance of animation or changeable information. Without limiting the foregoing, banners, streamers, animated display boards, pennants and propellers are prohibited. The restriction of this section shall not apply to exempt flags, pennants or insignia.

(F) Freestanding Signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the Sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.

(G) No Portable Signs except those meeting the requirements of Section Section 4.6.16 shall be allowed in any zoning district.

(H) Canopy Signs are permitted when suspended or attached to the underside of a canopy provided such Signs do not exceed six (6) square feet in area and shall be located at least eight feet above the sidewalk.

(I) Flags, pennants or insignia of any governmental or non-profit organization shall be limited to three (3) per Premises.

(J) The Sign area of a Sign permanently painted, affixed or placed in a Building window that is visible from a street Right-of-Way shall be restricted to no more than forty (40) percent of the total window area.

(K) Awning Signs shall be located on the awning valance and shall not exceed twelve (12) square feet in area or cover more than twenty (20) percent of the awning area.

(L) No Sign on a vehicle shall be located in any zoning district when the vehicle on which the Sign appears is placed so that the practical effect of the Sign on the vehicle is to advertise the entity or activity to which the Sign refers rather than to identify the vehicle, unless the vehicle is being used off-premises in the regular course of business or is being operated, loaded, or unloaded.

(M) Nothing in this code shall be interpreted to allow for the use of Dynamic Digital Signs (electronic message centers, television screen type) or apparatus as part of a permissible Sign. This provision is not intended to limit the use of LED bulbs to illuminate Signs.

(Ord. # 1716)

(N) **Traffic Safety Precautions**. Notwithstanding any other provision in this section, the following restrictions shall apply to Signs to preserve the safety of pedestrian, bicycle and vehicular movement:

(1) No permanent Sign or part thereof shall be located within a Traffic Visibility Triangle as defined by the Town or N.C.D.O.T., nor within the public Right-of-Way.

(2) No Sign shall make use of the words "STOP", "SLOW", CAUTION", "DANGER" or any other word, phrase, symbol, light or character in such manner as is reasonably likely to be confused with traffic directional and regulatory Signs.

(3) No Sign shall be erected so that by its location, color, nature or message is likely to be confused with or obstruct the view of traffic Signals or Signs or is likely to be confused with the warning lights of an emergency or public safety vehicle.

(4) No Sign shall contain flashing lights.

(5) No Sign shall be located within any public or private Right-of-Way except as specifically approved through the PD process.

(O) Signs in Residential Districts

(1) Lighting of Signs in Residential and Planned Development districts is permitted with only direct illumination. All fixtures must be concealed and spillover of light must be minimal.

(2) No Sign shall be erected or displayed in any Residential or Planned Development district except as exempted by section 4.6.15, or specifically allowed by this Sign Code.

4.6.18. Non-Conforming Signs

Non-Conforming Signs are subject to the provisions of Chapter 7 of this ordinance.

4.6.19. Sign Removal

Any Temporary Sign erected in violation of the provisions of this chapter may be removed immediately by the administrator. Any Sign so removed shall be retained at a designated municipal facility until recovered by the Sign owner following payment to the Town of a $5.00 fee per Sign. Any Sign not recovered within 10 days will be destroyed.

4.6.20. Discontinued Signs

Upon the discontinuance of business occupancy of an establishment for a consecutive period of ninety (90) days, the administrator shall require the removal of the on-premises Sign(s) advertising or identifying the establishment. The administrator shall give thirty (30) days notice to the property owner to remove the Sign(s), including all of its attendant supports, frames and hardware unless such Sign is proposed to be used by a new establishment on the Premises in conformance with all current regulations of this section 4.6. Failure to remove the Sign(s) within the thirty (30) day period shall constitute a violation of this UDO.

4.6.21. Non-Conforming Signs

A non-conforming Sign is a Sign that was legally established but which no longer complies with the Sign regulations of this UDO.

(A) Expansion and Improvement. A non-conforming Sign shall not be enlarged, expanded or otherwise improved, except for change of text or Sign panels, routine maintenance or repair.

(B) Moving. A non-conforming Sign shall not be moved in whole or in part to any other location unless the move results in the entire Sign being brought into compliance with all applicable regulations of this UDO.

(C) Loss of Non-Conforming Status. If a Sign is destroyed by any means, by more than fifty (50) percent of the replacement cost of the Sign, it shall not be reestablished except in compliance with all applicable regulations.

(D) Repairs. Repairs to damage to a non-conforming Sign shall be completed within three (3) months of the time of such damage or the Sign shall be removed.

(E) Signs in existence on the effective date of this ordinance that do not comply with the provisions regulation the use of strobe lights, zip lights, flashing lights, rotating beacons, flags, streamers or strings of lights shall be made to conform with the provisions of this UDO within ninety (90) days of its adoption.

4.6.22. Signs Within the Historic District Overlay

(A) Signs in the Historic District shall obtain a Certificate of Appropriateness prior to any installation, with the exception of certain Temporary Signs not requiring a permit.

(B) Signs in the Historic District are restricted to Monument Signs, Wall Signs, Projecting Signs, Canopy Signs, Awning Signs and certain Temporary Signs as set forth in UDO Section 4.6.16.

(C) One (1) Monument Sign per Parcel is permitted. However, the Monument Sign shall be located on private property and subject to the following:

(1) When multiple tenants share a structure located on a single Parcel, only one (1) Monument Sign is permitted.

(2) The maximum Sign area for the Monument Sign is ten (10) square feet.

(3) The maximum height of the Monument Sign is four (4) feet; and

(4) The Monument Sign is not located within any site distance triangle and does not interfere with any vehicular or pedestrian way.

(D) One (1) Wall Sign per separate business establishment is permitted. A second Wall Sign may be established if the business establishment has frontage on more than one street or if the business establishment's parking is not located between the establishment and the street. Wall Signs shall not exceed six (6) square feet in area.

(E) One (1) Projecting Sign per separate business establishment is permitted. Projecting Signs may exceed the twelve (12) inch limit for Signs attached to a wall. Projecting Signs are not to exceed four (4) square feet in Sign area. The bottom edge of such Projecting Signs must be located at least seven (7) feet above the sidewalk.

(F) Canopy Signs are permitted when suspended or attached to the underside of a canopy provided such Signs do not exceed four (4) square feet in area and shall be located at least seven (7) feet above the sidewalk.

(G) Awning Signs are permitted to be located on the awning valance and shall not exceed six (6) square feet in area or cover more than twenty (20) percent of the awning area.

(H) The Sign area of a Sign permanently painted, affixed or placed in a Building window that is visible from a street Right-of-Way or pedestrian way shall be restricted to no more than forty (40) percent of the total window area.

(Ord. #1775)

4.7. Fences and Walls

All fences and walls shall comply with the requirements of this section unless specifically approved as part of a Planned Development, Architectural Compliance Permit, Conditional Zoning or Special Use Permit, Variance or Certificate of Appropriateness.

(Ord. #2052)

(A) Except as otherwise provided in this section, fences that are no taller than six (6) feet may be built along interior side and rear property lines.

(B) Exterior Side Yard fences that are no taller than six (6) feet shall be at least two feet from the Right-of-Way and no closer than two (2) feet from the inside edge of the sidewalk.

(C) Fences in Front Yards are discouraged, but must be:

(1) Located least two (2) feet from the Right-of-Way and no closer than two (2) feet from the inside edge of the sidewalk;

(2) Less than sixty (60) percent opaque;

(3) Be designed as picket or wrought-iron style fences (chain link and chicken wire are prohibited); and

(4) Not exceed four (4) feet in height, except that wrought iron and split rail style fences may be up to five (5) feet tall.

(Ord. #1714)

(D) Perimeter chain link fences that are installed in any Institutional, Commercial or Residential Development must locate the fence no closer to the property line than the middle of the Setback or buffer. Existing vegetation cannot be removed in the Setback/buffer. If berms are located in the buffer or Setback then the fence must be behind the berm, inside the Development. The fence cannot be taller than (6) six feet from ground level and must be of a non-reflective color such as brown, black or dark green.

(E) Fences shall be considered to be structures that are subject to the zoning district Setback requirements if they are located in a Yard

adjacent to a street Right-of-Way, exceed (6) six feet in height and are substantially opaque.

(F) No fence shall obstruct any traffic safety visibility zone.

(G) Barbed wire, razor wire or other fence materials designed to cut or puncture are prohibited in all districts, except in the I and GB districts. In the HCO districts, such fences shall be limited to side and rear property lines that are screened from the highway corridor and abutting residential properties.

(H) Deer fences may be erected around gardens provided that the fences are located at least ten (10) feet from the nearest property line.

(Ord. #1714)

4.8. LIGHTING

4.8.1. Title

The provisions contained in this section 4.7(G) shall be known and may be cited as the Southern Pines Lighting Code (or Lighting Code).

4.8.2. Purposes

The general purpose of this section is to protect and promote the public health, safety and welfare, the quality of life, the ability to view the night sky, and ongoing operations on Fort Bragg by establishing regulations and a process of review for exterior lighting. These provisions establish standards for exterior lighting to:

(A) Protect against direct glare and excessive lighting;

(B) Provide safe roadways for motorists, cyclists and pedestrians;

(C) Protect and reclaim the ability to view the night sky, and help preserve the quality of life and the tourist experience;

(D) Prevent Light Trespass in all areas of the Town's jurisdiction or adjacent jurisdictions;

(E) Promote efficient and cost-effective lighting;

(F) Ensure that sufficient lighting can be provided where needed to promote safety and security;

(G) Allow for flexibility in the style of lighting fixtures;

(H) Provide lighting guidelines.

(Ord. # 1716)

4.8.3. Applicability

(A) All applications for design review, special use, Subdivision and/or Building permits shall include lighting plans showing location, type, height and lumen output of all proposed and existing fixtures. The Applicant shall provide enough information to verify that lighting conforms to the provisions of this lighting code. The Planning Director shall have the authority to request additional information in order to achieve the purposes of this Lighting Code.

(B) All exterior lighting installed after the effective date of the ordinance codified in this Lighting code in any and all zoning districts in the Town shall be in conformance with the requirements established herein and any other applicable ordinances. All Existing Lighting in any and all zoning districts in the Town shall be addressed as follows:

(1) All Existing Lighting located on a subject property that is part of an application for an architectural compliance permit, special use, or Subdivision, or Building permit approval is required to be brought into conformance with this lighting code. Conformity shall occur prior to issuance of certificate of occupancy, final inspection or Final Plat recordation, when applicable. For other permits, the Applicant shall have a maximum of thirty (30) days from date of permit issuance to bring the lighting into conformance.

(2) All existing exterior commercial lighting that is not in conformance with this lighting code shall be brought into conformance within two (2) years from the date of adoption of

this lighting code. Where the property owner can provide a valid lease agreement for Existing Lighting, the Board of Adjustment may grant a variance to this provision subject to appropriate conditions to bring lighting closer to compliance with these regulations through shielding or other appropriate actions.

(3) **Moving**. Non-conforming lighting shall not be moved to any other location unless the move results in the entire light being brought into compliance with all applicable regulations of this UDO.

(4) **Loss of Non-Conforming Status**. If a light is destroyed or rendered inoperable for any reason other than failure of the bulb it shall not be repaired unless such repair will bring the light into compliance with all applicable regulations of this UDO.

(Ord. #1716; Ord. #1919)

4.8.4. Exemptions

The following are exempt from the requirements of the Lighting Code:

(A) Outdoor lighting fixtures on advertisement Signs on interstates and federal primary highways;

(B) Outdoor lighting fixtures existing and legally installed prior to the effective date of this Lighting Code; however, when Existing Lighting fixtures become irreparable, their replacements are subject to all the provisions of this Lighting Code;

(C) Navigational lighting systems at airports and other lighting necessary for aircraft safety;

(D) Outdoor lighting fixtures that are necessary for worker safety;

(E) Holiday lights for the period from October 25th to January 15th, except that flashing holiday lights are prohibited on commercial properties. Flashing holiday lights on residential properties are discouraged. Holiday lights are encouraged to be turned off after bedtime and after close of businesses; and

(F) Vehicular lights and all temporary emergency lighting needed by the Fire and Police Departments, or other emergency services.

(G) Outdoor accent lighting for single-family residential properties provided that each light fixture emits no more than one thousand (1,000) lumens.

(H) Lighting at Town parks.

4.8.5. General Standards

All exterior lighting shall be full cut-off fixtures with the light source fully shielded, with the following exceptions:

(A) **Unshielded Luminaires**. When a light source or luminaire has no cutoff the standards in Exhibit 4-10 shall be met. Note that one (1) lumen per square foot equals one (1) foot candle

Exhibit 4-10: Standards for Unshielded Luminaires

Standard	Maximum Permitted Average Maintained Illumination at Ground Level**	Maximum Permitted Height of Light Source*
Residential Districts	0.20 lumen per square foot	16 feet
Commercial Districts	0.20 lumen per square foot	16 feet
Industrial Districts	0.30 lumen per square foot	20 feet

* Measured from the ground to light source.

** Measured at the property line.

Examples of Unshielded Luminaires

(B) **Luminaires with Total Cutoffs**. When a luminaire has total cutoff at ninety (90) degrees, the standards in Exhibit 4-11 shall be met.

Exhibit 4-11: Standards for Luminaires with Total Cutoffs

Standard	Maximum Permitted Average Maintained Illumination**	Maximum Permitted Height of Light Source*
Residential Districts (not including Multi-Family)	0.50 lumen per square foot 1.00 lumen per square foot	16 feet 25 feet
Commercial and Industrial Districts	2.00 lumens per square foot 3.00 lumens per square foot	30 feet 40 feet.

* Measured from the ground to light source.
**Measured at the property line

Examples of Luminaires with Total Cutoffs

(C) **Luminaires with Cutoffs Less Than 90 Degrees**. When a luminaire has total cutoff of light at an angle less than ninety (90) degrees and is located so that the light source is completely shielded from the direct view of an observer five (5) feet above the ground any property line, then the maximum permitted illumination and the maximum permitted height of the luminaire shall meet the standards in Exhibit 4-12.

Examples of Luminaires with Cutoffs Less than 90 Degrees

Exhibit 4-12: Standards for Luminaires with Cutoffs Less Than 90 Degrees

Standard	Maximum Permitted Illumination**	Maximum Permitted Height of Light Source*
Residential District	0.50 lumen per square foot 1.00 lumen per square foot	20 feet 25 feet
Commercial District	2.00 lumens per square foot 3.00 lumens per square foot	30 feet 40 feet
Industrial	4.00 lumens per square foot	40 feet

* Measured from the ground to light source.

** Measured at the property line.

(D) **Motion Sensor Lighting**. Sensor activated lighting may be unshielded provided it is located in such a manner as to prevent direct glare and lighting into properties of others or into a public Right-of-Way, and provided the light is set to only go on when activated and to go off within five minutes after activation has ceased, and the light shall not be triggered by activity off the property.

(E) **Non-Essential and Security Lighting**. All non-essential exterior commercial and residential lighting is encouraged to be turned off after business hours and/or when not in use. Lights on a timer are encouraged. Sensor activated lights are encouraged to replace Existing Lighting that is desired for security purposes.

(F) **Floodlamps and Area Lights**. All floodlamps and area lights shall be aimed downward at least forty-five (45) degrees and no portion of the light bulb shall extend below the bottom edge of an external shield. Any floodlamp or area light emitting 1,000 or more lumens shall be aimed downward at least sixty (60) degrees. The light source of floodlamps and area lights shall not be visible from adjacent properties or the public Right-of-Way. Flood lights with directional shielding and photocells with timers that allow a flood light to go on at dusk and off by eleven p.m. are encouraged.

(G) **Uplighting.** Uplighting is prohibited in all zoning districts, except in cases where the fixture is shielded by a roof overhang or similar structural shield from the sky and the light fixture(s) will not cause light to extend beyond the structural shield, and except as specifically permitted in this Lighting Code.

(H) **Flag Poles.** Upward flagpole lighting is permitted for governmental flags only and provided that the maximum output is one thousand three hundred (1,300) lumens. Flags are encouraged to be taken down at sunset to avoid the need for lighting.

(I) **Canopy Lights Service Stations.** The average lighting level for new and existing service stations shall be no greater than fifteen (15) maintained lumens per square foot under the canopy. All lighting shall be recessed to ensure that no light source is visible from or causes glare on public rights-of-way or adjacent property.

(Ord. #2095)

(J) **Towers.** All radio, communication and navigation towers that require lights shall have dual lighting capabilities. For daytime, the white strobe light may be used, and for nighttime, only red lights shall be used.

(K) **Temporary Lighting.** Temporary lighting that conforms to the requirements of this Lighting Code shall be allowed. Non-conforming temporary exterior lighting may be permitted by the Planning Director only after considering (1) the public and/or private benefits which will result from the temporary lighting; (2) any annoyance or safety problems that may result from the use of the temporary lighting; and (3) the duration of the temporary non-conforming lighting. The Applicant shall submit a detailed description of the proposed temporary non-conforming lighting to the Planning Director.

(L) **Outdoor Sports Field /Outdoor Performance Area Lighting**

(1) These standards shall not apply to properties subject to State or Federal safe lighting standards.

(2) Because of their unique requirements for nighttime visibility and their limited hours of operation, ball fields, playing fields and tennis courts are exempted from the exterior lighting standards of paragraphs A, B and C of this section. These outdoor recreational uses must meet all other requirements of this Lighting Code.

(3) The outdoor recreational uses specified above shall not exceed a maximum permitted post height of eighty (80) feet.

(4) The outdoor recreational uses specified above may exceed a total cutoff angle of ninety (90) degrees, provided that the luminaire is shield to prevent light and glare spillover to

adjacent Right-of-Way or residential property. The maximum permitted illumination at the property line shall not exceed two (2) lumens per square foot.

(M) **Lighting of Outdoor Display Areas**

(1) Outdoor display areas shall have a maximum point of illuminance of twenty (20) lumens per square foot.

(2) All light fixtures shall meet the IESNA definition of Cutoff Fixtures. Forward throw fixtures (type IV light distribution, as defined by the IESNA) are required within twenty-five (25) feet of any public street right-of way.

(N) **Sign Lighting.** Lighting fixtures illuminating Signs *shall* be aimed and shielded so that direct illumination is focused exclusively on the Sign.

(Ord. #1703)

4.8.6. Additional Regulations

Notwithstanding any other provision of this section to the contrary:

(A) No flickering or flashing lights shall be permitted.

(B) Light sources or luminaries shall not be located within a required buffer except along pedestrian walkways.

(C) Measurement

(1) Metering equipment. Lighting levels shall be measured in lumens per square foot with a direct reading, portable light meter. The meter shall have a color and cosine-corrected sensor with multiple scales and shall read within an accuracy of plus or minus five (5) percent. It shall have been tested, calibrated and certified by an independent commercial photometric laboratory or the manufacturer within one (1) year of the date of its use.

(2) Method of measurement. The meter sensor shall be mounted not more than six (6) inches above ground level in a horizontal position. Readings shall be taken by qualified personnel only after the cell has been exposed long enough to provide a constant reading.

4.8.7. Public Lighting Requirements

(A) Subject to paragraph (B), all public streets, sidewalks and other common areas or facilities in Subdivisions created after the effective date of this chapter shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks and other common areas or facilities.

(B) To the extent that fulfillment of the requirement established in paragraph (A) would normally require street lights installed along public streets, this requirement shall be applicable only to Subdivisions located within the corporate limits of the Town. Streetlights shall be placed at each intersection and at such block spacing as may be required by the Public Service director.

(C) All roads, driveways, sidewalks, parking lots and other common areas and facilities in unsubdivided Development shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots and other common areas and facilities.

(D) All entrances and exits in substantial Buildings used for non-residential purposes and in Two-Family or Multi-Family residential Developments containing more than four (4) Dwelling Units shall be adequately lighted to ensure the safety of persons and the security of the Buildings.

(E) Where ownership of street lighting facilities such as poles and standards, luminaries, lamps, etc., will be retained by the electrical power supplier, the type of street lighting facilities to be installed shall be acceptable to both the Town of Southern Pines and the supplier of electrical power.

(F) The Town of Southern Pines shall be responsible for street light maintenance and energy consumption on standards lighting upon acceptance of the Subdivision and/or system, unless provision is made under subsection (i) below, for the responsibility to be assumed by an entity other than the Town of Southern Pines.

(G) Standard street lighting is established as shown in Exhibit 4-13.

(H) Acceptable standard fixtures shall be cut-off, enclosed or shoe box style. All poles must be special metal, wood pole, special decorative square metals or system metal as provided by local electric power supplier and approved by the Town Engineer. Acceptable non-standard fixtures are fixtures provided by the local electric power supplier that meet the standards set forth in Exhibit 4-13.

Exhibit 4-13: Standard Street Lighting

Street Classification	Height of Light Standard	Approximate* Interval Spacing	High Pressure Sodium	Pattern Location
Major Thoroughfares (Multi-Lane Divided)	25'	250'	28,500 Lumen	Poles located in median with double mast arm installations or two single poles at opposite corners at intersections, double mast arm installations at major median openings, and single alternating mast arms at all other locations.
Collector Thoroughfares (Four-Lane Undivided)	25'	250'	28,500 Lumen	Poles located in parkway with single mast arm placed on alternating sides at required interval and two poles at opposite corners of each intersection.
Collector Thoroughfares (Three-Lane Undivided)	20' - 25'	One light at each intersection and at midblock locations where the block length is greater than 600 feet. Spacing for midblock lights shall be no greater than 450 feet.	28,500 Lumen or 9,500 Lumen	Poles located in parkway with single mast arms placed on alternating sides at required interval.
Minor and Local Thoroughfares (Three-Lane Undivided and Smaller)	16' - 20' - 25'	Lights will be installed at each intersection, cul-de-sac, hazardous location, midblock locations where the block length is greater than 900 feet. Spacing for midblock lights shall be no greater than 600 feet.	9,500 Lumen	Poles located in parkway with single mast arms. All lights may be placed on one side of the street.

*** The Town Engineer may vary locations for particular street arrangements provided required illumination levels are maintained.**

(I) A Developer or homeowner's association may request non-standard street lighting within a Development provided that the street light fixture types and locations must be approved by the Town of Southern Pines; the Developer or homeowner's association shall be responsible for all installation costs and monthly operation costs associated with non-standard lighting; the Developer or homeowner's association shall be responsible for any costs associated with deletion of non-standard street lights and any costs associated with installing the Town's standard street lights prior to the expiration of the ten (10) year contract with Progress Energy; the Developer shall include all responsibilities of the homeowner's association pertaining to non-standard lighting in the Development covenants. The Developer shall inform all purchasers of property in the Development of these same responsibilities; non – standard street lighting shall not be used on arterial streets and the Developer or the homeowner's association will not have the option of deleting the private, non-standard street lighting at any time in the future. Staff consultation includes discussion of reflector caps or similar devices to reduce Light Pollution.

(J) The Applicant, Developer, homeowner's association or other responsible organization representing the Subdivision Development will be responsible for the installation, maintenance and power consumption for all landscape lighting or any other device or fixture requiring electrical power.

4.8.8. Excessive Illumination

Lighting within any Lot that unnecessarily illuminates any other Lot and substantially interferes with the use or enjoyment of such other Lot is prohibited. Lighting unnecessarily illuminates another Lot if it clearly exceeds the standard set forth in section 4.15.6 or if the standard set forth therein could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

4.9. Open Space / Greenspace

This section 4.9 shall be referred to as the Town of Southern Pines Open Space Standards or open space standards.

4.9.1. Usable Open Space Required

(A) Except as provided in paragraph (C) of this section or within a PD district or authorized Development Pattern, every residential Development shall be developed so that at least five (5) percent of the total area of the Development remains permanently as Usable Open Space.

(B) For purposes of this section, Usable Open Space means an area that:

(1) Is not encumbered with any substantial structure;

(2) Is not devoted to use as a roadway, parking area, or sidewalk, provided, however that Multi-user Trails may be counted towards required open space;

(3) Reflects the character of the land as of the date Development began. Wooded Areas shall be left in their natural or undisturbed state except for the cutting of trails for walking, bicycling or jogging. Areas not wooded shall be landscaped for open play fields, picnic areas or similar facilities, or be properly vegetated and landscaped with the objective of creating a Wooded Area or other area that is consistent with the objectives of this section;

(4) Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation;

(5) Is part of an independent Lot shown on the plan as being reserved for open space; and

(6) Is legally and practicably accessible to the residents of the Development from which the required open space subdivided

or to the public if the open space is dedicated to the Town pursuant to section 4.9.3.

(C) Areas Not Allowed as Open Space

The following areas shall not count toward common open space set-aside requirements:

(1) Private Lots, Yards, balconies and patios dedicated for use by a specific Dwelling Unit;

(2) Electric or gas transmission line rights-of-way;

(3) Public Right-of-Way or private streets and drives;

(4) Open parking areas and driveways for Dwellings;

(5) Land covered by structures except for ancillary structures associated with the use of the open space such as gazebos and picnic shelters;

(6) Designated outdoor storage areas;

(7) Land areas between Buildings of less than forty (40) feet;

(8) Land areas between Buildings and parking lots or driveways of less than forty (40) feet in width;

(9) Required Setbacks; and

(10) Detention/Retention facilities except as provided section 4.9.7.

(D) Subdivided residential Developments of less than twenty-five (25) Dwelling Units are exempt from the requirements of this section unless the Town agrees that it will accept an offer of dedication of such open space and in that case the offer of dedication shall be made.

4.9.2. Ownership and Maintenance of Recreational Areas and Required Open Space:

(A) Open space required to be provided by the Applicant in accordance with these open space standards shall not be dedicated to the public but shall remain under the ownership and control of the Developer (or his successor) or a homeowners association or similar organization that satisfies the criteria established in section 4.9.4. Open space shall be designated as an independent Lot on the plat and shall be noted as being reserved for their intended purposes.

(B) The person or entity identified in paragraph (A) as having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.

(C) Open space may be dedicated to a registered land trust, if approved by the Town Council.

4.9.3. Dedication of Open Space

(A) If any portion of any Lot proposed for residential or commercial Development lies within an area designated on the officially adopted recreation master plan as a Neighborhood park or part of the greenway system or bikeway system, the area so designated (not exceeding five (5) percent of the total Lot Area) shall be included as part of the area set aside to satisfy the requirement of section 4.9.1. This area shall be dedicated to public use.

(B) If more than five (5) percent of a Lot proposed for residential Development lies within an area designated as provided in paragraph (A), the Town may attempt to acquire the additional land in the following manner:

(1) The Applicant may voluntarily dedicate the additional land to the Town;

(2) The Applicant may be encouraged to develop an integrated Subdivision, cluster Development or some other applicable Development Pattern and to dedicate the common open space created thereby; or

(3) The Town may purchase or condemn the land.

4.9.4. Homeowners Associations

Homeowners associations or similar legal entities that are responsible for the maintenance and control of common areas, including open space, shall be:

(A) Established before any Lot in the Development is sold or any Building occupied;

(B) Be granted clear legal authority to maintain and exercise control over such common areas and facilities;

(C) Have the power to compel contributions from residents of the Development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities.

4.9.5. Flexibility in Administration Authorized

(A) The requirements set forth in this article concerning the amount, size, location and nature of recreational facilities and open space to be provided in connection with residential Developments are established by the Town Council as standards that presumptively will result in the provision of that amount of recreational facilities an open space that is consistent with officially adopted Town Plans. The Town Council recognizes, however, that due to the particular nature of a Tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Permit Issuing Authority is authorized to permit minor deviations from these standards whenever it determines that:

(1) The objectives underlying these standards can be met without strict adherence to them; and

(2) Because of peculiarities in the Applicant's Tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

(B) Whenever the Permit Issuing Authority approves a deviation from these open space standards pursuant to paragraph (A), the official record of action taken on the Development application shall contain a statement of the reasons for allowing the deviation.

4.9.6. Open Space Linkages

Where a trail, natural area or public park is dedicated to or acquired by the Town, such area may be credited toward the minimum amount of common open space required.

4.9.7. Open Space Design Criteria

All required open space shall meet the following design criteria, as applicable:

(A) Water bodies, Retention areas, detention basins and wetlands basins, may constitute up to forty (40) percent of required open space, provided that Retention facilities are designed to provide safe access to water. Unless otherwise approved by the Town Council, side slopes to Retention facilities shall provide at least six (6) feet of horizontal run for each foot of vertical rise.

(B) At least thirty (30) percent of required open space must be dry land with a slope of less than ten (10) percent unless otherwise approved the Town Council.

(C) Unless otherwise approved by the Town Council, open space shall be continuous, contiguous with open space on abutting properties and accessible to the public.

4.9.8. Connectivity Required

To the maximum extent practicable, common open space shall be organized to create integrated systems of open space that connect with the following types of lands located within or adjacent to the Development:

(A) Dedicated public park or greenway lands;

(B) Dedicated school sites;

(C) Other dedicated open spaces;

(D) Common open space located adjacent to the Development;

(E) Portions of the regional trail and open space system;

4.10. DEVELOPMENT DESIGN STANDARDS

(Ord. #1716)

4.10.1. Applicability

(A) The commercial Building design standards of this section are applicable to the new Development and redevelopment of all commercial structures in any zoning district. The standards may be modified pursuant to Architectural Compliance Permit or Certificate of Appropriateness approval. For purposes of this section, redevelopment does not include any project that is considered routine maintenance, such as painting, re-roofing or replacement or repair of existing doors, windows, trim or existing walls. Remodeling that involves the change of an exterior portion of a Building shall comply with these standards for portion of the Building being changed.

(B) These commercial Building design standards apply in a variety of settings, and the Town shall apply discretion to modify standards where the character and function of a site and neighboring Development justify such modifications.

(C) The large-scale retail Development standards in section 4.10.6 provide an alternative Development Pattern for Developments with Buildings encompassing 25,000 or more square feet of retail and service space.

(Ord. #1703)

4.10.2. Purpose and General Principles

The integration of proposed Development, Building, or site improvement into the existing fabric of the Town is of critical public concern. The intent of design requirements is to assure respect for the character of the Town and reduce incompatible and adverse impacts on the community.

(A) Proposed Development shall be located and configured in a manner that is visually harmonious with the terrain and vegetation of the Parcel and with nearby Parcels.

(B) The design and configuration of structures and their materials and colors shall be visually harmonious with the overall appearance, history and heritage of the Town.

(C) Structures shall demonstrate the general principles of good design including, but not limited to those dealing with form, mass, scale, height, texture and color. Specific consideration shall be given to Compatibility with adjacent structures and Neighborhoods and surrounding areas of the Town where the structures reflect the characteristics set forth in this section.

4.10.3. Site Design Requirements

(A) **Building Continuity**

(1) Buildings along a block face shall provide a continuous Frontage, particularly where maximum Setbacks (build-to lines) require Buildings to be constructed close to the front property line. Building fronts may be recessed for allowed courtyards and outdoor dining facilities as provided in this section.

(2) Gaps between Buildings along the fronts of blocks shall be limited to pedestrian and vehicle access and intersecting streets.

(3) For Developments on sites of five (5) or more acres, Outlots or outblocks with liner Buildings may be used to separate large surface parking areas from the street, provided that the liner Buildings extending along at least sixty (60) percent of the frontage.

(B) **Connection to Street**

(1) Pedestrian connections measuring at least five (5) feet in width shall be provided between sidewalks and all Buildings on a site.

(2) On sites of five (5) or more acres shall provide designated and marked pedestrian ways along internal drives or between Parking Aisles.

(3) The Town Council may waive the requirement for internal pedestrian ways when for Developments with two (2) or fewer rows of parking (one travel aisle) separate the Building from the sidewalk.

(C) **Front Yards**

(1) **Purpose**. With the exception of limitations established in for the CB district, an Applicant may establish a Front Yard for any portion of any Building Front subject to compliance with the provisions of this section. Applicants are encouraged to provide Front Yards that include widened sidewalks, galleries, arcades, courtyards and other places for customers and the public to gather, provided that the Front Yards:

(a) Improve the visual quality and character of the street;

(b) Promote pedestrian traffic and the use of public transit;

(c) Are readily accessible and ADA compliant;

(d) Enhance access between outdoor and indoor spaces; and

(e) Enhance public safety and security, while promoting more effective use of the public realm.

(2) **Front Yard Improvements**. Where provided, Front Yards shall include a combination of the items listed in Exhibit 4-14 provided that the item is specifically allowed in the applicable portion of the Setback area, as indicated by the letter “A” in the exhibit. If not allowed, the item is prohibited. Front Yards also may be used for Building access improvements. In addition to the items listed below, the Town may approve the installation of decorative bike racks, planter pots and pedestrian furniture.

(3) **Front Yard Design Standards**. To achieve the purposes of this section, Front Yards shall be designed so that they are visible, avoid clutter, incorporate high quality, durable materials. In addition to complying with other district requirements, Front Yards and façades shall meet the following design standards:

(a) Flooring and walking surfaces shall be constructed of durable, non-slip materials that complement sidewalk paving. Changes in colors shall be used to highlight steps.

(b) The shape and design (including landscaping) of the space shall provide visibility of the entire space from the sidewalk.

(c) Lighting shall be adequate to illuminate the entire space, but lighting sources shall be hooded or directed so that they are not visible to pedestrians on the sidewalk.

(d) Except as provided in this paragraph, fencing is prohibited. Front Yards may be enclosed by decorative walls, posts with decorative ropes or chains or other decorative enclosures approved by the Town, provided that the enclosure is not taller than thirty (30) inches. Decorative

fencing that is not higher than forty-two (42) inches may be authorized to enclose commercial use of Front Yards.

(e) Other than furniture for dining areas and outdoor displays subject to special use approval, Front Yard improvements shall be limited to seating, decorative waste receptacles, fountains, water features and landscaping.

(4) **Maintenance**. The owner of the Front Yard shall be responsible for operations, maintenance and physical improvements in the Front Yard. Failure to adequately maintain Front Yards in reasonable order and condition constitutes a violation of this section. The Planning Director is hereby authorized to give notice to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within twenty (20) days.

(Ord. # 1919)

(D) **Landscape**. Landscaping shall comply with the provisions of Section 4.3.

(E) **Parking**. Parking shall comply with the provisions of section 4.5 and applicable zoning district standards. Within the CB district, parking lots may not be established between any Building and Broad Street or between any Building and a street on any corner Lot within the Historic District Overlay.

Exhibit 4-14: Items Authorized in Front Yards

Front Yard Items	Location	Distance from Back of Sidewalk (in feet)			
		d ≤ 5	5 ≤ d < 15	15 ≤ d < 25	d ≥ 25
Patio Paving/Hardscape	Behind the back edge of the sidewalk	A	A	A	A
Groundcover		A	A	A	A
Lawn			A	A	A
Hedge				A	A
Clustered Ornamentals	Along Building façade		A	A	A
			A	A	A
Planting Beds: Shrubs, seasonal plantings	At the front property line or along the back edge of a sidewalk outside of the Right-of-Way	A	A	A	A
Small trees planted on 25 feet centers		A	A	A	A
Large Trees planted on 50 feet centers		A	A	A	A
Decorative Fence 42-inch maximum height		A	A	A	A
Masonry Wall with Hedge 32-inch maximum height					A
Masonry Wall with clustered ornamentals or groundcover			A	A	A

Notes:
1: d = distance measured in feet
2: A = allowed item
3: < = is less than
4: ≤ = is less than or equal to
5: ≥ is greater than or equal to

4.10.4. Building Design Requirements

(A) **Building Orientation and Entries**

(1) The front of Buildings shall face and have the primary customer entry facing that street. Corner Lot Buildings shall face and have the primary customer entry facing the higher order street, facing the corner or facing each street. Buildings that extend the full depth of a block may be required to have entries on each street frontage.

(2) Maximum spacing or distance between customer entries shall not exceed the standards established in Exhibit 4-15.

(B) **Building Dimensions**

(1) In the CB and DTO districts, Buildings or Building segments shall be taller than wide.

(2) In other districts, the width of Buildings or Building segments shall not be more than twice the Building height.

(3) Building segments may be created through a combination of vertical features such as changes in material, Building offsets, courtyards, changes in rooflines or architectural features that create the appearance of Building segments.

(4) Large Scale Retail structures shall comply with Section 4.10.6.

(C) **Building Materials**. The exterior finish of Building walls shall be primarily comprised of brick. Cementitious horizontal lap siding, textured concrete masonry, cast stone and stucco may be used for accents, provided that they cover no more than twenty (20) percent of the exterior walls, exclusive of doors and windows. Wood and metal may be used as trim around doors and windows. The Permit Issuing Authority may approve:

(1) The use of alternative building materials that establish an equivalent appearance and have equal or greater durability.

Exhibit 4-15: Maximum Spacing Between Entries

Zoning District	Maximum Spacing	Additional Provisions
NB and OS	100 feet	At least one entry required per business
CB	50 feet	May be increased if recommended by Historic District Commission
DTO	100 feet	May be increased to one per business for non-retail uses
GB and HCO	150 feet	May by increased for Buildings located at least 40 feet back from sidewalk and Buildings with common entries serving multiple businesses.
PD		To be determined at time of Final Development Plan approval

(2) Alternative materials satisfying minimum Building code standards on walls that are screened and not visible from any public street, walkway or residential zoning district.

(3) Alternative materials satisfying minimum Building code standards for structures located within a planned golf course Development that are Compatible with the Development and the proposed location within the Development.

(D) **Windows**

(1) Windows shall be glazed in non-reflective, clear glass.

(2) The following standards apply in the CB district

(a) On the ground Floor a minimum of seventy (70) percent of the street-facing Building façades between the elevations of two (2) and ten (10) feet above the sidewalk must be comprised of windows with at least eighty (80) percent transparency or doors. In the DTO district, this minimum window requirement is forty (40) percent.

(b) On upper Floors a minimum of thirty (30) percent of the street-facing walls of all structures, including parking garages, above the first Floor shall be comprised of clear, windows with at least sixty (60) percent transparency or other openings for parking structures approved by the Planning Director. Openings shall be horizontally aligned with openings on adjacent Buildings, vertically aligned, or proportionate with openings on the ground Floor of the Building.

(c) Window height shall be at least one and one-half (1.5) times the width.

Window Proportions

(3) In other zoning districts, windows and doors shall comprise at least twenty-five (25) percent of street-facing Building façades between the elevations of two (2) and ten (10) feet above the grade of the Building entry.

(E) **Awnings**

(1) Awnings are encouraged and may encroach over the sidewalk within the CB district and may encroach up to six (6) feet into any street Side Setback in other districts.

(2) The minimum clearance between the lowest point of an awning and sidewalk shall be eight (8) feet.

(3) In the CB and DTO districts, awnings shall be canvas or material of similar appearance and flexibility. In other districts, awnings shall be canvas or material of similar appearance and flexibility, or metal. Street facing awnings shall not be taller than six (6) feet unless specifically approved by the Town Council.

(Ord. #2052)

(F) **Galleries and Arcades**

(1) Galleries and arcades are encouraged and may encroach up to six (6) feet into any street Side Setback but may not encroach into public Right-of-Way.

(2) The minimum clearance for arcades and galleries shall be twelve (12) feet between the sidewalk and the ceiling of the gallery or arcade.

Sample of Gallery

Sample of Arcade

(G) **Roofs**

(1) In the CB district horizontal parapets with cornices shall be required along Broad Street. Parapets, gable or hip roofs may be used along other streets in the CB district. Parapet height should vary between adjacent Buildings.

(2) In other districts, Buildings may use parapets with cornices, gable or hip roofs. Changes in parapet height or design, gables or other changes in the roofline as viewed from any public street shall be required for any Building that is wider than one hundred (100) feet. For Buildings that are wider than one hundred (100) feet, changes in rooflines shall be used to avoid uninterrupted planes of longer than two hundred (200) feet)

(3) Shingles or standing seam, non-reflective metal shall be used on all roofs visible public streets. Brightly colored roofs, such as intense blues, reds or oranges are prohibited.

Rooflines illustrated

In the CB District **In Other Districts**

(H) **Mechanical Equipment**
Mechanical equipment shall be screened from view from the street and shall not be located between the street and the Building.

(I) **Loading Zones and Garage Bays**
Garage doors and loading bays shall face an interior Lot line alley or service drive and shall not face a street or residential district unless buffered or screened in accordance with sections 4.3.4 and 4.3.5.

