

# Unified Development Ordinance

## Introduction and Overview

The Town of Weddington (“Town”) finds that it is appropriate to update its land development ordinances to (a) comply with legislative requirements imposed by the state legislature as set forth in North Carolina General Statute 160D and (b) improve the organization of its existing ordinances to make the ordinances simpler to find and easier to follow. This unified development ordinance (“UDO”) is adopted with the purpose of implementing these objectives.

**Introduction; Overview and Background Information.** This initial Section of the UDO provides a general overview and “executive summary” of the UDO requirements. Specific, more detailed requirements are set forth in the Articles. For ease of reference and use, the Articles are organized in a manner consistent with North Carolina General Statutes 160D.

- A. Applicability and Jurisdiction.** These regulations shall govern the use of all land and the development thereof within all of the incorporated area of the Town [and any extraterritorial jurisdiction].
- B. Boards, Professional Staff and Other Agencies and Committees.** The following entities and person have roles in administering the provisions of this UDO:
- Town Council
  - Planning Board
  - Board of Adjustment
  - Town Staff
  - Other governmental entities such as Union County and the North Carolina Department of Transportation (NCDOT).
- C. Planning.** State law requires that as a condition of adopting and applying zoning regulations a municipality shall adopt and reasonably maintain a comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. A comprehensive plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction based on an analysis of present and future needs. The Town has a comprehensive plan that is posted on the Town website.
- D. Processes and Procedures.**
1. **Types of Decisions.** There are three types of decisions that are made by the entities and persons listed in Section B, above:
    - a. **Legislative.** Legislative decisions set policy and provides the decision-making board with the maximum amount of discretion. The legislative process typically includes public engagement. In connection with any requested rezoning of property or amendment to this UDO, there is a required public hearing with broad public notice and a mandatory planning board review.
    - b. **Quasi-judicial.** Quasi-judicial decisions require the board to apply standards that are already set in the ordinance using a legalistic process to gather quality evidence to resolve contested facts, and to apply those facts to standards that involve judgment (such as being “compatible “or “harmonious” with the surrounding neighborhood). Public engagement is limited to those who have relevant evidence on whether the proposal meets the standards.
    - c. **Administrative.** Administrative decisions require staff to apply objective standards set in the ordinance to facts that are supplied in applications. If the application meets the standards it is approved; if not, it is denied. The process is bureaucratic in nature, with minimal discretion or public engagement.

2. **Available Approvals/Permits and Process.** As an overview, the following approvals and permits are contemplated by this UDO:

a. **Legislative**

- Text Amendments
- Zoning Map Changes
- Conditional Rezoning

b. **Quasi-judicial**

- Variances
- Appeals

c. **Administrative**

- Subdivision Plats
- Construction Plans, Zoning Permits, Erosion Control Permits, and Building Permits, Sign Permits,
- Miscellaneous Permits, such as Temporary Use Permits

**E. Zoning districts; Zoning Map.**

1. **Conventional Districts.** The Town's existing conventional zoning districts are as follows:

- R-80
- R-60
- R-40
- R-40(D)
- R-CD
- RE
- MX
- ED

2. **Conditional Zoning Districts.**

- a. As of the date of this UDO, the Town has two existing Conditional Zoning (CZ) districts as follows:
- B-1 (CZ)
  - B-2 (CZ)
- b. Additionally, property owners may petition the Town Council to consider creating conditional zoning (CZ) districts on a site-specific basis.
- c. CZ districts are zoning districts in which the development and use of the property is subject to the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying the CZ district, and the agreed upon site-specific development requirements, to the particular property. All of the property specific standards and conditions (typically including a site plan) are incorporated into the zoning district regulations.
- d. As provided in the Table of Permissible Uses some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and/or the entire community that cannot be predetermined and controlled by general district standards and thus are only permitted with a Conditional Zoning district rezoning approval. Additionally, there may be instances where a general zoning district designation is clearly inappropriate for a certain property, but a specific use permitted under that district and subject to restrictive conditions would be consistent with the spirit and objectives of this Ordinance and applicable land plans. Both of these circumstances are reasonably addressed through a Conditional Zoning process.
- e. The rezoning of any parcel of land to a CZ district shall be a voluntary process initiated by the property owner or his authorized agent.
- f. To provide guidance and information, some rules, regulations and conditions that may be incorporated as part of the CZ zoning approval are identified in this UDO. Conditional Zoning is a legislative procedure under which the Town Council has the

- authority to increase, tighten, add, vary, modify or waive specific conditions or standards.
- g. Once a property has been rezoned to a CZ, it shall be referenced with the letters "CZ" on the Zoning Map.
  - h. The process for approval of a CZ district is explained in greater detail in Article 6.
3. **Downtown Overlay District.** As of the date of this UDO, the Town has a single overlay district, the Downtown Overlay District. See Section D-703.
  4. **Zoning Map.** The Town’s Zoning Map is incorporated herein by reference. The Zoning Map may be changed by Town Council from time-to-time in accordance with the procedures set forth herein.

**F. Permitted Uses.**

1. **By-Right (permitted with administrative review and approval).** Certain primary uses of land are permitted “by right” (BR) in each zoning district provided all applicable provisions of this UDO (and any other applicable legal requirements) are satisfied. This UDO provides for additional supplemental requirements (SR) that are applicable to a certain “by-right” uses of land.
2. **Conditional (allowed through legislative conditional zoning process).** Others primary uses of land are permitted through the conditional zoning (CZ) process, again, in some cases, some with some supplemental requirements set forth herein.
3. **Permitted Uses (Permitted Use Table).** The permitted uses (both by right and conditional) are set forth in the Permitted Use Table in Article 7 of this UDO.
4. **Additional Uses (CZ Zoning Requests).** Additionally, a property owner may petition the Town Council through the CZ zoning process to consider permitting primary uses that are not identified as permitted in this UDO (although the Town Council has no obligation to approve any such requests).

**G. Summary Table.** For ease of reference, the following Table 1 is a summary of the types of approvals contemplated by this UDO:

**Table 1: Summary: Approvals; Responsible Party; Type of Decision**

Type of Decision	Approval	Responsible Party (final decision-maker)	Comments
Legislative	UDO Text Amendment	Council	
Legislative	Zoning Map Change	Council	
Legislative	Conditional Zoning	Council	
Quasi-judicial	Variance	Zoning Board of Adjustment	
Quasi-judicial	Appeal of Decision by Zoning Administrator	Zoning Board of Adjustment	
Administrative	Subdivision Plats	Administrator	Includes confirmation that proposed development is in Conformity with applicable zoning requirements previously imposed by the Council
Administrative	Construction Plans, Sign Permits, Zoning Permits, Grading Permits, and Building Permits (County)	Administrator (or Union County or third-party service provider)	
Administrative	Misc. Temporary Use Permits	Administrator	

H. **Appendices.** All appendices are incorporated by reference into this UDO. The appendices are listed below.

**Table 2: List of Appendices**

<b>Appendix #</b>	<b>Title</b>	<b>UDO Section</b>
1	Definitions	D-102
2	Submittal Requirements	D-403, D-607, D-608, D-609
3	Approved Plant List	D-918I
4	Lighting	D-918G
5	Architectural Standards	D-918H
6	Erosion Control	D-922
7	Floodplain Regulations	D-923
8	Storm Water	D-925
9	Historic Preservation	D-940
10	Housing Code	Article 12

## **Article 1. General Provisions.**

**D-101. Application.** In order to accomplish the purpose of these regulations this UDO regulates all development within the Town of Weddington's jurisdiction, including without limitation, the density of development, the location and use of buildings, structures and land for trade, industry, residence or other purposes, the height and number of stories of buildings and other structures, the size of yards, courts and other open spaces and other related matters as set forth herein.

**D-102 Definitions.** The definitions set forth in N.C.G.S. 160D-102 are incorporated herein by reference. Additionally, the definitions set forth in **Appendix 1** are incorporated herein by reference.

**D-103. Unified development ordinance.** This UDO is adopted pursuant to Chapter 160D and consolidates one or more previous stand-alone ordinances. Upon the effective date, this Ordinance shall supersede and replace the following ordinance provisions: Chapter 46 (Subdivisions); Chapter 58 (Zoning); 14-81 through 14-92 (Lighting); 14-101 through 14-107 (Architectural Standards).

**D-104. Development approvals run with the land.** Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this UDO attach to and run with the land.

### **D-105. Maps.**

- A. Zoning Map.** Zoning district boundaries adopted pursuant to this UDO shall be drawn on a map that is adopted or incorporated within a duly adopted development regulation. Zoning district maps that are so adopted shall be maintained for public inspection in the office of the Town Clerk or such other office as specified in the development regulation. The maps may be in paper or a digital format approved by the Town. The map entitled "Official Zoning Map of the Town of Weddington, North Carolina", as certified as such by the Town Clerk, is hereby ratified and adopted by reference and declared to be a part of this UDO. The zoning of the districts on said map is hereby declared to be in the proper zoning for said districts as of the effective date of this UDO. The maps shall be updated as revisions are approved in accordance with this UDO.
- B. Other Maps; Incorporation by Reference.** Development regulations adopted pursuant to this UDO may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and federal agencies. For these maps a regulation text or zoning map may reference a specific officially adopted map or may incorporate by reference the most recent officially adopted version of such maps. When zoning district boundaries are based on these maps, the regulation may provide that the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated State or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection as provided in subsection (A) of this section.

**D-106. Refund of illegal fees.** See N.C.G.S. 160D-106.

**D-107. Moratoria.** A temporary moratorium may be adopted by the Town in accordance with the requirements of 160D-107.

### **D-108. Permit choice and Vested Rights.**

- A. Permit Choice.** If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.
- B. Vested Rights.** Types and duration of statutory vested rights shall be as set forth in N.C.G.S. 160D-108 and 160D-108.1. Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any vested rights.

**D-109. Conflicts of interest.**

- A. Governing Board.** A Town Council member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this UDO where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Town Council member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- B. Appointed Boards.** Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this UDO where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- C. Administrative Staff.** No staff member shall make a final decision on an administrative decision required by this UDO if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this UDO unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.
- D. Quasi-Judicial Decisions.** A member of any board exercising quasi-judicial functions pursuant to this UDO shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- E. Resolution of Objection.** 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.
- F. Familial Relationship.** For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

**D-110. Broad construction.** As set forth in N.C.G.S. 160A-4, it is the policy of the General Assembly that the cities of this State should have adequate authority to execute the powers, duties, privileges, and immunities conferred upon them by law. To this end, the provisions of this UDO and the Town charter shall be broadly construed, and grants of power shall be construed to include any additional and supplementary powers that are reasonably necessary or expedient to carry them into execution and effect: Provided, that the exercise of such additional or supplementary powers shall not be contrary to State or federal law or to the public policy of the State.

**D-111. Effect on prior laws.** The enactment of this UDO shall not require the re adoption of any Town ordinance enacted pursuant to laws that were in effect before this UDO was adopted and are restated or revised herein. The provisions of this UDO shall not affect any act heretofore done, any liability incurred, any right accrued or vested, or any suit or prosecution begun or cause of action accrued prior to its adoption. The enactment of this UDO shall not be deemed to amend the geographic area within which Town development regulations adopted prior to January 1, 2019, are effective.

**D-112. Nonconforming Uses**

- A. Purpose; applicability.** Nonconforming uses, which are uses of structures or of land existing at the time of the adoption or amendment of the ordinance from which this chapter is derived but which do not comply with the provisions of this chapter, are declared by this chapter to be incompatible with permitted uses in the various districts. The intent of this article is to permit the continued use of a structure, or portion thereof, or of the use of land legally existing prior to the effective date of the ordinance from which this chapter is derived until such uses are removed, but not to encourage their survival. Such nonconforming uses shall not be expanded, extended, or changed in any manner except as provided in this article. Creation of additional nonconforming uses are not to be encouraged.
- B. Nonconforming uses of structures.**
1. A conforming structure in which a nonconforming use is being conducted may be used to expand and enlarge such nonconforming use into an area of the structure then in existence and designed for such nonconforming use. No structural changes shall be made to any structure occupied by a nonconforming use except as follows:
    - a. Those structural changes ordered by an authorized official in order to ensure the safety of the structure.
    - b. Maintenance and repairs to keep a structure in sound condition shall be permitted.
    - c. When a nonconforming use of a structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
  2. If said use is discontinued for 180 days or more, the use shall not be allowed to reestablish. All new uses in said structure shall thereafter be conforming.
  3. If said conforming structure housing a nonconforming use is destroyed to an extent of greater than 50 percent of its replacement cost at the time of destruction, it may be rebuilt and may then be used for the same nonconforming use.
  4. A nonconforming use of a structure may not be changed to another nonconforming use.
- C. Nonconforming uses of land.**
1. Nonconforming uses of land, which may include structures incidental and accessory to the use of the land, such as but not limited to, storage yards for various materials, or areas used for recreational purposes, shall not be used for other nonconforming purposes, once the nonconforming use has been abandoned. No such nonconforming use of land shall be enlarged,
  2. increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived.
  3. If said land use is abandoned for 180 days or more or destroyed, the land use shall be considered discontinued and shall not be reestablished unless the use is in conformance with the regulations of the district in which it is located. The term "destruction," for the purpose of this subsection, is defined as damage to an extent of more than 50 percent of the replacement cost at the time of destruction.
  4. A nonconforming use of land may not be changed to another nonconforming use of land.
- D. Nonconforming structures.** Where a structure exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that could not be built under the terms of this chapter, such structure may remain so long as it remains otherwise lawful, subject to the following provisions:
1. A nonconforming structure may not, under any circumstances, be enlarged or altered in a way which increases its nonconformity or be replaced with a similar nonconforming structure.
  2. If a nonconforming structure or nonconforming portion of a structure is destroyed to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
  3. A nonconforming structure which is abandoned for 180 days or more shall be considered discontinued and shall not be allowed occupancy or use unless in conformance with the district in which it is located.
  4. Said nonconforming structure may be moved to another lot so long as the structure is permitted in accordance with this chapter on said lot.
- E. Nonconforming lots of record.** In any district where a lot has been recorded on a plat filed with the Union County offices of the register of deeds, prior to the effective date of this UDO and such lot does not comply with the minimum lot area and width requirements for the zoning districts in which such lot is located, such

lot may be used for any use permitted in that zoning district, provided that the principal and accessory structures meet all applicable front, side and rear yard requirements of this chapter.

**F. Nonconforming signs.**

1. Nonconforming advertising signs shall be allowed to continue, provided that:
  - a. No structural changes to the support structure or changes to the sign face itself except message changes which do not renew or extend the life of said sign shall be allowed.
  - b. Maintenance to nonconforming advertising signs shall be limited to painting and repair of the existing sign.
  - c. Once a nonconforming advertising sign is removed, taken down, or destroyed (i.e., receiving damage to an extent of more than 50 percent of the replacement cost at the time of destruction), such sign shall not be replaced with another sign unless such sign is in conformance with this chapter.
2. Nonconforming business or identification signs shall be allowed to continue, provided that:
  - a. Signs which are nonconforming with respect to size or illumination requirements may be repaired and/or repainted or relettered provided such nonconformance is not increased. No other changes to this category of nonconforming signs shall be allowed.
  - b. Signs which are nonconforming with respect to location or number permitted or any other provision of this article shall not be altered in any way except to make such sign comply with the provisions of this chapter.
3. Signs associated with a legal nonconforming use of a structure or land shall be allowed to continue, provided that:
  - a. Nonconforming signs associated with a nonconforming use of a structure or land shall not be changed except to make such signs comply with the applicable sign regulations for the district in which said use or land is located.
  - b. Replacement signs for a legal nonconforming use of a structure or land shall be permitted in accordance with the applicable sign regulations for the district in which said use or land is located.

**G. Abandonment.** A nonconforming use of a structure, nonconforming use of land, nonconforming structure, or nonconforming sign which has been abandoned shall not thereafter be reestablished. Such structures or land shall thereafter be used only for such purpose as permitted in the applicable zoning districts and in full compliance with this chapter.

**H. Alterations.** If a nonconforming building, or a building housing a nonconforming use, has been damaged to a degree of less than 50 percent of its replacement cost, then such structure may be restored to the same degree of nonconformity as existed before such damage.

**I. Change of tenancy or ownership.** There may be a change in tenancy, ownership, or management in an existing nonconforming use, provided there is no change in the nature or character of such nonconforming use and that all other applicable requirements of this chapter are met.

**Article 2. Planning and Development Regulation Jurisdiction.**

**D-201. Planning and development regulation jurisdiction.** These regulations shall govern the use of all land and the development thereof within all of the incorporated area of the Town of Weddington, and any extraterritorial jurisdiction.

**D-202. Municipal extraterritorial jurisdiction.** [reserved]

**D-203. Split jurisdiction.** See N.C.G.S. 160D-203.

**D-204. Pending jurisdiction.** See N.C.G.S. 160D-204.

**Article 3. Boards and Organizational Arrangements.**



**D-301. Planning boards.** The Town previously created a planning board of the Town (“Planning Board”). Such Planning Board shall continue to provide the functions as set forth herein.

- A. Composition and vacancies; attendance at meetings.** The planning board shall consist of seven members. All members shall be citizens and residents of the Town and shall be appointed by the Town Council. Members shall be appointed for terms of four years; provided that vacancies occurring for reasons other than expiration of term shall be filled as they occur for the unexpired remainder of the term. Town Council has set the dates of the terms for membership on the Planning Board.
- B. Organization; rules; meetings and records.** The planning board shall elect a chairman and create and fill such other offices as it may determine necessary and appropriate. The term of the chairman and other officers shall be one year, with eligibility for re-election. The chairman shall be elected each year at the March meeting of the planning board. The board shall adopt rules for the transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. The board shall hold at least one meeting monthly, and all of its meetings shall be open to the public.
- C. Jurisdiction; quorum.** For the purpose of taking any action, a majority of the members of the planning board shall constitute a quorum.
- D. Powers and duties generally.**
  - 1. To prepare, review, maintain, monitor, and periodically update and recommend to the Town Council a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
  - 2. To facilitate and coordinate citizen engagement and participation in the planning process.
  - 3. To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
  - 4. To advise the Town Council concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.
  - 5. To exercise any functions in the administration and enforcement of various means for carrying out plans that the Town Council may direct.
  - 6. To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
  - 7. To perform any other related duties that the Town Council may direct.

**D-302. Boards of adjustment.** The Town previously created a board of adjustment of the Town. The zoning board of adjustment shall continue to provide the functions as set forth herein.

- A. Composition.** The Board of Adjustment shall consist of five regular members who are residents of the Town and shall be appointed by the Town Council. In addition, two alternate members shall serve on the Board of Adjustment, both residents of the Town, and shall be appointed by the Town Council. Alternate members shall serve in the absence for any cause of any regular member. All members and alternate members shall be appointed by the Town Council for terms to correspond with Planning Board terms. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment. Such alternate member while attending any regular or special meeting of the board of adjustment and serving in the absence of any regular member shall have and may exercise all the powers and duties of such regular members.
- B. Duties.** The board shall hear and decide all matters upon which it is required to pass under any statute or development regulation. As of the effective date of this UDO, the specific duties of the board of adjustment are: (i) Hearing and deciding all appeals from decisions, citations (with and without civil penalties), orders, requirements or other determinations made by the Administrator; (ii) Hearing and deciding appeals that require interpretation of this chapter; (iii) Hearing and granting variances from the provisions of this UDO.

**D-303. Historic preservation commission.** The Planning Board is appointed as the Historic Preservation Commissions and shall have all the powers and duties as provided in N.G.C.S. 160D-303.

**D-304. Appearance commission.** [reserved]

**D-305. Housing appeals board.** [reserved]

**D-306. Stormwater Review Board; Other advisory boards.** The Planning Board is appointed as the Stormwater Review Board for purposes set forth in this UDO. The Town Council may by ordinance establish additional advisory boards as deemed appropriate. The ordinance establishing such boards shall specify the composition and duties of such boards.

**D-307. Extraterritorial representation on boards.** See N.C.G.S. 160D-307.

**D-308. Rules of procedure.** As of the date of this UDO, all boards in existence have Rules of Procedure. Modified rules of procedure that are consistent with the provisions of this UDO and any applicable state statute may be adopted by the Town Council for any or all boards created under this Article. In the absence of action by the Town Council, each board created under this Article is authorized to adopt its own rules of procedure, and amendments thereto, that are consistent with the provisions of this UDO. A copy of any adopted rules of procedure shall be maintained by the Town Clerk or such other official as designated by ordinance and posted on the Town Web site if one exists. Each board shall keep minutes of its proceedings.

**D-309. Oath of office.** All members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61.

**D-310. Appointments to boards.** Unless specified otherwise by statute or local ordinance, all appointments to boards authorized by this UDO shall be made by the Town Council of the Town. The Town Council may establish reasonable procedures to solicit, review, and make appointments.

#### **Article 4. Administration, Enforcement, and Appeals.**

**D-401. Application.** [reserved]

**D-402. Administrative staff.**

**A. Authorization.** As of the effective date of this UDO, the Town Administrator is appointed to administer this UDO in cooperation with Union County and State representatives. The Town Administrator may delegate tasks and responsibilities.

**B. Duties.** Duties assigned to staff include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this UDO; determining whether applications for development approvals are complete; receiving and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction. The administrative and enforcement provisions related to building permits set forth in Article 11 of this UDO shall be followed for those permits.

**D-403. Administrative development approvals and determinations.**

**A. Development Approvals.** No person shall commence or proceed with development within the Town's jurisdiction without first securing any required development approval from the Town. A development approval shall be in writing and may contain a provision that the development shall comply with all applicable State and local laws. A Town may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for

development approval for such development as is authorized by the easement. The development approvals contemplated by this UDO are as follows:

**Table 1: Summary: Approvals; Responsible Party; Type of Decision**

Type of Decision	Approval	Responsible Party (final decision-maker)	Comments
Legislative	UDO Text Amendment	Council	
Legislative	Zoning Map Change	Council	
Legislative	Conditional Zoning	Council	
Quasi-judicial	Variance	Zoning Board of Adjustment	
Quasi-judicial	Appeal of Decision by Zoning Administrator	Zoning Board of Adjustment	
Administrative	Subdivision Plats	Administrator	Includes confirmation that proposed development is in conformity with applicable zoning requirements previously imposed by the Council
Administrative	Construction Plans, Sign Permits, Zoning Permits, Grading Permits, and Building Permits (County)	Administrator (or Union County or third-party service provider)	
Administrative	Misc. Temporary Use Permits	Administrator	

Submittal requirements for all referenced developments approvals are set forth in **Appendix 2**.

- B. Determinations and Notice of Determinations.** The Town Administrator is charged with making determinations under the development regulation. The Town Administrator shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.
- C. Duration of Development Approval.** Unless a different period is specified by this UDO or other specific applicable law, or a different period is provided by a quasi-judicial development approval, a development agreement, or a local ordinance, a development approval issued pursuant to this UDO shall expire one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. Local development regulations may provide for development approvals of shorter duration for temporary land uses, special events, temporary signs, and similar development. Unless provided otherwise by this UDO or other specific applicable law or a longer period is provided by local ordinance, if after commencement the work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire. The time periods set out in this subsection shall be tolled during the pendency of any appeal. No work or activity authorized by any development approval that has expired shall thereafter be performed until a new development approval has been secured. Nothing in this subsection shall be deemed to limit any vested rights secured under G.S. 160D-108.
- D. Changes.** After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. A Town may define by ordinance minor modifications to development approvals that can be exempted or administratively approved. The Town shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval.