(J) **Signage**
Signage shall comply with the standards in section 4.6 and any applicable zoning district standards.

4.10.5. Frontage

(A) Frontage Zone. A zone extending at least three (3) feet in depth from the Building shall be established along sidewalks and paved walkways abutting Buildings. Where this area is covered by a awning, gallery or arcade, customer dining areas may be established, provided that tables and chairs do not extend into the pedestrian zone and that the tables and chairs are moved indoors when business closed.

(B) Pedestrian Zone. A paved walkway area of at least eight (8) feet in depth from the frontage zone shall be provided parallel to the front of a Building, which shall be kept open and free of any obstructions. This dimension may be reduced by the Town Council in the CB district due to limited Right-of-Way. For single business Buildings that are set back at least forty (40) feet from the nearest Right-of-Way, pedestrian zones shall be at least twelve (12) feet in width.

(C) Furniture Zone. Between the pedestrian zone and the street shall be a furniture zone, with a depth of five (5) feet. Lighting, landscaping, bike racks, waste receptacles and street furniture may be approved for use in this area.

Images of Frontage, Pedestrian and Furniture Zones

4.10.6. Large Scale Retail Development

(A) **Purposes**

(1) To ensure that Large Scale Retail Buildings are Compatible with surrounding Development;

(2) To ensure that Buildings are design for sustainable economic uses; and

(3) To facilitate future redevelopment if such Buildings are abandoned.

(B) **Applicability**

The standards of this section shall apply to any new Building with a retail business occupying 25,000 square feet or more of floor area and any new retail Building serving 25,000 square feet or more of Gross Floor Area to one or more businesses from a common entry or interior space.

(C) **Design Requirements**

In addition to complying with the use, site and Building design standards of this UDO, the following provisions shall apply:

(1) **Utility Design**. Utilities shall be designed to accommodate future Subdivision of the space into retail spaces no larger than 20,000 square feet with independent exterior entrances.

(2) **Entries**. Building façades shall be designed with entries that are no further than one hundred and fifty (150) feet apart. Building entries should be clearly defined, visible entrances, providing access from the front of the Building to the pedestrian zone, and featuring no less than three of the following:

(a) Canopies or porticos;

(b) Awnings;

(c) Overhangs

(d) Recesses/projections;

(e) Arcades;

(f) Raised corniced parapets over the door;

(g) Peaked roof forms or arches;

(h) Outdoor patios; or

(i) Display windows.

(3) **Building Materials**. Predominant wall materials shall have the appearance of brick. Predominant wall materials shall cover at least eighty (80) percent of walls, exclusive of windows and doors. Stucco, stone and cementitious lap siding may be used as accent materials. Materials with the appearance of concrete block, smooth concrete, corrugated or standing seam metal are prohibited.

(4) **Building Articulation**. Front and street-facing side façades greater than one hundred (100) feet in length, measured horizontally, shall

(a) Incorporate wall plane projections or recesses having a depth of at least three (3) percent of the length of the façade and extending at least twenty (20) percent of the length of the façade.

(b) Have a change in at least three of the following elements every one hundred (100) feet along all walls facing a public street or internal street: color change; texture change; material change; or architectural feature, such as an offset, projection, columns, canopies, arcades, or reveal with at least twelve (12) inches in depth.

(5) Rooflines

(a) Rooflines shall be varied in height, or at least every one hundred (100) feet along any side of a Building facing a street. Hips, gables or changes in parapet elevation shall be used to provide relief in height.

(b) Gable and hip roofs are allowed; parapets shall be used to conceal flat roofs and rooftop mechanical equipment from public view.

(c) The parapet design shall be a minimum of three (3) feet in height and shall incorporate a three-dimensional cornice treatment.

Rooflines are defined by gables and changes in parapet walls.

4.10.7. Manufactured Home Parks

Manufactured home parks shall comply with the standards in this section in addition to other applicable provisions of this UDO.

(A) The minimum Lot Area for a Manufactured Home Park is two (2) acres;

(B) The minimum number of Manufactured Home spaces for a Manufactured Home Park is ten (10) spaces.

(C) Each Manufactured Home space shall contain a minimum of six thousand (6,000) square feet.

(D) No Manufactured Home shall be located closer than twenty (20) feet from another Manufactured Home or any other Principal Building within the Manufactured Home Park.

(E) No Manufactured Home shall be located closer than forty (40) feet from a public street Right-of-Way or fifteen (15) feet from a private, interior Manufactured Home Park street.

(F) Usable open space in each Manufactured Home Park shall be provided in accordance with section 4.9.

(G) Except for management office and/or management services associated with the Manufactured Home Park, no Manufactured Home shall be used for non-residential purposes.

(H) The area beneath a Manufactured Home must be fully enclosed with durable skirting within sixty (60) days of placement in the Manufactured Home Park.

4.10.8. Multi-Family Development Standards

(A) **Applicability**

(1) The following Development standards shall apply to all Multi-Family structures in the Morganton Road Overlay district and Multi-Family Developments of ten (10) or more Dwelling Units in any zoning district in which such Dwelling Units are allowed.

(2) No Multi-Family Development may include ten (10) or more Dwelling Units, except pursuant to a Planned Development approval.

(3) The Development standards in this section may be modified pursuant to a PD approval.

(4) In the RM-1 and RM-2 districts, no Multi-Family Residence may be located within two hundred (200) feet of the closest point of any other Multi-Family Residence, unless both structures are part of an integrated complex that includes no more than ten (10) Dwelling Units.

(Ord. #1714; Ord. # 1919; Ord. # 2000)

(B) **Building Setbacks, Orientation and Lot Standards**

(1) Buildings shall be set back a minimum of ten (10) feet and a maximum of fifteen (15) feet from sidewalks public walkways or street Right-of-Way. Setbacks may be greater than fifteen (15) feet if the intervening distance consists of common open space.

(2) The minimum spacing between the sides of Multi-Family Residential structures shall be twenty (20) feet.

(3) Where practical, Dwellings should be located to face each other across common landscaped space with Buildings no closer than (30) feet.

(C) **Building Design**. Multi-Family Developments shall:

(1) Include variations in heights, color, Setback, rooflines, trim, and Building sizes to create visual diversity between structures;

(2) Group Buildings in clusters;

(3) Articulate façades by including projections of at least five (5) feet at least once every fifty (50) feet along the façade,

(4) Locate windows to provide easy surveillance of open spaces and walkways, without placing such windows within direct alignment with windows of adjacent structures;

(5) Units above grade level should have access to private balconies of usable dimensions no smaller than ten (10) feet by six (6) feet;

(6) Create areas for foundation planting by keeping hard surfaces away from front façades;

(7) Design entrances to.

(a) Provide private entrances at grade level and adjacent to private open space to the greatest extent possible. Unless otherwise approved by the Town Council, no more than four (4) Dwelling Units shall share a common entrance.

(b) Avoid aligning doors to separate Dwelling Units with each other unless screening is provided. However, entrances should be visible from the sidewalk or public walkway and other Dwelling Units, when practical.

(c) Provide porches or roofed overhangs over Building entrances.

(d) Set back Buildings or entries so that the entry paths extend at least ten (10) feet from sidewalk or public circulation walkway. These entry areas should be designed to provide semi-public gardens around the front entryways. Do not provide access to apartments via long-shared access galleries.

(Ord. #1714)

(8) Provide a private garden, Yard, patio or balcony for every Dwelling Unit.

(9) The private open space of all Dwelling Units shall be visually and functionally accessible from inside the Dwelling.

(10) Provide screening for Yards where private activities are likely to occur and to delimit private from common open space.

(D) **Pedestrian Improvements**

(1) Provide continuous walkways through the project and connecting Dwellings to and through common open space.

(2) Minimize walkways that provide direct opportunities to cut through the project by strategically locating fences, low walls and planting areas within the site and near site entry points.

(3) Provide storage space for strollers, bicycles, and so forth, close to the main entries of Dwellings or groups of Dwellings.

(E) **Parking**

(1) Provide parking in small Lots that are designed and located to ensure that most parked vehicles are visible from one (1) or more Dwellings.

(2) To the greatest extent practicable, parking shall not separate Dwelling Units from common open space.

(F) **Open Space**

(1) Common Usable Open Space shall comprise ten (10) percent of the total project area.

(2) Open spaces shall be configured so that the ratio of Building height to open space width is in the range of 1:3 or greater. Ratios as tight as 1:2 may be approved if landscaping effectively screens Buildings from each other.

(3) Common open space shall be configured in square or nearly square areas with sides of at least one hundred (100) feet.

(4) To the greatest extent practicable, Dwelling Units shall have access to common open space without having to cross a street.

(5) Play Areas

(a) Play areas for young children should be physically separated from potential traffic hazards.

(b) Provide a variety of hard-surfaces areas in the form pathways that are least five (5) feet wide and small areas off the circulation system for various children's activities.

(6) For Developments with more than twenty (20) Dwellings, provide on-site; well-equipped and challenging play areas for school age children within a five (5) minute walk from each Dwelling Unit.

(a) Provide places for school age children to sit.

(b) Where possible include a space for ball games on site (minimum 80 feet x 40 feet).

(7) Provide retaining walls that can also be used for casual seating.

(8) Where cluster Dwellings are included in a project, ensure some uniqueness for each cluster. Vary the design (size, dimensions, grading, planting, site furniture and play equipment) of the common open spaces of each cluster.

(9) The number of Dwelling Units grouped around common and open space should range between twenty (20) to one hundred (100).

(Ord. #1703)

4.11. TRANSPORTATION (STREETS)

4.11.1. Generally

These transportation provisions address the mobility needs within the Town of Southern Pines. In addition to addressing the design, function and access to public and private streets, these regulations address mobility for bicyclists and pedestrians and the necessary coordination of design between the public and private realms.

(Ord. #1745, 7-10-18)

4.11.2. Street Classification

(A) Whenever a new street is to be constructed, the street shall be defined by one of the classification provided in paragraph (B).

(1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day;

(2) The number of Dwelling Units to be served by the street may be used as a useful indicator of the number of trips but it is not conclusive;

(3) Whenever a Subdivision street continues an existing street that formerly terminated outside the Subdivision or it is expected that a Subdivision street will be continued beyond the Subdivision at some future time, the classification of the street will be based upon the street in its entirety, both inside and outside of the Subdivision.

(B) The classification of streets shall be as follows:

(1) Residential Alley: A very narrow paved, urban street or lane, which is used by slow-moving vehicles and pedestrian. A residential alley is intended to act as part a secondary vehicular street network.

(2) Residential Local: A street whose sole function is to provide access to abutting properties. A residential local street is intended to serve no more than two-hundred (200) trips per day.

(3) Cul-de-sac: A street that terminates in a vehicular turn-around that is no longer than 500 feet in length measured from the connection with the intersecting street to furthest paved point of the street turn-around.

(4) Residential Sub-collector: A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect local streets with collector streets. Including residences indirectly served through connecting streets, it is intended to serve not more than eight hundred (800) trips per day.

(5) Residential Collector: A street whose principal function is to carry high volumes of traffic between local, residential sub-collector streets, commercial collector and arterial streets but that may also provide direct access to abutting properties. It is intended to serve, directly or indirectly, more than eight hundred (800) trips per day.

(6) Commercial Local: A street whose principal function is to provide access to businesses within commercial districts, carrying automobile and delivery truck traffic at relatively low speeds.

(7) Commercial Collector: A street whose principal function is to carry high volumes of traffic between local and sub-collector streets and arterial streets but that may also provide direct access to abutting properties. A commercial collector is intended to serve, directly or indirectly, more than eight hundred (800) trips per day.

(8) Arterial: A major street that is part of the NCDOT street system that serves as an avenue for the circulation of traffic into, out of, through or around the Town and carries high volumes of traffic. Design criteria are unique to the setting and shall be determined in coordination with NCDOT.

(9) Marginal Access Street: A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties. Design criteria are unique to the setting and shall be determined in coordination with NCDOT.

(Ord. # 1716; Ord. #1745, 7-10-18)

4.11.3. Access to Lots

(A) Every Lot must be accessible to a public street for the users of the Lot and emergency vehicles.

(B) Lots that do not abut a public street may be authorized if they are accessible by a Private Drive pursuant to paragraphs (C) and (D) or a Private Street pursuant to section 4.11.14.

(C) A Private Drive may be approved as the sole access for a Lot or Parcel subject to the following conditions:

(1) It accesses a public or private street and is located on a perpetual easement not less than twenty (20) feet in width;

(2) The easement serves no more than three (3) Lots in the RS-3, RE or RR zoning district or no more than twenty-five (25) Dwelling Units in a RS-1, RM or PD zoning district;

(3) Prior to recording of the plat, that delineates the Lot, restrictive covenants are recorded in the Moore County Registry that permanently establish the easement, provide for maintenance of the Private Drive and prohibit further division of any of the Lots served by the easement. If the Private Drive is part of a Subdivision for Townhouses or Condominiums, the Lots may be served by a “Private Ingress/Egress/Access Easement” that is maintained by the “home owners association” and shall be clearly designated on Final Plat and in restrictive HOA documents.

(D) Private Drives shall meet the design and construction requirements to support and provide fire department access. Pavement width shall be at least twenty (20) feet, but may be increased based on curve radii and whether parking is allowed to encroach on the Private Drive. The HOA is responsible for ensuring fire department access at all times.

(Ord. #1715; Ord. #1630)

4.11.4. Access to Arterial Streets

Whenever a major Subdivision borders on or contains an existing or proposed Arterial Street, no direct driveway access may be provided from the Lots within the Subdivision onto the Arterial Street unless the Town Council finds that an internal street system or alternative access is not practicable. Whenever a minor Subdivision borders on or contains an existing or proposed Arterial Street, no more than one (1) direct driveway access may be provided from the Lots within the Subdivision onto the Arterial Street unless the Town Council finds that an internal street system or alternative access is not practicable.

(Ord. #1745, 7-10-18)

4.11.5. Entrances to Streets

(A) All driveway entrances and other openings onto streets within the Town's Planning Jurisdiction shall be constructed so that:

(1) Vehicles can enter and exit from the Lot in question without posing any substantial danger to themselves, pedestrians or vehicles traveling in abutting streets; and

(2) Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.

(B) Requests for new driveway entrances or requests for modifications to existing driveway entrances, when not associated with a rezoning or Special Use Permit application shall be reviewed and approved by the Town Engineer or designee. The Town Engineer or designee shall issue a driveway permit in such cases.

(C) Specifications for driveway entrances are set forth in Appendix B to this chapter. If driveway entrances and other openings onto streets are constructed in accordance with the foregoing specifications and requirements, this shall be deemed prima facie evidence of compliance with the standard set forth in paragraph (A).

(D) For purposes of this section, the term "prima facie evidence" means that the Permit Issuing Authority may (but is not required to) conclude from this evidence alone that the proposed Development complies with paragraph (A).

(Ord. #1745)

4.11.6. Coordination with Surrounding Streets

(A) The street system of a Subdivision shall be coordinated with existing, proposed and anticipated streets outside the Subdivision or outside

the portion of a single Tract that is being divided into Lots (hereinafter, "surrounding streets") as provided in this section. Where applicable, the street layout in all new Subdivisions shall conform to the arrangement, width and location indicated on any official thoroughfare plan for state and local streets.

(B) Collector streets shall intersect with surrounding collector or arterial streets at safe and convenient locations.

(C) Residential sub-collector and local streets shall connect with surrounding streets where necessary to permit the convenient movement of traffic between residential Neighborhoods or to facilitate access to Neighborhoods by emergency service vehicles or for other sufficient reasons, but connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through-traffic.

(Ord. #1745, 7-10-18)

4.11.7. Street Connections Required

(A) Whenever connections to anticipated or proposed surrounding streets are required by this section, the street Right-of-Way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single Tract) at the point where the connection to the anticipated or proposed street is expected.

(B) The Permit Issuing Authority may:

(1) Waive the requirement to develop the street when the Right-of-Way is extended, if it is determined that the Development of such street is not practicable.

(2) Require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. However, no temporary dead-end street or cul-de-sac in excess of one-thousand (1,000) feet may be created unless no other practicable alternative is available.

(3) Authorize the Applicant to pay a fee in lieu of constructing the road connection at the time of Development.

4.11.8. Relationship of Streets to Topography

(A) Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the drainage and storm water runoff objectives set forth in Sections 4.13 and 4.14, and street grades shall conform as closely as practicable to the original topography.

(B) The maximum grade at any point on a street constructed without curb and gutter shall be five (5) percent unless no other practicable alternative is available. In no case, however, may streets be constructed with grades that exceed ten (10) percent.

(Ord. #1745, 7-10-18)

4.11.9. Blocks

When any newly created block exceeds six hundred (600) feet in length, the Town may require a cross-block connection to enhance mobility for bicyclists and pedestrians. Such connections shall be at least fifteen (15) feet in width and shall, at the Town's discretion include a sidewalk or Multi-Use Trail that meets the minimum design specifications.

4.11.10. Street Width, Sidewalk and Drainage Requirements in Subdivisions:

(A) Street rights-of-way shall be designed and constructed in conformance with the provisions listed below unless otherwise allowed for by the Town Council as part of a Special Use Permit or Planned Development application. The Town Engineer may require modifications to these standards based on natural and built conditions to effectively serve the following functions:

(1) To safely and efficiently carry motor vehicle traffic;

(2) To provide a safe and convenient passageway for bicycle and pedestrian traffic; and

(3) To serve as an important link in the Town's drainage system.

(Ord. # 1919)

(B) Curbs and Gutters. All streets, except as provided in paragraph (C) and section 4.11.14, shall be constructed with curb and gutter and shall conform to the other requirements of this paragraph. Only standard ninety (90) degree curb may be used, except that concrete roll-type curb shall be permitted along local and residential sub-collector streets within residential Subdivisions. Asphalt raised curb (wedge curb) may be permitted by the Town Council in Subdivision extensions where the existing Subdivision already has asphalt curb in fifty (50) percent or more of the existing footage of streets for the total Development that was approved under a master plan prior to the adoption of the UDO.

(C) Public Streets without Curbs and Gutters. When the Town Council determines that due to site-specific drainage requirements and proposed street grade, shoulders and drainage swales would be more appropriate than curb and gutter, the streets shall be constructed according to the criteria indicated in Exhibit 4-18 or 4-19 as well as the construction standards and specifications in Appendix B. The Town Engineer may require modifications to these standards based on natural and built conditions to effectively serve the functions listed in paragraph (A) of this section.

(1) The standards in Exhibit 4-16, 4-17, 4-18, and 4-19, are minimums. Additional Right-of-Way may be needed to accommodate the streets due to road design and topographical conditions.

(2) Where curbs and gutters are not used, the installation, maintenance and repair of pipes and culverts under Private Streets, Private Drives and driveways shall be the responsibility of the property owner(s) relying on such access to the Private Street.

(Ord. #1890, 1-6-21)

(D) If a substantial section of a proposed street does not abut property to which pedestrian access from the street will be needed, parking and sidewalks, as required by paragraph A of this section, may be waived by the Town Council. The remaining design standards of this section and the construction standards in Appendix B shall continue to apply.

(Ord. #1890, 1-6-21)

(E) In circumstances when sidewalks otherwise would be required on both sides of the street, an unpaved greenway or multi-use path may be permitted if the Town Council determines that the proposed greenway or multi-use path provides an equal level of service (that paved sidewalks would provide) to the users of the facility. Such a greenway or multi-use path may be substituted for a sidewalk on one or both sides of the street if:

(1) If located adjacent to private streets, provisions are made that reasonably assures that the greenway or multi-use path will be installed and maintained in perpetuity as private without cost to the Town. If located adjacent to public streets, provisions are made that reasonably assures that the greenway or multi-use path will be installed without cost to the Town and then dedicated for public use; and,

(2) The Town Manager reviews and approves the appropriateness of the substitution and the adequacy of the provision for installation and maintenance.

(F) Provision for Bicycles. All streets and stormwater improvements shall be designed to minimize bicycle safety hazards. Where sufficient Right-of-Way exists on collector and arterial streets, the Town may require the Developer to establish bike lanes.

(G) On-street Parking. On street parking shall not be allowed along public residential sub-collector, collector or arterial streets unless provisions are made for sidewalks or a Multi-Use Trail.

(H) Whenever the Permit Issuing Authority finds that a means of pedestrian access is necessary from the Subdivision to schools, parks open space, playgrounds or other roads of facilities and that such access is not conveniently provided by sidewalks adjacent to the streets, the Applicant may be required to reserve an unobstructed easement of at least ten (10) feet in width to provide such access.

(I) In industrial districts sidewalks may be installed on only one side of the street if the Tract being developed provides greenways that satisfy the following conditions:

(1) The greenway is at least fifty (50) percent of the length of the required sidewalk on one side of the street;

(2) They provide reasonable connectivity to streets, sidewalks, and greenways within or adjoining the Development;

(3) They are constructed and maintained to the same standards as the Town's public greenways;

(4) The public is entitled to use the greenways to the same extent as the sidewalk;

(5) Provision is made that reasonably assures that the greenway will be installed and maintained in perpetuity as private without cost to the Town; and

(6) The Town Manager reviews the proposed greenway and the provisions for its installation and maintenance and determines that it satisfies the requirements set forth above.

(J) No fence, wall, Building shrub or tree trunk shall be located within two (2) feet of the outer edge the sidewalk except on commercial local streets.

(K) Sidewalks are not required on a cul-de-sac serving only Lots of Single-Family residences when either:

(1) The cul-de-sac is no more than three-hundred (300) feet in length; or

(2) The cul-de-sac is more than three hundred (300) feet in length and serves no more than six (6) residences or Lots, and the Planning Department, in consultation with Public Services Department, determines that there is no reasonable possibility that the street Right-of-Way to which the cul-de-sac connects will include a sidewalk.

(L) Where a previous Special Use Permit was approved with greenways located on street Right-of-Way, greenways may be substituted for sidewalks in those approved greenway locations.

(Ord. # 1919)

(M) The Town Council may approve alternative sidewalk arrangements in conjunction with planned Development, Subdivision, special use or architectural compliance permit approval. Alternatives include the provision of Multi-User Trails in lieu of sidewalks, location of sidewalks within easements located adjacent to public Right-of-Way or other pedestrian accommodations that adequately provide for pedestrian circulation.

(Ord. # 1716; Ord. #1919)

Exhibit 4-16: Residential Street Design Standards

Street Type: Residential Local Streets
• Right-of-Way Minimum: 50 feet • Street Width: 27 feet from back of curb to back of curb • Travel Lane Width: 11 feet • Planting Strips: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the street for single-family frontage, both sides for Multi-Family, commercial or mixed-use frontage.
Street Type: Residential Sub-collector Streets
• Right-Of-Way Minimum: 60 feet • Street Width: 29 feet from back of curb to back of curb • Travel Lane Width: 12 feet • Curb and Gutter Width (90 degree curb): 2.5 feet • Planting Strips: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the street for single-family frontage, both sides for Multi-Family, commercial or mixed-use frontage.
Street Type: Residential Collector Streets: 2 – Lanes with Sidewalks without On-Street Parking
• Right-of-Way Minimum: 80 feet • Travel Lane Width: 12 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Bicycle Lane Width: 5 feet • Curb And Gutter Width: 2.5 feet • Planting Strips Minimum: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on both sides of the road

Street Type: Residential Collector Streets: 2 – Lanes with Sidewalks with On-Street Parking
• Right-of-Way Width Minimum: 100 feet • Travel Lane Width: 12 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Bicycle Lane Width: 5 feet • Vehicular Parking Lane Width: 8 feet (gutter may count towards 2 feet) • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on both sides of the road
Street Type: Residential Collector Streets: 2 – Lanes with Sidewalks and Multi-Use Path without On-Street Parking
• Right-of-Way Width Minimum: 80 feet • Travel Lane Width: 14 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the road • Multi-Use Path Width: 10 feet in width on one side of the road
Street Type: Residential Collector Streets: 2 – Lanes with Sidewalks and Multi-Use Path with On-Street Parking
• Right-of-Way Width Minimum: 100 feet • Travel Lane Width: 14 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Vehicular Parking Lane Width: 8 feet (gutter may count towards 2 feet) • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the road • Multi-Use Path Width: 10 feet in width on one side of the road

Street Type: Residential Collector Streets: 4 – Lanes with Sidewalks without On-Street Parking
• Right-of-Way Width Minimum: 100 feet • Travel Lane Width: 12 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Bicycle Lane Width: 5 feet • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on both sides of the road
Street Type: Residential Collector Streets: 4 – Lanes with Sidewalks with On-Street Parking
• Right-of-Way Width Minimum: 110 feet • Travel Lane Width: 12 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Bicycle Lane Width: 5 feet • Vehicular Parking Lane Width: 8 feet (gutter may count towards 2 feet) • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on both sides of the road
Street Type: Residential Collector Streets: 4 – Lanes with Sidewalks and Multi-Use Path without On-Street Parking
• Right-of-Way Width Minimum: 110 feet • Travel Lane Width: 12 feet median side, 14 feet curb side • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the road • Multi-Use Path Width: 10 feet in width on one side of the road

Street Type: Residential Collector Streets: 4 – Lanes with Sidewalks and Multi-Use Path with On-Street Parking
• Right-of-Way Width Minimum: 110 feet • Travel Lane Width: 12 feet median side, 14 feet curb side • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Vehicular Parking Lane Width: 8 feet (gutter may count towards 2 feet) • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the road • Multi-Use Path Width: 10 feet in width on one side of the road

(Ord. #1890, 1-6-21)

Exhibit 4-17: Commercial Street Design Standards

Street Type: Commercial Local Streets
• Right-of-Way Width Minimum: 70 feet • Street Width: 45 feet from back of curb to back of curb • Travel Lane Width: 12 feet • Vehicular Parking Lane Width: 8 feet (gutter may count towards 2 feet) • Curb and Gutter Width: 2.5 feet • Sidewalks: 11 feet in width on both sides with planting wells included in the sidewalks. Planting wells should be 6 feet by 6 feet in width and located on both sides of the road with street trees planted in the strip between the pavement and sidewalks.
Street Type: Commercial Collector Streets: 2 – Lanes with Sidewalks without On-Street Parking
• Right-of-Way Width Minimum: 80 feet • Travel Lane Width: 12 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Bicycle Lane Width: 5 feet • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on both sides of the road

Street Type: Commercial Collector Streets: 2 – Lanes with Sidewalks with On-Street Parking
• Right-of-Way Width Minimum: 100 feet • Travel Lane Width: 12 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Bicycle Lane Width: 5 feet • Vehicular Parking Lane Width: 8 feet (gutter may count towards 2 feet) • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on both sides of the road
Street Type: Commercial Collector Streets: 2 – Lanes with Sidewalks and Multi-Use Path without On-Street Parking
• Right-of-Way Width Minimum: 80 feet • Travel Lane Width: 14 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the road • Multi-Use Path Width: 10 feet in width on one side of the road
Street Type: Commercial Collector Streets: 2 – Lanes with Sidewalks and Multi-Use Path with On-Street Parking
• Right-of-Way Width Minimum: 100 feet • Travel Lane Width: 14 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Vehicular Parking Lane Width: 8 feet (gutter may count towards 2 feet) • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the road • Multi-Use Path Width: 10 feet in width on one side of the road

Street Type: Commercial Collector Streets: 4 – Lanes with Sidewalks without On-Street Parking
• Right-of-Way Width Minimum: 100 feet • Travel Lane Width: 12 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Bicycle Lane Width: 5 feet • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on both sides of the road
Street Type: Commercial Collector Streets: 4 – Lanes with Sidewalks with On-Street Parking
• Right-of-Way Width Minimum: 110 feet • Travel Lane Width: 12 feet • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Bicycle Lane Width: 5 feet • Vehicular Parking Lane Width: 8 feet (gutter may count towards 2 feet) • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on both sides of the road
Street Type: Commercial Collector Streets: 4 – Lanes with Sidewalks and Multi-Use Path without On-Street Parking
• Right-of-Way Width Minimum: 110 feet • Travel Lane Width: 12 feet median side, 14 feet curb side • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the road • Multi-Use Path Width: 10 feet in width on one side of the road

Street Type: Commercial Collector Streets: 4 – Lanes with Sidewalks and Multi-Use Path with On-Street Parking
• Right-of-Way Width Minimum: 110 feet • Travel Lane Width: 12 feet median side, 14 feet curb side • Median Width: 12 feet • Median Mountable Curb and Gutter Width: 1.5 feet • Vehicular Parking Lane Width: 8 feet (gutter may count towards 2 feet) • Curb and Gutter Width: 2.5 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the road • Multi-Use Path Width: 10 feet in width on one side of the road

Exhibit 4-18: Streets Design Standards without Curbs and Gutters

Street Type: Residential Local Streets with Sidewalks* *For Single-Family Developments Only
• Right-of-Way Width Minimum: 50 feet • Street Width: 27 feet • Travel Lane Width: 11 feet • Ditch Width: 8 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the road
Street Type: Residential Local Streets with Multi-Use Trails* *For Single-Family Developments Only
• Right-of-Way Width Minimum: 70 feet • Street Width: 27 feet • Travel Lane Width: 11 feet • Ditch Width: 8 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Multi-Use Path Width: 10 feet in width on one side of the road

Street Type: Residential Local Streets with Sidewalks and Multi-Use Trails* *For Single-Family Developments Only
• Right-of-Way Width Minimum: 70 feet • Street Width: 27 feet • Travel Lane Width: 11 feet • Ditch Width: 8 feet • Planting Strip Width: 6 feet in width on both sides of the road with street trees planted in the strip between the pavement and sidewalks • Sidewalks: 5 feet in width on one side of the road • Multi-Use Path Width: 10 feet in width on one side of the road

Exhibit 4-19: Streets Design Standards without Curbs and Gutters

Street Type: Residential Private Alley
• Right-of-Way Width Minimum: 20 feet • Street Width: 20 feet from back of curb to back of curb • Travel Lane Width: 7.5 feet • Curb and Gutter Width: 2.5 feet

(Ord. #1745, 7-10-18; Ord. #1871, 8-24-20)

4.11.11. General Street Layout

(A) Local street connectivity is encouraged to improve mobility and to facilitate the free flow of traffic along Collector and Arterial Streets.

(B) All permanent dead-end streets (as opposed to temporary dead-end streets shall be developed as cul-de-sacs in accordance with the standards set forth in paragraph (C) of this section. Except where no other practicable alternative is available, such streets shall be designed so as to provide access to no more than twenty (20) Dwelling Units or a maximum of 200 average daily trips (ADT, whichever is greater. ADT shall be calculated according to the trip generation rate in Exhibit 4-20.

Exhibit 4-20: Trip Generation Rates

Use	ADT
Single-Family	9.44
Multi-Family and Single-Family Attached	7.32
Mobile Home	5.0
Retirement Community	3.7
Non- Residential	Most recent ITE trip generation rate determined to be appropriate trip generation rates approved by the Town Engineer

(Ord. #1890, 1-6-21)

(C) The Right-of-Way of a cul-de-sac shall have a radius of fifty-five (55) feet. The radius of the paved portion of the turn-around (measured to the outer edge of the pavement) shall be forty-three (43) feet. When a center island in a cul-de-sac is unpaved, the minimum pavement width shall be twenty (20) feet. Any unpaved center of the turn-around shall be landscaped.

(D) Streets shall be laid out so that residential blocks do not exceed 1,500 feet, unless the Town Council determines that there is no other practicable alternative available.

(Ord. #1871, 8-24-20)

4.11.12. Street Intersections

(A) Streets shall intersect as nearly as possible at right angles and no two (2) streets may intersect at less than a seventy-five (75) degree angle. Not more than two (2) streets shall intersect at any one point, unless the Town Engineer certifies to the Permit Issuing Authority that such an intersection can be constructed with no extraordinary danger to public safety.

(Ord. #1890, 1-6-21)

(B) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than one-hundred-fifty (150) feet.

(C) Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than four-hundred (400) feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between off-set intersecting streets shall be at least one-thousand (1,000) feet.

4.11.13. Construction Standards and Specifications

Construction and design standards and specifications for streets, sidewalks and curbs and gutters are contained in Appendix B and all such facilities shall be completed in accordance with these standards.

(Ord. #1890, 1-6-21)

4.11.14. Private Streets in Subdivisions

(A) Unless the recorded plat of the land from which the Lots are created clearly shows a street to be public, the streets listed on the plat shall be considered private. The recording of a plat with streets listed as public shall constitute an offer of dedication of such street.

(B) Except as otherwise approved in a PD, whenever multiple Lots are to be served by a Private Street:

(1) The street must be built to the same standards and specifications as would apply if it were a Public Street.

(2) The Private Street shall serve only the Development in which it is located; it may not be designed to be extended to serve property outside the Development.

(3) Permanent provision must be made, and shown to the satisfaction of the Town Council, for the street to be maintained properly by a landowner association or comparable mechanism.

(C) Private Drives serving more than three (3) Dwellings shall meet the design and construction requirements to support and provide fire department access. The access shall be comprised of a fire department approved material and the width shall be at least twenty (20) feet but may be increased based on curve radii and whether parking is allowed to encroach on the Private Drive. The HOA is responsible for ensuring fire department access at all times.

(D) The recorded plat of any Subdivision shall clearly identify Private Streets. Further, the initial purchasers of a newly created Lot served by a Private Street shall be furnished by the seller with a disclosure

statement, in accordance with the provisions of G.S. 136-102.6, outlining the maintenance responsibilities for the Private Street.

(E) No work done by the Town involving the maintenance or repair of a private street shall neither imply nor impose any subsequent maintenance responsibilities on the Town.

(Ord. #1745)

4.11.15. Street, Private Drive and Sidewalk Requirements in Un-subdivided Developments

The provisions of this section shall apply to all un-subdivided Development requiring PD or Architectural Compliance Permit approval.

(A) Within un-subdivided Developments, all Public Streets, Private Streets and Private Drives shall be designed and constructed to facilitate the safe and convenient movement of motor vehicle and pedestrian traffic and shall comply with the design standards of section 4.11.10, except as modified by this section.

(B) Whenever a Street in an un-subdivided Development connects two (2) or more sub-collector, collector or arterial streets in such a manner that any substantial volume of through traffic is likely to make use of this road, such Street shall be constructed in accordance with the standards applicable to Public Streets and shall be dedicated. In other cases when roads in un-subdivided Developments within the Town are constructed in accordance with the specifications for Public Streets, the Town may accept an offer of dedication of such streets.

(C) Private Drives serving more than three (3) Dwellings shall meet the design and construction requirements to support and provide fire department access. Pavement width shall be at least twenty (20) feet, but may be increased based on curve radii and whether parking is allowed to encroach on the Private Drive. The HOA is responsible for ensuring fire department access at all times.

(D) In all un-subdivided residential Development, sidewalks shall be provided linking Dwelling Units with other Dwelling Units, the Public Street, and on-site activity centers such as parking areas, laundry facilities and recreational areas and facilities. Notwithstanding the foregoing, sidewalks shall not be required where pedestrians have access to a road that serves not more than nine (9) Dwelling Units. The sidewalk requirement may also be waived where, in the opinion of the Planning Director, an adequate system of hiking and/or bicycling trails are provided which would offer acceptable pedestrian facilities and access.

(E) Whenever the Permit Issuing Authority finds that a means of pedestrian access is necessary from an un-subdivided Development to schools, parks, playgrounds or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the roads, the Developer may be required to reserve an unobstructed easement of at least ten (10) feet to provide such access.

(F) The sidewalks required by this section shall be at least five (5) feet wide and constructed according to the specifications set forth in Appendix B.

(Ord. #1890)

4.11.16. Traffic Calming

(A) Traffic calming devices are only applicable on local streets that are “primarily residential” in character. To allow flexibility for various land uses, like parks and schools, no exact standard or distance between traffic calming devices are set. However, “primarily residential” means at least seventy-five (75) percent of the properties with frontage on the street are in residential zoning districts or have existing land uses that are residential.

(B) In new Developments, the Developer shall meet with appropriate Town staff (Town Engineer, Street Superintendent, Town Planners, Public Services Director, Police Chief and Fire Chief) to determine the need, if any, for traffic control devices. Once the need is established, a visioning session with Town staff and Developer shall be conducted to

discuss the traffic calming measures that will best serve the new community/Development. After the visioning session, the Developer shall submit to the Town, for review, the proposed traffic calming plan for approval or approval with modifications. Once approved by the Town, the traffic calming devices shall be incorporated in the proposed Site Plan or Engineering Plan.

(C) Traffic calming measures that may be considered are listed below. However, the measures identified are not meant to exclude other measures as new ideas are being developed.

(1) Non-Physical measures may include, but not be limited to, speed enforcement, radar trailers, land striping, Signage, pavement marking legends, high visibility crosswalks, on street parking, raised pavement markings, streetscaping, multi-way stops, turn prohibitions and other restrictions, gateways/entryways and colored pavements.

(2) Vertical traffic calming measures may include, but not be limited to, textured pavements, speed tables, raised crosswalks and raised intersections.

(3) Horizontal traffic calming measures may include, but not be limited to, traffic circles, roundabouts, curb extensions, chicanes, lateral shifts, neck-downs, realigned intersections, bulb-outs, two lane chokers, one lane chokers, center island narrowing and medians.

(4) Diversion traffic calming measures may include, but not be limited to, street closures, diagonal diverters and semi-diverters.

(Ord. #1745)

4.11.17. Attention to Handicapped in Street and Sidewalk Construction

(A) As provided in G.S. 136-44.14 whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with Appendix B and the published standards of the North Carolina Department of Transportation, Division of Highways.

(Ord. #1890)

(B) In un-subdivided Developments, sidewalk construction for the handicapped shall conform to the requirements of Chapter 11 of the North Carolina State Building Code, as amended.

(Ord. #1745)

4.11.18. Addressing and House Numbers

(A) Building/house numbers shall be assigned by the Town and the Moore County Addressing Coordinator. Numbers shall be placed on the structure visible from the roadway, if not, it shall be posted at the beginning of the driveway in a prominent location that is visible from both directions. If a driveway is shared, directional Signage shall be placed at any intersection.

(B) New and existing Buildings shall have approved address numbers, Building numbers or approved Building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

4.11.19. Bridges

All bridges shall be constructed in accordance with the standards and specifications of the North Carolina Department of Transportation, except that bridges on roads not intended for public dedication may be approved if designed by a registered, professional engineer.

4.11.20. Utilities

Utilities installed in public rights-of-way or along private roads shall conform to the requirements set forth in section 4.15.

4.11.21. Street and Sidewalk Improvements

The cost of installing street and sidewalk improvements required by this article shall be borne entirely by the Developer. In no case shall the Town of Southern Pines be responsible for the cost of street and sidewalk improvements required by this section 4.11. Sidewalks shall be installed at the time of street construction or property secured in accordance with section 2.20.6. Damage to streets or sidewalks during site Development shall be repaired prior to issuance of a certificate of occupancy or prior to the reimbursement or release of any Subdivision Performance Guarantee.

(Ord. #1745; Ord. #1919)

4.11.22. Street Names and Traffic Signs

(A) Street names shall be assigned by the Developer subject to the approval of the Permit Issuing Authority and the Moore County Addressing Coordinator. Proposed streets that are obviously in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within Moore County, regardless of the use of different suffixes (such as those set forth in paragraph (B).

(B) Street names shall include a suffix such as the following:

(1) Circle: A short street that returns to itself.

(2) Court or Place: A Cul-de-sac or dead-end street.

(3) Loop: A street that begins at the intersection with one street and circles back to end at another intersection with the same street.

(4) Street, Avenue and other common suffixes not applying above: All Public Streets not designated by another suffix.

(C) Street name and traffic Signs which meet the standards of the Town and the NCDOT specifications shall be placed at all street intersections. The cost to install street name and traffic Signs shall be borne by the Developer. In the case of a Subdivision with private streets, street and traffic Signs shall be constructed of a reflective material and shall meet the size and location requirements of the Town as determined by the Town Engineer.

(D) If an owner, Developer, homeowners association or Applicant of a site or Subdivision desires to install specialty street name Signs and posts, or specialty traffic control Signs and posts that vary from the standard type Sign materials required by and used by the Town, that person or homeowners association must make a request in writing to the Town. All such requests must include detailed dimensional drawings of the proposed street name Signs and posts and/or traffic control Signs and posts and specifications for the material to be used in those Signs and posts.