- E. Inspections.** Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; 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.
- F. Revocation of Development Approvals.** In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the Town by notifying the holder in writing stating the reason for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a Town pursuant to this UDO, the provisions of G.S. 160D-405(e) regarding stays shall be applicable.
- G. Certificate of Occupancy.** The Town may, upon completion of work or activity undertaken pursuant to a development approval, make final inspections and issue a certificate of compliance or occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit required by Article 11 of this UDO shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to G.S. 160D-1114 has been issued.
- H. Optional Communication Requirements.** A regulation adopted pursuant to this UDO may require notice and/or informational meetings as part of the administrative decision-making process.

**D-404. Enforcement.**

- A. Notices of Violation.** When staff determines work or activity has been undertaken in violation of a development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.
- B. Stop Work Orders.** Whenever any work or activity subject to regulation pursuant to this UDO or other applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the Town that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

**C. Remedies.**

1. Subject to the provisions of the development regulation, any development regulation adopted pursuant to authority conferred by this UDO may be enforced by any remedy provided by G.S. 160A-175 or G.S. 153A-123. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this UDO or of any development regulation or other regulation made under authority of this UDO, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.
2. When a development regulation adopted pursuant to authority conferred by this UDO is to be applied or enforced in any area outside the planning and development regulation jurisdiction of a Town as set forth in Article 2 of this UDO, the Town and the property owner shall certify that the application or enforcement of the Town development regulation is not under coercion or otherwise based on representation by the Town that the Town's development approval would be withheld without the application or enforcement of the Town development regulation outside the jurisdiction of the Town. The certification may be evidenced by a signed statement of the parties on any development approval.
3. In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated pursuant to this UDO is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the development regulation or other provisions of this UDO, the Town, the historic preservation commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object. Such remedies shall be in addition to any others authorized by this UDO for violation of an ordinance.

**D-405. Appeals of administrative decisions.**

- A. Appeals.** Except as provided in subsection (C) of this section, appeals of decisions made by the staff under this UDO shall be made to the board of adjustment. Appeal of a decision made pursuant to an erosion and sedimentation control regulation, a stormwater control regulation, or a provision of the housing code shall not be made to the board of adjustment unless required by a Town ordinance or code provision.
- B. Standing.** Any person who has standing under G.S. 160D-1402(c) or the Town may appeal an administrative decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal.
- C. Judicial Challenge.** A person with standing may bring a separate and original civil action to challenge the constitutionality of an ordinance or development regulation, or whether the ordinance or development regulation is ultra vires, preempted, or otherwise in excess of statutory authority, without filing an appeal under subsection (A) of this section.
- D. Time to Appeal.** The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- E. Record of Decision.** The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- F. Stays.** An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent

peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or Town may request, and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

- G. Alternative Dispute Resolution.** The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The development regulation may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

**D-406. Quasi-judicial procedure.**

- A. Process Required.** The applicable decision-making body shall follow the statutory procedures for all quasi-judicial development decisions, including variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. These requirements are set forth in this Section D-406.
- B. Notice of Hearing.** Notice of evidentiary hearings conducted pursuant to this UDO shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
- C. Administrative Materials.** The Administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
- D. Presentation of Evidence.** The applicant, the Town, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.
- E. Appearance of Official; New Issues.** The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the Town, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.
- F. Oaths.** The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during

a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

- G. Subpoenas.** The board making a quasi-judicial decision under this UDO through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the Town, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.
- H. Appeals in Nature of Certiorari.** When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).
- I. Voting.** The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- J. Decisions.** The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the Town that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.
- K. Judicial Review.** Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d).

## **Article 5. Planning.**

### **D-501. Plans.**

- A. Preparation of Plans and Studies.** The Town has adopted, and reasonably maintains, a comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. A comprehensive plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction based on an analysis of present and future needs. Planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. The planning process shall include opportunities for citizen engagement in plan preparation and adoption. In addition to a comprehensive plan, a Town may prepare and adopt such other plans as deemed appropriate. This may include, but is not limited to, land-use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans. If adopted pursuant to the process set forth in this section, such plans shall be considered in review of proposed zoning amendments.

- B. Contents.** A comprehensive plan may, among other topics, address any of the following as determined by the Town that are identified in N.C.G.S. 160D-501:
1. Issues and opportunities facing the Town, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.
  2. The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.
  3. Employment opportunities, economic development, and community development.
  4. Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.
  5. Housing with a range of types and affordability to accommodate persons and households of all types and income levels.
  6. Recreation and open spaces.
  7. Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.
  8. Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.
  9. Protection of significant architectural, scenic, cultural, historical, or archaeological resources.
  10. Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.
- C. Adoption and Effect of Plans.** Plans shall be adopted by the Town Council with the advice and consultation of the planning board. Adoption and amendment of a comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-601. Plans adopted under this UDO may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including, but not limited to, the plans required by G.S. 113A-110. Plans adopted under this UDO shall be advisory in nature without independent regulatory effect. Plans adopted under this UDO do not expand, diminish, or alter the scope of authority for development regulations adopted under this UDO. Plans adopted under this UDO shall be considered by the planning board and Town Council when considering proposed amendments to zoning regulations as required by G.S. 160D-604 and G.S. 160D-605. If a plan is deemed amended by G.S. 160D-605 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not be effective until that review and approval is completed.

**D-502. Grants, contracts, and technical assistance. [reserved]**

**D-503. Coordination of planning. [reserved]**

## **Article 6. Development Regulation. (Overview of Procedures)**

### **D-601. Procedure for adopting, amending, or repealing development regulations.**

- A. Hearing with Published Notice.** Before adopting, amending, or repealing any ordinance or development regulation authorized by this UDO, the Town Council shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- B. Notice to Military Bases. [reserved]**
- C. Adoption of Development Regulations by Ordinance.** A development regulation adopted pursuant to this UDO shall be adopted by ordinance.
- D. Down-Zoning; Property Owner Consent Required.** No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated



by the Town. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways: (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage. (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

**D-602. Notice of hearing on proposed zoning map amendments.** Notices on proposed zoning map amendments, specifically including amendments to CZ districts, shall be provided in accordance with N.C.G.S. 160D-602. Additionally, the person proposing the map amendment to neighboring property owners and residents may be required to report on any communication with neighboring property owners and residents. Specifically, notification of the public hearing shall be made in the following manner:

- A. A notice shall be published in the newspaper having general circulation in the area once a week for two successive weeks, the first notice to be published not less than ten days, nor more than 25 days prior to the date established for the hearing. In computing such time, the date of publication is not to be included but the date of the hearing shall be included.
- B. A notice shall be conspicuously placed in the town hall not less than ten days, nor more than 25 days before the date established for the public hearing. However, failure to post a notice as provided by this section shall not invalidate any action taken with regard to the application.
- C. A notice shall be prominently posted on the subject property or on an adjacent public street or highway right-of-way. When an application concerns multiple parcels, a posting on each individual parcel is not required, but sufficient notices shall be posted to provide reasonable notice to interested persons.
- D. A notice shall be sent by first class mail to all owners of parcels of land abutting the subject property. The owners shall be identified by county tax listings and the notice shall be sent to the last address listed for each owner on the county tax abstracts. The notice shall be deposited in the mail at least ten, but not more than 25, days before the date of the public hearing. In computing notice periods under this section, the date of mailing is not to be included, but the date of the hearing shall be included.
- E. A notice shall be sent by first class mail to the owner of the subject property. The owner shall be identified by county tax listings and the notice shall be sent to the last address listed for the owner on the county tax abstracts. This notice shall be deposited in the mail at least ten, but not more than 25, days before the date of the public hearing. In computing notice periods under this section, the date of mailing is not to be included, but the date of the hearing shall be included.
- F. The Administrator shall certify that the requirements of subsections (a)—(d) of this section have been met. The Town shall charge the applicant a separate fee to cover costs incurred.

**D-603. Citizen comments and input (Public Hearing before Council).** If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the Town Clerk at least two business days prior to the proposed vote on such change, the Town 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-705 or any other statute, the Town 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 board shall not disqualify any member of the board from voting.

**D-604. Planning board review and comment.** All proposed amendments to this UDO or zoning map (specifically including any CZ rezoning) shall be submitted to the Planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the planning board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

**D-605. Governing board statement.**

- A. **Plan Consistency.** When adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication

in the minutes of the Town Council that at the time of action on the amendment the Town Council was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Town Council statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

- B. Additional Reasonableness Statement for Rezoning.** When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Town Council. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Town Council statement on reasonableness may address the overall rezoning.
- C. Single Statement Permissible.** The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

**D-606 Voting Majority Vote Sufficient on First Reading.** A legislative decision for development regulation on a matter for which there has been a public hearing as set forth herein is permitted on first reading by simple majority vote. There is no need for two-thirds majority on first reading, as was required for cities under prior law.

**D-607 Weddington Specific Process Steps for Legislative Decisions.** The specific process steps for the various legislative decisions contemplated by this UDO are as follows:

**A. Text Amendment to this UDO.**

- 1. Application.** See Appendix 2.
- 2. Staff review.** Staff reviews a requested text amendment and all relevant information. Staff then typically prepares a written report and provide any recommendations to the Planning Board and Town Council.
- 3. Planning Board review and recommendation.** The Planning Board shall review a requested text amendment and make a recommendation to Town Council. Upon making a recommendation, the planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council.
- 4. Public Hearing (after notice as provided above; including citizen comment as noted above).**
- 5. Council Decision.** Decisions regarding text amendments are legislative decisions. The Town Council shall have the authority to:
  - a. Adopt proposed text amendment as written;
  - b. Adopt the proposed amendment as revised by the Planning Board or Town Council; or
  - c. Reject the proposed text amendment.

**B. Zoning Map Change (that is not a conditional zoning request)**

- 1. Application.** See Appendix 2.
- 2. Staff review.** Staff reviews a requested zoning map change and additional relevant information such as the land plan. Staff then typically prepares a written report and provide any recommendations to the Planning Board and Town Council.
- 3. Planning Board review and recommendation.** The Planning Board shall review a requested zoning map change and make a recommendation to Town Council. Upon making a recommendation, the

planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council.

4. **Public Hearing (after notice as provided above; including citizen comment as noted above).**
5. **Council decision.** Decisions regarding zoning map changes are legislative decisions. The Town Council shall have the authority to:
  - a. Adopt proposed zoning map amendment as presented; or
  - b. Reject the proposed zoning map amendment

**C. Conditional Rezoning.**

1. **Preapplication meeting (required for conservation residential development only).** Any person contemplating a conditional rezoning is strongly encouraged to have a preapplication meeting with the Administrator in order that questions may be answered, and that the applicant may gain a better understanding of the requirements of this UDO. A preapplication meeting is required for conservation residential developments.
2. **Existing Resource/Site Analysis Plan and Yield Plan (conservation residential development only).** The following information shall be submitted for all proposed conservation residential developments:
  - a. Existing resources and site analysis plan, which shall be prepared to provide the developer and the Town with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site (for tracts of 100 acres or less) or 1,000 feet of the site (for tracts over 100 acres).
  - b. A yield plans. A yield plan designed to be density neutral (i.e., allow for the same number of lots as could be platted under applicable subdivision requirements as a conventional subdivision, with a minimum lot size of 40,000 square feet). Yield plans must show all proposed lots, streets, rights-of-way, and other pertinent features that would be required for a sketch plan for major conventional subdivisions as identified in **Appendix 2**. Although the yield plan must be drawn to scale, it need not be based on a field survey. However, the yield plan must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, considering the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal.
3. **On Site Visit and Charette Process (conservation residential development only).**
  - a. **On-site visit/charrette.** After preparing the existing resources and site analysis map and prior to the submission of the site plan, the Applicant shall schedule time to walk the property with the Administrator, Planning Board members, and adjacent property owners. The purpose of this visit is to familiarize staff and Planning Board members with the property's special features, and to provide them an informal opportunity to offer guidance to the applicant regarding the tentative location of secondary conservation areas, potential house locations and street alignments. A notice giving the date, time and purpose of the meeting shall be sent by the Town to adjacent property owners at least ten days prior to the site walk. The Applicant shall distribute copies of the existing resources and site analysis plan at the on-site meeting. Applicants, their site designers, and the landowner shall participate to show the Town the property's special features. Comments made by town officials or staff and consultants shall be interpreted as being only suggestive and advisory. It shall be understood by all parties that no formal recommendations can be offered, and no official decisions can be made during this on-site visit. It is a work session of the Planning Board and is duly noticed in the standard manner for all public meetings.
  - b. **Design charrette.** Immediately following the site visit the applicant shall sit down with the Administrator and on-site visit attendees to review the findings and begin the four-step process below. Sketch plans shall be prepared as "overlay sheets" to be lain on top of the

existing resources and site analysis plan, both prepared at the same scale, to facilitate cross-comparison.

- i. **Step one: Designation of conservation lands.** During the first step, all potential conservation areas, both primary and secondary, shall be identified, using the existing features/site analysis map. Primary conservation areas shall consist of those features described in section D-901(c)(20). Secondary conservation areas shall comprise at least half of the remaining land and shall include the most sensitive and noteworthy natural, scenic, and cultural resources as described in section D-901(c)(20). Guidance as to which parts of the remaining land to classify secondary conservation areas shall be based upon discussions at the on-site meeting plus the design standards and specific conservation standards in section D-901(c)(20). An overall goal is to minimize fragmentation of the conservation lands and to maximize connectivity among its parts, and with conservation lands on adjoining properties.
- ii. **Step two: House site location.** During the second step, potential house sites are tentatively located. Generally, house sites should be located no closer than 100 feet from primary conservation areas. Such sites may be situated 50 feet from secondary conservation areas to permit the enjoyment of scenic views without negatively impacting primary conservation areas.
- iii. **Step three: Street alignment and trail networks.** The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical manner, and in laying out a network of informal trails connecting neighborhood areas with open space features within the conservation lands. When lots and access streets are laid out, they shall be located in such a way that avoids or at least minimizes impacts on both primary and secondary conservation areas.
- iv. **Step four: Drawing in the lot lines.** The fourth step consists of drawing in lot lines around potential house sites. Each lot must contain a buildable area of sufficient size to accommodate a single-family detached dwelling and customary accessory uses, including, but not limited to, storage buildings and garages, patios and decks, lawns, and driveways. Individual wells and septic systems, where these are to be provided, may be located within the undivided conservation lands if sufficient space is not available on the lots.

**4. Application, including Site Plan.** See [Appendix 2](#) for requirements.

**5. Community Meeting.**

- a. Before the Planning Board review, the applicant must provide the Administrator with a written report of at least one community meeting held by the applicant.
- b. Reasonable notice of the required community meeting must be given to nearby property owners and to affected and interested parties in accordance with public notice policies. Such notice shall, at a minimum, be given as follows:
  - i. A notice shall be sent by first class mail by the Town to adjacent property owners within 1,300 linear feet, as measured from the exterior boundaries of the proposed development up to the Town limits, not less than ten days prior to the date of the meeting. The notification shall contain information regarding the meeting time and locations as well as a general description of the proposal. The applicant shall reimburse the Town for all expenses incurred for such notifications.
  - ii. A meeting notification sign shall be posted by the Town in a conspicuous place at the property not less than ten days prior to the meeting.
- c. The Applicant's report to the staff, which shall be included in the planning board report, shall include a listing of persons and organizations contacted about the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the application made by the applicant as a result of the meeting.
- d. The adequacy of the meeting and the meeting report must be considered by the Planning Board but is not subject to judicial review.

6. **Staff Review and Report.** Staff shall review the site plan and all relevant information and prepare a report.
7. **Planning Board review and recommendation.** The Planning Board shall review a requested zoning map change and make a recommendation to Town Council. Upon making a recommendation, the planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council.
8. **Public Hearing Before Council (after notice as provided above; including citizen comment as noted above).**
9. **Council Decision.**
  - a. Conditional zoning district decisions are a legislative process. Conditional zoning district decisions shall take into account applicable adopted land use plans for the area and other adopted land use policy documents and/or ordinances.
  - b. A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each application for a rezoning to a conditional district and evaluated by the Town Council.
  - c. The Town Council shall have the authority to:
    - i. Approve the application as submitted.
    - ii. Deny approval of the application.
    - iii. Approve the application with modifications that are agreed to by the applicant; or
    - iv. Submit the application to the Planning Board for further study. The application may be resubmitted to the Planning Board with any modifications that are agreed to by the applicant. The Planning Board shall have up to 30 days from the date of such submission to make a report to the Town Council. Once the Planning Board issues its report, or if no report is issued within that time period, the Town Council can take action on the application in accordance with this subsection.
  - d. In the Town Council's sole discretion, it may hold additional public hearings on an application at any time before it takes a final vote to approve or deny that application.
  - e. In approving an application for the reclassification of a piece of property to a conditional zoning district, the planning board may recommend, and the Town Council may request that reasonable and appropriate conditions be attached to approval of the application. Any such conditions may relate to the relationship of the proposed use to the surrounding property, to proposed support facilities (e.g., parking areas, pedestrian circulation systems), to screening and landscaping, to the timing of development, to street and right-of-way improvements, to water and sewer improvements, to provision of open space, or to any other matters that the planning board or Town Council may find appropriate or the applicant may propose. Such conditions to approval may include dedication of right-of-way or easements for streets and/or utilities to serve the development. The applicant shall have a reasonable opportunity to consider and respond to any such proposed conditions prior to final action by the Town Council.
10. **Amendment Procedures for Approved Conditional Districts.**
  - a. Changes to an Approved Conditional Zoning. Except as provided in Subsection B. below (Administrative Amendment Process for Minor Changes), changes to an approved Conditional Zoning or to the conditions attached to it shall be treated the same as amendments to these regulations or to the zoning maps and shall be processed as a legislative decision in accordance with the procedures in this UDO.
  - b. **Administrative Amendment Process for Minor Changes**
    - i. **Application for an Administrative Amendment.** Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the planning staff detailing the requested change. Upon

- request, the Applicant must provide any additional information requested. Accompanying the letter shall be the applicable fee for administrative review.
- ii. Authority to Approve an Administrative Amendment. The Administrator shall have the delegated authority to approve an administrative amendment change to an approved Conditional Zoning. The standard for approving or denying such a requested change shall be that the change does not significantly alter the Zoning Plan or its conditions and that the change does not have a significant impact on abutting properties. Significant changes to an approved Zoning Plan that cannot be considered through an administrative amendment include the following:
    - (1) Increasing the number of buildings (specifically including residential dwelling units);
    - (2) Adding driveways to thoroughfares.
    - (3) Reducing parking spaces below the minimum standards.
    - (4) Reducing the area or intensity of landscaped or screening buffers or yards.
    - (5) Reducing required open space.
    - (6) Increasing the total number of subdivided lots.
  - iii. The Administrator shall always have the discretion to decline to exercise the delegated authority either because the Administrator is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and Town Council consideration is deemed more appropriate under the circumstances. If the Administrator declines to exercise this authority, the Applicant must file a rezoning petition for conditional zoning approval in accordance with the procedures set forth herein.

**D-608 Weddington Specific Process Steps for Quasi-Judicial Decisions.**

- A. **Variance.** See Section D-705.
- B. **Appeal of Decision of Administrator.** See Section D-705.

**D-609 Weddington Specific Process Steps for Administrative Decisions.**

- A. **Preliminary Plats.** See Article 8.
- B. **Construction Drawings.**
  1. Construction documents and plans for all road improvements, stormwater detention, preconstruction and postconstruction best management practices and grading, soil and erosion control shall be reviewed to confirm compliance with applicable provisions of this UDO. Additionally, detailed landscaping plans and detailed elevations for non-single-family buildings shall also be reviewed for compliance with applicable provisions of this UDO. Documents subject to review under this subsection will be referred to generically as construction documents.
  2. The applicant shall submit all construction documents to the Town's Administrator for review. See **Appendix 2** for submittal requirements.
  3. The applicant shall reimburse the Town for all costs and expenses the Town incurs in reviewing construction documents.
  4. The Administrator will approve all construction documents unless they violate the standards of this UDO.
  5. No construction or development contemplated by any construction document may begin unless and until the Administrator has approved that construction document in accordance with this UDO.
- C. **Final Plat.** See Article 8.

- D. Erosion Control Permits.** Submittal requirements for a zoning permit are listed in **Appendix 2**.
- E. Zoning Permit.** It shall be unlawful to commence the excavation or filling of any lot for the construction of a building or structure, or to begin the construction of any building or structure or part thereof, or to erect or replace a sign (except as permitted in section 58-145, see **Appendix 2**) or to move, alter or add to any structure, or to begin the development of land, until the Administrator has issued a zoning permit for such work. No zoning permit shall be issued except in conformity with the provisions of this UDO.
  - 1. Application for zoning permit. Submittal requirements for a certificate of compliance are listed in **Appendix 2**.
  - 2. Approval process. The Administrator shall review the application, examine the plans and specifications, and may inspect the premises upon which the proposed structure is to be built. A permit shall be issued or denied within 30 working days of receipt of the application. Failure to issue a zoning permit shall constitute denial. After obtaining a zoning permit from the Administrator, the applicant shall apply to the county for a building permit.
  - 3. Expiration of zoning permit. Any zoning permit shall become invalid unless the work authorized by it shall have been substantially begun within a period of six months of the date of issue of the permit. Once a zoning permit has expired, construction work on the lots in question cannot proceed until a new zoning permit is issued.
- F. Building Permit.** As of the date of this UDO, Union County is responsible for the review and approval of building permits. In connection with applying for a building permit, an applicant applies for a zoning permit from the Town. Union County will not issue a building permit until the Town issues a zoning permit.
- G. Certificate of Compliance.** No building hereafter erected or structurally altered or changed in use shall be used or occupied until a certificate of compliance has been issued by the Administrator. The certificate of compliance shall state that the building or portion of a building is in compliance with the provisions of this chapter, and with the information stated on the zoning permit. Submittal requirements for a certificate of compliance are listed in **Appendix 2**.
- H. Certificate of Occupancy.** Additionally, Union County is responsible for the review and approval of certificates of occupancy (CO) upon completion of building. In connection with applying for a CO, an applicant applies for a certificate of compliance from the Town. Union County will not issue a CO until the Town issues a certificate of compliance.
- I. Sign Permits.** Submittal requirements for a sign permit are listed in **D-918K**. Sign Standards and procedures are set forth in D-918K.
- J. Various Temporary Use Permits.** Submittal requirements for a zoning permit are listed in **Appendix 2**.

## **Article 7. Zoning Regulation.**

**D-701. Purposes.** These zoning regulations are made in accordance with the Town’s comprehensive plan and are designed to promote the public health, safety, and general welfare. To that end, the regulations are intended to address the land use plan: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to promote the health, safety, morals, or general welfare of the community. The regulations are made with reasonable consideration, among other things, as to the character of the zoning district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town’s planning and development regulation jurisdiction. The purposes set forth in the Land Use Plan are also incorporated herein by reference.

### **D-702. Grant of power; Limitations regarding regulation of “building design elements”.**

- A.** N.C.G.S. 160D-702 authorizes the Town to adopt zoning regulations. N.C.G.S. 160D-702 specifically limits the application of any regulation relating to building design elements. Specifically, any regulation relating to building design elements adopted under this UDO may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

1. The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this UDO.
  2. The structures are located in an area designated as a historic district on the National Register of Historic Places.
  3. The structures are individually designated as local, State, or national historic landmarks.
  4. The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.
  5. Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.
  6. Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.
- B.** Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.
- C.** For the purposes of this subsection, the phrase "building design elements" means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.
- D.** Nothing in this subsection shall affect the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

**D-703. Zoning Districts and Permitted Uses**

**I. Zoning districts; Zoning Map.**

**B. Conventional Districts.** The Town's existing conventional zoning districts are as follows:

- R-80
- R-60
- R-40
- R-40(D)
- R-CD
- RE
- ED

**C. Conditional Zoning Districts.**

1. As of the date of this UDO, the Town has three existing Conditional Zoning (CZ) districts as follows:
  - B-1 (CZ)
  - B-2 (CZ)
  - MX (CZ)
2. Additionally, property owners may petition the Town Council to consider creating conditional zoning (CZ) districts on a site-specific basis.
3. CZ districts are zoning districts in which the development and use of the property is subject to the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying the CZ district, and the agreed upon site-specific development requirements, to the particular property. All of the property specific standards and conditions (typically including a site plan) are incorporated into the zoning district regulations.



4. As provided in the Table of Permissible Uses some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and/or the entire community that cannot be predetermined and controlled by general district standards and thus are only permitted with a Conditional Zoning district rezoning approval. Additionally, there may be instances where a general zoning district designation is clearly inappropriate for a certain property, but a specific use permitted under that district and subject to restrictive conditions would be consistent with the spirit and objectives of this Ordinance and applicable land plans. Both of these circumstances are reasonably addressed through a Conditional Zoning process.
  5. The rezoning of any parcel of land to a CZ district shall be a voluntary process initiated by the property owner or his authorized agent.
  6. To provide guidance and information, some rules, regulations and conditions that may be incorporated as part of the CZ zoning approval are identified in this UDO. Conditional Zoning is a legislative procedure under which the Town Council has the authority to increase, tighten, add, vary, modify or waive specific conditions or standards.
  7. Once a property has been rezoned to a CZ, it shall be referenced with the letters "CZ" on the Zoning Map.
  8. The process for approval of a CZ district is explained in greater detail in Article 6.
- D. Downtown Overlay District.** As of the date of this UDO, the Town has a single overlay district, the Downtown Overlay District.
1. **Overview.** The downtown overlay shall apply to those parcels designated as future business in the Town of Weddington Land Use Plan and zoning map. All commercial development proposed within any parcels included within this downtown overlay shall also be subject to the requirements of with the section above, and the conditional zoning application process.
  2. **Maintenance of shared facilities within the downtown overlay.** The Town Council may require that the owners, or applicants, create, participate in, or be a signatory to a maintenance agreement with any or all other property owners located within the downtown overlay's jurisdiction. The maintenance agreement shall provide for the maintenance of any shared facilities or spaces within the downtown overlay, potentially including but not limited to, shared open space, pathways, roadways, shared entrances, entryway monuments, decorative street lighting, stormwater facilities, and sewer/septic facilities. Existing property owners shall be allowed to join in any maintenance agreements.
  3. **Access from thoroughfares.**
    - Access to parcels within the overlay district from Providence Road shall be limited to the existing number of access points. Any existing access point may be shifted or modified to accommodate new development and/or parking, subject to council approval and provided the total number of access points is not increased.
    - Access to parcels within the overlay district from Weddington-Matthews Road shall be limited to one shared access point
    - The Town Council may require all applicants proposing new commercial development within the downtown overlay to coordinate with NCDOT and contribute to the cost of construction for the east-west collector road as shown in the local area regional transportation plan. The cost of the contribution will be approved by both the Town Council and NCDOT and may be placed into an escrow account, or a similar account, until sufficient funds are in place for construction of the road.
  4. **Collector Road.** If and when the collector road is constructed, it shall be limited to one shared access point to parcels within the downtown overlay. The Town Council may require that maintenance of the collector road to be the responsibility of any or all of the owners within the downtown overlay, until the point that NCDOT takes over maintenance of the road.
  5. **Connectivity within the Town Center.**
    - Any proposed development site plan must create roadway stubs to connect with any or all adjacent parcels also located within the downtown overlay district.

- Any proposed development site plan must create pedestrian pathway stubs to connect with any or all adjacent parcels also located within the downtown overlay district.
  - Any proposed development site plan must include clearly identifiable crosswalks to allow pedestrians to safely cross parking lots and interior streets.
  - Any proposed development site plan must coordinate with NCDOT and include sidewalks along the thoroughfare or the collector road. Maintenance of the sidewalks must be the responsibility of the property owner or included within a maintenance agreement including several property owners.
  - Any proposed development must include street trees and decorative street lighting to encourage pedestrian activity. All street trees must be included in the Town of Weddington's List of Acceptable Plant Species.
- 6. Open space and natural features.**
- Any proposed development within the Town Center shall be required to provide ten percent open space. The development shall also be required to dedicate an additional ten percent of open space to create shared open spaces. The council will approve the location of any shared open space and may require that the shared open space be located on the boundary of the parcel so that it can be combined with the shared open space of an adjoining parcel.
  - Any application for a conditional rezoning for property within the downtown overlay district shall include an environmental survey locating and detailing all natural features on the property, including but not limited to trees. The Town Council may require that any or all existing natural features on the property be preserved and/or maintained by the property owner as a condition of a conditional zoning approval.
- 7. Design Standards.**
- New construction should align facades with those of any adjacent structures. Exceptions may be granted if the setback is pedestrian-oriented and contributes to the quality and character of the streetscape. An example would be for outdoor dining.
  - All roof equipment must be screened from public view and shall not be visible from the street.
  - All exterior trash and storage areas, service yards, loading areas, transformers and air conditioning units must be screened from view. Camouflaging air conditioning units is an acceptable screening method. The screening must use the same materials, color and/or style as the primary building in order to be architecturally compatible with the adjacent building.
  - Shared entry monuments located at shared access points shall be predominantly brick and compatible with existing entryway monuments within the downtown overlay district. Maintenance of the entry monument structures, and any landscaping associated with the monuments shall be the responsibility of property owners within the downtown overlay district and/or signatories to the maintenance agreement.
  - Decorative street lighting shall be approved by the Town of Weddington and must be installed within any new development proposed within the downtown overlay at the sole cost of the developer. The decorative street lighting should be placed at an appropriate and uniform distance along the roadways or pathways and shall be coordinated with the spacing and locations of the lighting on adjoining parcels within the downtown overlay district.
  - Proposed structures within the downtown overlay district must be designed in a manner that promotes adaptive reuse (as defined in **Appendix 1** (Definitions)).
- 8. Location of Structures.** Proposed structures within the downtown overlay should be located towards the exterior of the parcels (along the thoroughfares) and contain interior parking. The Town Council may approve structures located towards the interior of the parcels if more than one structure is proposed on the same parcel.

9. **Possible Reduction in Parking Requirements (as part of CZ Process).** As part of the conditional zoning process, the Town Council may reduce parking requirements by up to 50 percent if proposed development provides shared parking between more than one use or property owner.
  10. **Infrastructure.** Any new development within the downtown overlay must connect to a sewer system, whether private or public, unless it is shown to be unreasonable to make the connection, or unless the applicant provides a suitable alternative.
- E. **Zoning Map.** The Town’s Zoning Map is incorporated herein by reference. The Zoning Map may be changed by Town Council from time-to-time in accordance with the procedures set forth herein.
- F. **Permitted Uses (by zoning district).**
1. **By-right Uses.** Certain primary uses of land are permitted “by right” (BR) in each conventional zoning district, provided all applicable provisions of this UDO (and any other applicable legal requirements) are satisfied. This UDO also provides for additional supplemental requirements (SR) that are applicable to a certain “by-right” uses of land as set forth in Article 9.
  2. **Conditional Uses.** Others primary uses of land are permitted through the CZ zoning process. This UDO also identifies, in some cases, supplemental requirements (SR) that are likely to be applicable and desirable in connection with any CZ approval. Additionally, a property owner may petition the Town Council through the CZ zoning process to consider permitting primary uses that are not identified as permitted in this UDO (although the Town Council has no obligation to approve any such requests).
  3. Unless a use is allowed as a permitted, been approved through a CZ zoning process, or is a permitted nonconforming use as set forth in Article 1, then such use is expressly prohibited, and such use shall constitute a violation of this UDO.
  4. Permitted uses (BR and CZ) are identified in Table 1, Permitted Uses – Zoning Districts. Standard yard requirements (lot sizes and setbacks) are identified in Table 2, Yard Requirements and Setbacks – Zoning Districts.
  5. Use specific regulations are set forth in Article 9.

**[Permitted Use Table on Following Page]**

Table of Permitted Uses							
Use	Supplemental Regulations	R-80	R-60	R-40	R-40(D)	R-CD	ED
single family dwellings		BR	BR	BR	BR	BR	
mobile homes, classes a and b		BR	BR	BR			
Agricultural uses	D-917D.A.	BR	BR	BR		BR	
Agritourism		CZ	CZ	CZ		CZ	
horse farm or academy	D-917D.B.	BR	BR	BR		BR	
family care home for up to 6 clients	D-917D.C.	BR	BR	BR	BR	BR	
Daycare center (Small Group)		BR	BR	BR		BR	
two family dwellings		-	-	-	BR		-
Customary home occupations	D-917D.F.	BR	BR	BR	BR	BR	
Traditional-Residential Development <=6 lots	D-917A	BR	BR	BR		BR	
Traditional-Residential Development >6 lots	D-917A	CZ	CZ	CZ		CZ	
conservation residential development	D-917A & D-917B.					CZ	
country clubs		CZ	CZ	CZ		CZ	
churches, synagogues, and other places of worship	REF	CZ	CZ	CZ		CZ	
Golf Courses, parks, playgrounds, and community rec centers	D-917D.J	CZ	CZ	CZ		CZ	
emergency governmental service facilities, including police, fire, and rescue		CZ	CZ	CZ	CZ	CZ	
Cemeteries		CZ	CZ	CZ		CZ	
Essential services, classes I and IV		BR	BR	BR	BR	BR	
Essential services, classes II and III	D-917D.I	CZ	CZ	CZ		CZ	
Private Airstrips	D-917D.D.	CZ	CZ	CZ			
telecommunication towers	D-930	CZ	CZ	CZ	CZ	CZ	
Public libraries		CZ	CZ	CZ		CZ	
Amateur radio towers	D-917D.E.	CZ	CZ	CZ		CZ	
Government or town facility		CZ	CZ	CZ		CZ	

post offices							
small cell telecommunication facility	D-931						
School, public and private (including preschool facilities)	D-917D.K		CZ	CZ			CZ
<b>Retail/Office</b>							
Existing B1 B2 and MX CZ's are site specific development approvals and shall follow the uses allowed in those approvals							

**G. Dimensional Requirements (Lot Size, Minimum Lot Size, Maximum Height, Maximum Density, Minimum Lot Width, Minimum Front Yard Setback, Minimum Side Yard Setback, Minimum Rear Yard Setback) (by zoning district).** See Table below for applicable requirements in each zoning district. In the event of a conflict between the standard yard/setback requirements set forth in the Dimensional Requirements Table and any yard/setback requirements specific to a particular use as set forth in Article 9, the use-specific requirement shall control.

	R-80	R-60	R-40	R-40(D)	R-CD Conventional/ Conservation	RE	Non-Residential outside of R districts
<b>Minimum Lot Size</b>	80,000 sq.ft.	60,000 sq. ft	40,000 sq. ft.	40,000 sq ft	40,000 sq ft (traditional) /12,000 sq ft (conservation)	20,000 sq ft	
<b>Maximum Height</b>	35'	35'	35'	35'	35'	35'	40'
<b>Maximum Density</b>							.2 FAR
<b>Minimum Lot Width</b>	150'	125'	120'	100'	120'(traditional)/80'(conservation)	100'	
<b>Minimum Front Yard Setback</b>							
residential uses	65'	60'	50'	40'	50'(traditional)/20'(conservation)		
all other uses	75'	75'	75'		75'		25'
<b>Minimum Side Yard Setback</b>	25'/45' corner	25'/45' corner	15'/25' corner	12'	15'(traditional)/ 5' with 30' separation (conservation)	12'	25'
<b>Minimum Rear Yard Setback</b>	60'	60'	40'	40'	40'(conventional)/30'(conservation)	40'	25'

**D-704. Incentives [to Encourage the Construction that Uses Sustainable Design Principles].** Reserved.

**D-705. Quasi-judicial zoning decisions.**

- A. Board of Adjustment Hears and Decides Quasi-Judicial Matters.** The Board of Adjustment shall hear and decide quasi-judicial zoning decisions. The Board of Adjustment shall follow quasi-judicial procedures as specified in D-406 when making any quasi-judicial decision.
- B. Appeals.** The Board of Adjustment shall hear and decide appeals from administrative decisions regarding administration and enforcement of the zoning regulation or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development. The provisions of G.S. 160D-405 and G.S. 160D-406 are applicable to these appeals.
- C. Special Use Permits.** [reserved]
- D. Variances.**
1. When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:
    - a. hardship would result from the strict application of the regulation. 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 the granting of a variance shall not be regarded as a self-created hardship.
    - d. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.
  2. No change in permitted uses may be authorized by variance.
  3. Additionally, no variances shall be granted by the Board of Adjustment for the following:
    - a. Setbacks for signs and areas and/or height of signs.
    - b. Setbacks for essential services, class III.
  4. No variance for setbacks shall be granted which allows the applicant to reduce the applicable setback by more than 50 percent.
  5. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.
  6. Any order of the Board of Adjustment in granting a variance shall expire if a zoning permit, or certificate of occupancy for such use if a zoning permit is not required, has not been obtained within one year from the date of the decision.
  7. The Board of Adjustment shall hold a hearing on all complete applications no later than 40 days after the application has been filed with the zoning administrator unless consented to by the applicant.

**D-706. Zoning conflicts with other development standards.** When regulations made under authority of this Article require a greater width or size of yards or courts or require a lower height of a building or fewer number of stories or require a greater percentage of a lot to be left unoccupied or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Article shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts or require a lower height of a building or a fewer number of stories or require a greater percentage of a lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of this Article, the provisions of that statute or local ordinance or regulation shall govern.

## **Article 8. Subdivision Regulation.**

**D-801. Authority.** N.C.G.S. 160D-801 authorizes the Town to regulate the subdivision of land within its planning and development regulation jurisdiction.

### **D-802. Applicability.**

**A.** For the purpose of this Article, subdivision regulations shall be applicable to all divisions 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 this definition nor be subject to the regulations authorized by this Article:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in its subdivision regulations.
2. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
4. The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town, as shown in its subdivision regulations.
5. 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.

Subdivisions that are exempt pursuant to this subsection (A) are not required to follow the subdivision procedures set forth herein but are required to otherwise comply with applicable UDO requirements. Accordingly, the Town does have a brief review process to confirm that a proposed division of land is exempt and to review "Exempt Plats" that an owner may want to have recorded, most commonly a "recombination plat" or "lot line revision plat". See Appendix 2 (plat only, confirmation that proposed subdivision is actually exempt).

**B.** As authorized by N.C.G.S. 160D-802, the Town has an expedited review process for a class of subdivisions. Specifically, the Town has an expedited process for "Minor Subdivisions", (defined as six new lots or less) is set forth in Section D-803(a)(1) below.

**C.** Only a plat for recordation for the division of a tract or parcel of land in single ownership is required if all of the following criteria are met:

1. The tract or parcel to be divided is not exempted under subsection (A) of this section.
2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
3. The entire area of the tract or parcel to be divided is greater than 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, if any.
  - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
  - c. A permanent means of ingress and egress is recorded for each lot.

### **D-803. Review process, filing, and recording of subdivision plats.**

**A. Review Process.** The procedures and standards to be followed in granting or denying approval of a subdivision plat prior to its registration are as follows:

1. **Minor Subdivision (6 lots or less, including divisions set forth in Section D-802(C) above).**
  - a. **Preliminary Plat.** Except as set forth in Section 802(C) above, for all Minor Subdivisions a preliminary plat must be submitted to the Administrator along with a fee in accordance with a fee schedule adopted by the Town Council. No application shall be considered complete or

processed by the Administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the Town's engineering and/or consulting services with respect to review of the preliminary plat prior to approval. The Administrator shall review the plat within ten days of its submission for compliance with requirements of this UDO and shall advise the subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and shall approve, approve based on certain conditions, or disapprove the preliminary plat.

- b. **Final Plat.** Within one year of the approval of the preliminary plat, a final subdivision plat must be submitted to the Administrator along with a fee in accordance with the fee schedule adopted by the Town Council. No application shall be considered complete or processed by the Administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the Town's engineering and/or consulting services with respect to review of the final plat prior to approval. No final plat shall be approved until security (e.g., bond, letter of credit) is provided in accordance with Section D-804 (C), below. Technical requirements and certifications for the final plats for Minor Subdivisions are set forth in **Appendix 2**.
- c. The procedure for review of minor subdivisions may be used only once within any three-year period on any property less than 1,500 feet from the original property boundaries. The procedure for review of minor subdivisions may be used by anyone who owned, had an option on, or any legal or beneficial interest in the original subdivision at the time the original subdivision received preliminary or final plat approval.

**2. Major Subdivisions (more than six lots).**

- a. **Conditional Zoning Site Plan (no separate "preliminary plat" needed).** Because proposed development that requires a Major Subdivision review will be reviewed through the Conditional Zoning process, a "preliminary plat" is not required. In other words, the Conditional Zoning Site Plan serves the same function as a preliminary plat. See Section D-607(C) regarding the conditional zoning process and **Appendix 2** for applicable submittal requirements. The applicant for all major subdivisions must submit, with an application for the Conditional Zoning, a maintenance agreement that obligates either the property owner of the open space and conservation land, or other specified party as provided above, to implement the maintenance plan.
- a. **Construction Plans; HOA; Maintenance plans and agreements.** Prior to the approval of a final plats, construction plans shall be submitted to the Town Administrator for review. Additionally, evidence of the creation of a homeowner's association with appropriate maintenance plans and agreements shall be submitted.
- b. **Final Plat.** Within one year of the approval of the Conditional Zoning, a final subdivision plat must be submitted to the Administrator along with a fee in accordance with the fee schedule adopted by the Town Council. No application shall be considered complete or processed by the Administrator unless accompanied by said fee. In addition, the Town shall be reimbursed by the subdivider for all costs associated with the Town's engineering and/or consulting services with respect to review of the final plat prior to approval. No final plat shall be approved until security (e.g., bond, letter of credit) is provided in accordance with Section D-804 (C), below. Technical requirements and certifications for the final plats for Major Subdivisions are set forth in **Appendix 2**.

**B. Outside Agency Involvement.** The following agencies shall be involved in review of final plats:

- The district highway engineer as to proposed State streets, State highways, and related drainage systems.
- Union County Environmental Health and Union County Public Works
- Any other agency or official designated by the Town or having any legal authority to administer applicable permits or legal requirements including NCDEQ.

**C. Final Decision.** Final decisions on a subdivision plat are administrative. The Administrator shall provide notice of the decision in writing as provided by D-403(B).



- D. Permits Required Before Commencing Work; Note re: Coordinating Construction Plans and Applicable Permits.** No land disturbing activity shall commence prior to construction plan approval and issuance of the applicable permits. While not technically part of the subdivision plat process, construction plans are required to be submitted for review and comment (including from outside agencies referenced in subsection B, above) prior to any construction activity. Typically, applicants find it most efficient to submit construction plans simultaneously with preliminary plats and such “parallel” submittals are permitted and encouraged. Additionally, applicable permits (such as Zoning Permits, Erosion Control Permits, and Building Permits) are required. Again, applicants typically find it most efficient to submit for permits simultaneously with applicable plat requirements and such “parallel” submittals are permitted and encouraged.

**D-804. Contents and requirements of regulation.**

- A. Purposes.** The purposes of these subdivision regulations are to provide for the orderly growth and development of the Town; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.
- B. Plats; Compliance with all UDO Requirements.**
1. A plat shall be prepared, approved, and recorded pursuant to the provisions of this UDO whenever any subdivision of land takes place.
  2. All such recorded plats show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice.
  3. Additional standards for plats are set forth in **Appendix 2**.
  4. Street disclosure statement. All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designated as a public street and shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street shall be included with the final plat.
- C. Maintenance Plans and Agreement.** The maintenance plan shall be submitted with an application for preliminary plat approval of the subdivision, and shall be in accordance with the following requirements:
1. The maintenance plan shall specify ownership of required open space.
  2. The maintenance plan shall establish a regular operation and maintenance program appropriate to the uses to be undertaken on the subject open space.
  3. The maintenance plan shall specify required insurance and all maintenance and operating costs and shall define the means for funding the maintenance plan on an ongoing basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs.
  4. Any changes to the maintenance plan shall be approved by the Town Council.
  5. In the event that open space and associated common facilities are not maintained in accordance with the approved maintenance plan, the town may recover the escrow or bond funds to be used for such maintenance and any development permits and approvals may be revoked or suspended.
  6. The property owner of the open space and, if utilized, any other maintaining party by agreement, shall execute a release and indemnity of the town, in a form satisfactory to the town, for any claims or damages arising from the maintenance agreement and maintenance plan or performance thereof.
- D. HOA Created.** Before the approval of a final plat, the developer shall submit to the Town evidence that the developer has created a homeowners' association whose responsibility it will be to maintain common areas, including Conservation Lands and streets. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws and a written maintenance agreement with provision for maintenance of the street until it is accepted as part of the state system. A homeowners'

association that is a holder of a conservation easement or is the owner of Conservation Land or any common areas or spaces, including any private streets' is responsible for maintenance obligations and shall be subject to and comply with all applicable requirements for homeowners' associations as set forth in state statutes. In addition, the following criteria shall be met:

1. The applicant for subdivision approval shall provide the town a description of the organization of the proposed association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for common facilities;
2. The proposed homeowners' association shall be established by the subdivision applicant and shall be operating (with financial underwriting by the applicant, if necessary) before the sale of any dwelling units in the development;
3. Membership in the homeowners' association shall be mandatory for all purchasers of lots within the subdivision and their successors in title;
4. The homeowners' association bylaws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his dues. Such dues shall be paid with the accrued interest before the lien may be lifted;
5. The homeowners' association shall annually provide to the town a listing of the names, addresses and telephone numbers of all its officers and board members;
6. Any proposed changes to the conservation easement that substantively affect the usage, location or maintenance of conservation land within the conservation subdivision must first be consented to and approved by 100 percent of the Town Council and 100 percent of all homeowners.