(E) The Town Engineer will review and approve all requests for such specialty street name Signs and posts and/or traffic control Signs and posts that differ from standard Town type materials usually required by and used by the Town.

(F) If approved by the Town, the use of specialty Signs and posts in any Subdivision or any site, that approval is subject to the Town receiving a letter from the owner Developer or homeowners association specifically agreeing to each of the following:

(1) All Sign faces shall be made of reflective Sign material conforming to the requirements of NCDOT. The Sign face dimensions and the positioning of the Sign and post with respect to the street pavement and/or the intersection must conform to the requirements of the Manual for Uniform Traffic Control Devices. The location of each specialty Sign and post

must be approved by the Town of Southern Pines prior to installation of that Sign and post.

(2) The Developer, the owner, or the homeowners association shall be responsible for all installation costs associated with the specialty Signs and posts.

(3) The Developer, the owner, or the homeowners association shall be responsible for the perpetual maintenance of specialty Signs and posts for which they requested Town approval.

(4) If the Developer, the owner, or the homeowners association fails to fulfill its responsibility for maintenance of these specialty Signs and posts, the Town of Southern Pines shall install its standard Sign materials and the Developer, the owner or the homeowners association shall be required to remove the specialty Signs and posts and at no cost to the Town. The cost of materials and installation of the standard street name Signs, standard traffic control Signs and posts needed to replace the specialty street name Signs, specialty traffic control Signs and posts that have not been properly maintained shall be borne by the owner, the Developer or the homeowners association of the Subdivision of the site, whichever is appropriate.

(5) The Developer, the owner or the Applicant shall inform purchasers of its property of the conditions and responsibilities of the homeowners association pertaining to perpetual maintenance responsibility for the specialty Signs and posts within the Subdivision or on that site.

4.11.23. Pavement Markings and Pavement Materials

All pavement markings and materials in Public Street pavement shall be approved by the Permit Issuing Authority for the Public Street. Pavement markings and material changes to street pavement shall be limited to pedestrian crossings, lane markings, edge of pavement marking and traffic warning or control markings or materials approved by the Town Engineer and should be consistent with the standards of the Manual on Uniform Traffic Control Devices.

4.11.24. Sidewalk Accessibility

If there is an existing or proposed sidewalk adjacent to a proposed or developing piece of property then such Development must extend such a sidewalk to the primary entrance of the Building.

4.12. TRANSPORTATION /TRAFFIC ANALYSES

4.12.1. Purpose.

The intent of this section is to provide the information necessary to allow decision-makers to assess the adequacy of available capacity to meet existing, projected and proposed demand at adopted levels of service. Traffic Impact Analyses (TIA) are intended for Developments having traffic impacts on major streets, multiple streets or multiple intersections. Traffic Design Analyses (TDA) are intended for Developments having more localized impacts. Where there is not sufficient available capacity to meet these demands, the traffic study should identify improvements required to accommodate proposed demand and maintain adopted levels of service. A traffic study will be required for Development applications exceeding specific trip generation thresholds established in this section.

4.12.2. Types of Studies and Applicability

(A) **Traffic Impact Analysis (TIA)**

(1) Purposes: The purposes of a TIA will be to:

(a) Evaluate traffic operations and impacts at site access points under projected traffic loads;

(b) Evaluate the impact of site-generated traffic on affected intersections in the impact area;

(c) Evaluate the impact of site-generated traffic on the quality of traffic flow on public streets located in the Impact area;

(d) Evaluate the impact of the proposed Development on residential streets in the impact area;

(e) Ensure that site access and other improvements needed to mitigate the traffic impact of the Development meet commonly accepted engineering design standards;

(f) Ensure that adequate facilities for pedestrians, transit users and bicyclists have been provided; and

(g) Identify transportation infrastructure needs and related costs created by the Development and cost sharing for needed improvements.

(2) Applicability: A TIA will be required prior to approval of a Preliminary Plat; Architectural Compliance Permit, Zoning Map Amendment, or Special Use Permit for Development that exceeds the following thresholds in one or more Development Applications submitted for a Parcel or contiguous Parcels under common ownership at the time of the adoption of this UDO or at the time of the Development application:

(a) The proposed Development will generate more than 1,000 average daily trips at full occupancy, according to most current version of the ITE Trip Generation Informational Report or comparable research data approved by the Town Engineer; or

(b) The proposed Development will concentrate three hundred (300) or more trips per day through a single access point.

(Ord. # 1919)

(B) **Traffic Design Analysis (TDA)**. All Development projected to generate two hundred (200) average daily trips more than existing conditions that does not require a TIA shall be required to complete a Traffic Design Analysis (TDA). The purposes of a TDA will be to:

(1) Ensure that the proposed street layout is consistent with adopted road design standards;

(2) Ensure the proper design and spacing of site access points and identify where limitations on access should be established;

(3) Ensure that potential safety problems have been properly evaluated and addressed;

(4) Ensure that internal circulation patterns will not interfere with traffic flow on existing public streets;

(5) Ensure that appropriate facilities for pedestrians, transit users and bicyclists have been provided in plans for the Development; and

(6) Identify the transportation infrastructure needs and related costs created by the Development.

4.12.3. Waiver

The requirements of this section for a TIA or TDA may be waived by the Town Engineer upon determining that such report is not necessary to determine needed road improvements, that adequate capacity exists to serve the proposed Development, and that no unsafe or hazardous conditions will be created by the Development as proposed.

4.12.4. Preparation

The cost of TIA or TDA preparation shall be the responsibility of the Applicant. The Applicant shall retain the services of a qualified traffic engineer approved by the Town Engineer. A TIA shall be sealed by a licensed professional engineer.

4.12.5. Traffic Level of Service Standards

The standards for traffic service that shall be used to evaluate the findings of a TIA or TDA are:

(A) Level of Service. Level of Service D (LOS D) or less congested shall be maintained at all arterial and collector street intersections. LOS C or less congested shall be maintained at all other street intersections. For

multi-phase Developments, the applicable levels of service shall be maintained for each phase. No Development shall result in the decline in the level of service of an adjacent street by more than two (2) letters (e.g., a drop from LOS A to LOS D) unless specifically approved by the Town Council.

(B) Number of Access Points. The spacing of access points shall comply with applicable Town, state and AASHTO standards.

(C) Internal Circulation. On-site vehicle circulation and parking patterns shall be designed so as not to interfere with the flow of traffic on any public street and shall accommodate all anticipated types of site traffic at projected volumes.

(D) Safety. Access points shall be designed to provide for adequate sight distance and appropriate facilities to accommodate acceleration and deceleration of site traffic pursuant to section 4.11.5.

(E) Curb Space Use Plan. Details shall be provided on curb space use on public streets along the edge of the Development site when it is intended that such areas be used for parking, parking space access, delivery and loading zones, passenger zones, bus stops, fire zones and/or other official/emergency zones. This review shall include a description of existing conditions prior to Development, and proposed changes resulting from the Development, including a description of any loss or gain in curb space use by the activities intended.

(Ord. #1745)

4.12.6. Traffic Analysis Contents

(A) A TIA shall be based on peak hour traffic and shall contain information addressing the factors listed below.

(1) Project and Site Description. The analysis shall contain illustrations and narratives that describe the characteristics of the site and adjacent land uses as well as expected Development in the Impact area that will influence future traffic conditions. A description of the proposed Development including access plans, phasing plans and an indication of land use and intensity, shall be provided.

(2) Study Area. The analysis shall identify the geographic area under study and identify the critical intersections and access points to be analyzed. Unless an alternative is approved the Town Engineer, the study shall include: all intersections and driveways on or within 150 feet of the site; all intersections along collector or arterial streets within one-quarter (¼) mile of the site; and all intersections along arterial streets that the proposed Development is projected generate five (5) percent or more of the peak hour traffic.

(3) Existing Traffic Conditions. The analysis shall contain a summary of the data used in the analysis of existing traffic conditions, including:

(a) Existing Demand, including traffic count and turning movement information, including the source of and date when traffic count information was collected;

(b) Roadway characteristics, including the design configuration of existing roadways, existing traffic control measures (speed limits, traffic signals, etc.) and existing driveways and turning movement conflicts in the Impact area; and

(c) The existing LOS for roadways and intersections without project Development traffic using methods documented in the Special Report 209: Highway Capacity Manual, published by the Transportation Research Board, or comparable accepted methods of evaluation. LOS shall be calculated for the weekday am and pm peak hours and, in the case of uses generating high levels of weekend traffic, the Saturday or Sunday peak hour as determined by the Town Engineer.

(4) Traffic Assignment. The TIA shall identify projected peak hour traffic volumes for applicable intersections and driveways in the study area. The Town Engineer shall identify applicable intersections, driveways and traffic distribution assumptions prior to completion of the study. Projected trip generation shall be based on latest data from the ITE or other studies approved in writing by the Town Engineer. This section will document all assumptions affecting the direction, volume and mode split of traffic generated by the project.

(B) Analysis. The analysis shall be based on buildout and ten (10) year projections. The analysis shall compare existing demand plus projected demand plus proposed demand with planned capacity for the applicable projections.

(C) Mitigation Alternatives. In situations where the LOS standards are projected to be exceeded for the buildout year for residential and the 10-year projection for commercial and mixed-use Developments, the analysis shall evaluate each of the following alternatives for achieving the traffic service standards:

(1) Identify additional Right-of-Way and street improvements needed to implement mitigation strategies;

(2) Identify suggested phasing of Development and transportation improvements where needed to maintain compliance with LOS standards;

(3) For Developments impacting constrained facilities, identify access, pedestrian, transit or other improvements required to mitigate the impacts of the proposed Development on the constrained facility.

(4) In the event that the proposed mitigation is not permitted by NCDOT, the Development shall provide the most effective mitigation to improve LOS allowed by NCDOT.

(D) A TDA shall include the information required for a TIA, except as modified by the Town Engineer. The study area for a TDA shall include all street segments, intersections and driveways on or within 150 feet of the site.

(Ord. #1745)

4.12.7. Process for the Review and Preparation

The following steps provide an outline of the steps to be included in the preparation and review of a Traffic Impact Analysis:

(A) The Applicant shall meet or correspond with the Town Engineer to determine whether a TIA needs to be prepared for a proposed Development application, and to identify study issues, assumptions, projections and time periods to be analyzed, analysis procedures, available sources of data, past and related studies, report requirements and other topics relevant to study requirements. NCDOT shall be contacted and coordinated with as appropriate when the TIA includes state or federal highways as points of access for a Development.

(B) Following initial completion of a TIA, the report shall be submitted to the Planning Director and the Town Engineer and the Applicant shall be responsible for distribution to all jurisdictions involved in the construction and maintenance of public roadways serving the Development. If direct access is being proposed to a State Highway, the Applicant shall also submit the TIA to NCDOT, if not previously submitted.

(C) Within five (5) business days, the Town Engineer shall complete an initial review to determine the completeness of the analysis and shall provide a written summary to the Applicant outlining the need for any supplemental study or analysis to adequately address any deficiencies. A meeting to discuss the contents and findings of the report and the need for additional study may be requested by the Applicant. NCDOT approval shall be required for any traffic mitigation involving the state system.

(D) Within thirty (30) days of submittal of a complete application, the Town Engineer shall prepare a report outlining recommendations that have been developed to address the findings and conclusions included in the analysis regarding the proposed Development's access needs and impacts on the transportation system. Depending on the type of application, the recommendations may be presented to the Planning Board and/or Town Council.

(E) In the case of a TIA or TDA showing deficiencies requiring mitigation within the public Right-of-Way, negotiations based on the conclusions and finding resulting from the TIA or TDA shall be held with appropriate Town staff. The subsequent Development Approval or, at the option of the Applicant, a Subdivision Performance Guarantee or Development Agreement, shall identify the Applicant's and the Town's responsibilities for implementing identified mitigation measures.

(Ord. #1745; Ord. #1919)

4.12.8. Findings

(A) If the proposed Development, either residential, commercial, or mixed-use, meets the applicable service level standards and the project only affects Town or private streets, the Town Engineer shall recommend acceptance of the traffic analysis and its findings.

(B) If the proposed Development, either residential, commercial, or mixed-use, meets the applicable service level standards and the project affects any NCDOT street, the Town Engineer shall not make a recommendation to either accept or deny the traffic analysis until the Town Engineer is in receipt of an official comment from NCDOT.

(C) If the proposed residential Development will not meet applicable service level standards at the buildout projections or if the proposed commercial or mixed-use Development will not meet applicable service level standards at the buildout or 10-year projections, the Town Engineer shall recommend denial of the traffic analysis unless the Applicant submits a mitigation plan that, in the opinion of the Town Engineer, addresses the deficiencies through one or more of the following actions:

(1) Reduce the size, scale, scope or density of the Development to reduce traffic generation;

(2) Divide the project into phases and with only one phase at a time being authorized until traffic capacity is adequate for the next phase of Development;

(3) Dedicate Right-of-Way for street improvements;

(4) Construct new street improvements;

(5) Expand the capacity of existing streets and/or intersections;

(6) Redesign ingress and egress to the project to reduce traffic conflicts;

(7) Alter the use and type of Development to reduce peak hour traffic;

(8) Reduce background traffic;

(9) Eliminate the potential for additional traffic generation from undeveloped properties in the impact area; or

(10) Integrate non-vehicular design components (e.g., pedestrian and bicycle paths or transit improvements) to reduce trip generation.

(Ord. #1745)

4.13. Flood Hazard Areas

4.13.1. Statutory Authorization, Purpose, Objectives

(A) The Flood Hazard Overlay District (**FHO**), as established in section 3.6.9 is designed for the purpose of protecting people and property from the hazards of flooding in accordance with the authority provided in Part 6, Article 21 of Chapter 143; Article 8 of Chapter 160A; and Articles 7, 9 and 11 of Chapter 160D of the North Carolina General

Statutes. This section 4.13 shall be known as the Town of Southern Pines Flood Hazard Area Regulations of Flood Hazard Area Regulations.

(Ord. #1919)

(B) It is the purpose of the **FHO** district regulations is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging, and all other Development that may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(C) The objectives of the **FHO** district regulations are:

(1) To protect human life and health;

(2) To minimize Expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business losses and interruptions;

(5) To minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

(6) To help maintain a stable tax base by providing for the sound use and Development of flood prone areas; and

(7) To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

4.13.2. Definitions

(A) Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in these Flood Hazard Regulations shall have the meaning indicated when used throughout this section.

(1) **Accessory Structure (Appurtenant Structure).** A structure located on the same Parcel of property as the Principal Structure and the use of which is incidental to the use of the Principal Structure. Garages, carports and storage sheds are common urban Accessory Structures. Pole barns, hay sheds and the like qualify as Accessory Structures on farms, and may or may not be located on the same Parcel as the farm Dwelling or shop Building.

(2) **Addition (to an existing Building).** An extension or increase in the Gross Floor Area or height of a Building or structure.

(3) **Administrator.** The individual appointed to administer and enforce the floodplain management regulations of this article.

(4) **Appeal.** A request for a review of the Administrator's interpretation of any provision of this article.

(5) **Area of Shallow Flooding.** A designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood

depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

(6) **Area of Special Flood Hazard.** See "Special Flood Hazard Area (SFHA)".

(7) **Base Flood.** The flood having a 1% chance of being equaled or exceeded in any given year.

(8) **Base Flood Elevation (BFE).** A Determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

(9) **Basement.** Any area of the Building having its floor sub-grade (below ground level) on all sides.

(10) **Building.** See "Structure".

(11) **Chemical Storage Facility.** A Building, portion of a Building, or exterior area adjacent to a Building used for the storage of any chemical or chemically reactive products.

(12) **Development.** Any man-made change to improved or unimproved real estate, including, but not limited to, Buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

(13) **Disposal.** As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(14) **Elevated Building.** A non-basement Building which has its lowest elevated Floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

(15) **Encroachment.** The advance or infringement of uses, fill, excavation, Buildings, structures or Development into a floodplain, which may impede or alter the flow capacity of a floodplain.

(16) **Existing Manufactured Home Park or Manufactured Home Subdivision.** A Manufactured Home Park or Subdivision for which the construction of facilities for servicing the Lots on which the Manufactured Homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

(17) **Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

(18) **Flood Boundary and Floodway Map (FBFM).** An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

(19) **Flood Hazard Boundary Map (FHBM).** An official map of a community, issued by the Federal Emergency Management

Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

(20) **Flood Insurance.** The insurance coverage provided under the National Flood Insurance Program.

(21) **Flood Insurance Rata Map (FIRM).** An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

(22) **Flood Insurance Study (FIS).** An examination, evaluation, and Determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study Report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

(23) **Flood Prone Area.** See "Floodplain".

(24) **Flood Zone.** A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

(25) **Floodplain.** Any land area susceptible to being inundated by water from any source.

(26) **Floodplain Development Permit.** Any type of permit (zoning or Special Use Permit) that is required in conformance with the provisions of this article prior to the commencement of any Development activity.

(Ord. #1919)

(27) **Floodplain Management.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

(28) **Floodplain Management Regulations.** This article and other land Development ordinances, Subdivision regulations, Building codes, health regulations, special purpose ordinances, and other applications of police power which control Development in flood prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

(29) **Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

(30) **Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

(31) **Freeboard**. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater that the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the Watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

(32) **Functionally Dependent Facility.** A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

(33) **Hazardous Waste Facility**. As defined in G.S. Ch. 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

(34) **Highest Adjacent Grade (HAG).** The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

(35) **Historic Structure.** Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical Significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or

(d) Certified as contributing to the historical Significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”. Certified Local Government (CLG) Programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

(36) **Lowest Adjacent Grade (LAG).** The elevation of the ground, sidewalk or patio slab immediately next to the Building, or deck support, after completion of the Building.

(37) **Lowest Floor.** The lowest Floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, Building access, or limited storage in an area other than a basement area is not considered a Building's lowest Floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

(38) **Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “Manufactured Home” does not include a “Recreational Vehicle”.

(39) **Manufactured Home Park or Subdivision.** A Parcel (or contiguous Parcels) of land divided into two or more Manufactured Home Lots for rent or sale.

(40) **Market Value.** The Building value, not including the land value and that of any Accessory Structures or other improvements on the Lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of Building and quality of construction (actual cash value); or adjusted tax assessed values.

(41) **Mean Sea Level.** For purposes of this article, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

(42) **New Construction.** Structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

(43) **Non-Encroachment Area.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study Report.

(44) **Post-FIRM.** Construction or other Development for which the "start of construction" occurred on or after the effective date of the initial Flood insurance Rate Map for the area.

(45) **Pre-FIRM.** Construction or other Development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

(46) **Principally Above Ground.** At least 51% of the actual cash value of the structure is above ground.

(47) **Public Safety and/or Nuisance.** Anything which is injurious to the safety or health of an entire community or Neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

(48) **Recreational Vehicle (RV).** A vehicle, which is:

(a) Built on a single chassis;

(b) Four hundred square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent Dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

(49) **Reference Level.** The top of the lowest Floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

(50) **Regulatory Flood Protection Elevation.** The "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

(51) **Remedy a Violation.** To bring the structure or other Development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected Development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other Development.

(52) **Riverine.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

(53) **Salvage Yard.** Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

(54) **Solid Waste Disposal Facility.** As defined in G.S. 130A-290(a)(35), any facility involved in the disposal of solid waste.

(55) **Solid Waste Disposal Site.** As defined in G.S. 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

(56) **Special Flood Hazard Area (SFHA).** The land in the floodplain subject to a one (1) percent or greater chance of being flooded in any given year, as determined in Section 4.13.3(B) below

(57) **Start of Construction.** Includes substantial improvement, and means the date the Building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a Manufactured Home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of Accessory Buildings, such as garages or sheds not occupied as Dwelling Units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the Building, whether or not that alteration affects the external dimensions of the Building.

(58) **Structure**. A walled and roofed Building, a Manufactured Home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

(59) **Substantial Damage.** Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. See definition of "Substantial Improvement".

(60) **Substantial Improvement.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:

(a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(61) **Variance.** A grant of relief from the requirements of these Flood Hazard Regulations.

(62) **Violation.** The failure of a structure or other Development to be fully compliant with the community's floodplain management regulations. A structure or other Development without the elevation certificate, other certifications, or other evidence of compliance required in section 4.13.4 and sections 4.13.8 through 4.13.13 is presumed to be in violation until such time as that documentation is provided.

(63) **Water Surface Elevation (WSE).** The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

(64) **Watercourse.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. “Watercourse” includes specifically designated areas in which substantial flood damage may occur.

4.13.3. General Provisions

(A) **Applicability.** The provisions of this article shall apply to all Special Flood Hazard Areas within the planning and zoning jurisdiction of the Town.

(B) **Basis for Establishing the Special Flood Hazard Areas**. The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and the most recently adopted version its accompanying Flood Insurance Rate Maps (FIRM) for Moore County, which are adopted by reference and declared to be a part of this article. In addition, upon annexation to the Town or inclusion in the Town's Extraterritorial Jurisdiction (ETJ), the Special Flood Hazard Areas identified by the Federal Emergency Management Agency (FEMA) and/or produced under the Cooperating Technical State agreement between the State of North Carolina and FEMA as stated above, for the Unincorporated Areas of Moore County, with accompanying maps and other supporting data are adopted by reference and declared to be a part of this article.

(Ord. #1919)

(C) **Establishment of Floodplain Development Permit**. A Floodplain Development Permit shall be required in conformance with the provision of these Flood Hazard Regulations prior to the commencement of any Development activities within Special Flood Hazard Areas determined in accordance with paragraph (B) of this section.

(D) **Compliance**. No structure or land shall hereafter be located, extended, converted, offered, or developed in any way without full compliance with the terns of this article and other applicable regulations.

(E) **Abrogation and Greater Restrictions**. The provisions of this article are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the provisions of this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) **Interpretation**. In the interpretation and application of the provisions of this article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(G) **Warning and Disclaimer of Liability**. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the Town or by any officer or employee thereof for any flood damages that result from reliance on this article or any Administrative Decision lawfully made hereunder.

(H) **Penalties for Violation**. Violations of the provisions of these Flood Hazard Regulations or failure to comply with any of its requirements shall be processed in accordance with the procedures delineated in chapter 8. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation of the provisions of this article.

4.13.4. Plans, Application, and Permit Requirements

(A) **General**. A zoning or Special Use Permit, as applicable, shall be required in conformance with the provisions of this article prior to the commencement of any Development activities within Special Flood Hazard Areas determined in accordance with section 4.13.3(B).
(Ord. #1919)

(B) **Application Requirements**. Applications for a zoning permit or Special Use Permit which include property that is located within a Special Flood Hazard Area shall be submitted to the Administrator and shall include the following information:

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain Development:

(a) The nature, location, dimensions, and elevations of the area of Development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other Development;

(b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in section 4.13.3(B) or a statement that the entire Lot is within the Special Flood Hazard Area;

(c) Flood zone(s) designation of the proposed Development area as determined on the FIRM or other flood map as determined in section 4.13.3(B);

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in section 4.13.3(B);

(e) The Base Flood Elevation (BFE) where provided as set forth in section 4.13.3(B); section 4.13.5(K); section 4.13.5(L); or section 4.13.10;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed Development; and

(g) Certification of the plot plan by a registered land surveyor or professional engineer in situations where, in the Administrator's opinion, more precise data is necessary to afford an adequate review of the application.

(2) Proposed elevation, and method thereof, of all Development within a Special Flood Hazard Area including but not limited to:

(a) Elevation in relation to mean sea level of the proposed reference level (inducting basement) of all structures;

(b) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be floodproofed; and

(c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

(3) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

(4) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include but are not limited to:

(a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

(b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with section 4.13.9(D)(3),

when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

(5) Usage details of any enclosed areas below the regulatory flood protection elevation.

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(7) Copies of all other local, state and federal permits required prior to floodplain Development permit issuance (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, and the like.)

(8) Documentation for placement of Recreational Vehicles end/or Temporary Structures, when applicable, to ensure sections 4.13.9(F)and 4.13.9(G) are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(Ord. #1919)

(C) **Permit Data Requirements**. The following information shall be provided on the approved permit to ensure compliance with the provisions of this article:

(1) A description of the Development to be permitted under the floodplain Development permit.

(2) The Special Flood Hazard Area Determination for the proposed Development per available data specified in section 4.13.3(B).

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(4) The regulatory flood protection elevation required for the protection of all public utilities.

(5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other Development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(7) The flood openings requirements, if in Zones A, AO, AE or A1-30.

(8) Limitations of below BFE enclosure uses, if applicable (i.e., parking, Building access and limited storage only).

(D) **Certification Requirements**.

(1) Elevation Certificates.

(a) An Elevation Certificate (FEMA Form 086-0-33) may be required by the Floodplain Administrator prior to the actual start of any new construction. If required, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a Building permit.

(b) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to

submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(c) A final Finished Construction Elevation Certificate (FEMA Form 086 0 33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least two (2) photographs showing the front and rear of the Building taken within 90 days from the date of certification. The photographs must be taken with views confirming the Building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire Building including foundation. If the Building has split-level or multi-level areas, provide at least two (2) additional photographs showing side views of the Building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

(Ord. # 1775)

(2) Floodproofing Certificate. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the Applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain Development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(3) If a Manufactured Home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per 4.13.9(C)(2).

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the

proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit Applicant prior to issuance of a permit.

(5) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in paragraphs (D)(2) and (D)(3) of this section:

(a) Recreational Vehicles meeting requirements of section 4.13.9(F)(1);

(b) Temporary structures meeting requirements of 4.13.9(G); and

(c) Accessory Structures less than 150 square feet meeting requirements of section 4.13.9(H).

4.13.5. Duties and Responsibilities of the Administrator

The duties of the Administrator as they relate to the administration and enforcement of the provisions of this article shall include, but not be limited to:

(A) Review all floodplain Development applications and issue permits for all proposed Development within Special Flood Hazard Areas to assure that the requirements of this article have been satisfied.

(B) Advise Applicant that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, and the like) may be required, and require that copies of such permits be provided and maintained on file with the permit.

(C) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of section 4.13.11 are met.

(F) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with section 4.13.4(B).

(G) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with section 4.13.4(D).

(H) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with section 4.13.4(D).

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with section 4.13.4(D) and section 4.13.9(B).

(J) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(K) When Base Flood Elevation (BFE) data has not been provided in accordance with 4.13.3(B), obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data

developed pursuant to section 4.13.10(B)(2), in order to administer the provisions of these Flood Hazard Area regulations.

(L) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with 4.13.3(B), obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this article.

(M) When the lowest ground elevation of a Parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA and maintain a copy issued by FEMA in the floodplain Development permit file.

(N) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection.

(O) Make on-site inspections of work in progress. As the work pursuant to a permit progresses, the Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Administrator has a right, upon presentation of proper credentials, to enter on any Premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(P) Issue stop-work orders as required. Whenever a Building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed.

(Ord. #1959)

(Q) Revoke floodplain Development permits as required. The Administrator may revoke and require the return of the permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(R) Make periodic inspections throughout all Special Flood Hazard Areas within the jurisdiction of the community. The Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any Premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(S) Follow through with corrective procedures of section 4.13.3(H).

(T) Review, provide input, and make recommendations for variance requests.

(U) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with 4.13.3(B), including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(V) Coordinate revisions to FIS Reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

4.13.6. Corrective Procedures

(A) Violations to be Corrected: When the Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the Building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) Actions in Event of Failure to Take Corrective Action: If the owner of a Building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) that the Building or property is in violation of the floodplain management regulations;

(2) that a hearing will be held before the Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) that following the hearing, the Administrator may issue an order to alter, vacate, or demolish the Building; or to remove fill as applicable.

(C) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Administrator shall find that the Building or Development is in violation of these Flood Hazard Regulations, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eighty (180 calendar days. Where the Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) Appeal: Any owner who has received an order to take corrective action may appeal the order to the Board of Adjustment by giving notice of appeal in writing to the Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) Failure to Comply with Order: If the owner of a Building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the Board of Adjustment following an appeal, the owner shall be subject to a civil penalty in the amount of fifty (50) dollars per day.

(Ord. #1959)

4.13.7. Variance Procedures

(A) The Board of Adjustment shall hear and decide requests for variances from the requirements of these Flood Hazard Area Regulations. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision in accordance with the provisions of section 2.22.

(B) Variances may be issued by the Board of Adjustment for:

(1) The repair or rehabilitation of historic structures upon the Determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(2) Functionally dependent facilities if determined to meet the definition as stated in section 4.13.2, provided the provisions of paragraphs (H)(2), (3), and (5) of this section have been satisfied, and such facilities are protected by methods that minimize flood damages.

(3) Any other type of Development provided it meets the requirements stated in this section.

(C) In passing upon variances, the Board of Adjustment shall consider all technical valuations, all relevant factors, all standards specified in other sections of this article, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under section 4.13.2 as a functionally dependent facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The Compatibility of the proposed use with existing and anticipated Development;

(8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(D) A written report addressing each of the above factors shall be submitted with the application for a variance.

(E) Upon consideration of the factors listed above and the purposes of this article, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(F) Any Applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to $25.00 per $100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(G) The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(H) Conditions for Variances:

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(3) Variances shall only be issued upon a Determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued prior to Development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A Determination that failure to grant the variance would result in exceptional hardship; and

(c) A Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(I) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met:

(1) The use serves a critical need in the community.

(2) No feasible location exists for the use outside the Special Flood Hazard Area.

(3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.

(4) The use complies with all other applicable federal, state and local laws.

(5) The Town has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

4.13.8. General Standards for Flood Hazard Reduction

In all Special Flood Hazard Areas the following provisions are required:

(A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, duct work, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, and the like), hot water heaters, and electric outlets/switches.

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this article, shall meet the requirements of “new construction” as contained in this article.

(I) Nothing in this article shall prevent the repair, reconstruction, or replacement of a Building or structure existing on the effective date of this article and located totally or partially within the floodway, non-encroachment area, or stream Setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream Setback, and provided

that such repair, reconstruction, or replacement meets all of the other requirements of this article.

(J) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in section 4.13.7(I). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to section 4.13.4(D).

(K) All Subdivision proposals and other Development proposals shall be consistent with the need to minimize flood damage.

(L) All Subdivision proposals and other Development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(M) All Subdivision proposals and other Development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(N) All Subdivision proposals and other Development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

4.13.9. Specific Standards for Flood Hazard Reduction

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in section 4.13.3(B) or sections 4.13.5(K) and 4.13.5(L), the following provisions, in addition to section 4.13.8, are required:

(A) Residential Construction. New construction and substantial improvement of any residential structure (including Manufactured Homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in section 4.13.2.

(B) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in section 4.13.2. Structures located in A, AE and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with section 4.13.13. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Administrator as set forth in section 4.13.4(D) along with the operational and maintenance plans.

(C) Manufactured Homes.

(1) New or replacement Manufactured Homes shall be elevated so that the reference level of the Manufactured Home is no lower than the regulatory flood protection elevation, as defined in section 4.13.2.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation

of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest Floor shall meet the requirements of section 4.13.9(D).

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged Manufactured Home Parks or Subdivisions located within flood prone areas. This plan shall be filed with and approved by the Administrator and the local Emergency Management Coordinator.

(D) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest Floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, Building access, or limited storage of maintenance equipment used in connection with the Premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation; and

(3) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a Building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(E) Additions/Improvements.

(1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(2) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Where an independent perimeter load-bearing wall is provided between the addition and the existing Building, the addition(s) shall be considered a separate Building and only the addition must comply with the standards for new construction.

(F) Recreational Vehicles. Recreational vehicles shall either:

(1) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

(2) Meet all the requirements for new construction.

(G) Temporary Non-Residential Structures. Prior to the issuance of a permit for a temporary structure, the Applicant must submit to the Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

(2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(3) The time frame prior to the event at which a structure will be removed (i.e., minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(H) Accessory Structures. When Accessory Structures (sheds, detached garages, and the like) are to be placed within a Special Flood Hazard Area, the following criteria in this section shall be met. An Accessory Structure with a footprint less than one hundred fifty (150) square feet that satisfies the criteria outlined below does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other Accessory Structures in accordance with section 4.13.4(D).

(1) Accessory Structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(2) Accessory Structures shall not be temperature-controlled;

(3) Accessory Structures shall be designed to have low flood damage potential;

(4) Accessory Structures shall be constructed and placed on the Building site so as to offer the minimum resistance to the flow of floodwaters;

(5) Accessory Structures shall be firmly anchored in accordance with section 4.13.8(A);

(6) All service facilities, such as electrical, shall be installed in accordance with section 4.13.8(D); and

(7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with section 4.13.9(D)(3).

4.13.10. Standards for Floodplains without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in section 4.13.3(B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to sections 4.13.8 and 4.13.9, shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new Development shall be permitted within a distance of twenty (20) feet each side from top of bank or five (5) times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:

(1) If BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this article and shall be elevated or floodproofed in accordance with standards in sections 4.13.5(K) and 4.13.5(L).

(2) All Subdivision, Manufactured Home Park and other Development proposals shall provide BFE data if Development is greater than five acres or has more than fifty (50) Lots/Manufactured Home sites. Such Base Flood Elevation (BFE) date shall be adopted by reference per section 4.13.3(B) to be utilized in implementing this article.

(3) When Base Flood Elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in section 4.13.12.

4.13.11. Standards for Riverine Floodplains with BFE but without Established Floodways or Non-Encroachment Areas

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS Report, the following requirements shall apply to all Development within such areas:

(A) Standards outlined in sections 4.13.5(K) and 4.13.5(L); and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other Development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed Development, when combined with all other existing and anticipated Development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

4.13.12. Standards for Floodways and Non-Encroachment Areas

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in section 4.13.3(B). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry

debris and potential projectiles. The following provisions, in addition to standards outlined in sections 4.13.5(K) and 4.13.5(L), shall apply to all Development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other Developments shall be permitted unless it has been demonstrated that:

(1) The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Administrator prior to issuance of a permit; or

(2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(B) If section 4.13.12(A) is satisfied, all Development shall comply with all applicable flood hazard reduction provisions of this article.

(C) No Manufactured Homes shall be permitted, except replacement Manufactured Homes in an existing Manufactured Home Park or Subdivision, provided the following provisions are met:

(1) The anchoring and the elevation standards of section 4.13.9(C); and

(2) The no encroachment standard of section 4.13.12(A).

4.13.13. Standards for Areas of Shallow Flooding (Zone AO)

Located within the Special Flood Hazard Areas established in section 4.13.3(B), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to section 4.13.8, all new construction and substantial improvements shall meet the following requirements:

(A) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade plus a freeboard of two feet if no depth number is specified.

(B) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Sub-section (1) above so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per section 4.13.4(D) and section 4.13.9(B).

(C) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

4.13.14. Effect upon Outstanding Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any Development or any part thereof for which a permit has been granted by the administrator or his or her authorized agents before the time of passage of this article; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this article.

4.14. Drainage, Erosion Control, Storm Water Management

4.14.1. Natural Drainage System Utilized to Extent Feasible:

(A) To the extent practicable, all Development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed.

(B) To the extent practicable, Lot boundaries shall be made to coincide with natural and preexisting man-made drainage ways within Subdivisions to avoid the creation of Lots that can be built upon only by altering such drainage ways.

4.14.2. Developments Must Drain Properly

(A) All Developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the Development site. Surface water shall not be regarded as unduly retained if:

(1) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or

(2) The retention is not substantially different in location or degree than that experienced by the Development site in its pre-Development stage, unless such retention presents a danger to health or safety.

(B) No surface water may be channeled or directed into a sanitary sewer.

(C) Whenever practicable, the drainage system of a Development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

(D) Use of drainage swales rather than curb and gutter and storm sewers in Subdivisions is provided for in section 4.11.10. Private Streets and access ways shall provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require such construction.

(E) Construction specifications for drainage swales, curbs and gutters and storm drains are contained in Appendix B.

(Ord. #1890, 1-6-21)

4.14.3. Storm Water Management

(A) All Developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such Developments. More specifically:

(1) No Development may be constructed or maintained so that such Development unreasonably impedes the natural flow of water from higher adjacent properties across such Development, thereby unreasonably causing substantial damage to such higher adjacent properties;

(2) No Development may be constructed or maintained so that surface waters from such Development are unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties; and

(3) The post-Development runoff rate shall be equal to or less than the pre-Development rate from the design storm or a ten (10) year storm event.

(a) Exemption: Existing single Family residential Lots built in accordance with the Watershed Protection Overlay requirements.

(*Ord. #2040)*

(B) All Developments shall contain an adequate drainage system for the proper drainage of all surface water. No new construction and no substantial improvements of a structure may take place unless the

design of a drainage system is reviewed by the administrator to assure that:

(1) No surface water shall be channeled or directed into a sanitary sewer.

(2) Where feasible, the subdivider shall connect to an existing storm drainage system.

(3) Where an existing storm drainage system cannot feasibly be extended to the Subdivision, a surface drainage system shall be designed to protect the proposed Development from water damage.

(4) Surface drainage courses shall have side slopes of not less than the natural angle of repose for the soil but not steeper than a three (3) to one (1) slope in which the course is constructed and courses shall be of sufficient size to accommodate the drainage area without flooding the adjacent properties.

(Ord. #1890)

4.14.4. Sedimentation and Erosion Control

(A) No zoning or Special Use Permit may be issued and Final Plat approval for Subdivisions may not be given with respect to any Development that would cause land disturbing activity requiring prior approval of an erosion and sedimentation control plan by the Town of Southern Pines under authorization of the N. C. Sedimentation Control Commission unless the Town of Southern Pines has certified either that:

(1) An erosion control plan has been submitted to and approved by the Town; or

(2) The Town has examined the preliminary plans the Development and it reasonably appears that an erosion control plan can be approved upon submission by the Developer of more detailed construction or design drawings. However, in this case, construction of the Development may not begin (and no Building permits may be issued) until the Town approves the erosion control plan.

(Ord. #1919)

(B) For purposes of this section, "land disturbing activity" means any use of the land by any person in residential, industrial, educational, institutional or commercial Development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation except activities that are exempt under Town of Southern Pines Code of Ordinances §154.04. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity or ice from the site of its origin.

(Ord. #1919)

(C) All Developments shall maintain a twenty-five (25) foot wide vegetated buffer along each side of a perennial stream or natural drainage way. The distance shall be measured from the top edge of the stream bank or drainage way. If no drainage way bank exists, the centerline of the drainage way swale shall be used for measurement purposes. The vegetated buffer shall remain undisturbed except as may be necessary to accommodate roads (provided they cross at a horizontal angle of at least sixty degrees), utilities and their easements, pedestrian paths and their easements and approved water-dependent uses such as marinas, docks, piers, boat ramps and bridges. In cases in which a twenty-five (25) foot buffer may not be practical or desirable, the Town may consider a request for a Special Use Permit if it finds that the proposed use can provide an acceptable alternative means of handling storm water without maintaining a twenty-five (25) foot vegetated buffer.

(Ord. #1919)

4.15. UTILITIES

4.15.1. Utility Ownership and Easement Rights

In any case in which a Developer installs or causes the installation of water, sewer, electrical power, telephone, natural gas or cable television facilities and intends that such facilities shall be owned, operated or maintained by a public utility or any entity other than the Developer, the Developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities. In addition, the Developer, in accordance with section 4.15.6, shall dedicate sufficient easement rights to accommodate the extension of utility facilities which will serve adjacent or nearby Developments. Easement rights transferred to the Town under this section shall include provisions for the optional use of hiking, bicycling and pedestrian activities within the easement.

4.15.2. Public Lighting Requirements

See section 4.8.7.

4.15.3. Electric Power

Every Principal Use and every Lot within a Subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every Lot within such Subdivision. Compliance with this requirement shall be determined as follows:

(A) If the use is not a Subdivision and is located on a Lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or Shopping Center), then no further certification is needed.

(B) If the use is a Subdivision or is not located on a Lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every Lot within the proposed Subdivision.

4.15.4. Telecommunications Service

Every Principal Use and every Lot within a Subdivision must have available to it a telecommunications service cable adequate to accommodate the reasonable needs of such use and every Lot within such Subdivision. For purposes of this section, telecommunications services include telephone and cable services for telephone, television and internet access. Compliance with this requirement shall be determined as follows:

(A) If the use is not a Subdivision and is located on a Lot that is served by an existing telecommunications line and the use can be served by a simple connection to such telecommunications lines (as opposed to a more complex distribution system, such as would be required in an apartment complex or Shopping Center), then no further certification is necessary.