**E. Improvement and guarantee standards.**

1. **Optional agreement.** In lieu of requiring the completion, installation, and, if applicable, dedication of all improvements prior to final plat approval, the Town may enter into an agreement with the subdivider whereby the subdivider shall guarantee completion of all required improvements as specified on the approved preliminary plat for that portion of the subdivision to be shown on the final plat within two years from the date of final plat approval unless otherwise specified in the written agreement. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Town; provided, however, that all other requirements of this article are met. To secure this agreement, the subdivider shall provide either one or a combination of the following guarantees in an amount equal to 1.25 times the costs, as estimated by the subdivider and approved by the engineer, of installing all required improvements on the approved preliminary plat for that portion of the subdivision to be shown on the final plat. The amount shall be subject to the approval of the Town Council.
2. **Surety performance bond.** The subdivider shall obtain a performance bond from a surety bonding company satisfactory to the Town, as applicable. A surety bonding company must at minimum be: (1) registered to do business with the North Carolina Secretary of State; (2) licensed to issue surety bonds in the State of North Carolina by the North Carolina Department of Insurance; (3) rated at least "B+" by a reputable bond rating agency; and (4) possess a minimum of \$50,000,000.00 in assets. The Town Council may, within its sole discretion, insist upon alternative standards based upon the particular project, the estimated cost of completion of the improvements, and/or other factors indicating higher standards are warranted. The bond(s) must contain the following provisions: (1) the bond(s) shall remain in effect until such time as all improvements are installed and approved by the Town; (2) the surety bonding company, within 15 days of the Town providing notice of default, shall take over and complete all improvements or pay the Town in cash the estimated costs of installing the improvements as determined by the Town's planner or engineer; and (3) the Town shall be able to draw upon the bond(s) in the event that the subdivider defaults upon its agreement with the Town in accordance with subsection (3). Any charges associated with cost calculation or verification shall be borne entirely by the subdivider.
3. **Letter(s) of credit.** The subdivider shall obtain an irrevocable letter(s) of credit issued by a commercial bank satisfactory to the Town Council. The commercial bank issuing the letter of credit must be: (1) organized under the laws of the United States of America or any state of the United States, or the

District of Columbia; (2) authorized to do business in the State of North Carolina; (3) subject to regulation by the State of North Carolina or federal banking regulatory authorities; and (4) possess combined capital stock, surplus, and undivided profits aggregating at least \$100,000,000.00. The Town Council may, within its sole discretion, insist upon alternative standards based upon the particular project, the estimated cost of completion of the improvements, and/or other factors indicating higher standards are warranted. The letter(s) of credit must contain the following provisions: (1) the letter(s) of credit shall be evergreen and shall not be subject to expiration until such time as all improvements are installed and approved by the Town Council, and shall require the issuing commercial bank to give at least 60 days' notice of its intent to terminate the letter(s) of credit, upon which the Town can draw upon the letter(s) of credit; (2) the Town shall be able to draw upon the letter(s) of credit at any time on or before its expiration; (3) the commercial bank shall, upon written notification by the Town Council that the subdivider is in default, immediately pay to the Town the full amount, or any lesser amount of the letter(s) of credit, if requested by the Town Council; (4) the Town shall be able to draw upon the letter(s) of credit in the event that the subdivider defaults upon its agreement with the Town in accordance with subsection (2) of this section; and (5) the letter(s) of credit shall allow for presentment and collection at a location within a 30-mile radius of the Town.

4. **Cash or equivalent surety.** The subdivider shall deposit cash, or other instrument readily convertible into cash at face value, such as a certificate of deposit or treasury-issued security, either with the Town or in escrow with a financial institution designated as an official depository of the Town. The use of any instrument other than cash shall be subject to the approval of the Town Council. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Town Council an agreement between the financial institution and the subdivider guaranteeing the following:
  - a. Said escrow account shall be held in trust for the Town until released by the Town Council and may not be used or pledged by the subdivider in any other matter during the term of the escrow;
  - b. That the financial institution shall, upon written notification by the Town Council stating that the subdivider is in default, immediately pay to the Town all funds in said account, excluding any interest earned; and
  - c. That the duration of said escrow account(s) shall be until such time as all improvements are installed and approved by the Town Council, or until the subdivider provides the Town with an acceptable, alternative guarantee for the completion of installing all remaining required improvements on the approved preliminary plat for that portion of the subdivision to be shown on the final plat. Any charges associated with cost calculation or verification shall be borne entirely by the subdivider.
- F. **Duration of financial guarantees.** The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.
- G. **Extension.** A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in D-804E of and shall include the total cost of all incomplete improvements.
- H. **Release.** The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the Town (or Union County) that the improvements for which the performance guarantee is being required are complete.
- I. **Date of Default (30 days prior to expiration).** All projects whose public improvements are not completed and accepted at least 30 days prior to the expiration of the financial guarantee shall be in default, unless said

guarantee is extended with the consent of the Town Council to a future date not to exceed six months, or to a date determined by Town Council.

- J. **Default.** Upon default by the subdivider, the Town Council, as applicable, may require the surety, the letter of credit issuer, or the financial institution holding the escrow account to pay all or a portion of the bond, letter of credit, or escrow account to the Town. Upon payment, the Town shall expend said funds to complete all or any portion of the required improvements as it deems necessary. For purposes of this section, default shall constitute any of the following: (1) failure on the part of the subdivider to complete, within the time period specified in the agreement in subsection (G) of this section, the required improvements as specified on the approved preliminary plat for that portion of the subdivision to be shown on the final plat; (2) failure on the part of the subdivider to install any improvement in accordance with the specifications or the regulations in the Town's ordinances; or (3) transfer of ownership of any portion of the property or lots located within the subdivision to another person or entity under no legal obligation to install the required improvements (e.g., foreclosure). If one of the above events occurs, nothing herein shall prevent the Town from declaring default prior to the expiration of the time period specified in subsection (G) of this section.
- K. **Release of guarantee surety.** In its sole discretion, the Town Council may release a portion of any security posted as the improvements are completed and recommended for approval by the Town Planner, so long as the Town maintains the posted security in an amount equal to at least 1.25 times the estimated costs of installation of the remaining improvements. However, notwithstanding the above, nothing shall require the Town Council to release any portion of security posted until such time as all improvements are installed and approved by the Town Council. Within 30 days after receiving the Town Planner's recommendation, the Town Council shall approve or not approve said improvements. Once all required improvements on the preliminary plat for that portion of the subdivision to be shown on the final plat have been installed and approved, then all security posted for said improvements shall be released by the Town Council.

**D-805. Notice of new subdivision fees and fee increases; public comment period.**

- A. The Town shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to this Article at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The Town shall employ at least two of the following means of communication in order to provide the notice required by this section.
  - 1. Notice of the meeting in a prominent location on a Web site managed or maintained by the Town.
  - 2. Notice of the meeting in a prominent physical location,
  - 3. Notice of the meeting by electronic mail or other reasonable means to a list of interested parties that is created by the Town for the purpose of notification as required by this section.
- B. During the consideration of the imposition of or increase in fees or charges as provided in subsection (A) of this section, the Town Council shall permit a period of public comment.
- C. This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12.

**D-806. Effect of plat approval on dedications.** The approval of a plat shall not be deemed to constitute the acceptance by the Town or the North Carolina Department of Transportation or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town Council may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its planning and development regulation jurisdiction. Acceptance of dedication of lands or facilities located within the planning and development regulation jurisdiction but outside the corporate limits of the Town shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the Town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits. Unless a city, county, or other public entity operating a water system shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, a city or county shall not, as part of its subdivision regulation applied to facilities or land outside the corporate limits of a city, require dedication of water systems or facilities as a condition for subdivision approval.

**D-807. Penalties for transferring lots in unapproved subdivisions.**

- A. Any person who, being the owner or agent of the owner of any land located within the Town, thereafter subdivides his land in violation of the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such regulation and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. Building permits required pursuant to G.S. 160D-1108 may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.
- B. The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision regulation or recorded with the register of deeds, provided the contract does all of the following:
  - 1. Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
  - 2. Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
  - 3. Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.
  - 4. Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.
- C. The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the register of deeds.

**D-808. Appeals of decisions on subdivision plats.** Appeals of subdivision decisions may be made pursuant to G.S. 160D-1403.

**D-809. Summary Tables.** For ease of reference, the following Tables summarize the review and approval process when property is subdivided.

Table 8A – Overview of process for developments that require a Minor Subdivision (typical, applicant coordinates submittals)



Table 8B- Overview of Process for developments that require Major Subdivision – Traditional Residential Development (typical, applicant coordinates submittals)

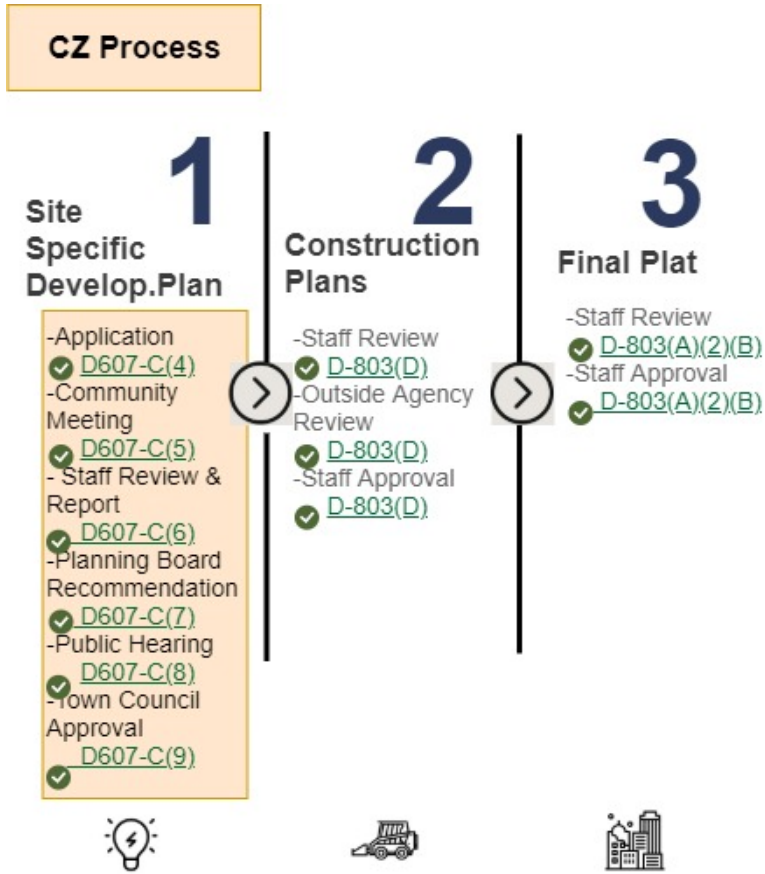
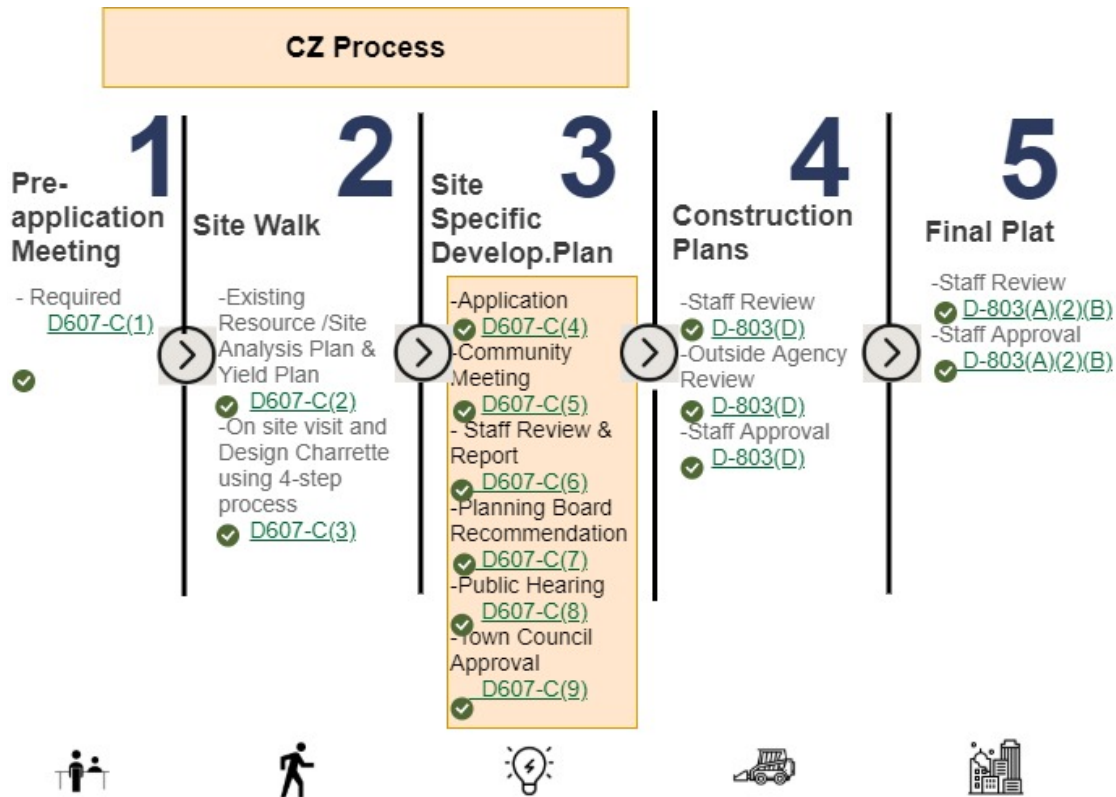


Table 8C- Overview of Process for developments that require Major Subdivision – Conservation Residential Development (typical, applicant coordinates submittals)



**Article 9 Regulation of Particular Uses and Areas**

**D-901. Supplemental Requirements for Particular Uses (General Authority and Specific Statutory Requirements)**

- A. General Authority to Regulate Particular Uses and Areas.** The Town has authority to regulate particular uses and areas in accordance with Chapter 160D of the North Carolina General Statutes, specifically including without limitation Article 9 of 160D.
- B. Specific Requirements and Limitations for Certain Uses Identified in N.C.G.S. 160D, Article 9, Part 1.** N.C.G.S. 160D-902 through 160D-916 set forth certain requirements and limitations for certain specific uses and areas as follows:
  1. Adult businesses. See D-917D.L., below.
  2. Agricultural uses.
  3. Airport zoning.
  4. Amateur radio antennas.
  5. Beehives.
  6. Family care homes. See N.C.G.S. 160D-907 for definitions. See also, D-917D.C., below.
  7. Fence wraps.
  8. Fraternities and sororities.
  9. Manufactured homes.
  10. Modular homes.
  11. Outdoor advertising. Any required removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance shall be in accordance with N.C.G.S. 160D-912. The Town also



has certain signage requirements applicable to Outdoor Advertising as set forth in Section D-918.K, below.

12. Public buildings.
13. Solar collectors.
14. Temporary health care structures.
15. Streets and transportation.

**D-902-D-916. [reserved]**

**D-917A Specific Requirements for All Residential Development - Required Improvements, Dedication, Reservation and Minimum Standards for Residential Development (applicable to both Traditional Residential Development and Conservation Residential Development).**

**A. Orientation of residential lot lines.**

1. Side lot lines shall be substantially at right angles or radial to street lines.
2. Double frontage lots shall be avoided wherever possible.

**B. Location of house sites.** Applicants shall identify house site locations in the tract's designated development areas designed to fit the tract's natural topography, be served by adequate water and sewerage facilities, and provide views of and/or access to adjoining Conservation Lands in a manner consistent with the preservation of the Conservation Lands.

**C. Panhandle lots.** Panhandle lots and other irregular shaped lots may be approved in cases where such lots would not be contrary to the purpose of this UDO, heighten the desirability of the subdivision, and, where necessary, enable a lot to be served by water and/or a waste disposal system. All panhandle lots shall have a minimum road frontage width of 35 feet thereby providing an access strip to the lot. The length of said strip shall not exceed 200 feet. Said strip shall not be used to determine lot area or width or setback lines.

**D. Lots in floodplains.** Lots within floodplains shall not be approved for recordation unless the following provisions are met:

1. Lots wholly subject to flooding. No proposed residential building lot that is wholly subject to flooding, as defined herein, shall be approved.
2. Lots partially subject to flooding.
  - a. No proposed residential building lot that is partially subject to flooding as defined herein shall be approved unless there is established on the lot plan a contour line representing an elevation no lower than two feet above the base flood line as defined in Appendix 7. Floodplain Regulations. All buildings or structures designed or intended for residential purposes shall be located on such a lot such that the lowest useable and functional part of the structure shall not be below the elevation of the base flood line, plus two feet.
  - b. For the purpose of this subsection, the term "useable and functional part of structure" shall be defined as being inclusive of living areas, basements, sunken dens, basement, utility rooms, crawl spaces, attached carports, garages and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits, and wiring, but shall not include water lines or sanitary sewer traps, piping and cleanouts; provided that openings for same serving the structure are above the base flood line.
  - c. Where only a portion of the proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 10,000 square feet. The useable lot area shall be determined by deducting from the total lot area, the area of all yard setbacks required by the applicable zoning regulations and any remaining area of the lot lying within the area of the base flood (100-year flood) as shown on the flood boundary and floodway map described in **Appendix 7** Floodplain Regulations.

**E. Easements.** Easements shall be provided as follows:

1. **Utility easements.** A utility easement of not less than five feet in width shall be provided to the side and rear of each lot and in other locations where deemed necessary. This requirement may be waived by the subdivision administrator if the subdivider can certify on the final record plat where accommodations for such utilities are to be located. Lots in minor subdivisions are exempt from this requirement upon certification that they may be serviced by existing utilities along the public rights-of-

way. Wider easement widths may be required if determined necessary by the utility company involved.

2. **Drainage easements.** Where a subdivision is traversed by a stream or drainageway, an easement shall be provided conforming with the lines of such a stream and shall be of sufficient width as will be adequate for the purpose and in accordance with **Appendix 7** Floodplain Regulations (58-520). Other drainage easements may be required for the proper drainage of all lots.
3. **Access easements.** Private and recorded easements created according to subsection H (Public Roads), below that provide access from an easement lot to a public road.

**F. Subdivision Lots Abut Public Roads; Exception, Easement Lots.**

1. All subdivision lots, except as provided herein and in D-918.A, shall abut public roads.
2. Exceptions to the public road frontage requirements shall be as follows: Any lot or tract shall be allowed to have easement lots created for construction of single-family dwellings as the principal use. Creation of such lots is made necessary by virtue of the fact that development of said property by conventional means (i.e., extension of public street) is impractical due to the disproportionate costs of required improvements as compared to the relative value of lots created and is within the spirit and intent of this UDO. These lots shall be created as follows:
  - a. The applicant shall submit an application with a sketch plat showing the proposed easement lots for approval to proceed further as specified in this section.
  - b. All access easements shall be at least 45 feet in width and shall meet or exceed the state department of transportation minimum standards for subdivision road width where possible. The travel surface of said easement shall be at least 16 feet in width. The travel surface need not be paved. The easement shall be maintained at all times in a condition that is passable for service and emergency vehicles.
  - c. The creation of easement lots shall follow the procedures of a minor subdivision as outlined in Article 8. In addition, a statement shall be placed on the subdivision plat acknowledging that said lots were being created upon a privately maintained and recorded easement, and a statement indicating the parties responsible for maintaining the easement.
  - d. Creation of such easement lots and access easements shall not impair future extension of an adequate system of public streets to serve such lots.
  - e. Easement lots shall not be further subdivided unless the newly created lots abut a public road. Any additional subdivision of easement lots shall be a major subdivision and shall be reviewed using the major subdivision plat approval process.
  - f. If public road access becomes available to easement lots, all affected lot owners shall have the easement terminated of record.

**G. Private Roads and Gatehouses.** New residential neighborhoods may be developed with private roads and gatehouses are permitted in accordance with the following standards:

1. With the exception of the placement of the gate and/or guardhouse in a private street, any private road shall be built to state standards and shall meet all applicable minimum right-of-way, pavement, and construction standards for public roads as established by the state department of transportation.
  - a. A certified engineer shall verify that all private roads within residential neighborhood conform to all required state department of transportation standards for roadway and storm drainage design.
  - b. The NCDOT Built-To Standards Checklist (available at Town Hall upon request) will be required to be submitted to the Town zoning staff for review and approval.
  - c. The Town reserves the right to have streets inspected during the construction phase to ensure that they are being built in accordance with all applicable state DOT standards.
  - d. The developer shall bear all costs borne by the Town in association with such inspections.
2. Before the approval of a final plat, the developer shall submit to the Town the design and layout of any gatehouse, external fence, and walls. Berms shall be located outside any public street right-of-way and shall be designed to blend in, to the greatest degree feasible, with the proposed development and shall be attractive to motorists and pedestrians from adjoining public streets.
3. Neighborhoods which have an entrance gate are subject to the following regulations:

- a. The homeowner's association will provide the access code to the gate and an emergency contact number to the fire department, the Union County Sheriff and other emergency services and will be responsible for maintenance, testing and repairs of all functions of the gate.
  - b. An annual inspection and test of the gate system shall be performed, and the results submitted to Town hall during the renewal window prescribed in the Town of Weddington Annual Enforcement Manual.
  - c. Should there be a problem with the operation of the entrance gate, the gate shall remain open and accessible until the gate is repaired and tested.
  - d. Any homeowners' association that is found to be in violation shall be required to maintain a service agreement with a qualified contractor to ensure year-round maintenance and to submit a copy of the service agreement to Town Hall.
  - e. The maintenance and upkeep of any guardhouses or entry structures, and subdivision walls, fences, or berms located at the external periphery of the development, shall be the sole responsibility of the developer and/or any duly incorporated and active homeowners' association.
4. Prior to the approval of a final plat, the developer shall provide written evidence that the developer has created a homeowners' association whose responsibility it will be to maintain common areas and private streets within the development. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws, and maintenance agreements. See Article 8 for additional details.
- H. Marginal access drive.** Where a tract of land to be subdivided adjoins a thoroughfare as designated on the adopted LARTP or the comprehensive transportation plan maps, and the lots front the thoroughfare, the subdivider shall be required to provide a marginal access drive parallel to the thoroughfare. A marginal access drive shall meet the following requirements:
- 1. The marginal access drive shall be a minimum of 18 feet wide and located on a shared access easement that is a minimum 25 feet wide.
  - 2. The access easement shall be a minimum of 50 feet from the thoroughfare right-of-way.
  - 3. Existing screening shall be kept and/or supplemented between the thoroughfare and access easement.
  - 4. The marginal access drive shall be built to NCDOT specifications.
  - 5. A recorded shared access agreement shall be provided prior to approving the final plat.
- I. Street design and standards.** Minimum street right-of-way and pavement widths, as well as other engineering design standards shall be in accordance with the minimum design criteria for subdivision roads as established from time to time, by the division of highways, state department of transportation publication entitled "Subdivision Roads: Minimum Construction Standards," except where modified by the Town Roadway Standards.
- J. Cul-de-sacs.**
- 1. Permanent dead-end streets shall not provide sole access to more than 16 dwelling units or 1,200 linear feet, whichever is less. Measurement shall be from the point where the centerline of the dead-end street intersects with the center of a through street to the center of the turnaround of the cul-de-sac. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround.
  - 2. When cul-de-sacs end in the vicinity of an adjacent undeveloped property capable of being developed in the future, a right-of-way or easement shall be shown on the final plan to enable the street to be extended when the adjoining property is developed. Cul-de-sacs in conservation residential developments shall generally include a pedestrian connection to the open space behind the lots they serve, preferably at the end of the cul-de-sac.
  - 3. Cul-de-sacs shall generally be designed with central islands (preferably teardrop shaped) where trees are retained or planted. Cul-de-sac pavement and right-of-way diameters shall be in accordance with NCDOT design standards. Designs other than the "bulb" end design with a circular right-of-way will be

subject to the approval of the Division Engineer of the Division of Highways, North Carolina Department of Transportation and the Town Council after review on an individual basis.