(B) If the use is a Subdivision or is not located on a Lot served by an existing telecommunications lines or a substantial internal distribution system will be necessary, then the applicable telecommunications utility providers must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every Lot within the proposed Subdivision.

4.15.5. Underground Utilities

(A) All new electric power lines (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters or capacitors which may be pad mounted), telephone, gas distribution and cable television lines in Subdivisions constructed after the effective date of this ordinance shall be placed underground in accordance with the specifications and policies of the respective utility service providers and located in accordance with Appendix B.

(Ord. #1871, 8-24-20; Ord. #1890, 1-6-21)

(B) Whenever an un-subdivided Development is hereafter constructed on a Lot that is undeveloped on the effective date of this chapter, then all electric power, telephone, gas distribution and cable television lines installed to serve the Development that are located on the Development site outside of a previously existing public street Right-of-Way shall be placed underground in accordance with the specifications and policies of the respective utility companies.

4.15.6. Utilities to Be Consistent with Internal and External Development

(A) Whenever it can reasonably be anticipated that utility facilities constructed in one Development will be extended to serve other adjacent or nearby Developments, such utility facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service as determined by the Town of Southern Pines. The dedication of requisite utility easements and/or the construction of utility facilities may be required, as determined necessary by the Town of Southern Pines, to accommodate utility service to adjacent or nearby properties.

(B) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the Development.

4.15.7. As-Built Drawings Required

Whenever a Developer installs or causes to be installed any utility line in any public right of way, the Developer shall, as soon as practicable after installation is complete and before acceptance of any water or sewer line, furnish the Town with a mylar reproducible copy and one print copy of a drawing that shows the exact location of such utility lines. Such drawings must be verified as accurate by the utility service provider. Manholes, valves and other utility system features shall be located using GPS and the data shall be provided in digital form pursuant to the requirements for Engineering Plan applications. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such Development.

4.15.8. Fire Hydrants

(A) Every Development (subdivided or un-subdivided) that is served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the Buildings located or intended to be located within such Development.

(B) The presumption established by this ordinance is that to satisfy the standard set forth in Subsection (a), fire hydrants must be located so that all parts of every Building within the Development may be served by a hydrant by laying not more than five-hundred (500) feet of hose connected to such hydrant. However, the fire chief may authorize or require a deviation from this standard if, in his professional opinion, another arrangement more satisfactorily complies with the standard set forth in paragraph (A).

(C) The fire chief shall determine the color and precise location of all fire hydrants, subject to the other provisions of this section. In general, fire hydrants shall be placed six (6) feet behind the curb line of publicly dedicated streets that have curb and gutter.

(D) The fire chief shall determine the design standards of all hydrants based on fire flow needs. Unless otherwise specified by the fire chief, all hydrants shall have two 2-½ inch hose connections and one 4-½ inch hose connection. The 2-½ inch hose connections shall be located at least 21-½ inches from the ground level. All hydrant threads shall be national standard threads.

(E) Clear Space around Hydrants. A 3-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved.

(F) Water lines that serve hydrants shall be at least six (6) inch lines and unless no other practicable alternative is available, no such lines shall be dead-end lines.

4.15.9. Sites for and Screening of Dumpsters

(A) Every Development that, under the Town's solid waste collection policies, is or will be required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:

(1) Located so as to facilitate collection and minimize any negative impact on persons occupying the Development site, neighboring properties, or public rights-of-way; and

(2) Constructed according to specifications established by the Town Engineer to allow for collection without damage to the Development site or the collection vehicle.

(B) All such dumpsters shall be screened in accordance with section 4.3.5 from view from:

(1) Persons located within any Dwelling Unit on residential property other than that where the dumpster is located.

(2) Occupants, customers or other invitees located within any Building on non-residential property other than that where the dumpster is located, unless such other property is used primarily for purposes permitted exclusively in an **I** zoning istrict.

(3) Persons traveling on any public street, sidewalk or other public way.

(C) When dumpster screening is required under this section, such screening shall be constructed, installed and located to prevent or remedy the conditions requiring the screening.

4.15.10. Water and Sewer Use Ordinance Requirements

Every Principal Use and every Lot within a Subdivision shall connect to a municipal water or sewer line in accordance with the provisions of the Water and Sewer Use Ordinance, Town of Southern Pines, adopted March 13, 1984, as amended.

4.15.11. Sewage Disposal Facilities Required

Every Principal Use and every Lot within a Subdivision shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or Subdivision Lot and that complies with all applicable health regulations.

4.15.12. Determining Compliance with section 4.15.11

(A) Primary responsibility for determining whether a proposed Development will comply with the standard set forth in section 4.15.11 often lies with an agency other than the Town and the Developer must comply with the detailed standards and specifications of such other agency. Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed sewage disposal system, the authority issuing a permit or Development Approval under this UDO may rely upon a preliminary review by such agency of the basic design elements of the proposed sewage disposal system to determine compliance with section 4.15.11. However, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.

(B) In Exhibit 4-21, the column on the left described the type of Development and the column on the right indicates the agency that must certify to the Town whether the proposed sewage disposal system complies with the standard set forth in section 4.15.11

Exhibit 4-21: Determining Compliance with section 4.15.11

IF	THEN
(1) The use is located on a Lot that is served by the Town sewer system or a previously approved, privately-owned package treatment plant and the use can be served by a simple connection to the system (as in the case of a Single-Family residence) rather than the construction of an internal collection system (as in the case of a Shopping Center or apartment complex):	No further certification is necessary.
(2) The use (other than a Subdivision) is located on a Lot that is served by the Town sewer system but service to the use necessitates construction of an internal collection system (as in the case of a Shopping Center or apartment complex); and	
a. The internal collection system is to be transferred to and maintained by the Town:	The DENR Division of Water Quality must certify to the Town that the proposed internal collection system meets the State regulations. (A "Permit to Construct" must be obtained from the Division of Water Quality.) The Town Engineer shall certify that the system complies with the Town's specifications.
b. The internal collection system is to be privately maintained:	The Town Engineer must certify that the proposed collection system is adequate. NCDENR DWQ approval is required for all sewer extensions.
(3) The use (other than a Subdivision) is not served by the Town system but is to be served by a privately operated sewage treatment system (that has not previously been approved) with 3000 gallons or less design capacity, the effluent from which does not discharge to surface water:	The County Health Department (CHD) must certify to the Town that the proposed system complies with all applicable state and local health regulations. If the proposed use is a single Dwelling other than a Manufactured Home, the Developer must obtain an improvements permit from the CHD. If the proposed use is a Single-Family Manufactured Home, the Developer must present to the Town a certificate of completion from the CHD.
(4) The use (other than a Subdivision) is to be served by a privately operated sewage system (not previously approved) that has a design capacity of more than 3000 gallons or that discharges effluent into surface waters:	The DENR Division of Water Quality or other appropriate State treatment agency must certify to the Town that the proposed system complies with all applicable state regulations. (A "Permit to Construct" and a "Permit to Discharge" must be obtained from Division of Water Quality.)

IF	THEN
(5) The proposed use is a Subdivision; and	
a. Lots within the Subdivision are to be served by simple connection to existing Town lines or lines of a previously approved private system:	No further certification is necessary.
b. Lots within the Subdivision are to be served by the Town system but the Developer will be responsible for installing the necessary additions to the Town system:	The Town Engineer must certify to the Town that the proposed system meets the Town's specifications and will be accepted by the Town. (A "Permit to Construct" must be obtained from the DENR Division of Water Quality.)
c. Lots within the Subdivision are to be served by a sewage treatment system that has not been approved, that has a design capacity of 3000 gallons or less and that does not discharge into surface waters:	The County Health Department must certify that the proposed system complies with all applicable state and local health regulations. If each Lot within the Subdivision is to be served by a separate onsite disposal system, the CHD must certify that each Lot shown on a major division Preliminary Plat can probably be served and each Lot on a major or minor Subdivision Final Plat can be served by an on-site disposal system.
d. Lots within the Subdivision are to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity in excess of 3000 gallons or that discharges effluent into surface waters:	The DENR Division of Water Quality or other appropriate State agency must certify that the proposed system complies with all applicable state regulations. (A "Permit to Construct" and a "Permit to Discharge" must be obtained from Division of Water Quality.)

4.15.13. Water Supply System Required

Every Principal Use and every Lot within a Subdivision shall be served by a water supply system that is adequate to accommodate the reasonable needs of such use or Subdivision Lot and that complies with all applicable health regulations.

4.15.14. Determining Compliance with section 4.15.13

(A) Primary responsibility for determining whether a proposed Development will comply with the standard set forth in Section 4.15.13 often lies with an agency other than the Town and the Applicant must comply with the detailed standards and specifications of such other agency. Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed water supply system, the authority issuing a permit under this ordinance may rely upon a preliminary review by such agency of the basic design elements of the proposed water supply system to determine compliance with Section 4.15.13. However, specifications have been reviewed and any appropriate permits issued by such agency.

(B) In Exhibit 4-22, the column on the left describes the type of Development and the column on the right indicates the agency that must certify to the Town whether the proposed water supply system complies with the standard set forth herein.

Exhibit 4-22: Determining Compliance with section 4.15.13

IF	THEN
(1) The use is located on a Lot that is served by the Town water system or a previously approved, privately owned public water supply system and the use can be served by a simple connection to the system (as in the case of a Single-Family residence) rather than the construction of an internal distribution system (as in the case of a Shopping Center or apartment complex):	No further certification is necessary.
(2) The use (other than a Subdivision) is located on a Lot that is served by the Town water system but service to the use necessitates construction of an internal distribution system (as in the case of a Shopping Center or apartment complex): and	
a. The internal distribution system is to be transferred to and maintained by the Town:	The Public Water Supply Section of the DENR Division of Water Resources must certify to the Town that the proposed internal distribution system meets State requirements and shall issue a “Permit to Construct” prior to construction. The Town Engineer shall certify that the improvements comply with the Town’s specifications and will be accepted by the Town.
b. The internal distribution system is to be privately maintained:	The Public Water Supply Section of the DENR Division of Water Resources must certify to the Town that the proposed internal distribution system meets State requirements and shall issue a “Permit to Construct” prior to construction. The Town Engineer must certify that the proposed collection system is adequate.
(3) The use (other than a Subdivision) is located on a Lot not served by the Town system or a previously approved, privately owned public water supply system; and	
a. The use is to be served by a privately owned public water supply system that has not previously been approved:	The Public Water Supply Section of the DENR Division of Water Quality must certify that the proposed system complies with all applicable state and federal regulations. (A "Permit to Construct" must be obtained) The Division of Water Quality must also approve the plans if the water source is a well and the system has a design capacity of 100,000 gallons per day or is located in certain areas designated by Division of Water Quality. The Town Engineer must also approve the distribution lines for possible future addition to the Town system.
b. The use is to be served by some other source (such as an individual well):	The County Health Department must certify that the proposed system meets all applicable state and local regulations.

IF	THEN
(4) The proposed use is a sub-division; and	
a. Lots within the Subdivision are to be served by simple connection to existing Town lines or lines of a previously approved public water supply system:	No further certification is necessary.
b. Lots within the Subdivision are to be served by the Town system but the Developer will be responsible for installing the necessary additions to such system:	The Town Engineer must certify to the Town that the proposed system meets Town specifications and will be accepted by the Town. (A "Permit to Construct" must be obtained from the Public Water Supply Section.)
c. Lots within the Subdivision are to be served by a privately owned public water supply system that has not previously been approved:	The Public Water Supply Section of the DENR Division of Water Quality must certify that the proposed system complies with all applicable state and federal regulations. (A "Permit to Construct" must be obtained) The Division of Water Quality must also approve the plans if the water source is a well and the system has a design capacity of 100,000 per day or is located within certain areas designated by Division of Water Quality. The Town Engineer must also approve the distribution lines for possible future addition to the Town system.
d. Lots within the Subdivision are to be served by individual wells:	The County Health Department must certify to the Town that each Lot intended to be served by a well can be served in accordance with applicable health regulations.

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Chapter 5. Supplementary Conditions for Specific Uses

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(E) If the Accessory Dwelling is attached to the primary residence, then access is limited to the side or rear of the Accessory Dwelling or to an existing door.

5.1. Generally

5.2. Accessory Dwellings

(A) One (1) Accessory Dwelling Unit is permitted as an accessory to a residential use subject to compliance with the conditions of this section. The Dwelling Unit may be attached or detached, located on the side or rear of the property.

(B) Unless otherwise specified in the Development Conditions approved as part of the PD, the maximum size of Accessory Dwellings is the lesser of fifty (50) percent of the living area of the Principal Structure or one thousand two hundred (1,200) square feet.

(C) For the purposes of this section, living area means Gross Floor Area exclusive of garages, carports, porches, patios, decks, basements, and attics. Gross Floor Area is further defined as the area within the inside perimeter of the exterior wall with no deduction for the corridors, stairs, closets, thickness of wall, columns or other features. The meanings of the terms 'garage', 'carport', 'basement' and 'attic' shall be as defined in the North Carolina state Building Code.

(D) Accessory Dwellings shall meet the Setback requirements for the Principal Structure for the zoning district in which the Dwelling is located.

(F) Attached or detached Accessory Dwellings must have the same architectural appearance of the primary residence such as same type

and color of siding, trim, windows, roof covering, roof pitch, and the like.

(G) At least one (1) off-street parking space is required for each Accessory Dwelling

5.3. Accessory Uses and Accessory Structures

Accessory Uses and Accessory Structures shall comply with the standards of this section in addition to the zoning district standards in chapter 3 and the Development standards established in chapter 4 of this UDO.

5.3.1. Accessory Uses

(A) Accessory Uses may be conducted under the permit issued for the primary use on a Lot when the use occurs in conjunction with, is secondary to an authorized use in the applicable zoning district and;

(1) Constitutes only an incidental or insubstantial part of the total activity on the Lot and will not be disruptive to other uses permitted in the district, or

(2) Is commonly associated in Southern Pines with uses permitted in the zoning district and is integrally related to the primary use.

(B) The following activities are specifically regarded as accessory to a primary residential use to the extent indicated:

(1) Offices or studios that are within an enclosed Building and that are used by an occupant of a residence located on the same Lot as such Building to carry on administrative or artistic activities, even if of a commercial nature, so long as such activities do not fall within the definition of a home occupation.

(2) Yard sales or garage sales, so long as such sales are not conducted on the same Lot for more than three (3) days (whether consecutive or not) during any six (6) month period.

(3) Hobbies or recreational activities of a non-commercial and non-disruptive nature.

(4) Temporary Family Health Care Structures located in any single-family residential zoning district, per G.S. 160D-915.

(Ord. #1919)

(C) The following activities shall not be regarded as accessory to a residential Principal Use and are prohibited in residential districts.

(1) Storage outside of a substantially enclosed structure of any motor Vehicle that is neither licensed nor operational.

(2) Storage outside of a substantially enclosed structure of more than four (4) motor vehicles between the front Building line of the Principal Building and the street on any Lot used for Single-Family, Duplex or Special Services Homes.

5.3.2. Accessory Structures

(A) An Accessory Structure may be established subject to the issuance of a zoning permit if it is secondary and incidental to a Principal Structure on the same Lot or Parcel that is authorized in the applicable zoning district and:

(1) Complies with the Setback requirements applicable within the district (see Exhibit 4-1);

(2) Is proportionate to and Compatible with the Principal Structure; and

(3) Not more than two (2) Accessory Structures are established in an RS or RM district, excluding fences and unenclosed pools.

(B) Gaming Operations that use more than four (4) machines may not be regarded as accessory to any other use.

(C) Fuel pumps and canopies shall be considered Accessory Structures when established in association with convenience stores or automobile service stations in all applicable zoning districts.

(D) Recreational amenities, such as pools, clubhouses and tennis courts that serve residential Subdivisions or Multi-Family Developments shall be considered accessory to the Development and need not be located on the same Lot as the Principal Use, but shall comply with minimum Setback requirements applicable to Principal Structures on the Lot on which they are located.

(E) Portable storage containers shall comply with the following standards:

(1) If associated with a project that requires a Building permit, the temporary use shall be noted on the Building permit application along with an acknowledgement that the container shall be removed within ten (10) days of issuance of the final inspection or certificate of occupancy, if applicable.

(2) If not associated with a Building permit, the owner or occupant of the site shall apply for a Zoning Compliance Permit and Sign an acknowledgement that the container shall be removed no more than thirty (30) days after its placement on the site.

(3) Containers shall not be placed within the minimum Side and Rear Setbacks for the applicable zoning district or be located closer than ten (10) feet from the front property line.

(4) A property owner may receive a one-time extension for an additional thirty (30) calendar days at the discretion of the Planning Director. Each property may only receive one (1) Portable Moving Container permit and one (1) extension in a calendar year.

(Ord. #1716; Ord. #1696)

5.4. AUTOMOBILE SERVICE STATIONS/GAS SALES OPERATIONS

The following standards shall apply to uses that service automobiles or other vehicles, or sell gasoline or diesel fuel.

(A) Fuel pump canopies shall adhere to the same requirements for roofs set forth in Section 4.10. Canopy support columns shall adhere to the same requirements for building materials that apply to the primary Building serving the fuel station set forth in Section 4.10 *Development Design Standards.* Fuel pump canopy structures (canopy and columns) shall also be consistent with Section 5.3.2 *Accessory Structures.*

(B) Signs shall be regulated per Section 4.6. *Signs*, except: Signs located on the canopy or the primary structure shall be considered wall Signs as defined in the UDO. The maximum number of Wall Signs shall not exceed more than one (1) Wall Sign per street frontage.

(C) Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, auto- washing equipment and similar equipment shall be entirely enclosed within a Building.

(D) All garbage and refuse shall be stored in mechanical loading containers located near the rear of the Lot or Building, but not less than twenty (20) feet from any adjacent property lines.

(E) All accessory retail features including, but not limited to: vending machines, newspaper machines, ice machines, and the like shall be placed underneath the canopy or properly screened per the standards set forth in Section 5.12 *Outside Storage* and shall be located twenty (20) feet or more from any property line.

(F) Certification by a registered engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage system.

(Ord. #1696; Ord. #3024)

5.4.1. Fuel Sales in the HCO or DTO Districts

Fuel sales operations within any Highway Corridor Overlay (HCO) or the Downtown Overlay (DTO) and where permitted by zoning shall meet the following standards:

(A) Fuel pumps shall not be located between the Building and a public street or in any required Building Setback or buffer area. For corner

Lots, the fuel pumps may be located in the Side Yard if a landscape screen is provided per Section 4.3.5 Landscape Screens.

(B) Fuel pump canopies shall not exceed the height of the roof of the primary Building it serves.

(C) Fuel sales operations with a Gross Floor Area of the primary structure not exceeding five hundred (500) square feet shall not be permitted in any Highway Corridor Overlay (HCO) or the Downtown Overlay (DTO).

(Ord. #1696)

5.4.2. Fuel Sales outside the HCO or DTO Districts

Fuel sales operations outside of any Highway Corridor Overlay (HCO) or the Downtown Overlay (DTO) and where permitted by zoning shall meet the following standards:

(A) Fuel pumps may be located between the Building and a public street, but not in any required Building Setback or buffer area, if a landscape screen is provided per Section 4.3.5 *Landscape Screens*. For comer Lots, the fuel pumps may be located in the Side Yard if a landscape screen is provided per Section 4.3.5 *Landscape Screens*.

(B) Fuel pump canopies shall not exceed sixteen (16) feet in clearance height and twenty-one (21) feet in total height unless otherwise approved by the Town Council as part of a PD, SUP, or Architectural Compliance Permit. The clearance height shall be measured from the mean elevation of the parking area directly underneath the perimeter of the canopy to the bottom of the canopy. The total height shall be measured from the mean elevation of the parking area directly underneath the perimeter of the canopy to the highest point on the canopy.

(Ord. #1696)

5.5. Bed and Breakfast Establishments

Bed & Breakfast establishments, where allowed, are subject to the following standards:

(A) **Bed and Breakfast Home**: A private home of not more than four (4) guest rooms that offers bed and breakfast accommodations, and that:

(1) Does not serve food or drink to the general public for pay;

(2) Serves only the breakfast meal, and that meal is served to overnight guests of the business;

(3) Includes the price of breakfast in the rate; and,

(4) Is the permanent residence of the owner or manager of the business.

(B) **Bed and Breakfast Inn**: A private home of more than four (4) but not more than twelve (12) guest rooms that offers bed and breakfast accommodations, and that:

(1) Does not serve food or drink to the general public for pay;

(2) Serves only the breakfast meal, and that meal is served to overnight guests of the business;

(3) Includes the price of breakfast in the rate; and,

(4) Is the permanent residence of the owner or manager of the business.

5.5.1. Maximum Number of Guests

(A) The maximum number of guest rooms in a Bed & Breakfast Home shall be four (4) with not more than one (1) guestroom permitted in an existing detached structure on the same property.

(B) The maximum number of guest rooms in a Bed & Breakfast Inn shall be more than four (4) but not more than twelve (12) with not more than one (1) guestroom permitted in an existing detached structure on the same property.

5.5.2. Performance Standards

(A) The following standards shall apply to Bed & Breakfast Homes and Bed & Breakfast Inns:

(1) A Bed and Breakfast establishment shall be permitted only in a residential structure with a minimum gross living area of three thousand (3,000) square feet.

(2) In any residential zoning district, establishment mush be located that is located on a Lot with a minimum area of forty thousand (40,000) square feet.

(3) Food service shall be limited to the breakfast meal and shall be available only to guests and not to the general public in any residential district.

(4) Signage shall be limited to a nameplate not to exceed two (2) square feet.

(5) To avoid a concentration of Bed and Breakfast establishments in any residential district, no new Bed and Breakfast shall be located within one thousand three hundred twenty (1,320 feet) of another pre-existing Bed and Breakfast establishment, measured along a straight line from property line to property line.

(6) A Bed and Breakfast establishment shall have vehicular access to a collector or arterial street.

(7) One off street parking space shall be provided for each guest room.

(Ord.#1717)

5.6. CEMETERIES

(A) A cemetery shall contain not less than five (5) acres of land in contiguous ownership.

(B) Chapels, mortuaries, columbaria, mausoleums and sales and administrative offices may be developed within the cemetery provided that:

(1) Not more than two (2) such Buildings shall be permitted in any cemetery.

(2) Access to the Buildings shall be from within the cemetery.

(3) No Building permitted by these requirements shall be located closer than one hundred fifty (150) feet to any residential Dwelling on land adjoining the cemetery.

(C) No monuments, grave markers or other such structures within the cemetery shall be allowed to extend above ground level unless the structures are located in a private cemetery that is not located adjacent to a highway corridor, collector or arterial street.

(D) Access to the cemetery shall be provided by private drives extending from a public street and shall be at least eighteen (18) feet wide to accommodate two-way traffic.

(E) Parking shall be provided entirely on private internal roads or Lots.

(F) A ten (10) foot wide buffer shall be maintained around the entire cemetery in accordance with section 4.3.4. There shall be no burial sites, Buildings or other structures located within the buffer strip.

5.7. DAY CARE CENTERS

Day care centers shall comply with all applicable standards of the North Carolina Department of Human Resources and the following standards.

(A) Facilities located in residential districts shall maintain the residential characteristic of the surrounding Neighborhood.

(B) There shall be a minimum of twenty-five (25) square feet of indoor space, exclusive of closets, passageways, kitchens and bathrooms per client.

(C) There shall be a minimum of seventy-five (75) square feet of outdoor recreational space for each client. The outdoor recreational area shall be located in a Side or Rear Yard and shall be enclosed by a fence of at least four (4) feet in height.

(D) For care of six (6) or more individuals, on Premises pick-up and drop-off areas shall be provided and curb cuts shall be approved by the Town Engineer and the NCDOT, when applicable.

(E) The hours of operation of a day care center in a residential district shall be limited to 6:00 am to 10:00 pm for facilities located in residential zoning districts.

(F) Short-term, drop-in child care facilities must register with the State and are required to post a notice that they are not regulated by the State. If no outdoor play area is provided the facility may choose to provide thirty-five (35) square feet per child of indoor space in lieu of the outdoor play area as long as no child remains in care for more than a four (4) hour period per day.

(G) All day care facilities shall comply with applicable Fire and Building Code requirements.

5.8. Drive-Through Facilities

Drive-through uses may be allowed in a **GB** or **DTO** district subject to the following standards:

(A) Traffic queues will not interfere with pedestrian movement along public sidewalks or create a traffic hazard; and

(B) Use of the drive-through service will not interfere with the use, enjoyment or operations of adjacent properties.

(C) Drive-through lanes or loading spaces shall not be located any closer than thirty-five (35) feet to a residential zoning district.

(D) If a speaker box faces a residential zoning district, there shall be a fifty (50) foot wide buffer or sound wall between the speaker box and the residential district.

(E) Stacking Lane Requirements

(1) All uses and facilities providing drive-up or drive-through service shall provide the at least the minimum required vehicle stacking spaces established in Exhibit 5-1.

(2) Stacking spaces shall be a minimum of eight (8) feet wide by twenty (20) feet long.

(3) Stacking spaces shall not impede on-site or off-site traffic movements, including access to parking spaces.

(F) A solid faced brick, masonry or wooden wall or fence shall be provided along a property line abutting Lots or Parcels zoned residential purposes to block lights from vehicles in the stacking lanes or drive-through facility.

Exhibit 5-1: Minimum Stacking Space Requirements

Activity	Minimum Required Stacking Spaces	Measured From
Bank teller lane	4	Teller or Window
Restaurant, drive-through	6	Order Box to Beginning of Drive Through Lane
Restaurant, drive-through	3	Order Box to Pick-up Window
Car wash stall, automatic	6	Stall Entrance
Car wash stall, self-service	3	Stall Entrance
Gasoline Pump Island	2	Pump Island

5.9. MOBILE FOOD SERVICES – FOOD TRUCKS, TRAILERS AND CARTS

Except as specifically provided in this section or authorized as part of a Special Event Permit, Variance, Planned Development District, or Special Use Permit approval, all mobile retail sales of food, including but not limited to Food Trucks, Food Trailers or Food Carts, shall comply with the regulations of this section.

5.9.1. Food Trucks, Trailers, Carts

(A) Districts Where Allowed

(1) Food Trucks and Food Trailers for retail sales of food shall be limited to the GB and I districts.

(2) Food Carts for retail sales of food shall be limited to the NB, GB and I districts.

(B) Location Requirements

(1) Food trucks, trailers or carts shall not be located on any public Right-of-Way.

(2) Food trucks, trailers or carts shall be located on an improved surface, to include, but not limited to, asphalt, concrete, stone or similar surface.

(3) A maximum of one (1) Food Truck, Trailer or Cart on a Lot or Parcel at any given time. Multiple food trucks, trailers or carts may be authorized to operate on a single Parcel but no more than one food truck or food trailer shall operate at any given time.

(4) Food trucks, trailers or carts shall be located a minimum of one hundred (100) feet from the main entrance to any eating establishment or similar food service business, and one hundred (100) feet from any outdoor dining area, as measured from the designated location on the Lot or Parcel accommodating the food truck or trailer.

(5) Food trucks, trailers or carts shall be located a minimum distance of fifteen (15) feet from the edge of any driveway or public sidewalk, utility box or vaults, handicapped ramp, Building entrance, exit or emergency access/exit, emergency call box or fire hydrant.

(6) Food trucks, trailers or carts shall not be located within any area of the Lot or Parcel that impedes, endangers, or interferes with pedestrian or vehicular traffic.

(7) Food trucks, trailers or carts shall not occupy any parking spaces required to fulfill the minimum requirements of the Principal Use of any Lot or Parcel, unless the Principal Use's hours of operation do not coincide with those of the Food Truck, Trailer or Cart business. Nor shall any Food Truck, Trailer or Cart occupy parking spaces that may be leased to another business and used to fulfill its minimum parking requirements.

(8) Food trucks, trailers or carts shall not occupy any handicap accessible parking space as specified in G.S. 20-37.6.

(C) Operational Requirements

(1) No freestanding signage or audio amplification shall be permitted as part of the Food Truck, Trailer or Cart operation.

(2) Hours of operation of food trucks, trailers or carts shall be limited to the hours between 6:00 a.m. and 8:00 p.m., unless the designated location on the Lot accommodating the use is located within one hundred (100) feet of the property line of a single-family or Duplex Dwelling, in which case the hours of operation shall be limited to the hours between 7:00 a.m. and 7:00 p.m.

(3) When open for business, the Food Truck, Trailer or Cart operator, or his or her designee, must be present at all times, except in cases of an emergency.

(4) Food trucks, trailers and carts and any associated features of the operation including but not limited to trash receptacles and seating shall be removed from the Lot or Parcel each day.

(5) The Food Truck, Trailer or Cart operator is responsible for the proper disposal of waste and trash associated with the operation. Town trash receptacles are not to be used for this purpose. Operators shall remove all waste and trash from their approved location at the end of each day or more frequently to maintain the health and safety of the public.

(6) The operator shall keep all areas of the permitted Lot free and clean of grease, trash, paper, cups, cans or other materials associated with the operation. No liquid waste or grease is to be disposed in tree pits, storm drains or onto the sidewalks, streets, or other public space. Under no circumstances shall grease be released or disposed of in the Town's sanitary sewer system.

(7) All equipment required for the operation shall be contained within, attached to or within twenty (20) feet of the Food Truck, Trailer or Cart. All food preparation, storage, and sales-distribution shall comply with all applicable Town, County, State and Federal Health Department sanitary and safety regulations.

5.9.2. Food Truck Campuses

(A) **Districts Where Allowed.** Food Truck Campuses shall be limited to the GB district and shall require an approval of a Special Use Permit subject Section 2.21 and the performance standards listed below.
(Ord. #1919)

(B) **Location Requirements**

(1) Food trucks, trailers or carts operating within a Food Truck Campus shall not be located on any public Right-of-Way.

(2) Food trucks, trailers or carts operating within a Food Truck Campus shall be located on an improved surface to include but not limited to asphalt, concrete, stone or similar surface.

(3) A maximum of six (6) food trucks, trailers or carts may operate concurrently on a Lot or Parcel. Additional food trucks, trailers or carts may be authorized to operate within a Food Campus, but no more than six (6) shall operate at any given time.

(4) Food trucks, trailers or carts operating within a Food Truck Campus shall be located a minimum of one hundred (100) feet from the main entrance to any eating establishment or similar food service business, and one hundred (100) feet from any outdoor dining area, as measured from the designated location on the Lot or Parcel accommodating the food truck or trailer.

(5) Food trucks, trailers or carts operating within a Food Truck Campus shall be located a minimum distance of fifteen (15) feet from the edge of any driveway or public sidewalk, utility box or vaults, handicapped ramp, Building entrance, exit or emergency access/exit, emergency call box or fire hydrant.

(6) Food trucks, trailers or carts operating within a Food Truck Campus shall not be located within any area of the Lot or Parcel that impedes, endangers, or interferes with pedestrian or vehicular traffic.

(7) Food trucks, trailers or carts operating within a Food Truck Campus shall not occupy any parking spaces required to fulfill the minimum requirements of the Principal Use of any Lot or Parcel, unless the Principal Use's hours of operation do not coincide with those of the Food Truck, Trailer or Cart business. Nor shall any retail sales - Food Truck, Trailer or Cart occupy parking spaces that may be leased to another business and used to fulfill its minimum parking requirements.

(8) Food trucks, trailers or carts operating within a Food Truck Campus shall not occupy any handicap accessible parking space as specified in G.S. 20-37.6.

(C) **Operational Requirements**

(1) Restroom facilities open to the public shall be provided.

(2) When open for business, the Food Truck, Trailer or Cart operator, or his or her designee, must be present at all times, except in cases of an emergency.

(3) Electrical, water and sewer utility services shall be run to a central structure and shall be used by the individual operators instead of generators.

(4) Food Truck Campus shall provide trash receptacles for consumer use and shall provide a dumpster on site for use by the operators. Dumpsters shall be screened pursuant to the standards of Section 4.3.5. The Food Truck, Trailer or Cart operator is responsible for the proper disposal of waste and trash associated with the operation . Town trash receptacles are not to be used for this purpose. Operators shall remove all waste and trash from the consumer trash receptacles and into the Food Truck Campus dumpster at the end of each day or more frequently to maintain the health and safety of the public.

(5) The operator shall keep all areas of the permitted Lot free and clean of grease, trash, paper, cups, cans or other materials associated with the operation. No liquid waste or grease is to be disposed in tree pits, storm drains or onto the sidewalks, streets, or other public space. Under no circumstances shall grease be released or disposed of in the Town's sanitary sewer system.

(6) All food preparation, storage, and sales-distribution shall comply with all applicable Town, County, State and Federal Health Department sanitary and safety regulations.

(D) **Design Requirements**

(1) Permanent structures on the Lot or Parcel associated with the Food Truck Campus shall be subject to the commercial design requirements set forth in Section 4.10.

(2) Signs associated with a Food Truck Campus shall be subject to regulations of Section 4.6. Food Truck Campus signage shall be consistent with GB district requirements. Freestanding Signs, Wall Signs and Logo Emblem Signs may be permitted. One Sandwich Board Sign not exceeding six (6) square feet in size and located within twenty (20) feet of the food truck may be allowed with each Food Truck, Trailer or Cart.

(3) A minimum of five (5) parking spaces per Food Truck, Trailer or Cart shall be provided.

(4) Landscaping for the property including buffers, screening and Vehicle Use Area landscaping shall be consistent with the standards of Section 4.3.

(5) With exception to property located within the Watershed Protection Overlay, which is subject to the standards set forth in Section 3.6.8, impervious surfaces shall not exceed 70%.

(6) Food Truck Campus shall provide 30% open space, of which 75% of the required open space shall be usable as defined in Section 4.9. Areas for seating may be counted towards the Usable Open Space requirements.

(7) Electrical, water and sewer utility services shall be run to a central structure for use by the individual operators.

(8) Outdoor lighting shall be consistent with the commercial district standards included in Section 4.8.

5.9.3. Authorization

(A) A Town zoning permit shall be obtained by the property owner (as listed in the Moore County, North Carolina property tax records) for any Lot or Parcel proposed to accommodate a Food Truck, Trailer or Cart with exception to those with an approved Food Truck Campus. If at any time evidence is provided that the permitted Lot or Parcel is being used other than in compliance with these regulations, the zoning permit shall be rendered null and void, and the owner may be subject to penalties as set forth in Section

(B) This zoning permit shall be renewed annually.

(C) The operator, excluding those operating within an approved Food Truck Campus, shall obtain a Town Food Truck, Trailer or Cart permit annually. Prior to the issuance of the permit, the operator shall provide evidence of the property owner having obtained a Town zoning permit for the Lot or Parcel proposed to accommodate a food truck (as described in paragraph (A) of this subsection), a food vending permit from the Moore County Environmental Health Department, a North Carolina Sales and Use Certificate for collecting and paying the proper sales taxes, and a means for the disposal of grease within an approved grease disposal facility.

(Ord. #1919; Ord. #2052)

(D) If at any time evidence of the improper disposal of liquid waste or grease is discovered, the food truck permit for the operator shall be rendered null and void and the Food Truck, Trailer or Cart shall be required to cease operation immediately. The operator may be to penalties as set forth in Section 5.9.5.

(E) Copies of the zoning permit and food-vending permit shall be kept in the Food Truck, Trailer or Cart at all times and be available upon request.

(F) If at any time, the Moore County Environmental Health Department revokes or suspends the issued food-vending permit, the Town permit for the Food Truck, Trailer or Cart business shall be revoked or suspended simultaneously.

5.9.4. Penalties

(A) This section shall be enforced as provided in Chapter 8 of this code.

(Ord. #1820; Ord. #1919; Ord. #1959)

5.10. HOME OCCUPATIONS

5.10.1. Purpose

The purpose of these regulations is to

(A) To permit the conduct of home occupations as a secondary use to a Dwelling Unit, whether owner or renter occupied;

(B) To ensure that such home occupations are Compatible with, and do not have a harmful effect on nearby residential properties and uses;

(C) To adequately protect existing residential Neighborhoods from dust, odors, noise, traffic and/or other potentially adverse effects of home occupations;

(D) To allow residents of the community to use their homes as a work place and a source of livelihood, under certain specified standards, conditions and criteria;

(E) To enable the fair and consistent enforcement of these home occupation regulations; and

(F) To promote and protect the public health, safety and general welfare.

5.10.2. Performance Standards

Except as otherwise authorized in the WSPO district, Home Occupations may be permitted subject to the requirements of this section.

(A) The following standards shall apply in all zoning districts:

(1) Retail sales are prohibited and goods, stock in trade or other commodities shall not be displayed.

(2) There will be no associated outdoor activities or outdoor storage of materials or equipment related to the home occupation on the Premises.

(3) There shall be no entrance or exit way specifically provided in the Dwelling or on the Premises for the conduct of a home occupation.

(4) The use shall create no disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, traffic hazard, or unhealthy or unsightly conditions. In addition, any equipment or process shall not create audible or visual interference in any radio or television receivers on any adjacent properties.

(5) Delivery and distribution of goods from commercial suppliers will be limited to between the hours of 7 a.m. and 6 p.m.

(6) Customer hours are limited to the hours between 7 a.m. and 9 p.m.

(7) The use shall not be visibly evident from outside the Dwelling except for a Sign, as provided by standards contained herein.

(8) Home occupations shall comply with applicable Fire and Building Code standards.

(9) Shipping deliveries and pick-ups (excluding U.S. Postal Service) are limited to two (2) per day.

(10) The Applicant for a home occupation shall demonstrate that public facilities and utilities are adequate to safely accommodate any equipment used in conjunction with the home occupation.

(Ord. #1714, Ord. #1703)

(B) In the **RE** and **RR** zoning districts, the following Home Occupation criteria shall apply on Lots of five (5) acres or larger.

(1) Operations must be located in a residence or Accessory Structure.

(2) Not more than three (3) client vehicles may park on the site at one time.

(3) The maximum area for a home occupation is two thousand five hundred (2,500) square feet unless otherwise authorized by a Special use Permit.

(4) Up to three (3) non-resident on-site employees are allowed.

(5) Noise levels from the home occupation, shall not exceed a level generally excepted by that area.

(6) Off-street parking spaces shall be provided as required for the residential use, plus one (1) space for each employee.

(7) Storage of dangerous, combustible or volatile materials used in conjunction with the home occupation shall not be permitted in residential Dwellings.

(8) Home occupations may include the grooming, boarding, medical treatment of animals, training or breeding.

(9) Agricultural equipment repair and maintenance is authorized within an enclosed structure.

(10) Storage or on-site operations involving tractor trailers is prohibited.

(Ord. #1919)

(C) In all other residential districts, the following home occupation criteria shall apply:

(1) Except as authorized above in the RE and RR districts, uses shall be conducted entirely within the Principal Dwelling and shall not exceed the lesser of five hundred (500) square feet or twenty-five (25) percent of the living area.

(2) Not more than two (2) client vehicles may park on the site at one time.

(3) Up to one (1) non-resident on-site employee is allowed.

(4) Construction vehicles, heavy equipment or vehicles requiring a commercial driver's license to operate may not be stored on the site.

(5) Noise levels from the home occupation, shall not exceed a level generated in a typical Single-Family home.

(6) Off-street parking spaces shall be provided as required for the residential use.

(7) Storage or use of dangerous, combustible or volatile materials shall not be permitted.

(8) Home occupations shall not involve animal grooming, boarding, medical treatment, training or breeding.

5.10.3. Exempt Home Occupations

The following home occupations shall be subject to all applicable home occupation regulations and standards of this section, if all persons engaged in such activities live on the property and the following conditions are met:

(A) Artists, sculptors, composers not selling their artistic product to the public on the Premises;

(B) Craft work, such as jewelry-making and pottery with no sales permitted on the Premises;

(C) Home offices with no client visits to the home;

(D) Telephone answering and message services without non-resident employees; and

(E) Day care for fewer than six (6) children, including the occupants' own children.

(Ord. #1703)

5.10.4. Unsafe Home Occupations

(A) If, in the opinion of the Planning Director, any home occupation has become dangerous or unsafe, or presents a safety hazard to the public, pedestrians or motorists, or presents a safety hazard to adjacent or nearby properties, residents or businesses, the Planning Director shall issue an order to the Dwelling owner and/or tenant on the property on which the home occupation is being undertaken directing that the home occupation be immediately made safe or be terminated.