4. Cul-de-sacs less than 600 feet long shall generally be designed as "closes," with two one-way streets bounding a central "boulevard island" not less than 35 feet across. This can be easily accomplished by extending the outer edges of the turning half-circle perpendicularly to the street from which the cul-de-sac springs. The central open space offers opportunities for tree planting and "rain garden" infiltration areas for stormwater (particularly when the street pavement is sloped inward toward the central open space).

#### K. Street layout.

1. **Conformity to existing maps or plans.** Streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets. Streets shall be designed and laid out in a manner that minimizes adverse impacts on the Conservation Lands. To the greatest extent practicable, wetland crossings and new streets or driveways traversing steep slopes shall be avoided.
2. **Continuation of adjoining streets.** The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, existing principal streets shall be extended. Street connections shall be designed so as to minimize the number of new cul-de-sacs and to facilitate easy access to and from homes in different part of the tract (and on adjoining parcels). In certain cases where standard street connectivity is either not possible or not recommended, the Town may require the installation of one or more emergency access gates leading to a gravel drive connecting with the adjacent property or roadway. The homeowners' association is responsible for the maintenance, testing and repairs of all functions of emergency access gates. An annual inspection and test of the gate shall be performed, and the results submitted to Town Hall. Any homeowners' association that is found to be in violation shall be required to maintain a service agreement with a qualified contractor to ensure year-round maintenance and to submit a copy of the service agreement to Town Hall.
3. **Large tracts or parcels.** Where land is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further resubdivision.
4. **Through traffic discouraged on residential collector and local streets.** Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed, or walkways offered for dedication to assure convenient access to parks, playgrounds, schools, or other places of public assembly.
5. **Ingress and egress.** Two points of ingress and egress onto an adjoining public road from subdivision containing more than 15 lots is required. In conservation subdivisions, proposals for more than two points of ingress and egress onto any adjoining public road shall be allowed on a case-by-case basis only when determined by the Town Council that it would not have a negative impact on traffic levels and patterns and the viability of the conservation subdivision.
6. **Location of Lots.** Developable lots shall be accessed from interior streets, rather than from roads bordering the tract. Single loaded streets are encouraged to the greatest degree feasible.
7. **Street Design; Terminal Vistas.** Streets shall be designed, wherever practicable, with green "terminal vistas," for example by situating some conservation areas and other open space along the outside edges of street curves (for greater visibility). In addition, other visible open space shall be provided, such as in neighborhood greens that are bordered by streets on several sides, or along non-curving sections of the street system, wherever practicable.
8. **Reservation of future right-of-way.** Whenever a tract of land to be subdivided includes any part of a thoroughfare shown on the comprehensive transportation plan or LARTP adopted by the Town, and whenever such right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the major or minor thoroughfare must be platted in the location and to the width specified in the plan. The subdivider is responsible for the reservation of the right-of-way. All measurements involving minimum lot standards under this UDO will be made at the edge of the full/future right-of-way.

9. **Permits for connection to state roads.** An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at both the Charlotte and Monroe Offices of the Division of Highways.
- L. Subdivision and street naming.** The name of the subdivision and the names of the streets within the subdivision shall not duplicate or closely approximate the name of an existing subdivision or any existing streets within the county.
- M. Utilities.** All new utility lines (electric, water, sewer, telephone, gas, etc.,) shall be located underground (existing above ground lines are not required to be buried).
- N. Connection to public water lines.**
  1. If county or municipal water lines are located within one-half mile of a subdivision of ten to 39 lots, or one mile of a subdivision of 40 lots or more, where the distances are measured along the roadway to the nearest edge of the property, then the developer must connect to these lines to provide water service and fire protection for the subdivision. Extensions to the county water system shall be made in conformance with the policies and procedures set forth in the current Union County Water and Sewer Extension Policy as approved by the Board of County Commissioners and Town.
  2. There may be times when the county cannot issue new water permits due to lack of available capacity. If a developer is denied permits for this reason, the Town may allow the use of individual domestic wells to serve a proposed development provided that the developer still installs water lines to county specifications as initially approved for fire flow only. The developer shall be responsible for proving to the Town that capacity is not available. A determination of what capacity is available and whether to allow the use of individual domestic wells shall lie within the sole discretion of the Town.
  3. The proposed water lines must still meet all the requirements of the Union County Water and Sewer Extension Policy, including providing fire flow protection to the development and taps and meter boxes for each developable lot. If the County and Town approve these plans, then the use of wells may be approved as an interim measure until such time as water capacity becomes available. The developer will be required to provide written proof that Union County will charge the lines for fire hydrant use.
  4. As a condition of approval of the proposed development, the developer or property owner shall require these lots with domestic use wells connect to the county system at such time as the county indicates water capacity is available. Individual wells may be converted to irrigation use at the property owners expense provided such conversion is in conformance with the Union County Building Code and Union County Water and Sewer Specifications. The developer and/or property owner shall be responsible for any fees and charges from the county as a condition of connection to the county water system.
  5. The use of community wells for domestic needs is discouraged and will only be allowed if the water system is built to Union County Water and Sewer Specifications. The system must be capable of meeting the water needs of the community including domestic, irrigation, and fire flow requirements and an agreement exists with the county for: 1) the conditions under which the system becomes part of the county system; and 2) an arrangement is made with the county to tap into the county system for working fire hydrants according to the county specifications.
- O. Buffering.**
  1. Buffering thoroughfares.
    - a. Residential developments shall be designed so that lots face toward either internal subdivision streets or toward existing state roads across Conservation Land such as "foreground meadows."
    - b. Where the side or rear yards of lots may be oriented toward existing thoroughfare roads, a buffer at least 100 feet wide of existing woodland providing adequate visual screening throughout the year is required. The buffer width may be reduced to 50 feet if plantings are installed to include year-round screening.
    - c. Earthen berms are not a permitted design approach as they are inherently nonrural and would inappropriately alter the rural character, even if landscaped.
    - d. If the required buffer exceeds 15 percent of the total acreage of the parcel, the Administrator may reduce the required buffer to an amount equal to 15 percent, provided

that sufficient evergreens are planted to create an effective visual buffer, as described above.

2. Buffering other uses. The buffer requirement is 50 feet between homes in the proposed subdivision and any nonresidential use. Section D-918.I (Screening and Landscaping) lists the required plantings of trees and shrubs within buffers and the standards for planting.

**P. Open space.** Any major subdivision shall be required to provide that a minimum of ten percent of the gross area of the subdivision, exclusive of any required minimum buffers along thoroughfares, consists of common open space. Minor subdivisions are exempt from open space. Fifty percent of any rights-of-way for existing overhead utilities may be counted toward the minimum required open space land. Open space may be used for the limited purposes set forth in Section D-917B..1, below. [Note, this subsection R. is not applicable to conservation residential developments which have a significantly higher open space requirements (Section D-917B, below)].

**Q. Tree Requirements.**

1. **Tree save and Tree replenish requirements.** In order to maintain or replenish the Town tree canopy in any new major residential development the following shall apply:

- a. The tree removal is not permitted within areas that have naturally occurring trees located outside the buildable area of a lot or development. For the purpose of these provisions “buildable area” means all areas located outside of:
  - i. Required zoning district setbacks;
  - ii. Existing and proposed street rights-of-way and easements;
  - iii. Utility and drainage easements.
- b. Each lot created shall contain one existing or planted canopy tree for every 40 feet of street frontage or fraction thereof. Alternatively, the canopy trees can be placed at 40-foot intervals along a street front, irrespective of lot line locations. Street trees shall be a minimum of four feet and a maximum of 12 feet from the edge of right-of-way on private property.
- c. Each lot less than one acre in area shall have a minimum of four canopy trees. Each lot that is one acre or more in area shall have a minimum of six canopy trees. At least two trees shall be located within the front yard and back yard of each lot. Required street trees may be counted towards the fulfillment of this requirement. Existing canopy trees, outside required zoning setbacks that are six inches or larger diameter at breast height, may be counted towards fulfilling this requirement. All canopy shade trees planted within the lot must be spaced to accommodate mature growth. New tree planting for each single-family lot shall be done on a lot-by-lot basis, prior to the issuance of a certificate of occupancy for each lot.
- d. Areas not falling under the on-lot or perimeter landscaping requirements including detention areas and open space areas shall be landscaped with ten (10) understory, fifteen (15) evergreens, and thirty-five (35) shrubs per acre.

2. **Tree Protection**

- a. Property owners are responsible for ensuring that all existing trees shown on approved plans as being retained to meet the requirements of this article are protected during the construction process from removal, destruction, or injury.
- b. Before any excavation takes place on the subject site, a barrier must be erected around the drip line of all such trees sufficient to put on notice all construction personnel that any disturbance of the area within the dripline of such trees is prohibited, except as expressly approved by the administrator. Required tree barriers must be shown on construction plans including the demolition and grading plans.
- c. Clearing or grading shall not commence on the site until tree protection measures have been inspected and approved by the Administrator.
- d. No soil disturbance, filling, compacting, or material storage shall occur within tree protection areas.
- e. In association with the approval of any permit herein required or any site plan or subdivision plat, the Zoning Administrator and/or Town Council may require additional tree preservation

measures above and beyond those listed herein that are deemed to support the tree preservation objectives of this UDO.

3. **Maintenance**
  - a. The property owner is responsible for the maintenance and protection of all required landscaping and screening, in accordance with American Standard for Nursery Stock (ANSI Z60.1) as published by the American Association of Nurserymen
  - b. Failure to maintain landscaping is a violation of this ordinance.
4. **Planting size and specifications**
  - a. Ornamental and understory tree species planted to satisfy the tree planting requirements of this UDO must have a 2-inch minimum caliper size and a minimum height of 6 feet at the time of planting.
  - b. Conifers or evergreen tree species planted to satisfy the tree planting requirements of this article must have a minimum height of 6 feet at the time of planting.
  - c. Canopy tree species planted to satisfy the tree planting requirements of this article must have a 2.5-inch minimum caliper size and a minimum height of 8 feet at the time of planting.
  - d. Tree and Plant Species Tree and plant species listed in the North Carolina Department of Transportation's Invasive Exotic Plants of North Carolina may not be credited toward satisfying the landscaping and screening requirements of this article.
  - e. All new trees planted shall be selected from the suggested species list, which is provided as Appendix 3 (approved plant list), provided that additional species may be used subject to specific approval of the Administrator. All trees must comply with the American Standard for Nursery Stock published by the American Association of Nurserymen.
  - f. All plant material shall be free from disease when planted and shall be maintained in a healthy condition. All plant material shall be installed in a fashion that ensures the availability of sufficient soil and water to sustain healthy growth. All trees shall be properly guyed and staked at the time of planting. All plant materials shall be planted in a manner which is not intrusive to utilities or pavement.
5. **Time for Installation.** All perimeter and open space landscaping for single-family major residential developments shall be completed in accordance with the approved site plan at the time that seventy (70) percent of the development is completed or within the next planting season following occupancy, whichever comes first. If the development is built in phases, then the landscaping shall be completed as seventy (70) percent of each phase is completed or within the next planting season following occupancy, whichever comes first. If plantings cannot be installed, the Administrator may issue a temporary permit and take surety until the landscaping is completed equal to one hundred ten (110) percent of the estimated cost for landscaping improvements.
6. **Replacement.** All landscaping shall be guaranteed for two (2) years from the date of acceptance and shall be replaced by the applicant at no charge to the Town should they die or be in a declining condition in the opinion of the Arborist. The replacement tree shall be the same size, species and quality, unless said species is no longer on the approved species list and shall carry the same two (2) year guarantee. The Town may use the bond or surety to replace plants if the developer fails to perform adequately. After the initial two (2) year period, the landowner or, in the case of plant material in common open space, the homeowners' or property owners' association shall be responsible for maintaining and replacing any plants that die.
7. **Plan Required.** All applications for development and construction activities that are subject to the landscape and screening regulations of this article must be accompanied by a landscape plan. No building permit or similar authorization may be issued until the administrator determines that the landscaping and screening regulations of this article have been met. These measures shall include, but not be limited to, the following:
  - a. Tree landscape plan. The tree landscape plan must show that there will be no grading or land disturbing in the root protection zone. Land disturbing is also considered trenching, placing backfill in the root protection zone, driving or parking equipment in the root protection zone, and dumping of materials detrimental to plant health in close proximity of the tree(s).

- b. Tree landscape protection. Tree protection fencing shall be indicated on the tree landscape plan, grading plan and demolition plans around the perimeter of tree protection areas. Fencing in or around an existing tree canopy to be preserved/saved shall contain an area bounded by a line situated five feet beyond the drip line, for a single tree, and five feet beyond the perimeter drip line for a group of trees. The protection fencing shall consist of colored mesh fabric fencing material, three feet minimum height, with posts eight feet or less on center.
8. **Inspections.**
- a. Agents, officials or other qualified persons authorized by the Town are authorized to inspect the sites subject to the provisions of this UDO to determine compliance with this UDO or rules or orders adopted or issued pursuant to this UDO.
  - b. No person shall refuse entry or access to any authorized representative or agent of the town who requests entry for the purpose of inspection, nor shall any person resist, delay, obstruct or interfere with the authorized representative while in the process of carrying out official duties.
  - c. If, through inspection, it is determined that a property owner or person in control of the land has failed to comply or is no longer in compliance with the provisions of this section or orders issued pursuant to this section, the town will serve a written notice of violation.
9. **Penalties.** In addition to other remedies and penalties provided by law and this UDO, a planting requirement of 4 trees for every tree removed, which may be assessed in addition to or in lieu of any monetary penalties. Where the Administrator has determined that a violation of this UDO has occurred, no certificate of occupancy or certificate of compliance shall be issued until required replacement plantings have been completed or the violation otherwise remedied.

**D-917B Additional Specific Requirements for Conservation Residential Development.**

- A. Minimum Total Acreage.** The minimum total acreage for a Conservation Residential Development is six (6) acres.
- B. Minimum Open Space.**
- 1. At a minimum, fifty percent (50%) of the gross acreage of the tract will be required to be retained as Conservation Land. Not more than 20 percent (20%) of the minimum required area of Conservation Lands shall be comprised of wetlands, submerged lands, steep slopes, floodways, or land under high voltage electrical transmission lines (conducting 69 kilovolts or more).
  - 2. When a proposed conservation residential development project lies on both sides of a major or minor thoroughfare, all attempts should be made to have 50 percent (50%) of each side's gross acreage designated as Conservation Land. However, the Town may allow flexibility on the distribution of Conservation Land in situations where there is greater logic to preserving special features on one side of the road, or due to locating homes on the other side due to the relative absence of special site features with greater conservation value.
  - 3. The minimum percentage and acreage of required Conservation Lands shall be calculated by the applicant and submitted as part of the sketch plan.
- C. Priority for Conservation Lands.** In delineating conservation areas, the applicant shall use the following tier system as a guide, with those lands included in tier A having the highest priority for preservation; provided, however, that in certain portions of the Town, the priorities defined may be altered by the Town in order to maximize achievement of the goals and objectives of maintaining open space through conservation residential development projects:
- 1. Tier A, highest priority.
    - a. Forestlands.
    - b. Steep slopes (greater than twenty five percent (25%)).
    - c. Viewsheds from thoroughfares.
  - 2. Tier B, medium priority.
    - a. Farmlands, meadows, pastures, and grasslands.
    - b. Historic sites.
  - 3. Tier C, lowest priority.



- a. Moderate steep slopes (fifteen to twenty five percent (15% to 25%).
  - b. Rock formations.
  - c. Lands adjacent to parks.
- D. Consistency with Town Plans.** Conservation Lands shall be located in a manner that is consistent with the Town's land use plan and any Conservation Land audit, which identifies an interconnected network of Conservation Lands.
- E. Stream valleys, swales, springs, and other lowland areas.** Stream valleys, swales, springs and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their groundwater recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems. Accordingly, the following activities shall be minimized in such areas:
- 1. Disturbance to streams and drainage swales.
  - 2. Disturbance to year-round wetlands, areas with seasonally high-water tables and areas of surface water concentration.
  - 3. Because of their extreme limitations, stream valleys, swales and other lowland areas may warrant designation as Conservation Lands. They may also require adjoining buffer lands to be included as Conservation Lands, to be determined by an analysis of the protection requirements of such areas as determined by the Town Council on a case-by-case basis upon finding that designation of such areas as Conservation Land would have significant and positive long-term environmental impact on the Conservation Lands
- F. Forestlands.**
- 1. Forestlands often occur in association with stream valleys and wet areas, poor and erodible agricultural soils, and moderate to steep slopes. Forestlands serve many functions, including soil stabilizers, particularly on moderate to steep slopes, a means of ameliorating harsh microclimatic conditions in both summer and winter, a source of wood products, natural wildlife habitats, and visual buffers.
  - 2. Because of their resource values, all forestlands on any tract proposed for a conservation subdivision shall be evaluated to determine the extent to which they should be designated partly or entirely as Conservation Lands. Evaluation criteria include: configuration and size, present conditions, site potential (i.e., the site's capabilities to support forestlands, based upon its topographic, soil and hydrologic characteristics), ecological functions (i.e., in protecting steep slopes, erodible soils, maintaining stream quality and providing for wildlife habitats), relationship to forestlands on adjoining properties and the potential for maintaining continuous forestland areas.
  - 3. The evaluation of the tract's forestlands shall be undertaken consistent with the Town's land audit. This evaluation shall be submitted as a report and made a part of the application for a sketch plan. At a minimum, that report shall include one or more maps indicating boundaries and conditions of forestland areas.
  - 4. In designing a conservation residential development, the applicant shall be guided by the following standards:
    - a. Proposed site improvements shall be located, designed and constructed to minimize the loss or degradation of forestland areas.
    - b. Disturbance or removal of forestlands occupying environmentally sensitive areas shall be undertaken on a limited, selective, as needed basis. In particular, areas to be designed around and conserved, whenever possible, include the following: areas with a high diversity of tree species and tree ages; areas without invasive species; and individual trees of significant diameter. Because different tree species have different growth characteristics, certain species become significant at different diameters. For example, fast-growing species such as conifers become significant at 15 inches dbh. Relatively fast-growing hardwoods such as sweet gum and sycamore become significant at 12 inches dbh. Other hardwoods such as oaks and maples become significant at 12 inches dbh. Understory trees such as dogwood, redbud, waterbeechn, and holly become significant at eight inches dbh.
    - c. No clearing or earth disturbance, except for soil analysis for proposed sewage disposal systems, shall be permitted on a site before preliminary plat approval.

- G. Slopes.** Moderately sloping lands (ten to fifteen percent (10%-15%) and steeply sloping lands (over fifteen percent (15%)) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds, and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.
1. Development in areas containing slopes of fifteen to twenty five percent (15% to 25%) shall be minimized. The only permitted grading beyond the terms described above, shall be in conjunction with the siting of a dwelling, its access driveway, and the septic system.
  2. No site disturbance shall be allowed on slopes exceeding twenty five percent (25%) except grading for a portion of a driveway accessing a dwelling when it can be demonstrated that no other routing which avoids slopes exceeding twenty five percent (25%) is feasible.
  3. Grading or earthmoving on all sloping lands of fifteen percent (15%) or greater shall not result in earth cuts or fills whose highest vertical dimension exceeds six feet, except where in the judgment of the Town's consulting engineer, no other available alternatives exist for construction of roads, drainage structures, and other public improvements, in which case such vertical dimensions shall not exceed 12 feet.
  4. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.
- H. Significant natural areas and features.** Natural areas containing rare or endangered plants and animals, as well as other features of natural significance may exist in the Town. Applicants shall take all reasonable measures to protect significant natural areas and features identified by the applicant's existing resources and site analysis plan, as required in subsection D-607. C.2., by incorporating them into proposed Conservation Lands.
- I. Rural road corridors and scenic viewsheds.** All applications shall preserve the viewsheds along rural roads by incorporating them into Conservation Lands or otherwise providing for building setbacks and architectural designs to minimize their intrusion. Views of developable lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping to the greatest degree possible.
- J. Setback requirements.**
1. Notwithstanding the provisions of this subsection, all principal dwelling units within a conservation subdivision shall be set back at least 100 feet from all external road rights-of-way (i.e., rights-of-way of roads that are external to the proposed subdivision), as depicted on the most current version of the local thoroughfare plan.
  2. In addition, all principal dwelling units shall otherwise be set back a minimum of 50 feet from the external boundaries of the conservation subdivision.
  3. Garages with front-facing loading bays shall be recessed a minimum of two feet from the front facade of the house and visually designed to form a secondary building volume.
- K. Lot Lines and Related Requirements.**
1. Lots shall not encroach upon the designated Conservation Lands. Accordingly, the principal use, a single-family dwelling, shall not be located on Conservation Lands.
  2. A minimum of 95 percent of building lots within the subdivision must share at least one lot line with another lot in the subdivision.
- L. Design standards specific to the Conservation Lands.** Standards to be followed regarding the design of the Conservation Lands are as follows:
1. **Uses of Conservation Lands.** No use or development shall be allowed on primary and required secondary conservation lands except as follows:
    - a. Conservation of open land in its natural state (e.g., forestlands, fields or meadows).
    - b. Agricultural uses, including raising crops or livestock, nurseries and associated buildings, excluding residences, provided that such buildings are specifically needed to support an active, viable agricultural or horticultural operation, and are architecturally compatible with the neighborhood setting. Specifically excluded, but not limited to, are commercial livestock operations involving swine, poultry and mink.
    - c. Pastureland.
    - d. Horse farms or academies.

- e. Forestry, in keeping with established best management practices for selective harvesting and sustained yield forestry.
  - f. Neighborhood uses such as village greens, commons, picnic areas, community gardens, trails and similar low-impact, passive recreational uses.
  - g. Noncommercial recreational areas, such as playing fields, playgrounds, courts and bikeways, provided such areas do not consume more than half of the minimum required conservation land or five acres, whichever is less. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces. Notwithstanding the above, golf courses, their parking areas, and associated structures, shall not be allowed on any required conservation lands.
  - h. Water supply and sewage disposal systems and stormwater detention areas designed, landscaped and available for use as an integral part of the conservation area.
  - i. Easements for drainage, access, sewer or water lines or other public purposes.
  - j. Underground utility rights-of-way. Above ground utility and street rights-of-way may traverse conservation lands but street rights-of-way shall not count toward the minimum required conservation land. 50 percent of the utility rights-of-way may be counted toward the minimum required conservation land.
2. **No Structures; Limited Exceptions.** Except as otherwise permitted, Conservation Lands shall be free of all structures except historic buildings, stone walls, and structures related to Conservation Land uses. Limited exceptions may be considered as part of a conditional zoning process.
  3. **Minimum Size of Conservation Lands; Contiguity.**
    - a. Conservation Lands shall not include parcels smaller than three acres, have a length-to-width ratio of less than 4:1, or be less than 75 feet in width, except for such lands specifically designed as neighborhood greens, playing fields or trail links. Exceptions to this requirement may be granted, on a case-by-case basis, where, due to topography, shape, size, or location of the tract, such requirements are determined by the Town Council when reviewing the preliminary plat to be infeasible, impractical, or serve no meaningful purpose.
    - b. Conservation Lands shall be undivided by streets, except where necessary for proper traffic circulation.
  4. **Minimize Grading; Consistency with Existing Topography.** Conservation residential developments shall be designed to harmonize with the existing terrain, so that mass grading can be minimized, and the natural character of the underlying land will be preserved, to the maximum extent feasible. Site designers shall therefore lay out streets and house lots to conform to the existing topography as much as possible.
  5. **Accessibility.** Conservation Lands shall be directly accessible to the largest practicable number of lots within the neighborhood. Non-adjoining lots shall be provided with safe and convenient pedestrian access to Conservation Land.
  6. **Interconnected.** Conservation Lands shall be interconnected wherever possible to provide a continuous network of Conservation Lands within and adjoining the neighborhood.
  7. **Consistency with Adjoining Conserved or Park Land.** Conservation Lands shall provide buffers to adjoining parks, preserves or other protected lands.
  8. **Pedestrian Pathways.** Except as provided herein, Conservation Lands shall be provided with pedestrian pathways for use by the residents of the neighborhood. Public access shall be provided on such trails if they are linked to other publicly accessible pathway systems within the Town. Provisions shall be made for access to the Conservation Lands, as required for land management and emergency purposes. Access to Conservation Lands for agricultural or horticultural purposes may be appropriately restricted for public safety purposes and to prevent interference with agricultural or horticultural operations.
  9. **Neighborhood green required.** To the greatest extent feasible, each conservation residential development should provide at least one neighborhood green, not less than 10,000 square feet in area, planted with shade trees at 40-foot intervals around the edge.