(B) The property owner and/or tenant shall be responsible for taking the necessary corrective steps or measures, but in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Planning Director may take any action to make the home occupation and Dwelling safe. Costs incurred by the Planning Director, if forced to take enforcement actions, shall be borne by the property owner and, shall be treated as a zoning violation pursuant to this UDO.

5.10.5. Prohibited Home Occupations

Except as specifically authorized above, the following home occupations are prohibited:

(A) Animal hospitals;

(B) Physicians, dentists and chiropractors;

(C) Dance studios;

(D) Exercise studios

(E) Mortuaries;

(F) Nursery schools or day care;

(G) Public or private clubs;

(H) Motorized equipment and appliance repair shops;

(I) Restaurants;

(J) Stables and kennels;

(K) Automobile repair and paint shops.

(L) Barber shops and beauty parlors;

(M) Body piercing services;

(N) Hotels or motels;

(O) Massage services, except those provided by a Licensed Massage Therapist

(P) Palm reading and fortune telling;

(Q) Tattoo and body art studios;

(R) Any use that would constitute a nuisance as defined by the Town's code of ordinances.

5.11. INSTITUTIONAL CARE FACILITIES

5.11.1. Applicability

Institutional care facilities include:

(A) Hospitals, clinics and other medical treatment facilities in excess of 10,000 square feet;

(B) Nursing Care Institutions, Intermediate Care Institutions, Handicapped, Aged or Infirm Institutions and Child Care Institutions;

(C) Continuing Care Retirement Communities that provide assisted or graduated care for seniors;

(D) Institutions for the confinement of the mentally ill; and.

(E) Single-Family and Multi-Family Dwellings.

5.11.2. Generally

The following standards apply to all institutional care facilities

(A) Dwellings may be allowed in accordance with the minimum Lot Area standards of the RM-1 zoning district.

(B) Residential Building Setbacks may be reduced between individual Buildings on the interior portion of the facility to meet minimum Fire Code standards.

(C) Setbacks on the perimeter of the Development shall be the same as that for the zoning district in which located or the abutting district, whichever is greater.

(D) The minimum spacing between non-residential Buildings shall be at least twenty (20) feet.

(E) The minimum room sizes in a special services home shall be one hundred fifty (150) square feet for a living or principal room, one hundred (100) square feet for a kitchen and dining room combination, one hundred (100) square feet for the first bedroom and seventy (70) square feet for each additional bedroom.

(F) The issuance of a Special Use Permit for an institutional care facility shall be conditioned upon the Applicant obtaining any required state license within ninety (90) days after approval of the permit.

(Ord. #1919)

(G) To prevent a concentration of institutional care facilities in residential Neighborhoods, no such facility shall be located within one thousand three hundred twenty (1,320) feet of another such facility, measured along a straight line from property line to property line.

5.11.3. Continuing Care Retirement Communities

The following standards shall apply to Continuing Care Retirement Communities:

(A) Existing Continuing Care Retirement Communities that are not authorized by zoning classification shall be considered conforming uses for purposes of reconstruction or expansion, subject to the provisions of this section. All new or expanded structures for Principal or Accessory Uses shall be located on the existing site. Any expansion to adjacent or contiguous sites outside of the existing property boundaries will require approval through the PD zoning process.

(Ord. # 1716)

(B) PD zoning is required and all facilities shall be approved through the PD approval process established in section 2.18.

(C) In addition to the PD approval criteria, the Town Council shall find that the proposed Development will:

(1) Create a more desirable environment than would otherwise be possible under existing zoning and provide a Compatible mix of housing types;

(2) Make efficient use of land that results in smaller networks of utilities and streets and thereby lowering construction and maintenance costs.

(3) Enhance the appearance of Neighborhood through the preservation of natural features, the provision of underground utilities and the retention of at least twenty (20) percent of the site for open-space areas.

(4) Be Compatible with and will contribute to the stability and vitality of surrounding residential areas and businesses.

(5) Not create an undue fiscal burden on existing taxpayers for the provision and maintenance of public facilities and services.

(D) Where more than one (1) Special Services Home for the handicapped, aged or infirm is located on the campus of a Continuing Care Retirement Community (CCRC) regulated by the North Carolina Department of Insurance, the homes on the campus are exempt minimum separation requirement from each other, but the campus is subject to the separation requirement from existing off-site special services home.

(E) The continuing care retirement community shall be for the sole residency of persons aged sixty-two (62) years or older.

(F) The number of nursing care beds shall not be more than 50 percent of the total number of permitted Dwelling Units.

(G) Conveniently located indoor common areas for recreation, social, and dining shall be provided for the residents.

5.12. OUTSIDE STORAGE

Outdoor storage, where allowed, is subject to the following standards:

(A) No articles, goods, materials fixed machinery or equipment, vehicles, trash, animals or similar items shall be stored, kept in the open or exposed view from adjacent sites, streets or sidewalks.

(B) Storage areas shall be fully enclosed by a brick, masonry, wooden or solid face fence or wall not less than six (6) feet and not more than eight (8) feet in height. The decorative side of the fence shall face outward.

(C) Storage abutting properties zoned for residential use shall provide the required buffer between the fence and the property line.

(D) The buffer that is otherwise required shall be increased in width by twenty (20) percent between outside storage areas and the property line and comply with the landscape screening standards of section 4.3.5.

5.13. OUTSIDE OPERATIONS

5.13.1. In the CB District

The occupant of Premises in the **CB** district may display goods or merchandise outdoors if:

(A) The display or displays are within twelve (12) feet of the Premises and do not interfere with pedestrian or vehicular movement;

(B) The display or displays do not occupy more than twenty (20) square feet and are no greater than four (4) feet in height;

(C) The display or displays are removed when the Premises are not open for business.

5.13.2. In the NB District

Outdoor dining is authorized in the NB district subject to the following standards:

(A) Outdoor dining operations shall not be allowed between the hours of 10:00 pm and 7:00 am; all displays and stands shall be moved indoors nightly;

(B) The Use is contained on the property and will not interfere with pedestrian movement along public sidewalks;

(C) The Use will not create a traffic hazard;

(D) The Use will not interfere with the use, enjoyment or operations of adjacent properties.

5.13.3. In the GB District

Except as provided above, outdoor display of goods for sale shall be limited to the **GB** district and shall comply with the following standards:

(A) Outdoor display of automobiles and other large vehicles shall be allowed subject to compliance with the landscaping standards for Vehicle Use Areas in section 4.3.6 and applicable **HCO** district standards.

(B) Temporary sales shall be allowed subject to the provisions of section 5.22.

(C) All other outdoor displays shall be limited to the displays within areas that are enclosed by walls or fences and located behind the front Building line.

Outdoor Display Screened Behind Front Building Line

5.14. OUTSIDE KENNELS

Outside kennels, where allowed, are subject to the following standards:

(A) No portion of an outside kennel shall be located within two thousand (2,000) feet of a **RS-1, RS-2, RS-3, RM-1**, or **RM-2** zoning district, or of an existing residential structure not owned by the owner of the outside kennel except as provided in the following paragraph.

(B) An outside kennel may be no closer than one thousand two hundred (1,200) feet to a **RS-1, RS-2, RS-3, RM-1**, or **RM-2** zoning district or to an existing residential structure not owned by the owner of the outside kennel if the kennel is constructed with sound-deflecting walls that separate the kennel from said district or use.

5.15. RELIGIOUS INSTITUTIONS

5.15.1. Authorized Locations

(A) Religious institutions, including, but not limited to churches, synagogues, temples, mosques and other places of religious worship, along with their Accessory Uses, are permitted in subject to the following Development Approvals based upon size limitations:

Type of Religious Institution	Maximum Seating in the Largest Place of Assembly	Districts Where Authorized
Small Religious Institutions	up to 250	Allowed in RR, NB and GB districts
Other Religious Institutions	251 or more	Allowed in RR and GB districts

(B) Religious institutions shall only be permitted on a Lot that fronts onto, a collector or arterial street.

5.15.2. Special Requirements for Existing Religious Institutions in Certain Districts

(A) Existing religious institutions that are not authorized shall be considered conforming uses for purposes of reconstruction or expansion, subject to the provisions of this section.

(B) All new or expanded structures for Principal or Accessory Uses shall be located on a contiguous site.

(C) Parking for all new or expanded structures for Principal or Accessory Uses shall be located on a contiguous site except that required parking cannot be accommodated on the site may be satisfied by:

(1) Parking on an existing parking lot that complies with the UDO requirements for shared or satellite parking. For purposes of this paragraph, existing parking lots include parking lots established prior to adoption of the UDO; or

(2) Parking on a site in a GB district located within 600 feet of the entry to the religious institution; or

(3) Parking on a site further than 600 feet from the entry to the religious institution and the institution establishes and agrees to maintain a shuttle service from the remote parking area.

5.15.3. Requirements for Institutions in the NB Districts

(A) The Principal Building, Accessory Uses and parking must be on a contiguous site.

(B) Offices associated with the activities or business of the religious institution shall occupy no more than twenty-five (25) percent of the total floor area of Buildings on the Lot. In cases where the total floor area developed on the site is less than 4,000 square feet, office activities may occupy as much as 1,200 square feet.

(C) All Buildings, outdoor recreational facilities, and off-street parking and service areas shall be separated by a twenty (20) foot wide buffer from abutting property located in a residential district.

(D) Outdoor recreation facilities shall not be illuminated for nighttime use.

5.15.4. General Requirements for Accessory Uses

(A) Accessory uses shall meet the following requirements:

(B) Accessory structures and uses shall meet the Setback and buffer requirements that apply to the Principal Structure(s).

(C) Accessory uses shall be governed by other provisions of these regulations for the underlying district. Where Accessory Uses such as television stations, radio stations, printing presses, or sports complexes are forbidden in association with nonreligious uses, they shall also be forbidden in association with religious uses. This provision

shall in no way restrict Accessory Use family life centers and multipurpose facilities, a part of whose function may include recreation and sports activities.

(D) The Accessory Use shall be owned and operated only by the owner of the primary use.

(E) The facility housing the Accessory Use shall meet all local, State or federal standards.

(F) The owner of the primary use shall obtain any licenses required to conduct the Accessory Use. Any approval of the Accessory Use shall be contingent upon receipt of all licenses.

(G) Outdoor play or activity areas shall be no closer than fifty (50) feet from a residential zoning district.

(H) Except in the **RR** and **GB** districts, the following activities shall be prohibited in association with religious institutions: retreat centers; overnight lodging facilities or other temporary sleeping quarters; and any use not specifically identified as an allowable Accessory Use. Notwithstanding the prohibition of overnight lodging, one (1) residential Dwelling Unit may be provided as a parsonage pursuant to paragraph J.

(I) Child day care, adult day care, preschool or child nursery uses are allowable Accessory Use subject to the following standards:

(1) The total floor area allocated to the child day care, adult day care, preschool or nursery Uses shall not exceed ten (10) percent of the total floor area on the site. The calculation of total floor area allocated to the uses shall be cumulative and shall include all child day care, adult day care, preschool, nursery facilities and related mechanical and support facilities.

(2) An off-street drop-off area for persons served by the facility shall be provided. The entrance and vehicle drop off points shall not be located on a street providing primary access to residences, unless such street is classified as a collector or arterial.

(J) A fellowship hall is an allowable Accessory Use subject to the following standards:

(K) Dining, including dining open to the public as a “soup kitchen,” is permitted between the hours of 8:00 a.m. and 10:00 p.m., provided:

(1) The owner of the religious use ensures that meal recipients remain on the site except during travel to and from the fellowship hall; and

(2) No consideration or value of any kind is given, directly or indirectly, in exchange for the meal.

(L) The total floor area allocated to the fellowship hall, including related mechanical and support facilities, shall not exceed twenty (20) percent of the total floor area on the site.

(M) The entrance to the fellowship hall shall not be located on a Street providing primary Access to residences, unless such Street is classified as a collector or arterial.

(N) One (1) residential Dwelling Unit is allowable to serve as a parsonage, subject to the following standards:

(O) A minimum Lot Area for the Dwelling Unit (“parsonage lot”) shall be 6,000 square feet. The parsonage lot shall be used exclusively for the Dwelling Unit and shall not include any primary or other Accessory Use allowable on the site. the parsonage lot shall not be used for any support activity to the primary or Accessory Uses, such as outdoor play areas, storage or parking, other than as specifically provided below.

(1) Two (2) parking spaces shall be provided within the parsonage lot.

(2) The maximum Building height on the parsonage lot shall be thirty-five (35) feet.

(3) The parsonage lot may contain children's outdoor play equipment, in a size and quantity typical of a single Family residential use.

5.15.5. Parking

(A) A specific parking plan shall be provided prior to the establishment or expansion of a primary or Accessory Use at a Religious Institution.

(B) The parking plan shall identify:

(1) The primary use and each Accessory Use proposed on the site;

(2) The hours of operation and peak times of use (parking demand) for the primary use and each Accessory Use on the site;

(3) The parking standards for the primary use and each Accessory Use shall be identified based upon section 4.5;

(4) Areas designated for overflow parking during times of extraordinary use (such as festival or holiday periods).

(C) The parking plan may include reduced or shared parking. If reduced or shared parking is proposed, the parking plan and supporting data shall clearly indicate that differing peak uses and associated parking requirements shall not result in a parking deficiency on the site.

5.15.6. Setbacks for Large Religious Institutions

For religious institutions that exceed 7,000 square feet in total floor area, excluding the parsonage, if any, the minimum Setback and buffer from any residential property line that is otherwise required shall increase five (5) feet for each 1,000 square feet or portion thereof, over 7,000 square feet.

5.16. SATELLITE DISH ANTENNAS

(A) The provisions of this section shall apply to satellite dish antennas that are greater than twenty-four (24) inches in diameter.

(B) Only one satellite dish antenna shall be allowed per Premises, except for display models as provided in this section.

(C) In **RE** and **RR** zoning districts, a ground-mounted satellite dish antenna may be installed only in a Side or Rear Yard and shall not be located within any required Building Setback.

(D) In all nonresidential zoning districts:

(1) A satellite dish antenna may be installed at any location on the Lot except within ten (10) feet of either a public street Right-of-Way or a Side or Rear Yard Lot line that abuts a residentially zoned district.

(2) A satellite dish antenna may be installed on the roof of the Principal Structure provided it is anchored to a rafter, girder or other superstructure member of the Building so as to be structurally secure.

(E) A dish antenna shall be permanently ground or roof mounted (where permitted) and no antenna shall be installed on a portable or moveable structure except to transport an antenna to a permanent site or to provide a temporary on-site antenna for testing purposes not to exceed seven (7) days in duration.

(F) A dish antenna shall be painted with a dull, non-glossy finish. No lettering, numerals or pattern shall be permitted on the dish surface other than the name of the manufacturer in letters not to exceed six (6) inches in height.

(G) No antenna shall exceed an overall diameter of twelve (12) feet or an overall height of seventeen (17) feet above existing grade when located on the ground.

(H) When located on the roof of a Building in a non-residential district, no antenna shall exceed the Building height limitation for the district in which it is located by more than ten (10) feet.

(I) Inoperative satellite dish antennas, not to exceed two (2) in number, may be stored outside of commercial establishments in districts in which satellite dish retail sales are permitted. Such display models shall comply with the outside display regulations of section 5.13.

(1)

5.17. SPECIAL ENTERTAINMENT USES

5.17.1. Findings

The Town Council finds that

(A) Some special entertainment uses because of their very nature can have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances can produce deleterious secondary effects on adjacent areas and the community at large, including increased transients, increased crime, disruptive conduct, financial instability and negative influences on children and the surrounding populace.

(B) Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding Neighborhood due to the deleterious secondary effects listed above.

(C) Avoiding concentration of these uses, separating these uses from other uses and screening these uses can reduce the deleterious secondary effects listed above.

(D) These special regulations are itemized in this section. The primary control or regulation is the purpose of preventing a concentration of these uses in any one area (i.e., not more than one (1) such use within one thousand (1,000) feet of each other which would create such adverse effects).

(1) Adult Bookstores;

(2) Adult Motion Picture Theaters housed in a permanent indoor structure;

(3) Clubs and other places of entertainment operated as a commercial enterprise providing nude or semi-nude entertainment such as "topless" dancing;

(4) Eating and drinking establishments including drive-in curb service providing nude or semi-nude entertainment such as "topless" dancing;

(5) Any Physical Culture establishment, masseur, massage parlor, health salon or club not otherwise defined in this UDO.

(6) Adult Motels and Hotels.

(E) **Location of uses**.

(1) No use regulated under this section may be located within one thousand (1,000) feet of another use permitted under this section which will be measured from the exterior walls of the Building(s) containing such regulated use.

(2) No use permitted under this section may be located within seven hundred and fifty (750) feet of any area zoned for residential use or from the property line of any residential Dwelling, religious institutions, nursery schools, day care center (child/adult) or public or private schools, in any zoning districts. This distance shall be measured as the shortest line between the property lines of The uses.

(3) No use regulated under this section may be located in any designated **HCO** district or within two hundred (200) feet of Old U.S. Highway #1 measured from the nearest Right-of-Way

boundary to the exterior wall of the Building containing such use.

(F) **Parking.** Parking requirements shall meet the parking requirements of this UDO and provide parking spaces in accordance with Exhibit 5-2:

Exhibit 5-2: Parking Space Requirements for Special Entertainment Uses

Land Uses	Minimum Vehicle Parking Spaces
Adult Bookstores	One space per 100 sq. ft. of Gross Floor Area
Adult Motels and Hotels	1 space per room to be rented
Adult Motion Picture Theaters	1 space per 2 seats
Nude or Semi-Nude Clubs	1 space per 100 sq. ft. of Gross Floor Area plus 1 space per 2 seats at bar or tables
Physical Culture Establishments	1 space per employees, 1 space for every person that the facilities are designed to accommodate when fully used plus 1 space per 100 sq. ft. not included in above calculation

(G) **Landscaping.**
Landscaping shall meet the screening requirements set forth in 4.3.5. Specifically, a buffer of fifteen (15) feet in width shall be required to encompass all Lots developed or proposed for Development, including Shopping Centers containing such uses but excluding driveways. Plantings shall comply with the requirements of sections 4.3.4. and 4.3.5.

(H) **Signs**.

(1) Signage is limited to one (1) Wall Sign per premise.

(2) The maximum Sign area shall be 10 square feet.

(Ord. passed 12-12-1989; Am. Ord. 1272, passed 10-15-2007; Am. Ord. 1381)

5.18. Special Events

(A) Special events may be conducted in those districts as authorized in chapter 2 of this UDO if the event has been granted a permit under the guidelines promulgated by a Permit Issuing Authority designated by the Town Manager

(B) The guidelines shall ensure that the special event will not materially endanger the public health and safety, will be in harmony with the area in which it is located and will not unreasonably disrupt or interfere with the flow of traffic or the rights of adjacent or surrounding property owners.

(C) The permit may impose conditions limiting the hours and duration of the event, preventing disruption of adjacent uses, and assuring removal of litter caused by the event at no expense to the Town.

(D) If the event includes the consumption of any alcoholic beverages, the permit may be issued only if the Applicant demonstrates that any selling or distributing the beverages on public property is not for profit and has secured all applicable permits and approvals required by the State of North Carolina at the time of submittal of the Special Use Permit application.

(Ord. # 1716)

(E) In cases where it is deemed necessary, the Permit Issuing Authority may require the Applicant to post a bond to ensure compliance with the conditions of the Special Use Permit.

(Ord. #1919)

(F) If the permit Applicant requests the Town to provide extraordinary services or equipment or if the Town Manager otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the Applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services. This requirement shall not apply if the event has been

anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

5.19. SPECIAL HOME EVENTS

For any for-profit business in which weddings, parties, gatherings, and the like take place on privately owned property. Such special home events shall be conducted under the following restrictions:

(A) Maximum number of guests is eighty (80).

(B) No amplified music to be located outside.

(C) The number of events permitted per year shall be a maximum of twenty (20).

(D) Hours of operation shall be from 10:00 a.m. to 10:00 p.m.

(E) All parking shall be located on the property where the special home event is to take place.

(F) Property shall be a minimum of two and nine-tenths (2.90) acres in size for the special home event.

(G) Minimum house size to hold special home events is three thousand (3,000) square feet.

(H) Each special home event shall be registered at the Planning Department with a letter outlining the event activities.

(I) A Special Use Permit is required for any Applicant wanting to hold special home events.

(Ord. #1919)

5.20. SPECIAL SERVICES HOMES

(A) Special services homes include:

(1) Homes for the Handicapped, aged or infirm;

(2) Intermediate Care Homes;

(3) Child Care Homes; and

(4) Halfway Houses.

(B) Halfway Homes shall be limited to a maximum of four (4) residents and a minimum Lot size of 35,000 square feet.

(Ord. #1714)

(C) The issuance of a zoning permit for a special services home shall be conditioned upon the Applicant obtaining any required state license within ninety (90) days after approval of the permit.

(D) To prevent a concentration of special services homes in residential Neighborhoods, no such home shall be located within one thousand three hundred twenty (1,320) feet of another such facility, measured along a straight line from property line to property line. Halfway Houses shall not be located within five thousand (5,000) feet of another such facility, measured along a straight line from property line to property line.

(E) No special services home shall house mentally ill persons who are determined to be dangerous to others as defined in G.S. 122C-3(11)b.

(F) Signage shall be limited to a nameplate not to exceed two square feet in area.

(G) The Applicant shall submit to the Permit Issuing Authority a statement addressing

(1) The number of staff personnel to reside in the facility and their backgrounds and qualifications;

(2) The number of individuals to be housed in the facility;

(3) The purpose of the facility and the nature of the handicap of the individuals who will reside there; and

(4) The intake criteria that have been or will be used in screening the persons who will live in and benefit from the facility.

(H) A special services home located outside of a CCRC campus may not be located within one thousand three hundred twenty (1,320) feet of a CCRC campus property line.

5.21. Temporary Emergency, Construction or Repair Residences

(A) Temporary emergency residences may be established on a Lot during the repair or reconstruction of residences destroyed or made uninhabitable by fire, wind water or other catastrophic event.

(B) Temporary residences used on construction sites of non-residential Premises shall be removed immediately upon the completion of the project.

(C) Permits for temporary residences to be occupied pending the construction, repair or renovation of the permanent residential Building on a site shall expire within six months after the date of issuance. The Planning Director may renew such permit for one additional period not to exceed three months after determining that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential Building to complete the construction, repair, renovation or restoration work necessary to make such Building habitable.

5.22. Temporary Uses

(A) A Zoning Permit may be authorized by the administrator for Christmas Tree, pumpkin and related ornamental sales, collective retail merchant sales and shows provided that:

(1) All applicable Town and state permits and/or licenses have been obtained.

(2) No more than one ground or Wall Sign, not to exceed six square feet in area is located on the Premises and no banners, pennants, streamers, strings of twirlers or propellers and similar devices are erected.

(3) The temporary use is operated only during the hours of 7 a.m. and midnight and is conducted for a period not to exceed thirty consecutive days.

(4) No more than two (2) Zoning Permits are issued to the same person, household, site, firm or organization in any one calendar year.

(B) Other temporary uses of land must be approved as Special Events in accordance with section 5.18.

5.23. Towers and Related Structures

Towers and related structures that are fifty (50) feet or taller in Height shall require a Special Use Permit prior to construction or installation and are subject to the following standards:

(A) Towers cannot be located in the **HCO**, **CB, NB** or **OS** districts.

(B) Towers cannot be located within one thousand (1,000) feet of any **RE**, **RS** or **RM** zoning district or any residential Development in a **PD** zoning district.

(C) Towers taller than fifty (50) are allowed by Special Use Permit in the **RR**, **GB** and **FRR** districts.

(D) The Special Use Permit application shall provide information that:

(1) Demonstrates the antenna's compliance with State and Federal radio frequency emission standards.

(2) Specifies the tower height and design and include a cross-section of the structure.

(3) Details any technical, engineering, economic and other pertinent factors governing the selection of the proposed design.

(4) Demonstrates the tower's compliance with applicable structural standards, which may include certification that the tower will withstand sustained winds in accordance with local Building codes or nationally recognized standards.

(5) Describes the failure characteristics of the tower and demonstrates that the site and Setbacks are of adequate size to contain debris.

(6) Describes the tower's maximum capacity, including the number of antennas that it can accommodate for collection, taking into consideration radio frequency interference, mass, height and other characteristics, as well as options to overcome any problems that these considerations may pose to service delivery.

(7) Assesses the environmental impact of the facility siting, including the impact on adjacent structures and districts as well as on historic sites and streetscapes.

(8) Determines whether the construction of the tower and its reception and transmission functions will interfere with the usual and customary transmission or reception of radio, television and other services on adjoining properties.

(9) Documents the due diligence in seeking and subsequent failure to find space on an existing tower to collocate their antenna(s) (if permission for tower construction is being sought).

(10) Documents compliance with or exemption from FCC, FAA, MEPA and any other federal or state regulations applicable to the siting; statements must be issued from the FCC, FAA or the state attesting to the proposed facility's compliance.

(11) Includes an agreement between the Town and the tower owners and their successors to allow shared use of the tower if:

(a) Capacity exists based on existing and planned use;

(b) A future Applicant for space on the tower agrees in writing to pay any reasonable change for shared use; and

(c) The potential use is technically Compatible.

(12) Documents anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and traffic, noise or safety impacts of such maintenance.

(13) Documents liability insurance or bonding where applicable.

(14) Includes approval of the site owner, if different from the tower owner, to apply for a permit.

(Ord. #1919)

5.24. HOMELESS SHELTERS

Homeless Shelters and related establishments shall require a Special Use Permit prior to construction or establishment of the subject use.

(A) Homeless Shelters are defined as housing with minimal supportive services for homeless persons that are limited to occupancy of six months or less by a homeless person.

(B) Homeless Shelters are only permitted in the GB (General Business) zoning classification.

(C) To prevent a concentration of Homeless Shelters, no Homeless Shelter shall be located within one thousand three hundred twenty (1,320) linear feet of another such facility. The distance shall be measured along a straight line from property line to property line.

(D) No Homeless Shelter shall be located within seven hundred fifty (750) feet of any area zoned for residential use or from the property line of any residential Dwelling Unit. The distance shall be measured along a straight line from property line to property line.

(E) Signage shall be limited to a nameplate not to exceed two (2) square feet in area.

(F) The Special Use Permit for a Homeless Shelter shall expire three (3) years from the effective date of the permit approval. A Homeless Shelter may continue in operation after expiration of the permit only if the Town has granted a new Special Use Permit in response to an application submitted no earlier than six (6) months before the expiration of the previous permit approval. The procedures and requirements in effect at the date of the application shall apply in determining whether the new permit shall be granted.

(G) The Applicant shall provide to the Permit Issuing Authority during the Special Use Permit application a statement addressing the following:

(1) The number of staff personal to reside in the facility along with their backgrounds and qualifications.

(2) The maximum number of individuals to be housed in the facility.

(3) The intake criteria that have been or will be used in screening the persons who will benefit from the facility.

(4) The operation schedule for the homeless shelter, seasonal or permanent.

(5) The hours of operation for the homeless shelter.

(6) The length of stay for an individual and the period of time required in between stays for an individual.

(7) A list of supportive services to be provided to individuals to be housed in the facility; including but not limited to the following: meals, showers, education, job and/or skill training, clothing or other (please list).

(8) The proposed impact on neighboring properties and businesses.

(9) Any other information that may be pertinent to the operation of the homeless shelter.

(Ord. #1718; Ord. #1919)

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Chapter 6. **Development Patterns**

Chapter 6 Contents

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6.1. CLUSTER SUBDIVISION

(A) In any Single-Family residential Subdivision in the zones indicated below, a Developer may create Lots that are smaller than those required by in the **RS** zoning districts if such Developer complies with the provisions of this section and if the Lots so created are not smaller than the minimums set forth in Exhibit 6-1: Minimum Lot Size for Cluster Subdivisions:

Exhibit 6-1: Minimum Lot Size for Cluster Subdivisions

Zoning District	Minimum Lot Size
RS-1	7,500 sq. ft.
RS-2	15,000 sq. ft.
RS-3	22,500 sq. ft.

(B) The intent of this section is to authorize the Developer to decrease Lot sizes and leave the land "saved" by so doing as Usable Open Space, thereby lowering Development costs and increasing the amenity of the project without increasing the density beyond what would be permissible if the land were subdivided into the size of Lots required by each applicable zoning district.

(C) The amount of Usable Open Space that must be set aside shall be determined by:

(1) Multiplying the number of Lots that are smaller than the minimum area for Lots in the applicable district by the minimum area required per Lot in that district;

(2) Totaling the square footage of all Lots that are smaller than that standard specified for the applicable zoning district;

(3) Subtracting the result in paragraph (1) from the result in paragraph (2).

Example for a 100 Lot Subdivision in an RS-1 District	
Number of Lots smaller than the minimum Lot size for the district	100 Lots
Minimum area per Lot required	10,000 sq. ft./lot
Product (number of Lots times the minimum area per Lot)	1,000,000 sq. ft.
Total area of Lots that are smaller than the minimum. Assume that the Lots average 8,000 sq. ft. (100 x 8,000)	800,000 sq. ft.
Total amount of Usable Open Space required (1,000,000 – 8,000,000)	200,000 sq. ft

(D) The provisions of this section may only be used if the Usable Open Space set aside in a Subdivision comprises at least ten thousand (10,000) square feet of space that complies with section 4.9.

(E) The Setback requirements for the applicable zoning districts shall apply in cluster Subdivisions.

6.2. CONSERVATION SUBDIVISION

6.2.1. Title

These regulations shall officially be known, cited, and referred to as the Southern Pines Conservation Subdivision regulations or Conservation Subdivision regulations.

6.2.2. Intent

Conservation Subdivisions provide a voluntary option for property owners to allow smaller Lots than can be achieved through conventional Development in the **RE** and **RR** districts, while retaining Significant open areas that may be used for agriculture, forestry or environmental purposes. While this choice will not be desired by all property owners, these regulations enable conservation Subdivision Development that reduces infrastructure costs and increases the value of Lots that front on the open space areas.

6.2.3. Purposes

This section is adopted for the following purposes:

(A) To guide the future growth and Development consistently with the Comprehensive Plan;

(B) To guide site analysis to plan appropriate areas for Development and conservation;

(C) To preserve the rural character through the permanent preservation of meaningful open space and sensitive natural resources;

(D) To preserve scenic views by minimizing views of new Development from existing roads;

(E) To preserve prime agricultural land by concentrating housing on land that has low agricultural potential;

(F) To provide commonly-owned open space areas for passive and/or active recreational use by residents of the Development and, where specified, the larger community;

(G) To provide for a diversity of Lot sizes, housing choices and Building densities to accommodate a variety of age and income groups;

(H) To provide buffering between residential Development and non-residential uses;

(I) To protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors;

(J) To preserve significant archaeological sites, historic Buildings and their settings; and

(K) To meet demand for housing in rural settings.

6.2.4. Applicability

The conservation Subdivision standards may be applied to any divisions of a Parcel of twenty (20) acres or more in the **RE** or **RR** zoning district, where the Subdivision creates at least three (3) new Parcels and at least forty (40) percent of the gross acreage of the site is reserved as open space in a primary or secondary conservation area. A conservation Subdivision may be created through the Special Use Permit process or the PD Development process.
(Ord. #1919)

6.2.5. Procedure

Conservation Subdivisions shall be approved through the following general process, which is more fully described below:

***Step 1**: Meet with Planning Director (may be combined with site visit)*

***Step 2**: Inventory and mapping of existing resources for the site, including*

the identification of primary and secondary conservation areas.

***Step 3**: Calculate Development potential.*

***Step 4**: Prepare a concept map of the conservation Subdivision for staff review and recommendations*

***Step 5**: Submit the concept plan and Preliminary Plat for review through the conventional Subdivision process.*

Conservation Subdivisions versus Conventional Design

Conservation Subdivisions Terms

(A) Initial Conference

Before submitting an application for a conservation Subdivision, the Applicant shall schedule an appointment and meet with the Planning Director to discuss the procedure for approval of a conservation Subdivision, including submittal requirements and design standards. The initial conference may be conducted in coordination with a site visit.

(B) Inventory and Mapping of Existing Resources

After the initial conference, the Applicant shall submit the following information to the Planning Director, which shall be mapped at a scale of no less than one (1) inch to fifty (50) feet:

(1) Topographic contours at two (2) foot intervals;

(2) United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems;

(3) Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas, wetlands, natural swales, drainage ways, and steep slopes;

(4) Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a Caliper of more than twenty-four (24) inches measured four and one-half (4.5) feet off the ground. The inventory shall include comments on the health and condition of the vegetation;

(5) Current and past land use, including all Buildings and structures on the land, cultivated areas, brownfields, waste sites, and history of waste disposal practices, paved areas, and all encumbrances, such as easements or covenants;

(6) Known critical habitat areas for rare, threatened or endangered species;

(7) Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken;

(8) Unique geological resources, such as rock outcrops and glacial features; and

(9) Cultural resources: brief description of historic character of Buildings and structures, historically important landscapes, and archeological features. This includes a review of existing local, state and national inventories for historic Buildings, archaeological sites, and burial sites.

(C) Site analysis and concept plan.

Using the inventory described in the previous paragraph and applying the design standards specified in the following section, the Applicant shall submit a concept plan and site analysis on one or more sheets that shall include at least the following information at a scale of no less than one inch to 50 feet:

(1) Open space areas indicating which areas are to remain undeveloped and trail location;

(2) Boundaries of areas to be developed and proposed general street and Lot layout;

(3) Number and type (e.g., Single-Family detached, townhouse, etc) of Dwelling Units proposed;

(4) Proposed methods for and location of water supply, stormwater management (e.g., Best Management Practices), and sewage treatment;

(5) Inventory of preserved and disturbed natural features and prominent views;

(6) Preliminary Building envelopes showing areas for lawns, pavement, Buildings;

(7) Proposed methods for ownership and management of open space;

(8) General location map showing the general outlines of existing Buildings, land use, and natural features such as water bodies or Wooded Areas, roads and property boundaries within five hundred (500) feet of the Tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch: 400 feet;

(9) Boundary line of the proposed site and all property to be subdivided, including all contiguous land owned or controlled by the Applicant;

(10) Location, width, and names of all existing platted streets and rights-of-way to a distance of one hundred (100) feet beyond the site;

(11) The type, width and condition of street improvements; railroad or major utility rights-of-way; parks and other public open spaces; location and widths of existing trails; and permanent Buildings and structures on the site and within one hundred (100) feet of the site;

(12) Location, widths, and names of all existing public and private easements on the site and within one hundred (100) feet of the site;

(13) Name and ownership boundary lines of all adjoining lands within one hundred (100) feet of the site;

(14) Topographic data including contours at vertical intervals of not more than two (2) feet;

(15) Identification of primary and secondary conservation areas;

(16) Existing soil classifications, including hydric soils;

(17) Legal description of the property;

(18) Existing zoning classifications for land in and abutting the Subdivision;

(19) Total acreage of the proposed site; and

(20) Graphic scale, north arrow, and date.

(D) Subdivision Design Features

In addition to the information required for a Preliminary Plat for a conventional Subdivision, the following information shall be included:

(1) Development Envelopes showing areas for grading, lawns, pavement and Buildings.

(2) Open space areas, other than pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres. Provide information on the conditions, if any, of the dedication or reservation.

(3) Management plan for restoration and long-term management of the open space areas.

6.2.6. Requirements for Design and Improvements

(A) Primary Conservation Areas

The following are considered Primary Conservation Areas and shall be included in the retained open space unless the Applicant demonstrates that this provision would constitute an unusual hardship or be counter to the purposes of this section:

(1) The 100-year floodplain

(2) Buffer zones of at least 75 feet along all perennial and intermittent streams, ponds and lakes

(3) Slopes above 25 percent of at least 5,000 square feet contiguous area

(4) Wetlands

(5) Habitats of endangered or threatened species

(6) Archaeological sites, cemeteries and burial grounds

(B) Secondary Conservation Areas

The following are considered Secondary Conservation Areas and shall be included in the retained open space to the maximum extent feasible.

(1) Important historic sites, structures or features

(2) Healthy native forests of at least one contiguous acre

(3) Individual existing healthy trees greater than eight (8) inches Caliper

(4) Significant natural features and scenic viewsheds such as ridgelines, peaks and rock outcroppings and scenic pastures, meadows and hedgerows

(5) Prime agricultural lands of at least five contiguous acres

(6) Existing trails that connect to adjacent areas

6.2.7. Performance Standards

(A) Residential Lot Requirements

(1) The number of new Parcels that can be created shall be consistent with the density established in the applicable zoning district unless bonus densities are sought.

(2) Lot sizes shall be determined based on DNER requirements and applicable bonus densities.

(3) Setbacks and Building heights shall be consistent with the applicable zoning district regulations, except as modified through the Subdivision approval process.

(4) Lots shall be configured to minimize the amount of impervious surfaces -- maximum Lot coverage shall not exceed thirty-five (35) percent of the Lot Area, including Buildings and other impervious surfaces**.**

(5) All Lots shall take access from interior streets. Existing farmsteads to be preserved may have a driveway as part of the historic landscape that does not access a local street.

(6) Lots shall be configured to minimize the amount of road length required for the Subdivision.

(7) Building Lots shall be configured to minimize loss of woodlands.

(8) If agricultural uses are being maintained, Lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate buffers between agricultural uses and residential structures.

(9) All Lots within a Neighborhood shall abut open space on at least one side. A local street may separate Lots from the open space.

(10) Building Lots should not be located on ridges, hilltops, along peripheral public roads or in other visually prominent areas.

(11) Residential structures shall be oriented to maximize solar gain in the winter months.

(12) A native vegetation buffer not less than thirty (30) feet in width shall be maintained around ponds and lakes, unless a specific common beach or grassed area is identified.

(B) Bonus Densities in the **RE** and **RR** Zoning Districts

To promote the retention of open space, the density ranges established in the Exhibit 6-2 shall apply to Development within the **RE** zoning district that retains open space in accordance with section 4.9 **or** agricultural land. Agricultural land shall be limited to limited to pasture or crop production, with the exception that a single homestead may be retained on any agricultural Tract encompassing twenty (20) or more acres. Land retained as open space or limited to agricultural uses shall be designated as a separate Parcel or Parcels on the Subdivision plat and shall be protected by

Conservation Easement. If an existing homestead is retained on an agricultural Tract, it shall not be counted when calculating the gross density of the conservation Subdivision.

Exhibit 6-2: Density Bonuses

Maximum Gross Density		Minimum Percentage of Gross Acreage Retained for Open Space[1] Pasture or Crop Production
RE District	RR District	
1 Dwelling per 5 acres	1 Dwelling per 30,000 sq. ft.	40%
1 Dwelling per 4.5 acres	1 Dwelling per 27,500 sq.ft.	45%
1 Dwelling per 4 acres	1 Dwelling per 25,000 sq. ft.	50%
1 Dwelling per 3.5 acres	1 Dwelling per 22,500 sq. ft.	60%
1 Dwelling per 3 acres	1 Dwelling per 20,000 sq.ft.	70%

(C) Stormwater Management Requirements (see Exhibit 6-3)

(1) Minimize the use of curb and gutter and maximize the use of open swales.

(2) Roof down spouts should drain to porous surfaces.

(3) Peak discharges during the 10-year, 24-hour storm event shall be no more than pre-Development Conditions.

(4) The Development should capture eighty (80) percent of the total suspended solids from the ten (10) year, twenty-four (24) hour storm event.

(5) Landscape plantings should be used to increase infiltration and decrease runoff.

(6) Natural open drainage systems shall be preserved.

Exhibit 6-3: Examples of Stormwater Management Techniques

(D) Residential Cluster Siting Standards

Residential clusters shall be located to:

(1) Minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses;

(2) Avoid encroaching on rare, threatened or endangered species habitats;

(3) Enable open spaces to connect with existing or potential open space lands on adjoining Parcels and with greenways (see Exhibit 6-4);

(4) Minimize impacts to prime farmland soils and large Tracts of land in agricultural use, and avoid interference with normal agricultural practices;

(5) Minimize disturbance to woodlands, wetlands, grasslands, and mature trees.