10. **Identification (Wood Signs of Conservation Areas).** Conservation areas shall be identified with wooden signs and accessed by trails leading from the street system. Trail heads shall be identified either with signage or with short sections of split-rail fencing.
11. **Conservation Lands.** Conservation Lands shall be made subject to such agreement with the Town and such conservation easements shall be duly recorded in the office of the County register of deeds for the purpose of permanently preserving the common open space for such uses.

**M. Resource conservation standards for site preparation and cleanup.**

1. **Protection of vegetation from mechanical injury.** Where earthwork, grading, or construction activities will take place in or adjacent to forestlands, or other significant vegetation or site features, the Town shall require that the limit of disturbance be delineated, and vegetation protected through installation of temporary fencing or other approved measures. Such fencing shall be installed prior to the commencing of, and shall be maintained throughout, the period of construction activity.
2. **Protection of vegetation from excavations.**
  - a. When digging trenches for utility lines or similar uses, disturbances to the root zones of all woody vegetation shall be avoided.
  - b. If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible.

**D-917C Specific Requirements for Non-Residential Development**

**A. Development standards.**

1. **Landscaping, Screening, and Buffers.** Landscaping, screening, and buffers shall meet or exceed the minimum standards as provided per D-918. I. A buffer shall be built and maintained the entire width of the property fronting major or minor thoroughfares and major or minor roads. The buffers shall be built the width of the setback. All such buffers and/or screens shall be built in such a manner as to effectively screen the development from any major or minor thoroughfare and major or minor road, and/or residential or commercial property existing at the time the CZ zoning is approved. All such landscaping, screening and buffers shall include, protect and maintain existing and planted trees.
2. **Parking Decks.** If one or more parking decks are to be built in accordance with the guidelines herein and contain 33 percent or greater of the required off-street parking for the development, the maximum allowable floor area ratio may be increased by the Town Council up to a ratio of 0.25. Parking decks not to exceed three above grade levels of parking may be allowed provided they do not exceed the maximum height provided in subsection 3, below. To the maximum extent possible, such decks shall be built of materials and designed in a manner to blend in with the associated development. Cars on all levels of a structural parking facility must be screened from view from outside the structure. Retail or office uses may be allowed on the periphery of all levels of the parking deck.
3. **Building Height.** The majority of buildings in the development shall be two stories high. However, one-story and/or three-story buildings will also be used to provide a varied skyline for the development. A majority of the gross floor area within the development shall be contained in buildings that are two stories or shorter. All buildings or structures within 50 feet of residentially zoned property shall be limited to two stories and shall have a maximum building height of 35 feet, as measured from ground level to the peak of the roof.
4. **Gross Floor Area.** No individual use within a non-residential development shall have a gross floor area greater than 8,000 square feet, except for supermarkets, libraries, and town and government facilities, which may be as large as 25,000 square feet. Furthermore, individual retail uses having a gross floor area of greater than 20,000 square feet shall not comprise greater than 25 percent of the total gross floor area in the development devoted to retail use.
5. **Design requirements.** The first floors of all nonresidential buildings must be designed to encourage pedestrian activity and use by arranging windows and doors so that individual uses within a building are visible and accessible from the street on at least 50 percent of the length of the first-floor frontage that faces roads, sidewalks, or other areas of significant pedestrian activity. Where the first floor of a nonresidential building has expanses of blank wall, each such expanse of blank wall may not exceed 20 feet in length. The term "blank wall", for the purposes of this section, means a wall that does not contain transparent windows or doors or significant ornamentation, decoration, or articulation.

6. **Pedestrian Friendly.** Nonresidential portions of a development (including, but not limited to, the landscaping, parking, and lighting of those portions) shall be designed so that they encourage and facilitate pedestrian use of those portions. In addition to other design elements that encourage and facilitate pedestrian use, in nonresidential portions of a development, sidewalks shall be placed in front of all principal buildings, and small pocket parks shall be created whenever feasible.
  7. **Off street parking areas.** Large expansive off-street parking lots are not allowed. Accordingly, each off-street parking area shall contain no more than 150 off-street parking spaces and shall meet or exceed the standards in section.
  8. **Internal Streets; private ownership; parking.** Streets within the development may be privately owned and maintained. On-street parking is allowed and may be counted towards meeting the off-street parking requirements. For both on-street and off-street parking, a parking space shall be not less than nine feet in width or less than 20 feet in length, and all parking spaces shall be clearly marked and maintained so that the boundaries of each space may be easily seen. In off-street parking lots with more than 20 standard spaces, one compact parking space may be permitted for every five standard spaces. Each compact space shall be at least seven feet wide and at least 17 feet long, and shall be clearly marked, "compact cars only".
  9. **No outdoor storage.** Any outdoor storage of retail goods is prohibited. Notwithstanding this provision, garden materials such as flowers, plants, shrubs, fertilizer, and pine needles, etc., may be stored outdoors, but only if appropriately located, screened, and secured. Such outside storage shall be allowed only at the sole discretion of the Town Council and shall be included in calculating the floor area ratio for the site.
  10. **Open space.** At a minimum, ten percent of the gross acreage of the project (minus any required setbacks and buffers, utility easements, stormwater detention areas, and marginal lands including, but not limited to, wetlands, floodplains, steep slopes, and bodies of water) shall consist of prominently located and pedestrian-accessible village green open spaces so as to encourage walking and pedestrian activity within the development. No development may occur within any such open space except for the creation of sidewalks, other walking paths, and any type of development commonly found in small public parks, such as statues or other art.
  11. **Stormwater management.** The post development rate of stormwater runoff from any lot shall not exceed the predevelopment rate of runoff for a 10-year storm. The applicant shall provide, at a minimum, the following information to the Administrator as part of his application to obtain a zoning permit:
    - a. An engineering report made and certified as true and correct by a registered engineer licensed to do business in the state. Such report shall include the following:
      - A. The routing of stormwater for the predevelopment and post-development conditions of the proposed building lot.
      - B. Calculations showing the peak estimated rates of runoff using a ten-year return period for predevelopment and post-development conditions for the lot, including each stream leaving the proposed building lot.
      - C. Calculations, plans, and specifications for stormwater retention/detention facilities or other means to effect peak rate attenuation.
      - D. A statement indicating the rate of post-development stormwater runoff for the proposed building lot will not be greater than the predevelopment rate for a 10-year storm.
    - b. A statement from the owner acknowledging responsibility for the operation and maintenance of required retention/detention facilities, and to disclose such obligation to future owners.
- B. Additional Requirements.** For clarity, these supplemental requirements are in addition to other requirements of this UDO. Whenever a conflict arises between an otherwise applicable standard imposed by another provision of this UDO and this section for the non-residential development, the stricter standard shall apply. For example, development occurring within the downtown overlay district must also meet the requirements outlined in the Section D-703.

#### **D-917D Supplemental Requirements for Certain Uses**

- A. Agricultural uses.** Structures housing poultry or livestock and waste removed from any structure shall be located no closer than 150 feet from any property line except that structures housing horses shall be located no closer than 60 feet from any property line. Corrals for bovine and equine animals are exempt from these setbacks.
- B. Horse farm or academy.** Structures housing horses shall be located no closer than 60 feet from any property line. Waste removed from any such structure shall be located no closer than 150 feet from any property line.
- C. Family Care Home.** Consistent with the authority provided in 160D-907 family care homes are prohibited from being located within a one-half mile radius of an existing family care home.
- D. Private airstrips.**
  - 1. The airstrips may be used only by the owners of the land on which the same is located; provided, however, if the airstrip is located on a bona fide farm, any airplanes engaged in crop dusting may use such airstrip in connection therewith;
  - 2. No flying lessons shall be conducted in airplanes flying from or to the airstrip;
  - 3. No commercial sales of airplanes, parts, or fuel shall be conducted at the airstrip;
  - 4. The airstrip shall have been approved by the appropriate state and federal agencies.
- E. Amateur radio towers.** An amateur radio tower may also be located on a lot that contains another principal use or structure. In no instance, however, shall the amateur radio tower be located in the front yard of a lot containing another principal structure.
- F. Customary home occupations.** Customary home occupations may be established in any dwelling unit. The following requirements shall apply in addition to all other applicable requirements of this UDO for the district in which such uses are located:
  - 1. The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential use of the dwelling.
  - 2. No accessory buildings or outside storage shall be used in connection with the home occupation.
  - 3. Use of the dwelling for the home occupation shall be limited to 25 percent of the area of the principal building.
  - 4. Only residents of the dwelling may be engaged in the home occupation.
  - 5. No display of products shall be visible from any adjoining streets or properties. Sales of products are limited to those made on the premises and those which are accessory to the service being provided.
  - 6. No alterations to the exterior appearance of the residence or premises shall be made which changes the residential characteristics.
  - 7. Only vehicles used primarily as passenger vehicles (e.g., automobiles, vans, and pick-up trucks) shall be permitted in connection with the conduct of the customary home occupation.
  - 8. Chemical, mechanical, or electrical equipment that creates odor, light emission, noise, or interference with radio or television reception detectable outside of the dwelling shall be prohibited.
  - 9. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be provided off the road right-of-way.
  - 10. One nonilluminated professional name plate, occupational sign, or business identification sign mounted flush to the dwelling unit and not more than 1½ square feet in area shall be allowed.
- G. Office trailers.**
  - 1. Office trailers are allowed only as a temporary use and may be allowed for a maximum period of six months. Extensions of this period may be granted in the discretion of the Town Council only after a public hearing. See D-919, below for process regarding temporary use.
  - 2. No office trailer shall be used for residential purposes.
- H. Service stations, convenience stores.**
  - 1. On corner properties the driveways shall be located no closer than 30 feet from the point of intersection of two street property lines.
  - 2. Driveways shall be located no closer than 30 feet from adjacent properties in residential districts or from properties used for residential or institutional purposes, and driveways shall be 30 feet wide and shall be designated by curb, planted areas, and landscaping which shall not exceed two feet in height.

3. No gasoline pump and/or canopy shall be located any closer than 80 feet from an existing street right-of-way.
  4. Outdoor lighting shall be permitted in compliance with **Appendix 4** Lighting.
  5. Freestanding canopies may be placed over properly located pumps or pump island, provided that:
    - a. They do not overhang the right-of-way of any street; and
    - b. They are not used as a sign structure or as the sign base.
- I. Essential services, classes II and III.**
1. Where a building or structure is involved and it is proposed to be located in a residentially zoned district, it shall be screened or buffered from adjacent residential land.
  2. All outside storage areas are fenced and screened from adjacent residentially developed areas.
  3. The site is of adequate size for the sewage disposal system proposed and for the proposed use.
- J. Public parks and recreational facilities.**
1. Fencing, scoreboards, and structures in athletic fields may be utilized for customary signs and shall be directed solely towards users of the athletic field. Such individual signs, whether temporary or permanent, shall not exceed 32 square feet in size and shall be permitted by the Administrator in the manner of other permanent, attached (on-structure) signs under **D-918K**, without amendment to the conditional use permit so long as compliance with all standards in this UDO are met.
  2. All structures including signage, scoreboards, fencing, and facilities shall comply with all standards prescribed in this UDO.
  3. Notwithstanding the provisions of this subsection, nothing in this section shall be construed to authorize or otherwise permit the erection of a billboard or sign that is independent of any fencing, scoreboard, backstop, announcer's booth, or concession stand existing within the athletic field.
- K. Schools.** Union County Public Schools (UCPS) is currently subject to 13 different sets of local land use regulations (12 different municipalities and Union County). Regulations vary from jurisdiction to jurisdiction, making it difficult to build new schools, renovate existing schools or locate mobile units in a consistent, timely, and cost-effective manner. As a part of the Union County Board of Education's adopted "Building Program Cost Saving Principles", UCPS is endeavoring to establish a standard zoning classification and standardized requirements for school construction regardless of the school's locale in Union County. Such standardization will result in: (i) equitable school facilities throughout the county; (ii) more efficient permitting of school facilities; and (iii) cost savings for the benefit of the taxpayers of Union County.
1. UCPS staff will involve local municipal staff early in the site selection process. The local municipal staff will make recommendations regarding target sites or areas within their respective jurisdictions that are suitable for school uses. Pursuant to state statute, final decisions regarding the selection of school sites are made by the Union County Board of Education.
  2. Allow all new schools, additions or renovation uses by right with supplemental standards. This will eliminate the costly and time-consuming discretionary (CUP/SUP) zoning process and site-by-site negotiations. All local government entities benefit by having expectations regarding school design and construction identified in advance.
  3. Jurisdictions may consider an optional CZ review process if unique conditions exist as determined by the zoning/planning administrator. The administrator shall consider if the proposed project poses a negative impact on the public health and safety.
  4. Supplemental standards shall include:
    - a. Exterior of buildings:
      - i. Exterior building materials shall be limited to masonry brick (brick or prefinished block), natural or synthetic stucco, prefinished insulated or non-insulated metal panel system, prefinished metal fascia and wall coping, standing seam metal roof (for sloped roof only), painted hollow metal and/or prefinished aluminum door and window frames, glass, painted or prefinished steel.
      - ii. UCPS staff will work with municipality staff to follow any requirements of municipality "special overlay districts" as it relates to the exterior design of the facility.
      - iii. Exterior of buildings will be articulated to enhance the area of the site.
    - b. Mobile classrooms (MCR):

- i. MCR's shall be located in rear yard if possible. If rear yard cannot accommodate the MCR's then they can be placed in the side yard. MCR's can be placed in the front yard only if the MCR's cannot be accommodated in the rear or side yards.
    - ii. MCR underpinning and crawl spaces shall be screened.
    - iii. Landscaping/planting shall be provided between the MCR and any adjacent roads from which the MCR's are visible.
  - c. Sidewalks:
    - i. Sidewalks will not be required if they present a public health and safety hazard; sidewalks on the school property that connect to an existing sidewalk infrastructure will be provided by UCPS. Except as provided above, the municipalities shall be responsible for paying for and constructing sidewalks.
    - ii. UCPS will dedicate appropriate easement or road right-of-way needed for sidewalks if requested by municipality.
    - iii. UCPS will grade areas for sidewalks if requested by municipality.
    - iv. UCPS will cooperate with municipality to apply for grants for sidewalks.
  - d. Exterior illumination:
    - i. Driveway and parking area lighting shall be no more than ten foot-candles. Spill over to adjacent properties shall not exceed one foot-candle for nonresidential use/and or zoning and 0.50 foot-candle for residential use and/or zoning. Lighting fixtures shall be shielding type.
    - ii. Lighting fixtures located on the building exterior shall not emit more than five foot-candles and shall be shielding type.
    - iii. Lighting for athletic fields shall follow the current standards as set forth by the North Carolina High School Athletic Association Lighting Standard. A lighting control package shall be included, and lights shall be shut off no later than one hour after the end of the event.
  - e. Signs:
    - i. Materials for sign base and structure shall match the primary building materials.
    - ii. Sign face shall not exceed 40 square feet and does not include the sign support structure. The bottom of the sign face shall be no less than 24 inches above, nor more than 72 inches above the ground surface. The sign support structure can include columns and walls on either side of and below the sign face and shall not be more than 16 inches taller than the sign face.
    - iii. One sign shall be permitted per school. Alternatively, if multiple schools use the same driveway access, then the allowable square footage may be increased by ten square feet for each additional school.
    - iv. One wall sign per school shall be permitted and only for the name of the school and shall be reviewed by the administrator.
    - v. External illumination is allowed.
  - f. Parking:
    - i. At elementary and middle schools provide one space per staff member plus 1.6 spaces per classroom or one space for each three seats used for assembly purposes whichever is greater.
    - ii. At high schools provide five spaces per instructional classroom or one space for each three seats used for assembly purposes whichever is greater.
    - iii. No more than 20 percent of the required spaces can be compact spaces.
    - iv. Minimum size of spaces shall be nine feet wide by 19 feet long for regular, 7½ feet wide by 15 feet long for compact, and accessible spaces shall meet current accessibility codes.
  - g. Student drop-off stacking: On-site vehicle stacking for student drop-off shall be based on NCDOT requirements using the NCDOT required calculator.
  - h. Landscaping and screening/buffering:
    - i. Trees and shrubs shall be as indicated within the municipality species list.



- ii. Parking area: One large or two small trees shall be provided for each 12 parking spaces. Each parking space shall be located within 65 feet of a tree. Rows of parking spaces shall be terminated with a landscaped island and shall be the same size as a parking space.
  - iii. Parking areas shall be screened from adjacent public roads with shrubs based on the municipality's species list.
  - iv. Storm detention basins shall be screened with fencing and/or shrubs as determined by the administrator and shall be dependent upon the size, location, and use of the basin.
  - v. Land berms will not be permitted between school facilities and roads.
  - vi. Land berms can be used in conjunction with required screening/buffering to adjacent uses as determined by the local regulations.
  - vii. Screening/buffering from adjacent uses will be opaque and shall consist of:
    - a. Small trees planted at a rate of three per 100 feet and six feet high evergreen shrubs planted at a rate of 25 per 100 feet; or
    - b. Large trees planted at a rate of 2.5 per 100 feet and a six-foot high solid wood fence; or
    - c. Tall evergreen trees with branches touching the ground planted in a stagger.
  - viii. If the adjoining property is of similar or compatible use the administrator may reduce or eliminate the screening/buffer.
  - ix. Screening/buffering requirements may be waived when screening/buffering is already provided. There may be cases where the unusual topography or elevation of a site, or the size of the parcel involved, or the presence of screening on adjacent property would make the strict adherence to the regulation serve no useful purpose. In those cases, the administrator is empowered to waive the requirements for screening so long as the spirit and intent of this section and the general provisions of this section pertaining to screening are adhered to. This section does not negate the necessity for establishing screening for uses adjacent to vacant property.
    - i. UCPS will endeavor to adhere to all tree preservation ordinances of the municipalities and shall preserve natural buffers between the school facility and adjacent properties as much as practical.
    - j. UCPS will endeavor to retain as much existing trees and vegetation on school sites as practical and will re-introduce common local species into the project as possible.
5. Stormwater management. The post development rate of stormwater runoff from any lot shall not exceed the predevelopment rate of runoff for a 10-year storm. The applicant shall provide, at a minimum, the following information to the Administrator as part of the application to obtain a zoning permit:
- a. An engineering report made and certified as true and correct by a registered engineer licensed to do business in the state. Such report shall include the following:
    - i. The routing of stormwater for the predevelopment and post-development conditions of the proposed building lot.
    - ii. Calculations showing the peak estimated rates of runoff using a ten-year return period for predevelopment and post development conditions, for the lot, including each stream leaving the proposed building lot.
    - iii. Calculations, plans, and specifications for stormwater retention/detention facilities or other means to effect peak rate attenuation.

- iv. A statement indicating the rate of post-development stormwater runoff for the proposed building lot will not be greater than the predevelopment rate for a 10-year storm.
- v. A statement from the owner acknowledging responsibility for the operation and maintenance of required retention/detention facilities, and to disclose such obligation to future owners.

b. Small cell telecommunication facilities are a permitted use in accordance with D-931.

**L. Adult establishments.** Adult establishments are permitted only in the B-2 district and only if they satisfy the following requirements:

- 1. Any structure containing an adult establishment must be at least 1,000 feet from any residentially zoned property, school, church or house of worship, childcare center, park, or playground (each of which constitutes a protected use). An adult establishment lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a protected use within 1,000 feet of it.
- 2. Any structure containing an adult establishment must be at least 1,000 feet from any other adult establishment.
- 3. For purposes of this section, the distance between a structure containing an adult establishment and a protected use shall be measured by a straight line from the closest edge of the structure containing the adult establishment to the closest portion of the property line of the property on which the protected use is located. For purposes of this section, the distance between two structures containing adult establishments shall be measured by a straight line connecting the closest edges of those structures.
- 4. No more than one adult establishment may be located within a single structure.
- 5. The ordinance from which this section is derived became effective on October 9, 2006. All existing adult establishments that are nonconforming with respect to subsections (1) or (2) of this section, must comply with the provisions of this section within eight years of the effective date.

**M. Accessory uses and structures.** Minor uses or structures which are necessary to the operation or enjoyment of a permitted principal use, and are appropriate, incidental, and subordinate to any such uses, shall be permitted in all districts with certain exceptions as described herein as an accessory use, subject to the following:

- 1. Accessory uses or structures, well houses, and swimming pools shall be located no closer than the setback for the principal building or 15 feet to any side or rear lot line whichever is less. Well houses shall be allowed in any yard.
- 2. Notwithstanding any other provision in this section, any accessory structure with a building footprint exceeding 200 square feet may be located in any nonrequired side or rear yard and must comply with all setback requirements of principal structures for that zoning district.
- 3. In any residential district or on any lot containing a principal residential use, no accessory use or structure shall be permitted that involves or requires any construction features which are not residential in nature or character.
- 4. Accessory uses shall be located on the same lot as the principal use.
- 5. An accessory building other than barns or farm-related structures may not exceed the height of the principal building.
- 6. Other than barns or farm-related structures, the total combined square footage of all accessory structures (including above ground swimming pools) on any parcel less than six acres shall not exceed two-thirds of the footprint of the principal building. On lots 6 acres or greater, the total combined footprints of all principal and accessory structures (including above ground swimming pools) shall not exceed 15 percent of the gross lot area.

7. Roofed accessory uses physically attached or connected to the principal building shall be considered a part of the principal building and shall be subject to the setback requirements for the principal building.
8. A swimming pool shall be considered an accessory use. A swimming pool can be located in the rear yard on all residential properties, or in the side yard provided the principal structure has a minimum 200-foot front setback and the pool will have a minimum 150-foot side setback. In all other situations, it will be subject to a conditional use approval as provided in Article III of this UDO.
9. Occupancy of a travel trailer, recreational vehicle (RV), or licensed motor vehicle as an accessory family dwelling shall be permitted for no more than 30 total days per calendar year.
10. Accessory family dwellings: An incidental structure or an incidental area within a primary structure that is capable of being used as a separate dwelling and that is generally occupied and used by a different person(s) than the person(s) that generally occupies and uses the property's primary dwelling. Such a separate structure or area shall be considered an accessory family dwelling whether it is detached from the primary dwelling, attached to the primary dwelling, or partially or completely contained within the primary dwelling.
11. When allowed, accessory family dwellings shall be subject to the following additional requirements:
  - a. Accessory family dwellings shall comply with all applicable provisions of the Weddington Code of Ordinances.
  - b. At least one additional off-street parking space shall be provided for the use of those occupying the accessory family dwelling unless the Administrator determines that sufficient off-street parking already exists to accommodate both the property's primary dwelling and the accessory family dwelling.
  - c. An accessory family dwelling shall be allowed only on lots that meet the minimum lot area requirement of the applicable zoning district.
  - d. Only one accessory family dwelling shall be allowed per lot.
  - e. The accessory family dwelling shall meet all setback requirements applicable to principal structures in the zoning district.
  - f. The heated floor area of the accessory family dwelling shall not exceed 30 percent of the gross floor area of the primary dwelling. *Commentary:* Examples of accessory dwelling square footage are: A 1,333 square foot primary dwelling is needed for a 400 square foot accessory family dwelling. (30 percent of 1,333 = 400).
  - g. The property including the accessory family dwelling shall retain a single-family appearance from the street. By example only and not for purposes of limitation, the accessory family dwelling shall not have its own separate mailbox, and it must share driveway access with the primary dwelling.

**D-918. General Requirements.**

- A. Lot to abut a public street; exceptions.** No building or structure shall be erected or located, nor shall any principal use be instituted on a lot which does not abut a public street with the following exceptions:
  1. A single-family dwelling or mobile home may be constructed on a lot which does not abut a street, provided such lot existed prior to the date the ordinance from which this UDO is derived became effective and provided such lot is provided access to a public street by an easement at least 20 feet in width for occupants of the dwelling established on such lot and further provided that such easement is maintained in a condition passable for service and emergency vehicles. Said easement may also be used where needed for the installation and maintenance of utility facilities.
  2. Easement lots created pursuant to D-917A.F.2
- B. One principal building permitted on single lot. Single-family residential district; duplex district.** In any single-family residential district, one principal single-family dwelling unit or one mobile home and one accessory family dwelling unit and accessory structures shall be permitted on a single lot which meets at least the

minimum requirements of this UDO. Accessory family dwelling units may not be permitted in the two-family district (R40-D).

- C. Visibility at intersections.** No structures, buildings, or other improvements over 3½ feet high will be permitted within ten feet of the right-of-way of an intersection, except as provided in subsection I (Screening and Landscaping).
- D. Floodplain.** All subdivision proposals shall be consistent with the need to minimize flood damage. See **Appendix 7** Floodplain Regulations.
- E. Public Utilities.** All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems, if available, located and constructed to minimize flood damage.
- F. Outdoor lighting.** Outdoor lighting shall be so located as not to reflect on adjacent property or on public streets in such manner as to adversely affect the enjoyment of adjacent property or endanger the motorist traveling such streets. All outdoor lighting shall conform to the Town lighting regulations.
- G. Lighting.** See **Appendix 4**.
- H. Architectural Standards [non-residential].** See **Appendix 5**.
- I. Screening and landscaping.**
  - 1. Screening required by any of the following or by any other section of this UDO shall be provided in accordance with the following standards:
    - a. Such screening shall be located on the property with the use with which it is associated or required and shall materially screen the subject use from the view of the adjoining properties.
    - b. Screening shall be in the form of all-natural material, including brick with no exposed cement block.
    - c. When screening is in the form of natural vegetation, a buffer strip at least ten feet wide shall be planted. This strip shall be free of all encroachments by building, parking areas, or impervious coverage.
  - 2. Buffer requirements include a given minimum distance separation from the property line and required planting trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the lot, shall be as listed in the following table:

**BUFFER REQUIREMENTS TABLE**

ACRES	less than 0.5	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10 or more
WIDTH*	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50
TREES (per 100 ft)	3		4			5			6			7			8			9			
SHRUBS (per 100 ft)	20																				20

\*The minimum width of a buffer may be reduced by an additional 20 percent if a fence or wall is constructed in accordance with these regulations.

ft = feet

3. The width of the buffer may be reduced by 20 percent if a wall or fence is provided that meets the following standards:
  - a. Any fence or wall shall be constructed in a durable fashion of brick, stone, other masonry materials, or wood posts and planks, or metal or other materials specifically designed as fencing materials, or any combination thereof as may be approved by the Administrator.
  - b. No more than 25 percent of the fence surface shall be left open, and the finished side of the fence shall face the abutting property.
  - c. A chain-link fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this section when abutting residential uses and districts; and
  - d. Walls and fences shall be a minimum height of six feet.
4. Required trees and shrubs within the buffer shall meet the following standards:
  - a. Forty percent of the required trees within the buffer shall be large mature trees;
  - b. All trees shall have a minimum caliper of two inches measured six inches above ground at the time of planting;
  - c. Shrubs shall be evergreen and at least three feet tall when planted with the average height of six feet in three to four years. However, 25 percent of the shrubs may vary from this standard. The allowed variations are as follows:
    - i. Shrubs may be deciduous;
    - ii. Shrubs may be two feet tall when planted, provided an average height of three to four feet is expected as normal growth within four years; or
    - iii. Shrubs planted on a berm may be of lesser height, provided the combined height of the berm and plantings is at least eight feet after four years.
  - d. Shrubs and trees shall be on the approved plant list in [Appendix 3](#) Approved Plant List.
  - e. All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the American Standards for Nursery Stock published by the American Association of Nurserymen, and shall be free of disease; and
  - f. Twenty-five percent of all trees will be evergreen.
5. Landscaping buffers will have an arrangement of trees and shrubs in the buffer area, which shall be done in a manner that provides a visual separation between abutting land uses. Shrubs shall be massed in rows or groups to achieve the maximum screening effect. Guidelines for the arrangement of plant material are illustrated in section D-918. I. (Screening and Landscaping).
6. In the event that it can be demonstrated that existing vegetation meets the intent of this section, but the plant materials are not on the approved list, the Administrator may waive the requirements for plant materials. If a plant material is not on the approved list, the Administrator may determine whether it is acceptable.
7. Berms may be used as screening (for non-residential uses only), provided such berms are at least six feet in height with a maximum slope of 4:1, as measured from the exterior property line. Berms shall be stabilized to prevent erosion and landscaped. If a berm is constructed, shrubs are required but the number may be reduced by 25 percent. However, constructing a berm does not modify the number of trees required.
8. Required buffers shall not be disturbed for any reason except for required driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping maintenance or replacement, or maintenance and construction of berms, or utility lines. However, utility line construction must meet the following requirements:
  - a. The removal of any tree larger than six inches in caliper or any dogwood or redbud larger than two inches in caliper shall require the approval of the Administrator; and
  - b. No utility easements shall run longitudinally within a buffer yard.

9. To the extent possible, the path cleared for the utility lines shall be replaced with plant materials which are consistent with those that existed prior in the buffer yard.
10. In no case shall the plant species of *Pueraria lobata* (Kudzu) be used for planting with the buffer.
11. The developer shall be required to replace any plant material which has not remained viable or has failed to stabilize the soil through two consecutive growing seasons.
12. All buffers shall be constructed in a manner that shall allow for adequate sight distance where subdivision streets intersect with the thoroughfare.
13. If utilities are located within the buffer yard, then the right-of-way width must be added to the total buffer width, in addition to the required width in table in section D-918. I. (Screening and Landscaping). This additional buffer width can be added into the calculated lot area.
14. If utilities are to remain in the buffer yard, then all landscaping, including the location of a berm, must be located as follows:
  - a. *Overhead.* Trees next to power lines shall be planted using the table below. The measurement shall be made from the nearest edge of the tree trunk.

Distance from power line	Tree specification
40 feet or greater	Any tree listed in Appendix 3
18 feet or greater	Small maturing trees listed in Appendix 3. However, except trees as marked with an asterisk (*) shall not be located within the utility right-of-way.
0—18 feet	Shrubs with a mature height of less than 20 feet.

- b. *Underground.* Roots planted near underground utility or power lines may be damaged in the event that repairs are required. Utmost care shall be taken when planting new trees and when carrying out any excavation work near trees.
15. Business and commercial uses adjacent to residential zoning shall provide screening to materially screen the subject use from the view of the adjoining residential zoning district.
16. Off-street parking and loading facilities and dumpsters adjacent to residential zoning or located in a residential district shall provide screening.
17. For open-air storage, or an unenclosed structure within 100 feet of a road, consisting of a roof, but no walls, used for storage of materials, products, wastes or equipment associated with business or certain conditional uses, screening shall be provided. Such screening may be located anywhere on the subject property, provided the storage is effectively screened.
18. In cases where screening is required by this UDO and devices such as existing vegetation or topographical features or extreme size of the tract involved would render the installation of screening unnecessary, the Administrator is hereby empowered to accept the existing features as meeting the general requirements. Such decision shall be based on the spirit and intent of this section. If, at any time after existing topographical features or size of the lot are thereafter altered so as to render them inadequate as screening, the owner of the land shall be required to provide screening as described in this section to achieve the required screen. The vacancy or nonuse of adjacent property shall not negate the necessity for installation of screening.
19. This Section I shall be construed to require screening alongside property lines and/or rear property lines adjacent to residential zoning, but in no case shall screening be required along a public street, except as provided in subsections 16 and 17 of this section.
20. Uses permitted within the business districts shall provide street trees as landscaping along the front property line, along the side street property line on a corner lot, and at the rear property line when

the rear property line lies directly across the street from a residential district. Such trees shall be installed in accordance with the following standards:

- a. Such trees may be evergreen or deciduous.
  - b. Such trees shall be a minimum of four feet high at planting.
  - c. The maximum spacing between trees shall be 30 feet.
21. Such trees shall when possible be located behind the right-of-way of the street. When it is necessary to locate landscaping required by this section on the right-of-way of a state-maintained road, an encroachment agreement shall be obtained from the state department of transportation. Consideration should be given to the alignment of trees or shrubs installed on an adjoining lot and when possible, the alignment should be continued along the street. Encroachment into the sight distance area as defined in section D-918. C. (Visibility at Intersections) shall be allowed subject to the requirement that landscaping installed within a sight distance shall be set back as far as is practicable from the intersection of the two streets forming the intersection and shall not be of a height to interfere with sight distance.
22. In cases where existing trees on a lot or lots are located within the required setback, and where existing trees would inhibit or restrict the growth of street trees required by this section, the Administrator may authorize that low growing shrubbery be installed in lieu of trees. Such shrubs shall adhere to the locational requirements stated in subsections 19 and 20 of this section.
23. Essential services, classes I, II, III, IV, shall be naturally screened on all sides in compliance with the screening and landscaping provisions of this section.

**J. Fences and walls permitted within yard areas (including entrances to residential neighborhoods).** Unless otherwise noted in this UDO, fences or walls are permitted in the various districts subject to the following regulations:

1. **Residential districts.**

- a. Within the required rear and side yard areas, the maximum height of a fence (except court perimeter fences) or wall shall be eight feet.
- b. Within the required front yard area, the maximum height of a fence or wall shall be five feet.
- c. No portion on any fence or wall may be located within the established right-of-way of any publicly maintained road unless an encroachment agreement has first been obtained from the governing body maintaining said road.
- d. Subdivision entry and perimeter walls and entry monuments are not required to be of any specific height or style but are subject to review and approval of the planning board prior to the start of construction.

2. **Business districts.**

- a. Within the required rear and side yard areas, the maximum height of a fence or wall shall be eight feet.
- b. Within the required front yard area, the maximum height of a fence shall be five feet.

**K. Signs.**

1. **Purpose.** The purpose of this article is to permit such signs that will not, by their reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger public health, safety, and welfare, to protect and enhance property values and community appearance as part of the Town's concerted effort to enhance the aesthetic quality, and to permit and regulate signs in such a way as to support and complement the land use objectives set forth in the land development plan.
2. **Signs permitted without permit.** The following signs shall not require a permit:
  - a. Signs required to be posted by law, signs established by governmental agencies, "Warning" signs and "No Trespassing" signs, Town monuments and historical markers placed by a governmental agency or a recognized historical society. Historical markers shall not exceed six square feet in area, exclusive of the support structure. Town monuments shall not exceed 14 feet in height. Private unofficial traffic signs indicating directions, entrances, or exits, also shall not require a permit.
  - b. One sign, including a professional name plate, per dwelling unit, denoting the name of the occupant, not to exceed 1½ square feet in area.

- c. All political signs, provided that such signs shall be placed in accordance with the following:
    - i. Persons may place signs within the street/road right-of-way no sooner than 30 days prior to "one-stop" early voting and shall be removed by the candidates within ten days after the primary or election day.
    - ii. Permission is granted from any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected,
    - iii. No sign shall be closer than three feet from the edge of the pavement of the road.
    - iv. No sign shall obscure motorist visibility at an intersection.
    - v. No sign shall be higher than 42 inches above the edge of the pavement of the road.
    - vi. No sign shall be larger than 864 square inches.
    - vii. No sign shall obscure or replace another sign.
  - d. One sign advertising real estate or incidental items "for sale," "for rent," or "for lease," not greater than six square feet in area, located upon property so advertised or property where such incidental items are being sold. Any such sign advertising property for sale shall be removed within seven days after the property has been sold (upon closing), rented, or leased. Any signs erected pursuant to this provision must not violate subsection 3.f, below. Any signs advertising real estate subdivisions shall be limited to one sign no greater than six square feet in area located at the entrance of the subdivision.
  - e. A sign advertising the sale of produce on the premises where the produce is being sold and grown shall be no more than ten square feet per side.
  - f. Any sign in town, deemed by the Administrator to be in need of repair, shall be renovated within 30 days by the owner upon receipt of written notification.
  - g. Temporary signs erected by homeowners' associations or neighborhood associations which are not greater than six square feet in area and which are located upon property owned by the homeowners' association at the entrance to the subdivision for a maximum of five days.
3. **Prohibited signs.** The following signs are expressly prohibited within all zoning districts, unless as otherwise specified in this UDO:
- a. All off-premises signs, including directional signs and billboards. Such prohibition, however, shall not be applicable to temporary signs permitted by subsection 8, below.
  - b. All portable signs, except as may otherwise be allowed by this UDO.
  - c. Flashing light signs.
  - d. Any sign which the Administrator determines obstructs the view of bicyclists or motorists using any street, private driveway, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device or signal.
  - e. Luminous signs.
  - f. Any sign placed upon a traffic control sign, tree that is on public land or lies within a public road right-of-way, or utility pole for any reason whatsoever.
  - g. Building-mounted signs.
4. **General requirements.**
- a. Any lighted sign or lighting device shall be so oriented as not to cast light upon a public right-of-way so as to cause glare, intensity, or reflection that may constitute a traffic hazard or a nuisance or cast light upon adjacent property that may constitute a nuisance.
  - b. Lighted signs shall employ only devices emitting a light of constant intensity and white color, and no signs shall be illuminated by a flashing, intermittent, rotating, or moving light.
  - c. No electric sign shall be so located with relation to pedestrian traffic as to permit such sign to be easily reached by any person. The bottom of such sign shall be located a minimum of ten feet above the grade immediately under said sign, if the sign is within 15 feet of the edge of the street right-of-way.
  - d. The area of a sign shall be measured by measuring one face of the entire sign including any border or trim and all of the elements of the matter displayed, but not including the base or apron, supports or other structural members. The area of a double-face sign shall be the area of one face of the sign.
  - e. Nonconforming signs shall be subject to the provisions contained in section D-112. F.



- f. Fencing, scoreboards, and structures in the athletic fields may be utilized for customary signs, and all such signs shall be directed solely towards users of the facility. Such individual signs, whether temporary or permanent, shall not exceed 32 square feet in size and shall be permitted by the Administrator in the manner of other permanent, attached (on-structure) signs under subsection 5, or temporary signs under subsection 8, below without amendment to the conditional use permit or conditional zoning permit so long as compliance with all standards in this UDO are met.
5. **Attached (on-structure) signs.**
- a. On-structure signs shall be considered either attached signs or painted wall signs.
  - b. No sign painted on a building or wall shall exceed 20 percent of the wall area, or a maximum of 64 square feet, with the exception of attached (on-structure) signs located at the athletic fields containing signs which shall be permitted per subsection (d) of this section.
  - c. No sign shall be located on the roof of any structure or extended above the parapet or eave line of any structure.
  - d. Attached (on-structure) signs customarily located at athletic fields containing signs shall be directed solely toward users of the facility. Such individual signs, whether temporary or permanent, shall not exceed 32 square feet in size.
6. **Freestanding ground signs.**
- a. No portion of any freestanding ground sign shall be higher than seven feet above grade as measured to the top of the sign.
  - b. No part of the sign, including projections, shall be located closer than 15 feet to any adjacent side lot line and shall not be located within five feet of the edge of the street right-of-way line.
  - c. All freestanding ground sign structures or poles shall be self-supporting structures erected on or set into and permanently attached to concrete foundations. Such structures or poles shall comply with the building codes of Union County and be affixed as not to create a public safety hazard.
  - d. The sign shall be located in a manner that does not impair traffic visibility.
  - e. Freestanding ground signs are permitted as long as the building or structure in which the activity is conducted is set back at least 30 feet from the street right-of-way.
  - f. The maximum sign area varies by type and use. Unless otherwise specified in the ordinance, the maximum total sign area per side shall be 50 square feet and the total text area per side (including logos) shall be no greater than 20 square feet.
7. **Orientation signs.**
- a. Orientation signs are allowed on church campuses and educational and governmental facilities containing several buildings located on one or more lots.
  - b. Orientation signs are intended for directing pedestrians and traffic and are not allowed off-premises.
  - c. All orientation signs must be secured to the ground or affixed so as not to create a public safety hazard.
  - d. The sign shall be located so as to not impair traffic visibility.
  - e. The maximum total sign area per side shall be 14 square feet including all text, graphics and logos.
  - f. No freestanding ground orientation sign shall be located higher than six feet above grade as measured to the top of the sign.
  - g. No part of the sign, including projections shall be located closer than 15 feet to any adjacent side lot line and shall not be located within 20 feet of the edge of the street right-of-way line.
8. **Temporary signs.**
- a. *Banners, pennants and temporary signs.* The following temporary signs are permitted after the Administrator has issued a temporary sign permit, for a total period not to exceed 30 days:

- i. Except for temporary off-premises signs authorized under subsection (a)(iii) of this section, special event signs set out below, unlighted portable signs, banners and wind-blown signs such as pennants, spinners, flags and streamers for special events, grand openings and store closings. Any such sign shall be no greater than 20 square feet and shall be limited to one sign per address. For the purposes of this section, special event shall mean any festive, educational, sporting, or artistic event or activity for a limited period of time, which is not considered as part of the normal day-to-day operations of the group, organization, or entity.
  - ii. Temporary banner-type signs customarily located at athletic fields containing signs shall be directed solely towards users of the athletic field. Fencing, scoreboards, and structures in the athletic fields may be utilized for customary signs in order to raise funds for these same facilities. Such individual temporary signs shall not exceed 20 square feet in size, may be permitted for a period not to exceed one year, and may be renewed so long as the sign remains in compliance with the requirements of this article.
  - iii. A maximum of two off-premises signs shall be allowed per event, provided one temporary off-premises special event sign shall be allowed, per parcel fronting on a public road upon the issuance of a temporary use permit, subject to the following restrictions:
    - a. Each temporary off-premises special event sign shall be on private property, outside the road right-of-way and subject to permission of the property owner;
    - b. A temporary off-premises special event sign can only be placed seven days before the special event and must be removed 48 hours after the special event;
    - c. A separate permit must be issued for each temporary off-premises special event sign;
    - d. No parcel may be issued more than four temporary off-premises special event sign permits during any 12-month period;
    - e. Temporary off-premises special event signs shall be limited to four times per year, per group/organization.
  - b. *Construction announcement signs.* One construction announcement sign per project shall be permitted and shall require a sign permit, valid for one year and renewable, one time, for one additional year, shall comply with the provisions of subsection 6 hereof (Freestanding ground signs), and shall be single faced of a maximum area of 20 square feet. This sign shall be temporary and shall be removed within seven days after completion of the work on the subject property by the firm that is advertised on the sign. Announcement signs are not to be used to advertise real estate or subdivisions. No lighting of announcement signs shall be permitted.
  - c. *Subdivision sales signs.* One subdivision sales sign per entrance shall be permitted and shall require a sign permit, valid for one year and renewable annually as long as ten percent (rounded up) or ten lots, (excluding septic and unbuildable lots) whichever is less, continue to be marketed for sale. Subdivision sales signs may be no greater than 20 square feet (including text and support structure) in area and six feet in height, measured from grade, and must be located behind the right-of-way line and out of the sight triangle at the subdivision entrance. No lighting of subdivision sales signs shall be permitted.
9. **Signs permitted in all R residential districts.**
- a. Signs on-premises of single-family and two-family dwellings and on the premises of mobile homes in all R residential districts are regulated as follows:

(1)	Types of signs permitted:	Identification.
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(2)	Permitted number of signs:	One per dwelling unit.
(3)	Maximum area of signs:	Three square feet.
(4)	Permitted location:	Behind street right-of-way.

b. Signs on-premises of small group day care homes are regulated as follows:

(1)	Types of signs permitted:	Identification.
(2)	Permitted number of signs:	One per dwelling unit.
(3)	Maximum area of signs:	Three square feet.
(4)	Permitted location:	Behind street right-of-way.

c. Signs on-premises of cemeteries are regulated as follows:

(1)	Types of signs permitted:	Identification.
(2)	Permitted number of signs:	One per street front.
(3)	Maximum area of signs:	20 square feet.
(4)	Permitted location:	Behind required setback.

d. Signs on-premises of church campuses and educational and governmental facilities are regulated as follows:

(1)	Types of signs permitted:	Identification, Bulletin Board, and Orientation
(2)	Permitted number of signs:	Attached: One for each building's main entrances. All requirements of subsection 5 shall be met.
		Freestanding Ground Identification and Bulletin Board: One identification or one bulletin board per principal building.
		Orientation: One freestanding ground and two attached for each 750 feet of frontage on a public roadway on one or more contiguous lots with common ownership. All requirements of subsection 7.a shall be met.

(3)	Maximum area of signs:	Attached: One square foot of aggregate area per linear foot of building street frontage up to a maximum of 64 square feet per premises, regardless of the number of establishments occupying such premises.
		Freestanding Ground (excluding Orientation): The maximum total sign area per side shall be 25 square feet and the total text area per side (including logos) shall be no greater than 20 square feet.
		Temporary and Bulletin Board: 25 square feet. Bulletin Board signs that display text that changes regularly shall be allowed to have permanent support structures as long as the text area including logos or other graphics does not exceed 20 square feet.
		Orientation: The maximum total sign area per side shall be 14 square feet including all text, graphics, and logos.
(4)	Permitted location:	Attached: Signs shall be located on the building and shall not extend above the parapet of the building nor more than 18 inches from any building wall or marquee face, provided that such sign shall not project more than six inches into the street right-of-way unless it is at least ten feet above street grade, in which case it may not extend more than 18 inches into the street right-of-way.
		Orientation: 20 feet behind property line and in accordance with subsection 7.1.

e. Signs on all other nonresidential uses in an R district are regulated as follows:

(1)	Types of signs permitted:	Identification and bulletin board
(2)	Permitted number of signs:	One principal building: One identification and one bulletin board each. A third sign is permitted if the building is located on a through lot or has frontage on three or more streets.
		Two or more principal buildings: One identification and one bulletin board for the first principal building, plus one identification or one bulletin board for each additional principal building.
(3)	Maximum area of signs:	One principal building: No sign shall be greater than 30 square feet.
		Two or more principal buildings: No signs shall be greater than 15 square feet.
(4)	Permitted location:	Identification and bulletin board: Behind right-of-way line.

f. Subdivision identification signs (included on entry monuments) shall be regulated as follows:

(1)	Types of signs permitted:	Identification.
(2)	Permitted number of signs:	Two signs per subdivision entrance.
(3)	Maximum area of signs:	No sign shall be greater than 20 square feet in area.
(4)	Permitted location:	Behind right-of-way line.