(6) Prevent downstream impacts due to runoff through adequate on-site storm water management practices.

(7) Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.

(8) Protect archaeological sites and existing historic Buildings or incorporate them through adaptive reuse.

(9) Enable the use of landscaping around the cluster to reduce off site views of residences.

Exhibit 6-4: Open Space Connectivity

(E) Sewage and Water Facilities

(1) Water for a conservation Subdivision may be provided by municipal system, individual onsite wells, by one or more community wells meeting State requirements or by other centralized service. Plans for shared or community wells should include a wellhead protection plan with separation distances for the zone of influence and sources of pollution.

(2) All conservation Subdivisions shall be provided with adequate sewage treatment facilities meeting DENR standards. Where sewage treatment is not provided by a publicly owned wastewater treatment works, a common sewage treatment and disposal unit located on the common open space lands is encouraged.

6.2.8. Ownership and Maintenance of Open Space and Common Facilities

The designated common open space and common facilities may be owned and managed by one or a combination of the following:

(1) A homeowners' association

(2) A non-profit conservation organization

(3) An individual who will use the land for open space or agricultural purposes allowed by the Conservation Easement

(4) Public ownership

(B) Homeowners' Association

A homeowners association shall be established if the common open space is proposed to be owned by a homeowners association. Membership in the association shall mandatory for all purchasers of homes in the Development and their successors. The homeowners' association bylaws, guaranteeing continuing maintenance of the open space and other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners association shall be submitted for approval

to the Town as part of the information required for the Preliminary Plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions of the homeowners association shall contain the following information:

(1) The legal description of the common land;

(2) A description of common facilities;

(3) The restrictions placed upon the use and enjoyment of the lands or facilities;

(4) Persons or entities entitled to enforce the restrictions;

(5) A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums;

(6) A mechanism for resolving disputes among the owners or association members;

(7) The conditions and timing of the transfer of ownership and control of land facilities to the association;

(8) Any other matter the Developer deems appropriate.

(C) Nonprofit Conservation Organization

If the common open space is to be held by a nonprofit conservation organization, the organization must be acceptable to the Town. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.

(D) Individual Ownership

An individual may hold fee title to the land while a nonprofit or other qualified organization holds a Conservation Easement uses for the common open space.

(E) Public Dedication of Open Space

The Town may, at its sole discretion accept the dedication of fee title or dedication of a Conservation Easement to the common open space provided that:

(1) The common open space is accessible to the public and is part of the Town's Greenway Plan; and

(2) The Town agrees to and has access to maintain the common open space.

(F) Streets

Streets that have been designated on a duly adopted official map or element of the Comprehensive Plan shall be dedicated to the Town, County or State as applicable. The streets and Right-of-Way shall comply with the applicable design standards of the responsible entity.

6.2.9. Conservation Subdivision Management Plan

Every conservation Subdivision shall include a plan that documents the means to properly manage the common open space and facilities in perpetuity, including any stormwater facilities. A management plan shall not be required for land that is retained for agricultural use. The plan shall be approved by the Town prior to Final Plat approval and shall:

(A) Designate the ownership of the open space and common facilities.

(B) Establish necessary regular and periodic operation and maintenance responsibilities.

(C) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.

(D) Include a land stewardship plan specifically focusing on the long-term management of common open space lands, and describing:

(1) Existing conditions including all natural, cultural, historic, and scenic elements in the landscape;

(2) The proposed end state for each common open space area; and the measures proposed for achieving the end state;

(3) Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion; and measures for restoring historic features and habitats or ecosystems; and

(4) The operations needed for maintaining the stability of the resources, including: stormwater management facilities; mowing schedules; weed control; planting schedules; clearing and cleanup; at the Town's discretion, the Applicant may be required to place in escrow sufficient funds for the maintenance and operation costs of common facilities for a maximum of one year.

(E) Document the method for amendment of the plan by the owner with the approval of the Town.

6.2.10. Failure to Manage Open Space and Common Areas

In the event that the organization established to own and maintain the open space and common facilities, or any successor organization, fails to maintain all or any portion of the common facilities in reasonable order and condition, the Town may send notice setting forth the manner in which the organization has failed to maintain the common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation this UDO, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The Town may enter the Premises and take corrective action and assess the costs to the management entity.

6.3. Small Single-Family Lot Patterns

6.3.1. Purpose and Applicability

The purposes of this section are to enable the Development of existing small Lots and to provide guidance for the creation of smaller Lots as part of Planned Developments.

6.3.2. Existing Single Lot Development

For single Lots that do not meet the minimum Lot width standards, Development shall comply with existing Setbacks to the greatest extent practical. However, the Planning Director may grant a reduction of Side Setbacks by up to two (2) feet upon finding that the following conditions apply:

(A) The proposed home is not more than two (2) stories in height;

(B) The home has an entry facing the street that includes a front porch measuring at least six (6) feet in depth and a width not less than the greater of sixteen (16) feet or seventy (70) percent of the front façade width;

(C) The roof is either a hip or gable style with a pitch of not less than four (4) feet of rise for every twelve (12) feet of width.

(D) Parking shall be located at least five (5) feet behind the front Building line. Attached or detached garages may be located to the rear of the home. If an attached garage is located to the side of a home, it must be located at least five (5) feet behind the front Building line and shall not be greater than thirty (30) percent of the total width of the home.

6.3.3. Existing Multiple Lot Development

Where at least four (4) abutting Lots share a common street frontage:

(A) The Side Setbacks may be reduced to zero (0), provided that the minimum distance between Buildings is not less than ten (10) feet and the minimum Side Setback for Lots abutting Existing Development or a street are not more than two (2) feet less than the minimum Setback

required for the applicable district. Where Setbacks are less than four (4) feet from an internal property line, a maintenance easement measuring at least five (5) feet in width shall be required to provide adequate access for home maintenance.

(B) All other standards for existing single Lot Development in the previous section shall apply.

6.3.4. New Narrow Lot Development

Within a Planned Development, the Applicant may establish any Single-Family Lot pattern that:

(A) Satisfies the purposes of the district;

(B) Does not exceed eight (8) Dwelling Units per gross acre;

(C) Satisfies the requirements established in section 6.3.2; and

(D) The Applicant demonstrates that the homes will provide adequate housing and a stable Neighborhood.

6.4. TRADITIONAL NEIGHBORHOOD DEVELOPMENT

6.4.1. Required Elements

While design flexibility is encouraged within a Traditional Neighborhood Development (TND), the following design elements are mandatory:

(A) **Land Use Diversity**. A TND shall include a mix of residential, civic and non-residential land uses.

(B) **Residential Density**. Residential density shall be calculated by dividing the number of Dwelling Units by the residential acreage (excluding street rights-of-way). Densities shall be consistent with the Comprehensive Plan. For mixed use areas, the density shall be based on the following standards:

(1) Detached, Single-Family residential Development shall not exceed eight (8) Dwelling Units per acre, excluding street rights-of-way.

(2) Attached residential Development shall not exceed twenty-four (24) Dwellings per acre, excluding street rights-of-way.

(3) Mixed use Buildings shall not exceed sixteen (16) Dwellings per acre.

(4) The minimum density of all residential properties shall be at least four (4) Dwellings per acre, excluding street rights-of-way.

(5) Housing Diversity. The Development shall include a mix of residential Dwelling Unit types and residential Lot sizes.

(C) **Connectivity.** To promote walkability and emergency access, streets shall be designed in accordance with section 4.11 with sidewalks and be highly interconnected.

(1) Local street blocks shall not exceed 800 feet in length except where a physical feature (e.g., water, wetlands, or Existing Development) limits potential connectivity.

(2) Collector street blocks shall not exceed 1,000 feet in length except where a physical feature (e.g., water, wetlands, or Existing Development) limits potential connectivity.

(3) Arterial street blocks shall not exceed 2,000 feet in length except where a physical feature (e.g., water, wetlands, or Existing Development) limits potential connectivity.

(4) When approving a block that exceeds the minimum block length, a pedestrian cross-walk may be required as a condition of plat approval.

(D) **Setbacks**. The plats for the TND shall establish minimum and maximum Setbacks that promote pedestrian access to non-residential and civic uses.

(E) **Parking**. Parking shall comply with the provisions of chapter 4 except as modified by section 6.4.4.

(F) **Common Space**. Common space shall comply with the standards established in section 6.4.5.

6.4.2. Optional Elements

Optional design elements that are encouraged, but not required include:

(A) **Alleys**. Private alleys are encouraged to provide access to both residential and non-residential uses.

(B) **Mixed Use Buildings**. Buildings with vertically mixed uses (e.g., residential over retail) and live-work units are encouraged.

6.4.3. Circulation

(A) **General Circulation Standards**. The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed use area, and common space of the traditional Neighborhood Development and shall be connected to existing and proposed external Development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes (especially off street bicycle or multi-use paths or bicycle lanes on the streets), control through traffic, limit Lot access to streets of lower traffic volumes, and promote safe and efficient mobility through the traditional Neighborhood Development.

(B) **Pedestrian Circulation**. Pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the TND. All streets, except for alleys, shall be bordered by sidewalks. The following provisions also apply:

(1) Sidewalks in residential areas. Clear and well-lighted sidewalks, at least five (5) feet in width shall be provided along all streets and walkways shall connect all Dwelling entrances to the adjacent public sidewalk.

(2) Sidewalks in mixed use areas. Clear and well-lighted walkways shall connect Building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum of six (6) feet in width.

(3) Disabled Accessibility. Sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act.

(4) Crosswalks shall be well lit and clearly marked with contrasting paving materials at the edges or with striping.

(C) **Bicycle Circulation**. Bicycle circulation shall be accommodated on streets and/or on dedicated bicycle paths.

(D) **Motor Vehicle Circulation**. Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as curb extensions, traffic circles, and medians may be used to calm traffic speeds.

(E) **Street Layout**. The TND should maintain the existing street grid, where present, restore any disrupted street grid where feasible and establish a new internal grid, if not contiguous with other Development. In addition:

(1) Intersections shall be at right angles whenever possible, but in no case less than seventy-five (75) degrees. Where more than two streets intersect or two streets intersect at angles less than seventy-five (75) degrees, traffic circles shall be used. Traffic circles are encouraged.

(2) Corner radii. The roadway edge at street intersections shall be rounded by a tangential arc with a maximum radius of fifteen (15) feet, except that maximum corner radii for parkways and boulevards shall be twenty (20) feet. The Town Engineer may

require the installation of rollover curbs at intersections to facilitate emergency service provision.

(3) Curb cuts for driveways to individual residential Lots shall be prohibited along arterial streets. Curb cuts shall be limited to intersections with other streets or access drives to parking areas for commercial, civic or Multi-Family Residential uses.

(4) The orientation of streets should enhance the visibility of common spaces and prominent Buildings. All streets shall terminate at other streets, civic uses or other public land, except those that terminate at stub streets when such streets act as connections to future phases of the Development.

6.4.4. Parking

(A) **General Parking Requirements**. The following provisions supplement the parking standards established in section 4.5. Where there is a conflict between the following standards and other standards the following standards shall prevail:

(1) In residential areas, garage doors which face the front of a Lot shall be placed a minimum of twenty (20) feet behind the Setback of the Principal Structure. However, the Board may modify this requirement for no more than twenty (20) percent of the Dwelling Units if warranted by topography or other environmental conditions.

(2) In the mixed-use area, parking lots shall be located at the rear or side of Buildings. If located at the side, a wall or hedge not less than thirty (30) nor more than forty-two (42) inches shall be installed to screen the parking Lot.

(3) In non-residential areas, parking spaces in most instances should be located in parking lots located behind the Buildings, internal to the block and to the rear or side of Buildings. Side parking lots shall account for no more than twenty-five (25) percent of parking per site, and shall be screened from sidewalks by a wall or hedge not less than thirty (30) nor more than forty-two (42) inches.

(4) In the case of commercial or office uses which have shop or store fronts adjacent to sidewalks and streets, parking along the street directly in front of the Lot shall count toward fulfilling the parking requirements.

(5) Required parking must be provided within a five (5) minute (one-quarter (1/4) mile) radius of the site which it serves.

(6) Parking lots or garages should not be adjacent to or opposite a street or intersection.

(7) Parking shall be accessed by alley or rear lane, when available. However, there shall be no parking in an alley or lane.

(8) The location of permitted on-street parking should be coordinated to allow access to mail boxes. A central mail delivery location for all or a portion of the Lots may be provided as opposed to individual deliveries to Lots.

(9) On-street parking shall be prohibited within thirty (30) feet of intersections to enable public service and emergency vehicles adequate turning radii, and in mid-block sections such that emergency vehicles can park and operate within one hundred twenty-five (125) feet of all Buildings on the block.

(10) If a Developer desires to exceed minimum requirements for parking for non-residential uses, it shall be provided on grassy, pervious surfaces (of reinforced/plastic grid, reinforced block or similar material) which are adequate to sustain parked vehicles.

(11) Parking lots or garages must provide not less than one (1) bicycle parking space for every ten (10) motor vehicle parking spaces.

(12) Parking structures may have adjacent commercial uses.

(B) **Parking in Mixed Use Areas**. In a mixed-use area, a commercial use must provide one (1) parking space for every four hundred (400) feet of Gross Floor Area. The Director may reduce this required number of spaces for commercial and office uses when the Applicant demonstrates reduced demands due to the following shared parking provisions:

(1) If an office use and a retail use share parking, the parking requirement for the retail use may be reduced by twenty (20) percent, provided that the reduction shall not exceed the minimum parking requirement for the office use.

(2) If a residential use shares parking with a retail use other than lodging uses, eating and drinking establishments or entertainment uses, the parking requirement for the non-residential use may be reduced by thirty (30) percent, provided that the reduction does not exceed fifty (50) percent of the minimum parking requirement for the retail and service use.

(3) If an office and a residential use share off-street parking, the parking requirement for the office use may be reduced by fifty (50) percent, provided that the reduction shall not exceed fifty (50) percent of the minimum parking requirement for the office use.

6.4.5. Common Space and Natural Areas.

(A) The following uses may account for common space with the stated limitations:

(1) Parks, open greenbelt areas, and other recreational space which are readily accessible must account for not less than twenty-five (25) percent of the common space.

(2) Greenbelts along roadways and medians that measure at least twenty (20) feet in width may constitute twenty-five (25) percent of the required common space.

(3) Lakes, ponds, bayous, streams, or creeks, including stormwater Retention Basins may constitute up to fifty (50) percent of common space provided that they are designed so that a minimum of twenty (20) percent, but not less than three hundred (300) feet, of frontage of the abutting shoreline is made accessible for the common use.

(4) Golf courses may account for up to fifty (50) percent of the common space provided that the course is open to the public. If a golf course is proposed as part of the TND it shall be designed to adhere to the concepts stated herein with regards to the street network to the extent practical.

(5) Natural wetlands may account for up to fifty (50) percent of common space if reasonably visible from interpretive walkways provided in and through the wetland.

(6) Hard surface recreation areas such as recreational courts and pedestrian plazas may account for up to twenty (20) percent of required common space.

(7) The grounds of school sites, library sites, and other civic sites, excluding the area devoted to Buildings and parking, may

account for up to twenty (20) percent of required common space.

(B) Common space shall not include:

(1) Required elements such as:

(a) Yards which are not accessible for the common use;

(b) Parking areas, unless constructed of pervious surface treatment;

(c) Drainage ditches or paved stormwater conveyances.

(2) Structures (unless a part of the common space such as gazebos);

(3) Areas reserved for the exclusive use and benefit of an individual tenant or owner.

6.4.6. Architectural Standards

A variety of architectural features and Building materials is encouraged to give each Building or group of Buildings a distinct character.

(A) **Height**. New Single-Family residential structures within a TND shall comply with R-1 zoning district standards. Commercial, Multi-Family Residential or mixed use structures in the village center shall not exceed sixty-five (65) feet in height, or forty (40) feet in height if located within two hundred (200) feet of a Single-Family residence located outside the project TND boundaries.

(B) **Entries and Facades**

(1) The architectural features, materials, and the articulation of a facade of a Building shall be continued on all Building sides visible from a public street.

(2) The front facade of the Principal Building on any Lot in a TND shall face onto a public street or square.

(3) The front facade shall not be oriented to face directly toward a parking Lot.

(4) Porches no less than five (5) feet in depth, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences.

(5) For commercial Buildings, a minimum of fifty (50) percent of the front facade wall area on the ground Floor shall be transparent, consisting of window or door openings allowing views into and out of the interior.

(6) New structures on opposite sides of the same street should follow similar design guidelines. This provision shall not apply to Buildings bordering civic uses.

(C) **Requirements for garages and secondary Dwelling Units**. Garages and secondary Dwelling Units may be placed on a Single-Family detached residential Lot within the Principal Building or an Accessory Building provided that:

(1) The secondary Dwelling Unit shall not exceed eight hundred (800) square feet;

(2) The garage doors may not be located closer than twenty-five (25) feet to any street except an alley; and

(3) Detached structures shall be located in Rear Yard.

(D) **Requirements for Exterior Signage**. A comprehensive Sign program is required for the entire TND. This program shall establish a uniform Sign theme, with Signs sharing a common style (e.g., size, shape, material). In the mixed use area, all Signs shall be Wall Signs or cantilever Signs. All street and traffic control Signs shall comply with the Manual for Uniform Control Devices.

(E) **Landscaping Standards**

(1) Unless otherwise provided in this section, landscaping shall meet or exceed the standards in section 5.03.00 of this UDO.

(2) A minimum of one large tree per forty (40) feet of street frontage, or fraction thereof, shall be required. Trees can be clustered and do not need to be evenly spaced. Subject to approval of the Town Engineer, trees may be planted within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete. If placement of street trees within the Right-of-Way will interfere with utility lines, trees shall be planted within the Front Yard Setback adjacent to the sidewalk.

6.5. Employment Center Patterns

6.5.1. Purpose

These Development Patterns provide opportunities for Development Patterns that support high-wage jobs while maintaining Compatibility with existing and planned Development.

6.5.2. Development Patterns Established

Development may occur in any of the Development Patterns established in this section in accordance with the use standards, site design standards, Building design standards and other applicable provisions of this UDO.

(A) Corporate Campus/Business Park - A master-planned Development under unified ownership or control that includes offices and flex spaces for target industries with retail, restaurants and lodging as secondary support uses that are permitted by right. Retail and restaurants shall be located within office Buildings or clustered in nodes at the entries of the Development.

(B) Industrial Park – A master planned Development unified ownership or control that provides locations for production, ancillary distribution and office uses.

6.5.3. Uses Permitted

Unless otherwise approved through the Planned Development, Special Use Permit, or Conditional Zoning processes, no Building, structure or land shall be used for any purpose except the following:

(A) Residential Development may be allowed within a mixed-use Building that is located in a Development complying with standards established for corporate campus Development subject to Town Council of a Planned Development District.

(B) Professional offices.

(C) Manufacturing, processing or product assembly where all operations are contained within a structure. Warehousing and distribution facilities are allowed as an accessory to these uses.

(D) Scientific laboratories and research enterprises.

(E) Secondary support uses, including hotels, motels and restaurants, provided that no such use may be established unless included in a phasing plan and that the square footage of such uses shall not exceed ten (10) percent of the Gross Floor Area of the Development.

(Ord. #1714; Ord. #1919)

6.5.4. Development Intensity/Density

(A) Exhibit 6-5 establishes the maximum potential density and the maximum floor area ratio allowable for each Development Pattern.

(B) For Buildings with Dwelling Units or lodging units above non-residential Floor area, maximum Dwelling Unit or lodging accommodation unit density and the floor area ratio shall be calculated using the total Lot Area.

Exhibit 6-5: Intensity/Density Standards

Development Pattern	Maximum Floor Area Ratio and Guest Rooms per Acre	Maximum Density (Dwellings Units per acre)
Corporate Campus/ Business Park	0.5/24	12
Industrial Park	0.5	NA

6.5.5. Site Design Standards

(A) Building Setbacks.

Exhibit 6-6 establishes the minimum Setbacks from property lines. Greater Setbacks may be required where Development is adjacent to residential districts or where other site constraints exist.

Exhibit 6-6: Minimum Building Setbacks

Building Setback	Development Pattern	
	Corporate Campus/Business Park	Industrial Park
Front	15 feet	35 feet
Side, Street	25 feet	35 feet
Side, Internal[1]	25 feet	10 feet[2]
Rear	25 feet	25 feet[2]

Notes:
1 Common walls between Buildings are allowed subject to Building code compliance.
2 Minimum Building Setback is 50 feet if adjacent to a residential zoning district (see buffer requirements in section 102-875(b)(6).

(Ord. #1714)

(B) Landscaping Minimum Front Yard landscaping requirements are established in Exhibit 6-7.

Exhibit 6-7: Front Yard Landscaping

Corporate Campus/Business Park	Industrial Park
1. A minimum 10 feet wide planting strip shall be provided along the Building perimeter. 2. Planting strips shall include the following: a. Minimum 1 small or large tree for every 15 feet of Building façade facing a street, excluding walkways, driveways and loading areas. The trees may be clustered or extended along the Building façade; and b. Minimum 1 shrub is required for 2 linear feet of Building façade (excluding walkways, driveways and loading areas). The shrubs may be clustered or extended along the Building façade.	1. Minimum 5 feet wide planting strip shall be provided along the front and street side Building facades. 2. Planting strips shall include the following: a. Minimum 1 small tree for every 15 feet of Building façade facing a street, excluding walkways, driveways and loading areas. The palms and /or understory trees may be clustered or extended along the Building façade; and b. Minimum 1 shrub is required for every 3 linear feet of Building façade (excluding walkways and loading areas). The shrubs may be clustered or extended along the Building façade.

(C) Open Areas. Minimum requirements for open areas are established in Exhibit 6-8. Open areas include landscape areas and other outdoor common areas, such as courtyards and plazas.

Exhibit 6-8: Open Areas/Landscaping

Corporate Campus/Business Park	Industrial Park
At least 20 percent of the total project area shall be devoted to open areas. Retention Ponds with walkways and seating areas shall be counted towards the required open areas.	At least 20 percent of the total project area shall be devoted to open areas. Retention Ponds with walkways and seating areas shall be counted towards the required open areas.
At least one small tree shall be planted for every 200 square feet of open area.	
At least one large tree shall be planted for every 800 square feet of open area.	

(D) Parking Lot Landscaping. Parking Lot landscaping shall comply with the section 4.3.6 except that portions of parking lots that are adjacent to public streets shall include one shade tree per forty (40) feet and be screened by:

(a) Continuous dense evergreen shrubs at least 3 feet in height adjacent to the parking area, within a minimum 5 feet planting area;

(b) Low walls made of concrete, masonry, or other similar material and not exceeding a height of 3 feet. Groundcover and trees must still be provided in the required 5 feet planting area; or

(c) Raised planter walls planted with minimum 80 percent evergreen shrubs not to exceed 3 feet in height.

(E) Outdoor Storage and Operations. Outdoor storage and operations are prohibited in the Corporate Campus/Business Park Development Patterns. Screening for Industrial Parks shall comply with the provisions of section 5.12

(F) Buffers Between Residential and Non-Residential Districts. Where an employment center Development Pattern abuts a residential district, a landscape buffer or opaque brick or masonry wall complying with the standards in Exhibit 6-9 is required on any rear or side Lot line abutting the residential district. For buffers with walls, the wall shall be located on the side of the buffer located closest to the Building on the site providing the buffer.

Parking Lot Landscaping Illustrations

Exhibit 6-9: Minimum Buffers Abutting Residential Districts

Corporate Campus/Business Park	Industrial Park
1. Landscape buffer complying with fifty (50) foot wide buffer per section **4.3.4**. OR 2. Brick or masonry wall complying with the following standards: a. Minimum 6 feet high and a maximum 8 feet high wall with offsets or columns at every 50 linear feet; and **b.** Minimum twenty (20) foot wide buffer per section **4.3.4** on the side of the wall facing the residential district.	1. Landscape buffer complying with eighty (80) foot wide buffer per section 4.3.4 OR 2. Brick or masonry wall complying with the following standards: a. Minimum 6 feet high and a maximum 8 feet high wall with offsets or columns at every 50 linear feet; and b. Minimum thirty (30) foot wide buffer per section 4.3.4 on the side of the wall facing the residential district.

(G) Fences and Walls. No fence or wall shall be established in any Front or Street Side Yard except as established in these district regulations. Exhibit 6-10 establishes the general standards for fences and walls for the employment center Development patters district. Where used, brick or masonry walls shall have graffiti-resistant paint or finishes.

Exhibit 6-10: Fence and Wall Standards

Corporate Campus/Business Park	Industrial Park
1. Wrought-iron or metal picket fencing with a maximum height of 3 feet may be used to delineate outdoor patios/eating areas in any location on a Lot. 2. Brick or masonry walls shall be limited to buffer requirements adjacent to residential zoning districts and parking lots. 3. Brick or masonry walls finishes shall match the Principal Building material, decorative wall cap and offsets or columns shall be provided every 50 linear feet.	1. Fences within Front or Street Side Yards shall be wrought-iron or metal picket with a maximum height of 8 feet. The fence may be installed on top of a knee wall in that is not less than one-third nor more than one-half the total fence height. 2. Fences along the Rear and Interior Side Yards adjacent to industrial zoning districts may be black vinyl coated chain-link with a maximum height of 8 feet. 3. Brick or masonry walls shall not exceed 8 feet in height. 4. Masonry walls shall have similar exterior finish as the Principal Building, decorative wall cap and offsets or columns at every 50 linear feet.

(H) Parking

(1) Parking location. Parking spaces shall be provided and located as required in section 4.5 except as modified by the following provisions.

(a) Parking lots which accommodate more than fifty (50) vehicles shall be divided into a series of connected smaller Lots and separated by roads, open areas, structures or landscape strips measuring at least ten (10) feet in width and having at least one shade tree planted every 40 linear feet.

(b) Visitor parking shall be located convenient to administration and office areas.

(c) Truck access and parking areas shall be separate from car parking areas and located in the Rear Yard

(d) Parking shall be located in compliance with Exhibit 6-11.

Exhibit 6-11: Parking Location

Corporate Campus/Business Park	Industrial Park
1. Parking spaces shall not be located between Buildings and a front or side street. 2. Parking structures shall be located behind the Principal Structure.	1. Parking may be located in the Front, Street Side, Side and Rear Yards, except that: a. No parking space may be located within 50 feet of a street intersection. b. Not more than 50 percent of required parking shall be located in the Front or Side Street Yards.

(I) Loading. Loading standards shall comply with section 4.5.13 and the following standards.

(1) Loading and service dock areas shall be located to the rear or sides of a Building, away from the main Building entrance or related high visibility areas.

(2) No loading docks shall be located between a Building and a residential zoning district unless there is a minimum one hundred (100) feet Setback between the loading dock and the residential district and that the Setback includes a landscape buffer and masonry wall (see screening requirements in section 4.3.5).

(3) Loading spaces, their access drives and maneuvering areas shall be located and designed so that their use does not impede the normal use of parking spaces and access drives.

(4) Loading and service docks shall be screened by a brick or masonry wall measuring not less than six (6) feet in height and not more than eight (8) feet in height or a landscape screen consisting of evergreen hedge that will measure at least five (5) feet in height within one (1) year of planting.

Loading Design Illustrations

(J) Bicycle and pedestrian access.

(1) Internal bicycle circulation systems and easemens shall be integrated into site design and connect to existing and future bicycle routes and trails. Multi-use trails are encouraged.

(2) Where bicycle lanes are required, they shall be at least four (4) feet in width if there is no on-street parking. Where on-street parking is allowed, bicycle lanes shall be at least five (5) feet in width.

(3) At least one (1) bicycle space shall be provided for every twenty-five (25) vehicular parking spaces.

(4) Bicycle racks shall be provided within fifty (50) feet of each main Building entrance.

Bicycle Rack Illustration

(K) Mechanical equipment and dumpsters shall be located and screened in accordance with the standards of Exhibit 6-12.

Exhibit 6-12: Mechanical Equipment and Dumpster Standards

Corporate Campus/Business Park Industrial Park
1. Ground-fixed mechanical equipment shall not be located between the front of a Building and the street. If located between the Building and a street, the equipment shall be screened from view with masonry wall *OR* evergreen shrubs. 2. Rooftop mechanical equipment shall be screened from adjacent properties and from street view by a parapet or architecturally Compatible rooftop screen
1. Trash dumpsters shall not be located between the front Building façade and the public or internal street. 2. No trash dumpsters shall be located between a Building and a residential district unless set back from the residential district at least minimum 50 feet. If set back less than 75 feet, then no dumpster service shall be allowed between the hours of 8:00 pm and 7:00 am. 3. Dumpsters shall be separated from adjacent parking stalls by a minimum 3 feet wide (interior clear dimension) planting strip. Dumpsters shall be enclosed with a masonry wall constructed of the same materials as the Principal Structure. The wall enclosure shall be at least 6 feet and no more than 8 feet in height

6.5.6. Building Design Standards

(A) Height

(1) Maximum Building height shall not exceed:

(a) Corporate village -50 feet

(b) Corporate campus/business park – 50 feet

(c) Industrial Park – 40 feet

(2) Height transitions abutting residential districts. Where a Lot abuts a residential zoning district or a mixed-use project, the maximum Building height shall be no taller than the maximum height of the abutting district within fifty (50) feet of property line. The Building height may be increased by one (1) foot for each additional two (2) feet for that the applicable portion of the Building is separated from the property line.

(B) Building orientation and entries. In Corporate Villages and Campus Developments entrances shall be located on the front of the Building. In industrial parks, entrances may face the front of the Building or side parking areas. All Buildings shall have clearly defined, visible entrances, featuring no less than three of the following:

a. Canopies or porticos
b. Awnings
c. Overhangs
d. Recesses/projections
e. Arcades
f. Raised corniced parapets over the door
g. Peaked roof forms or arches
h. Outdoor patios
i. Display windows

(C) Building materials

(1) Predominant wall materials shall have the appearance of brick, stucco or textured masonry. Predominant wall materials shall cover at least eighty (80) percent of walls, exclusive of windows and doors. Materials with the appearance of concrete block, smooth concrete, corrugated or standing seam metal are prohibited.

(2) Within an industrial park, interior side and rear walls that are twenty-five (25) feet or less in height and do not face a street may be constructed of any material that complies with Building Code requirements.

(3) The color of all Building elevations (front façade, side, and rear) shall be low reflectance, subtle, neutral or earth tones. The use of high-intensity, saturated colors (such as one or more of the "primary" and/or "secondary" colors), metallic colors, florescent colors, or black, is limited to trim or accent features comprising no more than five (5) percent of the total area of any Building façade.

(D) Glazing. Windows shall comply with the standards in Exhibit 6-13.

Exhibit 6-13: Minimum Glazing Standards

Corporate Campus/Business Park	Industrial Park
1. First Floor windows facing a front or street-side shall have a minimum of 30 percent window coverage. 2. Windows may be clear, tinted or reflective glass. 3. Each upper story Floor facing a street shall have at least 15 percent window coverage.	1. First Floor windows facing a front or side street shall have a at least 10 percent window coverage.

(E) Building articulation. The sides of Buildings facing streets shall be articulated in accordance with Exhibit 6-14.

Exhibit 6-14: Building Articulation Standards

Corporate Campus/Business Park	Industrial Park
1. Front and street-facing side facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 3 percent of the length of the façade and extending at least 20 percent of the length of the façade. 2. Facades greater than 100 feet in length, measured horizontally, shall have a change in at least three of the following elements every 100 feet along all walls facing a public street or internal street: a. Color change b. Texture change c. Material change d. Architectural feature, such as an offset, projection, columns, canopies, arcades, or reveal with at least 12 inches in depth.	1. Front and street-facing side facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 1 percent of the length of the façade and extending at least 20 percent of the length of the façade. 2. Facades facing a public street or internal street shall have at least one color, texture or material change along all street facing walls.

(F) Rooflines

(1) Rooflines shall be varied in height, or at least every one hundred (100) linear feet. Hips, gables or changes in parapet elevation shall be used to provide relief in height.

(2) Gable and hip roofs, and parapets with cornices shall be used to conceal flat roofs and rooftop mechanical equipment from public view.

(3) The parapet design shall be a minimum of three (3) feet in height and shall incorporate a three-dimensional cornice treatment.

Chapter 7. **Non-Conformities**

Chapter 7 Contents

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7.1. GENERALLY

7.1.1. Purpose and Findings

The purpose of this chapter is to protect the rights of property owners who have lawfully established, and continuously maintained in a lawful manner, a use prior to the adoption of this chapter or prior to any amendment to this chapter that otherwise renders such use unlawful. A non-conforming use or structure that was recognized prior to the adoption of this chapter shall continue to operate under the provision of law under which the non-conforming structure or use was recognized so long as the non-conforming use or structure is not in violation of such provision of law, the adoption of this chapter notwithstanding. Nothing in this chapter prohibits the voluntary compliance with any future ordinance, regulation, or incentive. Modifications to non-conforming situations, whether in a by-right, special use, or Conditional Zoning district shall be required to comply with standards of this UDO in effect at the time of the modification unless specifically exempted in this chapter or otherwise approved by the Town. *(Ord. #1919)*

7.1.2. Applicability

This division applies to any non-conformity. There are three categories of non-conformities established within this chapter, defined as the following:

(A) Non-Conforming Use - A use that was lawfully established but no longer complies with the use regulations applicable to the use or the zoning district established in this UDO.

(B) Non-Conforming Lot or Site - A Lot, Parcel or Development site that was lawfully created but no longer complies with the Development standards established in this UDO.

(C) Non-Conforming Structure - A structure that was lawfully erected but no longer complies with the use or Development standards established in this UDO.

7.1.3. Continuation

(A) On or after the effective date of this UDO, a non-conformity that was lawfully operated, established, or commenced in accordance with the provisions of all ordinances, statutes, or regulations in effect at that time may continue subject to this division.

(B) Any non-conformity that legally existed on the date of adoption of this UDO, together with all amendments thereto; or that becomes non-conforming upon the adoption of any amendment to this UDO, may be continued in accordance with the provisions of this chapter.

7.1.4. Repairs and Maintenance

(A) Incidental repairs and normal maintenance of non-conforming structures or land shall be permitted unless such repairs increase the extent of non-conformity or are otherwise expressly prohibited by this UDO.

(B) Nothing in this chapter shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

(C) Any repair that exceeds twenty-five (25) percent of the replacement value of the structure being repaired is deemed to be a major repair and shall require issuance of a Special Use Permit for the entire Lot or

Parcel on which the structure is located prior to the repair. Public education and medical institutions are not subject to this limitation on major repairs.

(Ord. #1714)

7.1.5. Costs

(A) Costs in this chapter are the fair market value of the materials and services necessary to accomplish the work.

(B) Costs shall include the total cost of the work, including incremental work that is conducted under one or more permits or Development Approvals within any twenty-four (24) month period.

(C) Appraised value shall mean either the appraised value of the improvement for property tax purposes or the valuation determined by a professionally recognized appraiser.

7.1.6. Tenancy and Ownership

The status of a non-conformity is not affected by changes of tenancy, ownership or management.

7.1.7. Conditions

The right of non-conformities to expand is subject to such regulations as to the maintenance of the Premises and Lot or site and conditions of operation as may, in the judgment of the Town Council, be reasonably required for the protection of adjacent property.

(Ord. #1714)

7.1.8. Expansion of Non-Conformity

(A) **Expansion Limited**. No non-conformity may expand unless a Special Use Permit has been granted, as provided in this UDO.

(Ord. #1919)

(B) **Criteria for Special Use Permit, Generally**. In addition to the criteria required to be met for a Special Use Permit, the following criteria shall apply to the issuance of a Special Use Permit for the expansion of a non-conformity:

(1) The termination of such non-conformity will result in unnecessary hardship;

(2) The continuation of the non-conformity will not be contrary to the public interest;

(3) The continuation of the non-conformity will not substantially or permanently injure the appropriate use of adjacent conforming property in the same district;

(4) The use will be in harmony with the spirit and purpose of these regulations and the Comprehensive Plan goals, objectives, and policies;

(5) The plight of the Applicant for which the continuation of the non-conformity is sought is due to unique circumstances existing on the property and/or within the surrounding district;

(6) The continuation of the non-conformity will not substantially weaken the general purposes of this UDO or the regulations established for the applicable zoning district;

(7) The continuation of the non-conformity will not adversely affect the public health, safety, and welfare; and

(8) Mere financial hardship caused by the cost of meeting the requirements of the UDO does not constitute grounds for finding that compliance is not reasonably possible.

(Ord. #1919)

(C) **Criteria for Special Use Permit for Non-Residential Use**. In addition, the following criteria shall apply to the issuance of a Special Use Permit for the expansion of a non-residential non-conformity:

(1) The change or expansion is Compatible with the surrounding uses of land and is beneficial to the health, welfare and safety of the community;

(2) All Non-Conforming Signs shall be brought into compliance with the requirements of this UDO;

(3) Unsightly or unsafe conditions on the site have been or will be mitigated pursuant to the Special Use Permit;

(4) Outdoor storage, displays or operations shall comply with the terms of this UDO;

(5) The expansion does not increase the degree of non-conformity of the property due to the Setback, height, parking or landscaping requirements of this UDO.

(Ord. #1919)

(D) **Conditions Applicable**. Any conditions attached to any rezoning, Special Use Permit, variance, or zoning permit or any other or Development Approval issued under any previously enacted zoning regulations, Subdivision, or any other provision of this UDO shall continue to apply to the proposed use and shall be enforceable. Such conditions may be waived if an application is approved pursuant to this chapter whereby the Applicant agrees to waive and abandon all rights secured under the regulations formerly in effect.

(Ord. #1919)

7.1.9. Determination of Non-conformity Status

The burden of establishing the non-conformity status of a use, structure or land shall be upon the owner of the claimed non-conformity and not upon the Town.

7.1.10. Certificate of Non-conforming Use

(A) **Generally**. The owner of a non-conformity shall register such non-conformity by filing with the Planning Director a registration statement. Registration is voluntary unless the owner applies for a Development Approval.

(Ord. #1714)

(B) **Exemptions.** Registration is not required for:

(1) Any use or structure that is made non-conforming by any governmental action other than annexation or rezoning;

(2) Any fence of legal height and construction that does not constitute a non-conforming use and does not require registration; and

(3) Any non-conforming Lot or site.

(C) **Contents.** Registration shall be made on behalf of the owner by any person, firm, corporation, or other entity that has a legal or equitable interest in the non-conformity. Registration statements shall require a disclosure of the complete ownership of the land and/or structure, and shall be in such form and require the furnishing of such information, photographs, and documentation as are needed to show that:

(1) The use was lawfully established prior to the effective date of the applicable regulations;

(2) The use has been continuously maintained since it was established; and

(3) The use has not been abandoned.

(D) **Denial of Registration**. The Planning Director shall deny any registration if it appears that the documents relied thereon are not valid, or that the documents produced do not show the existence of a lawful non-conformity in accordance with the criteria set forth as an exemption. The Applicant may appeal this Determination to the Board of Adjustment.

(E) **Amendment.** At any time after registration, upon application to the Planning Director and with the written consent of the owner affected thereby, a registration statement may be amended to indicate changes in ownership. A copy of each registration statement shall be returned to the owner and a copy filed among the records of the department. The Planning Director shall accept and file all tendered

registration statements within the permitted time period, but the acceptance of such statements shall not constitute an authorization to operate an unlawful use. The filing of a false registration statement with the department shall constitute a violation of this chapter.

7.1.11. Termination of Non-conformities

(A) **Violation of Chapter**. The violation of this chapter shall immediately terminate a non-conformity.

(B) **Specific Acts of Termination**. Any of the following specific acts of termination shall immediately terminate a non-conformity:

(1) Changing a non-conformity to conform to this type of termination applies only to the non-conforming use existing prior to any change;

(2) Abandonment of a non-conformity for a period of one hundred eighty days (180) or more; or

(3) Failure to register a non-conformity within six (6) months of notification of the non-conformity by the Town.

(C) **Partial Vacancy Excluded**. For purposes of determining whether a right to continue a non-conforming situation is lost pursuant to this section, all of the Buildings, activities and operations maintained on a Lot are generally to be considered as a whole. For example, the failure to rent one apartment in a non-conforming apartment Building for one hundred and eighty (180) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment Building as a whole is continuously maintained.