**10. Signs permitted in B-1 and B-2 business districts.**

- a. Signs on-premises of permitted uses conducted in buildings or with buildings associated shall be regulated as follows:

(1)	Types of signs permitted:	Business and/or identification.
(2)	Permitted number of signs:	Attached: One only, except that an additional freestanding sign may be permitted on through lots or lots having frontage on three or more streets. All requirements of subsection 5 shall also be met.
		Ground: One only, except that an additional ground sign may be permitted on through lots having frontage on three or more streets.
(3)	Maximum area of signs:	Attached: One square foot of aggregate area per linear foot of building street frontage up to a maximum of 64 square feet per premises, regardless of the number of establishments occupying such premises.
		Freestanding: One-half the permitted size of attached signs, except as indicated in this section.
		Ground: 20 square feet.
(4)	Permitted location:	Attached: Signs shall be located on the building and shall not extend above the parapet of the building nor more than 18 inches from any building wall or marquee face, provided that such sign shall not project more than six inches into the street right-of-way unless it is at least ten feet above street grade, in which case it may not extend more than 18 inches into the street right-of-way.
		Freestanding: Signs shall be no greater than 20 feet in height and in accordance with subsection 6 hereof (Freestanding ground signs).
		Ground: Behind street right-of-way line and in accordance with subsection 7.

- b. Shopping center identification signs shall be regulated as follows:

(1)	Types of signs permitted:	Shopping center identification.
(2)	Permitted number of signs:	A shopping center containing three or more businesses with separate entrances may have one freestanding identification sign giving the names of the businesses located in the shopping center. No other freestanding signs shall be allowed. Such sign shall be in accordance with subsection 6 hereof (Freestanding ground signs).
(3)	Maximum area of signs:	The maximum total sign area per side shall be no greater than 100 square feet and the total text area per side (including logos) shall be no greater than 50 square feet, provided that no portion of the sign advertising a particular business shall be in excess of 20 square feet.
(4)	Permitted location:	The maximum height of any portion of the sign shall be no greater than 12 feet from grade and shall be located behind the right-of-way line.

**L. Off Street Parking and Loading.** Every new use, or an enlargement, expansion, or alteration of an existing use, shall require off-street parking in compliance with this article, unless specifically exempt from such provisions or portions thereof.

1. Off-street parking spaces shall be increased when a change of use of either a structure or of land requires additional parking spaces in compliance with this article. Parking spaces may be decreased when a change of use in either a structure or of land requires less spaces than provided for the replaced use.
2. A one-time only enlargement of a structure or increase in the amount of land used may be made for existing uses deficient in off-street parking, provided that the enlargement or increase does not represent a requirement in excess of five off-street parking spaces. In the event that such increase represents a requirement in excess of five off-street parking spaces, such increase shall require complete compliance of the provisions of this article for the entire use.
3. Off-street parking shall be located as follows:
  - a. Parking as required herein shall be located on the same lot as the principal use except when specifically permitted to be located elsewhere. Driveways shall be considered as providing off-street parking spaces for all single-family and two-family dwellings.
  - b. Cooperative provisions for off-street parking may be made by contract between owners of adjacent property, and such contract filed with the Administrator. The parking area provided on any one lot may be reduced to not less than half the parking spaces required for the use occupying such lot. The total number of spaces provided under such a cooperative parking scheme shall not be less than the total number of spaces required for each use.
  - c. No parking area shall be located over an active septic tank field.
  - d. Parking areas may not be extended into the required rear yard and side yard setbacks.
4. A City or Town Hall, post office, library or other governmental facility may count shared parking spaces toward up to 50 percent of its total off-street parking requirement. Such a use may share parking spaces only with one or more other uses that also may share parking spaces under subsection 3.b of this section. The following formula shall be used to determine how many shared parking spaces a particular use may apply toward its off-street parking requirement:
5. For off-street private parking, a use may treat as shared parking, any parking spaces that are within 800 feet of that use. A document must be filed with the Town's Administrator that confirms that the parking lot's owner or operator consents to parking spaces in that lot being shared. If fewer than all the spaces within the lot are being shared, this document must clearly identify which spaces are being shared. If the shared parking arrangement described in the document is later modified, a document describing the modified arrangement must be filed with the Town's Administrator. If the shared parking arrangement described in any document filed with the Town's Administrator is later rescinded,

the Administrator must be notified immediately. If the rescission or modification of a shared parking arrangement leaves a use with inadequate parking to satisfy the requirements of this article, said use will not be considered nonconforming, and it will not be permitted to continue without satisfying this article's parking requirements.

6. Design standards for parking areas are as follows:
  - a. A parking space shall be not less than nine feet in width nor less than 20 feet in length. In lots of more than 20 spaces, compact stalls may be permitted on the basis of one compact stall to each additional five standard stalls. Each compact stall shall be seven feet wide and 17 feet long, and shall be clearly marked, "small cars only." All parking stalls shall be clearly marked, and such markings shall be maintained so as to be easily seen.
  - b. Parking bays shall be designed in accordance with accepted standard practice for parking at various angles, with aisles being of such widths as to permit the entering and leaving of a parking space with ease and safety.
  - c. Access to all required parking areas shall be by roads adequate in width to accommodate two-way traffic, except for parking areas designed and clearly marked for one-way traffic. Except by way of approved driveways, access from or egress to a public road from a parking area shall be expressly prohibited. Adequate provisions shall be made to ensure compliance by the use of fences, walls, wheel stops, or landscaping, or a combination of those devices.
  - d. Wheel stops, curbs, or other devices shall be provided in such locations as to prevent any vehicle from encroaching either on a public right-of-way or an adjacent property.
  - e. Parking areas shall be so designed as to retain existing trees and other plant life. Where no trees or other plant life exists, adequate landscaping shall be provided, both within the parking area and on the external boundaries of such area.
  - f. Screening shall be provided as required in section D-918. I. (Screening and Landscaping)
  - g. Signs shall be permitted in compliance with D-918.K (Signs).
7. Permits for driveway locations on state-maintained roads shall be obtained from the state department of transportation.
8. Storm drainage facilities shall be required and shall be so designed as to protect any public right-of-way or adjacent property from the damage.
9. The requirements for off-street parking spaces shall be computed as follows:
  - a. When units of measurement determining the number of required parking spaces result in a fractional space, any fraction of one-half or more shall require one parking space.
  - b. Where seats consist of pews or benches, each 20 inches in length of pew or a bench shall be considered as one seat.
  - c. For the purpose of computing parking requirements based on the number of employees, the owners or managers shall also be considered employees.
  - d. Lots containing more than one principal use shall provide parking in the amount equal to the total of the requirements for each use.
10. The following chart indicates the minimum off-street parking requirements:

Use Classification	Parking Space Requirement
Banquet, reception and conference center	1 per employee during the shift of greatest employment plus 1 space for every 2 guests based on the maximum number of guests the facility can accommodate. At a minimum, each use shall have parking to accommodate at least 30 vehicles.
Cemeteries	1 space per employee during the shift of greatest employment plus parking on private internal roads.

Churches, synagogues and other places of worship	1 space per employee during the shift with greater employment plus 1 space for each 4 seats in the sanctuary.
Community recreational centers; country clubs; fraternal, social and recreational organizations	1 space for the largest number of employees per shift, plus 2 spaces for each 3 memberships, plus 1 space for each vehicle used in the operation.
Customary home occupations	1 space plus the number of spaces required for the residential use.
Day care centers	1 space per employee during the shift of greatest employment plus 1 space per 5 children.
Dwellings, one-family	2 spaces for each 1 dwelling unit.
Dwellings, two-family	2 spaces for each 1 dwelling unit.
Elementary and secondary schools	3 spaces for each room used for instruction or administration, or one space for each four seats used for assembly purposes, whichever is greater.
Family care homes	1 space for each 3 employees, plus 1 space to each guestroom.
Fire station	1 space per employee during the shift of greatest employment.
Funeral chapels	1 space for each 3 seats in the chapel or chapels plus 2 spaces for each 3 employees, plus 1 space for each vehicle used in the operation. In addition, off-street parking area shall be provided, on the site, to accommodate a minimum of 30 passenger vehicles for the purpose of forming a funeral procession.
Health/sports club; school for the arts	1 space per employee during the shift of greatest employment plus 1 space for each 2 students/participants as determined during the time of day of greatest student/participant enrollment plus 1 space for each vehicle used in the operation.
Libraries	1 space per 200 square feet of gross floor area.
Medical and dental offices	4 spaces for each doctor practicing at the clinic, plus 1 space for each employee.
Offices, professional, business, or public (excluding medical and dental offices and clinics)	1 space per employee during the shift with greater employment plus 1 space for each 300 square feet of gross floor area.
Places of public assembly, including private clubs and lodges, auditoriums, stadiums, gymnasiums, community centers, public	1 space for each 4 seats provided for patron use, plus 1 space for each 100 square feet of floor or ground area used for amusement or assembly but not containing fixed seats.



parks and recreational facilities and all similar places of public assembly	
Post office, city hall	1 space per employee during the shift of greater employment plus 1 space for each 200 square feet of gross floor area.
Recreational facilities	
Driving range	1.2 spaces per tee.
Golf course (nine and 18 holes)	90 spaces per 9 holes.
Swimming pool	1 space per 75 square feet of water.
Swimming pool (as part of a subdivision)	1 space per 100 square feet of water.
Tennis or racquet court	3 spaces per court.
Tennis courts (as part of a subdivision)	2 spaces per court.
Other outdoor recreation	1 space per 200 square feet.
25 percent to 40 percent of parking spaces for these recreational facilities may be on nonasphalt material	
Restaurants	1 space for each employee during the shift of greater employment plus one space for each three seats.
Retail business and consumer service outlets (except as noted)	1 space for each 200 square feet of gross floor area.
Riding stables, commercial	1 space for each employee during the shift of greater employment plus 2 spaces for each 3 stalls, plus 1 space for each vehicle used in the operation.
Service stations	2 spaces for each gas pump plus 1 space for each employee during the shift of greatest employment.
Shopping center	1 space per 200 square feet of leasable floor area for the first 20,000 square feet. 1 per 250 square feet for 20,001 to 140,000 total leasable square feet. 1 per 300 square feet for total leasable square footage of 140,001 or over.

Telephone exchange building, electric or gas substation, water tower or tank, pump station	One space for each employee during the shift of greatest employment and/or one space for each vehicle used in the operation.
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- M. Unsafe Conditions.** Land which has been determined by the Administrator on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- N. Solid waste disposal areas.** Areas that have been used for disposal of solid waste shall not be subdivided unless tests by a structural engineer and a soils expert determine that the land is suitable for the proposed development.

**D-919. Temporary structures and uses.** Temporary structures and uses, when in compliance with all applicable provisions of this UDO and all ordinances of the Town, shall be approved by the Administrator, who shall issue a permit for such approval. The following temporary structures and uses shall be permitted:

- A. In the event of a disaster, the result of which would require the rebuilding of a dwelling, the owner and his family may occupy a mobile home on the property. The permit shall be issued for a six-month period and may be renewed by the Administrator, provided construction has proceeded in a diligent manner.
- B. Mobile homes, construction trailers and temporary buildings not for residential purposes, when used by a contractor for field offices and storage during the building of structures on the same site, are permitted. The permit shall be issued for a one-year period and may be renewed by the Administrator on an annual basis, provided the construction has proceeded in a diligent manner. Renewal shall take place during the renewal window prescribed in the Town of Weddington Annual Enforcement Manual.
- C. Any use of a temporary nature (i.e., less than 45 days in duration and held no more than four times per year at any particular location), specifically including the uses set forth in subsections 1 and 2, below, which would not otherwise be permitted in a particular zoning district and which will materially affect normal activities (i.e., increased traffic, noise, etc.) may be issued a temporary use permit as herein provided. The applicant shall complete and submit an application and a fee, in accordance with a fee schedule adopted by the Town Council.
  - 1. The Administrator may grant a temporary use permit for the following temporary uses: Sales for civic, charitable and nonprofit organizations, i.e., Christmas tree sales. The permit shall be valid for a specified period only, not to exceed 45 days in duration.
  - 2. The Administrator may also issue a temporary use permit for all other public events such as festivals, concerts, carnivals, circuses, etc. The Administrator may include reasonable conditions regarding duration of the use, hours of operation, signage, lighting, temporary structures, etc., and such conditions shall be made part of the temporary use permit issued. Violations of such conditions shall be considered a violation of this UDO and subject the violator to enforcement and penalties set forth in this UDO.
- D. Structures, whether temporary or permanent, located in a subdivision, and used as sales offices for the subdivision development are permitted only with a permit granted pursuant to this section. The Administrator shall issue such permit for a period of one year. An extension of up to one additional year may be granted by the Administrator, provided that the development is being actively marketed and three or more residential lots within the subdivision remain to be sold by the developer. Following this initial extension period, the permit may be extended only within the discretion of the Town Council and only for a period of time the Town Council deems appropriate, provided the subdivision is being actively marketed and three or more residential lots within the subdivision remain to be sold by the developer. Renewal shall take place during the renewal window prescribed in the Town of Weddington Annual Enforcement Manual. Failure to renew the permit may

result in enforcement and penalties set forth in this UDO. After the developer sells all lots within the subdivision, or after any permit granted under this section expires, whichever occurs first, the temporary structures shall be removed, and any permanent structures temporarily used as a sales office shall be used only for a purpose otherwise permitted in that district. After a permit issued under this section expires, no other permits under this section may be issued for that same subdivision unless approved by the Town Council. For purposes of this section, having a sales office within a subdivision, by itself, shall not constitute "actively marketing" the subdivision.

## Part 2 Environmental Regulations

**D-920 Local Environmental Regulations.** [reserved]

**D-921 Forestry Activities.** [reserved]

**D-922 Erosion and Sedimentation Control.** See [Appendix 6](#).

**D-923 Floodplain Regulations.** See [Appendix 7](#).

**D-924 Mountain Ridge Protection.** [reserved]

**D-925. Stormwater control.** See [Appendix 8](#).

## Part 3: Telecommunication Facilities

### D-930 Telecommunications Towers

- A. Intent.** In recognition of the Telecommunications Act of 1996, it is the intent of the Town to allow communication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety and welfare of the citizens of the Town and its extraterritorial jurisdiction. Wireless towers may be considered undesirable with other types of uses, most notably residential; therefore, special regulations are necessary to ensure that any adverse effects to existing and future development are mitigated.
- B. Maximum height.** The maximum allowable height of a tower is 185 feet. No tower shall have a height greater than 185 feet unless the applicant can prove the maximum height will not allow for the provision of adequate service levels (i.e., cannot provide a reasonable level of service in the area).
- C. Co-location.** It is the intent of the Town to encourage providers to co-locate facilities in an effort to reduce the number of telecommunication towers in the Town's jurisdiction. All such towers over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least three wireless communication carriers. The Town requires providers to negotiate in good faith with other wireless communication carriers to lease space at a reasonable cost, and to publicize, either in the newspaper and/or online, the fact that space is available on a leased basis. Co-location of antennas on existing electrical transmission towers may be approved administratively by the zoning officer. For electrical transmission towers, any required accessory structures on the ground must comply with a 15-foot setback from the utility easement line.
- D. Requirements for lots with existing use.** Where a telecommunication tower is located on a lot with an existing principal use, the tower shall be located in the rear yard only. An access road at least 12 feet wide shall be maintained by the property owner and/or the applicant from a public street to the tower for use by service and emergency vehicles. A minimum separation of 20 feet is required between structures.
- E. Compliance with federal standards.** The Town recognizes that a tower cannot be prohibited, nor can a conditional zoning permit be denied on the basis of environmental or health concerns relating to radio emissions if the tower complies with the Federal Radio Frequency Emission Standards. The Town requires that the applicant must provide documentation proving that the proposed tower complies with the Federal Radio Frequency Emission Standards.

- F. **Accessory structures.** Wherever feasible, all accessory structures on the ground which contain switching equipment or other related equipment must be designed to closely resemble the neighborhood's basic architecture or the architecture and style of the principal use on the property.
- G. **Screening.** Screening is required in the form of shrubs and/or trees along all sides of the perimeter of the telecommunication tower site as per Section D-918. I. (Screening and Landscaping). In addition, a minimum eight-foot-high fence is required immediately around the tower and any equipment buildings, with the screening to be located on the outside of the fenced area. It will be the responsibility of the provider to keep all landscaping material free from disease and properly maintained in order to fulfill the purpose for which it was established. The owners of the property and any tenant on the property where screening is required shall be jointly and severally responsible for the maintenance of all screen materials. Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy, and to keep planting areas neat in appearance. Any vegetation that constitutes part of the screening shall be replaced in the event it dies. Applicants that are building new towers with co-location opportunities shall plan the fence and screening to accommodate future providers on the site such that the fence and screening surrounds all future structures and the tower.
- H. **Setback requirements.** A minimum setback requirement, on all sides of the property, or leased area of a parcel, shall be 1½ feet for every one foot of actual tower height, or the documented collapse zone, whichever is greater. For the purpose of establishing setbacks, the measurements shall be from the perimeter fencing which surrounds the equipment shelters and the tower base. No habitable structures shall be within the required setback area.
- I. **Lighting.** Towers having a height of 185 feet or less shall not contain lights or light fixtures at a height exceeding 15 feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or accessory uses to reduce glare onto adjacent properties.
- J. **Abandonment of tower.** Towers and related facilities must be removed by the applicant and/or property owner if abandoned (no longer used for its original intent) for a period greater than 90 consecutive days. It shall be the responsibility of the applicant to notify the Town when the tower has been abandoned for greater than 90 days.
- K. **Increasing tower height.** Normal maintenance and repair of the structure can be completed without the issuance of a conditional zoning permit. Co-location of additional providers to an existing tower or an upgrade of the equipment on an existing tower requires review and approval by the zoning officer to ensure the tower will continue to satisfy this ordinance and other applicable requirements. Notwithstanding any other language in this section, any change to an existing tower that will increase the tower's height, alter the tower's lighting, or alter the painting or exterior appearance of the tower requires the issuance of a new conditional zoning permit for the tower.
- L. **Freestanding signs.** Freestanding signs are prohibited. Wall signs, limited to identification area, shall be allowed on equipment structures or fences surrounding the telecommunication tower, provided it does not exceed nine square feet in size. Any signage must be specifically addressed in the conditional zoning application and permit.
- M. **Proof of insurance.** The provider must show proof of adequate insurance coverage for any potential damage caused by or to the tower prior to the issuance of a conditional zoning permit. Once approved, documentation of adequate insurance must be provided to the Town every 12 months.
- N. **Storage of equipment.** The outdoor storage of equipment or other related items is prohibited.
- O. **Conditional zoning; additional application requirements.** All applications for a conditional zoning for a telecommunication tower must include the following information, in addition to any other applicable information contained in this UDO:
  1. Identification of intended provider;
  2. Radiated signal strength and direction of signal;
  3. Documentation by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user;
  4. A statement from the provider indicating intent to allow shared use of the tower and how others will be accommodated;
  5. Evidence that the property owners of residentially zoned property within 300 feet of the site, in addition to adjacent property owners, have been notified by the applicant within 14 days of the public hearing.

This notification should include the date and time of the public hearing, as well as the proposed tower height and design;

6. Documentation that the telecommunication tower complies with the Federal Radio Frequency Emission Standards;
7. Screening, if applicable, must be shown on the site plan detailing the type, amount of plantings and location;
8. Documentation of collapse area; and
9. Documentation that the provider has explored all means for stealth tower locations and co-location opportunities, which must accompany requests for new towers.

**D-931 Small Cell Telecommunications Facilities.** Small cell telecommunications facilities are a permitted use in nonresidential zoning districts and in residentially zoned properties with a nonresidential use after review by the Administrator, except as specified in subsection (8) below. The following standards apply:

- A. A small cell antenna may be installed on a support structure on privately held land at a height of at least 15 feet on an existing nonresidential or mixed-use structure.
- B. Unstaffed equipment that is accessory to antennas may be located on a support structure, within a building, within an equipment cabinet outside a building, or on a rooftop.
  1. Ground equipment shall have a maximum footprint of ten square feet with a maximum height of four feet and must be located and installed in accordance with the applicable setbacks within the zone the property is classified.
  2. Rooftop equipment may be installed on privately owned land under the following conditions:
    - a. At a height of at least 15 feet on an existing nonresidential or mixed-use structure in any zone.
    - b. Equipment cabinets shall have a maximum footprint of 36 square feet with a maximum height of five feet, in combination with all other roof structures may not occupy more than 25 percent of the roof area and must be screened.
  3. Equipment may be installed on a support structure on privately owned land under the following conditions:
    - a. At a height of at least 15 feet on an existing nonresidential or mixed-use structure.
    - b. Equipment cabinets shall have a maximum size of 20 cubic feet with a maximum height of four feet.
- C. In residential areas small cell facilities shall be integrated into the architecture of the structure on which it is placed, landscaped to minimize visual impact, and subject to the Administrator's approval.
- D. An installation of a small cell facility that does not increase the size or height of the support structures, excluding antennas, by more than 20 percent is permitted provided the expansion does not create a public health hazard, as defined by federal law or regulations, or safety concern.
- E. No lighting of any part of the small cell facility is permitted. No small cell facility may be placed on any structure where the new antenna array would be required to be lighted to meet FAA regulations.
- F. Small cell facilities are permitted in state or local rights-of-way as a public utility.
- G. No small cell facility may be more than 50 feet tall as measured from ground level.
- H. A small cell facility that increases the size or height of the support structure by more than 20 percent is approvable by the Administrator under the following conditions:
  1. The applicant shall provide, by mail or personal delivery, written notice in a form approved by the Administrator to owners of property abutting and confronting the property that is the subject of the request within two business days of filing the request and shall certify the same to the Administrator.
  2. The applicant shall demonstrate that the expansion of the support structure is integrated into the surrounding area and limits the visual impact to the maximum extent possible.
  3. The expansion of the support structure does not create a public health hazard as defined by federal law or regulations, or safety concern.

## **Part 4 Historic Preservation**

**D-940 Historic Preservation.** See [Appendix 9](#).

## **Part 5 Community Appearance Commission.**

**D-960 Community Appearance commission** [reserved]

### **Article 10: Development Agreements**

The Town may consider and enter into Development Agreements at the request of a property owner in accordance with G.S. 160D Article 10.

### **Article 11: Building Code Enforcements**

Building Code Enforcement shall be in accordance with G.S. 160D, Article 11. As of the date of this UDO, Building Code enforcement is handled by Union County.

### **Article 12: Minimum Housing Code**

The Town's Minimum Housing Code is set forth in Appendix 10. [Chapter 14, Article 3]

### **Article 13: Additional Authority.**

The Town has certain Additional Authority as provided in G.S. 160D, Article 13

### **Article 14: Judicial Review**

N.C.G.S. 160D, Article 14 authorizes judicial review of certain Town decisions. Challenges to Town decisions shall be in accordance with the applicable provisions of G.S. 160D, Article 14.