(D) **Notice.** Termination of non-conforming rights under this section shall provide for thirty (30) days notice and hearing before the Board of Adjustment.

(E) **Action of the Board of Adjustment**. The Board of Adjustment may inquire into the existence of a non-conformity, fire or health hazards, and any other danger or nuisance to the public due to or created by any condition or use existing on the property. Upon written findings, the Board may require the discontinuance of such use. The owner of the use under inquiry shall have at least thirty (30) days written notice prior to the day of the public hearing. Time allowed for discontinuance of such use shall be prescribed by the Board at a subsequent public hearing, after having heard from the affected parties, based on the Board's ruling as to a reasonable amortization period for the non-conforming use. In prescribing said time period, the Board shall consider the following factors:

(1) The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became non-conforming;

(2) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages;

(3) Any return on investment since inception of the use, including net income and depreciation; and

(4) The anticipated annual recovery of investment, including net income and depreciation.

(F) **Accessory Uses**. No use that is Accessory to a principal non-conforming use shall continue after such Principal Use has ceased or terminated.

7.1.12. Abandonment

(A) If a non-conformity is abandoned for one hundred eighty (180) days, any future use of such Premises shall be in conformity with the provisions of this UDO.

(B) Abandonment of a non-conformity shall terminate the right to continue the non-conformity.

(C) The Planning Board may grant a one-time, ninety (90) day extension period for the purpose of bringing the site into conformance with this chapter. Extension applications shall be filed in accordance with the procedures for variance review in the UDO.

(D) For purposes of this ordinance, rental payments or lease payments and taxes shall not be considered as a continued use, and the disconnection of utilities shall constitute a means of establishing the commencement of the abandonment of the use of the Development site.

7.2. NON-CONFORMING USE

7.2.1. Applicability

This section applies to the continuation, enlargement, or expansion of a non-conforming use.

7.2.2. Continuance and Expansion

(A) A use may be continued and extended throughout the structure, provided that no structural alterations or additions to the structure, except those made in conformance with law or ordinance.

(B) This section shall not be construed as prohibiting additions to or reconstruction of any Single-Family Dwelling regardless of the zoning district in which such Dwelling is located, nor shall any provision of this chapter be construed as prohibiting the construction of any use that is accessory to a Dwelling Unit regardless of the zoning district in which the Dwelling is located.

7.2.3. Change of Use

(A) Changes to Conforming Uses. Any non-conforming use may be changed to a use conforming with these regulations established for the district in which the non-conforming use is located, provided, however, that a non-conforming use so changed shall not in the future be changed back to a non-conforming use.

(B) Changes to Other Non-Conforming Uses. A non-conforming use may be changed to another non-conforming use by order of the Planning Director, provided that the new use is determined to be more consistent with the spirit of the UDO, the Neighborhood, and the Comprehensive Plan. A non-conforming use that is changed to another non-conforming use shall not be changed back to the former non-conforming use.

(C) Limitations on Changing Non-Conforming Uses. All changes of non-conforming uses shall conform to all Development standards established in this UDO. A non-conforming use shall not be changed to another non-conforming use unless the original non-conforming use was registered in conformance with this chapter.

7.2.4. Non-Conforming Signs

Regulations addressing non-conforming Signs are located in section 4.6.21 of this UDO.

7.2.5. Non-conforming Lighting

Non-conforming lighting shall comply with the provisions of section 4.8.3(B).

7.3. NON-CONFORMING LOT OR SITE

7.3.1. Applicability

This section applies to the continuation, enlargement or expansion of a non-conforming Lot or site.

7.3.2. Generally

A substandard Lot shall comply with the buffer, Setback, and bulk regulations of the zoning district that makes the Lot conforming to the area of the Lot. This section does not require the replatting or combination of

platted Lots under same ownership that is protected by state vested rights law.

7.3.3. Relocations

No structure shall be relocated to a non-conforming site until the site is brought into conformance with the provisions of this ordinance.

7.3.4. Change in Use

(A) No existing structure located on a non-conforming Lot or site shall be changed from one use classification to another use classification unless:

(1) The Lot or site is brought into conformance with the provisions of this UDO;

(2) The Planning Director determines that the use is substantially similar or less intensive in its operational characteristics, including, but not limited to the intensity of activity, traffic generation or parking demand; or

(3) A non-conforming site variance has been approved by the Board of Adjustment.

(B) Single-Family residential structures that are located on a legally non-conforming site may be structurally altered or enlarged, providing the portion of the structure that is altered or enlarged conforms to the provisions of this UDO.

7.3.5. Temporary Use

No Temporary Use Permit shall be issued for a non-conforming Lot or site or for site containing a non-conforming use, if the proposed temporary use or event has the potential to generate additional traffic, noise or other adverse impacts upon the surrounding area.

7.3.6. Uses for Non-conforming Lots

(A) **Single-Family Dwellings**. Vacant non-conforming Lots may be developed with one Single-Family Dwelling and Accessory Structures, provided that such Development complies with all applicable requirements of this UDO or a variance is obtained from the Board of Adjustment.

(B) **Other Uses.** Vacant non-conforming Lots may be developed with uses other than Single-Family Dwellings as may be allowed in the underlying zoning district, provided that such Development complies with all requirements of this UDO and the Board of Adjustment approves any variances required for the Development.

(C) **Prohibition on Reduction of Size**. A non-conforming Lot may not be further reduced in size.

7.4. Non-Conforming Structures

7.4.1. Applicability

This section applies to the continuation, enlargement, or expansion of a non-conforming structure.

7.4.2. Continuance and Expansion

(A) Subject to all limitations in this chapter, any non-conforming structure may be occupied, operated, and maintained in a state of good repair, but no non-conforming structure shall be enlarged or extended.

(B) A non-conforming structure in which only permitted uses are operated may be enlarged or extended if the enlargement or extension can be made in compliance with all of the provisions of this chapter established for structures in the district in which the non-conforming structure is located. Such enlargement shall also be subject to all other applicable Town ordinances and provisions of this UDO.

(C) A conforming structure in which a non-conforming use is operated shall not be enlarged or extended except as required by law or ordinance.

7.4.3. Termination of Non-Conforming Structures

(A) **Damage to Structures**. The right to operate and maintain any non-conforming structure shall terminate and shall cease to exist whenever the non-conforming structure is damaged in any manner and from any cause whatsoever, and the cost of repairing such damage exceeds fifty (50) percent of the replacement cost of such structure on the date of such damage.

(B) **Obsolescence of Structure**. The right to operate and maintain any non-conforming structure shall terminate and shall cease to exist whenever the non-conforming structure becomes obsolete or substandard under any applicable ordinance of the Town, and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the replacement cost of such structure on the date that the proper official of the Town determines that such structure is obsolete or substandard.

(C) **Determination of Replacement Cost**. In determining the replacement cost of any non-conforming structure, the cost of land or any factors other than the non-conforming structure itself shall not be included.

7.4.4. Exception for Repairs Pursuant to Public Order

Nothing in this section shall be deemed to prevent the strengthening or restoration to a safe condition of a Building or structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders it to restoration to a safe condition, provided that such restoration is not otherwise in violation of the various provisions of this section prohibiting the repair or restoration of partially damaged or destroyed Buildings or structures.

7.4.5. Destruction or Damage of Structure

The right to operate and maintain any non-conformity, except for a Single-Family Dwelling Unit, shall terminate and shall cease to exist whenever the structure or structures in which the non-conforming use is operated and maintained is damaged or destroyed from any cause whatsoever, and the cost of repairing such damage or destruction exceeds fifty (50) percent of the replacement cost of such Building or structure on the date of such damage or destruction. A non-conforming Single-Family Dwelling Unit that is destroyed or damaged more than fifty (50) percent of the replacement cost may be rebuilt, provided that a Development Approval is issued within one year of the date of such damage or destruction. The Planning Director shall require the submission of sufficient evidence to verify the date of damage or destruction.

7.4.6. Incomplete Construction

Construction may be completed on any structure legally under construction upon adoption of this UDO, annexation or extension of the Towns extra-territorial jurisdiction, provided that:

(A) The owner or his/her designated representative applies to the Planning Director for a Development Approval to authorize further work on the structure, stating the proposed use of the structure and attaching the plans and specifications relating to the construction; and

(B) The construction is completed within two (2) years of the effective date of the event that lead to the non-conformity. Action on such Development Approvals shall be taken by the Planning Director within thirty (30) days from the date of application. The Planning Director shall deny the Development Approval upon a finding that the construction will not meet the requirements of the Building, fire protection or minimum housing codes of the Town. If the Development Approval is refused, the construction work shall cease until necessary corrections are made.

7.4.7. Proposed Construction

(A) Proposed construction may be completed upon a finding by the Planning Director that:

(1) Sufficient evidence exists that a valid Development Approval or permit was obtained from the Town and was validly in place on the date of the event causing the non-conformity.

(2) Construction was begun at least one hundred eighty (180) days before the effective date of this chapter.

(3) The Non-Conforming Project is at least ten (10) percent completed in terms of the total expected cost of the project on the effective date of this chapter.

(4) The permits were validly issued and remain unrevoked and unexpired.

(5) If a Development is designed to be completed in stages, this section shall apply only to the particular phase under construction.

(6) As provided in G.S. 160D-108, neither this ordinance nor any amendment to it shall, without the consent of the property owner, affect any Lot with respect to which a Building permit has been issued pursuant to G.S. 160D-1110 prior to the enactment of the ordinance making the change so long as the Building permit remains valid, unexpired and unrevoked.

(Ord. #1919)

(B) For any project that doesn't comply with paragraph (A) of this section, all work on any Non-Conforming Project shall cease on the effective date of this chapter and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a Zoning, Special Use or Sign permit issued in accordance with this section by the individual or board authorized by this UDO to issue permits for the type of Development proposed. The Permit Issuing Authority shall issue such a permit if it finds that the Applicant has in good faith made substantial Expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this UDO and thereby would be unreasonably prejudiced if not allowed to complete the project as proposed. In considering whether these findings may be made, the Permit Issuing Authority shall be guided by the following, as well as other relevant considerations:

(1) All Expenditures made to obtain or pursuant to a validly issued and unrevoked Building, Zoning, Sign or Special Use Permit shall be considered as evidence of reasonable reliance on the land use law that existed before this chapter became effective.

(2) Except as otherwise provided, no Expenditures made more than one hundred eighty (180) days before the effective date of this chapter may be considered as evidence of reasonable reliance on the land use law that existed before this UDO became effective. An Expenditure is made at the time a party incurs a binding obligation to make that Expenditure.

(3) To the extent that Expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those Expenditures. For example, a party shall not be considered prejudiced by having made some Expenditure to acquire a potential Development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the Expenditure can be recovered by a resale of the property.

(4) To the extent that a Non-Conforming Project can be made conforming and that Expenditures made or obligations incurred can be effectively used in the completion of a conforming project, a party shall not be considered prejudiced by having made such Expenditures.

(5) An Expenditure shall be considered substantial if it is significant both in dollar amount and in terms of the total estimated cost of the proposed project and the ordinary business practices of the Developer.

(6) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land use law affecting the proposed Development site could not be attributed to him.

(7) Even though a person had actual knowledge of a proposed change in the land use law affecting a Development site, the Permit Issuing Authority may still find that that the person acted in good faith if there is no evidence of a deliberate attempt to circumvent the effects of the proposed ordinance. The Permit Issuing Authority may find that the Developer did not proceed in an attempt to undermine the proposed ordinance if it determines that:

(a) At the time the Expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed or it was not clear that the proposed ordinance would prohibit the intended Development and

(b) The Developer had legitimate business reasons for making Expenditures.

(8) In deciding whether a permit should be issued under this section, the Permit Issuing Authority shall not be limited to either denying a permit altogether or issuing a permit to complete the project (or phases, sections or stages thereof) as originally proposed or approved. Upon proper submission of plans by the Applicant, the Permit Issuing Authority may also issue a permit authorizing a Development that is less non-conforming than the project as originally proposed or approved but that still does not comply with all the provisions of the ordinance making the project non-conforming.

(9) When it appears from the Developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, the Developer shall be allowed to complete only those phases or segments with respect to which the Developer can make show substantial compliance with the preceding requirements. In determining whether a Developer would be unreasonably prejudiced if not allowed to complete phases or segments of a Non-Conforming Project, the Permit Issuing Authority shall consider the following in addition to other relevant factors:

(a) Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural or engineering work.

(b) Whether any improvements such as streets or utilities have been installed in phases not yet complete.

(c) Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or such a scale, in anticipation of connection to or interrelationship with approved but uncompleted phases, that the investment in such utilities or other facilities cannot be recouped if such approved but uncompleted phases are constructed in conformity with existing regulations.

(Ord. #1919)

(C) The Permit Issuing Authority shall not consider any application for the permit authorized by paragraph (B) that is submitted more than sixty (60) days after the effective date of this UDO. The Permit Issuing Authority may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one (1) year.

(D) The Planning Director shall send copies of this section to the persons listed as owners for tax purposes (and Developers, if different from

the owners) of all properties in regard to which permits have been issued for Non-Conforming Projects or in regard to which a nonconforming project is otherwise known to be in some stage of Development. This notice shall be sent by certified mail not less than fifteen days before the effective date of this chapter.

(E) The Permit Issuing Authority shall establish expedited procedures for hearing applications for permits under this section. These applications shall be heard, whenever possible before the effective date of this chapter so that construction work is not needlessly interrupted.

Chapter 8. Administration

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PART I - ADMINISTRATION, GENERALLY

8.1. Authority

This UDO is adopted pursuant to the authority contained in Chapter 160D and Chapter 160A Article 8 of the North Carolina General Statutes. Whenever any

provision of this UDO refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, the UDO shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.
(Ord. #1919)

8.2. Enactment and Repeal of Existing Development Regulations

The Town of Southern Pines UDO hereby adopted, shall replace and repeal the existing Town Unified Development Regulations and shall supersede all provisions of any other Town ordinances in conflict herewith.

8.3. Effective Date

The provisions in this UDO were adopted and became effective on October 8, 2013, and shall be published and recorded in the Southern Pines Code of Ordinances.

8.4. Jurisdiction

This UDO shall be effective throughout the Town's Planning Jurisdiction. The Town's Planning Jurisdiction comprises the area within the corporate boundaries of the Town as well as the area described in that Ordinance adopted by the Town Council on December 12, 1989 entitled an *Ordinance Establishing Extraterritorial Jurisdiction, a*nd as amended. Such Planning Jurisdiction may be modified from time to time in accordance with Article 2 of Chapter 160D of the North Carolina General Statutes. In addition to other location required by law, a copy of a map showing the boundaries of the Town's Planning Jurisdiction shall be available for public inspection in the planning department.
(Ord. #1919)

8.5. Exemptions

8.5.1. Application of Regulations During Local Emergency

The Town Council shall have the authority to waive standards within this UDO during local emergencies declared by federal, state or local officials.

8.5.2. Specific Exemptions

The Town Council shall have the authority to waive standards within this UDO if the following apply:

(A) Exemptions granted by State law;

(B) The acquisition of land by the Town for Right-of-Way;

(C) The conveyance of Parcels of land or interests therein for use as Right-of-Way for railroads or other public utility facilities which does not involve new streets or off-site easements.

(Ord. #2052)

8.6. INTERPRETATION

8.6.1. Generally

This UDO shall be interpreted to promote the safety, health, convenience, comfort, prosperity, and general welfare of the public. The UDO shall be liberally interpreted in order to further its underlying purposes. The meaning of any and all words, terms, or phrases in the UDO shall be construed in accordance with 0 – Definitions.

8.6.2. Rules of Language

Words and phrases used in this UDO shall be interpreted as follows:

(A) The UDO shall be interpreted by considering, among others:

(1) The intent of the Mayor and Town Council when adopting this UDO; the occasion and necessity for the provision; the circumstances under which it was enacted;

(2) The threat to the public health, safety and welfare to be remedied;

(3) The former provision, if any, including other provisions upon the same or similar subjects;

(4) The consequences of a particular interpretation;

(5) Any contemporaneous legislative history; and

(6) Legislative, administrative, and Town Attorney interpretations of the provision.

(B) Every provision shall be construed, if possible, to give effect to all its terms. When the words of a provision in its application to an existing situation are clear and free from all ambiguity, the letter of the provision shall not be disregarded under the pretext of pursuing the spirit. When the words of a provision are not explicit, the intention of the Mayor and Town Council shall be determined by Decision-Making Body.

(C) General words are construed to be restricted in their meaning by particular and specific words. When a general provision is in conflict with a specific provision, the two shall be construed, if possible, so effect may be given to both. If irreconcilable, the specific shall prevail and be construed as an exception to the general, unless the general was enacted as a later amendment to the UDO, then it shall be construed to have the latter general provision prevail.

(D) In the case of a difference in meaning or implication between the text of the UDO and the captions for each section, the text shall control.

(E) Where an amendment is adopted and conflicts with or overlooks a provision of the UDO, the two shall be interpreted together, if possible, and effect shall be given to each. If the amendment is irreconcilable, the latest in date of final adoption shall prevail.

(F) When the UDO has been amended more than once, the latest amendment shall be read into the UDO as previously amended and not as originally adopted.

(G) Words and phrases are construed according to the rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning, or are defined by this UDO, are construed according to the special meaning or their definition.

(H) Words used in the present tense include the future; words in the singular include the plural; and words of one gender include the other gender, unless the context clearly indicates the contrary;

(I) All words, terms and phrases not otherwise defined herein shall be given their usual and customary meaning, unless the context clearly indicates a different meaning was intended;

(J) The word "shall" is always mandatory; the word "may" is permissive and is at the discretion of the appropriate decision-maker.

8.6.3. Graphics

Illustrations are provided for the convenience of the user; in case of a conflict with the text, the text shall control.

8.7. SEVERABILITY

8.7.1. Town Council Intention

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses and phrases of this UDO are severable and if any such section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this UDO since the same would have been enacted without the incorporation into this UDO of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

8.7.2. Application of Severance

If any court of competent jurisdiction decrees that any specific provision of the UDO is invalid or unenforceable, that Determination shall not affect any provision not specifically included in the order or judgment. If any court of competent jurisdiction determines that any provision of the UDO cannot be applied to any particular property, Building, structure or use, that Determination shall not affect the application of the UDO to any other property, Building, structure or use not specifically included in the order or judgment.

PART II - RESPONSIBILITIES FOR APPLICATION OF UDO

8.8. TOWN MANAGER

The Town Manager shall be responsible for:

(A) Designation of persons having responsibilities for administering this UDO;

(B) Approval of amendments to the UDO appendices;

(C) Requesting Town Council ratification of amendments to the UDO appendices; and

(D) Other UDO administration responsibilities as established by these regulations or the Town Council.

8.9. PLANNING DIRECTOR

A person shall be designated by the Town Manager to serve as the Planning Director. Where this UDO assigns a responsibility to the Planning Director, the Planning Director may delegate that responsibility to any other official, employee or consultant of the Town. The Planning Director shall perform the following duties:

(A) The Planning Director is the administrative head of the Planning Department and shall make all Determinations as to the interpretation of this UDO, the amount and applicability of administrative fees, the administrative enforcement of this UDO, the adequacy of security instruments and escrow deposits, and the issuance of administrative Development Approvals, subject to appeal to the Board of Adjustment. When requested, Determinations by the Planning Director shall be provided in writing and delivered by personal delivery, electronic mail or by first-class mail to the requestor and the property owner if the party seeking the Determination is different than the owner.

(B) Serve as staff for the Town Council, Planning Board and other Town Councils and commissions as directed by the Town Manager, and shall act as a liaison to other governments, districts, utilities, Neighborhoods and associations in land use matters;

(C) No action shall be taken to litigate any matter arising from any application for Development Approval, or under the enforcement of this UDO without express approval of the Town Council upon recommendation of the Town Attorney.;

(D) Make recommendations to the Town Council, Planning Board, the Board of Zoning Adjustment and other Town Councils and commissions as directed by the Town Manager regarding amendments to of this UDO, the Official Zoning Map, the Comprehensive Plan and the Capital Improvements Program;

(E) Accept applications for Development Approval; certify the completeness of submitted applications with the requirements of these regulations; review and prepare staff reports recommending approval, approval with conditions or denial of applications for amendments to the Comprehensive Plan, amendments to the Future Land Use Map, amendments to the text of this UDO and all Legislative and Quasi-judicial applications;

(F) Accept applications for, review, and approve, approve with conditions or deny, applications for all administrative Development Approvals which the Planning Director is authorized to issue;

(G) Monitor Development projects to ensure compliance with conditions of a Development Approval;

(H) Facilitate the creation and adoption of special area, corridor, Neighborhood and floodplain plans;

(I) Monitor and assist in the enforcement of this UDO;

(J) Review all floodplain Development Approval applications to ensure that the provisions of this UDO will be met;

(K) Review Development applications to ensure that all necessary permits, licenses, franchises and approvals have been obtained from federal, state, local governmental districts, public and private utilities and other public agencies; the amount and applicability of administrative and consulting fees, the administrative enforcement of the UDO, the adequacy of security instruments and escrow deposits and issuance of administrative Development Approvals, subject to appeal to the Planning Board;

(L) Serve as the chair of the TRC;

(M) Maintain a record of all permits, appeals, variances, certificates, reviews and such other transactions and correspondence pertaining to the administration of this UDO;

(N) Oversee code enforcement and responsibilities related to ensuring compliance with the UDO, notification of violations, ordering actions on violations and keeping records of related activities; and

(O) Such other responsibilities as may be assigned by the Town Manager.
(Ord. #1919)

8.10. TOWN ENGINEER

The Town Engineer shall be designated by the Town Manager, and shall perform the following duties:

(A) Serve as a member of the TRC;

(B) Assist the Planning Director with Development review responsibilities for conformance with this UDO and make written recommendations;

(C) Review Development Agreements for conformance with this UDO and determine the amount of the letter of credit, cash escrow or surety bond required for the construction of public improvements;

(D) Review and approve, approve with conditions, or deny applications for Engineering Plan approval;

(E) Inspect public improvements and recommend appropriate action;

(F) Decide on all sidewalk waivers; and

(G) Such other responsibilities as may be assigned by the Town Manager.

8.11. TECHNICAL REVIEW COMMITTEE

(A) There is hereby established a Technical Review Committee (TRC).

(B) The TRC shall serve as a Review and Recommending Body, assisting the Town Manager, Planning Director, Town Council, Planning Board and other bodies where appropriate, with the review of applications for Development Approval. The TRC shall provide advice and recommendations on environmental, planning, fiscal, design, engineering, transportation, utility, geo-hydrological, water availability, sustainability, environmental and technical issues, and to assess the comments and reports of reviewing Town departments, regional, state and federal agencies and officials, owner/Applicants and other interested parties with standing.

(C) The TRC shall meet at the request of the Town Manager or Planning Director. An owner/Applicant may be invited to attend meetings of the TRC only at the discretion of the Town Manager or Planning Director.

(D) The TRC shall make recommendations to the Town Manager, Planning Director, Town Council, Planning Board and other bodies for approval, conditional approval or denial of applications for Development Approval.

(E) In addition to members of the TRC specifically required in this UDO, additional members may be appointed by the Town Manager or Planning Director, including but not limited to representatives from Fire, Police, Public Services, Planning, Code Enforcement and Utilities. In addition and as appropriate, the TRC may include, for a specific Development Approval application, representatives of other jurisdictions or service providers, including but not limited to representatives from the Sheriff, fire districts, school districts, other municipalities, county, public and private utilities, assessment or public improvement districts and regional, state or federal agencies.

8.12. TOWN COUNCIL

The Town Council shall have the responsibilities set forth in this UDO as well as all powers and duties conferred upon it by State Law. The Town Council shall have the following powers and duties:

(A) Initiate legislative amendments to the Comprehensive Plan, an area, community, or historic district plan.

(B) Initiate legislative amendments to the text and map of this UDO after a recommendation from the Planning Board.

(C) Except where a final Development Approval has been authorized to be issued by the Planning Board, to approve, approve with conditions or deny specific property owner applications for Development Approvals, including but not limited to establishment of planned Development districts, overlay zone district classifications or rezoning.

(Ord. #1714; Ord. # 1716)

(D) Approve Development agreements.

(E) Legislatively adopt and amend an Official Map and CIP.

(F) Legislatively establish assessment and public improvement districts and public utilities.

(G) Legislatively establish and amend schedules for administrative and consultant fees, dedications, other exactions and security instruments, including but not limited to bonds, letters of credit and cash escrow deposits, for payment and performance of obligations;

(H) Initiate litigation and seek equitable and legal remedies to enforce violations of this UDO, Development agreements and the terms and conditions of Development Approval and take such any other actions, including the settlement of actions, as is authorized by this UDO, other ordinances, regulations and statutes;

(I) Take such other action not expressly delegated exclusively to any other agency or official by this UDO as Town Council may deem desirable and necessary to implement the provisions of this UDO and the Comprehensive Plan.

(J) Appoint members of the Planning Board and other boards and commissions that it may create.

(K) Delegate to the Planning Board the power, authority, jurisdiction and duty to enforce and carry out the provisions of law relating to planning, platting and zoning as it has delegated to the Planning Board in this UDO; as well as

to retain as much of this power, authority, jurisdiction and duty to the Town Council as it has retained in this UDO and pursuant to State statute.

(L) Hear and rule on appeals from Quasi-judicial Decisions of the Planning Board as set forth in this UDO.

(M) Ratify amendments to the UDO appendices from time to time as requested by the Town Manager.

(N) The Town Council shall hold public hearings, and issue Development Approvals, on applications for Legislative or Quasi-judicial discretionary Development Approval, except where a final Development Approval is authorized to be issued by the Planning Board. Where the Planning Board has authority to issue a Development Approval, determining a matter, the Town Council shall have appellate authority to review such Development Approval if an appeal is properly undertaken by the Town Council, the Planning Director, the owner/Applicant, or any other person or entity with standing to review the Development Approval no more than thirty (30) days from the date of the Development Approval.

8.13. PLANNING BOARD

8.13.1. Appointment and Composition

(A) There is hereby established a Planning Board.

(B) The Planning Board shall consist of seven (7) members, all of whom shall be resident citizens. Five members appointed by the Town Council shall reside within the Town. Two members appointed by the County Board of Commissioners shall reside within the Town's Extraterritorial Planning Area. If, despite good faith efforts, sufficient numbers of residents of the Extraterritorial Planning Area cannot be found to fill the seats reserved for residents of such area, then the County Board of Commissioners may appoint other residents of the County (including residents of the Town) to fill these seats. If the County Board fails to make these appointments within ninety days after receiving a resolution from the Town Council requesting that they be made, the Council may make them.

(C) Planning Board members shall be appointed for three-year staggered terms, but members may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms only. Members may be appointed to not more than two successive complete terms. After two consecutive full terms, a member shall be ineligible for reappointment until one year has elapsed from the date of the termination of the second term.

(D) Faithful and prompt attendance at all meetings of the commission and conscientious performance of the duties required of members shall be a prerequisite to continuing membership on the Planning Board.

(E) The Town Council may remove Planning Board members at any time for failure to attend three (3) consecutive meetings or for failure to attend thirty (30) percent or more of the meetings within any twelve (12) month period or for any other good cause related to performance of duties. If an in-town member moves outside the Town or if an Extraterritorial Planning Area member moves outside the Planning Jurisdiction, that shall constitute a resignation from the Planning Board, effective upon the date a replacement is appointed by the Council.

8.13.2. Responsibilities

(A) Prepare a Comprehensive Plan for the future Development, including recommendations relative to goals, policies and objectives relating to the growth, Development and redevelopment of the Town and the surrounding Extraterritorial Planning Area.

(B) Prepare zoning and Subdivision regulations, including recommendations relative to the location, length, width, and arrangements of the streets, alleys, bridges, viaducts, parks, parkways, playgrounds, boulevards, or other public grounds or improvements, the platting of public property into Lots, plots, streets or alleys, the locations of railroad or street car lines, transportation or other channels for communication of any kind, the grouping of public Buildings, the design and placing of memorials, works of art, power or lighting plants, street lighting standards, telegraph and telephone poles, street name Signs, billboards and Projecting Signs.

(C) Make recommendations in connection with the execution and detailed interpretation of the Comprehensive Plan and this UDO, and make such changes and adjustments in the plan as may be deemed desirable from time to time.

(D) Develop and recommend to the Town Council policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.

(E) Recommend, from time to time, legislation which may be desirable to further the purpose of Town planning.

(F) Make recommendations to the Town Council concerning:

(1) Development and amendment of the Comprehension Plan and Official Map;

(2) Development and amendment of this UDO and a Zoning Map;

(3) Planned Development Districts;

(4) Special Use Permits;

(5) Plats and other land Subdivision; and

(6) Development Agreements.

(Ord. #1919)

(G) In addition to all other powers and duties provided by the provisions of this UDO, the Planning Board shall have such other powers and/or duties as may be provided by the Town Council.

8.14. BOARD OF ADJUSTMENT

8.14.1. Appointment and Terms of Board of Adjustment

(A) There shall be a Board of Adjustment consisting of five regular members and three alternates. Three regular members and two alternates, appointed by the Council, shall reside within the Town. Two regular members and one alternate, appointed by the county board of commissioners, shall reside within the Town's Extraterritorial Planning Area. If, despite good faith efforts, sufficient numbers of residents of the Extraterritorial Planning Area cannot be found to fill the seats reserved for residents of such area, then the county board of commissioners may appoint other residents of the county (including residents of the Town) to fill these seats. If the county board of commissioners fails to make these appointments within ninety days after receiving a resolution from the Town Council requesting that they be made, the Council may make them.

(B) Board of Adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms only.

(Ord. #1981)

(C) Regular Board of Adjustment members may be removed by the Council at any time for failure to attend three consecutive meetings or for failure to attend thirty percent or more of the meetings within any twelve-month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures.

(D) If a regular or alternate in-town member moves outside the Town or if an Extraterritorial Area regular or alternate member moves outside the Planning Jurisdiction, that shall constitute a resignation from the board effective upon the date a replacement is appointed.

(E) Extraterritorial planning area members may vote on all matters coming before the Board.

(F) The in-town alternate may sit only in lieu of a regular in-town member and the Extraterritorial Area alternate may sit only in lieu of the regular Extraterritorial Area member. When so seated, alternates shall have the same powers and duties as the regular member they replace.

8.14.2. Meetings of the Board of Adjustment

(A) The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can hear an application within 30 days of submittal.

(B) The Board shall conduct its meetings in accordance with the evidentiary procedures set forth in chapter 2 of this UDO.
(Ord. #1919)

(C) All meetings of the board shall be open to the public and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

8.14.3. Quorum

(A) A quorum for the board of adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take official action.

(B) A member who has withdrawn from the meeting without being excused shall be counted as present for purposes of determining whether a quorum is present.

8.14.4. Voting

(A) The concurring vote of four-fifths of the regular board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or Determination of the administrator or to decide in favor of the Applicant any matter upon which it is required to pass under any ordinance (including the issuance of a Special Use Permit) or to grant any variance. All other actions of the board shall be taken by majority vote, a quorum being present.

(B) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with paragraph (C) or has been allowed to withdraw from the meeting in accordance with paragraph (D).

(C) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

(1) If the member has a direct financial interest in the outcome of the matter at issue; or

(2) If the matter at issue involves the member's own official conduct; or

(3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or

(4) If a member has such close personal ties to the Applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(D) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(E) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

(F) A roll call vote shall be taken upon the request of any member.

8.14.5. Board of Adjustment Officers:

(A) At its first regular meeting in July, the Board of Adjustment shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairman and preside over the board's meetings and one member to serve as vice-chairman. The persons so designated shall serve in these capacities for terms of one year. Vacancies may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).

(B) The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the board.

(C) The chairman and vice-chairman may take part in all deliberations and may vote on all issues.

8.14.6. Responsibilities

(A) Power to hear and decide administrative appeals from any order, decision, requirement or interpretation of the Planning Director.

(B) Power to hear and decide administrative appeals from any order, decision, requirement or interpretation of the Town Engineer or Code Enforcement Officer pursuant to a requirement or other provision in this UDO, but not including any matter related to a technical code referenced in section 2.31 or any engineering design standard.

(C) Decide upon applications for variances and from flood hazard district overlay requirements.

(D) Decide upon questions involving interpretations of this UDO or the Zoning Map, including disputed district boundary lines and Lot lines.

(E) In exercising the abovementioned powers, the Board of Zoning Adjustment may, in conformance with the provisions of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or Determination appealed from and may make such order, requirement, decision, or Determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(Ord. #2052)

8.15. Special Project Advisory Committee

8.15.1. Appointment and Composition

(A) The Town Council may establish Special Project Advisory Committees to assist the Planning Board to carry out its planning responsibilities. Members of such an Advisory Committee sit as non-voting members of the Planning Board, but may participate in formal recommendations by the Planning Board to the Town Council.

(B) The Town Council also may establish Special Project Advisory Committees as an independent advisory group, committee or commission to make recommendations on any issue directly to the Council.

(C) An ordinance establishing a Special Project Advisory Committee shall specific the composition and duties of the committee.

(Ord. #1919)

(D) One or more citizens that are residents of the Town or Extraterritorial Planning Area may be appointed to a Special Project Advisory Committee, to lend their talents, energies and expertise to the Town, to a term defined by the Town Council but not exceeding one year. Members may be appointed to not more than two (2) successive complete terms.

(E) The Town Council may remove Special Project Advisory Committee members at any time for failure to attend three (3) consecutive meetings or for failure to attend thirty percent or more of the meetings within any twelve (12) month period or for any other good cause related to performance of duties. If a member moves outside the Town or Extraterritorial Planning Area, that shall constitute a resignation from the Committee, effective upon the date a replacement is appointed by the Council.

8.15.2. Responsibilities

(A) The purpose of the Special Project Advisory Committee is to serve as a body to guide, advise and make recommendations concerning issues related to planning. Advisory Committees provide judicious advice, from a citizen perspective, to the Town Council which is the Town's elected policy-making body. Advisory Committees are advisory in nature, do not establish policy, or supersede the legal responsibility and authority vested in the Town Council. Advisory Committees are a structured way for individual citizens to share their opinions and perspectives, study issues, and develop recommendations in a focused, small group structure.

(B) Special Project Advisory Committee activities may include study of critical issues, hearing public testimony, independent research and reviewing staff reports and recommendations, intended so that the committee is prepared to discuss, formulate, and forward well-developed, thoughtful recommendations to the Town Council in a timely manner.

(C) The Special Project Advisory Committee shall serve as directed by the Town Council, relative to a specific project or issue.

8.16. HISTORIC DISTRICT COMMISSION

8.16.1. Appointment and Composition

(A) There is hereby created for Southern Pines a Historic District Commission (HDC) to coincide with the designation of an historic district as described in this UDO.

(B) The HDC shall consist of seven (7) members, all of whom shall reside within the planning and development regulation jurisdiction of the Town.

(C) HDC members shall be appointed for four-year staggered terms. Vacancies may be filled for the unexpired terms only. Members may be appointed to not more than two (2) successive complete terms. After two (2) consecutive full terms, a member shall be ineligible for reappointment until one (1) year has elapsed from the date of the termination of the second term.

(D) Members shall have demonstrated special interest, experience or education in history or architecture and all members shall be residents of the Town of Southern Pines.

(E) Faithful and prompt attendance at all meetings of the commission and conscientious performance of the duties required of members shall be a prerequisite to continuing membership on the HDC.

(F) The Town Council may remove HDC members at any time for failure to attend three (3) consecutive meetings or for failure to attend thirty (30) percent or more of the meetings within any twelve (12) month period or for any other good cause related to performance of duties.

Ord. #2052

8.16.2. Responsibilities

(A) Review and act on applications for Certificates of Appropriateness for Major Work pursuant to section 2.28. The approval of Minor Work has been delegated to the Planning Director.

(B) Perform any other duties assigned by the Town Council.

(C) The HDC may request the North Carolina Department of Cultural Resources or the North Carolina Historic Commission review, comment upon and/or make recommendations upon all applications for a certificate of appropriateness.

8.16.3. Designation of Historic District

(A) It is the intent and purpose of the Town that historic district designation:

(1) Safeguards the heritage of the Town of Southern Pines by preserving any area which reflects elements of its cultural, social, economic, political or architectural history;

(2) Stabilize and improves property values in such areas;

(3) Fosters civic beauty;

(4) Strengthens the local economy; and

(5) Promotes the use and preservation of such areas for the education, welfare and pleasure of residents of Southern Pines and the state as a whole.

(B) The Town Council may designate from time to time one or more historic districts within the jurisdictional boundaries of the Town.

(C) No historic district(s) shall be designated until:

(1) The Southern Pines Historic District commission shall have made an investigation and report on the historic Significance of the Buildings, structures, features, sites or surroundings included in any such

proposed district and shall have prepared a description of boundaries of such district.

(2) The Southern Pines Historic District Commission shall have requested an analysis and recommendation based on the report required in (1) of this subsection from the North Carolina Department of Cultural Resources, including the proposed boundaries of the district. If the department has not provided the requested analysis and recommendations within thirty (30) days after a written request for such analysis and recommendations have been mailed to it, the Town Council is relieved of any responsibility for securing such analysis and recommendations and may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

8.17. BOARD, COMMISSION AND COMMITTEE ADMINISTRATION

8.17.1. Application

This section applies to the administration of the Planning Board, Board of Adjustment, Special Project Advisory Committees and Historic District Commission. The Town Council may designate that other appointed boards, commissions or committees adhere to these same administrative provisions.

8.17.2. Administration and Governance

(A) At its first meeting in January of each year the body shall by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairman and vice chairman. The persons so designated shall serve in these capacities for terms of one year. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the board membership excluding vacant seats). The chairman and vice-chairman may take part in all deliberations and vote on all issues.

(1) The chairman shall preside over all meetings off the commission and shall decide all points of order and procedure, subject to the commission's by-laws and rules of procedure.

(2) The vice-chairman shall serve as acting-chairman in the absence of the chairman and at such times shall have the same powers and duties as the chairman.

(3) Town staff shall serve as secretary to generally supervise the clerical work of the commission, keep minutes of each meeting and perform other duties as specified in the commission's by-laws.

(B) The body shall adopt rules of procedure governing its procedures and operations not inconsistent with the provisions of this UDO. A copy of adopted rules of procedure shall be maintained by the Town Clerk and posted on Town website.

(Ord. #1919)

(C) The body shall establish a regular meeting schedule and shall meet at least quarterly and more often as it shall determine and require.

(D) Special meetings may be called at any time by the chairman. At least forty-eight (48) hours notice of the time and place of special meetings shall be given by the secretary or by the chairman to each member of the commission; provided that this requirement may be waived by action of a majority of all the members.

(E) All meetings shall be open to the public and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting. Minutes shall be kept of all proceedings.

(F) A quorum shall consist of a majority of the body membership (excluding vacant seats). A quorum is necessary for the board to take official action.

(G) All actions of the body shall be taken by majority vote, a quorum being present. For bodies that have Extraterritorial Planning Area members, specifically including but not limited to the Planning Board, Extraterritorial Planning Area members may vote on all matters considered by the body regardless of whether the property affected lies within or outside of Town municipal boundaries.

(H) A roll call vote shall be taken upon the request of any member.

(I) Once a member is physically present at a meeting of the body, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been or has been allowed to withdraw from the meeting.

(J) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

(1) If the member has a direct financial interest in the outcome of the matter at issue; or

(2) If the matter at issue involves the member's own official conduct; or

(3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or

(4) If a member has such close personal ties to the Applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(K) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(L) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

(M) All members appointed to a body identified under this section shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160A-61.

(Ord. #1919)

PART III – COMPLIANCE AND ENFORCEMENT

8.18. VIOLATIONS

8.18.1. Inspection of Work in Progress

As the work pursuant to a permit progresses, the Planning Director or Town Engineer, as applicable, shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this UDO and the terms of the permit. In exercising this power, the Planning Director has a right, upon presentation of proper credentials, to enter on any Premises within the territorial jurisdiction at any reasonable hour for the purpose of inspection or other enforcement action; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(Ord. #1919)

8.18.2. Complaints Regarding Violations

Whenever the Planning Director receives a written, signed complaint alleging a violation of this UDO, he or she shall request the Code Enforcement Officer to assist with the investigation of the complaint, take whatever action is warranted and inform the complainant in writing what actions have been or will be taken.

(Ord. #3010)

8.18.3. Persons Liable

The owner, tenant or occupant of any Building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

8.18.4. Procedures upon Discovery of Violations

(A) If the Planning Director finds that any provision of this chapter is being violated, he or she shall send a written notice to the holder of the Development Approval and owner of the property involved (if that person is not the holder of the Development Approval), indicating the nature of

the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Planning Director's discretion.
(Ord. #1919; Ord. #3010)

(B) The final written notice (and the initial written notice may be the final notice) shall state what action the Planning Director intends to take if the violation is not corrected and shall advise that the Planning Director's decision or order may be appealed to the Board of Adjustment. In accordance with Section 2.23, any persons liable under Section 8.18.3 who have received a final written notice pursuant to this section may appeal in writing to the Board of Adjustment and the clerk within thirty (30) days following issuance of the final order. In the absence of an appeal, the order of the Planning Director shall be final.
(Ord. #1919; Ord. #3010)

(C) Notwithstanding, the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety or welfare, the Planning Director may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this UDO, including but not limited to an action for an injunction of abatement as set out in Section 8.19.5.
(Ord. #3010)

8.18.5. Violations to Be Corrected

The persons liable shall each immediately remedy the violations of law in the property noticed.
(Ord. #1919; Ord. #3010)

8.19. ENFORCEMENT

8.19.1. Stop Orders

Whenever a Building or part thereof is being constructed, reconstructed, altered or repaired in violation of this article, the Planning Director may order the work to be immediately stopped if the violation poses an imminent threat to life, safety and/or the environment; or where no permits have been issued prior to work commencing. The stop order shall be in writing and directed to holder of the Development Approval and owner of the property involved (if the person is not the holder of the Development Approval). The stop order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
(Ord. #1919; Ord. #1959; Ord. #3010)

8.19.2. Revocation of Permits or Approvals

(A) A Development Approval may be revoked by the Permit Issuing Authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter or any additional requirements lawfully imposed by the Permit Issuing Authority.
(Ord. #1919)

(B) Before a Development Approval may be revoked, the Development review and approval process required for issuance of the Development Approval shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
(Ord. #1919)

(C) A motion to revoke a permit shall include, in so far as practicable, a statement of the specific reasons or findings of fact that support the motion. The burden of presenting evidence sufficient to authorize the Permit Issuing Authority to conclude that a permit should be revoked for any of the reasons set forth in this section shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

(D) Before a Development Approval may be revoked, the Planning Director shall give the permit recipient ten (10) days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his or her right to obtain an informal hearing on the allegations. If the permit is revoked, the Planning Director shall provide to the permitted a written statement of the decision and the reasons therefore.
(Ord. #1919)

(E) No person may continue to make use of land or Buildings in the manner authorized by any Development Approval after such approval has been revoked in accordance with this section.

(Ord. #1919)

8.19.3. Penalties

(A) Any person found to be violating this UDO or failure to comply with any of its requirements including violations of any conditions, safeguards or standards established in connection with grants of approval shall be subject to fines and other civil penalties as allowed by law.
(Ord. #1959)

(B) Violations of the provisions of this chapter, or failure to comply with any of its requirements including violations of any conditions and safeguards established in connection with grants of variances or Special Use Permits shall be subject to a civil penalty of fifty (50) dollars per day for each day that the violation continues to exist.
(Ord. # 1716; Ord. #1919; Ord. #1959)

(C) If the offender fails to pay this civil penalty within ten (10) days after being notified of a violation, the penalty may be recovered by the Town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with this UDO and did not take an appeal to the Board of Adjustment within the prescribed time.
(Ord. #1919; Ord. #1959)

(D) This chapter may also be enforced by any appropriate equitable action. In addition to the remedies allowed by law, the regulations and standards contained in this UDO may be enforced through the issuance of a civil citation by the Planning Director or his or her designee.

(E) Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this chapter.
(Ord. #3010)

8.19.4. Separate Offences May Be Charged

Each day that any violation continues after notification by the Planning Director that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
(Ord. #3010)

8.19.5. Injunctions and Order of Abatement

(A) When any person violates a UDO regulation that makes unlawful a condition existing upon or use made of real property or any rule or order adopted or issued, or any term, condition or provision of an approved development approval or permit, the Planning Director may either before or after the institution of any other action or proceeding authorized by this Ordinance, authorize the Town Attorney to institute a civil action in the name of the City for a mandatory or prohibitory injunction and order of abatement requiring correction of the unlawful condition upon or cessation of the unlawful use of the property, or threatened violation. When a violation of the Ordinance occurs, the Town may apply to the Moore County Superior Court for a mandatory or prohibitory injunction and order of abatement requiring correction of the unlawful condition upon or cessation of the unlawful use of the property.

(B) In addition to an injunction, the court may enter an order of abatement as a part of the judgment. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the Ordinance.

(C) If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Moore County Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(D) An action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violation in specific articles of this Ordinance.

(Ord. #3010)

8.20. JUDICIAL REVIEW

(A) Every decision of the Town Council granting or denying a Special Use Permit and every final decision of the Planning Board shall be subject to review by the Superior Court of Moore County by proceedings in the nature of certiorari.

(B) The petition for the writ of certiorari must be filed with the Moore County Clerk of Court within thirty (30) days after the later of the following occurrences:

(1) A written copy of the decision has been filed in the office of the planning department; and

(2) A written copy of the decision has been delivered, by personal service or certified mail, return receipt requested to the Applicant or appellate and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

(3) A copy of the writ of certiorari shall be served upon the Town of Southern Pines.

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Chapter 9. **Definitions**

9.1. RULES OF INTERPRETATION

9.1.1. Generally

The text within the UDO shall control where there is any conflict between text within the UDO and any caption, illustration or graphic presentation. Unless prohibited by context, reference to any chapter, section or paragraph shall include all portions of that chapter, section or paragraph.

9.1.2. Rules of Construction

(A) Words used in the present tense shall include the future tense; words used in the singular number shall include the plural number; and words used in the plural number shall include the singular number.

(B) In computing any period of time prescribed or allowed by the **UDO**, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event, the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than ten (10) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(C) A word importing the masculine gender only shall extend and be applied to female persons and to firms, partnerships and corporations, as well as to male persons.

(D) The words "may" and “should” are always permissive and never mandatory.

(E) The word "shall" is always mandatory and not merely permissive.

(F) The word "month" shall mean thirty (30) calendar days.

(G) The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate, as well as to individuals.

(H) Whenever the **UDO** refers to a specific portion of the Code of Ordinances or the **UDO** itself, that reference shall include any subsequent amendment to the referenced portion or any subsequent provision superseding the provision.

(I) The terms "used" or "occupied" as applied to any land or Building shall be construed to include the words "intended, arranged, or designed to be used or occupied"; the term "existing" as applied to any use, structure, or Development includes the words "existing on the effective date of this UDO."

9.1.3. Responsibility for Interpretations

All interpretations shall be the responsibility of the Planning Director.

9.2. ABBREVIATIONS

As used in this UDO, the following abbreviations shall have the meanings assigned to them in this section.

(1) **BMP:** Best Management Practices

(2) **DBH:** Diameter at breast height, which is the diameter of a tree measured four and one-half (4 ½) feet above grade.

(3) **DENR**: North Carolina Department of Environment and Natural Resources.

(4) **IESNA:** The Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

(5) **NCDOT:** North Carolina Department of Transportation

(6) **TDS:** Traffic Design Study

(7) **TIA:** Traffic Impact Analysis

(8) **TRC:** Technical Review Committee

(9) **UDO:** Unified Development Ordinance

9.3. DEFINITIONS

As used in the UDO, the following terms shall have the meanings assigned to them in this section. When one or more defined terms are used together, their meanings shall also be combined as the context shall require or permit. All terms not specifically defined shall carry their usual and customary meanings. Undefined terms indigenous to a trade, industry or profession shall be defined when used in such context in accordance with their usual and customary understanding in the trade, industry or profession to which they apply.

Administrative Decision: Decisions made in the implementation, administration, or enforcement of Development regulations that involve the Determination of facts and the application of objective standards set forth in this Chapter or local government Development regulations. These are sometimes referred to as ministerial decisions or administrative Determinations.

Adult Bookstore: An establishment having as a substantial or Significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Area", or an establishment with a segment or section devoted to the sale or display of such material.

Adult Motels and Hotels: A place where motion pictures not previously submitted to or not rated by the Motion Picture Association of America are shown in rooms designed primarily for lodging, which said motion pictures have as the dominator primary theme matters depicting, describing or relating to Specified Sexual Activities.

Adult Motion Picture Theater: An enclosed Building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas, for observation by patrons therein.

Applicant: A person, including any governmental entity, seeking Development Approval approval or a refund, a waiver or a credit.

Bed and Breakfast Home: A private home of not more than 4 guest rooms that offers bed and breakfast accommodations, and that:

(A) Does not serve food or drink to the general public for pay;

(B) Serves only the breakfast meal, and that meal is served to overnight guests of the business;

(C) Includes the price of breakfast in the rate; and

(D) Is the permanent residence of the owner or manager of the business.

Bed and Breakfast Inn: A private home of more than 4 but not more than 12 guest rooms that offers bed and breakfast accommodations, and that:

(A) Does not serve food or drink to the general public for pay;

(B) Serves only the breakfast meal, and that meal is served to overnight guests of the business;

(C) Includes the price of breakfast in the rate; and

(D) Is the permanent residence of the owner or manager of the business.

Best Management Practices (BMP): A structural or non-structural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

Boarding House: A residential use consisting of at least one Dwelling Unit together with more than two rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate Dwelling Units. A rooming house or Boarding House is distinguished from a Tourist Home in that the former is designed to be occupied by longer-term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building, Accessory or Accessory Structure: A Building or structure that is located on the same Lot as a Principal Building or Structure, used incidentally to a Principal Building or used for purposes that are secondary the Principal Use of the site. For example, a storage shed is considered an Accessory Building when located on a Lot with a Single-Family residence.

Building, Principal or Principal Structure: The Building or structure on a Lot that houses the Principal Use. For example, in the example for the previous definition, the Single-Family home would be the Principal Building

Building Front or Frontage: The length of that side of the Principal Building that faces the street. For corner Lots, the front shall be determined by the Planning Director based on other Development along the faces of the block on which the corner Lot is located.

Built-Upon Area: Built-upon areas shall include that portion of Development project that is covered by impervious or partially impervious cover including Buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Caliper: A standard measure of size for newly planted trees. Caliper refers to the trunk diameter, in inches, at a point six (6) inches above the ground (for trees equal to or less than a 4" Caliper), at a point twelve (12) inches above the ground (for trees larger than 4" Caliper), or as defined by the American Standard for Nursery Stock ANSI Z60.1.

Child Care Home: A home for not more than nine orphaned, abandoned, dependent, abused or neglected children together with not more than two adults who supervise such children, all of whom live together as a single housekeeping unit.

Child Care Institution: An institutional facility housing more than nine orphaned, abandoned, dependent, abused or neglected children.

Circulation Area: That portion of the Vehicle Use Area used for access to parking or loading areas or other facilities on the Lot. Driveways and other maneuvering areas (other than Parking Aisles) comprise the Circulation Area

Combination Use: A use consisting of a combination on one Lot of two or more Principal Uses separately listed in Exhibit 3-15.

Compatible/Compatibility - A condition in which land uses or conditions can coexist in a relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. Compatibility does not require homogeneity, but does consider the relative scale, design and intensity of nearby structures, uses and activities.

Conditional Zoning: A legislative Zoning Map amendment with site-specific conditions incorporated into the Zoning Map amendment.

Conservation Easement: The grant of a property right or interest from the property owner to a unit of government or nonprofit conservation organization stipulating that the described land shall either remain in its natural, scenic, open or wooded state; or be used for agricultural purposes authorized specifically authorized by the easement.

Conversion Schedule: A table submitted with the application for zoning approval identifying the proposed range of conversion between different types of uses within a **PD** district.

Council or Town Council: The Town Council of the Town of Southern Pines.

Cutoff Fixture: An outdoor light fixture shielded or constructed in such a manner that no more than two and one half (2½) percent of the total light emitted by the fixture is projected above the horizontal plane of the fixture.

Determination: A written, final, and binding order, requirement, or determination regarding an Administrative Decision.

Developer: A person, including a governmental agency or redevelopment authority, who undertakes any Development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake Development on that property.

Development: Any of the following:

a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
b. The excavation, grading, filling, clearing, or alteration of land.
c. The Subdivision of land as defined in G.S. 160D-802.
d. The initiation or substantial change in the use of land or the intensity of use of land.

Development Approval: An administrative or Quasi-judicial approval made pursuant to this UDO that is written and that is required prior to commencing Development or undertaking a specific activity, project, or Development

proposal. Development Approvals include, but are not limited to, zoning permits, Site Plan approvals, Special Use Permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this UDO, including plat approvals, permits issued, Development agreements entered into, and Building permits issued. Unless provided otherwise by law, Development Approvals attach to and run with the land.

Development Conditions: The written Development program, dimensional standards, special conditions and restrictions on Development submitted with the application for zoning approval.

Development Envelope: Area within which grading, lawns, pavement and Buildings will be located.

Development Pattern: A type of Development described in chapter 6 of this UDO or otherwise established that is characterized by a mix of uses, intensities of Development or specific design characteristics.

Diameter Breast Height: A standard measure of size for existing trees. The tree trunk diameter is measured in inches at a height of four and one-half (4 ½) feet above grade. If a tree splits into multiple trunks below 4½ feet, then the trunk is measured at its most narrow point beneath the split.

Down-zoning: A zoning ordinance that affects an area of land in one of the following ways:

a. By decreasing the Development density of the land to be less dense than was allowed under its previous usage.
b. By reducing the permitted land uses of the land that are specified in a zoning ordinance or land Development regulation to fewer than were allowed under its previous usage.

Dwelling: Any Building that contains one or more Dwelling Units used, rented, leased, let, or hired out for living purposes for periods of 30 days or more.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Estoppel: A bar or impediment preventing a party from asserting a fact or a claim inconsistent with a position that party previously took, either by conduct or words, especially where a representation has been relied or acted upon by others.

Evidentiary Hearing: A hearing to gather competent, material, and substantial evidence in order to make findings for a Quasi-judicial Decision required by a Development regulation adopted under this UDO.

Existing Development. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

(A) Substantial Expenditures or resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or

(B) Have an outstanding valid Building permit as authorized by the General Statutes (G.S. 160D-108); or

(C) Having expended substantial resources (time, labor, money) and having an approved site specific or phased Development plans as authorized by the General Statutes (G.S. 160D-108.1).

Existing Lighting: Any and all lighting installed prior to the effective date of this UDO.

Expenditure: A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future Expenditures, as well as any other substantial changes in position.

Extraterritorial Planning Area: That portion of the Town's Planning Jurisdiction that lies outside the corporate limits of the Town. Also includes the terms Extraterritorial Jurisdiction and Extraterritorial Area.

Family: One or more persons living together as a single housekeeping unit.

Floor: The top surface of an enclosed area in a Building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in a frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Food Cart: A smaller mobile facility, typically wheeled, from which food is sold that typically contains cooking facilities where the food is prepared and served. Food carts shall not be self- propelled and not exceed four (4) feet in width by ten (10) feet in length by eight (8) feet in height.

Food Trailer: A non-automotive, wheeled vehicle from which food is sold that typically contains cooking facilities where the food is prepared and served.

Food Truck: An automotive, wheeled vehicle from which food is sold that typically contains cooking facilities where the food is prepared and served.

Food Truck Campus: A collective of multiple Food Trucks, Food Trailers or Food Carts operating together on one Parcel of land.

Gaming Operations: Any business activity, whether as a Principal or Accessory Use, in which patrons use electronic or mechanical machines, including, but not limited to, computers and gaming terminals, to conduct or stimulate games of chance, including the use of the machines to reveal the pre-determined value of an entry, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether the value is determined by the machines or by pre-determined odds. Gaming Operations do not include any Lottery approved by the State of North Carolina or any nonprofit activity otherwise lawful under state law.

Gross Floor Area. The total area of a Building measured by taking the outside dimensions of the Building at each Floor level intended for occupancy or storage.

Gross Leasable Floor Area. The total floor area designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper Floors. It is measured from the center line of joint partitions and from outside wall faces.

Halfway House: A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in G.S. 122C-3.(14), or anti-social or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

Handicapped or Infirm Home: A residence within a single Dwelling Unit for at least two but not more than nine persons who are physically or mentally handicapped or infirm, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

Handicapped or Infirm Institution: An institutional facility housing and providing care or assistance for more than nine persons who are physically or mentally handicapped or infirm. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment.

Hazardous Material: Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCIA Hazardous Substances or Section 311 of CWA (oil and hazardous substances).

Hearing Body: The entity assigned responsibility for conducting a hearing on any application pursuant to this UDO.

Illuminating Engineering Society of North America (IES or IESNA): The professional society of lighting engineers, including those from manufacturing companies, and others professionally involved in lighting.

Intermediate Care Home: A facility maintained for the purpose of providing accommodations for not more than nine occupants needing medical care and supervision at a lower level than that provided in a Nursing Care Institution but at a higher level than that provided in institutions for the handicapped or infirm.

Intermediate Care Institution: An institutional facility maintained for the purpose of providing accommodations for more than nine persons needing medical care and supervision at a lower level than that provided in a Nursing Care Institution but at a higher level than that provided in institutions for the handicapped or infirm.

Large Scale Retail: Retail Development including of one or more businesses that encompass at 25,000 square feet or more of Gross Leasable Floor Area.

Legislative Decision: The adoption, amendment, or repeal of a regulation under North Carolina General Statute or an applicable local act. The term also includes the decision to approve, amend, or rescind a Development agreement consistent with the provisions of Article 10 of Chapter 160D, North Carolina General Statute.

Legislative Hearing: A hearing to solicit public comment on a proposed Legislative Decision.

Light Pollution: Any adverse effect of manmade light including, but not limited to, Light Trespass, up-lighting, the uncomfortable distraction to the eye, or any manmade light that diminishes the ability to view the night sky; often used to denote urban sky glow.

Light Trespass: Light falling where it is not wanted or needed, generally caused by a light on a property that shines onto the property of others.

Lot: A Parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. If a public body or any authority with the power of eminent domain condemns, purchases or otherwise obtains fee simple title to or a lesser interest in a strip of land cutting across a Parcel of land otherwise characterized as a Lot by this definition or a private road is created across a Parcel of land otherwise characterized as a Lot by this definition and the interest thus obtained or the road so created is such as effectively to prevent the use of this Parcel as one Lot, then the land on either side of this strip shall constitute a separate Lot. The permit-issuing authority and the owner of two or more contiguous Lots may agree to regard the Lots as one Lot if necessary or convenient to comply with any of the requirements of this ordinance.

Lot Area: The total area circumscribed by the boundaries of a Lot, except that:

(A) When the legal instrument creating a Lot shows the boundary for purposes of computing the Lot Area shall be the street Right-of-Way line or if the Right-of-Way line cannot be determined, a line running parallel to and thirty feet from the center of the traveled portion of the street; and

(B) In a residential district, when a private road that serves more than three Dwelling Units is located along any Lot boundary, then the Lot boundary for purposes of computing the Lot Area shall be the nearest boundary of the traveled portion of that road.

Major Amendment: Any change to a PD plan, Architectural Compliance permit or other approval not classified as a Minor Amendment.

Major Work: Exterior work that is involves a significant alteration, addition, reconstruction or demolition of an existing Building or structure, or the erection of new Buildings or structures.

Manufactured Home: A Dwelling Unit that is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed for installation or assembly and installation on the Building site.

Manufactured Home, Class A: A Dwelling Unit constructed with one or more components which are pre-fabricated and hauled to the site that are capable of producing a Dwelling which is indistinguishable from conventionally built homes and which meets the construction requirements of the North Carolina Uniform Residential Building Code as amended.

Manufactured Home, Class B: A Dwelling Unit that:

(A) Is not constructed in accordance with the requirements of the North Carolina Uniform Residential Building Code as amended; and

(B) Is composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site; and

(C) Meets or exceeds the construction standards of the U.S. Department of Housing and Urban Development and (iv) conforms to the following appearance criteria.

Manufactured Home, Class C: Any Manufactured Home that does not meet the definition criteria of a Class A or Class B Manufactured Home but which, at a minimum, exceeds 32 feet in length and 8 feet in width.

Manufactured Home Park: A residential use in which more than one Class B or Class C Manufactured Home is located on a single Lot.

Minor Work: Exterior work that involves the repair and/or partial replacement of an architectural feature or Building element but does not involve a significant alteration or addition to the existing Building or structure. All Minor Work shall be undertaken in accordance with adopted design standards. In addition, Minor Work shall include alterations and new construction of significant landscape and natural features.

Multi-Family Residence: A Building including three (3) or more Dwelling Units.

Multi-Use Trail or Path: A trail designed for Compatible and safe concurrent use by pedestrians and bicyclists.

Neighborhood: An area of a community with characteristics which distinguish it from others that may include distinct ethnic or economic bases, housing types, schools, or boundaries defined by distinct physical barriers such as railroads, arterial streets, rivers, or major drainage channels.

Non-conforming Project: Any structure, Development or undertaking that is incomplete at the effective date of this UDO and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

Nursing Care Home: A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than nine persons.

Nursing Care Institution: An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine persons.

Open Space, Usable: Usable Open Space areas comprised of, but not limited to, any combination of the following: natural areas, wetlands, trails, boardwalks, parks, ball fields for structured recreation, equestrian fields or tracks, golf courses (not including clubhouse or other vertical structures), buffers (outside of a platted Lot), any water bodies including ponds and lakes, and/or innovative and accessible water quality ponds (that are designed as an amenity).

Ordinary Maintenance: Exterior work that is undertaken on a frequent and routine basis to maintain the functional and structural integrity of an existing Building, structure, or architectural or appurtenant features. Ordinary Maintenance is defined further as being repair work that maintains, and does not change, the architectural material, design, style, size and scale, arrangement, detailing or texture of the feature.

Outlot: A Parcel of real property having access to at least one public street, private roadway or private drive that is part of a larger commercial Development, but that may be sold or leased without further Subdivision.

Parcel: An area of land not dedicated for public or common use capable of being described with such definiteness that its location and boundaries may be established and includes but is not limited to Lots.

Parking Aisles. That portion of the Vehicle Use Area consisting of lanes providing access to parking spaces.

Permit Issuing Authority: A person or entity authorized by this UDO to grant Development Approval, whether discretionary or administrative.

Planning Director or Director: The person designated by the Town Manager to carry out the responsibilities established in this UDO or the Planning Director's designee.

Planning Jurisdiction: The area within the Town limits as well as the area beyond the Town limits within which the Town is authorized to plan for and regulate Development, as set forth in this UDO.

Premises: A single piece of property as conveyed in a deed or a Lot or a number of adjacent Lots on which is situated a land use, a Building or group of Buildings designed as a unit or on which a Building or a group of Buildings are to be constructed.

Principal Use Classification: Exhibit 3-15 establishes use classifications. For purposes of this UDO, each numbered row is assumed to represent a separate Principal Use Classification.

Quasi-judicial Decision: A decision involving the finding of facts regarding a specific application of a Development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, Special Use Permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of Subdivision plats and Site Plans are Quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

Residence, Accessory Dwelling: A residential Dwelling that is secondary to the Principal Use.

Residence, Multi-Family: A Building including three (3) or more Dwelling Units.

Residence, Condominium: A Multi-Family Residential use consisting of individually owned Dwelling Units and common elements owned by an association of the owners of the Dwelling Units.

Residence, Multi-Family Conversion: A Multi-Family Residence containing not more than four Dwelling Units and results from the conversion of a single Building containing at least 2,000 square feet of Gross Floor Area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a Single-Family residence.

Residence, Townhouse: A Multi-Family Residential Dwelling in which each Dwelling Unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least one other Dwelling Unit and in which each Dwelling Unit has living space on the ground Floor and a separate ground Floor entrance and each Dwelling Unit is conveyed through a Subdivision plat.

Residence, Two-Family or Duplex: A Two-Family Residential use in which the Dwelling Units share a common wall (including without limitation the wall of an attached garage or porch) and in which each Dwelling Unit has living space on the ground Floor and a separate ground Floor entrance.

Residential Zone: Areas zoned for residential use include Residential Single-Family (RS), Residential Multi-Family (RM), Rural Residential (RR), Rural Estate (RE), and Planned Development (PD) districts.

Retention Pond: A pond that has a permanent pool and which also collects storm water runoff, filters the water and releases it slowly over a period of days.

Reviewing Body or Recommending Body: The entity assigned responsibility for reviewing and making recommendations or taking action on an application pursuant to this UDO.

Right-of-Way: An interest in land to the Town, County or State that provides for the perpetual right and privilege of the Town, its agents, franchise holders, successors, and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a public street, including related and customary uses of street rights-of-way such as sidewalks, bike paths, landscaping, mass transit facilities, traffic control, traffic control devices and Signage, sanitary sewer, stormwater drainage, water supply, cable television, electric power, gas, and telephone transmission and related purposes in, upon, over, below, and across the rights-of- way.

Setback: The shortest distance between the Building and the property line.

Setback, Front: The shortest distance between the Building Front and the front property line or the distance from the street centerline where the Right-of-Way line is undefined.

Setback, Exterior Side: The shortest distance between the street side of the Building and the side property line abutting a street or the distance from the street centerline where the Right-of-Way line is undefined.

Setback, Interior Side: The shortest distance from the side of a Building and the property line abutting another Lot or Parcel.

Setback, Rear: The shortest distance from the rear of a Building and the property line abutting another Lot or Parcel.

Shopping Center: A collection of commercial businesses located in one or more Buildings on a site that is under common ownership or management. Shopping Centers may include Outlots.

Sign: Any device, depiction, lettering, or symbol that:

(A) Is sufficiently visible to persons not located on the Lot where it is located to accomplish either of the objectives set forth in paragraph (b) of this definition, and

(B) Is designed to attract the attention of such persons or communicate information to them.

Sign, Awning: A Sign that is printed, painted or otherwise placed on an awning.

Sign, Electronic Message Center: An electrically activated, changeable Sign with a variable message and/or graphic presentation capability that can be electronically programmed by computer from a remote location or at the Sign.

Also known as an EMC or digital Sign, these Signs typically use arrays of LED lights to create an illuminated message.

Sign, Freestanding: A Sign that is attached to, erected on or supported by some structure (such as a pole, mast, frame or other structure) that is not itself an integral part of or attached to a Building or other structure having principal function other than the support of a Sign. A Sign that stands without supporting elements such as a "sandwich Sign" is also a Freestanding Sign.

Sign, Internally Illuminated: A Sign where the source of the illumination is inside the Sign and light emanates through the message of the Sign, rather than being reflected off the surface of the Sign from an external source. Without limiting the generality of the foregoing, Signs that consist of or contain tubes that:

(A) Are filled with neon or some other gas that glows when an electric current passes through it; and

(B) Are intended to form or constitute all or part of the message of the Sign, rather than merely providing illumination to other parts of the Sign that contain the message shall also be considered Internally Illuminated Signs.

Sign, Landmark: A Freestanding Sign that identifies a Planned Development by integrating the name of the Planned Development into a structure that is consistent with the key design theme of the Development.

Sign, Logo Emblem: A type of Wall Sign in which the logo of the business is displayed separately from the Wall Sign. Logo Emblem Signs contain no words or text. One (1) Logo Emblem Sign is allowed to accompany the permitted number of Wall Signs. Logo Emblem Signs are calculated into the permitted Wall Sign square footage. The Logo Emblem Sign is subject to the same standards as a Wall Sign and must adhere to all other applicable requirements.

Sign, Monument: A type of Freestanding Sign, often referred to as a ground Sign, in which there is not exposed frame, mast or pole, which has a low profile and which his built of brick or other substantial material resembling a monument is called a Monument Sign.

Sign, Non-conforming: A Sign that on the effective date of this chapter does not conform to one or more of the regulations set forth in section 4.6.18.

Amended

Sign, Off-Premises: A Sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction or other activity that is conducted, sold or offered at a location other than the Premises on which the Sign is located.

Sign, Plaque or Plaque-Inset: A Sign embedded in the wall during the construction of the Building. The face of the Plaque shall not protrude from the main wall facade more than one inch. A Plaque-Inset Sign that exceeds 3.5 square feet is considered a Wall Sign.

Sign, Portable: A Sign is designed to be moved from place to place and which is not permanently installed.

Sign, Projecting: A Sign which is attached to and projects more than twelve (12) inches from a Building face or wall.

Sign, Temporary: A Sign that:

(A) Is used in connection with a circumstance, situation or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the erection of such sigh; or

(B) Is intended to remain on the location where it is erected or placed for a period of not more than fifteen days.

Sign, Wall: A Wall Sign is

(A) A Sign attached to or painted on a wall or Building with the exposed display surface of the Sign in a plan parallel to the plane of the wall to which it is attached or painted and including Signs affixed to or otherwise displayed on or through a facade window.;

(B) Any Sign attached to, painted on or erected against any wall of a Building or structure so that the exposed face of the Sign is on a plane parallel to the plane of said wall and which does not extend more than 12 inches from the wall;

(C) Any Sign erected against, installed on or painted on a penthouse above the roof of a Building as long as the wall of the penthouse is on a plane parallel to the wall of the Building; or

(D) A Sign attached to, painted on or erected against a false wall or false roof that does not vary more than thirty (30) degrees from the plane of the adjoining wall elevation.

Site Plan: A plan depicting the proposed Development of a property, in terms of the location, scale, and configuration of Buildings and other features.

Special Events: Temporary, organized events that:

(A) Run no longer than two weeks;

(B) Are intended to or likely to attract substantial crowds; and

(C) Are unlike the customary or usual activities generally associated with the property where the special event is to be located.

Special Use Permit: A permit issued to authorize Development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits.

Specified Anatomical Areas: For the purpose of this UDO, "Specified Anatomical Areas" is defined as:

(A) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and

(B) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified Sexual Activities: For the purposes of this UDO, "Specified Sexual Activities" is defined as:

(A) Human genitals in a state of sexual stimulation or arousal;

(B) Acts of human masturbation, sexual intercourse or sodomy; or

(C) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Subdivision: The division of a Tract or Parcel of land into two or more Lots, Building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or Building Development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within the definition nor be subject to the regulations of this UDO applicable strictly to Subdivisions:

(A) The combination or re-combination of portions of previously subdivided and recorded Lots where the total number of Lots is not increased and the resultant Lots are equal to or exceed the standards as shown in this UDO;

(B) The division of land into Parcels greater than ten (10) acres where no street Right-of-Way dedication is involved;

(C) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors;

(D) The division of a Tract in single ownership whose entire area is no greater than two acres into not more than three Lots, where no street right of way dedication is involved and where the resultant Lots are equal to or exceed the standards as shown in this UDO; or

(E) The division of a Tract into Parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

(Ord. #1871, 8-24-20)

Temporary Emergency, Construction or Repair Residence: A residence (which may be a Manufactured Home if permitted in the district in which located) that is:

(A) Located on the same Lot as a residence made uninhabitable by fire, flood or other natural disaster and occupied by the persons displaced by such disaster;

(B) Located on the same Lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or

(C) Located on a non-residential construction site and occupied by persons having construction or security responsibilities over such construction site.

Tourist Home: A Dwelling Unit used for periods of less than 30 days for the lodging of transients and travelers for compensation.

Town: The Town of Southern Pines, North Carolina.

Town Engineer: The person designated by the Town Manager to carry out the responsibilities established in this UDO or the Town Engineer's designee.

Tract: A Lot. The term Tract is used interchangeably with the term Parcel, particularly in the context of Subdivisions, where one "tract" is subdivided into several "Lots".

Travel Trailer: A structure that (i) is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle) and (ii) is designed for temporary use as sleeping quarters but that does not satisfy one or more of the definition criteria of a Manufactured Home.

Use, Accessory: A use incidental to and customarily associated with a specific Principal Use located on the same Lot, Tract or Parcel.

Use, Principal: The primary or main use of land or structures, as distinguished from a secondary or Accessory Use.

Vehicle Use Area. That portion of a Lot of Parcel that is used by vehicles for access, circulation, parking and loading and unloading. It comprises the total of Circulation Areas, loading and unloading areas and parking areas (spaces and aisles).

Watershed. The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

Wooded Area: An area of contiguous wooded vegetation where trees are at a density of at least one six-inch or greater Caliper tree per 325 square feet of land and where the branches and leaves form a contiguous canopy.

Yard: The area between a Building and the property line.

Yard, Front: The area between the Building Front and the front property line.

Yard, Side: The area between the side of a Building and the side property line that extends from the Building Front to the rear-most part of the Building.

Yard, Rear: The area between the rear of a Building and the rear property line.

Zoning Map or Official Zoning Map: The map pursuant to this UDO and showing the boundaries of zoning districts established herein.

(Ord. #1716; Ord. #1703; Ord. #1820; Ord. #1981; Ord. #2052; Ord. #3024)

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Amendments to the UDO

Agenda/Ordinance Number	Text Amendment Summary	Date Adopted
OA-01-14/ Ord. #1538	Requires PD or CUP approval for more than 5 single-family attached Dwellings in a Development	5/13/14
OA-03-14/ Ord. #1714	Clean up errors and omissions, clarify PD requirements, expand minor Subdivision applicability, clarify applicability of minor Subdivisions	6/10/14
OA-04-14 Ord. #1715	Allowing for private drives in the RS-1 district	10/11/14
OA-02-15/ Ord. #1716	Clarify procedures, clarify district provisions, update zoning use matrix, and revise parking standards	9/8/15
OA-03-15/ Ord. #1717	Revise standards and permissions for bed and breakfast establishments	11/10/15
OA-04-15/ Ord #1718	Add standards for Homeless Shelters	12/8/15
OA-01-16/ Ord. #1604	Allow veterinary services in the Neighborhood Business District	4/12/16
OA-02-16/ Ord. #1630	Allowing for private drives in the RS-3 district	8/9/16
OA-01-17/ Ord. #1696	Amending rules for automobile service stations and fuel sales operations	12/12/17
OA-02-17 Ord. #1703	Amending provisions related to Planned Development, Site Plan Review, Highway Corridor Regulations, lighting standards, Political Signs, design standards, and CUP amendments; and eliminating references to business licenses	2/13/18
OA-01-18 Ord. #1745	Amending provisions related to street design standards, traffic impact analyses and other matters involving transportation	7/10/18
OA-02-18 Ord. #1746	Amending provisions related to notice and other procedural matters	7/10/18
OA-01-19 Ord. #1775	Renaming “conditional use district” to “Conditional Zoning district” modifying planned Development criteria, clarifying conditions for keeping horses, modifying standards for Signs in historic districts, and providing for elevation certificates	4/9/19
OA-02-19 Ord. #1808	Sec. 3.6.3(D)(2) & (3) amended to eliminate the requirement that areas with RM base zoning within the DTO comply with OS Setbacks.	7/9/19

Agenda/Ordinance Number	Text Amendment Summary	Date Adopted
OA-03-19 Ord. #1820	Revising regulations and definitions for mobile food services	12/10/19
OA-01-20 Ord. #1871	Revising standards related to bonding improvements, Setbacks, authorized land uses, Lot dimensions for equestrian access, minimum living area, street standards, and utilities; and revising definitions and appendix A.	8/24/20
OA-03-20 Ord. #1887	Revising the maximum heights in the RM-1 and RM-2 districts	11/23/20
OA-04-20 Ord. #1890	Revising the appeals body for Certificates of Appropriateness for Major Work, bonding requirements, criteria for minor Subdivisions, Setbacks, Lot dimensions, tree planting requirements, appendices B & C, references to appendices B & C, and correcting scrivener's errors	1/6/21
Ord. #1919	Amendments throughout the UDO to bring it into compliance with the provisions of G.S. 160D	7/1/21
Ord. #1959	Amendments to the Subdivision and Special Use Permit procedures, height, landscaping, and penalties	1/11/22
Ord. #1981	Amendments to landscaping, Board of Adjustment, and definitions	4/12/22
Ord. #2000	Amendments clarifying the need for PD approval for Multi-Family or Condominium Development including ten or more Dwelling Units	6/14/22
Ord. #2040	Amendments addressing Building Height and exemption from certain stormwater management provisions.	11/15/22
Ord. #2052	Amendments to procedural requirements and applicability of various design standards	1/10/23
Ord #2092	Amendments to Exhibit 2-1 and section 2.26 related to Architectural Compliance Permits	7/11/23
Ord #2095	Amending the brightness of lighting under service station canopies	8/8/23
Ord #2096	Amending Exhibit 3-15 to remove commercial mini- or self-storage as a use allowed with a zoning permit in the General Business zoning district	8/8/23
Ord #3010	Correcting scrivener's errors and reorganizing/provisions for penalties and abatement of violations	10/10/23
Ord #3024	Amending general subdivision, gas station, and tourist home provisions	1/9/24

File Number	Zoning Map Amendment Summary	Date Adopted
Z-01-14	Rezone the Southern Pines Corporate Park from Industrial (I) to Planned Development (PD)	5/13/14
Z-03-14	Rezone Property from OS-CD to RM-2; 360 N. Bennett St.	5/13/14
Z-04-14	Rezone Property from RS-1 to NB; 1064 W. Massachusetts Avenue	5/13/14
Z-02-15 1539	Rezone Property from GB to RM-2; Between Midlothian Drive and Clark Street	11/10/15
Z-01-16	Rezone Property from RS-1 to NB-CD: 1650 W. New York Avenue - American Legion Post 177	3/8/16
Z-02-16	Rezone 1515 Midland Rd from RS-2 to RS-1CD	2/14/17
Z-03-17	Rezone 93.04 ac. on Waynor Rd from RR to RS-3	10/16/17
Z-04-17	Rezone 2250 E Connecticut Ave and Lot 1A Ft. Bragg Rd from RS-3 to RE	10/16/17
Z-06-17	Rezone Waynor Road & Hwy 22 from PD to FRR	11/14/17
PD-03-17	Rezone 1605 Central Drive from FRR to PD	12/11/17
Z-05-17	Rezone 940 E Connecticut Ave from RS-3 to RE	12/12/17
Z-01-18	Rezone The Carolina golf course Tracts to FRR	4/10/18
Z-02-18	Rezone Central Drive from FRR to I	5/15/18
PD-02-18	Rezone Caropines - modification of The Carolina Subdivision plan from RS-2 to PD	10/9/18
Z-04-18	Rezone 14.8 ac., 1645 E. Indiana Ave from RS-3 to RE	1/8/19
Z-05-18	Rezone 1105 Morganton Rd from FRR to GBCD	3/19/19
PD-01-19	Rezone wo Parcels totaling 31.85 acres west of US 15-501 between Applecross Road and Inverrary Road from PD w/o a CDP to PD with approved CDP	6/11/19
Z-01-19	0.65 acres at 375 Pinehurst Avenue from OS to GB	12/10/19
Z-02-20	Rezone 35.43 acres within Forest Creek, 200 Meyer Farm Drive from RS-3 to M-2	4/13/19
PD-01-21	Rezone 15.04 acres at the corner of Yadkin Road and Trimble Plant Road from I to PD with an approved CDP	3/22/21
Z-01-21	Rezone 0.79 acres at 387 W. Pennsylvania Ave. from FRR to CB.	5/21/21
Z-01-22	Apply initial zoning of RS-2 on 4.10 acres located on the southeast corner of Sullivan Road and NC Highway 22 following annexation into Southern Pines corporate limits.	3/8/22
PD-09-22	Rezone 94.902 acres located around the intersection of Waters Drive and Camp Easter Road and referred to as the St. Joseph of the Pines campus from FRR-CD to PD.	9/13/22
PD-04-22	Rezone 42.2 acres located on the north side of Camp Easter Road, just east of the intersection with Aiken Road, and referred to as the St.	9/26/22

File Number	Zoning Map Amendment Summary	Date Adopted
	John Paul II Catholic School from RE to PD.	
Z-02-22	Rezone 13.81 acres located on the east side of US Highway 1 around the intersection with Equestrian Road, across from the Hyland Hills Golf Club, from FRR to RE.	12/13/22